

UNITED STATES STATUTES AT LARGE

CONTAINING THE

LAWS AND CONCURRENT RESOLUTIONS
ENACTED DURING THE SECOND SESSION OF THE
NINETY-EIGHTH CONGRESS
OF THE UNITED STATES OF AMERICA

1984

AND

PROCLAMATIONS

VOLUME 98

IN THREE PARTS

PART 1

PUBLIC LAWS 98-216 THROUGH 98-369



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PUBLIC LAWS

ENACTED DURING THE

SECOND SESSION OF THE NINETY-EIGHTH CONGRESS

OF THE

UNITED STATES OF AMERICA

Begun and held at the City of Washington on Monday, January 23, 1984, and adjourned sine die on Friday, October 12, 1984. RONALD REAGAN, President; GEORGE BUSH, Vice President; THOMAS P. O'NEILL, JR., Speaker of the House of Representatives.

Public Law 98-216
98th Congress

An Act

To codify without substantive change recent laws related to money and finance and transportation and to improve the United States Code.

Feb. 14, 1984
[H.R. 2727]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

AMENDMENTS TO TITLE 31

Money and
finance.

SECTION 1. Title 31, United States Code, is amended as follows:

(1) The first sentence of section 755 is amended to read as follows:

96 Stat. 2478.

“A final decision under section 753(a) (1)–(3), (6), or (7) of this title may be reviewed by the United States Court of Appeals for the District of Columbia Circuit or by the court of appeals of the United States for the circuit in which the petitioner resides.”.

(2) Section 1535 is amended by—

96 Stat. 933.

(A) inserting in subsection (a)(3) “or get by contract” after “provide”;

(B) inserting in subsection (a)(4) “by contract” after “provided”;

(C) striking out subsection (b);

(D) redesignating subsection (c) as subsection (b); and

(E) inserting after subsection (b) (as redesignated) the following:

“(c) A condition or limitation applicable to amounts for procurement of an agency or unit placing an order or making a contract under this section applies to the placing of the order or the making of the contract.”.

(3) Section 3322 is amended by—

96 Stat. 950.

(A) redesignating subsection (b) as subsection (c); and

(B) striking out subsection (a) and substituting the following:

“(a) The Secretary of the Treasury shall transfer public money to a disbursing official only by draft or warrant written on the Treasury. Except as provided in subsection (b) of this section, a disbursing official shall—

“(1) deposit public money as required by section 3302 of this title; and

“(2) draw public money from the Treasury or a depository only—

“(A) as necessary to make payments; and

“(B) payable to persons to whom payment is to be made.

“(b) In a place without a depository, the Secretary, on deciding it is essential to the public interest, may authorize specially in writing that public money be—

“(1) deposited in any other public depository; or

“(2) kept in another manner under regulations the Secretary decides are the safest and most effective in making a payment to a public creditor easier.”.

96 Stat. 966.
31 USC 3528.

- (4) Section 3528(b) is amended by—
 (A) inserting “(1)” after “(b)”;
 (B) striking out “(1)” before “the certification” and substituting “(A)”;
 (C) striking out “(2)(A)” and substituting “(B)(i)”;
 (D) striking out “(B)” before “no law” and substituting “(ii)”;
 (E) striking out “(C)” and substituting “(iii)”;
 (F) adding at the end the following:

“(2) The Comptroller General may deny relief when the Comptroller General decides the head of the agency did not carry out diligently collection action under procedures prescribed by the Comptroller General.”.

96 Stat. 971.

- (5) In section 3711(c)(2), strike out “(49 U.S.C. 26(h))” and substitute “(49 App. U.S.C. 26(h))”.

96 Stat. 2475.

- (6) Section 3902(b) is amended—

(A) in clause (1), by striking out “3903(2)(A)” and substituting “3903(2)”;

(B) in clause (2), by striking out “3903(2)(B)” and substituting “3903(3)”.

96 Stat. 988.

- (7) Section 5132(a)(1) is amended by striking out the last sentence.

96 Stat. 1024.

- (8) Section 6716(c)(1) is amended by striking out “Subsection” and substituting “Subsections”.

AMENDMENTS TO TITLE 49

Transportation.
96 Stat. 2422.

SEC. 2. Title 49, United States Code, is amended as follows:

(1)(A) Section 308 is amended—

(i) in the catchline, by striking out “Annual reports” and substituting “Reports”;

(ii) in subsection (a), by striking out the last sentence; and

(iii) by adding at the end the following:

Reports.
Railroads.

“(d) By the 90th day after the end of each fiscal year, the Secretary shall submit to Congress a report listing the specific assistance provided by the United States Government to the railroad industry during that fiscal year. The report shall include—

“(1) the reasons for each Government loan or grant and explain the way in which the loan or grant contributed to the overall goal of providing a safe and efficient transportation system;

“(2) information on the financial condition of each railroad having a loan guaranteed under the Emergency Rail Services Act of 1970 (45 U.S.C. 661 et seq.) throughout the duration of the loan; and

“(3) information on the past and anticipated financial condition and operations during the fiscal year of the Railroad Rehabilitation and Improvement Fund established under section 502(a) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(a)) and of the Obligation Guarantee Fund established under section 511(b) of that Act (45 U.S.C. 831(b)).

Mass
transportation
system.

“(e)(1) The Secretary shall submit a report to Congress in January of each even-numbered year of estimates by the Secretary on the current performance and condition of public mass transportation systems with recommendations for necessary administrative or legislative changes.

“(2) In reporting to Congress under this subsection, the Secretary shall prepare a complete assessment of public transportation facilities in the United States. The Secretary also shall assess future needs for those facilities and estimate future capital requirements and operation and maintenance requirements for one-year, 5-year, and 10-year periods at specified levels of service.”.

(B) Item 308 in the analysis of chapter 3 is amended to read as follows:

“308. Reports.”.

(2) In sections 103(c)(1), 106 (g)(1) and (h), 302(b), 321, 329 (b)(1) and (d), 334, and 501(b)(2), strike out “49 U.S.C.” wherever it appears and substitute “49 App. U.S.C.”.

96 Stat. 2415,
2416, 2419, 2422,
2426, 2430, 2431.
96 Stat. 2421.

(3) In section 306(b), strike out “332” and “49 U.S.C.” and substitute “332 or 333” and “49 App. U.S.C.”, respectively.

(4) In sections 10904 (d)(2) and (e)(3) and 11344(d), strike out “section 5(a)–(d) of the Department of Transportation Act (49 U.S.C. 1654(a)–(d))” and substitute “section 333(a)–(d) of this title”.

49 USC 10904,
11344.

(5) In section 10362(a)(1), strike out “section 744 of title 45” and substitute “section 304 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744)”.

(6) In section 10362(b)(5)(A), strike out “section 562(a) of title 45” and substitute “section 402(a) of the Rail Passenger Service Act (45 U.S.C. 562(a))”.

(7) In section 10362(b)(5)(B), strike out “section 1613 of this title” and substitute “section 17 of the Urban Mass Transportation Act of 1964 (49 App. U.S.C. 1613)”.

(8) In section 10526(a)(5), strike out “section 1141j(a) of title 12” and substitute “section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a))”.

(9) In section 10542(a)(2), strike out “chapter 23A of title 46” and substitute “the Intercoastal Shipping Act, 1933 (46 U.S.C. 843 et seq.)”.

(10) In section 10542(c)(2), strike out “section 391a of title 46” and substitute “section 4417a of the Revised Statutes (46 U.S.C. 391a)”.

(11) In sections 10544(d)(1)(B) and 10703(a)(4)(D)(ii), strike out “(46 U.S.C. 843–848)” and substitute “(46 U.S.C. 843 et seq.)”.

96 Stat. 2443.

(12) In section 10706(c), strike out “section 12 of title 15” and substitute “the first section of the Clayton Act (15 U.S.C. 12)”.

(13) In section 10749(b)(2), strike out “chapter 20 of this title” and substitute “the Federal Aviation Act of 1958 (49 App. U.S.C. 1301 et seq.)”.

(14) In section 10903(b)(2), strike out “section 565(b) of title 45” and substitute “section 405(b) of the Rail Passenger Service Act (45 U.S.C. 565(b))”.

(15) In section 11125(b)(2)(A), strike out “section 421 of title 45” and substitute “the Federal Railroad Safety Act of 1970 (45 U.S.C. 431 et seq.)”.

(16) In section 11347, strike out “section 565 of title 45” and substitute “section 405 of the Rail Passenger Service Act (45 U.S.C. 565)”.

(17) Section 11361(b) is amended by striking out “subchapter IV” and substituting “subchapter IV of chapter 11”.

96 Stat. 2443.

(18) In section 11367(a), strike out “Section 78n(a) of title 15” and substitute “Section 14(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(a))”.

(19) In section 11367(b), strike out—

(A) “section 77c(a)(6) of title 15” the first time it appears and substitute “section 3(a)(6) of the Securities Act of 1933 (15 U.S.C. 77c(a)(6))”;

(B) “section 77c(a)(6) of title 15” the second time it appears and substitute “section 3(a)(6)”;

(C) “Section 77e of that title” and substitute “Section 5 of that Act (15 U.S.C. 77e)”; and

(D) “subchapter I of chapter 2A of title 15” and substitute “that Act (15 U.S.C. 77a et seq.)”.

(20) In sections 11909(b) and 11914(b), strike out “prior to enactment of the Department of Transportation Act” and substitute “before October 15, 1966”.

96 Stat. 2168.
49 USC 11909,
11914

CONFORMING AMENDMENTS TO OTHER TITLES

SEC. 3. (a) Title 5, United States Code, is amended as follows:

(1) In section 5313, strike out “Director of the Bureau of the Budget” and substitute “Director of the Office of Management and Budget”.

(2) In section 5314, strike out “Deputy Director of the Bureau of the Budget” and substitute “Deputy Director of the Office of Management and Budget”.

(3) In section 5315, strike out “Assistant Directors of the Bureau of the Budget (3)” and substitute “Assistant Directors of the Office of Management and Budget (3)”.

(4) In section 5514(c), strike out “section 581d” and substitute “section 3530(d)”.

(5) In section 8348(d), strike out “the Second Liberty Bond Act as amended,” and substitute “chapter 31 of title 31”.

(b) Title 18, United States Code, is amended as follows:

(1) In section 490, strike out “minor coins coined” and substitute “one-cent and 5-cent coins minted”.

(2) In section 4124, strike out “Director of the Bureau of the Budget” and substitute “President”.

(c) The Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.) is amended as follows:

(1) In section 7448(p), strike out “Bureau of the Budget” and substitute “President”.

(2) In section 7701(a)(33)(G), strike out “part I of the Interstate Commerce Act” and substitute “subchapter I of chapter 105 of title 49”.

(d) Chapter 11 of title 44, United States Code, is amended as follows:

(1) Amend item 1108 in the analysis of chapter 11 to read as follows:

“1108. Presidential approval required for printing of periodicals; number printed; sale to public.”.

(2) In the catchline of section 1108, strike out “Bureau of Budget” and substitute “Presidential”.

(3) In the text of section 1108, strike out “Director of the Bureau of the Budget” and substitute “President”.

26 USC 7448.

44 USC 1108.

TECHNICAL PROVISIONS

SEC. 4. (a)(1) Except as provided in paragraph (2) of this subsection, the amendment made by section 1(9) of the Act of January 12, 1983

31 USC 3121
note.

(Public Law 97-452, 96 Stat. 2468), applies to an obligation issued under section 3102(a) of title 31, United States Code, after September 3, 1982. 31 USC 3121.
96 Stat. 938.

(2) The amendment made by section 1(9) of the Act of January 12, 1983 (Public Law 97-452, 96 Stat. 2468), applies to an obligation issued after June 30, 1983, if— 31 USC 3121.

(A) interest on the obligation is exempt from tax (decided without regard to the amendments made by section 310 of the Tax Equity and Fiscal Responsibility Act of 1982 (Public Law 97-248, 96 Stat. 595)) under law (without regard to the identity of the holder); and

(B) the obligation was not required to be in registered form under the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.) as in effect on September 2, 1982.

(b) The amendment made by section 1(9) of the Act of January 12, 1983 (Public Law 97-452, 96 Stat. 2468), applies to an obligation issued under section 3103(a) of title 31, United States Code, after December 31, 1982. 31 USC 3121
note.
96 Stat. 939.

(c) The amendments made by sections 1 (3), (4), and (7) and 3(b)(1) of this Act are effective as of September 13, 1982. Effective date.
18 USC 490 note.

LEGISLATIVE PURPOSE AND CONSTRUCTION

SEC. 5. (a) Sections 1-4 of this Act restate, without substantive change, laws enacted before April 1, 1983, that were replaced by those sections. Sections 1-4 may not be construed as making a substantive change in the laws replaced. Laws enacted after March 31, 1983, that are inconsistent with this Act supersede this Act to the extent of the inconsistency. 31 USC note
prec. 101.
49 USC note
prec. 101.

(b) A reference to a law replaced by sections 1-4 of this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision enacted by this Act.

(c) An order, rule, or regulation in effect under a law replaced by sections 1-4 of this Act continues in effect under the corresponding provision enacted by this Act until repealed, amended, or superseded.

(d) An action taken or an offense committed under a law replaced by sections 1-4 of this Act is deemed to have been taken or committed under the corresponding provision enacted by this Act.

(e) An inference of a legislative construction is not to be drawn by reason of the location in the United States Code of a provision enacted by this Act or by reason of the caption or catchline of the provision.

(f) If a provision enacted by this Act is held invalid, all valid provisions that are severable from the invalid provision remain in effect. If a provision of this Act is held invalid in any of its applications, the provision remains valid for all valid applications that are severable from any of the invalid applications.

REPEALS

SEC. 6. (a) The repeal of a law enacted by this Act may not be construed as a legislative inference that the provision was or was not in effect before its repeal. 31 USC note
prec. 101.
49 USC note
prec. 101.

(b) The laws specified in the following schedule are repealed, except for rights and duties that matured, penalties that were

incurred, and proceedings that were begun before the date of enactment of this Act:

Schedule of Laws Repealed

Statutes at Large

	Date	Chapter or Public Law	Section	Statutes at Large	
				Vol- ume	Page
31 USC 1535 note.	1920 May 21	194.....	7(a).....	94	613
	1980 Oct. 14	96-448.....	409.....	94	1948
49 USC app. 1654a.	1982 July 12	97-214.....	10(b)(5).....	96	176
	26 USC 103 note. Sept. 3	97-248.....	310(d)(2)..... 310(d)(4).....	96	600
31 USC 1535 note.	Oct. 15	97-332.....	96	1622
	Dec. 21	97-375.....	111(b)..... 210(a).....	96	1821 1825
45 USC 792. 49 USC app. 1654a.	1983 Jan. 6	97-424.....	310.....	96	2151
	49 USC app. 1601c. Jan. 12	97-448.....	306(b)(2).....	96	2405
26 USC 103 note.					

Approved February 14, 1984.

LEGISLATIVE HISTORY—H.R. 2727:

CONGRESSIONAL RECORD:

Vol. 129 (1983): Aug. 1, considered and passed House.

Vol. 130 (1984): Jan. 31, considered and passed Senate.

Public Law 98-217
98th Congress

An Act

To amend the Panama Canal Act of 1979 to allow the use of proxies by the Board of the Panama Canal Commission.

Feb. 14, 1984
[H.R. 3969]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1102(c) of the Panama Canal Act of 1979 (22 U.S.C. 3612(c)) is amended by adding at the end thereof the following: "The Secretary of Defense, or the officer of the Department of Defense designated by the Secretary under subsection (a) of this section, may act by proxy for any other member of the Board if that other member authorizes the proxy in writing and signs the proxy. Only one proxy may be valid at any one time. The proxy may be counted to establish a quorum and may be used by the Secretary of Defense, or the officer of the Department of Defense designated by the Secretary under subsection (a) of this section, to cast the vote of the absent Board member and to act for that member with all the powers that member would possess if present."

Approved February 14, 1984.

LEGISLATIVE HISTORY—H.R. 3969:

HOUSE REPORT No. 98-515 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD:

Vol. 129 (1983): Nov. 15, considered and passed House.
Vol. 130 (1984): Jan. 31, considered and passed Senate.

Public Law 98-219
98th Congress

An Act

To declare certain lands to be held in trust for the benefit of the Paiute Indian Tribe of Utah, and for other purposes.

Feb. 17, 1984
[H.R. 2898]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) Subject to subsection (d), all right, title, and interest of the United States in the lands described in subsection (b) (including all improvements thereon and appurtenances thereto) are declared to be held in trust by the United States for the benefit of the respective bands of the Paiute Indian Tribe of Utah, as provided in subsection (b), and are declared to be part of the reservation of the Paiute Indian Tribe of Utah.

25 USC 766 note.

(b) The lands subject to this section are parcels 1 through 5 of the lands depicted on the maps contained in the draft document entitled "Proposed Paiute Indian Tribe of Utah Reservation Plan", dated January 24, 1982, and published by the United States Department of the Interior, Bureau of Indian Affairs. Upon enactment of this Act, the Secretary shall publish in the Federal Register the legal description of the lands so depicted. The Secretary is authorized to correct any technical errors in the descriptions of the subject lands. Such lands shall be held as follows:

Federal
Register,
publication.

(1) To be held in trust for the Kanosh Band of the Paiute Tribe of Utah: Parcel numbered 2, figure 5, page 95, containing approximately five hundred and sixty acres; parcel numbered 3, figure 6, page 99, containing approximately five hundred and two acres.

(2) To be held in trust for the Koosharem Band of the Paiute Tribe of Utah: Parcel numbered 4, figure 7, page 105, containing approximately five hundred and twenty acres; parcel numbered 5, figure 8, page 111, containing approximately seven hundred and fifteen acres.

(3) To be held in trust for the Cedar City Band of the Paiute Tribe of Utah: That portion of parcel numbered 1, figure 4, page 85, containing approximately two thousand forty-four acres.

(4) To be held in trust for the Indian Peaks Band of the Paiute Indian Tribe of Utah: That portion of parcel numbered 1, figure 4, page 85, containing approximately four hundred and twenty-four acres.

(c) Nothing in this section shall deprive any person of any existing legal right-of-way, mining claim, grazing permit, water right, or other right or interest which such person may have in the lands described in subsection (b).

(d) Pursuant to the Act of June 14, 1934 (48 Stat. 985), the Secretary shall acquire, to the extent available, easements to and water rights for the lands described in subsection (b) as necessary for their use.

Water.
25 USC 464, 465.

(e) The Secretary shall consult with the town council of Joseph, Utah, and other appropriate local governmental entities prior to

Pollution.

permitting the introduction of any point source of contamination pursuant to any proposed development on parcel numbered 4 as described in subsection (b)(2). The Secretary shall require a minimum of one thousand five hundred feet distance be maintained from the town well of the town of Joseph and any such point source of contamination and may, if he determines it is necessary to prevent contamination of said well, require the installation of an appropriate waste water disposal system as part of any proposed development on parcel 4.

(f) Upon the effective date of this Act, all valid leases, permits, rights-of-way, or other land use rights or authorizations, except mining claims, existing on the date of enactment of this Act in the lands described in subsection (b), including the right to receive compensation for use of the lands, shall cease to be the responsibility of, or enure to the benefit of, the United States, and shall become the responsibility of the Paiute Indian Tribe which shall succeed to the interests of the United States and shall continue to maintain them under the same terms and conditions as they were maintained by the United States.

(g) All improvements on the lands described in subsection (b) in existence on the effective date of the Act, under the authority of the land use rights or authorizations described in subsection (c), shall remain in the same status as to ownership and right of use as existed prior to the date of enactment of this Act.

(h) Nothing in this Act shall be construed as terminating any valid mining claim existing on the date of enactment of this Act on the lands described in subsection (b).

Mining claims.

(i) The mining claims described in subsection (c) shall carry all the rights incident to mining claims, including the rights of ingress and egress over the land described in subsection (b). Such mining claims shall carry the right to occupy and use so much of the surface of the land within their boundaries as is required for all purposes reasonably necessary to mine and remove the minerals, including the removal of timber for mining purposes. Such mining claims shall terminate when they are determined invalid under subsection (j) or are abandoned.

(j) As soon as possible after enactment of this Act, the Secretary of the Interior shall determine the validity of the mining claims described in subsection (h) as of the date of enactment of this Act. Those mining claims which the Secretary determines to be valid shall be maintained thereafter in compliance with the mining laws of the United States but the holders of such claims shall not be entitled to a patent.

(k) Nothing in this Act shall prevent the Paiute Indian Tribe from negotiating the accommodation of land use rights or authorizations described in this section through any method acceptable to the parties.

25 USC 766 note.

SEC. 2. The lands which are declared to be held in trust for the benefit of the tribe or bands under this Act shall be subject to the laws of the United States relating to Indian land to the same extent and in the same manner as the lands comprising the reservation of the tribe or bands on the day before the date of the enactment of this Act.

National Forest System.
25 USC 766 note.

SEC. 3. (a) The Secretary of Agriculture shall not deny the tribe or any member of the tribe the right to use and occupy, on a nonexclusive basis, the national forest land described in subsection (b) for religious and ceremonial purposes for such periods of time and

under such reasonable terms and conditions as the Secretary may prescribe: *Provided*, That the Secretary shall permit the tribe to use and occupy, on an exclusive basis, so much of the national forest land in subsection (b) abutting Fish Lake as is necessary for such religious and ceremonial purposes during and including the second and third weeks of June and the first and second weeks of September of each year, under such reasonable terms and conditions as the Secretary may prescribe.

(b) The land referred to in subsection (a) is the parcel of land depicted on the map contained in the document entitled "Proposed Paiute Indian Tribe of Utah Reservation Plan", dated January 24, 1982, and published by the United States Department of the Interior, Bureau of Indian Affairs, as follows: Parcel numbered 6: Fish Lake; figure 9, page 117.

SEC. 4. (a) There is hereby established in the Treasury of the United States a fund to be known as the Paiute Indian Tribe of Utah Economic Development and Tribal Government Fund. This Fund shall be held in trust for the benefit of the tribe and administered in accordance with this Act.

25 USC 766 note.

(b)(1) One-half of the principal of the Fund shall be designated as the Economic Development Fund and the remaining one-half as the Tribal Government Fund. Each portion of the Fund shall be administered by the Secretary in accordance with reasonable terms established by the tribe and agreed to by the Secretary. The Secretary shall not agree to terms which provide for the investment of the Fund in a manner not in accordance with section 1 of the Act of June 24, 1938 (52 Stat. 1037), unless the tribe first submits a specific waiver of liability on the part of the United States for any loss which may result from such an investment. Until such terms have been agreed upon, the Secretary shall fix the terms for the administration of any portion of the Fund as to which there is no agreement.

25 USC 162a.

(2) Under no circumstances shall any part of the principal of the Fund be distributed to the tribe, or to any member of the tribe, nor shall income accruing to the Fund be used for per capita payments to any member of the tribe.

(3) The Secretary shall make available to the tribe in quarterly payments, without any deductions, any income received from the investment of each fund. The use of the income from the Tribal Government Fund shall be free of regulation by the Secretary. The use of the income from the Economic Development Fund shall be consistent with an economic development plan developed by the tribe and approved by the Secretary. The Secretary shall approve such plan within sixty days of its submission if he finds that it is reasonably related to the economic development of the tribe. If the Secretary does not approve such plan, he shall, at the time of his decision, set forth in writing the reasons for his disapproval. With the approval of the Secretary, the tribe may alter the economic development plan subject to the conditions set forth in this section.

(c) There is authorized to be appropriated in fiscal year 1985 the sum of \$2,500,000, which shall be deposited in the Fund. Not more than 5 per centum of any amount appropriated to the Fund under this section may be obligated or spent by the tribe under any contract or agreement relating to the employment of legal counsel.

Appropriation
authorization.

(d) The transfer of the approximately four thousand seven hundred and seventy acres of land and the appropriation of the \$2,500,000 authorized by this Act shall be in complete fulfillment of

25 USC 761 note. the provisions of Public Law 96-227 relating to the enlargement of the tribe's reservation.

25 USC 766 note. SEC. 5. For purposes of this Act—

(1) the term "tribe" means the Cedar City, Shivwits, Kanosh, Koosharem, and Indian Peaks Bands of Paiute Indians of Utah; and

(2) except where otherwise specified, the term "Secretary" means the Secretary of the Interior.

SEC. 6. The plan for the use or distribution of funds awarded the Creek Nation in docket numbers 169 and 272 before the Indian Claims Commission and in docket numbers 277 and 309-74 before the United States Court of Claims, and the plan for the use and distribution of funds awarded the Sisseton-Wahpeton Sioux in docket numbered 363 before the United States Court of Claims, which were submitted to the Congress by the Department of the Interior for consideration under the provisions of the Judgment Fund Distribution Act of 1973 (87 Stat. 466; 25 U.S.C. 1401 et seq.) are hereby declared to be valid and effective as of the date of enactment of this Act and such plans are declared to have been validly submitted and are exempted from any further review.

Approved February 17, 1984.

LEGISLATIVE HISTORY—H.R. 2898:

HOUSE REPORT No. 98-414 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD:

Vol. 129 (1983): Oct. 24, considered and passed House.

Nov. 18, considered and passed Senate, amended.

Vol. 130 (1984): Feb. 7, House concurred in Senate amendment.

Public Law 98-220
98th Congress

Joint Resolution

To designate March 23, 1984, as "National Energy Education Day".

Feb. 21, 1984
[S.J. Res. 146]

Whereas an adequate and competitively priced energy supply is essential for a strong economy in the United States;
Whereas affordable energy resources are required to fuel the economic growth which will provide new jobs and employment opportunities so that all people of our society may enjoy a higher standard of living and greater prosperity;
Whereas the developments needed for the future will require greater attention to the scientific laws in the areas of physics and chemistry as they relate to the development, distribution, and efficient use of our energy for transportation, communication, manufacturing, and personal use;
Whereas people are striving to make energy work more efficiently in their homes, transportation systems, and workplaces;
Whereas fundamental changes in the United States energy future requires the United States educational system at all grade levels to prepare our youth for the new demands and challenges which lie ahead;
Whereas the celebration of a National Energy Education Day (NEED) will bring together students, teachers, school officials, and community members to focus attention on the need for a greater understanding of energy issues; and
Whereas such celebration should be conducted in a manner which encourages a deeper understanding of the efficient ways energy works for the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in order to promote and enhance energy education programs at all grade levels of public and private schools throughout the United States, March 23, 1984, is designated "National Energy Education Day". The President is requested to issue a proclamation calling upon the people and

educational institutions of the United States to observe such day with appropriate ceremonies and activities, and directing all Federal agencies to participate in the observance of such day and to cooperate with persons and institutions conducting such ceremonies and activities.

Approved February 21, 1984.

LEGISLATIVE HISTORY—S.J. Res. 146:

CONGRESSIONAL RECORD:

Vol. 129 (1983): Sept. 20, considered and passed Senate.

Vol. 130 (1984): Feb. 8, considered and passed House.

Public Law 98-221
98th Congress

An Act

To revise and extend the Rehabilitation Act of 1973, to provide for the operation of the Helen Keller National Center for Deaf-Blind Youths and Adults, to extend the Developmental Disabilities Assistance and Bill of Rights Act, and for other purposes.

Feb. 22, 1984
[S. 1340]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “Rehabilitation Amendments of 1984”.

Rehabilitation
Amendments of
1984.
Handicapped
persons.
29 USC 701 note.

TITLE I—REHABILITATION PROGRAM

DEFINITIONS

SEC. 101. Section 7(12) of the Rehabilitation Act of 1973 (hereafter in this title referred to as “the Act”) is amended by striking out “Health, Education, and Welfare” and inserting in lieu thereof “Education”.

29 USC 706.

REPORTS

SEC. 102. (a) Section 13 of the Act is amended by adding after the first sentence the following: “The Commissioner shall annually collect information on each client whose case is closed out in the preceding fiscal year and include the information in the report required by this section. The information shall set forth a complete count of such cases in a manner permitting the greatest possible cross-classification of data. The data elements shall include, but not be limited to, age, sex, race, ethnicity, education, type of disability, severity of disability, key rehabilitation process dates, earnings at time of entry into program and at closure, work status, occupation, cost of case services, types of services provided, types of facilities or agencies which furnished services and whether each such facility or agency is public or private, and reasons for closure. The Commissioner shall take whatever action is necessary to assure that the identity of each client for which information is supplied under this subsection is confidential.”.

29 USC 712.

Confidentiality.

(b) The last sentence of section 13 is amended by inserting “also” after “shall”.

EVALUATION

SEC. 103. Section 14(a) of the Act is amended by adding after the first sentence the following new sentence: “The Secretary shall establish and use standards for the evaluations required by this subsection. The standards shall, to the extent feasible, for all appropriate programs include standards relating to the increases in employment and earnings taking into account economic factors in the area to be served by the program and the characteristics of the handicapped individuals to be served.”.

29 USC 713.

ADMINISTRATIVE AMENDMENTS

- 29 USC 714. SEC. 104. (a)(1) Section 15(b) of the Act is amended by striking out "Department of Health, Education, and Welfare" and inserting in lieu thereof "Department of Education".
- 29 USC 721. (2) Section 101(a)(11) of the Act is amended by striking out "Department of Health, Education, and Welfare" and inserting in lieu thereof "Department of Health and Human Services".
- 29 USC 722. (3) Section 102(d)(2) of the Act is amended by striking out "Department of Health, Education, and Welfare" and inserting in lieu thereof "Department of Education".
- 29 USC 761a. (4) Section 202(i)(2) of the Act is amended by striking out "Bureau of Education for the Handicapped" and inserting in lieu thereof "Office of Special Education and Rehabilitative Services".
- 29 USC 762. (5) Section 204(b)(7) of the Act is amended by striking out "Office of Education" and inserting in lieu thereof "Department of Health and Human Services".
- 29 USC 761a. (b)(1) Section 202(g) of the Act is amended by striking out "Commissioner of Education" and inserting in lieu thereof "Secretary of Education".
- 29 USC 761b. (2) Section 203(a)(1) of the Act is amended by striking out "Commissioner of Education" and inserting in lieu thereof "Secretary of Education".
- 29 USC 791. (3)(A) The first sentence of section 501(a) of the Act is amended by striking out "the Chairman of the Civil Service Commission" and inserting in lieu thereof "the Chairman of the Office of Personnel Management" and by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Education and Health and Human Services".
- (B) The second sentence of such section is amended by striking out "Secretary of Health, Education, and Welfare and the Chairman of the Civil Service Commission" and inserting in lieu thereof "Secretary of Education and the Chairman of the Office of Personnel Management".
- (C) Section 501 of the Act is amended by striking out "Civil Service Commission" each place it appears and inserting in lieu thereof "Office of Personnel Management".
- (D) Section 501 of the Act is further amended by striking out "Commission" each place it appears and inserting in lieu thereof "Office".
- (E) Section 501(d) of the Act is amended by striking out "Civil Service Commission's activities" and inserting in lieu thereof "the activities of the Office of Personnel Management".
- (F) Section 501(f)(1) of the Act is amended by striking out "Secretary of Health, Education, and Welfare" and inserting in lieu thereof "Secretary of Education".
- 29 USC 794c. (4) Section 507 of the Act is amended by striking out "Secretary of Health, Education, and Welfare" and inserting in lieu thereof "Secretary of Education, the Secretary of Health and Human Services," and by striking out "Chairman of the United States Civil Service Commission" and inserting in lieu thereof "Chairman of the Office of Personnel Management".
- 29 USC 795c. (5) Section 614 of the Act is amended by striking out "Secretary of Health, Education, and Welfare" and inserting in lieu thereof "Secretary of Health and Human Services".
- 29 USC 762a. (c)(1) Section 401(a) of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 is amended by

striking out “Secretary of Health, Education, and Welfare” and inserting in lieu thereof “Secretary of Education”.

(2) Section 402 of such Act is amended by striking out “Commissioner of Education” and inserting in lieu thereof “Assistant Secretary of Education for the Office of Special Education and Rehabilitation Services”.

29 USC 713 note.

PART A—VOCATIONAL REHABILITATION SERVICES

AUTHORIZATION OF APPROPRIATIONS

SEC. 111. (a) Section 100(b)(1) of the Act is amended to read as follows: 29 USC 720.

“(b)(1)(A) For the purpose of making grants to States under part B of this title (other than grants under section 112) to assist them in meeting the costs of vocational rehabilitation services provided in accordance with State plans under section 101, there is authorized to be appropriated \$1,037,800,000 for the fiscal year 1984, and the amount determined under subsection (c) for each of the fiscal years 1985, 1986, and 1987.

29 USC 730; *post*,
p. 20.

29 USC 721.

“(B) In addition, there are authorized to be appropriated for such purpose such additional sums as may be necessary for each of the fiscal years 1985 and 1986. Any amount appropriated pursuant to this subparagraph shall be allocated in accordance with section 110(a)(4).

Post, p. 20.

“(C) In no event may the amount appropriated for the purpose of making grants to States under part B of this title (other than section 112) be more than \$1,117,500,000 for the fiscal year 1985 and \$1,203,200,000 for the fiscal year 1986.”

29 USC 730; *post*,
p. 20.

(b) The first sentence of section 100(b)(2) of the Act is amended to read as follows: 29 USC 720.

“(2) For the purpose of allotments under section 120(a)(1), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1984, 1985, and 1986.”

29 USC 740.

(c) Section 100(b)(3) of the Act is amended by striking out “the fiscal year ending September 30, 1979, and for each of the three fiscal years thereafter” and inserting in lieu thereof “each of the fiscal years 1984, 1985, and 1986”.

(d) Section 100 of the Act is further amended by inserting at the end thereof the following new subsection:

“(d)(1) Unless the Congress in the regular session which ends prior to the beginning of the terminal fiscal year—

“(A) of the authorization of appropriations for the program authorized by the State grant program under part B of this title; 29 USC 730.

or

“(B) of the duration of the program authorized by the State grant program under part B of this title; either—

“(i) has passed or has formally rejected legislation which would have the effect of extending the authorization or duration (as the case may be) of that program; or

“(ii) by action of either the House of Representatives or the Senate, approves a resolution stating that the provisions of this section shall no longer apply to such program; such authorization or duration is automatically extended for one additional fiscal year for the program authorized by this title. The amount appropriated for the additional year shall be the amount

which the Congress could, under the terms of the law for which the appropriation is made, have appropriated based upon the amount authorized for fiscal year 1986 and the amount authorized under subsection (c).

“(2)(A) For the purposes of subdivision (i) of paragraph (1), the Congress shall not have been deemed to have passed legislation unless such legislation becomes law.

“(B) In any case where the Commissioner is required under an applicable statute to carry out certain acts or make certain determinations which are necessary for the continuation of the program authorized by this title, if such acts or determinations are required during the terminal year of such program, such acts and determinations shall be required during any fiscal year in which that part of paragraph (1) of this subsection which follows subdivision (ii) of paragraph (1) is in operation.”.

29 USC 730.

(e) Section 110(a) of the Act is amended—

(1) by striking out “section 100(b)(1)” each place it appears in paragraphs (2) and (3) and inserting in lieu thereof “section 100(b)(1)(A)”; and

(2) by inserting after paragraph (3) the following new paragraph:

Ante, p. 19.

“(4) For each fiscal year beginning on or after October 1, 1984, for which any amount is appropriated pursuant to section 100(b)(1)(B), each State shall receive an allocation (from such appropriated amount) in addition to the allotment to which such State is entitled under paragraphs (2) and (3) of this subsection. Such additional allocation shall be an amount which bears the same ratio to the amount so appropriated as that State's allotment under paragraphs (2) and (3) of this subsection bears to the sum of such allotments of all the States.”.

ELIGIBILITY FOR SERVICES

29 USC 722.

SEC. 112. Section 102(c)(2) of the Act is amended by striking out “beyond any reasonable doubt”.

CLIENT ASSISTANCE

29 USC 732.

SEC. 113. (a) Section 112 of the Act is amended to read as follows:

“CLIENT ASSISTANCE PROGRAM

State and local
governments.
Grants.

“SEC. 112. (a) From funds appropriated under subsection (i), the Secretary shall, in accordance with this section, make grants to States to establish and carry out client assistance programs to provide assistance in informing and advising all clients and client applicants of all available benefits under this Act, and, upon request of such clients or client applicants, to assist such clients or applicants in their relationships with projects, programs, and facilities providing services to them under this Act, including assistance in pursuing legal, administrative, or other appropriate remedies to ensure the protection of the rights of such individuals under this Act.

Prohibition.

“(b) No State may receive payments from its allotment under this Act in any fiscal year unless the State has in effect not later than October 1, 1984, a client assistance program, which—

“(1) has the authority to pursue legal, administrative, and other appropriate remedies to ensure the protection of rights of

handicapped individuals who are receiving treatments, services, or rehabilitation under this Act within the State; and

“(2) meets the requirements of designation under subsection (c).

“(c)(1) The Governor shall designate a public or private agency to conduct the client assistance program under this section. Except as provided in the last sentence of this paragraph, the Governor shall designate an agency which is independent of any agency which provides treatment, services, or rehabilitation to individuals under this Act. If there is an agency in the State which has, or had, prior to the date of enactment of the Rehabilitation Amendments of 1984, served as a client assistance agency under this section and which received Federal financial assistance under this Act, the Governor may designate an agency which provides treatment, services, or rehabilitation to handicapped individuals under this Act.

Ante, p. 17.

“(2) In carrying out the provisions of this section, the Governor shall consult with the director of the State vocational rehabilitation agency, the head of the developmental disability protection and advocacy agency, and with representatives of professional and consumer organizations serving handicapped individuals in the State.

“(3) The agency designated under this subsection shall be accountable for the proper use of funds made available to the agency.

“(d) The agency designated under subsection (c) of this section may not bring any class action in carrying out its responsibilities under this section.

“(e)(1)(A) The Secretary shall allot the sums appropriated for each fiscal year under this section among the States on the basis of relative population of each State, except that no State shall receive less than \$50,000.

“(B) The Secretary shall allot \$30,000 each to American Samoa, Guam, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

“(C) For the purpose of this paragraph, the term ‘State’ does not include American Samoa, Guam, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

“(2) The amount of an allotment to a State for a fiscal year which the Secretary determines will not be required by the State during the period for which it is available for the purpose for which allotted shall be available for reallocation by the Secretary from time to time on such dates he may fix to other States with respect to which such a determination has not been made, in proportion to the original allotments of such States for such fiscal year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use during such period; and the total of such reduction shall be similarly reallocated among the States whose proportionate amounts were not so reduced. Any such amount so reallocated to a State for a fiscal year shall be deemed to be a part of its allotment for such fiscal year.

“(3)(A) The Secretary shall pay to the Governor from the allotment of the State the amount specified in the application approved under subsection (f).

“(B) For the purpose of this paragraph and subsection (c), the term ‘Governor’ means the chief executive of the State.

“(f) No grant may be made under this section unless the State submits an application to the Secretary at such time, in such

- manner, and containing or accompanied by such information as the Secretary deems necessary to meet the requirements of this section.
- Regulations. “(g) The Secretary shall prescribe regulations applicable to the client assistance program which shall include the following requirements:
- Prohibition. “(1) No employees of such programs shall, while so employed, serve as staff or consultants of, or receive benefits of any kind directly or indirectly from, any rehabilitation project, program, or facility receiving assistance under this Act in the State.
- “ (2) Each program shall be afforded reasonable access to policymaking and administrative personnel in the State and local rehabilitation programs, projects, or facilities.
- “ (3) Each program shall contain provisions designed to assure that to the maximum extent possible mediation procedures are used prior to resorting to administrative or legal remedies.
- “ (4) The agency designated under subsection (c) shall submit an annual report to the Secretary on the operation of the program during the previous year, including a summary of the work done and the uniform statistical tabulation of all cases handled by such program. A copy of each such report shall be submitted to the appropriate committees of the Congress by the Secretary, together with a summary of such reports and his evaluation of the program, including appropriate recommendations.
- Report. “(h)(1) The Commissioner shall conduct a comprehensive evaluation of the client assistance program authorized by this section, and submit a report to Congress, not later than February 1, 1986.
- Study. “(2) In conducting the study required by this subsection, the Commissioner shall address and report the following information for each State that received a client assistance program grant. The study shall include—
- “ (A) the numbers of handicapped individuals assisted through the client assistance program;
- “ (B) the handicapping conditions of the individuals assisted, and the proportion each type of individuals represents of the total population assisted;
- “ (C) the types of services provided, cross-referenced to types of handicapped individuals assisted through each service;
- “ (D) the type of organization or agency which administers the client assistance program;
- “ (E) the physical proximity of the client assistance program to the State vocational rehabilitation agency; and
- “ (F) the type of organizational structure used by the client assistance program to deliver services.
- Study. “(3) In conducting the study the Commissioner shall make the following comparisons:
- “ (A) differences in service delivery patterns in client assistance programs in urban and rural areas;
- “ (B) differences in service delivery patterns among client assistance programs administered in various organizational settings; and
- “ (C) differences in service delivery patterns among client assistance programs established after this reauthorization and those that were established prior to this reauthorization.
- “ (4) The report shall include such recommendations, including recommendations for legislative proposals, as the Commissioner deems necessary.

"(i) There are authorized to be appropriated \$6,000,000 for the fiscal year 1984, \$6,300,000 for the fiscal year 1985, and \$6,700,000 for the fiscal year 1986."

Appropriation
authorization.

(b) The table of contents of the Act is amended by striking out the item relating to "Sec. 112" and inserting in lieu thereof the following:

"Sec. 112. Client assistance program."

INNOVATION AND EXPANSION

SEC. 114. (a) The first sentence of section 121(a) of the Act is amended by striking out all that follows "rehabilitation services," and inserting in lieu thereof the following: "including—

29 USC 741.

"(1) programs to initiate or expand such services to individuals with the most severe handicaps;

"(2) special programs under such State plan to initiate or expand services to classes of handicapped individuals who have unusual or difficult problems in connection with their rehabilitation; and

"(3) programs to maximize the use of technological innovations in meeting the employment training needs of handicapped youth and adults."

(b) Section 121(b) of the Act is amended by striking out "1982" and inserting in lieu thereof "1986".

PART B—RESEARCH AND TRAINING

AUTHORIZATION OF APPROPRIATIONS

SEC. 121. (a) Section 201(a)(1) of the Act is amended by striking out "the fiscal year ending September 30, 1979, and for each of the three succeeding fiscal years" and inserting in lieu thereof "fiscal year 1984, and for each of the two succeeding fiscal years".

29 USC 761.

(b) Section 201(a)(2) of the Act is amended to read as follows:

"(2) for the purpose of carrying out section 204, \$36,000,000 for the fiscal year 1984, \$40,000,000 for the fiscal year 1985, and \$44,000,000 for the fiscal year 1986."

NATIONAL INSTITUTE OF HANDICAPPED RESEARCH

SEC. 122. (a) Section 202(a) of the Act is amended by striking out "Health, Education, and Welfare" both times it appears and inserting in lieu thereof "Education" each such time.

29 USC 761a.

(b) Section 202(c) of the Act is amended by adding after the first sentence the following new sentence: "The Director shall be an individual with substantial experience in rehabilitation and in research administration."

(c) Section 202 of the Act is amended by adding at the end thereof the following new subsection:

"(j)(1) The Director shall make a grant to an institution of higher education for the establishment of a program of pediatric rehabilitation research at an institution of higher education.

Grants.
Schools and
colleges.

"(2) The Director shall establish, either directly or by way of grant or contract, a Research and Training Center in the Pacific Basin."

RESEARCH

29 USC 762.

SEC. 123. (a) Section 204(b)(1) of the Act is amended by adding at the end thereof the following: "Rehabilitation Research and Training Centers shall include both comprehensive centers dealing with multiple disabilities and centers focused on particular disabilities. Grants to Centers need not be automatically terminated at the end of a project period and may be renewed on the basis of a thorough evaluation and peer review including site visits. Training of students preparing to be rehabilitation personnel through centers shall be an important priority. Grants may include faculty support for teaching of rehabilitation related courses of study for credit and other courses offered by the institutions of higher education affiliated with the Center."

Grants.

(b) Section 204(b)(3) of the Act is amended by striking out "pursuant to section 303(b)" and inserting in lieu thereof "pursuant to sections 310 and 311".

(c) Section 204(b) of the Act is amended by inserting after paragraph (12) the following new paragraph:

Prohibition.

"(13) Conduct of a rehabilitation research program under which financial assistance is provided in order to (A) test new concepts and innovative ideas, (B) demonstrate research results of high potential benefits, (C) purchase prototype aids and devices for evaluation, (D) develop unique rehabilitation training curricula, and (E) be responsive to special initiatives of the Director. No single grant under this paragraph may exceed \$50,000 in any fiscal year and all payments made under this paragraph in any fiscal year may not exceed 5 per centum of the amount available under section 204 to the National Institute of Handicapped Research in any fiscal year. Regulations and administrative procedures with respect to financial assistance under this paragraph shall, to the maximum extent possible, be expedited."

PART C—SUPPLEMENTARY SERVICES AND FACILITIES

GRANTS FOR CONSTRUCTION

29 USC 771.

SEC. 131. Section 301(a) of the Act is amended by striking out "October 1, 1982" in the first sentence and inserting in lieu thereof the following: "October 1, 1986"; and by striking out "October 1, 1983" and inserting in lieu thereof "October 1, 1987".

VOCATIONAL TRAINING

29 USC 772.

SEC. 132. Section 302 of the Act is amended by striking out "October 1, 1982" and inserting in lieu thereof "October 1, 1986".

TRAINING

29 USC 774.

SEC. 133. (a)(1) Section 304(a) of the Act is amended—

(A) by inserting "(1)" after "including" the second time it appears;

(B) by inserting after "placement services" a comma and the following: "(2) personnel specifically trained to deliver services to individuals who may benefit from receiving comprehensive services for independent living, personnel specifically trained to deliver services in client assistance program,"; and

(C) by inserting “(3)” after “and” the last time it appears in such section.

(2) Section 304(a) of the Act is further amended by adding at the end thereof the following new sentence: “In carrying out the provisions of this subsection, the Commissioner shall, in addition to furnishing training in the services provided under this Act to rehabilitation counselors, furnish training to such counselors in the applicability of the provisions of section 504.” 29 USC 774.

(b)(1) Section 304(a) of the Act is further amended by inserting “qualified” before “personnel” the first time it appears in such section. 29 USC 794.

(2) Section 304(c) of the Act is amended by inserting “qualified” before “personnel” the first time it appears in such section.

(c) Section 304(b) of the Act is amended by striking out “will be utilized to provide a balanced program of assistance to meet the medical, vocational, and other personnel training needs of both public and private rehabilitation programs and institutions, to” and inserting in lieu thereof “shall be targeted to areas of personnel shortage which may”.

(d) Section 304(c) of the Act is amended by adding at the end thereof the following new sentences: “The Commissioner shall prepare and submit to the Congress, simultaneously with the budget submission for the succeeding fiscal year for the Rehabilitation Services Administration, a report setting forth and justifying in detail how the training funds for the fiscal year prior to such submission are allocated by professional discipline and other program areas. The report shall also contain findings on personnel shortages, how funds proposed for the succeeding fiscal year will be allocated under the President’s budget proposal, and how the findings of personnel shortages justify the allocations.” Report.

(e)(1) Section 304 is amended by striking out “(d)” the second time it appears and inserting in lieu thereof “(e)”.

(2) The first sentence of section 304(e) of the Act (as redesignated by paragraph (1)) is amended to read as follows: “There are authorized to be appropriated to carry out this section, \$22,000,000 for the fiscal year 1984, \$27,000,000 for the fiscal year 1985, and \$31,000,000 for the fiscal year 1986.” Appropriation authorization.

AUTHORIZATION OF APPROPRIATIONS FOR COMPREHENSIVE REHABILITATION CENTERS

SEC. 134. Section 305(g) of the Act is amended by striking out “the fiscal year ending September 30, 1979, and for the three succeeding fiscal years”, and inserting in lieu thereof “for each of the fiscal years 1984, 1985, and 1986”. 29 USC 775.

AUTHORIZATION OF APPROPRIATIONS FOR SPECIAL PROJECTS

SEC. 135. Section 310(a) of the Act is amended— 29 USC 777.

(1) by striking out “313” and inserting in lieu thereof “316”; and

(2) by striking out “such sums as may be necessary for each fiscal year ending prior to October 1, 1982” and inserting in lieu thereof “\$12,900,000 for fiscal year 1984, \$13,600,000 for fiscal year 1985, and \$14,300,000 for fiscal year 1986.”.

SPECIAL DEMONSTRATION PROGRAMS

29 USC 777a.

SEC. 136. (a)(1) Section 311(a)(1) of the Act is amended by striking out "individuals with spinal cord injuries and".

Grants.

(2) Section 311(a) of the Act is amended by adding at the end thereof the following new flush sentence: "The Director of the National Institute of Handicapped Research may make grants to States and to public or nonprofit agencies and organizations to pay part or all of the costs of special projects and demonstrations for spinal cord injuries."

Grants.

(b) Section 311(b) of the Act is amended by adding at the end thereof the following new sentence:

"The Director of the National Institute of Handicapped Research shall coordinate each grant made under this subsection with the Commissioner."

(c) Section 311 of the Act is amended by adding at the end thereof the following new subsection:

"(c)(1) The Commissioner may make grants to public and nonprofit agencies and organizations to pay part or all of the costs of special projects and demonstrations including research and evaluation for handicapped youths to provide job training and prepare them for entry into the labor force. Such projects shall be designed to demonstrate cooperative efforts between local educational agencies, business and industry, vocational rehabilitation programs, and organizations representing labor and organizations responsible for promoting or assisting in local economic development.

"(2) Services under this subsection may include—

"(A) jobs search assistance;

"(B) on-the-job training;

"(C) job development including worksite modification and use of advanced learning technology for skills training;

"(D) dissemination of information on program activities to business and industry; and

"(E) followup services for individuals placed in employment.

"(3) The Commissioner shall assure that projects shall be coordinated with other projects assisted under section 626 of the Education of the Handicapped Act."

20 USC 1425.

SPECIAL RECREATIONAL PROGRAMS AUTHORIZATION OF APPROPRIATIONS

29 USC 777f.

SEC. 137. Section 316 of the Act is amended by inserting "(a)" after the section designation and by adding at the end thereof the following new subsection:

"(b) There are authorized to be appropriated to carry out this section \$2,000,000 for the fiscal year 1984, \$2,100,000 for the fiscal year 1985, and \$2,200,000 for the fiscal year 1986."

PART D—NATIONAL COUNCIL

ADMINISTRATIVE AMENDMENT

National Council
on the
Handicapped.
29 USC 780.
29 USC 780a.
Ante, p. 17.

SEC. 141. (a) Section 400(a) of the Act is amended by striking out "with the Department of Health, Education, and Welfare" and inserting in lieu thereof "within the Federal Government".

(b)(1) Effective on the date of enactment of the Rehabilitation Amendments of 1984, the National Council on the Handicapped shall be an independent agency within the Federal Government and

shall not be an agency within the Department of Education or any other department or agency of the United States.

(2) There are transferred to the Chairman of the National Council on the Handicapped all functions relating to the Council which were vested in the Secretary of Education on the day before the date of enactment of the Rehabilitation Amendments of 1984. The Chairman of the National Council on the Handicapped shall continue to exercise all the functions under the Rehabilitation Act of 1973 or any other law or authority which the Chairman was performing before the date of the enactment of the Rehabilitation Amendments of 1984.

Ante, p. 17.

29 USC 701 note.

(3) References in any statute, reorganization plan, Executive order, regulation, or other official document or proceeding to the Department of Education or the Secretary of Education with respect to functions or activities relating to the National Council on the Handicapped shall be deemed to refer to the National Council on the Handicapped or the Chairman of the National Council on the Handicapped, respectively.

DUTIES

SEC. 142. (a) Section 401 of the Act is amended—

29 USC 781.

(1) by striking out clause (3) and inserting in lieu thereof the following:

“(3) advise the President, the Congress, the Commissioner, the appropriate Assistant Secretary of the Department of Education, and the Director of the National Institute of Handicapped Research on the development of the programs to be carried out under this Act;”;

(2) in clause (5)—

(A) by inserting “the President, the Congress,” immediately before “the Secretary”; and

(B) by striking out “the Commissioner,”;

(3) by striking out “and” at the end of clause (5);

(4) by striking out “the Secretary,” in clause (6);

(5) by striking out the period at the end of clause (6) and inserting in lieu thereof a semicolon and the word “and”; and

(6) by adding at the end thereof the following:

“(7) provide to the Congress on a continuing basis advice, recommendations, and any additional information which the Council or the Congress deems appropriate.”.

(b) Section 401 of the Act is amended by inserting “(a)” after the section designation and by adding at the end thereof the following new subsection:

“(b) The National Council shall—

“(1) review all statutes pertaining to Federal programs which assist handicapped individuals;

“(2) make a priority listing of such programs based on the number of handicapped individuals such programs assist and the Federal costs of such programs;

“(3) assess the extent to which such programs provide incentives or disincentives to the establishment of community-based services for handicapped individuals, promote the full integration of such individuals in the community, in schools, and in the workplace, and contribute to the independence and dignity of such individuals;

“(4) recommend to the President and the Congress legislative proposals for increasing incentives and eliminating disincentives.”.

tives in Federal programs based on the assessment made pursuant to clause (3); and

Report.

“(5) prepare and submit a final report to the President and to the Congress not later than February 1, 1986, on the review, assessment, and recommendations required by this subsection.”.

STAFF

29 USC 783.

SEC. 143. (a) Section 403(a) of the Act is amended by striking out “up to seven technical and professional employees” and inserting in lieu thereof “an Executive Director”.

(b) Section 403(a) of the Act is further amended by adding at the end thereof the following new sentence: “The Executive Director shall be appointed from among individuals who are experienced in the planning or operation of programs for handicapped individuals.”.

(c) Section 403(a) of the Act is further amended by inserting “(1)” after the section designation and by adding at the end thereof the following new subsection:

“(2) The Executive Director is authorized to hire not to exceed seven technical and professional employees to assist the National Council to carry out its duties.”.

(d) Section 403(b) of the Act is amended by inserting “(1)” after the subsection designation and by adding at the end thereof the following new paragraphs:

“(2) The National Council may—

“(A) accept voluntary and uncompensated services, notwithstanding the provisions of section 1342 of title 31, United States Code;

“(B) accept, in the name of the Council, employ and dispose of in furtherance of this Act, any money, or property, real or personal, or mixed, tangible or nontangible, received by gift, devise, bequest, or otherwise; and

“(C) enter into contracts and cooperative agreements with Federal and State agencies, private firms, institutions, and individuals for the conduct of research and surveys, preparation of reports and other activities necessary to the discharge of the Council’s duties and responsibilities.

“(3) Not more than 10 per centum of the total amounts available to the National Council in each fiscal year may be used for official representation and reception.

“(4) From the amount available to the Office of Special Education and Rehabilitative Services, Department of Education, \$500,000 in fiscal year 1984 shall be transferred and made available to the National Council.”.

96 Stat. 923.

Contracts.

PART E—ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

AUTHORIZATION OF APPROPRIATIONS

29 USC 792.

SEC. 151. Section 502(i) of the Act is amended by striking out “October 1, 1982” and inserting in lieu thereof “October 1, 1986.”.

PART F—EMPLOYMENT OPPORTUNITIES

AUTHORIZATION OF APPROPRIATIONS FOR COMMUNITY SERVICE
EMPLOYMENT PILOT PROGRAMS

SEC. 161. Section 617 of the Act is amended to read as follows: 29 USC 795f.

“AUTHORIZATION OF APPROPRIATIONS

“SEC. 617. There are authorized to be appropriated to carry out the provisions of this part such sums as may be necessary for each of the fiscal years 1984, 1985, and 1986.”.

PROJECTS WITH INDUSTRY

SEC. 162. (a) The matter preceding clause (A) of section 621(a)(1) of the Act is amended by inserting after “employers” a comma and the following: “designated State units”. 29 USC 795g.

(b) Section 621(a) of the Act is amended by adding at the end thereof the following new paragraphs:

“(3) Any agreement developed under this subsection shall include a description of an evaluation plan which at the end of each year of a funding cycle reflects at a minimum the following—

“(A) the numbers and types of handicapped individuals assisted;

“(B) the types of assistance provided;

“(C) the sources of funding;

“(D) the percentage of resources committed to each type of assistance provided;

“(E) the extent to which the employment status and earning power of handicapped individuals changed following assistance;

“(F) the extent of capacity building activities, including collaboration with other organizations, agencies, and institutions; and

“(G) a comparison, when appropriate, of activities in prior years with activities in the most recent year.”.

(c) Section 621 of the Act is amended by adding after subsection (c) the following new subsections:

“(d)(1) The Commissioner shall, not later than February 1, 1985, develop and publish standards for evaluation consistent with the provisions in section (a)(3) to assist each recipient under the Projects With Industry Program receiving assistance under this title to review and evaluate the operation of its project.

“(2) The Commissioner shall, pursuant to section 14 of this Act, conduct a comprehensive evaluation of the Projects With Industry Program and submit a report on February 1, 1986, to Congress on the evaluation, including recommendations for the improvement and continuation of each recipient and for the support of new Projects With Industry recipients. In conducting the comprehensive evaluation, the Commissioner shall apply standards for evaluation criteria which are consistent with those required in section (a)(3). Report.

“(3) In developing standards for evaluation to be used by the Projects With Industry recipients, and in developing the standards for evaluation to be used in the comprehensive evaluation, the Commissioner shall obtain and consider recommendations for such standards from State Vocational Rehabilitation Agencies, current Projects With Industry recipients, professional organizations repre-

senting industry, organizations representing handicapped individuals, individuals assisted by Projects With Industry recipients, and labor organizations.

Prohibition.

“(4) No standards may be established under this subsection unless the standards are approved by the National Council on the Handicapped. The Council shall approve the standards within ninety days after receiving the standards. If the Secretary of Education has not received notification of approval or disapproval from the Council within ninety days, the standards shall be deemed approved. A Council decision on such standards shall occur at a regularly scheduled meeting of the Council, and shall be the result of a simple majority of those present at the meeting.

Ante, p. 17.

“(e) The parties to each agreement receiving assistance under this section in the fiscal year in which the Rehabilitation Amendments of 1984 is enacted shall continue to receive assistance through September 30, 1986, unless the Commissioner determines that there is a substantial failure to comply with the agreement.”.

EQUITABLE DISTRIBUTION

29 USC 795g.

SEC. 163. Section 621 of the Act (as amended by section 162) is amended by adding at the end thereof the following new subsection:

“(f) The Commissioner shall to the extent practicable assure an equitable distribution of payments made under this section among the States.”.

AUTHORIZATION OF APPROPRIATIONS

29 USC 795i.

SEC. 164. Section 623 of the Act is amended by striking out “of this part for each fiscal year beginning before October 1, 1982” and inserting in lieu thereof “for section 621, \$13,000,000 for fiscal year 1984, \$14,400,000 for fiscal year 1985, and \$15,200,000 for fiscal year 1986; and for section 622, such sums as may be necessary for each of the fiscal years 1984, 1985, and 1986”.

TECHNICAL AMENDMENT

29 USC 795a.

SEC. 165. Section 612(b) of the Act is amended by striking out “Comprehensive Employment and Training Act of 1973” and inserting in lieu thereof “Job Training Partnership Act”.

PART G—SERVICES FOR INDEPENDENT LIVING

EVALUATION

29 USC 796e.

SEC. 171. (A) Section 711(c) is amended—

(1) by striking out “and” at the end of clause (2);

(2) by redesignating clause (3) as clause (4); and

(3) by inserting after clause (2) the following new clause:

“(3) contain a description of an evaluation plan which at the end of each year of a funding cycle shall reflect at a minimum the following—

“(A) the numbers and types of handicapped individuals assisted;

“(B) the extent to which individuals with varying handicapping conditions were served;

“(C) the types of services provided;

“(D) the sources of funding;

“(E) the percentage of resources committed to each type of service provided;

“(F) how services provided contributed to the maintenance of or the increased independence of handicapped individuals assisted;

“(G) the extent to which handicapped individuals participate in management and decisionmaking in the center;

“(H) the extent of capacity building activities including collaboration with other agencies and organizations;

“(I) the extent of catalytic activities to promote community awareness, involvement, and assistance;

“(J) the extent of outreach efforts and the impact of such efforts; and

“(K) a comparison, when appropriate, of prior year(s) activities with most recent year activities.”.

(b) Section 711 of the Act is amended by inserting at the end thereof the following new subsection: 29 USC 796e.

“(e)(1) The Commissioner shall, not later than February 1, 1985, develop and publish standards for evaluation consistent with the provisions in subparagraph (c)(3) to assist each independent living center receiving funding under this title to review and evaluate the operation of its center.

“(2) The Commissioner shall, under the authority specified in section 14 of this Act, conduct a comprehensive evaluation of the Centers for Independent Living Grant Program, and submit a report no later than February 1, 1986, to Congress on the evaluation, including recommendations for the improvement and continuation of each grantee and for the support of new independent living centers. In conducting the comprehensive evaluation, the Commissioner shall apply standards for evaluation which are consistent with the standards required in paragraph (1).

Report.
29 USC 713.

“(3) In developing standards for evaluation to be used by the grantees, and in developing the standards for evaluation to be used in the comprehensive evaluation, the Commissioner shall obtain and consider recommendations for such standards from national organizations representing handicapped individuals and independent living programs; and from independent living centers, professionals serving handicapped individuals, and individuals, associations, and organizations engaged in research in independent living.

“(4) No standards may be established under this subsection unless the standards are approved by the National Council on the Handicapped. The Council shall approve the standards within ninety days after receiving the standards. If the Secretary of Education has not received notification of approval or disapproval from the Council within the ninety days, the standards shall be deemed approved. A Council decision on such standards shall occur at a regularly scheduled meeting of the Council, and shall be the result of a simple majority of those present at the meeting.

Prohibition.

“(f) Grantees receiving assistance under this section in the fiscal year in which the Rehabilitation Amendments of 1984 are enacted shall continue to receive assistance through September 30, 1986, unless the Commissioner determines that there is a substantial failure to comply with the provisions of the approved application.”.

Ante, p. 17.

AUTHORIZATION OF APPROPRIATIONS

29 USC 796i. SEC. 172. (a)(1) Section 731 of the Act the second time it appears is redesignated as section 741.

Supra. (2) The table of contents of the Act is amended by striking out "Sec. 731" after part E and inserting in lieu thereof "Sec. 741".

(b)(1) Section 741(a) of the Act (as so redesignated) is amended to read as follows:

29 USC 796. "(a) There are authorized to be appropriated to carry out part A of this title such sums as may be necessary for each of the fiscal years 1984, 1985, and 1986."

(2) Section 741(b) of the Act (as so redesignated) is amended to read as follows:

29 USC 796e. "(b) There are authorized to be appropriated to carry out part B of this title \$21,000,000 for the fiscal year 1984, \$22,000,000 for the fiscal year 1985, and \$23,000,000 for the fiscal year 1986."

(3) Section 741(c)(1) of the Act (as so redesignated) is amended to read as follows:

29 USC 796f. "(c) There are authorized to be appropriated to carry out part C of this title such sums as may be necessary for each of the fiscal years 1984, 1985, and 1986."

(4) Section 741 of the Act (as so redesignated) is amended by inserting after subsection (c)(1) (as amended by paragraph (3) of this subsection) the following:

29 USC 796g. "(d)(1) There are authorized to be appropriated to carry out part D of this title such sums as may be necessary for each of the fiscal years 1984, 1985, and 1986."

Helen Keller
National Center
Act.

TITLE II—REAUTHORIZATION OF THE HELEN KELLER NATIONAL CENTER FOR DEAF-BLIND YOUTHS AND ADULTS

SHORT TITLE

29 USC 1901
note.

SEC. 201. This title may be cited as the "Helen Keller National Center Act".

CONGRESSIONAL FINDINGS

29 USC 1901.

SEC. 202. The Congress finds that—

(1) deaf-blindness is among the most severe of all forms of disabilities, and there is a great and continuing need for services and training to help deaf-blind individuals attain the highest possible level of development;

(2) due to the rubella epidemic of the 1960's and recent advances in medical technology that have sustained the lives of many severely disabled individuals, including deaf-blind individuals, who might not otherwise have survived, the need for services for deaf-blind individuals is even more pressing now than in the past;

(3) helping deaf-blind individuals to become self-sufficient, independent, and employable by providing the services and training necessary to accomplish that end will benefit the Nation, both economically and socially;

(4) the Helen Keller National Center for Deaf-Blind Youths and Adults is a vital national resource for meeting the needs of deaf-blind individuals and no State currently has the facilities or personnel to meet such needs;

(5) the Federal Government has invested approximately \$10,000,000 in capital, equipment, and operating funds for such Center since it was established; and

(6) it is in the national interest to continue to provide support for the Center, and it is a proper function of the Federal Government to be the primary source of such support.

AUTHORIZATION FOR THE CONTINUED OPERATION OF THE HELEN KELLER NATIONAL CENTER FOR DEAF-BLIND YOUTHS AND ADULTS; REPEAL OF PRIOR AUTHORIZATION

SEC. 203. (a) Section 313 of the Rehabilitation Act of 1973 (29 U.S.C. 777c) is repealed.

Repeal.
29 USC 1902.

(b) The Secretary of Education shall continue to administer and support the Helen Keller National Center for Deaf-Blind Youths and Adults in the same manner as such Center was administered pursuant to section 313 of the Rehabilitation Act of 1973, to the extent such manner of administration is not inconsistent with any purpose described in subsection (c) or any other requirement of this title.

Supra.

(c) The purposes of the Center are to—

(1) provide specialized intensive services, or any other services, at the Center or anywhere else in the United States, which are necessary to encourage the maximum personal development of any deaf-blind individual;

(2) train professionals and allied personnel at the Center or anywhere else in the United States to provide services to deaf-blind individuals; and

(3) conduct applied research, development programs, and demonstrations with respect to communication techniques, teaching methods, aids and devices, and delivery of services.

AUDIT; MONITORING AND EVALUATION

SEC. 204. (a) The books and accounts of the Center shall be audited annually by an independent auditor in the manner prescribed by the Secretary and a report on each such audit shall be submitted by the auditor to the Secretary at such time as the Secretary shall prescribe.

29 USC 1903.

(b)(1) The Secretary shall establish procedures for monitoring, on a regular basis, the services performed and the training conducted by the Center.

(2) The Secretary shall, in addition to the regular monitoring required under paragraph (1), conduct an evaluation of the operation of the Center at the end of each fiscal year. A written report of such evaluation shall be submitted to the President, the Clerk of the House of Representatives, and the Secretary of the Senate within one hundred and eighty days after the end of the fiscal year for which such evaluation was conducted. The first such report shall be submitted for fiscal year 1983.

Reports.

AUTHORIZATION OF APPROPRIATIONS

SEC. 205. (a) There are authorized to be appropriated \$4,000,000 for the fiscal year 1984, \$4,200,000 for the fiscal year 1985, and \$4,300,000 for the fiscal year 1986 to carry out the provisions of this title. Such sums shall remain available until expended.

29 USC 1904.

(b) Any appropriation Act containing any appropriation authorized by subsection (a) shall contain a statement of the specific amount being made available to the Center.

DEFINITIONS

29 USC 1905.

SEC. 206. For purposes of this title—

(1) the terms “Helen Keller National Center for Deaf-Blind Youths and Adults” and “Center” mean the Helen Keller National Center for Deaf-Blind Youths and Adults, and its affiliated network, operated pursuant to section 313 of the Rehabilitation Act of 1973 and continued under this title;

(2) the term “deaf-blind individual” means any individual—

(A) who has a central visual acuity of 20/200 or less in the better eye with corrective lenses, or central acuity of 20/200 if there is a field defect such that the peripheral diameter of visual field subtends an angular distance no greater than 20 degrees,

(B) who has a chronic hearing impairment so severe that most speech cannot be understood with optimum amplification, and

(C) for whom the combination of the impairments described in subparagraphs (A) and (B) causes extreme difficulty in attaining independence in daily life activities, achieving psychosocial adjustment, or obtaining a vocation, and such term includes any other meaning the Secretary may prescribe by regulation; and

(3) the term “Secretary” means the Secretary of Education.

CONSTRUCTION OF ACT; EFFECT ON AGREEMENTS

29 USC 1906.

SEC. 207. This title shall not be construed as modifying or affecting any agreement between the Department of Education or any other department or agency of the United States and the Industrial Home for the Blind, Incorporated, or any successor to or assignee of such corporation, with respect to the Center.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 208. (a) The table of contents of the Rehabilitation Act of 1973 is amended by striking out “Sec. 313. Helen Keller National Center.”.

29 USC 777.

(b) Section 310(a) of the Rehabilitation Act of 1973 is amended by striking out “(other than section 313),”.

TITLE III—DEVELOPMENTAL DISABILITIES

ADMINISTRATIVE AMENDMENT

42 USC 6001.

SEC. 301. Section 102(11) of the Developmental Disabilities Assistance and Bill of Rights Act (hereafter in this title referred to as “the Act”) is amended by striking out “Secretary of Health, Education, and Welfare” and inserting in lieu thereof “Secretary of Health and Human Services”.

PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS

SEC. 302. The first sentence of section 113(b)(2) of the Act is amended to read as follows: "There is authorized to be appropriated for allotments under paragraph (1) \$8,400,000 for fiscal year 1984." 42 USC 6012.

UNIVERSITY AFFILIATED FACILITIES

SEC. 303. Section 123 of the Act is amended to read as follows: 42 USC 6033.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 123. There is authorized to be appropriated to carry out this part \$7,800,000 for fiscal year 1984."

GRANTS FOR PLANNING AND THE PROVISION OF SERVICES

SEC. 304. Section 131 of the Act is amended to read as follows: 42 USC 6061.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 131. There is authorized to be appropriated to carry out the provisions of this part \$45,400,000 for fiscal year 1984."

SPECIAL PROJECTS

SEC. 305. Section 145(d) of the Act is amended to read as follows: 42 USC 6081.
"(d) For the purpose of making grants under subsection (a), there is authorized to be appropriated \$2,600,000 for fiscal year 1984." Grants.

Approved February 22, 1984.

LEGISLATIVE HISTORY—S. 1340 (H.R. 3520):

HOUSE REPORTS: No. 98-298 accompanying H.R. 3520 (Comm. on Education and Labor) and No. 98-595 (Comm. of Conference).

SENATE REPORT No. 98-168 (Comm. on Labor and Human Resources).

CONGRESSIONAL RECORD:

Vol. 129 (1983): July 26, considered and passed Senate.

Sept. 12, 13, H.R. 3520 considered and passed House; S. 1340, amended, passed in lieu.

Vol. 130 (1984): Feb. 9, Senate and House agreed to conference report.

Public Law 98-222
98th Congress

An Act

Feb. 29, 1984

[H.R. 4956]

To extend the authorities under the Export Administration Act of 1979.

97 Stat. 1391.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 20 of the Export Administration Act of 1979 (50 U.S.C. App. 2419) is amended by striking out "February 29" and inserting in lieu thereof "March 30".

Approved February 29, 1984.

LEGISLATIVE HISTORY—H.R. 4956:

CONGRESSIONAL RECORD, Vol. 130 (1984):

Feb. 28, considered and passed House.

Feb. 29, considered and passed Senate.

Public Law 98-223
98th Congress

An Act

To amend title 38, United States Code, to increase the rates of compensation for disabled veterans and the rates of dependency and indemnity compensation for survivors; to express the sense of the Congress that increases in the rates of compensation should take effect on December 1 beginning in fiscal year 1985; and for other purposes.

Mar. 2, 1984
[S. 1388]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the “Veterans’ Compensation and Program Improvements Amendments of 1984”.

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

Veterans’
Compensation
and Program
Improvements
Amendments of
1984.
38 USC 101 note.

TITLE I—DISABILITY COMPENSATION AND DEPENDENCY
AND INDEMNITY COMPENSATION

PART A—RATE INCREASES

DISABILITY COMPENSATION

SEC. 101. (a) Section 314 is amended—

96 Stat. 1429.
38 USC 314.

(1) by striking out “\$62” in subsection (a) and inserting in lieu thereof “\$64”;

(2) by striking out “\$114” in subsection (b) and inserting in lieu thereof “\$118”;

(3) by striking out “\$173” in subsection (c) and inserting in lieu thereof “\$179”;

(4) by striking out “\$249” in subsection (d) and inserting in lieu thereof “\$258”;

(5) by striking out “\$352” in subsection (e) and inserting in lieu thereof “\$364”;

(6) by striking out “\$443” in subsection (f) and inserting in lieu thereof “\$459”;

(7) by striking out “\$559” in subsection (g) and inserting in lieu thereof “\$579”;

(8) by striking out “\$648” in subsection (h) and inserting in lieu thereof “\$671”;

(9) by striking out “\$729” in subsection (i) and inserting in lieu thereof “\$755”;

(10) by striking out “\$1,213” in subsection (j) and inserting in lieu thereof “\$1,255”;

(11) by striking out “\$1,506” and “\$2,111” in subsection (k) and inserting in lieu thereof “\$1,559” and “\$2,185”, respectively;

(12) by striking out “\$1,506” in subsection (l) and inserting in lieu thereof “\$1,559”;

(13) by striking out "\$1,661" in subsection (m) and inserting in lieu thereof "\$1,719";

(14) by striking out "\$1,888" in subsection (n) and inserting in lieu thereof "\$1,954";

(15) by striking out "\$2,111" each place it appears in subsections (c) and (p) and inserting in lieu thereof "\$2,185";

(16) by striking out "\$906" and "\$1,350" in subsection (r) and inserting in lieu thereof "\$938" and "\$1,397", respectively;

(17) by striking out "\$1,357" in subsection (s) and inserting in lieu thereof "\$1,404";

(18) by striking out "\$262" in subsection (t) and inserting in lieu thereof "\$271"; and

(19) by striking out "per centum" each place it appears and inserting in lieu thereof "percent".

38 USC 314 note.

(b) The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

38 USC note
prec. 101.

38 USC 301 *et*
seq.

38 USC 312, 355.

(c) Sections 312 and 355 are amended by striking out "per centum" each place it appears and inserting in lieu thereof "percent".

ADDITIONAL COMPENSATION FOR DEPENDENTS

96 Stat. 1430.
38 USC 315.

SEC. 102. (a) Section 315(1) is amended—

(1) by striking out "\$74" in clause (A) and inserting in lieu thereof "\$77";

(2) by striking out "\$124" and "\$40" in clause (B) and inserting in lieu thereof "\$128" and "\$41", respectively;

(3) by striking out "\$50" and "\$40" in clause (C) and inserting in lieu thereof "\$52" and "\$41", respectively;

(4) by striking out "\$60" in clause (D) and inserting in lieu thereof "\$62";

(5) by striking out "\$134" in clause (E) and inserting in lieu thereof "\$139"; and

(6) by striking out "\$112" in clause (F) and inserting in lieu thereof "\$116".

(b) Section 315 is amended by striking out "per centum" both places it appears and inserting in lieu thereof "percent".

CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS

96 Stat. 1430.
38 USC 362.

SEC. 103. Section 362 is amended by striking out "\$327" and inserting in lieu thereof "\$338".

DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES

96 Stat. 1430.
38 USC 411.

SEC. 104. (a) Subsection (a) of section 411 is amended to read as follows:

"(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the person upon whose death entitlement is predicated, at monthly rates set forth in the following table:

EFFECTIVE DATE OF FUTURE INCREASES

38 USC 301 note. SEC. 108. It is the sense of the Congress that any increase provided by law to take effect after fiscal year 1984 in the rates of disability compensation and dependency and indemnity compensation payable under chapters 11 and 13, respectively, of title 38, United States Code, shall take effect on December 1 of the fiscal year involved and that the budgets for any such fiscal year include amounts to achieve such purpose.

38 USC 301 *et seq.*, 401 *et seq.*

PART B—COMPENSATION PROGRAM AMENDMENTS

PRESUMPTION CONCERNING DYSTHYMIC DISORDER

38 USC 312. SEC. 111. Section 312(b) is amended—

- (1) by striking out “or” at the end of clause (8);
- (2) by inserting “or” at the end of clause (9); and
- (3) by inserting after clause (9) the following new clause: “(10) dysthymic disorder (or depressive neurosis),”.

RATES OF COMPENSATION FOR CERTAIN BLINDED VETERANS

38 USC 314. SEC. 112. (a) Subsection (o) of section 314 is amended by inserting “or if the veteran has suffered service-connected total deafness in one ear or bilateral deafness (and the hearing impairment in either one or both ears is service connected) rated at 40 percent or more disabling and the veteran has also suffered service-connected blindness having only light perception or less,” after “5/200 visual acuity or less,”.

(b) Subsection (p) of section 314 is amended—

(1) by striking out “40” in clause (1) and inserting in lieu thereof “30”; and

(2) by inserting after the second period the following new sentence: “In the event the veteran has suffered service-connected blindness, having only light perception or less, and has also suffered bilateral deafness (and the hearing impairment in either one or both ears is service connected) rated at 10 or 20 percent disabling, the Administrator shall allow the next intermediate rate, but in no event in excess of \$2,185.”.

INCREASES IN COMPENSATION ON ACCOUNT OF CERTAIN PERIODS OF HOSPITALIZATION OR CONVALESCENCE

96 Stat. 801.
38 USC 3011.

SEC. 113. Section 3011(c) is amended—

(1) by inserting “(1)” after “(c)”; and

(2) by adding at the end the following new paragraph:

“(2) In the case of a temporary increase in compensation for hospitalization or treatment where such hospitalization or treatment commences and terminates within the same calendar month, the period of payment shall commence on the first day of such month.”.

EFFECTIVE DATE

38 USC 312 note. SEC. 114. The amendments made by this part shall take effect as of October 1, 1983.

TITLE II—VETERANS' PROGRAM IMPROVEMENTS

INCLUSION OF CERTAIN ADOPTED PERSONS WITHIN THE TITLE 38
DEFINITION OF CHILD

SEC. 201. Section 101(4)(A) is amended by adding at the end the following new sentence: "A person described in clause (ii) of the first sentence of this subparagraph who was a member of a veteran's household at the time the person became 18 years of age and who is adopted by the veteran shall be recognized as a legally adopted child of the veteran regardless of the age of such person at the time of adoption." 38 USC 101.

FIVE-YEAR EXTENSION OF PROGRAM TO PROVIDE ASSISTANCE TO STATE
VETERANS' CEMETERIES

SEC. 202. Section 1008(a)(2) is amended by inserting a comma and "and such sums as may be necessary for fiscal year 1985 and for each of the four succeeding fiscal years," after "fiscal years". 38 USC 1008.

MISCELLANEOUS EDUCATION PROGRAM AMENDMENTS

SEC. 203. (a) Section 1602(1) is amended by adding at the end the following new subparagraph: 38 USC 1602.

"(D)(i) The requirement of ineligibility for educational assistance under chapter 34 of this title, prescribed in subparagraph (A), shall be waived in the case of a veteran described in division (ii) of this subparagraph who elects to receive benefits under this chapter instead of assistance under such chapter 34. A veteran who makes such an election shall be ineligible for assistance under such chapter. Such an election is irrevocable. 38 USC 1651 *et seq.*

"(ii) A veteran referred to in division (i) of this subparagraph is a veteran who before January 1, 1977, performed military service described in subparagraph (C)(iii), is entitled under section 1652(a)(3)(C) of this title to have such service considered to be 'active duty' for the purposes of chapter 34 of this title, and is eligible for assistance under such chapter only by reason of having such service considered to be active duty." 38 USC 1652.

(b) Section 1733(a) is amended— 38 USC 1733.

(1) by inserting "(with no dependents)" after "an eligible veteran"; and

(2) by striking out all after "of this title" the second place it appears and inserting in lieu thereof a period.

(c)(1) Section 1781 is amended— 38 USC 1781.

(A) by inserting "(a)" before "No educational"; and

(B) by adding at the end the following new subsection:

"(b) No person may receive benefits concurrently under two or more of the provisions of law listed below for the pursuit of the same program of education:

"(1) Chapters 31, 32, 34, 35, and 36 of this title. 38 USC 1501 *et seq.*, 1601 *et seq.*, 1651 *et seq.*, 1700 *et seq.*, 1770 *et seq.*

"(2) Chapter 107 of title 10. 10 USC 2141 *et seq.*

"(3) Section 903 of the Department of Defense Authorization Act, 1981 (Public Law 96-342, 10 U.S.C. 2141 note).

"(4) The Hostage Relief Act of 1980 (Public Law 96-449, 5 U.S.C. 5561 note)." 38 USC 1795.

(2)(A) Subsection (a) of section 1795 is amended to read as follows:

“(a) The aggregate period for which any person may receive assistance under two or more of the provisions of law listed below may not exceed 48 months (or the part-time equivalent thereof):

“(1) Parts VII or VIII, Veterans Regulation numbered 1(a), as amended.

66 Stat. 663.

“(2) Title II of the Veterans’ Readjustment Assistance Act of 1952.

38 USC 1601 *et seq.*, 1651 *et seq.*, 1700 *et seq.*, 1770 *et seq.*
10 USC 2141 *et seq.*

“(3) The War Orphans’ Educational Assistance Act of 1956.

“(4) Chapters 32, 34, 35, and 36 of this title, and the former chapter 33.

“(5) Chapter 107 of title 10.

“(6) Section 903 of the Department of Defense Authorization Act, 1981 (Public Law 96-342, 10 U.S.C. 2141 note).

“(7) The Hostage Relief Act of 1980 (Public Law 96-449, 5 U.S.C. 5561 note).”

(B) Subsection (b) of such section is amended—

(i) by striking out “clauses (1), (2), (3), and (4)” and inserting in lieu thereof “subsection (a)”; and

(ii) by striking out “forty-eight” and inserting in lieu thereof “48”.

SUBSTITUTION OF HOUSING LOAN-GUARANTY ENTITLEMENT

38 USC 1802.

SEC. 204. Section 1802(b)(2) is amended by striking out “an immediate” and inserting in lieu thereof “a”.

LOAN GUARANTIES FOR MANUFACTURED HOMES PERMANENTLY AFFIXED TO LOTS

38 USC 1810.

SEC. 205. (a) Section 1810 is amended—

(1) by inserting after subsection (a)(8) the following new clause:

“(9)(A)(i) To purchase a manufactured home to be permanently affixed to a lot that is owned by the veteran.

“(ii) To purchase a manufactured home and a lot to which the home will be permanently affixed.

“(B)(i) To refinance, in accordance with the terms and conditions applicable under the provisions of subsection (e) of this section (other than paragraph (1)(E) of such subsection) to the guaranty of a loan for the purpose specified in clause (8) of this subsection, an existing loan guaranteed, insured, or made under this chapter that is secured by a manufactured home permanently affixed to a lot that is owned by the veteran.

96 Stat. 1444.
38 USC 1819.

“(ii) To refinance, in accordance with section 1819(a)(5) of this title, an existing loan that was made for the purchase of, and that is secured by, a manufactured home that is permanently affixed to a lot and to purchase the lot to which the manufactured home is affixed.”; and

(2) by adding at the end the following new subsection:

“(f)(1) For a loan to be guaranteed for the purpose specified in subclause (A)(ii) or (B)(ii) of subsection (a)(9) of this section, the purchase of (or the refinancing of a loan secured by) the manufactured home and the lot for that home shall be considered as one loan and must comply with such criteria as may be prescribed by the Administrator in regulations.

“(2) A loan may not be guaranteed for the purposes of subsection (a)(9) of this section unless the manufactured home purchased, upon

being permanently affixed to the lot, is considered to be real property under the laws of the State where the lot is located.”.

(b) Section 1819(a)(5) is amended by inserting “or section 1810(a)(9)(B)(ii) of this title” after “paragraph (1)(G) of this subsection” both places it appears.

96 Stat. 1444.
38 USC 1819.

(c) Section 1803(c)(3) is amended—

96 Stat. 1444.
38 USC 1803.

(1) by striking out “or (8)” in clause (A) and inserting in lieu thereof a comma and “(8), or (9)(B)(i)”; and

(2) by inserting “1810(a)(9)(B)(ii) or” in clause (E) after “section”.

EMPLOYMENT EMPHASIS UNDER FEDERAL CONTRACTS FOR VETERANS WITH SERIOUS EMPLOYMENT HANDICAPS

SEC. 206. Section 2011(1) is amended to read as follows:

38 USC 2011.

“(1) The term ‘special disabled veteran’ means—

“(A) a veteran who is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under laws administered by the Veterans’ Administration for a disability (i) rated at 30 percent or more, or (ii) rated at 10 or 20 percent in the case of a veteran who has been determined under section 1506 of this title to have a serious employment handicap; or

“(B) a person who was discharged or released from active duty because of service-connected disability.”.

PAYMENTS FOR FIDUCIARY SERVICES

SEC. 207. (a) Section 3202(a) is amended—

38 USC 3202.

(1) by inserting “(1)” after “(a)”; and

(2) by adding at the end the following new paragraph:

“(2) In a case in which the Administrator determines that a commission is necessary in order to obtain the services of a fiduciary in the best interests of a beneficiary, the Administrator may authorize a fiduciary appointed by the Veterans’ Administration to obtain from the beneficiary’s estate a reasonable commission for fiduciary services rendered, but the commission for any year may not exceed 4 percent of the monetary benefits under laws administered by the Veterans’ Administration paid on behalf of the beneficiary to the fiduciary during such year. A commission may not be authorized for a fiduciary who receives any other form of remuneration or payment in connection with rendering fiduciary services on behalf of the beneficiary.”.

(b)(1) The heading for section 3202 is amended to read as follows:

“§ 3202. Payments to and supervision of fiduciaries”.

(2) The item relating to such section in the table of sections at the beginning of chapter 55 is amended to read as follows:

“3202. Payments to and supervision of fiduciaries.”.

BOARD OF VETERANS’ APPEALS MEMBERSHIP

SEC. 208. (a) Section 4001(a) is amended by striking out “(not more than fifty)” and inserting in lieu thereof “(not more than 65)”.

38 USC 4001.

(b) Section 4001 is amended by adding at the end the following new subsection:

“(c)(1) Subject to paragraph (2) of this subsection, the Chairman may from time to time designate employees of the Veterans’ Administration to serve as temporary members of the Board. Any such designation shall be for a period of not to exceed one year, as determined by the Chairman. An individual may not serve as a temporary member of the Board for more than 24 months during any 48-month period.

“(2) Designation under paragraph (1) of this subsection of an individual as a temporary member of the Board may not be made when there are fewer than 65 members of the Board.

Report.
38 USC 214.

“(3) In each annual report to the Congress under section 214 of this title, the Administrator shall provide detailed descriptions of the activities undertaken and plans made in the fiscal year for which the report is made with respect to the authority provided by paragraph (1) of this subsection. In each such report, the Administrator shall indicate, in terms of full-time employee equivalents, the number of temporary Board members designated under this subsection and the number of acting Board members designated under section 4002(a)(2)(A)(ii) of this title during the year for which the report is made.”.

Infra.

38 USC 4001,
4002.
38 USC 4002.

(c) Sections 4001 and 4002 are each amended by striking out “associate” each place it appears.

(d) Section 4002 is amended—

(1) by inserting “(a)(1)” before “The Chairman”;

(2) by striking out the second sentence and inserting in lieu thereof the following:

“(2)(A) If a section is composed of fewer than three members as a result of the absence of a member or a vacancy on the Board or the inability of a member assigned to a section to serve on that section, the Chairman—

“(i) may assign another member of the Board to the section;

“(ii) may designate an employee of the Veterans’ Administration to serve as an acting member of the Board on such section for a period of not to exceed 90 days, as determined by the Chairman; or

“(iii) may direct the section to proceed with the transaction of business without awaiting the assignment of an additional member to the section.

“(B) An individual may not serve as an acting member of the Board for more than 270 days during any 12-month period.

“(3) A section of the Board may not at any time have among its members more than one individual who is a temporary member designated under section 4001(c) of this title or an acting member designated under paragraph (2)(A)(ii) of this subsection.”;

Supra.

(3) by designating the sentence beginning “A hearing docket” as subsection (b); and

(4) by designating the sentence beginning “A section of” as subsection (c).

MEMBERSHIP OF SPECIAL MEDICAL ADVISORY GROUP

38 USC 4112.

SEC. 209. Section 4112(a) is amended—

(1) by inserting a comma and “other individuals considered by the Chief Medical Director to have experience pertinent to the mission of the Department of Medicine and Surgery,” after “professions”;

- (2) by striking out "Director, whose duties" and inserting in lieu thereof "Director. The duties of the special medical advisory group"; and
- (3) by striking out "direct" and inserting in lieu thereof "directly".

REVISION OF EFFECTIVE DATE FOR CERTAIN RESERVE OFFICERS' TRAINING CORPS PARTICIPANTS' ELIGIBILITY FOR VETERANS' ADMINISTRATION BENEFITS

SEC. 210. Subsection (d) of section 113 of the Veterans' Compensation, Education, and Employment Amendments of 1982 (Public Law 97-306; 96 Stat. 1433) is amended to read as follows:

38 USC 101 note.

"(d) The amendments made by subsections (a) and (b) and the provisions of subsection (c)—

"(1) with respect to deaths and disabilities resulting from diseases or injuries incurred or aggravated after September 30, 1982, shall take effect as of October 1, 1982; and

"(2) with respect to deaths and disabilities resulting from diseases or injuries incurred or aggravated before October 1, 1982, shall take effect as of October 1, 1983."

PILOT PROGRAM FOR EXPEDITING CERTAIN MEDICAL FACILITY CONSTRUCTION PROJECTS

SEC. 211. (a)(1) Subject to subsection (b) and notwithstanding any other provision of law, during fiscal years 1984 and 1985 the Administrator of Veterans' Affairs may obligate, for the purpose described in paragraph (2), a total of not more than \$25,000,000 of funds appropriated to the Veterans' Administration under the appropriation account "CONSTRUCTION, MAJOR PROJECTS" that are unobligated and that the Administrator determines are no longer needed for the projects for which such funds were appropriated and are not needed for contingencies arising in the Veterans' Administration's construction program.

(2) Funds described in paragraph (1) may be obligated for the purpose of undertaking during fiscal year 1984 or 1985 working drawings for any project for construction or alteration of any medical facility that is planned to be undertaken (subject to appropriations for such project) during fiscal year 1985 or 1986.

(b)(1) Funds may not be obligated under subsection (a) for working drawings for projects for the complete replacement of an existing health-care facility or for projects for the new construction of a complete health-care facility.

(2) The amount obligated under subsection (a) for working drawings for any one project may not exceed \$2,500,000.

(3) The Administrator may not undertake under subsection (a) working drawings for a project unless the Administrator, not less than 30 days before undertaking the drawings, has provided to the Committees on Veterans' Affairs and on Appropriations of the Senate and House of Representatives written notice of the drawings to be undertaken, the estimated cost of the drawings, and the estimated range of the total cost of the project.

(c) For the purpose of this section:

(1) The term "medical facility" has the meaning provided in section 5001(3) of title 38, United States Code.

(2) The term "working drawings" includes specifications and other related technical services.

SPRINGFIELD CONFEDERATE CEMETERY

Missouri.

38 USC 1000 *et seq.*

SEC. 212. The land comprising the Confederate cemetery at Springfield, Missouri, shall be considered part of the Springfield National Cemetery and may be used for the purposes for which national cemeteries may be used under chapter 24 of title 38, United States Code. The provision of the first section of the Act of March 3, 1911 (36 Stat. 1077, chapter 211) requiring that the land comprising that cemetery be used only as a cemetery for the graves of men who were in the military or naval service of the Confederate States of America is hereby superseded.

TECHNICAL AMENDMENTS

SEC. 213. Title 38 is amended as follows:

(1) Section 351 is amended by striking out "title 28, United States Code," both places it appears and inserting in lieu thereof "title 28".

(2) Section 412(a) is amended—

(A) by striking out "section 414 of title 42" in clause (1) and inserting in lieu thereof "section 214 of the Social Security Act (42 U.S.C. 414)";

(B) by striking out "section 402 of title 42" in clause (3) and inserting in lieu thereof "section 202 of the Social Security Act (42 U.S.C. 402)"; and

(C) by striking out "subchapter II of chapter 7 of title 42" in the matter after clause (3) and inserting in lieu thereof "title II of the Social Security Act (42 U.S.C. 201 *et seq.*)"; and

(3) Section 3010(m) is amended by striking out "subsection" and inserting in lieu thereof "section".

Approved March 2, 1984.

LEGISLATIVE HISTORY—S. 1888 (H.R. 2937):

HOUSE REPORT No. 98-228 accompanying H.R. 2937 (Comm. on Veterans' Affairs).

SENATE REPORT No. 98-249 (Comm. on Veterans' Affairs).

CONGRESSIONAL RECORD:

Vol. 129 (1983): Nov. 18, considered and passed Senate.

Vol. 130 (1984): Feb. 8, considered and passed House, amended.

Feb. 9, Senate concurred in House amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 9 (1984):

Mar. 2, Presidential statement.

Public Law 98-224
98th Congress

An Act

To make certain miscellaneous changes in laws relating to the civil service.

Mar. 2, 1984
[H.R. 4336]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Civil Service
Miscellaneous
Amendments
Act of 1983.
5 USC 1101 note.

SHORT TITLE

SECTION 1. This Act may be cited as the “Civil Service Miscellaneous Amendments Act of 1983”.

REAPPOINTMENT OF FORMER ADMINISTRATIVE LAW JUDGES

SEC. 2. Section 3323(b) of title 5, United States Code, is amended to read as follows:

“(b)(1) Notwithstanding other statutes, an annuitant as defined by section 8331 of this title receiving annuity from the Civil Service Retirement and Disability Fund is not barred by reason of his retired status from employment in an appointive position for which the annuitant is qualified. An annuitant so reemployed, other than an annuitant reappointed under paragraph (2) of this subsection, serves at the will of the appointing authority.

5 USC 8331.

“(2) Subject to such regulations as the Director of the Office of Personnel Management may prescribe, any annuitant to whom the first sentence of paragraph (1) of this subsection applies and who has served as an administrative law judge pursuant to an appointment under section 3105 of this title may be reappointed an administrative law judge under such section for a specified period or for such period as may be necessary for such administrative law judge to conduct and complete the hearing and disposition of one or more specified cases. The provisions of this title that apply to or with respect to administrative law judges appointed under section 3105 of this title shall apply to or with respect to administrative law judges reappointed under such section pursuant to the first sentence of this paragraph.”.

5 USC 3105.

FEDERAL LABOR RELATIONS AUTHORITY

SEC. 3. (a) Section 7104(b) of title 5, United States Code, is amended by adding at the end thereof the following new sentence: “The Chairman is the chief executive and administrative officer of the Authority.”.

(b) Section 7104(c) of title 5, United States Code, is amended to read as follows:

“(c) A member of the Authority shall be appointed for a term of 5 years. An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced. The term of any member shall not expire before the earlier of—

“(1) the date on which the member’s successor takes office, or

“(2) the last day of the Congress beginning after the date on which the member’s term of office would (but for this paragraph) expire.”.

ARBITRATION AWARDS

SEC. 4. Section 7122(b) of title 5, United States Code, is amended to read as follows:

“(b) If no exception to an arbitrator’s award is filed under subsection (a) of this section during the 30-day period beginning on the date the award is served on the party, the award shall be final and binding. An agency shall take the actions required by an arbitrator’s final award. The award may include the payment of backpay (as provided in section 5596 of this title).”.

5 USC 5596.

EXECUTIVE EXCHANGE PROGRAM

SEC. 5. (a) Section 4108 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

“(d) For purposes of this section, ‘training’ includes a private sector assignment of an employee participating in the Executive Exchange Program of the President’s Commission on Executive Exchange.”.

(b)(1) Section 1304(e)(1) of title 5, United States Code, is amended—

(A) by striking out clause (ii); and

(B) by striking out “(i)”.

(2) Section 4109 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

“(d)(1) The revolving fund referred to in section 1304(e)(1) of this title shall be available to the Executive Exchange Program of the President’s Commission on Executive Exchange without fiscal year limitation—

5 USC 1304.

“(A) for the costs of education and related travel of participants in such program; and

“(B) for printing, without regard to section 501 of title 44; and

“(C) in such amounts as may be specified in appropriations Acts, for entertainment expenses.

“(2) Participation fees which the President’s Commission on Executive Exchange may impose and collect for participation in its Executive Exchange Program (including the balance of any participation fees collected under former section 1304(e)(1)(ii) of this title as of the effective date of this subsection) shall be credited to the revolving fund.”.

AUTHORITY TO CONTINUE DEMONSTRATION PROJECT

SEC. 6. The Department of the Navy is authorized to continue operation of the personnel demonstration project authorized by section 4703 of title 5, United States Code, at the Naval Weapons Center, China Lake, California, and at the Naval Ocean Systems Center, San Diego, California, until September 30, 1990, without regard to section 4703(d)(1) of such title.

Approved March 2, 1984.

LEGISLATIVE HISTORY—H.R. 4336:

CONGRESSIONAL RECORD:

Vol. 129 (1983): Nov. 16, considered and passed House.

Vol. 130 (1984): Feb. 9, considered and passed Senate, amended.

Feb. 21, House concurred in Senate amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 9 (1984):

Mar. 2, Presidential statement.

Public Law 98-225
98th Congress

Joint Resolution

Mar. 2, 1984
[S.J. Res. 184]

To designate the week of March 4, 1984, through March 10, 1984, as "National Beta Club Week".

Whereas the Beta Club recognizes those high school students who have displayed outstanding qualities of leadership and the highest standards of honesty, achievement, and service to others;

Whereas the Beta Club significantly contributes to the motivation of students to acquire necessary education by rewarding such students for displaying such outstanding qualities, and thereby contributes to the development of responsible citizens;

Whereas January 9, 1984, marks the fiftieth anniversary of the founding of the Beta Club for the purpose of recognizing the meritorious achievements of exemplary students; and

Whereas it is appropriate to give recognition to the Beta Club for its significant accomplishments toward the development of the youth of the Nation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of March 4, 1984, through March 10, 1984, is designated as "National Beta Club Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate programs, ceremonies, and activities.

Approved March 2, 1984.

LEGISLATIVE HISTORY—S.J. Res. 184:

CONGRESSIONAL RECORD, Vol. 130 (1984):

Feb. 27, considered and passed Senate.

Feb. 29, considered and passed House.

Public Law 98-226
98th Congress

Joint Resolution

Designating March 6, 1984, as "Frozen Food Day".

Mar. 5, 1984
[S.J. Res. 193]

Whereas the United States of America is blessed with an impressive array of agricultural products that make the food production and distribution system of the Nation the envy of the world;

Whereas throughout history one of the primary goals of human effort has been the production of food;

Whereas the farm-to-city migration created a great demand for food supplies in dense population centers in which such supplies could not be grown;

Whereas the international frozen food industry started in the United States with vegetables, fruit, meat, and fish being first packaged and offered to consumers in 1930;

Whereas between 1935 and 1940 frozen foods were provided to the public on a large scale, and during World War II ration point values posted in stores and carried in newspapers focused public attention on frozen foods;

Whereas frozen food became a meaningful part of the space age when Apollo XII astronauts took frozen meals on board and seventy-two frozen food items were stored on skylab for a five-hundred-day supply of meals for the crew;

Whereas the American frozen food industry has worked closely with producers and has continued research and development for the purpose of seeking better ways to bring the nutrition, quality, and taste of American agricultural products to the American consumer; and

Whereas in March 1984 the frozen food industry in the United States will celebrate the fifty-fourth year of service to the American people and the people of the world: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in recognition of the significant contribution which the frozen food industry in the United States has made and continues to make to the nutritional well-being of the American people by enabling them to

share in the agricultural abundance of the Nation, March 6, 1984, is hereby designated as "Frozen Food Day". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Approved March 5, 1984.

LEGISLATIVE HISTORY—S.J. Res. 193:

CONGRESSIONAL RECORD, Vol. 130 (1984):
Feb. 27, considered and passed Senate.
Feb. 29, considered and passed House.

Public Law 98-227
98th Congress

Joint Resolution

Designating the week beginning March 4, 1984, as "Women's History Week".

Mar. 5, 1984
[H.J. Res. 422]

Whereas American women of every race, class, and ethnic background have made historical contributions to the growth and strength of the Nation in countless recorded and unrecorded ways; Whereas American women have played and continue to play a critical economic, cultural, and social role in every sphere of our Nation's life by constituting a significant portion of the labor force working in and outside of the home;

Whereas American women have played a unique role throughout our history by providing the majority of the Nation's volunteer labor force and have been particularly important in the establishment of early charitable philanthropic and cultural institutions in this country;

Whereas American women of every race, class, and ethnic background served as early leaders in the forefront of every major progressive social change movement, not only to secure their own right of suffrage and equal opportunity, but also in the abolitionist movement, the emancipation movement, the industrial labor movement, the peace movement, and the modern civil rights movement;

Whereas, despite these contributions, the role of American women in history has been consistently overlooked and undervalued in the body of American history: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning March 4, 1984, is designated as "Women's History Week", and the President is requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved March 5, 1984.

LEGISLATIVE HISTORY—H.J. Res. 422:

CONGRESSIONAL RECORD, Vol. 130 (1984):

Feb. 29, considered and passed House.

Mar. 1, considered and passed Senate.

Public Law 98-228
98th Congress

Joint Resolution

Mar. 7, 1984

[H.J. Res. 292]

Designating "National Theatre Week".

Whereas many Americans have devoted much time and energy for advancing the cause of theatre; and

Whereas the theatres of America have pioneered the way for many performers and have given them their start in vaudeville and stage; and

Whereas theatre is brought to Americans through high schools, colleges, and community theatre groups as well as through professional acting companies; and

Whereas citizens of America have been called upon to support the theatre arts in the Nation's interest; and

Whereas many individuals and organizations are hailing the strength and vitality of the theatres of America: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of June 3 through June 9, 1984, shall be designated "National Theatre Week" and the President is authorized and requested to issue a proclamation calling upon the people, and all citizens are urged to support this effort with assistance to theatres throughout the country.

Approved March 7, 1984.

LEGISLATIVE HISTORY—H.J. Res. 292:

CONGRESSIONAL RECORD:

Vol. 129 (1983): Oct. 26, considered and passed House.

Vol. 130 (1984): Feb. 27, considered and passed Senate.

Public Law 98-229
98th Congress

An Act

To apportion certain funds for construction of the National System of Interstate and Defense Highways for fiscal year 1985 and to increase the amount authorized to be expended for emergency relief under title 23, United States Code, and for other purposes.

Mar. 9, 1984

[H.R. 4957]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Transportation shall apportion for the fiscal year ending September 30, 1985, one-half of the sums authorized to be appropriated for such year by section 108(b) of the Federal-Aid Highway Act of 1956, as amended, for expenditures on the National System of Interstate and Defense Highways, using the apportionment factors contained in revised table 5 of the committee print numbered 98-10 of the Committee on Public Works and Transportation of the House of Representatives.

23 USC 104 note.

23 USC 101 note.

SEC. 2. The Secretary of Transportation shall apportion for the fiscal year ending September 30, 1984, one-half of the sums to be apportioned for such year under section 103(e)(4) of title 23, United States Code, for expenditure on substitute highway and transit projects, using the apportionment factors contained in the committee print numbered 98-11 of the Committee on Public Works and Transportation of the House of Representatives.

SEC. 3. In addition to any amounts authorized to be appropriated by section 125 of title 23, United States Code, for the fiscal year ending September 30, 1984, there is authorized to be appropriated, out of the Highway Trust Fund (other than the Mass Transit Account), for such fiscal year \$150,000,000 to carry out such section.

Appropriation
authorization.

SEC. 4. The proviso in the first sentence of subsection (b) of section 125 of title 23, United States Code, limiting the aggregate amount of obligations for projects under such section, shall not apply to funds authorized to be appropriated by section 3 of this Act.

SEC. 5. A project to alleviate flooding conditions caused by an inadequate box culvert under an Interstate highway in the vicinity of Carencro, Louisiana—

Flood control.
Louisiana.

(1) by removal of such box culvert and construction of one or more bridges, or

(2) by construction of drainage ditches,

at a cost not to exceed \$2,000,000, shall be eligible for assistance under section 125 of title 23, United States Code.

SEC. 6. A project to repair or reconstruct any portion of a Federal-aid primary route in San Mateo County, California, which was destroyed as a result of a combination of storms in the winter of 1982-1983 and a mountain slide and which, until its destruction, had served as the only reasonable access between two cities and as the designated emergency evacuation route of one of such cities shall be eligible for assistance under section 125 of title 23, United States Code.

California.

SEC. 7. Upon application by the State of Maryland, and after approval of withdrawal by the Secretary of Transportation of

Maryland.

23 USC 104.

unbuilt portions of Interstate route I-83 in Baltimore, Maryland, under section 103(e)(4) of title 23, United States Code, the Secretary shall transfer \$100,000,000 from the apportionment of such State under section 104(b)(5)(A) of such title to the apportionment of such State under section 104(b)(5)(B) of such title. Upon transfer of such funds, the estimate of the cost of completing substitute highway projects in such State prepared under section 103(e)(4) of such title shall be reduced by \$100,000,000. Of funds apportioned to such State under section 104(b)(5)(B) of such title, \$100,000,000 shall be obligated for resurfacing, restoring, rehabilitating, and reconstructing portions of such Interstate route open to traffic. Any funds transferred under this section shall continue to be available for expenditure in such State until the last day of the second fiscal year following the fiscal year in which such transfer is made. Any amount of funds so transferred which have not been obligated by such last day shall lapse and shall be made available by the Secretary for projects under section 118(b)(3) of such title.

23 USC 118.

SEC. 8. (a) The last sentence of section 139(a) and the fourth sentence of section 139(b) of title 23, United States Code, are amended to read as follows: "The designation of a highway as part of the Interstate System under this subsection shall create no Federal financial responsibility with respect to such highway; except that any State may use funds available to it under sections 104(b)(1) and 104(b)(5)(B) of this title for the resurfacing, restoring, rehabilitating, and reconstructing of any highway designated as a route on the Interstate System under this subsection before the date of enactment of this sentence."

(b) Subsection (a) of section 119 of title 23, United States Code, is amended to read as follows:

23 USC 103, 139.

"(a) The Secretary may approve projects for resurfacing, restoring, rehabilitating, and reconstructing routes on the Interstate System designated under sections 103 and 139(c) of this title and routes on the Interstate System designated before the date of enactment of this sentence under section 139 (a) and (b) of this title; except that the Secretary may only approve a project pursuant to this subsection on a toll road if such road is subject to a Secretarial agreement provided for in section 105 of the Federal-Aid Highway Act of 1978. Sums authorized to be appropriated for this section shall be out of the Highway Trust Fund and shall be apportioned in accordance with section 104(b)(5)(B) of this title. The Federal share for any project under this subsection shall be that set forth in section 120(c) of this title."

92 Stat. 2692.

23 USC 120.
Bridges.
Illinois.

SEC. 9. Construction of any bridge—

(1) which will be part of a four-lane expressway on the Federal-aid primary system in the vicinity of Valley City, Illinois, and Florence, Illinois;

(2) construction of which received discretionary funding in fiscal year 1979 under the third sentence of section 144(g) of title 23, United States Code; and

(3) construction of which, on May 1, 1983, was prohibited by judicial injunction;
shall be eligible for assistance under section 144 of such title.

23 USC 144.

SEC. 10. Section 165(a) of the Surface Transportation Assistance Act of 1982 is amended by striking out “, cement,”.

23 USC 101
note.

Approved March 9, 1984.

LEGISLATIVE HISTORY—H.R. 4957:

CONGRESSIONAL RECORD, Vol. 130 (1984):

Feb. 29, considered and passed House.

Mar. 2, considered and passed Senate.

Public Law 98-230
98th Congress

Joint Resolution

Mar. 12, 1984
[S.J. Res. 161]

To designate the month of April 1984, as "National Child Abuse Prevention Month".

Whereas the incidence and prevalence of child abuse and neglect have reached alarming proportions in the United States;

Whereas an estimated two million children become victims of child abuse in this Nation each year;

Whereas an estimated two thousand of these children die as a result of such abuse each year;

Whereas the Nation faces a continuing need to support innovative programs to prevent child abuse and assist parents and family members in which child abuse occurs;

Whereas Congress has expressed its commitment to seeking and applying solutions to this problem by enacting the Child Abuse Prevention and Treatment Act of 1974;

Whereas many dedicated individuals and private organizations, including the National Exchange Club Foundation for the Prevention of Child Abuse, Parents Anonymous, the National Committee for the Prevention of Child Abuse, American Humane Association, and other members of the National Child Abuse Coalition, are working to counter the ravages of abuse and neglect to help child abusers break this destructive pattern of behavior;

Whereas the average cost for a public welfare agency to serve a family through a child abuse program is twenty times greater than self-help programs administered by private organizations;

Whereas organizations, such as the National Exchange Club Foundation for the Prevention of Child Abuse, Parents Anonymous and other members of the National Child Abuse Coalition are expediting efforts to prevent child abuse in the next generation through special programs for abused children; and

Whereas it is appropriate to focus the attention of the Nation upon the problem of child abuse: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of April 1984, is designated as "National Child Abuse Prevention Month" and the President of the United States is authorized and requested to issue a proclamation calling upon all Government agencies and the people of the United States to observe the month with appropriate programs, ceremonies, and activities.

Approved March 12, 1984.

LEGISLATIVE HISTORY—S.J. Res. 161:

CONGRESSIONAL RECORD:

Vol. 129 (1983): Nov. 10, considered and passed Senate.
Vol. 130 (1983): Feb. 29, considered and passed House.

Public Law 98-231
98th Congress

An Act

Mar. 14, 1984
[S. 2354]

To rename the "River of No Return Wilderness" in the State of Idaho as the "Frank Church—River of No Return Wilderness".

16 USC 1132
note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in recognition of the significant contributions and the tireless efforts of Frank Church in the establishment and designation of the River of No Return Wilderness in the State of Idaho, the "River of No Return Wilderness" established by the Act of July 23, 1980, Public Law 96-312 (94 Stat. 948) shall hereafter be known as the "Frank Church—River of No Return Wilderness".

SEC. 2. The Secretary of Agriculture is hereby authorized to take such actions as may be necessary to implement the provision of this Act.

Approved March 14, 1984.

LEGISLATIVE HISTORY—S. 2354:

CONGRESSIONAL RECORD, Vol. 130 (1984):

Mar. 1, considered and passed Senate.

Mar. 8, considered and passed House.

Public Law 98-232
98th Congress

Joint Resolution

To proclaim the month of March 1984, as "National Social Work Month".

Mar. 14, 1984

[S.J. Res. 112]

Whereas a productive and rewarding life for all of our citizens is a major goal of our Nation; and
Whereas for millions of people in our society adverse economic and social conditions create severe stresses and an inability to cope with life situations; and
Whereas countless numbers of Americans through accidents, birth, or illness develop physical, emotional, and mental impairments; and
Whereas professional social workers are advocates for sound and humane public policies and services; and
Whereas professional social workers are in the vanguard of the forces working to provide protection for children and the aged, the reduction of racism and sexism and the prevention of the social and emotional disintegration of individuals and families; and
Whereas professional social workers constitute the largest group of professionals engaged in the treatment and recovery of those individuals who have become emotionally and mentally ill; and
Whereas in recognition of professional social workers continuing efforts to provide the opportunities for a life of accomplishment, dignity, and purpose for all people: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating the month of March 1984, as "National Social Work Month", and calling upon the people of the United States to observe the month with appropriate programs, ceremonies, and activities.

Approved March 14, 1984.

LEGISLATIVE HISTORY—S.J. Res. 112:

CONGRESSIONAL RECORD, Vol. 130 (1984):
Feb. 27, considered and passed Senate.
Mar. 8, considered and passed House.

Public Law 98-233
98th Congress

Joint Resolution

Mar. 14, 1984
[S.J. Res. 225]

Designating the month of March 1984 as "National Eye Donor Month".

Whereas one million four hundred thousand Americans suffer from serious disorders of the eye, many of which can be eased by the efforts of eyebanks;

Whereas eyebanks in the United States have grown from a single institution in 1944 to ninety-three in 1984;

Whereas eyebanks have sought to encourage research into the prevention and treatment of eye disease and injury in the United States;

Whereas some one hundred and fifty thousand Americans have had their vision restored and twenty-two thousand to twenty-five thousand such operations are performed annually in the United States; and

Whereas increased national awareness of the benefits of eye donations has lent impetus to expanded research activities, and helps Americans affected by blinding diseases: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of March 1984, is designated as "National Eye Donor Month", and the President is authorized and requested to issue a proclamation calling on all citizens to join in recognizing this humanitarian cause with appropriate activity.

Approved March 14, 1984.

LEGISLATIVE HISTORY—S.J. Res. 225:

CONGRESSIONAL RECORD, Vol. 130 (1984):
Feb. 27, considered and passed Senate.
Mar. 8, considered and passed House.

Public Law 98-234
98th Congress

Joint Resolution

Authorizing and requesting the President to designate the second full week in March 1984 as "National Employ the Older Worker Week".

Mar. 16, 1984
[S.J. Res. 205]

Whereas individuals aged fifty-five and over are a major national resource, constitute 22 per centum of the population of the United States at the present time, and are likely to constitute a larger percentage of the population in future decades;

Whereas a growing number of such individuals, being willing and able to work, are looking for employment opportunities, want to remain in the work force, or would like to serve their communities and their Nation in voluntary roles;

Whereas such individuals, who have made continuing contributions to the national welfare, should be encouraged to remain in, or resume, career and voluntary roles that utilize their strengths, wisdom, and skills;

Whereas career opportunities reaffirm the dignity, self-worth, and independence of older individuals by encouraging them to make decisions and to act upon those decisions, by tapping their resources, experience, and knowledge, and by enabling them to contribute to society;

Whereas the operation of title V of the Older Americans Act of 1965 has demonstrated that older workers are extremely capable in a wide variety of job roles;

42 USC 3041.

Whereas recent studies conducted by the United States Department of Labor and the Work in America Institute indicate that, in many cases, employers prefer to retain older workers or rehire former older employees due to the high quality of their job performance and their low rate of absenteeism; and

Whereas the American Legion has sponsored a "National Employ the Older Worker Week" during the second full week of March in every year since 1959, focusing public attention on the advantages of employing older individuals: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to designate the second full week in March 1984 as "National Employ the Older Worker Week", and to issue a proclamation calling upon—

(1) the employers and labor unions of the United States to give special consideration to older workers, with a view toward expanding career and employment opportunities for older workers who are willing and able to work and who desire to remain employed or to reenter the work force;

(2) voluntary organizations to reexamine the many fine service programs which they sponsor with a view toward expanding both the number of older volunteers and the types of service roles open to older workers;

(3) the United States Department of Labor to give special assistance to older workers by means of job training programs

29 USC 1501
note.

42 USC 3041.

under the Jobs Training and Partnership Act, job counseling through the United States Employment Service, and additional support through its Older Worker program, as authorized by title V of the Older Americans Act; and

(4) the citizens of the United States to observe this day with appropriate programs, ceremonies, and activities.

Approved March 16, 1984.

LEGISLATIVE HISTORY—S.J. Res. 205:

CONGRESSIONAL RECORD, Vol. 130 (1984):

Feb. 27, considered and passed Senate.

Mar. 14, considered and passed House.

Public Law 98-235
98th Congress

An Act

To raise the retirement age for judges of the Superior Court of the District of Columbia and judges of the District of Columbia Court of Appeals.

Mar. 19, 1984
[H.R. 3655]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1502 of title 11 of the District of Columbia Code is amended by striking out “70” and inserting in lieu thereof “74”.

SEC. 2. Section 903 of title 11 of the District of Columbia Code is amended by striking out “forty-three” and inserting in lieu thereof “fifty”.

SEC. 3. Notwithstanding the time limitations of section 434(d)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, the District of Columbia Judicial Nomination Commission shall submit lists, pursuant to such section, for initial nominations and appointments to judicial positions created under this Act, within ninety days after the date of enactment of this Act.

87 Stat. 796.

Approved March 19, 1984.

LEGISLATIVE HISTORY—H.R. 3655:

HOUSE REPORT No. 98-394 (Comm. on the District of Columbia).
CONGRESSIONAL RECORD:

Vol. 129 (1983): Oct. 4, considered and passed House.

Vol. 130 (1984): Feb. 9, considered and passed Senate, amended.

Feb. 22, House concurred in Senate amendment with an amendment.

Mar. 2, Senate concurred in House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 12 (1984):

Mar. 19, Presidential statement.

Public Law 98-236
98th Congress

An Act

Mar. 20, 1984
[H.R. 2173]

To amend the Contract Services for Drug Dependent Federal Offenders Act of 1978 to authorize additional appropriations to carry out such Act.

Contract
Services for
Drug Dependent
Federal
Offenders
Authorization
Act of 1983.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Contract Services for Drug Dependent Federal Offenders Authorization Act of 1983".

SEC. 2. Section 4(a) of the Contract Services for Drug Dependent Federal Offenders Act of 1978 (18 U.S.C. 4255 note) is amended—

(1) by striking out "1981; and" and inserting in lieu thereof "1981," and

(2) by inserting before the period at the end thereof the following: "; \$5,000,000 for the fiscal year ending September 30, 1984; \$5,500,000 for the fiscal year ending September 30, 1985; and \$6,000,000 for the fiscal year ending September 30, 1986."

Approved March 20, 1984.

LEGISLATIVE HISTORY—H.R. 2173:

HOUSE REPORT No. 98-87 (Comm. on the Judiciary).

CONGRESSIONAL RECORD:

Vol. 129 (1983): May 9, considered and passed House.

Vol. 130 (1984): Mar. 8, considered and passed Senate.

Public Law 98-237
98th Congress

An Act

To improve the international ocean commerce transportation system of the United States.

Mar. 20, 1984

[S. 47]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Shipping Act of 1984".

Shipping Act
of 1984.
46 USC app. 1701
note.

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SEC. 2. DECLARATION OF POLICY.

46 USC app.
1701.

The purposes of this Act are—

- (1) to establish a nondiscriminatory regulatory process for the common carriage of goods by water in the foreign commerce of the United States with a minimum of government intervention and regulatory costs;
- (2) to provide an efficient and economic transportation system in the ocean commerce of the United States that is, insofar as possible, in harmony with, and responsive to, international shipping practices; and
- (3) to encourage the development of an economically sound and efficient United States-flag liner fleet capable of meeting national security needs.

SEC. 3. DEFINITIONS.

46 USC app.
1702.

As used in this Act—

- (1) "agreement" means an understanding, arrangement, or association (written or oral) and any modification or cancellation thereof; but the term does not include a maritime labor agreement.
- (2) "antitrust laws" means the Act of July 2, 1890 (ch. 647, 26 Stat. 209), as amended; the Act of October 15, 1914 (ch. 323, 38 Stat. 730), as amended; the Federal Trade Commission Act (38

15 USC 1.
15 USC 12.

15 USC 41.
 15 USC 8, 9.
 15 USC 13.
 15 USC 1311
 note.

Stat. 717), as amended; sections 73 and 74 of the Act of August 27, 1894 (28 Stat. 570), as amended; the Act of June 19, 1936 (ch. 592, 49 Stat. 1526), as amended; the Antitrust Civil Process Act (76 Stat. 548), as amended; and amendments and Acts supplementary thereto.

(3) "assessment agreement" means an agreement, whether part of a collective-bargaining agreement or negotiated separately, to the extent that it provides for the funding of collectively bargained fringe benefit obligations on other than a uniform man-hour basis, regardless of the cargo handled or type of vessel or equipment utilized.

(4) "bulk cargo" means cargo that is loaded and carried in bulk without mark or count.

(5) "Commission" means the Federal Maritime Commission.

(6) "common carrier" means a person holding itself out to the general public to provide transportation by water of passengers or cargo between the United States and a foreign country for compensation that—

(A) assumes responsibility for the transportation from the port or point of receipt to the port or point of destination, and

(B) utilizes, for all or part of that transportation, a vessel operating on the high seas or the Great Lakes between a port in the United States and a port in a foreign country.

(7) "conference" means an association of ocean common carriers permitted, pursuant to an approved or effective agreement, to engage in concerted activity and to utilize a common tariff; but the term does not include a joint service, consortium, pooling, sailing, or transshipment arrangement.

(8) "controlled carrier" means an ocean common carrier that is, or whose operating assets are, directly or indirectly, owned or controlled by the government under whose registry the vessels of the carrier operate; ownership or control by a government shall be deemed to exist with respect to any carrier if—

(A) a majority portion of the interest in the carrier is owned or controlled in any manner by that government, by any agency thereof, or by any public or private person controlled by that government; or

(B) that government has the right to appoint or disapprove the appointment of a majority of the directors, the chief operating officer, or the chief executive officer of the carrier.

(9) "deferred rebate" means a return by a common carrier of any portion of the freight money to a shipper as a consideration for that shipper giving all, or any portion, of its shipments to that or any other common carrier, or for any other purpose, the payment of which is deferred beyond the completion of the service for which it is paid, and is made only if, during both the period for which computed and the period of deferment, the shipper has complied with the terms of the rebate agreement or arrangement.

(10) "fighting ship" means a vessel used in a particular trade by an ocean common carrier or group of such carriers for the purpose of excluding, preventing, or reducing competition by driving another ocean common carrier out of that trade.

(11) "forest products" means forest products in an unfinished or semifinished state that require special handling moving in

lot sizes too large for a container, including, but not limited to lumber in bundles, rough timber, ties, poles, piling, laminated beams, bundled siding, bundled plywood, bundled core stock or veneers, bundled particle or fiber boards, bundled hardwood, wood pulp in rolls, wood pulp in unitized bales, paper board in rolls, and paper in rolls.

(12) "inland division" means the amount paid by a common carrier to an inland carrier for the inland portion of through transportation offered to the public by the common carrier.

(13) "inland portion" means the charge to the public by a common carrier for the nonocean portion of through transportation.

(14) "loyalty contract" means a contract with an ocean common carrier or conference, other than a service contract or contract based upon time-volume rates, by which a shipper obtains lower rates by committing all or a fixed portion of its cargo to that carrier or conference.

(15) "marine terminal operator" means a person engaged in the United States in the business of furnishing wharfage, dock, warehouse, or other terminal facilities in connection with a common carrier.

(16) "maritime labor agreement" means a collective-bargaining agreement between an employer subject to this Act, or group of such employers, and a labor organization representing employees in the maritime or stevedoring industry, or an agreement preparatory to such a collective-bargaining agreement among members of a multiemployer bargaining group, or an agreement specifically implementing provisions of such a collective-bargaining agreement or providing for the formation, financing, or administration of a multiemployer bargaining group; but the term does not include an assessment agreement.

(17) "non-vessel-operating common carrier" means a common carrier that does not operate the vessels by which the ocean transportation is provided, and is a shipper in its relationship with an ocean common carrier.

(18) "ocean common carrier" means a vessel-operating common carrier; but the term does not include one engaged in ocean transportation by ferry boat or ocean tramp.

(19) "ocean freight forwarder" means a person in the United States that—

(A) dispatches shipments from the United States via common carriers and books or otherwise arranges space for those shipments on behalf of shippers; and

(B) processes the documentation or performs related activities incident to those shipments.

(20) "person" includes individuals, corporations, partnerships, and associations existing under or authorized by the laws of the United States or of a foreign country.

(21) "service contract" means a contract between a shipper and an ocean common carrier or conference in which the shipper makes a commitment to provide a certain minimum quantity of cargo over a fixed time period, and the ocean common carrier or conference commits to a certain rate or rate schedule as well as a defined service level—such as, assured space, transit time, port rotation, or similar service features; the contract may also specify provisions in the event of nonperformance on the part of either party.

(22) "shipment" means all of the cargo carried under the terms of a single bill of lading.

(23) "shipper" means an owner or person for whose account the ocean transportation of cargo is provided or the person to whom delivery is to be made.

(24) "shippers' association" means a group of shippers that consolidates or distributes freight on a nonprofit basis for the members of the group in order to secure carload, truckload, or other volume rates or service contracts.

(25) "through rate" means the single amount charged by a common carrier in connection with through transportation.

(26) "through transportation" means continuous transportation between origin and destination for which a through rate is assessed and which is offered or performed by one or more carriers, at least one of which is a common carrier, between a United States point or port and a foreign point or port.

(27) "United States" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas, and all other United States territories and possessions.

46 USC app.
1703.

SEC. 4. AGREEMENTS WITHIN SCOPE OF ACT.

(a) OCEAN COMMON CARRIERS.—This Act applies to agreements by or among ocean common carriers to—

(1) discuss, fix, or regulate transportation rates, including through rates, cargo space accommodations, and other conditions of service;

(2) pool or apportion traffic, revenues, earnings, or losses;

(3) allot ports or restrict or otherwise regulate the number and character of sailings between ports;

(4) limit or regulate the volume or character of cargo or passenger traffic to be carried;

(5) engage in exclusive, preferential, or cooperative working arrangements among themselves or with one or more marine terminal operators or non-vessel-operating common carriers;

(6) control, regulate, or prevent competition in international ocean transportation; and

(7) regulate or prohibit their use of service contracts.

(b) MARINE TERMINAL OPERATORS.—This Act applies to agreements (to the extent the agreements involve ocean transportation in the foreign commerce of the United States) among marine terminal operators and among one or more marine terminal operators and one or more ocean common carriers to—

(1) discuss, fix, or regulate rates or other conditions of service; and

(2) engage in exclusive, preferential, or cooperative working arrangements.

(c) ACQUISITIONS.—This Act does not apply to an acquisition by any person, directly or indirectly, of any voting security or assets of any other person.

46 USC app.
1704.

SEC. 5. AGREEMENTS.

(a) FILING REQUIREMENTS.—A true copy of every agreement entered into with respect to an activity described in section 4 of this Act shall be filed with the Commission, except agreements related to transportation to be performed within or between foreign countries and agreements among common carriers to establish, operate, or

maintain a marine terminal in the United States. In the case of an oral agreement, a complete memorandum specifying in detail the substance of the agreement shall be filed. The Commission may by regulation prescribe the form and manner in which an agreement shall be filed and the additional information and documents necessary to evaluate the agreement.

(b) **CONFERENCE AGREEMENTS.**—Each conference agreement must—

- (1) state its purpose;
- (2) provide reasonable and equal terms and conditions for admission and readmission to conference membership for any ocean common carrier willing to serve the particular trade or route;
- (3) permit any member to withdraw from conference membership upon reasonable notice without penalty;
- (4) at the request of any member, require an independent neutral body to police fully the obligations of the conference and its members;
- (5) prohibit the conference from engaging in conduct prohibited by section 10(c) (1) or (3) of this Act;
- (6) provide for a consultation process designed to promote—
 - (A) commercial resolution of disputes, and
 - (B) cooperation with shippers in preventing and eliminating malpractices;
- (7) establish procedures for promptly and fairly considering shippers' requests and complaints; and
- (8) provide that any member of the conference may take independent action on any rate or service item required to be filed in a tariff under section 8(a) of this Act upon not more than 10 calendar days' notice to the conference and that the conference will include the new rate or service item in its tariff for use by that member, effective no later than 10 calendar days after receipt of the notice, and by any other member that notifies the conference that it elects to adopt the independent rate or service item on or after its effective date, in lieu of the existing conference tariff provision for that rate or service item.

(c) **INTERCONFERENCE AGREEMENTS.**—Each agreement between carriers not members of the same conference must provide the right of independent action for each carrier. Each agreement between conferences must provide the right of independent action for each conference.

(d) **ASSESSMENT AGREEMENTS.**—Assessment agreements shall be filed with the Commission and become effective on filing. The Commission shall thereafter, upon complaint filed within 2 years of the date of the agreement, disapprove, cancel, or modify any such agreement, or charge or assessment pursuant thereto, that it finds, after notice and hearing, to be unjustly discriminatory or unfair as between carriers, shippers, or ports. The Commission shall issue its final decision in any such proceeding within 1 year of the date of filing of the complaint. To the extent that an assessment or charge is found in the proceeding to be unjustly discriminatory or unfair as between carriers, shippers, or ports, the Commission shall remedy the unjust discrimination or unfairness for the period of time between the filing of the complaint and the final decision by means of assessment adjustments. These adjustments shall be implemented by prospective credits or debits to future assessments or charges, except in the case of a complainant who has ceased activities subject

46 USC app. 801
et seq., 843.

to the assessment or charge, in which case reparation may be awarded. Except for this subsection and section 7(a) of this Act, this Act, the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933, do not apply to assessment agreements.

(e) **MARITIME LABOR AGREEMENTS.**—This Act, the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933, do not apply to maritime labor agreements. This subsection does not exempt from this Act, the Shipping Act, 1916, or the Intercoastal Shipping Act, 1933, any rates, charges, regulations, or practices of a common carrier that are required to be set forth in a tariff, whether or not those rates, charges, regulations, or practices arise out of, or are otherwise related to, a maritime labor agreement.

46 USC app.
1705.
Federal
Register,
publication.

SEC. 6. ACTION ON AGREEMENTS.

(a) **NOTICE.**—Within 7 days after an agreement is filed, the Commission shall transmit a notice of its filing to the Federal Register for publication.

(b) **REVIEW STANDARD.**—The Commission shall reject any agreement filed under section 5(a) of this Act that, after preliminary review, it finds does not meet the requirements of section 5. The Commission shall notify in writing the person filing the agreement of the reason for rejection of the agreement.

(c) **REVIEW AND EFFECTIVE DATE.**—Unless rejected by the Commission under subsection (b), agreements, other than assessment agreements, shall become effective—

(1) on the 45th day after filing, or on the 30th day after notice of the filing is published in the Federal Register, whichever day is later; or

(2) if additional information or documentary material is requested under subsection (d), on the 45th day after the Commission receives—

(A) all the additional information and documentary material requested; or

(B) if the request is not fully complied with, the information and documentary material submitted and a statement of the reasons for noncompliance with the request. The period specified in paragraph (2) may be extended only by the United States District Court for the District of Columbia upon an application of the Commission under subsection (i).

(d) **ADDITIONAL INFORMATION.**—Before the expiration of the period specified in subsection (c)(1), the Commission may request from the person filing the agreement any additional information and documentary material it deems necessary to make the determinations required by this section.

(e) **REQUEST FOR EXPEDITED APPROVAL.**—The Commission may, upon request of the filing party, shorten the review period specified in subsection (c), but in no event to a date less than 14 days after notice of the filing of the agreement is published in the Federal Register.

(f) **TERM OF AGREEMENTS.**—The Commission may not limit the effectiveness of an agreement to a fixed term.

(g) **SUBSTANTIALLY ANTICOMPETITIVE AGREEMENTS.**—If, at any time after the filing or effective date of an agreement, the Commission determines that the agreement is likely, by a reduction in competition, to produce an unreasonable reduction in transportation service or an unreasonable increase in transportation cost, it may, after

notice to the person filing the agreement, seek appropriate injunctive relief under subsection (h).

(h) **INJUNCTIVE RELIEF.**—The Commission may, upon making the determination specified in subsection (g), bring suit in the United States District Court for the District of Columbia to enjoin operation of the agreement. The court may issue a temporary restraining order or preliminary injunction and, upon a showing that the agreement is likely, by a reduction in competition, to produce an unreasonable reduction in transportation service or an unreasonable increase in transportation cost, may enter a permanent injunction. In a suit under this subsection, the burden of proof is on the Commission. The court may not allow a third party to intervene with respect to a claim under this subsection.

(i) **COMPLIANCE WITH INFORMATIONAL NEEDS.**—If a person filing an agreement, or an officer, director, partner, agent, or employee thereof, fails substantially to comply with a request for the submission of additional information or documentary material within the period specified in subsection (c), the United States District Court for the District of Columbia, at the request of the Commission—

(1) may order compliance;

(2) shall extend the period specified in subsection (c)(2) until there has been substantial compliance; and

(3) may grant such other equitable relief as the court in its discretion determines necessary or appropriate.

(j) **NONDISCLOSURE OF SUBMITTED MATERIAL.**—Except for an agreement filed under section 5 of this Act, information and documentary material filed with the Commission under section 5 or 6 is exempt from disclosure under section 552 of title 5, United States Code and may not be made public except as may be relevant to an administrative or judicial action or proceeding. This section does not prevent disclosure to either body of Congress or to a duly authorized committee or subcommittee of Congress.

(k) **REPRESENTATION.**—Upon notice to the Attorney General, the Commission may represent itself in district court proceedings under subsections (h) and (i) of this section and section 11(h) of this Act. With the approval of the Attorney General, the Commission may represent itself in proceedings in the United States Courts of Appeal under subsections (h) and (i) of this section and section 11(h) of this Act.

SEC. 7. EXEMPTION FROM ANTITRUST LAWS.

46 USC app.
1706.

(a) **IN GENERAL.**—The antitrust laws do not apply to—

(1) any agreement that has been filed under section 5 of this Act and is effective under section 5(d) or section 6, or is exempt under section 16 of this Act from any requirement of this Act;

(2) any activity or agreement within the scope of this Act, whether permitted under or prohibited by this Act, undertaken or entered into with a reasonable basis to conclude that (A) it is pursuant to an agreement on file with the Commission and in effect when the activity took place, or (B) it is exempt under section 16 of this Act from any filing requirement of this Act;

(3) any agreement or activity that relates to transportation services within or between foreign countries, whether or not via the United States, unless that agreement or activity has a direct, substantial, and reasonably foreseeable effect on the commerce of the United States;

(4) any agreement or activity concerning the foreign inland segment of through transportation that is part of transportation provided in a United States import or export trade;

(5) any agreement or activity to provide or furnish wharfage, dock, warehouse, or other terminal facilities outside the United States; or

(6) subject to section 20(e)(2) of this Act, any agreement, modification, or cancellation approved by the Commission before the effective date of this Act under section 15 of the Shipping Act, 1916, or permitted under section 14b thereof, and any properly published tariff, rate, fare, or charge, classification, rule, or regulation explanatory thereof implementing that agreement, modification, or cancellation.

97 Stat. 500.

(b) **EXCEPTIONS.**—This Act does not extend antitrust immunity—

(1) to any agreement with or among air carriers, rail carriers, motor carriers, or common carriers by water not subject to this Act with respect to transportation within the United States;

(2) to any discussion or agreement among common carriers that are subject to this Act regarding the inland divisions (as opposed to the inland portions) of through rates within the United States; or

(3) to any agreement among common carriers subject to this Act to establish, operate, or maintain a marine terminal in the United States.

(c) **LIMITATIONS.**—(1) Any determination by an agency or court that results in the denial or removal of the immunity to the antitrust laws set forth in subsection (a) shall not remove or alter the antitrust immunity for the period before the determination.

(2) No person may recover damages under section 4 of the Clayton Act (15 U.S.C. 15), or obtain injunctive relief under section 16 of that Act (15 U.S.C. 26), for conduct prohibited by this Act.

46 USC app.
1707.
Public
availability.

SEC. 8. TARIFFS.

(a) **IN GENERAL.**—

(1) Except with regard to bulk cargo, forest products, recycled metal scrap, waste paper, and paper waste, each common carrier and conference shall file with the Commission, and keep open to public inspection, tariffs showing all its rates, charges, classifications, rules, and practices between all points or ports on its own route and on any through transportation route that has been established. However, common carriers shall not be required to state separately or otherwise reveal in tariff filings the inland divisions of a through rate. Tariffs shall—

(A) state the places between which cargo will be carried;

(B) list each classification of cargo in use;

(C) state the level of ocean freight forwarder compensation, if any, by a carrier or conference;

(D) state separately each terminal or other charge, privilege, or facility under the control of the carrier or conference and any rules or regulations that in any way change, affect, or determine any part or the aggregate of the rates or charges; and

(E) include sample copies of any loyalty contract, bill of lading, contract of affreightment, or other document evidencing the transportation agreement.

(2) Copies of tariffs shall be made available to any person, and a reasonable charge may be assessed for them.

(b) **TIME-VOLUME RATES.**—Rates shown in tariffs filed under subsection (a) may vary with the volume of cargo offered over a specified period of time.

(c) **SERVICE CONTRACTS.**—An ocean common carrier or conference may enter into a service contract with a shipper or shippers' association subject to the requirements of this Act. Except for service contracts dealing with bulk cargo, forest products, recycled metal scrap, waste paper, or paper waste, each contract entered into under this subsection shall be filed confidentially with the Commission, and at the same time, a concise statement of its essential terms shall be filed with the Commission and made available to the general public in tariff format, and those essential terms shall be available to all shippers similarly situated. The essential terms shall include—

Confidentiality.
Public
availability.

- (1) the origin and destination port ranges in the case of port-to-port movements, and the origin and destination geographic areas in the case of through intermodal movements;
- (2) the commodity or commodities involved;
- (3) the minimum volume;
- (4) the line-haul rate;
- (5) the duration;
- (6) service commitments; and
- (7) the liquidated damages for nonperformance, if any.

The exclusive remedy for a breach of a contract entered into under this subsection shall be an action in an appropriate court, unless the parties otherwise agree.

(d) **RATES.**—No new or initial rate or change in an existing rate that results in an increased cost to the shipper may become effective earlier than 30 days after filing with the Commission. The Commission, for good cause, may allow such a new or initial rate or change to become effective in less than 30 days. A change in an existing rate that results in a decreased cost to the shipper may become effective upon publication and filing with the Commission.

(e) **REFUNDS.**—The Commission may, upon application of a carrier or shipper, permit a common carrier or conference to refund a portion of freight charges collected from a shipper or to waive the collection of a portion of the charges from a shipper if—

(1) there is an error in a tariff of a clerical or administrative nature or an error due to inadvertence in failing to file a new tariff and the refund will not result in discrimination among shippers, ports, or carriers;

(2) the common carrier or conference has, prior to filing an application for authority to make a refund, filed a new tariff with the Commission that sets forth the rate on which the refund or waiver would be based;

(3) the common carrier or conference agrees that if permission is granted by the Commission, an appropriate notice will be published in the tariff, or such other steps taken as the Commission may require that give notice of the rate on which the refund or waiver would be based, and additional refunds or waivers as appropriate shall be made with respect to other shipments in the manner prescribed by the Commission in its order approving the application; and

(4) the application for refund or waiver is filed with the Commission within 180 days from the date of shipment.

(f) **FORM.**—The Commission may by regulation prescribe the form and manner in which the tariffs required by this section shall be

published and filed. The Commission may reject a tariff that is not filed in conformity with this section and its regulations. Upon rejection by the Commission, the tariff is void and its use is unlawful.

46 USC app.
1708.

SEC. 9. CONTROLLED CARRIERS.

(a) **CONTROLLED CARRIER RATES.**—No controlled carrier subject to this section may maintain rates or charges in its tariffs filed with the Commission that are below a level that is just and reasonable, nor may any such carrier establish or maintain unjust or unreasonable classifications, rules, or regulations in those tariffs. An unjust or unreasonable classification, rule, or regulation means one that results or is likely to result in the carriage or handling of cargo at rates or charges that are below a just and reasonable level. The Commission may, at any time after notice and hearing, disapprove any rates, charges, classifications, rules, or regulations that the controlled carrier has failed to demonstrate to be just and reasonable. In a proceeding under this subsection, the burden of proof is on the controlled carrier to demonstrate that its rates, charges, classifications, rules, or regulations are just and reasonable. Rates, charges, classifications, rules, or regulations filed by a controlled carrier that have been rejected, suspended, or disapproved by the Commission are void and their use is unlawful.

(b) **RATE STANDARDS.**—For the purpose of this section, in determining whether rates, charges, classifications, rules, or regulations by a controlled carrier are just and reasonable, the Commission may take into account appropriate factors including, but not limited to, whether—

(1) the rates or charges which have been filed or which would result from the pertinent classifications, rules, or regulations are below a level which is fully compensatory to the controlled carrier based upon that carrier's actual costs or upon its constructive costs, which are hereby defined as the costs of another carrier, other than a controlled carrier, operating similar vessels and equipment in the same or a similar trade;

(2) the rates, charges, classifications, rules, or regulations are the same as or similar to those filed or assessed by other carriers in the same trade;

(3) the rates, charges, classifications, rules, or regulations are required to assure movement of particular cargo in the trade; or

(4) the rates, charges, classifications, rules, or regulations are required to maintain acceptable continuity, level, or quality of common carrier service to or from affected ports.

(c) **EFFECTIVE DATE OF RATES.**—Notwithstanding section 8(d) of this Act, the rates, charges, classifications, rules, or regulations of controlled carriers may not, without special permission of the Commission, become effective sooner than the 30th day after the date of filing with the Commission. Each controlled carrier shall, upon the request of the Commission, file, within 20 days of request (with respect to its existing or proposed rates, charges, classifications, rules, or regulations), a statement of justification that sufficiently details the controlled carrier's need and purpose for such rates, charges, classifications, rules, or regulations upon which the Commission may reasonably base its determination of the lawfulness thereof.

(d) **DISAPPROVAL OF RATES.**—Whenever the Commission is of the opinion that the rates, charges, classifications, rules, or regulations

filed by a controlled carrier may be unjust and unreasonable, the Commission may issue an order to the controlled carrier to show cause why those rates, charges, classifications, rules, or regulations should not be disapproved. Pending a determination as to their lawfulness in such a proceeding, the Commission may suspend the rates, charges, classifications, rules, or regulations at any time before their effective date. In the case of rates, charges, classifications, rules, or regulations that have already become effective, the Commission may, upon the issuance of an order to show cause, suspend those rates, charges, classifications, rules, or regulations on not less than 60 days' notice to the controlled carrier. No period of suspension under this subsection may be greater than 180 days. Whenever the Commission has suspended any rates, charges, classifications, rules, or regulations under this subsection, the affected carrier may file new rates, charges, classifications, rules, or regulations to take effect immediately during the suspension period in lieu of the suspended rates, charges, classifications, rules, or regulations—except that the Commission may reject the new rates, charges, classifications, rules, or regulations if it is of the opinion that they are unjust and unreasonable.

(e) **PRESIDENTIAL REVIEW.**—Concurrently with the publication thereof, the Commission shall transmit to the President each order of suspension or final order of disapproval of rates, charges, classifications, rules, or regulations of a controlled carrier subject to this section. Within 10 days after the receipt or the effective date of the Commission order, the President may request the Commission in writing to stay the effect of the Commission's order if the President finds that the stay is required for reasons of national defense or foreign policy, which reasons shall be specified in the report. Notwithstanding any other law, the Commission shall immediately grant the request by the issuance of an order in which the President's request shall be described. During any such stay, the President shall, whenever practicable, attempt to resolve the matter in controversy by negotiation with representatives of the applicable foreign governments.

(f) **EXCEPTIONS.**—This section does not apply to—

(1) a controlled carrier of a state whose vessels are entitled by a treaty of the United States to receive national or most-favored-nation treatment;

(2) a controlled carrier of a state which, on the effective date of this section, has subscribed to the statement of shipping policy contained in note 1 to annex A of the Code of Liberalization of Current Invisible Operations, adopted by the Council of the Organization for Economic Cooperation and Development;

(3) rates, charges, classifications, rules, or regulations of a controlled carrier in any particular trade that are covered by an agreement effective under section 6 of this Act, other than an agreement in which all of the members are controlled carriers not otherwise excluded from the provisions of this subsection;

(4) rates, charges, classifications, rules, or regulations governing the transportation of cargo by a controlled carrier between the country by whose government it is owned or controlled, as defined herein and the United States; or

(5) a trade served exclusively by controlled carriers.

SEC. 10. PROHIBITED ACTS.

(a) **IN GENERAL.**—No person may—

(1) knowingly and willfully, directly or indirectly, by means of false billing, false classification, false weighing, false report of weight, false measurement, or by any other unjust or unfair device or means obtain or attempt to obtain ocean transportation for property at less than the rates or charges that would otherwise be applicable;

(2) operate under an agreement required to be filed under section 5 of this Act that has not become effective under section 6, or that has been rejected, disapproved, or canceled; or

(3) operate under an agreement required to be filed under section 5 of this Act except in accordance with the terms of the agreement or any modifications made by the Commission to the agreement.

(b) COMMON CARRIERS.—No common carrier, either alone or in conjunction with any other person, directly or indirectly, may—

(1) charge, demand, collect, or receive greater, less, or different compensation for the transportation of property or for any service in connection therewith than the rates and charges that are shown in its tariffs or service contracts;

(2) rebate, refund, or remit in any manner, or by any device, any portion of its rates except in accordance with its tariffs or service contracts;

(3) extend or deny to any person any privilege, concession, equipment, or facility except in accordance with its tariffs or service contracts;

(4) allow any person to obtain transportation for property at less than the rates or charges established by the carrier in its tariff or service contract by means of false billing, false classification, false weighing, false measurement, or by any other unjust or unfair device or means;

(5) retaliate against any shipper by refusing, or threatening to refuse, cargo space accommodations when available, or resort to other unfair or unjustly discriminatory methods because the shipper has patronized another carrier, or has filed a complaint, or for any other reason;

(6) except for service contracts, engage in any unfair or unjustly discriminatory practice in the matter of—

(A) rates;

(B) cargo classifications;

(C) cargo space accommodations or other facilities, due regard being had for the proper loading of the vessel and the available tonnage;

(D) the loading and landing of freight; or

(E) the adjustment and settlement of claims;

(7) employ any fighting ship;

(8) offer or pay any deferred rebates;

(9) use a loyalty contract, except in conformity with the antitrust laws;

(10) demand, charge, or collect any rate or charge that is unjustly discriminatory between shippers or ports;

(11) except for service contracts, make or give any undue or unreasonable preference or advantage to any particular person, locality, or description of traffic in any respect whatsoever;

(12) subject any particular person, locality, or description of traffic to an unreasonable refusal to deal or any undue or unreasonable prejudice or disadvantage in any respect whatsoever;

(13) refuse to negotiate with a shippers' association; or
(14) knowingly disclose, offer, solicit, or receive any information concerning the nature, kind, quantity, destination, consignee, or routing of any property tendered or delivered to a common carrier without the consent of the shipper or consignee if that information—

(A) may be used to the detriment or prejudice of the shipper or consignee;

(B) may improperly disclose its business transaction to a competitor; or

(C) may be used to the detriment or prejudice of any common carrier.

Nothing in paragraph (14) shall be construed to prevent providing such information, in response to legal process, to the United States, or to an independent neutral body operating within the scope of its authority to fulfill the policing obligations of the parties to an agreement effective under this Act. Nor shall it be prohibited for any ocean common carrier that is a party to a conference agreement approved under this Act, or any receiver, trustee, lessee, agent, or employee of that carrier, or any other person authorized by that carrier to receive information, to give information to the conference or any person, firm, corporation, or agency designated by the conference, or to prevent the conference or its designee from soliciting or receiving information for the purpose of determining whether a shipper or consignee has breached an agreement with the conference or its member lines or for the purpose of determining whether a member of the conference has breached the conference agreement, or for the purpose of compiling statistics of cargo movement, but the use of such information for any other purpose prohibited by this Act or any other Act is prohibited.

(c) **CONCERTED ACTION.**—No conference or group of two or more common carriers may—

(1) boycott or take any other concerted action resulting in an unreasonable refusal to deal;

(2) engage in conduct that unreasonably restricts the use of intermodal services or technological innovations;

(3) engage in any predatory practice designed to eliminate the participation, or deny the entry, in a particular trade of a common carrier not a member of the conference, a group of common carriers, an ocean tramp, or a bulk carrier;

(4) negotiate with a nonocean carrier or group of nonocean carriers (for example, truck, rail, or air operators) on any matter relating to rates or services provided to ocean common carriers within the United States by those nonocean carriers: *Provided*, That this paragraph does not prohibit the setting and publishing of a joint through rate by a conference, joint venture, or an association of ocean common carriers;

(5) deny in the export foreign commerce of the United States compensation to an ocean freight forwarder or limit that compensation to less than a reasonable amount; or

(6) allocate shippers among specific carriers that are parties to the agreement or prohibit a carrier that is a party to the agreement from soliciting cargo from a particular shipper, except as otherwise required by the law of the United States or the importing or exporting country, or as agreed to by a shipper in a service contract.

(d) COMMON CARRIERS, OCEAN FREIGHT FORWARDERS, AND MARINE TERMINAL OPERATORS.—

(1) No common carrier, ocean freight forwarder, or marine terminal operator may fail to establish, observe, and enforce just and reasonable regulations and practices relating to or connected with receiving, handling, storing, or delivering property.

(2) No marine terminal operator may agree with another marine terminal operator or with a common carrier to boycott, or unreasonably discriminate in the provision of terminal services to, any common carrier or ocean tramp.

(3) The prohibitions in subsection (b) (11), (12), and (14) of this section apply to marine terminal operators.

(e) JOINT VENTURES.—For purposes of this section, a joint venture or consortium of two or more common carriers but operated as a single entity shall be treated as a single common carrier.

46 USC app.
1710.

SEC. 11. COMPLAINTS, INVESTIGATIONS, REPORTS, AND REPARATIONS.

(a) FILING OF COMPLAINTS.—Any person may file with the Commission a sworn complaint alleging a violation of this Act, other than section 6(g), and may seek reparation for any injury caused to the complainant by that violation.

(b) SATISFACTION OR INVESTIGATION OF COMPLAINTS.—The Commission shall furnish a copy of a complaint filed pursuant to subsection (a) of this section to the person named therein who shall, within a reasonable time specified by the Commission, satisfy the complaint or answer it in writing. If the complaint is not satisfied, the Commission shall investigate it in an appropriate manner and make an appropriate order.

(c) COMMISSION INVESTIGATIONS.—The Commission, upon complaint or upon its own motion, may investigate any conduct or agreement that it believes may be in violation of this Act. Except in the case of an injunction granted under subsection (h) of this section, each agreement under investigation under this section remains in effect until the Commission issues an order under this subsection. The Commission may by order disapprove, cancel, or modify any agreement filed under section 5(a) of this Act that operates in violation of this Act. With respect to agreements inconsistent with section 6(g) of this Act, the Commission's sole remedy is under section 6(h).

(d) CONDUCT OF INVESTIGATION.—Within 10 days after the initiation of a proceeding under this section, the Commission shall set a date on or before which its final decision will be issued. This date may be extended for good cause by order of the Commission.

(e) UNDUE DELAYS.—If, within the time period specified in subsection (d), the Commission determines that it is unable to issue a final decision because of undue delays caused by a party to the proceedings, the Commission may impose sanctions, including entering a decision adverse to the delaying party.

(f) REPORTS.—The Commission shall make a written report of every investigation made under this Act in which a hearing was held stating its conclusions, decisions, findings of fact, and order. A copy of this report shall be furnished to all parties. The Commission shall publish each report for public information, and the published report shall be competent evidence in all courts of the United States.

(g) REPARATIONS.—For any complaint filed within 3 years after the cause of action accrued, the Commission shall, upon petition of the

complainant and after notice and hearing, direct payment of reparations to the complainant for actual injury (which, for purposes of this subsection, also includes the loss of interest at commercial rates compounded from the date of injury) caused by a violation of this Act plus reasonable attorney's fees. Upon a showing that the injury was caused by activity that is prohibited by section 10(b) (5) or (7) or section 10(c) (1) or (4) of this Act, or that violates section 10(a) (2) or (3), the Commission may direct the payment of additional amounts; but the total recovery of a complainant may not exceed twice the amount of the actual injury. In the case of injury caused by an activity that is prohibited by section 10(b)(6) (A) or (B) of this Act, the amount of the injury shall be the difference between the rate paid by the injured shipper and the most favorable rate paid by another shipper.

(h) INJUNCTION.—

(1) In connection with any investigation conducted under this section, the Commission may bring suit in a district court of the United States to enjoin conduct in violation of this Act. Upon a showing that standards for granting injunctive relief by courts of equity are met and after notice to the defendant, the court may grant a temporary restraining order or preliminary injunction for a period not to exceed 10 days after the Commission has issued an order disposing of the issues under investigation. Any such suit shall be brought in a district in which the defendant resides or transacts business.

(2) After filing a complaint with the Commission under subsection (a), the complainant may file suit in a district court of the United States to enjoin conduct in violation of this Act. Upon a showing that standards for granting injunctive relief by courts of equity are met and after notice to the defendant, the court may grant a temporary restraining order or preliminary injunction for a period not to exceed 10 days after the Commission has issued an order disposing of the complaint. Any such suit shall be brought in the district in which the defendant has been sued by the Commission under paragraph (1); or, if no suit has been filed, in a district in which the defendant resides or transacts business. A defendant that prevails in a suit under this paragraph shall be allowed reasonable attorney's fees to be assessed and collected as part of the costs of the suit.

SEC. 12. SUBPENAS AND DISCOVERY.

46 USC app.
1711.

(a) IN GENERAL.—In investigations and adjudicatory proceedings under this Act—

(1) depositions, written interrogatories, and discovery procedures may be utilized by any party under rules and regulations issued by the Commission that, to the extent practicable, shall be in conformity with the rules applicable in civil proceedings in the district courts of the United States; and

(2) the Commission may by subpoena compel the attendance of witnesses and the production of books, papers, documents, and other evidence.

(b) WITNESS FEES.—Witnesses shall, unless otherwise prohibited by law, be entitled to the same fees and mileage as in the courts of the United States.

46 USC app.
1712.

SEC. 13. PENALTIES.

(a) **ASSESSMENT OF PENALTY.**—Whoever violates a provision of this Act, a regulation issued thereunder, or a Commission order is liable to the United States for a civil penalty. The amount of the civil penalty, unless otherwise provided in this Act, may not exceed \$5,000 for each violation unless the violation was willfully and knowingly committed, in which case the amount of the civil penalty may not exceed \$25,000 for each violation. Each day of a continuing violation constitutes a separate offense.

(b) **ADDITIONAL PENALTIES.**—

(1) For a violation of section 10(b) (1), (2), (3), (4), or (8) of this Act, the Commission may suspend any or all tariffs of the common carrier, or that common carrier's right to use any or all tariffs of conferences of which it is a member, for a period not to exceed 12 months.

(2) For failure to supply information ordered to be produced or compelled by subpoena under section 12 of this Act, the Commission may, after notice and an opportunity for hearing, suspend any or all tariffs of a common carrier, or that common carrier's right to use any or all tariffs of conferences of which it is a member.

(3) A common carrier that accepts or handles cargo for carriage under a tariff that has been suspended or after its right to utilize that tariff has been suspended is subject to a civil penalty of not more than \$50,000 for each shipment.

(4) If, in defense of its failure to comply with a subpoena or discovery order, a common carrier alleges that documents or information located in a foreign country cannot be produced because of the laws of that country, the Commission shall immediately notify the Secretary of State of the failure to comply and of the allegation relating to foreign laws. Upon receiving the notification, the Secretary of State shall promptly consult with the government of the nation within which the documents or information are alleged to be located for the purpose of assisting the Commission in obtaining the documents or information sought.

(5) If, after notice and hearing, the Commission finds that the action of a common carrier, acting alone or in concert with any person, or a foreign government has unduly impaired access of a vessel documented under the laws of the United States to ocean trade between foreign ports, the Commission shall take action that it finds appropriate, including the imposition of any of the penalties authorized under paragraphs (1), (2), and (3) of this subsection.

President.

(6) Before an order under this subsection becomes effective, it shall be immediately submitted to the President who may, within 10 days after receiving it, disapprove the order if the President finds that disapproval is required for reasons of the national defense or the foreign policy of the United States.

(c) **ASSESSMENT PROCEDURES.**—Until a matter is referred to the Attorney General, the Commission may, after notice and an opportunity for hearing, assess each civil penalty provided for in this Act. In determining the amount of the penalty, the Commission shall take into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the violator, the degree of culpability, history of prior offenses, ability to pay, and such other

matters as justice may require. The Commission may compromise, modify, or remit, with or without conditions, any civil penalty.

(d) **REVIEW OF CIVIL PENALTY.**—A person against whom a civil penalty is assessed under this section may obtain review thereof under chapter 158 of title 28, United States Code.

28 USC 2341
et seq.

(e) **FAILURE TO PAY ASSESSMENT.**—If a person fails to pay an assessment of a civil penalty after it has become final or after the appropriate court has entered final judgment in favor of the Commission, the Attorney General at the request of the Commission may seek to recover the amount assessed in an appropriate district court of the United States. In such an action, the court shall enforce the Commission's order unless it finds that the order was not regularly made or duly issued.

(f) **LIMITATIONS.**—

(1) No penalty may be imposed on any person for conspiracy to violate section 10 (a)(1), (b)(1), or (b)(4) of this Act, or to defraud the Commission by concealment of such a violation.

(2) Each proceeding to assess a civil penalty under this section shall be commenced within 5 years from the date the violation occurred.

SEC. 14. COMMISSION ORDERS.

46 USC app.
1713.

(a) **IN GENERAL.**—Orders of the Commission relating to a violation of this Act or a regulation issued thereunder shall be made, upon sworn complaint or on its own motion, only after opportunity for hearing. Each order of the Commission shall continue in force for the period of time specified in the order or until suspended, modified, or set aside by the Commission or a court of competent jurisdiction.

(b) **REVERSAL OR SUSPENSION OF ORDERS.**—The Commission may reverse, suspend, or modify any order made by it, and upon application of any party to a proceeding may grant a rehearing of the same or any matter determined therein. No rehearing may, except by special order of the Commission, operate as a stay of that order.

(c) **ENFORCEMENT OF NONREPARATION ORDERS.**—In case of violation of an order of the Commission, or for failure to comply with a Commission subpoena, the Attorney General, at the request of the Commission, or any party injured by the violation, may seek enforcement by a United States district court having jurisdiction over the parties. If, after hearing, the court determines that the order was properly made and duly issued, it shall enforce the order by an appropriate injunction or other process, mandatory or otherwise.

(d) **ENFORCEMENT OF REPARATION ORDERS.**—(1) In case of violation of an order of the Commission for the payment of reparation, the person to whom the award was made may seek enforcement of the order in a United States district court having jurisdiction of the parties.

(2) In a United States district court the findings and order of the Commission shall be prima facie evidence of the facts therein stated, and the petitioner shall not be liable for costs, nor for the costs of any subsequent stage of the proceedings, unless they accrue upon his appeal. A petitioner in a United States district court who prevails shall be allowed reasonable attorney's fees to be assessed and collected as part of the costs of the suit.

Prima facie
evidence.

(3) All parties in whose favor the Commission has made an award of reparation by a single order may be joined as plaintiffs, and all

other parties in the order may be joined as defendants, in a single suit in a district in which any one plaintiff could maintain a suit against any one defendant. Service of process against a defendant not found in that district may be made in a district in which is located any office of, or point of call on a regular route operated by, that defendant. Judgment may be entered in favor of any plaintiff against the defendant liable to that plaintiff.

(e) **STATUTE OF LIMITATIONS.**—An action seeking enforcement of a Commission order must be filed within 3 years after the date of the violation of the order.

46 USC app.
1714.

SEC. 15. REPORTS AND CERTIFICATES.

(a) **REPORTS.**—The Commission may require any common carrier, or any officer, receiver, trustee, lessee, agent, or employee thereof, to file with it any periodical or special report or any account, record, rate, or charge, or memorandum of any facts and transactions appertaining to the business of that common carrier. The report, account, record, rate, charge, or memorandum shall be made under oath whenever the Commission so requires, and shall be furnished in the form and within the time prescribed by the Commission. Conference minutes required to be filed with the Commission under this section shall not be released to third parties or published by the Commission.

(b) **CERTIFICATION.**—The Commission shall require the chief executive officer of each common carrier and, to the extent it deems feasible, may require any shipper, shippers' association, marine terminal operator, ocean freight forwarder, or broker to file a periodic written certification made under oath with the Commission attesting to—

- (1) a policy prohibiting the payment, solicitation, or receipt of any rebate that is unlawful under the provisions of this Act;
- (2) the fact that this policy has been promulgated recently to each owner, officer, employee, and agent thereof;
- (3) the details of the efforts made within the company or otherwise to prevent or correct illegal rebating; and
- (4) a policy of full cooperation with the Commission in its efforts to end those illegal practices.

Failure to file a certification shall result in a civil penalty of not more than \$5,000 for each day the violation continues.

46 USC app.
1715.

SEC. 16. EXEMPTIONS.

The Commission, upon application or on its own motion, may by order or rule exempt for the future any class of agreements between persons subject to this Act or any specified activity of those persons from any requirement of this Act if it finds that the exemption will not substantially impair effective regulation by the Commission, be unjustly discriminatory, result in a substantial reduction in competition, or be detrimental to commerce. The Commission may attach conditions to any exemption and may, by order, revoke any exemption. No order or rule of exemption or revocation of exemption may be issued unless opportunity for hearing has been afforded interested persons and departments and agencies of the United States.

46 USC app.
1716.

SEC. 17. REGULATIONS.

(a) The Commission may prescribe rules and regulations as necessary to carry out this Act.

(b) The Commission may prescribe interim rules and regulations necessary to carry out this Act. For this purpose, the Commission is excepted from compliance with the notice and comment requirements of section 553 of title 5, United States Code. All rules and regulations prescribed under the authority of this subsection that are not earlier superseded by final rules shall expire no later than 270 days after the date of enactment of this Act.

SEC. 18. AGENCY REPORTS AND ADVISORY COMMISSION.

46 USC app.
1717.

(a) **COLLECTION OF DATA.**—For a period of 5 years following the enactment of this Act, the Commission shall collect and analyze information concerning the impact of this Act upon the international ocean shipping industry, including data on:

- (1) increases or decreases in the level of tariffs;
- (2) changes in the frequency or type of common carrier services available to specific ports or geographic regions;
- (3) the number and strength of independent carriers in various trades; and
- (4) the length of time, frequency, and cost of major types of regulatory proceedings before the Commission.

(b) **CONSULTATION WITH OTHER DEPARTMENTS AND AGENCIES.**—The Commission shall consult with the Department of Transportation, the Department of Justice, and the Federal Trade Commission annually concerning data collection. The Department of Transportation, the Department of Justice, and the Federal Trade Commission shall at all times have access to the data collected under this section to enable them to provide comments concerning data collection.

(c) **AGENCY REPORTS.**—

(1) Within 6 months after expiration of the 5-year period specified in subsection (a), the Commission shall report the information, with an analysis of the impact of this Act, to Congress, to the Advisory Commission on Conferences in Ocean Shipping established in subsection (d), and to the Department of Transportation, the Department of Justice, and the Federal Trade Commission.

(2) Within 60 days after the Commission submits its report, the Department of Transportation, the Department of Justice, and the Federal Trade Commission shall furnish an analysis of the impact of this Act to Congress and to the Advisory Commission on Conferences in Ocean Shipping.

(3) The reports required by this subsection shall specifically address the following topics:

- (A) the advisability of adopting a system of tariffs based on volume and mass of shipment;
- (B) the need for antitrust immunity for ports and marine terminals; and
- (C) the continuing need for the statutory requirement that tariffs be filed with and enforced by the Commission.

(d) **ESTABLISHMENT AND COMPOSITION OF ADVISORY COMMISSION.**—
(1) Effective 5½ years after the date of enactment of this Act, there is established the Advisory Commission on Conferences in Ocean Shipping (hereinafter referred to as the “Advisory Commission”).

Advisory
Commission
on Conferences
in Ocean
Shipping.

(2) The Advisory Commission shall be composed of 17 members as follows:

- (A) a cabinet level official appointed by the President;

(B) 4 members from the United States Senate appointed by the President pro tempore of the Senate, 2 from the membership of the Committee on Commerce, Science, and Transportation and 2 from the membership of the Committee on the Judiciary;

(C) 4 members from the United States House of Representatives appointed by the Speaker of the House, 2 from the membership of the Committee on Merchant Marine and Fisheries, and 2 from the membership of the Committee on the Judiciary; and

(D) 8 members from the private sector appointed by the President.

(3) The President shall designate the chairman of the Advisory Commission.

(4) The term of office for members shall be for the term of the Advisory Commission.

(5) A vacancy in the Advisory Commission shall not affect its powers, and shall be filled in the same manner in which the original appointment was made.

(6) Nine members of the Advisory Commission shall constitute a quorum, but the Advisory Commission may permit as few as 2 members to hold hearings.

(e) COMPENSATION OF MEMBERS OF THE ADVISORY COMMISSION.—

(1) Officials of the United States Government and Members of Congress who are members of the Advisory Commission shall serve without compensation in addition to that received for their services as officials and Members, but they shall be reimbursed for reasonable travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Advisory Commission.

(2) Members of the Advisory Commission appointed from the private sector shall each receive compensation not exceeding the maximum per diem rate of pay for grade 18 of the General Schedule under section 5332 of title 5, United States Code, when engaged in the performance of the duties vested in the Advisory Commission, plus reimbursement for reasonable travel, subsistence, and other necessary expenses incurred by them in the performance of those duties, notwithstanding the limitations in sections 5701 through 5733 of title 5, United States Code.

(3) Members of the Advisory Commission appointed from the private sector are not subject to section 208 of title 18, United States Code. Before commencing service, these members shall file with the Advisory Commission a statement disclosing their financial interests and business and former relationships involving or relating to ocean transportation. These statements shall be available for public inspection at the Advisory Commission's offices.

(f) ADVISORY COMMISSION FUNCTIONS.—The Advisory Commission shall conduct a comprehensive study of, and make recommendations concerning, conferences in ocean shipping. The study shall specifically address whether the Nation would be best served by prohibiting conferences, or by closed or open conferences.

(g) POWERS OF THE ADVISORY COMMISSION.—

(1) The Advisory Commission may, for the purpose of carrying out its functions, hold such hearings and sit and act at such times and places, administer such oaths, and require, by subpoena or otherwise, the attendance and testimony of such

witnesses, and the production of such books, records, correspondence, memorandums, papers, and documents as the Advisory Commission may deem advisable. Subpenas may be issued to any person within the jurisdiction of the United States courts, under the signature of the chairman, or any duly designated member, and may be served by any person designated by the chairman, or that member. In case of contumacy by, or refusal to obey a subpoena to, any person, the Advisory Commission may advise the Attorney General who shall invoke the aid of any court of the United States within the jurisdiction of which the Advisory Commission's proceedings are carried on, or where that person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents; and the court may issue an order requiring that person to appear before the Advisory Commission, there to produce records, if so ordered, or to give testimony. A failure to obey such an order of the court may be punished by the court as a contempt thereof. All process in any such case may be served in the judicial district whereof the person is an inhabitant or may be found.

Subpenas.

(2) Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, shall furnish to the Advisory Commission, upon request made by the chairman, such information as the Advisory Commission deems necessary to carry out its functions.

(3) Upon request of the chairman, the Department of Justice, the Department of Transportation, the Federal Maritime Commission, and the Federal Trade Commission shall detail staff personnel as necessary to assist the Advisory Commission.

(4) The chairman may rent office space for the Advisory Commission, may utilize the services and facilities of other Federal agencies with or without reimbursement, may accept voluntary services notwithstanding section 1342 of title 31, United States Code, may accept, hold, and administer gifts from other Federal agencies, and may enter into contracts with any public or private person or entity for reports, research, or surveys in furtherance of the work of the Advisory Commission.

96 Stat. 923.

(h) **FINAL REPORT.**—The Commission shall, within 1 year after its establishment, submit to the President and to the Congress a final report containing a statement of the findings and conclusions of the Advisory Commission resulting from the study undertaken under subsection (f), including recommendations for such administrative, judicial, and legislative action as it deems advisable. Each recommendation made by the Advisory Commission to the President and to the Congress must have the majority vote of the Advisory Commission present and voting.

(i) **EXPIRATION OF THE COMMISSION.**—The Advisory Commission shall cease to exist 30 days after the submission of its final report.

(j) **AUTHORIZATION OF APPROPRIATION.**—There is authorized to be appropriated \$500,000 to carry out the activities of the Advisory Commission.

SEC. 19. OCEAN FREIGHT FORWARDERS.

46 USC app.
1718.

(a) **LICENSE.**—No person may act as an ocean freight forwarder unless that person holds a license issued by the Commission. The Commission shall issue a forwarder's license to any person that—

(1) the Commission determines to be qualified by experience and character to render forwarding services; and

(2) furnishes a bond in a form and amount determined by the Commission to insure financial responsibility that is issued by a surety company found acceptable by the Secretary of the Treasury.

(b) **SUSPENSION OR REVOCATION.**—The Commission shall, after notice and hearing, suspend or revoke a license if it finds that the ocean freight forwarder is not qualified to render forwarding services or that it willfully failed to comply with a provision of this Act or with a lawful order, rule, or regulation of the Commission. The Commission may also revoke a forwarder's license for failure to maintain a bond in accordance with subsection (a)(2).

(c) **EXCEPTION.**—A person whose primary business is the sale of merchandise may forward shipments of the merchandise for its own account without a license.

(d) **COMPENSATION OF FORWARDERS BY CARRIERS.**—

(1) A common carrier may compensate an ocean freight forwarder in connection with a shipment dispatched on behalf of others only when the ocean freight forwarder has certified in writing that it holds a valid license and has performed the following services:

(A) Engaged, booked, secured, reserved, or contracted directly with the carrier or its agent for space aboard a vessel or confirmed the availability of that space.

(B) Prepared and processed the ocean bill of lading, dock receipt, or other similar document with respect to the shipment.

(2) No common carrier may pay compensation for services described in paragraph (1) more than once on the same shipment.

(3) No compensation may be paid to an ocean freight forwarder except in accordance with the tariff requirements of this Act.

(4) No ocean freight forwarder may receive compensation from a common carrier with respect to a shipment in which the forwarder has a direct or indirect beneficial interest nor shall a common carrier knowingly pay compensation on that shipment.

SEC. 20. REPEALS AND CONFORMING AMENDMENTS.

(a) **REPEALS.**—The laws specified in the following table are repealed:

Shipping Act, 1916:	
Sec. 13	39 Stat. 732
Sec. 14a.....	46 App. U.S.C. 813
Sec. 14b.....	46 App. U.S.C. 813a
Sec. 18(b).....	46 App. U.S.C. 817(b)
Sec. 18(c).....	46 App. U.S.C. 817(c)
Sec. 26	46 App. U.S.C. 825
Sec. 44	46 App. U.S.C. 841b
Merchant Marine Act, 1920:	
Sec. 20	41 Stat. 996
Merchant Marine Act, 1936:	
Sec. 212(e)	46 App. U.S.C. 1122(e)

- Sec. 214 46 App. U.S.C. 1124, wherever that section applies to the Federal Maritime Commission (Commission), any member of the Commission or any member, officer or employee designated by the Commission.
- Omnibus Budget Reconciliation Act of 1981:
- Sec. 1608 95 Stat. 752 46 USC app. 801, 801 notes.
- (b) CONFORMING AMENDMENTS.—The Shipping Act, 1916 (46 App. U.S.C. 801 et seq.), is amended as follows:
- (1) in section 1 by striking the definitions “controlled carrier” and “independent ocean freight forwarder”; 46 USC app. 801.
 - (2) in sections 14, 15, 16, 20, 21(a), 22, and 45 by striking “common carrier by water” wherever it appears in those sections and substituting “common carrier by water in interstate commerce”; 46 USC app. 812, 814, 815, 819, 820, 821, 841c.
 - (3) in section 14, first paragraph, by striking “or a port of a foreign country”;
 - (4) in section 14, last paragraph, by striking all after the words “for each offense” and substituting a period;
 - (5) in section 15, fourth paragraph, by striking “(including changes in special rates and charges covered by section 14b of this Act which do not involve a change in the spread between such rates and charges and the rates and charges applicable to noncontract shippers)” and also “with the publication and filing requirements of section 18(b) hereof and”;
 - (6) in section 15, sixth paragraph, by striking “, or permitted under section 14b,” and in the seventh paragraph, by striking “or of section 14b”;
 - (7) in section 16, in the paragraph designated “First”, by striking all after “disadvantage in any respect” and substituting “whatsoever.”;
 - (8) in section 17 by striking the first paragraph, and in the second paragraph, by striking “such carrier and every”; 46 USC app. 816.
 - (9) in section 21(b) by striking “The Commission shall require the chief executive officer of every vessel operating common carrier by water in foreign commerce and to the extent it deems feasible, may require any shipper, consignor, consignee, forwarder, broker, other carrier or other person subject to this Act.” and substituting “The Commission may, to the extent it deems feasible, require any shipper, consignor, consignee, forwarder, broker, or other person subject to this Act.”;
 - (10) in section 22 by striking subsection (c);
 - (11) in section 25, at the end of the first sentence, by adding “under this Act”; 46 USC app. 824.
 - (12) in section 29 by striking “any order of the board, the board,” and substituting “any order of the Federal Maritime Commission under this Act, the Commission,”; 46 USC app. 828.
 - (13) in sections 30 and 31, after the words “any order of the board”, by adding “under this Act”; 46 USC app. 829, 830.
 - (14) in section 32(a) by striking “and section 44”; and 46 USC app. 831.
 - (15) in section 32(c), after the words “or functions,” by adding “under this Act,”.

(c) **TECHNICAL AMENDMENTS.**—Section 212 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1122) is amended by—

(1) striking after subsection (d) the following undesignated paragraph:

“The Federal Maritime Commission is authorized and directed—”; and

(2) striking after subsection (e) the following undesignated paragraph:

“The Secretary of Transportation is authorized and directed—”.

46 USC app.
1719.

(d) **EFFECTS ON CERTAIN AGREEMENTS AND CONTRACTS.**—All agreements, contracts, modifications, and exemptions previously approved or licenses previously issued by the Commission shall continue in force and effect as if approved or issued under this Act; and all new agreements, contracts, and modifications to existing, pending, or new contracts or agreements shall be considered under this Act.

46 USC app.
1719.

(e) **SAVINGS PROVISIONS.**—

(1) Each service contract entered into by a shipper and an ocean common carrier or conference before the date of enactment of this Act may remain in full force and effect and need not comply with the requirements of section 8(c) of this Act until 15 months after the date of enactment of this Act.

(2) This Act and the amendments made by it shall not affect any suit—

(A) filed before the date of enactment of this Act; or

(B) with respect to claims arising out of conduct engaged in before the date of enactment of this Act, filed within 1 year after the date of enactment of this Act.

46 USC app. 1701
note.

SEC. 21. EFFECTIVE DATE.

This Act shall become effective 90 days after the date of its enactment, except that sections 17 and 18 shall become effective upon enactment.

46 USC app.
1720.

SEC. 22. COMPLIANCE WITH BUDGET ACT.

2 USC 651.

Any new spending authority (within the meaning of section 401 of the Congressional Budget and Impoundment Control Act of 1974)

which is provided under this Act shall be effective for any fiscal year only to the extent or in such amounts as provided in advance in appropriations Acts. Any provision of this Act that authorizes the enactment of new budget authority shall be effective only for fiscal years beginning after September 30, 1984.

Approved March 20, 1984.

LEGISLATIVE HISTORY—S. 47 (S. 504) (H.R. 1878):

HOUSE REPORTS: No. 98-53, Pt. 1 (Comm. on Merchant Marine and Fisheries) and Pt. 2 (Comm. on the Judiciary) both accompanying H.R. 1878 and No. 98-600 (Comm. of Conference).

SENATE REPORT No. 98-3 accompanying S. 504 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD:

Vol. 129 (1983): Feb. 22-24, 28, Mar. 1, considered and passed Senate.

Oct. 17, H.R. 1878 considered and passed House; S. 47, amended, passed in lieu.

Vol. 130 (1984): Feb. 23, Senate agreed to conference report.

Mar. 6, House agreed to conference report.

Public Law 98-238
98th Congress

Joint Resolution

Mar. 20, 1984
[S.J. Res. 132]

To designate the week beginning May 6, 1984, as "National Correctional Officers Week".

Whereas American correctional officers who work in our jails and prisons are currently responsible for the containment and control of over six hundred thousand prisoners;

Whereas correctional officers must protect inmates from violence while encouraging them to develop skills and attitudes that can help them become productive members of society following their release;

Whereas the morale of correctional officers is affected by many factors, and the public perception of the role of correctional officers is more often based upon dramatization rather than factual review;

Whereas good job performance requires correctional officers to absorb the adverse attitudes present in confinement while maintaining themselves as professionals in order to have their actions appreciated and accepted by the public at large;

Whereas the American Association of Correctional Officers will be holding its annual convention May 6-12, 1984; and

Whereas the attitude and morale of correctional officers is a matter worthy of serious congressional attention: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning May 6, 1984, hereby is designated "National Correctional Officers Week" and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved March 20, 1984.

LEGISLATIVE HISTORY—S.J. Res. 132:

CONGRESSIONAL RECORD:

Vol. 129 (1983): Nov. 15, considered and passed Senate.

Vol. 130 (1984): Mar. 8, considered and passed House.

Public Law 98-239
98th Congress

An Act

To extend the expiration date of section 252 of the Energy Policy and Conservation Act.

Mar. 20, 1984
[H.R. 4194]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (j) of section 252 of the Energy Policy and Conservation Act (42 U.S.C. 6272(j)) is amended by striking out "December 31, 1983" and inserting in lieu thereof "June 30, 1985".

96 Stat. 248.

Approved March 20, 1984.

LEGISLATIVE HISTORY—H.R. 4194 (S. 1982):

HOUSE REPORTS: No. 98-472 (Comm. on Energy and Commerce) and No. 98-620 (Comm. of Conference).

CONGRESSIONAL RECORD:

- Vol. 129 (1983): Nov. 7, considered and passed House.
Nov. 17, considered and passed Senate, amended.
Nov. 18, House disagreed to Senate amendment.
- Vol. 130 (1984): Mar. 15, House and Senate agreed to conference report.

Public Law 98-240
98th Congress

Joint Resolution

Mar. 21, 1984
[H.J. Res. 200]

Designating March 21, 1984, as "National Single Parent Day".

Whereas there are fourteen million single parents in the United States, the number doubling in the last ten years;

Whereas 20 per centum of all our Nation's children are now living in single parent families, and an estimated 50 per centum of this Nation's children will live with a single parent before the age of eighteen;

Whereas in the past, single parent families have not always been an accepted part of society;

Whereas single parents have struggled courageously to raise their children to a healthy maturity, with the full sense of being loved and accepted as persons, and with the same prospects for adulthood as children who mature with their two parents together; and

Whereas it is time to recognize the courage and dedication of these parents who work to maintain strong family units and to be responsible members of American society: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 21, 1984, is designated "National Single Parent Day". The President is requested to issue a proclamation calling upon the people of the United States to observe that day with appropriate ceremonies and activities.

Approved March 21, 1984.

LEGISLATIVE HISTORY—H.J. Res. 200 (S.J. Res. 256):

CONGRESSIONAL RECORD, Vol. 130 (1984):

Mar. 14, considered and passed House.

Mar. 20, considered and passed Senate.

Public Law 98-241
98th Congress

An Act

To authorize appropriations for the Earthquake Hazards Reduction Act of 1977 and the Federal Fire Prevention and Control Act of 1974 for fiscal year 1984 and fiscal year 1985, and for other purposes.

Mar. 22, 1984

[S. 820]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—EARTHQUAKE HAZARDS REDUCTION PROGRAM

SEC. 101. (a) Section 7(a) of the Earthquake Hazards Reduction Act of 1977 is amended by adding at the end thereof the following new paragraph:

96 Stat. 2533.
42 USC 7706.

“(5) There are authorized to be appropriated to the Director, to carry out the provisions of sections 5 and 6 of this Act, for the fiscal year ending September 30, 1984, \$3,705,000, and for the fiscal year ending September 30, 1985, \$6,096,000.”

42 USC 7704,
7705.

(b) Section 7(b) of such Act is amended by striking out “and” after “1982,” and by inserting “; \$35,524,000 for the fiscal year ending September 30, 1984, and \$37,300,200 for the fiscal year ending September 30, 1985” before the period at the end thereof.

(c) Section 7(c) of such Act is amended by striking out “and” after “1982,” and by inserting “; \$25,800,000 for the fiscal year ending September 30, 1984; and \$28,665,000 for the fiscal year ending September 30, 1985” before the period at the end thereof.

(d) Section 7(d) of such Act is amended by striking out “and” after “1982,” and by inserting “; \$475,000 for the fiscal year ending September 30, 1984; and \$498,750 for the fiscal year ending September 30, 1985” before the period at the end thereof.

(e) Section 7(e) of such Act is amended by striking out “1982 and” and by inserting in lieu thereof “1982,” and by inserting “September 30, 1984, and September 30, 1985,” before “there are authorized”.

TITLE II—FIRE PREVENTION AND CONTROL

SEC. 201. Section 17 of the Federal Fire Prevention and Control Act of 1974 is amended by adding at the end thereof the following:

15 USC 2216.

“(e) Except as otherwise specifically provided with respect to the payment of claims under section 11 of this Act, to carry out the purposes of this Act, there are authorized to be appropriated—

15 USC 2214.

“(1) \$15,720,000 for the fiscal year ending September 30, 1984, and \$20,983,000 for the fiscal year ending September 30, 1985; and

“(2) such further sums as may be necessary in each of the fiscal years ending September 30, 1984, and September 30, 1985, for adjustments required by law in salaries, pay, retirement, and employee benefits incurred in the conduct of activities for which funds are authorized by paragraph (1) of this subsection.

The funds authorized under this subsection shall be in addition to funds authorized in any other law for research and development at the Fire Research Center of the National Bureau of Standards.”

SEC. 202. Section 15 of the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2214), is further amended by striking the words “, the Secretary of Defense,” where such appears in subsections (b)(2), (c), (e)(1)(A), and (f).

Voluntarism.

SEC. 203. It is the sense of the Congress that special recognition should be made of volunteer fire companies for their contribution to the public safety, accomplished in the highest traditions of the American voluntary spirit, and offering proof that locally based, nonfederally sponsored efforts provide the American people with outstanding service.

Approved March 22, 1984.

LEGISLATIVE HISTORY—S. 820 (H.R. 2465):

HOUSE REPORTS: No. 98-99, Pts. 1 and 3 (Comm. on Interior and Insular Affairs) and Pt. 2 (Comm. on Science and Technology) all accompanying H.R. 2465.

SENATE REPORT No. 98-42 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD:

Vol. 129 (1983): Apr. 7, considered and passed Senate.

Vol. 130 (1984): Feb. 1, H.R. 2465 considered and passed House; S. 820, amended, passed in lieu.

Mar. 8, Senate concurred in House amendments.

Public Law 98-242
98th Congress

An Act

To authorize an ongoing program of water resources research, and for other purposes.

Mar. 22, 1984

[S. 684]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Water Resources
Research Act of
1984.

TITLE I

SEC. 101. This Act may be cited as the “Water Resources Research Act of 1984”

42 USC 10301
note.

SEC. 102. The Congress finds and declares that—

42 USC 10301.

(1) the existence of an adequate supply of water of good quality for the production of materials and energy for the Nation’s needs and for the efficient use of the Nation’s energy and water resources is essential to national economic stability and growth, and to the well-being of the people;

(2) the management of water resources is closely related to maintaining environmental quality and social well-being;

(3) there is an increasing threat of impairment to the quantity and quality of surface and groundwater resources;

(4) the Nation’s capabilities for technological assessment and planning and for policy formulation for water resources must be strengthened at the Federal, State, and local governmental levels;

(5) there should be a continuing national investment in water and related research and technology commensurate with growing national needs;

(6) it is necessary to provide for the research and development of technology for the conversion of saline and other impaired waters to a quality suitable for municipal, industrial, agricultural, recreational, and other beneficial uses; and

(7) the Nation must provide programs to strengthen research and associated graduate education because the pool of scientists, engineers, and technicians trained in fields related to water resources constitutes an invaluable natural resource which should be increased, fully utilized, and regularly replenished.

SEC. 103. It is the purpose of this Act to assist the Nation and the States in augmenting their water resources science and technology as a way to—

Science and
technology.
42 USC 10302.

(1) assure supplies of water sufficient in quantity and quality to meet the Nation’s expanding needs for the production of food, materials, and energy;

(2) discover practical solutions to the Nation’s water and water resources related problems, particularly those problems related to impaired water quality;

(3) assure the protection and enhancement of environmental and social values in connection with water resources management and utilization;

(4) promote the interest of State and local governments as well as private industry in research and the development of technology that will reclaim waste water and to convert saline and other impaired waters to waters suitable for municipal, industrial, agricultural, recreational, and other beneficial uses;

(5) coordinate more effectively the Nation's water resources research program; and

(6) promote the development of a cadre of trained research scientists, engineers, and technicians for future water resources problems.

Research and
development.
42 USC 10303.

SEC. 104. (a) Subject to the approval of the Secretary of the Interior (hereafter in this Act referred to as the "Secretary") under this section, one water resources research and technology institute, center, or equivalent agency (hereafter in this Act referred to as the "institute") may be established in each State (as used in this Act, the term "State" includes the Commonwealth of Puerto Rico, the District of Columbia, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Mariana Islands and the Trust Territory of the Pacific Islands) at a college or university which was established in accordance with the Act approved July 2, 1862 (12 Stat. 503; 7 U.S.C. 301ff), entitled "An Act donating public lands to the several States and territories which may provide colleges for the benefit of agriculture and the mechanic arts" or at some other institution designated by act of the legislature of the State concerned. If there is more than one such college or university in a State established in accordance with such Act of July 2, 1862, the institute in such State shall, in the absence of a designation to the contrary by act of the legislature of the State, be established at the one such college or university designated by the Governor of the State. Two or more States may cooperate in the establishment of a single institute or regional institute, in which event the sums otherwise allocated to institutes in each of the cooperating States shall be paid to such single or regional institute.

7 USC 301.

(b) Each institute shall—

(1) plan, conduct, or otherwise arrange for competent research with respect to water resources, including investigations and experiments of either a basic or practical nature, or both; promote the dissemination and application of the results of these efforts; and provide for the training of scientists and engineers through such research, investigations, and experiments, and

(2) cooperate closely with other colleges and universities in the State that have demonstrated capabilities for research, information dissemination, and graduate training in order to develop a statewide program designed to resolve State and regional water and related land problems.

Each institute shall also cooperate closely with other institutes and other organizations in the region to increase the effectiveness of the institutes and for the purpose of regional coordination.

Grants.

(c) From the sums appropriated pursuant to subsection (f) of this section, the Secretary shall make grants to each institute to be matched on a basis of no less than one non-Federal dollar for every Federal dollar during the fiscal years ending September 30, 1985, and September 30, 1986, one and one-half non-Federal dollars for each Federal dollar during the fiscal years ending September 30, 1987, and September 30, 1988, and two non-Federal dollars for each Federal dollar during the fiscal year ending September 30, 1989.

(d) Prior to and as a condition of the receipt each fiscal year of funds appropriated under subsection (f) of this section, each institute shall submit to the Secretary for his approval a water research program that includes assurances, satisfactory to the Secretary, that such program was developed in close consultation and collaboration with the director of that State's department of water resources or similar agency, other leading water resources officials within the State, and interested members of the public. The program described in the preceding sentence shall include plans to promote research, training, information dissemination, and other activities meeting the needs of the State and Nation, and shall encourage regional cooperation among institutes in research into areas of water management, development, and conservation that have a regional or national character.

(e)(1) The Secretary shall establish procedures for a careful and detailed evaluation of each institute to determine that the quality and relevance of its water resources research and its effectiveness as an institution for planning, conducting and arranging for research warrants its continued support under this section in the national interest. The evaluation of each institute shall be made by a team of knowledgeable individuals including employees of the Department of the Interior, university faculty or administrators, water research institute directors from other institutes, State or local water resource agency personnel, and private citizens selected for this purpose. The Secretary may also secure the cooperation of the National Research Council/National Academy of Science. The evaluation team shall visit the institute and shall assess the scientific quality of its research program, the potential effectiveness of its research in meeting water resource needs, and the demonstrated performance in making research results available to users in the State and elsewhere. Criteria for making the determination that an institute is an effective instrument for water resources research shall include the following: accreditation in sufficient disciplines to successfully mount a multidisciplinary research program; sufficient resources, including laboratory, library, computer, and support facilities; a sufficiently close administrative relation and physical proximity to the university and to all the parts of it needed to provide an effective working relationship with researchers in a wide range of disciplines; and institutional commitment to the support and continuation of an effective water research program.

(2) The Secretary shall arrange for each of the institutes supported under this section to be evaluated under this subsection within two years after its establishment and to be reevaluated at intervals not to exceed four years. If, as a result of any such evaluation, the Secretary determines that an institute does not qualify for further support under this section, then no further grants to the institute may be made until the institute's qualification is reestablished to the satisfaction of the Secretary.

(f)(1) For the purpose of carrying out this section, there is authorized to be appropriated to the Secretary the sum of \$10,000,000 for each of the fiscal years ending September 30, 1985, through September 30, 1989, such sums to remain available until expended.

(2) Any sums appropriated under this subsection but which fail to be obligated by the close of the fiscal year for which they were appropriated shall be transferred by the Secretary and available for obligation during the succeeding fiscal year under the terms of section 106 of this Act.

Appropriation
authorization.

Grants.
42 USC 10304.

SEC. 105. (a)(1) In addition to the grants authorized by section 104 of this Act, the Secretary is authorized to make grants, on a dollar-for-dollar matching basis, to the institutes established under such section, as well as other qualified educational institutions, private foundations, private firms, individuals, and agencies of local or State government for research concerning any aspect of a water resource-related problem which the Secretary may deem to be in the national interest. Such grants shall be made with such advice and review by peer or other expert groups of appropriate interdisciplinary composition as the Secretary deems appropriate on the basis of the merits of the project and the need for the knowledge such project is expected to produce upon completion.

(2) Research funded under this section should to the extent possible utilize the best qualified graduate students so the Nation profits from the education and training benefits resulting from the use of the latest in technological developments in solving water problems.

(3) In cases where the Secretary determines, in accordance with criteria established by him, that research under this section is of a basic nature which would not otherwise be undertaken, the Secretary may approve grants under this section with a matching requirement other than that specified in paragraph (1) of this subsection.

(b) Each application for a grant under this section shall state the nature of the project to be undertaken, the period during which it will be pursued, the qualifications of the personnel who will direct and conduct it, the importance of the project to the Nation as well as to the region and State concerned, its relation to other research projects previously or currently being pursued, and the extent to which it will provide an opportunity for the training of water resources scientists.

Appropriation
authorization.

(c) There is authorized to be appropriated to the Secretary the sum of \$20,000,000 for the purpose of carrying out this section for each of the fiscal years ending September 30, 1985, through September 30, 1989, such sums to remain available until expended.

Grants.
Contracts with
U.S.
42 USC 10305.

SEC. 106. (a)(1) The Secretary shall make grants or contracts in addition to those authorized under sections 104 and 105 to educational institutions, private firms, private foundations, individuals, and agencies of local or State governments for technology development concerning any aspect of water-related technology which the Secretary may deem to be of State, regional, and national importance, including technology associated with improvement of waters of impaired quality and the operation of test facilities. Such grants or contracts shall be made on the basis of the merit and feasibility of the project based on expert evaluation as deemed appropriate by the Secretary, taking care to protect proprietary information of private firms or individuals associated with the technology.

(2) The Secretary may establish any condition for the matching of funds by the recipient of any grant or contract under this section which the Secretary considers to be in the best interest of the Nation considering the technology needs for water resources in the Nation.

(b) Each application for a grant or contract under this section shall state the nature of the project to be undertaken, the qualifications of the personnel who will direct and conduct it, the facilities of the organization performing the technology development, the importance of the project to the Nation, region, and State concerned, and the potential benefit to be accrued from the development.

(c)(1) There is authorized to be appropriated to the Secretary the sum of \$6,000,000 for the purpose of carrying out this section for each of the fiscal years ending September 30, 1985, through September 30, 1989, such sums to remain available until expended.

Appropriation
authorization.

(2) In addition to sums available under the terms of paragraph (1) of this subsection, the Secretary is also authorized to obligate funds under this section if such funds are transferred under the terms of section 104(f)(2) of this Act.

SEC. 107. From the sums appropriated pursuant to this Act, not more than 15 per centum shall be utilized for administrative costs.

42 USC 10306.

SEC. 108. The type of research and development to be undertaken under the authority of sections 105 and 106 of this Act and to be encouraged by the institutes established under section 104 of this Act shall include the following:

Research and
development.
42 USC 10307.

- (1) Aspects of the hydrologic cycle;
- (2) Supply and demand for water;
- (3) Demineralization of saline and other impaired waters;
- (4) Conservation and best use of available supplies of water and methods of increasing such supplies;
- (5) Water reuse;
- (6) Depletion and degradation of groundwater supplies;
- (7) Improvements in the productivity of water when used for agricultural, municipal, and commercial purposes;
- (8) The economic, legal, engineering, social, recreational, biological, geographic, ecological, and other aspects of water problems;
- (9) Scientific information dissemination activities, including identifying, assembling, and interpreting the results of scientific and engineering research on water resources problems; and
- (10) Providing means for improved communication of research results, having due regard for the varying conditions and needs for the respective States and regions.

SEC. 109. Notwithstanding any other provision of law, the Secretary shall be governed by the provisions of sections 9 (except subsections (l) and (n)) and 10 of the Federal Nonnuclear Energy, Research, and Development Act of 1974 (Public Law 93-577; 88 Stat. 1887, 1891; 42 U.S.C. 5908-5909) with respect to patent policy and to the definition of title to and licensing of inventions made or conceived in the course of work performed, or under any contract or grant made, pursuant to this Act. Subject to such patent policy, all research or development contracted for, sponsored, cosponsored, or authorized under authority of this Act shall be provided in such manner that all information, data, and know-how, regardless of their nature or mediums, resulting from such research and development shall (with such exceptions and limitations, if any, as the Secretary may find to be necessary in the interest of national defense) be usefully available for practice by the general public.

Patents.
42 USC 10308.

SEC. 110. (a) Public Law 95-467 is repealed.

Repeal.
42 USC 7801
et seq.
42 USC 7801
note.

(b) Rules and regulations issued prior to the date of enactment of this Act under the authority of Public Law 95-467 shall remain in full force and effect under this Act until superseded by new rules and regulations promulgated under this Act.

SEC. 111. Any new spending authority described in subsection (c)(2) (A) or (B) of section 401 of the Congressional Budget Act of 1974 which is provided under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriations Acts.

42 USC 10309.
2 USC 651.

TITLE II

Wrightsville
Beach, N.C.
Public lands.

SEC. 201. (a)(1) Notwithstanding any other provision of law and subject to paragraph (2), the Secretary shall convey, not later than January 24, 1984, and without consideration, all right, title, and interest of the United States in the real property description in subsection (b) of this section to the town of Wrightsville Beach, North Carolina.

(2) The conveyance of real property described in subsection (b)(1) of this section, which constitutes the Wrightsville Beach Test Facility, to such town shall be made by the Secretary on the condition that, during the period beginning on the date of such conveyance and ending on January 24, 1988, such facility is—

(A) maintained in a working order which is comparable to the condition of such facility on the date of such conveyance, and

(B) operated and maintained primarily for desalinization of other related research.

(b) The real property referred to in subsection (a) is real property located in the town of Wrightsville Beach, North Carolina, as follows:

(1) Real property which constitutes the Wrightsville Beach Test Facility and may be described as beginning at a point in the old northern line of United States Highway 76, said point located north 51 degrees 05 minutes west 530.00 feet as measured with said line from the southeast corner of tract numbered 1 as shown by "Map Showing Property of State of North Carolina" recorded in map book 7, page 40, New Hanover County Registry; running thence from said beginning north 38 degrees 55 minutes east 660.00 feet to a point; thence north 51 degrees 05 minutes west 129.80 feet to a point; thence north 38 degrees 56 minutes 30 seconds east 157.89 feet to a point; thence north 77 degrees 32 minutes 30 seconds east 101.40 feet to a point; thence north 12 degrees 07 minutes west 151.19 feet to a point in the southern line of United States Highway 74; thence with said southern line south 77 degrees 53 minutes west 563.57 feet to a point; thence south 38 degrees 55 minutes west 554.52 feet to a point in the old northern line of United States Highway 76; thence with said old northern line south 51 degrees 05 minutes east 538.47 feet to the point of beginning, containing 9.57 acres.

(2)(A) Real property which is adjacent to such Facility and may be described as beginning at a point in the old northern right of way line of United States Highway 76 (Wrightsville Causeway) at the southeastern corner of tract numbered 1 as shown by "Map Showing Property of State of North Carolina" recorded in map book 7, page 40, New Hanover County Registry; said southeast corner north 51 degrees 05 minutes west 862.6 feet as measured with said northern line from its intersection with the extension of the western line of Island Drive, Shore Acres; running thence from said beginning south 38 degrees 55 minutes west 150.00 feet to a point in the new northern right of way line of United States Highway 76; thence with said line north 51 degrees 05 minutes west 530.00 feet to a point; thence north 38 degrees 55 minutes east 150.00 feet to a point in said old northern right of way line; thence continuing north 38 degrees 55 minutes east 660.00 feet to a point; thence continuing north 38 degrees 55 minutes east 140.11 feet to a point; thence

north 12 degrees 27 minutes 30 seconds west 108.44 feet to a point; thence north 77 degrees 32 minutes 30 seconds east 34.31 feet to a point; thence north 12 degrees 07 minutes west 151.19 feet to a point in the southern line of United States Highway 74; thence north 77 degrees 53 minutes east 240.00 feet to the northernmost corner of said tract numbered 1, map book 7, page 40; thence with the eastern lines of said tract numbered 1 south 12 degrees 07 minutes east 723.8 feet to its easternmost corner; thence continuing with said eastern line south 38 degrees 55 minutes west 723.8 feet to the point of beginning, containing 14.079 acres.

(B) Beginning at a point in the old northern right of way of United States Highway 76 (Causeway Drive) and the southern line of tract numbered 1 as shown by map, "Property of State of North Carolina" recorded in map book 7, page 40, New Hanover County Registry, said point located north 51 degrees 05 minutes west 1068.47 feet as with said line from the southeastern corner of said tract numbered 1; running thence from said beginning with said line north 51 degrees 05 minutes west 322.62 feet to a point in the new right of way of United States Highway 76; thence with said new right of way north 19 degrees 27 minutes 15 seconds west 32.01 feet to an iron rod; thence continuing with said new right of way north 33 degrees 42 minutes 15 seconds east 94.98 feet to an iron rod in the southern right of way of United States Highway 74; thence with said southern line north 77 degrees 53 minutes east 570.17 feet to an iron pipe; thence south 38 degrees 55 minutes west 554.55 feet to the point of beginning, containing 2.72 acres and being the western portion of said tract numbered 1 recorded in map book 7, page 40.

SEC. 202. (a)(1) Notwithstanding any other provision of law and subject to paragraph (2), the Secretary shall convey, not later than December 31, 1983, and without consideration, all right, title, and interest of the United States in the real property described in subsection (b) of this section, which constitutes the Roswell Test Facility, to the city of Roswell, New Mexico.

Roswell, N. Mex.
Public lands.

(2) Such conveyance shall be made on the condition that, during the period beginning on the date of such conveyance and ending on December 31, 1987, such facility is—

(A) maintained in a working order which is comparable to the condition of such facility on the date of such conveyance, and

(B) operated and maintained primarily for desalinization or other related research.

(b) The real property referred to in subsection (a) of this section shall consist of so much of the real property located in the county of Chaves, New Mexico, as constitutes the Roswell Test Facility. Such real property shall consist of—

(1) the lands at the Roswell site as conveyed to the United States by the city of Roswell, New Mexico, by warranty deed dated April 13, 1961, said deed being recorded in the office of the county clerk of the county of Chaves, New Mexico, at book 205, page 406, and more fully describing such lands as being—

A tract of land lying and being situated in the southwest quarter of section 32, township 10 south, range 25 east, New Mexico principal meridian, and being more particularly described as; beginning at a point on the west line of said section 32 which bears north 3 degrees 58 minutes east at 137 feet distant from the southwest corner of said section

32; thence north 3 degrees 58 minutes east, a distance of 455 feet; thence north 78 degrees 03 minutes east, a distance of 531.9 feet; thence south 25 degrees 00 minutes east, a distance of 450.1 feet; thence southwesterly along a curve to the right, the arc which bears south 77 degrees 43 minutes west, a distance of 760.4 feet to the point of beginning, containing 6.94304 acres, and

(2) the lands at the Roswell site as conveyed to the United States by the city of Roswell, New Mexico, by warranty deed dated June 18, 1968, said deed being recorded in the office of the county clerk of the county of Chaves, New Mexico, at book 250, page 390, and more fully describing such lands as being—

A tract of land lying and being situated in the west half of the west half of the southwest quarter of section 32, township 10 south, range 25 east, New Mexico principal meridian, and being more particularly described as follows: Beginning at a point on the west line of said section 32 which bears north 3 degrees 57 minutes east 592 feet distant from the southeast corner of said section 32; thence north 3 degrees 58 minutes east, a distance of 911.5 feet; thence south 39 degrees 33 minutes east, a distance of 179.00 feet; thence south 27 degrees 35 minutes east, a distance of 1,193.00 feet; thence southwesterly along the north highway right-of-way line on a curve to the right of 5,655 feet radius through an included angle of 0 degrees 13 minutes, a distance of 21.31 feet; thence north 25 degrees 00 minutes west, a distance of 444.26 feet; thence south 78 degrees 03 minutes west, a distance of 531.9 feet to the point of beginning containing 5,795 acres, more or less. Note: The east boundary of this tract of land lies 50 feet west of the center line of the Hagerman canal, together with water rights appurtenant thereto.

SEC. 203. Each conveyance issued by the Secretary pursuant to the provisions of this title shall contain a clause providing that the title to the lands and facilities conveyed shall revert to the United States should such lands or facilities be used for other than a public purpose following the date of conveyance.

THOMAS P. O'NEILL, JR.

Speaker of the House of Representatives.

STROM THURMOND

President of the Senate pro Tempore

IN THE SENATE OF THE UNITED STATES,

March 21 (legislative day, March 19), 1984.

The Senate having proceeded to reconsider the bill (S. 684) entitled "An Act to authorize an ongoing program of water resources research, and for other purposes", returned by the President of the United States with his objections, to the Senate, in which it originated, it was

Resolved, That the said bill pass, two-thirds of the Senators present having voted in the affirmative.

WILLIAM F. HILDENBRAND
Secretary.

I certify that this Act originated in the Senate.

WILLIAM F. HILDENBRAND
Secretary.

IN THE HOUSE OF REPRESENTATIVES, U.S.,
March 22, 1984.

The House of Representatives having proceeded to reconsider the bill (S. 684) entitled "An Act to authorize an ongoing program of water resources research, and for other purposes", returned by the President of the United States with his objections, to the Senate, in which it originated, and passed by the Senate on reconsideration of the same, it was

Resolved, That the said bill pass, two-thirds of the House of Representatives agreeing to pass the same.

BENJAMIN J. GUTHRIE
Clerk.

LEGISLATIVE HISTORY—S. 684 (H.R. 2911):

HOUSE REPORT No. 98-416 accompanying H.R. 2911 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 98-91 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD:

Vol. 129 (1983): May 25, considered and passed Senate.

Oct. 31, H.R. 2911 considered and passed House; S. 684, amended, passed in lieu.

Nov. 18, Senate concurred in House amendments with an amendment.

Vol. 130 (1984): Feb. 7, House concurred in Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 8 (1984):

Feb. 21, Presidential veto message.

CONGRESSIONAL RECORD, Vol. 130 (1984):

Mar. 21, Senate overrode veto.

Mar. 22, House overrode veto.

Public Law 98-243
98th Congress

An Act

Mar. 26, 1984
[S. 912]

To modify the authority for the Richard B. Russell Dam and Lake project, and for other purposes.

Energy.
Abbeville, S.C.
80 Stat. 1418.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Richard B. Russell Dam and Lake project, authorized by the Flood Control Act of 1966 (80 Stat. 1420), is hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to provide such power to the city of Abbeville, South Carolina, as the Secretary determines to be necessary to mitigate the reduction in hydroelectric power produced at the city-owned hydroelectric plant at Lake Secession caused by the construction and operation of the project. Such power shall be provided to the city for a period not to exceed the remaining service life of the city-owned hydroelectric plant as part of the operational requirements and costs of the project under such terms and conditions as the Secretary, in consultation with the Secretary of Energy, determines to be appropriate. The Secretary of Energy is authorized to provide assistance in the delivery of such power.

Rivers and
harbors.
Eastport, Maine.

SEC. 2. (a) The project for navigation at Eastport Harbor, Maine, authorized by section 101 of the River and Harbor Act of 1960 (74 Stat. 480), is not authorized after the date of enactment of this Act.

(b) The Secretary shall transfer without consideration to the city of Eastport, Maine, title to any facilities and improvements constructed by the United States as part of the project described in subsection (a) of this section. Such transfer shall be made as soon as practicable after the date of enactment of this Act. Nothing in this section shall require the conveyance of any interest in land underlying such project title to which is held by the State of Maine.

Approved March 26, 1984.

LEGISLATIVE HISTORY—S. 912:SENATE REPORT No. 98-306 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD:Vol. 129 (1983): Nov. 16, considered and passed Senate.
Vol. 130 (1984): Mar. 13, considered and passed House.

Public Law 98-244
98th Congress

An Act

To establish a National Fish and Wildlife Foundation.

Mar. 26, 1984
[H.R. 2809]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “National Fish and Wildlife Foundation Establishment Act”.

National Fish
and Wildlife
Foundation
Establishment
Act.
16 USC 3701
note.
16 USC 3701.

SEC. 2. ESTABLISHMENT AND PURPOSES OF FOUNDATION.

(a) ESTABLISHMENT.—There is established the National Fish and Wildlife Foundation (hereinafter in this Act referred to as the “Foundation”). The Foundation is a charitable and nonprofit corporation and is not an agency or establishment of the United States.

(b) PURPOSES.—The purposes of the Foundation are—

(1) to encourage, accept, and administer private gifts of property for the benefit of, or in connection with, the activities and services of the United States Fish and Wildlife Service; and

(2) to undertake and conduct such other activities as will further the conservation and management of the fish, wildlife, and plant resources of the United States, and its territories and possessions, for present and future generations of Americans.

SEC. 3. BOARD OF DIRECTORS OF THE FOUNDATION.

16 USC 3702.

(a) ESTABLISHMENT AND MEMBERSHIP.—The Foundation shall have a governing Board of Directors (hereinafter referred to in this Act as the “Board”), which shall consist of nine Directors, each of whom shall be a United States citizen and—

(1) six of whom must be knowledgeable or experienced in fish and wildlife conservation; and

(2) three of whom must be educated and experienced in the principles of fish and wildlife management.

The membership of the Board, to the extent practicable, shall represent diverse points of view relating to fish and wildlife conservation. The Director of the United States Fish and Wildlife Service shall be an ex officio nonvoting member of the Board. Appointment to the Board shall not constitute employment by, or the holding of an office of, the United States for the purposes of any Federal law.

(b) APPOINTMENT AND TERMS.—By December 31, 1984, the Secretary of the Interior (hereinafter referred to in this Act as the “Secretary”) shall appoint the Directors of the Board. The Directors shall be appointed for terms of six years; except that the Secretary, in making the initial appointments to the Board, shall appoint three Directors to a term of two years, three Directors to a term of four years, and three Directors to a term of six years. A vacancy on the Board shall be filled within sixty days of said vacancy in the manner in which the original appointment was made. No individual may serve more than two consecutive terms as a Director.

(c) **CHAIRMAN.**—The Chairman shall be elected by the Board from its members for a two-year term.

(d) **QUORUM.**—A majority of the current membership of the Board shall constitute a quorum for the transaction of business.

(e) **MEETINGS.**—The Board shall meet at the call of the Chairman at least once a year. If a Director misses three consecutive regularly scheduled meetings, that individual may be removed from the Board and that vacancy filled in accordance with subsection (b).

(f) **REIMBURSEMENT OF EXPENSES.**—Members of the Board shall serve without pay, but may be reimbursed for the actual and necessary traveling and subsistence expenses incurred by them in the performance of the duties of the Foundation.

(g) **GENERAL POWERS.**—(1) The Board may complete the organization of the Foundation by—

(A) appointing officers and employees;

(B) adopting a constitution and bylaws consistent with the purposes of the Foundation and the provisions of this Act; and

(C) undertaking of other such acts as may be necessary to carry out the provisions of this Act.

(2) The following limitations apply with respect to the appointment of officers and employees of the Foundation:

(A) Officers and employees may not be appointed until the Foundation has sufficient funds to pay them for their service. Officers and employees of the Foundation shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay in effect for grade GS-18 of the General Schedule.

(B) The first officer or employee appointed by the Board shall be the Secretary of the Board who (i) shall serve, at the direction of the Board, as its chief operating officer, and (ii) shall be knowledgeable and experienced in matters relating to fish and wildlife conservation.

5 USC 5101

et seq.

5 USC 5331.

5 USC 5332.

16 USC 3703.

SEC. 4. RIGHTS AND OBLIGATIONS OF THE FOUNDATION.

(a) **IN GENERAL.**—The Foundation—

(1) shall have perpetual succession;

(2) may conduct business throughout the several States, territories, and possessions of the United States;

(3) shall have its principal offices in the District of Columbia; and

(4) shall at all times maintain a designated agent authorized to accept service of process for the Foundation.

The serving of notice to, or service of process upon, the agent required under paragraph (4), or mailed to the business address of such agent, shall be deemed as service upon or notice to the Foundation.

(b) **SEAL.**—The Foundation shall have an official seal selected by the Board which shall be judicially noticed.

(c) **POWERS.**—To carry out its purposes under section 2, the Foundation shall have, in addition to the powers otherwise given it under this Act, the usual powers of a corporation acting as a trustee in the District of Columbia, including the power—

(1) to accept, receive, solicit, hold, administer and use any gift, devise, or bequest, either absolutely or in trust, of real or personal property or any income therefrom or other interest therein;

(2) to acquire by purchase or exchange any real or personal property or interest therein;

(3) unless otherwise required by the instrument of transfer, to sell, donate, lease, invest, reinvest, retain or otherwise dispose of any property or income therefrom;

(4) to borrow money and issue bonds, debentures, or other debt instruments;

(5) to sue and be sued, and complain and defend itself in any court of competent jurisdiction, except that the Directors of the Board shall not be personally liable, except for gross negligence;

(6) to enter into contracts or other arrangements with public agencies and private organizations and persons and to make such payments as may be necessary to carry out its function; and

(7) to do any and all acts necessary and proper to carry out the purposes of the Foundation.

For purposes of this Act, an interest in real property shall be treated as including, among other things, easements or other rights for preservation, conservation, protection, or enhancement by and for the public of natural, scenic, historic, scientific, educational, inspirational, or recreational resources. A gift, devise, or bequest may be accepted by the Foundation even though it is encumbered, restricted, or subject to beneficial interests of private persons if any current or future interest therein is for the benefit of the Foundation.

Gifts and
property.

(d) CERTAIN LANDS, WATERS, AND INTERESTS NOT SUBJECT TO CONDEMNATION.—No lands or waters, or interests therein, that are owned by the Foundation and are determined by the Director of the United States Fish and Wildlife Service or the Migratory Bird Conservation Commission, as the case may be, to be valuable for purposes of fish and wildlife conservation or management shall be subject to condemnation by any State or political subdivision, or any agent or instrumentality thereof.

SEC. 5. ADMINISTRATIVE SERVICES AND SUPPORT.

16 USC 3704.

The Secretary may provide personnel, facilities, and other administrative services to the Foundation, including reimbursement of expenses under section 3, not to exceed then current Federal Government per diem rates, for a period of up to five years from the date of enactment of this Act, and may accept reimbursement therefor, to be deposited in the Treasury to the credit of the appropriations then current and chargeable for the cost of providing such services.

SEC. 6. VOLUNTEER STATUS.

16 USC 3705.

The Secretary may accept, without regard to the civil service classification laws, rules, or regulations, the services of the Foundation, the Board, and the officers and employees of the Board, without compensation from the Department of the Interior, as volunteers in the performance of the functions authorized herein, in the manner provided for under section 7(c) of the Fish and Wildlife Act of 1956 (16 U.S.C. 742f(c)).

16 USC 3706.

SEC. 7. AUDITS, REPORT REQUIREMENTS, AND PETITION OF ATTORNEY GENERAL FOR EQUITABLE RELIEF.

(a) **AUDITS.**—For purposes of the Act entitled “An Act for audit of accounts of private corporations established under Federal law”, approved August 30, 1964 (Public Law 88-504, 36 U.S.C. 1101-1103), the Foundation shall be treated as a private corporation established under Federal law.

(b) **REPORT.**—The Foundation shall, as soon as practicable after the end of each fiscal year, transmit to Congress a report of its proceedings and activities during such year, including a full and complete statement of its receipts, expenditures, and investments.

(c) **RELIEF WITH RESPECT TO CERTAIN FOUNDATION ACTS OR FAILURE TO ACT.**—If the Foundation—

(1) engages in, or threatens to engage in, any act, practice, or policy that is inconsistent with its purposes set forth in section 2(b); or

(2) refuses, fails, or neglects to discharge its obligations under this Act, or threatens to do so;

the Attorney General of the United States may petition in the United States District Court for the District of Columbia for such equitable relief as may be necessary or appropriate.

16 USC 3707.

SEC. 8. UNITED STATES RELEASE FROM LIABILITY.

The United States shall not be liable for any debts, defaults, acts, or omissions of the Foundation nor shall the full faith and credit of the United States extend to any obligation of the Foundation.

16 USC 3708.

SEC. 9. AMENDMENT AND REPEAL.

The Congress expressly reserves the right to repeal or amend this Act at any time.

16 USC 3709.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

For the ten-year period beginning on October 1, 1984, there are authorized to be appropriated to the Department of the Interior not to exceed \$1,000,000 to be made available to the Foundation—

(1) to match, on a one-for-one basis, private contributions made to the Foundation; and

(2) to provide administrative services under section 5.

Approved March 26, 1984.

LEGISLATIVE HISTORY—H.R. 2809:

HOUSE REPORTS: No. 98-134, Pt. 1 (Comm. on Merchant Marine and Fisheries) and Pt. 2 (Comm. on Ways and Means).

SENATE REPORT No. 98-272 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD:

Vol. 129 (1983): July 12, considered and passed House.

Nov. 2, considered and passed Senate, amended.

Vol. 130 (1984): Feb. 6, House concurred in Senate amendments and in another with an amendment.

Mar. 8, Senate concurred in House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 13:

Mar. 26, Presidential statement.

Public Law 98-245
98th Congress

Joint Resolution

Honoring the contribution of blacks to American independence.

Mar. 27, 1984

[H.J. Res. 454]

Whereas, from 1776 to 1783, more than five thousand black men participated in the American Revolution as members of the Continental Army, and State and local militias; and

Whereas blacks participated in every major battle of the Revolution, including Monmouth and Yorktown and were encamped with Washington at Valley Forge; and

Whereas many blacks distinguished themselves in battle with acts of heroism that were well-noted at the time, some were praised by their officers and a few honored or rewarded by State legislatures; and

Whereas a large proportion of black recruits were inhabitants of the original thirteen colonies; and

Whereas black soldiers participated in integrated fighting units and performed a wide array of duties requiring bravery and skill; and

Whereas many blacks who participated in the Revolution are unknown soldiers, who used assumed names or were identified on muster rolls only by race and therefore their descendants will never know of the specific contributions they made to the cause of independence; and

Whereas, despite efforts by the Continental Congress and various States to exclude them up until 1778, blacks continued to enlist as substitutes until laws barring their participation in the war were removed, and free blacks of Massachusetts personally protested to General Washington about their initial exclusion from service; and

Whereas the Congress has never officially recognized the contributions of free blacks and slaves to the struggle for American liberty and independence: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) the Congress extends thanks to the descendants of free blacks and slaves who participated in the Revolution and acknowledges the contributions of these courageous men and women who, in aspiring to freedom, helped bring about American independence and set in motion events that contributed to the attainment of equal rights for blacks, particularly in recent decades;

(2) the Congress encourages the Federal Government, State and local governments and private organizations, particularly those hereditary organizations that honor Revolutionary War patriots to conduct appropriate activities during Black History Month 1985 in honor of black involvement in the Revolution;

Plaques and
markers.

(3) the Congress encourages State legislatures and city councils, especially those located in jurisdictions that provided black soldiers to the Continental Army and to State and local militias, and in jurisdictions where battles occurred, to issue proclamations acknowledging black contributions to the cause of freedom; and

(4) the Congress encourages the placement of plaques and markers in appropriate places, at Valley Forge and elsewhere, in commemoration of black involvement and heroism in the battles of the Revolution.

Approved March 27, 1984.

LEGISLATIVE HISTORY—H.J. Res. 454:
CONGRESSIONAL RECORD, Vol. 130 (1984):
Feb. 29, considered and passed House.
Mar. 12, considered and passed Senate.

Public Law 98-246
98th Congress

Joint Resolution

Declaring the week of May 7 through May 13, 1984, as "National Photo Week".

Mar. 27, 1984
[S.J. Res. 250]

Whereas photography is the prime visual recorder of human events of any dimension, preserving memories, emotion, and sentiment for virtually all the American people;

Whereas photography is an established and growing art form communicating the beauty and diversity of America and its people both within the land and abroad;

Whereas photography is an important contributor to communication, meteorology, justice, medicine, geographic exploration, astronomy, agriculture, and many other fields of science, technology, and inquiry; and

Whereas photography is, and has long been, an indispensable tool in preserving the history of the Nation and the changing panorama of American landscape and culture: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May 7 through May 13, 1984, be declared to be the first annual "National Photo Week". The President is authorized, since "National Photo Week" is to be a time dedicated to increasing the American public's appreciation and understanding of photography and to improving individual skill in photography so that the benefits thereof may be appreciated and used on the broadest possible scale, for the greatest number of people, to issue a proclamation to aid in the celebration of said week.

Approved March 27, 1984.

LEGISLATIVE HISTORY—S.J. Res. 250:

CONGRESSIONAL RECORD, Vol. 130 (1984):

Mar. 22, considered and passed Senate and House.

Public Law 98-247
98th Congress

Joint Resolution

Mar. 28, 1984
[S.J. Res. 241]

To authorize and request the President to issue a proclamation designating May 6 through May 13, 1984 as "Jewish Heritage Week".

Whereas the Congress recognizes that an understanding of the heritage of all American ethnic groups contributes to the unity of our country;

Whereas intergroup understanding can be further fostered through an appreciation of the culture, history, and traditions of the Jewish community and the contributions of Jews to our country and society; and

Whereas the months of March, April, and May contain events of major significance in the Jewish calendar—Passover, the anniversary of the Warsaw Ghetto Uprising, Israeli Independence Day, Solidarity Sunday for Soviet Jewry, and Jerusalem Day: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating May 6 through May 13, 1984, as "Jewish Heritage Week" and calling upon the people of the United States, State and local government agencies, and interested organizations to observe that week with appropriate ceremonies, activities, and programs.

Approved March 28, 1984.

LEGISLATIVE HISTORY—S.J. Res 241:

CONGRESSIONAL RECORD, Vol. 130 (1984):
Mar. 12, considered and passed Senate.
Mar. 14, considered and passed House.

Public Law 98-248
98th Congress

Joint Resolution

Making an urgent supplemental appropriation for the Department of Health and Human Services for the fiscal year ending September 30, 1984.

Mar. 30, 1984
[H.J. Res. 493]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sum is appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1984, namely:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

SOCIAL SECURITY ADMINISTRATION

LOW INCOME HOME ENERGY ASSISTANCE

For an additional amount for "Low income home energy assistance", \$200,000,000.

That the following sum is appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1984; namely:

DEPARTMENT OF AGRICULTURE

PUBLIC LAW 480

EMERGENCY FOOD ASSISTANCE FOR AFRICA

For an additional amount for "Public Law 480", for commodities supplied in connection with dispositions abroad, pursuant to title II of the Agricultural Trade Development and Assistance Act of 1954, as amended, \$90,000,000, of which \$90,000,000 is hereby appropriated; and in addition not to exceed \$90,000,000 shall be available from Commodity Credit Corporation inventory for sale on a competitive bid basis or barter to the African countries requiring emergency food assistance, or any country for use in assisting in emergency food assistance to Africa, as authorized by section 101(b) of Public Law 98-107. In the event Commodity Credit Corporation stocks are not available, the Corporation may purchase commodities to meet emergency requirements.

7 USC 1691 note.

7 USC 1721.

97 Stat. 733.

Approved March 30, 1984.

LEGISLATIVE HISTORY—H. J. Res. 493:

HOUSE REPORT Nos. 98-605 (Comm. on Appropriations) and No. 98-632 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 130 (1984):

Mar. 6, considered and passed House.

Mar. 15, considered and passed Senate, amended.

Mar. 27, House and Senate agreed to conference report.

Public Law 98-249
98th Congress

An Act

Mar. 31, 1984
[S. 2507]

To continue the transition provisions of the Bankruptcy Act until May 1, 1984, and for other purposes.

11 USC note
prec. 101.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 402 of the Act entitled "An Act to establish a uniform Law on the Subject of Bankruptcies" (Public Law 95-598) is amended in subsections (b) and (e) by striking out "April 1, 1984" each place it appears and inserting in lieu thereof "May 1, 1984".

28 USC note
prec. 151.

(b) Section 404 of such Act is amended in subsections (a) and (b) by striking out "March 31, 1984" each place it appears and inserting in lieu thereof "April 30, 1984".

28 USC note
prec. 151.

(c) Section 406 of such Act is amended by striking out "March 31, 1984" each place it appears and inserting in lieu thereof "April 30, 1984".

28 USC note
prec. 1471.

(d) Section 409 of such Act is amended by—

(1) striking out "April 1, 1984" each place it appears and inserting in lieu thereof "May 1, 1984"; and

(2) striking out "March 31, 1984" each place it appears and inserting in lieu thereof "April 30, 1984".

28 USC note
prec. 151.

SEC. 2. The term of office of any bankruptcy judge who was serving on March 31, 1984 and of any bankruptcy judge who is serving on the date of the enactment of this Act is extended to and shall expire on May 1, 1984.

SEC. 3. (a) Section 8339(o) of title 5, United States Code, is amended by striking out “April 1, 1984” and inserting in lieu thereof “May 1, 1984”.

(b) Section 8331(22) of title 5, United States Code, is amended by striking out “March 31, 1984” and inserting in lieu thereof “April 30, 1984”.

Approved March 31, 1984.

LEGISLATIVE HISTORY—S. 2507:

CONGRESSIONAL RECORD, Vol. 130 (1984):

Mar. 30, considered and passed Senate; considered and passed House, amended;
Senate concurred in House amendment.

Public Law 98-250
98th Congress

An Act

Apr. 3, 1984
[S. 1530]

To make technical amendments to the Indian Self-Determination and Education Assistance Act and other Acts.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Indian Self-Determination and Education Assistance Act (Public Law 93-638; 88 Stat. 2203) is amended by inserting after section 8 the following new section:

25 USC 450 note.

25 USC 450e-1.

31 USC 3601 note.

25 USC 450f,
450g.

“SEC. 9. The provisions of this Act shall not be subject to the requirements of the Federal Grant and Cooperative Agreement Act of 1977 (Public Law 95-224; 92 Stat. 3): *Provided*, That a grant agreement or a cooperative agreement may be utilized in lieu of a contract under sections 102 and 103 of this Act when mutually agreed to by the appropriate Secretary and the tribal organization involved.”.

SEC. 2. The Act of October 15, 1982 (Public Law 97-344; 96 Stat. 1645), relating to certain restricted land in Kansas, is amended by striking out “the southeast quarter northwest quarter” in paragraph (2) and inserting in lieu thereof “the south 20 acres of the east 60 acres of the northwest quarter”.

96 Stat. 1946.

SEC. 3. The first section of Public Law 97-386, relating to the reservation of the Pascua Yaqui Tribe of Arizona, is amended by inserting “located in township 15 south, range 12 east, Gila and Salt River Meridian,” after “tracts of lands”.

SEC. 4. (a) Subsections (a) and (b) of section 2415 of title 28, United States Code, is amended by striking out “Indian Claims Act of 1982” each place it appears and inserting in lieu thereof “Indian Claims Limitation Act of 1982”.

(b) The last proviso in the first paragraph under the heading “Administrative Provisions”, relating to the Bureau of Indian Affairs, of title I of Public Law 97-394 is amended by striking out “The following” and inserting in lieu thereof “Sections 2 through 6 of this Act”.

28 USC 2415
note.

96 Stat. 1976.

Approved April 3, 1984.

LEGISLATIVE HISTORY—S. 1530 (S. 973):

HOUSE REPORT No. 98-611 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD:

Vol. 129 (1983): Sept. 30, considered and passed Senate.
Vol. 130 (1984): Mar. 20, considered and passed House.

Public Law 98-251
98th Congress

Joint Resolution

Apr. 6, 1984
[H.J. Res. 271]

Designating February 11, 1984, "National Inventors' Day".

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in honor of the important role played by inventors in promoting progress in the useful arts and in recognition of the invaluable contribution of inventors to the welfare of our people, February 11, 1984, is hereby designated "National Inventors' Day". The President is authorized and requested to issue a proclamation calling upon the people of the United States to celebrate such day with appropriate ceremonies and activities.

Approved April 6, 1984.

LEGISLATIVE HISTORY—H.J. Res. 271:

CONGRESSIONAL RECORD, Vol. 130 (1984):

Feb. 8, considered and passed House.

Mar. 26, considered and passed Senate.

Public Law 98-252
98th Congress

Joint Resolution

Designating the month of June 1984 as "Student Awareness of Drunk Driving Month".

Apr. 6, 1984
[H.J. Res. 443]

Whereas alcohol-related traffic accidents are the leading cause of death for Americans fifteen to twenty-four years old;

Whereas the death rate for such age group is higher than it was twenty years ago, due in large measure to an increase in alcohol-related traffic fatalities;

Whereas various student organizations have been established throughout the country in order to increase student awareness of the tragic consequences of driving while under the influence of alcohol; and

Whereas it is appropriate for the Congress to recognize the efforts of such organizations and to emphasize the need for all levels of government to join the effort to combat the problem of drunk driving, particularly as such problem affects students: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled. That the month of June 1984 is hereby designated as "Student Awareness of Drunk Driving Month", and the President is authorized and requested to issue a proclamation calling upon students, parents, teachers, and others to observe such month with appropriate ceremonies and activities.

Approved April 6, 1984.

LEGISLATIVE HISTORY—H.J. Res. 443:

CONGRESSIONAL RECORD, Vol. 130 (1984):

Feb. 29, considered and passed House.

Mar. 26, considered and passed Senate.

Public Law 98-253
98th Congress

An Act

Apr. 6, 1984
[S. 1365]

Entitled the "Harry Porter Control Tower".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the air traffic control tower at the Chattanooga Municipal Airport (Lovell Field) is designated and shall hereafter be known as the Harry Porter Control Tower. Any reference in a law, map, regulation, document, or other paper of the United States to such control tower shall be held and considered to refer to the "Harry Porter Control Tower".

Approved April 6, 1984.

LEGISLATIVE HISTORY—S. 1365 (H.R. 2484):

HOUSE REPORT No. 98-622 accompanying H.R. 2484 (Comm. on Public Works and Transportation).

CONGRESSIONAL RECORD:

Vol. 129 (1983): Aug. 4, considered and passed Senate.

Vol. 130 (1984): Apr. 2, H.R. 2484 considered and passed House; S. 1365 passed in lieu.

Public Law 98-254
98th Congress

Joint Resolution

Designating the week beginning April 8, 1984, as "National Mental Health Counselors Week".

Apr. 9, 1984

[S.J. Res. 203]

Whereas mental health counselors work in a specialized field of counseling which emphasizes the developmental and adjustive nature of mental health services;

Whereas mental health counselors utilize individual and group counseling techniques oriented toward assisting individuals with methods of problem solving, personal and social development decisionmaking, and the complex process of developing self-understanding and making life decisions;

Whereas mental health counselors work in conjunction with other helping professionals, such as psychiatrists, psychologists, and social workers to determine the most appropriate counseling for each client;

Whereas mental health counselors work in psychiatric hospitals, community mental health agencies, private clinics, college campuses, rehabilitation centers, and private practice providing almost 50 per centum of direct delivery of mental health services;

Whereas mental health counselors are individuals upon whom, by virtue of their education and extensive training, have been conferred masters or doctors of philosophy degrees in mental health counseling or community mental health counseling, or similar degree titles having a focus on mental health; and

Whereas mental health counselors, after having earned such degrees, have performed at least two years of supervised clinical counseling, and are licensed or certified as such in the State of their residence, or are certified by the National Academy of Certified Clinical Mental Health Counselors: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning April 8, 1984, is designated "National Mental Health Counselors Week". The President is requested to issue a proclamation calling upon all Government agencies and the people of the United States to observe that week with appropriate ceremonies and activities.

Approved April 9, 1984.

LEGISLATIVE HISTORY—S.J. Res. 203:

CONGRESSIONAL RECORD, Vol. 130 (1984):

Mar. 12, considered and passed Senate.

Apr. 3, considered and passed House.

Public Law 98-255
98th Congress

Joint Resolution

Apr. 9, 1984
[H.J. Res. 432]

Designating the week of April 8 through 14, 1984, as "Parkinson's Disease Awareness Week".

Whereas Parkinson's Disease is a progressive and as yet incurable neurological affliction that affects one out of every one hundred citizens over the age of sixty and whose cause is still unknown; Whereas with improved methods of diagnosis, the onset of the disease is now being diagnosed as early as the age of forty and younger;

Whereas with earlier diagnosis and the aging of our entire population, more and more of our citizens will be afflicted with Parkinson's Disease;

Whereas it is important to educate the public about the need for research into the cause and cure of this disabling disorder; and Whereas only public awareness of the terrible toll taken by this neurological affliction can spur Federal, State, and local government agencies, and the private sector to establish the programs necessary to find a cure, improve treatment, and help those afflicted and their families to cope with this disabling disease: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating the week of April 8 through 14, 1984, as "Parkinson's Disease Awareness Week", and to call upon Federal, State, and local government agencies, and the people of the United States to observe this week with appropriate programs, ceremonies, and activities.

Approved April 9, 1984.

LEGISLATIVE HISTORY—H.J. Res. 432 (S.J. Res. 263):

CONGRESSIONAL RECORD, Vol. 130 (1984):

Mar. 22, considered and passed House.

Mar. 27, considered and passed Senate.

Public Law 98-256
98th Congress

An Act

To authorize the President to appoint Donald D. Engen to the Office of Administrator of the Federal Aviation Administration.

Apr. 10, 1984
[S. 2392]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Notwithstanding the provisions of section 106 of title 49, United States Code, or any other provision of law, the President, acting by and with the consent of the Senate, is authorized to appoint Donald D. Engen to the Office of Administrator of the Federal Aviation Administration. Mr. Engen's appointment to, acceptance of, and service in that Office shall in no way affect the status, rank, and grade which he now holds as an officer on the retired list of the United States Navy, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, office, rank, or grade, except to the extent that the Act of August 19, 1964, Public Law 88-448 (the Dual Compensation Act), as amended (5 U.S.C. 5531, et seq.), affects the amount of retired pay to which he is entitled by law during his service in the Office of Administrator of the Federal Aviation Administration. So long as he holds the Office of Administrator of the Federal Aviation Administration, Mr. Engen shall receive the compensation of that Office at the rate which would be applicable if he were not an officer on the retired list of the United States Navy, and shall retain the status, rank, and grade which he now holds as an officer on the retired list of the United States Navy, and shall retain all emoluments, perquisites, rights, privileges, and benefits incident to or arising out of such status, office, rank, or grade, and shall in addition continue to receive the retired pay to which he is entitled by law, subject to the provisions of the Dual Compensation Act, as amended.

49 USC 106 note.

SEC. 2. In the performance of his duties as Administrator of the Federal Aviation Administration, Mr. Engen shall be subject to no supervision, control, restriction, or prohibition (military or otherwise) other than would be operative with respect to him if he were not an officer on the retired list of the United States Navy.

49 USC 106 note.

49 USC 106 note.

SEC. 3. It is hereby expressed as the intent of the Congress that the authority granted by this Act is not to be construed as approval by the Congress of continuing appointments of military persons to the Office of Administrator of the Federal Aviation Administration in the future.

Approved April 10, 1984.

LEGISLATIVE HISTORY—S. 2392:

SENATE REPORT No. 98-371 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 130 (1984):

Apr. 2, considered and passed Senate.

Apr. 4, considered and passed House.

Public Law 98-257
98th Congress

An Act

To charter the National Academy of Public Administration.

Apr. 10, 1984

[H.R. 3249]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CHARTER.

36 USC 2301.

The National Academy of Public Administration, organized and incorporated under the laws of the District of Columbia, is hereby recognized as such and is granted a charter.

SEC. 2. POWERS.

36 USC 2302.

The National Academy of Public Administration (hereinafter referred to as the "academy") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State or States in which it is incorporated and subject to the laws of such State or States.

SEC. 3. OBJECTS AND PURPOSES OF CORPORATION.

36 USC 2303.

The objects and purposes for which the Academy is organized shall be those provided in its articles of incorporation and shall include—

- (1) evaluating the structure, administration, operation, and program performance of Federal and other governments and government agencies, anticipating, identifying, and analyzing significant problems and suggesting timely corrective action;
- (2) foreseeing and examining critical emerging issues in governance, formulating practical approaches to their resolution;
- (3) assessing the effectiveness, structure, administration, and implications for governance of present or proposed public programs, policies, and processes, recommending specific changes;
- (4) advising on the relationship of Federal, State, regional, and local governments; increasing public officials', citizens', and scholars' understanding of requirements and opportunities for sound governance and how these can be effectively met; and
- (5) demonstrating by the conduct of its affairs a commitment to the highest professional standards of ethics and scholarship.

SEC. 4. SERVICE OF PROCESS.

36 USC 2304.

With respect to service of process, the Academy shall comply with the laws of the State or States in which it is incorporated and the State or States in which it carries on its activities in furtherance of its corporate purposes.

SEC. 5. MEMBERSHIP.

36 USC 2305.

Eligibility for membership in the Academy and the rights and privileges of members shall be as provided in the bylaws of the corporation.

36 USC 2306. **SEC. 6. BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES.**

The board of directors of the Academy and the responsibilities thereof shall be as provided in the articles of incorporation of the Academy and in conformity with the laws of the State or States in which it is incorporated.

36 USC 2307. **SEC. 7. OFFICERS OF CORPORATION.**

The officers of the Academy, and the election of such officers, shall be as is provided in the articles of incorporation of the Academy and in conformity with the laws of the State or States wherein it is incorporated.

36 USC 2308. **SEC. 8. RESTRICTIONS.**

(a) No part of the income or assets of the corporation shall inure to any member, officer, or director of the Academy or be distributed to any such person during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers and members of the Academy or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(b) The Academy shall not make any loan to any officer, director, or employee of the corporation.

(c) The Academy and any officer and director of the corporation, acting as such officer or director, shall not contribute to, support, or otherwise participate in any political activity or in any manner attempt to influence legislation.

(d) The Academy shall have no power to issue any shares of stock nor to declare or pay any dividends.

(e) The Academy shall not claim congressional approval or Federal Government authority for any of its activities, other than by mutual agreement.

(f) The Academy shall retain and maintain its status as a corporation organized and incorporated under the laws of the District of Columbia.

36 USC 2309. **SEC. 9. LIABILITY.**

The Academy shall be liable for the acts of its officers and agents when acting within the scope of their authority.

36 USC 2310. **SEC. 10. BOOKS AND RECORDS; INSPECTION.**

The Academy shall keep correct and complete books and records of account and shall keep minutes of any proceeding of the Academy involving any of its members, the board of directors, or any committee having authority under the board of directors. The Academy shall keep at its principal office a record of the names and addresses of all members having the right of vote. All books and records of such corporation may be inspected by any member having the right to vote, or by any agent or attorney of such member, for any proper purpose, at any reasonable time. Nothing in this section shall be construed to contravene any applicable State law.

SEC. 11. AUDIT OF FINANCIAL TRANSACTIONS.

The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end thereof the following:

"(61) National Academy of Public Administration."

SEC. 12. ANNUAL REPORT.

36 USC 2311.

The Academy shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as is the report of the audit required by section 11 of this Act. The report shall not be printed as a public document.

SEC. 13. RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER.

36 USC 2312.

The right to alter, amend, or repeal this Act is expressly reserved to the Congress.

SEC. 14. DEFINITION OF "STATE".

36 USC 2313.

For purposes of this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

SEC. 15. TAX-EXEMPT STATUS.

36 USC 2314.

The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code. If the corporation fails to maintain such status, the charter granted hereby shall expire.

SEC. 16. TERMINATION.

36 USC 2315.

If the corporation shall fail to comply with any of the restrictions or provisions of this Act the charter granted hereby shall expire.

SEC. 17. SERVICE TO THE GOVERNMENT OF THE UNITED STATES.

36 USC 2316.

The National Academy of Public Administration shall, whenever called upon by Congress, or the Federal Government, investigate, examine, experiment, and report upon any subject of government, the actual expense of such investigations, examinations, and reports to be paid by the Federal Government from appropriations available for such purpose.

Approved April 10, 1984.

LEGISLATIVE HISTORY—H.R. 3249 (S. 2102):**HOUSE REPORT** No. 98-491 (Comm. on the Judiciary).**CONGRESSIONAL RECORD:**

Vol. 129 (1983): Nov. 14, considered and passed House.

Vol. 130 (1984): Mar. 27, considered and passed Senate.

Public Law 98-258
98th Congress

An Act

Apr. 10, 1984
[H.R. 4072]

To make adjustments in the commodity programs for wheat, feed grains, upland cotton, and rice, to provide agricultural credit assistance, and for other purposes.

Agricultural
Programs
Adjustment
Act of 1984.
7 USC 1421 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Agricultural Programs Adjustment Act of 1984".

TITLE I—WHEAT

TARGET PRICES

SEC. 101. Section 107B(b)(1)(C) of the Agricultural Act of 1949 (7 U.S.C. 1445b-1(b)(1)(C)) is amended by striking out "\$4.45 per bushel for the 1984 crop, and \$4.65 per bushel for the 1985 crop" and inserting in lieu thereof "and \$4.38 per bushel for the 1984 and 1985 crops".

ACREAGE LIMITATION AND PAID DIVERSION PROGRAM FOR WHEAT

SEC. 102. Section 107B(e) of the Agricultural Act of 1949 (7 U.S.C. 1445b-1(e)) is amended by—

(1) striking out in the first sentence of paragraph (1)(A) "subparagraph (B)" and inserting in lieu thereof "subparagraphs (B), (C), and (D)";

(2) adding at the end of paragraph (1) the following new subparagraphs:

"(C) Notwithstanding any previous announcement to the contrary, for the 1984 crop of wheat the Secretary shall provide for a combination of (i) an acreage limitation program as described under paragraph (2) and (ii) a land diversion program as described under paragraph (5) under which the acreage planted to wheat for harvest on the farm would be limited to the acreage base for the farm reduced by not more than 30 per centum, consisting of a reduction of not more than 20 per centum under the acreage limitation program and a reduction of 10 per centum under the land diversion program, and (iii) a voluntary payment-in-kind land diversion program under which the acreage planted to wheat for harvest on the farm would be reduced by not less than 10 per centum nor more than 20 per centum of the acreage base for the farm, in addition to any reduction under the acreage limitation and land diversion programs provided for under clauses (i) and (ii), as determined by the Secretary. Under the payment-in-kind land diversion program, compensation in kind for diverted acres shall be made available to producers by the Secretary under such terms and conditions as the Secretary shall prescribe and in such amounts as the Secretary determines appropriate to encourage adequate participation in such program, except that the rate of such compensation shall not be less than 85 per centum of the farm program payment yield. As a condition of eligibility for loans, purchases, and payments on the 1984 crop of

Loans.

wheat, the producers on a farm must comply with the terms and conditions of the combined acreage limitation program and land diversion program.

“(D) For the 1985 crop of wheat the Secretary shall provide for a combination of (i) an acreage limitation program as described under paragraph (2) and (ii) a land diversion program as described under paragraph (5) under which the acreage planted to wheat for harvest on the farm would be limited to the acreage base for the farm reduced by not more than 30 per centum, consisting of a reduction of not more than 20 per centum under the acreage limitation program and a reduction of 10 per centum under the land diversion program. As a condition of eligibility for loans, purchases, and payments on the 1985 crop of wheat, the producers on a farm must comply with the terms and conditions of the combined acreage limitation program and land diversion program.”;

Loans.

(3) inserting “for the 1983 crop” immediately before the comma in the eighth sentence of paragraph (5); and

Conservation.

(4) inserting immediately before the last sentence of paragraph (5) the following: “Notwithstanding the foregoing provisions of this paragraph, the Secretary shall implement a land diversion program for the 1984 and 1985 crops of wheat under which the Secretary shall make crop retirement and conservation payments to any producer of the 1984 and 1985 crops of wheat whose acreage planted to wheat for harvest on the farm for each such crop is reduced so that it does not exceed the wheat acreage base for the farm less an amount equivalent to 10 per centum of the wheat acreage base in addition to the reduction required under paragraph (2), and who devotes to approved conservation uses an acreage of cropland equivalent to the reduction required from the wheat acreage base under this paragraph. Such payments shall be made in an amount computed by multiplying (i) the diversion payment rate, by (ii) the farm program payment yield for the crop, by (iii) the additional acreage diverted under this paragraph. The diversion payment rate for the 1984 and 1985 crops of wheat shall be established by the Secretary at not less than \$2.70 per bushel. The Secretary shall make not less than 50 per centum of any payments under this paragraph to producers of the 1984 and 1985 crops of wheat as soon as practicable after a producer enters into a land diversion contract with the Secretary for each such crop and in advance of any determination of performance.”.

HAYING AND GRAZING DIVERTED WHEAT ACREAGE

SEC. 103. Section 107B(e) of the Agricultural Act of 1949 (7 U.S.C. 1445b-1(e)) is amended by adding at the end thereof the following new paragraph:

“(8) Notwithstanding any other provision of this subsection, in carrying out acreage limitation, cash land diversion, and payment-in-kind land diversion programs for the 1984 crop of wheat, the Secretary shall permit, at the request of the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act for a State and subject to such terms and conditions as the Secretary may prescribe that are in no event more restrictive than those in effect for producers who participated in the payment-in-kind land diversion program for that part of the 1983 crop of wheat planted before January 11,

16 USC 590h.

1983, all or any part of the acreage diverted from production under such programs by participating producers in such State to be devoted to hay and grazing.”.

TITLE II—FEED GRAINS

TARGET PRICES

SEC. 201. Section 105B(b)(1)(C) of the Agricultural Act of 1949 (7 U.S.C. 1444d(b)(1)(C)) is amended by striking out “\$3.03 per bushel for the 1984 crop, and \$3.18 per bushel for the 1985 crop” and inserting in lieu thereof “and \$3.03 per bushel for the 1984 and 1985 crops”.

ACREAGE LIMITATION AND PAID DIVERSION PROGRAM FOR FEED GRAINS

SEC. 202. Section 105B(e) of the Agricultural Act of 1949 (7 U.S.C. 1444d(e)) is amended by—

(1) striking out in the first sentence of paragraph (1)(A) “subparagraph (B)” and inserting in lieu thereof “subparagraphs (B) and (C)”;

(2) adding at the end of paragraph (1) the following new subparagraph:

Corn.

“(C) For the 1985 crop of feed grains, if the Secretary estimates that the quantity of corn on hand in the United States on September 30, 1985 (not including any quantity of corn produced in the United States during calendar year 1985), will exceed one billion one hundred million bushels, the Secretary (i) shall provide for a land diversion program as described under paragraph (5) under which the acreage planted to feed grains for harvest on the farm would be limited to the acreage base for the farm reduced by a total of not less than 5 per centum and (ii) may provide for an acreage limitation program as described under paragraph (2). If the Secretary implements a combined acreage limitation program and land diversion program, the total reduction required by the Secretary in the acreage planted to feed grains for harvest on the farm shall not exceed 20 per centum of the acreage base for the farm. Any reduction required by the Secretary in excess of 15 per centum of the acreage base for the farm shall be equally proportioned between an acreage limitation program and a land diversion program. As a condition of eligibility for loans, purchases, and payments on the 1985 crop of feed grains, if the Secretary implements a land diversion program or a combined acreage limitation and land diversion program, the producers on a farm must comply with the terms and conditions of such programs.”; and

Loans.

Conservation.

(3) in paragraph (5)—

(A) adding immediately after the sixth sentence the following new sentence: “Notwithstanding the foregoing provisions of this paragraph, if the Secretary implements a land diversion program for the 1985 crop of feed grains under the provisions of paragraph (1)(C), the Secretary shall make crop retirement and conservation payments to any producer of the 1985 crop of feed grains whose acreage planted to feed grains for harvest on the farm is reduced so that it does not exceed the feed grain acreage base for the farm less an amount equivalent to the percentage of the acreage base specified by the Secretary, but not less than 5

per centum, in addition to the reduction required under paragraph (2), if any, and who devotes to approved conservation uses an acreage of cropland equivalent to the reduction required from the feed grain acreage base under this paragraph.”;

(B) striking out “Such payments” in the eighth sentence (as redesignated under subparagraph (A) of this paragraph) and inserting in lieu thereof “Diversion payments made to producers under this paragraph”;

(C) in the ninth sentence (as redesignated under subparagraph (A) of this paragraph)—

(i) striking out “for corn” and inserting in lieu thereof “for the 1983 crop of corn”; and

(ii) inserting immediately before the period at the end thereof “, and at not less than \$1.50 per bushel for the 1985 crop of corn”; and

(D) striking out “1983 crop” in the eleventh sentence (as redesignated under subparagraph (A) of this paragraph) and inserting in lieu thereof “1983 and 1985 crops”.

PRICE SUPPORT TO PRODUCERS WHO CUT CORN FOR SILAGE

SEC. 203. Section 105B(a) of the Agricultural Act of 1949 (7 U.S.C. 1444d(a)) is amended by adding at the end thereof the following new paragraph:

Loans.

“(3) The Secretary may make available loans and purchases, as provided in this subsection, to producers on a farm who cut for silage corn that they have produced of the 1984 and 1985 crops and who participate in the program provided for by the Secretary under subsection (e). Such loans and purchases may be made on a quantity of corn of the same crop, other than the corn cut for silage, acquired by the producer equivalent to a quantity determined by multiplying the acreage of corn cut for silage by the lower of the farm program payment yield or the actual yield on a field, as determined by the Secretary, that is similar to the field from which such silage was obtained.”.

TITLE III—UPLAND COTTON

TARGET PRICES

SEC. 301. Section 103(g)(3)(B) of the Agricultural Act of 1949 (7 U.S.C. 1444(g)(3)(B)) is amended by striking out “\$0.81 per pound for the 1984 crop, and \$0.86 per pound for the 1985 crop” and inserting in lieu thereof “and \$0.81 per pound for the 1984 and 1985 crops”.

ACREAGE LIMITATION AND PAID DIVERSION PROGRAM FOR UPLAND COTTON

SEC. 302. Section 103(g)(9) of the Agricultural Act of 1949 (7 U.S.C. 1444(g)(9)) is amended by—

(1) in the first sentence of subparagraph (A), inserting “except as provided in the second and third sentences of this subparagraph,” immediately after the first comma;

(2) inserting immediately after the first sentence of subparagraph (A) the following new sentences: “For the 1985 crop of upland cotton, if the Secretary estimates that the quantity of

upland cotton on hand in the United States on July 31, 1985 (not including any quantity of upland cotton produced in the United States during calendar year 1985), will exceed three million seven hundred thousand bales, the Secretary (i) shall provide for a land division program as described under subparagraph (B) under which the acreage planted to upland cotton for harvest on the farm would be limited to the acreage base for the farm reduced by not less than 5 per centum and (ii) may provide for an acreage limitation program as described under this subparagraph under which the acreage planted to upland cotton for harvest on the farm would be limited to the acreage base for the farm reduced by not more than 20 per centum in addition to the reduction required under clause (i). If the Secretary implements a combined acreage limitation program and land division program, any reduction required by the Secretary in excess of 25 per centum of the acreage base for the farm shall be made under the land diversion program. As a condition of eligibility for loans, purchases, and payments on the 1985 crop of upland cotton, if the Secretary implements a land diversion program or a combined acreage limitation and land diversion program, the producers on a farm must comply with the terms and conditions of such program.”; and

Loans.

Conservation.

(3) adding at the end of subparagraph (B) the following new sentences: “Notwithstanding the foregoing provisions of this subparagraph, if the Secretary implements a land diversion program for the 1985 crop of upland cotton under the provisions of subparagraph (A), the Secretary shall make crop retirement and conservation payments to any producer of the 1985 crop of upland cotton whose acreage planted to upland cotton for harvest on the farm is reduced so that it does not exceed the upland cotton acreage base for the farm less an amount equivalent to the percentage of the acreage base specified by the Secretary, but not less than 5 per centum, in addition to the reduction required under the acreage limitation program under subparagraph (A), if any, and who devotes to approved conservation uses an acreage of cropland equivalent to the reduction required from the upland cotton acreage base under this subparagraph. Such payments shall be made in an amount computed by multiplying (i) the diversion payment rate, by (ii) the farm program payment yield for the crop, by (iii) the acreage diverted under this subparagraph. The diversion payment rate shall be established by the Secretary at not less than \$0.275 per pound: *Provided*, That if the Secretary estimates that the quantity of upland cotton on hand in the United States on July 31, 1985 (not including any quantity of upland cotton produced in the United States during calendar year 1985), will exceed (I) four million one hundred thousand bales, such rate shall be established by the Secretary at not less than \$0.30 per pound, and (II) four million seven hundred thousand bales such rate shall be established by the Secretary at not less than \$0.35 per pound. The Secretary shall make not less than 50 per centum of any payments under this subparagraph to producers of the 1985 crop as soon as practicable after a producer enters into a land diversion contract with the Secretary and in advance of any determination of performance. If a producer fails to comply with a land diversion contract after obtaining an advance payment under this subparagraph, the producer shall repay the

Contracts with
U.S.

Compliance,
failure.

advance immediately and, in accordance with regulations issued by the Secretary, pay interest on the advance.”.

TITLE IV—RICE

TARGET PRICES

SEC. 401. Section 101(i)(2)(C) of the Agricultural Act of 1949 (7 U.S.C. 1441(i)(2)(C)) is amended by striking out “\$11.90 per hundredweight for the 1984 crop, and \$12.40 per hundredweight for the 1985 crop” and inserting in lieu thereof “and \$11.90 per hundredweight for the 1984 and 1985 crops”.

ACREAGE LIMITATION AND PAID DIVERSION PROGRAM FOR RICE

SEC. 402. Section 101(i)(5) of the Agricultural Act of 1949 (7 U.S.C. 1441(i)(5)) is amended by—

(1) striking out in the first sentence of subparagraph (A) “third and fourth” and inserting in lieu thereof “third, fourth, and fifth”;

(2) inserting immediately after the third sentence of subparagraph (A) the following new sentence: “For the 1985 crop of rice, if the Secretary estimates that the quantity of rice on hand in the United States on July 31, 1985 (not including any quantity of rice produced in the United States during calendar year 1985), will exceed twenty-five million hundredweight, the Secretary shall provide for a combination of an acreage limitation program as described under this subparagraph and a land diversion program as described under subparagraph (B) under which the acreage planted to rice for harvest on the farm would be limited to the acreage base for the farm reduced by a total of not less than 25 per centum, consisting of a reduction of 20 per centum under the acreage limitation program and a reduction under the land diversion program equal to the difference between the total reduction for the farm and the 20 per centum reduction under the acreage limitation program.”;

(3) striking out “1983 crop” in the fifth sentence of subparagraph (A) (as redesignated under paragraph (2) of this section) and inserting in lieu thereof “1983 and 1985 crops”;

(4) inserting immediately after the sixth sentence of subparagraph (B) the following new sentence: “Notwithstanding the foregoing provisions of this subparagraph, if the Secretary implements a land diversion program for the 1985 crop of rice under the provisions of subparagraph (A), the Secretary shall make crop retirement and conservation payments to any producer of the 1985 crop of rice whose acreage planted to rice for harvest on the farm is reduced so that it does not exceed the rice acreage base for the farm less an amount equivalent to the percentage of the acreage base specified by the Secretary, but not less than 5 per centum, in addition to the reduction required under the acreage limitation program under subparagraph (A), and who devotes to approved conservation uses an acreage of cropland equivalent to the reduction required from the rice acreage base under this subparagraph.”;

(5) striking out “Such payments” in the eighth sentence of subparagraph (B) (as redesignated under paragraph (4) of this

Conservation.

section) and inserting in lieu thereof “Diversion payments made to producers under this subparagraph”;

(6) in the ninth sentence of subparagraph (B) (as redesignated under paragraph (4) of this section)—

(A) striking out “\$3.00 per hundredweight,” and inserting in lieu thereof “\$3.00 per hundredweight for the 1983 crop of rice,”; and

(B) inserting immediately before the period at the end thereof “, and at not less than \$2.70 per hundredweight for the 1985 crop of rice: *Provided*, That if the Secretary estimates that the quantity of rice on hand in the United States on July 31, 1985 (not including any quantity of rice produced in the United States during calendar year 1985), will exceed (I) thirty-five million hundredweight, such rate shall be established by the Secretary at not less than \$3.25 per hundredweight, and (II) forty-two million five hundred thousand hundredweight, such rate shall be established by the Secretary at not less than \$3.50 per hundredweight”; and

(7) striking out “1983 crop” in the tenth sentence of subparagraph (B) (as redesignated under paragraph (4) of this section) and inserting in lieu thereof “1983 and 1985 crops”.

TITLE V—AGRICULTURAL EXPORTS

EXPORT ASSISTANCE

President of U.S.

SEC. 501. It is the sense of Congress that the President should implement, as soon as practicable after the enactment of this Act, the actions, proposed by the Administration to complement the provisions of this Act, to further assist in the development, maintenance, and expansion of international markets for United States agricultural commodities and products thereof, as follows—

(1) for the fiscal year ending September 30, 1984, the President will—

(A) request congressional approval for the appropriation of funds in the amount of \$150,000,000, in addition to the President's February 1984 request for a supplemental appropriation of \$90,000,000, to carry out programs of assistance under titles I, II, and III of the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480); and

(B) direct the Secretary of Agriculture to increase funding, over the current budgeted level, for the Export Credit Guarantee Program (GSM-102), carried out through the Commodity Credit Corporation, by not less than \$500,000,000; and

(2) for the fiscal year ending September 30, 1985, the President will—

(A) request congressional approval for the appropriation of funds in the amount of at least \$175,000,000, in addition to the current funding level contained in the President's budget for that year, to carry out programs of assistance under titles I, II, and III of Public Law 480;

(B) direct the Secretary of Agriculture to increase funding, over the levels contained in the President's budget for that year or otherwise required by law, by not less than

7 USC 1701,
1721, 1727.

\$1,100,000,000 for the Export Credit Guarantee Program (GSM-102) and by not less than \$100,000,000 for direct export credit programs carried out through the Commodity Credit Corporation (GSM-5, GSM-201, and GSM-301); and

(C) request or use an additional amount of \$50,000,000 (over the amounts specified in clauses (2)(A) and (2)(B)) either for increased funding for direct export credit programs carried out through the Commodity Credit Corporation or for additional assistance under Public Law 480, in such proportions as determined necessary and appropriate by the President.

7 USC 1691 note.

EXPANDED AUTHORITY FOR THE USE ABROAD OF COMMODITY CREDIT CORPORATION STOCKS; ACQUISITION AND DONATION OF ULTRA-HIGH TEMPERATURE PROCESSED MILK

SEC. 502. Section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431) is amended by—

(1) inserting “(a)” immediately after “Sec. 416.”;

(2) striking out “section” each place that word appears and inserting in lieu thereof “subsection”; and

(3) adding at the end thereof the following new subsections:

“(b) Dairy products and wheat acquired by the Commodity Credit Corporation through price support operations, which the Secretary determines meet the criteria specified in subsection (a), may be furnished by the Secretary for carrying out title II of the Agricultural Trade Development and Assistance Act of 1954, as approved by the Secretary, and for such purposes as approved by the Secretary. The provisions of section 203 of that Act shall apply to commodities furnished under this subsection. Agreements may be entered into under this subsection to provide dairy products and wheat in installments over an extended period of time. To the maximum extent practicable, expedited procedures shall be used in implementing the provisions of this subsection. Commodities and products furnished under this subsection may be sold or bartered, as approved by the Secretary, solely as follows: (1) sales and barter which are incidental to the donation of the commodities or products, (2) sales and barter, the proceeds of which are used to finance the distribution, handling, and processing costs of the donated commodities in the importing country or other activities in the importing country that are consistent with providing food assistance to needy people, and (3) sales and barter of commodities and products donated to intergovernmental organizations, insofar as they are consistent with normal programming procedures in the distribution of commodities by those organizations. Except as provided in the foregoing sentence, no portion of the proceeds or services realized from such sales or barter may be used to meet operating and overhead expenses. The cost of commodities furnished under this subsection and expenses incurred under section 203 of that Act in connection therewith shall be in addition to the level of assistance programmed under that Act and shall not be considered expenditures for international affairs and finance. Notwithstanding the foregoing provisions of this subsection, dairy products and wheat may not be made available for disposition under this subsection in amounts that will, in any way, reduce the amounts of commodities that traditionally are made available through donations to domestic feeding programs or agencies.

Dairy products.
Wheat.

7 USC 1721.

7 USC 1723.

Marketing.

Disadvantaged
persons.

Gifts and
property.

7 USC 1691 note.

Ante, p. 130.

Report.

Emergency
Agricultural
Credit Act of
1984.

7 USC 1921 note.

42 USC 5121
note.

“(c) To prevent the waste of dairy products acquired by the Commodity Credit Corporation through price support operations, the Corporation, on such terms and under such regulations as the Secretary may prescribe, shall carry out a two-year pilot program under which the Corporation shall barter or exchange such dairy products, to the extent they are available, for forty thousand metric tons (consisting of twenty thousand metric tons in each year of the pilot program) of ultra-high temperature processed fluid milk. Such barter or exchange shall be effected on the basis of competitive bids submitted by domestic processors. The processed milk acquired by the Corporation under this subsection shall be available for donation through foreign governments and public and nonprofit private humanitarian organizations for the assistance of needy persons outside the United States, and the Corporation may pay, with respect to such processed milk donated under this subsection, transporting, handling, and other charges, including the cost of overseas delivery. Any donations under this subsection shall be coordinated through the mechanism designated by the President to coordinate assistance under the Agricultural Trade Development and Assistance Act of 1954 and shall be in addition to the level of assistance programmed under that Act. The pilot program shall be implemented by the Corporation as soon as practicable after the enactment of the Agricultural Programs Adjustment Act of 1984 and shall be operated for a period of two years after its implementation. Upon completion of the pilot program, the Secretary shall submit a report to Congress on its operation.”.

TITLE VI—AGRICULTURAL CREDIT

SHORT TITLE

SEC. 601. This title may be cited as the “Emergency Agricultural Credit Act of 1984”.

NATURAL DISASTER EMERGENCY LOANS

SEC. 602. (a) Section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)) is amended by adding at the end thereof the following new sentences: “The Secretary shall accept applications from, and make or insure loans pursuant to the requirements of this subtitle to, applicants, otherwise eligible under this subtitle, that conduct farming, ranching, or aquaculture operations in any county contiguous to a county where the Secretary has found that farming, ranching, or aquaculture operations have been substantially affected by a natural disaster in the United States or by a major disaster or emergency designated by the President under the Disaster Relief Act of 1974. The Secretary shall accept applications for assistance under this subtitle from persons affected by a natural disaster at any time during the eight-month period beginning (A) on the date on which the Secretary determines that farming, ranching, or aquaculture operations have been substantially affected by such natural disaster or (B) on the date the President makes the major disaster or emergency designation with respect to such natural disaster, as the case may be.”.

(b) Section 324(d) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1964(d)) is amended by adding at the end thereof the following new sentence: “If farm assets (including land, live-

stock, and equipment) are used as collateral to secure a loan made under this subtitle, the Secretary shall value the assets based on the higher of (A) the value of the assets on the day before the date the governor of the State in which the farm is located requests assistance under this subtitle or the Disaster Relief Act of 1974 for any portion of such State affected by the disaster with respect to which the application for the loan is made, or (B) the value of the assets one year before such day.”

42 USC 5121
note.

(c) the amendments made by this section shall be applicable to disasters occurring after May 30, 1983.

7 USC 1961 note.

ECONOMIC EMERGENCY LOANS

SEC. 603. Section 211 of the Emergency Agricultural Credit Adjustment Act of 1978 (7 U.S.C. prec. 1961 note) is amended by—

- (1) inserting “(a)” immediately before “The provisions”; and
- (2) adding at end thereof the following new subsection:

Insurance.

“(b) With respect to the economic emergency loan program operated under this title during the period beginning December 22, 1983, and ending September 30, 1984, the Secretary—

“(1) shall make available to eligible applicants during such period new contracts of insurance totaling, in the aggregate, \$310,000,000, and

“(2) as appropriate to achieve the goals of the economic emergency loan program and taking into consideration the amount of funds used for loan guarantees, may make available to eligible applicants during such period additional new contracts of insurance totaling, in the aggregate, not more than \$290,000,000.”

OPERATING LOANS

SEC. 604. (a) Section 313 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1943) is amended by striking out “\$100,000, or, in the case of a loan guaranteed by the Secretary, \$200,000” and inserting in lieu thereof “\$200,000, or, in the case of a loan guaranteed by the Secretary, \$400,000”.

(b) Section 316(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1946(b)) is amended by—

- (1) in the second sentence, inserting “(or, in the case of loans for farm operating purposes, fifteen years)” after “seven years”; and

(2) in the fifth sentence, striking out “The interest rate” and inserting in lieu thereof “Except as otherwise provided for farm loans under section 331B of this title, the interest rate”.

Infra.

FARM LOAN INTEREST RATES

SEC. 605. The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) is amended by inserting after section 331A the following new section:

“SEC. 331B. Any loan for farm ownership purposes under subtitle A of this title, farm operating purposes under subtitle B of this title, or disaster emergency purposes under subtitle C of this title, other than a guaranteed loan, that is deferred, consolidated, rescheduled, or reamortized under this title shall, notwithstanding any other provision of this title, bear interest on the balance of the original

7 USC 1981b.
7 USC 1922,
1941.
7 USC 1961.

loan and for the term of the original loan at a rate that is the lower of (1) the rate of interest on the original loan or (2) the rate being charged by the Secretary for loans, other than guaranteed loans, of the same type at the time of the deferral, consolidation, rescheduling, or reamortization.”.

CONFLICTS OF INTEREST

SEC. 606. Section 336 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1986) is amended by—

(1) designating the first, second, and third sentences as subsections (a), (c), and (d), respectively; and

(2) inserting after subsection (a) (as designated under clause (a) of this section) the following new subsection:

“(b) Except as otherwise provided in this subsection, no officer or employee of the Department of Agriculture who acts on or reviews an application made by any person under this title for a loan to purchase land may acquire, directly or indirectly, any interest in such land for a period of three years after the date on which such action is taken or such review is made. This prohibition shall not apply to a former member of a county committee provided for in section 332 of this title upon a determination by the Secretary, prior to the acquisition of such interest, that such former member acted in good faith when acting on or reviewing such application.”.

7 USC 1982.

LIMITED RESOURCE BORROWERS

SEC. 607. Section 346 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1994) is amended by adding at the end thereof the following new subsection:

“(e)(1) Notwithstanding any other provision of law, not less than 20 per centum of the loans for farm ownership purposes under subtitle A of this title, and not less than 20 per centum of the loans for farm operating purposes under subtitle B of this title, authorized to be insured, or made to be sold and insured, from the Agricultural Credit Insurance Fund during fiscal year 1984 shall be for low-income, limited-resource borrowers.

7 USC 1922.

7 USC 1941.

“(2) The Secretary shall provide notification to farm borrowers under this title, as soon as practicable after the date of enactment of the Emergency Agricultural Credit Act of 1984 and in the normal course of loan making and loan servicing operations, of the provisions of this title relating to low-income, limited-resource borrowers and the procedures by which persons may apply for loans under the low-income, limited-resource borrower program.”.

Ante, p. 138.

AMORTIZATION OF DELINQUENT FARMERS HOME ADMINISTRATION LOANS

7 USC 1981 note.

SEC. 608. Notwithstanding any other provision of law, the Secretary of Agriculture may develop and implement a program for the amortization of delinquent Farmers Home Administration loans

from future revenues generated by timber crops planted and managed on lands previously used to produce commodities or pasture and subject to Farmers Home Administration liens. The Secretary shall submit a report to Congress by October 1, 1984, outlining the feasibility of such program and the plan for its implementation. Report.

Approved April 10, 1984.

LEGISLATIVE HISTORY—H.R. 4072:

HOUSE REPORT No. 98-646 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 129 (1983): Nov. 16, considered and passed House.

Vol. 130 (1984): Mar. 20, 21, 22, considered and passed Senate, amended.

Apr. 2, Senate agreed to conference report.

Apr. 3, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 15 (1984):

Apr. 10, Presidential statement.

Public Law 98-259
98th Congress

An Act

Apr. 10, 1984
[H.R. 4206]

To amend the Internal Revenue Code of 1954 to exempt from Federal income taxes certain military and civilian employees of the United States dying as a result of injuries sustained overseas.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCOME TAXES OF CERTAIN MILITARY AND CIVILIAN EMPLOYEES OF THE UNITED STATES DYING AS A RESULT OF INJURIES SUSTAINED OVERSEAS.

26 USC 692.

(a) **GENERAL RULE.**—Section 692 of the Internal Revenue Code of 1954 (relating to income taxes of members of the Armed Forces on death) is amended by adding at the end thereof the following new subsection:

“(c) **CERTAIN MILITARY OR CIVILIAN EMPLOYEES OF THE UNITED STATES DYING AS A RESULT OF INJURIES SUSTAINED OVERSEAS.**—

“(1) **IN GENERAL.**—In the case of any individual who dies while a military or civilian employee of the United States, if such death occurs as a result of wounds or injury incurred outside the United States in a terroristic or military action, any tax imposed by this subtitle shall not apply—

“(A) with respect to the taxable year in which falls the date of his death, and

“(B) with respect to any prior taxable year in the period beginning with the last taxable year ending before the taxable year in which the wounds or injury were incurred.

“(2) **TERRORISTIC OR MILITARY ACTION.**—For purposes of paragraph (1), the term ‘terroristic or military action’ means—

“(A) any terroristic activity directed against the United States or any of its allies, and

“(B) any military action involving the Armed Forces of the United States and resulting from violence or aggression against the United States or any of its allies (or threat thereof).

For purposes of the preceding sentence, the term ‘military action’ does not include training exercises.

“(3) **TREATMENT OF MULTINATIONAL FORCES.**—For purposes of paragraph (2), any multinational force in which the United States is participating shall be treated as an ally of the United States.”.

(b) EFFECTIVE DATE.—

26 USC 692 note.

(1) **IN GENERAL.**—The amendment made by subsection (a) shall apply with respect to all taxable years (whether beginning before, on, or after the date of enactment of this Act) of individuals dying after December 31, 1979, as a result of wounds or injuries incurred after such date.

(2) **STATUTE OF LIMITATIONS WAIVED.**—Notwithstanding section 6511 of the Internal Revenue Code of 1954, the time for filing a claim for credit or refund of any overpayment of tax resulting from the amendment made by subsection (a) shall not expire before the date 1 year after the date of the enactment of this Act.

26 USC 6511.

Approved April 10, 1984.

LEGISLATIVE HISTORY—H.R. 4206:

SENATE REPORT No. 98-364 (Comm. on Finance).
CONGRESSIONAL RECORD, Vol. 130 (1984):

Feb. 22, considered and passed House.
Apr. 5, considered and passed Senate.

Public Law 98-260
98th Congress

An Act

Apr. 13, 1984
[H.R. 4202]

To designate the air traffic control tower at Midway Airport, Chicago, as the “John G. Fary Tower”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the air traffic control tower at Midway Airport, Chicago, Illinois, is designated and shall hereafter be known as the “John G. Fary Tower”. Any reference in a law, map, regulation, document, or other paper of the United States to such control tower shall be held and considered to refer to the “John G. Fary Tower”.

Approved April 13, 1984.

LEGISLATIVE HISTORY—H.R. 4202:

HOUSE REPORT No. 98-623 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 130 (1984):

Apr. 2, considered and passed House.
Apr. 5, considered and passed Senate.

Public Law 98-261
98th Congress

Joint Resolution

To designate the week of May 6, 1984, through May 13, 1984, as "National Tuberous Sclerosis Week".

Apr. 13, 1984

[S.J. Res. 148]

Whereas tuberous sclerosis (hereafter in this joint resolution referred to as "TS") is a genetic disorder affecting as many as one in ten thousand Americans;

Whereas TS remains poorly understood and frequently misdiagnosed even though it is one of the more common genetic disorders;

Whereas TS affects both males and females and individuals of all races;

Whereas characteristics of TS include skin markings, seizures, motor difficulties, mental retardation, tumors of the brain and other organs, and behavioral abnormalities;

Whereas in any individual, the disease features and severity may vary from mild, when patients can live normal lives, to extreme, when TS is disabling and may be life threatening;

Whereas modern research technology has increased the knowledge of TS, there remains much to be learned;

Whereas only with continued, extensive research is there any chance of conquering this horrifying disease; and

Whereas establishing a National Tuberous Sclerosis Week would serve to increase public awareness of TS and stimulate research:

Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of May 6, 1984, through May 13, 1984, is designated as "National Tuberous Sclerosis Week", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the week with appropriate programs, ceremonies, and activities.

Approved April 13, 1984.

LEGISLATIVE HISTORY—S.J. Res. 148:

CONGRESSIONAL RECORD, Vol. 130 (1984):

Feb. 27, considered and passed Senate.

Apr. 3, considered and passed House.

Public Law 98-262
98th Congress

Joint Resolution

Apr. 13, 1984
[S.J. Res. 171]

To provide for the designation of July 20, 1984, as "National P.O.W./M.I.A. Recognition Day".

Whereas the United States has fought in many wars;
Whereas thousands of Americans who served in such wars were captured by the enemy or are missing in action;
Whereas many American prisoners of war were subjected to brutal and inhuman treatment by their enemy captors in violation of international codes and customs for the treatment of prisoners of war and many such prisoners of war died from such treatment;
Whereas many Americans missing in action remain unaccounted for and the uncertainty surrounding their fate has caused their families to suffer acute hardship; and
Whereas the sacrifices of American prisoners of war and Americans missing in action and their families are deserving of national recognition: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the twentieth day of July 1984 shall be designated as "National P.O.W./M.I.A. Recognition Day" and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to commemorate such day with appropriate activities.

Approved April 13, 1984.

LEGISLATIVE HISTORY—S.J. Res. 171:

CONGRESSIONAL RECORD, Vol. 130 (1984):
Feb. 27, considered and passed Senate.
Apr. 3, considered and passed House.

Public Law 98-263
98th Congress

Joint Resolution

Designating the week beginning April 8, 1984, as "National Hearing Impaired Awareness Week".

Apr. 13, 1984
[H.J. Res. 407]

Whereas more than fifteen million Americans of all ages experience some form of hearing impairment;

Whereas the deaf and hard of hearing have made significant contributions to society in virtually every occupational category and profession; and

Whereas the remaining impediments and obstacles encountered by those with hearing disorders must be recognized and eliminated:
Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning April 8, 1984, is designated "National Hearing Impaired Awareness Week". The President is requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate activities.

Approved April 13, 1984.

LEGISLATIVE HISTORY—H.J. Res. 407 (S.J. Res. 266):

CONGRESSIONAL RECORD, Vol. 130 (1984):

Apr. 3, considered and passed House.

Apr. 11, considered and passed Senate.

Public Law 98-264
98th Congress

Joint Resolution

Apr. 13, 1984
[H.J. Res. 520]

Designating April 13, 1984, as "Education Day, U.S.A.".

Whereas Congress recognizes the historical tradition of ethical values and principles which are the basis of civilized society and upon which our great Nation was founded;

Whereas these ethical values and principles have been the bedrock of society from the dawn of civilization, when they were known as the Seven Noahide Laws;

Whereas without these ethical values and principles the edifice of civilization stands in serious peril of returning to chaos;

Whereas society is profoundly concerned with the recent weakening of these principles that has resulted in crises that beleaguer and threaten the fabric of civilized society;

Whereas the justified preoccupation with these crises must not let the citizens of this Nation lose sight of their responsibility to transmit these historical ethical values from our distinguished past to the generations of the future;

Whereas the Lubavitch movement has fostered and promoted these ethical values and principles throughout the world;

Whereas Rabbi Menachem Mendel Schneerson is the universally respected and revered leader of the Lubavitch movement, and his eighty-second birthday falls on April 13, 1984: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 13, 1984, the birthday of Rabbi Menachem Mendel Schneerson, leader and head of the worldwide Lubavitch movement, is designated as "Education Day, U.S.A.". The President is requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Approved April 13, 1984.

LEGISLATIVE HISTORY—H.J. Res. 520:

CONGRESSIONAL RECORD, Vol. 130 (1984):

Apr. 3, considered and passed House.

Apr. 5, considered and passed Senate.

Public Law 98-265
98th Congress

An Act

To extend the expiration date of the Defense Production Act of 1950.

Apr. 17, 1984
[S. 1852]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Defense
Production Act
Amendments of
1984.

SECTION 1. This Act may be cited as the “Defense Production Act Amendments of 1984”.

50 USC app.
2061 note.

EXTENSION OF THE DEFENSE PRODUCTION ACT OF 1950

SEC. 2. The first sentence of section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended by striking out “March 30, 1984” and inserting in lieu thereof “September 30, 1986”.

97 Stat. 1267.

DETERMINATIONS REQUIRED BEFORE THE AWARDING OF FINANCIAL ASSISTANCE

SEC. 3. (a) Section 301(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2091(a)) is amended by adding at the end thereof the following:

“(3) Except during periods of national emergency declared by the Congress or the President, a guarantee may be entered into under this section only if the President determines that—

President of U.S.

“(A) the guaranteed contract or operation is for a material, or the performance of a service, which is essential to the national defense;

“(B) Without the guarantee, United States industry cannot reasonably be expected to provide the capability for the needed material or service in a timely manner;

“(C) the guarantee is the most cost-effective, expedient, and practical alternative for meeting the need involved; and

“(D) the United States national defense demand is equal to, or greater than, the output of domestic industrial capability which the President reasonably determines to be available for national defense, including the output to be established through the guarantee.”.

(b) Section 302 of the Defense Production Act of 1950 (50 U.S.C. App. 2092) is amended—

(1) by redesignating the first sentence as subsection (a); and

(2) by striking out the second and third sentences and inserting in lieu thereof the following:

Loans.

“(b) Such loans may be made without regard to the limitations of existing law and on such terms and conditions as the President deems necessary, except that—

“(1) financial assistance may be extended only to the extent that it is not otherwise available on reasonable terms; and

“(2) except during periods of national emergency declared by the Congress or the President, no such loan may be made unless the President determines that—

“(A) the loan is for the expansion of capacity, the development of a technological process, or the production of materials essential to the national defense;

“(B) without the loan, United States industry cannot reasonably be expected to provide the needed capacity, technological processes, or materials in a timely manner;

“(C) the loan is the most cost-effective, expedient, and practical alternative method for meeting the need; and

“(D) the United States national defense demand is equal to, or greater than, domestic industrial capability which the President reasonably determines to be available for national defense, including the output to be established through the loan.”.

President of U.S.
Prohibition.
Contracts.

(c) Section 303(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2093(a)) is amended by adding at the end thereof the following: “Except during periods of national emergency declared by the Congress or the President, the President may not execute a contract under this subsection unless the President determines that—

“(1) the mineral, metal, or material is essential to the national defense;

“(2) without Presidential action under authority of this section, United States industry cannot reasonably be expected to provide the capability for the needed mineral, metal, or material in a timely manner;

“(3) purchases, purchase commitments, or other action pursuant to this section are the most cost-effective, expedient, and practical alternative method for meeting the need; and

“(4) the United States national defense demand for the mineral, metal, or material is equal to, or greater than, the output of domestic industrial capability which the President reasonably determines to be available for national defense, including the output to be established through the purchase, purchase commitment, or other action.”.

LIMITATIONS ON THE AWARDING OF FINANCIAL ASSISTANCE

SEC. 4. (a) Section 301(e)(1) of the Defense Production Act of 1950 (50 U.S.C. App. 2091(e)(1)) is amended to read as follows:

“(e)(1)(A) Except during periods of national emergency declared by the Congress or the President, a guarantee may be made under this section only if the industrial resource shortfall which such guarantee is intended to correct has been identified in the Budget of the United States, or amendments thereto, submitted to the Congress, accompanied by a statement from the President demonstrating that the budget submission is in accordance with the provisions of subsection (a)(3) of this section.

“(B) Any such guarantee may be made only after 60 days have elapsed after such industrial resource shortfall has been identified pursuant to subparagraph (A).

“(C) If the making of any guarantee or guarantees to correct an industrial resource shortfall would cause the aggregate outstanding amount of all guarantees for such industrial resource shortfall to exceed \$25,000,000, any such guarantee or guarantees may be made only if specifically authorized by law.”.

(b) Section 302 of the Defense Production Act of 1950 (50 U.S.C. App. 2092), as amended by section 3(b), is further amended by adding at the end thereof the following:

Loans.

“(c)(1) No such loan may be made under this section, except during periods of national emergency declared by the Congress or the President, unless the industrial resource shortfall which such loan is intended to correct has been identified in the Budget of the United States, or amendments thereto, submitted to the Congress, accompanied by a statement from the President demonstrating that the budget submission is in accordance with the provisions of subsection (b)(2) of this section.

“(2) Any such loan may be made only after 60 days have elapsed after such industrial resource shortfall has been identified pursuant to paragraph (1).

“(3) If the making of any loan or loans to correct an industrial resource shortfall would cause the aggregate outstanding amount of all loans for such industrial resource shortfall to exceed \$25,000,000, any such loan or loans may be made only if specifically authorized by law.”.

(c) Section 303(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2093(a)), as amended by section 3(c), is further amended by adding at the end thereof the following: “Except during periods of national emergency declared by the Congress or the President, the President shall take no action under authority of this section unless the industrial resource shortfall which such action is intended to correct has been identified in the Budget of the United States, or amendments thereto, submitted to the Congress, accompanied by a statement from the President demonstrating that the budget submission is in accordance with the provisions of the preceding sentence. Any such action may be taken only after 60 days have elapsed after such industrial resource shortfall has been identified pursuant to the preceding sentence. If the taking of any action or actions under authority of this section to correct an industrial resource shortfall would cause the aggregate outstanding amount of all such actions for such industrial resource shortfall to exceed \$25,000,000, any such action or actions may be taken only if specifically authorized by law.”.

President of U.S.

AUTHORIZATION OF APPROPRIATIONS

SEC. 5. (a) The first sentence of section 711(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2161(a)) is amended by inserting “and paragraph (4)” after “paragraph (2)”.

(b) Section 711(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2161(a)) is amended by adding at the end thereof the following:

“(4)(A) There are authorized to be appropriated to carry out the provisions of section 303 not to exceed \$100,000,000 for fiscal years 1985 and 1986, except that not more than \$25,000,000 is authorized to be appropriated for fiscal year 1985.

50 USC app.
2093.

“(B) The aggregate amount of loans, guarantees, purchase agreements, and other actions under sections 301, 302, and 303 during fiscal years 1985 and 1986 may not exceed \$100,000,000.”.

50 USC app.
2091-2093.

REPORTS

SEC. 6. Title III of the Defense Production Act of 1950 (50 U.S.C. App. 2091 et seq.) is amended by adding at the end thereof the following:

50 USC app.
2099.
Ante, p. 149.

“SEC. 309. Not later than 18 months after the date of the enactment of the Defense Production Act Amendments of 1984, and annually thereafter, the President shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, a report on the impact of offsets on the defense preparedness, industrial competitiveness, employment, and trade of the United States. Each such report also shall include a discussion of bilateral and multilateral negotiations on offsets in international procurement and provide information on the types, terms, and magnitude of the offsets.”.

Approved April 17, 1984.

LEGISLATIVE HISTORY—S. 1852:

HOUSE REPORT No. 98-651 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 129 (1983): Sept. 30, considered and passed Senate.

Oct. 4, 6, considered and passed House, amended.

Oct. 7, Senate concurred in House amendment with an amendment.

Vol. 130 (1984): Apr. 5, Senate agreed to conference report.

Apr. 10, House agreed to conference report.

Public Law 98-266
98th Congress

An Act

To authorize funding for the Clement J. Zablocki Memorial Outpatient Facility at the American Children's Hospital in Krakow, Poland.

Apr. 17, 1984
[H.R. 4835]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) such amounts as may be necessary of the Polish currencies held by the United States shall be available for construction of a new facility at the American Children's Hospital in Krakow, Poland, which would be known as the Clement J. Zablocki Outpatient Facility. Such currencies may be utilized without regard to the requirements of section 1306 of title 31, the United States Code, or any other provision of law.

(b) There are authorized to be appropriated to the President \$10,000,000 of which—

- (1) \$3,000,000 shall be for equipping and furnishing the Clement J. Zablocki Outpatient Facility at the American Children's Hospital in Krakow, Poland;
- (2) \$3,000,000 shall be for improving medical equipment at the American Children's Hospital in Krakow, Poland; and
- (3) \$4,000,000 shall be for providing medical supplies to Poland through private and voluntary agencies, including the expenses of purchasing, transporting, and distributing such supplies.

Amounts appropriated pursuant to this subsection are authorized to remain available until expended.

Approved April 17, 1984.

LEGISLATIVE HISTORY—H.R. 4835:

CONGRESSIONAL RECORD, Vol. 130 (1984):
Mar. 6, considered and passed House.
Apr. 5, considered and passed Senate.

Public Law 98-267
98th Congress

Joint Resolution

Apr. 17, 1984

[H.J. Res. 466]

Designating May 1984 as "Older Americans Month".

Whereas older Americans have contributed many years of service to their families, their communities, and the Nation;

Whereas the population of the United States is comprised of a large percentage of older Americans representing a wealth of knowledge and experience;

Whereas older Americans should be acknowledged for the contributions they continue to make to their communities and the Nation; and

Whereas many States and communities acknowledge older Americans during the month of May: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in recognition of the traditional designation of the month of May as "Older Americans Month" and the repeated expression by the Congress of its appreciation and respect for the achievements of older Americans and its desire that these Americans continue to play an active role in the life of the Nation, the President is directed to issue a proclamation designating the month of May 1984 as "Older Americans Month" and calling on the people of the United States to observe this month with appropriate programs, ceremonies, and activities.

Approved April 17, 1984.

LEGISLATIVE HISTORY—H.J. Res. 466:

CONGRESSIONAL RECORD, Vol. 130 (1984):

Feb. 8, considered and passed House.

Apr. 11, considered and passed Senate.

Public Law 98-268
98th Congress

Joint Resolution

Commending the Historic American Buildings Survey, a program of the National Park Service, Department of the Interior, the Library of Congress, and the American Institute of Architects.

Apr. 17, 1984

[S.J. Res. 173]

Whereas the Historic American Buildings Survey has been documenting the architectural heritage of the United States with measured drawings, photographs, and historical data since 1933; Whereas these records, stored in the Library of Congress for public use, along with the records created by a sister program, the Historic American Engineering Record, have added immeasurably to our knowledge and appreciation of the historic American built environment;

Whereas the Survey has proven to be an important training ground for thousands of architects, historians, and scholars who have worked to preserve our historic American architecture; and

Whereas the fiftieth anniversary of this program marks an appropriate time to commend the National Park Service, the Library of Congress, and the American Institute of Architects on the Survey's past accomplishments as well as a time to look forward to the continuance of this important mission of recording the best examples of historic American architecture and engineering: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Historic American Buildings Survey be commended for its substantial contributions to our understanding of the history and heritage of this Nation.

Approved April 17, 1984.

LEGISLATIVE HISTORY—S.J. Res. 173:

HOUSE REPORT No. 98-662 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 98-311 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD:

Vol. 129 (1983): Nov. 18, considered and passed Senate.

Vol. 130 (1984): Apr. 9, considered and passed House.

Public Law 98-269
98th Congress

An Act

Apr. 18, 1984

[H.R. 596]

To transfer responsibility for furnishing certified copies of Miller Act payment bonds from the Comptroller General to the officer that awarded the contract for which the bond was given.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of section 3 of the Act of August 24, 1935 (49 Stat. 794; 40 U.S.C. 270c), as amended by the Act of August 4, 1959 (73 Stat. 279; 40 U.S.C. 270c), is amended by striking out "Comptroller General" and inserting in lieu thereof "department secretary or agency head of the contracting agency". The second sentence of section 3 of the Act is amended by striking out "Comptroller General" and inserting in lieu thereof "department secretary or agency head of the contracting agency".

Approved April 18, 1984.

LEGISLATIVE HISTORY—H.R. 596:

HOUSE REPORT No. 98-63 (Comm. on Judiciary).

SENATE REPORT No. 98-344 (Comm. on the Judiciary).

CONGRESSIONAL RECORD:

Vol. 129 (1983): May 3, considered and passed House.

Vol. 130 (1984): Apr. 11, considered and passed Senate.

Public Law 98-270
98th Congress

An Act

To provide for reconciliation pursuant to section 3 of the First Concurrent Resolution on the Budget for the fiscal year 1984.

Apr. 18, 1984
[H.R. 4169]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Omnibus Budget
Reconciliation
Act of 1983.

TITLE I—SHORT TITLE AND DECLARATION OF PURPOSE

SHORT TITLE

SEC. 101. This Act may be cited as the “Omnibus Budget Reconciliation Act of 1983”.

PURPOSE

SEC. 102. It is the purpose of this Act to implement the recommendations which were made by specified committees of the House of Representatives pursuant to directions contained in section 3 of the First Concurrent Resolution on the Budget for the fiscal year 1984 (H. Con. Res. 91, 98th Congress), and pursuant to the reconciliation requirements which were set forth by such concurrent resolution as provided in section 310 of the Congressional Budget Act of 1974.

2 USC 641.

TITLE II—COMMITTEE ON POST OFFICE AND CIVIL SERVICE

COST-OF-LIVING ADJUSTMENTS UNDER THE CIVIL SERVICE RETIREMENT SYSTEM

SEC. 201. (a) Subsections (a) and (b) of section 8340 of title 5, United States Code, are amended to read as follows:

“(a) For the purpose of this section—

“(1) the term ‘base quarter’, as used with respect to a year, means the calendar quarter ending on September 30, of such year; and

“(2) the price index for a base quarter is the arithmetical mean of such index for the 3 months comprising such quarter.

“(b) Except as provided in subsection (c) of this section, effective December 1 of each year, each annuity payable from the Fund having a commencing date not later than such December 1 shall be increased by the percent change in the price index for the base quarter of such year over the price index for the base quarter of the preceding year in which an adjustment under this subsection was made, adjusted to the nearest $\frac{1}{10}$ of 1 percent.”

(b)(1) The amendments made by subsection (a) shall take effect on the date of the enactment of this Act, except that no adjustment under section 8340(b) of title 5, United States Code (as amended by such subsection), shall be made during the period beginning on the date of the enactment of this Act and ending November 30, 1984.

(2)(A) For purposes of the first adjustment under section 8340(b) of title 5, United States Code (as amended by subsection (a)), the base

Effective date.
5 USC 8340 note.

quarter ending September 30, 1983, shall be considered to have been a base quarter in which an adjustment under such section (as so amended) was made.

(B) As used in subparagraph (A), the term "base quarter" has the meaning given such term by section 8340(a)(1) of title 5, United States Code (as amended by subsection (a)).

5 USC 8340 note. (c)(1) Section 301(a)(3) of the Omnibus Budget Reconciliation Act of 1982 is amended by striking out "(as determined by the Office of Personnel Management on the basis of the calendar year ending in such year)" and inserting in lieu thereof "(as determined by the Office of Personnel Management under section 8340(b) of title 5, United States Code)".

5 USC 8340 note. (2) Section 301(b) of the Omnibus Budget Reconciliation Act of 1982 is hereby repealed.

PAY ADJUSTMENT FOR FEDERAL EMPLOYEES

5 USC 5305 note. SEC. 202. (a)(1) Notwithstanding any other provision of law, in the case of fiscal year 1984, the overall percentage of the adjustment under section 5305 of title 5, United States Code, in the rates of pay under the General Schedule, and in the rates of pay under the other statutory pay systems, shall be an increase of 4 percent.

(2) Each increase in a pay rate or schedule which takes effect pursuant to paragraph (1) shall, to the maximum extent practicable, be of the same percentage, and shall take effect as of the first day of the first applicable pay period commencing on or after January 1 of such fiscal year.

5 USC 5343 note. (b)(1) Notwithstanding any other provision of law, in the case of a prevailing rate employee described in section 5342(a)(2) of title 5, United States Code, or an employee covered by section 5348 of such title—

5 USC 5343 note. (A) any increase in the rate of pay payable to such employee which would result from the expiration of the limitation contained in section 107(a) of Public Law 97-377 (96 Stat. 1909) shall not take effect; and

5 USC 5341. (B) any adjustment under subchapter IV of chapter 53 of such title to any wage schedule or rate applicable to such employee which results from a wage survey and which is to become effective during the fiscal year beginning October 1, 1983, shall not exceed the amount which is 4 percent above the schedule or rate payable on September 30, 1983 (determined with regard to the limitation contained in section 107(a) of Public Law 97-377), and shall not be effective with respect to any pay period commencing before January 1 of such fiscal year.

5 USC 5343 notes. (2) Notwithstanding the provisions of section 9(b) of Public Law 92-392 or section 704(b) of the Civil Service Reform Act of 1978, the provisions of paragraph (1) shall apply (in such manner as the Office of Personnel Management shall prescribe) to prevailing rate employees to whom such section 9(b) applies, except that the provisions of paragraph (1) shall not apply to any increase in a wage schedule or rate which is required by the terms of a contract entered into before the date of the enactment of this Act.

(3) The provisions of paragraph (1) shall not apply with respect to wage adjustments for prevailing rate supervisors under the supervisory pay plan published in the Federal Register on May 21, 1982 (47 Fed. Reg. 22100).

TITLE III—COMMITTEE ON SMALL BUSINESS

SEC. 301. Section 7(c) of the Small Business Act is amended by adding the following:

Disaster
assistance.
Loans.
15 USC 636.

“(5) Notwithstanding the provisions of any other law, the interest rate on the Federal share of any loan made under subsection (b)(1) and (b)(2) on account of a disaster commencing on or after October 1, 1982, shall be—

“(A) in the case of a homeowner unable to secure credit elsewhere, the rate prescribed by the Administration but not more than one-half the rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loan plus an additional charge of not to exceed 1 per centum per annum as determined by the Administrator, and adjusted to the nearest one-eighth of 1 per centum, but not to exceed 4 per centum per annum;

“(B) in the case of a homeowner able to secure credit elsewhere, the rate prescribed by the Administration but not more than the rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans plus an additional charge of not to exceed 1 per centum per annum as determined by the Administrator, and adjusted to the nearest one-eighth of 1 per centum, but not to exceed 8 per centum per annum;

“(C) in the case of a business concern unable to obtain credit elsewhere, not to exceed 4 per centum per annum;

“(D) in the case of a business concern able to obtain credit elsewhere, the rate prescribed by the Administration but not in excess of the lowest of (i) the rate prevailing in the private market for similar loans, (ii) the rate prescribed by the Administration as the maximum interest rate for deferred participation (guaranteed) loans under section 7(a) of this Act, or (iii) 8 per centum per annum. Loans under this subparagraph shall be limited to a maximum term of three years.

“(6) Notwithstanding the provisions of any other law, such loans, subject to the reductions required by subparagraphs (A) and (B) of paragraph 7(b)(1), shall be in amounts equal to 100 per centum of loss. The interest rates for loans made under paragraphs 7(b) (1) and (2), as determined pursuant to paragraph (5), shall be the rate of interest which is in effect on the date of the disaster commenced: *Provided*, That no loan under paragraphs 7(b) (1) and (2) shall be made, either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred (guaranteed) basis, if the total amount outstanding and committed to the borrower under subsection 7(b) would exceed \$500,000 for each disaster unless an applicant constitutes a major source of employment in an area suffering a disaster, in which case the Administration, in its discretion, may waive the \$500,000 limitation: *Provided further*, That the Administration, subject to the

15 USC 636.

15 USC 636.

reductions required by subparagraphs (A) and (B) of paragraph 7(b)(1), shall not reduce the amount of eligibility for any homeowner on account of loss of real estate to less than \$100,000 for each disaster nor for any homeowner or lessee on account of loss of personal property to less than \$20,000 for each disaster, such sums being in addition to any eligible refinancing.

With respect to any loan which is outstanding on the date of enactment of this paragraph and which was made on account of a disaster commencing on or after October 1, 1982, the Administrator shall make such change in the interest rate on the balance of such loan as is required herein effective as of the date of enactment.”.

15 USC 631 note.

SEC. 302. Section 20 of the Small Business Act is amended as follows:

15 USC 636.

(1) by striking all of paragraph (5) of subsection (g) after the word “Administration” and by inserting the following “is authorized to make \$100,000,000 in direct loans and for the programs authorized by sections 7(b)(1) and 7(b)(2) of this Act, the Administration is authorized to make \$500,000,000 in direct loans.”; and

(2) by adding the following new subsection:

“(t) For each of fiscal years 1985 and 1986, for the programs authorized by sections 7(b)(1) and 7(b)(2) the Administration is authorized to make \$500,000,000 in direct loans and for each of such years for the programs authorized by sections 7(b)(3) and 7(b)(4) the Administration also is authorized to make \$100,000,000 in direct loans.”.

15 USC 647.

SEC. 303. Section 18(a) of the Small Business Act is amended by striking “October 1, 1983” and by inserting “October 1, 1986”.

15 USC 636.

SEC. 304. Section 7(b) of the Small Business Act is amended as follows:

(1) by striking out the period at the end of paragraph (2) and by inserting in lieu thereof a semicolon; and

(2) by adding after paragraph (3) the following new paragraph:

Disaster
assistance.
Loans.

“(4) To make such disaster loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration may determine to be necessary to assist, or refinance all or part of the existing indebtedness (specifically including any direct loans under section 7(a) of this Act which were made to small businesses affected by currency fluctuations and exchange freezes), of any small business concern located in an area of economic dislocation that is the result of the drastic fluctuation in the value of the currency of a country contiguous to the United States and adjustments in the regulation of its monetary system if such concern is unable to obtain credit elsewhere. The Governor of a State may certify to the Administration (A) that small business concerns within the State have suffered substantial economic injury as a result of such economic dislocation, and (B) that such concerns are in need of financial assistance which is not available on reasonable terms. Such economic dislocations must be of such magnitude that without the benefit of disaster loans provided hereunder a significant number of otherwise financially sound small businesses in the impacted regions or business sectors would either become insolvent or be unable to return quickly to their former level of operation. No disaster loan made hereunder shall

exceed \$100,000, nor shall the proceeds thereof be used to reduce the exposure of any other lender. The Administration may permit deferral of payment of principal and interest for one year on loans made hereunder.”.

SEC. 305. Section 20(q) of the Small Business Act is amended by striking from paragraph (5) “section 7(b)(3)” and inserting in lieu thereof “sections 7(b)(3) and 7(b)(4)”.

15 USC 631 note.

SEC. 306. Paragraph (1) of section 4(c) of the Small Business Act is further amended by inserting “7(b)(4),” after “7(b)(3).”

15 USC 633.

SEC. 307. The amendments made by sections 304 and 305 of this title shall apply to economic dislocations certified by any State Governor to the Small Business Administration after the date of enactment of this Act providing such dislocation commenced since January 1, 1982.

15 USC 636 note.

SEC. 308. Section 7(b)(3) of the Small Business Act is amended as follows:

15 USC 636.

(1) by inserting “continuation of,” after “in effecting”; and

(2) by inserting the following at the end of such paragraph:

“For the purposes of this paragraph, the impact of the 1983 Payment-in-Kind Land Diversion program, or any successor Payment-in-Kind program with a similar impact on the small business community, shall be deemed to be a consequence of Federal Government action; and”.

SEC. 309. Section 7(c)(6) of the Small Business Act is further amended by adding the following at the end of the second proviso: “Employees of concerns sharing a common business premises shall be aggregated in determining ‘major source of employment’ status for nonprofit applicants owning such premises.”.

Employment
and unemploy-
ment.
Ante, p. 159.

SEC. 310. Section 3 of the Small Business Act is amended by adding the following new subsection at the end thereof:

Agricultural
cooperative.
15 USC 632.
15 USC 636.

“(j) For the purposes of section 7(b)(2) of this Act, the term ‘small agricultural cooperative’ means an association (corporate or otherwise) acting pursuant to the provisions of the Agricultural Marketing Act (12 U.S.C. 1141j), whose size does not exceed the size standard established by the Administration for other similar agricultural small business concerns. In determining such size, the Administration shall regard the association as an entity and shall not include the income or employees of any member shareholder of such cooperative: *Provided*, That such an association shall not be deemed to be a small agricultural cooperative unless each member of the board of directors of the association, or each member of the governing body of the association if it is not incorporated, also individually qualifies as a small business concern.”.

SEC. 311. Section 7(b)(2) of the Small Business Act is amended as follows:

15 USC 636.

(1) by striking “small business concern” and inserting in lieu thereof “small business concern or small agricultural cooperative”;

(2) by striking “small business concerns” and inserting in lieu thereof “small business concerns or small agricultural cooperatives”; and

(3) by striking “the concern” and inserting in lieu thereof “the concern or the cooperative”.

SEC. 312. The amendments made by sections 310 and 311 of this title shall apply to loans granted on the basis of any disaster with respect to which a declaration has been issued after September 1, 1982, under section 7(b)(2) (A), (B), or (C) of the Small Business Act or

15 USC 632 note.

15 USC 636.

15 USC 636.

Effective date.

15 USC 632 note.

with respect to which a certification has been made after such date under section 7(b)(2)(D) of such Act.

SEC. 313. This title shall take effect October 1, 1983.

TITLE IV—ADDITIONAL PROPOSAL FOR DEFICIT REDUCTION

FINDINGS

SEC. 401. The Congress finds and declares that—

(1) current projections indicate that the Federal Government's budget deficits will continue at unacceptably high levels for the foreseeable future;

(2) these high deficits can place upward pressure on interest rates, reduce investment, raise the trade deficit, decrease employment, and threaten the vitality of economic recovery; and

(3) reduction of these unacceptably high deficits requires a comprehensive plan to slow the growth of Federal spending, including military and entitlement spending, and to increase revenues.

DOMESTIC ECONOMIC SUMMIT CONFERENCE TO REDUCE THE BUDGET DEFICIT

SEC. 402. (a) The President shall convene a domestic economic summit conference to address the dangerous economic situation created by these projected large deficits.

(b) The summit conference shall consist of the President, the Speaker of the House of Representatives, the President pro tempore of the Senate, the majority leaders and minority leaders of the House of Representatives and Senate, and other appropriate participants from the Congress and the executive branch responsible for the development of economic policy.

Report.

(c) No later than forty-five days after the date of the enactment of this Act, this summit conference shall develop and report to Congress a comprehensive plan to reduce the projected deficits in the Budget of the United States.

Approved April 18, 1984.

LEGISLATIVE HISTORY—H.R. 4169 (S. 2062):

HOUSE REPORT No. 98-425 (Comm. on the Budget).

SENATE REPORT No. 98-300 accompanying S. 2062 (Comm. on the Budget).

CONGRESSIONAL RECORD:

Vol. 129 (1983): Oct. 25, considered and passed House.

Vol. 130 (1984): Apr. 5, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 16 (1984):

Apr. 18, Presidential statement.

Public Law 98-271
98th Congress

An Act

To continue the transition provisions of the Bankruptcy Act until May 26, 1984, and for other purposes.

Apr. 30, 1984
[S. 2570]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 402 of the Act entitled “An Act to establish a uniform Law on the Subject of Bankruptcies” (Public Law 95-598) is amended in subsections (b) and (e) by striking out “May 1, 1984” each place it appears and inserting in lieu thereof “May 26, 1984”.

Ante, p. 116.
11 USC note
prec. 101.

(b) Section 404 of such Act is amended in subsections (a) and (b) by striking out “April 30, 1984” each place it appears and inserting in lieu thereof “May 25, 1984”.

Ante, p. 116.
28 USC note
prec. 151.

(c) Section 406 of such Act is amended by striking out “April 30, 1984” each place it appears and inserting in lieu thereof “May 25, 1984”.

Ante, p. 116.
28 USC note
prec. 151.

(d) Section 409 of such Act is amended by—

Ante, p. 116.
28 USC note
prec. 1471.

(1) striking out “May 1, 1984” each place it appears and inserting in lieu thereof “May 26, 1984”; and

(2) striking out “April 30, 1984” each place it appears and inserting in lieu thereof “May 25, 1984”.

SEC. 2. The term of office of any bankruptcy judge who was serving on April 30, 1984, and of any bankruptcy judge who is serving on the date of the enactment of this Act is extended to and shall expire on May 25, 1984.

Judge.
28 USC note
prec. 151.

SEC. 3. (a) Section 8339(n) of title 5, United States Code, is amended by striking out “April 1, 1984” and inserting in lieu thereof “May 26, 1984”.

(b) Section 8331(22) of title 5, United States Code, is amended by striking out “April 30, 1984” and inserting in lieu thereof “May 25, 1984”.

Approved April 30, 1984.

LEGISLATIVE HISTORY—S. 2570:

CONGRESSIONAL RECORD, Vol. 130 (1984):
Apr. 12, considered and passed Senate.
Apr. 26, considered and passed House.

Public Law 98-272
98th Congress

Joint Resolution

May 3, 1984
[S.J. Res. 210]

To designate the period commencing April 1, 1984, and ending March 31, 1985, as the "Year of Excellence in Education".

Whereas the future of our Nation depends on the quality of education today;

Whereas every child is a precious resource whose potential should be realized to the fullest;

Whereas preservation of our priceless legacy of democracy, individual liberty, and rule of law requires informed citizens;

Whereas an economy based increasingly on technical competence will impose new demands on our schools;

Whereas the National Commission on Educational Excellence and numerous other nationwide studies have concluded that there is an urgent need to improve our American education;

Whereas a national effort is necessary to revitalize our educational system;

Whereas academic excellence requires parental involvement;

Whereas a quality education for our teachers is essential to ensure the competence of our Nation's future leaders; and

Whereas local community and volunteer efforts in support of education require more national recognition: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing April 1, 1984, and ending March 31, 1985, is designated as the "Year of Excellence in Education", and the President is authorized and requested to issue a proclamation encouraging parents, teachers, administrators, government officials, and people of the United States to observe the year with activities aimed at restoring the American educational system to its place of preeminence among the nations of the world.

Approved May 3, 1984.

LEGISLATIVE HISTORY—S.J. Res. 210:

CONGRESSIONAL RECORD, Vol. 130 (1984):

Mar. 12, considered and passed Senate.

Apr. 11, considered and passed House, amended.

Apr. 12, Senate concurred in House amendments.

Public Law 98-273
98th Congress

An Act

To amend the Perishable Agricultural Commodities Act, 1930, by impressing a trust on the commodities and sales proceeds of perishable agricultural commodities for the benefit of the unpaid seller, and for other purposes.

May 7, 1984

[H.R. 3867]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5 of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499e) is amended by adding at the end thereof a new subsection to read as follows:

“(c)(1) It is hereby found that a burden on commerce in perishable agricultural commodities is caused by financing arrangements under which commission merchants, dealers, or brokers, who have not made payment for perishable agricultural commodities purchased, contracted to be purchased, or otherwise handled by them on behalf of another person, encumber or give lenders a security interest in, such commodities, or on inventories of food or other products derived from such commodities, and any receivables or proceeds from the sale of such commodities or products, and that such arrangements are contrary to the public interest. This subsection is intended to remedy such burden on commerce in perishable agricultural commodities and to protect the public interest.

Commerce and
trade.

“(2) Perishable agricultural commodities received by a commission merchant, dealer, or broker in all transactions, and all inventories of food or other products derived from perishable agricultural commodities, and any receivables or proceeds from the sale of such commodities or products, shall be held by such commission merchant, dealer, or broker in trust for the benefit of all unpaid suppliers or sellers of such commodities or agents involved in the transaction, until full payment of the sums owing in connection with such transactions has been received by such unpaid suppliers, sellers, or agents. Payment shall not be considered to have been made if the supplier, seller, or agent receives a payment instrument which is dishonored. The provisions of this subsection shall not apply to transactions between a cooperative association (as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)), and its members.

“(3) The unpaid supplier, seller, or agent shall lose the benefits of such trust unless such person has given written notice of intent to preserve the benefits of the trust to the commission merchant, dealer, or broker and has filed such notice with the Secretary within thirty calendar days (i) after expiration of the time prescribed by which payment must be made, as set forth in regulations issued by the Secretary, (ii) after expiration of such other time by which payment must be made, as the parties have expressly agreed to in writing before entering into the transaction, or (iii) after the time the supplier, seller, or agent has received notice that the payment instrument promptly presented for payment has been dishonored. When the parties expressly agree to a payment time period different from that established by the Secretary, a copy of any such agree-

Courts.

ment shall be filed in the records of each party to the transaction and the terms of payment shall be disclosed on invoices, accountings, and other documents relating to the transaction.

“(4) The several district courts of the United States are vested with jurisdiction specifically to entertain (i) actions by trust beneficiaries to enforce payment from the trust, and (ii) actions by the Secretary to prevent and restrain dissipation of the trust.”.

SEC. 2. Section 2(4) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499b(4)) is amended by adding after the semicolon at the end of the paragraph “or to fail to maintain the trust as required under section 5(c);”.

Approved May 7, 1984.

LEGISLATIVE HISTORY—H.R. 3867:

HOUSE REPORT No. 98-543 (Comm. on Agriculture).
CONGRESSIONAL RECORD:

Vol. 129 (1983): Nov. 15, considered and passed House.

Vol. 130 (1984): Apr. 12, considered and passed Senate.

Public Law 98-274
98th Congress

Joint Resolution

Designating the week of April 29 through May 5, 1984, as "National Week of the Ocean".

May 7, 1984

[H.J. Res. 478]

Whereas the oceans of the world are one of the most precious natural resources of mankind;

Whereas Americans are particularly dependent upon the ocean for environmental and recreational uses;

Whereas the oceans are playing an increasingly important role in the food, energy, and mineral production of the United States as well as in the transportation of United States goods;

Whereas it would be beneficial for the American public to learn of the interrelationship of the United States and the oceans of the world; and

Whereas the declaration of a National Week of the Ocean would increase the American public's awareness of the world's oceans and their importance: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of April 29 through May 5, 1984, is designated as "National Week of the Ocean" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate activities.

Approved May 7, 1984.

LEGISLATIVE HISTORY—H.J. Res. 478:

CONGRESSIONAL RECORD, Vol. 130 (1984):

Feb. 29, considered and passed House.

May 1, considered and passed Senate.

Public Law 98-275
98th Congress

Joint Resolution

May 8, 1984
[S.J. Res. 136]

To recognize "Volunteer Firefighters Recognition Day" as a tribute to the bravery and self-sacrifice of our volunteer firefighters.

Whereas over 80 per centum of the firefighters in the United States are volunteers who selflessly protect our lives and property;

Whereas three hundred and ninety-five volunteer firefighters have lost their lives in the line of duty during the past five years, with fifty-eight such deaths occurring in 1983 alone;

Whereas volunteer firefighters expose themselves to physical risks, including long-term health risks such as coronary disease, with no financial remuneration;

Whereas fire departments comprised only of volunteers protect a large percentage of the rural townships, hamlets, and farms within the United States; and

Whereas firefighters attached to such departments spend time and energy, in addition to that spent fighting fires, to provide fire prevention instruction and other services to their communities:
Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That August 18, 1984, is designated as "National Volunteer Firefighters Recognition Day" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate programs, ceremonies, and activities.

Approved May 8, 1984.

LEGISLATIVE HISTORY—S.J. Res. 136:

CONGRESSIONAL RECORD:

Vol. 129 (1983): Aug. 4, considered and passed Senate.

Vol. 130 (1984): Mar. 22, considered and passed House, amended.

Apr. 26, Senate concurred in House amendments.

Public Law 98-276
98th Congress

An Act

To provide for a White House Conference on Small Business.

May 8, 1984
[H.R. 5298]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “White House Conference on Small Business Authorization Act”.

White House
Conference on
Small Business
Authorization
Act.

15 USC 631 note.

15 USC 631 note.

AUTHORIZATION OF CONFERENCE

SEC. 2. (a) The President shall call and conduct a National White House Conference on Small Business (hereinafter referred to as the “Conference”) not earlier than January 1, 1985, and not later than September 1, 1986, to carry out the purposes described in section 3 of this Act. The Conference shall be preceded by State and regional conferences with at least one such conference being held in each State.

(b) Participants in the Conference and other interested individuals and organizations, are authorized to conduct conferences and other activities at the State and regional levels prior to the date of the Conference, subject to the approval of the Administrator of the Small Business Administration, and shall direct such conferences and activities toward the consideration of the purposes of the Conference described in section 3 of this Act in order to prepare for the National Conference.

State and local
governments.

PURPOSE OF CONFERENCE

SEC. 3. The purpose of the Conference shall be to increase public awareness of the essential contribution of small business; to identify the problems of small business; to examine the status of minorities and women as small business owners; to assist small business in carrying out its role as the Nation’s job creator; to assemble small businesses to develop such specific and comprehensive recommendations for executive and legislative action as may be appropriate for maintaining and encouraging the economic viability of small business and, thereby, the Nation; and to review the status of recommendations adopted at the 1980 White House Conference on Small Business.

Minorities.

Women.

15 USC 631 note.

CONFERENCE PARTICIPANTS

SEC. 4. (a) In order to carry out the purposes specified in section 3 of this Act, the Conference shall bring together individuals concerned with issues relating to small business: *Provided*, That no small business concern representative may be denied admission to any State or regional conference, nor may any fee or charge be imposed on any small business concern representative except an amount to cover the cost of any meal provided to such representative plus a registration fee of not to exceed \$10.

15 USC 631 note.

(b) Delegates, including alternates, to the National Conference shall be elected by participants at the State and regional conferences: *Provided*, That each Governor and each chief executive official of the political subdivisions enumerated in section 4(a) of the Small Business Act may appoint one delegate and one alternate: *Provided further*, That each Member of the United States House of Representatives, including each Delegate, and each Member of the United States Senate may appoint one delegate and one alternate: *And provided further*, That the President may appoint one hundred delegates and alternates. Only individuals from small businesses shall be eligible for appointment pursuant to this subsection.

PLANNING AND ADMINISTRATION OF CONFERENCE

15 USC 631 note. SEC. 5. (a) All Federal departments, agencies, and instrumentalities are authorized and directed to provide such support and assistance as may be necessary to facilitate the planning and administration of the Conference.

(b) In carrying out the provisions of this Act, the Administrator of the Small Business Administration—

(1) shall provide such assistance as may be necessary for the organization and conduct of conferences at the State and regional levels as authorized under section 2(b) of this Act; and

(2) is authorized to enter into contracts with public agencies, private organizations, and academic institutions to carry out the provisions of this Act.

(c) The Chief Counsel for Advocacy shall assist in carrying out the provisions of this Act by preparing and providing background materials for use by participants in the Conference, as well as by participants in State and regional conferences.

(d) Each participant in the Conference shall be responsible for his or her expenses related to attending the Conference and shall not be reimbursed either from funds appropriated pursuant to this Act or the Small Business Act.

15 USC 631 note.

(e)(1) The President is authorized to appoint and compensate an executive director and such other directors and personnel for the Conference as he may deem advisable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

5 USC 5101 et seq., 5331.

(2) Upon request by the executive director, the heads of the executive and military departments are authorized to detail employees to work with the executive director in planning and administering the Conference without regard to the provisions of section 3341 of title 5, United States Code.

REPORTS REQUIRED

15 USC 631 note. SEC. 6. Not more than six months from the date on which the National Conference is convened, a final report of the Conference shall be submitted to the President and the Congress. The report shall include the findings and recommendations of the Conference as well as proposals for any legislative action necessary to implement the recommendations of the Conference. The final report of the Conference shall be available to the public.

Public availability.

FOLLOWUP ACTIONS

SEC. 7. The Small Business Administration shall report to the Congress annually during the three-year period following the submission of the final report of the Conference on the status and implementation of the findings and recommendations of the Conference.

Report.
15 USC 631 note.

AVAILABILITY OF FUNDS

SEC. 8. (a) There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, and they shall remain available until expended. New spending authority or authority to enter contracts as provided in this Act shall be effective only to such extent and in such amounts as are provided in advance in appropriation Acts.

15 USC 631 note.

(b) No funds appropriated to the Small Business Administration shall be made available to carry out the provisions of this Act other than funds appropriated specifically for the purpose of conducting the Conference. Any funds remaining unexpended at the termination of the Conference, including submission of the report pursuant to section 6, shall be returned to the Treasury of the United States and credited as miscellaneous receipts.

SEC. 9. This Act shall become effective October 1, 1984.

Effective date.
15 USC 631 note.

Approved May 8, 1984.

LEGISLATIVE HISTORY—H.R. 5298 (S. 2487):

HOUSE REPORT No. 98-652 (Comm. on Small Business).

SENATE REPORT No. 98-380 accompanying S. 2487 (Comm. on Small Business).

CONGRESSIONAL RECORD, Vol. 130 (1984):

Apr. 9, considered and passed House.

Apr. 11, considered and passed Senate.

Public Law 98-277
98th Congress

An Act

May 8, 1984

[S. 2460]

To designate a Federal building in Augusta, Maine, as the "Edmund S. Muskie Federal Building".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal building located at 40 Western Avenue, Augusta, Maine, shall hereafter be named and designated as the "Edmund S. Muskie Federal Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "Edmund S. Muskie Federal Building".

Approved May 8, 1984.

LEGISLATIVE HISTORY—S. 2460:

SENATE REPORT No. 98-384 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 130 (1984):

Apr. 11, considered and passed Senate.

Apr. 26, considered and passed House.

Public Law 98-278
98th Congress

An Act

To authorize the awarding of special congressional gold medals to the daughter of Harry S Truman, to Lady Bird Johnson, and to Elie Wiesel.

May 8, 1984
[S. 2597]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) The President is authorized to present, on behalf of the Congress, to Margaret Truman Daniel, a gold medal of appropriate design, in recognition of the lifetime of outstanding public service which her father, Harry S Truman, gave to the United States, and in commemoration of his one hundredth birthday which will be celebrated on May 8, 1984.

(b) For purposes of the presentation referred to in subsection (a), the Secretary of the Treasury shall cause to be struck a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary.

(c) There are authorized to be appropriated not to exceed \$25,000 for fiscal year 1985 to carry out the provisions of this section.

Appropriation
authorization.

(d)(1) The Secretary of the Treasury may cause duplicates in bronze of the medal provided for in this section to be coined and sold under such regulations as the Secretary may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, overhead expenses, and the gold medal.

(2) The appropriation used to carry out the provisions of this section shall be reimbursed out of the proceeds of such sales.

SEC. 2. (a) The Congress finds and declares that—

(1) Lady Bird Johnson represents the finest qualities of American women, having demonstrated exceptional abilities in the fields of government, business, and social justice;

(2) Lady Bird Johnson's life of service to the Nation covers a generation of change in the status of women;

(3) the intelligence and devotion of Lady Bird Johnson to the concerns of the family, natural resources, and education have eased the transition of the roles of women and benefited the Nation;

(4) Lady Bird Johnson, in her roles as wife of a United States Representative and Senator, First Lady of the United States, skilled businesswoman, and regent for the University of Texas, has served as an example of the bridge between the traditional role and the contemporary roles of women in the United States; and

(5) Lady Bird Johnson has received national recognition with the presentation of many awards, including the George Foster Peabody Award, the Eleanor Roosevelt Golden Candlestick Award, the B'nai B'rith Humanitarian Award, the Business and Professional Women's Club Businesswomen's Award, the Ladies Home Journal Woman of the Year Award, the University of Texas Distinguished Alumni Award, the Department of the

Interior Conservation Service Award, and the Presidential Medal of Freedom.

(b) The President is authorized to present, on behalf of the Congress, to Lady Bird Johnson a gold medal of appropriate design, in recognition of her humanitarian efforts and outstanding contributions to the improvement and beautification of America.

(c) For purposes of the presentation referred to in subsection (b), the Secretary of the Treasury shall cause to be struck a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary of the Treasury.

(d) There are authorized to be appropriated not to exceed \$25,000 for fiscal year 1985 to carry out the provisions of this section.

(e)(1) The Secretary of the Treasury may cause duplicates in bronze of the medal provided for in this section to be coined and sold under such regulations as the Secretary may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, overhead expenses, and the gold medal.

(2) The appropriation used to carry out the provisions of this section may be reimbursed out of the proceeds of such sales.

SEC. 3. (a) The Congress finds and declares that—

(1) Elie Wiesel is internationally esteemed for his accomplishments as novelist, teacher, philosopher, critic, historian, humanitarian, and distinguished citizen of the United States and the world;

(2) the twenty-five published works of Elie Wiesel include novels, testimonies, short stories, and essays which fuse the richness of centuries-old religious traditions with the insights of modern philosophy;

(3) the life and writings of Elie Wiesel have been the subject of at least eleven books and his work is taught in high schools, colleges, and universities throughout the United States;

(4) Elie Wiesel in his role of "spiritual archivist of the Holocaust" encourages an understanding of the horrors of the past in order to offer humanity hope for a better and more secure future;

(5) Elie Wiesel served with distinction as Chairman of the President's Commission on the Holocaust and as Chairman of the United States Holocaust Memorial Council;

(6) Elie Wiesel has traveled, written, and worked for the cause of human rights in Biafra, Lebanon, Cambodia, the Soviet Union, and Central America; and

(7) Elie Wiesel has received the International Literary Prize for Peace and the Prix Medicis, two of the most prestigious literary awards of Europe, and honorary degrees from twenty-five universities of the United States and Israel.

(b) The President is authorized to present, on behalf of the Congress, to Elie Wiesel a gold medal of appropriate design, in recognition of his humanitarian efforts and outstanding contributions to world literature and human rights.

(c) For purposes of the presentation referred to in subsection (b), the Secretary of the Treasury shall cause to be struck a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary of the Treasury.

(d) There are authorized to be appropriated not to exceed \$25,000 for fiscal year 1985 to carry out the provisions of this section.

(e)(1) The Secretary of the Treasury may cause duplicates in bronze of the medal provided for in this section to be coined and sold

Appropriation
authorization.

Appropriation
authorization.

under such regulations as the Secretary may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, overhead expenses, and the gold medal.

(2) The appropriation used to carry out the provisions of this section may be reimbursed out of the proceeds of such sales.

SEC. 4. The medals provided for in this Act are national medals for the purposes of section 5111 of title 31, United States Code.

Approved May 8, 1984.

LEGISLATIVE HISTORY—S. 2597 (H.J. Res. 394) (H.R. 3614):

CONGRESSIONAL RECORD, Vol. 130 (1984):

Mar. 13, H.J. Res. 394 and H.R. 3614 considered and passed House.

Apr. 26, S. 2597 considered and passed Senate and House.

Public Law 98-279
98th Congress

An Act

May 8, 1984
[S. 2461]

To designate a Federal building in Bangor, Maine, as the “Margaret Chase Smith Federal Building”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal building located at 202 Harlow Street, Bangor, Maine, shall hereafter be named and designated as the “Margaret Chase Smith Federal Building”. Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the “Margaret Chase Smith Federal Building”.

Approved May 8, 1984.

LEGISLATIVE HISTORY—S. 2461:

SENATE REPORT No. 98-385 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 130 (1984):
Apr. 11, considered and passed Senate.
Apr. 26, considered and passed House.

Public Law 98-280
98th Congress

An Act

To declare certain lands held by the Seneca Nation of Indians to be part of the
Allegany Reservation in the State of New York.

May 9, 1984
[H.R. 3555]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the lands described in subsection (b) are declared—

(1) to be part of the Allegany Reservation in the State of New York, and

(2) to have the status of tribal lands for purposes of Federal law.

(b) The lands referred to in subsection (a) are the lands held by the Seneca Nation of Indians and more particularly described as follows:

(1) All that piece or parcel of land acquired by the Seneca Nation of Indians from the State of New York, Department of Transportation, pursuant to a deed dated September 2, 1981, situate in lots numbered 24, 25, 26, 28, and 29, township numbered 2, range numbered 7, in the town of Red House, county of Cattaraugus, State of New York, and consisting of seven hundred and ninety-five acres, more or less.

(2) All that piece or parcel of land acquired by the Seneca Nation of Indians from the State of New York, Department of Transportation, pursuant to a deed dated February 26, 1982, situate in lot numbered 14, township numbered 2, range numbered 8, town of Cold Spring, county of Cattaraugus, State of New York, and consisting of six acres, more or less.

Approved May 9, 1984.

LEGISLATIVE HISTORY—H.R. 3555 (S. 2061):

HOUSE REPORT No. 98-420 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 98-402 accompanying S. 2061 (Comm. on Indian Affairs).

CONGRESSIONAL RECORD:

Vol. 129 (1983): Nov. 7, considered and passed House.

Vol. 130 (1984): Apr. 26, considered and passed Senate.

Public Law 98-281
98th Congress

Joint Resolution

May 11, 1984
[S.J. Res. 244]

Designating the week beginning on May 6, 1984, as "National Asthma and Allergy Awareness Week".

Whereas asthma and allergic diseases result in physical, emotional, and economic hardship for more than thirty-five million Americans and their families;

Whereas thousands of Americans, many of them young, die each year from asthma even though sufficient medical knowledge and resources exist to prevent many asthma-related deaths;

Whereas student absenteeism is due in significant part to asthma and allergic diseases;

Whereas environmental conditions in the workplace often cause or exacerbate asthma and allergic diseases among employees;

Whereas many hospital patients suffer allergic reactions to prescribed medications;

Whereas it is estimated that the American public pays \$2,000,000,000 per year in medical bills directly attributable to the treatment and diagnosis of asthma and allergic diseases and pays another \$2,000,000,000 per year as a result of the indirect social cost of such illnesses;

Whereas, because of recent developments in the study of immunology, health care providers are better equipped to diagnose and treat asthma and allergic diseases; and

Whereas increased public awareness of recent scientific advancements in the study of immunology will help dispel many of the common misconceptions concerning asthma, allergic diseases, and the victims of those illnesses: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning on May 6, 1984, is hereby designated as "National Asthma and Allergy Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved May 11, 1984.

LEGISLATIVE HISTORY—S.J. Res. 244:

CONGRESSIONAL RECORD, Vol. 130 (1984):

Apr. 25, considered and passed Senate.

May 3, considered and passed House.

Public Law 98-282
98th Congress

An Act

To declare that the United States holds certain lands in trust for the Makah Indian Tribe, Washington.

May 14, 1984
[H.R. 3376]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) Subject to subsection (c), all right, title, and interest of the United States in the lands described in subsection (b) are declared—

(1) to be held in trust by the United States for the Makah Indian Tribe, Washington, and

(2) to be a part of the Makah Indian Reservation.

(b) The lands referred to in subsection (a) are the islands described as follows:

The unsurveyed island of Tatoosh together with its islets and rocks, located between latitude 48 degrees 23 minutes north and 48 degrees 24 minutes north (protracted township 33 north, range 16 west, in section 2 and protracted township 34 north, range 16 west, in section 35), containing approximately 47.2 acres in Clallam County, Washington, West Willamette Meridian.

The island known as Waadah Island, described as lot 1 in section 1, containing 1.89 acres; lot 1 in section 2, containing 22.94 acres; lot 11 in section 11, containing 3.50 acres, and lot 16 in section 12, containing 5.89 acres, all in township 33 north, range 15 west, West Willamette Meridian, Plat of Survey approved February 5, 1926.

(c) Nothing in subsection (a) shall deprive the United States of any right to use, occupy, maintain, replace, expand, or reconstruct any Coast Guard facility on any island described in subsection (b), including any aid to navigation and access to any such aid to navigation. If the United States Coast Guard shall at any time cease to have need for any such facilities, the Secretary of Transportation (or the Secretary of Defense when the Coast Guard is operating as a service in the Navy) shall notify the Makah Indian Tribe and the Secretary of the Interior of that fact. Upon any such notification, any reservation of right under this subsection shall terminate.

Coast Guard
facility.

(d) No existing fishing right of the Makah Indian Tribe shall be enlarged, impaired, or otherwise affected by subsection (a).

Fish and
fishing.

Approved May 14, 1984.

LEGISLATIVE HISTORY—H.R. 3376 (S. 2468):

HOUSE REPORT No. 98-462 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 98-403 accompanying S. 2468 (Comm. on Indian Affairs).

CONGRESSIONAL RECORD:

Vol. 129 (1983): Nov. 18, considered and passed House.

Vol. 130 (1984): Apr. 26, considered and passed Senate.

Public Law 98-283
98th Congress

Joint Resolution

May 15, 1984
[S.J. Res. 232]

To authorize and request the President to designate the month of May 1984 as "National Physical Fitness and Sports Month".

Whereas one of every two adults in our country is a regular participant in exercise and sports;

Whereas the number of physically active men and women has doubled in ten years and continues to grow rapidly;

Whereas today we recognize that physical activity is an important part of daily life for people of both sexes and of all ages;

Whereas physical activity is vital to good health and is a rich source of pleasure and personal satisfaction;

Whereas our physical fitness and sports programs are one of the primary means by which we strengthen our bodies and refresh our spirits; and

Whereas it is essential that we make fitness and sports programs increasingly available so that all of our citizens will be able to experience the joys and benefits they offer: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating the month of May 1984 as "National Physical Fitness and Sports Month", and to call upon Federal, State, and local government agencies, and the people of the United States to observe the month with appropriate programs, ceremonies, and activities.

Approved May 15, 1984.

LEGISLATIVE HISTORY—S.J. Res. 232:

CONGRESSIONAL RECORD, Vol. 130 (1984):
Feb. 27, considered and passed Senate.
May 1, considered and passed House.

Public Law 98-284
98th Congress

An Act

To extend and improve the existing program of research, development, and demonstration in the production and manufacture of guayule rubber, and to broaden such program to include other critical agricultural materials.

May 16, 1984

[H.R. 2733]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first section of the Native Latex Commercialization and Economic Development Act of 1978 (hereinafter referred to as "the Act") is amended to read as follows: "That this Act may be cited as the 'Critical Agricultural Materials Act'."

7 USC 178 note.

SEC. 2. Section 2 of the Act is amended—

7 USC 178.

(1) by inserting "(1)" after "SEC. 2. (a)";

(2) by redesignating subsections (b) through (e) as paragraphs (2) through (5); and

(3) by striking out paragraph (5) (as so redesignated) and inserting in lieu thereof the following:

"(5) Congress further recognizes that ongoing research into the development and commercialization of native latex has been conducted by the Department of Agriculture, the Department of Commerce, the National Science Foundation, and other public as well as private and industrial research groups, and that these research efforts should be continued and expanded."; and

(4) by striking out subsection (f) and inserting in lieu thereof the following:

"(b) In addition, Congress recognizes that the development of a domestic industry or industries for the production and manufacture from native agricultural crops of products other than rubber which are of strategic and industrial importance but for which the Nation is now dependent upon foreign sources, would benefit the economy, the defense, and the general well-being of the Nation, and that additional research efforts in this area should be undertaken or continued and expanded.

"(c) It is therefore the policy of the United States to provide for the development and demonstration of economically feasible means of culturing and manufacturing *Parthenium* and other hydrocarbon-containing plants, along with other native agricultural crops, for the production of critical agricultural materials to benefit the Nation and promote economic development."

Hydrocarbon-containing plants.

SEC. 3. (a) Section 3(d) of the Act is amended to read as follows:

7 USC 178a.

"(d) The term 'native' means hydrocarbon-containing plants and other agricultural crops of strategic and industrial importance which may be cultured in North America, especially plants which are members of the genus *Parthenium* known as Guayule."; and

(b) Section 3 of the Act is further amended by striking out subsection (e).

SEC. 4. (a) Section 4(a) of the Act is amended by striking out "Guayule Research and Commercialization" and inserting in lieu thereof "Research and Development of Critical Agricultural Materials".

7 USC 178b.

7 USC 178b.

(b) Section 4(b) of the Act is amended to read as follows:

“(b) The Joint Commission shall consist of the following members: Three individuals designated by the Secretary of Agriculture from among the staff of the Department of Agriculture; three individuals designated by the Secretary of Commerce from among the staff of the Department of Commerce; a representative of the Bureau of Indian Affairs of the Department of the Interior; a representative of the National Science Foundation; a representative of the Department of State; a representative of the Department of Defense; and a representative of the Federal Emergency Management Agency. Each of the members of the Joint Commission shall be an individual who, on behalf of the Department or agency which such individual represents, is engaged in the support of research, development, demonstration, and commercialization activities involving native latex and the production of other critical agricultural materials from native agricultural crops.”.

(c) Section 4(c) of the Act is amended to read as follows:

“(c) The Joint Commission shall be headed by a Chairman who shall be selected by the Secretary of Agriculture from among the three individuals designated by the Secretary as members under subsection (b).”.

(d) Section 4(h) of the Act is amended by striking out “rubber manufacturing and commerce” and inserting in lieu thereof “manufacturing and commerce involving rubber and other critical agricultural materials”.

7 USC 178c.

Sec. 5. Section 5 of the Act is amended—

(1) by striking out the first sentence and inserting in lieu thereof the following:

“(a) The Department of Agriculture shall be the lead agency in carrying out this Act.

“(b) The Secretary of Agriculture shall conduct, sponsor, promote, and coordinate basic and applied research, technology development, and technology transfer leading to effective and economical methods for large-scale culturing of plantations and the extraction of latex from *Parthenium* or other hydrocarbon-containing plants, and for the development of other critical agricultural materials from native agricultural crops having strategic and industrial importance.”;

(2) by redesignating clauses (a) through (h) in the second sentence as paragraphs (1) through (8), respectively;

(3) by striking out paragraph (3) (as so redesignated) and inserting in lieu thereof the following:

“(3) accelerating present plant breeding, genetics, and selection programs for the purpose of improving and increasing latex yields, expanding insect and disease resistance, broadening the ranges of drought and cold resistance of the *Parthenium* plant, and providing a system of regional research trials for enhancing and increasing the supply of foundation seed for certified seed production;”;

(4) by striking out paragraph (4) (as so redesignated) and inserting in lieu thereof the following:

“(4) establishing a system of large-scale experimental plantings (aggregating ten thousand acres or more) to provide shrub for feedstock to process in the developmental rubber processing facility described in paragraph (7);”;

(5) by striking out paragraph (7) (as so redesignated) and inserting in lieu thereof the following:

“(7) accelerating the refinement of present extraction and processing technologies and future extraction technologies, including the development and construction of a developmental rubber processing facility for the extraction and production of test quantities of guayule natural rubber;”;

(6) by striking out the period at the end of paragraph (8) (as so redesignated) and inserting in lieu thereof “; and”;

(7) by adding after paragraph (8) (as so redesignated) the following new paragraph:

“(9) studying the economic feasibility of developing other native agricultural crops (in addition to Parthenium and other hydrocarbon-containing plants) that would supply critical agricultural materials for strategic and industrial purposes, and, to the extent appropriate, carrying out research activities with respect to such crops in the manner specified in paragraphs (1) through (8).”; and

(8) by adding at the end thereof the following new subsection:

“(c) The Secretary of Agriculture shall establish within the Department of Agriculture an Office of Critical Agricultural Materials, as a central location where such Department can address research and development with respect to agricultural crops that have the potential of producing critical materials for strategic and industrial purposes.”.

Office of Critical
Agricultural
Materials,
establishment.
Research and
development.

SEC. 6. Section 6 of the Act is amended—

7 USC 178d.

(1) by inserting before the period at the end of the first sentence the following: “or the manufacture and commercialization of other critical agricultural materials from native agricultural crops having strategic and industrial importance”;

(2) by striking out “may be carried out through the Regional Commissions or otherwise and” in the second sentence;

(3) by striking out “and” at the end of clause (e);

(4) by striking out the period at the end of clause (f) and inserting in lieu thereof “; and”;

(5) by adding after clause (f) the following new clause:

“(g) to the extent appropriate, carrying out research activities with respect to native agricultural crops (other than Parthenium and other hydrocarbon-containing plants) that would supply critical agricultural materials for strategic and industrial purposes, in the manner specified in clauses (a) through (f).”.

SEC. 7. Section 7 of the Act is amended—

7 USC 178e.

(1) by inserting “, the Government of Australia, and the Government of Israel” after “Mexico”; and

(2) by striking out “latex extraction and processing” and inserting in lieu thereof “extraction and processing of latex and other critical agricultural materials produced in the United States”.

SEC. 8. Section 8 of the Act is amended by inserting before the period at the end thereof the following: “or to other critical agricultural materials”.

7 USC 178f.

SEC. 9. Section 9 of the Act is amended—

7 USC 178g.

(1) by inserting “or the culture of other native agricultural crops which could supply critical agricultural materials” before the semicolon in clause (h); and

(2) by inserting “or the technology of other native agricultural crops which could supply critical agricultural materials” before the semicolon in clause (i).

7 USC 178h.

SEC. 10. Section 10 of the Act is amended—

(1) by striking out “the provisions of this section” and inserting in lieu thereof “the provisions of this Act”;

(2) by striking out “, acting through the Regional Commissions or otherwise,”;

(3) by inserting “having expertise in native agricultural crops which could supply critical agricultural materials” after “personnel” in clause (b); and

(4) by striking out “natural rubber manufacture” in clause (f) and inserting in lieu thereof “the activities authorized by this Act”.

7 USC 178i.

SEC. 11. Section 11 of the Act is amended—

(1) by striking out “shall insure that their activities are closely coordinated with the activities of other Federal agencies” and inserting in lieu thereof “shall cooperate with each other in the conduct of their activities under this Act, and shall insure that their activities under this Act are closely coordinated with the activities of other Federal agencies”;

(2) by inserting “Department of State,” after “Department of Energy,”; and

(3) by striking out “Federal Preparedness Agency, and others” and inserting in lieu thereof “Federal Emergency Management Agency, and others,”.

7 USC 178k.

SEC. 12. Section 13 of the Act is amended—

(1) by striking out “The Secretary of Agriculture and the Secretary of Commerce” and inserting in lieu thereof “The Secretaries”;

(2) by inserting after “byproducts” the following: “, as well as products, other than rubber, developed from agricultural crops which are of strategic and industrial importance,”; and

(3) by inserting after the first sentence the following new sentence: “Dispositions under this section may include sales of the materials involved to other Federal departments and agencies for testing purposes.”.

7 USC 178l.

SEC. 13. Section 14 of the Act is amended by striking out “The Secretary of Agriculture and the Secretary of Commerce” and inserting in lieu thereof “The Secretaries”.

7 USC 178m.

SEC. 14. Section 15 of the Act is amended—

(1) by striking out “The Secretary of Agriculture and the Secretary of Commerce” and inserting in lieu thereof “The Secretaries”; and

(2) by striking out “1982” and inserting in lieu thereof “1987”.

Appropriation
authorizations.
7 USC 178n.

SEC. 15. (a) Section 16(a) of the Act is amended by striking out “and” where it appears after “1981,” and by inserting after “1983,” the following: “\$5,000,000 for the fiscal year ending September 30, 1984, \$5,500,000 for the fiscal year ending September 30, 1985, \$6,500,000 for the fiscal year ending September 30, 1986, \$7,500,000 for the fiscal year ending September 30, 1987, and \$8,000,000 for the fiscal year ending September 30, 1988,”.

(b) Section 16(b) of the Act is amended by striking out “and” where it appears after “1981,” and by inserting after “1983,” the following: “\$2,500,000 for the fiscal year ending September 30, 1984, \$3,000,000 for the fiscal year ending September 30, 1985, \$3,500,000 for the fiscal year ending September 30, 1986, \$4,000,000 for the fiscal year ending September 30, 1987, and \$4,500,000 for the fiscal year ending September 30, 1988,”.

(c) Section 16 of the Act is further amended by adding at the end thereof the following new subsection: 7 USC 178n.

“(e) Notwithstanding any other provision of this Act, the Secretaries and the Joint Commission shall limit their activities under this Act to critical agricultural materials other than native latex after the close of the fiscal year ending September 30, 1988.”.

Approved May 16, 1984.

LEGISLATIVE HISTORY—H.R. 2733:

HOUSE REPORTS: No. 98-109, Pt. 1 (Comm. on Agriculture) and Pt. 2 (Comm. on Science and Technology).

SENATE REPORT No. 98-164 (Comm. on Agriculture, Nutrition, and Forestry).

CONGRESSIONAL RECORD:

Vol. 129 (1983): May 17, considered and passed House.

Vol. 130 (1984): May 1, considered and passed Senate.

Public Law 98-285
98th Congress

An Act

May 17, 1984
[H.R. 3240]

To authorize the President of the United States to present on behalf of Congress a specially struck medal to the widow of Roy Wilkins.

Appropriation
authorization.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the President of the United States is authorized to present, on behalf of the Congress, to Aminda Badeau Wilkins, the widow of Roy Wilkins, a gold medal of appropriate design in recognition of the incomparable contribution of Roy Wilkins to the struggle for civil rights and equality for all Americans. For such purpose, the Secretary of the Treasury is authorized and directed to cause to be struck a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary of the Treasury. There are authorized to be appropriated not to exceed \$25,000 to carry out the provisions of this subsection.

(b) The Secretary of the Treasury may cause duplicates in bronze of such medal to be coined and sold under such regulations as he may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, overhead expenses, and the gold medal. The appropriation used to carry out the provisions of subsection (a) shall be reimbursed out of the proceeds of such sales.

SEC. 2. The medals provided for in this Act are national medals for purposes of section 5111 of title 31, United States Code.

Approved May 17, 1984.

LEGISLATIVE HISTORY—H.R. 3240:

CONGRESSIONAL RECORD, Vol. 130 (1984):

Mar. 13, considered and passed House.

May 8, considered and passed Senate.

Public Law 98-286
98th Congress

Joint Resolution

To designate the week of May 20, 1984, through May 26, 1984, as "National Arts With the Handicapped Week".

May 17, 1984
[S.J. Res. 220]

Whereas programs involving the arts enhance the learning and enrich the lives of disabled persons;

Whereas arts with the handicapped is a means of integrating disabled persons into the mainstream of education and cultural society;

Whereas programs bringing arts to the handicapped inform the general public, parents, volunteers, and the business community of the value of arts to the disabled;

Whereas emphasis is needed to expand support for arts programs with the handicapped and to increase participation and commitment of the community and educators to these activities;

Whereas the National Committee Arts With the Handicapped, an educational affiliate of the John F. Kennedy Center for the Performing Arts, will celebrate its tenth anniversary as the coordinating agency for arts programs for disabled children with a very special arts festival in Washington, District of Columbia, during the week of May 20, 1984; and

Whereas the committee conducts education programs in all fifty States, the District of Columbia, and Puerto Rico to assure that all disabled persons have access to programs which bring the arts into their lives: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of May 20, 1984, through May 26, 1984, is designated as "National Arts With the Handicapped Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate programs, ceremonies, and activities.

Approved May 17, 1984.

LEGISLATIVE HISTORY—S.J. Res. 220:

CONGRESSIONAL RECORD, Vol. 130 (1984):
Feb. 27, considered and passed Senate.
May 3, considered and passed House.

Public Law 98-287
98th Congress

An Act

May 21, 1984
[S. 597]

To convey certain lands to Show Low, Arizona.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. That the Secretary of Agriculture is authorized and directed to survey and convey, by quitclaim deed and without consideration, to the city of Show Low, Arizona, all right, title, and interest of the United States to the lands generally depicted on a map entitled "Land Conveyance, City of Show Low, Arizona", and dated February 1984, which shall be on file and available in the office of the Chief of the Forest Service, Department of Agriculture, and more particularly described as a tract of land, together with improvements thereon, known as the Show Low City Park estimated to include approximately 52.46 acres.

Real property.

SEC. 2. Title to any real property acquired by the city of Show Low pursuant to this Act shall revert to the United States if the city attempts to convey or otherwise transfer ownership of any portion of such property to any other party or attempts to encumber such title, or if the city permits the use of any portion of such property for any purpose incompatible with the purposes specified in section 3 of this Act.

Real property.

SEC. 3. Real property conveyed to the city of Show Low pursuant to this Act shall be used only for public open space, park and recreational purposes.

Approved May 21, 1984.

LEGISLATIVE HISTORY—S. 597 (S. 613):

HOUSE REPORT No. 98-609 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 98-12 accompanying S. 613 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD:

Vol. 129 (1983): Apr. 13, considered and passed Senate.

Vol. 130 (1984): Mar. 5, considered and passed House, amended.

Apr. 11, Senate concurred in House amendment with amendment.

May 2, House concurred in Senate amendment.

Public Law 98-288
98th Congress

An Act

To extend and improve the Domestic Volunteer Service Act of 1973, and for other purposes.

May 21, 1984
[S. 1129]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “Domestic Volunteer Service Act Amendments of 1984”.

Domestic
Volunteer
Service Act
Amendments
of 1984.
42 USC 4951
note.

VOLUNTEERS IN SERVICE TO AMERICA; STATEMENT OF PURPOSE

SEC. 2. Section 101 of the Domestic Volunteer Service Act of 1973 (hereafter in this Act referred to as the “Act”) is amended—

42 USC 4951.

(1) in the second sentence—

(A) by inserting “and alleviate” after “eliminate”;

(B) by striking out “human, social, and environmental” after “poverty-related”;

(C) by inserting “, all geographical areas,” after “all walks of life”; and

(D) by inserting “low-income individuals,” before “elderly”; and

(2) by adding at the end thereof the following new sentence: “In addition the objective of this part is to generate the commitment of private sector resources and to encourage volunteer service at the local level to carry out the purposes set forth in this section.”.

RECRUITMENT

SEC. 3. Section 102 of the Act is amended by inserting “(a)” after the section designation and by adding at the end thereof the following new subsections:

42 USC 4952.

“(b) If any applicant under this part who is recruited locally becomes unavailable for service prior to the commencement of service, the recipient of the project grant or contract may replace such applicant with another qualified applicant approved by the Director.

“(c) The Director shall ensure that not less than 20 per centum of all volunteers under this part are fifty-five years of age or older.”.

ASSIGNMENT OF VOLUNTEERS

SEC. 4. (a) Section 103(a) of the Act is amended—

42 USC 4953.

(1) in the matter preceding clause (1)—

(A) by inserting “in the local communities in which the volunteers were recruited” after “States”; and

(B) by inserting “, including work” after “programs”; and

(2) by striking out in paragraph (2) “, under the supervision of nonprofit institutions or facilities, and” and inserting in lieu thereof a semicolon;

42 USC 9901
note.
42 USC 2991,
2996.
42 USC 9801
note.
42 USC 9801
note.

(3) by striking out in clause (3) "the Economic Opportunity Act of 1964, as amended (42 U.S.C. chapter 34)" and inserting in lieu thereof "the Community Service Block Grant Act, titles VIII and X of the Economic Opportunity Act of 1964, the Headstart Act, or the Community Economic Development Act of 1981,"; and

(4) by redesignating clause (3) as clause (5) and by inserting immediately after clause (2) the following new clauses:

"(3) in addressing the problems of the homeless, the jobless, the hungry, illiterate or functionally illiterate youth and other individuals, and low-income youths;

"(4) in addressing the special needs connected with alcohol and drug abuse prevention, education, and related activities, consistent with the purpose of this part; and".

42 USC 4953.

(b) Section 103(b) of the Act is amended by striking out all that follows the first sentence and inserting in lieu thereof "The Director shall make efforts to assign volunteers to serve in their home communities or in nearby communities and shall make national efforts to attract other volunteers to serve in the VISTA program."

(c)(1) Section 103 of the Act is further amended—

(A) by redesignating subsections (c) and (d) as subsections (e) and (f), respectively; and

(B) by inserting after subsection (b) the following new subsections:

Employment
and unem-
ployment.

"(c) The Director shall provide each low-income community volunteer with an individual plan for job advancement or for transition to a situation leading to gainful employment. Whenever feasible, such efforts shall be coordinated with an appropriate private industry council under the Job Training Partnership Act.

29 USC 1501
note.

"(d) The Director may provide or arrange for educational and vocational counseling of volunteers and recent former volunteers under this part to (1) encourage them to use, in the national interest, the skills and experience which they have derived from their training and service, particularly working in combating poverty as members of the helping professions, and (2) promote the development of appropriate opportunities for the use of such skills and experience, and the placement therein of such volunteers."

42 USC 5042.

(2) Section 402 of the Act is amended by—

(A) striking out all of clause (13); and

(B) redesignating clauses (14) and (15) as clauses (13) and (14), respectively.

42 USC 4953.

(d) The first sentence of section 103(f) (as redesignated by subsection (c) of this section) is amended by striking out "duties or work in a program or project in any State unless such program or project" and inserting in lieu thereof "work in a program or project in any community unless the application for such program or project contains evidence of local support and".

TERMS AND PERIODS OF SERVICE

42 USC 4954.

SEC. 5. Section 104(a) is amended—

(1) by striking out "human, social, and environmental" in the first sentence; and

(2) by striking out "this" the first place it appears in the second sentence and inserting in lieu thereof "the requirement for full-time commitment".

SUPPORT SERVICES

SEC. 6. Section 105(b) of the Act is amended by inserting “pre-service training and where appropriate in-service training,” after “supervision.” 42 USC 4955.

PARTICIPATION OF BENEFICIARIES

SEC. 7. Section 106 of the Act is amended by striking out “take all necessary steps to establish, in regulations he shall prescribe” and insert in lieu thereof “establish in regulations”. 42 USC 4956.

REPEAL OF LIMITATIONS

SEC. 8. Section 108 of the Act is amended— 42 USC 4958.
(1) by striking out in the first sentence of subsection (a) “1977” and inserting in lieu thereof “1984”;
(2) by striking out all of the second sentence of subsection (a); and
(3) in subsection (b)(2) by striking out “human, social, or environmental”.

SERVICE LEARNING PROGRAMS; STATEMENT OF PURPOSE

SEC. 9. Section 111 of the Act is amended— Students.
42 USC 4971.
(1) by inserting immediately before the first sentence of such section the following new sentence: “The purpose of this part is to assist students, through service-learning programs, to undertake volunteer service in such a way as to enhance the educational value of the service experience, through participation in activities that strengthen and supplement efforts to eliminate and alleviate poverty and poverty-related problems.”; and
(2) by striking out “encourage other students” in the third sentence and all that follows through the end of such subsection and inserting in lieu thereof “provide technical assistance and training to encourage other students and faculty to engage in volunteer service on a part-time, self-supporting basis, to meet the needs of the poor in the surrounding community through expansion of service-learning programs and otherwise.”.

SPECIAL SERVICE LEARNING PROGRAMS

SEC. 10. Section 114(a) of the Act is amended to read as follows: Grants.
Students.
42 USC 4974.
“SEC. 114. (a) The Director is authorized to make grants and contracts for technical assistance, training, and projects which encourage and enable students in secondary, secondary vocational, and postsecondary schools to participate in service-learning programs on an in-school or out-of-school basis in assignments of a character and on such terms and conditions as are described in subsections (a) and (e) of section 103. Any project assisted under this part shall meet the anti-poverty criteria of section 111 and contain an educational and service component.”. 42 USC 4953.
42 USC 4971.

SPECIAL VOLUNTEER PROGRAMS; STATEMENT OF PURPOSE

SEC. 11. Section 121 of the Act is amended— 42 USC 4991.
(1) by striking out “human, social, and environmental”; and
(2) by adding at the end thereof the following new sentence:
“It is the further purpose of this part to provide technical and

financial assistance to encourage voluntary organizations and volunteer efforts at the national, State, and local level.”.

AUTHORITY TO ESTABLISH AND OPERATE PROGRAMS

Grants.
Contracts
with U.S.
42 USC 4992.

SEC. 12. Section 122 of the Act is amended by inserting at the end thereof the following new subsection (d):

“(d)(1) In carrying out programs authorized by this part, the Director shall establish criteria to make grants and enter into contracts, in each fiscal year, on the basis of merit and the equitable geographic distribution of programs.

“(2) No grant or contract exceeding \$50,000 shall be made under this part unless the grantee or contractor has been selected by a competitive process which includes public announcement of the availability of funds for such grant or contract, general criteria for the selection of recipients or contractors, and a description of the application process and application review process.

“(3) Multiple grants or contracts to the same grantee or contractor within any one year to support activities having the same general purpose shall be deemed to be a single grant for the purpose of this subsection, but multiple grants or contracts to the same grantee or contractor to support clearly distinct activities shall be considered separate grants or contracts.”.

TECHNICAL AND FINANCIAL ASSISTANCE

42 USC 4993.

SEC. 13. Section 123 of the Act is amended by striking out “or (2)” and inserting in lieu thereof “(2) technical assistance and training programs, including the creation or expansion of private capabilities where possible and the development of voluntary organizations, with particular emphasis on low-income, minority, and community-based groups, or (3)”.

GENERAL AMENDMENTS REGARDING PROGRAMS

SEC. 14. (a) Section 201(a) of the Act (42 U.S.C. 5001(a)) is amended by striking out “he” each place it appears and inserting in lieu thereof “the Director”.

(b) Section 201(b) of the Act (42 U.S.C. 5001(b)) is amended by striking out “30 per centum” and all that follows through “years”, and inserting in lieu thereof “and 30 per centum in any subsequent such years”.

Foster
grandparent.

(c) Section 211 of the Act (42 U.S.C. 5011) is amended—

(1) in subsection (a) by striking out “he” each place it appears and inserting in lieu thereof “the Director”;

(2) in subsection (b)(2) by adding at the end thereof “If the particular foster grandparent subject to the determination under this paragraph becomes unavailable to serve after such determination is made, the agency or organization may select another foster grandparent.”;

(3) in subsection (d)—

(A) by striking out “he” each place it appears and inserting in lieu thereof “the Director”; and

(B) by striking out “\$2” each place it appears and inserting in lieu thereof “\$2.20”; and

(4) by amending subsection (e) to read as follows:

“(e) For purposes of this part, the terms ‘low-income person’ and ‘person of low income’ mean—

Disadvantaged persons.

“(1) any person whose income is not more than 125 per centum of the poverty line defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) and adjusted by the Director in the manner described in such section; and

“(2) any person whose income is not more than 100 per centum of such poverty line, as so adjusted and determined by the Director after taking into consideration existing poverty guidelines as appropriate to local situations.

Persons described in paragraph (2) shall be given special consideration for participation in projects under this part.”.

SENIOR COMPANION PROJECTS TO ASSIST HOMEBOUND ELDERLY

SEC. 15. Section 213 of the Act is amended by adding at the end thereof the following new subsection:

42 USC 5013.

“(c)(1) The Director is authorized to make grants or contracts for senior companion projects to assist homebound elderly to remain in their own homes and to enable institutionalized elderly to return to home care settings.

Grants.
Contracts
with U.S.

“(2)(A) The Director is authorized to recruit, subject to subparagraph (B), senior companion volunteer trainers who on the basis of experience (such as, doctors, nurses, home economists, social workers) will be used to train senior companion volunteers to participate in and monitor initial and continuing needs assessments and appropriate in-home services for senior companion volunteer recipients. The needs assessments and in-home services shall be coordinated with and supplement existing community based home health and long-term care systems. The Director may also use senior companion volunteer leaders, who on the basis of experience as volunteers, special skills, and demonstrated leadership abilities may spend time in the program (in addition to their regular assignment) to assist newer senior companion volunteers in performing their assignments and in coordinating activities of such volunteers.

“(B) Senior companion volunteer trainers recruited under subparagraph (A) of this paragraph shall not be paid stipends.

“(3) The Director shall conduct an evaluation of the impact of the projects assisted under this subsection based upon a sample survey of projects so assisted. In the third year of such study, the Director shall prepare and submit a report to the Congress. Such evaluation study shall include information on—

Report.

“(A) the extent to which costs of providing long-term care are reduced by using senior companion volunteers who receive stipends in the provision of long-term care services;

“(B) the effectiveness of the provision of long-term care with the use of volunteers;

“(C) the extent to which health care needs and health related costs of the senior companion volunteers themselves are affected because of their involvement in the project;

“(D) the extent of coordination with other Federal and State efforts aimed at enabling older individuals to receive care in their own homes; and

“(E) the effectiveness of using senior companion volunteer leaders and of involving senior companion volunteers based on the training of the volunteer leaders and volunteers.”.

OLDER AMERICAN VOLUNTEER PROGRAMS; LOCALLY GENERATED CONTRIBUTIONS

SEC. 16. (a) Part C of title II of the Act is amended by adding at the end thereof the following new section:

“USE OF LOCALLY GENERATED CONTRIBUTIONS IN OLDER AMERICAN VOLUNTEER PROGRAMS

42 USC 5024.

“SEC. 224. Whenever locally generated contributions made to volunteer programs for older Americans under this title are in excess of the amount required by the Director, the Director may not restrict the manner in which such contributions are expended if expenditures from locally generated contributions are not inconsistent with the provisions of this Act.”.

(b) The table of contents of part C of title II of the Act is amended by inserting after item “Sec. 223.” the following new item:

“Sec. 224. Use of locally generated contributions in older American volunteer programs.”.

ESTABLISHMENT OF AGENCIES

42 USC 5041.

SEC. 17. Section 401 of the Act is amended—

(1) by inserting before the period at the end of the first sentence the following: “in order to provide a focal point for volunteerism at the national, State, and local level”; and

(2) by striking out all of such section after the fourth sentence and inserting in lieu thereof the following: “There shall also be in such agency one Associate Director who shall be appointed by the President with the advice and consent of the Senate, and shall be compensated at the rate provided for level 5 of the Executive Schedule under section 5316 of title 5, United States Code. Such Associate Director shall be designated ‘Associate Director for Domestic and Anti-Poverty Operations’ and shall carry out operational responsibility for all programs authorized under this Act. There shall also be in such agency two Assistant Directors, each of whom shall be appointed by the Director, and who shall report directly to the Associate Director for Domestic and Anti-Poverty Operations. One such Assistant Director shall be primarily responsible for VISTA and other antipoverty programs under title I of this Act, and one such Assistant Director shall be primarily responsible for the Older American Volunteer Programs under title II of this Act.”.

42 USC 4951.

42 USC 5001.

AUTHORITY OF THE DIRECTOR

42 USC 5042.

SEC. 18. (a) Section 402(1) of the Act is amended by inserting immediately before the semicolon at the end thereof the following: “except that the number of schedule C employees, individuals employed on a temporary basis at GS-8 or higher, experts, and consultants shall at no time exceed 8.5 per centum of the total number of individuals employed by the ACTION Agency”.

(b) The amendment made by subsection (a) shall take effect one year after the date of the enactment of this Act.

Effective date.
42 USC 5042
note.

SPECIAL LIMITATIONS

SEC. 19. Section 404(f) of the Act is amended—

42 USC 5044.

- (1) by striking out “and except as provided in the second sentence of this subsection” in the first sentence; and
- (2) by striking out the second sentence.

REPEAL OF THE NATIONAL VOLUNTEER SERVICE ADVISORY COUNCIL

SEC. 20. (a) Effective January 1, 1986, section 405 of the Act is repealed.

42 USC 5045.

(b) Effective January 1, 1986, the item relating to section 405 in the table of contents is repealed.

REPORTS

SEC. 21. Section 407 of the Act is amended by inserting at the end thereof the following new sentence: “Such report shall reflect the findings and actions taken as a result of any evaluation conducted pursuant to section 416.”.

42 USC 5047.

42 USC 5056.

CHANGES IN NOTICE AND HEARING PROCEDURES

SEC. 22. Section 412 of the Act is amended—

42 USC 5052.

- (1) by inserting “(a)” after “412.”;
- (2) by striking out in paragraph (1) “, nor shall an” and all that follows to the end of such paragraph and inserting in lieu thereof a semicolon;
- (3) by redesignating paragraph (2) as paragraph (4);
- (4) by inserting after paragraph (1) the following new paragraphs:

“(2) an application for refunding under this Act may not be denied unless the recipient has been given (A) notice at least 75 days before the denial of such application of the possibility of such denial and the grounds for any such denial, and (B) opportunity to show cause why such action should not be taken;

“(3) in any case where an application for refunding is denied for failure to comply with the terms and conditions of the grant or contract award, the recipient shall be afforded an opportunity for an informal hearing before an impartial hearing officer, who has been agreed to by the recipient and the Agency; and”;

and

(5) inserting at the end thereof the following new subsection:

“(b) In order to assure equal access to all recipients, such hearings or other meetings as may be necessary to fulfill the requirements of this section shall be held at locations convenient to the recipient agency.”.

EVALUATION

SEC. 23. Section 416(a) of the Act is amended—

42 USC 5056.

- (1) by striking out “periodically” and inserting in lieu thereof “biennially”; and

(2) in the second sentence by striking out “or project evaluated.” and inserting in lieu thereof “or any project of such program being evaluated. Such evaluation shall also measure and evaluate compliance with the equitable distribution requirement of section 414 of this Act.”.

42 USC 5054.

ELIGIBILITY FOR OTHER PROJECTS

- 42 USC 5058. SEC. 24. Section 418 of the Act is amended by inserting "workers' compensation," after "public assistance,".

LEGAL EXPENSES

- 42 USC 5059. SEC. 25. Section 419 of the Act is amended by striking out "or section 8(b)(1) of the Small Business Act, as amended (15 U.S.C. 637(b)(1))".

REQUIREMENTS FOR PRESCRIBING REGULATIONS

- 42 USC 5060. SEC. 26. Section 420 of the Act is amended—
- (1) by striking out in subsection (c)(1) "Except as provided in paragraph (2)(B) of this subsection, no" and inserting in lieu thereof "No";
 - (2) in subsection (c)(2)(A) by striking out "(A)" after "(2)";
 - (3) by striking out paragraph (B) of subsection (c)(2); and
 - (4) in subsection (d)—
 - (A) by striking out in the second sentence "Except as is provided in the following sentence, no" and inserting in lieu thereof "No"; and
 - (B) by striking out the third sentence.

NATIONAL VOLUNTEER ANTIPOVERTY PROGRAMS AUTHORIZATION

- 42 USC 5081. SEC. 27. (a) Section 501 of the Act is amended to read as follows:

"NATIONAL VOLUNTEER ANTIPOVERTY PROGRAMS AUTHORIZATION

- 42 USC 4951. "SEC. 501. (a) There is authorized to be appropriated to carry out part A of title I of this Act \$17,000,000 for fiscal year 1984, \$20,000,000 for fiscal year 1985, and \$25,000,000 for fiscal year 1986.
- 42 USC 4971. "(b) There is authorized to be appropriated to carry out part B of title I of this Act \$1,800,000 for the fiscal year 1984 and for each of the fiscal years 1985 and 1986.
- 42 USC 4991. "(c) There is authorized to be appropriated to carry out part C of title I of this Act \$1,984,000 for the fiscal year 1984 and for each of the fiscal years 1985 and 1986.
- "(d)(1) Of the amounts appropriated under this section for parts A, B, and C of title I, there shall first be available for part A of title I an amount not less than the amount necessary to provide—
- "(A) 2,000 years of volunteer service in fiscal year 1984;
 - "(B) 2,200 years of volunteer service in fiscal year 1985; and
 - "(C) 2,400 years of volunteer service in fiscal year 1986.
- "(2) For purposes of paragraph (1), the term 'volunteer service' shall include training and other support required under this Act for purposes of part A of title I.
- 42 USC 4951. "(3) The requirement of paragraph (1)(A) shall not apply unless there is appropriated for title I for fiscal year 1984 an amount in addition to amounts available under Public Law 98-151.
- 97 Stat. 964. "(e) No part of the funds authorized under subsection (a) may be used to provide volunteers or assistance to any program or project authorized under part B or C of title I, or under title II, unless the program or project meets the antipoverty criteria of part A of title I."
- 42 USC 4971, 4991, 5001.
- 42 USC 4951.

(b) The item related to section 501 in the table of contents of the Act is amended by inserting “authorization” after “programs”.

AMENDMENTS AUTHORIZING APPROPRIATIONS

SEC. 28. (a) Section 502(a) of the Act (42 U.S.C. 5082(a)) is amended—

- (1) by striking out “\$28,691,000 for fiscal year 1982 and”; and
- (2) by inserting “\$29,700,000 for fiscal year 1984, \$30,400,000 for fiscal year 1985, and \$31,100,000 for fiscal year 1986” after “1983.”.

(b) Section 502(b) of the Act (42 U.S.C. 5082(b)) is amended—

- (1) by striking out “\$49,670,000 for fiscal year 1982 and”; and
- (2) by inserting “\$54,300,000 for fiscal year 1984, \$56,700,000 for fiscal year 1985, and \$58,700,000 for fiscal year 1986” after “1983.”.

(c) Section 502(c) of the Act (42 U.S.C. 5082(c)) is amended—

- (1) by striking out “\$16,610,000 for fiscal year 1982 and”; and
- (2) by inserting “\$27,800,000 for fiscal year 1984, \$28,200,000 for fiscal year 1985, and \$28,600,000 for fiscal year 1986” after “1983.”.

ADMINISTRATION AND COORDINATION

SEC. 29. Section 504 of the Act is amended to read as follows: 42 USC 5084.

“ADMINISTRATION AND COORDINATION

“SEC. 504. There is authorized to be appropriated for the administration of this Act, as authorized in title IV of this Act, \$25,800,000 for fiscal year 1984, \$27,000,000 for fiscal year 1985, and \$28,000,000 for fiscal year 1986.”. 42 USC 5041.

TECHNICAL AMENDMENTS

SEC. 30. (a) Section 417(c)(1) of the Act is amended by striking out “and the Peace Corps Act (22 U.S.C. 2501 et seq.)”. 42 USC 5057.

(b)(1) Section 112 of the Act is amended by striking out “103(d)” and inserting in lieu thereof “103(f)”. 42 USC 4972.

(2) Section 122(c)(2)(B) of the Act is amended by striking out “103(d)” and inserting in lieu thereof “103(f)”. 42 USC 4992.

AMENDMENTS TO OTHER LAWS

SEC. 31. (a) Section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) is amended—

- (1) by striking out “established by the Director of the Office of Management and Budget” and inserting in lieu thereof “defined by the Office of Management and Budget based on Bureau of the Census data”; and

(2) by inserting "For All Urban Consumers" after "Consumer Price Index".

(b) Section 683(c)(1) of the Community Services Block Grant Act (42 U.S.C. 9912(c)(1)) is amended by striking out "section 624" and inserting in lieu thereof "section 624 or 625".

Approved May 21, 1984.

LEGISLATIVE HISTORY—S. 1129 (H.R. 2655):

HOUSE REPORTS: No. 98-161 accompanying H.R. 2655 (Comm. on Education and Labor) and No. 98-679 (Comm. of Conference).

SENATE REPORT No. 98-182 (Comm. on Labor and Human Resources).

CONGRESSIONAL RECORD:

Vol. 129 (1983): Sept. 14, considered and passed Senate.

Oct. 17, 28, H.R. 2655 considered and passed House; S. 1129, amended, passed in lieu.

Vol. 130 (1984): Apr. 11, Senate agreed to conference report.

May 8, House agreed to conference report.

Public Law 98-289
98th Congress

An Act

To establish the Irish Wilderness in Mark Twain National Forest, Missouri.

May 21, 1984
[S. 64]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Irish Wilderness Act of 1984".

Irish Wilderness
Act of 1984.

SEC. 2. (a) In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131-1136), certain lands in the Mark Twain National Forest, Missouri, which comprise approximately sixteen thousand five hundred acres, as generally depicted on a map entitled "Irish Wilderness", dated March 27, 1984, are hereby designated as wilderness and shall be known as the Irish Wilderness.

16 USC 1132
note.

(b) Subject to valid existing rights, the wilderness area designated under subsection (a) shall be administered by the Secretary of Agriculture (hereinafter in this Act referred to as the "Secretary") in accordance with the provisions of the Wilderness Act of 1964 (16 U.S.C. 1131-1136) governing areas designated by that Act as wilderness except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

(c) As soon as practicable after the date of the enactment of this Act, the Secretary shall submit a map and legal description of the wilderness area designated by subsection (a) to the Committee on Energy and Natural Resources of the Senate and the Committees on Agriculture and Interior and Insular Affairs of the House of Representatives. Such map and legal description shall have the same force and effect as if included in this Act, except that any clerical or typographical error in such map or legal description may be corrected. The Secretary shall place such map and legal description on file, and make them available for public inspection, in the office of the Chief of the Forest Service, Department of Agriculture.

Public
availability.

SEC. 3. The provision of Public Law 98-146 (97 Stat. 919, at 921), reading “: *Provided further*, That subject to valid existing rights, no appropriation herein made shall be used by the Secretary of the Interior for the processing or issuance of prospecting permits in certain lands in the Mark Twain National Forest, Missouri, which comprise approximately 17,562 acres, as generally depicted on a map entitled ‘Irish Wilderness—Proposed’, dated December 1981” is hereby repealed.

Approved May 21, 1984.

LEGISLATIVE HISTORY—S. 64:

HOUSE REPORTS: No. 98-337, Pt. 1 (Comm. on Interior and Insular Affairs) and No. 98-663 (Comm. of Conference).

SENATE REPORT No. 98-45 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 129 (1983):

Vol. 129 (1983): Apr. 13, considered and passed Senate.

Aug. 1, 2, considered and passed House, amended.

Vol. 130 (1984): May 2, House agreed to conference report.

May 3, Senate agreed to conference report.

Public Law 98-290
98th Congress

An Act

To confirm the boundaries of the Southern Ute Indian Reservation in the State of Colorado and to define jurisdiction within such reservation.

May 21, 1984

[H.R. 4176]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

CONGRESSIONAL PURPOSE

SECTION 1. The purposes of this Act are—

25 USC 668 note.

(1) to resolve uncertainty over the boundaries of the Southern Ute Indian Reservation and the status of unrestricted land on such reservation, and

(2) to avoid long and costly litigation over issues dependent on reservation or Indian country status.

INDIAN TRUST LAND DEFINED

SEC. 2. For purposes of this Act, the term "Indian trust land" means any land within the boundaries of the Southern Ute Indian Reservation which—

25 USC 668 note.

(1) is held by the United States in trust for the benefit of the Southern Ute Indian Tribe or individual Indians, or

(2) is owned by the United States and reserved for use or actually used in the administration of Indian affairs.

Any right-of-way bounded on both sides by Indian trust land shall be Indian trust land. Any other right-of-way shall not be Indian trust land.

BOUNDARIES OF THE SOUTHERN UTE INDIAN RESERVATION DEFINED

SEC. 3. The Southern Ute Indian Reservation in the State of Colorado is declared to have the following boundaries:

25 USC 668 note.

(1) Bounded on the north by the southern boundary of the lands—

(A) ceded to the United States by certain bands of Ute Indians under the Articles of Convention entered into on September 13, 1873, and ratified by the Act approved April 29, 1874 (18 Stat. 36), and

(B) described in article I of such Articles of Convention.

(2) Bounded on the south by the boundary line between the States of Colorado and New Mexico as described in article II of the treaty between the United States and the Ute Indians concluded March 2, 1868, and proclaimed November 6, 1868 (15 Stat. 619).

(3) Bounded on the west by the eastern boundary of the Ute Mountain Ute Indian Reservation.

(4) Bounded on the east by the southernmost 15 miles of the eastern boundary of the lands reserved to the Ute Indians by article II of the treaty between the United States and the Ute

Indians concluded March 2, 1868, and proclaimed November 6, 1868 (15 Stat. 619), except that the lands east of such boundary in township 32 north, range 1 west, New Mexico principal meridian, that are held by the United States in trust for the benefit of the Southern Ute Indian Tribe are part of the Southern Ute Indian Reservation.

JURISDICTION OVER RESERVATION

25 USC 668 note.

SEC. 4. (a) Such territorial jurisdiction as the Southern Ute Indian Tribe has over persons other than Indians and the property of such persons shall be limited to Indian trust lands within the reservation.

(b) Any person who is not an Indian and the property of any such person shall be subject to the jurisdiction of the United States under section 1152 of title 18, United States Code, only on Indian trust land.

Alcohol and
alcoholic
beverages.

(c) Any law of the United States related to the sale, possession, introduction, or manufacture of alcoholic beverages or to trading with Indians within Indian country, or within the Indian reservation, shall apply, with respect to the Southern Ute Indian Reservation, only on Indian trust land.

JURISDICTION OVER INCORPORATED MUNICIPALITIES WITHIN THE RESERVATION

25 USC 668 note.

SEC. 5. The State of Colorado shall exercise criminal and civil jurisdiction within the boundaries of the town of Ignacio, Colorado, and any other municipality which may be incorporated under the laws of Colorado within the Southern Ute Indian Reservation, as if such State had assumed jurisdiction pursuant to the Act of August 15, 1953 (67 Stat. 588), as amended by the Act of April 11, 1968 (82 Stat. 79).

Approved May 21, 1984.

LEGISLATIVE HISTORY—H.R. 4176 (S. 1979):

HOUSE REPORT No. 98-716 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 98-404 accompanying S. 1979 (Comm. on Indian Affairs).

CONGRESSIONAL RECORD, Vol. 130 (1984):

Apr. 30, considered and passed House.

May 3, considered and passed Senate.

Public Law 98-291
98th Congress

An Act

To relieve the General Accounting Office of duplicative audit requirements with respect to the Disabled American Veterans.

May 21, 1984

[S. 1188]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 9 of the Act entitled “An Act to incorporate the Disabled American Veterans of the World War”, approved June 17, 1932 (36 U.S.C. 90i), is amended—

- (1) by striking out “(a)”; and
- (2) by striking out subsection (b).

Approved May 21, 1984.

LEGISLATIVE HISTORY—S. 1188 (H.R. 3115):

HOUSE REPORT No. 98-683 accompanying H.R. 3115 (Comm. on the Judiciary).

CONGRESSIONAL RECORD:

Vol. 129 (1983): Nov. 18, considered and passed Senate.

Vol. 130 (1984): May 7, H.R. 3115 considered and passed House; S. 1188 passed in lieu.

Public Law 98-292
98th Congress

An Act

May 21, 1984
[H.R. 3635]

To amend chapter 110 (relating to sexual exploitation of children) of title 18 of the United States Code, and for other purposes.

Child Protection
Act of 1984.
18 USC 2251
note.
18 USC 2251
note.
Child
pornography.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Child Protection Act of 1984".

SEC. 2. The Congress finds that—

(1) child pornography has developed into a highly organized, multi-million-dollar industry which operates on a nationwide scale;

(2) thousands of children including large numbers of runaway and homeless youth are exploited in the production and distribution of pornographic materials; and

(3) the use of children as subjects of pornographic materials is harmful to the physiological, emotional, and mental health of the individual child and to society.

Penalties.

SEC. 3. Section 2251 of title 18 of the United States Code is amended—

(1) by striking out "visual or print medium" each place it appears and inserting "visual depiction" in lieu thereof;

(2) by striking out "depicting" each place it appears and inserting "of" in lieu thereof;

(3) by striking out "person" each place it appears in subsection (c) and inserting "individual" in lieu thereof;

(4) by striking out "\$10,000" and inserting "\$100,000" in lieu thereof;

(5) by striking out "\$15,000" and inserting "\$200,000" in lieu thereof; and

(6) by adding at the end of subsection (c) the following: "Any organization which violates this section shall be fined not more than \$250,000."

Penalties.

SEC. 4. Section 2252 of title 18 of the United States Code is amended—

(1) by striking out ", for the purpose of sale or distribution for sale";

(2) by striking out "for the purpose of sale or distribution for sale" the second place it appears;

(3) by striking out "obscene" each place it appears;

(4) by striking out "visual or print medium" each place it appears and inserting "visual depiction" in lieu thereof;

(5) by striking out "depicts" each place it appears and inserting "is of" in lieu thereof;

(6) by striking out "or knowingly sells or distributes for sale" and inserting in lieu thereof "or distributes";

(7) by inserting after "mailed" the following: "or knowingly reproduces any visual depiction for distribution in interstate or foreign commerce or through the mails";

(8) by striking out “person” each place it appears in subsection (b) and inserting “individual” in lieu thereof;

(9) by striking out “\$10,000” and inserting “\$100,000” in lieu thereof;

(10) by striking out “\$15,000” and inserting “\$200,000” in lieu thereof; and

(11) by adding at the end of subsection (b) the following: “Any organization which violates this section shall be fined not more than \$250,000.”

SEC. 5. (a) Section 2253 of title 18 of the United States Code is amended—

(1) in paragraph (1), by striking out “sixteen” and inserting “eighteen” in lieu thereof;

(2) by striking out “sado-masochistic” and inserting “sadistic or masochistic” in lieu thereof;

(3) by striking out “(for the purpose of sexual stimulation)”; and

(4) by striking out “lewd” and inserting “lascivious” in lieu thereof;

(5) by striking out “, for pecuniary profit”; and

(6) by amending paragraph (4) to read as follows:

“(4) ‘organization’ means a person other than an individual.”

(b) Section 2253 of title 18 of the United States Code, as amended by subsection (a) is redesignated as section 2255.

18 USC 2255.

SEC. 6. Chapter 110 of title 18 of the United States Code is amended by inserting after section 2252 the following:

“§ 2253. Criminal forfeiture

18 USC 2253.

“(a) A person who is convicted of an offense under section 2251 or 2252 of this title shall forfeit to the United States such person’s interest in—

Property
forfeiture.
Ante, p. 204.

“(1) any property constituting or derived from gross profits or other proceeds obtained from such offense; and

“(2) any property used, or intended to be used, to commit such offense.

“(b) In any action under this section, the court may enter such restraining orders or take other appropriate action (including acceptance of performance bonds) in connection with any interest that is subject to forfeiture.

“(c) The court shall order forfeiture of property referred to in subsection (a) if the trier of fact determines, beyond a reasonable doubt, that such property is subject to forfeiture.

“(d)(1) Except as provided in paragraph (3) of this subsection, the customs laws relating to disposition of seized or forfeited property shall apply to property under this section, if such laws are not inconsistent with this section.

“(2) In any disposition of property under this section, a convicted person shall not be permitted to acquire property forfeited by such person.

“(3) The duties of the Secretary of the Treasury with respect to dispositions of property shall be performed under paragraph (1) of this subsection by the Attorney General, unless such duties arise from forfeitures effected under the customs laws.

“§ 2254. Civil forfeiture

18 USC 2254.

“(a) The following property shall be subject to forfeiture by the United States:

Property
forfeiture.

“(1) Any material or equipment used, or intended for use, in producing, reproducing, transporting, shipping, or receiving any visual depiction in violation of this chapter.

“(2) Any visual depiction produced, transported, shipped, or received in violation of this chapter, or any material containing such depiction.

“(3) Any property constituting or derived from gross profits or other proceeds obtained from a violation of this chapter, except that no property shall be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner.

Customs law.

“(b) All provisions of the customs law relating to the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws, the disposition of such property or the proceeds from the sale thereof, the remission or mitigation of such forfeitures, and the compromise of claims, shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under this section, insofar as applicable and not inconsistent with the provisions of this section, except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or other persons as may be authorized or designated for that purpose by the Attorney General, except to the extent that such duties arise from seizures and forfeitures effected by any customs officer.”.

SEC. 7. The table of sections at the beginning of chapter 110 of title 18 of the United States Code is amended—

(1) by inserting after the item relating to section 2252 the following new items:

“2253. Criminal forfeiture.

“2254. Civil forfeiture.”;

and

(2) by redesignating the item relating to section 2253 as 2255.

SEC. 8. Section 2516(1)(c) of title 18 of the United States Code is amended by inserting “sections 2251 and 2252 (sexual exploitation of children),” after “section 664 (embezzlement from pension and welfare funds).”.

Report.
28 USC 522 note.

SEC. 9. Beginning one hundred and twenty days after the date of enactment of this Act, and every year thereafter, the Attorney General shall report to the Congress on prosecutions, convictions, and forfeitures under chapter 110 of title 18 of the United States Code.

18 USC 2251 *et seq.*

Approved May 21, 1984.

LEGISLATIVE HISTORY—H.R. 3635 (S. 1469):

HOUSE REPORT No. 98-536 (Comm. on the Judiciary).

CONGRESSIONAL RECORD:

Vol. 129 (1983): Nov. 14, considered and passed House.

Vol. 130 (1984): Mar. 30, considered and passed Senate, amended.

May 8, House concurred in Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 21 (1984):
May 21, Presidential statement.

Public Law 98-293
98th Congress

Joint Resolution

Designating the Brigantine and Barnegat units of the National Wildlife Refuge System as the Edwin B. Forsythe National Wildlife Refuge.

May 22, 1984
[H.J. Res. 537]

Whereas, Congressman Edwin B. Forsythe, in his role as Ranking Minority Member of the Committee on Merchant Marine and Fisheries and the Subcommittee on Fisheries and Wildlife Conservation and the Environment, was an outstanding leader for conservation of our natural resources and protection of our Nation's natural beauty;

Whereas, during his career he played a critical role in such important natural resource legislation such as the Marine Mammal Protection Act of 1972, the Endangered Species Act of 1973, and the Fishery Conservation and Management Act of 1976;

16 USC 1361
note, 1531 note.
16 USC 1801
note.

Whereas, he was the major Congressional sponsor of the Nongame Wildlife Act, which increased public interest and concern for species of wildlife not subject to taking for sport;

Whereas, throughout his Congressional career, he was a strong defender of the National Wildlife Refuge System;

Whereas, he had a deep affection for the coastal wildlife refuges in his home State of New Jersey: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Brigantine National Wildlife Refuge and the Barnegat National Wildlife Refuge in the State of New Jersey shall hereafter be collectively named and designated as the "Edwin B. Forsythe National Wildlife Refuge". Any reference in a law, map, regulation, document, record, or other paper of the United States to either of such refuges shall be held to be a reference to the "Edwin B. Forsythe National Wildlife Refuge".

16 USC 668dd
note.

Approved May 22, 1984.

LEGISLATIVE HISTORY—H.J. Res. 537:

HOUSE REPORT No. 98-706 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 130 (1984):

Apr. 30, May 1, considered and passed House.
May 3, considered and passed Senate.

Public Law 98-294
98th Congress

Joint Resolution

May 22, 1984
[S.J. Res. 198]

Designating April 26, 1985, as "National Nursing Home Residents Day".

Whereas over one million older Americans reside in nursing homes and one in five older Americans likely will reside in a nursing home at some time;

Whereas nursing home residents have contributed to the growth, development, and progress of this Nation and, as elders, offer a wealth of knowledge and experience;

Whereas Congress recognizes the importance of the continued participation of these institutionalized senior citizens in the life of our Nation;

Whereas in an effort to foster reintegration of these citizens into their communities Congress encourages community recognition of and involvement in the lives of nursing home residents;

Whereas the Congress recognizes the importance of safeguarding the rights of nursing home residents; and

Whereas it is appropriate for the American people to join in support of nursing home residents to demonstrate their concern and respect for these citizens: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 26, 1985, is designated as "National Nursing Home Residents Day", a time of renewed recognition, concern, and respect for the Nation's nursing home residents. The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe this day with appropriate ceremonies and activities.

Approved May 22, 1984.

LEGISLATIVE HISTORY—S.J. Res. 198:

CONGRESSIONAL RECORD, Vol. 130 (1984):

Apr. 25, considered and passed Senate.

May 1, considered and passed House, amended.

May 10, Senate concurred in House amendment.

Public Law 98-295
98th Congress

Joint Resolution

To designate the week of May 20, 1984, through May 26, 1984, as "National Digestive Diseases Awareness Week".

May 22, 1984
[S.J. Res. 228]

Whereas digestive diseases rank third in the total economic burden of illness in the United States and, measured in terms of human discomfort and pain, mortality, personal expenditures for treatment, working hours lost, and burden on the Nation's economy, digestive diseases represent one of the Nation's most serious health problems;

Whereas twenty million Americans suffer from chronic digestive disease and disorders, and in excess of fourteen million cases of acute digestive diseases are treated in this country each year, including one-third of all malignancies and some of the most common of acute infections;

Whereas such diseases cause more Americans to be hospitalized than any other, necessitate 25 per centum of all surgical operations, and comprise one of the most prevalent causes of disability in the working force;

Whereas digestive diseases cause a yearly expenditure of over \$17,000,000,000 in direct health care costs and a total economic burden approaching \$50,000,000,000 annually;

Whereas at least one hundred different diseases and disorders of the gastrointestinal tract cause more than two hundred thousand deaths every year;

Whereas research into the causes, cures, prevention, and clinical treatment of digestive diseases and related nutrition problems should become a national concern, and the people of the United States should recognize diseases of the digestive system as a major health priority;

Whereas national lay and professional digestive disease organizations, individually and collectively, through the Coalition of Digestive Disease Organizations and the Federation of Digestive Disease Societies, are committed to heightening awareness and understanding of digestive tract disorders among members of the general public and the health care community;

Whereas the National Digestive Diseases Advisory Board and the National Institutes of Health, through its National Digestive Diseases Education and Information Clearinghouse, are committed to encourage and coordinate these educational efforts; and

Whereas the week of May 20, 1984, through May 26, 1984, marks the first anniversary of the national digestive disease education program, a coordinated effort to mobilize and focus the activities of the digestive disease community to educate the public and health care community as to the seriousness of digestive diseases and to provide information relative to treatment, prevention, and control: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of May 20, 1984, through May 26, 1984, is designated as "National Digestive Diseases Awareness Week", and the President of the United States is authorized and requested to issue a proclamation calling upon all Government agencies and the people of the United States to observe the week with appropriate programs and activities.

Approved May 22, 1984.

LEGISLATIVE HISTORY—S.J. Res. 228:

CONGRESSIONAL RECORD, Vol. 130 (1984):

Feb. 27, considered and passed Senate.

May 17, considered and passed House.

Public Law 98-296
98th Congress

An Act

To designate the Federal building in Salisbury, Maryland, as the “Maude R. Toulson Federal Building”.

May 24, 1984
[H.R. 4107]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal building located at 129 East Main Street, Salisbury, Maryland, shall hereafter be known and designated as the “Maude R. Toulson Federal Building”. Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be deemed to be a reference to the “Maude R. Toulson Federal Building”.

Approved May 24, 1984.

LEGISLATIVE HISTORY—H.R. 4107:

CONGRESSIONAL RECORD:

Vol. 129 (1983): Nov. 18, considered and passed House.
Vol. 130 (1984): May 16, considered and passed Senate.

Public Law 98-297
98th Congress

An Act

May 24, 1984
[H.R. 5576]

To designate certain land and improvements of the National Institutes of Health as the "Mary Woodard Lasker Center for Health Research and Education".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the land and improvements purchased from the Order of the Visitation for the National Institutes of Health and located at 9001 Old Georgetown Road in Bethesda, Maryland, is designated as the "Mary Woodard Lasker Center for Health Research and Education". Any reference in a law, map, regulation, document, record, or other paper of the United States to such land and improvements shall be deemed to be a reference to the "Mary Woodard Lasker Center for Health Research and Education".

Approved May 24, 1984.

LEGISLATIVE HISTORY—H.R. 5576:

CONGRESSIONAL RECORD, Vol. 130 (1984):
May 3, considered and passed House.
May 9, considered and passed Senate.

Public Law 98-298
98th Congress

Joint Resolution

To designate May 25, 1984, as "Missing Children Day".

May 24, 1984
[S.J. Res. 252]

Whereas on May 25, 1979, six-year-old Etan Patz disappeared from his home in New York City and is still missing;
Whereas over one million eight hundred thousand children disappear from home annually;
Whereas children who are missing from home and are not living in a family environment are frequently the victims of sexual and physical exploitation;
Whereas an estimated 60 per centum of missing children are sexually abused while away from home;
Whereas the search for missing children is frequently a low-priority investigation in many law enforcement agencies;
Whereas efforts between Federal and local law enforcement agencies in child abduction cases are usually uncoordinated, haphazard, and ineffective; and
Whereas the problem of the missing child has been plagued by misinformation and there is a need to increase public understanding and awareness of this problem: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May 25, 1984, is designated as "Missing Children Day", and the President is authorized and requested to issue a proclamation calling upon all Government agencies and the people of the United States to observe the day with appropriate ceremonies, programs, and activities.

Approved May 24, 1984.

LEGISLATIVE HISTORY—S.J. Res. 252:

CONGRESSIONAL RECORD, Vol. 130 (1984):
Mar. 12, considered and passed Senate.
May 17, considered and passed House.

Public Law 98-299
98th Congress

An Act

May 25, 1984
[H.R. 2174]

To extend the transition period under the Bankruptcy Reform Act of 1978.

Ante, p. 163.
11 USC note
prec. 101.

Ante, p. 163.
28 USC note
prec. 151.

Ante, p. 163.
28 USC note
prec. 151.

Ante, p. 163.
28 USC note
prec. 1471.

Judge.
28 USC note
prec. 151.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 402 of the Act entitled "An Act to establish a uniform Law on the Subject of Bankruptcies" (Public Law 95-598) is amended in subsections (b) and (e) by striking out "May 26, 1984" each place it appears and inserting in lieu thereof "June 21, 1984".

(b) Section 404 of such Act is amended in subsections (a) and (b) by striking out "May 25, 1984" each place it appears and inserting in lieu thereof "June 20, 1984".

(c) Section 406 of such Act is amended by striking out "May 25, 1984" each place it appears and inserting in lieu thereof "June 20, 1984".

(d) Section 409 of such Act is amended by—

(1) striking out "May 26, 1984" each place it appears and inserting in lieu thereof "June 21, 1984"; and

(2) striking out "May 25, 1984" each place it appears and inserting in lieu thereof "June 20, 1984".

SEC. 2. The term of office of any bankruptcy judge who was serving on May 25, 1984, and of any bankruptcy judge who is serving on the date of the enactment of this Act is extended to and shall expire on June 20, 1984.

SEC. 3. (a) Section 8339(n) of title 5, United States Code, is amended by striking out "May 26, 1984" and inserting in lieu thereof "June 21, 1984".

(b) Section 8331(22) of title 5, United States Code, is amended by striking out "May 25, 1984" and inserting in lieu thereof "June 20, 1984".

Approved May 25, 1984.

LEGISLATIVE HISTORY—H.R. 2174 (S. 216):

CONGRESSIONAL RECORD:

Vol. 129 (1983): May 9, considered and passed House.

Vol. 130 (1984): May 24, considered and passed Senate, amended; House agreed to Senate amendments.

Public Law 98-300
98th Congress

An Act

To exempt electric and telephone facilities assisted under the Rural Electrification Act from certain right-of-way rental payments under the Federal Land Policy and Management Act of 1976.

May 25, 1984

[H.R. 2211]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection 504(g) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1764) is amended by inserting the following sentence at the end of the subsection: "Rights-of-way shall be granted, issued, or renewed, without rental fees, for electric or telephone facilities financed pursuant to the Rural Electrification Act of 1936, as amended, or any extensions from such facilities: *Provided*, That nothing in this sentence shall be construed to affect the authority of the Secretary granting, issuing, or renewing the right-of-way to require reimbursement of reasonable administrative and other costs pursuant to the second sentence of this subsection."

7 USC 901.

Approved May 25, 1984.

LEGISLATIVE HISTORY—H.R. 2211:

HOUSE REPORT No. 98-475 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 98-388 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD:

Vol. 129 (1983): Nov. 8, considered and passed House.

Vol. 130 (1984): May 10, considered and passed Senate.

Public Law 98-301
98th Congress

An Act

May 25, 1984
[H.R. 5515]

To authorize the President to award the Medal of Honor to the unknown American who lost his life while serving in the Armed Forces of the United States in Southeast Asia during the Vietnam era and who has been selected to be buried in the Memorial Amphitheater at Arlington National Cemetery.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President may award, and present in the name of Congress, the Medal of Honor to the unknown American who lost his life while serving in Southeast Asia during the Vietnam era as a member of the Armed Forces of the United States and who has been selected to lie buried in the Memorial Amphitheater of the National Cemetery at Arlington, Virginia, as authorized by section 9 of the National Cemeteries Act of 1973 (Public Law 93-43).

87 Stat. 88.

Approved May 25, 1984.

LEGISLATIVE HISTORY—H.R. 5515:

CONGRESSIONAL RECORD, Vol. 130 (1984):
May 3, considered and passed House.
May 16, considered and passed Senate.

Public Law 98-302
98th Congress

An Act

To provide for a temporary increase in the public debt limit, and for other purposes.

May 25, 1984
[H.R. 5692]*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. INCREASE IN PUBLIC DEBT LIMIT.

Effective upon enactment, the applicable public debt limit set forth in subsection (b) of section 3101 of title 31, United States Code, shall be permanently increased by \$30,000,000,000.

31 USC 3101
note.

SEC. 2. INCREASE IN LIMIT ON LONG-TERM BONDS.

Subsection (a) of section 3102 of title 31, United States Code, is amended by striking out “\$150,000,000,000” and inserting in lieu thereof “\$200,000,000,000”.

SEC. 3. AUTHORITY TO OBTAIN CERTAIN SERVICES AND FACILITIES AND INCUR CERTAIN ADMINISTRATIVE EXPENDITURES.

(a) GENERAL RULE.—Subchapter II of chapter 3 of title 31, United States Code, is amended by adding at the end thereof the following new section:

“§ 332. Miscellaneous administrative authority

31 USC 332.

“The Secretary of the Treasury may to the extent provided in advance by appropriation Acts—

“(1) contract for the temporary or intermittent services of experts or consultants as authorized by section 3109 of title 5, United States Code, at rates not to exceed the per diem equivalent to the rate for GS-18;

“(2) contract with and reimburse the Department of State for health and medical services for employees of the Department of the Treasury and their dependents serving in foreign countries;

“(3) provide for official functions, and reception and representation activities;

“(4) maintain, repair, and clean uniforms furnished by the Department of the Treasury to uniformed employees;

“(5) provide athletic and related activities for students at the Federal Law Enforcement Training Center, Glynco, Georgia;

“(6) install and maintain fencing, lighting, guard booths, and other facilities as necessary for the performance of protective functions of the Department of the Treasury on property not owned by or under jurisdiction and control of the United States Government and, subsequently, to remove the facilities therefrom;

“(7) enter into reciprocal assistance agreements with State and local law enforcement agencies and, in connection with the agreements and otherwise, train employees of those agencies, when necessary, with or without reimbursement;

“(8) provide laboratory assistance to State and local law enforcement agencies, with or without reimbursement;

“(9) obtain insurance for official motor vehicles operated in foreign countries; and

“(10)(A) when necessary for the performance of official business—

“(i) acquire in foreign countries real property by lease for periods not greater than 10 years and personal property for use in foreign countries by purchase, lease, or otherwise, and

“(ii) manage, maintain, repair, improve, and insure by purchase of commercial insurance policies properties referred to in clause (i), and

“(B) when appropriate, dispose of (by sale, rent, transfer, or otherwise) properties referred to in subparagraph (A)(i).”

(b) CLERICAL AMENDMENT.—The analysis for subchapter II of chapter 3 of such title 31 is amended by adding at the end thereof the following new item:

“332. Miscellaneous administrative authority.”

Approved May 25, 1984.

LEGISLATIVE HISTORY—H.R. 5692:

CONGRESSIONAL RECORD, Vol. 130 (1984):

May 24, considered and passed House; considered and passed Senate, amended; House concurred in Senate amendment.

Public Law 98-303
98th Congress

Joint Resolution

Designating the week of May 27, 1984, through June 2, 1984, as "National Animal Health Week".

May 25, 1984
[H.J. Res. 526]

Whereas tremendous progress has been made in the past one hundred years to advance the health and productivity of America's livestock industry and protect America's animals and pets through research, cooperative endeavor, and the use of sound, scientific, and humane principles;

Whereas the commemoration of one hundred years of commitment to animal health by the United States, dating from May 29, 1884, when Congress created the former Bureau of Animal Industry, is appropriate;

Whereas achievements by the Bureau and its successor organizations within the United States Department of Agriculture and their cooperators in several States have contributed immeasurably to America having the healthiest livestock in the world;

Whereas the Bureau and its successor organizations have a proud history of working with producers, cooperating State agencies, the veterinary profession, and the scientific community to wipe out animal plagues and to assure an abundant supply of safe, wholesome animal protein for American consumers; and

Whereas it is desirable to give the American public a better appreciation of the advances in animal health that contribute to the well-being of man as well as beast and likewise give them an appreciation of the role of healthy animals and pets in this country's past, present, and future: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is hereby authorized and requested to issue a proclamation designating the seven-day period beginning on May 27, 1984, as "National Animal Health Week" and to invite the Governors of the States, officials of local governments, and the people of the United States to observe that week with appropriate ceremonies and activities.

Approved May 25, 1984.

LEGISLATIVE HISTORY—H.J. Res. 526 (S.J. Res. 292):

CONGRESSIONAL RECORD, Vol. 130 (1984):

May 17, considered and passed House.

May 22, considered and passed Senate.

Public Law 98-304
98th Congress

An Act

May 31, 1984
[S. 2079]

To amend the charter of AMVETS by extending eligibility for membership to individuals who qualify on or after May 8, 1975.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6 of the Act entitled “An Act to incorporate the AMVETS, American Veterans of World War II”, approved July 23, 1947 (36 U.S.C. 67e), is amended to read as follows:

“SEC. 6. Eligibility for membership in AMVETS and the rights and privileges of members shall, except as provided in this Act, be as provided in the constitution and bylaws of the organization, and terms of membership and requirements for holding office within the organization shall not be discriminatory on the basis of race, color, religion, sex or national origin.”.

Approved May 31, 1984.

LEGISLATIVE HISTORY—S. 2079 (H.R. 4212):

HOUSE REPORT No. 98-682 accompanying H.R. 4212 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:

Vol. 129 (1983): Nov. 18, considered and passed Senate.

Vol. 130 (1984): May 7, H.R. 4212 considered and passed House; S. 2079, amended, passed in lieu.

May 16, Senate concurred in House amendments.

Public Law 98-305
98th Congress

An Act

To amend title 18 of the United States Code to provide a criminal penalty for robbery of a controlled substance.

May 31, 1984
[S. 422]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “Controlled Substance Registrant Protection Act of 1984”.

SEC. 2. Chapter 103 of title 18, United States Code, is amended by adding at the end the following:

Controlled
Substance
Registrant
Protection Act of
1984.
18 USC 2118
note.
18 USC 2118.

“§ 2118. Robberies and burglaries involving controlled substances

“(a) Whoever takes or attempts to take from the person or presence of another by force or violence or by intimidation any material or compound containing any quantity of a controlled substance belonging to or in the care, custody, control, or possession of a person registered with the Drug Enforcement Administration under section 302 of the Controlled Substances Act (21 U.S.C. 822) shall, except as provided in subsection (c), be fined not more than \$25,000 or imprisoned not more than twenty years, or both, if (1) the replacement cost of the material or compound to the registrant was not less than \$500, (2) the person who engaged in such taking or attempted such taking traveled in interstate or foreign commerce or used any facility in interstate or foreign commerce to facilitate such taking or attempt, or (3) another person was killed or suffered significant bodily injury as a result of such taking or attempt.

“(b) Whoever, without authority, enters or attempts to enter, or remains in, the business premises or property of a person registered with the Drug Enforcement Administration under section 302 of the Controlled Substances Act (21 U.S.C. 822) with the intent to steal any material or compound containing any quantity of a controlled substance shall, except as provided in subsection (c), be fined not more than \$25,000 or imprisoned not more than twenty years, or both, if (1) the replacement cost of the controlled substance to the registrant was not less than \$500, (2) the person who engaged in such entry or attempted such entry or who remained in such premises or property traveled in interstate or foreign commerce or used any facility in interstate or foreign commerce to facilitate such entry or attempt or to facilitate remaining in such premises or property, or (3) another person was killed or suffered significant bodily injury as a result of such entry or attempt.

“(c)(1) Whoever in committing any offense under subsection (a) or (b) assaults any person, or puts in jeopardy the life of any person, by the use of a dangerous weapon or device shall be fined not more than \$35,000 and imprisoned for not more than twenty-five years.

“(2) Whoever in committing any offense under subsection (a) or (b) kills any person shall be fined not more than \$50,000 or imprisoned for any term of years or life, or both.

“(d) If two or more persons conspire to violate subsection (a) or (b) of this section and one or more of such persons do any overt act to effect the object of the conspiracy, each shall be fined not more than \$25,000 or imprisoned not more than ten years or both.

“(e) For purposes of this section—

21 USC 802.

“(1) the term ‘controlled substance’ has the meaning prescribed for that term by section 102 of the Controlled Substances Act;

“(2) the term ‘business premises or property’ includes conveyances and storage facilities; and

“(3) the term ‘significant bodily injury’ means bodily injury which involves a risk of death, significant physical pain, protracted and obvious disfigurement, or a protracted loss or impairment of the function of a bodily member, organ, or mental or sensory faculty.”.

SEC. 3. The table of sections for chapter 103 of title 18, United States Code, is amended by adding at the end the following new item:

“2118. Robberies and burglaries involving controlled substances.”.

Report.
28 USC 522 note.

SEC. 4. For each of the first three years after the date of enactment of this Act, the Attorney General of the United States shall submit an annual report to the Congress with respect to the enforcement activities of the Attorney General relating to the offenses created by the amendment made by section 2 of this Act.

Approved May 31, 1984.

LEGISLATIVE HISTORY—S. 422 (H.R. 5222):

SENATE REPORT No. 98-353 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 130 (1984):

Feb. 23, considered and passed Senate.

May 8, considered and passed House, amended.

May 17, Senate concurred in House amendment.

Public Law 98-306
98th Congress

An Act

To amend the National Foundation on the Arts and the Humanities Act of 1965, and for other purposes.

May 31, 1984
[H.R. 2751]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the “National Foundation on the Arts and the Humanities Act Amendments of 1983”.

National
Foundation on
the Arts and the
Humanities Act
Amendments
of 1983.
20 USC 951 note.

TECHNICAL AMENDMENT

SEC. 2. The National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 951 et seq.) is amended by striking out the first section thereof and inserting in lieu thereof the following:

“TITLE I—ENDOWMENTS FOR ARTS AND HUMANITIES

“SHORT TITLE

“SECTION 1. This title may be cited as the ‘National Foundation on the Arts and the Humanities Act of 1965’.”.

National
Foundation
on the Arts and
the Humanities
Act of 1965.
20 USC 951 note.

DECLARATION OF PURPOSE

SEC. 3. Section 2 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 951) is amended—

(1) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively, and

(2) by inserting after paragraph (5) the following new paragraph:

“(6) that museums are vital to the preservation of our cultural heritage and should be supported in their role as curator of our national consciousness;”.

ENTITIES WITHIN FOUNDATION

SEC. 4. (a) Section 4(a) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 953(a)) is amended—

(1) by striking out “and a Federal Council” and inserting in lieu thereof “, a Federal Council”, and

(2) by inserting “, and an Institute of Museum Services” before “(hereinafter established)”.

(b) Section 4(b) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 953(b)) is amended by inserting “, and for institutions which preserve the cultural heritage of the United States after “United States”.

CONTINUITY OF MEMBERSHIP OF NATIONAL COUNCILS

SEC. 5. (a) Section 6(c) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 955(c)) is amended by inserting at the end thereof the following: "Notwithstanding any other provision of this subsection, a member shall serve after the expiration of his term until his successor takes office."

(b) Section 8(c) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 957(c)) is amended by adding at the end thereof the following: "Notwithstanding any other provisions of this subsection, a member shall serve after the expiration of his term until his successor takes office."

MEMBERSHIP OF THE FEDERAL COUNCIL ON THE ARTS AND THE HUMANITIES

SEC. 6. (a) Section 9(b) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 958(b)) is amended by inserting "the Director of the Institute of Museum Services," after "Humanities,".

(b) Section 9(c)(4) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 958(c)(4)) is amended by striking out "and the Institute of Museum Services".

AUTHORIZATION OF APPROPRIATIONS

SEC. 7. (a) Section 11(a) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(a)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A) by striking out "\$154,000,000 for fiscal year 1984, and \$170,000,000" and inserting in lieu thereof "\$128,500,000 for fiscal year 1984, and such sums as may be necessary", and

(B) in subparagraph (B) by striking out "\$152,000,000 for fiscal year 1984, and \$167,500,000" and inserting in lieu thereof "\$127,000,000 for fiscal year 1984, and such sums as may be necessary",

(2) in paragraph (2)—

(A) in subparagraph (A) by striking out "\$20,000,000 for fiscal year 1984, and \$22,500,000" and inserting in lieu thereof "\$10,000,000 for fiscal year 1984, and such sums as may be necessary",

(B) in subparagraph (B) by striking out "\$16,500,000 for fiscal year 1984, and \$18,500,000" and inserting in lieu thereof "\$11,500,000 for fiscal year 1984, and such sums as may be necessary", and

(3) in paragraph (3)—

(A) in subparagraph (A) by striking out "\$36,000,000 for fiscal year 1984, and \$40,000,000" and inserting in lieu thereof "\$28,000,000 for fiscal year 1984, and such sums as may be necessary", and

(B) in subparagraph (B) by striking out "\$40,000,000 for fiscal year 1984, and \$44,000,000" and inserting in lieu thereof "\$20,000,000 for fiscal year 1984, and such sums as may be necessary".

(b) Section 11(d) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(d)) is amended by inserting “under this title” after “made”.

ESTABLISHMENT OF INSTITUTE OF MUSEUM SERVICES

SEC. 8. Section 203 of the Museum Services Act (20 U.S.C. 962) is amended by striking out “, within the Department of Education” and inserting in lieu thereof “within the National Foundation on the Arts and the Humanities”.

NATIONAL MUSEUM SERVICES BOARD

SEC. 9. (a) Section 204(a)(2) of the Museum Services Act (20 U.S.C. 963(a)(2)) is amended—

(1) in subparagraph (A)—

(A) in clause (iii) by inserting “and” at the end thereof,

(B) in clause (iv) by striking out “; and” and inserting in lieu thereof a period, and

(C) by striking out clause (v), and

(2) in subparagraph (B) by striking out “clause (v)” and inserting in lieu thereof “clause (iv)”.

(b) Section 204(b) of the Museum Services Act (20 U.S.C. 963(b)) is amended by adding at the end thereof the following: “Notwithstanding any other provision of this subsection, a member shall serve after the expiration of his term of office until his successor takes office.”.

(c) Section 204(c) of the Museum Services Act (20 U.S.C. 963(c)) is amended by striking out “Eight” and inserting in lieu thereof “Except as provided in subsection (d)(2), eight”.

(d) Section 204(d)(2) of the Museum Services Act (20 U.S.C. 963(d)(2)) is amended by striking out “eight” and inserting in lieu thereof “seven”.

CONFORMING AMENDMENT

SEC. 10. Section 205(a)(2) of the Museum Services Act (20 U.S.C. 964(a)(2)) is amended by striking out the first sentence.

AUTHORIZATION OF APPROPRIATIONS

SEC. 11. Section 209(a) of the Museum Services Act (20 U.S.C. 967(a)) is amended by striking out “\$40,000,000 for fiscal year 1984, and \$45,000,000” and inserting in lieu thereof “\$20,150,000 for fiscal year 1984, and such sums as may be necessary”.

REPEALERS

SEC. 12. Sections 521, 523, and 524 of subtitle A of the Omnibus Education Reconciliation Act of 1981 are repealed.

20 USC 967 note,
960 note.

NATIONAL MEDAL OF ARTS

SEC. 13. (a) There is hereby established a National Medal of Arts, which shall be a medal of such design as is deemed appropriate by the President, on the basis of recommendations submitted by the National Council on the Arts, and which shall be awarded as provided in subsection (b).

20 USC 955b.

President of U.S.

(b)(1) The President shall from time to time award the National Medal of Arts, on the basis of recommendations from the National Council on the Arts, to individuals or groups who in the President's judgment are deserving of special recognition by reason of their outstanding contributions to the excellence, growth, support, and availability of the arts in the United States.

(2) Not more than twelve of such medals may be awarded in any calendar year.

(3) An individual may be awarded the National Medal of Arts only if at the time such award is made such individual—

(A) is a citizen or other national of the United States; or

8 USC 1445.

(B) is an alien lawfully admitted to the United States for permanent residence who (i) has filed an application or petition for naturalization in the manner prescribed by section 334 of the Immigration and Nationality Act and (ii) is not permanently ineligible to become a citizen of the United States.

(4) A group may be awarded the National Medal of Arts only if such group is organized or incorporated in the United States.

(5) The presentation of the National Medal of Arts shall be made by the President with such ceremonies as the President may deem proper, including attendance by appropriate Members of Congress.

Funds.

(c) Funds made available to the National Endowment for the Arts shall be used to carry out this section.

INSTITUTE OF AMERICAN INDIAN ARTS

25 USC 310.

SEC. 14. (a)(1) To the extent of the availability of funds for such purpose, the Secretary of the Interior shall:

(A) enter into a thirty-year agreement with the College of Santa Fe, Santa Fe, New Mexico, to provide educational facilities for the use of, and to develop cooperative educational/arts programs to be carried out with the postsecondary fine arts and museum services programs of, the Institute of American Indian Arts administered by the Bureau of Indian Affairs; and

(B) conduct such activities as are necessary to improve the facilities used by the Institute of American Indian Arts at the College of Santa Fe.

Effective date.

(2) The provisions of this subsection shall take effect on October 1, 1984.

Study.

(b)(1) The Secretary of the Interior, acting through the Bureau of Indian Affairs, is directed to conduct a study for the purpose of determining the need, if any, for a museum facility to be established for the benefit of the Institute of American Indian Arts, the feasibility of establishing such museum, and the need or desirability, if any, to establish any such museum in close proximity to the facilities currently being used by such Institute at the College of Santa Fe.

Report.

(2) On or before February 1, 1985, the Secretary of the Interior shall report the results of such study, together with his recommendations, to the Congress.

(3) Should the study recommend establishment of a museum, and should the College of Santa Fe be selected as the best site, any agreement entered into by the Secretary of the Interior for construction of such museum shall contain assurances, satisfactory to the Secretary, that appropriate lands at the College of Santa Fe will be available at no cost to the Federal Government for the establishment of a museum facility.

Approved May 31, 1984.

LEGISLATIVE HISTORY—H.R. 2751:

HOUSE REPORTS: No. 98-163 and Pt. 2 (Comm. on Education and Labor).
CONGRESSIONAL RECORD, Vol. 130 (1984):

Feb. 21, considered and passed House.

Apr. 5, considered and passed Senate, amended.

May 17, House concurred in Senate amendment.

Public Law 98-307
98th Congress

Joint Resolution

May 31, 1984
[S.J. Res. 94]

To authorize and request the President to designate May 13, 1984, to June 17, 1984, as "Family Reunion Month".

Whereas the family is and has traditionally been recognized as the foundation of our society;

Whereas thousands of families in our Nation experience sorrow each year because of runaway, missing, or estranged members;

Whereas organizations exist which can assist families and missing members in establishing contact with one another;

Whereas estranged and missing individuals should be encouraged to use the services furnished by these organizations or to contact their families directly;

Whereas families should be encouraged to honor the individual member's efforts to communicate and to respect the individual's right to privacy;

Whereas the strength of our Nation can be increased through the reunion of families and the reaffirmation of family ties; and

Whereas Mother's Day and Father's Day are times when our citizens celebrate the importance of families: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is authorized and requested to issue a proclamation designating Mother's Day, May 13, 1984, to Father's Day, June 17, 1984, as "Family Reunion Month", and calling upon the people of the United States to observe the day with appropriate programs and activities.

Approved May 31, 1984.

LEGISLATIVE HISTORY—S.J. Res. 94:**CONGRESSIONAL RECORD:**

Vol. 129 (1983): May 6, considered and passed Senate.

Vol. 130 (1984): May 17, considered and passed House, amended.

May 22, Senate concurred in House amendments.

Public Law 98-308
98th Congress

Joint Resolution

Designating the week of November 18, 1984, through November 24, 1984, as
“National Family Week”.

May 31, 1984
[S.J. Res. 211]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby authorized and requested to issue a proclamation designating the week of November 18, 1984, through November 24, 1984, as “National Family Week”, and inviting the Governors of the several States, the chief officials of local governments, and the people of the United States to observe such week with appropriate ceremonies and activities.

Approved May 31, 1984.

LEGISLATIVE HISTORY—S.J. Res. 211:

CONGRESSIONAL RECORD, Vol. 130 (1984):
Mar. 12, considered and passed Senate.
May 17, considered and passed House.

Public Law 98-309
98th Congress

Joint Resolution

May 31, 1984
[S.J. Res. 239]

Designating the week of October 21, 1984, through October 27, 1984, as "Lupus Awareness Week".

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 21, 1984, through October 27, 1984, is designated as "Lupus Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate programs, ceremonies, and activities.

Approved May 31, 1984.

LEGISLATIVE HISTORY—S.J. Res. 239:

CONGRESSIONAL RECORD, Vol. 130 (1984):
Mar. 12, considered and passed Senate.
May 17, considered and passed House.

Public Law 98-310
98th Congress

Joint Resolution

Designating the month of November 1984 as "National Alzheimer's Disease Month".

May 31, 1984

[H.J. Res. 451]

Whereas more than two million Americans are affected by Alzheimer's disease, which is a surprisingly common disorder that destroys certain vital cells of the brain;

Whereas Alzheimer's disease is the fourth leading cause of death among older Americans;

Whereas Alzheimer's disease is responsible for 50 per centum of all nursing home admissions, at an annual cost of more than \$20,000,000,000;

Whereas in one-third of all American families one parent will succumb to this disease;

Whereas Alzheimer's disease is not a normal consequence of aging; and

Whereas an increase in the national awareness of the problem of Alzheimer's disease may stimulate the interest and concern of the American people, which may lead, in turn, to increased research and eventually to the discovery of a cure for Alzheimer's disease: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of November 1984 is designated as "National Alzheimer's Disease Month". The President is requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate ceremonies and activities.

Approved May 31, 1984.

LEGISLATIVE HISTORY—H.J. Res. 451:

CONGRESSIONAL RECORD, Vol. 130 (1984):

May 1, considered and passed House.

May 22, considered and passed Senate.

Public Law 98-311
98th Congress

Joint Resolution

May 31, 1984
[H.J. Res. 487]

To designate June 6, 1984, as "D-day National Remembrance".

Whereas June 6, 1984, marks the fortieth anniversary of D-day, the day of the beginning of the Allied assault at Normandy, France; Whereas the D-day assault was the most extensive amphibious operation ever to occur, involving on the first day of the operation five thousand ships, eleven thousand sorties of Allied aircraft, and one hundred and fifty-three thousand American, British, and Canadian troops;

Whereas American troops suffered significant losses during the assault, including one thousand four hundred and sixty-five dead, three thousand one hundred and eighty-four wounded, one thousand nine hundred and twenty-eight missing in action, and twenty-six captured; and

Whereas the D-day assault was among the most critical events of World War II since its success led ultimately to the Allied victory in Europe: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That June 6, 1984, is designated as "D-day National Remembrance", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Approved May 31, 1984.

LEGISLATIVE HISTORY—H.J. Res. 487:

CONGRESSIONAL RECORD, Vol. 130 (1984):

Apr. 11, considered and passed House.

May 24, considered and passed Senate.

Public Law 98-312
98th Congress

An Act

To amend title III of the Higher Education Act of 1965 to permit additional funds to be used to continue awards under certain multi-year grants.

June 12, 1984
[H.R. 5287]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section 347(f) of the Higher Education Act of 1965 is amended to read as follows:

“(f)(1) For each fiscal year, the Secretary shall reserve from the amount appropriated for part B such sums as may be necessary to fund continuation awards for multiple year grants awarded to institutions under section 331 prior to October 1, 1983.

“(2) For each fiscal year, the Secretary may reserve from the amount appropriated for part B, not more than an amount equal to the difference between the amount awarded under paragraph (1) and the amount equal to the aggregate amount institutions receiving grants under part B would contribute under section 324 to the cost of their grants in that fiscal year assuming their grant amounts are the same as those received in the prior fiscal year. The Secretary may use this amount to award grants to eligible institutions under section 333.

“(3) In reserving and awarding funds under this subsection, the Secretary shall assure in each fiscal year that the funds that would have been reserved under part B for institutions described in subsection (c) or (e) shall be reserved under section 331 or 333 for those institutions.”

SEC. 2. (a) Section 510 of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35) is amended by striking out beginning with the semicolon in clause (1) all matter through the end of the sentence and inserting in lieu thereof: “for each such year; and

“(2) \$12,989,000 shall be available for each of the fiscal years 1982 and 1983, and \$14,961,000 shall be available for fiscal year 1984 for the Office of Inspector General.”

(b) The amendment made by subsection (a) of this section shall take effect October 1, 1983.

SEC. 3. Section 5 of the joint resolution entitled “Joint Resolution to provide grants for Allen J. Ellender fellowships to disadvantaged secondary school students and their teachers to participate in a Washington public affairs program”, approved October 19, 1972, is amended to read as follows:

“SEC. 5. There are authorized to be appropriated \$1,500,000 for the fiscal year 1984, \$1,500,000 for the fiscal year 1985, \$2,000,000 for the fiscal year 1986, \$2,000,000 for the fiscal year 1987, \$2,500,000 for the fiscal year 1988, and \$2,500,000 for the fiscal year 1989 to carry out the provisions of this joint resolution.”

SEC. 4. (a) Notwithstanding any other provision of law, the total amount which may be appropriated to carry out part E of title IX of the Higher Education Act of 1965, relating to law school clinical experience programs, shall not exceed \$1,500,000 in fiscal year 1985,

97 Stat. 711.
20 USC 1069c.

20 USC 1060.

20 USC 1064.

20 USC 1063.

97 Stat. 708.
20 USC 1065a.

20 USC 1060.
20 USC 1064,
1065a.

20 USC 3488
note.

Effective date.
20 USC 3488
note.
Disadvantaged
persons.

86 Stat. 908.
95 Stat. 449.

Appropriation
authorization.

20 USC 1134p
note.

20 USC 1134n.

\$2,000,000 in fiscal year 1986, \$2,000,000 in fiscal year 1987, \$2,500,000 in fiscal year 1988, and \$3,000,000 in fiscal year 1989.

20 USC 3851.

(b)(1) Section 583(b) of the Education Consolidation and Improvement Act of 1981 is amended by striking out "and" at the end of clause (2), by inserting "and" at the end of clause (3), and by inserting after such clause the following new clause:

20 USC 3001.

"(4) the law-related education program as formerly authorized by part G of title III of the Elementary and Secondary Education Act of 1965,".

(2) Such section is further amended by inserting "(or \$1,000,000 in the case of the program referred to in paragraph (4))" after "fiscal year 1981".

Children.

97 Stat. 1412.
20 USC 3804.

SEC. 5. Section 555(b) of the Education Consolidation and Improvement Act of 1981 is amended by inserting before the period at the end thereof a comma and the following: "except that such definition shall be modified to include children of migratory fishermen, if such children reside in a school district of more than 18,000 square miles and migrate a distance of 20 miles or more to temporary residences to engage in fishing activity".

Urban
Education
Foundation of
Pennsylvania,
Inc.

SEC. 6. (a)(1) The Secretary is authorized to make grants to the Urban Education Foundation of Pennsylvania, Inc., located in Philadelphia, Pennsylvania, for the purpose of reconstruction and renovation (and related costs) of the combined graduate and undergraduate facilities at the urban research park established as the Urban Education Foundation of Pennsylvania, Inc.

Appropriation
authorization.

(2) There is authorized to be appropriated \$3,400,000 to carry out the provisions of paragraph (1) of this subsection.

(b)(1) Notwithstanding any other provision of law, from any amounts recovered by the Department of Education from prior fiscal year obligations from the Higher Education Appropriation Account for the Department of Education, the Secretary may use not to exceed \$1,000,000 to carry out the provisions of subsection (a) of this section.

(2) The amount authorized to be appropriated by paragraph (2) of subsection (a) shall be reduced by any amounts expended under paragraph (1) of this subsection.

Effective date.
20 USC 1069c
note.

SEC. 7. The amendment made in section 1 shall take effect on October 1, 1984.

Approved June 12, 1984.

LEGISLATIVE HISTORY—H.R. 5287:

CONGRESSIONAL RECORD, Vol. 130 (1984):

May 1, considered and passed House.

May 16, considered and passed Senate, amended.

May 23, House concurred in Senate amendments.

Public Law 98-313
98th Congress

An Act

To establish a program of grants administered by the Environmental Protection Agency for the purpose of aiding State and local programs of pollution abatement and control.

June 12, 1984
[S. 518]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Environmental
Programs
Assistance Act of
1984.

SHORT TITLE

SECTION 1. This Act may be cited as the "Environmental Programs Assistance Act of 1984".

42 USC 4368a
note.

ENVIRONMENTAL PROGRAMS

SEC. 2. (a) Notwithstanding any other provision of law relating to Federal grants and cooperative agreements, the Administrator of the Environmental Protection Agency is authorized to make grants to, or enter into cooperative agreements with, private nonprofit organizations designated by the Secretary of Labor under title V of the Older Americans Act of 1965 to utilize the talents of older Americans in programs authorized by other provisions of law administered by the Administrator (and consistent with such provisions of law) in providing technical assistance to Federal, State, and local environmental agencies for projects of pollution prevention, abatement, and control. Funding for such grants or agreements may be made available from such programs or through title V of the Older Americans Act of 1965 and title IV of the Job Training Partnership Act.

Aged persons.
42 USC 4368a.

42 USC 3056.

(b) Prior to awarding any grant or agreement under subsection (a), the applicable Federal, State, or local environmental agency shall certify to the Administrator that such grants or agreements will not—

42 USC 3056.
29 USC 1671.

Employment
and
unemployment.

(1) result in the displacement of individuals currently employed by the environmental agency concerned (including partial displacement through reduction of nonovertime hours, wages, or employment benefits);

(2) result in the employment of any individual when any other person is in a layoff status from the same or substantially equivalent job within the jurisdiction of the environmental agency concerned; or

(3) affect existing contracts for services.

(c) Grants or agreements awarded under this Act shall be subject to prior appropriation Acts.

Approved June 12, 1984.

LEGISLATIVE HISTORY—S. 518:

CONGRESSIONAL RECORD, Vol. 130 (1984):

Mar. 26, considered and passed Senate.

May 23, considered and passed House, amended.

May 24, Senate concurred in House amendment.

Public Law 98-314
98th Congress

An Act

To recognize the organization known as the American Gold Star Mothers, Incorporated.

June 12, 1984
[S. 2413]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

CHARTER

SECTION 1. American Gold Star Mothers, Incorporated, organized and incorporated under the laws of the District of Columbia, is hereby recognized as such and is granted a charter. 36 USC 2401.

POWERS

SEC. 2. American Gold Star Mothers, Incorporated (hereinafter referred to as the "corporation") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State or States which it is incorporated and subject to the laws of such State or States. 36 USC 2402.

OBJECTS AND PURPOSES OF CORPORATION

SEC. 3. The objects and purposes for which the corporation is organized shall be those provided in its articles of incorporation and shall include a continuing commitment, on a national basis, to— 36 USC 2403.

(a) keep alive and develop the spirit that promoted world services;

(b) maintain the ties of fellowship born of that service, and to assist and further all patriotic work;

(c) inculcate a sense of individual obligation to the community, State, and Nation;

(d) assist veterans of World War I, World War II, the Korean Conflict, Vietnam, and other strategic areas and their dependents in the presentation of claims to the Veterans' Administration, and to aid in any way in their power the men and women who served and died or were wounded or incapacitated during hostilities;

(e) perpetuate the memory of those whose lives were sacrificed in our wars;

(f) maintain true allegiance to the United States of America;

(g) inculcate lessons of patriotism and love of country in the communities in which we live;

(h) inspire respect for the Stars and Stripes in the youth of America;

(i) extend needful assistance to all Gold Star Mothers and, when possible, to their descendants; and

(j) to promote peace and good will for the United States and all other Nations.

SERVICE OF PROCESS

36 USC 2404.

SEC. 4. With respect to service of process, the corporation shall comply with the laws of the States in which it is incorporated and those States in which it carries on its activities in furtherance of its corporate purposes.

MEMBERSHIP

36 USC 2405.

SEC. 5. Eligibility for membership in the corporation and the rights and privileges of members shall, except as provided in this Act, be as provided in the constitution and bylaws of the corporation, and terms of membership and requirements for holding office within the corporation shall not be discriminatory on the basis of race, color, religion, or national origin.

BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES

36 USC 2406.

SEC. 6. The board of directors of the corporation and the responsibilities thereof shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State or States in which it is incorporated.

OFFICERS OF CORPORATION

36 USC 2407.

SEC. 7. The officers of the corporation, and the election of such officers shall be as is provided in the articles of incorporation of the corporation and in conformity with the laws of the State or States wherein it is incorporated.

RESTRICTIONS

36 USC 2408.

SEC. 8. (a) No part of the income or assets of the corporation shall inure to any member, officer, or director of the corporation or be distributed to any such person during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(b) The corporation shall not make any loan to any officer, director, or employee of the corporation.

(c) The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

(d) The corporation shall not claim congressional approval or Federal Government authority for any of its activities.

(e) The corporation shall retain and maintain its status as a corporation organized and incorporated under the laws of the State or States wherein it is incorporated.

LIABILITY

36 USC 2409.

SEC. 9. The corporation shall be liable for the acts of its officers and agents when acting within the scope of their authority.

BOOKS AND RECORDS; INSPECTION

36 USC 2410.

SEC. 10. The corporation shall keep correct and complete books and records of account and shall keep minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors. The

corporation shall keep at its principal office a record of the names and addresses of all members having the right to vote. All books and records of such corporation may be inspected by any member having the right to vote, or by any agent or attorney of such member, for any proper purpose, at any reasonable time. Nothing in this section shall be construed to contravene any applicable State law.

AUDIT OF FINANCIAL TRANSACTIONS

SEC. 11. The first section of the Act entitled “An Act to provide for audit of accounts of private corporations established under Federal law”, approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end thereof the following:

“(63) American Gold Star Mothers, Incorporated”.

ANNUAL REPORT

SEC. 12. The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as is the report of the audit required by section 11 of this Act. The report shall not be printed as a public document. 36 USC 2411.

RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER

SEC. 13. The right to alter, amend, or repeal this Act is expressly reserved to the Congress. 36 USC 2412.

DEFINITION OF “STATE”

SEC. 14. For purposes of this Act, the term “State” includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States. 36 USC 2413.

TAX-EXEMPT STATUS

SEC. 15. The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1954. If the corporation fails to maintain such status, the charter granted hereby shall expire. 36 USC 2414.
26 USC 1 *et seq.*

TERMINATION

36 USC 2415.

SEC. 16. If the corporation shall fail to comply with any of the restrictions or provisions of this Act the charter granted hereby shall expire.

Approved June 12, 1984.

LEGISLATIVE HISTORY—S. 2413 (H.R. 3811):

SENATE REPORT No. 98-379 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 130 (1984):

Apr. 25, considered and passed Senate.

May 10, H.R. 3811 considered and passed House; S. 2413, amended, passed in lieu.

May 22, Senate concurred in House amendment.

Public Law 98-315
98th Congress

An Act

To amend the District of Columbia Self-Government and Governmental Reorganization Act to extend the authority of the Mayor to accept certain interim loans from the United States and to extend the authority of the Secretary of the Treasury to make such loans.

June 12, 1984
[H.R. 3547]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 723(a) of the District of Columbia Self-Government and Governmental Reorganization Act (D.C. Code, sec. 47-421 note) is amended by striking out "October 1, 1982, or the date of enactment of the appropriation Act for the fiscal year ending September 30, 1983, for the government of the District of Columbia, whichever is later" in the first sentence and inserting in lieu thereof "October 1, 1983, or the date of enactment of the appropriation Act for the fiscal year ending September 30, 1984, for the government of the District of Columbia, whichever is later".

Approved June 12, 1984.

LEGISLATIVE HISTORY—H.R. 3547:

HOUSE REPORT No. 98-302 (Comm. on the District of Columbia).

SENATE REPORT No. 98-447 (Comm. on Governmental Affairs).

CONGRESSIONAL RECORD:

Vol. 129 (1983): July 25, considered and passed House.

Vol. 130 (1984): May 24, considered and passed Senate.

Public Law 98-316
98th Congress

An Act

June 12, 1984
[H.R. 5308]

To amend the District of Columbia Self-Government and Governmental Reorganization Act to increase the amount authorized to be appropriated as the annual Federal payment to the District of Columbia.

87 Stat. 774.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 502 of the District of Columbia Self-Government and Governmental Reorganization Act (D.C. Code, sec. 47-3406) is amended by striking out “and for the fiscal year ending September 30, 1984, and for each fiscal year ending after September 30, 1984, the sum of \$386,000,000” in the first sentence and inserting in lieu thereof “for the fiscal year ending September 30, 1984, the sum of \$386,000,000; and for the fiscal year ending September 30, 1985, and for each fiscal year ending after September 30, 1985, the sum of \$425,000,000”.

Approved June 12, 1984.

LEGISLATIVE HISTORY—H.R. 5308:

HOUSE REPORT No. 98-736 (Comm. on the District of Columbia).
CONGRESSIONAL RECORD, Vol. 130 (1984):

May 14, considered and passed House.
May 24, considered and passed Senate.

Public Law 98-317
98th Congress

Joint Resolution

To designate June 13, 1984, as "Harmon Killebrew Day".

June 15, 1984
[S.J. Res. 285]

Whereas Harmon Killebrew was named to Major League Baseball's Hall of Fame on January 10, 1984;

Whereas Harmon Killebrew was a member of eleven American League All-Star squads and was the first American League player elected at three positions—first and third bases and the outfield;

Whereas next to Babe Ruth, Harmon Killebrew is the most prolific home run hitter in American League history;

Whereas Harmon Killebrew had eight seasons of at least forty home runs and eight years of one hundred and ten runs batted in;

Whereas Harmon Killebrew was the American League's Most Valuable Player in 1969, when he hit forty-nine home runs, had one hundred and forty runs batted in, and had a fielding average of 0.975; and

Whereas Harmon Killebrew hit four home runs in one double header: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That June 13, 1984, is designated "Harmon Killebrew Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that day with appropriate ceremonies and activities.

Approved June 15, 1984.

LEGISLATIVE HISTORY—S.J. Res. 285:

CONGRESSIONAL RECORD, Vol. 130 (1984):

May 16, considered and passed Senate.

June 12, considered and passed House.

Public Law 98-318
98th Congress

Joint Resolution

June 15, 1984

[S.J. Res. 296]

To designate June 14, 1984, as "Baltic Freedom Day".

Whereas the people of the Baltic Republics of Lithuania, Latvia, and Estonia have cherished the principles of religious and political freedom and independence; and

Whereas the Baltic Republics have existed as independent, sovereign nations belonging to and fully recognized by the League of Nations; and

Whereas the people of the Baltic Republics have individual and separate cultures, national traditions, and languages distinctively foreign to those of Russia; and

Whereas the Union of Soviet Socialist Republics (U.S.S.R.) in 1940 did illegally seize and occupy the Baltic Republics and by force incorporate them against their national will and contrary to their desire for independence and sovereignty into the U.S.S.R.; and

Whereas the U.S.S.R. since 1940 has systematically removed native Baltic peoples from their homelands by deporting them to Siberia and caused great masses of Russians to relocate in the Republics, thus threatening the Baltic cultures with extinction; and

Whereas the U.S.S.R. has imposed upon the captive people of the Baltic Republics an oppressive political system which has destroyed every vestige of democracy, civil liberties, and religious freedom; and

Whereas the people of Lithuania, Latvia, and Estonia find themselves today subjugated by the U.S.S.R., locked into a union they deplore, denied basic human rights, and persecuted for daring to protest; and

Whereas the United States stands as a champion of liberty, dedicated to the principles of national self-determination, human rights, and religious freedom, and opposed to oppression and imperialism; and

Whereas the United States, as a member of the United Nations, has repeatedly voted with a majority of that international body to uphold the right of other countries of the world, including those in Africa and Asia, to determine their fates and be free of foreign domination; and

Whereas the U.S.S.R. has steadfastly refused to return to the people of the Baltic States the right to exist as independent republics separate and apart from the U.S.S.R. or permit a return of personal, political, and religious freedoms: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress of the

United States recognizes the continuing desire and the right of the people of Lithuania, Latvia, and Estonia for freedom and independence from the domination of the U.S.S.R. and deplores the refusal of the U.S.S.R. to recognize the sovereignty of the Baltic Republics and to yield to their rightful demands for independence from foreign domination and oppression and that the fourteenth day of June 1984, the anniversary of the mass deportation of Baltic peoples from their homelands in 1941, be designated "Baltic Freedom Day" as a symbol of the solidarity of the American people with the aspirations of the enslaved Baltic people and that the President of the United States be authorized and requested to issue a proclamation for the observance of Baltic Freedom Day with appropriate ceremonies and activities.

Approved June 15, 1984.

LEGISLATIVE HISTORY—S.J. Res. 296:

CONGRESSIONAL RECORD, Vol. 130 (1984):

June 8, considered and passed Senate.

June 11, considered and passed House.

Public Law 98-319
98th Congress

Joint Resolution

June 18, 1984
[S.J. Res. 289]

To designate June 18, 1984, as "National Child Passenger Safety Awareness Day".

Whereas motor vehicle collisions are the primary cause of death of children over the age of six months in the United States;
Whereas motor vehicle collisions are the primary cause of the crippling of children in the United States;
Whereas more children under the age of five years are killed or crippled as passengers involved in motor vehicle collisions than the total number of children killed or crippled by the seven most common childhood diseases: pertussis, tetanus, diphtheria, measles, mumps, rubella, and polio;
Whereas motor vehicle collisions are the leading trauma related cause of spinal cord injuries, epilepsy, and mental retardation in the United States;
Whereas during the years 1978 through 1982 nearly three thousand and four hundred children under the age of five years were killed in traffic collisions, and more than two hundred and fifty thousand children were injured in the United States;
Whereas an unrestrained child is less protected by padding and energy-absorbing materials than an adult in a motor vehicle collision, because protective devices are placed in areas more likely to benefit adults;
Whereas unrestrained children are subject to a significantly higher risk of serious head, spine, chest and abdominal injury in motor vehicle collisions than older passengers because the bodies of children are less developed and provide less protection;
Whereas an unrestrained child in a motor vehicle collision faces an increased danger of fatal or serious injury from ejection as well as injuries resulting from contact with the vehicle interior;
Whereas an unrestrained child in a motor vehicle not involved in a collision may be killed or injured as a result of sudden stops, turns, swerves, or from the unrestrained child falling from a moving vehicle;
Whereas forty-two States and the District of Columbia have enacted laws mandating the use of child safety restraint systems;
Whereas only 40 percent of children under the age of five are protected by child safety seats in the United States and national surveys show that over 70 percent of such seats are used incorrectly;

Whereas research has shown that the proper use of child restraints is 90 percent effective in preventing death and 67 percent effective in preventing injury;

Whereas death and injuries may be reduced significantly through greater public awareness, information, and education: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That June 18, 1984 is designated as "National Child Passenger Safety Awareness Day" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that day with appropriate programs, ceremonies and activities.

Approved June 18, 1984.

LEGISLATIVE HISTORY—S.J. Res. 289:

CONGRESSIONAL RECORD, Vol. 130 (1984):

May 22, considered and passed Senate.

June 6, considered and passed House.

Public Law 98-320
98th Congress

Joint Resolution

June 18, 1984
[S.J. Res. 261]

To provide for the designation of the last week in June 1984 as "Helen Keller Deaf-Blind Awareness Week".

Whereas the anniversary of the birth of Helen Keller, the most accomplished, respected, and renowned deaf-blind American in our history, falls on June 27; and

Whereas deaf-blindness is one of the most severe of all disabilities, with respect to which some forty thousand Americans are deprived of two primary senses; and

Whereas the rubella epidemic of the 1960's, along with other pathologies, has resulted in deaf-blindness for approximately six thousand of our children; and

Whereas, because of the severity of deaf-blindness the cost of educating, training, and rehabilitating persons who are deaf and blind is high in comparison with other disabilities; and

Whereas this high cost causes many service agencies to be reluctant to serve deaf-blind persons, thus inhibiting the independence and self-sufficiency of such persons, and frequently resulting in their placement in custodial institutions; and

Whereas, although the Helen Keller National Center and its network, and regional deaf-blind centers serve a portion of this population, inadequate education, training and rehabilitation services to the deaf-blind population represents a terrible waste of human lives and resources, imposing a high economic cost on the Nation; and

Whereas it is in the national interest to prevent this waste of human resources, foster independence, create opportunities for employment, and maximize the ability to achieve among our deaf-blind citizens; and

Whereas these objectives can be accomplished only through an increased public awareness of, and attention to, the needs, abilities, and potential contributions to society of persons who are both deaf and blind; and

Whereas it is highly appropriate to publicize the needs, abilities, and potential of all deaf-blind persons, and simultaneously to recognize Helen Keller not only as a beacon of courage and hope for our Nation, but also as a symbol of what is possible for deaf-blind persons to achieve: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President shall issue a proclamation designating the last week in June of 1984 as “Helen Keller Deaf-Blind Awareness Week” and calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved June 18, 1984.

LEGISLATIVE HISTORY—S.J. Res. 261:

CONGRESSIONAL RECORD, Vol. 130 (1984):
May 1, considered and passed Senate.
June 6, considered and passed House.

Public Law 98-321
98th Congress

An Act

June 19, 1984

[H.R. 3578]

To establish wilderness areas in Wisconsin.

Wisconsin
Wilderness Act
of 1984,
National
Wilderness
Preservation
System.
National Forest
System.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Wisconsin Wilderness Act of 1984".

DESIGNATION OF WILDERNESS AREAS

SEC. 2. In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131-1136), the following lands are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System—

16 USC 1132
note.

(1) certain lands in the Chequamegon National Forest, Wisconsin, which comprise approximately four thousand two hundred and thirty-five acres, as generally depicted on a map entitled "Porcupine Lake", dated November 1983; and

16 USC 1132
note.

(2) certain lands in the Nicolet National Forest, Wisconsin, which are generally known as the "Headwaters Wilderness", as generally depicted on a map dated November 1983, and which are known as—

(A) "Kimball Creek", comprising approximately seven thousand five hundred and twenty-seven acres;

(B) "Headwaters of the Pine", comprising approximately eight thousand eight hundred and seventy-two acres; and

(C) "Shelp Lake", comprising approximately three thousand seven hundred and five acres.

MAPS AND DESCRIPTIONS

SEC. 3. As soon as practicable after enactment of this Act, the Secretary of Agriculture shall file a map and a legal description of each wilderness area designated by this Act with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and with the Committee on Agriculture, Nutrition, and Forestry of the United States Senate. Each such map and description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in each such map and description may be made by the Secretary. Each such map and description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

Public
availability.

ADMINISTRATION OF WILDERNESS

SEC. 4. Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilder-

16 USC 1131
note.

ness Act shall be deemed to be a reference to the date of enactment of this Act.

16 USC 1131
note.

EFFECT OF RARE II

SEC. 5. (a) The Congress finds that—

Conservation.

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of National Forest System roadless areas in the State of Wisconsin and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

Congress.

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to National Forest System lands in States other than Wisconsin, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Wisconsin;

(2) with respect to the National Forest System lands in the State of Wisconsin which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d), that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time, the Secretary of Agriculture finds that conditions in a unit have significantly changed;

16 USC 1600
note.
16 USC 1600
note.

(3) areas in the State of Wisconsin reviewed in such final environmental statement or referenced in subsection (d) and not designated wilderness upon enactment of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976: *Provided*, That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans;

16 USC 1604.

(4) in the event that revised land management plans in the State of Wisconsin are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be

16 USC 1604.

16 USC 1600
note.
16 USC 1600
note.

required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law; and

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of National Forest System lands in the State of Wisconsin for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

16 USC 1604.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

(d) The provisions of this section shall also apply to National Forest System roadless lands in the State of Wisconsin which are less than five thousand acres in size.

Approved June 19, 1984.

LEGISLATIVE HISTORY—H.R. 3578:

HOUSE REPORT No. 98-531, Pt. 1 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 98-413 (Comm. on Agriculture, Nutrition, and Forestry).

CONGRESSIONAL RECORD:

Vol. 129 (1983): Nov. 15, 16, considered and passed House.

Vol. 130 (1984): May 24, considered and passed Senate, amended.

June 4, House concurred in Senate amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 25 (1984):

June 19, Presidential statement.

Public Law 98-322
98th Congress

An Act

To designate certain National Forest System lands in the State of Vermont for inclusion in the National Wilderness Preservation System and to designate a national recreation area.

June 19, 1984

[H.R. 4198]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Vermont Wilderness Act of 1984".

Vermont
Wilderness Act
of 1984.
National
Wilderness
Preservation
System.
National Forest
System.

TITLE I—NEW WILDERNESS AREAS

FINDINGS AND POLICY

SEC. 101. (a) Congress finds that—

(1) in the vicinity of major population centers and in the more populous eastern half of the United States there is an urgent need to identify, designate, and preserve areas of wilderness by including suitable lands within the National Wilderness Preservation System;

(2) in recognition of this urgent need, certain suitable lands in the National Forest System in Vermont were designated by Congress as wilderness in 1975;

(3) there exist in the National Forest System in the vicinity of major population centers and in Vermont additional areas of undeveloped land which meet the definition of wilderness in section 2(c) of the Wilderness Act;

16 USC 1131.

(4) lands in Vermont which are suitable for designation as wilderness are increasingly threatened by the pressures of a growing and concentrated population, expanding settlement, spreading mechanization, and development and uses inconsistent with the protection, maintenance, and enhancement of their wilderness character; and

(5) the Wilderness Act establishes that an area is qualified and suitable for designation as wilderness which (i) though man's works may have been present in the past, has been or may be so restored by natural influences as to generally appear to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable, and (ii) may, upon designation as wilderness, contain certain preexisting, nonconforming uses, improvements, structures, or installations; and Congress has reaffirmed these established policies in the designation of additional areas since enactment of the Wilderness Act, exercising its sole authority to determine the suitability of such areas for designation as wilderness.

16 USC 1131
note.

(b) The purpose of this title is to designate certain National Forest System lands in the State of Vermont as components of the National Wilderness Preservation System, in order to preserve such areas as an enduring resource of wilderness which shall be managed to perpetuate and protect watersheds and wildlife habitat, preserve scenic and historic resources, and promote scientific research, primi-

tive recreation, solitude, physical and mental challenge, and inspiration for the benefit of all Americans to a greater extent than is possible in the absence of wilderness designation.

DESIGNATION OF WILDERNESS AREAS

SEC. 102. In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131-1136), the following lands in the State of Vermont are designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

16 USC 1132
note.

(1) certain lands in the Green Mountain National Forest, Vermont, which comprise approximately twenty-one thousand four hundred and eighty acres, as generally depicted on a map entitled "Breadloaf Wilderness—Proposed", dated September 1983, and which shall be known as the Breadloaf Wilderness;

16 USC 1132
note.

(2) certain lands in the Green Mountain National Forest, Vermont, which comprise approximately six thousand seven hundred and twenty acres, as generally depicted on a map entitled "Big Branch Wilderness—Proposed", dated September 1983, and which shall be known as the Big Branch Wilderness;

16 USC 1132
note.

(3) certain lands in the Green Mountain National Forest, Vermont, which comprise approximately six thousand nine hundred and twenty acres, as generally depicted on a map entitled "Peru Peak Wilderness—Proposed", dated September 1983, and which shall be known as the Peru Peak Wilderness;

(4) certain lands in the Green Mountain National Forest, Vermont, which comprise approximately one thousand and eighty acres, as generally depicted on a map entitled "Lye Brook Additions—Proposed", dated September 1983, and which are hereby incorporated in, and shall be deemed to be a part of, the Lye Brook Wilderness as designated by Public Law 93-622; and

88 Stat. 2096.

16 USC 1132
note.

(5) certain lands in the Green Mountain National Forest, Vermont, which comprise approximately five thousand and sixty acres, as generally depicted on a map entitled "George D. Aiken Wilderness—Proposed", dated September 1983, and which shall be known as the George D. Aiken Wilderness.

MAPS AND DESCRIPTIONS

SEC. 103. As soon as practicable after enactment of this Act, the Secretary of Agriculture shall file a map and a legal description of each wilderness area designated by this title with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and with the Committee on Agriculture, Nutrition, and Forestry of the United States Senate. Each such map and description shall have the same force and effect as if included in this title, except that correction of clerical and typographical errors in each such map and description may be made by the Secretary. Each such map and description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

Public
availability.

ADMINISTRATION OF WILDERNESS

SEC. 104. (a) Subject to valid existing rights, each wilderness area designated by this title shall be administered by the Secretary of

Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this title. 16 USC 1131 note.

(b) As provided in section 4(d)(8) of the Wilderness Act, nothing in this title shall be construed as affecting the jurisdiction or responsibilities of the State of Vermont with respect to wildlife and fish in the national forest in the State of Vermont. 16 USC 1133.

(c) Notwithstanding any provision of the Wilderness Act or any other provision of law, the Appalachian Trail and related structures, the Long Trail and related structures, and the associated trails of the Appalachian Trail and the Long Trail in Vermont may be maintained. 16 USC 1131 note.

EFFECT OF RARE II

SEC. 105. (a) Congress finds that—

Conservation.

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) Congress has made its own review and examination of National Forest System roadless areas in the State of Vermont and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, Congress hereby determines and directs that— Congress.

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to National Forest System lands in States other than Vermont, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Vermont;

(2) with respect to the National Forest System lands in the State of Vermont which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d), that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time, the Secretary of Agriculture finds that conditions in a unit have significantly changed;

16 USC 1600 note.
16 USC 1600 note.

(3) areas in the State of Vermont reviewed in such final environmental statement or referenced in subsection (d) and not designated as wilderness or for special management pursuant to section 204 of this Act upon enactment of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976: *Provided*, That such areas need not be managed for the purpose of protecting their

16 USC 1604.

suitability for wilderness designation prior to or during revision of the initial land management plans; and

(4) in the event that revised land management plans in the State of Vermont are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law.

16 USC 1604.

16 USC 1600
note.
16 USC 1600
note.
16 USC 1604.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

(d) The provisions of this section shall also apply to National Forest System roadless lands in the State of Vermont which are less than five thousand acres in size.

TITLE II—WHITE ROCKS NATIONAL RECREATION AREA

FINDINGS AND POLICY

16 USC 460nn.

SEC. 201. (a) Congress finds that—

(1) Vermont is a beautiful but small and rural State, situated near four large cities with combined metropolitan populations of over fifteen million;

(2) geographic and topographic characteristics of Vermont provide opportunities for large numbers of people to experience the beauty of primitive areas, but also place unusual pressure to provide options to maximize the availability of such lands for a variety of forms of recreation;

(3) certain lands designated as the Big Branch and Peru Peak Wilderness Areas by title I of this Act are suitable for inclusion as part of the national recreation area; and

(4) certain other lands in the Green Mountain National Forest not designated as wilderness by this Act are of a predominantly roadless nature and possess outstanding wild values that are important for primitive and semiprimitive recreation, watershed protection, wildlife habitat, ecological study, education, and historic and archeological resources, and are deemed suitable for preservation and protection as part of a national recreation area.

(b) The purpose of this title is to designate certain National Forest System lands in the State of Vermont as the White Rocks National Recreation Area in order to preserve and protect their existing wilderness and wild values and to promote wild forest and aquatic habitat for wildlife, watershed protection, opportunities for primitive and semiprimitive recreation, and scenic, ecological, and scientific values.

DESIGNATION OF WHITE ROCKS NATIONAL RECREATION AREA

SEC. 202. In furtherance of the findings and purposes of this title, certain lands in the Green Mountain National Forest, Vermont, which comprise approximately thirty-six thousand four hundred acres, as generally depicted on a map entitled "White Rocks National Recreation Area—Proposed", dated September 1983, are hereby designated as the White Rocks National Recreation Area. 16 USC 460nn-1.

MAP AND DESCRIPTION

SEC. 203. As soon as practicable after enactment of this Act, the Secretary of Agriculture shall file a map and legal description of the national recreation area designated by this title with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and with the Committee on Agriculture, Nutrition, and Forestry of the United States Senate. Such map and description shall have the same force and effect as if included in this title, except that correction of clerical and typographical errors in such map and description may be made by the Secretary. Such map and description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture. 16 USC 460nn-2. Public availability.

ADMINISTRATION OF THE NATIONAL RECREATION AREA

SEC. 204. (a) Subject to valid existing rights, the White Rocks National Recreation Area designated by this title shall be administered by the Secretary of Agriculture in accordance with the findings and purpose of this title and the laws, rules, and regulations applicable to the national forests in a manner compatible with the following objectives: 16 USC 460nn-3.

- (1) the continuation of existing primitive and semiprimitive recreational use in a natural environment;
- (2) utilization of natural resources shall be permitted only if consistent with the findings and purposes in this title;
- (3) preservation and protection of forest and aquatic habitat for fish and wildlife; and
- (4) protection and conservation of special areas having uncommon or outstanding wilderness, biological, geological, recreational, cultural, historical or archeological, and scientific, or other values contributing to the public benefit.

(b) Notwithstanding any other provision of law, federally-owned lands within the White Rocks National Recreation Area as designated by this title are hereby withdrawn from all forms of appropriation under the mineral leasing laws, including all laws pertaining to geothermal leasing, and all amendments thereto.

Public lands.

(c) The Secretary shall permit hunting, fishing, and trapping on lands and waters under the Secretary's jurisdiction within the boundaries of the national recreation area designated by this title in accordance with applicable laws of the United States and the State of Vermont.

(d) Within eighteen months after the date of enactment of this Act, the Secretary shall develop and submit to the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and to the Committee on Agriculture, Nutrition, and Forestry of the United States Senate

Public
availability.

a comprehensive management plan for the national recreation area designated by this title.

(e) In conducting the reviews and preparing the comprehensive management plan required by subsection (d), the Secretary shall provide for full public participation, shall consider the views of all interested agencies, organizations, and individuals, and shall particularly emphasize the values enumerated in section 201(a)(4) of this title.

Approved June 19, 1984.

LEGISLATIVE HISTORY—H.R. 4198:

HOUSE REPORT No. 98-533, Pt. 1 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 98-416 (Comm. on Agriculture, Nutrition, and Forestry).

CONGRESSIONAL RECORD:

Vol. 129 (1983): Nov. 15, considered and passed House.

Vol. 130 (1984): May 24, considered and passed Senate, amended.

June 4, House concurred in Senate amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 25 (1984):

June 19, Presidential statement.

Public Law 98-323
98th Congress

An Act

To establish wilderness areas in New Hampshire, and for other purposes.

June 19, 1984
[H.R. 3921]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "New Hampshire Wilderness Act of 1984".

New Hampshire
Wilderness Act
of 1984.
National
Wilderness
Preservation
System.
National Forest
System.

TITLE I—NEW WILDERNESS AREAS

DESIGNATION OF WILDERNESS AREAS

SEC. 101. In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131-1136), the following lands are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(1) certain lands in the White Mountain National Forest, New Hampshire, which comprise approximately forty-five thousand acres, as generally depicted on a map entitled "Pemigewasset Wilderness—Proposed", dated July 1983, and which shall be known as the Pemigewasset Wilderness Area;

16 USC 1132
note.

(2) certain lands in the White Mountain National Forest, New Hampshire, which comprise approximately twenty-five thousand acres, as generally depicted on a map entitled "Sandwich Range Wilderness—Proposed", dated July 1983, and which shall be known as the Sandwich Range Wilderness; and

16 USC 1132
note.

(3) certain lands in the White Mountain National Forest, New Hampshire, which comprise approximately seven thousand acres, as generally depicted on a map entitled "Presidential Range-Dry River Wilderness Additions—Proposed", dated July 1983, and which are hereby incorporated in and shall be deemed to be a part of the Presidential Range-Dry River Wilderness as designated by Public Law 93-622.

16 USC 1132
note.

MAPS AND DESCRIPTIONS

SEC. 102. As soon as practicable after enactment of this Act, the Secretary of Agriculture shall file a map and a legal description of each wilderness area designated by this Act with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and with the Committee on Agriculture, Nutrition, and Forestry of the United States Senate. Each such map and description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in each such map and description may be made by the Secretary. Each such map and description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

Public
availability.

ADMINISTRATION OF WILDERNESS

16 USC 1131
note.

SEC. 103. Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act.

EFFECT OF RARE II

Conservation.

SEC. 104. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of National Forest System roadless areas in the State of New Hampshire and of the environmental impacts associated with alternative allocations of such areas.

Congress.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to National Forest System lands in States other than New Hampshire, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of New Hampshire;

(2) with respect to the National Forest System lands in the State of New Hampshire which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d), that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time, the Secretary of Agriculture finds that conditions in a unit have significantly changed;

16 USC 1600
note.
16 USC 1600
note.

(3) areas in the State of New Hampshire reviewed in such final environmental statement or referenced in subsection (d) and not designated wilderness upon enactment of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976: *Provided*, That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans; and

16 USC 1604.

(4) in the event that revised land management plans in the State of New Hampshire are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management

16 USC 1604.

Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law.

16 USC 1600
note.
16 USC 1600
note.
16 USC 1604.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

(d) The provisions of this section shall also apply to—

(1) those National Forest System roadless lands in the State of New Hampshire which were evaluated in the Kancamagus, Waterville Valley, and Presidential unit plans; and

(2) National Forest System roadless lands in the State of New Hampshire which are less than five thousand acres in size.

(e) The Kilkenny Unit Plan Area, as depicted on a map entitled "Kilkenny Unit Plan Area", dated October 1983, shall be considered for all uses, including wilderness, during preparation of a forest plan for the White Mountain National Forest pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976.

16 USC 1604.

(f) The provisions of this section shall not apply to any lands in the White Mountain National Forest located within the State of Maine.

TITLE II—WILD AND SCENIC RIVER STUDY

WILDCAT BROOK WILD AND SCENIC RIVER STUDY

SEC. 201. Section 5(a) of the Wild and Scenic Rivers Act (Public Law 90-542; 82 Stat. 906, as amended) is further amended by adding at the end thereof the following new paragraph:

16 USC 1276.

"(89) Wildcat Brook, New Hampshire: The segment from its headwaters including the principal tributaries to its confluence with the Ellis River. The study authorized in this paragraph shall be completed no later than six years from the date of enactment of this paragraph and an interim report shall be prepared and submitted to the Congress no later than three years from the date of enactment of this paragraph."

Report.

TITLE III—NATIONAL FOREST BOUNDARY EXPANSION

PURCHASE OF PILOT RANGE TRACTS

SEC. 301. In order to develop and preserve recreational opportunities, maintain long-term public access, and provide the watershed protection and controlled timber harvesting associated with National Forest System ownership, the Secretary of Agriculture is authorized to purchase, under the provisions of the Weeks Act of March 1, 1911 (16 U.S.C. 480 et seq.), certain lands contiguous to the White Mountain National Forest, New Hampshire, comprising approximately four thousand acres, as generally depicted on the map entitled "Pilot Range Tracts", dated 1984. The maps and legal description of the boundary of such lands shall be on file and

16 USC 552 note.

Public
availability.

available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture, and appropriate field offices of the Forest Service.

ADDITION TO THE WHITE MOUNTAIN NATIONAL FOREST

SEC. 302. All lands purchased pursuant to section 301 of this title are hereby added to the White Mountain National Forest, and shall be administered in accordance with the laws, rules, and regulations applicable with respect to lands in the National Forest System.

LAND AND WATER CONSERVATION FUND

16 USC 4601-9. SEC. 303. For the purpose of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9), the boundary of the White Mountain National Forest, as modified by this title, shall be treated as if it were the boundary of that forest as of January 1, 1965.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 304. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this title.

Approved June 19, 1984.

LEGISLATIVE HISTORY—H.R. 3921:

HOUSE REPORT No. 98-545, Pt. 1 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 98-414 (Comm. on Agriculture, Nutrition, and Forestry).

CONGRESSIONAL RECORD:

Vol. 129 (1983): Nov. 15, considered and passed House.

Vol. 130 (1984): May 24, considered and passed Senate, amended.

June 6, House concurred in Senate amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 25 (1984):

June 19, Presidential statement.

Public Law 98-324
98th Congress

An Act

To designate certain public lands in North Carolina as additions to the National Wilderness Preservation System.

June 19, 1984
[H.R. 3960]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "North Carolina Wilderness Act of 1984".

DESIGNATION OF WILDERNESS AREAS

SEC. 2. In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131-1136), the following lands are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System—

North Carolina
Wilderness Act
of 1984.
National
Wilderness
Preservation
System.
National Forest
System.

(1) certain lands in the Uwharrie National Forest, North Carolina, which comprise approximately four thousand seven hundred and ninety acres, as generally depicted on a map entitled "Birkhead Mountains Wilderness—Proposed", dated July 1983, and which shall be known as the Birkhead Mountains Wilderness;

16 USC 1132
note.

(2) certain lands in the Croatan National Forest, North Carolina, which comprise approximately seven thousand six hundred acres, as generally depicted on a map entitled "Catfish Lake South Wilderness—Proposed", dated July 1983, and which shall be known as the Catfish Lake South Wilderness;

16 USC 1132
note.

(3) certain lands in the Nantahala National Forest, North Carolina, which comprise approximately three thousand six hundred and eighty acres, as generally depicted on a map entitled "Ellicott Rock Wilderness Addition—Proposed", dated July 1983, and which are hereby incorporated in, and shall be deemed to be part of, the Ellicott Rock Wilderness as designated by Public Law 93-622;

88 Stat. 2096.

(4) certain lands in the Nantahala National Forest, North Carolina, which comprise approximately two thousand nine hundred and eighty acres, as generally depicted on a map entitled "Joyce Kilmer-Slickrock Wilderness Additions—Proposed", dated July 1983, and which are hereby incorporated in, and shall be deemed to be part of, the Joyce Kilmer Wilderness as designated by Public Law 93-622;

(5) certain lands in the Pisgah National Forest, North Carolina, which comprise approximately three thousand four hundred acres, as generally depicted on a map entitled "Linville Gorge Wilderness Additions—Proposed", dated July 1983, and which are hereby incorporated in, and shall be deemed to be part of, the Linville Gorge Wilderness as designated by the Wilderness Act;

16 USC 1131
note.
16 USC 1132
note.

(6) certain lands in the Pisgah National Forest, North Carolina, which comprise approximately seven thousand nine hundred acres, as generally depicted on a map entitled "Middle

Prong Wilderness—Proposed”, dated July 1983, and which shall be known as the Middle Prong Wilderness;

16 USC 1132
note.

(7) certain lands in the Croatan National Forest, North Carolina, which comprise approximately eleven thousand acres, as generally depicted on a map entitled “Pocosin Wilderness—Proposed”, dated July 1983, and which shall be known as the Pocosin Wilderness;

16 USC 1132
note.

(8) certain lands in the Croatan National Forest, North Carolina, which comprise approximately one thousand eight hundred and sixty acres, as generally depicted on a map entitled “Pond Pine Wilderness—Proposed”, dated July 1983, and which shall be known as the Pond Pine Wilderness;

16 USC 1132
note.

(9) certain lands in the Croatan National Forest, North Carolina, which comprise approximately nine thousand five hundred and forty acres, as generally depicted on a map entitled “Sheep Ridge Wilderness—Proposed”, dated October 1983, and which shall be known as the Sheep Ridge Wilderness;

(10) certain lands in the Pisgah National Forest, North Carolina, which comprise approximately five thousand one hundred acres, as generally depicted on a map entitled “Shining Rock Wilderness Addition—Proposed”, dated July 1983, and which are hereby incorporated in, and shall be deemed to be part of, the Shining Rock Wilderness as designated by the Wilderness Act; and

16 USC 1132
note.

(11) certain lands in the Nantahala National Forest, North Carolina, which comprise approximately ten thousand nine hundred acres, as generally depicted on a map entitled “Southern Nantahala Wilderness—Proposed”, dated July 1983, and which shall be known as the Southern Nantahala Wilderness.

MAPS AND DESCRIPTIONS

SEC. 3. As soon as practicable after enactment of this Act, the Secretary of Agriculture shall file a map and a legal description of each wilderness area designated by this Act with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and with the Committee on Agriculture, Nutrition, and Forestry of the United States Senate. Each such map and description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in each such map and description may be made by the Secretary. Each such map and description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

Public
availability.

ADMINISTRATION OF WILDERNESS

SEC. 4. Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act.

16 USC 1131
note.

EFFECT OF RARE II

SEC. 5. (a) The Congress finds that—

Conservation.

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of National Forest System roadless areas in the State of North Carolina and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

Congress.

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to National Forest System lands in States other than North Carolina, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of North Carolina;

(2) with respect to the National Forest System lands in the State of North Carolina which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d), except those lands designated for wilderness study upon enactment of this Act, that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time, the Secretary of Agriculture finds that conditions in a unit have significantly changed;

16 USC 1600
note.
16 USC 1600
note.

(3) areas in the State of North Carolina reviewed in such final environmental statement or referenced in subsection (d) and not designated as wilderness or for wilderness study upon enactment of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976: *Provided*, That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans;

16 USC 1604.

(4) in the event that revised land management plans in the State of North Carolina are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources

16 USC 1604.

16 USC 1600
note.
16 USC 1600
note.

Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law; and

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of National Forest System lands in the State of North Carolina for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

16 USC 1604.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

(d) The provisions of this section shall also apply to National Forest System roadless lands in the State of North Carolina which are less than five thousand acres in size.

DESIGNATION OF WILDERNESS STUDY AREAS

16 USC 1131
note.

SEC. 6. (a) In furtherance of the purposes of the Wilderness Act, the following lands shall be reviewed by the Secretary of Agriculture as to their suitability for preservation as wilderness during preparation of the initial land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended—

16 USC 1604.

(1) certain lands in the Pisgah National Forest, North Carolina, which comprise approximately seven thousand one hundred and thirty-eight acres, as generally depicted on a map entitled "Harper Creek Wilderness Study Area", dated July 1983, and which shall be known as the Harper Creek Wilderness Study Area;

(2) certain lands in the Pisgah National Forest, North Carolina, which comprise approximately five thousand seven hundred and eight acres, as generally depicted on a map entitled "Lost Cove Wilderness Study Area", dated July 1983, and which shall be known as the Lost Cove Wilderness Study Area;

(3) certain lands in the Nantahala National Forest, North Carolina, which comprise approximately three thousand two hundred acres, as generally depicted on a map entitled "Overflow Wilderness Study Area", dated July 1983, and which shall be known as the Overflow Wilderness Study Area;

(4) certain lands in the Nantahala National Forest, North Carolina, which comprise approximately eight thousand four hundred and ninety acres, as generally depicted on a map entitled "Snowbird Wilderness Study Area", dated July 1983, and which shall be known as the Snowbird Wilderness Study Area; and

(5) certain lands in the Pisgah National Forest, North Carolina, which comprise approximately one thousand two hundred and eighty acres, as generally depicted on a map entitled "Craggy Mountain Wilderness Study Area Extension", dated July 1983, and which are hereby incorporated in the Craggy Mountain Wilderness Study Area as designated by Public Law 93-622.

88 Stat. 2096.

Report.

President of U.S.

(b) The Secretary shall submit a report and findings to the President regarding the review required under this section, and the President shall submit his recommendations regarding the areas

specified in paragraphs (1) through (5) of subsection (a) to Congress no later than three years after the date of enactment of this Act.

(c) Subject to valid existing rights, the wilderness study areas designated by this section shall, until Congress determines otherwise, be administered by the Secretary so as to maintain their presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System. The entire Craggy Mountain Wilderness Study Area, including the study area designated by Public Law 93-622, shall be administered in accordance with this subsection until Congress determines otherwise.

88 Stat. 2096.

Approved June 19, 1984.

LEGISLATIVE HISTORY—H.R. 3960:

HOUSE REPORT No. 98-532, Pt. 1 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 98-415 (Comm. on Agriculture, Nutrition, and Forestry).

CONGRESSIONAL RECORD:

Vol. 129 (1983): Nov. 15, 16, considered and passed House.

Vol. 130 (1984): May 24, considered and passed Senate, amended.

June 4, House concurred in Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 25 (1984):

June 19, Presidential statement.

Public Law 98-325
98th Congress

An Act

June 20, 1984
[S. 2776]

To continue the transition provisions of the Bankruptcy Act until June 27, 1984, and for other purposes.

Ante, p. 214.
11 USC note
prec. 101.

Ante, p. 214.
28 USC note
prec. 151.

Ante, p. 214.
28 USC note
prec. 151.

Ante, p. 214.
28 USC note
prec. 1471.

Judge.
28 USC note
prec. 151.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 402 of the Act entitled "An Act to establish a uniform Law on the Subject of Bankruptcies" (Public Law 95-598) is amended in subsections (b) and (e) by striking out "June 21, 1984" each place it appears and inserting in lieu thereof "June 28, 1984".

(b) Section 404 of such Act is amended in subsections (a) and (b) by striking out "June 20, 1984" each place it appears and inserting in lieu thereof "June 27, 1984".

(c) Section 406 of such Act is amended by striking out "June 20, 1984" each place it appears and inserting in lieu thereof "June 27, 1984".

(d) Section 409 of such Act is amended by—

(1) striking out "June 21, 1984" each place it appears and inserting in lieu thereof "June 28, 1984"; and

(2) striking out "June 20, 1984" each place it appears and inserting in lieu thereof "June 27, 1984".

SEC. 2. The term of office of any bankruptcy judge who was serving on June 20, 1984, and of any bankruptcy judge who is serving on the date of the enactment of this Act is extended to and shall expire on June 27, 1984.

SEC. 3. (a) Section 8339(n) of title 5, United States Code, is amended by striking out "June 21, 1984" and inserting in lieu thereof "June 28, 1984".

(b) Section 8331(22) of title 5, United States Code, is amended by striking out "June 20, 1984" and inserting in lieu thereof "June 27, 1984".

Approved June 20, 1984.

LEGISLATIVE HISTORY—S. 2776:

CONGRESSIONAL RECORD, Vol. 130 (1984):
June 19, considered and passed Senate.
June 20, considered and passed House.

Public Law 98-326
98th Congress

An Act

To amend title 31, United States Code, to provide for certain additional experts and consultants for the General Accounting Office, to provide for certain additional positions within the General Accounting Office Senior Executive Service, and for other purposes.

June 22, 1984
[H.R. 5517]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 731(e) of title 31, United States Code, is amended—

(1) by striking out “title 5,” and inserting in lieu thereof “title 5 at rates not in excess of the maximum daily rate for GS-18 under section 5332 of such title,”; and

(2) in paragraph (1), by striking out “10” and inserting in lieu thereof “15”.

(b) Section 732(c)(4) of title 31, United States Code, is amended by striking out “100” and inserting in lieu thereof “119”.

(c) Section 733(c) of title 31, United States Code, is amended by inserting “(e)(1),” after “(d),”.

SEC. 2. The amendments made by this Act shall take effect beginning on October 1, 1984.

Effective date.
31 USC 731 note.

Approved June 22, 1984.

LEGISLATIVE HISTORY—H.R. 5517 (S. 2689):

CONGRESSIONAL RECORD, Vol. 130 (1984):

May 21, considered and passed House.

June 8, considered and passed Senate.

Public Law 98-327
98th Congress

An Act

June 25, 1984
[H.R. 1723]

To authorize appropriations through fiscal year 1986 for the Great Dismal Swamp, Minnesota Valley, and San Francisco Bay National Wildlife Refuges.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. GREAT DISMAL SWAMP NATIONAL WILDLIFE REFUGE.

92 Stat. 341.

Section 4(4) of the Act entitled “An Act to establish the Great Dismal Swamp National Wildlife Refuge”, approved August 30, 1974 (Public Law 93-402, 88 Stat. 802), as amended, is amended to read as follows:

“(4) for the period beginning October 1, 1977, \$34,100,000, to remain available until expended, of which not to exceed \$22,000,000 shall be available for land acquisition and not to exceed \$12,100,000 shall be available for purposes other than land acquisition.”.

SEC. 2. MINNESOTA VALLEY NATIONAL WILDLIFE REFUGE.

16 USC 668kk-
668ss

(a) Section 4(a)(1) of the Act entitled the “Minnesota Valley National Wildlife Refuge Act”, approved October 8, 1976 (Public Law 97-466, 90 Stat. 1993), is amended by—

- (1) striking “9,500” and inserting in lieu thereof “12,500”; and
- (2) striking “November 1975” and inserting in lieu thereof “October 1983”.

(b) Section 4(b)(1) of such Act of October 8, 1976 (90 Stat. 1993), is amended by—

- (1) striking “, within 6 years after the date of enactment of this Act,”; and

(2) adding at the end thereof the following new sentence: “Notwithstanding any ‘least interest’ policy, the Secretary shall accept and acquire by donation any lands, water, and interests therein, within the boundaries of the refuge, which are offered as a donation by any State or local government agency, person, or private organization.”.

(c) Section 10(a) of such Act of October 8, 1976 (90 Stat. 1996), is amended by striking out “\$14,500,000 for the period beginning October 1, 1977, and ending September 30, 1983” and inserting in lieu thereof “\$29,500,000, to remain available until expended”.

(d) Section 10(b) of such Act of October 8, 1976 (90 Stat. 1996), is amended by striking out “\$6,000,000 for the period beginning October 1, 1977, and ending September 30, 1986” and inserting in lieu thereof “\$9,800,000, to remain available until expended”.

SEC. 3. SAN FRANCISCO BAY NATIONAL WILDLIFE REFUGE.

94 Stat. 607.

Section 5(1) of the Act entitled “An Act to provide for the establishment of the San Francisco Bay National Wildlife Refuge”, approved June 30, 1972 (Public Law 92-330, 86 Stat. 400), as amended, is amended by striking out “the close of September 30, 1983;” and inserting in lieu thereof “expended;”.

SEC. 4. PAYMENT OF COSTS FOR TEMPORARY CARE OF ANIMALS AND PLANTS PENDING DISPOSITION OF PROCEEDINGS.

Section 6(d) of the Lacey Act Amendments of 1981 (16 U.S.C. 3375(d)) and section 11(d) of the Endangered Species Act of 1973 (16 U.S.C. 1540(d)) are each amended—

(1) by amending the subsection side heading to read as follows: “REWARDS AND CERTAIN INCIDENTAL EXPENSES.—”; and

(2) by amending the first sentence—

(A) by striking out “a reward” and inserting in lieu thereof a comma;

(B) by inserting “(1) a reward” immediately before “to any person”; and

(C) by inserting immediately before the period the following: “, and (2) the reasonable and necessary costs incurred by any person in providing temporary care for any fish, wildlife, or plant pending the disposition of any civil or criminal proceeding alleging a violation of this Act with respect to that fish, wildlife, or plant”.

Approved June 25, 1984.

LEGISLATIVE HISTORY—H.R. 1723:

HOUSE REPORT No. 98-66 (Comm. on Merchant Marine and Fisheries).

SENATE REPORT No. 98-93 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD:

Vol. 129 (1983): Apr. 19, considered and passed House.

Nov. 17, considered and passed Senate, amended.

Vol. 130 (1984): Feb. 6, House concurred in Senate amendments and in another with an amendment.

June 8, Senate concurred in House amendment.

Public Law 98-328
98th Congress

An Act

June 26, 1984
[H.R. 1149]

To designate certain national forest system and other lands in the State of Oregon for inclusion in the National Wilderness Preservation System, and for other purposes.

Oregon
Wilderness Act
of 1984.
National
Wilderness
Preservation
System.
National Forest
System.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be referred to as the “Oregon Wilderness Act of 1984”.

SEC. 2. (a) The Congress finds that—

(1) many areas of undeveloped National Forest System land in the State of Oregon possess outstanding natural characteristics which give them high value as wilderness and will, if properly preserved, contribute as an enduring resource of wilderness for the benefit of the American people;

(2) the Department of Agriculture’s second roadless area review and evaluation (RARE II) of National Forest System lands in the State of Oregon and the related congressional review of such lands have identified areas which, on the basis of their landform, ecosystem, associated wildlife, and location, will help to fulfill the National Forest System’s share of a quality National Wilderness Preservation System; and

(3) the Department of Agriculture’s second roadless area review and evaluation of National Forest System lands in the State of Oregon and the related congressional review of such lands have also identified areas which do not possess outstanding wilderness attributes or which possess outstanding energy, mineral, timber, grazing, dispersed recreation and other values and which should not now be designated as components of the National Wilderness Preservation System but should be available for nonwilderness multiple uses under the land management planning process and other applicable laws.

(b) The purposes of this Act are to—

(1) designate certain National Forest System lands and certain public lands in the State of Oregon as components of the National Wilderness Preservation System, in order to promote, perpetuate, and preserve the wilderness character of the lands, protect watersheds and wildlife habitat, preserve scenic and historic resources, and promote scientific research, primitive recreation, solitude, physical and mental challenge, and inspiration for the benefit of all the American people, to a greater extent than is possible in the absence of wilderness designation; and

(2) insure that certain other National Forest System lands in the State of Oregon be available for nonwilderness multiple use.

SEC. 3. In furtherance of the purpose of the Wilderness Act the following lands in the State of Oregon comprising approximately eight hundred fifty-nine thousand six hundred acres and as generally depicted on maps appropriately referenced, dated May 1984; are hereby designated as wilderness, and therefore, as components of the National Wilderness Preservation System—

- (1) certain lands in the Mount Hood National Forest, which comprise approximately thirty-nine thousand acres, are generally depicted on a map entitled "Columbia Wilderness—Proposed", and which shall be known as the Columbia Wilderness; 16 USC 1132 note.
- (2) certain lands in the Mount Hood National Forest, which comprise approximately forty-four thousand six hundred acres, are generally depicted on a map entitled "Salmon-Huckleberry Wilderness—Proposed", and which shall be known as the Salmon-Huckleberry Wilderness; 16 USC 1132 note.
- (3) certain lands in the Mount Hood National Forest, which comprise approximately twenty-four thousand acres, are generally depicted on a map entitled "Badger Creek Wilderness—Proposed", and which shall be known as the Badger Creek Wilderness; 16 USC 1132 note.
- (4) certain lands in the Mount Hood National Forest and the Willamette National Forest, which comprise approximately thirty-four thousand nine hundred acres, are generally depicted on a map entitled "Bull of the Woods Wilderness—Proposed", and which shall be known as the Bull of the Woods Wilderness; 16 USC 1132 note.
- (5) certain lands in the Siuslaw National Forest, which comprise approximately five thousand eight hundred acres, are generally depicted on a map entitled "Drift Creek Wilderness—Proposed", and which shall be known as the Drift Creek Wilderness; 16 USC 1132 note.
- (6) certain lands in the Siuslaw National Forest, which comprise approximately seven thousand four hundred acres, are generally depicted on a map entitled "Rock Creek Wilderness—Proposed", and which shall be known as the Rock Creek Wilderness; 16 USC 1132 note.
- (7) certain lands in the Siuslaw National Forest, which comprise approximately nine thousand three hundred acres, are generally depicted on a map entitled "Cummins Creek Wilderness—Proposed", and which shall be known as the Cummins Creek Wilderness; 16 USC 1132 note.
- (8) certain lands in the Umpqua National Forest, which comprise approximately nineteen thousand one hundred acres, are generally depicted on a map entitled "Boulder Creek Wilderness—Proposed", and which shall be known as the Boulder Creek Wilderness; 16 USC 1132 note.
- (9) certain lands in the Umpqua and Rogue River National Forests, which comprise approximately thirty-three thousand two hundred acres, are generally depicted on a map entitled "Rogue-Umpqua Divide Wilderness—Proposed", and which shall be known as the Rogue-Umpqua Divide Wilderness; 16 USC 1132 note.
- (10) certain lands in the Willamette National Forest, which comprise approximately thirty-nine thousand two hundred acres, are generally depicted on a map entitled "Waldo Lake Wilderness—Proposed", and which shall be known as the Waldo Lake Wilderness; 16 USC 1132 note.
- (11) certain lands in the Willamette National Forest, which comprise approximately four thousand eight hundred acres, are generally depicted on a map entitled "Menagerie Wilderness—Proposed", and which shall be known as the Menagerie Wilderness; 16 USC 1132 note.
- (12) certain lands in the Willamette National Forest, which comprise approximately seven thousand five hundred acres, are generally depicted on a map entitled "Middle Santiam Wilder-

- ness—Proposed”, and which shall be known as the Middle Santiam Wilderness;
- 16 USC 1132
note. (13) certain lands in the Siskiyou National Forest which comprise approximately seventeen thousand two hundred acres, are generally depicted on a map entitled “Grassy Knob Wilderness—Proposed”, and which shall be known as the Grassy Knob Wilderness;
- 16 USC 1132
note. (14) certain lands in the Siskiyou National Forest, which comprise approximately three thousand four hundred acres, are generally depicted on a map entitled “Red Buttes Wilderness—Proposed”, and which shall be known as the Red Buttes Wilderness;
- 16 USC 1132
note. (15) certain lands in the Rogue River and Winema National Forests, which comprise approximately one hundred sixteen thousand three hundred acres, are generally depicted on a map entitled “Sky Lake Wilderness—Proposed”, and which shall be known as the Sky Lakes Wilderness;
- 16 USC 1132
note. (16) certain lands in the Ochoco National Forest, which comprise approximately five thousand four hundred acres, are generally depicted on a map entitled “Bridge Creek Wilderness—Proposed”, and which shall be known as the Bridge Creek Wilderness;
- 16 USC 1132
note. (17) certain lands in the Ochoco National Forest, which comprise approximately seventeen thousand four hundred acres, are generally depicted on a map entitled “Mill Creek Wilderness—Proposed”, and which shall be known as the Mill Creek Wilderness;
- 16 USC 1132
note. (18) certain lands in the Ochoco National Forest which comprise approximately thirteen thousand four hundred acres, are generally depicted on a map entitled “Black Canyon Wilderness—Proposed”, and which shall be known as the Black Canyon Wilderness;
- 16 USC 1132
note. (19) certain lands in the Wallowa-Whitman and Umatilla National Forests, which comprise approximately one hundred twenty-one thousand four hundred acres, are generally depicted on a map entitled “North Fork John Day Wilderness—Proposed”, and which shall be known as the North Fork John Day Wilderness;
- 16 USC 1132
note. (20) certain lands in the Umatilla National Forest, which comprise approximately twenty thousand two hundred acres, are generally depicted on a map entitled “North Fork Umatilla Wilderness—Proposed”, and which shall be known as the North Fork Umatilla Wilderness;
- 16 USC 1132
note. (21) certain lands in the Malheur and Wallowa-Whitman National Forests, which comprise approximately nineteen thousand eight hundred acres, are generally depicted on a map entitled “Monument Rock Wilderness—Proposed”, and which shall be known as the Monument Rock Wilderness;
- 16 USC 1132
note. (22) certain lands located in the Salem District of the Bureau of Land Management, Oregon, which comprise approximately five thousand five hundred acres, as generally depicted on a map entitled “Table Rock Wilderness—Proposed”, and which shall be known as the Table Rock Wilderness;
- (23) certain lands in the Willamette and Mount Hood National Forests, which comprise approximately six thousand eight hundred acres, are generally depicted on a map entitled “Mount Jefferson Wilderness Additions—Proposed”, and which

are hereby incorporated in, and which shall be deemed to be a part of, the Mount Jefferson Wilderness as designated by Public Law 88-577;

16 USC 1131
note.

(24) certain lands in the Willamette and Deschutes National Forests, which comprise approximately six thousand four hundred acres, are generally depicted on a map entitled "Mount Washington Wilderness Additions—Proposed", and which are hereby incorporated in, and which shall be deemed to be part of, the Mount Washington Wilderness as designated by Public Law 88-577;

(25) certain lands in the Willamette and Deschutes National Forests which comprise approximately thirty-eight thousand one hundred acres, are generally depicted on a map entitled "Three Sisters Wilderness Additions—Proposed", and which are hereby incorporated in, and which shall be deemed to be a part of, the Three Sisters Wilderness as designated by Public Laws 88-577 and 95-237;

16 USC 1131
note, 1132 note.

(26) certain lands in the Fremont National Forest which comprise approximately four thousand one hundred acres, are generally depicted on a map entitled "Gearhart Mountain Wilderness Additions—Proposed", and which are hereby incorporated in, and which shall be deemed to be a part of, the Gearhart Mountain Wilderness as designated by Public Law 88-577;

(27) certain lands in the Malheur National Forest which comprise approximately thirty-five thousand three hundred acres, are generally depicted on a map entitled "Strawberry Mountain Wilderness Additions—Proposed", and which are hereby incorporated in, and which shall be deemed a part of, the Strawberry Mountain Wilderness as designated by Public Law 88-577;

(28) certain lands in the Wallowa-Whitman National Forest which comprise approximately sixty-six thousand five hundred acres, are generally depicted on a map entitled "Eagle Cap Wilderness Additions—Proposed", and which are hereby incorporated in, and which shall be deemed to be a part of, the Eagle Cap Wilderness as designated by Public Laws 88-577 and 92-521;

16 USC 1131
note.
86 Stat. 1026.

(29) certain lands in the Wallowa-Whitman National Forest, which comprise approximately twenty-two thousand seven hundred acres, are generally depicted on a map entitled "Hells Canyon Wilderness Additions—Proposed", and which are hereby incorporated in, and which shall be deemed to be part of, the Hells Canyon Wilderness as designated in Public Law 94-199.

16 USC 460gg.
Conservation.
16 USC 460oo.

SEC. 4. (a) In order to conserve, protect, and manage, in a substantially undeveloped condition, certain National Forest System lands in the State of Oregon having unique geographic, topographic, biological, ecological features and possessing significant scenic, wild-life, dispersed recreation, and watershed values, there is hereby established, within the Umpqua, Willamette, Winema and Deschutes National Forests, the Oregon Cascades Recreation Area (hereinafter referred to in this Act as the "recreation area").

(b) The recreation area shall comprise approximately one hundred fifty-six thousand nine hundred acres as generally depicted on a map entitled "Oregon Cascades Recreation Area" dated March 1984. Except as otherwise provided in this section, the Secretary of Agri-

culture (hereinafter referred to as the "Secretary") shall administer and manage the recreation area in accordance with the laws and regulations applicable to the National Forest System so as to enhance scenic and watershed values, wildlife habitat, and dispersed recreation.

(c) The recreation area shall be managed in accordance with plans prepared in subsection (g) to:

- (1) provide a range of recreation opportunities from primitive to full service developed campgrounds;
- (2) provide access for use by the public;
- (3) to the extent practicable, maintain the natural and scenic character of the area; and
- (4) provide for the use of motorized recreation vehicles.

Mines and
mining.

(d)(1) Subject to valid existing rights, all mining claims located within the recreation area shall be subject to such reasonable regulations as the Secretary may prescribe to insure that mining activities will, to the maximum extent practicable, be consistent with the purposes for which the recreation area is established. Any patent issued after the date of enactment of this Act shall convey title only to the minerals together with the right to use the surface of lands for mining purposes subject to such reasonable regulations as the Secretary shall prescribe.

(2) Effective January 1, 1989, and subject to valid existing rights, the lands located within the recreation area are hereby withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to the mineral leasing and geothermal leasing and all amendments thereto.

(e) Within the recreation area, the Secretary may permit, under appropriate regulations those limited activities and facilities which he determines necessary for resource protection and management and for visitor safety and comfort, including—

(1) those necessary to prevent and control wildfire, insects, diseases, soil erosion, and other damaging agents including timber harvesting activities necessary to prevent catastrophic mortality from insects, diseases or fire;

(2) those necessary to maintain or improve wildlife habitat, water yield and quality, forage production, and dispersed outdoor recreation opportunities;

(3) livestock grazing, to the extent that such use will not significantly adversely affect the resources of the recreation area;

(4) salvage of major timber mortality caused by fire, insects, disease, blowdown, or other causes when the scenic characteristics of the recreation area are significantly affected, or the health and safety of the public is threatened, or the overall protection of the forested area inside or outside the recreation area might be adversely affected by failure to remove the dead or damaged timber;

(5) those developments or facilities necessary for the public enjoyment and use of the recreation area, when such development or facilities do not detract from the purposes of the recreation area; and

(6) public service land occupancies, including power transmission lines, provided there is no feasible alternative location, and, the Secretary finds that it is in the public interest to locate such facilities within the recreation area.

(f) The following lands within the recreation area are hereby designated as wilderness and therefore as components of the National Wilderness Preservation System, and shall, notwithstanding any other provisions of this section, be administered by the Secretary in accordance with the applicable provisions of the Wilderness Act: Certain lands in the Umpqua, Willamette, and Winema National Forests which comprise approximately fifty-five thousand one hundred acres, are generally depicted on a map dated March 1984, entitled "Mount Thielsen Wilderness—Proposed", and which shall be known as the Mount Thielsen Wilderness; and certain lands in the Willamette and Deschutes National Forests, which comprise approximately fifteen thousand seven hundred acres, are generally depicted on a map dated March 1984, entitled "Diamond Peak Wilderness Additions—Proposed", and which are hereby incorporated in, and which shall be deemed to be a part of, the Diamond Peak Wilderness as designated in Public Law 88-577.

16 USC 1132
note.

(g) Management direction for the recreation area shall be developed in either the forest plans developed for the Umpqua, Winema, Deschutes and Willamette Forests in accordance with section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended, or in an integrated management plan that shall be prepared within three years from the date of enactment of this Act and revised in accordance with the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended. Any plan developed by the Secretary for the recreation area shall identify and designate specific and appropriate areas and routes for the use of motorized recreation vehicles within the recreation area.

16 USC 1131
note.
Plans.

16 USC 1604.

16 USC 1600
note.

SEC. 5. (a) As soon as practicable after this Act takes effect, the appropriate Secretary shall file the maps referred to in sections 3 and 4 of this Act and legal descriptions of each wilderness area designated by sections 3 and 4 of this Act with the Committee on Energy and Natural Resources, United States Senate, and the Committee on Interior and Insular Affairs, House of Representatives, and each such map and legal description shall have the same force and effect as if included in this Act: *Provided*, That correction of clerical and typographical errors in such legal descriptions and maps may be made. Each such map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture; and the Director, Bureau of Land Management, Department of the Interior.

16 USC 4600o
note.

Public
availability.

(b) Subject to valid existing rights, each wilderness area designated by sections 3 and 4 of this Act shall be administered by the appropriate Secretary in accordance with the provisions of the Wilderness Act of 1964 governing areas designated by that Act as wilderness areas, except that, with respect to any areas designated in sections 3 and 4 of this Act, any reference in such provisions to the effective date of the Wilderness Act of 1964 shall be deemed to be a reference to the effective date of this Act, and any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary who has administrative jurisdiction over the area.

16 USC 1131
note.

SEC. 6. Congress does not intend that designation of wilderness areas in the State of Oregon lead to the creation of protective perimeters or buffer zones around each wilderness area. The fact that nonwilderness activities or uses can be seen or heard from the areas within the wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

SEC. 7. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II);

(2) the Congress has made its own review and examination of National Forest System roadless areas in Oregon and the environmental impacts associated with alternative allocations of such areas.

Congress.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to national forest lands in States other than Oregon, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Oregon;

(2) with respect to the National Forest System lands in the State of Oregon which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II), and those lands referred to in subsection (d), except those lands remaining in further planning or special management pursuant to section 4 of this Act upon enactment of this Act, that review and evaluation or reference shall be deemed for the purpose of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the plans, but shall review the wilderness options when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time the Secretary of Agriculture finds that conditions in a unit have significantly changed;

(3) areas in the State of Oregon reviewed in such final environmental statement or referenced in subsection (d) and not designated as wilderness or for special management pursuant to section 4 of this Act or remaining in further planning upon enactment of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976: *Provided*, That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the land management plans;

(4) in the event that revised land management plans in the State of Oregon are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation, need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources

16 USC 1600
note.
16 USC 1600
note.

16 USC 1604.

16 USC 1604.

Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law; and

16 USC 1600
note.
16 USC 1600
note.

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of National Forest System lands in the State of Oregon for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

16 USC 1604.

(d) The provisions of this section shall also apply to:

(1) those National Forest System roadless lands in the Mount Hood, Siskiyou, Umatilla, Umpqua, Wallowa-Whitman, Willamette, and Winema National Forests in the State of Oregon which were evaluated in the Eagle Creek; Roaring River; Mount Butler-Dry Creek; Oregon Butte; Cougar Bluff-Williams Creek; Grand Ronde; Wallowa Valley; Willamette; or Chemult unit plans; and

(2) National Forest System roadless lands in the State of Oregon which are less than five thousand acres in size.

SEC. 8. Subject to valid existing rights, the Federal lands within the Mill Creek watershed roadless area identified in the Oregon Butte Unit Plan, which is located in Wallowa and Umatilla Counties in Oregon, are hereby withdrawn from all forms of location, entry, and patent under the United States mining laws and from disposition under all laws pertaining to mineral leasing and all amendments thereto.

Mines and
mining.

Approved June 26, 1984.

LEGISLATIVE HISTORY—H.R. 1149:

HOUSE REPORT No. 98-13, Pt. 1 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 98-465 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD:

Vol. 129 (1983): Mar. 21, considered and passed House.

Vol. 130 (1984): May 24, considered and passed Senate, amended.

June 4, 6, House concurred in Senate amendments.

Public Law 98-329
98th Congress

An Act

June 29, 1984
[H.R. 4201]

To provide for the rescheduling of methaqualone into schedule I of the Controlled Substances Act, and for other purposes.

Drugs and drug
abuse.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the schedule requirements of section 202(a) of the Controlled Substances Act (21 U.S.C. 812(a)) and the requirements of section 201 of such Act (21 U.S.C. 811) respecting the scheduling of controlled substances, the Attorney General shall, by order, transfer methaqualone from schedule II of such Act to schedule I of such Act. The transfer shall take effect not later than the expiration of ninety days from the date of the enactment of this Act.

21 USC 355.

SEC. 2. Effective thirty days after the date methaqualone is transferred to schedule I of the Controlled Substances Act, the Secretary of Health and Human Services shall by order withdraw the approval under section 505 of the Federal Food, Drug, and Cosmetic Act of the new drug application for methaqualone.

Approved June 29, 1984.

LEGISLATIVE HISTORY—H.R. 4201:

HOUSE REPORT No. 98-534 (Comm. on Energy and Commerce).
CONGRESSIONAL RECORD:

Vol. 129 (1983): Nov 16, considered and passed House.
Vol. 130 (1984): June 15, considered and passed Senate.

Public Law 98-330
98th Congress

Joint Resolution

To designate the month of June 1984 as "Veterans' Preference Month".

June 30, 1984
[S.J. Res. 297]

Whereas the principle of providing preference in Federal civilian employment for veterans of the Armed Forces was first established in law in 1865 when Congress provided such a preference for Civil War veterans with service-connected disabilities;

Whereas the enactment of the Veterans' Preference Act of 1944 on June 27, 1944, was a landmark in the national policy of veterans' preference in civil service employment and has been strengthened since by law, Executive orders, and regulations providing such preference for veterans and the spouses, surviving spouses, and parents of certain veterans;

58 Stat. 387.

Whereas veterans' preference and career merit principles are inseparable and integral parts of the Federal civil service personnel system;

Whereas veterans' preference is a partial recognition of the great debt of gratitude that the Nation owes to its veterans of service in the Armed Forces; and

Whereas it is appropriate to establish the month of June 1984, the fortieth anniversary of the enactment of the Veterans' Preference Act of 1944, as Veterans' Preference Month to honor the men and women who have served the United States in the Armed Forces: Now, therefore, be it

58 Stat. 387.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of June 1984 is hereby designated as "Veterans' Preference Month". The President is authorized and requested to issue a proclamation calling upon the departments and agencies of the United States and interested organizations and groups to observe such month with appropriate programs, ceremonies, and activities.

Approved June 30, 1984.

LEGISLATIVE HISTORY—S.J. Res. 297:

CONGRESSIONAL RECORD, Vol. 130 (1984):
June 15, considered and passed Senate.
June 26, considered and passed House.

Public Law 98-331
98th Congress

Joint Resolution

July 2, 1984
[S.J. Res. 257]

To designate the period July 1, 1984, through July 1, 1985, as the "Year of the Ocean".

Whereas the oceans are the major source of the waters on planet

Earth providing an essential link in the chain of human existence;

Whereas the ocean environment provides us with a wealth of products and services but is increasingly subject to stress caused by population growth, economic development, placement of energy-related facilities, extraction of mineral resources and fossil fuels, transportation and navigation, waste disposal, and harvesting of living marine resources;

Whereas America is the steward of the resources of the ocean and coastal regions that border our Nation and this stewardship entails a responsibility to match our increased uses of marine resources with an increased vigilance of the well-being of the marine environment;

Whereas it is important to educate Americans as the users of ocean products and the beneficiaries of our ocean heritage, to the role the world ocean plays in our lives;

Whereas a "Year of the Ocean" will be used to expand public awareness and knowledge of the importance of the ocean and its resources; and

Whereas it is fitting and proper that "Ocean Day" be the first day of celebration during the "Year of the Ocean": Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 1, 1984, to July 1, 1985, be designated "Year of the Ocean", and the President is requested to issue a proclamation calling upon the people of the United States to observe such celebration with appropriate activities.

Approved July 2, 1984.

LEGISLATIVE HISTORY—S.J. Res. 257:

CONGRESSIONAL RECORD, Vol. 130 (1984):

June 8, considered and passed Senate.

June 26, considered and passed House.

Public Law 98-332
98th Congress

Joint Resolution

Making an urgent supplemental appropriation for the fiscal year ending September 30, 1984, for the Department of Agriculture.

July 2, 1984
[H.J. Res. 492]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1984; namely:

DEPARTMENT OF AGRICULTURE

PUBLIC LAW 480

EMERGENCY FOOD ASSISTANCE FOR AFRICA

For an additional amount for "Public Law 480", for commodities supplied in connection with dispositions abroad, pursuant to title II of the Agricultural Trade Development and Assistance Act of 1954, as amended, \$60,000,000, of which \$60,000,000 is hereby appropriated and made available through March 31, 1985; and in addition not to exceed \$90,000,000, shall be available through September 30, 1985, from Commodity Credit Corporation inventory for sale on a competitive bid basis or barter to the African countries requiring emergency food assistance, or any country for use in assisting in emergency food assistance to Africa. In the event Commodity Credit Corporation stocks are not available, the Corporation may purchase commodities to meet emergency requirements.

7 USC 1691 note.

7 USC 1721.

FOOD AND NUTRITION SERVICE

CHILD NUTRITION PROGRAMS

For an additional amount for "Child Nutrition Programs", \$545,544,000.

FEEDING PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

For an additional amount for the "Feeding Program for Women, Infants, and Children (WIC)", \$300,000,000.

FARMERS HOME ADMINISTRATION

RURAL HOUSING INSURANCE FUND

Notwithstanding section 502(d) of the Housing Act of 1949, from amounts previously made available from the Rural Housing Insurance Fund, in Public Law 98-151, for fiscal year 1984, \$1,610,000,000 shall be made available for low-income borrowers and \$690,000,000 shall be made available for very low-income borrowers: *Provided*, That up to \$230,000,000 may be transferred from low income

97 Stat. 1240.

42 USC 1472.

97 Stat. 964.

amounts to very low income amounts if the Secretary certifies that qualified applicants are available.

UNITED STATES INFORMATION AGENCY

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

Handicapped
persons.

For an additional amount for "Educational and Cultural Exchange Programs", \$850,000 for reimbursement for activities carried out during the 1984 International Games for the Disabled.

CIVIL AERONAUTICS BOARD

SALARIES AND EXPENSES

97 Stat. 468.

For an additional amount for "Salaries and expenses", \$2,000,000, for the period August 1, 1984, through September 30, 1984: *Provided*, That any unobligated amounts already appropriated under Public Law 98-78 shall remain available until September 30, 1984.

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

Flood control.

94 Stat. 1339.

Notwithstanding current administrative procedures, the Secretary of the Army, acting through the Chief of Engineers, is directed to implement immediately nonstructural flood control measures such as relocation sites, flood proofing and flood plain acquisition and evacuation as described in the General Plan for Section 202 Program Implementation prepared by the Ohio River Division in April 1982 and as authorized by section 202 of Public Law 96-367: *Provided*, That there is hereby appropriated \$21,000,000 to remain available until expended for the purposes of this paragraph.

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

ECONOMIC SUPPORT FUND

El Salvador.
22 USC 2420.

Notwithstanding section 660 of the Foreign Assistance Act of 1961, for an additional amount for necessary expenses for assistance to the Government of El Salvador to protect jurors and other key participants in the criminal proceedings against those charged with the murders of four American churchwomen, during and subsequent to such proceedings, \$500,000.

MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

MILITARY ASSISTANCE

El Salvador.
22 USC 2311.

For an additional amount for necessary expenses to carry out the provisions of section 503 of the Foreign Assistance Act of 1961, \$61,750,000: *Provided*, That this sum shall be available only for

assistance for El Salvador, notwithstanding the limitations and restrictions on such assistance contained in section 101(b) of Public Law 98-151: *Provided further*, That none of the funds appropriated under this heading may be available for obligation or expenditure until the President prepares and transmits to the Congress a report—

97 Stat. 964.
President of U.S.

(1) stating his determination that the Government of El Salvador has demonstrated progress toward land reform, free elections, freedom of association, the establishment of the rule of law and an effective judicial system, and the termination of the activities of the so-called death squads, including vigorous action against members of such squads who are guilty of crimes and prosecution to the extent possible of such members who are past offenders;

(2) describing the progress made in—

(A) the development of an effective medical evacuation and training system for El Salvador;

(B) the training of the Armed Forces of El Salvador;

(C) the quantification of the losses or expenditures in El Salvador of munitions, weaponry, and combat support equipment which has been furnished by the United States; and

(D) the acquisition and support of tactical communications and the upgrading and modification of the national strategic communications network; and

(3) setting forth the rate of usage by the Armed Forces of El Salvador of spare parts furnished by the United States:

Provided further, That 60 days after the date of enactment of this joint resolution and at intervals of 60 days thereafter the President shall prepare and transmit to the Congress a report on the progress made during the preceding 60 days in achieving the objectives described in the preceding proviso.

Report.

DEPARTMENT OF STATE

MIGRATION AND REFUGEE ASSISTANCE

For an additional amount for “Migration and refugee assistance”, \$7,000,000: *Provided*, That such sum shall be available only for assistance to displaced persons in El Salvador.

El Salvador.

DEPARTMENT OF THE INTERIOR

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

ABANDONED MINE RECLAMATION FUND

Notwithstanding any other provision of law, within the amounts provided under this head in the Department of the Interior and Related Agencies Appropriation Act, 1984 (Public Law 98-146), \$1,000,000 shall be made available to the State of Montana for

97 Stat. 928.

30 USC 1232. reclamation grants pursuant to section 402(g)(2) of Public Law 95-87 for reclamation of the Colorado Tailings site in Montana.

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

TRAINING AND EMPLOYMENT SERVICES

Children and youth.

For an additional amount for "Training and employment services", \$100,000,000, for the summer youth employment and training program: *Provided*, That the amount appropriated hereunder shall be allocated to States so that each service delivery area composed (in whole or in part) of a geographic area served by a prime sponsor under the Comprehensive Employment and Training Act receives, as nearly as possible, an amount equal to at least 90 per centum of the amount received for the comparable geographic area for the summer youth program under such Act for the summer of 1983.

29 USC 801 *et seq.*

SENATE

CONTINGENT EXPENSES OF THE SENATE

STATIONERY (REVOLVING FUND)

To provide additional capital for the revolving fund established by the last paragraph under the heading "CONTINGENT EXPENSES OF THE SENATE" appearing under the heading "SENATE" in chapter XI of the Third Supplemental Appropriation Act, 1957 (2 U.S.C. 46a-1), \$61,000.

DEPARTMENT OF THE TREASURY

UNITED STATES CUSTOMS SERVICE

OPERATION AND MAINTENANCE, AIR INTERDICTION PROGRAM

For an additional amount for the acquisition (purchase of up to eight) of high-performance, interceptor/tracker aircraft and other related equipment for drug interdiction purposes, \$25,000,000, to remain available until expended: *Provided*, That such aircraft be purchased through an open, competitive procurement.

SALARIES AND EXPENSES

Notwithstanding any other provision of law, the Customs district headquartered at Bridgeport, Connecticut, shall be maintained as a Customs district until October 1, 1984, covering the same territory as covered by such district on January 1, 1984.

GENERAL PROVISIONS

Panama.

22 USC 2311,
2347.
22 USC 2751
note.

SEC. 101. None of the funds appropriated for the fiscal year 1984 to carry out chapter 2 or 5 of part II of the Foreign Assistance Act of 1961 or made available under the Arms Export Control Act may be available for Panama on or after any date of disruption or cancellation by the Armed Forces of Panama of the general elections scheduled for May 6, 1984.

SEC. 104. Deferral No. D84-50, submitted to the Congress on February 22, 1984, to defer \$14,000,000 in funds provided in Public Law 98-146 for construction of the Cumberland Gap Tunnel and related activities, is hereby disapproved.

Cumberland Gap
Tunnel.
97 Stat. 919.

COMMODITY CREDIT CORPORATION EXPORT CREDIT GUARANTEES

SEC. 106. (a) The Secretary of Agriculture shall utilize the authorities provided in the Charter of the Commodity Credit Corporation to expand the export of United States agricultural commodities through competitive sales, including shipping costs and credit terms, and donations as authorized by law. In carrying out the authorities and responsibilities imposed by the Charter, the Secretary shall assist in the financing of export sales of United States agricultural products, either through direct or guaranteed loans. The Secretary shall use the Commodity Credit Corporation, a revolving fund capitalized at \$25,000,000,000, to make available under the export credit program carried out by the Corporation short-term credit to finance export sales of United States agricultural commodities, and shall also use such other authorities as necessary to regain the rightful share of world markets for United States agricultural commodities.

(b) For the fiscal year ending September 30, 1985, the Secretary of Agriculture shall make available under the Export Credit Guarantee Program (GSM-102) carried out by the Commodity Credit Corporation credit guarantees for not less than \$5,000,000,000 in short-term credit extended to finance export sales of United States agricultural commodities.

(c) The Secretary shall ensure that any guarantee authority made available, in the fiscal years ending September 30, 1984, and September 30, 1985, for credit guarantees under the Export Credit Guarantee Program (GSM-102) carried out by the Commodity Credit Corporation in excess of—

(1) the \$4,000,000,000 of guarantee authority available for fiscal year ending September 30, 1984, and

(2) the level of guarantee authority contained in the President's budget for the fiscal year ending September 30, 1985, is used to further assist in the development, maintenance, and expansion of international markets for United States agricultural commodities and products, including natural fiber textiles and yarns. Priority in the allocation of such guarantee authority shall be given to credit guarantees that facilitate the financing of (i) export sales to countries that have demonstrated the greatest repayment capability under the export credit programs carried out by the Commodity Credit Corporation or (ii) export sales of commodities for which no blended credit (under which a combination of export credit guarantees under the GSM-102 program and direct export credits under the GSM-5 program is provided) will be made available.

SEC. 108. Within 120 days of the enactment of this legislation, the President shall transmit to Congress a classified and unclassified version of a report on the whereabouts of military equipment transferred since 1980 from the United States to the Government of El Salvador, and the whereabouts of Salvadoran military personnel trained with United States military aid funds.

El Salvador.
President of
U.S., report.

SEC. 109. If at any time following the appropriation of funds herein the duly elected President of El Salvador should be prevented from taking office by military force or military decree or after taking office shall be deposed by military force or military decree,

El Salvador.

El Salvador.

all funds appropriated herein for El Salvador and not theretofore obligated or expended shall not thereafter be available for obligation or expenditure unless reappropriated by Congress.

SEC. 110. On Sunday, March 25, 1984, a remarkable exercise in democracy in the conduct of a free and honest election within the Republic of El Salvador took place, with approximately 70 percent participation by eligible voters despite intense guerrilla efforts to intimidate and to sabotage the election.

Since the success of the Government of El Salvador in the conduct of this election against the guerrilla efforts to disrupt and invalidate it depended both upon the courage, good spirits and determination of the Salvadoran people to freely choose their President and Vice President, and upon the ability of Salvadoran armed forces to safeguard voters and election officials against the guerrillas.

Since within 30 days of certification of the results of the March 25 election a runoff election is required under the Salvadoran Constitution and election law, since no candidate won a majority of the vote at the March 25 election.

Since the armed forces of El Salvador, unless immediately resupplied by the United States with equipment arms and ammunition which are in critically short supply, are threatened with being unable to provide the same needed protection for the runoff election, and with suffering generally a dangerously reduced capacity to safeguard the Salvadoran people against the terrorism of the guerrillas.

Therefore, the Senate finds that the policy of the United States should be to immediately provide such additional equipment, arms, and ammunition as will allow the armed forces of El Salvador to provide needed protection to the Salvadoran people both at the runoff election and in their daily lives; and ultimately to so suppress guerrilla terrorism as to make possible the revival of economic activity with El Salvador.

Contracts with
U.S.
Government
organization and
employees.

SEC. 113. (a) Notwithstanding any other provision of law, organizations reporting to the Assistant Secretary of Interior for Fish and Wildlife and Parks shall enter into contracts which result in releasing or transferring any Federal employees or liquidating any equipment or materials as a result of complying with the Office of Management and Budget Circular A-76 for the 62 activities scheduled for review by the National Park Service by March 30, 1984, and the 94 activities scheduled for review by the United States Fish and Wildlife Service by September 30, 1984, only after the following conditions have been met:

(1) the study supporting each contract required by the Office of Management and Budget Circular A-76 is completed, including the bidding process and review of bids;

(2) the organizations have had 30 days to review the bid results and to transmit recommendations to the appropriate House and Senate Committees as to which activities should be contracted; and

- (3) 30 days have elapsed since the transmittal required by paragraph (2).
- (b) All recommendations to be submitted shall be submitted by October 30, 1984.
- (c) The organizations shall not solicit bids related to other Circular A-76 reviews before January 30, 1985.

Approved July 2, 1984.

LEGISLATIVE HISTORY—H.J. Res. 492:

HOUSE REPORTS: No. 98-604 (Comm. on Appropriations) and No. 98-792 (Comm. of Conference).

SENATE REPORT No. 98-365 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 130 (1984):

Mar. 6, considered and passed House.

Mar. 22, 26-30, Apr. 2-5, considered and passed Senate, amended.

May 24, House agreed to conference report, and concurred in certain Senate amendments and in others with amendments.

June 25, Senate agreed to conference report, concurred in House amendments, and tabled Senate amendment no. 14.

June 26, House concurred in Senate action.

Public Law 98-333
98th Congress

Joint Resolution

July 2, 1984
[S.J. Res. 298]

To proclaim the month of July 1984 as "National Ice Cream Month" and July 15, 1984, as "National Ice Cream Day".

Whereas ice cream is a nutritious and wholesome food enjoyed by over 90 per centum of the people of the United States;

Whereas the ice cream industry with approximately \$3,500,000,000 in annual sales provides jobs for thousands of citizens and uses nearly 10 per centum of the milk produced by United States dairy farmers, thereby contributing substantially to the economic well-being of the Nation's dairy industry; and

Whereas ice cream enjoys a reputation as the perfect dessert and snack food, and over eight hundred and eighty-seven million gallons of ice cream were consumed in the United States in 1983: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 1984, is hereby proclaimed as "National Ice Cream Month", and July 15, 1984, as "National Ice Cream Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe ice cream month and ice cream day with appropriate ceremonies and activities.

Approved July 2, 1984.

LEGISLATIVE HISTORY—S.J. Res. 298:

CONGRESSIONAL RECORD, Vol. 130 (1984):
June 8, considered and passed Senate.
June 26, considered and passed House.

Public Law 98-334
98th Congress

An Act

To consent to the Goose Lake Basin Compact between the States of California and Oregon.

July 2, 1984
[S. 1135]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress is hereby given to the Goose Lake Basin Compact between the States of California and Oregon, which compact is as follows:

“GOOSE LAKE BASIN COMPACT

“INDEX

“Article I.....	Purposes.
Article II.....	Definition of Terms.
Article III.....	Distribution and Use of Water.
Article IV.....	Administration.
Article V.....	Termination.
Article VI.....	General Provisions.
Article VII.....	Ratification.
Article VIII.....	Federal Rights.

“ARTICLE I. PURPOSES

“The major purposes of this compact are:

“A. To facilitate and promote the orderly, integrated and comprehensive development, use, conservation and control of the water resources of Goose Lake Basin.

“B. To further intergovernmental cooperation and comity and to remove the causes of present and future controversies by (1) providing for continued development of the water resources of Goose Lake Basin by the States of California and Oregon, and (2) prohibiting the export of water from Goose Lake Basin without consent of the legislatures of California and Oregon.

“ARTICLE II. DEFINITION OF TERMS

“As used in this compact:

“A. ‘Goose Lake Basin’ shall mean the drainage area of Goose Lake within the States of California and Oregon and all closed basins included in the Goose Lake drainage basin as delineated on the official map of the Goose Lake Basin which is attached to and made a part of this compact.

“B. ‘Person’ shall mean the States of Oregon and California, any individual and any other entity, public or private.

“C. ‘Water’, ‘waters’ or ‘water resources’ shall mean any water appearing on the surface of the ground in streams, lakes, or otherwise, and any water beneath the land surface or beneath the bed of

any stream, lake, reservoir, or other body of surface water within the boundaries of Goose Lake Basin.

“ARTICLE III. DISTRIBUTION AND USE OF WATER

“A. There are hereby recognized vested rights to the use of water originating in Goose Lake Basin existing as of the effective date of this compact and established under the laws of California and Oregon.

“B. Except as provided in this Article, this compact shall not be construed as affecting or interfering with appropriation under the laws of California and Oregon of unappropriated waters of Goose Lake Basin for use within the basin.

“C. Export of water from Goose Lake Basin for use outside the basin without prior consent of both State legislatures is prohibited.

“D. Each State hereby grants the right for a person to construct, and operate facilities for the measurement, diversion, storage, and conveyance of water from the Goose Lake Basin in one State for use within the basin in the other State, providing the right to such use is secured by appropriation under the general laws administered by the Water Resources Director of the State of Oregon or the Water Rights Board of California and the laws of the State from which the water is to be taken shall control.

“E. Should any facilities be constructed in one State to implement use of water in the other State, the construction, operation, repairs and replacements of such facilities shall be subject to the laws of the State in which the facilities are constructed.

“ARTICLE IV. ADMINISTRATION

“No commission or administrative body is necessary to administer this compact.

“ARTICLE V. TERMINATION

“This compact may be terminated at any time by consent of the legislatures of California and Oregon and upon such termination all rights then established hereunder shall continue unimpaired.

“ARTICLE VI. GENERAL PROVISIONS

“Nothing in this compact shall be construed to limit, or prevent any State from instituting or maintaining any action or proceeding, legal or equitable, in any court having jurisdiction thereof for the protection of any right under this compact or the enforcement of any of its provisions.

“ARTICLE VII. RATIFICATION

Congress.

“A. This compact shall become operative when ratified by the legislatures of California and Oregon and consented to by the Congress of the United States.

“B. This compact shall remain in full force and effect until amended in the same manner as is required for it to be ratified to become operative or until terminated.

“C. A copy of any proposed amendments to or termination of this compact shall be filed with the Board of Supervisors of Modoc County, California, and the County Court of Lake County, Oregon,

at least 30 days prior to any legislative consideration by the legislatures of the States of California and Oregon.

“ARTICLE VIII. FEDERAL RIGHTS

“Nothing in this compact shall be deemed:

“A. To impair or affect the existing rights or powers of the United States of America, its agencies, or instrumentalities, in and to the use of the waters of the Goose Lake Basin nor its capacity to acquire rights in and to the use of said waters.

“B. To subject any property of the United States of America, its agencies or instrumentalities, to taxation by any State or subdivision thereof, nor to create an obligation on the part of the United States of America, its agencies or instrumentalities by reason of the acquisition, construction or operation of any property or works of whatsoever kind, to make any payments to any State or political subdivision thereof, State agency, municipality or entity, whatsoever in reimbursement for the loss of taxes.

Taxes.

“C. To subject any property of the United States of America, its agencies or instrumentalities, to the laws of any State to any extent other than the extent to which these laws would apply without regard to the compact.”.

Approved July 2, 1984.

LEGISLATIVE HISTORY—S. 1135:

HOUSE REPORT No. 98-841 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 98-397 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 130 (1984):

May 1, considered and passed Senate.

June 18, considered and passed House.

Public Law 98-335
98th Congress

Joint Resolution

July 3, 1984

[S.J. Res. 59]

To authorize and request the President to designate February 27, 1986, as "Hugo LaFayette Black Day".

Whereas Hugo LaFayette Black's reverence for the Constitution of the United States and the freedoms it guarantees led him to a career of dedicated public service in the State of Alabama, the United States Senate, and the United States Supreme Court, spanning over fifty years;

Whereas Hugo LaFayette Black's courageous leadership, devotion to wisdom and scholarship, and dedication to the cause of justice brought meaning to the concept of democracy and has had a far-reaching influence on the development of American jurisprudence;

Whereas Hugo LaFayette Black stood firm and unwavering in protecting and defending our cherished constitutional rights and freedoms, and contributed greatly to the strength and vitality of our Nation;

Whereas future generations will continue to benefit from Hugo LaFayette Black's devotion to the common good and sense of compassion for all;

Whereas February 27, 1986, is the one hundredth anniversary of the birth of Hugo LaFayette Black; and

Whereas it is fitting and proper to honor Hugo LaFayette Black as a defender of freedom, a patriot, and a dedicated public servant: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating February 27, 1986, as "Hugo LaFayette Black Day", and calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Approved July 3, 1984.

LEGISLATIVE HISTORY—S.J. Res. 59:

CONGRESSIONAL RECORD, Vol. 130 (1984):
Feb. 27, considered and passed Senate.
June 26, considered and passed House.

Public Law 98-336
98th Congress

Joint Resolution

To designate August 4, 1984, as "Coast Guard Day".

July 3, 1984
[S.J. Res. 150]

Whereas the United States Coast Guard is the oldest continuous seagoing service, its history tracing back to 1790;

Whereas the United States Coast Guard has made valuable contributions to our Nation in the areas of boating safety, search and rescue, aids to navigation, merchant marine safety, environmental protection, maritime law enforcement and port safety;

Whereas the military and civilian personnel of the United States Coast Guard and its predecessors have displayed enthusiasm, excellence and courage since 1790 in serving the people of this Nation; and

Whereas the Nation relies on the readiness of the nearly one hundred thousand active duty and reserve military officers and enlisted personnel, cadets, civilian employees, and auxiliary volunteers of the United States Coast Guard to rescue victims, protect our environment, and defend our Nation if the need arises: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating August 4, 1984, as "Coast Guard Day", and calling upon all Federal, State and local government agencies and people of the United States to observe the day with appropriate programs, ceremonies, and activities.

Approved July 3, 1984.

LEGISLATIVE HISTORY—S.J. Res. 150:

CONGRESSIONAL RECORD:

Vol. 129 (1983): Sept. 20, considered and passed Senate.

Vol. 130 (1984): June 26, considered and passed House.

Public Law 98-337
98th Congress

Joint Resolution

July 3, 1984
[S.J. Res. 230]

To designate the week of October 7, 1984 through October 13, 1984 as "National Birds of Prey Conservation Week".

Whereas hawks, owls, and other birds of prey are vital ecological components of the wildlife communities in which they live, and are important environmental indicators of ecosystem quality;

Whereas forty of the fifty-three species of birds of prey that occur regularly in the United States have been listed by one or more State conservation agencies as endangered, extirpated, threatened, or of concern;

Whereas public attitudes regarding birds of prey are changing to one of appreciation and understanding; and

Whereas over a million Americans are birdwatchers who regularly observe hawks and other birds of prey every autumn at migration outlooks located on major raptor flyways scattered from California to Maine, and from Minnesota to Florida and Texas: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 7, 1984, through October 13, 1984, is designated as "National Birds of Prey Conservation Week", and the President of the United States is authorized and requested to issue a proclamation calling upon individuals to observe such a week by considering the importance of birds of prey in wildlife communities.

Approved July 3, 1984.

LEGISLATIVE HISTORY—S.J. Res. 230:

CONGRESSIONAL RECORD, Vol. 130 (1984):
June 8, considered and passed Senate.
June 26, considered and passed House.

Public Law 98-338
98th Congress

Joint Resolution

To designate the week of December 9, 1984, through December 15, 1984, as "National Drunk and Drugged Driving Awareness Week".

July 3, 1984
[S.J. Res. 303]

Whereas traffic accidents cause more violent deaths in the United States than any other cause, approximately forty-two thousand in 1983;

Whereas traffic accidents cause thousands of serious injuries in the United States each year;

Whereas more than 65 per centum of drivers killed in single vehicle collisions and over 50 per centum of all drivers fatally injured have blood alcohol concentrations above the legal limit;

Whereas the United States Surgeon General has reported that life expectancy has risen for every age group over the past seventy-five years except for Americans fifteen to twenty-four years old, whose death rate, the leading cause of which is drunk driving, is higher now than it was twenty years ago;

Whereas the total societal cost of drunk driving has been estimated at over \$24,000,000,000 per year, which does not include the human suffering that can never be measured;

Whereas there are increasing reports of driving after drug use and accidents involving drivers who have used marihuana or other illegal drugs;

Whereas driving after the use of therapeutic drugs, either alone or in combination with alcohol, contrary to the advice of physician, pharmacist, or manufacturer, may create a safety hazard on the roads;

Whereas more research is needed on the effect of drugs either alone or in combination with alcohol, on driving ability and the incidence of traffic accidents;

Whereas an increased public awareness of the gravity of the problem of drugged driving may warn drug users to refrain from driving and may stimulate interest in increasing necessary research on the effect of drugs on driving ability and the incidence of traffic accidents;

Whereas the public, particularly through the work of citizens groups, is demanding a solution to the problem of drunk and drugged driving;

Whereas the Presidential Commission on Drunk Driving, appointed to heighten public awareness and stimulate the pursuit of solutions, has provided vital recommendations for remedies for the problem of drunk driving;

Whereas many States have appointed task forces to examine existing drunk driving programs and make recommendations for a renewed, comprehensive approach, and in many cases their recommendations are leading to enactment of new laws, along with stricter enforcement;

Whereas the best defense against the drunk or drugged driver is the use of safety belts and greater safety belt usage would increase the number of survivors of traffic accidents;

Whereas an increase in the public awareness of the problem of drunk and drugged driving may contribute to a change in society's attitude toward the drunk or drugged driver and help to sustain current efforts to develop comprehensive solutions at the State and local levels;

Whereas the Christmas and New Year holiday period, with more drivers on the roads and an increased number of social functions, is a particularly appropriate time to focus national attention on this critical problem;

Whereas designation of National Drunk and Drugged Driving Awareness Week in 1982 and 1983 stimulated many activities and programs by groups in both the private and public sectors aimed at curbing drunk and drugged driving in the high-risk Christmas and New Year holiday period and thereafter;

Whereas over the last three years the number of traffic fatalities over each of the three-day New Year holidays has decreased from three hundred and thirty-eight deaths in 1981, to two hundred and eighty-two deaths in 1982, to two hundred and seventy-four deaths in 1983, the lowest number since 1949; and

Whereas the activities and programs during National Drunk and Drugged Driving Awareness Week in 1982 and 1983 heightened the awareness of the American public to the danger of drunk and drugged driving and contributed to the decrease in traffic fatalities: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of December 9, 1984, through December 15, 1984, is designated as "National Drunk and Drugged Driving Awareness Week" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate activities.

Approved July 3, 1984.

LEGISLATIVE HISTORY—S.J. Res. 303:

CONGRESSIONAL RECORD, Vol. 130 (1984):

June 8, considered and passed Senate.

June 26, considered and passed House.

Public Law 98-339
98th Congress

An Act

To designate certain National Forest System lands in the State of Washington for inclusion in the National Wilderness Preservation System, and for other purposes.

July 3, 1984
[S. 837]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be referred to as the "Washington State Wilderness Act of 1984".

SEC. 2. (a) The Congress finds that—

(1) many areas of undeveloped National Forest System lands in the State of Washington possess outstanding natural characteristics which give them high values as wilderness and will, if properly preserved, contribute as an enduring resource of wilderness for the benefit of the American people;

(2) the Department of Agriculture's second roadless area review and evaluation (RARE II) of National Forest System lands in the State of Washington and the related congressional review of such lands have identified areas which, on the basis of their landform, ecosystem, associated wildlife, and location, will help to fulfill the National Forest System's share of a quality National Wilderness Preservation System; and

(3) the Department of Agriculture's second roadless area review and evaluation of National Forest System lands in the State of Washington and the related congressional review of such lands have also identified areas which do not possess outstanding wilderness attributes or which possess outstanding energy, mineral, timber, grazing, dispersed recreation and other values and which should not now be designated as components of the National Wilderness Preservation System but should be available for nonwilderness multiple uses under the land management planning process and other applicable laws.

(b) The purposes of this Act are to—

(1) designate certain National Forest System lands in the State of Washington as components of the National Wilderness Preservation System, in order to promote, perpetuate, and preserve the wilderness character of the lands, protect watersheds and wildlife habitat, preserve scenic and historic resources, and promote scientific research, primitive recreation, solitude, physical and mental challenge, and inspiration for the benefit of all the American people, to a greater extent than is possible in the absence of wilderness designation; and

(2) insure that certain other National Forest System lands in the State of Washington be available for nonwilderness multiple uses.

SEC. 3. In furtherance of the purposes of the Wilderness Act of 1964 (78 Stat. 890, 16 U.S.C. 1131 et seq.) the following lands in the State of Washington are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

Washington
State Wilderness
Act of 1984.
National
Wilderness
Preservation
System.
National Forest
System.

16 USC 1132
note.

(1) certain lands in the Mount Baker-Snoqualmie National Forest, Washington, which comprise approximately forty-nine thousand acres, as generally depicted on a map entitled "Boulder River Wilderness—Proposed", dated March 1984, and which shall be known as the Boulder River Wilderness;

16 USC 1132
note.

(2) certain lands in the Olympic National Forest, Washington, which comprise approximately forty-five thousand eight hundred and seventeen acres, as generally depicted on a map entitled "Buckhorn Wilderness—Proposed", dated March 1984, and which shall be known as the Buckhorn Wilderness;

16 USC 1132
note.

(3) certain lands in the Mount Baker-Snoqualmie National Forest, Washington, which comprise approximately fourteen thousand three hundred acres, as generally depicted on a map entitled "Clearwater Wilderness—Proposed", dated March 1984, and which shall be known as the Clearwater Wilderness;

16 USC 1132
note.

(4) certain lands in the Olympic National Forest, Washington, which comprise approximately twelve thousand one hundred and twenty acres, as generally depicted on a map entitled "Colonel Bob Wilderness—Proposed", dated March 1984, and which shall be known as Colonel Bob Wilderness;

(5) certain lands in the Mount Baker-Snoqualmie and Wenatchee National Forests, Washington, which comprise approximately one hundred twelve thousand six hundred and seven acres, as generally depicted on a map entitled "Glacier Peak Wilderness Additions—Proposed", dated March 1984, and which are hereby incorporated in and shall be deemed to be a part of the Glacier Peak Wilderness as designated by Public Law 88-577 and Public Law 90-544;

16 USC 1131
note; 82 Stat.
926.
16 USC 1132
note.

(6) certain lands in the Gifford Pinchot National Forest, Washington, which comprise approximately three thousand and fifty acres as generally depicted on a map entitled "Glacier View Wilderness—Proposed", dated March 1984, and which shall be known as the Glacier View Wilderness;

16 USC 1131
note.

(7) the boundary of the existing Goat Rocks Wilderness, as designated by Public Law 88-577, located in the Wenatchee and Gifford Pinchot National Forests, Washington, is hereby revised to include those lands generally depicted on a map entitled "Goat Rocks Wilderness—Revised", dated March 1984;

16 USC 1132
note.

(8) certain lands in the Wenatchee and Mount Baker-Snoqualmie National Forests, Washington, which comprise approximately one hundred three thousand five hundred and ninety-one acres as generally depicted on a map entitled "Henry M. Jackson Wilderness—Proposed", dated March 1984, and which shall be known as the Henry M. Jackson Wilderness. The Henry M. Jackson Wilderness is designated in remembrance of Senator Jackson's deep, personal feelings for this area, especially that portion known as "Monte Cristo", which he visited often as a boy. Through such designation, the Congress recognizes his unparalleled contributions to the natural resource policies of the Nation in general and Washington State in particular;

16 USC 1132
note.

(9) certain lands in the Gifford Pinchot National Forest, Washington, which comprise approximately twenty thousand six hundred and fifty acres, as generally depicted on a map entitled "Indian Heaven Wilderness—Proposed", dated March 1984, and which shall be known as the Indian Heaven Wilderness;

(10) certain lands in the Okanogan and Wenatchee National Forests, Washington, which comprise approximately one hundred fifty thousand eight hundred and thirty-three acres as generally depicted on a map entitled "Lake Chelan-Sawtooth Wilderness—Proposed", dated March 1984, and which shall be known as the Lake Chelan-Sawtooth Wilderness;

16 USC 1132
note.

(11) certain lands in the Gifford Pinchot National Forest, Washington, which comprise approximately fourteen thousand four hundred and twenty acres, as generally depicted on a map entitled "Mount Adams Wilderness Additions—Proposed", dated March 1984, and which are hereby incorporated in and shall be deemed to be a part of the Mount Adams Wilderness as designated by Public Law 88-577;

16 USC 1131
note.
16 USC 1132
note.

(12) certain lands in the Mount Baker-Snoqualmie National Forest, Washington, which comprise approximately one hundred seventeen thousand nine hundred acres as generally depicted on a map entitled "Mount Baker Wilderness—Proposed", dated March 1984, and which shall be known as the Mount Baker Wilderness;

(13) certain lands in the Olympic National Forest, Washington, which comprise approximately fifteen thousand six hundred and eighty-six acres, as generally depicted on a map entitled "Mount Skokomish Wilderness—Proposed", dated March 1984, and which shall be known as the Mount Skokomish Wilderness;

16 USC 1132
note.

(14) certain lands in the Mount Baker-Snoqualmie National Forest, which comprise approximately fourteen thousand three hundred acres, as generally depicted on a map entitled "Noisy-Diobsud Wilderness—Proposed", dated May 1984, and which shall be known as the Noisy-Diobsud Wilderness;

16 USC 1132
note.

(15) certain lands in the Mount Baker-Snoqualmie and Wenatchee National Forests, Washington, which comprise approximately fifty thousand nine hundred and twenty-three acres as generally depicted on a map entitled "Norse Peak Wilderness—Proposed", dated March 1984, and which shall be known as the Norse Peak Wilderness;

16 USC 1132
note.

(16) certain lands in the Okanogan National Forest, Washington, which comprise twenty-four thousand three hundred and twenty-six acres, as generally depicted on a map entitled "Pasayten Wilderness Additions—Proposed", dated March 1984, and which are hereby incorporated in and shall be deemed to be part of the Pasayten Wilderness as designated by Public Law 88-577;

16 USC 1131
note.
16 USC 1132
note.

(17) certain lands in the Kaniksu and Colville National Forests, Washington, which comprise approximately forty-one thousand three hundred and thirty-five acres, as generally depicted on a map entitled "Salmo-Priest Wilderness—Proposed", dated March 1984, and which shall be known as the Salmo-Priest Wilderness;

(18) certain lands in the Gifford Pinchot National Forest, Washington, which comprise approximately fifteen thousand seven hundred and twenty acres, as generally depicted on a map entitled "Tatoosh Wilderness—Proposed", dated March 1984, and which shall be known as the Tatoosh Wilderness;

16 USC 1132
note.

(19) certain lands in the Olympic National Forest, Washington, which comprise approximately seventeen thousand two hundred and thirty-nine acres, as generally depicted on a map

16 USC 1132
note.

entitled "The Brothers Wilderness—Proposed", dated March 1984, and which shall be known as The Brothers Wilderness—Proposed", dated March 1984, and which shall be known as The Brothers Wilderness;

16 USC 1132
note.

(20) certain lands in the Gifford Pinchot National Forest, which comprise approximately six thousand and fifty acres, as generally depicted on a map entitled "Trapper Creek Wilderness—Proposed", dated March 1984, and which shall be known as the Trapper Creek Wilderness;

16 USC 1132
note.

(21) certain lands in the Wenatchee and Gifford Pinchot National Forests, Washington, which comprise approximately one hundred and sixty-six thousand six hundred and three acres, as generally depicted on a map entitled "William O. Douglas Wilderness—Proposed", dated March 1984, and which shall be known as the William O. Douglas Wilderness. The William O. Douglas Wilderness is designated in remembrance of Justice Douglas' lifelong efforts to preserve the Cougar Lakes area for the recreational benefits of future generations. Through such designation, the Congress recognizes his persistent concern for the Cougar Lakes area, and his contribution to conservation efforts throughout the Nation; and

16 USC 1132
note.

(22) certain lands in the Olympic National Forest, Washington, which comprise approximately two thousand three hundred and twenty acres, as generally depicted on a map entitled "Wonder Mountain Wilderness—Proposed", dated March 1984, and which shall be known as the Wonder Mountain Wilderness.

SEC. 4. (a) As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file the maps referred to in section 3 of this Act and legal descriptions of each wilderness area designated by section 3 of this Act with the Committee on Energy and Natural Resources, United States Senate, and the Committee on Interior and Insular Affairs, House of Representatives, and each such map and legal description shall have the same force and effect as if included in this Act: *Provided*, That correction of clerical and typographical errors in such legal descriptions and maps may be made. Each such map and legal description shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

Public
availability.

(b) Subject to valid existing rights, each wilderness area designated by section 3 of this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act of 1964 governing areas designated by that Act as wilderness areas, except that with respect to any area designated in section 3 of this Act, any reference in such provisions to the effective date of the Wilderness Act of 1964 shall be deemed to be a reference to the effective date of this Act.

16 USC 1131
note.

Conservation.

SEC. 5. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II);

(2) the Congress has made its own review and examination of National Forest System roadless areas in the State of Washington and of the environmental impacts associated with alternative allocations of such areas.

Congress.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II Final Environmental Statement

(dated January 1979) with respect to National Forest System lands in States other than Washington, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Washington;

(2) with respect to the National Forest System lands in the State of Washington which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d), that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976 to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time the Secretary of Agriculture finds that conditions in a unit have significantly changed;

16 USC 1600
note.

16 USC 1600
note.

(3) areas in the State of Washington reviewed in such final environmental statement or referenced in subsection (d) and not designated as wilderness upon enactment of this Act or identified for special management in section 7 or 8 of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Planning Act of 1976: *Provided*, That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans;

16 USC 1604.

(4) in the event that revised land management plans in the State of Washington are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law; and

16 USC 1604.

16 USC 1600
note.

16 USC 1600
note.

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of National Forest System lands in the State of Washington for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

16 USC 1604.

(d) The provisions of this section shall also apply to:

(1) those National Forest System roadless lands in the State of Washington in the Gifford Pinchot, Olympic and Umatilla National Forests which were evaluated in the Upper Cispus; Lone Tree; Clear Creek; Upper Lewis; Trapper-Siouxon; Soleduck; Quinault; Oregon Butte; and Shelton Cooperative Sustained Yield Unit unit plans; and

(2) National Forest System roadless lands in the State of Washington which are less than five thousand acres in size.

16 USC 1132
note.
16 USC 1131
note.

SEC. 6. (a) In furtherance of the purposes of the Wilderness Act of 1964, certain public lands in Franklin County, Washington, which comprise approximately seven thousand one hundred and forty acres, as generally depicted on a map entitled "Juniper Dunes Wilderness—Proposed" and dated March 1984, are hereby designated as the Juniper Dunes Wilderness and, therefore, as a component of the National Wilderness Preservation System.

16 USC 1131
note.

(b) Subject to valid existing rights, the Juniper Dunes Wilderness shall be administered by the Secretary of the Interior in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness. For purposes of this section, any references in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this section, any reference to the Secretary of Agriculture with regard to the administration of such areas shall be deemed to be a reference to the Secretary of the Interior, and any reference to wilderness areas designated by the Wilderness Act or designated national forest wilderness areas shall be deemed to be a reference to the Juniper Dunes Wilderness designated by this section. For purposes of this section, the reference to national forest rules and regulations in the second sentence of section 4(d)(3) of the Wilderness Act shall be deemed to be a reference to rules and regulations applicable to public lands, as defined in section 103(e) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701, 1702).

16 USC 1133.

(c) As soon as practicable after this Act takes effect, the Secretary of the Interior shall file a map and legal description of the Juniper Dunes Wilderness with the Committee on Energy and Natural Resources of the United States Senate and with the Committee on Interior and Insular Affairs of the United States House of Representatives, and such map and description shall have the same force and effect as if included in this Act: *Provided*, That correction of clerical and typographical errors in the legal description and map may be made. The map and legal description shall be on file and available for public inspection in the offices of the Bureau of Land Management, Department of the Interior.

Public
availability.

16 USC 460 pp.

SEC. 7. (a) In order to assure the conservation and protection of certain natural, scenic, historic, pastoral, and fish and wildlife values and to provide for the enhancement of the recreational values associated therewith, the Mount Baker National Recreation Area located in the Mount Baker-Snoqualmie National Forest, Washington, is hereby established.

Public
availability.

(b) The Mount Baker National Recreation Area (hereafter referred to as the "recreation area") shall comprise approximately eight thousand six hundred acres as generally depicted on the map entitled "Mount Baker National Recreation Area—Proposed", dated March 1984, which shall be on file and available for public inspection in the office of the Chief, Forest Service, Department of Agriculture.

(c) The Secretary of Agriculture shall, as soon as practicable after the date of enactment of this Act, file a map and a legal description of the recreation area with the Committee on Energy and Natural Resources, United States Senate, and the Committee on Interior and Insular Affairs, House of Representatives, and each such map and legal description shall have the same force and effect as if included in this Act: *Provided*, That correction of clerical and typographical errors in such legal description and map may be made. The map and legal description shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

Public
availability.

(d) The Secretary shall administer the recreation area in accordance with the laws, rules and regulations applicable to the national forests in such manner as will best provide for (1) public outdoor recreation (including but not limited to snowmobile use); (2) conservation of scenic, natural, historic, and other values contributing to public enjoyment; and (3) such management, utilization, and disposal of natural resources on federally owned lands within the recreation area which are compatible with and which do not significantly impair the purposes for which the recreation area is established.

SEC. 8. (a) The Congress finds that certain lands within the Mount Baker-Snoqualmie and Okanogan National Forests along the North Cascades Highway have remarkable scenic values, representing a unique aesthetic travelway through the Cascade Mountains in the northern portion of the State of Washington. The value of preserving this scenic area and assuring that it is managed in such manner that its scenic beauty and recreation qualities are maintained for future generations is recognized by the Congress.

Conservation.

(b) In order to preserve and protect these values, certain National Forest System lands comprising approximately eighty-seven thousand seven hundred and fifty-seven acres, as generally depicted on a map entitled "North Cascades Scenic Highway—Proposed" and dated March 1984, shall be administered by the Secretary of Agriculture to preserve the scenic value of this highway corridor. Management activities, including resource use and development, within the area may be permitted by the Secretary of Agriculture if the existing scenic values of the area are maintained.

(c) Management direction for the area that recognizes these scenic values shall be included in the forest plans developed for the Okanogan and Mount Baker-Snoqualmie National Forests in accordance with section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended.

16 USC 1604.

SEC. 9. Congress does not intend that designation of wilderness areas in the State of Washington lead to the creation of protective perimeters or buffer zones around each wilderness area. The fact that nonwilderness activities or uses can be seen or heard from areas within the wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

SEC. 10. The Secretary of Agriculture shall exchange lands and interests in lands with Weyerhaeuser Company in accordance with the following provisions:

Weyerhaeuser
Company.

(a) If the Weyerhaeuser Company offers to the United States the following described lands and interests in lands the Secretary shall accept such lands and interests therein:

KING AND PIERCE COUNTIES, WASHINGTON

Township 19 north, range 10 east (W.M.):	Acres
Section 25: All fractional.....	643.43
Township 19 north, range 11 east (W.M.):	
Section 31: All fractional.....	647.61

(b) Upon acceptance of title by the United States to such lands and interests therein, the Secretary shall convey to Weyerhaeuser Company all right, title, and interest of the United States to the following described National Forest System lands and interests therein:

KING COUNTY, WASHINGTON

Township 21 north, range 10 east (W.M.):	Acres
Section 20: Lots 2, 4, 6, 7, 10, 11, 12, and 14, south half northwest quarter, southwest quarter.....	355.58
Section 28: North half southwest quarter and southeast quarter..	240.00
Section 30: All.....	640.00

(c) The instruments of conveyance respecting the lands and interests exchanged under this section may contain such reservations as may be agreed upon by the Secretary and Weyerhaeuser Company.

Effective date.

(d) It is the sense of Congress that the exchange authorized pursuant to this section should be completed within ninety days after the date of the enactment of this Act. The Secretary shall use other existing acquisition authorities if the exchange authorized by this section is not completed within a reasonable time after the expiration of such ninety day period.

(e) The Secretary shall certify in writing that to his satisfaction, at the time of conveyance, there has been no reduction in the values of the lands or interests therein which formed the basis for the exchange provided for in this section. If the Secretary finds that a reduction in the value of the lands or interests therein has occurred, the Secretary shall not carry out the exchange for those lands or interests so affected and acquisition of those lands and interests shall be undertaken by the Secretary in accordance with other provisions of law.

SEC. 11. Subject to valid existing rights, the Federal lands in Walla Walla and Columbia Counties, Washington, located within the Mill Creek Watershed roadless area as identified in the Oregon Butte Unit Plan are hereby withdrawn from all forms of location, entry, and patent under the United States mining laws and from disposition under all laws pertaining to mineral leasing and all amendments thereto.

Approved July 3, 1984.

LEGISLATIVE HISTORY—S. 837:

SENATE REPORT No. 98-461 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 130 (1984):

May 24, considered and passed Senate.

June 18, considered and passed House.

Public Law 98-340
98th Congress

An Act

July 3, 1984

[H.R. 5565]

To direct the Architect of the Capitol and the District of Columbia to enter into an agreement for the conveyance of certain real property, to direct the Secretary of the Interior to permit the District of Columbia and the Washington Metropolitan Area Transit Authority to construct, maintain, and operate certain transportation improvements on Federal property, and to direct the Architect of the Capitol to provide the Washington Metropolitan Area Transit Authority access to certain real property.

Public buildings
and grounds.
Contracts, U.S.
40 USC 215 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) Within sixty days after the enactment of this Act, the Architect of the Capitol under the direction of the Joint Committee on the Library (hereinafter referred to as the "Architect") and the District of Columbia government (hereinafter referred to as the "District") shall enter into an agreement consistent with the provisions of this Act.

(b) Such agreement shall include the following provisions:

Botanic Garden
Greenhouse and
Nursery, Poplar
Point.

(1) The Architect and the District shall determine a site of not less than twenty-five contiguous acres under the jurisdiction of the District upon which the facilities existing on the date of enactment of this Act which are operated and maintained by the United States Botanic Garden at the Poplar Point Greenhouse and Nursery described in section 3(a) shall be relocated.

(2) The District shall convey without consideration to the Architect on behalf of the United States all right, title, and interest of the District in any real property determined pursuant to paragraph (1) as the replacement site.

Lanham Tree
Nursery.

(3) The District shall convey without consideration to the Secretary of the Interior (hereinafter referred to as the "Secretary") on behalf of the United States all right, title, and interest of the District in the real property described in section 3(b), known as the Lanham Tree Nursery.

40 USC 215 note.

SEC. 2. (a) Within sixty days of the enactment of this Act the real property described in section 3(a), known as the Botanic Garden Greenhouse and Nursery at Poplar Point, shall come within the jurisdiction of the Secretary: *Provided*, That the Architect shall retain the right to continue the current use of the property until the replacement facilities of the Architect are completed.

(b) Within sixty days after the Secretary assumes jurisdiction for such real property under subsection (a), the Secretary shall enter into an agreement with the District and the Washington Metropolitan Area Transit Authority under which the District and the Washington Metropolitan Area Transit Authority will be authorized to construct, maintain, and operate certain facilities designed to improve transportation in the Washington metropolitan area.

(c) Upon the Secretary assuming jurisdiction for such real property under subsection (a), the Secretary and the District shall develop a land use plan for such portions of any real property described in section 3 as the Secretary and the District jointly

determine will not be necessary for transportation improvement purposes when green line service is extended to its ultimate terminus in Prince George's County.

(d) On the date of conveyance of such real property as described in section 1(b)(2), the United States Capitol Police shall have such jurisdiction over such real property as is provided under section 1826 of the Revised Statutes (40 U.S.C. 215).

(e) The Architect shall, not later than ten days after the enactment of this Act, provide to the Washington Metropolitan Area Transit Authority access to the real property described in section 3(a) for the purpose of conducting any and all necessary surveys, studies, evaluations, and tests, as determined by the Washington Metropolitan Area Transit Authority, and for the purposes of construction of the rail line tunnel in the area beginning at a point on the east line of the parcel, the point of beginning having Metro project coordinates north 376,664.236 and east 801,187.843, thence leaving said line and through said parcel the following seven courses:

- (1) South 76 degrees 32 minutes 04.2 seconds west, 294.52 feet; thence
- (2) south 16 degrees 25 minutes 29.4 seconds east, 9.80 feet; thence
- (3) south 73 degrees 34 minutes 30.2 seconds west, 86.57 feet; thence
- (4) north 16 degrees 24 minutes 31.2 seconds west, 9.80 feet; thence
- (5) south 73 degrees 34 minutes 20.8 seconds west, 31.39 feet; thence
- (6) south 0 degrees 01 minutes 36.3 seconds east, 109.22 feet; thence
- (7) north 90 degrees 0 minutes 0 seconds west, 420.76 feet to a point on the west line of said parcel; thence along said line
- (8) north 0 degrees 01 minutes 35.8 seconds west, 577.12 feet to the northwest corner of said parcel; thence along the northerly line of said parcel
- (9) south 72 degrees 01 minutes 48.6 seconds east, 862.55 feet to the northeast corner of said parcel; thence along the east line of said parcel
- (10) south 0 degrees 02 minutes 22.5 seconds east, 99.85 feet to the point of beginning, containing 300,235 square feet or 6.892 acres.

(f) When the facilities of the Architect have been relocated, pursuant to section 1, the Secretary shall provide the Washington Metropolitan Area Transit Authority right of access to construct, maintain, and operate all other transportation facilities described in section 3(a) designed to improve transportation in the Washington metropolitan area.

SEC. 3. (a) The real property referred to in section 1(b)(1) known as the Botanic Garden Greenhouse and Nursery which is in Anacostia Park is comprised of the following parcels of property:

40 USC 215 note.

- (1) A parcel of approximately fourteen and seventy-five one-hundredths acres that was transferred from the Director of Public Buildings and Public Parks of the National Capital to the jurisdiction of the United States Botanic Garden for use as a tree nursery pursuant to the Act of June 26, 1926 (44 Stat. 774).
- (2) A parcel of approximately seven and eighty-three one-hundredths acres that was acquired by the United States

40 USC 122.

Botanic Garden from the Secretary in 1935 in exchange for certain other property under the provisions of the Act of May 20, 1932 (47 Stat. 161).

(3) A parcel of approximately two and eight one-hundredths acres that is occupied by the Architect pursuant to a special use permit issued by the Secretary on March 10, 1977, to the chairman of the Joint Committee on the Library.

(b) The real property referred to in section 1(b)(3) known as the Lanham Tree Nursery which is in Anacostia Park consists of a parcel of approximately thirty-four and five-tenths acres that was transferred from the Director of Public Buildings and Public Parks of the National Capital to the jurisdiction of the District for use as a tree nursery.

Approved July 3, 1984.

LEGISLATIVE HISTORY—H.R. 5565:

HOUSE REPORT No. 98-810, Pt. 1 (Comm. on the District of Columbia).
CONGRESSIONAL RECORD, Vol. 130 (1984):

June 11, considered and passed House.

June 21, considered and passed Senate.

Public Law 98-341
98th Congress

Joint Resolution

Designating the week of July 1 through July 8, 1984, as "National Duck Stamp Week" and 1984 as the "Golden Anniversary Year of the Duck Stamp".

July 3, 1984
[S.J. Res. 270]

Whereas on March 16, 1934, Congress enacted the Migratory Bird Hunting Stamp Act authorizing the sale of Migratory Bird Hunting and Conservation Stamps, commonly referred to as duck stamps;

48 Stat. 451.

Whereas under that Act any person sixteen years of age or older, who hunts ducks, geese, swans, or brant is required to carry a current duck stamp, and duck stamps may also be purchased by nonhunters interested in conservation;

Whereas the funds generated from the sale of duck stamps under that Act are placed in a migratory bird conservation fund to be used for the acquisition of migratory bird refuge and waterfowl production areas;

Whereas the Migratory Bird Hunting Stamp Act has created a continuing source of funds for waterfowl habitat acquisition and restoration;

Whereas waterfowl hunters and others interested in the conservation of our Nation's wildlife resources have contributed more than \$270,000,000 toward the acquisition of three million five hundred thousand acres of waterfowl habitat through the purchase of duck stamps;

Whereas an estimated four hundred fifty thousand acres of wetland habitat continue to disappear each year under the pressure of human development;

Whereas wetlands are vital not only for waterfowl, but also for a multitude of wildlife species, commercial and recreational fisheries, water purification, groundwater recharge, and flood control;

Whereas the current goal of the Fish and Wildlife Service is to preserve another one million six hundred thousand acres of key wetland habitat by 1986 to help maintain waterfowl populations; and

Whereas celebration of the "Golden Anniversary Year of the Duck Stamp" and "National Duck Stamp Week" will serve to increase awareness of the significant contribution a duck stamp purchaser makes to the conservation of wetland resources, and to encourage participation of other concerned Americans: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of July 1 through July 8, 1984, is hereby designated as "National Duck Stamp Week" and that 1984 is designated as the "Golden Anniversary Year of the Duck Stamp". The President is authorized and requested to issue a proclamation—

(1) commemorating the fiftieth anniversary of the Migratory Bird Hunting Stamp Act;

(2) commending the many American sportsmen and conservationists who have played such an important part in the preser-

vation of our Nation's ducks and geese through the purchase of the duck stamp;

(3) commemorating the efforts of the United States Fish and Wildlife Service to conserve wetland habitat;

(4) highlighting the annual loss of thousands of acres of wetlands that threatens the valuable waterfowl and other natural resources that depend upon this habitat; and

(5) calling upon the people of the United States to observe such year and such week and to participate in the duck stamp program.

Approved July 3, 1984.

LEGISLATIVE HISTORY—S.J. Res. 270:

CONGRESSIONAL RECORD, Vol. 130 (1984):

June 15, considered and passed Senate.

June 26, considered and passed House.

Public Law 98-342
98th Congress

An Act

To increase the statutory limit on the public debt.

July 6, 1984

[H.R. 5953]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCREASE IN PUBLIC DEBT LIMIT.

(a) GENERAL RULE.—Subsection (b) of section 3101 of title 31, United States Code, is amended by striking out “may not be more” and all that follows down through “outstanding at one time” and insert in lieu thereof “may not be more than \$1,573,000,000,000 outstanding at one time”.

Ante, p. 217.

(b) TECHNICAL AMENDMENT.—Effective on and after the date of the enactment of this Act, section 1 of Public Law 98-302 is hereby repealed.

Repeal.
31 USC 3101
note.
Ante, p. 217.

Approved July 6, 1984.

LEGISLATIVE HISTORY—H.R. 5953:HOUSE REPORT: No. 98-878 (Comm. on Ways and Means).
CONGRESSIONAL RECORD, Vol. 130 (1984):

June 29, considered and passed House and Senate.

Public Law 98-343
98th Congress

Joint Resolution

July 9, 1984
[S.J. Res. 238]

To designate the week beginning November 19, 1984, as "National Adoption Week".

Whereas the week of November 19 has been privately commemorated as National Adoption Week for the past nine years;

Whereas we in Congress recognize the essential value of belonging to a secure, loving, permanent family as every child's basic right; Whereas approximately one hundred thousand children who have special needs—school age, in sibling groups, members of minorities or children with physical, mental and emotional handicaps—are now in foster care or institutions financed at public expense and are legally free for adoption;

Whereas the adoption by capable parents of these institutionalized or foster care children into permanent, adoptive homes would insure the opportunity for their continued happiness and long-range well-being;

Whereas public and private barriers inhibiting the placement of these special needs children must be reviewed and removed where possible to assure these children's adoption;

Whereas the public and prospective parents must be informed of the availability of adoptable children;

Whereas a variety of media, agencies, adoptive parent and advocacy groups, civic and church groups, businesses and industries will feature publicity and information to heighten community awareness of the crucial needs of waiting children; and

Whereas the recognition of Thanksgiving week as National Adoption Week is in the best interest of adoptable children and the public in general: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of November 19 through November 25, 1984, hereby is designated "National Adoption Week", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved July 9, 1984.

LEGISLATIVE HISTORY—S.J. Res. 238:

CONGRESSIONAL RECORD, Vol. 130 (1984):

Feb. 27, considered and passed Senate.

June 26, considered and passed House.

Public Law 98-344
98th Congress

An Act

To declare that the United States holds certain lands in trust for the Pueblo de Cochiti.

July 9, 1984
[S. 2403]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all right, title, and interest of the United States in the lands described in section 2 (including all improvements thereon and appurtenances thereto) are declared to be held in trust by the United States for the Pueblo de Cochiti (hereinafter in this Act referred to as “the Pueblo”), subject to the provisions of sections 3 and 7.

New Mexico.
Indians.

SEC. 2. The lands referred to in the first section are the lands—

- (1) situated in the counties of Sandoval and Santa Fe in the State of New Mexico,
- (2) known as the Santa Cruz Spring tract,
- (3) described on page 6 of the report of Milford T. Keene, Land Surveyor, Southern Pueblos Agency, Bureau of Indian Affairs, Albuquerque, New Mexico, dated February 26, 1981, and
- (4) recorded in the files of the Bureau of Indian Affairs, Southern Pueblos Agency.

SEC. 3. Nothing in this Act shall be construed to deprive any individual or entity of any legal existing right-of-way, legal mining claim, legal grazing permit, legal water right, or other legal right or legal interest such individual or entity may have in the lands described in section 2.

SEC. 4. Before the end of the one-year period beginning on the date of enactment of this Act, the Secretary of the Interior (hereinafter in this Act referred to as the “Secretary”) shall—

Survey.

- (1) conduct a cadastral survey of the lands described in section 2,
- (2) make any correction in the description of such lands which is necessary as a result of such survey, and
- (3) publish any such correction in the Federal Register.

Federal
Register,
publication.

SEC. 5. The lands which are declared to be held in trust by the Secretary pursuant to the first section shall be part of the Pueblo Reservation and shall be subject to the laws and rules of law of the United States relating to Indian lands. Such lands shall not be developed for any use other than a use in existence on the date of enactment of this Act.

SEC. 6. (a) Nonmembers of the Pueblo who, on the date of enactment of this Act, are permittees of lands described in section 2 of this Act shall be given the opportunity to renew their permits under rules and regulations of the Secretary to the same extent and in the same manner that such permits could have been renewed if this Act had not been enacted, subject to the provisions of subsection (b) of this section.

(b) Permits renewed under subsection (a) of this section shall expire upon the death of the permittee or within thirty years of the date of enactment of this Act, whichever occurs later: *Provided*,

That, if the permittee dies within thirty years of the date of enactment of this Act, his spouse or children may assume the permit for the balance of the thirty-year period upon notice to the Pueblo and the Bureau of Indian Affairs.

(c) If the Pueblo obtains the relinquishment of grazing permits in the Caja del Rio allotment in the Santa Fe National Forest for that number of animal unit months equal to the number of animal unit months provided under permit by the United States Forest Service as of the date of enactment of this Act within that portion of Caja del Rio allotment which overlaps the Santa Cruz Spring tract, then the remaining permittees in the Caja del Rio allotment shall have no further interest in the Santa Cruz Spring tract and no further right to renew their permits within said tract. The remaining permittees of the Caja del Rio allotment shall suffer no diminution of their grazing rights within that portion of the Caja del Rio allotment which does not overlap the Santa Cruz Spring tract.

(d) After the date of enactment of this Act, the Secretary shall deposit any and all fees paid by permittees under existing or renewed permits for grazing animal unit months on the Santa Cruz Spring tract into the Treasury of the United States to the credit of the Pueblo.

(e) The Pueblo may obtain the relinquishment of any or all of the permits in the Santa Cruz Spring tract, or as provided in subsection (c) of this section, in the Caja del Rio allotment under such terms and conditions as may be mutually agreeable. In consideration of such relinquishments, the Pueblo is authorized to grant leases, permits, or licenses for agricultural or grazing purposes to existing permittees in lands presently part of the Pueblo Reservation or added thereto pursuant to section 5 of this Act, subject to the approval of the Secretary for terms not to exceed fifty years. The Secretary is authorized to disburse from tribal funds in the Treasury of the United States to the credit of the Pueblo so much thereof as may be necessary to pay for such relinquishments and for the purchase of any rights or improvements on said lands owned by nonmembers of the Pueblo. The authority to pay for relinquishment of a permit pursuant to this subsection shall not be regarded as a recognition of any property right of the permittee in the land or its resources.

SEC. 7. Until such time as the Cochiti Lake Project is deauthorized by the Congress, the Secretary shall give full recognition to all interests in lands acquired by the Department of the Army through fee acquisition and under Memorandums of Agreement with the Departments of Agriculture, Interior, and Energy, the University of New Mexico, and the Pueblo de Cochiti, for the operation and maintenance of Cochiti Lake on a portion of the lands herein declared in trust.

SEC. 8. The Secretary shall recognize and grant necessary easements for access on lands described in section 2 of this Act for the following purposes:

- (1) Access to recreational sites maintained by the United States.
 - (2) Access to parcels of land owned by private parties.
 - (3) Access to lands subject to valid permits as necessary to allow the permittees to exercise rights granted in such permits.
- The fees charged for any valid utility right-of-way or easement shall not be greater than the current Federal rate for such an easement.

SEC. 9. The water rights appurtenant to the lands described in section 2 shall be those water rights existing under State law on the date of enactment of this Act. Nothing in this Act shall be construed to create or convey any water rights other than those existing under State law on the date of enactment of this Act.

Water rights.

Approved July 9, 1984.

LEGISLATIVE HISTORY—S. 2403 (H.R. 3259):

HOUSE REPORT No. 98-421 accompanying H.R. 3259 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 98-409 (Select Comm. on Indian Affairs).

CONGRESSIONAL RECORD:

Vol. 129 (1983): Nov. 7, 1983, H.R. 3259 considered and passed House.

Vol. 130 (1984): May 10, S. 2403 considered and passed Senate.

June 21, S. 2403 considered and passed House.

Public Law 98-345
98th Congress

Joint Resolution

July 9, 1984
[H.J. Res. 555]

To designate July 20, 1984, as "Space Exploration Day".

Whereas on July 20, 1969, the people of the World were brought closer together by the first manned exploration of the Moon; Whereas the purpose of the United States space program is the peaceful exploration of space for the benefit of all mankind; Whereas the United States space program has provided scientific and technological benefits affecting many areas of concern to mankind;

Whereas the United States space program, through the Project Apollo, Viking and Voyager Missions to the planets, the space shuttle and other space efforts, has provided our Nation with scientific and technological leadership in space;

Whereas the National Aeronautics and Space Administration, the United States aerospace industry and educational institutions throughout the Nation contribute much research and development to the United States space program, and to the strength of the Nation's economy;

Whereas the space program reflects the technological skill of the highest order and the best in the American character—sacrifice, ingenuity, and our unrelenting spirit of adventure;

Whereas the spirit that put man on the Moon may be applied to all noble pursuits involving peace, brotherhood, courage, unity of the human spirit and the exploration of new frontiers; and

Whereas the human race will continue to explore space for the benefit of future generations: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 20, 1984, is hereby designated as "Space Exploration Day", a nonpaid commemorative holiday. The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe "Space Exploration Day" with appropriate ceremonies and activities.

Approved July 9, 1984.

LEGISLATIVE HISTORY—H.J. Res. 555:

CONGRESSIONAL RECORD, Vol. 130 (1984):

June 26, considered and passed House.

June 29, considered and passed Senate.

Public Law 98-346
98th Congress

Joint Resolution

To designate the week beginning September 2, 1984, as "National School-Age Child Care Awareness Week".

July 9, 1984

[H.J. Res. 544]

Whereas more than half of the children in the United States are in families in which both parents are in the work force;

Whereas more than one in five children in the United States are in a one-parent family;

Whereas changes in the composition of American families and the American work force have resulted in an increased demand for child care for children of all ages;

Whereas the demand for child care for school-age children has increased at a greater rate than the availability of school-age child care;

Whereas estimates show that millions of school-age children between the ages of six and thirteen, often referred to as latchkey children, may return alone after school to an empty house or in the supervision of a slightly older brother or sister;

Whereas research studies have indicated that children in self and sibling care run greater physical and psychological risks, including accidents and feelings of fear and loneliness, than children who are cared for by an adult;

Whereas the Congress has begun to examine the issue of child care and the role of Federal and State government, the private sector, and parents in providing child care;

Whereas the parents, communities, employers, and agencies serving youth that have recognized the shortage of adequate and affordable school-age child care have developed after school programs for children in their communities; and

Whereas many more parents, communities, employers, and agencies serving youth need to address the problems facing these children and to maximize the use of State and Federal resources in collaboration with these efforts: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning September 2, 1984, is hereby designated as “National School-Age Child Care Awareness Week” and the President is hereby authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate programs and activities.

Approved July 9, 1984.

LEGISLATIVE HISTORY—H.J. Res. 544:

CONGRESSIONAL RECORD, Vol. 130 (1984):

June 26, considered and passed House.

June 29, considered and passed Senate.

Public Law 98-347
98th Congress

An Act

To provide for the selection of additional lands for inclusion within the Bon Secour National Wildlife Refuge, and for other purposes.

July 9, 1984
[H.R. 4921]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act to establish the Bon Secour National Wildlife Refuge", approved June 9, 1980 (16 U.S.C. 668dd note), is amended—

National
Wildlife
Refuge System.

(1) by amending section 2 by redesignating paragraphs (1), (2), and (3) as paragraphs (2), (3), and (4), respectively, and by inserting before paragraph (2) (as so redesignated) the following new paragraph:

"(1) the term 'additional selection area' means those lands and waters in Baldwin County, Alabama, depicted on the map entitled 'Proposed Addition to the Bon Secour National Wildlife Refuge' dated February 1984 and on file at the United States Fish and Wildlife Service."; and

(2) by amending section 3—

(A) by amending that portion of such section that precedes subsection (a)(2) to read as follows:

"SEC. 3. (a) SELECTION.—(1) The Secretary shall—

"(A) within one year after the date of the enactment of this Act, designate approximately ten thousand acres of land and water within the selection area as land which the Secretary considers appropriate for the refuge; and

"(B) within six months after the date of the enactment of the 1984 amendment to this subsection—

"(i) designate approximately two thousand acres of land and water within the additional selection area as land which the Secretary considers appropriate for the refuge, and

"(ii) publish in the Federal Register a detailed map depicting the boundaries of the land designated under subparagraphs (A) and (B)(i), which map shall be on file and available for public inspection at the offices of the United States Fish and Wildlife Service.";

Federal
Register,
publication.
Public
availability.

(B) by amending subsection (a)(2) by striking out "designated under paragraph (1)(B)" and inserting in lieu thereof "depicted under paragraph (1)(B)(ii)"; and

(C) by amending subsection (b) by striking out "designated under subsection (a)(1)(B)" and inserting in lieu thereof "depicted under subsection (a)(1)(B)(ii)".

SEC. 2. (a) Section 8(a) of the Act of September 2, 1937 (commonly known as the Federal Aid in Wildlife Restoration Act, 16 U.S.C. 669g-1) is amended—

American
Samoa.

(1) by inserting "the Governor of American Samoa," immediately after "the Governor of Guam,";

(2) by inserting "American Samoa," immediately after "Puerto Rico, Guam," each place it appears therein; and

(3) by inserting “for American Samoa one-sixth of one per centum,” immediately after “for Guam one-sixth of one per centum,”.

Effective date.
16 USC 669g-1
note.

(b) The amendments made by subsection (a) shall take effect October 1, 1984.

Approved July 9, 1984.

LEGISLATIVE HISTORY—H.R. 4921:

HOUSE REPORT No. 98-703 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 130 (1984):

Apr. 30, considered and passed House.
June 21, considered and passed Senate.

Public Law 98-348
98th Congress

Joint Resolution

To commemorate the one hundredth anniversary of the Bureau of Labor Statistics.

July 9, 1984

[S.J. Res. 278]

Whereas legislation was enacted on June 27, 1884, to establish a bureau to “collect information upon the subject of labor, its relation to capital, the hours of labor, and the earnings of laboring men and women, and the means of promoting their material, social, intellectual, and moral prosperity”;

Whereas the Bureau of Labor Statistics has completed a century of service to government, business, labor, and the public by producing indispensable data and special studies on prices, employment and unemployment, productivity, wages and other compensation, economic growth, industrial relations, and occupational safety and health;

Whereas many public programs and private transactions are dependent today on the quality of such Bureau statistics as the unemployment rate and the Consumer Price Index which play essential roles in the allocation of Federal funds and the adjustment of pensions, welfare payments, private contracts, and other payments to offset the impact of inflation;

Whereas the Bureau pursues these responsibilities with absolute integrity and has a reputation for being unfailingly responsive to the need for new types of information and indexes of change;

Whereas the Bureau has earned an international reputation as a leader in economic and social statistics;

Whereas the Bureau meets the public need for timely and accurate information by publishing data in the most appropriate printed form, including press releases, periodicals, bulletins, and special reports, and by making data available through microfiche and new electronic services;

Whereas the Bureau has pioneered in the development of computer applications to data gathering and statistical analyses; and

Whereas the Bureau has established the highest standards of professional competence and commitment: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That special recognition and commendation be given on the one hundredth anniversary of the establishment of the Bureau of Labor Statistics for the century of exemplary service provided by the administrators and employees of the Bureau in collecting and disseminating vital information to the Nation.

Approved July 9, 1984.

LEGISLATIVE HISTORY—S.J. Res. 278:

CONGRESSIONAL RECORD, Vol. 130 (1984):

June 21, considered and passed Senate.

June 26, considered and passed House.

Public Law 98-349
98th Congress

Joint Resolution

To proclaim July 10, 1984, as "Food for Peace Day".

July 9, 1984
[S.J. Res. 306]

Whereas the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480) was signed into law by President Eisenhower on July 10, 1954;

7 USC 1691 note.

Whereas the Public Law 480 program (also known as the food for peace program) has received strong and bipartisan support from every President and Congress during the past thirty years as a versatile tool to use the abundant agricultural productivity of the United States to combat hunger and malnutrition abroad, expand export markets for United States agricultural commodities, encourage economic development in developing countries, and promote in other ways the foreign policy of the United States; Whereas over three hundred million tons of agricultural commodities and products thereof valued at about \$34,000,000,000 have been distributed to more than one hundred and fifty countries under the Public Law 480 program since its inception, substantially reducing world hunger and improving nutritional standards;

Whereas the Public Law 480 program has served as an example to other nations and encouraged them also to help meet food needs abroad by making available agricultural surpluses or cash donations for such purposes; and

Whereas the people of the United States remain dedicated to the high goals and purposes of the Public Law 480 program and committed to continuation of its important work: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 10, 1984, the thirtieth anniversary of Public Law 480, is hereby proclaimed as "Food for Peace Day", and the President is requested to issue a proclamation calling upon the people of the United States and Federal and State governmental agencies to commemorate Food for Peace Day with appropriate ceremonies and activities.

Approved July 9, 1984.

LEGISLATIVE HISTORY—S.J. Res. 306:

CONGRESSIONAL RECORD, Vol. 130 (1984):

June 15, considered and passed Senate.

June 29, considered and passed House.

Public Law 98-350
98th Congress

Joint Resolution

July 9, 1984
[H.J. Res. 566]

To designate the week beginning on October 7, 1984, as "National Neighborhood Housing Services Week".

Whereas America's neighborhoods contain the ethnic, social, and economic relationships which are fundamental to a strong and diverse nation;

Whereas, when the physical structure of a neighborhood deteriorates, its economic and social structures also deteriorate, causing great harm to the homes, businesses, and residents of the neighborhood;

Whereas the reversal of such deterioration is essential to the strength of America's families, neighborhoods, and businesses;

Whereas, throughout the United States, Neighborhood Housing Services programs, which are partnerships of local residents, business leaders, and government officials, are working to revitalize more than 200 neighborhoods;

Whereas Neighborhood Housing Services programs have generated over two billion dollars in reinvestment funds to revitalize America's neighborhoods; and

Whereas, to accomplish their aims, such programs utilize primarily local and private resources and the assistance of hundreds of volunteers who contribute countless hours of volunteer work:
Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning on October 7, 1984, is hereby designated as "National Neighborhood Housing Services Week", and the President is authorized and requested to issue a proclamation calling upon local and State jurisdictions, appropriate Federal agencies, and the people of the United States to observe such week with appropriate ceremonies and activities.

Approved July 9, 1984.

LEGISLATIVE HISTORY—H.J. Res. 566:

CONGRESSIONAL RECORD, Vol. 130 (1984):
June 26, considered and passed House.
June 29, considered and passed Senate.

Public Law 98-351
98th Congress

Joint Resolution

To designate July 9, 1984, as "African Refugees Relief Day".

July 9, 1984
[H.J. Res. 604]

Whereas Africa is a continent in crisis torn by conflict, drought, and starvation, the causes of which urgently need to be addressed; Whereas these conditions have produced four million refugees seeking relief in twenty-four countries across the continent;

Whereas these refugees are receiving some immediate assistance, but need long-term solutions to their plight so they may attain self-sufficiency and thereby regain their dignity;

Whereas Africa does not wish to lose its refugee sons and daughters to foreign communities, but requires support to help its impoverished nations whose development and fragile infrastructures have been burdened enormously by the continued presence of massive refugee populations; and

Whereas the Secretary General of the United Nations, in cooperation with the Organization of African Unity and the United Nations High Commissioner for Refugees, will convene an international conference, ICARA II, in Geneva, July 9 through 11, 1984, to launch a coordinated endeavor that will attempt to reach durable solutions to refugee problems, and to obtain a renewed focus on refugee-related developmental assistance: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 9, 1984, is designated as "African Refugees Relief Day". The President is requested to issue a proclamation calling upon the people of the United States to observe such day (1) by recognizing that the

resolution of African refugee problems is not only an act of simple humanity, but, because it will enhance Africa's stability and progress, is in the national interest, and (2) by increasing their contributions to private voluntary agencies that provide emergency assistance to African refugees.

Approved July 9, 1984.

LEGISLATIVE HISTORY—H.J. Res. 604:

CONGRESSIONAL RECORD, Vol. 130 (1984):

June 26, considered and passed House.

June 29, considered and passed Senate.

Public Law 98-352
98th Congress

An Act

To amend the Small Business Act to improve the operation of the secondary market for loans guaranteed by the Small Business Administration.

July 10, 1984

[S. 2375]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Small Business Secondary Market Improvements Act of 1984".

SEC. 2. Section 5 of the Small Business Act is amended by adding at the end thereof the following new subsections:

"(f)(1) The guaranteed portion of any loan made pursuant to this Act may be sold by the lender, and by any subsequent holder, consistent with regulations on such sales as the Administration shall establish, subject to the following limitations:

"(A) prior to the Administration's approval of the sale, or upon any subsequent resale, of any loan guaranteed by the Administration, if the lender certifies that such loan has been properly closed and that the lender has substantially complied with the provisions of the guarantee agreement and the regulations of the Administration, the Administration shall review and approve only materials not previously approved;

"(B) all fees due the Administration on a guaranteed loan shall have been paid in full prior to any sale; and

"(C) each loan shall have been fully disbursed to the borrower prior to any sale.

"(2) After a loan is sold in the secondary market, the lender shall remain obligated under its guarantee agreement with the Administration, and shall continue to service the loan in a manner consistent with the terms and conditions of such agreement.

"(3) The Administration shall develop such procedures as are necessary for the facilitation, administration, and promotion of secondary market operations, and for assessing the increase of small business access to capital at reasonable rates and terms as a result of secondary market operations.

"(4) Nothing in this subsection or subsection (g) of this section shall be interpreted to impede or extinguish the right of the borrower or the successor in interest to such borrower to prepay (in whole or in part) any loan made pursuant to section 7(a) of this Act, the guaranteed portion of which may be included in such trust or pool, or to impede or extinguish the rights of any party pursuant to section 5(e), 7(a)(6), or 7(a)(8).

"(g)(1) The Administration is authorized to issue trust certificates representing ownership of all or a fractional part of the guaranteed portion of one or more loans which have been guaranteed by the Administration under this Act, except those under section 7(a)(13): *Provided*, That such trust certificates shall be based on and backed by a trust or pool approved by the Administration and composed solely of the entire guaranteed portion of such loans.

Small Business
Secondary
Market
Improvements
Act of 1984.
15 USC 631 note.
15 USC 634.
Regulations.

15 USC 636.

15 USC 634, 636.

15 USC 636.

“(2) The Administration is authorized, upon such terms and conditions as are deemed appropriate, to guarantee the timely payment of the principal of and interest on trust certificates issued by the Administration or its agent for purposes of this subsection. Such guarantee shall be limited to the extent of principal and interest on the guaranteed portions of loans which compose the trust or pool. In the event that a loan in such trust or pool is prepaid, either voluntarily or in the event of default, the guarantee of timely payment of principal and interest on the trust certificates shall be reduced in proportion to the amount of principal and interest such prepaid loan represents in the trust or pool. Interest on prepaid or defaulted loans shall accrue and be guaranteed by the Administration only through the date of payment on the guarantee. During the term of the trust certificate, it may be called for redemption due to prepayment or default of all loans constituting the pool.

“(3) The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under any guarantee of such trust certificates issued by the Administration or its agent pursuant to this subsection.

Prohibition.

“(4) The Administration shall not collect any fee for any guarantee under this subsection: *Provided*, That nothing herein shall preclude any agent of the Administration from collecting a fee approved by the Administration for the functions described in subsection (h)(2).

“(5)(A) In the event the Administration pays a claim under a guarantee issued under this subsection, it shall be subrogated fully to the rights satisfied by such payment.

“(B) No State or local law, and no Federal law, shall preclude or limit the exercise by the Administration of its ownership rights in the portions of loans constituting the trust or pool against which the trust certificates are issued.

“(h) Upon the adoption of final rules and regulations, the Administration shall—

“(1) provide for a central registration of all loans and trust certificates sold pursuant to subsections (f) and (g) of this section. Such central registration shall include, with respect to each sale, an identification of each lender who has sold the loan; the interest rate paid by the borrower to the lender; the lender's servicing fee; whether the loan is for a fixed rate or variable rate; an identification of each purchaser of the loan or trust certificate; the price paid by the purchaser for the loan or trust certificate; the interest rate paid on the loan or trust certificate; the fees of an agent for carrying out the functions described in paragraph (2) below; and such other information as the Administration deems appropriate;

“(2) contract with an agent to carry out on behalf of the Administration the central registration functions of this section and the issuance of trust certificates to facilitate pooling. Such agent shall provide a fidelity bond or insurance in such amounts as the Administration determines to be necessary to fully protect the interest of the Government;

“(3) prior to any sale, require the seller to disclose to a purchaser of the guaranteed portion of a loan guaranteed under this Act and to the purchaser of a trust certificate issued pursuant to subsection (g), information on the terms, conditions, and yield of such instrument. As used in this paragraph, if the instrument being sold is a loan, the term ‘seller’ does not

include (A) an entity which made the loan or (B) any individual or entity which sells three or fewer guaranteed loans per year; and

“(4) have the authority to regulate brokers and dealers in guaranteed loans and trust certificates sold pursuant to subsections (f) and (g) of this section.”.

SEC. 3. (a) Within ninety days after the date of enactment of this Act, the Small Business Administration shall develop and promulgate final rules and regulations to implement the central registration provisions provided for in section 5(h)(1) of the Small Business Act, and shall contract with an agent for an initial period of not to exceed two years to carry out the functions provided for in section 5(h)(2) of such Act.

Regulations.
15 USC 634 note.

Ante, p. 329.

(b) Within nine months after the date of enactment of this Act, the Small Business Administration shall consult with representatives of appropriate Federal and State agencies and officials, the securities industry, financial institutions and lenders, and small business persons, and shall develop and promulgate final rules and regulations to implement this Act other than as provided for in subsection (a).

Regulations.

(c) The Small Business Administration shall not implement any of the provisions under section 5(g) of the Small Business Act, as amended, until final rules and regulations become effective.

Ante, p. 329.

SEC. 4. Section 10 of the Small Business Act is amended by adding at the end thereof the following new subsection:

Report.
15 USC 639.

“(h) The Administration shall transmit, not later than March 31 of each year, to the Committees on Small Business of the Senate and House of Representatives a report on the secondary market operations during the preceding calendar year. This report shall include, but not be limited to, (1) the number and the total dollar amount of loans sold into the secondary market and the distribution of such loans by size of loan, size of lender, geographic location of lender, interest rate, maturity, lender servicing fees, whether the rate is fixed or variable, and premium paid; (2) the number and dollar amount of loans resold in the secondary market with a distribution by size of loan, interest rate, and premiums; (3) the number and total dollar amount of pools formed; (4) the number and total dollar amount of loans in each pool; (5) the dollar amount, interest rate, and terms on each loan in each pool and whether the rate is fixed or variable; (6) the number, face value, interest rate, and terms of the trust certificates issued for each pool; (7) to the maximum extent possible, the use by the lender of the proceeds of sales of loans in the secondary market for additional lending to small business concerns; and (8) an analysis of the information reported in (1) through (7) to assess small businesses’ access to capital at reasonable rates and terms as a result of secondary market operations.”.

SEC. 5. Section 4(c)(1)(B) and section 4(c)(2)(B) of the Small Business Act are each amended by inserting “5(g),” immediately after the word “sections”.

15 USC 633.

15 USC 634 note.

SEC. 6. This Act does not authorize the appropriation of any funds.

Approved July 10, 1984.

LEGISLATIVE HISTORY—S. 2375 (H.R. 4773):

HOUSE REPORT No. 98-853 accompanying H.R. 4773 (Comm. on Small Business).
CONGRESSIONAL RECORD, Vol. 130 (1984):

June 21, considered and passed Senate.

June 25, considered and passed House.

Public Law 98-353
98th Congress

An Act

To amend title 28 of the United States Code regarding jurisdiction of bankruptcy proceedings, to establish new Federal judicial positions, to amend title 11 of the United States Code, and for other purposes.

July 10, 1984

[H.R. 5174]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “Bankruptcy Amendments and Federal Judgeship Act of 1984”.

Bankruptcy
Amendments
and Federal
Judgeship Act of
1984.

28 USC 151 note.

TITLE I—BANKRUPTCY JURISDICTION AND PROCEDURE

SEC. 101. (a) Section 1334 of title 28, United States Code, is amended to read as follows:

“§ 1334. Bankruptcy cases and proceedings

“(a) Except as provided in subsection (b) of this section, the district courts shall have original and exclusive jurisdiction of all cases under title 11.

11 USC 101 *et seq.*

“(b) Notwithstanding any Act of Congress that confers exclusive jurisdiction on a court or courts other than the district courts, the district courts shall have original but not exclusive jurisdiction of all civil proceedings arising under title 11, or arising in or related to cases under title 11.

“(c)(1) Nothing in this section prevents a district court in the interest of justice, or in the interest of comity with State courts or respect for State law, from abstaining from hearing a particular proceeding arising under title 11 or arising in or related to a case under title 11.

“(2) Upon timely motion of a party in a proceeding based upon a State law claim or State law cause of action, related to a case under title 11 but not arising under title 11 or arising in a case under title 11, with respect to which an action could not have been commenced in a court of the United States absent jurisdiction under this section, the district court shall abstain from hearing such proceeding if an action is commenced, and can be timely adjudicated, in a State forum of appropriate jurisdiction. Any decision to abstain made under this subsection is not reviewable by appeal or otherwise. This subsection shall not be construed to limit the applicability of the stay provided for by section 362 of title 11, United States Code, as such section applies to an action affecting the property of the estate in bankruptcy.

“(d) The district court in which a case under title 11 is commenced or is pending shall have exclusive jurisdiction of all of the property, wherever located, of the debtor as of the commencement of such case, and of the estate.”.

Gifts and
property.

(b) The table of sections for chapter 85 of title 28, United States Code, is amended by amending the item relating to section 1334 to read as follows:

“1334. Bankruptcy cases and proceedings.”.

SEC. 102. (a) Chapter 87 of title 28, United States Code, is amended by adding at the end thereof the following new sections:

28 USC 1408.

“§ 1408. Venue of cases under title 11

Post, p. 335.
11 USC 101 *et*
seq.

“Except as provided in section 1410 of this title, a case under title 11 may be commenced in the district court for the district—

“(1) in which the domicile, residence, principal place of business in the United States, or principal assets in the United States, of the person or entity that is the subject of such case have been located for the one hundred and eighty days immediately preceding such commencement, or for a longer portion of such one-hundred-and-eighty-day period than the domicile, residence, or principal place of business, in the United States, or principal assets in the United States, of such person were located in any other district; or

“(2) in which there is pending a case under title 11 concerning such person’s affiliate, general partner, or partnership.

28 USC 1409.

“§ 1409. Venue of proceedings arising under title 11 or arising in or related to cases under title 11

11 USC 101 *et*
seq.

“(a) Except as otherwise provided in subsections (b) and (d), a proceeding arising under title 11 or arising in or related to a case under title 11 may be commenced in the district court in which such case is pending.

“(b) Except as provided in subsection (d) of this section, a trustee in a case under title 11 may commence a proceeding arising in or related to such case to recover a money judgment of or property worth less than \$1,000 or a consumer debt of less than \$5,000 only in the district court for the district in which the defendant resides.

11 USC 541, 544.

“(c) Except as provided in subsection (b) of this section, a trustee in a case under title 11 may commence a proceeding arising in or related to such case as statutory successor to the debtor or creditors under section 541 or 544(b) of title 11 in the district court for the district where the State or Federal court sits in which, under applicable nonbankruptcy venue provisions, the debtor or creditors, as the case may be, may have commenced an action on which such proceeding is based if the case under title 11 had not been commenced.

“(d) A trustee may commence a proceeding arising under title 11 or arising in or related to a case under title 11 based on a claim arising after the commencement of such case from the operation of the business of the debtor only in the district court for the district where a State or Federal court sits in which, under applicable nonbankruptcy venue provisions, an action on such claim may have been brought.

“(e) A proceeding arising under title 11 or arising in or related to a case under title 11, based on a claim arising after the commencement of such case from the operation of the business of the debtor, may be commenced against the representative of the estate in such case in the district court for the district where the State or Federal court sits in which the party commencing such proceeding may, under applicable nonbankruptcy venue provisions, have brought an action on such claim, or in the district court in which such case is pending.

“§ 1410. Venue of cases ancillary to foreign proceedings

28 USC 1410.

“(a) A case under section 304 of title 11 to enjoin the commencement or continuation of an action or proceeding in a State or Federal court, or the enforcement of a judgment, may be commenced only in the district court for the district where the State or Federal court sits in which is pending the action or proceeding against which the injunction is sought.

11 USC 304.

“(b) A case under section 304 of title 11 to enjoin the enforcement of a lien against a property, or to require the turnover of property of an estate, may be commenced only in the district court for the district in which such property is found.

“(c) A case under section 304 of title 11, other than a case specified in subsection (a) or (b) of this section, may be commenced only in the district court for the district in which is located the principal place of business in the United States, or the principal assets in the United States, of the estate that is the subject of such case.

“§ 1411. Jury trials

28 USC 1411.

“(a) Except as provided in subsection (b) of this section, this chapter and title 11 do not affect any right to trial by jury that an individual has under applicable nonbankruptcy law with regard to a personal injury or wrongful death tort claim.

11 USC 101 *et seq.*

“(b) The district court may order the issues arising under section 303 of title 11 to be tried without a jury.

11 USC 303.

“§ 1412. Change of venue

28 USC 1412.

“A district court may transfer a case or proceeding under title 11 to a district court for another district, in the interest of justice or for the convenience of the parties.”

11 USC 101 *et seq.*

(b) The table of sections of chapter 87 of title 28, United States Code, is amended by adding at the end thereof the following new items:

“1408. Venue of cases under title 11.

“1409. Venue of proceedings arising under title 11 or arising in or related to cases under title 11.

“1410. Venue of cases ancillary to foreign proceedings.

“1411. Jury trials.

“1412. Change of venue.”.

SEC. 103. (a) Chapter 89 of title 28, United States Code, is amended by inserting at the end thereof the following new section:

“§ 1452. Removal of claims related to bankruptcy cases

28 USC 1452.

“(a) A party may remove any claim or cause of action in a civil action other than a proceeding before the United States Tax Court or a civil action by a governmental unit to enforce such governmental unit's police or regulatory power, to the district court for the district where such civil action is pending, if such district court has jurisdiction of such claim or cause of action under section 1334 of this title.

Ante, p. 333.

“(b) The court to which such claim or cause of action is removed may remand such claim or cause of action on any equitable ground. An order entered under this subsection remanding a claim or cause of action, or a decision to not remand, is not reviewable by appeal or otherwise.”.

(b) The table of sections of chapter 89 of title 28, United States Code, is amended by adding at the end thereof the following new item:

be paid at such times as the Judicial Conference of the United States determines.

“(b) A bankruptcy judge may not engage in the practice of law and may not engage in any other practice, business, occupation, or employment inconsistent with the expeditious, proper, and impartial performance of such bankruptcy judge’s duties as a judicial officer. The Conference may promulgate appropriate rules and regulations to implement this subsection.

“(c) Each individual appointed under this chapter shall take the oath or affirmation prescribed by section 453 of this title before performing the duties of the office of bankruptcy judge.

“§ 154. Division of businesses; chief judge

28 USC 154.

“(a) Each bankruptcy court for a district having more than one bankruptcy judge shall by majority vote promulgate rules for the division of business among the bankruptcy judges to the extent that the division of business is not otherwise provided for by the rules of the district court.

“(b) In each district court having more than one bankruptcy judge the district court shall designate one judge to serve as chief judge of such bankruptcy court. Whenever a majority of the judges of such district court cannot agree upon the designation as chief judge, the chief judge of such district court shall make such designation. The chief judge of the bankruptcy court shall ensure that the rules of the bankruptcy court and of the district court are observed and that the business of the bankruptcy court is handled effectively and expeditiously.

“§ 155. Temporary transfer of bankruptcy judges

28 USC 155.

“(a) A bankruptcy judge may be transferred to serve temporarily as a bankruptcy judge in any judicial district other than the judicial district for which such bankruptcy judge was appointed upon the approval of the judicial council of each of the circuits involved.

“(b) A bankruptcy judge who has retired may, upon consent, be recalled to serve as a bankruptcy judge in any judicial district by the judicial council of the circuit within which such district is located. Upon recall, a bankruptcy judge may receive a salary for such service in accordance with regulations promulgated by the Judicial Conference of the United States, subject to the restrictions on the payment of an annuity in subchapter III of chapter 83 of title 5.

5 USC 8331.

“§ 156. Staff; expenses

28 USC 156.

“(a) Each bankruptcy judge may appoint a secretary, a law clerk, and such additional assistants as the Director of the Administrative Office of the United States Courts determines to be necessary.

“(b) Upon certification to the judicial council of the circuit involved and to the Director of the Administrative Office of the United States Courts that the number of cases and proceedings pending within the jurisdiction under section 1334 of this title within a judicial district so warrants, the bankruptcy judges for such district may appoint an individual to serve as clerk of such bankruptcy court. The clerk may appoint, with the approval of such bankruptcy judges, and in such number as may be approved by the Director, necessary deputies, and may remove such deputies with the approval of such bankruptcy judges.

Ante, p. 333.

“(c) Any court may utilize facilities or services, either on or off the court’s premises, which pertain to the provision of notices, dockets,

calendars, and other administrative information to parties in cases filed under the provisions of title 11, United States Code, where the costs of such facilities or services are paid for out of the assets of the estate and are not charged to the United States. The utilization of such facilities or services shall be subject to such conditions and limitations as the pertinent circuit council may prescribe.

28 USC 157.

“§ 157. Procedures11 USC 101 *et seq.*

“(a) Each district court may provide that any or all cases under title 11 and any or all proceedings arising under title 11 or arising in or related to a case under title 11 shall be referred to the bankruptcy judges for the district.

Post, p. 341.

“(b)(1) Bankruptcy judges may hear and determine all cases under title 11 and all core proceedings arising under title 11, or arising in a case under title 11, referred under subsection (a) of this section, and may enter appropriate orders and judgments, subject to review under section 158 of this title.

“(2) Core proceedings include, but are not limited to—

11 USC 1101 *et seq.*, 1301 *et seq.*

“(A) matters concerning the administration of the estate;

“(B) allowance or disallowance of claims against the estate or exemptions from property of the estate, and estimation of claims or interest for the purposes of confirming a plan under chapter 11 or 13 of title 11 but not the liquidation or estimation of contingent or unliquidated personal injury tort or wrongful death claims against the estate for purposes of distribution in a case under title 11;

“(C) counterclaims by the estate against persons filing claims against the estate;

“(D) orders in respect to obtaining credit;

“(E) orders to turn over property of the estate;

“(F) proceedings to determine, avoid, or recover preferences;

“(G) motions to terminate, annul or modify the automatic stay;

“(H) proceedings to determine, avoid, or recover fraudulent conveyances;

“(I) determinations as to the dischargeability of particular debts;

“(J) objections to discharges;

“(K) determinations of the validity, extent, or priority of liens;

“(L) confirmations of plans;

“(M) orders approving the use or lease of property, including the use of cash collateral;

“(N) orders approving the sale of property other than property resulting from claims brought by the estate against persons who have not filed claims against the estate; and

“(O) other proceedings affecting the liquidation of the assets of the estate or the adjustment of the debtor-creditor or the equity security holder relationship, except personal injury tort or wrongful death claims.

“(3) The bankruptcy judge shall determine, on the judge's own motion or on timely motion of a party, whether a proceeding is a core proceeding under this subsection or is a proceeding that is otherwise related to a case under title 11. A determination that a proceeding is not a core proceeding shall not be made solely on the basis that its resolution may be affected by State law.

“(4) Non-core proceedings under section 157(b)(2)(B) of title 28, United States Code, shall not be subject to the mandatory abstention provisions of section 1334(c)(2).

Ante, p. 340.
Ante, p. 333.

“(5) The district court shall order that personal injury tort and wrongful death claims shall be tried in the district court in which the bankruptcy case is pending, or in the district court in the district in which the claim arose, as determined by the district court in which the bankruptcy case is pending.

“(c)(1) A bankruptcy judge may hear a proceeding that is not a core proceeding but that is otherwise related to a case under title 11. In such proceeding, the bankruptcy judge shall submit proposed findings of fact and conclusions of law to the district court, and any final order or judgment shall be entered by the district judge after considering the bankruptcy judge’s proposed findings and conclusions and after reviewing de novo those matters to which any party has timely and specifically objected.

11 USC 101 *et seq.*

“(2) Notwithstanding the provisions of paragraph (1) of this subsection, the district court, with the consent of all the parties to the proceeding, may refer a proceeding related to a case under title 11 to a bankruptcy judge to hear and determine and to enter appropriate orders and judgments, subject to review under section 158 of this title.

Infra.

“(d) The district court may withdraw, in whole or in part, any case or proceeding referred under this section, on its own motion or on timely motion of any party, for cause shown. The district court shall, on timely motion of a party, so withdraw a proceeding if the court determines that resolution of the proceeding requires consideration of both title 11 and other laws of the United States regulating organizations or activities affecting interstate commerce.

“§ 158. Appeals

28 USC 158.

“(a) The district courts of the United States shall have jurisdiction to hear appeals from final judgments, orders, and decrees, and, with leave of the court, from interlocutory orders and decrees, of bankruptcy judges entered in cases and proceedings referred to the bankruptcy judges under section 157 of this title. An appeal under this subsection shall be taken only to the district court for the judicial district in which the bankruptcy judge is serving.

Ante, p. 340.

“(b)(1) The judicial council of a circuit may establish a bankruptcy appellate panel, comprised of bankruptcy judges from districts within the circuit, to hear and determine, upon the consent of all the parties, appeals under subsection (a) of this section.

“(2) No appeal may be referred to a panel under this subsection unless the district judges for the district, by majority vote, authorize such referral of appeals originating within the district.

“(3) A panel established under this section shall consist of three bankruptcy judges, provided a bankruptcy judge may not hear an appeal originating within a district for which the judge is appointed or designated under section 152 of this title.

Ante, p. 336.

“(c) An appeal under subsections (a) and (b) of this section shall be taken in the same manner as appeals in civil proceedings generally are taken to the courts of appeals from the district courts and in the time provided by Rule 8002 of the Bankruptcy Rules.

11 USC app.

“(d) The courts of appeals shall have jurisdiction of appeals from all final decisions, judgments, orders, and decrees entered under subsections (a) and (b) of this section.”.

(b) The table of chapters of part I of title 28, United States Code, is amended by inserting after the item relating to chapter 5, the following new item:

"6. Bankruptcy judges 151."

28 USC 153 note.

SEC. 105. (a) The salary of a bankruptcy judge in effect on June 27, 1984, shall remain in effect until changed as a result of a determination or adjustment made pursuant to section 153(a) of title 28, United States Code, as added by this Act.

Ante, p. 338.

28 USC 152 note.

Ante, p. 336.

SEC. 106. (a) Notwithstanding section 152 of title 28, United States Code, as added by this Act, the term of office of a bankruptcy judge who is serving on the date of enactment of this Act is extended to and expires four years after the date such bankruptcy judge was last appointed to such office or on October 1, 1986, whichever is later.

(b)(1) Notwithstanding section 153(a) of title 28, United States Code, as added by this Act, and notwithstanding subsection (a) of this section, a bankruptcy judge serving on a part-time basis on the date of enactment of this Act may continue to serve on such basis for a period not to exceed two years from the date of enactment of this Act.

(2) Notwithstanding the provisions of section 153(b) of title 28, United States Code, a bankruptcy judge serving on a part-time basis may engage in the practice of law but may not engage in any other practice, business, occupation, or employment inconsistent with the expeditious, proper, and impartial performance of such bankruptcy judge's duties as a judicial officer. The Judicial Conference of the United States may promulgate appropriate rules and regulations to implement this paragraph.

SEC. 107. Section 372(c)(6)(B)(vii) of title 28, United States Code, is amended by striking out "section 153" and inserting in lieu thereof "section 152".

SEC. 108. (a) Section 634(a) of title 28, United States Code, is amended by striking out "the rates now or hereafter provided for full-time or part-time referees in bankruptcy, respectively, referred to in section 40a of the Bankruptcy Act (11 U.S.C. 68(a)), as amended," and inserting in lieu thereof "rates determined under section 225 of the Federal Salary Act of 1967 (2 U.S.C. 351-361) as adjusted by section 461 of this title".

28 USC 634 note.

(b) The maximum rates for salary of full-time and part-time United States magistrates in effect on June 27, 1984, shall remain in effect until changed as a result of a determination made under section 634(a) of title 28, United States Code, as amended by this Act.

Supra.

SEC. 109. Section 957 of title 28, United States Code, is amended by striking out "district".

SEC. 110. Section 1360 of title 28, United States Code, is amended—

(1) by striking out "or Territories";

(2) by striking out "or Territory" each place it appears; and

(3) by striking out "within the Territory" and inserting in lieu thereof "within the State".

SEC. 111. (a) Section 1930 of title 28, United States Code, is amended by striking out "clerk of the bankruptcy court" each place it appears and inserting in lieu thereof "clerk of the court".

(b) The heading for section 1930 of title 28, United States Code, is amended to read as follows:

“§ 1930. Bankruptcy fees.”

(c) The table of sections for chapter 125 of title 28, United States Code, is amended by striking out “Bankruptcy courts” and inserting in lieu thereof “Bankruptcy fees”.

SEC. 112. Subsections (f), (j), (k), (l), and (m) of section 8339, subsections (b)(1) and (d) of section 8341, and section 8344(a)(A) of title 5, United States Code, are each amended by striking out “and (o)” and inserting in lieu thereof “and (n)”.

SEC. 113. Section 402(b) of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2682), is amended by striking out “shall take effect on June 28, 1984” and inserting in lieu thereof “shall not be effective”.

11 USC note
prec. 101.

SEC. 114. Sections 404, 405(a), 405(b), 405(c), 406, 407, and 409 of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2683), are repealed.

28 USC notes
prec. 151, notes
prec. 1471.

SEC. 115. (a) On the date of the enactment of this Act the appropriate district court of the United States shall have jurisdiction of—

28 USC 1334
note.

(1) cases, and matters and proceedings in cases, under the Bankruptcy Act that are pending immediately before such date in the bankruptcy courts continued by section 404(a) of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2687), and

11 USC note
prec. 101.

(2) cases under title 11 of the United States Code, and proceedings arising under title 11 of the United States Code or arising in or related to cases under title 11 of the United States Code, that are pending immediately before such date in the bankruptcy courts continued by section 404(a) of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2687).

28 USC note
prec. 151.

(b) On the date of the enactment of this Act, there shall be transferred to the appropriate district court of the United States appeals from final judgments, orders, and decrees of the bankruptcy courts pending immediately before such date in the bankruptcy appellate panels appointed under section 405(c) of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2685).

28 USC note
prec. 1471.

SEC. 116. (a) Section 8331(22) of title 5, United States Code, is amended—

(1) by striking out “adding this paragraph” and inserting in lieu thereof “of November 6, 1978 (Public Law 95-598; 92 Stat. 2549)”;

(2) by striking out subparagraph (A) and inserting in lieu thereof the following new subparagraph:

“(A) who is serving as a United States bankruptcy judge on the date of enactment of the Bankruptcy Amendments and Federal Judgeship Act of 1984, and continues to serve as a bankruptcy judge after such date until either the date on which a successor for such judge is appointed, or October 1, 1986, whichever date is earlier;”;

Ante, p. 333.

(3) in subparagraph (B)—

(A) by striking out “transition period” and inserting in lieu thereof “period beginning on October 1, 1979, and ending on the date of enactment of the Bankruptcy Amendments and Federal Judgeship Act of 1984”;

(B) by striking out the period at the end thereof and inserting in lieu thereof “; or”, and

(4) by adding at the end thereof the following new subparagraph:

Ante, p. 336. “(C) who is appointed as a bankruptcy judge under section 152 of title 28.”

(b)(1) The first sentence of section 8334(a)(1) of title 5, United States Code, is amended by inserting “and a bankruptcy judge” before the period.

(2) The matter relating to bankruptcy judges in the table set out in section 8334(c) of title 5, United States Code, is amended—

(A) by striking out the following item:

“7..... After January 1, 1970.”

and

(B) by inserting in lieu of the item stricken by subparagraph

(A) the following new items:

“7..... January 1, 1970, to December 31, 1983.

“8..... After December 31, 1983.”

97 Stat. 701.

(c) Section 8336 of title 5, United States Code, is amended—

(1) by redesignating subsection (k) as subsection (l), and

Retirement.

(2) by inserting after subsection (j) the following new subsection:

“(k) A bankruptcy judge who is separated from service, except by removal, after becoming sixty-two years of age and completing ten years of service as a bankruptcy judge is entitled to an annuity.”

(d) Section 8339 of title 5, United States Code, is amended by—

(1) inserting “or (n)” after “(c)” in subsection (g)(2);

(2) striking out “or (c)” each place it appears in subsection (g) and inserting in lieu thereof “(c), or (n)”; and

(3) striking out “March 31, 1979, and before June 27, 1984,” in subsection (n) and inserting in lieu thereof “as a referee in bankruptcy and”.

Effective date.
5 USC 8331 note.

(e) The amendments made by this section shall take effect on the date of enactment and shall apply to bankruptcy judges who retire on or after such date.

Retirement.
5 USC 8331 note.

SEC. 117. The adjustments in the retirement provisions made by this Act shall not be construed to be a “new government retirement system” for purposes of the Federal Employees Retirement Contribution Temporary Adjustment Act of 1983 (Public Law 98-168).

97 Stat. 1105.
5 USC 5948 note.

SEC. 118. Section 105 of title 11, United States Code, is amended—

(1) by deleting the word “bankruptcy” wherever it appears therein; and

(2) by adding at the end thereof the following new subsection:

“(c) The ability of any district judge or other officer or employee of a district court to exercise any of the authority or responsibilities conferred upon the court under this title shall be determined by reference to the provisions relating to such judge, officer, or employee set forth in title 28. This subsection shall not be interpreted to exclude bankruptcy judges and other officers or employees appointed pursuant to chapter 6 of title 28 from its operation.”

28 USC 1 *et seq.*

Ante, p. 336.
Provisions held
invalid.
28 USC 151 note.

SEC. 119. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of this Act, or the application of that provision to persons or circumstances other than those as to which it is held invalid, is not affected thereby.

28 USC 152 note.

SEC. 120. (a)(1) Whenever a court of appeals is authorized to fill a vacancy that occurs on a bankruptcy court of the United States, such court of appeals shall appoint to fill that vacancy a person

whose character, experience, ability, and impartiality qualify such person to serve in the Federal judiciary.

(2) It is the sense of the Congress that the courts of appeals should consider for appointment under section 152 of title 28, United States Code, to the first vacancy which arises after the date of the enactment of this Act in the office of each bankruptcy judge, the bankruptcy judge who holds such office immediately before such vacancy arises, if such bankruptcy judge requests to be considered for such appointment.

Ante, p. 336.

(b) The judicial council of the circuit involved shall assist the court of appeals by evaluating potential nominees and by recommending to such court for consideration for appointment to each vacancy on the bankruptcy court persons who are qualified to be bankruptcy judges under regulations prescribed by the Judicial Conference of the United States. In the case of the first vacancy which arises after the date of the enactment of this Act in the office of each bankruptcy judge, such potential nominees shall include the bankruptcy judge who holds such office immediately before such vacancy arises, if such bankruptcy judge requests to be considered for such appointment and the judicial council determines that such judge is qualified under subsection (c) of this section to continue to serve. Such potential nominees shall receive consideration equal to that given all other potential nominees for such position.

(c) Before transmitting to the court of appeals the names of the persons the judicial council for the circuit deems best qualified to fill any existing vacancy, the judicial council shall have determined that—

(1) public notice of such vacancy has been given and an effort has been made, in the case of each such vacancy, to identify qualified candidates, without regard to race, color, sex, religion, or national origin,

(2) such persons are members in good standing of at least one State bar, or the District of Columbia bar, and members in good standing of every other bar of which they are members,

(3) such persons possess, and have a reputation for, integrity and good character,

(4) such persons are of sound physical and mental health,

(5) such persons possess and have demonstrated commitment to equal justice under law,

(6) such persons possess and have demonstrated outstanding legal ability and competence, as evidenced by substantial legal experience, ability to deal with complex legal problems, aptitude for legal scholarship and writing, and familiarity with courts and court processes, and

(7) such persons demeanor, character, and personality indicate that they would exhibit judicial temperament if appointed to the position of United States bankruptcy judge.

SEC. 121. (a) Section 402 of the Act entitled "An Act to establish a uniform Law on the Subject of Bankruptcies" (Public Law 95-598) is amended in subsections (b) and (e) by striking out "June 28, 1984" each place it appears and inserting in lieu thereof "the date of enactment of the Bankruptcy Amendments and Federal Judgeship Act of 1984".

11 USC note
prec. 101.

(b) Section 404 of such Act is amended in subsections (a) and (b) by striking out "June 27, 1984" each place it appears and inserting in lieu thereof "the day before the date of enactment of the Bankruptcy Amendments and Federal Judgeship Act of 1984".

28 USC note
prec. 151.

28 USC note
prec. 151.

(c) Section 406 of such Act is amended by striking out "June 27, 1984" each place it appears and inserting in lieu thereof "the day before the date of enactment of the Bankruptcy Amendments and Federal Judgeship Act of 1984".

28 USC note
prec. 1471.

(d) Section 409 of such Act is amended by—

(1) striking out "June 28, 1984" each place it appears and inserting in lieu thereof "the day before the date of enactment of the Bankruptcy Amendments and Federal Judgeship Act of 1984"; and

(2) striking out "June 27, 1984" each place it appears and inserting in lieu thereof "the day before the date of enactment of the Bankruptcy Amendments and Federal Judgeship Act of 1984".

28 USC note
prec. 151.

(e) The term of office of any bankruptcy judge who was serving on June 27, 1984, is extended to and shall expire at the end of the day of enactment of this Act.

Ante, p. 268.

(f) Section 8339(n) of title 5, United States Code, is amended by striking out "June 28, 1984" and inserting in lieu thereof "the date of enactment of the Bankruptcy Amendments and Federal Judgeship Act of 1984".

Ante, p. 268.

(g) Section 8331(22) of title 5, United States Code, is amended by striking out "June 27, 1984" and inserting in lieu thereof "the day before the date of enactment of the Bankruptcy Amendments and Federal Judgeship Act of 1984".

Effective date.
28 USC 151 note.

SEC. 122. (a) Except as otherwise provided in this section, this title and the amendments made by this title shall take effect on the date of the enactment of this Act.

Ante, p. 333.

Ante, p. 335.

(b) Section 1334(c)(2) of title 28, United States Code, and section 1411(a) of title 28, United States Code, as added by this Act, shall not apply with respect to cases under title 11 of the United States Code that are pending on the date of enactment of this Act, or to proceedings arising in or related to such cases.

Effective date.

(c) Sections 108(b), 113, and 121(e) shall take effect on June 27, 1984.

TITLE II—JUDGESHIPS

President of U.S.
28 USC 44 note.

SEC. 201. (a)(1) Subject to the provisions of paragraph (2), the President shall appoint, by and with the advice and consent of the Senate, two additional circuit judges for the first circuit court of appeals, two additional circuit judges for the second circuit court of appeals, two additional circuit judges for the third circuit court of appeals, one additional circuit judge for the fourth circuit court of appeals, two additional circuit judges for the fifth circuit court of appeals, four additional circuit judges for the sixth circuit court of appeals, two additional circuit judges for the seventh circuit court of appeals, one additional circuit judge for the eighth circuit court of appeals, five additional circuit judges for the ninth circuit court of appeals, two additional circuit judges for the tenth circuit court of appeals, and one additional circuit judge for the District of Columbia circuit court of appeals.

President of U.S.

(2) The President shall appoint, by and with the advice and consent of the Senate, no more than 11 of such judges prior to January 21, 1985.

28 USC 44.

(b) In order that the table contained in section 44(a) of title 28, United States Code, will, with respect to each judicial circuit, reflect the changes in the total number of permanent circuit judgeships

authorized as a result of subsection (a) of this section, such table is amended to read as follows:

"Circuits	Number of Judges
District of Columbia	12
First	6
Second	13
Third	12
Fourth	11
Fifth	16
Sixth	15
Seventh	11
Eighth	10
Ninth	28
Tenth	10
Eleventh	12
Federal	12."

SEC. 202. (a) Subject to the provisions of subsection (c), the President shall appoint, by and with the advice and consent of the Senate, one additional district judge for the southern district of Alabama, one additional district judge for the district of Alaska, five additional district judges for the central district of California, one additional district judge for the district of Colorado, one additional district judge for the district of Connecticut, one additional district judge for the district of Delaware, three additional district judges for the southern district of Florida, one additional district judge for the middle district of Georgia, one additional district judge for the district of Hawaii, four additional district judges for the northern district of Illinois, one additional district judge for the southern district of Illinois, one additional district judge for the western district of Kentucky, one additional district judge for the western district of Louisiana, one additional district judge for the district of Maryland, one additional district judge for the district of Massachusetts, two additional district judges for the eastern district of Michigan, one additional district judge for the district of Minnesota, one additional district judge for the northern district of Mississippi, two additional district judges for the southern district of Mississippi, one additional district judge for the eastern district of Missouri, one additional district judge for the district of Montana, one additional district judge for the district of Nevada, three additional district judges for the district of New Jersey, one additional district judge for the northern district of New York, two additional district judges for the eastern district of New York, one additional district judge for the southern district of Ohio, one additional district judge for the western district of Oklahoma, one additional district judge for the district of Rhode Island, one additional district judge for the eastern district of Tennessee, one additional district judge for the western district of Tennessee, one additional district judge for the northern district of Texas, two additional district judges for the eastern district of Texas, one additional district judge for the western district of Texas, one additional district judge for the district of Utah, one additional district judge for the eastern district of Virginia, one additional district judge for the eastern district of Washington, one additional district judge for the western district of Washington, and one additional district judge for the district of Wyoming.

(b) Subject to the provisions of subsection (c) the President shall appoint, by and with the advice and consent of the Senate, one additional district judge for the western district of Arkansas, one additional district judge for the northern district of Illinois,

President of U.S.
28 USC 133 note.

President of U.S.
28 USC 133 note.

Virginia:	
Eastern	9
Western	4
Washington:	
Eastern	3
Western	6
West Virginia:	
Northern	2
Southern	4
Wisconsin:	
Eastern	4
Western	2
Wyoming	2."

SEC. 203. (a) Section 131 of title 28, United States Code, is amended in the second paragraph thereof by inserting "Jackson," after "Lander,".

(b) Section 98(a) of title 28, United States Code, is amended by inserting ", and Houma" after "New Orleans".

SEC. 204. (a) Section 371 of title 28, United States Code, is amended to read as follows:

"§ 371. Retirement on salary; retirement in senior status

"(a) Any justice or judge of the United States appointed to hold office during good behavior may retire from the office after attaining the age and meeting the service requirements, whether continuous or otherwise, of subsection (c) and shall, during the remainder of his lifetime, receive an annuity equal to the salary he was receiving at the time he retired.

"(b) Any justice or judge of the United States appointed to hold office during good behavior may retain the office but retire from regular active service after attaining the age and meeting the service requirements, whether continuous or otherwise, of subsection (c) of this section and shall, during the remainder of his lifetime, continue to receive the salary of the office.

"(c) The age and service requirements for retirement under this section are as follows:

Attained age:	Years of service:
65	15
66	14
67	13
68	12
69	11
70	10

President of U.S. "(d) The President shall appoint, by and with the advice and consent of the Senate, a successor to a justice or judge who retires under this section."

(b) The item relating to section 371 in the table of sections of chapter 17 of title 28 is amended to read as follows:

"371. Retirement on salary; retirement in senior status."

28 USC 371 note. (c) The amendments made by this section shall apply with respect to any justice or judge of the United States appointed to hold office during good behavior who retires on or after the date of enactment of this Act.

Retirement. SEC. 205. Section 8701(a) of title 5, United States Code, is amended by redesignating paragraphs (5) through (8) as paragraphs (6) through (9), respectively, and by adding a new paragraph (5) as follows:

"(5) a justice or judge of the United States appointed to hold office during good behavior (i) who is in regular active judicial service, or (ii) who is retired from regular active service under section 371(b) or 372(a) of title 28, United States Code, or (iii)

Supra.

who has resigned the judicial office under section 371(a) of title 28 with the continued right during the remainder of his lifetime to receive the salary of the office at the time of his resignation.”.

Ante, p. 350.

SEC. 206. Section 8714a(c) of title 5, United States Code, is amended by adding a new paragraph (3) as follows:

Insurance.

“(3) Notwithstanding paragraph (c)(1) of this section, a justice or judge of the United States as defined by section 8701(a)(5) of this title who resigns his office without meeting the requirements of section 371(a) of title 28, United States Code, for continuation of the judicial salary shall have the right to convert regular optional life insurance coverage issued under this section during his judicial service to an individual policy of life insurance under the same conditions approved by the Office governing conversion of basic life insurance coverage for employees eligible as provided in section 8706(a) of this title.”.

Ante, p. 350.

Ante, p. 350.

SEC. 207. Section 8714b(c) of title 5, United States Code, is amended by adding to paragraph (1) at the end thereof the following: “A justice or judge of the United States as defined by section 8701(a)(5) of this title who resigns his office without meeting the requirements of section 371(a) of title 28, United States Code, for continuation of the judicial salary shall have the right to convert additional optional life insurance coverage issued under this section during his judicial service to an individual policy of life insurance under the same conditions approved by the Office governing conversion of basic life insurance coverage for employees eligible as provided in section 8706(a) of this title.”.

Insurance.

Ante, p. 350.

Ante, p. 350.

SEC. 208. (a) Section 8706 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

“(f) Under regulations prescribed by the Office, each policy purchase under this chapter shall provide that an insured Federal judge may make an irrevocable assignment of the judge’s incidents of ownership in the policy.”.

(b) The heading for section 8706 of title 5, United States Code, and the item relating to section 8706 in the analysis for chapter 87 of such title are each amended by inserting “; assignment of ownership” after “insurance”.

SEC. 209. (a) Except as provided in subsection (b), the amendments made by this Act to section 8706 of title 5, United States Code, shall apply to policies purchased by judges after the date of enactment of this Act.

5 USC 8706 note.

(b) If a company which issued a policy which is in effect on the date of the enactment of this Act agrees, the amendments made by this Act shall apply to such policy.

SEC. 210. Section 634(c) of title 28, United States Code, is amended by striking out “subsection III” and inserting in lieu thereof “subchapter III”.

SEC. 211. It is the sense of the Congress that the President, in selecting individuals for nomination to the Federal judgeships created by this Act, shall give due consideration to qualified individuals without regard to race, color, sex, religion, or national origin.

Discrimination,
prohibition.
28 USC 44 note.

TITLE III—AMENDMENTS TO TITLE 11 OF THE UNITED STATES CODE

SUBTITLE A—CONSUMER CREDIT AMENDMENTS

SEC. 301. Section 109 of title 11, United States Code, is amended by adding at the end thereof the following new subsection:

“(f) Notwithstanding any other provision of this section, no individual may be a debtor under this title who has been a debtor in a case pending under this title at any time in the preceding 180 days if—

“(1) the case was dismissed by the court for willful failure of the debtor to abide by orders of the court, or to appear before the court in proper prosecution of the case; or

“(2) the debtor requested and obtained the voluntary dismissal of the case following the filing of a request for relief from the automatic stay provided by section 362 of this title.”

SEC. 302. Section 342 of title 11, United States Code, is amended—

(1) by inserting “(a)” before “There shall be given”, and

(2) by adding at the end thereof the following new subsection:

“(b) Prior to the commencement of a case under this title by an individual whose debts are primarily consumer debts, the clerk shall give written notice to such individual that indicates each chapter of this title under which such individual may proceed.”

SEC. 303. Section 349(a) of title 11, United States Code, is amended by inserting before the period at the end thereof “; nor does the dismissal of a case under this title prejudice the debtor with regard to the filing of a subsequent petition under this title, except as provided in section 109(f) of this title”.

Supra.

SEC. 304. Section 362 of title 11, United States Code, is amended by adding at the end thereof the following new subsection:

“(h) An individual injured by any willful violation of a stay provided by this section shall recover actual damages, including costs and attorneys’ fees, and, in appropriate circumstances, may recover punitive damages.”

SEC. 305. Section 521 of title 11, United States Code, is amended—

(1) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively,

(2) in paragraph (1) by inserting “a schedule of current income and current expenditures,” after “liabilities,” and

(3) by inserting after paragraph (1) the following new paragraph:

“(2) if an individual debtor’s schedule of assets and liabilities includes consumer debts which are secured by property of the estate—

“(A) within thirty days after the date of the filing of a petition under chapter 7 of this title or on or before the date of the meeting of creditors, whichever is earlier, or within such additional time as the court, for cause, within such period fixes, the debtor shall file with the clerk a statement of his intention with respect to the retention or surrender of such property and, if applicable, specifying that such property is claimed as exempt, that the debtor intends to redeem such property, or that the debtor intends to reaffirm debts secured by such property;

“(B) within forty-five days after the filing of a notice of intent under this section, or within such additional time as

11 USC 701 *et seq.*

the court, for cause, within such forty-five day period fixes, the debtor shall perform his intention with respect to such property, as specified by subparagraph (A) of this paragraph; and

“(C) nothing in subparagraphs (A) and (B) of this paragraph shall alter the debtor’s or the trustee’s rights with regard to such property under this title;”.

SEC. 306. (a) Section 522(b) of title 11, United States Code, is amended by striking out “Notwithstanding” and all that follows through “either—” and inserting in lieu thereof the following: “Notwithstanding section 541 of this title, an individual debtor may exempt from property of the estate the property listed in either paragraph (1) or, in the alternative, paragraph (2) of this subsection. In joint cases filed under section 302 of this title and individual cases filed under section 301 or 303 of this title by or against debtors who are husband and wife, and whose estates are ordered to be jointly administered under Rule 1015(b) of the Bankruptcy Rules, one debtor may not elect to exempt property listed in paragraph (1) and the other debtor elect to exempt property listed in paragraph (2) of this subsection. If the parties cannot agree on the alternative to be elected, they shall be deemed to elect paragraph (1), where such election is permitted under the law of the jurisdiction where the case is filed. Such property is—”.

11 USC app.

(b) Section 522(d)(3) of title 11, United States Code, is amended by inserting “or \$4,000 in aggregate value” after “item”.

(c) Section 522(d)(5) of title 11, United States Code, is amended to read as follows:

“(5) The debtor’s aggregate interest in any property, not to exceed in value \$400 plus up to \$3,750 of any unused amount of the exemption provided under paragraph (1) of this subsection.”.

(d) Section 522(m) of title 11, United States Code, is amended to read as follows:

“(m) Subject to the limitation in subsection (b), this section shall apply separately with respect to each debtor in a joint case.”.

SEC. 307. (a) Section 523(a)(2) of title 11, United States Code, is amended—

(1) in subparagraph (A) by striking out “or” at the end thereof,

(2) in subparagraph (B) by inserting “or” at the end thereof, and

(3) by adding at the end thereof the following new subparagraph:

“(C) for purposes of subparagraph (A) of this paragraph, consumer debts owed to a single creditor and aggregating more than \$500 for ‘luxury goods or services’ incurred by an individual debtor on or within forty days before the order for relief under this title, or cash advances aggregating more than \$1,000 that are extensions of consumer credit under an open end credit plan obtained by an individual debtor on or within twenty days before the order for relief under this title, are presumed to be nondischargeable; ‘luxury goods or services’ do not include goods or services reasonably acquired for the support or maintenance of the debtor or a dependent of the debtor; an extension of consumer credit under an open end credit plan is to be defined

for purposes of this subparagraph as it is defined in the Consumer Credit Protection Act (15 U.S.C. 1601 et seq.);”.

(b) Section 523(d) of title 11, United States Code, is amended to read as follows:

“(d) If a creditor requests a determination of dischargeability of a consumer debt under subsection (a)(2) of this section, and such debt is discharged, the court shall grant judgment in favor of the debtor for the costs of, and a reasonable attorney’s fee for, the proceeding if the court finds that the position of the creditor was not substantially justified, except that the court shall not award such costs and fees if special circumstances would make the award unjust.”.

SEC. 308. (a) Section 524(a)(2) of title 11, United States Code, is amended by striking out “or from property of the debtor;”.

(b) Section 524(c) of title 11, United States Code, is amended—

(1) by striking out paragraph (2),

(2) by redesignating paragraphs (3) and (4) as paragraphs (5) and (6), respectively, and

(3) by inserting after paragraph (1) the following new paragraphs:

“(2) such agreement contains a clear and conspicuous statement which advises the debtor that the agreement may be rescinded at any time prior to discharge or within sixty days after such agreement is filed with the court, whichever occurs later, by giving notice of rescission to the holder of such claim;

“(3) such agreement has been filed with the court and, if applicable, accompanied by a declaration or an affidavit of the attorney that represented the debtor during the course of negotiating an agreement under this subsection, which states that such agreement—

“(A) represents a fully informed and voluntary agreement by the debtor; and

“(B) does not impose an undue hardship on the debtor or a dependent of the debtor;

“(4) the debtor has not rescinded such agreement at any time prior to discharge or within sixty days after such agreement is filed with the court, whichever occurs later, by giving notice of rescission to the holder of such claim;” and

(4) by amending paragraph (6), as so redesignated, to read as follows:

“(6)(A) in a case concerning an individual who was not represented by an attorney during the course of negotiating an agreement under this subsection, the court approves such agreement as—

“(i) not imposing an undue hardship on the debtor or a dependent of the debtor; and

“(ii) in the best interest of the debtor.

“(B) Subparagraph (A) shall not apply to the extent that such debt is a consumer debt secured by real property.”.

(c) Section 524(d)(2) of title 11, United States Code, is amended by striking out “subsection (c)(4)” and inserting in lieu thereof “subsection (c)(6)”.

(d) Section 524 of title 11, United States Code, is amended by adding at the end thereof the following new subsection:

“(f) Nothing contained in subsection (c) or (d) of this section prevents a debtor from voluntarily repaying any debt.”.

SEC. 309. Section 525 of title 11, United States Code, is amended—

(1) by inserting “(a)” before “Except”,

Real property.

(2) by inserting “the” before “Perishable”, and

(3) by adding at the end thereof the following new subsection:
 “(b) No private employer may terminate the employment of, or discriminate with respect to employment against, an individual who is or has been a debtor under this title, a debtor or bankrupt under the Bankruptcy Act, or an individual associated with such debtor or bankrupt, solely because such debtor or bankrupt—

Employment
and
unemployment.
Discrimination,
prohibition.
11 USC note
prec. 101.

“(1) is or has been a debtor under this title or a debtor or bankrupt under the Bankruptcy Act;

“(2) has been insolvent before the commencement of a case under this title or during the case but before the grant or denial of a discharge; or

“(3) has not paid a debt that is dischargeable in a case under this title or that was discharged under the Bankruptcy Act.”.

SEC. 310. Section 547(c) of title 11, United States Code, is amended—

(1) in paragraph (5) by striking out “or” at the end thereof,

(2) in paragraph (6) by striking out the period at the end thereof and inserting in lieu thereof “; or”, and

(3) by adding at the end thereof the following new paragraph:

“(7) if, in a case filed by an individual debtor whose debts are primarily consumer debts, the aggregate value of all property that constitutes or is affected by such transfer is less than \$600.”.

SEC. 311. (a) Section 704 of title 11, United States Code, is amended—

(1) by redesignating paragraphs (3), (4), (5), (6), (7), and (8) as paragraphs (4), (5), (6), (7), (8), and (9), respectively, and

(2) by inserting after paragraph (2) the following new paragraph:

“(3) ensure that the debtor shall perform his intention as specified in section 521(2)(B) of this title;”.

Ante, p. 352.

(b)(1) Section 1106(a)(1) of title 11, United States Code, is amended by striking out “704(4), 704(6), 704(7), and 704(8)” and inserting in lieu thereof “704(5), 704(7), 704(8), and 704(9)”.

(2) Section 1304(c) of title 11, United States Code, is amended by striking out “section 704(7)” and inserting in lieu thereof “section 704(8)”.

(3) Section 15103(f) of title 11, United States Code, is amended by striking out “704(8),” and inserting in lieu thereof “704(9),”.

(4) Section 151301(b)(1) of title 11, United States Code, is amended by striking out “and 704(8)” and inserting in lieu thereof “, 704(7), and 704(9)”.

11 USC 151302.

SEC. 312. Section 707 of title 11, United States Code, is amended—

(1) by inserting “(a)” before “The court may” and

(2) by adding at the end thereof the following new subsection:

“(b) After notice and a hearing, the court, on its own motion and not at the request or suggestion of any party in interest, may dismiss a case filed by an individual debtor under this chapter whose debts are primarily consumer debts if it finds that the granting of relief would be a substantial abuse of the provisions of this chapter. There shall be a presumption in favor of granting the relief requested by the debtor.”.

SEC. 313. Section 1301 of title 11, United States Code, is amended by adding at the end thereof the following new subsection:

“(d) Twenty days after the filing of a request under subsection (c)(2) of this section for relief from the stay provided by subsection (a)

of this section, such stay is terminated with respect to the party in interest making such request, unless the debtor or any individual that is liable on such debt with the debtor files and serves upon such party in interest a written objection to the taking of the proposed action.”.

SEC. 314. Section 1302(b) of title 11, United States Code, is amended—

(1) by amending paragraph (1) to read as follows:

“(1) perform the duties specified in sections 704(2), 704(3), 704(4), 704(5), 704(6), 704(7), and 704(9) of this title.”;

(2) in paragraph (2) by striking out “and” at the end thereof,

(3) in paragraph (3) by striking out the period and inserting in lieu thereof “; and”, and

(4) by adding at the end thereof the following new paragraph:

“(4) ensure that the debtor commences making timely payments under section 1326 of this title.”.

SEC. 315. Section 1307(c) of title 11, United States Code, is amended—

(1) by redesignating paragraphs (4), (5), (6), and (7) as paragraphs (5), (6), (7), and (8), respectively, and

(2) by inserting after paragraph (3) the following new paragraph:

“(4) failure to commence making timely payments under section 1326 of this title.”.

Claims.

SEC. 316. Section 1322(b)(1) of title 11, United States Code, is amended to read as follows:

“(1) designate a class or classes of unsecured claims, as provided in section 1122 of this title, but may not discriminate unfairly against any class so designated; however, such plan may treat claims for a consumer debt of the debtor if an individual is liable on such consumer debt with the debtor differently than other unsecured claims.”.

SEC. 317. Section 1325 of title 11, United States Code, is amended—

(1) in subsection (a) by striking out “The” and inserting in lieu thereof “Except as provided in subsection (b), the”,

(2) by redesignating subsection (b) as subsection (c), and

(3) by inserting after subsection (a) the following new subsection:

“(b)(1) If the trustee or the holder of an allowed unsecured claim objects to the confirmation of the plan, then the court may not approve the plan unless, as of the effective date of the plan—

“(A) the value of the property to be distributed under the plan on account of such claim is not less than the amount of such claim; or

“(B) the plan provides that all of the debtor’s projected disposable income to be received in the three-year period beginning on the date that the first payment is due under the plan will be applied to make payments under the plan.

“(2) For purposes of this subsection, ‘disposable income’ means income which is received by the debtor and which is not reasonably necessary to be expended—

“(A) for the maintenance or support of the debtor or a dependent of the debtor; or

“(B) if the debtor is engaged in business, for the payment of expenditures necessary for the continuation, preservation, and operation of such business.”.

SEC. 318. (a) Section 1326 of title 11, United States Code, is amended—

(1) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively, and

(2) by inserting before such subsections the following new subsection:

“(a)(1) Unless the court orders otherwise, the debtor shall commence making the payments proposed by a plan within 30 days after the plan is filed.

“(2) A payment made under this subsection shall be retained by the trustee until confirmation or denial of confirmation of a plan. If a plan is confirmed, the trustee shall distribute any such payment in accordance with the plan. If a plan is not confirmed, the trustee shall return any such payments to the debtor, after deducting any unpaid claim allowed under section 503(b) of this title.”.

(b) Section 15103(f) of title 11, United States Code, is amended by striking out “1326(a),” and inserting in lieu thereof “1326(b),”.

SEC. 319. Section 1329(a) of title 11, United States Code, is amended by striking out “At” and all that follows through “modified to—”, and inserting in lieu thereof the following: “At any time after confirmation but before the completion of payments under a plan, the plan may be modified, upon request of the debtor, the trustee, or the holder of an allowed unsecured claim, to—”.

SEC. 320. The Supreme Court shall prescribe general rules implementing the practice and procedure to be followed under section 707(b) of title 11, United States Code. Section 2075 of title 28, United States Code, shall apply with respect to the general rules prescribed under this section.

Supreme Court
of U.S.
28 USC 2075
note.
Ante, p. 355.

SEC. 321. Rule 2002 of the Bankruptcy Rules is amended by adding at the end thereof the following new subdivision:

11 USC app.

“(n) In a voluntary case commenced under the Code by an individual debtor whose debts are primarily consumer debts, the clerk, or some other person as the court may direct, shall give the trustee and all creditors notice by mail of the order for relief not more than 20 days after the entry of such order.”.

SEC. 322. Official Bankruptcy Form No. 1, referred to in Rule 1002 of the Bankruptcy Rules, is amended—

11 USC app.

(1) by inserting after paragraph (5) the following:

“(6) [If petitioner is an individual whose debts are primarily consumer debts.] Petitioner is aware that [he or she] may proceed under chapter 7 or 13 of title 11, United States Code, understands the relief available under each such chapter, and chooses to proceed under chapter 7 of such title.

11 USC 701 *et*
seq., 1301 *et seq.*

“(7) [If petitioner is an individual whose debts are primarily consumer debts and such petitioner is represented by an attorney.] A declaration or an affidavit in the form of Exhibit ‘B’ is attached to and made a part of this petition.”, and

(2) by inserting after Exhibit “A” at the end thereof the following new exhibit:

“EXHIBIT ‘B’

“[If petitioner is an individual whose debts are primarily consumer debts, this Exhibit ‘B’ shall be completed and attached to the petition pursuant to paragraph (7) thereof.]

“[CAPTION AS IN FORM NO. 1]”

“FOR COURT USE ONLY”

“Date Petition Filed”

“Case Number”

“Bankruptcy Judge”

“I, _____, the attorney for the petitioner named in the foregoing petition, declare that I have informed the petitioner that [he or she] may proceed under chapter 7 or 13 of title 11, United States Code, and have explained the relief available under each such chapter.

“Executed on _____”

“Signature _____
Attorney for Petitioner”.

28 USC note
prec. 581.
92 Stat. 2686.

SEC. 323. Section 408(c) of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2687(c)), as amended by the Act of November 28, 1983 (Public Law 98-166; 97 Stat. 1071), is amended by striking out “September 30, 1984” and inserting in lieu thereof “September 30, 1986”.

SEC. 324. Section 1103(b) of title 11, United States Code, is amended by striking out “A person” and inserting in lieu thereof “An attorney or accountant”

SUBTITLE B—AMENDMENTS RELATING TO GRAIN STORAGE FACILITY
BANKRUPTCY

SEC. 350. Section 507(a) of title 11, United States Code, is amended—

(1) by striking out “(5) Fifth” and inserting in lieu thereof “(6) Sixth”

(2) by striking out “(6) Sixth” and inserting in lieu thereof “(7) Seventh”; and

Fish and fishing.

(3) by adding after paragraph (4) the following:

“(5) Fifth, allowed unsecured claims of persons—

Post, p. 359.

“(A) engaged in the production or raising of grain, as defined in section 557(b)(1) of this title, against a debtor who owns or operates a grain storage facility, as defined in section 557(b)(2) of this title, for grain or the proceeds of grain, or

“(B) engaged as a United States fisherman against a debtor who has acquired fish or fish produce from a fisherman through a sale or conversion, and who is engaged in operating a fish produce storage or processing facility— but only to the extent of \$2,000 for each such individual.”.

SEC. 351. Section 546 of title 11, United States Code, is amended—

(1) in the first sentence of subsection (c) thereof, by striking out “The” and inserting in lieu thereof “Except as provided in subsection (d) of this section, the”; and

(2) by redesignating subsection (d) as subsection (e); and

(3) by inserting after subsection (c) the following:

Post, p. 359.

“(d) In the case of a seller who is a producer of grain sold to a grain storage facility, owned or operated by the debtor, in the ordinary course of such seller’s business (as such terms are defined in section 557 of this title) or in the case of a United States fisherman who has caught fish sold to a fish processing facility owned or operated by the debtor in the ordinary course of such

fisherman's business, the rights and powers of the trustee under sections 544(a), 545, 547, and 549 of this title are subject to any statutory or common law right of such producer or fisherman to reclaim such grain or fish if the debtor has received such grain or fish while insolvent, but—

“(1) such producer or fisherman may not reclaim any grain or fish unless such producer or fisherman demands, in writing, reclamation of such grain or fish before ten days after receipt thereof by the debtor; and

Claims.

“(2) the court may deny reclamation to such a producer or fisherman with a right of reclamation that has made such a demand only if the court secures such claim by a lien.”.

SEC. 352. (a) Chapter 5 of title 11, United States Code, is amended by adding at the end thereof the following new section:

“§ 557. Expedited determination of interests in, and abandonment or other disposition of grain assets

11 USC 557.

“(a) This section applies only in a case concerning a debtor that owns or operates a grain storage facility and only with respect to grain and the proceeds of grain. This section does not affect the application of any other section of this title to property other than grain and proceeds of grain.

“(b) In this section—

“(1) ‘grain’ means wheat, corn, flaxseed, grain sorghum, barley, oats, rye, soybeans, other dry edible beans, or rice;

“(2) ‘grain storage facility’ means a site or physical structure regularly used to store grain for producers, or to store grain acquired from producers for resale; and

“(3) ‘producer’ means an entity which engages in the growing of grain.

“(c)(1) Notwithstanding sections 362, 363, 365, and 554 of this title, on the court's own motion the court may, and on the request of the trustee or an entity that claims an interest in grain or the proceeds of grain the court shall, expedite the procedures for the determination of interests in and the disposition of grain and the proceeds of grain, by shortening to the greatest extent feasible such time periods as are otherwise applicable for such procedures and by establishing, by order, a timetable having a duration of not to exceed 120 days for the completion of the applicable procedure specified in subsection (d) of this section. Such time periods and such timetable may be modified by the court, for cause, in accordance with subsection (f) of this section.

“(2) The court shall determine the extent to which such time periods shall be shortened, based upon—

“(A) any need of an entity claiming an interest in such grain or the proceeds of grain for a prompt determination of such interest;

“(B) any need of such entity for a prompt disposition of such grain;

“(C) the market for such grain;

“(D) the conditions under which such grain is stored;

“(E) the costs of continued storage or disposition of such grain;

“(F) the orderly administration of the estate;

“(G) the appropriate opportunity for an entity to assert an interest in such grain; and

“(H) such other considerations as are relevant to the need to expedite such procedures in the case.

“(d) The procedures that may be expedited under subsection (c) of this section include—

“(1) the filing of and response to—

“(A) a claim of ownership;

“(B) a proof of claim;

“(C) a request for abandonment;

“(D) a request for relief from the stay of action against property under section 362(a) of this title;

“(E) a request for determination of secured status;

“(F) a request for determination of whether such grain or the proceeds of grain—

“(i) is property of the estate;

“(ii) must be turned over to the estate; or

“(iii) may be used, sold, or leased; and

“(G) any other request for determination of an interest in such grain or the proceeds of grain;

“(2) the disposition of such grain or the proceeds of grain, before or after determination of interests in such grain or the proceeds of grain, by way of—

“(A) sale of such grain;

“(B) abandonment;

“(C) distribution; or

“(D) such other method as is equitable in the case;

“(3) subject to sections 701, 702, 703, 1104, and 1302 of this title, the appointment of a trustee or examiner and the retention and compensation of any professional person required to assist with respect to matters relevant to the determination of interests in or disposition of such grain or the proceeds of grain; and

“(4) the determination of any dispute concerning a matter specified in paragraph (1), (2), or (3) of this subsection.

“(e)(1) Any governmental unit that has regulatory jurisdiction over the operation or liquidation of the debtor or the debtor's business shall be given notice of any request made or order entered under subsection (c) of this section.

“(2) Any such governmental unit may raise, and may appear and be heard on, any issue relating to grain or the proceeds of grain in a case in which a request is made, or an order is entered, under subsection (c) of this section.

“(3) The trustee shall consult with such governmental unit before taking any action relating to the disposition of grain in the possession, custody, or control of the debtor or the estate.

“(f) The court may extend the period for final disposition of grain or the proceeds of grain under this section beyond 120 days if the court finds that—

“(1) the interests of justice so require in light of the complexity of the case; and

“(2) the interests of those claimants entitled to distribution of grain or the proceeds of grain will not be materially injured by such additional delay.

“(g) Unless an order establishing an expedited procedure under subsection (c) of this section, or determining any interest in or approving any disposition of grain or the proceeds of grain, is stayed pending appeal—

“(1) the reversal or modification of such order on appeal does not affect the validity of any procedure, determination, or disposition that occurs before such reversal or modification,

whether or not any entity knew of the pendency of the appeal;
and

“(2) neither the court nor the trustee may delay, due to the appeal of such order, any proceeding in the case in which such order is issued.

“(h)(1) The trustee may recover from grain and the proceeds of grain the reasonable and necessary costs and expenses allowable under section 503(b) of this title attributable to preserving or disposing of grain or the proceeds of grain, but may not recover from such grain or the proceeds of grain any other costs or expenses.

“(2) Notwithstanding section 326(a) of this title, the dollar amounts of money specified in such section include the value, as of the date of disposition, of any grain that the trustee distributes in kind.

“(i) In all cases where the quantity of a specific type of grain held by a debtor operating a grain storage facility exceeds ten thousand bushels, such grain shall be sold by the trustee and the assets thereof distributed in accordance with the provisions of this section.”

(b) The table of sections of chapter 5 of title 11, United States Code, is amended by adding at the end thereof the following new item:

‘557 Expedited determination of interests in and disposition of grain.’.

SEC. 353. Section 901(a) of title 11, United States Code, is amended by inserting “557,” after “553,”.

SEC. 354. Rule 3001 of the Bankruptcy Rules is amended by adding at the end thereof the following new subdivision

“(g) To the extent not inconsistent with the United States Warehouse Act or applicable State law, a warehouse receipt, scale ticket, or similar document of the type routinely issued as evidence of title by a grain storage facility, as defined in section 557 of title 11, shall constitute prima facie evidence of the validity and amount of a claim of ownership of a quantity of grain.”.

11 USC app.

7 USC 241.

Ante, p. 359.

Subtitle C—Leasehold Management Amendments

SEC. 361. This subtitle may be cited as the “Leasehold Management Bankruptcy Amendments Act of 1983”.

SEC. 362. (a) Section 365 of title 11, United States Code, is amended by amending subsections (a), (b), (c), and (d) to read as follows:

“(a) Except as provided in sections 765 and 766 of this title and in subsections (b), (c), and (d) of this section, the trustee, subject to the court’s approval, may assume or reject any executory contract or unexpired lease of the debtor.

“(b)(1) If there has been a default in an executory contract or unexpired lease of the debtor, the trustee may not assume such contract or lease unless, at the time of assumption of such contract or lease, the trustee—

“(A) cures, or provides adequate assurance that the trustee will promptly cure, such default;

“(B) compensates, or provides adequate assurance that the trustee will promptly compensate, a party other than the debtor to such contract or lease, for any actual pecuniary loss to such party resulting from such default; and

“(C) provides adequate assurance of future performance under such contract or lease.

Leasehold
Management
Bankruptcy
Amendments
Act of 1983.
11 USC 365 note.

“(2) Paragraph (1) of this subsection does not apply to a default that is a breach of a provision relating to—

“(A) the insolvency or financial condition of the debtor at any time before the closing of the case;

“(B) the commencement of a case under this title; or

“(C) the appointment of or taking possession by a trustee in a case under this title or a custodian before such commencement.

“(3) For the purposes of paragraph (1) of this subsection and paragraph (2)(B) of subsection (f), adequate assurance of future performance of a lease of real property in a shopping center includes adequate assurance—

“(A) of the source of rent and other consideration due under such lease, and in the case of an assignment, that the financial condition and operating performance of the proposed assignee and its guarantors, if any, shall be similar to the financial condition and operating performance of the debtor and its guarantors, if any, as of the time the debtor became the lessee under the lease;

“(B) that any percentage rent due under such lease will not decline substantially;

“(C) that assumption or assignment of such lease is subject to all the provisions thereof, including (but not limited to) provisions such as a radius, location, use, or exclusivity provision, and will not breach any such provision contained in any other lease, financing agreement, or master agreement relating to such shopping center; and

“(D) that assumption or assignment of such lease will not disrupt any tenant mix or balance in such shopping center.

“(4) Notwithstanding any other provision of this section, if there has been a default in an unexpired lease of the debtor, other than a default of a kind specified in paragraph (2) of this subsection, the trustee may not require a lessor to provide services or supplies incidental to such lease before assumption of such lease unless the lessor is compensated under the terms of such lease for any services and supplies provided under such lease before assumption of such lease.

“(c) The trustee may not assume or assign any executory contract or unexpired lease of the debtor, whether or not such contract or lease prohibits or restricts assignment of rights or delegation of duties, if—

“(1)(A) applicable law excuses a party, other than the debtor, to such contract or lease from accepting performance from or rendering performance to an entity other than the debtor or the debtor in possession or an assignee of such contract or lease, whether or not such contract or lease prohibits or restricts assignment of rights or delegation of duties; and

“(B) such party does not consent to such assumption or assignment; or

“(2) such contract is a contract to make a loan, or extend other debt financing or financial accommodations, to or for the benefit of the debtor, or to issue a security of the debtor; or

“(3) such lease of nonresidential real property has been terminated under applicable nonbankruptcy law prior to the order for relief.

“(d)(1) In a case under chapter 7 of this title, if the trustee does not assume or reject an executory contract or unexpired lease of residential real property or of personal property of the debtor within 60

days after the order for relief, or within such additional time as the court, for cause, within such 60-day period, fixes, then such contract or lease is deemed rejected.

“(2) In a case under chapter 9, 11, or 13 of this title, the trustee may assume or reject an executory contract or unexpired lease of residential real property or of personal property of the debtor at any time before the confirmation of a plan but the court, on the request of any party to such contract or lease, may order the trustee to determine within a specified period of time whether to assume or reject such contract or lease.

11 USC 901 *et seq.*, 1101 *et seq.*, 1301 *et seq.*

“(3) The trustee shall timely perform all the obligations of the debtor, except those specified in section 365(b)(2), arising from and after the order for relief under any unexpired lease of nonresidential real property, until such lease is assumed or rejected, notwithstanding section 503(b)(1) of this title. The court may extend, for cause, the time for performance of any such obligation that arises within 60 days after the date of the order for relief, but the time for performance shall not be extended beyond such 60-day period. This subsection shall not be deemed to affect the trustee's obligations under the provisions of subsection (b) or (f) of this section. Acceptance of any such performance does not constitute waiver or relinquishment of the lessor's rights under such lease or under this title.

Ante, p. 361.

“(4) Notwithstanding paragraphs (1) and (2), in a case under any chapter of this title, if the trustee does not assume or reject an unexpired lease of nonresidential real property under which the debtor is the lessee within 60 days after the date of the order for relief, or within such additional time as the court, for cause, within such 60-day period, fixes, then such lease is deemed rejected, and the trustee shall immediately surrender such nonresidential real property to the lessor.”

(b) Section 365 is further amended by adding at the end thereof the following new subsection:

“(1) If an unexpired lease under which the debtor is the lessee is assigned pursuant to this section, the lessor of the property may require a deposit or other security for the performance of the debtor's obligations under the lease substantially the same as would have been required by the landlord upon the initial leasing to a similar tenant.

“(m) For purposes of this section 365 and sections 541(b)(2) and 362(b)(9), leases of real property shall include any rental agreement to use real property.”

Real property.
Infra.

SEC. 363. (a) Section 541(b) of title 11, United States Code, is amended to read as follows:

“(b) Property of the estate does not include—

“(1) any power that the debtor may exercise solely for the benefit of an entity other than the debtor; or

“(2) any interest of the debtor as a lessee under a lease of nonresidential real property that has terminated at the expiration of the stated term of such lease before the commencement of the case under this title, and ceases to include any interest of the debtor as a lessee under a lease of nonresidential real property that has terminated at the expiration of the stated term of such lease during the case.”

(b) Section 362(b) of title 11 of the United States Code is amended by—

- (1) striking out “or” at the end of paragraph (7),
- (2) replacing the period after paragraph (8) with “; or”, and

(3) adding the following after paragraph (8):

“(9) under subsection (a) of this section, of any act by a lessor to the debtor under a lease of nonresidential real property that has terminated by the expiration of the stated term of the lease before the commencement of or during a case under this title to obtain possession of such property.”.

Subtitle D—Amendments to Title 11, Section 523 Relating to the Discharge of Debts Incurred by Persons Driving While Intoxicated

SEC. 371. Section 523(a) of title 11, United States Code, is amended by—

(1) striking out “or” at the end of paragraph (8); and

(2) by adding the following new paragraph after such paragraph:

“(9) to any entity, to the extent that such debt arises from a judgment or consent decree entered in a court of record against the debtor wherein liability was incurred by such debtor as a result of the debtor’s operation of a motor vehicle while legally intoxicated under the laws or regulations of any jurisdiction within the United States or its territories wherein such motor vehicle was operated and within which such liability was incurred; or”.

Referees Salary
and Expense
Fund Act of
1984.
11 USC note
prec. 101.
11 USC note
prec. 101.

Subtitle E—Referees Salary and Expense Fund

SEC. 381. This subtitle may be cited as the “Referees Salary and Expense Fund Act of 1984”.

SEC. 382. Section 403(e) of the Act of November 6, 1978 (92 Stat. 2683; Public Law 95-598), is amended to read as follows:

“(e) Notwithstanding subsection (a) of this section—

“(1) a fee may not be charged under section 40c(2)(a) of the Bankruptcy Act in a case pending under such Act after September 30, 1979, to the extent that such fee exceeds \$200,000;

“(2) a fee may not be charged under section 40c(2)(b) of the Bankruptcy Act in a case in which the plan is confirmed after September 30, 1978, or in which the final determination as to the amount of such fee is made after September 30, 1979, notwithstanding an earlier confirmation date, to the extent that such fee exceeds \$100,000;

“(3) after September 30, 1979, all moneys collected for payment into the referees’ salary and expense fund in cases filed under the Bankruptcy Act shall be collected and paid into the general fund of the Treasury; and

“(4) any balance in the referees’ salary and expense fund in the Treasury on October 1, 1979, shall be transferred to the general fund of the Treasury and the referees’ salary and expense fund account shall be closed.”.

11 USC note
prec. 101.

Subtitle F—Amendments Regarding Repurchase Agreements

SEC. 391. Section 101 of title 11, United States Code, is amended—

(1) by redesignating paragraphs (35), (36), (37), (38), (39), (40), and (41), as paragraphs (37), (38), (39), (40), (41), (42), and (43), respectively, and

(2) by inserting after paragraph (34) the following new paragraphs:

“(35) ‘repo participant’ means an entity that, on any day during the period beginning 90 days before the date of the filing of the petition, has an outstanding repurchase agreement with the debtor;

“(36) ‘repurchase agreement’ (which definition also applies to a reverse repurchase agreement) means an agreement, including related terms, which provides for the transfer of certificates of deposit, eligible bankers’ acceptances, or securities that are direct obligations of, or that are fully guaranteed as to principal and interest by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers’ acceptances, or securities with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers’ acceptances, or securities as described above, at a date certain not later than one year after such transfers or on demand, against the transfer of funds;”.

Securities.

SEC. 392. Section 362(b) of title 11, United States Code, is amended—

(a) by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively, and

(b) by inserting after paragraph (6) the following new paragraph:

“(7) under subsection (a) of this section, of the setoff by a repo participant, of any mutual debt and claim under or in connection with repurchase agreements that constitutes the setoff of a claim against the debtor for a margin payment, as defined in section 741(5) or 761(15) of this title, or settlement payment, as defined in section 741(8) of this title, arising out of repurchase agreements against cash, securities, or other property held by or due from such repo participant to margin, guarantee, secure or settle repurchase agreements;”.

SEC. 393. Section 546 of title 11, United States Code, is amended by inserting after subsection (e), as redesignated by section 251, the following:

“(f) Notwithstanding sections 544, 545, 547, 548(a)(2), and 548(b) of this title, the trustee may not avoid a transfer that is a margin payment, as defined in section 741(5) or 761(15) of this title, or settlement payment, as defined in section 741(8) of this title, made by or to a repo participant, in connection with a repurchase agreement and that is made before the commencement of the case, except under section 548(a)(1) of this title.”.

SEC. 394. Section 548(d)(2) of title 11, United States Code, is amended—

(1) in subparagraph (A) by striking out “and” at the end thereof;

(2) in subparagraph (B) by striking out the period at the end thereof and inserting in lieu thereof “; and”; and by inserting after paragraph (B) the following new subparagraph:

“(C) a repo participant that receives a margin payment, as defined in section 741(5) or 761(15) of this title, or settlement payment, as defined in section 741(8) of this title, in connection with a repurchase agreement, takes for value to the extent of such payment.”.

SEC. 395. Section 553(b)(1) of title 11, United States Code, is amended by inserting “, 362(b)(7),” after “362(b)(6)”.

Ante, p. 358.

Ante, p. 363.

SEC. 396. (a) Chapter 5 of title 11, United States Code, is amended by adding at the end thereof the following new section:

Securities.
11 USC 559.

“§ 559. Contractual right to liquidate a repurchase agreement

“The exercise of a contractual right of a repo participant to cause the liquidation of a repurchase agreement because of a condition of the kind specified in section 365(e)(1) of this title shall not be stayed, avoided, or otherwise limited by operation of any provision of this title or by order of a court or administrative agency in any proceeding under this title, unless, where the debtor is a stockbroker or securities clearing agency, such order is authorized under the provisions of the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.) or any statute administered by the Securities and Exchange Commission. In the event that a repo participant liquidates one or more repurchase agreements with a debtor and under the terms of one or more such agreements has agreed to deliver assets subject to repurchase agreements to the debtor, any excess of the market prices received on liquidation of such assets (or if any such assets are not disposed of on the date of liquidation of such repurchase agreements, at the prices available at the time of liquidation of such repurchase agreements from a generally recognized source or the most recent closing bid quotation from such a source) over the sum of the stated repurchase prices and all expenses in connection with the liquidation of such repurchase agreements shall be deemed property of the estate, subject to the available rights of setoff. As used in this section, the term ‘contractual right’ includes a right set forth in a rule or bylaw, applicable to each party to the repurchase agreement, of a national securities exchange, a national securities association, or a securities clearing agency, and a right, whether or not evidenced in writing, arising under common law, under law merchant or by reason of normal business practice.”.

(b) The analysis of sections for chapter 5 of title 11, United States Code, is amended by adding at the end thereof the following new item:

“559. Contractual right to liquidate a repurchase agreement.”.

Subtitle G—Amendments to Title 11, Section 365 of the United States Code to Provide Adequate Protection for Timeshare Consumers

SEC. 401. Title 11, United States Code, section 101 is hereby amended by—

Ante, p. 364.
Real property.

(1) redesignating paragraph (43), as redesignated by section 391, as paragraph (44); and

(2) adding the following paragraph after paragraph (42), as redesignated in section 391:

“(43) ‘timeshare plan’ means and shall include that interest purchased in any arrangement, plan, scheme, or similar device, but not including exchange programs, whether by membership, agreement, tenancy in common, sale, lease, deed, rental agreement, license, right to use agreement, or by any other means, whereby a purchaser, in exchange for consideration, receives a right to use accommodations, facilities, or recreational sites, whether improved or unimproved, for a specific period of time less than a full year during any given year, but not necessarily for consecutive years, and which extends for a period of more

than three years. A 'timeshare interest' is that interest purchased in a timeshare plan which grants the purchaser the right to use and occupy accommodations, facilities, or recreational sites, whether improved or unimproved, pursuant to a timeshare plan."

SEC. 402. Section 365(h)(1) of title 11, United States Code, is amended to read as follows: Real property.

"(h)(1) If the trustee rejects an unexpired lease of real property of the debtor under which the debtor is the lessor, or a timeshare interest under a timeshare plan under which the debtor is the timeshare interest seller, the lessee or timeshare interest purchaser under such lease or timeshare plan may treat such lease or timeshare plan as terminated by such rejection, where the disaffirmance by the trustee amounts to such a breach as would entitle the lessee or timeshare interest purchaser to treat such lease as terminated by virtue of its own terms, applicable nonbankruptcy law, or other agreements the lessee or timeshare interest purchaser has made with other parties; or, in the alternative, the lessee or timeshare interest purchaser may remain in possession of the leasehold or timeshare interest under any lease or timeshare plan the term of which has commenced for the balance of such term and for any renewal or extension of such term that is enforceable by such lessee or timeshare interest purchaser under applicable nonbankruptcy law."

SEC. 403. Section 365(h)(2) of title 11, United States Code, is amended to read as follows: Real property.

"(2) If such lessee or timeshare interest purchaser remains in possession as provided in paragraph (1) of this subsection, such lessee or timeshare interest purchaser may offset against the rent reserved under such lease or moneys due for such timeshare interest for the balance of the term after the date of the rejection of such lease or timeshare interest, and any such renewal or extension thereof, any damages occurring after such date caused by the non-performance of any obligation of the debtor under such lease or timeshare plan after such date, but such lessee or timeshare interest purchaser does not have any rights against the estate on account of any damages arising after such date from such rejection, other than such offset."

SEC. 404. Section 365(i)(1) of title 11, United States Code, is amended to read as follows: Real property.

"(i)(1) If the trustee rejects an executory contract of the debtor for the sale of real property or for the sale of a timeshare interest under a timeshare plan, under which the purchaser is in possession, such purchaser may treat such contract as terminated, or, in the alternative, may remain in possession of such real property or timeshare interest."

Subtitle H—Miscellaneous Amendments to Title 11

SEC. 421. (a) Section 101(2)(D) of title 11 of the United States Code is amended by striking out "or all" after "business".

(b) Section 101(8)(B) of title 11 of the United States Code is amended by striking out the colon at the end thereof and inserting in lieu thereof a semicolon.

(c) Section 101(9)(B) of title 11 of the United States Code is amended by inserting "348(d)," after "section".

(d) Section 101(14) of title 11 of the United States Code is amended by inserting "and" after "trust,".

(e) Section 101(24) of title 11 of the United States Code is amended by striking out "stock broker" and inserting in lieu thereof "stockbroker".

(f) Section 101(26)(B)(ii) of title 11 of the United States Code is amended by—

(1) striking out "separate" each place it appears and inserting in lieu thereof "nonpartnership"; and

(2) striking out "(A)(ii)" and inserting in lieu thereof "(A)".

(g) Section 101(30) of title 11 of the United States Code is amended to read as follows:

(30) "person" includes individual, partnership, and corporation, but does not include governmental unit, *Provided, however*, That any governmental unit that acquires an asset from a person as a result of operation of a loan guarantee agreement, or as receiver or liquidating agent of a person, will be considered a person for purposes of section 1102 of this title.

Ante, p. 364.

(h) Section 101(38)(B)(vi) of title 11 of the United States Code, as redesignated by section 391 of this Act, is amended by—

(1) striking out "certificate specified in clause (xii) of subparagraph (A)" and inserting in lieu thereof "certificate of a kind specified in subparagraph (A)(xii)"; and

(2) striking out "the subject of such a registration statement" and inserting in lieu thereof "required to be the subject of a registration statement".

Ante, p. 364.
Infra.

(i) Section 101(44) of title 11 of the United States Code, as so redesignated, is amended by striking out the period and inserting in lieu thereof "and foreclosure of the debtor's equity of redemption; and".

(j) Section 101 of title 11 of the United States Code is amended—

(1) by redesignating paragraphs (41) through (44), as previously redesignated, as paragraphs (45) through (48);

(2) by redesignating paragraphs (21) through (40) as paragraphs (24) through (43), respectively;

(3) by redesignating paragraphs (19) and (20) as paragraphs (20) and (21), respectively;

(4) by inserting after paragraph (18) the following:

"(19) 'financial institution' means a person that is a commercial or savings bank, industrial savings bank, savings and loan association, or trust company and, when any such person is acting as agent or custodian for a customer in connection with a securities contract, as defined in section 741(7) of this title, such customer;"

Post, p. 382.

(5) by inserting after paragraph (21) as redesignated herein the following:

"(22) 'forward contract' means a contract (other than a commodity contract) for the purchase, sale, or transfer of a commodity, or product or byproduct thereof, with a maturity date more than two days after the date the contract is entered into;

"(23) 'forward contract merchant' means a person whose business consists in whole or in part of entering into forward contracts as or with merchants in commodities;"

(6) by inserting after paragraph (43) the following:

“(44) ‘State’ includes the District of Columbia and Puerto Rico, except for the purpose of defining who may be a debtor under chapter 9 of this title;” and

(7) by inserting after paragraph (48) the following:

“(49) ‘United States’, when used in a geographical sense, includes all locations where the judicial jurisdiction of the United States extends, including territories and possessions of the United States;”.

11 USC 901 *et seq.*

SEC. 422. Section 102 of title 11 of the United States Code is amended by striking out “continued” and inserting in lieu thereof “contained” in paragraph (8).

SEC. 423. Section 103(c) of title 11 of the United States Code is amended by striking out “stockholder” and inserting in lieu thereof “stockbroker”.

SEC. 424. (a) Subsections (a)(1), (b)(1), and (c)(1) of section 108 of title 11 of the United States Code are each amended by striking out “and” each place it appears and inserting in lieu thereof “or”.

(b) Subsections (a), (b), and (c) of section 108 of title 11 of the United States Code are each amended by inserting “nonbankruptcy” after “applicable” and after “entered in a” each place such terms appear.

SEC. 425. (a) Section 109 of title 11 of the United States Code, is amended by striking out “in the United States,” the first place it appears.

(b) Section 109(c)(5)(D) of title 11 of the United States Code of this Act is amended by striking out “preference” and inserting in lieu thereof “transfer that is avoidable under section 547 of this title”.

(c) Section 109(d) of title 11 of the United States Code is amended by striking out “stockholder” and inserting in lieu thereof “stockbroker”.

SEC. 426. (a) Section 303(b) of title 11 of the United States Code is amended by inserting “against a person” after “involuntary case”.

(b) Section 303 of title 11 of the United States Code, is amended—

(1) in subsection (b)(1) by inserting “or the subject on a bona fide dispute,” after “liability”; and

(2) in subsection (h)(1) by inserting “unless such debts that are the subject of a bona fide dispute” after “due”.

SEC. 427. Section 303(j)(2) of title 11 of the United States Code is amended by striking out “debtors” and inserting in lieu thereof “debtor”.

SEC. 428. Section 321(b) of title 11 of the United States Code is amended by striking out “a case” and inserting in lieu thereof “the case”.

SEC. 429. Section 322(b)(1) of title 11 of the United States Code is amended by inserting “required to be” after “bond”.

SEC. 430. (a) Section 326(a) of title 11 of the United States Code is amended by striking out all the language beginning with “three percent” through “\$50,000” the second place the latter appears and inserting in lieu thereof “and three percent on any amount in excess of \$3,000”.

(b) Section 326(d) of title 11 of the United States Code is amended to read as follows:

“(d) The court may deny allowance of compensation for services or reimbursement of expenses of the trustee if the trustee failed to make diligent inquiry into facts that would permit denial of allowance under section 328(c) of this title or, with knowledge of such

Employment
and
unemployment.
11 USC 701 *et*
seq., 1101 *et seq.*

facts, employed a professional person under section 327 of this title.”

(c) Section 327(c) of title 11 of the United States Code is amended to read as follows:

“(c) In a case under chapter 7 or 11 of this title, a person is not disqualified for employment under this section solely because of such person’s employment by or representation of a creditor, unless there is objection by another creditor, in which case the court shall disapprove such employment if there is an actual conflict of interest.”

SEC. 431. Section 328(a) of title 11 of the United States Code is amended by striking out “unanticipatable” and inserting in lieu thereof “not capable of being anticipated”.

SEC. 432. (a) Section 329(a) of title 11 of the United States Code is amended by striking out “and” the first place it appears and inserting in lieu thereof “or”.

(b) Section 329(b)(1) of title 11 of the United States Code is amended by striking out “trustee” and inserting in lieu thereof “estate”.

SEC. 433. Section 330(a) of title 11 of the United States Code is amended—

(1) by striking out “to any parties in interest and to the United States trustee”; and

(2) in paragraph (1), by striking out “time, the nature, the extent, and the value of such services” and inserting in lieu thereof “nature, the extent, and the value of such services, the time spent on such services”.

SEC. 434. (a) Section 330(b) of title 11 of the United States Code is amended by striking out “\$20” and inserting in lieu thereof “\$45”.

(b) Section 330 of title 11 of the United States Code is amended by adding at the end thereof the following new subsection:

“(c) Unless the court orders otherwise, in a case under chapter 13 of this title the compensation paid to the trustee serving in the case shall not be less than \$5 per month from any distribution under the plan during the administration of the plan.”

SEC. 435. Section 342 of title 11 of the United States Code as amended by section 302 is further amended by amending subsection (a) to read as follows:

“(a) There shall be given such notice as is appropriate, including notice to any holder of a community claim, of an order for relief in a case under this title.”

SEC. 436. Section 343 of title 11 of the United States Code is amended by striking out “examiner” the last place it appears and inserting in lieu thereof “examine”.

SEC. 437. Section 345 of title 11 of the United States Code is amended by adding at the end thereof a new subsection (c) as follows:

“(c) An entity with which such moneys are deposited or invested is authorized to deposit or invest such moneys as may be required under this section.”

SEC. 438. Section 346(c)(2) of title 11 of the United States Code is amended by striking out “operation” and inserting in lieu thereof “corporation”.

SEC. 439. Section 350(b) of title 11 of the United States Code is amended by striking out “a” and inserting in lieu thereof “A”.

SEC. 440. Section 361(1) of title 11 of the United States Code is amended by inserting “a cash payment or” after “make”.

11 USC 1301 *et*
seq.

Ante, p. 352.

SEC. 441. (a) Section 362(a) of title 11 of the United States Code is amended—

(1) in paragraph (1), by inserting “action or” after “other”; and

(2) in paragraph (3), by inserting “or to exercise control over property of the estate” after “estate” the second place it appears.

(b) Section 362(b) of title 11 of the United States Code is amended—

(1) in paragraph (3), by inserting “or to the extent that such act is accomplished within the period provided under section 547(e)(2)(A) of this title” after “title”;

(2) in paragraph (6), by—

(A) inserting “or due from” after “held by”; and

(B) striking out “or secure commodity contracts” and inserting in lieu thereof “secure, or settle commodity contracts”, and by inserting “financial institution,” after “stockbroker” each time it appears.

(3) in paragraph (8) as redesignated by section 392, by—
(A) striking out “said” and inserting in lieu thereof “the”;

Ante, p. 365.

and

(B) striking out “or” the last place it appears;

(4) in paragraph (9) as redesignated by section 392, by striking out the period and inserting in lieu thereof a semicolon; and

(5) by adding after paragraph (9) the following new paragraph:

“(10) under subsection (a) of this section, of the presentment of a negotiable instrument and the giving of notice of and protesting dishonor of such an instrument.”

(c) Section 362(c)(2)(B) of title 11 of the United States Code is amended by striking out “and” and inserting in lieu thereof “or”.

(d) Section 362(d)(2) of title 11 of the United States Code is amended by inserting “under subsection (a) of this section” after “property” the first place it appears.

(e) Section 362(e) of title 11 of the United States Code is amended—

(1) in the first sentence by inserting “the conclusion of” after “pending”; and

(2) by striking out the last sentence and inserting in lieu thereof the following: “The court shall order such stay continued in effect pending the conclusion of the final hearing under subsection (d) of this section if there is a reasonable likelihood that the party opposing relief from such stay will prevail at the conclusion of such final hearing. If the hearing under this subsection is a preliminary hearing, then such final hearing shall be commenced not later than thirty days after the conclusion of such preliminary hearing.”

(f) Section 362(f) of title 11 of the United States Code is amended by—

(1) striking out “The” and inserting in lieu thereof “Upon request of a party in interest, the”; and

(2) inserting “with or” after “court”.

SEC. 442. (a) Section 363(a) of title 11 of the United States Code is amended by—

(1) inserting “whenever acquired” after “equivalents”; and

(2) inserting “and includes the proceeds, products, offspring, rents, or profits of property subject to a security interest as

provided in section 552(b) of this title, whether existing before or after the commencement of a case under this title" after "interest".

(b) Section 363(b) of title 11 of the United States Code is amended by—

(1) striking out "(b)" and inserting in lieu thereof "(b)(1)"; and

(2) adding at the end thereof the following new paragraph:

"(2) If notification is required under subsection (a) of section 7A of the Clayton Act (15 U.S.C. 18a) in the case of a transaction under this subsection, then—

"(A) notwithstanding subsection (a) of such section, such notification shall be given by the trustee; and

"(B) notwithstanding subsection (b) of such section, the required waiting period shall end on the tenth day after the date of the receipt of such notification, unless the court, after notice and hearing, orders otherwise."

(c) Section 363(e) of title 11 of the United States Code is amended by—

(1) inserting ", with or without a hearing," after "court"; and

(2) striking out the last sentence.

(d) Section 363(f)(3) of title 11 of the United States Code is amended by striking out "such interest" the second place it appears and inserting in lieu thereof "all liens on such property".

(e) Section 363(h) of title 11 of the United States Code is amended by striking out "immediately before" and inserting in lieu thereof "at the time of".

(f) Section 363(j) of title 11 of the United States Code is amended by striking out "compensation" and inserting in lieu thereof "compensation".

(g) Section 363(k) of title 11 of the United States Code is amended by striking out "if the holder" and inserting in lieu thereof "unless the court for cause orders otherwise the holder of such claim may bid at such sale, and, if the holder".

(h) Section 363(l) of title 11 of the United States Code is amended by—

(1) striking out "The trustee" and inserting in lieu thereof "Subject to the provisions of section 365, the trustee";

(2) striking out "conditions" and inserting in lieu thereof "condition";

(3) striking out "a taking" and inserting in lieu thereof "or the taking"; and

(4) striking out "interests" and inserting in lieu thereof "interest".

(i) Section 363(n) of title 11 of the United States Code is amended by—

(1) striking out "void" and inserting in lieu thereof "avoid";

(2) striking out "voiding" and inserting in lieu thereof "avoiding"; and

(3) amending the last sentence to read as follows: "In addition to any recovery under the preceding sentence, the court may grant judgment for punitive damages in favor of the estate and against any such party that entered into such an agreement in willful disregard of this subsection."

(j) Section 363 of title 11 of the United States Code is amended by adding at the end thereof the following new subsection:

"(o) In any hearing under this section—

“(1) the trustee has the burden of proof on the issue of adequate protection; and

“(2) the entity asserting an interest in property has the burden of proof on the issue of the validity, priority, or extent of such interest.”.

SEC. 443. Section 366(a) of title 11 of the United States Code is amended by inserting “of the commencement of a case under this title or” after “basis”.

SEC. 444. Section 501(d) of title 11 of the United States Code is amended by inserting “502(e)(2),” before “502(f)”.

SEC. 445. (a) Section 502(a) of title 11 of the United States Code is amended by inserting “general” before “partner”.

(b) Section 502(b) of title 11 of the United States Code is amended—

(1) by inserting “(e)(2),” after “subsections”;

(2) by inserting “in lawful currency of the United States” after “claim” the second place it appears;

(3) in paragraph (1), by striking out “, and unenforceable against” and inserting in lieu thereof “and”;

(4) by striking out paragraph (3) and redesignating paragraphs (4), (5), (6), (7), (8), and (9) as paragraphs (3), (4), (5), (6), (7), and (8), respectively;

(5) in paragraph (3), as redesignated by paragraph (5), by inserting “the” after “exceeds”;

(6) in paragraph (5), as redesignated by paragraph (5), by—

(A) striking out “the claim” and inserting in lieu thereof “such claim”, and

(B) striking out the comma after “petition”; and

(7) in paragraph (7), as redesignated by paragraph (5), by—

(A) inserting “the claim of an employee” before “for damages”;

(B) striking out “and” in subparagraph (A)(i) and inserting in lieu thereof “or”;

(C) striking out “the” the first place it appears in subparagraph (B) and inserting in lieu thereof “any”; and

(D) inserting a comma after “such contract” in subparagraph (B).

(c) Section 502(c) of title 11 of the United States Code is amended—

(1) in paragraph (1) by—

(A) inserting “the” before “fixing”; and

(B) striking out “closing” and inserting in lieu thereof “administration”; and

(2) in paragraph (2), by—

(A) inserting “right to payment arising from a” after “any”; and

(B) striking out “if such breach gives rise to a right to payment”.

(d) Section 502(e)(1) of title 11, United States Code, is amended—

(1) by striking out “and (b)” and inserting in lieu thereof “, (b), and (c)”; and

(2) by striking out the commas before and after “or has secured”;

(3) in subparagraph (B), by inserting “or disallowance” after “allowance”; and

(4) in subparagraph (C), by—

(A) striking out “requests subrogation” and inserting in lieu thereof “asserts a right of subrogation to the rights of such creditor”; and

(B) striking out “to the rights of such creditor”.

(e) Section 502(h) of title 11 of the United States Code is amended by striking out “522(i)” and inserting in lieu thereof “522”.

Claims.

(f) Section 502(j) of title 11 of the United States Code is amended to read as follows:

“(j) A claim that has been allowed or disallowed may be reconsidered for cause. A reconsidered claim may be allowed or disallowed according to the equities of the case. Reconsideration of a claim under this subsection does not affect the validity of any payment or transfer from the estate made to a holder of an allowed claim on account of such allowed claim that is not reconsidered, but if a reconsidered claim is allowed and is of the same class as such holder’s claim, such holder may not receive any additional payment or transfer from the estate on account of such holder’s allowed claim until the holder of such reconsidered and allowed claim receives payment on account of such claim proportionate in value to that already received by such other holder. This subsection does not alter or modify the trustee’s right to recover from a creditor any excess payment or transfer made to such creditor.”.

SEC. 446. Section 503(b) of title 11 of the United States Code is amended—

(1) by striking out the comma after “be allowed”;

(2) in paragraph (1)(C), by striking out the comma after “credit”;

(3) in paragraph (2), by inserting “(a)” after “330”;

(4) in paragraph (3), by inserting a comma after “paragraph (4) of this subsection”;

(5) in paragraph (3)(C), by striking out the comma after “case”;

(6) in paragraph (5), by striking out “and” after the semicolon; and

(7) in paragraph (6), by striking out the period and inserting in lieu thereof “; and”.

SEC. 447. Section 505(a) of title 11 of the United States Code is amended in paragraph (2)(B)(i), by striking out “and” and inserting in lieu thereof “or”.

SEC. 448. (a) Section 506(b) of title 11 of the United States Code is amended by inserting “for” after “provided”.

(b) Paragraphs (1) and (2) of section 506(d) of title 11 of the United States Code are amended to read as follows:

Ante, p 373.

“(1) such claim was disallowed only under section 502(b)(5) or 502(e) of this title; or

“(2) such claim is not an allowed secured claim due only to the failure of any entity to file a proof of such claim under section 501 of this title.”.

SEC. 449. (a) Section 507(a) of title 11 of the United States Code is amended—

(1) in paragraph (3), by inserting a comma after “severance”;

(2) in paragraph (4), by striking out “employee benefit plans” and inserting in lieu thereof “an employee benefit plan”;

(3) in paragraph (4)(B)(i), by inserting “each” after “covered by”; and

(4) in paragraph (7) as redesignated by section 350 by inserting “only” after “units,”.

(b) Section 507(c) of title 11 of the United States Code is amended by striking out “shall be treated the same” and inserting in lieu thereof “has the same priority”.

SEC. 450. (a) Section 509(a) of title 11 of the United States Code is amended by—

(1) striking out “subsections (b) and” and inserting in lieu thereof “subsection (b) or”; and

(2) inserting “against the debtor” after “a creditor”.

(b) Section 509(b)(1) of title 11 of the United States Code is amended by striking out “of a” and inserting in lieu thereof “of such”.

(c) Section 509(c) of title 11 of the United States Code is amended by striking out “section 509 of this title” and inserting in lieu thereof “this section”.

SEC. 451. Section 510(b) of title 11 of the United States Code is amended to read as follows: Claims.

“(b) For the purpose of distribution under this title, a claim arising from rescission of a purchase or sale of a security of the debtor or of an affiliate of the debtor, for damages arising from the purchase or sale of such a security, or for reimbursement or contribution allowed under section 502 on account of such a claim, shall be subordinated to all claims or interests that are senior to or equal the claim or interest represented by such security, except that if such security is common stock, such claim has the same priority as common stock.”

SEC. 452. Section 521(3) of title 11 of the United States Code, as redesignated in section 305, is amended by inserting “, whether or not immunity is granted under section 344 of this title” after “estate” the second place it appears. Ante, p. 352.

SEC. 453. (a) Section 522(a)(2) of title 11 of the United States Code is amended by inserting “or, with respect to property that becomes property of the estate after such date, as of the date such property becomes property of the estate” after “petition”.

(b) Section 522(c) of title 11 of the United States Code is amended to read as follows:

“(c) Unless the case is dismissed, property exempted under this section is not liable during or after the case for any debt of the debtor that arose, or that is determined under section 502 of this title as if such debt had arisen, before the commencement of the case, except—

“(1) a debt of a kind specified in section 523(a)(1) or 523(a)(5) of this title; or

“(2) a debt secured by a lien that is—

“(A)(i) not avoided under subsection (f) or (g) of this section or under section 544, 545, 547, 548, 549, or 724(a) of this title; and

“(ii) not void under section 506(d) of this title; or

“(B) a tax lien, notice of which is properly filed.”. Ante, p. 374.

(c) Section 522(e) of title 11 of the United States Code is amended by striking out “exemptions” and inserting in lieu thereof “an exemption”.

SEC. 454. (a) Section 523(a) of title 11 of the United States Code is amended—

(1) in paragraph (2), by—

(A) striking out “obtaining” each place it appears; and

(B) striking out “refinance of credit,” and inserting in lieu thereof “refinancing of credit, to the extent obtained”; and

(2) by striking out “of higher education” in paragraph (8).

(b) Section 523(a)(5) of title 11, United States Code, is amended by—

(1) amending the first paragraph thereof by inserting the words “or other order of a court of record” after the words “divorce decree,”; and

(2) inserting “, or any such debt which has been assigned to the Federal Government or to a State or any political subdivision of such State” after “Social Security Act”.

(c) Section 523(c) of title 11 of the United States Code is amended by inserting “of a kind” after “debt” the first time it appears.

SEC. 455. Section 524(a) of title 11 of the United States Code is amended by striking out “any act” each place it appears and inserting in lieu thereof “an act”.

SEC. 456. (a) Section 541(a) of title 11 of the United States Code is amended—

(1) by striking out “under” the second time it appears;

(2) by inserting “and by whomever held” after “located”;

(3) in paragraph (3), by inserting “329(b), 363(n),” after “section”;

(4) in paragraph (5), by striking out “An” and inserting in lieu thereof “Any”; and

(5) in paragraph (6), by striking out “and” and inserting in lieu thereof “or”.

(b) Section 541(c) of title 11 of the United States Code is amended—

(1) by inserting “in an agreement, transfer instrument, or applicable nonbankruptcy law” after “provision”; and

(2) in paragraph (1)(B), by—

(A) striking out “the taking” and inserting in lieu thereof “taking”; and

(B) inserting “before such commencement” after “custodian”.

(c) Section 541(d) of title 11 of the United States Code is amended by inserting “(1) or (2)” after “(a)”.

(d) Section 541(e) of title 11 of the United States Code is repealed.

SEC. 457. Section 542(e) of title 11 of the United States Code is amended by inserting “to turn over or” before “disclose”.

SEC. 458. (a) Section 543(a) of title 11 of the United States Code is amended by inserting “, product, offspring, rents, or profits” after “proceeds”.

(b) Section 543(b) of title 11 of the United States Code is amended—

(1) in paragraph (1), by—

(A) inserting “held by or” after “debtor”; and

(B) inserting “, product, offspring, rents, or profits” after “proceeds”; and

(2) in paragraph (2), by inserting “, product, offspring, rents, or profits” after “proceeds”.

(c) Section 543(c) of title 11 of the United States Code is amended—

(1) in paragraph (1), by inserting “or proceeds, product, offspring, rents, or profits of such property” after “property”; and

(2) in paragraph (3), by inserting “that has been” before “approved”.

(d) Section 543(d) of title 11 of the United States Code is amended to read as follows:

“(d) After notice and hearing, the bankruptcy court—

“(1) may excuse compliance with subsection (a), (b), or (c) of this section, if the interests of creditors and, if the debtor is not insolvent, of equity security holders would be better served by permitting a custodian to continue in possession, custody, or control of such property, and

“(2) shall excuse compliance with subsections (a) and (b)(1) of this section if the custodian is an assignee for the benefit of the debtor’s creditors that was appointed or took possession more than 120 days before the date of the filing of the petition, unless compliance with such subsections is necessary to prevent fraud or injustice.”

SEC. 459. Section 544(a) of title 11 of the United States Code is amended—

(1) in paragraph (1), by inserting “such” after “obtained”;

(2) in paragraph (2), by striking out “; and” and inserting in lieu thereof “; or”; and

(3) in paragraph (3), by—

(A) inserting “, other than fixtures,” after “property”; and

(B) inserting “and has perfected such transfer” after “purchaser” the second place it appears.

SEC. 460. Section 545 of title 11 of the United States Code is amended—

(1) in paragraph (1)(A), by striking out “is” the first time it appears;

(2) in paragraph (1)(C), by striking out “appointed” and inserting in lieu thereof “appointed or authorized to take”; and

(3) in paragraph (2), by striking out “on the date of the filing of the petition” each place it appears and inserting in lieu thereof “at the time of the commencement of the case”.

SEC. 461. (a) Section 546(a) of title 11 of the United States Code is amended in paragraph (1) by striking out “and” and inserting in lieu thereof “or”.

(b) Section 546(b) of title 11 of the United States Code is amended by striking out “the trustee under section 544, 545, or” and inserting in lieu thereof “a trustee under sections 544, 545, and”.

(c) Section 546(c) of title 11 of the United States Code is amended—

(1) by striking out “the trustee” and inserting in lieu thereof “a trustee”;

(2) by striking out “right” the first place it appears;

(3) by inserting “of goods that has sold goods to the debtor” after “seller” the first place it appears;

(4) by striking out “of goods to the debtor” after “business,”; and

(5) in paragraph (2), by—

(A) inserting “the” after “if”; and

(B) striking out “an administrative expense” and inserting in lieu thereof “a claim of a kind specified in section 503(b) of this title”.

(d) Section 546(e) of title 11 of the United States Code, as redesignated by section 351, is amended by inserting “financial institution” after “stockbroker”.

SEC. 462. (a) Section 547(a) of title 11 of the United States Code is amended—

(1) in paragraph (2), by inserting "including proceeds of such property," after "law,"; and

(2) in paragraph (4), by—

(A) striking out ", without penalty"; and

(B) inserting "without penalty" after "payable".

(b) Section 547(b) of title 11 of the United States Code is amended—

(1) by striking out "of property of the debtor" and inserting in lieu thereof "of an interest of the debtor in property"; and

(2) in paragraph (4) by amending subparagraph (B) to read as follows:

"(B) between ninety days and one year before the date of the filing of the petition, if such creditor at the time of such transfer was an insider,".

(c) Section 547 of title 11 of the United States Code is amended in subsection (c)(2) thereof by striking out subparagraph (B) of such subsection, and by redesignating subparagraphs (C) and (D) thereof as subparagraphs (B) and (C), respectively.

(d) Section 547(c) of title 11 of the United States Code is amended—

(1) in paragraph (2)(A), by inserting "by the debtor" after "incurred";

(2) in paragraph (3), by striking out "of" the first place it appears and inserting in lieu thereof "that creates";

(3) in paragraph (3)(B), by—

(A) inserting "on or" after "perfected"; and

(B) striking out "such security interest attaches" and inserting in lieu thereof "the debtor receives possession of such property";

(4) in paragraph (5), by—

(A) striking out "of" the first place it appears and inserting in lieu thereof "that creates"; and

(B) striking out "all security interest" and inserting in lieu thereof "all security interests"; and

(5) in paragraph (5)(A)(ii), by striking out "and" and inserting in lieu thereof "or".

(e) Section 547(d) of title 11 of the United States Code is amended by—

(1) striking out "A" and inserting in lieu thereof "The";

(2) inserting "an interest in" after "transfer of";

(3) inserting "to or for the benefit of a surety" after "transferred"; and

(4) inserting "such" after "reimbursement of".

(f) Section 547(e) of title 11 of the United States Code is amended in paragraph (2)(C)(i), by striking out "and" and inserting in lieu thereof "or".

(g) Section 547 of title 11 of the United States Code is amended by adding at the end thereof the following new subsection:

"(g) For the purposes of this section, the trustee has the burden of proving the avoidability of a transfer under subsection (b) of this section, and the creditor or party in interest against whom recovery or avoidance is sought has the burden of proving the nonavoidability of a transfer under subsection (c) of this section."

SEC. 463. (a) Section 548(a) of title 11 of the United States Code is amended—

(1) by striking out "if the debtor" and inserting in lieu thereof "if the debtor voluntarily or involuntarily";

(2) in paragraph (1), by striking out “occurred” and inserting in lieu thereof “was made”; and

(3) in paragraph (2)(B)(ii), by inserting “or a transaction” after “engaged in business”.

(b) Section 548(c) of title 11 of the United States Code is amended by—

(1) inserting “or may retain” after “lien on”; and

(2) striking out “, may retain any lien transferred,”.

(c)(1) Section 548(d)(1) of title 11 of the United States Code is amended by—

(A) striking out “becomes so far” and inserting in lieu thereof “is so”;

(B) striking out “such transfer could have been” and inserting in lieu thereof “applicable law permits such transfer to be”; and

(C) striking out “occurs” and inserting in lieu thereof “is made”.

(2) Section 548(d)(2)(B) of title 11 is amended by inserting “financial institution,” after “stockbroker”.

SEC. 464. (a) Section 549(a) of title 11 of the United States Code is amended—

(1) by striking out “(b) and (c)” and inserting in lieu thereof “(b) or (c)”; and

(2) in paragraph (2)(A), by inserting “only” after “authorized”.

(3) striking out “that occurs” and inserting in lieu thereof “made”;

(4) striking out “is valid against the trustee to the extent of” and inserting in lieu thereof “to the extent”; and

(5) inserting “is” before “given”.

(c) Section 549(c) of title 11 of the United States Code is amended to read as follows:

“(c) The trustee may not avoid under subsection (a) of this section a transfer of real property to a good faith purchaser without knowledge of the commencement of the case and for present fair equivalent value unless a copy or notice of the petition was filed, where a transfer of such real property may be recorded to perfect such transfer, before such transfer is so perfected that a bona fide purchaser of such property, against whom applicable law permits such transfer to be perfected, could not acquire an interest that is superior to the interest of such good faith purchaser. A good faith purchaser without knowledge of the commencement of the case and for less than present fair equivalent value has a lien on the property transferred to the extent of any present value given, unless a copy or notice of the petition was so filed before such transfer was so perfected.”.

(d) Section 549(d)(1) of title 11 of the United States Code is amended by striking out “and” and inserting in lieu thereof “or”.

SEC. 465. (a) Section 550(a) of title 11 of the United States Code is amended by striking out “549, or 724(a) of this title” and inserting in lieu thereof “549, 553(b), or 724(a) of this title”.

(b) Section 550(d) of title 11 of the United States Code is amended—

(1) in paragraph (1)(A), by inserting “or accruing to” after “by”;

(2) in paragraph (1)(B), by striking out “value” and inserting in lieu thereof “the value of such property”;

(3) in paragraph (2), by striking out subparagraphs (D) and (E) and inserting in lieu thereof the following:

Real property.

“(D) payment of any debt secured by a lien on such property that is superior or equal to the rights of the trustee; and”; and (4) in paragraph (2), by redesignating subparagraph (F) as subparagraph (E).

(c) Section 550(e)(1) of title 11 of the United States Code is amended by striking out “and” and inserting in lieu thereof “or”.

SEC. 466. Section 552(b) of title 11 of the United States Code is amended by—

(1) inserting “522,” after “506(c),”;

(2) striking out “a secured party enter” and inserting in lieu thereof “an entity entered”; and

(3) striking out “except to the extent” and inserting in lieu thereof “except to any extent”.

SEC. 467. Section 553(b)(1) of title 11 of the United States Code is amended by striking out “or 365(h)(1)” and inserting in lieu thereof “, 365(h)(2), or 365(i)(2)”.

SEC. 468. (a) Subsections (a) and (b) of section 554 of title 11 of the United States Code are each amended by inserting “and benefit” after “value”.

(b) Section 554(c) of title 11 of the United States Code is amended to read as follows:

“(c) Unless the court orders otherwise, any property scheduled under section 521(a)(1) of this title not otherwise administered at the time of the closing of a case is abandoned to the debtor and administered for purposes of section 350 of this title.”

(c) Section 554(d) of title 11 of the United States Code is amended by striking out “section (a) or (b) of”.

SEC. 469. Section 555 of title 11 of the United States Code is amended by inserting “, financial institution,” after “stockbroker”.

SEC. 470. (a) Chapter 5 of title 11 of the United States Code as amended by section 352 is amended by adding at the end thereof the following new section:

11 USC 558.

“§ 558. Defenses of the estate

“The estate shall have the benefit of any defense available to the debtor as against any entity other than the estate, including statutes of limitation, statutes of frauds, usury, and other personal defenses. A waiver of any such defense by the debtor after the commencement of the case does not bind the estate.”

(b) The table of sections for chapter 5 of title 11 of the United States Code is amended by adding at the end thereof the following new item:

“558. Defenses of the estate.”

SEC. 471. The table of sections for chapter 7 of title 11 of the United States Code is amended by striking out “Successor” in the item relating to section 703 and inserting in lieu thereof “Successor”.

SEC. 472. (a) Section 702(b) of title 11 of the United States Code is amended by inserting “held” after “meeting of creditors”.

(b) Section 702(c) of title 11 of the United States Code is amended—

(1) in paragraph (1), by inserting “of a kind” after “claims”; and

(2) in paragraph (2), by inserting “a” after “for”.

(c) Section 702(d) of title 11 of the United States Code is amended by striking out “subsection (c) of”.

SEC. 473. Section 703(b) of title 11 of the United States Code is amended by striking out "specified in section 701(a) of this title. Sections 701(b) and 701(c) of this title apply to such interim trustee" and inserting in lieu thereof "and subject to the provisions of section 701 of this title".

SEC. 474. Section 704 of title 11 of the United States Code as amended by section 311 is amended in paragraph (1), by striking out "up".

Ante, p. 355.

SEC. 475. Paragraphs (1) and (2) of section 707 of title 11 of the United States Code are each amended by striking out "and" and inserting in lieu thereof "or".

SEC. 476. (a) Section 723(a) of title 11 of the United States Code is amended by striking out all after "claims" and inserting in lieu thereof "which are allowed in a case under this chapter concerning a partnership and with respect to which a general partner of the partnership is personally liable, the trustee shall have a claim against such general partner for the full amount of the deficiency".

(b) Section 723(c) of title 11 of the United States Code is amended by—

(1) striking out "such case" each place it appears and inserting in lieu thereof "such partner's case";

(2) striking out "be property" and inserting in lieu thereof "by property"; and

(3) striking out "the kind" and inserting in lieu thereof "a kind".

SEC. 477. (a) Section 724(b) of title 11 of the United States Code is amended—

(1) by striking out "taxes" and inserting in lieu thereof "a tax";

(2) in paragraph (2), by—

(A) striking out "claims" and inserting in lieu thereof "any holder of a claim of a kind";

(B) striking out "sections" and inserting in lieu thereof "section"; and

(C) striking out "and" and inserting in lieu thereof "or"; and

(3) in paragraph (3), by inserting "tax" after "allowed".

(b) Section 724(c) of title 11 of the United States Code is amended by—

(1) striking out "creditor" and inserting in lieu thereof "holder of a claim"; and

(2) striking out "creditors" each place it appears and inserting in lieu thereof "holders".

(c) Section 724(d) of title 11 of the United States Code is amended by—

(1) striking out "whose priority" and inserting in lieu thereof "the priority of which"; and

(2) inserting "if such lien were" after "the same as".

SEC. 478. Section 725 of title 11 of the United States Code is amended by inserting "of property of the estate" after "distribution".

SEC. 479. (a) Section 726(b) of title 11 of the United States Code is amended by—

(1) striking out "a particular paragraph" and inserting in lieu thereof "each such particular paragraph"; and

(2) striking out “administrative expenses” each place it appears and inserting in lieu thereof “a claim allowed under section 503(b) of this title”; and

(3) striking out “have” and inserting in lieu thereof “has”.

(b) Section 726(c) of title 11 of the United States Code is amended—

(1) in paragraph (1), by striking out “Administrative expenses” and inserting in lieu thereof “Claims allowed under section 503 of this title”; and

(2) in paragraph (2), by striking out “Claims other than for administrative expenses” and inserting in lieu thereof “Allowed claims, other than claims allowed under section 503 of this title.”.

SEC. 480. (a) Section 727(a) of title 11 of the United States Code is amended—

(1) in paragraph (6)(C), by striking out “property” and inserting in lieu thereof “properly”; and

(2) in paragraph (7), by inserting “, under this title or under the Bankruptcy Act,” after “another case”; and

(3) in paragraph (8), by inserting a comma after “371”.

(b) Section 727(c)(1) of title 11 of the United States Code is amended by inserting “the granting of a” after “to”.

(c) Section 727(e)(2)(A) of title 11 of the United States Code is amended by striking out “and” and inserting in lieu thereof “or”.

SEC. 481. (a) Section 728(c) of title 11 of the United States Code is amended by striking out the comma after “taxable income”.

(b) Section 728(d)(2) of title 11 of the United States Code is amended by inserting “otherwise” after “is”, and by striking out “otherwise” after “partner”.

SEC. 482. Section 741 of title 11 of the United States Code is amended—

(1) in paragraph (2)(A), by—

(A) striking out “the debtor” the first time it appears and inserting in lieu thereof “a person”; and

(B) striking out “holds” and inserting in lieu thereof “has”;

(C) striking out “the debtor” the second and third time it appears and inserting in lieu thereof “such person”; and

(D) striking out “business as a stockbroker” and inserting in lieu thereof “such person’s business as a stockbroker,”;

(2) in paragraph (2)(B), by—

(A) striking out “holds” and inserting in lieu thereof “has”;

(B) striking out “the debtor” the first place it appears and inserting in lieu thereof “a person”; and

(C) by striking out “the debtor” and inserting in lieu thereof “such person” in clause (ii);

(3) in paragraph (4)(A)(i), by striking out “and that is” and inserting in lieu thereof “from and that is the lawful”;

(4) in paragraph (6)(A)(i), by—

(A) inserting a comma after “petition”; and

(B) inserting “any” after “except”; and

(5) in paragraph (7), by amending such paragraph to read as follows:

“(7) ‘securities contract’ means contract for the purchase, sale, or loan of a security, including an option for the purchase or sale of a security, certificate of deposit, or group or index of

securities (including any interest therein or based on the value thereof), or any option entered into on a national securities exchange relating to foreign currencies, or the guarantee of any settlement of cash or securities by or to a securities clearing agency;"; and

(6) in paragraph (8) by inserting "a final settlement payment," after "settlement payment on account,".

SEC. 483. Section 745(a) of title 11 of the United States Code is amended by inserting "the debtor for" after "by".

SEC. 484. (a) Section 752(a) of title 11 of the United States Code is amended by—

(1) striking out "customers allowed" and in lieu thereof "customers' allowed";

(2) inserting "of the kind" after "except claims"; and

(3) inserting "such" before "customer property".

(b) Section 752(b)(2) of title 11 of the United States Code is amended by striking out "726(a)" and inserting in lieu thereof "726".

SEC. 485. Section 761 of title 11 of the United States Code is amended in paragraph (10), by striking out "and that is" in subparagraph (A)(viii) and inserting in lieu thereof "from and that is the lawful".

SEC. 486. Section 763(a) of title 11 of the United States Code is amended by—

(1) inserting "the debtor for" after "by"; and

(2) striking out "deemed to be" and inserting in lieu thereof "treated as".

SEC. 487. Section 764(a) of title 11 of the United States Code is amended by inserting "by the debtor" after "any transfer".

SEC. 488. Section 765(a) of title 11 of the United States Code is amended by striking out "notice under", and inserting in lieu thereof "notice required by".

SEC. 489. Section 766(j)(2) of title 11 of the United States Code is amended by striking out "726(a)" and inserting in lieu thereof "726".

SEC. 490. Section 901(a) of title 11 of the United States Code is amended by inserting a comma after "1111(b)".

SEC. 491. Section 902(2) of title 11 of the United States Code is amended by striking out "title, legal or equitable, to real property against which has been levied a special assessment or special tax" and by inserting in lieu thereof "legal or equitable title to real property against which a special assessment or special tax has been levied".

SEC. 492. Section 903(2) of title 11 of the United States Code is amended by striking out "to" the first place it appears.

SEC. 493. Chapter 9 of title 11 of the United States Code is amended by striking out "SUBCHAPER II" and inserting in lieu thereof "SUBCHAPTER II".

SEC. 494. (a) Section 921(c) of title 11 of the United States Code is amended by—

(1) striking out "an" and inserting in lieu thereof "any"; and

(2) striking out the comma after "petition" the second place it appears, and after "faith".

(b) Section 921 of title 11 of the United States Code is amended by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

Ante, p. 383.

(c) Section 921(a) is amended by striking out "109(c)" and inserting in lieu thereof "109(d)".

(d) Section 921(d) of title 11 of the United States Code, as so redesignated, is amended by striking out "subsection (d)" and inserting in lieu thereof "subsection (c)".

SEC. 495. Section 922(a)(1) of title 11 of the United States Code is amended by—

- (1) inserting "a" before "judicial"; and
- (2) inserting "action or" before "proceeding".

SEC. 496. Section 927(b) of title 11 of the United States Code is amended by inserting "of a plan under this chapter" after "confirmation".

SEC. 497. Section 943(b) of title 11 of the United States Code is amended—

- (1) in paragraph (4), by striking out "to be taken"; and
- (2) by amending paragraph (5) to read as follows:

"(5) except to the extent that the holder of a particular claim has agreed to a different treatment of such claim, the plan provides that on the effective date of the plan each holder of a claim of a kind specified in section 507(a)(1) of this title will receive on account of such claim cash equal to the allowed amount of such claim; and".

SEC. 498. Section 945(a) of title 11 of the United States Code is amended by striking out "execution" and inserting in lieu thereof "implementation".

SEC. 499. Section 1102(b)(1) of title 11 of the United States Code is amended by striking out "order for relief" and inserting in lieu thereof "commencement of the case".

SEC. 500. (a) Section 1103(b) is amended by—

- (1) inserting "having an adverse interest" after "entity"; and
- (2) adding at the end thereof the following: "Representation of one or more creditors of the same class as represented by the committee shall not per se constitute the representation of an adverse interest."

(b) Section 1103(c) of title 11 of the United States Code is amended—

- (1) in paragraph (3), by—

(A) striking out "recommendations" and inserting in lieu thereof "determinations"; and

(B) inserting "or rejections" after "acceptances"; and

(2) in paragraph (4), by striking out ", if a trustee or examiner, as the case may be, has not previously been appointed under this chapter in the case".

SEC. 501. Section 1105 of title 11 of the United States Code is amended by striking out "estate, and" and inserting in lieu thereof "estate and of the".

SEC. 502. Section 1106(b) of title 11 of the United States Code is amended by inserting ", except to the extent that the court orders otherwise," before "any other".

SEC. 503. Section 1107(a) of title 11 of the United States Code is amended by inserting "serving in a case" after "on a trustee".

SEC. 504. Section 1108 of title 11 of the United States Code is amended by inserting ", on request of a party in interest and after notice and a hearing," after "court".

SEC. 505. (a) Section 1112(a) of title 11 of the United States Code is amended—

(1) in paragraph (2), by striking out “is an involuntary case originally commenced under this chapter” and inserting in lieu thereof “originally was commenced as an involuntary case under this chapter”; and

(2) in paragraph (3), by striking out “on other than” and inserting in lieu thereof “other than on”.

(b) Section 1112(b) of title 11 of the United States Code is amended—

(1) in paragraph (5), by inserting “a request made for” before “additional”; and

(2) in paragraph (8), by striking out “and” and inserting in lieu thereof “or”.

SEC. 506. (a) Section 1121(c)(3) of title 11 of the United States Code is amended by striking out “the claims or interests of which are” and inserting in lieu thereof “of claims or interests that is”.

(b) Section 1121(d) of title 11 of the United States Code is amended by inserting “made within the respective periods specified in subsection (c) of this section” after “interest”.

SEC. 507. (a) Section 1123(a) of title 11 of the United States Code is amended—

(1) by striking out “A” and inserting in lieu thereof “Notwithstanding any otherwise applicable nonbankruptcy law, a”;

(2) in paragraph (1), by—

(A) inserting a comma after “classes of claims”; and

(B) by striking out “507(a)(6) of this title” and inserting in lieu thereof “507(a)(7) of this title.”;

(3) in paragraph (3), by striking out “shall”;

(4) in paragraph (5), by striking out “execution” and inserting in lieu thereof “implementation”; and

(5) in paragraph (5)(G), by inserting “of” after “waiving”.

(b) Section 1123(b)(2) of title 11 of the United States Code is amended by—

(1) striking out “or rejection” and inserting in lieu thereof “, rejection, or assignment”; and

(2) striking out “under section 365 of this title” and inserting in lieu thereof “under such section”.

SEC. 508. Section 1124 of title 11 of the United States Code is amended—

(1) by amending paragraph (2)(A) to read as follows:

“(A) cures any such default that occurred before or after the commencement of the case under this title, other than a default of a kind specified in section 365(b)(2) of this title.”; and

(2) in paragraph (3)(B)(i), by striking out “and” and inserting in lieu thereof “or”.

SEC. 509. (a) Section 1125(a) of title 11 of the United States Code is amended—

(1) in paragraph (1), by inserting “, but adequate information need not include such information about any other possible or proposed plan” after “plan”;

(2) in paragraph (2)(B), by inserting “the” after “with”; and

(3) in paragraph (2)(C), by inserting “of” after “holders”.

(b) Section 1125(d) of title 11 of the United States Code is amended by—

(1) inserting “required under subsection (b) of this section” after “statement” the first place it appears; and

Ante. p. 361.

(2) inserting “, or otherwise seek review of,” after “appeal from”.

(c) Section 1125(e) of title 11 of the United States Code is amended by—

(1) inserting “acceptance or rejection of a plan” after “solicits”; and

(2) inserting “solicitation of acceptance or rejection of a plan or” after “governing”.

SEC. 510. (a) Section 1126(b)(2) of title 11 of the United States Code is amended by striking out “1125(a)(1)” and inserting in lieu thereof “1125(a)”.

(b) Section 1126(d) of title 11 of the United States Code is amended by inserting a comma after “such interests” the first place it appears.

(c) Section 1126(f) of title 11 of the United States Code is amended by—

(1) striking out “is deemed” and inserting in lieu thereof “, and each holder of a claim or interest of such class, are conclusively presumed”;

(2) striking out “solicititation” and inserting in lieu thereof “solicitation”; and

(3) striking out “interest” and inserting in lieu thereof “interests”.

(d) Section 1126(g) of title 11 of the United States Code is amended by striking out “any payment or compensation” and inserting in lieu thereof “receive or retain any property”.

SEC. 511. (a) Section 1127(a) of title 11 of the United States Code is amended by—

(1) inserting “of a plan” after “After the proponent”; and

(2) inserting “of such plan” after “modification”.

(b) Section 1127(b) of title 11 of the United States Code is amended by striking out “the court, after notice and a hearing, confirms such plan, as modified, under section 1129 of this title, and circumstances warrant such modification” and inserting in lieu thereof “circumstances warrant such modification and the court, after notice and a hearing, confirms such plan as modified, under section 1129 of this title”.

SEC. 512. (a) Section 1129(a) of title 11 of the United States Code is amended—

(1) in paragraph (1), by striking out “chapter.” and inserting in lieu thereof “title.”;

(2) in paragraph (2), by striking out “chapter.” and inserting in lieu thereof “title.”;

(3) by amending paragraph (4) to read as follows:

“(4) Any payment made or to be made by the proponent, by the debtor, or by a person issuing securities or acquiring property under the plan, for services or for costs and expenses in or in connection with the case, or in connection with the plan and incident to the case, has been approved by, or is subject to the approval of, the court as reasonable;”;

(4) in paragraph (5)(A)(ii), by striking out the period and inserting in lieu thereof “; and”;

(5) in paragraph (5)(B), by striking out “The” and inserting in lieu thereof “the”;

(6) in paragraph (6), by inserting “governmental” after “Any”;

(7) in paragraph (7), by—

(A) inserting “of each impaired class of claims or interests” in lieu of “each class”; and

(B) striking out “creditor’s” in subparagraph (B) and inserting in lieu thereof “holder’s”;

(8) in paragraph (8), by inserting “of claims or interests” after “each class”; and

(9) by amending paragraph (10) to read as follows:

“(10) If a class of claims is impaired under the plan, at least one class of claims that is impaired under the plan has accepted the plan, determined without including any acceptance of the plan by any insider.”.

(b) Section 1129(b) of title 11 of the United States Code is amended—

(1) in paragraph (2)(A), by striking out “lien” each place it appears and inserting in lieu thereof “liens”;

(2) in paragraph (2)(B)(ii), by inserting “under the plan” after “retain”; and

(3) in paragraph (2)(C)(i), by—

(A) striking out “claim” and inserting in lieu thereof “interest”; and

(B) striking out “and the value” and inserting in lieu thereof “or the value”.

(c) Section 1129(d) of title 11 of the United States Code is amended by—

(1) inserting “the application of” after “avoidance of” the second place it appears; and

(2) adding at the end thereof the following new sentence: “In any hearing under this subsection, the governmental unit has the burden of proof on the issue of avoidance.”.

SEC. 513. (a) Section 1141(a) of title 11 of the United States Code is amended by striking out “any creditor or equity security holder of, or general partner in,” and inserting in lieu thereof “any creditor, equity security holder, or general partner in”.

(b) Section 1141(c) of title 11 of the United States Code is amended to read as follows:

“(c) Except as provided in subsections (d)(2) and (d)(3) of this section and except as otherwise provided in the plan or in the order confirming the plan, after confirmation of a plan, the property dealt with by the plan is free and clear of all claims and interests of creditors, equity security holders, and of general partners in the debtor.”.

SEC. 514. (a) The heading for section 1142 of title 11 of the United States Code is amended to read as follows:

“§ 1142. Implementation of plan”.

(b) The item relating to section 1142 in the table of sections for chapter 11 of title 11 of the United States Code is amended by striking out “Execution” and inserting in lieu thereof “Implementation”.

(c) Section 1142(a) of title 11 of the United States Code is amended by striking out the comma after “plan” the second place it appears.

(d) Section 1142(b) of title 11 of the United States Code is amended by inserting “a” after “by”.

SEC. 515. Section 1144 of title 11 of the United States Code is amended by inserting “if and only” after “revoke such order”.

SEC. 516. (a) Section 1145(a) of title 11 of the United States Code is amended—

(1) in paragraph (3)(B)(i), by inserting “or 15(d)” after “13” and by inserting “or 78o(d)” after “78m”;

(2) by amending paragraph (3)(B)(ii) to read as follows:

“(ii) in compliance with the disclosure and reporting provision of such applicable section; and”;

(3) in paragraph (4), by striking out “stockholder” each place it appears and inserting in lieu thereof “stockbroker”.

(b) Section 1145(b) of title 11 of the United States Code is amended—

(1) in paragraph (1), by inserting “and except with respect to ordinary trading transactions of an entity that is not an issuer” after “subsection”;

(2) in paragraph (1)(C), by striking out “for” and inserting in lieu thereof “from”;

(3) in paragraph (2)(A)(i), by striking out “combination” and inserting in lieu thereof “or combining”;

(4) in paragraph (2)(A)(ii), by striking out “among” and inserting in lieu thereof “from or to”.

(c) Section 1145(d) of title 11 of the United States Code is amended by striking out “commercial”.

SEC. 517. (a) Section 1146(c) of title 11 of the United States Code is amended by striking out “State or local”.

(b) Section 1146(d)(1) of title 11 of the United States Code is amended by striking out “and” and inserting in lieu thereof “or”.

SEC. 518. Section 1166 of title 11 of the United States Code is amended by striking out “the Interstate Commerce Act (49 U.S.C. 1 et seq.)” and inserting in lieu thereof “subtitle IV of title 49”.

SEC. 519. Section 1168(b) of title 11 of the United States Code is amended by inserting a comma after “approval”.

SEC. 520. Section 1169(c) of title 11 of the United States Code is amended by striking out “the Interstate Commerce Act (49 U.S.C. 1 et seq.)” and inserting in lieu thereof “subtitle IV of title 49”.

SEC. 521. (a) Section 1170(a) of title 11 of the United States Code is amended by inserting “of all or a portion” after “the abandonment”.

(b) Section 1170(c) of title 11 of the United States Code is amended by inserting a comma after “abandonment”.

(c) Section 1170(d)(2) of title 11 of the United States Code is amended by—

(1) striking out “the abandonment of a railroad line” and inserting in lieu thereof “such abandonment”;

(2) striking out “termination” each place it appears and inserting in lieu thereof “suspension”.

SEC. 522. Section 1171(b) of title 11 of the United States Code is amended by striking out “such” and inserting in lieu thereof “the same”.

SEC. 523. Section 1173(a)(4) of title 11 of the United States Code is amended by striking out “compatible” and inserting in lieu thereof “consistent”.

SEC. 524. Section 1301(c)(3) of title 11 of the United States Code is amended by inserting “continuation of” after “by”.

SEC. 525. (a) Section 1302(b) of title 11 of the United States Code as amended by section 314 is amended by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively and by inserting after paragraph (2) the following new paragraph:

“(3) dispose of, under regulations issued by the Director of the Administrative Office of the United States Courts, moneys

received or to be received in a case under chapter XIII of the Bankruptcy Act; and”.

(b) Section 1302(e) of title 11 of the United States Code is amended—

(1) in paragraph (4), by striking out “fix” and inserting in lieu thereof “set for such individual”;

(2) in paragraph (1)(A), by striking out “for such individual”; and

(3) in paragraph (2)(A), by—

(A) striking out “of” and inserting in lieu thereof “received by”; and

(B) striking out “upon all payments” and inserting in lieu thereof “of all such payments made”.

SEC. 526. Section 1304(b) of title 11 of the United States Code is amended by striking out the comma after “of the debtor”.

SEC. 527. (a) Section 1307(b) of title 11 of the United States Code is amended by inserting a comma after “time”.

(b) Section 1307(c) of title 11 of the United States Code as amended by section 315 is amended—

Ante, p. 356.

(1) in paragraph (5), as redesignated by inserting “a request made for” before “additional”;

(2) in paragraph (7), as redesignated by striking out “and” after the semicolon and inserting in lieu thereof “or”; and

(3) in paragraph (8), as redesignated by inserting “other than completion of payments under the plan” after “in the plan”.

SEC. 528. (a) Section 1322(a)(2) of title 11 of the United States Code is amended by inserting a comma after “payments”.

(b) Section 1322(b) of title 11 of the United States Code is amended—

(1) in paragraph (2), by inserting “, or leave unaffected the rights of holders of any class of claims” before the semicolon;

(2) in paragraph (4), by inserting “other” after “claim or any”;

(3) in paragraph (7), by—

(A) inserting “subject to section 365 of this title,” before “provide”;

(B) striking out “or rejection” and inserting in lieu thereof “, rejection, or assignment”; and

(C) striking out “under section 365 of this title” and inserting in lieu thereof “under such section”; and

(4) in paragraph (8), by striking out “any”.

SEC. 529. Section 1324 of title 11 of the United States Code is amended by striking out “the” the second place it appears.

SEC. 530. Section 1325(a)(1) of title 11 of the United States Code is amended by inserting “the” before “other”.

SEC. 531. Section 1326(b)(2) of title 11 of the United States Code as amended by section 318 is amended by inserting “of this title” after “1302(d)”.

Ante, p. 357.

SEC. 532. Section 1328(e) of title 11 of the United States Code is amended—

(1) in paragraph (1), by inserting “by the debtor” after “obtained”; and

(2) in paragraph (2), by striking out “knowledge of such fraud came to the requesting party” and inserting in lieu thereof “the requesting party did not know of such fraud until”.

SEC. 533. Section 1329(a) of title 11 of the United States Code is amended—

(1) by inserting “of the plan” after “confirmation”;

(2) by striking out “a plan” and inserting in lieu thereof “such plan”; and

(3) in paragraph (3), by striking out the comma.

SEC. 534. Section 151302(a) of title 11 of the United States Code is amended by inserting “, or shall appoint a disinterested person to serve,” after “The United States trustee shall serve”.

SUBTITLE J—COLLECTIVE BARGAINING AGREEMENTS

SEC. 541. (a) Title 11 of the United States Code is amended by adding after section 1112 the following new section:

11 USC 1113.

“§ 1113. Rejection of collective bargaining agreements

11 USC 1161.
45 USC 151.

“(a) The debtor in possession, or the trustee if one has been appointed under the provisions of this chapter, other than a trustee in a case covered by subchapter IV of this chapter and by title I of the Railway Labor Act, may assume or reject a collective bargaining agreement only in accordance with the provisions of this section.

“(b)(1) Subsequent to filing a petition and prior to filing an application seeking rejection of a collective bargaining agreement, the debtor in possession or trustee (hereinafter in this section ‘trustee’ shall include a debtor in possession), shall—

“(A) make a proposal to the authorized representative of the employees covered by such agreement, based on the most complete and reliable information available at the time of such proposal, which provides for those necessary modifications in the employees benefits and protections that are necessary to permit the reorganization of the debtor and assures that all creditors, the debtor and all of the affected parties are treated fairly and equitably; and

“(B) provide, subject to subsection (d)(3), the representative of the employees with such relevant information as is necessary to evaluate the proposal.

“(2) During the period beginning on the date of the making of a proposal provided for in paragraph (1) and ending on the date of the hearing provided for in subsection (d)(1), the trustee shall meet, at reasonable times, with the authorized representative to confer in good faith in attempting to reach mutually satisfactory modifications of such agreement.

“(c) The court shall approve an application for rejection of a collective bargaining agreement only if the court finds that—

“(1) the trustee has, prior to the hearing, made a proposal that fulfills the requirements of subsection (b)(1);

“(2) the authorized representative of the employees has refused to accept such proposal without good cause; and

“(3) the balance of the equities clearly favors rejection of such agreement.

“(d)(1) Upon the filing of an application for rejection the court shall schedule a hearing to be held not later than fourteen days after the date of the filing of such application. All interested parties may appear and be heard at such hearing. Adequate notice shall be provided to such parties at least ten days before the date of such hearing. The court may extend the time for the commencement of such hearing for a period not exceeding seven days where the circumstances of the case, and the interests of justice require such extension, or for additional periods of time to which the trustee and representative agree.

“(2) The court shall rule on such application for rejection within thirty days after the date of the commencement of the hearing. In the interests of justice, the court may extend such time for ruling for such additional period as the trustee and the employees’ representative may agree to. If the court does not rule on such application within thirty days after the date of the commencement of the hearing, or within such additional time as the trustee and the employees’ representative may agree to, the trustee may terminate or alter any provisions of the collective bargaining agreement pending the ruling of the court on such application.

“(3) The court may enter such protective orders, consistent with the need of the authorized representative of the employee to evaluate the trustee’s proposal and the application for rejection, as may be necessary to prevent disclosure of information provided to such representative where such disclosure could compromise the position of the debtor with respect to its competitors in the industry in which it is engaged.

Confidentiality.

“(e) If during a period when the collective bargaining agreement continues in effect, and if essential to the continuation of the debtor’s business, or in order to avoid irreparable damage to the estate, the court, after notice and a hearing, may authorize the trustee to implement interim changes in the terms, conditions, wages, benefits, or work rules provided by a collective bargaining agreement. Any hearing under this paragraph shall be scheduled in accordance with the needs of the trustee. The implementation of such interim changes shall not render the application for rejection moot.

“(f) No provision of this title shall be construed to permit a trustee to unilaterally terminate or alter any provisions of a collective bargaining agreement prior to compliance with the provisions of this section.”

(b) The table of sections for chapter 11 of title 11, United States Code, is amended by inserting after the item relating to section 1112 the following new item:

“1113. Rejection of collective bargaining agreements.”

(c) The amendments made by this section shall become effective upon the date of enactment of this Act; provided that this section shall not apply to cases filed under title 11 of the United States Code which were commenced prior to the date of enactment of this section.

Effective date.
11 USC 1113 note.

SUBTITLE K—MISCELLANEOUS

SEC. 551. If any provision of this title or any amendment made by this title, or the application thereof to any person or circumstance is held invalid, the provisions of every other part, and their application shall not be affected thereby.

Provisions held invalid.
11 USC 101 note.

SEC. 552. Notwithstanding the provisions of section 8331(22) of title 5, United States Code, or any other provision of law, for purposes of section 8339(n) of title 5, United States Code, any individual appointed under section 34 of the Bankruptcy Act who served as a United States bankruptcy judge for the district of Oregon or for the Central district of California until March 31, 1984, shall receive an annuity computed with respect to his service as a referee in bankruptcy and as a bankruptcy judge, and his military service (not exceeding five years) creditable under section 8332 of

Ante, p. 343.

title 5, United States Code, by multiplying 2½ per centum of his average annual pay by the years of that service.

Effective
dates.
11 USC 101 note.

SEC. 553. (a) Except as otherwise provided in this section the amendments made by this title shall become effective to cases filed 90 days after the date of enactment of this Act.

(b) The amendments made by section 426(b) shall become effective upon the date of enactment of this Act.

Ante, p. 390.

(c) The amendments made by subtitle J, shall become effective as provided in section 541(c).

Approved July 10, 1984.

LEGISLATIVE HISTORY—H.R. 5174:

HOUSE REPORT No. 98-882 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 130 (1984):

Mar. 21, considered and passed House.

May 21-24, June 4, 5, 19, considered and passed Senate, amended.

June 29, House and Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 28 (1984):

July 10, *Presidential statement*.

Public Law 98-354
98th Congress

An Act

Allowing William R. Gianelli to continue to serve as a member of the Board of the Panama Canal Commission after his retirement as an officer of the Department of Defense.

July 10, 1984
[H.R. 5404]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of section 1102(a) of the Panama Canal Act of 1979 (22 U.S.C. 3612(a)), William R. Gianelli may continue to serve as the designee of the Secretary of Defense on the Board of the Panama Canal Commission after his retirement as an officer of the Department of Defense, until another officer of the Department of Defense is designated under section 1102(a) of the Panama Canal Act of 1979.

Approved July 10, 1984.

LEGISLATIVE HISTORY—H.R. 5404:

HOUSE REPORT No. 98-732 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 130 (1984):
May 14, considered and passed House.
June 28, considered and passed Senate.

Public Law 98-355
98th Congress

An Act

July 11, 1984
[H.R. 5950]

To increase the Federal contribution for the Quadrennial Political Party Presidential National Nominating Conventions.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Increased Payments for Presidential Nominating Conventions.

26 USC 9008. (a) IN GENERAL.—Paragraph (1) of section 9008(b) of the Internal Revenue Code of 1954 (relating to major parties) is amended by striking out “\$3,000,000” and inserting in lieu thereof “\$4,000,000”.

(b) TECHNICAL AMENDMENTS.—Paragraph (5) of section 9008(b) of such Code (relating to adjustment of entitlements) is amended—

(1) by striking out “section 320(b) and section 320(d)” and inserting in lieu thereof “section 315(b) and section 315(d)”; and

(2) by striking out “section 320(c)” and inserting in lieu thereof “section 315(c)”.

26 USC 9008
note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1984.

Approved July 11, 1984.

LEGISLATIVE HISTORY—H.R. 5950:

HOUSE REPORT No. 98-877, Pt. 1 (Comm. on Ways and Means).

CONGRESSIONAL RECORD, Vol. 130 (1984):

June 28, considered and passed House.

June 29, considered and passed Senate.

Public Law 98-356
98th Congress

Joint Resolution

To designate 1984 as the “Year of the St. Lawrence Seaway” and June 27, 1984, as “St. Lawrence Seaway Day”.

July 11, 1984
[H.J. Res. 567]

Whereas the Great Lakes have long been recognized as a valuable transportation resource by Americans and Canadians;

Whereas it was not until the opening of the St. Lawrence Seaway in 1959 that mid-continent North America was able to fully enjoy the economies and efficiencies inherent in deep-draft, waterborne commerce;

Whereas the St. Lawrence Seaway is a symbol of the thriving climate of constructive cooperation which exists between the United States and Canada;

Whereas, since the opening of the St. Lawrence Seaway in 1959, more than one billion metric tons of cargo have moved through the Seaway to the far reaches of the globe;

Whereas June 27, 1984, will mark the 25th anniversary of the dedication of the opening of the St. Lawrence Seaway to deep-draft navigation at the Dwight D. Eisenhower Lock, Massena, New York; and

Whereas it is appropriate to recognize, acknowledge, and proclaim the importance of the St. Lawrence Seaway to the economic well-being of mid-continent North America and the significance of the St. Lawrence Seaway-Great Lakes navigation system in the overall transportation network of the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) 1984 is designated as the “Year of the St. Lawrence Seaway”, and

(2) June 27, 1984, is designated as “St. Lawrence Seaway Day”.

The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such year and such day with appropriate ceremonies and activities.

Approved July 11, 1984.

LEGISLATIVE HISTORY—H.J. Res. 567:

CONGRESSIONAL RECORD, Vol. 130 (1984):

June 6, considered and passed House.

June 28, considered and passed Senate.

Public Law 98-357
98th Congress

An Act

To establish a boundary for the Black Canyon of the Gunnison National Monument, and for other purposes.

July 13, 1984
[H.R. 3825]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) The Congress finds that—

Conservation.
National Park
System.

(1) the Black Canyon of the Gunnison National Monument (hereafter in this Act referred to as the “Monument”) is an integral and widely recognized part of the national park system, and possesses outstanding recreational opportunities and natural characteristics of high value which, if properly managed, contribute as an enduring resource for the benefit of the American people;

(2) the preservation of these valuable resources is significantly threatened by increased development activity and the subdivision of adjacent private lands;

(3) the Monument does not have a boundary established by legislation; and

(4) it is in the best interest of the United States to establish the boundary of the Monument so as to encompass the lands described as being within the Monument and those private lands posing the most immediate threat to the visual quality of the area.

(b) The purpose of this Act is to establish a boundary for the Monument in order to promote, perpetuate, and preserve the character of the land and to preserve scenic and historic resources.

SEC. 2. (a) The boundary of the Monument shall be as generally depicted on the map entitled “Boundary Map, Black Canyon of the Gunnison National Monument”, dated February 1984, and numbered 144-80,010-B, which shall be on file and available for public inspection in the office of the Director, National Park Service, Department of the Interior and in the office of the Park Superintendent, Black Canyon of the Gunnison National Monument.

Public
availability.
16 USC 431 note.

(b) Not later than six months after the date of enactment of this Act, the Secretary of the Interior (hereinafter in this Act referred to as the “Secretary”) shall file a legal description of the revised boundary with the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. Such legal description shall have the same force and effect as if included in this Act, except that corrections of clerical and typographical errors in such legal description (and in the map referred to in subsection (a)) may be made. Such legal descriptions shall be on file and available for public inspection in the office of the Director, National Park Service, Department of the Interior.

SEC. 3. (a) The Secretary is authorized to acquire lands or interests therein within the boundary of the Monument by donation, exchange, or purchase with donated or appropriated funds. The Secre-

tary may acquire less than fee interests in such lands in cases where such interest will adequately protect the visual quality, natural, or cultural resources of the Monument: *Provided*, That the Secretary shall not acquire lands in fee interest unless the owner of such land concurs with such action.

(b) All lands under the administrative jurisdiction of the Secretary within the boundary of the Monument as of the date of enactment of this Act, shall be transferred to the administrative jurisdiction of the National Park Service to be administered as a part of the Monument.

(c) Upon request by a landowner, and if determined by the Secretary that such action would not be detrimental to the visual resources of the Monument, the Secretary shall permit as a condition of the acquisition of any less than fee interest in land under this Act—

(1) livestock grazing to continue at the levels and locations customarily exercised by the owner of such land prior to August 1, 1983, and

(2) commonly accepted operation and maintenance practices supporting livestock grazing to continue to be allowed, including the maintenance of domestic, livestock and agricultural water conveyance systems, and the construction and maintenance of required fencing and stock ponds.

(d) Subject to valid existing rights, federally owned lands and interests therein within the Monument are withdrawn from entry or appropriation under the mining laws of the United States, from the operation of the mineral leasing laws of the United States, from operation of the Geothermal Steam Act of 1970, and from disposition under the public land laws.

SEC. 4. The Secretary shall administer the Monument in accordance with the provisions of this Act and the provisions of law generally applicable to units of the National Park System including the Acts of August 25, 1916 (39 Stat. 535), and August 21, 1935 (49 Stat. 666).

SEC. 5. Effective October 1, 1984, there is hereby authorized to be appropriated to the Department of the Interior such sums as may be necessary to carry out the provisions of this Act.

Approved July 13, 1984.

30 USC 1001
note.

43 USC 1457.
16 USC 461.
Effective date.
Appropriation
authorization.

LEGISLATIVE HISTORY—H.R. 3825:

HOUSE REPORT No. 98-608 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 130 (1984):

Mar. 5, considered and passed House.
June 28, considered and passed Senate.

Public Law 98-358
98th Congress

An Act

Granting the consent of the Congress to an interstate compact for the preparation of a feasibility study for the development of a system of high-speed intercity rail passenger service.

July 13, 1984

[H.R. 4308]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress consents to the Interstate High Speed Intercity Rail Passenger Network Compact as participated in by the States of Illinois, Indiana, Michigan, Ohio, and Pennsylvania, which States have enacted such compact into law, and any other State which subsequently becomes a participant through enactment of the compact. Such compact is substantially as follows:

Illinois.
Indiana.
Michigan.
Ohio.
Pennsylvania.

“INTERSTATE HIGH SPEED INTERCITY RAIL PASSENGER
NETWORK COMPACT

“ARTICLE I—POLICY AND PURPOSE

“Because the beneficial service of and profitability of a high speed intercity rail passenger system would be enhanced by establishing such a system which would operate across state lines, it is the policy of the states party to this compact to cooperate and share jointly the administrative and financial responsibilities of preparing a feasibility study concerning the operation of such a system connecting major cities in Ohio, Indiana, Michigan, Pennsylvania, Illinois, West Virginia, and Kentucky.

West Virginia.
Kentucky.

“ARTICLE II—COOPERATION

“The states of Ohio, Indiana, Michigan, Pennsylvania, Illinois, West Virginia, and Kentucky, hereinafter referred to as participating states, agree to, upon adoption of this compact by the respective states, jointly conduct and participate in a high speed intercity rail passenger feasibility study by providing such information and data as is available and may be requested by a participating state or any consulting firms representing a participating state or the compact. It is mutually understood by the participating states that such information shall not include matters not of public record or of a nature considered to be privileged and confidential unless the state providing such information agrees to waive the confidentiality.

Public
availability.

“The participating states further agree to:

“(a) Make available to each other and to any consulting firm representing the member states or the compact such assistance as may be legal, proper and available, including but not limited to personnel, equipment, office space, machinery, computers, engineering and technical advice and services; and

Confidentiality.

“(b) Provide such financial assistance for the implementation of the feasibility study as may be legal, proper and available.

“ARTICLE III—INTERSTATE RAIL PASSENGER ADVISORY COUNCIL

“There is hereby created an interstate rail passenger advisory council, the membership of which shall consist of two representatives from each participating state. The members shall select designees who shall serve in the absence of the members. The advisory council shall meet within thirty days after ratification of this agreement by at least two participating states and establish rules for the conduct of the advisory council’s business.

“The advisory council shall coordinate all aspects of the high speed intercity rail passenger feasibility study relative to interstate connections and shall do all other things necessary and proper for the completion of the feasibility study.

“ARTICLE IV—EFFECTIVE DATE

“This compact shall become effective upon the adoption of the compact into law by two or more of the participating states. Thereafter, it shall enter into force and effect as to any other participating state upon the enactment thereof by such state.

“This compact shall continue in force with respect to a participating state and remain binding upon such state until six months after such state has given notice to each other participating state of the repeal thereof. Such withdrawal shall not be construed to relieve any participating state from any obligation incurred prior to the end of the state’s participation in the compact as provided herein.

“ARTICLE V—CONSTRUCTION AND SEVERABILITY

“This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States, or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of

any participating state, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.”.

SEC. 2. The two members from each State on the advisory council created under article III of the compact shall be selected in accordance with such State’s enacting legislation.

Approved July 13, 1984.

LEGISLATIVE HISTORY—H.R. 4308:

HOUSE REPORT No. 98-823 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 130 (1984):

June 19, considered and passed House.
June 28, considered and passed Senate.

Public Law 98-359
98th Congress

An Act

July 13, 1984
[H.R. 3922]

To establish a one-year limitation on the filing of claims for unpaid accounts formerly maintained in the Postal Savings System.

Postal Savings
System Statute
of Limitations
Act.
31 USC 1301
note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Postal Savings System Statute of Limitations Act".

SEC. 2. Section 1322(c) of title 31, United States Code, is amended to read as follows:

31 USC 1322.

"(c)(1) The Secretary of the Treasury shall hold in the Treasury trust fund receipt account 'Unclaimed Moneys of Individuals Whose Whereabouts Are Unknown' the balance remaining after the final distribution of unclaimed Postal Savings System deposits under subsection (a) of the first section of the Act of August 13, 1971 (Public Law 92-117; 85 Stat. 337). The Secretary shall use the balance to pay claims for Postal Savings System deposits without regard to the State law or the law of other jurisdictions of deposit concerning the disposition of unclaimed or abandoned property.

"(2) Necessary amounts may be appropriated without fiscal year limitation to the trust fund receipt account to pay claims for deposits when the balance in the account is not sufficient to pay the claims made within the time limitation set forth in paragraph (3) of this subsection.

Supra.

"(3) No claim for any Postal Savings System deposit may be brought more than one year from the date of the enactment of the Postal Savings System Statute of Limitations Act.

"(4) The United States Postal Service shall assist the Secretary of the Treasury in providing public notice of the time limitation set forth in paragraph (3) of this subsection by posting notices thereof in all post offices as soon as practicable after the date of the enactment of the Postal Savings System Statute of Limitations Act."

Approved July 13, 1984.

LEGISLATIVE HISTORY—H.R. 3922:

HOUSE REPORT No. 98-502, Pt. 1 (Comm. on the Judiciary).

SENATE REPORT No. 98-533 (Comm. on the Judiciary).

CONGRESSIONAL RECORD:

Vol. 129 (1983): Nov. 15, 16, considered and passed House.

Vol. 130 (1984): June 28, considered and passed Senate.

Public Law 98-360
98th Congress

An Act

Making appropriations for energy and water development for the fiscal year ending September 30, 1985, and for other purposes.

July 16, 1984

[H.R. 5653]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1985, for energy and water development, and for other purposes, namely:

TITLE I—DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

Rivers and
harbors.
Flood control.
Conservation.

The following appropriations shall be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for authorized civil functions of the Department of the Army pertaining to rivers and harbors, flood control, beach erosion, and related purposes.

GENERAL INVESTIGATIONS

For expenses necessary for the collection and study of basic information pertaining to river and harbor, flood control, shore protection, and related projects, restudy of authorized projects, miscellaneous investigations, and when authorized by law, surveys and detailed studies and plans and specifications of projects prior to construction, \$138,000,000, to remain available until expended.

CONSTRUCTION, GENERAL

For the prosecution of river and harbor, flood control, shore protection, and related projects authorized by laws; and detailed studies, and plans and specifications, of projects (including those for development with participation or under consideration for participation by States, local governments, or private groups) authorized or made eligible for selection by law (but such studies shall not constitute a commitment of the Government to construction), \$864,500,000, to remain available until expended, of which, for that increment of the project for beach erosion control, Sandy Hook to Barnegat Inlet, New Jersey, \$1,300,000 shall be made available for the Ocean Township to Sandy Hook reach with the first Federal construction increment being a berm of approximately 50 feet at Sea Bright and Monmouth Beach extending to and including a feeder beach in the vicinity of Long Branch with the non-Federal share of construction and maintenance of the Ocean Township to Sandy Hook reach to consist of moneys expended by non-Federal interests for reconstruction of the seawall at Sea Bright and Monmouth

New Jersey
shore.
South
Williamson, Ky.
Canaveral
Harbor, Fla.

Beach, New Jersey; and of which \$3,000,000 shall be made available for the construction of the South Williamson, Kentucky, floodwall as authorized by Public Law 96-367, section 202 (94 Stat. 1339); and of which \$3,000,000 shall be made available for the construction of the West Turning Basin extension of the Canaveral Harbor, Florida project, as authorized in the Rivers and Harbors Act of 1962; and in addition, notwithstanding any other provision of law, \$15,000,000, to remain available until expended, for the construction of the Yatesville Lake construction project; and in addition, \$10,000,000, to remain available until expended, for construction of the Elk Creek Lake construction project as authorized in the River and Harbor and Flood Control Act of 1962, Public Law 87-874; and in addition, \$500,000, to remain available until expended, for construction of Lock and Dam 3, Red River Waterway project, as authorized by law.

76 Stat. 1180.

76 Stat. 1180,
1198.

FLOOD CONTROL AND COASTAL EMERGENCIES

For expenses necessary for emergency flood control, hurricane, and shore protection activities, as authorized by section 5 of the Flood Control Act, approved August 18, 1941, as amended, \$25,000,000, to remain available until expended.

33 USC 701n.

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI, AND TENNESSEE

For expenses necessary for prosecuting work of flood control, and rescue work, repair, restoration, or maintenance of flood control projects threatened or destroyed by flood, as authorized by law (33 U.S.C. 702a, 702g-1), \$321,000,000, to remain available until expended: *Provided*, That not less than \$250,000 shall be available for bank stabilization measures as determined by the Chief of Engineers to be advisable for the control of bank erosion of streams in the Yazoo Basin, including the foothill area, and where necessary such measures shall complement similar works planned and constructed by the Soil Conservation Service and be limited to the areas of responsibility mutually agreeable to the District Engineer and the State Conservationist.

Yazoo Basin.

OPERATION AND MAINTENANCE, GENERAL

For expenses necessary for the preservation, operation, maintenance, and care of existing river and harbor, flood control, and related works, including such sums as may be necessary for the maintenance of harbor channels provided by a State, municipality or other public agency, outside of harbor lines, and serving essential needs of general commerce and navigation; administration of laws pertaining to preservation of navigable waters; surveys and charting of northern and northwestern lakes and connecting waters; clearing and straightening channels; and removal of obstructions to navigation, \$1,305,000,000, to remain available until expended, of which \$15,000,000, shall be for construction, operation, and maintenance of outdoor recreation facilities, to be derived from the special account established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 460l).

16 USC 460l-4
note.

GENERAL EXPENSES

For expenses necessary for general administration and related functions in the office of the Chief of Engineers and offices of the Division Engineers; activities of the Board of Engineers for Rivers and Harbors and the Coastal Engineering Research Board, \$112,000,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS

Appropriations in this title shall be available for expenses of attendance by military personnel at meetings in the manner authorized by 5 U.S.C. 4110, uniforms, and allowances therefor, as authorized by law (5 U.S.C. 5901-5902), and for printing, either during a recess or session of Congress, of survey reports authorized by law, and such survey reports as may be printed during a recess of Congress shall be printed, with illustrations, as documents of the next succeeding session of Congress; not to exceed \$2,000 for official reception and representation expenses; and during the current fiscal year the revolving fund, Corps of Engineers, shall be available for purchase (not to exceed 144 for replacement only) and hire of passenger motor vehicles.

GENERAL PROVISIONS, CORPS OF ENGINEERS

SEC. 101. None of the funds appropriated in this title, except as specifically contained herein, shall be used to alter, modify, dismantle, or otherwise change any project which is partially constructed but not funded for construction in this title.

SEC. 103. The authorization for the Eufaula Lake Project, Oklahoma, contained in the Rivers and Harbors Act of 1946 is hereby amended to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to plan, design, and construct bridges on Piney and Muddy Creeks to replace existing unsafe structures, at an estimated total Federal cost of \$1,700,000 and the State or political subdivision agrees to operate and maintain said improvements at their own expense.

Eufaula Lake
Project, Okla.
60 Stat. 634.

SEC. 104. The Secretary of the Army, acting through the Chief of Engineers, is authorized to review, in cooperation with the State of Florida, its political subdivision, agencies and instrumentalities thereof all previous published reports of the Chief of Engineers pertaining to shoreline erosion on the entire coast of Florida with a view to determining whether any modifications of the recommendations contained therein are advisable at this time, with particular reference to developing a comprehensive body of knowledge, information, and data on coastal area changes and processes.

Florida.

SEC. 105. The Secretary of the Army, acting through the Chief of Engineers, is hereby directed to deepen, at full Federal expense, the waterway within the marina facility at the Harbor Beach Harbor, Michigan project authorized by the River and Harbor Act of January 21, 1927, at a cost not to exceed \$450,000.

Harbor Beach
Harbor, Mich.

SEC. 106. The Secretary of the Army, acting through the Chief of Engineers, is hereby directed to construct and maintain, at full Federal expense, a breakwater access for recreational purposes at the Port Austin Harbor, Michigan project authorized by the River and Harbor Act of March 2, 1945, Public Law 14, Seventy-ninth Congress at an estimated cost of \$500,000.

44 Stat. 1010.
Port Austin
Harbor, Mich.

59 Stat. 10.

Summersville
Lake Project, W.
Va.

SEC. 107. Funds appropriated under any provision of law for the operation of the Summersville Lake, West Virginia Project shall be used to carry out all authorized project purposes of such project, including but not limited to whitewater recreation of the Gauley River downstream of such project.

Mauvaise Terre
Levee, Ill.

SEC. 108. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to undertake the necessary construction measures to increase the level of flood protection currently afforded by the Mauvaise Terre Levee, at and in the vicinity of Naples, Illinois, to a one hundred-year recurrence interval flood event.

Peoria Lake, Ill.
97 Stat. 1293.

SEC. 109. Section 1304 of the Supplemental Appropriations Act, 1984, Public Law 98-181, is amended by adding at the end thereof the following: "including a determination of the advisability of the preservation, enhancement, and rehabilitation of Peoria Lake in the vicinity of Peoria, Illinois, in the interest of recreation, fish and wildlife resources, environmental quality, and local and regional development."

Barbourville,
Ky.
97 Stat. 253.

SEC. 110. Flood control measures authorized by section 202 of the 1981 Energy and Water Development Appropriation Act involving high levees and floodwalls in urban areas should provide for a standard project flood level of protection for Barbourville, Kentucky.

Hurst, Tex.

SEC. 111. The Secretary of the Army, acting through the Chief of Engineers, is directed to construct the Lorean and Calloway Branches, Hurst, Texas, flood control projects under the authority of section 205 of the Flood Control Act of 1948, as amended, except that bridge and utility costs shall be at Federal expense.

62 Stat. 1182.

Miami Harbor,
Fla.
97 Stat. 247.

SEC. 112. The Secretary of the Army, acting through the Chief of Engineers, is directed to construct the Miami Harbor, Bay Front Park, Florida project under the authority of Public Law 98-50 except that the sheetpile foundation and utility trench for the Park's fountain and land fill necessary for Park development shall be at Federal expense.

Louisiana
World's Fair
exhibit.
97 Stat. 1292.
Savannah
Harbor, Ga.

SEC. 113. Section 1301 of Public Law 98-181 is amended by striking the amount "\$2,000,000" and inserting in lieu thereof the amount "\$3,000,000".

SEC. 114. Within available funds, channel widening and bends easing shall be accomplished at the Savannah Harbor, Georgia navigation channel in the vicinity of miles 11.6, 13.5, and 14.5 to allow for the free movement of vessels.

Real property.

SEC. 116. Subject to approval by the Committees on Appropriations, funds herein or hereafter provided may be used (1) to acquire improved real property or to acquire unimproved real property and construct or have constructed thereon an appropriate residence for the official use of Corps of Engineers Division Commanders in those areas where appropriate housing cannot otherwise be provided; and (2) to operate and maintain such property. Provisions of law and regulations applicable to the acquisition, operation, and maintenance of military housing shall not apply to housing acquired under this section.

York, Pa.

SEC. 117. The Corps of Engineers is authorized and directed to design and construct repairs to stabilize the existing levee at York, Pennsylvania, in the vicinity of the city's wastewater treatment plant, including, but not limited to placing drainage material and gabion protection along a 600-foot section of unstable levee, at a cost not to exceed \$200,000.

TITLE II—DEPARTMENT OF THE INTERIOR

Reclamation
projects.

BUREAU OF RECLAMATION

For carrying out the functions of the Bureau of Reclamation as provided in the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) and other Acts applicable to that Bureau as follows:

43 USC 371 note.

GENERAL INVESTIGATIONS

For engineering and economic investigations of proposed Federal reclamation projects and studies of water conservation and development plans and activities preliminary to the reconstruction, rehabilitation and betterment, financial adjustment, or extension of existing projects, to remain available until expended: *Provided*, That of the total appropriated, the amount \$35,566,000, for program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further*, That all costs of an advance planning study of a proposed project shall be considered to be construction costs and to be reimbursable in accordance with the allocation of construction costs if the project is authorized for construction: *Provided further*, That \$100,000 shall be made available to study the feasibility of a hydroelectric powerplant at the existing Yellowtail Afterbay Dam (Montana).

Yellowtail
Afterbay Dam,
Mont.
Study.

CONSTRUCTION PROGRAM

For construction and rehabilitation of projects and parts thereof (including power transmission facilities for Bureau of Reclamation use) and for other related activities as authorized by law, to remain available until expended, \$740,000,000, of which \$4,800,000 shall be available for the construction of fish passage facilities at Prosser Dam Passage authorized by the Act of June 12, 1948 (Public Law 80-629, 62 Stat. 382) and Roza Dam Passage authorized by the Act of March 10, 1934 (Public Law 73-121, 48 Stat. 401), of which \$163,503,000 shall be available for transfers to the Upper Colorado River Basin Fund authorized by section 5 of the Act of April 11, 1956 (43 U.S.C. 620d), and \$142,250,000 shall be available for transfers to the Lower Colorado River Basin Development Fund authorized by section 403 of the Act of September 30, 1968 (43 U.S.C. 1543): *Provided*, That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further*, That transfers to the Upper Colorado River Basin Fund and Lower Colorado River Basin Development Fund may be increased or decreased by transfers within the overall appropriation to this heading: *Provided further*, That the final point of discharge for the interceptor drain for the San Luis Unit shall not be determined until development by the Secretary of the Interior and the State of California of a plan, which shall conform with the water quality standards of the State of California as approved by the Administrator of the Environmental Protection Agency, to minimize any detrimental effect of the San Luis drainage waters: *Provided further*, That no part of the funds herein approved shall be available for construction or operation of facilities to prevent waters of Lake Powell from entering any national monument: *Provided further*, That of the amount herein

San Luis Unit,
Calif.Velarde
Community
Ditch Project, N.
Mex.

32 Stat. 388.
43 USC 371 note.

Garrison
Diversion Unit,
N. Dak.

36 Stat. 2448.

Twin Falls Co.,
Idaho.

appropriated, \$1,580,000 shall be available to enable the Secretary of the Interior to continue work on rehabilitating the Velarde Community Ditch Project, New Mexico, in accordance with the Federal Reclamation Laws (Act of June 17, 1902, 32 Stat. 788, and Acts amendatory thereof or supplementary thereto) for the purposes of diverting and conveying water to irrigated project lands. The principal features of the project shall consist of improvements such as the installation of more permanent diversion dams and headgates, wasteways, arroyo siphons, and concrete lining of ditches in order to improve irrigation efficiency, conserve water, and reduce operation and maintenance costs. The cost of the rehabilitation will be non-reimbursable and constructed features will be turned over to the appropriate entity for operation and maintenance: *Provided further*, That the design, construction and operation of the Garrison Diversion Unit are to be accomplished so as to meet the United States obligations under the Boundary Waters Treaty of 1909 and that no appropriation, fund, or authority under this heading shall be used for construction of features of the Garrison Diversion Unit in North Dakota affecting waters flowing into Canada: *Provided further*, That of the amount herein appropriated not to exceed \$20,000 shall be available to continue a rehabilitation and betterment program with the Twin Falls Canal Company, Twin Falls County, Idaho, to rehabilitate facilities under the Act of October 7, 1919 (63 Stat. 724), as amended, to be repaid in full by the lands served and under conditions satisfactory to the Secretary of the Interior.

OPERATION AND MAINTENANCE

Boulder Canyon
Project.

For operation and maintenance of reclamation projects or parts thereof and other facilities, as authorized by law; and for a soil and moisture conservation program on lands under the jurisdiction of the Bureau of Reclamation, pursuant to law, to remain available until expended, \$149,689,000: *Provided*, That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further*, That of the total appropriated, such amounts as may be required for the Boulder Canyon Project shall be derived from the Colorado River Dam Fund and such amounts as may be required for replacement, which would require readvances to the Colorado River Dam Fund under section 5 of the Boulder Canyon Project Adjustment Act of July 19, 1940 (43 U.S.C. 618d), are to be considered as though readvanced under said section: *Provided further*, That funds advanced by water users for operation and maintenance of reclamation projects or parts thereof shall be deposited to the credit of this appropriation and may be expended for the same objects and in the same manner as sums appropriated herein may be expended, and such advances shall remain available until expended: *Provided further*, That nonreimbursable funds will be available from revenues for performing examination of existing structures on participating projects of the Colorado River Storage Project.

LOAN PROGRAM

For loans to irrigation districts and other public agencies for construction of distribution systems on authorized Federal reclamation projects, and for loans and grants to non-Federal agencies for construction of projects, as authorized by the Acts of July 4, 1955, as

amended (43 U.S.C. 421a-421d), and August 6, 1956, as amended (43 U.S.C. 422a-422k), including expenses necessary for carrying out the program, \$67,537,000, to be derived from the reclamation fund and to remain available until expended: *Provided*, That during fiscal year 1985 and within the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed \$68,500,000: *Provided further*, That any contract under the Act of July 4, 1955 (69 Stat. 244), as amended, not yet executed by the Secretary, which calls for the making of loans beyond the fiscal year in which the contract is entered into shall be made only on the same conditions as those prescribed in section 12 of the Act of August 4, 1939 (53 Stat. 1187, 1197).

43 USC 421a.

43 USC 388.

GENERAL ADMINISTRATIVE EXPENSES

For necessary expenses of general administration and related functions in the offices of the Commissioner of the Bureau of Reclamation and in the regional offices of the Bureau of Reclamation, \$58,917,000, of which \$11,900,000, shall remain available until expended, the total amount to be derived from the reclamation fund and to be nonreimbursable pursuant to the Act of April 19, 1945 (43 U.S.C. 377): *Provided*, That no part of any other appropriation in this Act shall be available for activities or functions budgeted for the current fiscal year as general administrative expenses.

EMERGENCY FUND

For an additional amount for the "Emergency fund", as authorized by the Act of June 26, 1948 (43 U.S.C. 502), as amended, to remain available until expended for the purposes specified in said Act, \$1,000,000, to be derived from the reclamation fund.

SPECIAL FUNDS

Sums herein referred to as being derived from the reclamation fund, the Colorado River Dam fund, or the Colorado River development fund, are appropriated from the special funds in the Treasury created by the Act of June 17, 1902 (43 U.S.C. 391), and the Act of December 21, 1928 (43 U.S.C. 617a), and the Act of July 19, 1940 (43 U.S.C. 618a), respectively. Such sums shall be transferred, upon request of the Secretary, to be merged with and expended under the heads herein specified; and the unexpended balances of sums transferred for expenditure under the head "General Administrative Expenses" shall revert and be credited to the special fund from which derived.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Reclamation shall be available for purchase of not to exceed 16 passenger motor vehicles of which 13 shall be for replacement only; purchase of one additional aircraft; payment of claims for damages to or loss of property, personal injury, or death arising out of activities of the Bureau of Reclamation; payment, except as otherwise provided for, of compensation and expenses of persons on the rolls of the Bureau of Reclamation appointed as authorized by law to represent the United States in the negotiations and administration of interstate compacts without reimbursement or return under the reclamation laws; for service as

58 Stat. 487.

authorized by section 3109 of title 5, United States Code, in total not to exceed \$500,000; rewards for information or evidence concerning violations of law involving property under the jurisdiction of the Bureau of Reclamation; performance of the functions specified under the head "Operation and Maintenance Administration", Bureau of Reclamation, in the Interior Department Appropriations Act, 1945; preparation and dissemination of useful information including recordings, photographs, and photographic prints; and studies of recreational uses of reservoir areas, and investigation and recovery of archeological and paleontological remains in such areas in the same manner as provided for in the Acts of August 21, 1935 (16 U.S.C. 461-467) and June 27, 1960 (16 U.S.C. 469): *Provided*, That no part of any appropriation made herein shall be available pursuant to the Act of April 19, 1945 (43 U.S.C. 377), for expenses other than those incurred on behalf of specific reclamation projects except "General Administrative Expenses" and amounts provided for plan formulation and advance planning investigations, and general engineering and research under the head "General Investigations".

Sums appropriated herein which are expended in the performance of reimbursable functions of the Bureau of Reclamation shall be returnable to the extent and in the manner provided by law.

No part of any appropriation for the Bureau of Reclamation, contained in this Act or in any prior Act, which represents amounts earned under the terms of a contract but remaining unpaid, shall be obligated for any other purpose, regardless of when such amounts are to be paid: *Provided*, That the incurring of any obligation prohibited by this paragraph shall be deemed a violation of section 3679 of the Revised Statutes, as amended (31 U.S.C. 1341).

43 USC 377a.

No funds appropriated to the Bureau of Reclamation for operation and maintenance, except those derived from advances by water users, shall be used for the particular benefits of lands (a) within the boundaries of an irrigation district, (b) of any member of a water users' organization, or (c) of any individual when such district, organization, or individual is in arrears for more than twelve months in the payment of charges due under a contract entered into with the United States pursuant to laws administered by the Bureau of Reclamation.

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

Emergency funds.

SEC. 201. Appropriations in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities, or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: *Provided*, That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted.

Fire control.

SEC. 202. The Secretary may authorize the expenditure or transfer (within each bureau or office) of any appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under jurisdiction of the Department of the Interior.

SEC. 203. Appropriations in this title shall be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency, or economy,

and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by the Act of June 30, 1932 (31 U.S.C. 686): *Provided*, That reimbursements for costs of supplies, materials, equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

31 USC 1535,
1536.

SEC. 204. Appropriations in this title shall be available for hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchases of reprints; payment for telephone services in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library membership in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members.

SEC. 205. The cost of foundation treatment, drainage, and instrumentation work planned or under way at Twin Buttes Dam, Texas, shall be nonreimbursable under Federal reclamation laws.

Twin Buttes
Dam, Tex.

SEC. 206. The cost of foundation treatment, drainage, and instrumentation work planned or underway at Foss Dam, Oklahoma, shall be nonreimbursable and nonreturnable under the Federal reclamation law.

Foss Dam, Okla.

SEC. 207. (a) It is the sense of Congress that—

Garrison
Diversion Unit,
N. Dak.

(1) the Garrison Diversion Unit was authorized by Congress and reflects the entitlement of the State of North Dakota to a federally funded water development program as compensation for North Dakota's contributions to the Pick-Sloan Missouri Basin program;

(2) there is a need to put to beneficial use water from the Missouri River within the State of North Dakota;

(3) there are municipal and industrial water resource problems in North Dakota that are presently unmet;

(4) there are irrigation and agricultural water needs in areas which cannot be met by the Garrison Diversion Unit as presently authorized;

(5) the Garrison Diversion Unit, as presently authorized, raises significant issues of economic, environmental, and international concern;

(6) the water needs of the State of North Dakota should be resolved by contemporary water development alternatives; and

(7) a Secretarial commission should be established to examine the water needs of North Dakota and propose development alternatives which will lead to the early resolution of the problems identified.

(b) No funds appropriated under this title for the Garrison Diversion Unit, Pick-Sloan Missouri Basin program, shall be expended or committed for expenditure on construction contracts prior to December 31, 1984. Notwithstanding the preceding sentence, funds appropriated may be expended or committed for expenditure for the work associated with the commission established by this section. Funds may be expended or committed for expenditure after such date for construction of the Garrison Diversion Unit—

(1) in accordance with the recommendations of the Secretarial commission established under subsection (c); or

(2) if the commission fails to make such recommendations, as presently authorized.

(c)(1) The Secretary of the Interior shall, within thirty days after the date of enactment of this section, appoint a commission, com-

posed of 12 individuals, to review the contemporary water development needs of the State of North Dakota and propose modifications to the Garrison Diversion Unit consistent with the existing authorization. The Secretary shall designate one member who shall serve as chairman of the commission who shall set the dates of hearings, meetings, and other official commission functions in carrying out the purposes of this section. The commission, in developing its recommendations, shall hold no fewer than three public hearings, at least two of which shall be in the State of North Dakota. Any recommendations of the commission shall be agreed to by at least 8 members. The commission shall cease to exist on December 31, 1984.

(2) The commission is directed to examine, review, evaluate, and make recommendations with regard to the contemporary water development needs of the State of North Dakota, taking into consideration—

(A) the costs and benefits incurred and opportunities foregone by the State of North Dakota between 1944 and 1984 as a result of the establishment and implementation of the Pick-Sloan Missouri Basin program;

(B) the need and potential for North Dakota to put to beneficial use within the State water from the Missouri River;

(C) the need for construction of additional facilities to put to beneficial use water from the Missouri River;

(D) the municipal and industrial water needs and development potential within the State of North Dakota, including such matters as—

(i) quality of water supply,

(ii) the ability of existing systems to meet present and future demand,

(iii) related groundwater problems,

(iv) water treatment,

(v) water delivery by pipeline, and

(vi) instream flow needs;

(E) the possible use of groundwater recharge for municipal and industrial uses, as well as irrigation;

(F) the current North Dakota water plan, including proposed projects, to determine if elements of the plan (such as the southwest pipeline project) should be recommended for Federal funding;

(G) whether or not the Garrison Diversion Unit can be redesigned and reformulated;

(H) the institutional and tax equity issues in the State of North Dakota as they relate to the authorized project and alternative water development proposals;

(I) the fiscal and economic impacts of the Garrison Diversion Unit, as compared with alternative proposals for irrigation and municipal and industrial water supply;

(J) the environmental impacts of the water development alternatives mentioned in this section, compared with those of the Garrison Diversion Unit, including impacts on wildlife refuges, wetlands, wildlife habitat, waterfowl, and other environmental impacts as well as make recommendations to reduce and minimize those impacts; and

(K) the international impacts of the water development alternatives described in this section compared with those of the Garrison Diversion Unit and make recommendations to reduce and minimize those impacts.

All recommendations of the commission shall retain the originally authorized discount rate.

(3) The commission shall submit to the Secretary of the Interior, the chairmen of the Senate Committees on Energy and Natural Resources and Appropriations, and the House Committees on Interior and Insular Affairs and Appropriations, no later than December 31, 1984, a report which contains the conclusions and recommendations of the commission with regard to the items described in paragraph (2).

Report.

(d) The Secretary of the Interior is authorized and directed to implement the recommendations of the commission report consistent with existing authority.

(e) Nothing in this section shall affect any litigation initiated prior to June 1, 1984.

TITLE III—DEPARTMENT OF ENERGY

Energy.

ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES

(INCLUDING TRANSFER OF FUNDS)

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for energy supply, research and development activities and other activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 19 for replacement only), \$2,018,165,000, to remain available until expended; of which \$60,000,000 shall be derived by transfer from Uranium Supply and Enrichment Activities provided in fiscal year 1984, and of which \$7,000,000 shall be available to establish a supercomputer center and computational institute as described in the report accompanying this Act; and acquisition of one aircraft for replacement only at no cost by transfer from the National Science Foundation.

42 USC 7101
note.

URANIUM SUPPLY AND ENRICHMENT ACTIVITIES

For expenses of the Department of Energy in connection with operating expenses; the purchase, construction, and acquisition of plant and capital equipment and other expenses incidental thereto necessary for uranium supply and enrichment activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 171 of which 154 are for replacement only); \$1,650,300,000, to remain available until expended: *Provided*, That revenues received by the Department for the enrichment of uranium and estimated to total \$1,650,300,000 in fiscal year 1985, shall be retained and used for the specific purpose of offsetting costs incurred by the Department in providing uranium enrichment service activities as authorized by section 201 of Public Law 95-238, notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484): *Provided further*, That the sum herein appropri-

42 USC 5821.

31 USC 3302.

ated shall be reduced as uranium enrichment revenues are received during fiscal year 1985 so as to result in a final fiscal year 1985 appropriation estimated at not more than \$0.

GENERAL SCIENCE AND RESEARCH ACTIVITIES

42 USC 7101
note.

For expenses of the Department of Energy, activities including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for general science and research activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 4 for replacement only); \$726,905,000, to remain available until expended.

NUCLEAR WASTE DISPOSAL FUND

42 USC 10101
note.

For nuclear waste disposal activities to carry out the purposes of Public Law 97-425, including the acquisition of real property or facility construction or expansion, \$327,669,000, to remain available until expended, to be derived from the Nuclear Waste Fund. To the extent that balances in the fund are not sufficient to cover amounts available for obligation in this account, the Secretary shall exercise his authority pursuant to section 302(e)(5) to issue obligations to the Secretary of the Treasury.

42 USC 10222.

ATOMIC ENERGY DEFENSE ACTIVITIES

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for atomic energy defense activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 354 of which 339 are for replacement only) including 35 police-type vehicles; and purchase of one aircraft, \$7,333,701,000, to remain available until expended.

DEPARTMENTAL ADMINISTRATION

For salaries and expenses of the Department of Energy necessary for Departmental Administration and other activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the hire of passenger motor vehicles and official reception and representation expenses (not to exceed \$35,000); \$356,034,000, all of which is available for fiscal year 1985 and shall remain available until expended, plus such additional amounts as necessary to cover increases in the estimated amount of cost of work for others notwithstanding the provisions of the Anti-Deficiency Act (31 U.S.C. 1511 et seq.): *Provided*, That such increases in cost of work are offset by revenue increases of the same or greater amount, to remain available until expended: *Provided further*, That moneys received by the Department for miscellaneous revenues estimated to total \$219,459,000 in fiscal year 1985 may be retained and used for operating expenses within this account, and may

remain available until expended, as authorized by section 201 of Public Law 95-238, notwithstanding the provisions of section 3302 of title 31, United States Code: *Provided further*, That the sum herein appropriated shall be reduced by the amount of miscellaneous revenues received during fiscal year 1985 so as to result in a final fiscal year 1985 appropriation estimated at not more than \$136,575,000.

42 USC 5821.

POWER MARKETING ADMINISTRATIONS

OPERATION AND MAINTENANCE, ALASKA POWER ADMINISTRATION

For engineering and economic investigations to promote the development and utilization of the water, power, and related resources of Alaska, and for necessary expenses of operation and maintenance of projects in Alaska and of marketing electric power and energy, \$3,233,000, to remain available until expended.

BONNEVILLE POWER ADMINISTRATION FUND

Expenditures from the Bonneville Power Administration Fund, established pursuant to Public Law 93-454, are provided for Three Mile Dam Fish Passage Facilities, Sunnyside Dam Passage, Wapato Diversion Dam Passage, Toppenish Creek/Satus Unit Diversion, Prosser Dam Passage, and Roza Dam Passage. These expenditures and the transfer of funds to the Bureau of Reclamation for the purpose of constructing fish passage facilities are approved. Expenditures are also approved for: (1) Lake Pend Oreille Kokanee Hatchery, (2) the Umatilla Hatchery, and (3) official reception and representation expenses in an amount not to exceed \$2,500.

Fish and
fishing.
16 USC 838 note.

During fiscal year 1985, and within the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed \$40,000,000.

OPERATION AND MAINTENANCE, SOUTHEASTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy pursuant to the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southeastern power area, \$35,744,000, to remain available until expended.

OPERATION AND MAINTENANCE, SOUTHWESTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, and for construction and acquisition of transmission lines, substations and appurtenant facilities, and for administrative expenses connected therewith, in carrying out the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southwestern power area, \$31,208,000, to remain available until expended.

**CONSTRUCTION, REHABILITATION, OPERATION AND MAINTENANCE,
WESTERN AREA POWER ADMINISTRATION**

42 USC 7152.

Boulder Canyon
Project.
16 USC 837g-1.
16 USC 837g.

Navy
geothermal
projects, Fallon,
Nev.

For carrying out the functions authorized by title III, section 302(a)(1)(E) of the Act of August 4, 1977 (Public Law 95-91), and other related activities including conservation and renewable resources programs as authorized, including official reception and representation expenses in an amount not to exceed \$1,500, the purchase of passenger motor vehicles (not to exceed nine for replacement only), purchase, maintenance, and operation of one helicopter, \$218,230,000, to remain available until expended, of which \$217,380,000 shall be derived from the Department of the Interior Reclamation fund and \$850,000 shall be derived from the Colorado River Dam fund for power marketing and transmission expenses of the Boulder Canyon Project: *Provided*, That notwithstanding the provisions of section 8 of Public Law 88-552, the Secretary of Energy is authorized to construct or participate in the construction of such additional facilities as he deems necessary to allow mutually beneficial power sales between the Pacific Northwest and California and to accept funds contributed by non-Federal entities for that purpose: *Provided further*, That all revenues collected in connection with the operation of Navy Geothermal projects at Fallon, Nevada, may be credited to a separate fund, to be established in the treasury of the United States, and shall be available to the Secretary of Energy, without further appropriation, for payment of energy costs, contract administration costs, and the design, construction, operation, maintenance and replacement, and administrative costs of all required transmission facilities and power marketing activities directly associated with the Fallon, Nevada Navy Geothermal projects.

EMERGENCY FUND, WESTERN AREA POWER ADMINISTRATION

For the "Emergency Fund", as authorized by the Act of June 16, 1948 (43 U.S.C. 502), to remain available until expended for the purposes specified in that Act, \$500,000, on a continuing basis to be recovered from the Reclamation Fund against receipts for the transmission and sale of electric power and energy which are deposited into the Treasury through Western Area Power Administration which shall be available for transfer to the Western Emergency Fund: *Provided*, That expenditures from the Western Emergency Fund shall be replenished from project power revenues for which funds were expended on an emergency basis.

FEDERAL ENERGY REGULATORY COMMISSION

SALARIES AND EXPENSES

42 USC 7101
note.

31 USC 3302.

For necessary expenses of the Federal Energy Regulatory Commission to carry out the provisions of the Department of Energy Organization Act (Public Law 95-91), including services as authorized by 5 U.S.C. 3109, including the hire of passenger motor vehicles; official reception and representation expenses (not to exceed \$1,500); \$95,677,000, of which \$4,000,000 shall remain available until expended and be available only for contractual activities: *Provided*, That notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484), revenues from licensing fees, inspection services, and other services and collections estimated at \$60,000,000

in fiscal year 1985 may be retained and used for necessary expenses in this account, and may remain available until expended: *Provided further*, That the sum herein appropriated shall be reduced as revenues are received during fiscal year 1985, so as to result in a final fiscal year 1985 appropriation estimated at not more than \$35,677,000.

GEOHERMAL RESOURCES DEVELOPMENT FUND

For carrying out the Loan Guarantee and Interest Assistance Program as authorized by the Geothermal Energy Research, Development and Demonstration Act of 1974, as amended, \$121,000, to remain available until expended: *Provided*, That the indebtedness guaranteed or committed to be guaranteed through funds provided by this or any other appropriation Act shall not exceed the aggregate of \$500,000,000.

30 USC 1101
note.

GENERAL PROVISIONS, DEPARTMENT OF ENERGY

SEC. 301. Appropriations for the Department of Energy under this title for the current fiscal year shall be available for hire of passenger motor vehicles; hire, maintenance and operation of aircraft; purchase, repair and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services. From these appropriations, transfers of sums may be made to other agencies of the United States Government for the performance of work for which this appropriation is made. None of the funds made available to the Department of Energy under this Act shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriation Act. The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private, or foreign.

(TRANSFERS OF UNEXPENDED BALANCES)

SEC. 302. Not to exceed 5 per centum of any appropriations made available for the current fiscal year for Department of Energy activities funded in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise provided, shall be increased or decreased by more than 5 per centum by any such transfers, and any such proposed transfers shall be submitted promptly to the Committees on Appropriations of the House and Senate.

(TRANSFERS OF UNEXPENDED BALANCES)

SEC. 303. The unexpended balances of prior appropriations provided for activities covered in this Act may be transferred to appropriation accounts for such activities established pursuant to this title. Balances so transferred may be merged with funds in the applicable established accounts and thereafter may be accounted for as one fund for the same time period as originally enacted.

SEC. 304. The expenditure of any appropriation under this Act for any consulting service through procurement contract pursuant to section 3109 of title 5, United States Code, shall be limited to those

Contracts with
U.S.

contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 305. None of the funds in the Department of Energy shall be used to pay the expenses of, or otherwise compensate, parties intervening in regulatory or adjudicatory proceedings funded in the Department of Energy.

30 USC 1141 *et seq.*

Report.

SEC. 307. For carrying out activities authorized by title II of Public Law 93-410 the Department of Energy is authorized to transfer no more than \$25,000,000 to the Geothermal Resources Development Fund from unobligated balances within the Uranium Supply and Enrichment Activities account: *Provided*, That such transfer shall be reported promptly to the Committees on Appropriations of the House and Senate. The amount authorized to be transferred by this provision is in addition to the authority provided in section 302 of this Act.

Science and technology.

SEC. 308. Of the funds appropriated for Energy Supply, Research and Development Activities under this Act, \$2,000,000 shall be available until expended to further domestic technology transfer by facilitating access to data within the national laboratories, including the use of supercomputers.

TITLE IV—INDEPENDENT AGENCIES

APPALACHIAN REGIONAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Cochairman and the alternate on the Appalachian Regional Commission and for payment of the Federal share of the administrative expenses of the Commission, including services as authorized by section 3109 of title 5, United States Code, and hire of passenger motor vehicles, \$2,300,000.

FUNDS APPROPRIATED TO THE PRESIDENT

APPALACHIAN REGIONAL DEVELOPMENT PROGRAMS

Highways.

40 USC app. 1.

40 USC app. 105.

For expenses necessary to carry out the programs authorized by the Appalachian Regional Development Act of 1965, as amended, except expenses authorized by section 105 of said Act, including services as authorized by section 3109 of title 5, United States Code, and hire of passenger motor vehicles, to remain available until expended, \$149,000,000 of which \$100,000,000 shall be available for the Appalachian Development Highway System.

DELAWARE RIVER BASIN COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out the functions of the United States member of the Delaware River Basin Commission, as authorized by law (75 Stat. 716), \$172,000.

CONTRIBUTION TO DELAWARE RIVER BASIN COMMISSION

For payment of the United States share of the current expenses of the Delaware River Basin Commission, as authorized by law (75 Stat. 706, 707), \$283,000.

INTERSTATE COMMISSION ON THE POTOMAC RIVER BASIN

CONTRIBUTION TO INTERSTATE COMMISSION ON THE POTOMAC RIVER
BASIN

To enable the Secretary of the Treasury to pay in advance to the Interstate Commission on the Potomac River Basin the Federal contribution toward the expenses of the Commission during the current fiscal year in the administration of its business in the conservancy district established pursuant to the Act of July 11, 1940 (54 Stat. 748), as amended by the Act of September 25, 1970 (Public Law 91-407), \$70,000.

33 USC 567b,
567b-1.

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974, as amended, and the Atomic Energy Act, as amended, including the employment of aliens; services authorized by 5 U.S.C. 3109; publication and dissemination of atomic information; purchase, repair, and cleaning of uniforms; official representation expenses (not to exceed \$3,000); reimbursements to the General Services Administration for security guard services; hire of passenger motor vehicles and aircraft, \$448,200,000, to remain available until expended: *Provided*, That from this appropriation, transfer of sums may be made to other agencies of the Government for the performance of the work for which this appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred: *Provided further*, That moneys received by the Commission for the cooperative nuclear safety research program and the material access authorization program may be retained and used for salaries and expenses associated with those programs, notwithstanding the provisions of section 3302 of title 31, United States Code, and shall remain available until expended.

42 USC 5801
note.
42 USC 2011
note.

SUSQUEHANNA RIVER BASIN COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out the functions of the United States member of the Susquehanna River Basin Commission, as authorized by law (84 Stat. 1541), \$167,000.

CONTRIBUTION TO SUSQUEHANNA RIVER BASIN COMMISSION

For payment of the United States share of the current expense of the Susquehanna River Basin Commission, as authorized by law (84 Stat. 1530, 1531), \$230,000.

TENNESSEE VALLEY AUTHORITY

TENNESSEE VALLEY AUTHORITY FUND

16 USC 831 *et*
seq.

97 Stat. 49.
16 USC 1250.

For the purpose of carrying out the provisions of the Tennessee Valley Authority Act of 1933, as amended (16 U.S.C., ch. 12A), including purchase, hire, maintenance, and operation of aircraft, and purchase and hire of passenger motor vehicles, and for entering into contracts and making payments under section 11 of the National Trails System Act, as amended, \$129,547,000, to remain available until expended, of which \$9,547,000 shall be derived from prior year unobligated balances in the Tennessee Valley Authority Fund: *Provided*, That this appropriation and other moneys available to the Tennessee Valley Authority may be used for payment of the allowances authorized by 5 U.S.C. 5948.

TITLE V—GENERAL PROVISIONS

SEC. 501. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 502. None of the funds in this Act shall be used to pay the expenses of, or otherwise compensate, parties intervening in regulatory or adjudicatory proceedings funded in this Act.

Contracts with
U.S.

SEC. 503. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

Regulations.

SEC. 504. None of the funds in this Act shall be used to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

Contracts with
U.S.

SEC. 505. None of the funds appropriated in this Act shall be used to implement a program of retention contracts for senior employees of the Tennessee Valley Authority.

Study.

SEC. 506. Notwithstanding any other provision of this Act or any other provision of law, none of the funds made available under this Act or any other law shall be used for the purposes of conducting any studies relating or leading to the possibility of changing from the currently required "at cost" to a "market rate" or any other non-cost-based method for the pricing of hydroelectric power by the six Federal public power authorities, or other agencies or authorities

of the Federal Government, except as may be specifically authorized by Act of Congress hereafter enacted.

Approved July 16, 1984.

LEGISLATIVE HISTORY—H.R. 5653:

HOUSE REPORTS: No. 98-755 (Comm. on Appropriations) and No. 98-866 (Comm. of Conference).

SENATE REPORT No. 98-502 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 130 (1984):

May 22, considered and passed House.

June 21, considered and passed Senate, amended.

June 27, House agreed to conference report; concurred in certain Senate amendments and in others with amendments. Senate agreed to conference report and concurred in House amendments.

Public Law 98-361
98th Congress

An Act

July 16, 1984
[H.R. 5154]National
Aeronautics
and Space
Administration
Authorization
Act, 1985.

To authorize appropriations to the National Aeronautics and Space Administration for research and development, space flight, control and data communications, construction of facilities, and research and program management, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Aeronautics and Space Administration Authorization Act, 1985".

TITLE I—AUTHORIZATIONS OF APPROPRIATIONS

SEC. 101. There is hereby authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1984:

(a) For "Research and development", for the following programs:

- (1) Space transportation capability development, \$351,400,000;
- (2) Space station, \$150,000,000
- (3) Physics and astronomy, \$696,200,000;
- (4) Life sciences, \$63,300,000;
- (5) Planetary exploration, \$296,900,000;
- (6) Space applications, \$390,100,000 of which \$45,000,000 is authorized only for the Advanced Communications Technology Satellite flight program which is designed to lead to a launch of such satellite no later than 1989;
- (7) Technology utilization, \$9,500,000;
- (8) Aeronautical research and technology, \$352,400,000, of which \$24,000,000 is authorized only for activities which are designed to lead to a flight test of a single rotation or counter rotation turboprop concept no later than 1987 (and for supporting research and technology);
- (9) Space research and technology, \$150,000,000; and
- (10) Tracking and data advanced systems, \$15,300,000.

(b) For "Space flight, control and data communications", for the following programs:

- (1) Space shuttle production and operational capability, \$1,470,600,000;
- (2) Space transportation operations, \$1,319,000,000; and
- (3) Space and ground network, communications and data systems, \$795,700,000.

(c) Except as provided in section 102(a), for "Construction of facilities", including land acquisition, as follows:

- (1) Repairs to test stand 500, George C. Marshall Space Flight Center, \$1,600,000;
- (2) Space shuttle facilities at various locations as follows:
 - (A) Modifications of site electrical substation, Lyndon B. Johnson Space Center, \$3,200,000;
 - (B) Modification for single engine testing, National Space Technology Laboratories, \$3,000,000;

(C) Construction of launch complex 39 logistics facility, John F. Kennedy Space Center, \$10,000,000;

(D) Construction of solid rocket booster assembly and refurbishment facility, John F. Kennedy Space Center, \$15,000,000;

(3) Space shuttle payload facilities at various locations as follows:

(A) Construction of additions to cargo hazardous servicing facility, John F. Kennedy Space Center, \$4,600,000;

(B) Construction of biomedical research facility, Ames Research Center, \$2,100,000;

(4) Construction of addition to network control center, Goddard Space Flight Center, \$2,200,000;

(5) Construction of Earth and space science laboratory, Jet Propulsion Laboratory, \$12,200,000;

(6) Construction of numerical aerodynamic simulation facility, Ames Research Center, \$11,500,000;

(7) Modifications of the 8-foot high temperature tunnel, Langley Research Center, \$13,800,000;

(8) Construction of 34-meter antenna, Madrid, Spain, \$6,000,000;

(9) Modifications of 64-meter antenna, DSS-63, Madrid, Spain, \$7,800,000;

(10) Repair of facilities at various locations, not in excess of \$750,000 per project, \$20,000,000;

(11) Rehabilitation and modification of facilities at various locations, not in excess of \$750,000 per project, \$25,000,000;

(12) Minor construction of new facilities and additions to existing facilities at various locations, not in excess of \$500,000 per project, \$5,000,000; and

(13) Facility planning and design not otherwise provided for, \$12,000,000.

(d)(1) For "Research and program management", \$1,316,000,000, and such additional or supplemental amounts as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law.

(2) Of the funds authorized under paragraph (1) \$1,000,000 shall be available for the activities of the National Commission on Space, established pursuant to title II of this Act.

(e) Notwithstanding the provisions of subsection (h), appropriations hereby authorized for "Research and development" and "Space flight, control and data communications" may be used (1) for any items of a capital nature (other than acquisition of land) which may be required at locations other than installations of the Administration for the performance of research and development contracts, and (2) for grants to nonprofit institutions of higher education, or to nonprofit organizations whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities; and title to such facilities shall be vested in the United States unless the Administrator determines that the national program of aeronautical and space activities will best be served by vesting title in any such grantee institution or organization. Each such grant shall be made under such conditions as the Administrator shall determine to be required to insure that the United States will receive therefrom benefit adequate to justify the making of that grant. None of the funds appropriated for "Research and development" and "Space flight, control and data

Grants.

communications” pursuant to this Act may be used in accordance with this subsection for the construction of any major facility, the estimated cost of which, including collateral equipment, exceeds \$500,000, unless the Administrator or the Administrator’s designee has notified the Speaker of the House of Representatives and the President of the Senate and the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate of the nature, location, and estimated cost of such facility.

42 USC 2459a.

(f) When so specified and to the extent provided in an appropriation Act, (1) any amount appropriated for “Research and development,” for “Space flight, control and data communications” or for “Construction of facilities” may remain available without fiscal year limitation, and (2) maintenance and operation of facilities, and support services contracts may be entered into under the “Research and program management” appropriation for periods not in excess of twelve months beginning at any time during the fiscal year.

(g) Appropriations made pursuant to subsection (d) may be used, but not to exceed \$35,000, for scientific consultations or extraordinary expenses upon the approval or authority of the Administrator and the Administrator’s determination shall be final and conclusive upon the accounting officers of the Government.

(h) Of the funds appropriated pursuant to subsections (a), (b), and (d), not in excess of \$100,000 for each project, including collateral equipment, may be used for construction of new facilities and additions to existing facilities, and for repair, rehabilitation, or modification of facilities: *Provided*, That, of the funds appropriated pursuant to subsection (a) or (b), not in excess of \$500,000 for each project, including collateral equipment, may be used for any of the foregoing for unforeseen programmatic needs.

SEC. 102. (a) Notwithstanding the provisions of section 101(c) of the title, the total amount authorized to be appropriated by such section shall be \$5,000,000 less than the sum of the amounts contained in paragraphs (1) through (13) of such section for individual projects.

(b) After the reduction specified in subsection (a) of this section is made, authorization is granted whereby any of the amounts prescribed in paragraphs (1) through (12) inclusive, of section 101(c)—

(1) in the discretion of the Administrator or the Administrator’s designee, may be varied upward 10 per centum, or

Report.

(2) following a report by the Administrator or the Administrator’s designee to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the circumstances of such action, may be varied upward 25 per centum, to meet unusual cost variations, but the total cost of all work authorized under such paragraphs shall not exceed the total of the amounts specified in such paragraphs.

SEC. 103. Not to exceed one-half of 1 per centum of the funds appropriated pursuant to section 101(a) or 101(b) hereof may be transferred to and merged with the “Construction of facilities” appropriation, and, when so transferred, together with \$10,000,000 of funds appropriated pursuant to section 101(c) hereof (other than funds appropriated pursuant to paragraph (13) of such section) shall be available for expenditure to construct, expand, and modify laboratories and other installation at any location (including locations specified in section 101(c)), if (1) the Administrator determines such action to be necessary because of changes in the national program of

aeronautical and space activities or new scientific or engineering developments, and (2) the Administrator determines that deferral of such action until the enactment of the next authorization Act would be inconsistent with the interest of the Nation in aeronautical and space activities. The funds so made available may be expended to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment. No portion of such sums may be obligated for expenditure or expended to construct, expand, or modify laboratories and other installations unless a period of thirty days has passed after the Administrator or the Administrator's designee has transmitted to the Speaker of the House of Representatives and to the President of the Senate and to the Committee on Science and Technology of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate a written report containing a full and complete statement concerning (A) the nature of such construction, expansion, or modification, (B) the cost thereof including the cost of any real estate action pertaining thereto, and (C) the reason why such construction, expansion, or modification is necessary in the national interest.

Report.

SEC. 104. Notwithstanding any other provision of this Act—

(1) no amount appropriated pursuant to this Act may be used for any program deleted by the Congress from requests as originally made to either the House Committee on Science and Technology or the Senate Committee on Commerce, Science, and Transportation;

(2) no amount appropriated pursuant to this Act may be used for any program in excess of the amount actually authorized for that particular program by sections 101(a), 101(b), and 101(d); and

(3) no amount appropriated pursuant to this Act may be used for any program which has not been presented to either such committee;

unless a period of thirty days has passed after the receipt by the Speaker of the House of Representatives and the President of the Senate and each such committee of notice given by the Administrator or the Administrator's designee containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

SEC. 105. It is the sense of the Congress that it is in the national interest that consideration be given to geographical distribution of Federal research funds whenever feasible, and that the National Aeronautics and Space Administration should explore ways and means of distributing its research and development funds whenever feasible.

Funds.
42 USC 2459
note.

SEC. 106. The authorization for shuttle production and operational capability includes provisions for the production of structural spares and the critical skills necessary for installation of electrical, mechanical, and fluid systems thereby maintaining production readiness for a fifth orbiter vehicle.

SEC. 107. No civil space station authorized under section 101(a)(2) of this title may be used to carry or place in orbit any nuclear weapon or any other weapon of mass destruction, to install any such weapon on any celestial body, or to station any such weapon in space in any other manner. This civil space station may be used only for peaceful purposes.

Defense and
national
security.

15 USC 4261
note.

SEC. 108. (a) The Administrator of the National Aeronautics and Space Administration is directed to continue and to enhance such Administration's programs of remote-sensing research and development.

(b) The Administrator is authorized and encouraged to—

(1) conduct experimental space remote-sensing programs (including applications demonstration programs and basic research at universities);

(2) develop remote-sensing technologies and techniques, including those needed for monitoring the Earth and its environment; and

(3) conduct such research and development in cooperation with other public and private research entities, including private industry, universities, Federal, State, and local government agencies, foreign governments, and international organizations, and to enter into arrangements (including joint ventures) which will foster such cooperation.

SEC. 109. It is the intent of the Congress that expenditures made from sums appropriated pursuant to the authorization contained in subsection (a)(8) of section 101 of this Act for activities in the advanced turboprop program should be recouped by the National Aeronautics and Space Administration if and when commercially successful products are developed by the aircraft industry as a direct result of such activities. For this purpose the Administrator shall submit to Congress within sixty days of enactment of this Act a plan for the payment to the Administrator of royalties by firms in the aircraft industry with respect to any such products which may be so developed by them.

42 USC 2451.

SEC. 110. (a) Section 102 of the National Aeronautics and Space Act of 1958, as amended, is amended—

(1) by striking out “(e) and (f)” in subsection (g) and inserting in lieu thereof “(e), (f), and (g)”;

(2) by redesignating subsections (c) through (g) as subsections (d) through (h); and

(3) by inserting after subsection (b) the following new subsection:

Congress.
Defense and
national
security.

“(c) The Congress declares that the general welfare of the United States requires that the National Aeronautics and Space Administration (as established by title II of this Act) seek and encourage, to the maximum extent possible, the fullest commercial use of space.”.

(b) Section 102(d)(1) of the National Aeronautics and Space Act of 1958, as amended (and as redesignated by subsection (a) of this section), is amended by inserting “of the Earth and” after “knowledge”.

Property,
Federal.

SEC. 111. (a) Any Federal personal property may be disposed of in accordance with subsection (b) if such property—

(1) is scientific research or development equipment and is not personal property that may be used for general administrative purposes;

(2) has been loaned by the National Aeronautics and Space Administration to any academic institution or nonprofit organization; and

(3) as of March 31, 1984, has been on loan to any such institution or organization for at least two years.

(b) The Administrator may transfer title to property described in subsection (a) to an academic institution or nonprofit organization if the Administrator certifies that—

- (1) such property is being used by the institution or organization holding such property for a purpose consistent with the use intended when the property was loaned; and
- (2) the Administration will no longer need such property.

TITLE II—NATIONAL COMMISSION ON SPACE

PURPOSE

SEC. 201. It is the purpose of this title to establish a National Commission on Space that will assist the United States—

42 USC 2451
note.

- (1) to define the long-range needs of the Nation that may be fulfilled through the peaceful uses of outer space;
- (2) to maintain the Nation's preeminence in space science, technology, and applications;
- (3) to promote the peaceful exploration and utilization of the space environment; and
- (4) to articulate goals and develop options for the future direction of the Nation's civilian space program.

FINDINGS

SEC. 202. The Congress finds and declares that—

Congress.
42 USC 2451
note.

(1) the National Aeronautics and Space Administration, the lead civilian space agency, as established in the National Aeronautics and Space Act of 1958, as amended, has conducted a space program that has been an unparalleled success, providing significant economic, social, scientific, and national security benefits, and helping to maintain international stability and good will;

42 USC 2451
note.

(2) the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2451 et seq.), has provided the policy framework for achieving this success, and continues to be a sound statutory basis for national efforts in space;

(3) the United States is entering a new era of international competition and cooperation in space, and therefore this Nation must strengthen the commitment of its public and private technical, financial, and institutional resources, so that the United States will not lose its leadership position during this decade;

(4) while there continues to be a crucial Government role in space science, advanced research and development, provision of public goods and services and coordination of national and international efforts, advances in applications of space technology have raised many issues regarding public and private sector roles and relationships in technology development, applications, and marketing;

(5) the private sector will continue to evolve as a major participant in the utilization of the space environment;

(6) the Nation is committed to a permanently manned space station in low Earth orbit, and future national efforts in space will benefit from the presence of such a station;

(7) the separation of the civilian and military space programs is essential to ensure the continued health and vitality of both; and

(8) the identification of long range goals and policy options for the United States civilian space program through a high level,

representational public forum will assist the President and Congress in formulating future policies for the United States civilian space program.

NATIONAL COMMISSION ON SPACE

President of U.S.
42 USC 2451
note.

SEC. 203. (a)(1) The President shall within ninety days of the enactment of this Act establish a National Commission on Space (hereinafter in this title referred to as the "Commission"), which shall be composed of 15 members appointed by the President. The members appointed under this subsection shall be selected from among individuals from Federal, State, and local governments, industry, business, labor, academia, and the general population who, by reason of their background, education training, or experience, possess expertise in scientific and technological pursuits, as well as the use and implications of the use of such pursuits. Of the fifteen members appointed, not more than three members may be employees of the Federal Government. The President shall designate one of the members of the Commission appointed under this subsection to serve as Chairman, and one of the members to serve as Vice Chairman. The Vice Chairman shall perform the functions of the Chairman in the Chairman's absence.

(2) Members appointed by the President under paragraph (1) of this subsection may be paid at a rate not to exceed the daily equivalent of the annual rate of basic pay in effect under section 5332 of title 5, United States Code, for grade GS-18 of the General Schedule for each day, including traveltime, during which such members are engaged in the actual performance of the duties of the Commission. While away from their homes or regular places of business, such members may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed under section 5703 of title 5, United States Code. Individuals who are not officers or employees of the United States and who are members of the Commission shall not be considered officers or employees of the United States by reason of receiving payments under this paragraph.

(b)(1) The President shall appoint one individual from each of the following Federal departments and agencies to serve as ex officio, advisory, non-voting members of the Commission (if such department or agency does not already have a member appointed to the Commission pursuant to subsection (a)(1)):

- (A) National Aeronautics and Space Administration.
- (B) Department of State.
- (C) Department of Defense.
- (D) Department of Transportation.
- (E) Department of Commerce.
- (F) Department of Agriculture.
- (G) Department of the Interior.
- (H) National Science Foundation.
- (I) Office of Science and Technology Policy.

Congress.

(2) The President of the Senate shall appoint two advisory members of the Commission from among the Members of the Senate and the Speaker of the House of Representatives shall appoint two advisory members of the Commission from among the Members of the House of Representatives. Such members shall not participate,

except in an advisory capacity, in the formulation of the findings and recommendations of the Commission.

(3) Members of the Commission appointed under this subsection shall not be entitled to receive compensation for service relating to the performance of the duties of the Commission, but shall be entitled to reimbursement for travel expenses incurred while in the actual performance of the duties of the Commission.

(c) The Commission shall appoint and fix the compensation of such personnel as it deems advisable. The Chairman of the Commission shall be responsible for—

(1) the assignment of duties and responsibilities among such personnel and their continuing supervision; and

(2) the use and expenditures of funds available to the Commission.

In carrying out the provisions of this subsection, the Chairman shall act in accordance with the general policies of the Commission.

(d) To the extent permitted by law, the Commission may secure directly from any executive department, agency, or independent instrumentality of the Federal Government any information it deems necessary to carry out its functions under this Act. Each such department, agency, and instrumentality shall cooperate with the Commission and, to the extent permitted by law and upon request of the Chairman of the Commission, furnish such information to the Commission.

(e) The Commission may hold hearings, receive public comment and testimony, initiate surveys, and undertake other appropriate activities to gather the information necessary to carry out its activities under section 204 of this title.

(f) The Commission shall cease to exist sixty days after it has submitted the plan required by section 204(c) of this title.

Expiration date.

FUNCTIONS OF THE COMMISSION

SEC. 204. (a) The Commission shall study existing and proposed space activities and formulate an agenda for the United States civilian space program. The Commission shall identify long range goals, opportunities, and policy options for United States civilian space activity for the next twenty years. In carrying out this responsibility, the Commission shall take into consideration—

42 USC 2451
note.

(1) the commitment by the Nation to a permanently manned space station in low Earth orbit;

(2) present and future scientific, economic, social, environmental, and foreign policy needs of the United States, and methods by which space science, technology, and applications initiatives might address those needs;

(3) the adequacy of the Nation's public and private capability in fulfilling the needs identified in paragraph (2);

(4) how a cooperative interchange between Federal agencies on research and technology development programs can benefit the civilian space program;

(5) opportunities for, and constraints on, the use of outer space toward the achievement of Federal program objectives or national needs;

(6) current and emerging issues and concerns that may arise through the utilization of space research, technology development, and applications;

(7) the Commission shall analyze the findings of the reviews specified in paragraphs (1) through (6) of this subsection, and develop options and recommendations for a long range national civilian space policy plan.

(b) Options and recommendations submitted in accordance with subsection (a)(7) of this section shall include, to the extent appropriate, an estimate of costs and time schedules, institutional requirements, and statutory modifications necessary for implementation of such options and recommendations.

(c) Within twelve months after the date of the establishment of the Commission, the Commission shall submit to the President and to the Committee on Commerce, Science and Transportation of the Senate and the Committee on Science and Technology of the House of Representatives, a long range plan for United States civilian space activity incorporating the results of the studies conducted under this section, together with recommendations for such legislation as the Commission determines to be appropriate.

Approved July 16, 1984.

LEGISLATIVE HISTORY—H.R. 5154:

HOUSE REPORTS: No. 98-629 (Comm. on Science and Technology) and No. 98-873 (Comm. of Conference).

SENATE REPORT No. 98-455 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 130 (1984):

Mar. 28, considered and passed House.

June 21, considered and passed Senate, amended.

June 27, Senate agreed to conference report.

June 28, House agreed to conference report.

Public Law 98-362
98th Congress

An Act

To amend the Small Business Act to establish a small business computer security and education program, and for other purposes.

July 16, 1984
[H.R. 3075]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Small Business Computer Security and Education Act of 1984".

Small Business
Computer
Security and
Education Act of
1984.
15 USC 631 note.

FINDING AND PURPOSES

SEC. 2. (a) The Congress hereby finds that—

Congress.
Science and
technology.
15 USC 633 note.

(1) there is increased dependency on, and proliferation of, information technology (including computers, data networks, and other communication devices) in the small business community;

(2) such technology has permitted an increase in criminal activity against small business;

Crimes and
misdemeanors.

(3) small businesses in particular frequently lack the education and awareness of computer security techniques and technologies which would enable them to protect their computer systems from unauthorized access and the manipulation or destruction of their computer hardware, software, and stored data;

(4) profitmaking organizations have substantial expertise in computer technology, communications, and management assistance that is not otherwise available; and

(5) the use of this expertise in the Small Business Administration's training delivery system would improve substantially the quantity and quality of the agency's management assistance programs.

(b) The purposes of this Act are—

(1) to improve the management by small businesses of their information technology,

(2) to educate and encourage small businesses to protect such technology from intentional or unintentional manipulation or destruction; and

(3) to permit cooperation with profitmaking organizations in providing management assistance to small business.

COMPUTER SECURITY AND EDUCATION ADVISORY COUNCIL

SEC. 3. Section 4(b) of the Small Business Act (15 U.S.C. 633(b)) is amended by adding at the end thereof the following:

Establishment.

"(3)(A) The Administrator shall, not later than ninety days after the effective date of the Small Business Computer Security and Education Act of 1984, establish an advisory council to be known as

Supra.

the Small Business Computer Security and Education Advisory Council (hereinafter referred to as the 'advisory council').

"(B) The advisory council shall consist of the following members:

"(i) an official of the Small Business Administration, appointed by the Administrator;

"(ii) an official of the Institute for Computer Sciences and Technology of the Department of Commerce, appointed by the Secretary of Commerce;

"(iii) an official of the Department of Justice, appointed by the Attorney General, who is knowledgeable about issues of computer security and its protection;

"(iv) an official of the Department of Defense, appointed by the Secretary of Defense, who is knowledgeable about issues of computer security;

"(v) one individual, appointed by the Administrator, who is representative of the interests of the manufacturers of computer hardware to small business concerns;

"(vi) one individual, appointed by the Administrator, who is representative of the interests of the manufacturers of computer software to small business concerns;

"(vii) one individual, appointed by the Administrator, who is representative of the interests of the providers of computer liability insurance to small business concerns;

"(viii) one individual, appointed by the Administrator, who is representative of the interests of the providers of computer security equipment and services to small business concerns;

"(ix) one individual, appointed by the Administrator, who is representative of the interests of associations of small business concerns, other than small business concerns engaging in any of the activities described in clauses (v) through (viii); and

"(x) such additional qualified individuals from the private sector, appointed by the Administrator, as the Administrator determines to be appropriate.

"(C) It shall be the function of the advisory council to advise the Administration on—

"(i) the nature and scope of computer crimes committed against small business concerns;

"(ii) the effectiveness of Federal and State law in deterring computer-related criminal activity or prosecuting computer-related crimes;

"(iii) the effectiveness of computer technology and management techniques available to small business for increasing their computer security;

"(iv) the development of information and guidelines to be made available to the Administrator to assist small business concerns in evaluating the security of computer systems; and

"(v) such other appropriate functions of the small business computer security and education program.

"(D) The Administrator shall designate one of the non-Federal members of the advisory council as its chairperson. The advisory council shall meet at least annually and at such other times as requested by the Administrator. A majority of the members of the advisory council shall constitute a quorum. Vacancies on the council shall be filled in the same manner as the original appointment.

"(E) Each member of the advisory council shall serve without additional pay, allowances, or benefits by reason of such service. Each non-Federal member shall be reimbursed for actual expenses,

including travel expenses, as authorized by section 5703 of title 5, United States Code.

“(F) Upon request of the chairperson of the advisory council, the Administrator may request directly from any Federal agency information necessary to enable the advisory council to carry out its functions under the Small Business Computer Security and Education Act of 1984. Upon the request of the Administrator, the head of such agency shall furnish to the Administrator such information, subject to the requirements of section 552 of title 5, United States Code.”.

Information,
disclosure.

Ante, p. 431.

COMPUTER SECURITY AND EDUCATION PROGRAM

SEC. 4. Section 4(b) of the Small Business Act (15 U.S.C. 633(b)) is further amended by adding at the end thereof the following:

Ante, p. 431.

“(4)(A) The Administrator shall establish a small business computer security and education program to—

“(i) provide small business concerns information regarding—

“(I) utilization and management of computer technology;

“(II) computer crimes committed against small business concerns; and

“(III) security for computers owned or utilized by small business concerns;

“(ii) provide for periodic forums for small business concerns to improve their knowledge of the matters described in clause (i); and

“(iii) provide training opportunities to educate small business users on computer security techniques.

“(B) The Administrator, after consultation with the Director of the Institute of Computer Sciences and Technology within the Department of Commerce, shall develop information and materials to carry out the activities described in subparagraph (A) of this paragraph.”.

PRIVATE SECTOR COOPERATION

SEC. 5. (a) Section 8(b)(1)(A) of the Small Business Act is amended—

15 USC 637.

(1) by inserting “computer security,” after “wage incentives,”; and

(2) by striking at the end thereof “Administration; and” and by inserting the following: “Administration. Such assistance also may be provided to small business concerns by the Administration through cooperation with a profit-making concern (hereafter in this paragraph referred to as a “cosponsor”) to provide training: *Provided*, That the Administration shall take such actions as it deems appropriate to ensure that the cooperation does not constitute or imply an endorsement by the Administration of the products or services of the cosponsor, to avoid unnecessary promotion of the products or services of the cosponsor, and to minimize utilization of any one cosponsor in a marketing area. Such actions shall include, but not be limited to: (i) developing an agreement which specifies the standard terms and conditions of the cooperation, the use of which shall be mandatory; (ii) prohibiting any fee or charge from being imposed upon any small business concern for receiving assistance in excess of a minimal amount to cover the direct costs of providing such assistance; (iii) prohibiting the release to the cosponsor of any of the Administration's lists of names and addresses of small business concerns; and (iv) requiring that all

Prohibitions.

Report.
15 USC 637 note.

Ante, p. 433.

printed materials which contain the names of both the Administration and the cosponsor include a prominent disclaimer that the cooperation does not constitute or imply an endorsement by the Administration of the products or services of the cosponsor."

(b) Not later than December 1, 1987 the Small Business Administration shall report to the Committees on Small Business of the Senate and the United States House of Representatives on the impact of the assistance provided in cooperation with profitmaking concerns pursuant to the amendment made by section 5(a)(2) of the Small Business Computer Security and Education Act of 1984. The report shall include information on benefits provided to small business concerns assisted by the Administration's cooperation with profitmaking concerns and any negative impact upon small businesses resulting from such cooperation with profitmaking concerns.

COMPUTER CRIME DEFINITION

15 USC 632.

SEC. 6. Section 3 of the Small Business Act is amended by adding at the end thereof the following—

"(j) For purposes of this Act—

"(1) the term 'computer crime' means—

"(A) any crime committed against a small business concern by means of the use of a computer; and

"(B) any crime involving the illegal use of, or tampering with, a computer owned or utilized by a small business concern."

EFFECTIVE DATES

15 USC 633 note.

SEC. 7. (a) This Act shall take effect on October 1, 1984.

15 USC 633, 637.

(b) The amendments made to section 4(b)(3) of the Small Business Act by section 3 of this Act and the amendments made to section 8(b)(1)(A) of the Small Business Act by section 5(a)(2) of this Act are repealed on October 1, 1988. Nothing in this section shall preclude the Administrator from continuing such committee under the authority of section 8(b)(3) of the Small Business Act and the Federal Advisory Committee Act.

Approved July 16, 1984.

LEGISLATIVE HISTORY: H.R. 3075:

HOUSE REPORT No. 98-423, Pt. 1 (Comm. on Small Business).

SENATE REPORT No. 98-438 (Comm. on Small Business).

CONGRESSIONAL RECORD:

Vol. 129 (1983): Oct. 24, considered and passed House.

Vol. 130 (1984): May 24, considered and passed Senate, amended.

June 27, House concurred in Senate amendments with amendments; Senate concurred in House amendments.

Public Law 98-363
98th Congress

An Act

To amend the Surface Transportation Assistance Act of 1982 to require States to use at least 8 per centum of their highway safety apportionments for developing and implementing comprehensive programs concerning the use of child restraint systems in motor vehicles, and for other purposes.

July 17, 1984
[H.R. 4616]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 203(a)(1) of the Surface Transportation Assistance Act of 1982 is amended to read as follows:

96 Stat. 2138.

“SEC. 203. (a)(1) There is hereby authorized to be appropriated for carrying out section 402 of title 23, United States Code (relating to highway safety programs), by the National Highway Traffic Safety Administration, out of the Highway Trust Fund (other than the Mass Transit Account), \$126,500,000 for the fiscal year ending September 30, 1985, and \$132,000,000 for the fiscal year ending September 30, 1986.”

Appropriation
authorization.

(b) Section 203(a) of such Act is amended by adding at the end thereof the following new paragraph:

State and local
governments.

“(4)(A) Each State shall expend each fiscal year not less than 8 per centum of the amount apportioned to it for such fiscal year of the sums authorized by paragraph (1) of this subsection, for developing and implementing comprehensive programs approved by the Secretary of Transportation concerning the use of child restraint systems in motor vehicles. Upon request of the Governor of any State, the Secretary may reduce the amount required to be expended by the State for any fiscal year under the preceding sentence if the State demonstrates to the satisfaction of the Secretary that the percentage of children under the age of four traveling in motor vehicles in the State who are properly restrained by a child restraint system is greater than 75 per centum.

“(B) No project for developing and implementing a comprehensive program concerning the use of child restraint systems in motor vehicles may be approved by the Secretary of Transportation in the fiscal years ending September 30, 1985, and September 30, 1986, unless the State applying for approval of such project enters into such agreements with the Secretary as the Secretary may require to ensure that such State will maintain its aggregate expenditures from all non-Federal sources for such programs at or above the average level of such expenditures in its two fiscal years preceding the date of enactment of this paragraph.

“(C) Subparagraphs (A) and (B) of this paragraph shall not apply to sums authorized to be appropriated for any fiscal year beginning after September 30, 1987.”

SEC. 2. Section 203(b) of the Surface Transportation Assistance Act of 1982 is amended to read as follows:

96 Stat. 2138.

“(b) Notwithstanding any other provision of law, the total of all obligations for highway safety programs carried out by the National Highway Traffic Safety Administration under section 402 of title 23, United States Code, shall not exceed \$126,500,000 for the fiscal year

ending September 30, 1985, and \$132,000,000 for the fiscal year ending September 30, 1986, and the total of all obligations for highway safety programs carried out by the Federal Highway Administration under section 402 of title 23, United States Code, shall not exceed \$10,000,000 per fiscal year for each of the fiscal years ending September 30, 1985, and September 30, 1986.”

SEC. 3. (a) The sixth sentence of section 402(c) of title 23, United States Code, is amended by striking out the period at the end thereof and inserting in lieu thereof the following: “, except that the apportionments to the Virgin Islands, Guam, and American Samoa shall not be less than one-quarter of 1 per centum of the total apportionment.”

(b) Section 401 of title 23, United States Code, is amended by striking out “, except that all expenditures for carrying out this chapter in the Virgin Islands, Guam, and American Samoa shall be paid out of money in the Treasury not otherwise appropriated.” and inserting in lieu thereof a period.

23 USC 401 note.

(c) The amendments made by subsections (a) and (b) shall only apply to fiscal years beginning after the date of enactment of this Act.

Drugs and drug abuse.

SEC. 4. (a) Section 408(a) of title 23, United States Code, is amended by inserting “or a controlled substance” immediately after “alcohol”.

(b) Section 408(c)(1) of title 23, United States Code, is amended by inserting “and controlled substance” immediately after “alcohol”.

(c) Section 408(f) of title 23, United States Code, is amended—

(1) by striking the period at the end of paragraph (7) and inserting in lieu thereof “; and”; and

(2) by adding at the end thereof the following:

“(8) for the creation and operation of rehabilitation and treatment programs for those arrested and convicted of driving while under the influence of a controlled substance or for the establishment of research programs to develop effective means of detecting use of controlled substances by drivers.”

Grants

SEC. 5. Section 402 of title 23, United States Code, is amended by adding at the end thereof the following:

23 USC 402

“(k)(1) Subject to the provisions of this subsection, the Secretary shall make a grant to any State which includes, as part of its highway safety program under section 402 of this title, the use of a comprehensive computerized safety recordkeeping system designed to correlate data regarding traffic accidents, drivers, motor vehicles, and roadways. Any such grant may only be used by such State to establish and maintain a comprehensive computerized traffic safety recordkeeping system or to obtain and operate components to support highway safety priority programs identified by the Secretary under this section. Notwithstanding any other provision of law, if a report, list, schedule, or survey is prepared by or for a State or political subdivision thereof under this subsection, such report, list, schedule, or survey shall not be admitted as evidence or used in any suit or action for damages arising out of any matter mentioned in such report, list, schedule, or survey.

“(2) No State may receive a grant under this subsection in more than two fiscal years.

“(3) The amount of the grant to any State under this subsection for the first fiscal year such State is eligible for a grant under this subsection shall equal 10 per centum of the amount apportioned to such State for fiscal year 1985 under this section. The amount of a

grant to any State under this subsection for the second fiscal year such State is eligible for a grant under this subsection shall equal 10 per centum of the amount apportioned to such State for fiscal year 1986 under this section.

“(4) A State is eligible for a grant under this subsection if—

“(A) it certifies to the Secretary that it has in operation a computerized traffic safety recordkeeping system and identifies proposed means of upgrading the system acceptable to the Secretary; or

“(B) it provides to the Secretary a plan acceptable to the Secretary for establishing and maintaining a computerized traffic safety recordkeeping system.

“(5) The Secretary, after making the deduction authorized by the second sentence of subsection (c) of this section for fiscal years 1985 and 1986, shall set aside 10 per centum of the remaining funds authorized to be appropriated to carry out this section for the purpose of making grants under this subsection. Funds set aside under this subsection shall remain available for the fiscal year authorized and for the succeeding fiscal year and any amounts remaining unexpended at the end of such period shall be apportioned in accordance with the provisions of subsection (c) of this section.”

SEC. 6. (a) Chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new section:

“§ 158. National minimum drinking age

23 USC 158.

“(a)(1) The Secretary shall withhold 5 per centum of the amount required to be apportioned to any State under each of sections 104(b)(1), 104(b)(2), 104(b)(5), and 104(b)(6) of this title on the first day of the fiscal year succeeding the fiscal year beginning after September 30, 1985, in which the purchase or public possession in such State of any alcoholic beverage by a person who is less than twenty-one years of age is lawful.

Alcohol and
alcoholic
beverages
23 USC 104

“(2) The Secretary shall withhold 10 per centum of the amount required to be apportioned to any State under each of sections 104(b)(1), 104(b)(2), 104(b)(5), and 104(b)(6) of this title on the first day of the fiscal year succeeding the second fiscal year beginning after September 30, 1985, in which the purchase or public possession in such State of any alcoholic beverage by a person who is less than twenty-one years of age is lawful.

“(b) The Secretary shall promptly apportion to a State any funds which have been withheld from apportionment under subsection (a) of this section in fiscal year if in any succeeding fiscal year such State makes unlawful the purchase or public possession of any alcoholic beverage by a person who is less than twenty-one years of age.

“(c) As used in this section, the term ‘alcoholic beverage’ means—

“(1) beer as defined in section 5052(a) of the Internal Revenue Code of 1954,

26 USC 5052.

“(2) wine of not less than one-half of 1 per centum of alcohol by volume, or

“(3) distilled spirits as defined in section 5002(a)(8) of such Code.”

26 USC 5002.

(b) The table of sections of chapter 1 of such title is amended by adding at the end thereof the following new item:

“158. National minimum drinking age.”

Grants

SEC. 7. (a) Section 408(a) of title 23, United States Code, is amended by striking "basic and supplemental".

(b) Section 408(d) of title 23, United States Code, is amended by adding at the end thereof the following new paragraph:

"(3) Subject to subsection (c), the amount of a special grant made under this section for any fiscal year to any State which is eligible for such a grant under subsection (e)(3) shall not exceed 5 per centum of the amount apportioned to such State for fiscal year 1984 under sections 402 and 408 of this title. Such grant shall be in addition to any basic or supplemental grant received by such State."

Crimes and
misdemeanors.

(c) Section 408(e) of title 23, United States Code, is amended by adding at the end thereof the following new paragraph:

"(3) For the purposes of this section, a State is eligible for a special grant if the State enacts a statute which provides that—

"(A) any person convicted of a first violation of driving under the influence of alcohol shall receive—

"(i) a mandatory license suspension for a period of not less than ninety days; and either

"(ii)(I) an assignment of one hundred hours of community service; or

"(II) a minimum sentence of imprisonment for forty-eight consecutive hours;

"(B) any person convicted of a second violation of driving under the influence of alcohol within five years after a conviction for the same offense, shall receive a mandatory minimum sentence of imprisonment for ten days and license revocation for not less than one year;

"(C) any person convicted of a third or subsequent violation of driving under the influence of alcohol within five years after a prior conviction for the same offense shall—

"(i) receive a mandatory minimum sentence of imprisonment for one hundred and twenty days; and

"(ii) have his license revoked for not less than three years; and

“(D) any person convicted of driving with a suspended or revoked license or in violation of a restriction due to driving under the influence of alcohol conviction shall receive a mandatory sentence of imprisonment for at least thirty days, and shall upon release from imprisonment, receive an additional period of license suspension or revocation of not less than the period of suspension or revocation remaining in effect at the time of commission of the offense of driving with a suspended or revoked license.”.

Approved July 17, 1984.

LEGISLATIVE HISTORY—H.R. 4616:

HOUSE REPORT No. 98-641 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 130 (1984):

Apr. 30, considered and passed House.

June 26, considered and passed Senate, amended.

June 27, House concurred in Senate amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 29 (1984):
July 17, Presidential statement.

Public Law 98-364
98th Congress

An Act

July 17, 1984
[H.R. 4997]

To authorize appropriations to carry out the Marine Mammal Protection Act of 1972, for fiscal years 1985 through 1988, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

Fish and fishing.

SEC. 101. The last sentence of section 101(a)(2) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(2)) is amended to read as follows: "For purposes of applying the preceding sentence, the Secretary—

"(A) shall insist on reasonable proof from the government of any nation from which fish or fish products will be exported to the United States of the effects on ocean mammals of the commercial fishing technology in use for such fish or fish products exported from such nation to the United States; and

Tuna.

"(B) in the case of yellowfin tuna harvested with purse seines in the eastern tropical Pacific Ocean, and products therefrom, to be exported to the United States, shall require that the government of the exporting nation provide documentary evidence that—

"(i) the government of the harvesting nation has adopted a regulatory program governing the incidental taking of marine mammals in the course of such harvesting that is comparable to that of the United States; and

"(ii) the average rate of that incidental taking by the vessels of the harvesting nation is comparable to the average rate of incidental taking of marine mammals by United States vessels in the course of such harvesting."

SEC. 102. Section 104(h) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1374(h)) is amended—

(1) by inserting "(1)" after "(h)"; and

(2) by adding at the end thereof the following paragraphs:

"(2)(A) Subject to subparagraph (B), the general permit issued under paragraph (1) on December 1, 1980 to the American Tunaboat Association is extended to authorize and govern the taking of marine mammals incidental to commercial purse seine fishing for yellowfin tuna during each year after December 31, 1984.

"(B) The extension granted under subparagraph (A) is subject to the following conditions:

"(i) The extension shall cease to have force and effect at the time the general permit is surrendered or terminated.

"(ii) The permittee and certificate holders shall use the best marine mammal safety techniques and equipment that are economically and technologically practicable.

"(iii) During the period of the extension, the terms and conditions of the general permit that are in effect on the date of the enactment of this paragraph shall apply, except that—

“(I) the Secretary may make such adjustments as may be appropriate to those terms and conditions that pertain to fishing gear and fishing practice requirements and to permit administration;

“(II) any such term and condition may be amended or terminated if the amendment or termination is based on the best scientific information available, including that obtained under the monitoring program required under paragraph (3)(A); and

“(III) during each year of the extension, not to exceed 250 coastal spotted dolphin (*Stenella attenuata*) and not to exceed 2,750 eastern spinner dolphin (*Stenella longirostris*) may be incidentally taken under the general permit, and no accidental taking of either species is authorized at any time when incidental taking of that species is permitted.

Dolphin.

“(C) The quota on the incidental taking of coastal spotted dolphin and eastern spinner dolphin under paragraph (2)(B)(iii)(III) shall be treated—

Dolphin.

“(i) as within, and not in addition to, the overall annual quota under the general permit on the incidental taking of marine mammals; and

“(ii) for purposes of paragraph (2)(B)(iii)(II), as a term of the general permit in effect on the date of the enactment of this paragraph.

“(3)(A) The Secretary shall, commencing on January 1, 1985, undertake a scientific research program to monitor for at least five consecutive years, and periodically as necessary thereafter, the indices of abundance and trends of marine mammal population stocks which are incidentally taken in the course of commercial purse seine fishing for yellowfin tuna in the eastern tropical Pacific Ocean.

Research and
development.
Tuna.

“(B) If the Secretary determines, on the basis of the best scientific information available (including that obtained under the monitoring program), that the incidental taking of marine mammals permitted under the general permit referred to in paragraph (2) is having a significant adverse effect on a marine mammal population stock, the Secretary shall take such action as is necessary, after notice and an opportunity for an agency hearing on the record, to modify the applicable incidental take quotas or requirements for gear and fishing practices (or both such quotas and requirements) for such fishing so as to ensure that the marine mammal population stock is not significantly adversely affected by the incidental taking.

“(C) For each year after 1984, the Secretary shall include in his annual report to the public and the Congress under section 103(f) a discussion of the proposed activities to be conducted each year as part of the monitoring program required by subparagraph (A).

Report.

“(D) There are authorized to be appropriated to the Department of Commerce for purposes of carrying out the monitoring program required under this paragraph not to exceed \$4,000,000 for the period beginning October 1, 1984, and ending September 30, 1988.”.

SEC. 103. (a) Section 201(b)(1) of the Marine Mammal Act of 1972 (16 U.S.C. 1401(b)(1)) is amended by striking the second sentence thereof and inserting in lieu thereof the following: “The President shall make his selection from a list of individuals knowledgeable in the fields of marine ecology and resource management, and who are not in a position to profit from the taking of marine mammals. Such list shall be submitted to him by the Chairman of the Council on

President of
U.S.

Environmental Quality and unanimously agreed to by that Chairman, the Secretary of the Smithsonian Institution, the Director of the National Science Foundation and the Chairman of the National Academy of Sciences.”.

(b) The first sentence of section 206 of such Act of 1972 (16 U.S.C. 1406) is amended by adding immediately before the period at the end thereof the following: “; except that no fewer than 11 employees must be employed under paragraph (1) at any time”.

SEC. 104. Section 7 of the Act entitled “An Act to improve the operation of the Marine Mammal Protection Act of 1972, and for other purposes”, approved October 9, 1981 (16 U.S.C. 1384 and 1407) is amended—

(1) by amending subsection (a)—

(A) by inserting “(other than section 104(h)(3))” immediately after “title I”, and

(B) by striking out “for fiscal year 1984.” and inserting in lieu thereof “for each of fiscal years 1984, 1985, 1986, 1987, and 1988.”;

(2) by striking out “and \$2,000,000 for fiscal year 1984.” in subsection (b) and inserting in lieu thereof “\$2,000,000 for fiscal year 1984, \$2,500,000 for fiscal year 1985, and \$3,000,000 for each of fiscal years 1986, 1987, and 1988.”; and

(3) by striking out “for fiscal year 1984.” in subsection (c) and inserting in lieu thereof “for each of fiscal years 1984, 1985, 1986, 1987, and 1988.”.

SEC. 105. Section 2(c) of the Fishery Conservation Zone Transition Act (16 U.S.C. 1823 note) is amended—

(1) by striking out “July 1, 1984” in each of paragraphs (1) and (2) and inserting in lieu thereof “December 31, 1985”;

(2) by striking out “May 3, 1983” in paragraph (1) and inserting in lieu thereof “May 8, 1984”;

(3) by striking out “May 3, 1983” in paragraph (2) and inserting in lieu thereof “May 7, 1984”; and

(4) by amending the last sentence thereof by striking out “Each such governing international fishery agreement” and inserting in lieu thereof “The government international fishery agreements referred to in paragraphs (1) and (2) shall enter into force and effect with respect to the United States on July 1, 1984; and the governing international fishery agreement referred to in paragraph (3)”.

SEC. 106. Notwithstanding any provision of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), and upon certification by the Secretary of State to the President of the Senate and the Speaker of the House of Representatives that a new governing international fishery agreement in conformity with such Act has been negotiated by the United States and the European Economic Community, the existing governing international fishery agreement referred to in section 2(a)(7) of the Fishery Conservation Zone Transition Act (16 U.S.C. 1823, note) may be extended or reinstated, as the case may be, and may be in force and effect with respect to the United States, for the period of time ending on the earlier of (1) the effective date of the new governing international fishery agreement, or (2) September 30, 1984.

97 Stat. 217.

International
fishery
agreement

16 USC 1823
note.

TITLE II

Sec. 201. (a) The Secretary of Commerce shall provide for the establishment of a National Coastal Resources Research and Development Institute (hereinafter in this title referred to as the "Institute") to be administered by the Oregon State Marine Science Center.

National Coastal
Resources
Research and
Development
Institute
16 USC 1463b.

(b) The Institute shall conduct research and carry out educational and demonstration projects designed to promote the efficient and responsible development of ocean and coastal resources, including arctic resources. Such projects shall be based on biological, geological, genetic, economic and other scientific research applicable to the purposes of this title and shall include studies on the economic diversification and environmental protection of the Nation's coastal areas.

(c)(1) The policies of the Institute shall be determined by a Board of Governors composed of—

- (A) two representatives appointed by the Governor of Oregon;
- (B) one representative appointed by the Governor of Alaska;
- (C) one representative appointed by the Governor of Washington;
- (D) one representative appointed by the Governor of California; and
- (E) one representative appointed by the Governor of Hawaii.

(2) Such policies shall include the selection, on a nationally competitive basis, of the research, projects, and studies to be supported by the Institute in accordance with the purposes of this title.

(d)(1) The Board of Governors shall establish an Advisory Council composed of specialists in ocean and coastal resources from the academic community.

Advisory
Council.

(2) To the maximum extent practicable, the Advisory Council shall be composed of such specialists from every coastal region of the Nation.

(3) The Advisory Council shall provide such advice to the Board of Governors as such Board shall request, including recommendations regarding the support of research, projects, and studies in accordance with the purposes of this title.

(e) The Institute shall be administered by a Director who shall be appointed by the Chancellor of the Oregon Board of Higher Education in consultation with the Board of Governors.

(f) The Secretary of Commerce shall conduct an ongoing evaluation of the activities of the Institute to ensure that funds received by the Institute under this title are used in a manner consistent with the provisions of this title.

Study.

(g) The Institute shall report to the Secretary of Commerce on its activities within 2 years after the date of enactment of this Act.

Report.

(h) The Comptroller General of the United States, and any of his duly authorized representatives, shall have access, for the purpose of audit and examination, to any books, documents, papers and records of the Institute that are pertinent to the funds received under this title.

(i) Employees of the Institute shall not, by reason of such employment, be considered to be employees of the Federal Government for any purpose.

(j) For the purposes of this title, there are authorized to be appropriated in each fiscal year \$5,000,000, commencing with fiscal year 1985.

Flood control.
Cameron Parish,
La.

SEC. 202. For purposes of sections 1305(c), 1315, and 1363 of the National Flood Insurance Act of 1968 (42 U.S.C. 4012(c), 4022, and 4104) and section 202(a) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4106(a)), the flood elevation determination made by the Director of the Federal Emergency Management Agency with respect to Cameron Parish in the State of Louisiana, and published in the Federal Register on July 28, 1983, and November 22, 1983, shall not be considered final before the expiration of the one-year period following the date of enactment of this Act.

TITLE III

SEC. 301. Section 7(e) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1977(e)) is amended by striking "October 1, 1984" and inserting in lieu thereof "October 1, 1987".

SEC. 302. (a) Section 3 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1973) is amended—

(1) by striking "Secretary of the Treasury in the amount certified to him by the Secretary of State" in the first sentence of subsection (a) and inserting in lieu thereof "Secretary of State in the amount determined and certified by him"; and

(2) by amending subsection (b)—

(A) by inserting "determination and" immediately before "certification" in the first sentence thereof; and

(B) by striking "the Treasury" in the second and third sentences and inserting in lieu thereof "State".

(b) Section 5(a)(1)(A) of such Act of 1967 (22 U.S.C. 1975(a)(1)(A)) is amended by striking "the Secretary of the Treasury" and inserting in lieu thereof "him".

(c) The first sentence of section 9 of such Act of 1967 (22 U.S.C. 1979) is amended by striking "Secretary of the Treasury" and inserting in lieu thereof "Secretary of State"; and by striking "certified to him by the Secretary of State" and inserting in lieu thereof "determined and certified by him".

Vessels.

SEC. 303. (a) Section 2 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1972) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) any vessel of the United States is seized by a foreign country on the basis of claims to jurisdiction that are not recognized by the United States, or on the basis of claims to jurisdiction recognized by the United States but exercised in a manner inconsistent with international law as recognized by the United States;"; and

(2) by amending the matter appearing between subparagraph

(D) and clause (i) of paragraph (2) to read as follows:

"the Secretary of State, unless there is clear and convincing credible evidence that the seizure did not meet the requirements under paragraph (1) or (2), as the case may be, shall immediately take such steps as are necessary—".

(b) Section 4 of such Act of 1967 (22 U.S.C. 1974) is amended by striking "any fishery convention or treaty to which the United States is a party." and inserting in lieu thereof "any applicable convention or treaty, if that treaty or convention was made with advice and consent to the Senate and was in force and effect for the United States and the seizing country at the time of the seizure."

(c) The amendments made by subsections (a) and (b) apply with respect to seizures made after April 1, 1983, by foreign countries of vessels of the United States.

22 USC 1972
note.

TITLE IV

SEC. 401. This title may be cited as the "Commercial Fishing Industry Vessel Act".

Commercial
Fishing Industry
Vessel Act.
46 USC 2101
note.
Shipping.

SEC. 402. Subtitle II of title 46, United States Code, "Shipping", is amended as follows:

(1) Section 2101 is amended by—

97 Stat. 501.

(A) amending clause (11) thereof to read as follows:

"(11) 'fish' means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life, except marine mammals and birds.";

(B) inserting immediately after clause (11) the following:

"(11a) 'fishing vessel' means a vessel that commercially engages in the catching, taking, or harvesting of fish or an activity that can reasonably be expected to result in the catching, taking, or harvesting of fish.

"(11b) 'fish processing vessel' means a vessel that commercially prepares fish or fish products other than by gutting, decapitating, gilling, skinning, shucking, icing, or brine chilling.

"(11c) 'fish tender vessel' means a vessel that commercially supplies, stores, refrigerates, or transports fish, fish products, or materials directly related to fishing or the preparation of fish to or from a fishing, fish processing, or fish tender vessel or a fish processing facility."; and

(C) adding the following at the end of clause (21):

"(E) on a fishing, fish processing, or fish tender vessel, means an individual transported on the vessel except—

"(i) the owner;

"(ii) a representative of the owner;

"(iii) the managing operator;

"(iv) the master;

"(v) a crewmember engaged in the business of the vessel who has not contributed consideration for transportation on board and who is paid for services on board;

"(vi) an employee of the owner, or of a subcontractor to the owner, engaged in the business of the owner;

"(vii) a charterer of the vessel;

"(viii) a person with the same relationship to a charterer as a person in subclause (ii) or (vi) of this subclause has to an owner; or

"(ix) a guest who has not contributed consideration for transportation on board.".

(2) Section 3301 is amended by adding at the end thereof the following:

97 Stat. 510.

"(11) fish processing vessels.

"(12) fish tender vessels.".

(3) Section 3302 (b) and (c) is amended to read as follows:

97 Stat. 510.

"(b) A fishing vessel, including a vessel chartered part-time as a fish tender vessel, is exempt from section 3301 (1), (7), (11), and (12) of this title.

“(c)(1) A fish processing vessel of not more than 5,000 gross tons is exempt from section 3301 (1), (6), (7), (11), and (12) of this title.

“(2) A fish tender vessel of not more than 500 gross tons is exempt from section 3301 (1), (6), (7), (11), and (12) of this title.”.

97 Stat. 513.

(4) Section 3304 is amended by adding at the end thereof the following:

“(d) A fishing, fish processing, or fish tender vessel that transports not more than 12 individuals employed in the fishing industry in addition to the crew is not subject to inspection as a passenger or small passenger vessel.”.

97 Stat. 513.

(5) Section 3306 is amended by adding at the end thereof the following:

“(g) In prescribing regulations for fish processing or fish tender vessels, the Secretary shall consult with representatives of the private sector having experience in the operation of these vessels. The regulations shall reflect the specialized nature and economics of fish processing or fish tender vessel operations and the character, design, and construction of fish processing or fish tender vessels.”.

97 Stat. 521.

(6) Section 3702 is amended by—

(A) amending subsection (c) to read as follows:

“(c) This chapter does not apply to a fishing or fish tender vessel of not more than 500 gross tons when engaged only in the fishing industry.”; and

(B) amending the first sentence in subsection (d) to read as follows: “This chapter does not apply to a fish processing vessel of not more than 5,000 gross tons.”.

(7)(A) The analysis of part B is amended by striking—

“41. Uninspected vessels.....	4101
“43. Recreational vessels.....	4301”

and inserting in lieu thereof the following:

“41. Uninspected vessels generally.....	4101
“43. Recreational vessels.....	4301
“45. Fish processing vessels.....	4501”.

(B) The title of chapter 41 is amended to read as follows:

“CHAPTER 41—UNINSPECTED VESSELS GENERALLY”.

(C) Part B is amended by adding the following immediately after chapter 43:

“CHAPTER 45—FISH PROCESSING VESSELS

“Sec.

“4501. Application.

“4502. Regulations.

“4503. Equivalency.

“4504. Penalties.

46 USC 4501.

“§ 4501. Application

“(a) This chapter applies to an uninspected fish processing vessel entered into service after December 31, 1987, and having more than 16 individuals on board primarily employed in the preparation of fish or fish products—

“(1) on the navigable waters of the United States; or

“(2) owned in the United States and operating on the high seas.

“(b) This chapter does not apply to the carriage of liquid bulk dangerous cargoes regulated under chapter 37 of this title.

97 Stat. 520.
46 USC 3701 *et seq*
46 USC 4502.

“§ 4502. Regulations

“(a) For each vessel to which this chapter applies, the Secretary shall prescribe regulations for—

“(1) navigation equipment, including radars, fathometers, compasses, radar reflectors, lights, sound-producing devices, nautical charts, and anchors;

“(2) life saving equipment, including life preservers, exposure suits, lifeboats or life rafts, emergency position indicating radio beacons, signaling devices, bilge pumps, bilge alarms, life- and grab-rails, and medicine chests;

“(3) fire protection and firefighting equipment, including fire alarms, portable and semi-portable fire extinguishing equipment, and flame arrestors;

“(4) the use and installation of insulation material;

“(5) storage methods for flammable or combustible material; and

“(6) fuel, ventilation, and electrical systems.

“(b) In prescribing regulations under subsection (a) of this section, the Secretary shall—

“(1) consider the specialized nature and economics of fish processing vessel operations and the character, design, and construction of fish processing vessels;

“(2) consult with representatives of the private sector having experience in the operation of these vessels to ensure the practicability of these regulations; and

“(3) not compel alteration of a vessel to which the exemption applies or item of equipment on that vessel, or of the construction of a vessel or manufacture of a particular item of equipment which is begun before the effective date of the regulation.

“§ 4503. Equivalency

46 USC 4503.

“A vessel to which this chapter applies shall be deemed to comply with the requirements of this chapter if it has an unexpired certificate of inspection issued by a foreign country that is a party to an International Convention for Safety of Life at Sea to which the United States Government is currently a party and shall not be required by the Secretary to alter or replace the equipment or structural requirements required under this chapter.

16 UST 185.

“§ 4504. Penalties

46 USC 4504.

“If a vessel to which this chapter applies is operated in violation of this chapter or a regulation prescribed under this chapter, the owner, charterer, managing operator, agent, master, and individual in charge are each liable to the United States Government for a civil penalty of not more than \$1,000. The vessel also is liable in rem for the penalty.”

(8)(A) Item 7111 in the analysis of chapter 71 is amended to read as follows:

“7111. Oral examinations for licenses.”.

(B) Section 7111 is amended to read as follows:

97 Stat. 541.

46 USC 7111. **“§ 7111. Oral examinations for licenses**

“An individual may take an oral examination for a license to serve on a fishing, fish processing, or fish tender vessel not required to be inspected under Part B of this subtitle.”.

97 Stat. 509.

(9)(A) The analysis of chapter 73 is amended by inserting immediately after item 7311 the following:

“7311a. Able seamen—fishing industry.”.

97 Stat. 541.

(B) Section 7301(a)(1) is amended by striking “decked fishing vessels” and inserting in lieu thereof “fishing, fish processing, fish tender vessels”.

97 Stat. 542.

(C) Section 7306(b) is amended by adding at the end thereof the following:

“(6) able seaman—fishing industry.”.

(D) Chapter 73 is amended by inserting immediately after 7311 the following:

46 USC 7311a.

“§ 7311a. Able seamen—fishing industry

“For service on a fish processing vessel, an individual may be rated as able seaman—fishing industry if the individual has at least 6 months’ service on deck on board vessels operating on the oceans or the navigable waters of the United States (including the Great Lakes).”.

97 Stat. 543.

(E) Section 7312 is amended by adding at the end thereof the following:

“(f) Individuals qualified as able seamen—fishing industry under section 7311a of this title may constitute—

Supra.

“(1) all of the able seamen required on a fish processing vessel entered into service before January 1, 1988, and of more than 1,600 gross tons but not more than 5,000 gross tons; and

“(2) all of the able seamen required on a fish processing vessel entered into service after December 31, 1987, and having more than 16 individuals on board primarily employed in the preparation of fish or fish products but of not more than 5,000 gross tons.”.

97 Stat. 548.

(10) Section 8102 is amended by

(A) inserting “(a)” immediately before the first paragraph; and

(B) adding at the end thereof the following:

“(b) The owner, charterer, managing operator, agent, master, or individual in charge of a fish processing vessel of more than 100 gross tons shall keep a suitable number of watchmen trained in firefighting on board when hotwork is being done to guard against and give alarm in case of a fire.”.

97 Stat. 549.

(11) Section 8104 is amended by—

(A) striking “100 gross tons,” in subsection (b) and inserting in lieu thereof “100 gross tons (except a fishing, fish processing, or fish tender vessel),”;

(B) striking “fishing” in subsection (c) and inserting in lieu thereof “fishing, fish processing, fish tender,”;

(C) striking “a fishing or whaling vessel,” in subsection (d) and inserting in lieu thereof “a fishing, fish tender, or whaling vessel, a fish processing vessel of not more than 5,000 gross tons,”; and

(D) adding at the end thereof the following:

“(k) On a fish processing vessel subject to inspection under part B of this subtitle, the licensed individuals and deck crew may be divided, when at sea, into at least 3 watchers. 97 Stat. 509.

“(l) Except as provided in subsection (k) of this section, on a fish processing vessel, the licensed individuals and deck crew may be divided, when at sea, into at least 2 watches if the vessel—

“(1) entered into service before January 1, 1988, and is more than 1,600 gross tons; or

“(2) entered into service after December 31, 1987, and has more than 16 individuals on board primarily employed in the preparation of fish or fish products.

“(m) This section does not apply to a fish processing vessel—

“(1) entered into service before January 1, 1988, and not more than 1,600 gross tons; or

“(2) entered into service after December 31, 1987, and having not more than 16 individuals on board primarily employed in the preparation of fish or fish products.”.

(12)(A) Section 8701(a) is amended by—

97 Stat. 554.

(i) striking “fishing or whaling” and inserting in lieu thereof “fishing, fish tender, or whaling”;

(ii) striking “and” after the semicolon at the end of clause (4);

(iii) striking the period at the end of clause (5) and inserting in lieu thereof a semicolon; and

(iv) adding at the end thereof the following:

“(6) a fish processing vessel entered into service before January 1, 1988, and not more than 1,600 gross tons or entered into service after December 31, 1987, and having not more than 16 individuals on board primarily employed in the preparation of fish or fish products; and

“(7) a fish processing vessel (except a vessel to which clause (6) of this subsection applies) with respect to individuals on board primarily employed in the preparation of fish or fish products or in a support position not related to navigation.”.

(B) Section 8702(a) is amended by—

97 Stat. 554.

(i) striking “fishing or whaling” and inserting in lieu thereof “fishing, fish tender, or whaling”;

(ii) striking “and” after the semicolon at the end of clause (4);

(iii) striking the period at the end of clause (5) and inserting in lieu thereof a semicolon; and

(iv) adding at the end thereof the following:

“(6) a fish processing vessel entered into service before January 1, 1988, and not more than 1,600 gross tons or entered into service after December 31, 1987, and having not more than 16 individuals on board primarily employed in the preparation of fish or fish products; and

“(7) a fish processing vessel (except a vessel to which clause (6) of this subsection applies) with respect to individuals on board primarily employed in the preparation of fish or fish products or in a support position not related to navigation.”.

(13) Section 10101(a) is amended by adding at the end thereof the following: 97 Stat. 560.

“(4) “fishing vessel” includes—

“(A) a fish tender vessel; or

“(B) a fish processing vessel entered into service before January 1, 1988, and not more than 1,600 gross tons or

entered into service after December 31, 1987, and having not more than 16 individuals on board primarily employed in the preparation of fish or fish products.”.

97 Stat. 580.

(14) Section 11108 is amended by striking “a fisherman employed on a fishing vessel” and inserting in lieu thereof “an individual employed on a fishing vessel or any fish processing vessel”.

97 Stat. 580.

(15) Section 11109(c) is amended to read as follows:

“(c) This section applies to an individual employed on a fishing vessel or any fish processing vessel.”.

97 Stat. 585.

(16) Section 12101 is amended by adding at the end thereof the following:

“(6) ‘fisheries’ includes planting, cultivating, catching, taking, or harvesting fish, shellfish, marine animals, pearls, shells, or marine vegetation in the navigable waters of the United States or in the fishery conservation zone established by section 101 of the Magnuson Fishery Conservation and Management Act of 1976 (16 U.S.C. 1811).”.

46 USC 3302
note.

SEC. 403. (a) Before January 1, 1990, a fishing, fish processing, or fish tender vessel, that is (1) not more than 500 gross tons and (2) in operation, or contracted for purchase to be used as a vessel of this type, before July 1, 1984, may transport cargo to or from a place in Alaska not receiving weekly transportation service from a port of the United States by an established water common carrier, except that the service limitation does not apply to transporting cargo of a type not accepted by that carrier.

(b) A fish processing vessel entered into service before January 1, 1988, and more than 1,600 gross tons or entered into service after December 31, 1987, and having more than 16 individuals on board primarily employed in the preparation of fish or fish products is exempt from section 8702(b) of title 46, United States Code, until 18 months after the date of enactment of this Act.

97 Stat. 554.

(c) As used in subsections (a) and (b) of this section, the terms “fishing vessel”, “fish processing vessel” and “fish tender vessel” shall have the meaning given to such terms in section 2101 of title 46, United States Code.

Ante, p. 445.

Approved July 17, 1984.

LEGISLATIVE HISTORY—H.R. 4997:

HOUSE REPORT No. 98-758 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 130 (1984):

June 5, considered and passed House.

June 27, considered and passed Senate, amended; House concurred in Senate amendment.

Public Law 98-365
98th Congress

An Act

To establish a system to promote the use of land remote-sensing satellite data, and for other purposes.

July 17, 1984
[H.R. 5155]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Land Remote-Sensing Commercialization Act of 1984".

Land Remote-Sensing Commercialization Act of 1984. Communications and telecommunications. 15 USC 4201 note.

TITLE I—DECLARATION OF FINDINGS, PURPOSES, AND POLICIES

FINDINGS

SEC. 101. The Congress finds and declares that—

Congress.
15 USC 4201.

(1) the continuous civilian collection and utilization of land remote-sensing data from space are of major benefit in managing the Earth's natural resources and in planning and conducting many other activities of economic importance;

(2) the Federal Government's experimental Landsat system has established the United States as the world leader in land remote-sensing technology;

Landsat system.

(3) the national interest of the United States lies in maintaining international leadership in civil remote sensing and in broadly promoting the beneficial use of remote-sensing data;

(4) land remote sensing by the Government or private parties of the United States affects international commitments and policies and national security concerns of the United States;

Defense and national security.

(5) the broadest and most beneficial use of land remote-sensing data will result from maintaining a policy of nondiscriminatory access to data;

(6) competitive, market-driven private sector involvement in land remote sensing is in the national interest of the United States;

(7) use of land remote-sensing data has been inhibited by slow market development and by the lack of assurance of data continuity;

(8) the private sector, and in particular the "value-added" industry, is best suited to develop land remote-sensing data markets;

(9) there is doubt that the private sector alone can currently develop a total land remote-sensing system because of the high risk and large capital expenditure involved;

(10) cooperation between the Federal Government and private industry can help assure both data continuity and United States leadership;

(11) the time is now appropriate to initiate such cooperation with phased transition to a fully commercial system;

(12) such cooperation should be structured to involve the minimum practicable amount of support and regulation by the

Federal Government and the maximum practicable amount of competition by the private sector, while assuring continuous availability to the Federal Government of land remote-sensing data;

(13) certain Government oversight must be maintained to assure that private sector activities are in the national interest and that the international commitments and policies of the United States are honored; and

(14) there is no compelling reason to commercialize meteorological satellites at this time.

PURPOSES

15 USC 4202.

SEC. 102. The purposes of this Act are to—

(1) guide the Federal Government in achieving proper involvement of the private sector by providing a framework for phased commercialization of land remote sensing and by assuring continuous data availability to the Federal Government;

Defense and
national
security.

(2) maintain the United States worldwide leadership in civil remote sensing, preserve its national security, and fulfill its international obligations;

(3) minimize the duration and amount of further Federal investment necessary to assure data continuity while achieving commercialization of civil land remote sensing;

(4) provide for a comprehensive civilian program of research, development, and demonstration to enhance both the United States capabilities for remote sensing from space and the application and utilization of such capabilities; and

(5) prohibit commercialization of meteorological satellites at this time.

POLICIES

15 USC 4203.

SEC. 103. (a) It shall be the policy of the United States to preserve its right to acquire and disseminate unenhanced remote-sensing data.

(b) It shall be the policy of the United States that civilian unenhanced remote-sensing data be made available to all potential users on a nondiscriminatory basis and in a manner consistent with applicable antitrust laws.

Defense and
national
security.

(c) It shall be the policy of the United States both to commercialize those remote-sensing space systems that properly lend themselves to private sector operation and to avoid competition by the Government with such commercial operations, while continuing to preserve our national security, to honor our international obligations, and to retain in the Government those remote-sensing functions that are essentially of a public service nature.

DEFINITIONS

15 USC 4204.

SEC. 104. For purposes of this Act:

(1) The term "Landsat system" means Landsats 1, 2, 3, 4, and 5, and any related ground equipment, systems, and facilities, and any successor civil land remote-sensing space systems operated by the United States Government prior to the commencement of the six-year period described in title III.

(2) The term "Secretary" means the Secretary of Commerce.

(3)(A) The term “nondiscriminatory basis” means without preference, bias, or any other special arrangement (except on the basis of national security concerns pursuant to section 607) regarding delivery, format, financing, or technical considerations which would favor one buyer or class of buyers over another.

(B) The sale of data is made on a nondiscriminatory basis only if (i) any offer to sell or deliver data is published in advance in such manner as will ensure that the offer is equally available to all prospective buyers; (ii) the system operator has not established or changed any price, policy, procedure, or other term or condition in a manner which gives one buyer or class of buyer de facto favored access to data; (iii) the system operator does not make unenhanced data available to any purchaser on an exclusive basis; and (iv) in a case where a system operator offers volume discounts, such discounts are no greater than the demonstrable reductions in the cost of volume sales. The sale of data on a nondiscriminatory basis does not preclude the system operator from offering discounts other than volume discounts to the extent that such discounts are consistent with the provisions of this paragraph.

(C) The sale of data on a nondiscriminatory basis does not require (i) that a system operator disclose names of buyers or their purchases; (ii) that a system operator maintain all, or any particular subset of, data in a working inventory; or (iii) that a system operator expend equal effort in developing all segments of a market.

(4) The term “unenhanced data” means unprocessed or minimally processed signals or film products collected from civil remote-sensing space systems. Such minimal processing may include rectification of distortions, registration with respect to features of the Earth, and calibration of spectral response. Such minimal processing does not include conclusions, manipulations, or calculations derived from such signals or film products or combination of the signals or film products with other data or information.

(5) The term “system operator” means a contractor under title II or title III or a license holder under title IV.

TITLE II—OPERATION AND DATA MARKETING OF LANDSAT SYSTEM

OPERATION

SEC. 201. (a) The Secretary shall be responsible for—

(1) the Landsat system, including the orbit, operation, and disposition of Landsats 1, 2, 3, 4, and 5; and

(2) provision of data to foreign ground stations under the terms of agreements between the United States Government and nations that operate such ground stations which are in force on the date of commencement of the contract awarded pursuant to this title.

(b) The provisions of this section shall not affect the Secretary's authority to contract for the operation of part or all of the Landsat system, so long as the United States Government retains—

(1) ownership of such system;

(2) ownership of the unenhanced data; and

15 USC 4211.

(3) authority to make decisions concerning operation of the system.

CONTRACT FOR MARKETING OF UNENHANCED DATA

15 USC 4212.

SEC. 202. (a) In accordance with the requirements of this title, the Secretary, by means of a competitive process and to the extent provided in advance by appropriation Acts, shall contract with a United States private sector party (as defined by the Secretary) for the marketing of unenhanced data collected by the Landsat system. Any such contract—

(1) shall provide that the contractor set the prices of unenhanced data;

(2) may provide for financial arrangements between the Secretary and the contractor including fees for operating the system, payments by the contractor as an initial fee or as a percentage of sales receipts, or other such considerations;

(3) shall provide that the contractor will offer to sell and deliver unenhanced data to all potential buyers on a nondiscriminatory basis;

(4) shall provide that the contractor pay to the United States Government the full purchase price of any unenhanced data that the contractor elects to utilize for purposes other than sale;

(5) shall be entered into by the Secretary only if the Secretary has determined that such contract is likely to result in net cost savings for the United States Government; and

(6) may be rewarded competitively after the practical demise of the space segment of the Landsat system, as determined by the Secretary.

(b) Any contract authorized by subsection (a) may specify that the contractor use, and, at his own expense, maintain, repair, or modify, such elements of the Landsat system as the contractor finds necessary for commercial operations.

Congress.

(c) Any decision or proposed decision by the Secretary to enter into any such contract shall be transmitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science and Technology of the House of Representatives for their review. No such decision or proposed decision shall be implemented unless (A) a period of thirty calendar days has passed after the receipt by each such committee of such transmittal, or (B) each such committee before the expiration of such period has agreed to transmit and has transmitted to the Secretary written notice to the effect that such committee has no objection to the decision or proposed decision. As part of the transmittal, the Secretary shall include information on the terms of the contract described in subsection (a).

(d) In defining "United States private sector party" for purposes of this Act, the Secretary may take into account the citizenship of key personnel, location of assets, foreign ownership, control, influence, and other such factors.

CONDITIONS OF COMPETITION FOR CONTRACT

15 USC 4213.

SEC. 203. (a) The Secretary shall, as part of the advertisement for the competition for the contract authorized by section 202, identify and publish the international obligations, national security concerns (with appropriate protection of sensitive information), domestic

legal considerations, and any other standards or conditions which a private contractor shall be required to meet.

(b) In selecting a contractor under this title, the Secretary shall consider—

- (1) ability to market aggressively unenhanced data;
- (2) the best overall financial return to the Government, including the potential cost savings to the Government that are likely to result from the contract;
- (3) ability to meet the obligations, concerns, considerations, standards, and conditions identified under subsection (a);
- (4) technical competence, including the ability to assure continuous and timely delivery of data from the Landsat system;
- (5) ability to effect a smooth transition with the contractor selected under title III; and
- (6) such other factors as the Secretary deems appropriate and relevant.

(c) If, as a result of the competitive process required by section 202(a), the Secretary receives no proposal which is acceptable under the provisions of this title, the Secretary shall so certify and fully report such finding to the Congress. As soon as practicable but not later than thirty days after so certifying and reporting, the Secretary shall reopen the competitive process. The period for the subsequent competitive process shall not exceed one hundred and twenty days. If, after such subsequent competitive process, the Secretary receives no proposal which is acceptable under the provisions of this title, the Secretary shall so certify and fully report such finding to the Congress. In the event that no acceptable proposal is received, the Secretary shall continue to market data from the Landsat system.

Report.

(d) A contract awarded under section 202 may, in the discretion of the Secretary, be combined with the contract required by title III, pursuant to section 304(b).

SALE OF DATA

SEC. 204. (a) After the date of the commencement of the contract described in section 202(a), the contractor shall be entitled to revenues from sales of copies of data from the Landsat system, subject to the conditions specified in sections 601 and 602.

15 USC 4214.

(b) The contractor may continue to market data previously generated by the Landsat system after the demise of the space segment of that system.

FOREIGN GROUND STATIONS

SEC. 205. (a) The contract under this title shall provide that the contractor shall act as the agent of the Secretary by continuing to supply unenhanced data to foreign ground stations for the life, and according to the terms, of those agreements between the United States Government and such foreign ground stations that are in force on the date of the commencement of the contract.

15 USC 4215.

(b) Upon the expiration of such agreements, or in the case of foreign ground stations that have no agreement with the United States on the date of commencement of the contract, the contract shall provide—

(1) that unenhanced data from the Landsat system shall be made available to foreign ground stations only by the contractor; and

(2) that such data shall be made available on a nondiscriminatory basis.

TITLE III—PROVISION OF DATA CONTINUITY AFTER THE LANDSAT SYSTEM

PURPOSES AND DEFINITION

15 USC 4221.

SEC. 301. (a) It is the purpose of this title—

(1) to provide, in an orderly manner and with minimal risk, for a transition from Government operation to private, commercial operation of civil land remote-sensing systems; and

(2) to provide data continuity for six years after the practical demise of the space segment of the Landsat system.

(b) For purposes of this title, the term “data continuity” means the continued availability of unenhanced data—

(1) including data which are from the point of view of a data user—

(A) functionally equivalent to the multispectral data generated by the Landsat 1 and 2 satellites; and

(B) compatible with such data and with equipment used to receive and process such data; and

(2) at an annual volume at least equal to the Federal usage during fiscal year 1983.

(c) Data continuity may be provided using whatever technologies are available.

DATA CONTINUITY AND AVAILABILITY

Contracts with
U.S.
15 USC 4222.

SEC. 302. The Secretary shall solicit proposals from United States private sector parties (as defined by the Secretary pursuant to section 202) for a contract for the development and operation of a remote-sensing space system capable of providing data continuity for a period of six years and for marketing unenhanced data in accordance with the provisions of sections 601 and 602. Such proposals, at a minimum, shall specify—

(1) the quantities and qualities of unenhanced data expected from the system;

(2) the projected date upon which operations could begin;

(3) the number of satellites to be constructed and their expected lifetimes;

(4) any need for Federal funding to develop the system;

(5) any percentage of sales receipts or other returns offered to the Federal Government;

(6) plans for expanding the market for land remote-sensing data; and

(7) the proposed procedures for meeting the national security concerns and international obligations of the United States in accordance with section 607.

AWARDING OF THE CONTRACT

15 USC 4223.

SEC. 303. (a)(1) In accordance with the requirements of this title, the Secretary shall evaluate the proposals described in section 302 and, by means of a competitive process and to the extent provided in

advance by appropriation Acts, shall contract with the United States private sector party for the capability of providing data continuity for a period of six years and for marketing unenhanced data.

(2) Before commencing space operations the contractor shall obtain a license under title IV.

(b) As part of the evaluation described in subsection (a), the Secretary shall analyze the expected outcome of each proposal in terms of—

(1) the net cost to the Federal Government of developing the recommended system;

(2) the technical competence and financial condition of the contractor;

(3) the availability of such data after the expected termination of the Landsat system;

(4) the quantities and qualities of data to be generated by the recommended system;

(5) the contractor's ability to supplement the requirement for data continuity by adding, at the contractor's expense, remote-sensing capabilities which maintain United States leadership in remote sensing;

(6) the potential to expand the market for data;

(7) expected returns to the Federal Government based on any percentage of data sales or other such financial consideration offered to the Federal Government in accordance with section 305;

(8) the commercial viability of the proposal;

(9) the proposed procedures for satisfying the national security concerns and international obligations of the United States;

(10) the contractor's ability to effect a smooth transition with any contractor selected under title II; and

(11) such other factors as the Secretary deems appropriate and relevant.

(c) Any decision or proposed decision by the Secretary to enter into any such contract shall be transmitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science and Technology of the House of Representatives for their review. No such decision or proposed decision shall be implemented unless (1) a period of thirty calendar days has passed after the receipt by each such committee of such transmittal, or (2) each such committee before the expiration of such period has agreed to transmit and has transmitted to the Secretary written notice to the effect that such committee has no objection to the decision or proposed decision. As part of the transmittal, the Secretary shall include the information specified in subsection (a).

Congress.

(d) If, as a result of the competitive process required by this section, the Secretary receives no proposal which is acceptable under the provisions of this title, the Secretary shall so certify and fully report such finding to the Congress. As soon as practicable but not later than thirty days after so certifying and reporting, the Secretary shall reopen the competitive process. The period for the subsequent competitive process shall not exceed one hundred and eighty days. If, after such subsequent competitive process, the Secretary receives no proposal which is acceptable under the provisions of this title, the Secretary shall so certify and fully report such finding to the Congress. Not earlier than ninety days after such certification and report, the Secretary may assure data continuity by procure-

Report.

ment and operation by the Federal Government of the necessary systems, to the extent provided in advance by appropriation Acts.

TERMS OF CONTRACT

15 USC 4224.

SEC. 304. (a) Any contract entered into pursuant to this title—

(1) shall be entered into as soon as practicable, allowing for the competitive procurement process required by this title;

(2) shall, in accordance with criteria determined and published by the Secretary, reasonably assure data continuity for a period of six years, beginning as soon as practicable in order to minimize any interruption of data availability;

(3) shall provide that the contractor will offer to sell and deliver unenhanced data to all potential buyers on a nondiscriminatory basis;

(4) shall not provide a guarantee of data purchases from the contractor by the Federal Government;

(5) may provide that the contractor utilize, on a space-available basis, a civilian United States Government satellite or vehicle as a platform for a civil land remote-sensing space system, if—

(A) the contractor agrees to reimburse the Government immediately for all related costs incurred with respect to such utilization, including a reasonable and proportionate share of fixed, platform, data transmission, and launch costs; and

(B) such utilization would not interfere with or otherwise compromise intended civilian Government missions, as determined by the agency responsible for the civilian platform; and

(6) may provide financial support by the United States Government, for a portion of the capital costs required to provide data continuity for a period of six years, in the form of loans, loan guarantees, or payments pursuant to section 305 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 255).

(b)(1) Without regard to whether any contract entered into under this title is combined with a contract under title II, the Secretary shall promptly determine whether the contract entered into under this title reasonably effectuates the purposes and policies of title II. Such determination shall be submitted to the President and the Congress, together with a full statement of the basis for such determination.

(2) If the Secretary determines that such contract does not reasonably effectuate the requirements of title II, the Secretary shall promptly carry out the provisions of such title to the extent provided in advance in appropriations Acts.

MARKETING

15 USC 4225.

SEC. 305. (a) In order to promote aggressive marketing of land remote-sensing data, any contract entered into pursuant to this title may provide that the percentage of sales paid by the contractor to the Federal Government shall decrease according to stipulated increases in sales levels.

(b) After the six-year period described in section 304(a)(2), the contractor may continue to sell data. If licensed under title IV, the

contractor may continue to operate a civil remote-sensing space system.

REPORT

SEC. 306. Two years after the date of the commencement of the six-year period described in section 304(a)(2), the Secretary shall report to the President and to the Congress on the progress of the transition to fully private financing, ownership, and operation of remote-sensing space systems, together with any recommendations for actions, including actions necessary to ensure United States leadership in civilian land remote sensing from space. 15 USC 4226.

TERMINATION OF AUTHORITY

SEC. 307. The authority granted to the Secretary by this title shall terminate ten years after the date of enactment of this Act. 15 USC 4227.

TITLE IV—LICENSING OF PRIVATE REMOTE-SENSING SPACE SYSTEMS

GENERAL AUTHORITY

SEC. 401. (a)(1) In consultation with other appropriate Federal agencies, the Secretary is authorized to license private sector parties to operate private remote-sensing space systems for such period as the Secretary may specify and in accordance with the provisions of this title. 15 USC 4241.

(2) In the case of a private space system that is used for remote sensing and other purposes, the authority of the Secretary under this title shall be limited only to the remote-sensing operations of such space system.

(b) No license shall be granted by the Secretary unless the Secretary determines in writing that the applicant will comply with the requirements of this Act, any regulations issued pursuant to this Act, and any applicable international obligations and national security concerns of the United States.

(c) The Secretary shall review any application and make a determination thereon within one hundred and twenty days of the receipt of such application. If final action has not occurred within such time, the Secretary shall inform the applicant of any pending issues and of actions required to resolve them.

(d) The Secretary shall not deny such license in order to protect any existing licensee from competition.

CONDITIONS FOR OPERATION

SEC. 402. (a) No person who is subject to the jurisdiction or control of the United States may, directly or through any subsidiary or affiliate, operate any private remote-sensing space system without a license pursuant to section 401. 15 USC 4242.

(b) Any license issued pursuant to this title shall specify, at a minimum, that the licensee shall comply with all of the requirements of this Act and shall—

(1) operate the system in such manner as to preserve and promote the national security of the United States and to observe and implement the international obligations of the United States in accordance with section 607; Defense and national security.

(2) make unenhanced data available to all potential users on a nondiscriminatory basis;

(3) upon termination of operations under the license, make disposition of any satellites in space in a manner satisfactory to the President;

(4) promptly make available all unenhanced data which the Secretary may request pursuant to section 602;

(5) furnish the Secretary with complete orbit and data collection characteristics of the system, obtain advance approval of any intended deviation from such characteristics, and inform the Secretary immediately of any unintended deviation;

(6) notify the Secretary of any agreement the licensee intends to enter with a foreign nation, entity, or consortium involving foreign nations or entities;

(7) permit the inspection by the Secretary of the licensee's equipment, facilities, and financial records;

(8) surrender the license and terminate operations upon notification by the Secretary pursuant to section 403(a)(1); and

(9)(A) notify the Secretary of any "value added" activities (as defined by the Secretary by regulation) that will be conducted by the licensee or by a subsidiary or affiliate; and

(B) if such activities are to be conducted, provide the Secretary with a plan for compliance with the provisions of this Act concerning nondiscriminatory access.

ADMINISTRATIVE AUTHORITY OF THE SECRETARY

15 USC 4243.

SEC. 403. (a) In order to carry out the responsibilities specified in this title, the Secretary may—

(1) grant, terminate, modify, condition, transfer, or suspend licenses under this title, and upon notification of the licensee may terminate licensed operations on an immediate basis, if the Secretary determines that the licensee has substantially failed to comply with any provision of this Act, with any regulation issued under this Act, with any terms, conditions, or restrictions of such license, or with any international obligations or national security concerns of the United States;

(2) inspect the equipment, facilities, or financial records of any licensee under this title;

(3) provide penalties for noncompliance with the requirements of licenses or regulations issued under this title, including civil penalties not to exceed \$10,000 (each day of operation in violation of such licenses or regulations constituting a separate violation);

(4) compromise, modify, or remit any such civil penalty;

(5) issue subpoenas for any materials, documents, or records, or for the attendance and testimony of witnesses for the purpose of conducting a hearing under this section;

(6) seize any object, record, or report where there is probable cause to believe that such object, record, or report was used, is being used, or is likely to be used in violation of this Act or the requirements of a license or regulation issued thereunder; and

(7) make investigations and inquiries and administer to or take from any person an oath, affirmation, or affidavit concerning any matter relating to the enforcement of this Act.

(b) Any applicant or licensee who makes a timely request for review of an adverse action pursuant to subsection (a)(1), (a)(3), or

(a)(6) shall be entitled to adjudication by the Secretary on the record after an opportunity for an agency hearing with respect to such adverse action. Any final action by the Secretary under this subsection shall be subject to judicial review under chapter 7 of title 5, United States Code.

5 USC 701 *et seq.*

REGULATORY AUTHORITY OF THE SECRETARY

SEC. 404. The Secretary may issue regulations to carry out the provisions of this title. Such regulations shall be promulgated only after public notice and comment in accordance with the provisions of section 553 of title 5, United States Code.

15 USC 4244.

AGENCY ACTIVITIES

SEC. 405. (a) A private sector party may apply for a license to operate a private remote-sensing space system which utilizes, on a space-available basis, a civilian United States Government satellite or vehicle as a platform for such system. The Secretary, pursuant to the authorities of this title, may license such system if it meets all conditions of this title and—

15 USC 4245.

(1) the system operator agrees to reimburse the Government immediately for all related costs incurred with respect to such utilization, including a reasonable and proportionate share of fixed, platform, data transmission, and launch costs; and

(2) such utilization would not interfere with or otherwise compromise intended civilian Government missions, as determined by the agency responsible for such civilian platform.

(b) The Secretary may offer assistance to private sector parties in finding appropriate opportunities for such utilization.

(c) To the extent provided in advance by appropriation Acts, any Federal agency may enter into agreements for such utilization if such agreements are consistent with such agency's mission and statutory authority, and if such remote-sensing space system is licensed by the Secretary before commencing operation.

(d) The provisions of this section do not apply to activities carried out under title V.

(e) Nothing in this title shall affect the authority of the Federal Communications Commission pursuant to the Communications Act of 1934, as amended (47 U.S.C. 151 *et seq.*).

47 USC 609.

TERMINATION

SEC. 406. If, five years after the expiration of the six-year period described in section 304(a)(2), no private sector party has been licensed and continued in operation under the provisions of this title, the authority of this title shall terminate.

15 USC 4246.

TITLE V—RESEARCH AND DEVELOPMENT

CONTINUED FEDERAL RESEARCH AND DEVELOPMENT

SEC. 501. (a)(1) The Administrator of the National Aeronautics and Space Administration is directed to continue and to enhance such Administration's programs of remote-sensing research and development.

15 USC 4261.

(2) The Administrator is authorized and encouraged to—

(A) conduct experimental space remote-sensing programs (including applications demonstration programs and basic research at universities);

(B) develop remote-sensing technologies and techniques, including those needed for monitoring the Earth and its environment; and

(C) conduct such research and development in cooperation with other Federal agencies and with public and private research entities (including private industry, universities, State and local governments, foreign governments, and international organizations) and to enter into arrangements (including joint ventures) which will foster such cooperation.

(b)(1) The Secretary is directed to conduct a continuing program of—

(A) research in applications of remote-sensing;

(B) monitoring of the Earth and its environment; and

(C) development of technology for such monitoring.

(2) Such program may include support of basic research at universities and demonstrations of applications.

(3) The Secretary is authorized and encouraged to conduct such research, monitoring, and development in cooperation with other Federal agencies and with public and private research entities (including private industry, universities, State and local governments, foreign governments, and international organizations) and to enter into arrangements (including joint ventures) which will foster such cooperation.

(c)(1) In order to enhance the United States ability to manage and utilize its renewable and nonrenewable resources, the Secretary of Agriculture and the Secretary of the Interior are authorized and encouraged to conduct programs of research and development in the applications of remote sensing using funds appropriated for such purposes.

(2) Such programs may include basic research at universities, demonstrations of applications, and cooperative activities involving other Government agencies, private sector parties, and foreign and international organizations.

(d) Other Federal agencies are authorized and encouraged to conduct research and development on the use of remote sensing in fulfillment of their authorized missions, using funds appropriated for such purposes.

Report.

(e) The Secretary and the Administrator of the National Aeronautics and Space Administration shall, within one year after the date of enactment of this Act and biennially thereafter, jointly develop and transmit to the Congress a report which includes (1) a unified national plan for remote-sensing research and development applied to the Earth and its atmosphere; (2) a compilation of progress in the relevant ongoing research and development activities of the Federal agencies; and (3) an assessment of the state of our knowledge of the Earth and its atmosphere, the needs for additional research (including research related to operational Federal remote-sensing space programs), and opportunities available for further progress.

USE OF EXPERIMENTAL DATA

15 USC 4262.

SEC. 502. Data gathered in Federal experimental remote-sensing space programs may be used in related research and development programs funded by the Federal Government (including applications

programs) and cooperative research programs, but not for commercial uses or in competition with private sector activities, except pursuant to section 503.

SALE OF EXPERIMENTAL DATA

SEC. 503. Data gathered in Federal experimental remote-sensing space programs may be sold en bloc through a competitive process (consistent with national security interests and international obligations of the United States and in accordance with section 607) to any United States entity which will market the data on a nondiscriminatory basis.

15 USC 4263.

TITLE VI—GENERAL PROVISIONS

NONDISCRIMINATORY DATA AVAILABILITY

SEC. 601. (a) Any unenhanced data generated by any system operator under the provisions of this Act shall be made available to all users on a nondiscriminatory basis in accordance with the requirements of this Act.

Public
availability.
15 USC 4271.

(b) Any system operator shall make publicly available the prices, policies, procedures, and other terms and conditions (but, in accordance with section 104(3)(C), not necessarily the names of buyers or their purchases) upon which the operator will sell such data.

ARCHIVING OF DATA

SEC. 602. (a) It is in the public interest for the United States Government—

15 USC 4272.

(1) to maintain an archive of land remote-sensing data for historical, scientific, and technical purposes, including long-term global environmental monitoring;

(2) to control the content and scope of the archive; and

(3) to assure the quality, integrity, and continuity of the archive.

(b) The Secretary shall provide for long-term storage, maintenance, and upgrading of a basic, global, land remote-sensing data set (hereinafter referred to as the “basic data set”) and shall follow reasonable archival practices to assure proper storage and preservation of the basic data set and timely access for parties requesting data. The basic data set which the Secretary assembles in the Government archive shall remain distinct from any inventory of data which a system operator may maintain for sales and for other purposes.

(c) In determining the initial content of, or in upgrading, the basic data set, the Secretary shall—

(1) use as a baseline the data archived on the date of enactment of this Act;

(2) take into account future technical and scientific developments and needs;

(3) consult with and seek the advice of users and producers of remote-sensing data and data products;

(4) consider the need for data which may be duplicative in terms of geographical coverage but which differ in terms of season, spectral bands, resolution, or other relevant factors;

(5) include, as the Secretary considers appropriate, unenhanced data generated either by the Landsat system, pursuant to title III, or by licensees under title IV;

(6) include, as the Secretary considers appropriate, data collected by foreign ground stations or by foreign remote-sensing space systems; and

(7) ensure that the content of the archive is developed in accordance with section 607.

(d) Subject to the availability of appropriations, the Secretary shall request data needed for the basic data set and pay to the providing system operator reasonable costs for reproduction and transmission. A system operator shall promptly make requested data available in a form suitable for processing for archiving.

Marketing.

(e) Any system operator shall have the exclusive right to sell all data that the operator provides to the United States remote-sensing data archive for a period to be determined by the Secretary but not to exceed ten years from the date the data are sensed. In the case of data generated from the Landsat system prior to the implementation of the contract described in section 202(a), any contractor selected pursuant to section 202 shall have the exclusive right to market such data on behalf of the United States Government for the duration of such contract. A system operator may relinquish the exclusive right and consent to distribution from the archive before the period of exclusive right has expired by terminating the offer to sell particular data.

Public
availability.

(f) After the expiration of such exclusive right to sell, or after relinquishment of such right, the data provided to the United States remote-sensing data archive shall be in the public domain and shall be made available to requesting parties by the Secretary at prices reflecting reasonable costs of reproduction and transmittal.

(g) In carrying out the functions of this section, the Secretary shall, to the extent practicable and as provided in advance by appropriation Acts, use existing Government facilities.

NONREPRODUCTION

15 USC 4273.

SEC. 603. Unenhanced data distributed by any system operator under the provisions of this Act may be sold on the condition that such data will not be reproduced or disseminated by the purchaser.

REIMBURSEMENT FOR ASSISTANCE

15 USC 4274.

SEC. 604. The Administrator of the National Aeronautics and Space Administration, the Secretary of Defense and the heads of other Federal agencies may provide assistance to system operators under the provisions of this Act. Substantial assistance shall be reimbursed by the operator, except as otherwise provided by law.

ACQUISITION OF EQUIPMENT

15 USC 4275.

SEC. 605. The Secretary may, by means of a competitive process, allow a licensee under title IV or any other private party to buy, lease, or otherwise acquire the use of equipment from the Landsat system, when such equipment is no longer needed for the operation of such system or for the sale of data from such system. Officials of other Federal civilian agencies are authorized and encouraged to cooperate with the Secretary in carrying out the provisions of this section.

RADIO FREQUENCY ALLOCATION

SEC. 606. (a) Within thirty days after the date of enactment of this Act, the President (or the President's delegate, if any, with authority over the assignment of frequencies to radio stations or classes of radio stations operated by the United States) shall make available for nongovernmental use spectrum presently allocated to Government use, for use by United States Landsat and commercial remote-sensing space systems. The spectrum to be so made available shall conform to any applicable international radio or wire treaty or convention, or regulations annexed thereto. Within ninety days thereafter, the Federal Communications Commission shall utilize appropriate procedures to authorize the use of such spectrum for nongovernmental use. Nothing in this section shall preclude the ability of the Commission to allocate additional spectrum to commercial land remote-sensing space satellite system use.

President of U.S.
15 USC 4276.

(b) To the extent required by the Communications Act of 1934, as amended (47 U.S.C. 151 et seq.), an application shall be filed with the Federal Communications Commission for any radio facilities involved with the commercial remote-sensing space system.

47 USC 609.

(c) It is the intent of Congress that the Federal Communications Commission complete the radio licensing process under the Communications Act of 1934, as amended (47 U.S.C. 151 et seq.), upon the application of any private sector party or consortium operator of any commercial land remote-sensing space system subject to this Act, within one hundred and twenty days of the receipt of an application for such licensing. If final action has not occurred within one hundred and twenty days of the receipt of such an application, the Federal Communications Commission shall inform the applicant of any pending issues and of actions required to resolve them.

(d) Authority shall not be required from the Federal Communications Commission for the development and construction of any United States land remote-sensing space system (or component thereof), other than radio transmitting facilities or components, while any licensing determination is being made.

(e) Frequency allocations made pursuant to this section by the Federal Communications Commission shall be consistent with international obligations and with the public interest.

CONSULTATION

SEC. 607. (a) The Secretary shall consult with the Secretary of Defense on all matters under this Act affecting national security. The Secretary of Defense shall be responsible for determining those conditions, consistent with this Act, necessary to meet national security concerns of the United States and for notifying the Secretary promptly of such conditions.

Defense and
national
security.
15 USC 4277.

(b)(1) The Secretary shall consult with the Secretary of State on all matters under this Act affecting international obligations. The Secretary of State shall be responsible for determining those conditions, consistent with this Act, necessary to meet international obligations and policies of the United States and for notifying the Secretary promptly of such conditions.

(2) Appropriate Federal agencies are authorized and encouraged to provide remote-sensing data, technology, and training to developing nations as a component of programs of international aid.

(3) The Secretary of State shall promptly report to the Secretary any instances outside the United States of discriminatory distribution of data.

(c) If, as a result of technical modifications imposed on a system operator on the basis of national security concerns, the Secretary, in consultation with the Secretary of Defense or with other Federal agencies, determines that additional costs will be incurred by the system operator, or that past development costs (including the cost of capital) will not be recovered by the system operator, the Secretary may require the agency or agencies requesting such technical modifications to reimburse the system operator for such additional or development costs, but not for anticipated profits. Reimbursements may cover costs associated with required changes in system performance, but not costs ordinarily associated with doing business abroad.

AMENDMENT TO NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AUTHORIZATION, 1983

15 USC 1517
note.

SEC. 608. Subsection (a) of section 201 of the National Aeronautics and Space Administration Authorization Act, 1983 (Public Law 97-324; 96 Stat. 1601) is amended to read as follows:

“(a) The Secretary of Commerce is authorized to plan and provide for the management and operation of civil remote-sensing space systems, which may include the Landsat 4 and 5 satellites and associated ground system equipment transferred from the National Aeronautics and Space Administration; to provide for user fees; and to plan for the transfer of the operation of civil remote-sensing space systems to the private sector when in the national interest.”.

AUTHORIZATION OF APPROPRIATIONS

15 USC 4278.

SEC. 609. (a) There are authorized to be appropriated to the Secretary \$75,000,000 for fiscal year 1985 for the purpose of carrying out the provisions of this Act. Such sums shall remain available until expended, but shall not become available until the time periods specified in sections 202(c) and 303(c) have expired.

15 USC 1517
note.

(b) The authorization provided for under subsection (a) shall be in addition to moneys authorized pursuant to title II of the National Aeronautics and Space Administration Authorization Act, 1983.

TITLE VII—PROHIBITION OF COMMERCIALIZATION OF WEATHER SATELLITES

PROHIBITION

President of U.S.
15 USC 4291.

SEC. 701. Neither the President nor any other official of the Government shall make any effort to lease, sell, or transfer to the private sector, commercialize, or in any way dismantle any portion of the weather satellite systems operated by the Department of Commerce or any successor agency.

FUTURE CONSIDERATIONS

SEC. 702. Regardless of any change in circumstances subsequent to the enactment of this Act, even if such change makes it appear to be in the national interest to commercialize weather satellites, neither the President nor any official shall take any action prohibited by section 701 unless this title has first been repealed. 15 USC 4292.

Approved July 17, 1984.

LEGISLATIVE HISTORY—H.R. 5155:

HOUSE REPORT No. 98-647 (Comm. on Science and Technology).

SENATE REPORT No. 98-458 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 130 (1984):

Apr. 9, considered and passed House.

June 8, considered and passed Senate, amended.

June 28, House concurred in Senate amendment with an amendment.

June 29, Senate concurred in House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 29 (1984):

July 17, Presidential statement.

Public Law 98-366
98th Congress

An Act

July 17, 1984
[H.R. 5740]

Entitled, the "Barrow Gas Field Transfer Act of 1984".

Barrow Gas
Field Transfer
Act of 1984.
Alaska.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. The following may be cited as the "Barrow Gas Field Transfer Act of 1984".

SEC. 2. (a) The Secretary of the Interior (hereinafter "the Secretary") shall convey to the North Slope Borough the subsurface estate held by the United States to the Barrow gas fields and the Walakpa gas discovery site, related support facilities, other lands, interests, and funds in accordance with the terms and conditions of the agreement, including appendix numbered 1, between the Secretary of the Interior and the North Slope Borough dated September 22, 1983 (hereinafter "the NSB Agreement"), on file with the Senate Energy and Natural Resources Committee and the House Interior and Insular Affairs Committee, which is hereby incorporated into this Act.

Research and
development.

(b) Upon conveyance, the North Slope Borough is authorized, notwithstanding any other provision of law, to explore for, develop, and produce fluid hydrocarbons within the lands and interests granted: *Provided*, That section 301(a) of the NSB Agreement shall not reduce revenues which would otherwise be shared with the State of Alaska under the provisions of Public Law 96-514 by providing for the disposition of gas at less than the value referred to in section 301(d) of the NSB Agreement or as a result of the crediting provisions of section 301(a)(3) of the NSB Agreement.

94 Stat. 2957.

(c) The Barrow gas fields and related support facilities shall continue to be exempt from the Pipeline Safety Act, title 49 of the Code of Federal Regulations, and all other rules and regulations governing the design, construction, and operation of gas pipelines, wells, and related facilities.

49 USC app. 1671
note.

(d) The provisions of the National Environmental Policy Act shall apply to any land conveyance under section 203(b) of the NSB Agreement. During the NEPA process, the North Slope Borough shall consult with the United States Fish and Wildlife Service, the Alaska Department of Fish and Game, and the National Park Service concerning the fish, wildlife, cultural, and historic values of the area to be selected. The Secretary is authorized to approve or deny the selection. If denied, the North Slope Borough shall be entitled to identify an alternative site, which shall be subject to the review process set forth in this section.

42 USC 4321
note.

Fish and fishing.
Wildlife.
Cultural
programs.
Historic
preservation.

(e) The North Slope Borough shall not make a selection under section 203(b) of the NSB Agreement in areas designated by the Congress or the Secretary under section 104(b) of the Naval Petroleum Reserves Production Act of 1976 for the protection of surface values, as depicted on the map set forth on page 125 of the "Final Environmental Impact Statement on Oil and Gas Leasing in the National Petroleum Reserve in Alaska" dated February 1983, or

42 USC 6504.

within the boundaries of the Kasegaluk Lagoon Potential Natural Landmark as identified in study report numbered 2 prepared pursuant to section 105(c) of that Act, or within any area withdrawn or designated for study pursuant to section 604 of the Alaska National Interest Lands Conservation Act.

42 USC 6505.

16 USC 1276.

(f) Notwithstanding the time limit specified in the NSB Agreement, the North Slope Borough shall have ten years from the date of this Act to make its selection under section 203(b) of the NSB Agreement. If, within ninety days of the expiration of the ten-year period, or after the expiration of such period, the Secretary denies any selection, the North Slope Borough shall select an alternative site within ninety days of such denial. If an alternative site is denied, the selection and review process in this subsection shall be repeated until a site is approved by the Secretary.

(g) Notwithstanding any provision of the NSB Agreement, the North Slope Borough shall obtain the right to divert, use, appropriate, or possess water solely through compliance with applicable laws of the United States and the State of Alaska.

Water.

(h) Notwithstanding any provision of the NSB Agreement, the right of the North Slope Borough to exploit gas and entrained liquid hydrocarbons from Federal test wells in the National Petroleum Reserve-Alaska shall not apply to test wells in areas designated by the Congress or the Secretary under section 104(b) of the Naval Petroleum Reserves Production Act of 1976 for the protection of surface values, as depicted on the map set forth on page 125 of the "Final Environmental Impact Statement on Oil and Gas Leasing in the National Petroleum Reserve in Alaska" dated February 1983, or within the boundaries of the Kasegaluk Lagoon Potential Natural Landmark as identified in study report numbered 2 prepared pursuant to section 105(c) of that Act, or within any area withdrawn or designated for study pursuant to section 604 of the Alaska National Interest Lands Conservation Act.

42 USC 6504.

42 USC 6505.

16 USC 1276.

(i) The Secretary shall process any application submitted by the North Slope Borough under section 203(d) of the NSB Agreement for a right-of-way which crosses, in whole or in part, any lands within any area designated by the Congress or the Secretary under section 104(b) of the Naval Petroleum Reserves Production Act of 1976 for the protection of surface values, as depicted on the map set forth on page 125 of the "Final Environmental Impact Statement on Oil and Gas Leasing in the National Petroleum Reserve in Alaska" dated February 1983, or within the boundaries of the Kasegaluk Lagoon Potential Natural Landmark as identified in study report numbered 2 prepared pursuant to section 105(c) of that Act, or within any area withdrawn or designated for study pursuant to section 604 of the Alaska National Interest Lands Conservation Act, under the provisions of title XI of the Alaska National Interest Lands Conservation Act. In processing any such application for a right-of-way which crosses, in whole or in part, any lands within any area designated by the Congress or the Secretary under section 104(b) of the Naval Petroleum Reserves Production Act of 1976, the protection of the values and the continuation of the uses specified in section 104(b) of that Act shall be considered to be the purposes for which the area was established.

42 USC 6504.

42 USC 6505.

16 USC 1276.

16 USC 3161.

42 USC 6504.

(j) Nothing in this Act or in the NSB Agreement shall be construed as amending the provisions of the Alaska National Interest Lands Conservation Act or as amending or repealing any other

16 USC 3101
note.

16 USC 3102.
Ukpeagvik
Inupiat
Corporation.

provision of law applicable to any conservation system unit, as that term is defined in section 102(4) of that Act.

SEC. 3. The Secretary of the Interior shall convey to Ukpeagvik Inupiat Corporation (hereinafter "UIC"), subject to valid existing rights, all right, title, and interest held by the United States to sand and gravel underlying the surface estate owned by UIC in the Barrow gas fields and Walakpa gas discovery site, upon execution of an easement agreement with the North Slope Borough, satisfactory to the North Slope Borough, in consideration for the conveyance to UIC of such sand and gravel, providing for easements, for all purposes associated with operation, maintenance, development, production, generation, or transportation of energy, including the transmission of electricity, from the Barrow gas fields, the Walakpa discovery site, or from any other source of energy chosen by the North Slope Borough, to supply energy to Barrow, Wainwright, and Atkasook, and providing such easements when and where required as determined by the North Slope Borough during the life of such fields or other energy sources.

43 USC 1761.
30 USC 185.

SEC. 4. (a) Section 102 of the Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 6502) is amended by adding "and the North Slope Borough" immediately after "Alaska Natives", by deleting "and" immediately after "responsibilities under this Act.", and by replacing the period following "Alaska Native Claims Settlement Act" with ", and (4) grant such rights-of-way to the North Slope Borough, under the provisions of title V of the Federal Land Policy and Management Act of 1976 or section 28 of the Mineral Leasing Act, as amended, as may be necessary to permit the North Slope Borough to provide energy supplies to villages on the North Slope."

(b) Section 104(e) of the Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 6504(e)) is repealed effective October 1, 1984.

Arctic Slope
Regional
Corporation.
94 Stat. 2533.

SEC. 5. (a) In consideration for the relinquishment of rights that Arctic Slope Regional Corporation has under section 1431(o) of the Alaska National Interest Lands Conservation Act, Public Law 96-487, 94 Stat. 2371, 2541, to the subsurface resources in the Barrow gas fields and the Walakpa gas discovery site conveyed to the North Slope Borough and Ukpeagvik Inupiat Corporation pursuant to sections 2 and 3 of this Act, the Secretary of the Interior and Arctic Slope Regional Corporation are authorized to exchange lands and interests as set forth in the separate agreement between the Secretary and Arctic Slope Regional Corporation dated January 24, 1984 (hereinafter "the ASRC Agreement"), on file with the Senate Energy and Natural Resources Committee and the House Interior and Insular Affairs Committee. The specific terms, conditions, and covenants of the ASRC Agreement are hereby incorporated into this Act and ratified, as to the rights, duties, and obligations of the United States and Arctic Slope Regional Corporation and as to the rights and interests of the North Slope Borough, as a matter of Federal law.

(b) Notwithstanding the provisions of paragraph 4 of the ASRC Agreement, in lieu of the additional 69,120 acres of subsurface estate to be identified by ASRC pursuant to said paragraph 4, ASRC shall identify for conveyance or relinquishment to the United States, as appropriate, the 101,272 acres of subsurface estate beneath the surface estate of the lands described in subparagraphs 2 (a), (b) and (d) of the August 9, 1983 agreement between Arctic Slope Regional Corporation and the United States of America.

(c) To the extent that any provision or interpretation of the NSB Agreement is inconsistent with the provisions of this section or the ASRC Agreement, the provisions of this section and of the ASRC Agreement shall prevail.

(d) All of the lands, or interest therein, conveyed to and received by Arctic Slope Regional Corporation pursuant to this section or the ASRC Agreement and pursuant to the August 9, 1983 agreement between Arctic Slope Regional Corporation and the United States of America shall, in addition to other applicable authority, be deemed conveyed and received pursuant to exchanges under section 22(f) of the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601, 1621(f)).

Arctic Slope
Regional
Corporation.

Approved July 17, 1984.

LEGISLATIVE HISTORY—H.R. 5740:

HOUSE REPORT No. 98-843 (Comm. on Interior and Insular Affairs).

CONGRESSIONAL RECORD, Vol. 130 (1984):

June 18, considered and passed House.

June 28, considered and passed Senate.

Public Law 98-367
98th Congress

An Act

July 17, 1984
[H.R. 5753]

Making appropriations for the Legislative Branch for the fiscal year ending September 30, 1985, and for other purposes.

Legislative
Branch
Appropriations
Act, 1985.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Legislative Branch for the fiscal year ending September 30, 1985, and for other purposes, namely:

Congressional
Operations
Appropriation
Act, 1985.
2 USC 60a note.

TITLE I—CONGRESSIONAL OPERATIONS

SENATE

MILEAGE OF THE VICE PRESIDENT AND SENATORS AND EXPENSE ALLOWANCES OF THE VICE PRESIDENT, THE PRESIDENT PRO TEMPORE, MAJORITY AND MINORITY LEADERS, AND MAJORITY AND MINORITY WHIPS

MILEAGE OF THE VICE PRESIDENT AND SENATORS

For mileage of the Vice President and Senators of the United States, \$60,000.

EXPENSE ALLOWANCES OF THE VICE PRESIDENT, THE PRESIDENT PRO TEMPORE, MAJORITY AND MINORITY LEADERS, AND MAJORITY AND MINORITY WHIPS

For expense allowances of the Vice President, \$10,000; the President Pro Tempore of the Senate, \$10,000; Majority Leader of the Senate, \$10,000; Minority Leader of the Senate, \$10,000; Majority Whip of the Senate, \$5,000; and Minority Whip of the Senate, \$5,000; in all, \$50,000.

SALARIES, OFFICERS AND EMPLOYEES

For compensation of officers, employees, clerks to Senators, and others as authorized by law, including agency contributions, which shall be paid from this appropriation without regard to the below limitations, as follows:

OFFICE OF THE VICE PRESIDENT

For the Office of the Vice President, \$1,083,000.

OFFICE OF THE PRESIDENT PRO TEMPORE

For Office of the President Pro Tempore, \$145,000.

OFFICES OF THE MAJORITY AND MINORITY LEADERS

For Offices of the Majority and Minority Leaders, \$1,062,000.

OFFICES OF THE MAJORITY AND MINORITY WHIPS

For Offices of the Majority and Minority Whips, \$407,000.

CONFERENCE COMMITTEES

For the Conference of the Majority and the Conference of the Minority, at rates of compensation to be fixed by the Chairman of each such committee, \$526,500 for each such committee; in all \$1,053,000.

OFFICES OF THE SECRETARIES OF THE CONFERENCE OF THE MAJORITY
AND THE CONFERENCE OF THE MINORITY

For Offices of the Secretaries of the Conference of the Majority and the Conference of the Minority, \$177,000.

OFFICE OF THE CHAPLAIN

For Office of the Chaplain, \$87,000.

OFFICE OF THE SECRETARY

For Office of the Secretary, \$7,067,000.

ADMINISTRATIVE, CLERICAL, AND LEGISLATIVE ASSISTANCE TO
SENATORS

For administrative, clerical, and legislative assistance to Senators, \$98,789,000.

OFFICE OF THE SERGEANT AT ARMS AND DOORKEEPER

For Office of the Sergeant at Arms and Doorkeeper, \$35,429,000.

OFFICES OF THE SECRETARIES FOR THE MAJORITY AND MINORITY

For Offices of the Secretary for the Majority and the Secretary for the Minority, \$856,000.

AGENCY CONTRIBUTIONS

For agency contributions for employee benefits, as authorized by law, \$19,487,000.

OFFICE OF THE LEGISLATIVE COUNSEL OF THE SENATE

For salaries and expenses of the Office of the Legislative Counsel of the Senate, \$1,400,000.

OFFICE OF SENATE LEGAL COUNSEL

For salaries and expenses of the Office of Senate Legal Counsel, \$565,000.

EXPENSE ALLOWANCES OF THE SECRETARY OF THE SENATE, SERGEANT
AT ARMS AND DOORKEEPER OF THE SENATE, AND SECRETARIES FOR
THE MAJORITY AND MINORITY OF THE SENATE

For expense allowances of the Secretary of the Senate, \$3,000; Sergeant at Arms and Doorkeeper of the Senate, \$3,000; Secretary

for the Majority of the Senate, \$3,000; Secretary for the Minority of the Senate, \$3,000; in all, \$12,000.

CONTINGENT EXPENSES OF THE SENATE

SENATE POLICY COMMITTEES

For salaries and expenses of the Majority Policy Committee and the Minority Policy Committee, \$949,000 for each such committee; in all \$1,898,000.

INQUIRIES AND INVESTIGATIONS

For expenses of inquiries and investigations ordered by the Senate, or conducted pursuant to section 134(a) of Public Law 601, Seventy-ninth Congress, as amended, section 112 of Public Law 96-304 and Senate Resolution 281, agreed to March 11, 1980, \$48,050,000.

2 USC 190b.
94 Stat. 892.

SECRETARY OF THE SENATE

For expenses of the Office of the Secretary of the Senate, \$711,000.

SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE

For expenses of the Office of the Sergeant at Arms and Doorkeeper of the Senate, \$41,214,000.

MISCELLANEOUS ITEMS

For miscellaneous items, \$10,341,000.

STATIONERY (REVOLVING FUND)

For stationery for the President of the Senate, \$4,500, for officers of the Senate and the Conference of the Majority and Conference of the Minority of the Senate, \$7,500; in all, \$12,000.

ADMINISTRATIVE PROVISIONS

SEC. 1. Effective with respect to fiscal years beginning on or after October 1, 1983, the first sentence of section 101 of the Legislative Branch Appropriations Act, 1976 (2 U.S.C. 61a-9a) is amended by striking out "but such expenditures shall not exceed \$10,000 during any fiscal year".

SEC. 2. (a) The last paragraph under the heading "Senate" in the First Deficiency Act, fiscal year 1926 (44 Stat. 162; 2 U.S.C. 64a) is amended to read as follows:

"For any period during which both the Secretary and the Assistant Secretary of the Senate are unable (because of death, resignation, or disability) to discharge such Secretary's duties as disbursing officer of the Senate, the Financial Clerk of the Senate shall be deemed to be the successor of such Secretary as disbursing officer."

(b) The paragraph under the heading "Administrative Provision" in chapter IV of the Supplemental Appropriations Act, 1972 (2 U.S.C. 64b) is amended—

(1) in the first sentence thereof, by striking out "except those matters relating to the Secretary's duties as disbursing officer of the Senate,"; and

(2) in the third sentence thereof, by striking out “, except those matters relating to the Secretary’s duties as such disbursing officer”.

SEC. 3. (a) Paragraph (1) of subsection (d) of section 105 of the Legislative Branch Appropriation Act, 1968 (2 U.S.C. 61-1(d)), is amended—

(1) by striking out “(A)” where it appears in the paragraph designation for paragraph (1);

(2) by amending the second sentence to read as follows: “In the event that the term of office of a Senator begins after the first month of a fiscal year or ends (except by reason of death, resignation, or expulsion) before the last month of a fiscal year, the aggregate amount available for gross compensation of employees in the office of such Senator for such year shall be the applicable amount contained in the table included in the preceding sentence, divided by 12, and multiplied by the number of months in such year which are included in the Senator’s term of office, counting any fraction of a month as a full month”; and

(3) by striking out subparagraph (B).

(b) The amendments made by subsection (a) of this section shall be effective with respect to fiscal years beginning after September 30, 1984.

Effective date.
2 USC 61-1 note.

SEC. 4. At no time during the first three months of any fiscal year (commencing with the fiscal year which begins October 1, 1984) shall the aggregate of payments of gross compensation made to employees out of any line item appropriation within the Senate appropriation account for “Salaries, Officers and Employees” (other than the line item appropriations, within such account for “Administrative, clerical, and legislative assistance to Senators” and for “Agency contributions”) exceed twenty-five per centum of the total amount available for such line item appropriations for such fiscal year.

2 USC 61-1b.

SEC. 5. The Sergeant at Arms and Doorkeeper of the Senate shall deposit in the United States Treasury for credit to the appropriation account, within the contingent fund of the Senate, for the “Sergeant at Arms and Doorkeeper of the Senate”, all moneys received by him as reimbursement for equipment provided to Senators, committee chairmen, and other officers and employees of the Senate, which has been lost, stolen, damaged, or otherwise unaccounted for.

2 USC 117d.

SEC. 6. The Sergeant at Arms and Doorkeeper of the Senate, in carrying out the duties of his office, is authorized to employ personnel at daily rates of compensation; no individual so employed shall be paid at a daily rate of compensation which is in excess of the per diem equivalent of the highest gross rate of annual compensation which may be paid to employees of a standing committee of the Senate; and payments under authority of this section shall be made from the account, within the contingent fund of the Senate, for the “Sergeant at Arms and Doorkeeper of the Senate”, upon vouchers approved by the Sergeant at Arms and Doorkeeper of the Senate.

2 USC 61f-9.

SEC. 7. Section 117 of Public Law 97-51 (2 U.S.C. 61f-8) is amended by striking out “\$60,000” and inserting in lieu thereof “\$210,000”.

SEC. 8. Section 734 of title 31, United States Code, is amended—

(1) by striking out “(a)”; and

(2) by striking out subsection (b).

SEC. 9. Effective October 1, 1983, the allowance for administration and clerical assistance of each Senator from the State of Arizona is increased to that allowed to Senators from States having population

Effective date.
2 USC 61-1 note.

of three million but less than four million, the population of such State having exceeded three million inhabitants.

2 USC 72a-1f.

SEC. 10. Notwithstanding any other provisions of law, a Senator who is the Chairman or Vice Chairman of the Senate Select Committee on Ethics may designate one employee employed in his Senate office to perform part-time service for such Committee, and such Committee shall reimburse such Senator for such employee's services for the Committee by transferring from the contingent fund of the Senate, upon vouchers approved by the Chairman of such Committee, to such Senator's Administrative, Clerical, and Legislative Assistance Allowance, with respect to each pay period of such employee, an amount which bears the same ratio to such employee's salary (but not more than one-half of such salary) for such period, as the portion of the time spent (or to be spent) by such employee in performing services for such Committee during such period bears to the total time for which such employee worked (or will work) during such period (as determined by the Chairman of such Committee) for such Committee and in such Senator's office. Any funds transferred under authority of the preceding sentence to a Senator's Administrative, Clerical, and Legislative Assistance shall be available for the same purposes and in like manner as funds therein which were not transferred thereto under such authority. For purposes of any law of the United States, a State, a territory, or a political subdivision thereof, an employee designated by a Senator pursuant to this section shall be considered to be an employee of such Senator's Senate office and not an employee of the Senate Select Committee on Ethics.

SEC. 11. (a) Section 110(a) of Public Law 97-12 (2 U.S.C. 58b) is amended—

(1) by inserting, immediately after the first sentence thereof, the following new sentence: "Each Senator, at his election, may, during any fiscal year (but not earlier than August 1 thereof), transfer from his clerk hire allowance to such Senator's Official Office Expense Account such amounts in such clerk hire allowance as the Senator shall determine, but not in excess of the balance (or accrued surplus in case of transfers made prior to October 1, 1984) as of the end of the month which precedes the date of such transfer.";

(2) in the second sentence thereof, by striking out "balance" and inserting in lieu thereof "amount"; and

(3) in the third sentence thereof, by striking out "December 31," and all that follows, and inserting in lieu thereof "December 31 of the calendar year in which occurs the close of such fiscal year, and such transfer shall be made on such date (but not earlier than August 1 of such calendar year) as may be specified by the Senator."

Effective date.
2 USC 58b. note.

(b) The amendments made by subsection (a) shall be effective in the case of fiscal years beginning after September 30, 1983.

SEC. 12. (a) The second sentence of paragraph (2) of section 105(d) of the Legislative Branch Appropriation Act, 1968 (2 U.S.C. 61-1(d)(2)), is amended to read as follows: "The salary of an employee in a Senator's office shall not be fixed under this paragraph at a rate less than \$1,251 or in excess of \$68,172 per annum."

(b) The first sentence of paragraph (3) of section 105(e) of such Act (2 U.S.C. 61-1(e)) is amended to read as follows: "No employee of a committee of the Senate shall be paid at a gross rate in excess of \$67,694, in case of an employee of a joint committee the expenses of

which are paid from the contingent fund of the Senate, \$68,172, in case of an employee of a select committee (including the conference majority and conference minority of the Senate), or \$69,966, in case of an employee of any standing committee (including the majority and minority policy committees) of the Senate.”.

(c) The amendments made by subsection (a) of this section shall take effect on October 1, 1984.

Effective date.
2 USC 61-1 note.

HOUSE OF REPRESENTATIVES

MILEAGE OF MEMBERS

For mileage of Members, as authorized by law, \$210,000.

HOUSE LEADERSHIP OFFICES

For salaries and expenses, as authorized by law, \$3,240,000, including: Office of the Speaker, \$748,000, including \$18,000 for official expenses of the Speaker; Office of the Majority Floor Leader, \$664,000, including \$10,000 for official expenses of the Majority Leader; Office of the Minority Floor Leader, \$740,000, including \$10,000 for official expenses of the Minority Leader; Office of the Majority Whip, \$582,000, including \$1,000 for official expenses of the Majority Whip and not to exceed \$139,911 for the Chief Deputy Majority Whip; Office of the Minority Whip, \$506,000, including \$1,000 for official expenses of the Minority Whip and not to exceed \$73,878 for the Chief Deputy Minority Whip.

SALARIES, OFFICERS AND EMPLOYEES

For compensation and expenses of officers and employees, as authorized by law, \$46,947,000, including: Office of the Clerk, \$13,254,000; Office of the Sergeant at Arms, including overtime, as authorized by law, \$17,975,000; Office of the Doorkeeper, including overtime, as authorized by law, \$6,645,000; Office of the Postmaster, \$1,985,000, including \$44,928 for employment of substitute messengers and extra services of regular employees when required at the salary rate of not to exceed \$15,652 per annum each; Office of the Chaplain, \$72,000; Office of the Parliamentarian, including the Parliamentarian and \$2,000 for preparing the Digest of Rules, \$602,000; for salaries and expenses of the Office for the Bicentennial of the House of Representatives, \$188,000; for salaries and expenses of the Office of the Law Revision Counsel of the House, \$822,000; for salaries and expenses of the Office of the Legislative Counsel of the House, \$2,869,000; six minority employees, \$422,000; the House Democratic Steering Committee and Caucus, \$563,000; the House Republican Conference, \$563,000; and Other Authorized Employees, \$987,000.

Such amounts as are deemed necessary for the payment of salaries of officers and employees under this head may be transferred between the various offices and activities within this appropriation, “Salaries, Officers and Employees”, upon the approval of the Committee on Appropriations of the House of Representatives.

COMMITTEE EMPLOYEES

For professional and clerical employees of standing committees, including the Committee on Appropriations and the Committee on the Budget, \$37,808,000.

COMMITTEE ON APPROPRIATIONS (STUDIES AND INVESTIGATIONS)

2 USC 72a.

For salaries and expenses, studies and examinations of executive agencies, by the Committee on Appropriations, and temporary personal services for such committee, to be expended in accordance with section 202(b) of the Legislative Reorganization Act, 1946, and to be available for reimbursement to agencies for services performed, \$4,315,000.

COMMITTEE ON THE BUDGET (STUDIES)88 Stat. 299;
2 USC 661, 623;
88 Stat. 330.

For salaries, expenses, and studies by the Committee on the Budget, and temporary personal services for such committee to be expended in accordance with sections 101(c), 606, 703, and 901(e), of the Congressional Budget Act of 1974, and to be available for reimbursement to agencies for services performed, \$329,000.

MEMBERS' CLERK HIRE

For staff employed by each Member in the discharge of official and representative duties, \$164,126,000.

CONTINGENT EXPENSES OF THE HOUSE**ALLOWANCES AND EXPENSES**

For allowances and expenses as authorized by House resolution or law, \$122,565,000, including: Official Expenses of Members, \$68,200,000; supplies, materials, administrative costs and Federal tort claims, \$18,160,000; furniture and furnishings, \$1,270,000; stenographic reporting of committee hearings, \$500,000; reemployed annuitants reimbursements, \$1,782,000; Government contributions to employees' life insurance fund, retirement fund, and health benefits fund, \$32,153,000; and miscellaneous items including, but not limited to, purchase, exchange, maintenance, repair and operation of House motor vehicles, interparliamentary receptions and gratuities to heirs of deceased employees of the House, \$500,000.

Such amounts as are deemed necessary for the payment of allowances and expenses under this head may be transferred between the various categories within this appropriation, "Allowances and Expenses", upon the approval of the Committee on Appropriations of the House of Representatives.

STANDING COMMITTEES, SPECIAL AND SELECT

For salaries and expenses of standing committees, special and select, authorized by the House, \$45,667,000.

ADMINISTRATIVE PROVISIONS

SEC. 101. Of the amounts appropriated in fiscal year 1985 for the House of Representatives under the headings "Committee employ-

ees", "Standing committees, special and select", "Salaries, officers and employees", "Allowances and expenses", and "Members' clerk hire", such amounts as are deemed necessary for the payment of salaries and expenses may be transferred among the aforementioned accounts upon approval of the Committee on Appropriations of the House of Representatives.

Sec. 102. The provisions of clause 10, rule I, of the Rules of the House of Representatives as in effect before the date of enactment of this Act, relating to the Office for the Bicentennial for the House of Representatives, established by House Resolution 621, Ninety-seventh Congress, shall be the permanent law with respect thereto. Rule I of the Rules of the House of Representatives is amended by striking out clause 10.

2 USC 29c.

Sec. 103. The provisions of H. Res. 234, approved June 29, 1983, providing for appointment and education of House Pages; H. Res. 279, approved July 21, 1983, regarding the use of certain educational facilities; and the provisions of H. Res. 343, approved October 26, 1983, upgrading four positions on the Capitol Police Force, shall be the permanent law with respect thereto.

2 USC 88c-1—
88c-4, 88c-1
note.
2 USC 88b.
40 USC 206 note.

JOINT ITEMS

For joint committees, as follows:

CONTINGENT EXPENSES OF THE SENATE

JOINT ECONOMIC COMMITTEE

For salaries and expenses of the Joint Economic Committee, \$2,569,000.

JOINT COMMITTEE ON PRINTING

For salaries and expenses of the Joint Committee on Printing, \$909,000.

CONTINGENT EXPENSES OF THE HOUSE

JOINT COMMITTEE ON TAXATION

For salaries and expenses of the Joint Committee on Taxation, \$3,605,000, to be disbursed by the Clerk of the House.

For other joint items, as follows:

OFFICE OF THE ATTENDING PHYSICIAN

For medical supplies, equipment, and contingent expenses of the emergency rooms, and for the Attending Physician and his assistants, including (1) an allowance of \$1,000 per month to the Attending Physician; (2) an allowance of \$600 per month to one Senior Medical Officer while on duty in the Attending Physician's office; (3) an allowance of \$200 per month each to two medical officers while on duty in the Attending Physician's office; (4) an allowance of \$200 per month each to not to exceed nine assistants on the basis heretofore provided for such assistance; and (5) \$644,800 for reimbursement to the Department of the Navy for expenses incurred for staff and equipment assigned to the Office of the Attending Physician, such amount shall be advanced and credited to the applicable appropriation or appropriations from which such salaries, allow-

ances, and other expenses are payable and shall be available for all the purposes thereof, \$956,000, to be disbursed by the Clerk of the House.

CAPITOL POLICE

GENERAL EXPENSES

District of

For purchasing and supplying uniforms; the purchase, maintenance, and repair of police motor vehicles, including two-way police radio equipment; contingent expenses, including advance payment for travel for training or other purposes, and expenses associated with the relocation of instructor personnel to and from the Federal Law Enforcement Training Center as approved by the Chairman of the Capitol Police Board, and including \$80 per month for extra services performed for the Capitol Police Board by such member of the staff of the Sergeant at Arms of the Senate or the House as may be designated by the Chairman of the Board, \$1,471,000, to be disbursed by the Clerk of the House: *Provided*, That the funds used to maintain the petty cash fund referred to as "Petty Cash II" which is to provide for the prevention and detection of crime should not exceed \$4,000: *Provided further*, That the funds used to maintain the petty cash fund referred to as "Petty Cash III" which is to provide for the advance of travel expenses attendant to protective assignments shall not exceed \$4,000.

CAPITOL POLICE BOARD

District of
Columbia.

Funds available for obligations for fiscal year 1985 to enable the Capitol Police Board to provide additional protection for the Capitol Buildings and Grounds, including the Senate and House Office Buildings and the Capitol Power Plant, \$141,188, to be disbursed by the Clerk of the House. Such sum shall be expended only for payment of salaries and other expenses of personnel detailed from the Metropolitan Police of the District of Columbia, and the Mayor of the District of Columbia is authorized and directed to make such details upon the request of the Board. Personnel so detailed shall, during the period of such detail, serve under the direction and instructions of the Board and are authorized to exercise the same authority as members of such Metropolitan Police and members of the Capitol Police and to perform such other duties as may be assigned by the Board. Reimbursement for salaries and other expenses of such detail personnel shall be made to the government of the District of Columbia, and any sums so reimbursed shall be credited to the appropriation or appropriations from which such salaries and expenses are payable and shall be available for all the purposes thereof: *Provided*, That any person detailed under the authority of this paragraph or under similar authority in the Legislative Branch Appropriation Act, 1942, and the Second Deficiency Appropriation Act, 1940, from the Metropolitan Police of the District of Columbia shall be deemed a member of such Metropolitan Police during the period or periods of any such detail for all purposes of rank, pay, allowances, privileges, and the benefits to the same extent as though such detail had not been made, and at the termination thereof any such person shall have a status with respect to rank, pay, allowances, privileges, and benefits which is not less than the status of such person in such police at the end of such detail.

55 Stat. 44b.
54 Stat. 628.

No part of any appropriation contained in this Act shall be paid as compensation to any person appointed after June 30, 1935, as an officer or member of the Capitol Police who does not meet the standards to be prescribed for such appointees by the Capitol Police Board.

Prohibition.

OFFICIAL MAIL COSTS

For expenses necessary for official mail costs, \$73,944,000, to be disbursed by the Clerk of the House, to be available immediately upon enactment of this Act.

CAPITOL GUIDE SERVICE

For salaries and expenses of the Capitol Guide Service, \$810,000, to be disbursed by the Secretary of the Senate: *Provided*, That none of these funds shall be used to employ more than twenty-eight individuals: *Provided further*, That the Capitol Guide Board is authorized, during emergencies, to employ not more than two additional individuals for not more than one hundred twenty days each, and not more than ten additional individuals for not more than six months each, for the Capitol Guide Service.

STATEMENTS OF APPROPRIATIONS

For the preparation, under the direction of the Committees on Appropriations of the Senate and House of Representatives, of the statements for the second session of the Ninety-eighth Congress, showing appropriations made, indefinite appropriations, and contracts authorized, together with a chronological history of the regular appropriation bills as required by law, \$13,000, to be paid to the persons designated by the chairmen of such committees to supervise the work.

OFFICE OF TECHNOLOGY ASSESSMENT

SALARIES AND EXPENSES

For salaries and expenses necessary to carry out the provisions of the Technology Assessment Act of 1972 (Public Law 92-484), including reception and representation expenses (not to exceed \$3,000 from the Trust Fund) and rental of space in the District of Columbia, and those necessary to carry out the duties of the Director of the Office of Technology Assessment under Section 1886 of the Social Security Act as amended by Section 601 of the Social Security Amendments of 1983 (Public Law 98-21), \$15,549,000: *Provided*, That none of the funds in the Act shall be available for salaries or expenses of any employee of the Office of Technology Assessment in excess of 143 staff employees: *Provided further*, That no part of this appropriation shall be available for assessment or activities not initiated and approved in accordance with section 3(d) of Public Law 92-484, except that funds shall be available for the assessment required by Public Law 96-151.

2 USC 471 note.

97 Stat. 149.
42 USC 1395ww.

2 USC 472.

93 Stat. 1092.
38 USC 101 note.

CONGRESSIONAL BUDGET OFFICE

SALARIES AND EXPENSES

2 USC 621 note. For salaries and expenses necessary to carry out the provisions of the Congressional Budget Act of 1974 (Public Law 93-344), \$17,418,000: *Provided*, That none of these funds shall be available for the purchase or hire of a passenger motor vehicle: *Provided further*, That none of the funds in this Act shall be available for salaries or expenses of any employee of the Congressional Budget Office in excess of 222 staff employees: *Provided further*, That any sale or lease of property, supplies, or services to the Congressional Budget Office shall be deemed to be a sale or lease of such property, supplies, or services to the Congress subject to Section 903 of Public Law 98-63.

2 USC 605.

97 Stat. 336.
2 USC 111b and
note.

ARCHITECT OF THE CAPITOL

OFFICE OF THE ARCHITECT OF THE CAPITOL

SALARIES

For the Architect of the Capitol; the Assistant Architect of the Capitol; the Executive Assistant; and other personal services; at rates of pay provided by law, \$5,137,000.

TRAVEL

40 USC 166a. Appropriations under the control of the Architect of the Capitol shall be available for expenses of travel on official business not to exceed in the aggregate under all funds the sum of \$20,000.

CONTINGENT EXPENSES

40 USC 166d,
166e. To enable the Architect of the Capitol to make surveys and studies, to incur expenses authorized by the Act of December 13, 1973 (87 Stat. 704), and to meet unforeseen expenses in connection with activities under his care, \$235,000, which shall remain available until expended.

CAPITOL BUILDINGS AND GROUNDS

CAPITOL BUILDINGS

41 USC 5. For all necessary expenses for the maintenance, care and operation of the Capitol Building and electrical substations of the Senate and House Office Buildings, under the jurisdiction of the Architect of the Capitol, including furnishings and office equipment; not to exceed \$1,000 for official reception and representation expenses, to be expended as the Architect of the Capitol may approve; purchase or exchange, maintenance and operation of a passenger motor vehicle; for expenses of attendance, when specifically authorized by the Architect of the Capitol, at meetings or conventions in connection with subjects related to work under the Architect of the Capitol, \$11,615,850, of which \$1,200,000 shall remain available until expended: *Provided*, That appropriations under this head shall be available for replacement of Electromechanical Signal Devices for the legislative call system and for security improvements without regard to section 3709 of the Revised Statutes, as amended.

CAPITOL GROUNDS

For all necessary expenses for care and improvement of grounds surrounding the Capitol, the Senate and House Office Buildings, and the Capitol Power Plant, \$2,796,000, of which \$10,000 shall remain available until expended.

SENATE OFFICE BUILDINGS

For all necessary expenses for maintenance, care and operation of the Senate Office Buildings; and furniture and furnishings, to be expended under the control and supervision of the Architect of the Capitol, \$19,241,000 of which \$2,394,000 shall remain available until expended, and \$1,521,000 to be made available immediately upon enactment into law of this Act; in all, \$20,762,000.

HOUSE OFFICE BUILDINGS

For all necessary expenses for the maintenance, care and operation of the House Office Buildings, including the position of Superintendent of Garages as authorized by law, \$22,750,000, of which \$2,070,000 shall remain available until expended: *Provided*, That, notwithstanding any other provision of law, the House Office Building Commission is authorized to use, to such extent as it may deem necessary, for the purposes of providing office and other accommodations for the House of Representatives, the building located at 501 First Street, S.E., on a portion of Reservation 17 in the District of Columbia when such building is acquired by the Architect of the Capitol at the direction of the House Office Building Commission under authority of the Additional House Office Building Act of 1955, and to incur any expenditures under this appropriation required for alterations, maintenance, and occupancy thereof: *Provided further*, That any space in such building used for office and other accommodations for the House of Representatives shall be deemed to be a part of the "House Office Buildings" and, as such, shall be subject to the laws, rules, and regulations applicable to those buildings.

40 USC 175 note.

CAPITOL POWER PLANT

(INCLUDING RESCISSION OF FUNDS)

For all necessary expenses for the maintenance, care and operation of the Capitol Power Plant; for lighting, heating, and power (including the purchase of electrical energy) for the Capitol, Senate and House Office Buildings, Congressional Library Buildings, and the grounds about the same, Botanic Garden, Senate garage, and for air conditioning refrigeration not supplied from plants in any of such buildings; for heating the Government Printing Office and Washington City Post Office and heating and chilled water for air conditioning for the Supreme Court Building, Union Station complex and the Folger Shakespeare Library, expenses for which shall be advanced or reimbursed upon request of the Architect of the Capitol and amounts so received shall be deposited into the Treasury to the credit of this appropriation; \$23,834,000: *Provided*, That not to exceed \$1,950,000 of the funds credited or to be reimbursed to this appropriation as herein provided shall be available for obligation during fiscal year 1985.

Of the funds appropriated under this head in Public Law 97-51, made available until expended, \$914,000 are rescinded.

LIBRARY OF CONGRESS

CONGRESSIONAL RESEARCH SERVICE

SALARIES AND EXPENSES

2 USC 166 and
note.

2 USC 166.

Effective date.

For necessary expenses to carry out the provisions of section 203 of the Legislative Reorganization Act of 1946, as amended by section 321 of the Legislative Reorganization Act of 1970 (2 U.S.C. 166) and to revise and extend the Annotated Constitution of the United States of America, \$39,833,000: *Provided*, That no part of this appropriation may be used to pay any salary or expense in connection with any publication, or preparation of material therefor (except the Digest of Public General Bills), to be issued by the Library of Congress unless such publication has obtained prior approval of either the Committee on House Administration or the Senate Committee on Rules and Administration: *Provided further*, That, notwithstanding any other provisions of law, the compensation of the Director of the Congressional Research Service, Library of Congress, shall be at an annual rate which is equal to the annual rate of basic pay for positions at level IV of the Executive Schedule under section 5315 of title 5, United States Code: *Provided further*, That this rate of basic pay shall take effect on the first day of the first applicable pay period commencing on or after the date of enactment of this Act.

GOVERNMENT PRINTING OFFICE

CONGRESSIONAL PRINTING AND BINDING

For authorized printing and binding for the Congress; for printing and binding for the Architect of the Capitol; expenses necessary for preparing the semimonthly and session index to the Congressional Record, as authorized by law (44 U.S.C. 902); and printing and binding of Government publications authorized by law to be distributed to Members of Congress, \$80,800,000: *Provided*, That this appropriation shall not be available for printing and binding part 2 of the annual report of the Secretary of Agriculture (known as the Yearbook of Agriculture) or for printing and binding copies of the permanent edition of the Congressional Record for individual Representatives, Resident Commissioners or Delegates authorized under 44 U.S.C. 906: *Provided further*, That this appropriation shall be available for the payment of obligations incurred under the appropriations for similar purposes for preceding fiscal years.

This title may be cited as the "Congressional Operations Appropriation Act, 1985".

TITLE II—OTHER AGENCIES

BOTANIC GARDEN

SALARIES AND EXPENSES

For all necessary expenses for the maintenance, care and operation of the Botanic Garden and the nurseries, buildings, grounds,

and collections; purchase and exchange, maintenance, repair, and operation of a passenger motor vehicle; all under the direction of the Joint Committee on the Library, \$2,044,000, of which \$20,000 shall remain available until expended.

LIBRARY OF CONGRESS

SALARIES AND EXPENSES

For necessary expenses of the Library of Congress, not otherwise provided for, including development and maintenance of the Union Catalogs; custody, care and maintenance of the Library Buildings; special clothing; cleaning, laundering and repair of uniforms; preservation of motion pictures in the custody of the Library; operation and maintenance of the American Folklife Center and the American Television and Radio Archives in the Library; preparation and distribution of catalog cards and other publications of the Library; and expenses of the Library of Congress Trust Fund Board not properly chargeable to the income of any trust fund held by the Board, \$137,492,000, of which not more than \$4,300,000 shall be derived from collections credited to this appropriation during fiscal year 1985 under the Act of June 28, 1902, as amended (2 U.S.C. 150): *Provided*, That the total amount available for obligation shall be reduced by the amount by which collections are less than the \$4,300,000: *Provided further*, That, of the total amount appropriated, \$5,242,000 is to remain available until expended for acquisition of books, periodicals, and newspapers, and all other materials including subscriptions for bibliographic services for the Library, including \$40,000 to be available solely for the purchase, when specifically approved by the Librarian, of special and unique materials for additions to the collections.

COPYRIGHT OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Copyright Office, including publication of the decisions of the United States courts involving copyrights, \$17,102,000, of which not more than \$6,000,000 shall be derived from collections credited to this appropriation during fiscal year 1985 under 17 U.S.C. 708(c): *Provided*, That the total amount available for obligation shall be reduced by the amount by which collections are less than the \$6,000,000.

BOOKS FOR THE BLIND AND PHYSICALLY HANDICAPPED

SALARIES AND EXPENSES

For salaries and expenses to carry out the provisions of the Act approved March 3, 1931, as amended (2 U.S.C. 135a), \$36,592,000.

COLLECTION AND DISTRIBUTION OF LIBRARY MATERIALS

(SPECIAL FOREIGN CURRENCY PROGRAM)

For necessary expenses for carrying out the provisions of section 104(b)(5) of the Agricultural Trade Development and Assistance Act

92 Stat. 790.

of 1954, as amended (7 U.S.C. 1704), to remain available until expended, \$3,318,000, and, in addition, \$300,000 to be derived by release of that amount withheld from obligation by the Librarian of Congress pursuant to section 311 of Public Law 95-391, of which \$3,111,000 shall be available only for payments in any foreign currencies owed to or owned by the United States which the Treasury Department shall determine to be excess to the normal requirements of the United States.

FURNITURE AND FURNISHINGS

For necessary expenses for the purchase and repair of furniture, furnishings, office and library equipment, \$1,673,000.

ADMINISTRATIVE PROVISIONS

SEC. 201. Appropriations in this Act available to the Library of Congress shall be available, in an amount not to exceed \$146,875, of which \$54,950 is for the Congressional Research Service, when specifically authorized by the Librarian, for expenses of attendance at meetings concerned with the function or activity for which the appropriation is made.

Prohibition.

SEC. 202. (a) No part of the funds appropriated in this Act shall be used by the Library of Congress to administer any flexible or compressed work schedule which—

(1) applies to any manager or supervisor in a position the grade or level of which is equal to or higher than GS-15; and

(2) grants the manager or supervisor the right to not be at work for all or a portion of a workday because of time worked by the manager or supervisor on another workday.

(b) For purposes of this section, the term "manager or supervisor" means any management official or supervisor, as such terms are defined in section 7103(a) (10) and (11) of title 5, United States Code.

ARCHITECT OF THE CAPITOL

LIBRARY BUILDINGS AND GROUNDS

STRUCTURAL AND MECHANICAL CARE

For all necessary expenses for the mechanical and structural maintenance, care and operation of the Library buildings and grounds, \$5,709,000, of which \$310,000 shall remain available until expended.

COPYRIGHT ROYALTY TRIBUNAL

SALARIES AND EXPENSES

For necessary expenses of the Copyright Royalty Tribunal, \$722,000, of which \$505,000 shall be derived by collections from the appropriation "Payments to Copyright Owners" for the reasonable costs incurred in proceedings involving distribution of royalty fees as provided by 17 U.S.C. 807.

GOVERNMENT PRINTING OFFICE

PRINTING AND BINDING

For printing, binding, and distribution of Government publications authorized by law to be distributed without charge to the recipient, \$13,200,000: *Provided*, That this appropriation shall not be available for printing and binding part 2 of the annual report of the Secretary of Agriculture (known as the Yearbook of Agriculture): *Provided further*, That this appropriation shall be available for the payment of obligations incurred under the appropriations for similar purposes for preceding fiscal years.

OFFICE OF SUPERINTENDENT OF DOCUMENTS

SALARIES AND EXPENSES

For necessary expenses of the Office of Superintendent of Documents, including compensation of all employees in accordance with the provisions of 44 U.S.C. 305; travel expenses (not to exceed \$88,300); price lists and bibliographies; repairs to buildings, elevators, and machinery; and supplying books to depository libraries; \$28,868,000: *Provided*, That \$300,000 of this appropriation shall be apportioned for use pursuant to section 3679 of the Revised Statutes, as amended (31 U.S.C. 1512), with the approval of the Public Printer, only to the extent necessary to provide for expenses (excluding permanent personal services) for workload increases not anticipated in the budget estimates and which cannot be provided for by normal budgetary adjustments.

GOVERNMENT PRINTING OFFICE REVOLVING FUND

The Government Printing Office is hereby authorized to make such expenditures, within the limits of funds available and in accord with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs and purposes set forth in the budget for the current fiscal year for the "Government Printing Office revolving fund": *Provided*, That not to exceed \$5,000 may be expended on the certification of the Public Printer in connection with special studies of government printing, binding, and distribution practices and procedures: *Provided further*, That during the current fiscal year the revolving fund shall be available for the hire of two passenger motor vehicles and the purchase of one passenger motor vehicle: *Provided further*, That expenditures in connection with travel expenses of the advisory councils to the Public Printer shall be deemed necessary to carry out the provisions of title 44, United States Code: *Provided further*, That the revolving fund shall be available for services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for grade GS-18: *Provided further*, That the revolving fund shall be available to acquire needed land, located in Northwest D.C., which is adjacent to the present Government Printing Office, and is bounded by New Jersey Avenue and the western property line of the Government Printing Office, between G and H Streets.

31 USC 9104.

GENERAL ACCOUNTING OFFICE

SALARIES AND EXPENSES

For necessary expenses of the General Accounting Office, including not to exceed \$5,000 to be expended on the certification of the Comptroller General of the United States in connection with official representation and reception expenses; services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for grade GS-18; hire of one passenger motor vehicle; advance payments in foreign countries notwithstanding 31 U.S.C. 3324; benefits comparable to those payable under sections 901(5), 901(6) and 901(8) of the Foreign Service Act of 1980 (22 U.S.C. 4081(5), 4081(6) and 4081(8), respectively); and under regulations prescribed by the Comptroller General of the United States, rental of living quarters in foreign countries and travel benefits comparable with those which are now or hereafter may be granted single employees of the Agency for International Development, including single Foreign Service personnel assigned to A.I.D. projects, by the Administrator of the Agency for International Development—or his designee—under the authority of section 636(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2396(b)); \$294,704,000: *Provided*, That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the Joint Financial Management Improvement Program (JFMIP) shall be available to finance an appropriate share of JFMIP costs as determined by the JFMIP, including but not limited to the salary of the Executive Director and secretarial support: *Provided further*, That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the National Intergovernmental Audit Forum or a Regional Intergovernmental Audit Forum shall be available to finance an appropriate share of Forum costs as determined by the Forum, including necessary travel expenses of non-Federal participants. Payments hereunder to either the Forum or the JFMIP may be credited as reimbursements to any appropriation from which costs involved are initially financed: *Provided further*, That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the American Consortium on International Public Administration (ACIPA) shall be available to finance an appropriate share of ACIPA costs as determined by the ACIPA, including any expenses attributable to membership of ACIPA in the International Institute of Administrative Sciences: *Provided further*, That this appropriation shall be available to finance a portion, not to exceed \$50,000, of the costs of the Governmental Accounting Standards Board.

Governmental
Standards
Accounting
Board.

RAILROAD ACCOUNTING PRINCIPLES BOARD

SALARIES AND EXPENSES

For salaries and expenses of the Railroad Accounting Principles Board, \$1,000,000, to be expended in accordance with the provisions of H.R. 4439, as passed by the House of Representatives on February 7, 1984.

TITLE III—GENERAL PROVISIONS

SEC. 301. No part of the funds appropriated in this Act shall be used for the maintenance or care of private vehicles, except for emergency assistance and cleaning as may be provided under regulations relating to parking facilities for the House of Representatives issued by the Committee on House Administration. Prohibition.

SEC. 302. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein. Prohibition.

SEC. 303. Whenever any office or position not specifically established by the Legislative Pay Act of 1929 is appropriated for herein or whenever the rate of compensation or designation of any position appropriated for herein is different from that specifically established for such position by such Act, the rate of compensation and the designation of the position, or either, appropriated for or provided herein, shall be the permanent law with respect thereto: *Provided*, That the provisions herein for the various items of official expenses of Members, officers, and committees of the Senate and House, and clerk hire for Senators and Members shall be the permanent law with respect thereto. 46 Stat. 32.

SEC. 304. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law. Contracts with U.S.

This Act may be cited as the "Legislative Branch Appropriations Act, 1985".

Approved July 17, 1984.

LEGISLATIVE HISTORY—H.R. 5753:

HOUSE REPORTS: No. 98-811 (Comm. on Appropriations) and No. 98-870 (Comm. of Conference).

SENATE REPORT No. 98-515 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 130 (1984):

June 6, considered and passed House.

June 21, considered and passed Senate, amended.

June 28, House agreed to conference report and concurred in Senate amendments; Senate agreed to conference report.

Public Law 98-368
98th Congress

Joint Resolution

July 17, 1984
[H.J. Res. 548]

Authorizing the President's Commission on Organized Crime to compel the attendance and testimony of witnesses and the production of information, and for other purposes.

Crimes and
misdemeanors.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

TAKING OF TESTIMONY AND RECEIPT OF EVIDENCE

18 USC 1961
note.
3 CFR, 1983
Comp., p. 202.

SECTION 1. The Commission established by the President by Executive Order 12435, dated July 28, 1983 (hereinafter in this joint resolution referred to as the "Commission"), may hold hearings. The powers authorized by this resolution shall be limited to the purposes set forth in section 2 of that Executive order. The Commission, or a member of the Commission or member of the staff of the Commission designated by the Commission for such purpose, may administer oaths and affirmations, examine witnesses, and receive evidence.

SUBPENNA POWER

Courts, U.S.
18 USC 1961
note.

SEC. 2. (a) The Commission, or any member of the Commission when so authorized by the Commission, shall have the power to issue subpoenas requiring the attendance and testimony of witnesses and the production of information relating to a matter under investigation by the Commission. A subpoena may require the person to whom it is directed to produce such information at any time before such person is to testify. Such attendance of witnesses and the production of such evidence may be required from any place within the jurisdiction of the United States at any designated place of interview or hearing. A person to whom a subpoena issued under this subsection is directed may for cause shown move to enlarge or shorten the time of attendance and testimony, or may move to quash or modify a subpoena for the production of information if it is unreasonable or oppressive. In the case of a subpoena issued for the purpose of taking a deposition upon oral examination, the person to be deposed may make any motion permitted under rule 26(c) of the Federal Rules of Civil Procedure.

28 USC app.

(b)(1) In case of contumacy or refusal to obey a subpoena issued to a person under this section, a court of the United States within the jurisdiction of which the person is directed to appear or produce information, or within the jurisdiction of which the person is found, resides, or transacts business, may upon application by the Attorney General, issue to such person an order requiring such person to appear before the Commission, or before a member of the Commission or a member of the staff of the Commission designated by the Commission for such purpose, there to give testimony or produce information relating to the matter under investigation, as required by the subpoena. Any failure to obey such order of the court may be punished by the court as a contempt thereof.

(2) The Commission is an agency of the United States for the purpose of rule 81(a)(3) of the Federal Rules of Civil Procedure. 28 USC app.

(c) Process of a court to which application may be made under this section may be served in a judicial district wherein the person required to be served is found, resides, or transacts business.

TESTIMONY OF PERSONS IN CUSTODY

SEC. 3. A court of the United States within the jurisdiction in which testimony of a person held in custody is sought by the Commission or within the jurisdiction of which such person is held in custody, may, upon application by the Attorney General, issue a writ of habeas corpus ad testificandum requiring the custodian to produce such person before the Commission, or before a member of the Commission or a member of the staff of the Commission designated by the Commission for such purpose. 18 USC 1961 note.

IMMUNITY

SEC. 4. The Commission is an agency of the United States for the purpose of part V of title 18 of the United States Code. 18 USC 1961 note.
18 USC 6001.

SERVICE OF PROCESS; WITNESS FEES

SEC. 5. (a) Process and papers issued pursuant to this resolution may be served in person, by registered or certified mail, by telegraph, or by leaving a copy thereof at the residence or principal office or place of business of the person required to be served. When service is by registered or certified mail or by telegraph, the return post office receipt or telegraph receipt therefor shall be proof of service. Otherwise, the verified return by the individual making service, setting forth the manner of such service, shall be proof of service. 18 USC 1961 note.

(b) A witness summoned pursuant to this resolution shall be paid the same fees and mileage as are paid witnesses in the courts of the United States, and a witness whose deposition is taken and the person taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

ACCESS TO OTHER RECORDS AND INFORMATION

SEC. 6. (a)(1) The investigative activities of the Commission are civil or criminal law enforcement activities for the purposes of section 552a(b)(7) of title 5, United States Code, except that section 552a(c)(3) shall apply after the termination of the Commission. Law enforcement. Public information. 18 USC 1961 note.

(2) The Commission is a Government authority, and an investigation conducted by the Commission is a law enforcement inquiry, for the purposes of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 et seq.). Any delay authorized by court order in the notice required under that Act shall not exceed the life of the Commission, including any extension thereof. Notwithstanding a delay authorized by court order, if the Commission elects to publicly disclose the information in hearings or otherwise, it shall give notice required under the Right to Financial Privacy Act a reasonable time in advance of such disclosure.

(b) For the purposes of section 2517 of title 18, United States Code, and as limited by subsection (c), the members and members of the staff of the Commission are investigative or law enforcement offi-

18 USC 2516.

cers, except that in the case of a disclosure to or by any member or member of the staff of the Commission of any of the contents of a communication intercepted under section 2516(1) of such title, such disclosure may be made only after the Attorney General or the Attorney General's designee has had an opportunity to determine that such disclosure may jeopardize Federal law enforcement interests and has not made that determination, and in the case of a disclosure to or by any member or member of the staff of the Commission of any of the contents of a communication intercepted under section 2516(2) of such title, such disclosure may be made only after the appropriate State official has had an opportunity to make a determination that such disclosure may jeopardize State law enforcement interests and has not made that determination.

(c)(1) A person to whom disclosure of information is made under this section shall use such information solely in the performance of such person's duties for the Commission and shall make no disclosure of such information except as provided for by this joint resolution, or as otherwise authorized by law.

18 USC 2510
*et seq.*3 CFR, 1983
Comp., p. 202.

(2) A disclosure or use by a member or a member of the staff of the Commission of the contents of a communication intercepted under chapter 119 of title 18 of the United States Code may be made solely in the course of carrying out the functions of the Commission as such functions were established by Executive Order 12435, dated July 28, 1983.

FEDERAL PROTECTION FOR MEMBERS AND STAFF OF THE COMMISSION

18 USC 1961
note.

SEC. 7. Conduct, which if directed against a United States attorney would violate section 111 or 1114 of title 18, United States Code, shall, if directed against a member of the Commission or a member of the staff of the Commission, be subject to the same punishments as are provided by such sections for such conduct.

CLOSURE OF MEETINGS

18 USC 1961
note.
5 USC app.

SEC. 8. The functions of the President under section 10(d) of the Federal Advisory Committee Act (5 U.S.C. App. 10(d)) shall be performed by the Chairman of the Commission.

RULES AND PROCEDURES OF THE COMMISSION

18 USC 1961
note.

SEC. 9. (a) The Commission shall adopt rules and procedures (1) to govern its proceedings; (2) to provide for the security of records, documents, information, and other materials in its custody and of its proceedings; (3) to prevent unauthorized disclosure of information and materials disclosed to it in the course of its inquiry; (4) to provide the right to counsel to all witnesses examined pursuant to subpoena; and (5) to accord the full protection of all rights secured and guaranteed by the Constitution of the United States.

(b) No information in the possession of the Commission shall be disclosed by any member or employee of the Commission to any person who is not a member or employee of the Commission, except as authorized by the Commission and by law.

(c) The term "employee of the Commission" means a person (1) whose services have been retained by the Commission, (2) who has been specifically designated by the Commission as authorized to have access to information in the possession of the Commission, and (3) who has agreed in writing and under oath to be bound by the

rules of the Commission, the provisions of this resolution, and other provisions of law relating to the nondisclosure of information.

EFFECTIVE DATES OF RESOLUTION

SEC. 10. This joint resolution shall take effect on the date of enactment and shall remain in effect until the expiration of the Commission, including any extensions thereof, or two years, whichever event occurs earlier. 18 USC 1961 note.

Approved July 17, 1984.

LEGISLATIVE HISTORY—H.J. Res. 548 (S.J. Res. 233):

HOUSE REPORT No. 98-734 (Comm. on the Judiciary).

SENATE REPORT No. 98-501 accompanying S.J. Res. 233 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 130 (1984):

May 7, considered and passed House.

June 15, considered and passed Senate, amended, in lieu of S.J. Res. 233.

June 26, House concurred in Senate amendment.

Public Law 98-369
98th Congress

An Act

July 18, 1984
[H.R. 4170]

To provide for tax reform, and for deficit reduction.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Deficit
Reduction Act of
1984.
26 USC 1 note.

SECTION 1. SHORT TITLE.

(a) **SHORT TITLE.**—This Act may be cited as the “Deficit Reduction Act of 1984”.

(b) **ACT DIVIDED INTO 2 DIVISIONS.**—This Act consists of 2 divisions as follows:

(1) **DIVISION A.**—Tax Reform Act of 1984.

(2) **DIVISION B.**—Spending Reduction Act of 1984.

Tax Reform Act
of 1984.
26 USC 1 note.

DIVISION A—TAX REFORM ACT OF 1984

SEC. 5. SHORT TITLE; ETC.

(a) **SHORT TITLE.**—This division may be cited as the “Tax Reform Act of 1984”.

(b) **AMENDMENT OF 1954 CODE.**—Except as otherwise expressly provided, whenever in this division an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

26 USC 1 *et seq.*

SEC. 10. TABLE OF CONTENTS.

Section 1. Short title.

DIVISION A—TAX REFORM ACT OF 1984

Sec. 5. Short title, etc.

TITLE I—TAX FREEZE; TAX REFORMS GENERALLY

Sec. 10. Table of contents.

Subtitle A—Deferral of Certain Tax Reductions

PART I—INCOME TAX PROVISIONS

- Sec. 11. Amount of used property eligible for investment tax credit.
- Sec. 12. Finance lease provisions.
- Sec. 13. Election to expense certain depreciable business assets.
- Sec. 14. Employee stock ownership credit.
- Sec. 15. Cost-of-living adjustments in pension plan limitations.
- Sec. 16. Repeal of partial interest exclusion.
- Sec. 17. Foreign earned income of individuals.
- Sec. 18. Effective date.

PART II—ESTATE AND GIFT TAX RATES

Sec. 21. Maximum rate.

PART III—EXCISE TAXES

- Sec. 25. Tax rate on newly discovered oil.
- Sec. 26. Excise tax on communications services.
- Sec. 27. Excise tax on distilled spirits.

Subtitle B—Tax-Exempt Entity Leasing

- Sec. 31. Denial of tax incentives for property leased to governments and other tax-exempt entities.
- Sec. 32. Motor vehicle operating leases.

Subtitle C—Treatment of Bonds and Other Debt Instruments

- Sec. 41. Treatment of bonds and other debt instruments.
- Sec. 42. Technical and conforming amendments related to original issue discount changes.
- Sec. 43. Technical and conforming amendments related to treatment of market discount and acquisition discount.
- Sec. 44. Effective dates.

Subtitle D—Corporate Provisions

PART I—LIMITATIONS ON DIVIDENDS RECEIVED DEDUCTION

- Sec. 51. Dividends received deduction reduced where portfolio stock is debt financed.
- Sec. 52. Treatment of dividends from regulated investment companies.

PART II—TREATMENT OF CERTAIN DISTRIBUTIONS

- Sec. 53. Corporate shareholder's basis in stock reduced by nontaxed portion of extraordinary dividends.
- Sec. 54. Distribution of appreciated property by corporations.
- Sec. 55. Extension of holding period for losses attributable to capital gain dividends of regulated investment companies or real estate investment trusts.

PART III—MISCELLANEOUS PROVISIONS

- Sec. 56. Denial of deductions for certain expenses incurred in connection with short sales.
- Sec. 57. Nonrecognition of gain or loss by corporation on options with respect to its stock.
- Sec. 58. Amendments to accumulated earnings tax.
- Sec. 59. Repeal of stock for debt exception for purposes of determining income from discharge of indebtedness.
- Sec. 60. Affiliated group defined.
- Sec. 61. Provisions relating to earnings and profits.
- Sec. 62. 2-year delay in application of the net operating loss rules added by the Tax Reform Act of 1976.
- Sec. 63. Target corporation must distribute assets after reorganization described in section 368(a)(1)(C).
- Sec. 64. Definition of control for purposes of nondivisive reorganizations under section 368(a)(1)(D).
- Sec. 65. Collapsible corporations.
- Sec. 66. Phase-out of graduated rates for large corporations.
- Sec. 67. Restrictions on golden parachute payments.
- Sec. 68. Increase in reduction in certain corporate preference items from 15 percent to 20 percent.

Subtitle E—Partnership Provisions

- Sec. 71. Partnership allocations with respect to contributed property.
- Sec. 72. Determination of distributive shares when partner's interest changes.
- Sec. 73. Payments to partners for property or certain services.
- Sec. 74. Contributions to a partnership of unrealized receivables, inventory items, or capital loss property.
- Sec. 75. Transfers of partnership and trust interests by corporations.
- Sec. 76. Application of section 751 in the case of tiered partnerships.
- Sec. 77. Section 1031 not applicable to partnership interests; limitation on the period during which like kind exchanges may be made.
- Sec. 78. Elimination of basis strips under section 734(b).
- Sec. 79. Overruling of Raphan case.

Subtitle F—Trust Provisions

- Sec. 81. Treatment of property distributed in kind.
- Sec. 82. Treatment of multiple trusts.

Subtitle G—Accounting Changes

- Sec. 91. Certain amounts not treated as incurred before economic performance.
- Sec. 92. Treatment of certain deferred payments for use of property or services.

- Sec. 93. Amortization of construction period interest and taxes for residential real property held by corporations.
- Sec. 94. Capitalization of start-up expenditures.
- Sec. 95. LIFO conformity rules applied on controlled group basis.

Subtitle H—Provisions Relating to Tax Straddles

- Sec. 101. Repeal of exception from straddle rules for stock options and certain stock.
- Sec. 102. Section 1256 extended to certain options.
- Sec. 103. Regulations under section 1092(b).
- Sec. 104. Limitation on losses from hedging transactions.
- Sec. 105. Clarification that section 1234 applies to options on regulated futures contracts and cash settlement options.
- Sec. 106. Wash sale rules to apply to losses on certain short sales.
- Sec. 107. Time for identification by taxpayer of certain transactions.
- Sec. 108. Treatment of certain losses on straddles entered into before effective date of Economic Recovery Tax Act of 1981.

Subtitle I—Depreciation

- Sec. 111. Recovery period for certain real property extended to 18 years.
- Sec. 112. Recapture in case of installment sales.
- Sec. 113. Provisions relating to sound recordings and films.
- Sec. 114. Definition of section 38 property in sale-leaseback transactions.

Subtitle J—Foreign Provisions

PART I—CHANGES IN SOURCE AND CHARACTER RULES

- Sec. 121. Certain amounts treated as derived from United States sources for purposes of limitation on foreign tax credit.
- Sec. 122. Certain amounts treated as interest for purposes of the limitation on the foreign tax credit.
- Sec. 123. Treatment of related person factoring income.
- Sec. 124. Treatment of certain transportation income.
- Sec. 125. Treatment of certain distributions received by United States-owned foreign corporations.
- Sec. 126. Allocation under section 861 of research and experimental expenditures.

PART II—WITHHOLDING PROVISIONS

- Sec. 127. Repeal of 30 percent tax on interest received by foreign persons on certain portfolio investments.
- Sec. 128. Treatment of United States source original issue discount in case of foreign persons.
- Sec. 129. Withholding of tax on dispositions of United States real property interests.
- Sec. 130. Treatment of payments to Guam and Virgin Islands corporations.

PART III—TAXATION OF CERTAIN TRANSFERS OF PROPERTY OUTSIDE THE UNITED STATES

- Sec. 131. Taxation of certain transfers of property outside the United States.

PART IV—MISCELLANEOUS FOREIGN CORPORATE PROVISIONS

- Sec. 132. Amendments related to foreign personal holding companies.
- Sec. 133. Amendments related to section 1248.
- Sec. 134. Definition of foreign investment company.
- Sec. 135. Application of collapsible corporation rules to foreign corporations.
- Sec. 136. Stapled stock; stapled entities.
- Sec. 137. Services relating to insurance policies are treated as performed in country of risk.

PART V—TREATMENT OF ALIEN INDIVIDUALS

- Sec. 138. Definition of resident alien and nonresident alien.
- Sec. 139. Treatment of community income.

Subtitle K—Reporting, Penalty, and Other Provisions

PART I—PROVISIONS RELATING TO TAX SHELTERS

- Sec. 141. Registration of tax shelters.
- Sec. 142. Organizers and sellers of potentially abusive tax shelters must keep lists of investors.

- Sec. 143. Increase in penalty for promoting abusive tax shelters; injunction against aiding or abetting understatement of tax liability.
- Sec. 144. Increased rate of interest on substantial underpayments attributable to certain tax motivated transactions.

PART II—INFORMATION REPORTING PROVISIONS

- Sec. 145. Returns relating to mortgage interest received in trade or business from individuals.
- Sec. 146. Returns relating to cash received in trade or business.
- Sec. 147. Provisions relating to individual retirement accounts.
- Sec. 148. Returns relating to foreclosures and abandonments of security.
- Sec. 149. Returns relating to exchanges of partnership interests where unrealized receivables, etc., involved.
- Sec. 150. Statements required in case of certain substitute payments.
- Sec. 151. Reporting of State and local refunds not required with respect to non-itemizers.
- Sec. 152. Furnishing of TIN under backup withholding.

PART III—OTHER COMPLIANCE PROVISIONS

- Sec. 155. Substantiation of charitable contributions; modifications of incorrect valuation penalty.
- Sec. 156. Authorization to disregard appraisals of persons penalized for aiding in understatement of tax liability.
- Sec. 157. Limitation on mailing of deposits of taxes.
- Sec. 158. Interest on certain additions to tax.
- Sec. 159. Penalty for fraudulent withholding exemption certificate or failure to supply information.
- Sec. 160. Application of penalty for frivolous proceedings to pending Tax Court proceedings.
- Sec. 161. Failure to request change of method of accounting.
- Sec. 162. Clarification of change of venue for certain tax offenses.
- Sec. 163. Extension of statute of limitations with respect to certain expenditures relating to contributions in aid of construction.

Subtitle L—Miscellaneous Provisions

- Sec. 171. Inclusion of tax benefit items in income.
- Sec. 172. Loans with below-market interest rates.
- Sec. 173. Eligibility for income averaging.
- Sec. 174. Amendments to section 267.
- Sec. 175. Amendments to section 1239.
- Sec. 176. Recapture of net ordinary losses under section 1231.
- Sec. 177. Repeal of exemption from Federal tax of the Federal Home Loan Mortgage Corporation.
- Sec. 178. Special rule relating to sales or exchanges of certain economic interests in coal between related parties.
- Sec. 179. Limitation on amount of depreciation and investment tax credit for luxury automobiles; limitation where certain property used for personal purposes.

TITLE II—LIFE INSURANCE PROVISIONS

- Sec. 201. Table of sections for part I of subchapter L.

Subtitle A—Taxation of Life Insurance Companies

PART I—AMENDMENT OF SUBCHAPTER L

- Sec. 211. Amendment of subchapter L.
- Sec. 212. Certain reinsurance agreements.

PART II—EFFECTIVE DATE; TRANSITIONAL RULES

SUBPART A—EFFECTIVE DATE

- Sec. 215. Effective date.

SUBPART B—TRANSITIONAL RULES

- Sec. 216. Reserves computed on new basis; fresh start.
- Sec. 217. Other special rules.
- Sec. 218. Underpayments of estimated tax for 1984.
- Sec. 219. Clarification of authority to require certain information.

Subtitle B—Taxation of Life Insurance Products

- Sec. 221. Definition of life insurance contract.
- Sec. 222. Treatment of certain annuity contracts.
- Sec. 223. Group-term life insurance purchased for employees.
- Sec. 224. Treatment of certain exchanges of insurance policies.

Subtitle C—Studies

- Sec. 231. Studies.

TITLE III—REVISION OF PRIVATE FOUNDATION PROVISIONS

- Sec. 301. Limitations on deduction for contributions to private foundations.
- Sec. 302. Exemption for certain operating foundations from excise tax on investment income.
- Sec. 303. Reduction in excise tax on investment income where private foundation meets certain distribution requirements.
- Sec. 304. Amendment to taxes on failure to distribute income.
- Sec. 305. Abatement of first tier taxes in certain cases.
- Sec. 306. Miscellaneous amendments.
- Sec. 307. 5-year extension of requirement to dispose of certain excess holdings attributable to large gifts and bequests.
- Sec. 308. Decreases attributable to stock issuances not to reduce permitted percentage of holdings where decrease is 2 percent or less.
- Sec. 309. Aggregation of stock holdings of private foundation and disqualified persons in applying 95 percent ownership test.
- Sec. 310. 5-year period to dispose of excess holdings resulting from certain acquisitions by disqualified persons.
- Sec. 311. The conducting of certain games of chance not treated as unrelated trade or business.
- Sec. 312. Tax on self-dealing not to apply to certain stock purchases.
- Sec. 313. Person ceases to be substantial contributor after 10 years with no connection to foundation.
- Sec. 314. Technical amendments.

TITLE IV—TAX SIMPLIFICATION

Subtitle A—Revision and Simplification of Estimated Income Tax for Individuals

- Sec. 411. Revision of penalty for failure to pay estimated income tax.
- Sec. 412. Repeal of requirement of declarations, etc.
- Sec. 413. Crediting of income tax overpayment against estimated tax liability.
- Sec. 414. Effective dates.

Subtitle B—Domestic Relations

- Sec. 421. Treatment of transfers of property between spouses or incident to divorce.
- Sec. 422. Tax treatment of alimony and separate maintenance payments.
- Sec. 423. Dependency exemption in the case of child of divorced parents, etc.
- Sec. 424. Innocent spouse relieved of liability in certain cases.
- Sec. 425. Treatment of certain property settlements for purposes of estate and gift taxes.
- Sec. 426. Income from sheltered workshops not taken into account in determining dependency exemption.

Subtitle C—Revision of At-Risk Rules

- Sec. 431. Revision of investment credit at-risk rules.
- Sec. 432. Exclusion of active businesses of qualified C corporations from at-risk rules, etc.

Subtitle D—Miscellaneous Treasury Administrative Provisions

PART I—PROVISIONS NOT RELATING TO DISTILLED SPIRITS TAX

- Sec. 441. Simplification of certain reporting requirements.
- Sec. 442. Removal of \$1,000,000 limitation on working capital fund.
- Sec. 443. Increase in limitation on revolving fund for redemption of real property.
- Sec. 444. Removal of \$1,000,000 limitation on special authority to dispose of obligations.
- Sec. 445. Secretary of the Treasury authorized to accept gifts and bequests.
- Sec. 446. Extension of period for court review of jeopardy assessment where prompt service not made on the United States.
- Sec. 447. Extension of period during which additional tax shown on amended return may be assessed.

- Sec. 448. Treatment of certain guaranteed drafts issued by financial institutions.
- Sec. 449. Disclosure of windfall profit tax information to State tax officials.
- Sec. 450. Financial reporting of investment tax credits.

PART II—PROVISIONS RELATING TO DISTILLED SPIRITS

- Sec. 451. Repeal of occupational tax on manufacturers of stills and condensers; notices of manufacture and set up of stills.
- Sec. 452. Allowance of drawback claims even where certain requirements not met.
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- Sec. 454. Repeal of stamp requirement for distilled spirits.
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- Sec. 456. Effective dates.

Subtitle E—Tax Court Provisions

- Sec. 461. Increase in jurisdictional limit for small cases.
- Sec. 462. Annuities to survivors of Tax Court judges.
- Sec. 463. Proceedings which may be assigned to commissioners.
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Subtitle F—Simplification of Income Tax Credits

- Sec. 471. Credits grouped together in more logical order.
- Sec. 472. Uniform limitation on personal nonrefundable credits.
- Sec. 473. Uniform carryover provisions for business-related credits.
- Sec. 474. Technical and conforming amendments.
- Sec. 475. Effective dates.

Subtitle G—Miscellaneous Simplification Provisions

- Sec. 481. Preferred stock eligible under section 1244.
- Sec. 482. Medical care deduction allowed for lodging away from home in certain cases.

Subtitle H—Repeal of Certain Obsolete Provisions

- Sec. 491. Termination of rules relating to qualified bond purchase plans and retirement bonds with respect to bonds issued after December 31, 1983.
- Sec. 492. Repeal of rules relating to gains from disposition of property used in farming where farm losses offset nonfarm income.

TITLE V—EMPLOYEE BENEFIT PROVISIONS

Subtitle A—Welfare Benefit Plans

- Sec. 511. Treatment of funded welfare benefit plans.
- Sec. 512. Treatment of unfunded deferred benefits.
- Sec. 513. Additional requirements for tax-exempt status of certain organizations.

Subtitle B—Provisions Relating to Pension Plans

- Sec. 521. Required distributions.
- Sec. 522. Rollover of certain partial distributions permitted.
- Sec. 523. Treatment of distributions where substantially all contributions are employee contributions.
- Sec. 524. Provisions relating to top-heavy plans.
- Sec. 525. Repeal of estate tax exclusion for qualified pension plan benefits.
- Sec. 526. Affiliated service groups, employee leasing arrangements, and collective bargaining agreements.
- Sec. 527. Provisions relating to cash or deferred arrangements.
- Sec. 528. Treatment of certain medical, etc., benefits under section 415.
- Sec. 529. Certain alimony treated as compensation.

Subtitle C—Tax Treatment of Fringe Benefits

- Sec. 531. Exclusion of certain fringe benefits from gross income.
- Sec. 532. Exclusion of certain reductions in tuition from gross income.

Subtitle D—Employee Stock Ownership Plans

- Sec. 541. Nonrecognition of gain on stock sold to employee stock ownership plans or certain cooperatives if qualified replacement property acquired.
- Sec. 542. Deductibility of certain dividend distributions from employee stock ownership plans.

- Sec. 543. Exclusion of interest on loans used to finance acquisition of employer securities by an ESOP.
- Sec. 544. Assumption of estate tax liability by employer stock ownership plan or cooperative receiving employer securities.
- Sec. 545. Excise tax on certain dispositions of employer securities by employee stock ownership plans and certain cooperatives.

Subtitle E—Miscellaneous

- Sec. 551. Treatment of certain distributions from a qualified terminated plan.
- Sec. 552. Partial termination for certain pension plans.
- Sec. 553. Distribution requirements for accounts and annuities of an insurer in a rehabilitation proceeding.
- Sec. 554. Extension of time for repayment of qualified refunding loans.
- Sec. 555. Technical amendments to the incentive stock option provisions.
- Sec. 556. Time for making certain section 83(b) elections.
- Sec. 557. Employer and employee benefit association treated as related persons under section 1239.
- Sec. 558. Elimination of retroactive application of amendments made by Multiemployer Pension Plan Amendments Act of 1980.
- Sec. 559. Telecommunication employees.
- Sec. 560. Study of employee welfare benefit plans.
- Sec. 561. Limitation accrual of vacation pay.

TITLE VI—TAX-EXEMPT BOND PROVISIONS

Subtitle A—Mortgage Subsidy Bonds

- Sec. 611. 4-year extension of mortgage subsidy bond authority.
- Sec. 612. Mortgage credit certificates.
- Sec. 613. Authority to borrow from Federal Financing Bank.
- Sec. 614. Elimination of certain exceptions to the application of the Mortgage Subsidy Bond Tax Act of 1980.

Subtitle B—Private Activity Bonds

PART I—GENERAL RESTRICTIONS

- Sec. 621. Limitation on aggregate amount of private activity bonds.
- Sec. 622. Tax exemption denied where obligation directly or indirectly guaranteed by Federal Government.
- Sec. 623. Aggregate limit per taxpayer for small issue exception.

PART II—ARBITRAGE LIMITATIONS

- Sec. 624. Arbitrage on nonpurpose obligations.
- Sec. 625. Student loan bonds.

PART III—OTHER RESTRICTIONS

- Sec. 626. Denial of tax exemption to consumer loan bonds.
- Sec. 627. Limitations on acquisitions of land, existing facilities, etc.
- Sec. 628. Miscellaneous industrial development bond provisions.
- Sec. 629. Certain public utilities treated as exempted persons under section 103(b); special rules for certain railroads.
- Sec. 630. Extension of small issue industrial development bond exception.
- Sec. 631. Effective dates.
- Sec. 632. Miscellaneous exceptions and special rules.

Subtitle C—Miscellaneous Provisions

- Sec. 641. Clarification of treatment of certain exemptions for purposes of the Federal estate and gift taxes.
- Sec. 642. Reports with transfers of public housing bonds.
- Sec. 643. Tax-exempt status of obligations of certain educational organizations.
- Sec. 644. Local furnishing of electricity or gas.
- Sec. 645. Local furnishing of electricity or gas where facility initially authorized by Federal Government.
- Sec. 646. Treasury Department decisions affecting tax-exempt bonds.
- Sec. 647. Special rule for possessions and District of Columbia.
- Sec. 648. Special arbitrage rule.

TITLE VII—TECHNICAL CORRECTIONS

- Sec. 701. Coordination with other titles.

Subtitle A—Amendments Related to the Tax Equity and Fiscal Responsibility Act of 1982

- Sec. 711. Technical corrections of provisions relating to individuals.
- Sec. 712. Technical corrections of provisions primarily relating to businesses.
- Sec. 713. Technical corrections of pension provisions.
- Sec. 714. Miscellaneous provisions.
- Sec. 715. Effective date.

Subtitle B—Amendments Related to Subchapter S Revision Act of 1982; Etc.

- Sec. 721. Technical corrections of Subchapter S Revision Act of 1982.
- Sec. 722. Miscellaneous provisions.

Subtitle C—Amendments Relating to Highway Revenue Act of 1982

- Sec. 731. Value of used components furnished by first user not taken into account in determining price.
- Sec. 732. Clarification of application of gasoline excise tax to gasohol, etc.
- Sec. 733. Certain chain operators of retail gasoline stations treated as producers.
- Sec. 734. Other technical amendments.
- Sec. 735. Repeal of certain provisions made obsolete by Highway Revenue Act of 1982.
- Sec. 736. Effective date.

TITLE VIII—FOREIGN SALES CORPORATIONS

- Sec. 801. Foreign sales corporations.
- Sec. 802. Interest charge DISC.
- Sec. 803. Taxable year of DISC and FSC required to conform to taxable year of majority shareholder.
- Sec. 804. Reporting requirements.
- Sec. 805. Effective date; transition rules.

TITLE IX—HIGHWAY REVENUE PROVISIONS**Subtitle A—Provisions Relating to Heavy Vehicle Use Tax**

- Sec. 901. Reduction of heavy vehicle use tax.
- Sec. 902. Special rule for trucks used in logging.
- Sec. 903. Special rule for certain agricultural vehicles.

Subtitle B—Provisions Relating to Fuel Taxes

- Sec. 911. Increase in diesel fuel tax.
- Sec. 912. Decrease in tax imposed on gasohol.
- Sec. 913. Modification of tax imposed on methanol and ethanol.
- Sec. 914. Extension of reduction in tax for fuel used by taxicabs.
- Sec. 915. 3 cent tax on diesel fuel, etc., used in certain buses.

Subtitle C—Temporary Reduction in Retail Tax on Certain Piggyback Trailers

- Sec. 921. Temporary reduction in tax.

Subtitle D—Studies**PART I—STUDIES RELATING TO HEAVY VEHICLE USE TAX**

- Sec. 931. Whether heavy vehicles bear fair share of highway costs.
- Sec. 932. Trans-border trucking.
- Sec. 933. Weight-distance taxes.
- Sec. 934. Reports, etc.

PART II—OTHER STUDIES

- Sec. 935. Study of reduced fuel taxes for taxicabs.
- Sec. 936. Study of piggyback trailers.

TITLE X—MISCELLANEOUS REVENUE PROVISIONS**Subtitle A—Capital Gains and Losses**

- Sec. 1001. Decrease in holding period required for long-term capital gain treatment.
- Sec. 1002. Repeal of special rule for pre-1970 losses.

Subtitle B—Excise Tax Provisions

PART I—BOATING SAFETY AND SPORT FISH RESTORATION

SUBPART A—BOATING SAFETY AMENDMENTS

- Sec. 1010. Policy.
- Sec. 1011. General amendments to title 46.
- Sec. 1012. Authorization of funds for boating safety.
- Sec. 1013. Effective date.

SUBPART B—SPORT FISH RESTORATION PROGRAM

- Sec. 1014. Amendments to the sport fish restoration program.

Subpart C—Taxes on Sales of Sport Fishing Equipment, Etc.

- Sec. 1015. Tax on sale of sport fishing equipment.
- Sec. 1016. Establishment of Aquatic Resources Trust Fund.
- Sec. 1017. Tax on certain arrows.

PART II—OTHER EXCISE TAXES

- Sec. 1018. Exemption from aviation excise tax for certain helicopter operations.
- Sec. 1019. Technical amendments to the Hazardous Substance Response Revenue Act of 1980.

Subtitle C—Estate and Gift Tax Provisions

- Sec. 1021. Deferral of estate taxes for interest in holding company which owns stock in closely held operating company.
- Sec. 1022. Permanent rules for reforming governing instruments creating charitable remainder trusts and other charitable interests.
- Sec. 1023. Alternate valuation election available only where it results in reduction of gross estate and estate tax.
- Sec. 1024. Alternate valuation election available on certain late returns.
- Sec. 1025. Modification of election or agreement under section 2032A.
- Sec. 1026. No gain recognized from net gifts made before March 4, 1981.
- Sec. 1027. Marital deduction for a usufruct.
- Sec. 1028. Credit against estate tax for transfers to Toiyabe National Forest.

Subtitle D—Charitable Contributions and Exempt Organizations

- Sec. 1031. Increase in charitable volunteer mileage.
- Sec. 1032. Certain organizations providing child care included within the definition of tax-exempt organizations.
- Sec. 1033. Restrictions on church tax inquiries and examinations.
- Sec. 1034. Acquisition indebtedness of certain educational institutions.
- Sec. 1035. Transitional rule relating to the definition of qualified conservation contributions.

Subtitle E—Income Tax Credits

- Sec. 1041. 1-year extension of targeted jobs credit.
- Sec. 1042. Increase in earned income credit.
- Sec. 1043. Alternative test for definition of qualified rehabilitated building.

Subtitle F—Miscellaneous Housing Provisions

- Sec. 1051. Disaster loss deduction where taxpayer ordered to demolish or relocate residence in disaster area because of disaster.
- Sec. 1052. Allocation of expenses to parsonage allowances.
- Sec. 1053. Armed Forces overseas quarters.
- Sec. 1054. Treatment of home won in local radio contest and specially designed for handicapped foster child.

Subtitle G—Extension of Existing Provisions and Transition Rules

- Sec. 1061. Extension of Payment-in-Kind Tax Treatment Act of 1983 to wheat for 1984 crop year.
- Sec. 1062. Extension of increased deduction for eliminating architectural and transportation barriers to the handicapped.
- Sec. 1063. Permanent disallowance of deduction for expenses of demolition of certain structures.
- Sec. 1064. Amortization of expenditures to rehabilitate low-income rental housing.
- Sec. 1065. Rules treating Indian tribal governments as States made permanent.
- Sec. 1066. Transitional rule for treatment of certain income from S corporations.
- Sec. 1067. Special leasing rules for certain coal gasification facilities.

Subtitle H—Additional Provisions

- Sec. 1071. Tax treatment of regulated investment companies.
Sec. 1072. Technical modifications to tip reporting requirements.
Sec. 1073. Tips treated as wages for purposes of Federal unemployment tax.
Sec. 1074. Exclusion of certain services from the Federal Unemployment Tax Act.
Sec. 1075. Taxation of unemployment compensation not to apply to compensation paid for weeks of unemployment ending before December 1, 1978.
Sec. 1076. Exclusion from gross income of cancellations of certain student loans.
Sec. 1077. Migratory bird hunting stamps.
Sec. 1078. Exclusion from gross income of payments from the United States Forest Service as a result of restricting motorized traffic in the boundary waters canoe area.
Sec. 1079. Tax exemption of corporations organized under Acts of Congress.

Subtitle I—Studies

- Sec. 1081. Study of alternative income tax systems.
Sec. 1082. Study of taxation by foreign countries on services performed in the United States.

Subtitle A—Deferral of Certain Tax Reductions**PART I—INCOME TAX PROVISIONS****SEC. 11. AMOUNT OF USED PROPERTY ELIGIBLE FOR INVESTMENT TAX CREDIT.**

(a) **GENERAL RULE.**—Subparagraph (A) of section 48(c)(2) (relating to dollar limitation on amount of used section 38 property) is amended—

26 USC 48.

(1) by striking out “\$150,000 (\$125,000 for taxable years beginning in 1981, 1982, 1983, or 1984)” and inserting in lieu thereof “\$125,000 (\$150,000 for taxable years beginning after 1987)”, and

(2) by striking out “\$150,000 (or \$125,000” each place it appears and inserting in lieu thereof “\$125,000 (or \$150,000”.

(b) **TECHNICAL AMENDMENT.**—Subparagraph (B) of section 48(c)(2) is amended by striking out “\$75,000 (\$62,500 for taxable years beginning in 1981, 1982, 1983, or 1984)” and inserting in lieu thereof “\$62,500 (\$75,000 for taxable years beginning after 1987)”.

SEC. 12. FINANCE LEASE PROVISIONS.

(a) **FOUR-YEAR DEFERRAL OF FINANCE LEASE PROVISIONS.**—

(1) **IN GENERAL.**—Subparagraph (A) of section 209(d)(1) of the Tax Equity and Fiscal Responsibility Act of 1982 is amended by striking out “December 31, 1983” and inserting in lieu thereof “December 31, 1987”.

26 USC 168 note.

(2) **FINANCE LEASE PROVISIONS CONTINUE TO APPLY TO FARM PROPERTY.**—Clause (i) of section 209(d)(1)(B) of such Act is amended by striking out “January 1, 1984” and inserting in lieu thereof “January 1, 1988”.

26 USC 168 note.

(3) **TECHNICAL AMENDMENTS.**—

(A) Subclause (I) of section 168(f)(8)(B)(ii) (relating to requirement that only 40 percent of lessee’s property may be treated as qualified), as amended by section 209 of the Tax Equity and Fiscal Responsibility Act of 1982, is amended by striking out “1986” and inserting in lieu thereof “1990”.

26 USC 168.

(B) Paragraph (4) of section 168(i) (relating to limitations), as so amended, is amended by striking out “1985” each place it appears and inserting in lieu thereof “1989”.

26 USC 168 note.

96 Stat. 432.

96 Stat. 442.

Post, p. 1048.

26 USC 168 note.

(b) **TERMINATION OF SAFE HARBOR LEASING RULES.**—Paragraph (8) of section 168(f) of the Internal Revenue Code of 1954 (relating to special rules for leasing), as in effect after the amendments made by section 208 of the Tax Equity and Fiscal Responsibility Act of 1982 but before the amendments made by section 209 of such Act, shall not apply to agreements entered into after December 31, 1983. The preceding sentence shall not apply to property described in paragraph (3)(G) or (5) of section 208(d) of such Act.

(c) **TRANSITIONAL RULES.**—

(1) **IN GENERAL.**—The amendments made by subsection (a) shall not apply with respect to any property if—

(A) a binding contract to acquire or to construct such property was entered into by or for the lessee before March 7, 1984, or

(B) such property was acquired by the lessee, or the construction of such property was begun, by or for the lessee, before March 7, 1984.

(2) **SPECIAL RULE FOR CERTAIN AUTOMOTIVE PROPERTY.**—

(A) **IN GENERAL.**—The amendments made by subsection (a) shall not apply to property which is placed in service before January 1, 1988—

(i) which is automotive manufacturing property, and

(ii) with respect to which the lessee is a qualified lessee (within the meaning of section 208(d)(6) of the Tax Equity and Fiscal Responsibility Act of 1982).

(B) **\$150,000,000 LIMITATION.**—The provisions of subparagraph (A) shall not apply to any agreement if the sum of—

(i) the cost basis of the property subject to the agreement, plus

(ii) the cost basis of any property subject to an agreement to which subparagraph (A) previously applied and with respect to which the lessee was the lessee under the agreement described in clause (i) (or any related person within the meaning of section 168(e)(4)(D) of the Internal Revenue Code of 1954),

exceeds \$150,000,000.

(C) **AUTOMOTIVE MANUFACTURING PROPERTY.**—For purposes of this paragraph, the term “automotive manufacturing property” means—

(i) property used principally by the taxpayer directly in connection with the trade or business of the taxpayer of the manufacturing of automobiles or trucks (other than truck tractors) with a gross vehicle weight of 13,000 pounds or less,

(ii) machinery, equipment, and special tools of the type included in former depreciation range guideline classes 37.11 and 37.12, and

(iii) any special tools owned by the taxpayer which are used by a vendor solely for the production of component parts for sale to the taxpayer.

(3) **SPECIAL RULE FOR CERTAIN COGENERATION FACILITIES.**—The amendments made by subsection (a) shall not apply with respect to any property which is part of a coal-fired cogeneration facility—

(A) for which an application for certification was filed with the Federal Energy Regulatory Commission on December 30, 1983,

26 USC 168 note.

(B) for which an application for a construction permit was filed with a State environmental protection agency on February 20, 1984, and

(C) which is placed in service before January 1, 1988.

SEC. 13. ELECTION TO EXPENSE CERTAIN DEPRECIABLE BUSINESS ASSETS.

Paragraph (1) of section 179(b) (relating to dollar limitation) is amended by striking out the table contained therein and inserting in lieu thereof the following: 26 USC 179.

"If the taxable year begins in:	The applicable amount is:
1983, 1984, 1985, 1986, or 1987	\$5,000
1988 or 1989	7,500
1990 or thereafter	10,000."

SEC. 14. EMPLOYEE STOCK OWNERSHIP CREDIT.

Subparagraph (B) of section 44G(a)(2) (relating to employee stock ownership credit), as in effect before the amendments made by title IV of this Act, is amended by striking out the table contained therein and inserting in lieu thereof the following: 26 USC 44G.
Post, p. 788.

"For aggregate compensation paid or accrued during a portion of the taxable year occurring in calendar year:	The applicable percentage is:
1983, 1984, 1985, 1986, or 1987	0.5"
1988 or thereafter	0."

SEC. 15. COST-OF-LIVING ADJUSTMENTS IN PENSION PLAN LIMITATIONS.

(a) **GENERAL RULE.**—Paragraph (3) of section 415(d) (relating to freeze on adjustment to defined contribution and benefit plan limits) is amended by striking out "January 1, 1986" and inserting in lieu thereof "January 1, 1988". 26 USC 415.

(b) **TECHNICAL AMENDMENT.**—Subparagraph (A) of section 415(d)(2) (defining base periods), as amended by section 235(b)(2)(B) of the Tax Equity and Fiscal Responsibility Act of 1982, is amended by striking out "October 1, 1984" and inserting in lieu thereof "October 1, 1986". 96 Stat. 505.

SEC. 16. REPEAL OF PARTIAL INTEREST EXCLUSION.

(a) **GENERAL RULE.**—Subsections (a) and (c) of section 302 of the Economic Recovery Tax Act of 1981 are hereby repealed, and the Internal Revenue Code of 1954 shall be applied and administered as if such subsections (and the amendments made by such subsections) had not been enacted. 26 USC 46, 101, 128 and note, 265, 854, 857. 95 Stat. 270. 26 USC 1 *et seq.*

(b) **CONFORMING AMENDMENT.**—Paragraph (1) of section 57(a) is amended to read as follows: 26 USC 57.

"(1) **EXCLUSION OF DIVIDENDS.**—Any amount excluded from gross income for the taxable year under section 116."

SEC. 17. FOREIGN EARNED INCOME OF INDIVIDUALS.

Subparagraph (A) of section 911(b)(2) (relating to limitation on foreign earned income) is amended by striking out the table contained therein and inserting in lieu thereof the following: 26 USC 911.

"In the case of taxable years beginning in:	The annual rate is:
1983, 1984, 1985, 1986, or 1987	\$80,000
1988	85,000
1989	90,000
1990 and thereafter	95,000."

26 USC 48 note. **SEC. 18. EFFECTIVE DATE.**

(a) **GENERAL RULE.**—The amendments made by this part shall apply to taxable years ending after December 31, 1983.

Ante, p. 505.

(b) **SPECIAL RULE FOR SECTION 14.**—The amendment made by section 14 shall not apply in the case of a tax credit employee stock ownership plan if—

(1) such plan was favorably approved on September 23, 1983, by employees, and

(2) not later than January 11, 1984, the employer of such employees was 100 percent owned by such plan.

PART II—ESTATE AND GIFT TAX RATES**SEC. 21. MAXIMUM RATE.**

26 USC 2001.

(a) **GENERAL RULE.**—Paragraph (2) of section 2001(c) (relating to phase-in of 50 percent maximum rate) is amended—

(1) by striking out “1985” in subparagraph (A) and inserting in lieu thereof “1988”, and

(2) by striking out “1984” each place it appears in subparagraph (D) and inserting in lieu thereof “1984, 1985, 1986, or 1987”.

26 USC 2001
note.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall apply to the estates of decedents dying after, and gifts made after, December 31, 1983.

PART III—EXCISE TAXES**SEC. 25. TAX RATE ON NEWLY DISCOVERED OIL.**

26 USC 4987.

(a) **GENERAL RULE.**—Subparagraph (B) of section 4987(b)(3) (relating to rate of tax on newly discovered oil) is amended by striking out the table contained therein and inserting in lieu thereof the following:

“For taxable periods beginning in:	The applicable percentage is:
1984, 1985, 1986, or 1987	22½
1988	20
1989 and thereafter	15.”

(b) **CONTINUATION OF PERCENTAGE DEPLETION FOR OIL AND GAS FROM SECONDARY OR TERTIARY PROCESS.**—

26 USC 613A.

(1) Paragraph (2) of section 613A(c) (relating to exemption for independent producers and royalty owners) is amended by striking out the last sentence.

(2) Subparagraph (A) of section 613A(c)(3) (defining depletable oil quantity) is amended by adding at the end thereof the following new sentence:

“Clause (ii) shall not apply after December 31, 1983.”

(3) Subparagraph (E) of section 613A(c)(7) is amended by adding at the end thereof the following new sentence: “This subparagraph shall not apply after December 31, 1983.”

(4) Subparagraph (A) of section 613A(c)(9) (relating to transfer of oil or gas property) is amended by striking out “paragraph (1)” and inserting in lieu thereof “this subsection”.

(c) **EFFECTIVE DATES.**—

26 USC 4987
note.

(1) **SUBSECTION (a).**—The amendment made by subsection (a) shall apply to taxable periods beginning after December 31, 1983.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall take effect on January 1, 1984. 26 USC 613A.

SEC. 26. EXCISE TAX ON COMMUNICATIONS SERVICES.

Paragraph (2) of section 4251(b) (relating to rate of tax on communications services) is amended by striking out the table contained therein and inserting in lieu thereof the following: 26 USC 4251.

“With respect to amount paid pursuant to bills first rendered:	The applicable percentage is:
During 1983, 1984, 1986, or 1987	3
During 1988 or thereafter	0.”

SEC. 27. EXCISE TAX ON DISTILLED SPIRITS.

(a) IMPOSITION OF TAX.—

(1) IN GENERAL.—Paragraphs (1) and (3) of section 5001(a) (relating to rate of tax on distilled spirits) are each amended by striking out “\$10.50” and inserting in lieu thereof “\$12.50”. 26 USC 5001.

(2) TECHNICAL AMENDMENT.—Paragraphs (1) and (2) of section 5010(a) (relating to credit for wine content and for flavors content) are each amended by striking out “\$10.50” and inserting in lieu thereof “\$12.50”. 26 USC 5010.

(b) FLOOR STOCKS TAXES ON DISTILLED SPIRITS.—

26 USC 5001
note.

(1) IMPOSITION OF TAX.—On distilled spirits on which tax was imposed under section 5001 or 7652 of the Internal Revenue Code of 1954 before October 1, 1985, and which were held on such date for sale by any person, there shall be imposed a tax at the rate of \$2.00 for each proof gallon and a proportionate tax at the like rate on all fractional parts of a proof gallon.

(2) EXCEPTION FOR CERTAIN SMALL WHOLESALE OR RETAIL DEALERS.—No tax shall be imposed by paragraph (1) on distilled spirits held on October 1, 1985, by any dealer if—

(A) the aggregate liquid volume of distilled spirits held by such dealer on such date does not exceed 500 wine gallons, and

(B) such dealer submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this paragraph.

(3) CREDIT AGAINST TAX.—Each dealer shall be allowed as a credit against the taxes imposed by paragraph (1) an amount equal to \$800. Such credit shall not exceed the amount of taxes imposed by paragraph (1) for which the dealer is liable.

(4) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding distilled spirits on October 1, 1985, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall by regulations prescribe.

(C) TIME FOR PAYMENT.—

(i) IN GENERAL.—Except as provided in clause (ii), the tax imposed by paragraph (1) shall be paid on or before April 1, 1986.

(ii) INSTALLMENT PAYMENT OF TAX IN CASE OF SMALL OR MIDDLE-SIZED DEALERS.—In the case of any small or middle-sized dealer, the tax imposed by paragraph (1) may be paid in 3 equal installments due as follows:

(I) The first installment shall be paid on or before April 1, 1986.

(II) The second installment shall be paid on or before July 1, 1986.

(III) The third installment shall be paid on or before October 1, 1986.

If the taxpayer does not pay any installment under this clause on or before the date prescribed for its payment, the whole of the unpaid tax shall be paid upon notice and demand from the Secretary.

(iii) **SMALL OR MIDDLE-SIZED DEALER.**—For purposes of clause (ii), the term “small or middle-sized dealer” means any dealer if the aggregate gross sales receipts of such dealer for its most recent taxable year ending before October 1, 1985, does not exceed \$500,000.

(5) **CONTROLLED GROUPS.**—

(A) **CONTROLLED GROUPS OF CORPORATIONS.**—In the case of a controlled group—

(i) the 500 wine gallon amount specified in paragraph (2),

(ii) the \$800 amount specified in paragraph (3), and

(iii) the \$500,000 amount specified in paragraph (4)(C)(iii),

shall be apportioned among the dealers who are component members of such group in such manner as the Secretary shall by regulations prescribe. For purposes of the preceding sentence, the term “controlled group” has the meaning given to such term by subsection (a) of section 1563 of the Internal Revenue Code of 1954; except that for such purposes the phrase “more than 50 percent” shall be substituted for the phrase “at least 80 percent” each place it appears in such subsection.

(B) **NONINCORPORATED DEALERS UNDER COMMON CONTROL.**—Under regulations prescribed by the Secretary, principles similar to the principles of subparagraph (A) shall apply to a group of dealers under common control where 1 or more of such dealers is not a corporation.

(6) **OTHER LAWS APPLICABLE.**—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 5001 of the Internal Revenue Code of 1954 shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply in respect of the taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by such section 5001.

(7) **DEFINITIONS AND SPECIAL RULES.**—For purposes of this subsection—

(A) **DEALER.**—The term “dealer” means—

(i) any wholesale dealer in liquors (as defined in section 5112(b) of the Internal Revenue Code of 1954), and

(ii) any retail dealer in liquors (as defined in section 5122(a) of such Code).

(B) **DISTILLED SPIRITS.**—The term “distilled spirits” has the meaning given such term by section 5002(a)(8) of the Internal Revenue Code of 1954.

(C) **PERSON.**—The term “person” includes any State or political subdivision thereof, or any agency or instrumentality of a State or political subdivision thereof.

(D) **SECRETARY.**—The term “Secretary” means the Secretary of the Treasury or his delegate.

(E) **TREATMENT OF IMPORTED PERFUMES CONTAINING DISTILLED SPIRITS.**—Any article described in section 5001(a)(3) of such Code shall be treated as distilled spirits; except that the tax imposed by paragraph (1) shall be imposed on a wine gallon basis in lieu of a proof gallon basis. To the extent provided in regulations prescribed by the Secretary, the preceding sentence shall not apply to any article held on October 1, 1985, on the premises of a retail establishment.

(C) REQUIREMENT OF ELECTRONIC FUNDS TRANSFER FOR ALCOHOL AND TOBACCO EXCISE TAXES.—

(1) **ALCOHOL TAXES.**—Section 5061 (relating to method of collecting tax on distilled spirits) is amended by adding at the end thereof the following new subsection:

26 USC 5061.

“(e) PAYMENT BY ELECTRONIC FUND TRANSFER.—

“(1) IN GENERAL.—Any person who in any 12-month period ending December 31, was liable for a gross amount equal to or exceeding \$5,000,000 in taxes imposed on distilled spirits, wines, or beer by sections 5001, 5041, and 5051 (or 7652), respectively, shall pay such taxes during the succeeding calendar year by electronic fund transfer to a Federal Reserve Bank.

“(2) ELECTRONIC FUND TRANSFER.—The term ‘electronic fund transfer’ means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account.”

(2) **TOBACCO TAXES.**—Subsection (b) of section 5703 (relating to method of payment of tobacco taxes) is amended by adding at the end thereof the following new paragraph:

26 USC 5703.

“(3) PAYMENT BY ELECTRONIC FUND TRANSFER.—Any person who in any 12-month period, ending December 31, was liable for a gross amount equal to or exceeding \$5,000,000 in taxes imposed on tobacco products and cigarette papers and tubes by section 5701 (or 7652) shall pay such taxes during the succeeding calendar year by electronic fund transfer (as defined in section 5061(e)(2)) to a Federal Reserve Bank.”

(d) EFFECTIVE DATES.—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the amendments made by this section shall take effect on October 1, 1985.

Supra.
26 USC 5001
note.

(2) **ELECTRONIC TRANSFER PROVISIONS.**—The amendments made by subsection (c) shall apply to taxes required to be paid on or after September 30, 1984.

Subtitle B—Tax-Exempt Entity Leasing

SEC. 31. DENIAL OF TAX INCENTIVES FOR PROPERTY LEASED TO GOVERNMENTS AND OTHER TAX-EXEMPT ENTITIES.

(a) **GENERAL RULE.**—Section 168 (relating to accelerated cost recovery system) is amended by redesignating subsection (j) as subsec-

26 USC 168.

tion (k) and by inserting after subsection (i) the following new subsection:

“(j) PROPERTY LEASED TO GOVERNMENTS AND OTHER TAX-EXEMPT ENTITIES.—

“(1) IN GENERAL.—Notwithstanding any other provision of this section, the deduction allowed under subsection (a) (and any other deduction allowable for depreciation or amortization) for any taxable year with respect to tax-exempt use property shall be determined—

“(A) by using the straight-line method (without regard to salvage value), and

“(B) by using a recovery period determined under the following table:

“In the case of:	The recovery period shall be:
(I) Property not described in subclause (II) or subclause (III).....	The present class life.
(II) Personal property with no present class life	12 years.
(III) 18-year real property.....	40 years.

“(2) OPERATING RULES.—

“(A) RECOVERY PERIOD MUST AT LEAST EQUAL 125 PERCENT OF LEASE TERM.—In the case of any tax-exempt use property, the recovery period used for purposes of paragraph (1) shall not be less than 125 percent of the lease term.

“(B) CONVENTIONS.—

“(i) PROPERTY OTHER THAN 18-YEAR REAL PROPERTY.—

In the case of property other than 18-year real property, the half-year convention shall apply for purposes of paragraph (1).

“(ii) 18-YEAR REAL PROPERTY.—In the case of 18-year real property, the amount determined under paragraph (1) shall be determined on the basis of the number of months (using a mid-month, convention) in the year in which the property is in service.

“(C) EXCEPTION WHERE LONGER RECOVERY PERIOD APPLIES.—Paragraph (1) shall not apply to any recovery property if the recovery period which applies to such property (without regard to this subsection) exceeds the recovery period for such property determined under this subsection.

“(D) DETERMINATION OF CLASS FOR REAL PROPERTY WHICH IS NOT RECOVERY PROPERTY.—In the case of any real property which is not recovery property, for purposes of this subsection, the determination of whether such property is 18-year real property shall be made as if such property were recovery property.

“(E) COORDINATION WITH SUBSECTION (f) (12).—Paragraph (12) of subsection (f) shall not apply to any tax-exempt use property to which this subsection applies.

“(F) 18-YEAR REAL PROPERTY.—For purposes of this subsection, the term ‘18-year real property’ includes—

“(i) low-income housing, and

“(ii) any property which was treated as 15-year real property under this section (as in effect before the amendments made by the Tax Reform Act of 1984).

“(3) TAX-EXEMPT USE PROPERTY.—For purposes of this subsection—

“(A) PROPERTY OTHER THAN 18-YEAR REAL PROPERTY.—Except as otherwise provided in this subsection, the term ‘tax-exempt use property’ means that portion of any tangible property (other than 18-year real property) leased to a tax-exempt entity.

“(B) 18-YEAR REAL PROPERTY.—

“(i) IN GENERAL.—In the case of 18-year real property, the term ‘tax-exempt use property’ means that portion of the property leased to a tax-exempt entity in a disqualified lease.

“(ii) DISQUALIFIED LEASE.—For purposes of this subparagraph, the term ‘disqualified lease’ means any lease of the property to a tax-exempt entity, but only if—

“(I) part or all of the property was financed (directly or indirectly) by an obligation the interest on which is exempt from tax under section 103 and such entity (or a related entity) participated in such financing,

“(II) under such lease there is a fixed or determinable price purchase or sale option which involves such entity (or a related entity) or there is the equivalent of such an option,

“(III) such lease has a lease term in excess of 20 years, or

“(IV) such lease occurs after a sale (or other transfer) of the property by, or lease of the property from, such entity (or a related entity) and such property has been used by such entity (or a related entity) before such sale (or other transfer) or lease.

“(iii) 35-PERCENT THRESHOLD TEST.—Clause (i) shall apply to any property only if the portion of such property leased to tax-exempt entities in disqualified leases is more than 35 percent of the property.

“(iv) TREATMENT OF IMPROVEMENTS.—For purposes of this subparagraph, improvements to a property (other than land) shall not be treated as a separate property.

“(v) LEASEBACKS DURING 1ST 3 MONTHS OF USE NOT TAKEN INTO ACCOUNT.—Subclause (IV) of clause (ii) shall not apply to any property which is leased within 3 months after the date such property is first used by the tax-exempt entity (or a related entity).

“(C) EXCEPTION FOR SHORT-TERM LEASES.—

“(i) IN GENERAL.—Property shall not be treated as tax-exempt use property merely by reason of a short-term lease.

“(ii) SHORT-TERM LEASE.—For purposes of clause (i), the term ‘short-term lease’ means any lease the term of which is—

“(I) less than 3 years, and

“(II) less than the greater of 1 year or 30 percent of the property’s present class life.

In the case of 18-year real property and property with no present class life, subclause (II) shall not apply.

“(D) EXCEPTION WHERE PROPERTY USED IN UNRELATED TRADE OR BUSINESS.—The term ‘tax-exempt use property’ shall not include any portion of a property if such portion is predominantly used by the tax-exempt entity (directly or through a partnership of which such entity is a partner) in an unrelated trade or business the income of which is subject to tax under section 511.

“(4) TAX-EXEMPT ENTITY.—

“(A) IN GENERAL.—For purposes of this subsection, the term ‘tax-exempt entity’ means—

“(i) the United States, any State or political subdivision thereof, any possession of the United States, or any agency or instrumentality of any of the foregoing,

“(ii) an organization (other than a cooperative described in section 521) which is exempt from tax imposed by this chapter, and

“(iii) any foreign person or entity.

“(B) EXCEPTIONS FOR CERTAIN PROPERTY USED BY FOREIGN PERSON OR ENTITY.—

“(i) INCOME FROM PROPERTY SUBJECT TO UNITED STATES TAX.—Clause (iii) of subparagraph (A) shall not apply with respect to any property if more than 50 percent of the gross income for the taxable year derived by the foreign person or entity from the use of such property is—

“(I) subject to tax under this chapter, or

“(II) included under section 951 in the gross income of a United States shareholder for the taxable year with or within which ends the taxable year of the controlled foreign corporation in which such income was derived.

For purposes of the preceding sentence, any exclusion or exemption shall not apply for purposes of determining the amount of the gross income so derived, but shall apply for purposes of determining the portion of such gross income subject to tax under this chapter.

“(ii) MOVIES AND SOUND RECORDINGS.—Clause (iii) of subparagraph (A) shall not apply with respect to any qualified film (as defined in section 48(k)(1)(B)) or any sound recording (as defined in section 48(r)).

“(C) FOREIGN PERSON OR ENTITY.—For purposes of this paragraph, the term ‘foreign person or entity’ means—

“(i) any foreign government, any international organization, or any agency or instrumentality of any of the foregoing, and

“(ii) any person who is not a United States person. Such term does not include any foreign partnership or other foreign pass-thru entity.

“(D) TREATMENT OF CERTAIN TAXABLE INSTRUMENTALITIES.—For purposes of this subsection and paragraph (5) of section 48(a), a corporation shall not be treated as an instrumentality of the United States or of any State or political subdivision thereof if—

“(i) all of the activities of such corporation are subject to tax under this chapter, and

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“(ii) a majority of the board of directors of such corporation is not selected by the United States or any State or political subdivision thereof.

“(E) CERTAIN PREVIOUSLY TAX-EXEMPT ORGANIZATIONS.—

“(i) IN GENERAL.—For purposes of this subsection and paragraph (4) of section 48(a), an organization shall be treated as an organization described in subparagraph (A)(ii) with respect to any property of which such organization is the lessee if such organization was an organization (other than a cooperative described in section 521) exempt from tax imposed by this chapter at any time during the 5-year period ending on the date such property was first leased to such organization. The preceding sentence shall not apply to the Federal Home Loan Mortgage Corporation.

“(ii) ELECTION NOT TO HAVE CLAUSE (i) APPLY.—

“(I) IN GENERAL.—In the case of an organization formerly exempt from tax under section 501(a) as an organization described in section 501(c)(12), clause (i) shall not apply to such organization with respect to any property of which such organization is the lessee if such organization elects not to be exempt from tax under section 501(a) during the tax-exempt use period with respect to such property.

“(II) TAX-EXEMPT USE PERIOD.—For purposes of subclause (I), the term ‘tax-exempt use period’ means the period beginning with the taxable year in which the property described in subclause (I) is placed in service under the lease and ending with the close of the 15th taxable year following the last taxable year of the recovery period of such property.

“(III) ELECTION.—Any election under subclause (I), once made, shall be irrevocable.

“(iii) TREATMENT OF SUCCESSOR ORGANIZATIONS.—Any organization which is engaged in activities substantially similar to those engaged in by a predecessor organization shall succeed to the treatment under this subparagraph of such predecessor organization.

“(5) SPECIAL RULES FOR CERTAIN HIGH TECHNOLOGY EQUIPMENT.—

“(A) EXEMPTION WHERE LEASE TERM IS 5 YEARS OR LESS.—For purposes of this subsection, the term ‘tax-exempt use property’ shall not include any qualified technological equipment if the lease to the tax-exempt entity has a lease term of 5 years or less.

“(B) RECOVERY PERIOD WHERE LEASE TERM IS GREATER THAN 5 YEARS.—In the case of any qualified technological equipment not described in subparagraph (A) and which is not property to which subsection (f)(2) applies, the recovery period used for purposes of paragraph (1) shall be 5 years.

“(C) QUALIFIED TECHNOLOGICAL EQUIPMENT.—For purposes of this paragraph—

“(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the term ‘qualified technological equipment’ means—

“(I) any computer or peripheral equipment,

“(II) any high technology telephone station equipment installed on the customer's premises, and

“(III) any high technology medical equipment,

“(ii) EXCEPTION FOR CERTAIN PROPERTY.—The term ‘qualified technological equipment’ shall not include any property leased to a tax-exempt entity if—

“(I) part or all of the property was financed (directly or indirectly) by an obligation the interest on which is exempt from tax under section 103,

“(II) such lease occurs after a sale (or other transfer) of the property by, or lease of such property from, such entity (or related entity) and such property has been used by such entity (or a related entity) before such sale (or other transfer) or lease, or

“(III) such tax-exempt entity is the United States or any agency or instrumentality of the United States.

“(iii) LEASEBACKS DURING 1ST 3 MONTHS OF USE NOT TAKEN INTO ACCOUNT.—Subclause (II) of clause (ii) shall not apply to any property which is leased within 3 months after the date such property is first used by the tax-exempt entity (or a related entity).

“(iv) PROPERTY NOT SUBJECT TO RAPID OBSOLESCENCE MAY BE EXCLUDED.—The term ‘qualified technological equipment’ shall not include any equipment described in subclause (II) or (III) of clause (i)—

“(I) which the Secretary determines by regulations is not subject to rapid obsolescence, and

“(II) which is placed in service after the date on which final regulations implementing such determination are published in the Federal Register.

“(D) COMPUTER OR PERIPHERAL EQUIPMENT DEFINED.—For purposes of this paragraph—

“(i) IN GENERAL.—The term ‘computer or peripheral equipment’ means—

“(I) any computer, and

“(II) any related peripheral equipment.

“(ii) COMPUTER.—The term ‘computer’ means a programmable electronically activated device which—

“(I) is capable of accepting information, applying prescribed processes to the information, and supplying the results of these processes with or without human intervention, and

“(II) consists of a central processing unit containing extensive storage, logic, arithmetic, and control capabilities.

“(iii) RELATED PERIPHERAL EQUIPMENT.—The term ‘related peripheral equipment’ means any auxiliary machine (whether on-line or off-line) which is designed to be placed under the control of the central processing unit of a computer.

“(iv) EXCEPTIONS.—The term ‘computer or peripheral equipment’ shall not include—

“(I) any equipment which is an integral part of other property which is not a computer,

“(II) typewriters, calculators, adding and accounting machines, copiers, duplicating equipment, and similar equipment, and

“(III) equipment of a kind used primarily for amusement or entertainment of the user.

“(E) HIGH TECHNOLOGY MEDICAL EQUIPMENT.—For purposes of this paragraph, the term ‘high technology medical equipment’ means any electronic, electromechanical, or computer-based high technology equipment used in the screening, monitoring, observation, diagnosis, or treatment of patients in a laboratory, medical, or hospital environment.

“(6) OTHER SPECIAL RULES.—For purposes of this subsection—

“(A) LEASE.—The term ‘lease’ includes any grant of a right to use property.

“(B) LEASE TERM.—In determining a lease term—

“(i) there shall be taken into account options to renew, and

“(ii) 2 or more successive leases which are part of the same transaction (or a series of related transactions) with respect to the same or substantially similar property shall be treated as 1 lease.

“(C) SPECIAL RULE FOR FAIR RENTAL OPTIONS ON 18-YEAR REAL PROPERTY.—For purposes of clause (i) of subparagraph (B), in the case of 18-year real property, there shall not be taken into account any option to renew at fair market value, determined at the time of renewal.

“(7) RELATED ENTITIES.—For purposes of this subsection—

“(A)(i) Each governmental unit and each agency or instrumentality of a governmental unit is related to each other such unit, agency, or instrumentality which directly or indirectly derives its powers, rights, and duties in whole or in part from the same sovereign authority.

“(ii) For purposes of clause (i), the United States, each State, and each possession of the United States shall be treated as a separate sovereign authority.

“(B) Any entity not described in subparagraph (A)(i) is related to any other entity if the 2 entities have—

“(i) significant common purposes and substantial common membership, or

“(ii) directly or indirectly substantial common direction or control.

“(C)(i) An entity is related to another entity if either entity owns (directly or through 1 or more entities) a 50 percent or greater interest in the capital or profits of the other entity.

“(ii) For purposes of clause (i), entities treated as related under subparagraph (A) or (B) shall be treated as 1 entity.

“(D) An entity is related to another entity with respect to a transaction if such transaction is part of an attempt by such entities to avoid the application of this subsection, section 46(e), paragraph (4) or (5) of section 48(a), or clause (vi) of section 48(g)(2)(B).

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“(8) **TAX-EXEMPT USE OF PROPERTY LEASED TO PARTNERSHIPS, ETC., DETERMINED AT PARTNER LEVEL.**—For purposes of this subsection and paragraphs (4) and (5) of section 48(a)—

“(A) **IN GENERAL.**—In the case of any property which is leased to a partnership, the determination of whether any portion of such property is tax-exempt use property shall be made by treating each tax-exempt entity partner’s proportionate share (determined under paragraph (9)(C)) of such property as being leased to such partner.

“(B) **OTHER PASS-THRU ENTITIES; TIERED ENTITIES.**—Rules similar to the rules of subparagraph (A) shall also apply in the case of any pass-thru entity other than a partnership and in the case of tiered partnerships and other entities.

“(C) **PRESUMPTION WITH RESPECT TO FOREIGN ENTITIES.**—Unless it is otherwise established to the satisfaction of the Secretary, it shall be presumed that the partners of a foreign partnership (and the beneficiaries of any other foreign pass-thru entity) are persons who are not United States persons.

“(9) **TREATMENT OF PROPERTY OWNED BY PARTNERSHIPS, ETC.**—

“(A) **IN GENERAL.**—For purposes of this subsection and paragraphs (4) and (5) of section 48(a), if—

“(i) any property which (but for this subparagraph) is not tax-exempt use property is owned by a partnership which has both a tax-exempt entity and a person who is not a tax-exempt entity as partners, and

“(ii) any allocation to the tax-exempt entity of partnership items is not a qualified allocation, an amount equal to such tax-exempt entity’s proportionate share of such property shall (except as provided in paragraph (3)(D)) be treated as tax-exempt use property.

“(B) **QUALIFIED ALLOCATION.**—For purposes of subparagraph (A), the term ‘qualified allocation’ means any allocation to a tax-exempt entity which—

“(i) is consistent with such entity’s being allocated the same distributive share of each item of income, gain, loss deduction, credit, and basis and such share remains the same during the entire period the entity is a partner in the partnership, and

“(ii) has substantial economic effect within the meaning of section 704(b)(2).

For purposes of this subparagraph, items allocated under section 704(c) shall not be taken into account.

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“(C) **DETERMINATION OF PROPORTIONATE SHARE.**—

“(i) **IN GENERAL.**—For purposes of subparagraph (A), a tax-exempt entity’s proportionate share of any property owned by a partnership shall be determined on the basis of such entity’s share of partnership items of income or gain (excluding gain allocated under section 704(c)), whichever results in the largest proportionate share.

“(ii) **DETERMINATION WHERE ALLOCATIONS VARY.**—For purposes of clause (i), if a tax-exempt entity’s share of partnership items of income or gain (excluding gain allocated under section 704(c)) may vary during the period such entity is a partner in the partnership, such

share shall be the highest share such entity may receive.

“(D) OTHER PASS-THRU ENTITIES; TIERED ENTITIES.—Rules similar to the rules of subparagraphs (A), (B), and (C) shall also apply in the case of any pass-thru entity other than a partnership and in the case of tiered partnerships and other entities.

“(E) REGULATIONS.—For purposes of determining whether there is a qualified allocation under subparagraph (B), the regulations prescribed under paragraph (10) for purposes of this paragraph—

“(i) shall set forth the proper treatment for partnership guaranteed payments, and

“(ii) may provide for the exclusion or segregation of items.

“(10) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection.”

(b) DENIAL OF INVESTMENT TAX CREDIT FOR PROPERTY USED BY FOREIGN GOVERNMENTS AND OTHER FOREIGN PERSONS.—Paragraph (5) of section 48(a) (relating to property used by governmental units) is amended to read as follows: 26 USC 48.

“(5) PROPERTY USED BY GOVERNMENTAL UNITS OR FOREIGN PERSONS OR ENTITIES.—

“(A) IN GENERAL.—Property used—

“(i) by the United States, any State or political subdivision thereof, any possession of the United States, or any agency or instrumentality of any of the foregoing, or

“(ii) by any foreign person or entity (as defined in section 168(j)(4)(C)), but only with respect to property to which section 168(j)(4)(A)(iii) applies (determined after the application of section 168(j)(4)(B)),

shall not be treated as section 38 property.

“(B) EXCEPTION FOR SHORT-TERM LEASES.—

“(i) IN GENERAL.—This paragraph and paragraph (4) shall not apply to any property by reason of use under a lease with a term of less than 6 months (determined under section 168(j)(6)).

“(ii) EXCEPTION FOR CERTAIN OIL DRILLING PROPERTY AND CERTAIN CONTAINERS.—For purposes of this paragraph and paragraph (4), clause (i) shall be applied by substituting the lease term limitation in section 168(j)(3)(C)(ii) for the lease term limitation in clause (i) in the case of property which is leased to a foreign person or entity and—

“(I) which is used in offshore drilling for oil and gas (including drilling vessels, barges, platforms, and drilling equipment) and support vessels with respect to such property, or

“(II) which is a container described in section 48(a)(2)(B)(v) (without regard to whether such container is used outside the United States) or container chassis or trailer but only if such container, chassis, or trailer has a present class life of not more than 6 years.

“(iii) EXCEPTION FOR CERTAIN AIRCRAFT.—

Ante, p. 509.

“(I) IN GENERAL.—In the case of any aircraft used under a qualifying lease (as defined in section 47(a)(7)(C)) and which is leased to a foreign person or entity before January 1, 1990, clause (i) shall be applied by substituting ‘3 years’ for ‘6 months’.

“(II) RECAPTURE PERIOD EXTENDED.—For purposes of applying subparagraph (B) of section 47(a)(5) and paragraph (1) of section 47(a), there shall not be taken into account any period of a lease to which subclause (I) applies.

“(C) EXCEPTION FOR QUALIFIED REHABILITATED BUILDINGS LEASED TO GOVERNMENTS, ETC.—If any qualified rehabilitated building is leased to a governmental unit (or a foreign person or entity), this paragraph shall not apply to that portion of the basis of such building which is attributable to qualified rehabilitation expenditures.

“(D) CROSS REFERENCE.—

Ante, p. 509. “For provisions providing special rules for the application of this paragraph and paragraph (4), see section 168(j).”

(C) REHABILITATION CREDIT NOT TO APPLY WHERE PROPERTY USED BY TAX-EXEMPT ENTITY.—

26 USC 48.

(1) IN GENERAL.—Subparagraph (B) of section 48(g)(2) (relating to certain expenditures not treated as qualified rehabilitation expenditures) is amended by adding at the end thereof the following new clause:

“(vi) TAX-EXEMPT USE PROPERTY.—

Ante, p. 509.

“(I) IN GENERAL.—Any expenditure in connection with the rehabilitation of a building which is allocable to that portion of such building which is (or may reasonably be expected to be) tax-exempt use property (within the meaning of section 168(j)(3)).

“(II) CLAUSE NOT TO APPLY FOR PURPOSES OF PARAGRAPH (1)(C).—This clause shall not apply for purposes of determining under paragraph (1)(C) whether a building has been substantially rehabilitated.”

(2) TECHNICAL AMENDMENT.—Clause (i) of section 48(g)(2)(B) is amended by adding at the end thereof the following new sentence: “The preceding sentence shall not apply to any expenditure to the extent subsection (f)(12) or (j) of section 168 applies to such expenditure.”

26 USC 168.

(d) AUTHORITY TO PRESCRIBE PRESENT CLASS LIFE FOR CERTAIN PROPERTY.—Paragraph (2) of section 168(g) (defining present class life) is amended by adding at the end thereof the following new sentence: “If any property (other than section 1250 class property) does not have a present class life within the meaning of the preceding sentence, the Secretary may prescribe a present class life for such property which reasonably reflects the anticipated useful life of such property to the industry or other group.”

26 USC 7701.
Post, p. 672.

(e) TREATMENT OF CERTAIN CONTRACTS FOR PROVIDING SERVICES, ETC.—Section 7701 (relating to definitions), as amended by this Act, is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

“(e) TREATMENT OF CERTAIN CONTRACTS FOR PROVIDING SERVICES, ETC.—For purposes of chapter 1—

“(1) **IN GENERAL.**—A contract which purports to be a service contract shall be treated as a lease of property if such contract is properly treated as a lease of property, taking into account all relevant factors including whether or not—

“(A) the service recipient is in physical possession of the property,

“(B) the service recipient controls the property,

“(C) the service recipient has a significant economic or possessory interest in the property,

“(D) the service provider does not bear any risk of substantially diminished receipts or substantially increased expenditures if there is nonperformance under the contract,

“(E) the service provider does not use the property concurrently to provide significant services to entities unrelated to the service recipient, and

“(F) the total contract price does not substantially exceed the rental value of the property for the contract period.

“(2) **OTHER ARRANGEMENTS.**—An arrangement (including a partnership or other pass-thru entity) which is not described in paragraph (1) shall be treated as a lease if such arrangement is properly treated as a lease, taking into account all relevant factors including factors similar to those set forth in paragraph (1).

“(3) **SPECIAL RULES FOR CONTRACTS OR ARRANGEMENTS INVOLVING SOLID WASTE DISPOSAL, ENERGY, AND CLEAN WATER FACILITIES.**—

“(A) **IN GENERAL.**—Notwithstanding paragraphs (1) and (2), and except as provided in paragraph (4), any contract or arrangement between a service provider and a service recipient—

“(i) with respect to—

“(I) the operation of a qualified solid waste disposal facility,

“(II) the sale to the service recipient of electrical or thermal energy produced at a cogeneration or alternative energy facility, or

“(III) the operation of a water treatment works facility, and

“(ii) which purports to be a service contract, shall be treated as a service contract.

“(B) **QUALIFIED SOLID WASTE DISPOSAL FACILITY.**—For purposes of subparagraph (A), the term ‘qualified solid waste disposal facility’ means any facility if such facility provides solid waste disposal services for residents of part or all of 1 or more governmental units and substantially all of the solid waste processed at such facility is collected from the general public.

“(C) **COGENERATION FACILITY.**—For purposes of subparagraph (A), the term ‘cogeneration facility’ means a facility which uses the same energy source for the sequential generation of electrical or mechanical power in combination with steam, heat, or other forms of useful energy.

“(D) **ALTERNATIVE ENERGY FACILITY.**—For purposes of subparagraph (A), the term ‘alternative energy facility’ means a facility for producing electrical or thermal energy if the

primary energy source for the facility is not oil, natural gas, coal, or nuclear power.

33 USC 1292.

“(E) WATER TREATMENT WORKS FACILITY.—For purposes of subparagraph (A), the term ‘water treatment works facility’ means any treatment works within the meaning of section 212(2) of the Federal Water Pollution Control Act.

“(4) PARAGRAPH (3) NOT TO APPLY IN CERTAIN CASES.—

“(A) IN GENERAL.—Paragraph (3) shall not apply to any qualified solid waste disposal facility, cogeneration facility, alternative energy facility, or water treatment works facility used under a contract or arrangement if—

“(i) the service recipient (or a related entity) operates such facility,

“(ii) the service recipient (or a related entity) bears any significant financial burden if there is nonperformance under the contract or arrangement (other than for reasons beyond the control of the service provider),

“(iii) the service recipient (or a related entity) receives any significant financial benefit if the operating costs of such facility are less than the standards of performance or operation under the contract or arrangement, or

“(iv) the service recipient (or a related entity) has an option to purchase, or may be required to purchase, all or a part of such facility at a fixed and determinable price (other than for fair market value).

“(B) SPECIAL RULES FOR APPLICATION OF SUBPARAGRAPH (A) WITH RESPECT TO CERTAIN RIGHTS AND ALLOCATIONS UNDER THE CONTRACT.—For purposes of subparagraph (A), there shall not be taken into account—

“(i) any right of a service recipient to inspect any facility, to exercise any sovereign power the service recipient may possess, or to act in the event of a breach of contract by the service provider, or

“(ii) any allocation of any financial burden or benefits in the event of any change in any law.

“(C) SPECIAL RULES FOR APPLICATION OF SUBPARAGRAPH (A) IN THE CASE OF CERTAIN EVENTS.—

“(i) TEMPORARY SHUT-DOWNS, ETC.—For purposes of clause (ii) of subparagraph (A), there shall not be taken into account any temporary shut-down of the facility for repairs, maintenance, or capital improvements, or any financial burden caused by the bankruptcy or similar financial difficulty of the service provider.

“(ii) REDUCED COSTS.—For purposes of clause (iii) of subparagraph (A), there shall not be taken into account any significant financial benefit merely because payments by the service recipient under the contract or arrangement are decreased by reason of increased production or efficiency or the recovery of energy or other products.

“(5) EXCEPTION FOR CERTAIN LOW-INCOME HOUSING.—This subsection shall not apply to any low-income housing (within the meaning of section 168(C)(2)(F)) if—

“(A) such property is operated by or for an organization described in paragraph (3) or (4) of section 501(c), and

“(B) at least 80 percent of the units in such property are leased to low-income tenants (within the meaning of section 167(k)(3)(B)).

“(6) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out the provisions of this subsection.”

(f) INVESTMENT TAX CREDIT FOR PROPERTY LEASED BY CERTAIN PERSONS NOT TO EXCEED CREDIT ALLOWED IF SUCH PERSONS OWNED PROPERTY.—Section 46(e) (relating to limitations with respect to certain persons) is amended by adding at the end thereof the following new paragraph:

26 USC 46.

“(4) SPECIAL RULES WHERE SECTION 593 ORGANIZATION IS LESSEE.—

“(A) IN GENERAL.—For purposes of paragraph (1)(A), if an organization described in section 593 is the lessee of any section 38 property, the lessor of such property shall be treated as an organization described in section 593 with respect to such property.

“(B) EXCEPTION FOR SHORT-TERM LEASES.—This paragraph shall not apply to any property by reason of use under a lease with a term of less than 6 months (determined under section 168(j)(6)).

Ante, p. 509.

“(C) ELECTION NOT TO HAVE SUBPARAGRAPH (A) APPLY.—Subparagraph (A) shall not apply for any taxable year to an organization described in section 593 if such organization elects to compute for such year and all subsequent taxable years the amount of the deduction for a reasonable addition to a reserve for bad debts on the basis of actual experience. Any such election shall apply to any successor organization engaged in substantially similar activities and, once made, shall be irrevocable.”

(g) EFFECTIVE DATES.—

26 USC 168 note.

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply—

(A) to property placed in service by the taxpayer after May 23, 1983, in taxable years ending after such date, and

(B) to property placed in service by the taxpayer on or before May 23, 1983, if the lease to the tax-exempt entity is entered into after May 23, 1983.

(2) LEASES ENTERED INTO ON OR BEFORE MAY 23, 1983.—The amendments made by this section shall not apply with respect to any property leased to a tax-exempt entity if the property is leased pursuant to—

(A) a lease entered into on or before May 23, 1983 (or a sublease under such a lease), or

(B) any renewal or extension of a lease entered into on or before May 23, 1983, if such renewal or extension is pursuant to an option exercisable by the tax-exempt entity which was held by the tax-exempt entity on May 23, 1983.

(3) BINDING CONTRACTS, ETC.—

(A) The amendments made by this section shall not apply with respect to any property leased to a tax-exempt entity if such lease is pursuant to 1 or more written binding contracts which, on May 23, 1983, and at all times thereafter, required—

(i) the taxpayer (or his predecessor in interest under the contract) to acquire, construct, reconstruct, or rehabilitate such property, and

(ii) the tax-exempt entity (or a tax-exempt predecessor thereof) to be the lessee of such property.

(B) The amendments made by this section shall not apply with respect to any property owned by a partnership if—

(i) such property was acquired by such partnership on or before October 21, 1983, or

(ii) such partnership entered into a written binding contract which, on October 21, 1983, and at all times thereafter, required the partnership to acquire or construct such property.

(C) The amendments made by this section shall not apply with respect to any property leased to a tax-exempt entity (other than any foreign person or entity)—

(i) if—

(I) on or before May 23, 1983, the taxpayer (or his predecessor in interest under the contract) or the tax-exempt entity entered into a written binding contract to acquire, construct, reconstruct, or rehabilitate such property and such property had not previously been used by the tax-exempt entity, or

(II) the taxpayer or the tax-exempt entity acquired the property after June 30, 1982, and on or before May 23, 1983, or completed the construction, reconstruction, or rehabilitation of the property after December 31, 1982, and on or before May 23, 1983, and

(ii) if such lease is pursuant to a written binding contract entered into before January 1, 1985, which requires the tax-exempt entity to be the lessee of such property.

(4) OFFICIAL GOVERNMENTAL ACTION ON OR BEFORE NOVEMBER 1, 1983.—

(A) IN GENERAL.—The amendments made by this section shall not apply with respect to any property leased to a tax-exempt entity (other than the United States, any agency or instrumentality thereof, or any foreign person or entity) if—

(i) on or before November 1, 1983, there was significant official governmental action with respect to the project or its design, and

(ii) the lease to the tax-exempt entity is pursuant to a written binding contract entered into before January 1, 1985, which requires the tax-exempt entity to be the lessee of the property.

(B) SIGNIFICANT OFFICIAL GOVERNMENTAL ACTION.—For purposes of subparagraph (A), the term “significant official governmental action” does not include granting of permits, zoning changes, environmental impact statements, or similar governmental actions.

(5) MASS COMMUTING VEHICLES.—The amendments made by this section shall not apply to any qualified mass commuting vehicle (as defined in section 103(b)(9) of the Internal Revenue Code of 1954) which is financed in whole or in part by obliga-

tions the interest on which is excludable from gross income under section 103(a) of such Code if—

(A) such vehicle is placed in service before January 1, 1988, or

(B) such vehicle is placed in service on or after such date—

(i) pursuant to a binding contract or commitment entered into before April 1, 1983, and

(ii) solely because of conditions which, as determined by the Secretary of the Treasury or his delegate, are not within the control of the lessor or lessee.

(6) **CERTAIN TURBINES AND BOILERS.**—The amendments made by this section shall not apply to any property described in section 208(d)(3)(E) of the Tax Equity and Fiscal Responsibility Act of 1982.

96 Stat. 439.

(7) **CERTAIN FACILITIES FOR WHICH RULING REQUESTS FILED ON OR BEFORE MAY 23, 1983.**—The amendments made by this section shall not apply with respect to any facilities described in clause (ii) of section 168(f)(12)(C) of the Internal Revenue Code of 1954 (relating to certain sewage or solid waste disposal facilities), as in effect on the day before the date of the enactment of this Act, if a ruling request with respect to the lease of such facility to the tax-exempt entity was filed with the Internal Revenue Service on or before May 23, 1983.

(8) **RECOVERY PERIOD FOR CERTAIN QUALIFIED SEWAGE FACILITIES.**—

(A) **IN GENERAL.**—In the case of any property (other than 15-year real property) which is part of a qualified sewage facility, the recovery period used for purposes of paragraph (1) of section 168(j) of the Internal Revenue Code of 1954 (as added by this section) shall be 12 years. For purposes of the preceding sentence, the term “15-year real property” includes 18-year real property.

Ante, p. 509.

(B) **QUALIFIED SEWAGE FACILITY.**—For purposes of subparagraph (A), the term “qualified sewage facility” means any facility which is part of the sewer system of a city, if—

(i) on June 15, 1983, the City Council approved a resolution under which the city authorized the procurement of equity investments for such facility, and

(ii) on July 12, 1983, the Industrial Development Board of the city approved a resolution to issue a \$100,000,000 industrial development bond issue to provide funds to purchase such facility.

(9) **PROPERTY USED BY THE POSTAL SERVICE.**—In the case of property used by the United States Postal Service, paragraphs (1) and (2) shall be applied by substituting “October 31” for “May 23”.

(10) **EXISTING APPROPRIATIONS.**—The amendments made by this section shall not apply to personal property leased to or used by the United States if—

(A) an express appropriation has been made for rentals under such lease for the fiscal year 1983 before May 23, 1983, and

(B) the United States or an agency or instrumentality thereof has not provided an indemnification against the loss of all or a portion of the tax benefits claimed under the lease or service contract.

(11) SPECIAL RULE FOR CERTAIN PARTNERSHIPS.—

Ante, p. 509.

(A) PARTNERSHIPS FOR WHICH QUALIFYING ACTION EXISTED BEFORE OCTOBER 21, 1983.—Paragraph (9) of section 168(j) of the Internal Revenue Code of 1954 (as added by this section) shall not apply to any property acquired, directly or indirectly, before January 1, 1985, by any partnership described in subparagraph (B).

(B) APPLICATION FILED BEFORE OCTOBER 21, 1983.—A partnership is described in this subparagraph if—

(i) before October 21, 1983, the partnership was organized, a request for exemption with respect to such partnership was filed with the Department of Labor, and a private placement memorandum stating the maximum number of units in the partnership that would be offered had been circulated,

(ii) the interest in the property to be acquired, directly or indirectly (including through acquiring an interest in another partnership) by such partnership was described in such private placement memorandum, and

Federal
Register,
publication.

(iii) the marketing of partnership units in such partnership is completed not later than two years after the later of the date of the enactment of this Act or the date of publication in the Federal Register of such exemption by the Department of Labor and the aggregate number of units in such partnership sold does not exceed the amount described in clause (i).

Ante, p. 509.

(C) PARTNERSHIPS FOR WHICH QUALIFYING ACTION EXISTED BEFORE MARCH 6, 1984.—Paragraph (9) of section 168(j) of the Internal Revenue Code of 1954 (as added by this section) shall not apply to any property acquired directly or indirectly, before January 1, 1986, by any partnership described in subparagraph (D). For purposes of this subparagraph, property shall be deemed to have been acquired prior to January 1, 1986, if the partnership had entered into a written binding contract to acquire such property prior to January 1, 1986 and the closing of such contract takes place within 6 months of the date of such contract (24 months in the case of new construction).

(D) PARTNERSHIP ORGANIZED BEFORE MARCH 6, 1984.—A partnership is described in this subparagraph if—

(i) before March 6, 1984, the partnership was organized and publicly announced the maximum amount (as shown in the registration statement, prospectus or partnership agreement, whichever is greater) of interests which would be sold in the partnership, and

(ii) the marketing or partnership interests in such partnership was completed not later than the 90th day after the date of the enactment of this Act and the aggregate amount of interest in such partnership sold does not exceed the maximum amount described in clause (i).

(12) SPECIAL RULE FOR AMENDMENT MADE BY SUBSECTION (c) (2).—The amendment made by subsection (c)(2) to the extent it relates to subsection (f)(12) of section 168 of the Internal Revenue Code of 1954 shall take effect as if it had been included

in the amendments made by section 216(a) of the Tax Equity and Fiscal Responsibility Act of 1982.

96 Stat. 470.

(13) **SPECIAL RULE FOR SERVICE CONTRACTS NOT INVOLVING TAX-EXEMPT ENTITIES.**—In the case of a service contract or other arrangement described in section 7701(e) of the Internal Revenue Code of 1954 (as added by this section) with respect to which no party is a tax-exempt entity, such section 7701(e) shall not apply to—

Ante, p. 518.

(A) such contract or other arrangement if such contract or other arrangement was entered into before November 5, 1983, or

(B) any renewal or other extension of such contract or other arrangement pursuant to an option contained in such contract or other arrangement on November 5, 1983.

(14) **PROPERTY LEASED TO SECTION 593 ORGANIZATIONS.**—For purposes of the amendment made by subsection (f), paragraphs (1), (2), and (4) shall be applied by substituting—

(A) “November 5, 1983” for “May 23, 1983” and “November 1, 1983”, as the case may be, and

(B) “organization described in section 593 of the Internal Revenue Code of 1954” for “tax-exempt entity”.

(15) **SPECIAL RULES RELATING TO FOREIGN PERSONS OR ENTITIES.**—

(A) **IN GENERAL.**—In the case of tax-exempt use property which is used by a foreign person or entity, the amendments made by this section shall not apply to any property which—

(i) is placed in service by the taxpayer before January 1, 1984, and

(ii) is used by such foreign person or entity pursuant to a lease entered into before January 1, 1984.

(B) **SPECIAL RULE FOR SUBLEASES.**—If tax-exempt use property is being used by a foreign person or entity pursuant to a sublease under a lease described in subparagraph (A)(ii), subparagraph (A) shall apply to such property only if such property was used before January 1, 1984, by any foreign person or entity pursuant to such lease.

(C) **BINDING CONTRACTS, ETC.**—The amendments made by this section shall not apply with respect to any property (other than aircraft described in subparagraph (D)) leased to a foreign person or entity—

(i) if—

(I) on or before May 23, 1983, the taxpayer (or a predecessor in interest under the contract) or the foreign person or entity entered into a written binding contract to acquire, construct, or rehabilitate such property and such property had not previously been used by the foreign person or entity, or

(II) the taxpayer or the foreign person or entity acquired the property or completed the construction, reconstruction, or rehabilitation of the property after December 31, 1982 and on or before May 23, 1983, and

(ii) if such lease is pursuant to a written binding contract entered into before January 1, 1984, which

requires the foreign person or entity to be the lessee of such property.

(D) **CERTAIN AIRCRAFT.**—The amendments made by this section shall not apply with respect to any wide-body, four-engine, commercial aircraft used by a foreign person or entity if—

(i) on or before November 1, 1983, the foreign person or entity entered into a written binding contract to acquire such aircraft, and

(ii) such aircraft is placed in service before January 1, 1986.

(E) **USE AFTER 1983.**—Qualified container equipment placed in service before January 1, 1984, which is used before such date by a foreign person shall not, for purposes of section 47 of the Internal Revenue Code of 1954, be treated as ceasing to be section 38 property by reason of the use of such equipment before January 1, 1985, by a foreign person or entity. For purposes of this subparagraph, the term “qualified container equipment” means any container, container chassis, or container trailer of a United States person with a present class life of not more than 6 years.

(16) **ORGANIZATIONS ELECTING EXEMPTION FROM RULES RELATING TO PREVIOUSLY TAX-EXEMPT ORGANIZATIONS MUST ELECT TAXATION OF EXEMPT ARBITRAGE PROFITS.**—

(A) **IN GENERAL.**—An organization may make the election under section 168(j)(4)(E)(ii) of the Internal Revenue Code of 1954 (relating to election not to have rules relating to previously tax-exempt organizations apply) only if such organization elects the tax treatment of exempt arbitrage profits described in subparagraph (B).

(B) **TAXATION OF EXEMPT ARBITRAGE PROFITS.**—

(i) **IN GENERAL.**—In the case of an organization which elects the application of this subparagraph, there is hereby imposed a tax on the exempt arbitrage profits of such organization.

(ii) **RATE OF TAX, ETC.**—The tax imposed by clause (i)—

(I) shall be the amount of tax which would be imposed by section 11 of such Code if the exempt arbitrage profits were taxable income (and there were no other taxable income), and

(II) shall be imposed for the first taxable year of the tax-exempt use period (as defined in section 168(j)(4)(E)(ii) of such Code).

(C) **EXEMPT ARBITRAGE PROFITS.**—

(i) **IN GENERAL.**—For purposes of this paragraph, the term exempt arbitrage profits means the aggregate amount described in clauses (i) and (ii) of subparagraph (D) of section 103(c)(6) of such Code for all taxable years for which the organization was exempt from tax under section 501(a) of such Code with respect to obligations—

(I) associated with property described in section 168(j)(4)(E)(i)(I), and

(II) issued before January 1, 1985.

(ii) **APPLICATION OF SECTION 103(B)(6).**—For purposes of this paragraph, section 103(b)(6) of such Code shall

Ante, p. 509.

Post, p. 922.

apply to obligations issued before January 1, 1985, but the amount described in clauses (i) and (ii) of subparagraph (D) thereof shall be determined without regard to clauses (i)(II) and (ii) of subparagraph (F) thereof.

(D) OTHER LAWS APPLICABLE.—

(i) IN GENERAL.—Except as provided in clause (ii), all provisions of law, including penalties, applicable with respect to the tax imposed by section 11 of such Code shall apply with respect to the tax imposed by this paragraph.

(ii) NO CREDITS AGAINST TAX, ETC.—The tax imposed by this paragraph shall not be treated as imposed by section 11 of such Code for purposes of—

(I) part VI of subchapter A of chapter 1 of such Code (relating to minimum tax for tax preferences), and

26 USC 55.

(II) determining the amount of any credit allowable under subpart A of part IV of such subchapter.

26 USC 31.

(E) ELECTION.—Any election under subparagraph (A)—

(i) shall be made at such time and in such manner as the Secretary may prescribe,

(ii) shall apply to any successor organization which is engaged in substantially similar activities, and

(iii) once made, shall be irrevocable.

(17) CERTAIN TRANSITIONAL LEASED PROPERTY.—The amendments made by this section shall not apply to property described in section 168(c)(2)(D) of the Internal Revenue Code of 1954, as in effect on the day before the date of the enactment of this Act, and which is described in any of the following subparagraphs:

(A) Property is described in this subparagraph if such property is leased to a university, and—

(i) on June 16, 1983, the Board of Administrators of the university adopted a resolution approving the rehabilitation of the property in connection with an overall campus development program; and

(ii) the property houses a basketball arena and university offices.

(B) Property is described in this subparagraph if such property is leased to a charitable organization, and—

(i) on August 21, 1981, the charitable organization acquired the property, with a view towards rehabilitating the property; and

(ii) on June 12, 1982, an arson fire caused substantial damage to the property, delaying the planned rehabilitation.

(C) Property is described in this subparagraph if such property is leased to a corporation that is described in section 501(c)(3) of the Internal Revenue Code of 1954 (relating to organizations exempt from tax) pursuant to a contract—

(i) which was entered into on August 3, 1983; and

(ii) under which the corporation first occupied the property on December 22, 1983.

(D) Property is described in this subparagraph if such property is leased to an educational institution for use as an Arts and Humanities Center and with respect to which—

- (i) in November 1982, an architect was engaged to design a planned renovation;
 - (ii) in January 1983, the architectural plans were completed;
 - (iii) in December 1983, a demolition contract was entered into; and
 - (iv) in March 1984, a renovation contract was entered into.
- (E) Property is described in this subparagraph if such property is used by a college as a dormitory, and—
- (i) in October 1981, the college purchased the property with a view towards renovating the property;
 - (ii) renovation plans were delayed because of a zoning dispute; and
 - (iii) in May 1983, the court of highest jurisdiction in the State in which the college is located resolved the zoning dispute in favor of the college.
- (F) Property is described in this subparagraph if such property is a fraternity house related to a university with respect to which—
- (i) in August 1982, the university retained attorneys to advise the university regarding the rehabilitation of the property;
 - (ii) on January 21, 1983, the governing body of the university established a committee to develop rehabilitation plans;
 - (iii) on January 10, 1984, the governor of the state in which the university is located approved historic district designation for an area that includes the property; and
 - (iv) on February 2, 1984, historic preservation certification applications for the property were filed with a historic landmarks commission.
- (G) Property is described in this subparagraph if such property is leased to a retirement community with respect to which—
- (i) on January 5, 1977, a certificate of incorporation was filed with the appropriate authority of the state in which the retirement community is located; and
 - (ii) on November 22, 1983, the Board of Trustees adopted a resolution evidencing the intention to begin immediate construction of the property.
- (H) Property is described in this subparagraph if such property is used by a university, and—
- (i) in July 1982, the Board of Trustees of the university adopted a master plan for the financing of the property; and
 - (ii) as of August 1, 1983, at least \$60,000 in private expenditures had been expended in connection with the property.
- (I) Property is described in this subparagraph if such property is used by a university as a fine arts center and the Board of Trustees of such university authorized the sale-leaseback agreement with respect to such property on March 7, 1984.

(J) Property is described in this subparagraph if such property is used by a tax-exempt entity as an international trade center, and

(i) prior to 1982, an environmental impact study for such property was completed;

(ii) on June 24, 1981, a developer made a written commitment to provide one-third of the financing for the development of such property; and

(iii) on October 20, 1983, such developer was approved by the Board of Directors of the tax-exempt entity.

(K) Property is described in this subparagraph if such property is used by university of osteopathic medicine and health sciences, and on or before December 31, 1983, the Board of Trustees of such university approved the construction of such property.

(L) Property is described in this subparagraph if such property is used by a tax-exempt entity, and—

(i) such use is pursuant to a lease with a taxpayer which placed substantial improvements in service;

(ii) on May 23, 1983, there existed architectural plans and specifications (within the meaning of sec. 48(g)(1)(C)(ii) of the Internal Revenue Code of 1954); and

(iii) prior to May 23, 1983, at least 10 percent of the total cost of such improvements was actually paid or incurred.

(M) Property is described in this subparagraph if such property is used as a convention center and on June 2, 1983, the City Council of the city in which the center is located provided for over \$6 million for the project.

(18) SPECIAL RULE FOR AMENDMENT MADE BY SUBSECTION (c) (1).—

(A) IN GENERAL.—The amendment made by subsection (c)(1) shall not apply to property—

(i) leased by the taxpayer on or before November 1, 1983, or

(ii) leased by the taxpayer after November 1, 1983, if on or before such date the taxpayer entered into a written binding contract requiring the taxpayer to lease such property.

(B) LIMITATION.—Subparagraph (A) shall apply to the amendment made by subsection (c)(1) only to the extent such amendment relates to property described in subclause (II), (III), or (IV) of section 168(j)(3)(B)(ii) of the Internal Revenue Code of 1954 (as added by this section).

Ante, p. 509.

(19) SPECIAL RULE FOR CERTAIN ENERGY MANAGEMENT CONTRACTS.—

(A) IN GENERAL.—The amendments made by subsection (e) shall not apply to property used pursuant to an energy management contract that was entered into prior to May 1, 1984.

(B) DEFINITION OF ENERGY MANAGEMENT CONTRACT.—For purposes of subparagraph (A), the term “energy management contract” means a contract for the providing of energy conservation or energy management services.

(20) DEFINITIONS.—For purposes of this subsection—

(A) TAX-EXEMPT ENTITY.—The term “tax-exempt entity” has the same meaning as when used in section 168(j) of the

Internal Revenue Code of 1954 (as added by this section), except that such term shall include any related entity (within the meaning of such section).

(B) TREATMENT OF IMPROVEMENTS.—

(i) **IN GENERAL.**—For purposes of this subsection, an improvement to property shall not be treated as a separate property unless such improvement is a substantial improvement with respect to such property.

(ii) **SUBSTANTIAL IMPROVEMENT.**—For purposes of clause (i), the term “substantial improvement” has the meaning given such term by section 168(f)(1)(C) of such Code determined—

(I) by substituting “20 percent” for “25 percent” in clause (ii) thereof, and

(II) without regard to clause (iii) thereof.

Ante, p. 509.

(C) FOREIGN PERSON OR ENTITY.—The term “foreign person or entity” has the meaning given to such term by subparagraph (C) of section 168(j)(4) of such Code (as added by this section). For purposes of this subparagraph and subparagraph (A), such subparagraph (C) shall be applied without regard to the last sentence thereof.

Ante, p. 518.

(D) LEASES AND SUBLEASES.—The determination of whether there is a lease or sublease to a tax-exempt entity shall take into account sections 168(j)(6)(A), 168(j)(8)(A), and 7701(e) of the Internal Revenue Code of 1954 (as added by this section).

SEC. 32. MOTOR VEHICLE OPERATING LEASES.

26 USC 168.

(a) IN GENERAL.—Section 168(f) (relating to special rules) is amended by adding at the end thereof the following new paragraph:

“(13) MOTOR VEHICLE OPERATING LEASES.—

“(A) IN GENERAL.—For purposes of this title, in the case of a qualified motor vehicle operating agreement which contains a terminal rental adjustment clause—

“(i) such agreement shall be treated as a lease if (but for such terminal rental adjustment clause) such agreement would be treated as a lease under this title, and

“(ii) the lessee shall not be treated as the owner of the property subject to an agreement during any period such agreement is in effect.

“(B) QUALIFIED MOTOR VEHICLE OPERATING AGREEMENT DEFINED.—For purposes of this paragraph—

“(i) **IN GENERAL.**—The term ‘qualified motor vehicle operating agreement’ means any agreement with respect to a motor vehicle (including a trailer) which meets the requirements of clauses (ii), (iii), and (iv) of this subparagraph.

“(ii) **MINIMUM LIABILITY OF LESSOR.**—An agreement meets the requirements of this clause if under such agreement the sum of—

“(I) the amount the lessor is personally liable to repay, and

“(II) the net fair market value of the lessor’s interest in any property pledged as security for property subject to the agreement, equals or exceeds all amounts borrowed to finance the acquisition of property subject to the agreement. There

shall not be taken into account under subclause (II) any property pledged which is property subject to the agreement or property directly or indirectly financed by indebtedness secured by property subject to the agreement.

“(iii) **CERTIFICATION BY LESSEE; NOTICE OF TAX OWNERSHIP.**—An agreement meets the requirements of this clause if such agreement contains a separate written statement separately signed by the lessee—

“(I) under which the lessee certifies, under penalty of perjury, that it intends that more than 50 percent of the use of the property subject to such agreement is to be in a trade or business of the lessee, and

“(II) which clearly and legibly states that the lessee has been advised that it will not be treated as the owner of the property subject to the agreement for Federal income tax purposes.

“(iv) **LESSOR MUST HAVE NO KNOWLEDGE THAT CERTIFICATION IS FALSE.**—An agreement meets the requirements of this clause if the lessor does not know that the certification described in clause (iii)(I) is false.

“(C) **TERMINAL RENTAL ADJUSTMENT CLAUSE DEFINED.**—

“(i) **IN GENERAL.**—For purposes of this paragraph, the term ‘terminal rental adjustment clause’ means a provision of an agreement which permits or requires the rental price to be adjusted upward or downward by reference to the amount realized by the lessor under the agreement upon sale or other disposition of such property.

“(ii) **SPECIAL RULE FOR LESSEE DEALERS.**—The term ‘terminal rental adjustment clause’ also includes a provision of an agreement which requires a lessee who is a dealer in motor vehicles to purchase the motor vehicle for a predetermined price and then resell such vehicle where such provision achieves substantially the same results as a provision described in clause (i).”

(b) **TERMINATION OF SECTION 210.**—Section 210(a) of the Tax Equity and Fiscal Responsibility Act of 1982 is amended by inserting “entered into on or before the 90th day after the date of the enactment of the Tax Reform Act of 1984” after “agreement” the first place it appears.

26 USC 168 note.

(c) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to agreements described in section 168(f)(13) of the Internal Revenue Code of 1954 (as added by subsection (a)) entered into more than 90 days after the date of the enactment of this Act.

26 USC 168 note.

Subtitle C—Treatment of Bonds and Other Debt Instruments

SEC. 41. TREATMENT OF BONDS AND OTHER DEBT INSTRUMENTS.

(a) **GENERAL RULE.**—Subchapter P of chapter 1 (relating to special rules for capital gains and losses) is amended by adding at the end thereof the following new part:

“PART V—SPECIAL RULES FOR BONDS AND OTHER DEBT INSTRUMENTS

“Subpart A. Original issue discount.

“Subpart B. Market discount.

“Subpart C. Discount on short-term obligations.

“Subpart D. Miscellaneous provisions.

“Subpart A—Original Issue Discount

“Sec. 1271. Treatment of amounts received on retirement or sale or exchange of debt instruments.

“Sec. 1272. Current inclusion in income of original issue discount.

“Sec. 1273. Determination of amount of original issue discount.

“Sec. 1274. Determination of issue price in the case of certain debt instruments issued for property.

“Sec. 1275. Other definitions and special rules.

26 USC 1271.

“SEC. 1271. TREATMENT OF AMOUNTS RECEIVED ON RETIREMENT OR SALE OR EXCHANGE OF DEBT INSTRUMENTS.

“(a) GENERAL RULE.—For purposes of this title—

“(1) RETIREMENT.—Amounts received by the holder on retirement of any debt instrument shall be considered as amounts received in exchange therefor.

“(2) ORDINARY INCOME ON SALE OR EXCHANGE WHERE INTENTION TO CALL BEFORE MATURITY.—

“(A) IN GENERAL.—If at the time of original issue there was an intention to call a debt instrument before maturity, any gain realized on the sale or exchange thereof which does not exceed an amount equal to—

“(i) the original issue discount, reduced by

“(ii) the portion of original issue discount previously includible in the gross income of any holder (without regard to subsection (a)(6) or (b)(4) of section 1272 (or the corresponding provisions of prior law)),

shall be treated as ordinary income.

“(B) EXCEPTIONS.—This paragraph (and paragraph (2) of subsection (c)) shall not apply to—

“(i) any tax-exempt obligation, or

“(ii) any holder who has purchased the debt instrument at a premium.

“(3) CERTAIN SHORT-TERM GOVERNMENT OBLIGATIONS.—

“(A) IN GENERAL.—On the sale or exchange of any short-term Government obligation, any gain realized which does not exceed an amount equal to the ratable share of the acquisition discount shall be treated as ordinary income.

“(B) SHORT-TERM GOVERNMENT OBLIGATION.—For purposes of this paragraph, the term ‘short-term Government obligation’ means any obligation of the United States or any of its possessions, or of a State or any political subdivision thereof, or of the District of Columbia which is—

“(i) issued on a discount basis, and

“(ii) payable without interest at a fixed maturity date not more than 1 year from the date of issue.

Such term does not include any tax-exempt obligation.

“(C) ACQUISITION DISCOUNT.—For purposes of this paragraph, the term ‘acquisition discount’ means the excess of

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the stated redemption price at maturity over the taxpayer's basis for the obligation.

“(D) RATABLE SHARE.—For purposes of this paragraph, the ratable share of the acquisition discount is an amount which bears the same ratio to such discount as—

“(i) the number of days which the taxpayer held the obligation, bears to

“(ii) the number of days after the date the taxpayer acquired the obligation and up to (and including) the date of its maturity.

“(b) EXCEPTIONS.—This section shall not apply to—

“(1) NATURAL PERSONS.—Any obligation issued by a natural person.

“(2) OBLIGATIONS ISSUED BEFORE JULY 2, 1982, BY CERTAIN ISSUERS.—Any obligation issued before July 2, 1982, by an issuer which—

“(A) is not a corporation, and

“(B) is not a government or political subdivision thereof.

“(c) TRANSITION RULES.—

“(1) SPECIAL RULE FOR CERTAIN OBLIGATIONS ISSUED BEFORE JANUARY 1, 1955.—Paragraph (1) of subsection (a) shall apply to a debt instrument issued before January 1, 1955, only if such instrument was issued with interest coupons or in registered form, or was in such form on March 1, 1954.

“(2) SPECIAL RULE FOR CERTAIN OBLIGATIONS WITH RESPECT TO WHICH ORIGINAL ISSUE DISCOUNT NOT CURRENTLY INCLUDIBLE.—

“(A) IN GENERAL.—On the sale or exchange of debt instruments issued by a government or political subdivision thereof after December 31, 1954, and before July 2, 1982, or by a corporation after December 31, 1954, and on or before May 27, 1969, any gain realized which does not exceed—

“(i) an amount equal to the original issue discount, or

“(ii) if at the time of original issue there was no intention to call the debt instrument before maturity, an amount which bears the same ratio to the original issue discount as the number of complete months that the debt instrument was held by the taxpayer bears to the number of complete months from the date of original issue to the date of maturity,

shall be considered as ordinary income.

“(B) SUBSECTION (a) (2) (A) NOT TO APPLY.—Subsection (a)(2)(A) shall not apply to any debt instrument referred to in subparagraph (A) of this paragraph.

“(C) CROSS REFERENCE.—

“For current inclusion of original issue discount, see section 1272.

“(d) DOUBLE INCLUSION IN INCOME NOT REQUIRED.—This section and sections 1272 and 1286 shall not require the inclusion of any amount previously includible in gross income.

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“SEC. 1272. CURRENT INCLUSION IN INCOME OF ORIGINAL ISSUE DISCOUNT.

26 USC 1272.

“(a) ORIGINAL ISSUE DISCOUNT ON DEBT INSTRUMENTS ISSUED AFTER JULY 1, 1982, INCLUDED IN INCOME ON BASIS OF CONSTANT INTEREST RATE.—

“(1) GENERAL RULE.—For purposes of this title, there shall be included in the gross income of the holder of any debt instru-

ment having original issue discount issued after July 1, 1982, an amount equal to the sum of the daily portions of the original issue discount for each day during the taxable year on which such holder held such debt instrument.

“(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

“(A) TAX-EXEMPT OBLIGATIONS.—Any tax-exempt obligation.

“(B) UNITED STATES SAVINGS BONDS.—Any United States savings bond.

“(C) SHORT-TERM OBLIGATIONS.—Any debt instrument which has a fixed maturity date not more than 1 year from the date of issue.

“(D) OBLIGATIONS ISSUED BY NATURAL PERSONS BEFORE MARCH 2, 1984.—Any obligation issued by a natural person before March 2, 1984.

“(E) LOANS BETWEEN NATURAL PERSONS.—

“(i) IN GENERAL.—Any loan made by a natural person to another natural person if—

“(I) such loan is not made in the course of a trade or business of the lender, and

“(II) the amount of such loan (when increased by the outstanding amount of prior loans by such natural person to such other natural person) does not exceed \$10,000.

“(ii) CLAUSE (i) NOT TO APPLY WHERE TAX AVOIDANCE A PRINCIPAL PURPOSE.—Clause (i) shall not apply if the loan has as 1 of its principal purposes the avoidance of any Federal tax.

“(iii) TREATMENT OF HUSBAND AND WIFE.—For purposes of this subparagraph, a husband and wife shall be treated as 1 person. The preceding sentence shall not apply where the spouses lived apart at all times during the taxable year in which the loan is made.

“(3) DETERMINATION OF DAILY PORTIONS.—For purposes of paragraph (1), the daily portion of the original issue discount on any debt instrument shall be determined by allocating to each day in any accrual period its ratable portion of the increase during such accrual period in the adjusted issue price of the debt instrument. For purposes of the preceding sentence, the increase in the adjusted issue price for any accrual period shall be an amount equal to the excess (if any) of—

“(A) the product of—

“(i) the adjusted issue price of the debt instrument at the beginning of such accrual period, and

“(ii) the yield to maturity (determined on the basis of compounding at the close of each accrual period and properly adjusted for the length of the accrual period), over

“(B) the sum of the amounts payable as interest on such debt instrument during such accrual period.

“(4) ADJUSTED ISSUE PRICE.—For purposes of this subsection, the adjusted issue price of any debt instrument at the beginning of any accrual period is the sum of—

“(A) the issue price of such debt instrument, plus

“(B) the adjustments under this subsection to such issue price for all periods before the first day of such accrual period.

“(5) ACCRUAL PERIOD.—Except as otherwise provided in regulations prescribed by the Secretary, the term ‘accrual period’ means a 6-month period (or shorter period from the date of original issue of the debt instrument) which ends on a day in the calendar year corresponding to the maturity date of the debt instrument or the date 6 months before such maturity date.

“(6) REDUCTION WHERE SUBSEQUENT HOLDER PAYS ACQUISITION PREMIUM.—

“(A) REDUCTION.—For purposes of this subsection, in the case of any purchase after its original issue of a debt instrument to which this subsection applies, the daily portion for any day shall be reduced by an amount equal to the amount which would be the daily portion for such day (without regard to this paragraph) multiplied by the fraction determined under subparagraph (B).

“(B) DETERMINATION OF FRACTION.—For purposes of subparagraph (A), the fraction determined under this subparagraph is a fraction—

“(i) the numerator of which is the excess (if any) of—

“(I) the cost of such debt instrument incurred by the purchaser, over

“(II) the issue price of such debt instrument, increased by the portion of original issue discount previously includible in the gross income of any holder (computed without regard to this paragraph), and

“(ii) the denominator of which is the sum of the daily portions for such debt instrument for all days after the date of such purchase and ending on the stated maturity date (computed without regard to this paragraph).

“(b) RATABLE INCLUSION RETAINED FOR CORPORATE DEBT INSTRUMENTS ISSUED BEFORE JULY 2, 1982.—

“(1) GENERAL RULE.—There shall be included in the gross income of the holder of any debt instrument issued by a corporation after May 27, 1969, and before July 2, 1982—

“(A) the ratable monthly portion of original issue discount, multiplied by

“(B) the number of complete months (plus any fractional part of a month determined under paragraph (3)) such holder held such debt instrument during the taxable year.

“(2) DETERMINATION OF RATABLE MONTHLY PORTION.—Except as provided in paragraph (4), the ratable monthly portion of original issue discount shall equal—

“(A) the original issue discount, divided by

“(B) the number of complete months from the date of original issue to the stated maturity date of the debt instrument.

“(3) MONTH DEFINED.—For purposes of this subsection—

“(A) COMPLETE MONTH.—A complete month commences with the date of original issue and the corresponding day of each succeeding calendar month (or the last day of a calendar month in which there is no corresponding day).

“(B) TRANSFERS DURING MONTH.—In any case where a debt instrument is acquired on any day other than a day determined under subparagraph (A), the ratable monthly portion of original issue discount for the complete month

(or partial month) in which such acquisition occurs shall be allocated between the transferor and the transferee in accordance with the number of days in such complete (or partial) month each held the debt instrument.

“(4) REDUCTION WHERE SUBSEQUENT HOLDER PAYS ACQUISITION PREMIUM.—

“(A) REDUCTION.—For purposes of this subsection, the ratable monthly portion of original issue discount shall not include its share of the acquisition premium.

“(B) SHARE OF ACQUISITION PREMIUM.—For purposes of subparagraph (A), any month’s share of the acquisition premium is an amount (determined at the time of the purchase) equal to—

“(i) the excess of—

“(I) the cost of such debt instrument incurred by the holder, over

“(II) the issue price of such debt instrument, increased by the portion of original issue discount previously includible in the gross income of any holder (computed without regard to this paragraph),

“(ii) divided by the number of complete months (plus any fractional part of a month) from the date of such purchase to the stated maturity date of such debt instrument.

“(c) EXCEPTIONS.—This section shall not apply to any holder—

“(1) who has purchased the debt instrument at a premium, or

“(2) which is a life insurance company to which section 811(b) applies.

“(d) DEFINITION AND SPECIAL RULE.—

“(1) PURCHASE DEFINED.—For purposes of this section, the term ‘purchase’ means—

“(A) any acquisition of a debt instrument, where

“(B) the basis of the debt instrument is not determined in whole or in part by reference to the adjusted basis of such debt instrument in the hands of the person from whom acquired.

“(2) BASIS ADJUSTMENT.—The basis of any debt instrument in the hands of the holder thereof shall be increased by the amount included in his gross income pursuant to this section.

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26 USC 1273.

“SEC. 1273. DETERMINATION OF AMOUNT OF ORIGINAL ISSUE DISCOUNT.

“(a) GENERAL RULE.—For purposes of this subpart—

“(1) IN GENERAL.—The term ‘original issue discount’ means the excess (if any) of—

“(A) the stated redemption price at maturity, over

“(B) the issue price.

“(2) STATED REDEMPTION PRICE AT MATURITY.—The term ‘stated redemption price at maturity’ means the amount fixed by the last modification of the purchase agreement and includes interest and other amounts payable at that time (other than any interest based on a fixed rate, and payable unconditionally at fixed periodic intervals of 1 year or less during the entire term of the debt instrument).

“(3) ¼ OF 1 PERCENT DE MINIMIS RULE.—If the original issue discount determined under paragraph (1) is less than—

“(A) $\frac{1}{4}$ of 1 percent of the stated redemption price at maturity, multiplied by

“(B) the number of complete years to maturity,
then the original issue discount shall be treated as zero.

“(b) **ISSUE PRICE.**—For purposes of this subpart—

“(1) **PUBLICLY OFFERED DEBT INSTRUMENTS NOT ISSUED FOR PROPERTY.**—In the case of any issue of debt instruments—

“(A) publicly offered, and

“(B) not issued for property,

the issue price is the initial offering price to the public (excluding bond houses and brokers) at which price a substantial amount of such debt instruments was sold.

“(2) **OTHER DEBT INSTRUMENTS NOT ISSUED FOR PROPERTY.**—In the case of any issue of debt instruments not issued for property and not publicly offered, the issue price of each such instrument is the price paid by the first buyer of such debt instrument.

“(3) **DEBT INSTRUMENTS ISSUED FOR PROPERTY WHERE THERE IS PUBLIC TRADING.**—In the case of a debt instrument which is issued for property and which—

“(A) is part of an issue a portion of which is traded on an established securities market, or

“(B) is issued for stock or securities which are traded on an established securities market,
the issue price of such debt instrument shall be the fair market value of such property.

“(4) **OTHER CASES.**—Except in any case—

“(A) to which paragraph (1), (2), or (3) of this subsection applies, or

“(B) to which section 1274 applies,

the issue price of a debt instrument which is issued for property shall be the stated redemption price at maturity.

“(5) **PROPERTY.**—In applying this subsection, the term ‘property’ includes services and the right to use property, but such term does not include money.

“(c) **SPECIAL RULES FOR APPLYING SUBSECTION (b).**—For purposes of subsection (b)—

“(1) **INITIAL OFFERING PRICE; PRICE PAID BY THE FIRST BUYER.**—The terms ‘initial offering price’ and ‘price paid by the first buyer’ include the aggregate payments made by the purchaser under the purchase agreement, including modifications thereof.

“(2) **TREATMENT OF INVESTMENT UNITS.**—In the case of any debt instrument and an option, security, or other property issued together as an investment unit—

“(A) the issue price for such unit shall be determined in accordance with the rules of this subsection and subsection (b) as if it were a debt instrument,

“(B) the issue price determined for such unit shall be allocated to each element of such unit on the basis of the relationship of the fair market value of such element to the fair market value of all elements in such unit, and

“(C) the issue price of any debt instrument included in such unit shall be the portion of the issue price of the unit allocated to the debt instrument under subparagraph (B).

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26 USC 1274.

“SEC. 1274. DETERMINATION OF ISSUE PRICE IN THE CASE OF CERTAIN DEBT INSTRUMENTS ISSUED FOR PROPERTY.

“(a) **IN GENERAL.**—In the case of any debt instrument to which this section applies, for purposes of this subpart, the issue price shall be—

“(1) where there is adequate stated interest, the stated principal amount, or

“(2) in any other case, the imputed principal amount.

“(b) **IMPUTED PRINCIPAL AMOUNT.**—For purposes of this section—

“(1) **IN GENERAL.**—Except as provided in paragraph (3), the imputed principal amount of any debt instrument shall be equal to the sum of the present values of all payments due under such debt instrument.

“(2) **DETERMINATION OF PRESENT VALUE.**—For purposes of paragraph (1), the present value of a payment shall be determined in the manner provided by regulations prescribed by the Secretary—

“(A) as of the date of the sale or exchange, and

“(B) by using a discount rate equal to 120 percent of the applicable Federal rate, compounded semiannually.

“(3) **FAIR MARKET VALUE RULE IN POTENTIALLY ABUSIVE SITUATIONS.**—

“(A) **IN GENERAL.**—In the case of any potentially abusive situation, the imputed principal amount of any debt instrument received in exchange for property shall be the fair market value of such property adjusted to take into account other consideration involved in the transaction.

“(B) **POTENTIALLY ABUSIVE SITUATION DEFINED.**—For purposes of subparagraph (A), the term ‘potentially abusive situation’ means—

“(i) a tax shelter (as defined in section 6661(b)(2)(C)(ii)), and

“(ii) any other situation which, by reason of—

“(I) recent sales transactions,

“(II) nonrecourse financing,

“(III) financing with a term in excess of the economic life of the property, or

“(IV) other circumstances,

is of a type which the Secretary specifies by regulations as having potential for tax avoidance.

“(c) **DEBT INSTRUMENTS TO WHICH SECTION APPLIES.**—

“(1) **IN GENERAL.**—Except as otherwise provided in this subsection, this section shall apply to any debt instrument given in consideration for the sale or exchange of property if—

“(A) the stated redemption price at maturity for such debt instrument exceeds—

“(i) where there is adequate stated interest, the stated principal amount, or

“(ii) in any other case, the testing amount, and

“(B) some or all of the payments due under such debt instrument are due more than 6 months after the date of such sale or exchange.

“(2) **ADEQUATE STATED INTEREST.**—For purposes of this section, there is adequate stated interest with respect to any debt instrument if the stated principal amount for such debt instrument is less than or equal to the testing amount.

“(3) TESTING AMOUNT.—For purposes of this section, the term ‘testing amount’ means, with respect to any debt instrument, the imputed principal amount of such debt instrument which would be determined under subsection (b) (including paragraph (3) thereof) if a discount rate equal to 110 percent of the applicable Federal rate were used.

“(4) EXCEPTIONS.—This section shall not apply to—

“(A) SALES FOR LESS THAN \$1,000,000 OF FARMS BY INDIVIDUALS OR SMALL BUSINESSES.—

“(i) IN GENERAL.—Any debt instrument arising from the sale or exchange of a farm (within the meaning of section 6420(c)(2))—

“(I) by an individual, estate, or testamentary trust,

“(II) by a corporation which as of the date of the sale or exchange is a small business corporation (as defined in section 1244(c)(3)), or

“(III) by a partnership which as of the date of the sale or exchange meets requirements similar to those of section 1244(c)(3).

“(ii) \$1,000,000 LIMITATION.—Clause (i) shall apply only if it can be determined at the time of the sale or exchange that the sales price cannot exceed \$1,000,000. For purposes of the preceding sentence, all sales and exchanges which are part of the same transaction (or a series of related transactions) shall be treated as 1 sale or exchange.

“(B) SALES OF PRINCIPAL RESIDENCES.—Any debt instrument arising from the sale or exchange by an individual of his principal residence (within the meaning of section 1034).

“(C) SALES INVOLVING TOTAL PAYMENTS OF \$250,000 OR LESS.—

“(i) IN GENERAL.—Any debt instrument arising from the sale or exchange of property if the sum of the following amounts does not exceed \$250,000:

“(I) the aggregate amount of the payments due under such debt instrument and all other debt instruments received as consideration for the sale or exchange, and

“(II) the aggregate amount of any other consideration to be received for the sale or exchange.

“(ii) CONSIDERATION OTHER THAN DEBT INSTRUMENT TAKEN INTO ACCOUNT AT FAIR MARKET VALUE.—For purposes of clause (i), any consideration (other than a debt instrument) shall be taken into account at its fair market value.

“(iii) AGGREGATION OF TRANSACTIONS.—For purposes of this subparagraph, all sales and exchanges which are part of the same transaction (or a series of related transactions) shall be treated as 1 sale or exchange.

“(D) DEBT INSTRUMENTS WHICH ARE PUBLICLY TRADED OR ISSUED FOR PUBLICLY TRADED PROPERTY.—Any debt instrument to which section 1273(b)(3) applies.

“(E) CERTAIN SALES OF PATENTS.—In the case of any transfer described in section 1235(a) (relating to sale or exchange of patents), any amount contingent on the productivity, use, or disposition of the property transferred.

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“(F) SALES OR EXCHANGES TO WHICH SECTION 483 (e) APPLIES.—Any debt instrument to the extent section 483(e) (relating to certain land transfers between related persons) applies to such instrument.

“(d) DETERMINATION OF APPLICABLE FEDERAL RATE.—For purposes of this section—

“(1) APPLICABLE FEDERAL RATE.—

“(A) IN GENERAL.—

“In the case of a debt instrument with a term of:	The applicable Federal rate is:
Not over 3 years	The Federal short-term rate.
Over 3 years but not over 9 years.	The Federal mid-term rate.
Over 9 years	The Federal long-term rate.

“(B) DETERMINATION OF RATES.—Within 15 days after the close of—

“(i) the 6-month period ending on September 30 of any calendar year, or

“(ii) the 6-month period ending on March 31 of any calendar year,

the Secretary shall determine the Federal short-term rate, mid-term rate, and long-term rate for such 6-month period.

“(C) EFFECTIVE DATE OF DETERMINATION.—Any Federal rate determined under subparagraph (A) shall—

“(i) apply during the 6-month period beginning on January 1 of the succeeding calendar year in the case of a determination made under subparagraph (B)(i), and

“(ii) apply during the 6-month period beginning on July 1 of the calendar year in the case of a determination made under subparagraph (B)(ii).

“(D) FEDERAL RATE FOR ANY 6-MONTH PERIOD.—For purposes of this paragraph—

“(i) FEDERAL SHORT-TERM RATE.—The Federal short-term rate for any 6-month period shall be the rate determined by the Secretary based on the average market yield (during such 6-month period) on outstanding marketable obligations of the United States with remaining periods to maturity of 3 years or less.

“(ii) FEDERAL MID-TERM AND LONG-TERM RATES.—The Federal mid-term rate and long-term rate shall be determined in accordance with the principles of clause (i).

“(2) RATE APPLICABLE TO ANY SALE OR EXCHANGE.—In the case of any sale or exchange, the determination of the applicable Federal rate shall be made as of the first day on which there is a binding contract in writing for the sale or exchange.

“(3) TERM OF DEBT INSTRUMENT.—In determining the term of a debt instrument for purposes of this subsection, under regulations prescribed by the Secretary, there shall be taken into account options to renew or extend.

26 USC 1275.

“SEC. 1275. OTHER DEFINITIONS AND SPECIAL RULES.

“(a) DEFINITIONS.—For purposes of this subpart—

“(1) DEBT INSTRUMENT.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the term ‘debt instrument’ means a bond, debenture, note, or certificate or other evidence of indebtedness.

“(B) EXCEPTION FOR CERTAIN ANNUITY CONTRACTS.—The term ‘debt instrument’ shall not include any annuity contract to which section 72 applies and which—

“(i) depends (in whole or in substantial part) on the life expectancy of 1 or more individuals, or

“(ii) is issued by an insurance company subject to tax under subchapter L—

“(I) in a transaction in which there is no consideration other than cash or another annuity contract meeting the requirements of this clause,

“(II) pursuant to the exercise of an election under an insurance contract by a beneficiary thereof on the death of the insured party under such contract, or

“(III) in a transaction involving a qualified pension or employee benefit plan.

“(2) ISSUE DATE.—

“(A) PUBLICLY OFFERED DEBT INSTRUMENTS.—In the case of any debt instrument which is publicly offered, the term ‘date of original issue’ means the date on which the issue was first issued to the public.

“(B) ISSUES NOT PUBLICLY OFFERED AND NOT ISSUED FOR PROPERTY.—In the case of any debt instrument to which section 1273(b)(2) applies, the term ‘date of original issue’ means the date on which the debt instrument was sold by the issuer.

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“(C) OTHER DEBT INSTRUMENTS.—In the case of any debt instrument not described in subparagraph (A) or (B), the term ‘date of original issue’ means the date on which the debt instrument was issued in a sale or exchange.

“(3) TAX-EXEMPT OBLIGATION.—The term ‘tax-exempt obligation’ means any obligation if—

“(A) the interest on such obligation is not includible in gross income under section 103, or

“(B) the interest on such obligation is exempt from tax (without regard to the identity of the holder) under any other provision of law.

“(4) SPECIAL RULE FOR DETERMINATION OF ISSUE PRICE IN CASE OF EXCHANGE OF DEBT INSTRUMENTS IN REORGANIZATIONS.—

“(A) IN GENERAL.—If—

“(i) any debt instrument is issued pursuant to a plan of reorganization (within the meaning of section 368(a)(1)) for another debt instrument (hereinafter in this paragraph referred to as the ‘old debt instrument’), and

“(ii) the amount which (but for this paragraph) would be the issue price of the debt instrument so issued is less than the adjusted issue price of the old debt instrument,

then the issue price of the debt instrument so issued shall be treated as equal to the adjusted issue price of the old debt instrument.

“(B) DEFINITIONS.—For purposes of this paragraph—

“(i) **DEBT INSTRUMENT.**—The term ‘debt instrument’ includes an investment unit.

“(ii) **ADJUSTED ISSUE PRICE.**—

“(I) **IN GENERAL.**—The adjusted issue price of the old debt instrument is its issue price, increased by the portion of any original issue discount previously includible in the gross income of any holder (without regard to subsection (a)(6) or (b)(4) of section 1272 (or the corresponding provisions of prior law)).

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“(II) **SPECIAL RULE FOR APPLYING SECTION 163(e).**—For purposes of section 163(e), the adjusted issue price of the old debt instrument is its issue price, increased by any original issue discount previously allowed as a deduction.

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“(b) **TREATMENT OF BORROWER IN THE CASE OF CERTAIN LOANS FOR PERSONAL USE.**—

“(1) **SECTIONS 1274 AND 483 NOT TO APPLY.**—In the case of the obligor under any debt instrument given in consideration for the sale or exchange of property, sections 1274 and 483 shall not apply if such property is personal use property.

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“(2) **ORIGINAL ISSUE DISCOUNT DEDUCTED ON CASH BASIS IN CERTAIN CASES.**—In the case of any debt instrument, if—

“(A) such instrument—

“(i) is incurred in connection with the acquisition or carrying of personal use property, and

“(ii) has original issue discount (determined after the application of paragraph (1)), and

“(B) the obligor under such instrument uses the cash receipts and disbursements method of accounting,

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notwithstanding section 163(e), the original issue discount on such instrument shall be deductible only when paid.

“(3) **PERSONAL USE PROPERTY.**—For purposes of this subsection, the term ‘personal use property’ means any property substantially all of the use of which by the taxpayer is not in connection with a trade or business of the taxpayer or an activity described in section 212. The determination of whether property is described in the preceding sentence shall be made as of the time of issuance of the debt instrument.

“(c) **INFORMATION REQUIREMENTS.**—

“(1) **INFORMATION REQUIRED TO BE SET FORTH ON INSTRUMENT.**—

“(A) **IN GENERAL.**—In the case of any debt instrument having original issue discount, the Secretary may by regulations require that—

“(i) the amount of the original issue discount, and

“(ii) the issue date,

be set forth on such instrument.

“(B) **SPECIAL RULE FOR INSTRUMENTS NOT PUBLICLY OFFERED.**—In the case of any issue of debt instruments not publicly offered, the regulations prescribed under subparagraph (A) shall not require the information to be set forth on the debt instrument before any disposition of such instrument by the first buyer.

“(2) **INFORMATION REQUIRED TO BE SUBMITTED TO SECRETARY.**—In the case of any issue of publicly offered debt instruments having original issue discount, the issuer shall (at such time and

in such manner as the Secretary shall by regulation prescribe) furnish the Secretary the following information:

“(A) The amount of the original issue discount.

“(B) The issue date.

“(C) Such other information with respect to the issue as the Secretary may by regulations require.

For purposes of the preceding sentence, any person who makes a public offering of stripped bonds (or stripped coupons) shall be treated as the issuer of a publicly offered debt instrument having original issue discount.

“(3) EXCEPTIONS.—This subsection shall not apply to any obligation referred to in section 1272(a)(2) (relating to exceptions from current inclusion of original issue discount).

Ante, p. 533.

“(4) CROSS REFERENCE.—

“For civil penalty for failure to meet requirements of this subsection, see section 6706.

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“(d) REGULATION AUTHORITY.—The Secretary may prescribe regulations providing that where, by reason of varying rates of interest, put or call options, indefinite maturities, contingent payments, assumptions of debt instruments, or other circumstances, the tax treatment under this subpart (or section 163(e)) does not carry out the purposes of this subpart (or section 163(e)), such treatment shall be modified to the extent appropriate to carry out the purposes of this subpart (or section 163(e)).

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“Subpart B—Market Discount on Bonds

“Sec. 1276. Disposition gain representing accrued market discount treated as ordinary income.

“Sec. 1277. Deferral of interest deduction allocable to accrued market discount.

“Sec. 1278. Definitions and special rules.

“SEC. 1276. DISPOSITION GAIN REPRESENTING ACCRUED MARKET DISCOUNT TREATED AS ORDINARY INCOME.

26 USC 1276.

“(a) ORDINARY INCOME.—

“(1) IN GENERAL.—Except as otherwise provided in this section, gain on the disposition of any market discount bond shall be treated as ordinary income to the extent it does not exceed the accrued market discount on such bond. Such gain shall be recognized notwithstanding any other provision of this subtitle.

“(2) DISPOSITIONS OTHER THAN SALES, ETC.—For purposes of paragraph (1), a person disposing of any market discount bond in any transaction other than a sale, exchange, or involuntary conversion shall be treated as realizing an amount equal to the fair market value of the bond.

“(3) GAIN TREATED AS INTEREST FOR CERTAIN PURPOSES.—Except for purposes of sections 871(a), 881, 1441, 1442, and 6049 (and such other provisions as may be specified in regulations), any amount treated as ordinary income under paragraph (1) shall be treated as interest for purposes of this title.

“(b) ACCRUED MARKET DISCOUNT.—For purposes of this section—

“(1) RATABLE ACCRUAL.—Except as otherwise provided in this subsection or subsection (c), the accrued market discount on any bond shall be an amount which bears the same ratio to the market discount on such bond as—

“(A) the number of days which the taxpayer held the bond, bears to

“(B) the number of days after the date the taxpayer acquired the bond and up to (and including) the date of its maturity.

“(2) ELECTION OF ACCRUAL ON BASIS OF CONSTANT INTEREST RATE (IN LIEU OF RATABLE ACCRUAL).—

“(A) IN GENERAL.—At the election of the taxpayer with respect to any bond, the accrued market discount on such bond shall be the aggregate amount which would have been includible in the gross income of the taxpayer under section 1272(a) (determined without regard to paragraph (2) thereof) with respect to such bond for all periods during which the bond was held by the taxpayer if such bond had been—

“(i) originally issued on the date on which such bond was acquired by the taxpayer,

“(ii) for an issue price equal to the basis of the taxpayer in such bond immediately after its acquisition.

“(B) COORDINATION WHERE BOND HAS ORIGINAL ISSUE DISCOUNT.—In the case of any bond having original issue discount, for purposes of applying subparagraph (A)—

“(i) the stated redemption price at maturity of such bond shall be treated as equal to its revised issue price, and

“(ii) the determination of the portion of the original issue discount which would have been includible in the gross income of the taxpayer under section 1272(a) shall be made under regulations prescribed by the Secretary.

“(C) ELECTION IRREVOCABLE.—An election under subparagraph (A), once made with respect to any bond, shall be irrevocable.

“(c) TREATMENT OF NONRECOGNITION TRANSACTIONS.—Under regulations prescribed by the Secretary—

“(1) TRANSFERRED BASIS PROPERTY.—If a market discount bond is transferred in a nonrecognition transaction and such bond is transferred basis property in the hands of the transferee, for purposes of determining the amount of the accrued market discount with respect to the transferee—

“(A) the transferee shall be treated as having acquired the bond on the date on which it was acquired by the transferor for an amount equal to the basis of the transferor, and

“(B) proper adjustments shall be made for gain recognized by the transferor on such transfer (and for any original issue discount or market discount included in the gross income of the transferor).

“(2) EXCHANGED BASIS PROPERTY.—If any market discount bond is disposed of by the taxpayer in a nonrecognition transaction and paragraph (1) does not apply to such transaction, any accrued market discount determined with respect to the property disposed of to the extent not theretofore treated as ordinary income under subsection (a)—

“(A) shall be treated as accrued market discount with respect to the exchanged basis property received by the taxpayer in such transaction if such property is a market discount bond, and

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“(B) shall be treated as ordinary income on the disposition of the exchanged basis property received by the taxpayer in such exchange if such property is not a market discount bond.

“(3) PARAGRAPH (1) TO APPLY TO CERTAIN DISTRIBUTIONS BY CORPORATIONS OR PARTNERSHIPS.—For purposes of paragraph (1), if the basis of any market discount bond in the hands of a transferee is determined under section 334(c), 732(a), or 732(b), such property shall be treated as transferred basis property in the hands of such transferee.

“(d) SPECIAL RULES.—Under regulations prescribed by the Secretary—

“(1) rules similar to the rules of subsection (b) of section 1245 shall apply for purposes of this section; except that—

“(A) paragraph (1) of such subsection shall not apply, and

“(B) an exchange qualifying under section 354(a), 355(a), or 356(a) (determined without regard to subsection (a) of this section) shall be treated as an exchange described in paragraph (3) of such subsection, and

“(2) appropriate adjustments shall be made to the basis of any property to reflect gain recognized under subsection (a).

“(e) SECTION NOT TO APPLY TO MARKET DISCOUNT BONDS ISSUED ON OR BEFORE DATE OF ENACTMENT OF SECTION.—This section shall not apply to any market discount bond issued on or before the date of the enactment of this section.

“SEC. 1277. DEFERRAL OF INTEREST DEDUCTION ALLOCABLE TO ACCRUED MARKET DISCOUNT.

26 USC 1277.

“(a) GENERAL RULE.—Except as otherwise provided in this section, the net direct interest expense with respect to any market discount bond shall be allowed as a deduction for the taxable year only to the extent that such expense exceeds the portion of the market discount allocable to the days during the taxable year on which such bond was held by the taxpayer (as determined under the rules of section 1276(b)).

Ante, p. 543.

“(b) DISALLOWED DEDUCTION ALLOWED FOR LATER YEARS.—

“(1) ELECTION TO TAKE INTO ACCOUNT IN LATER YEAR WHERE NET INTEREST INCOME FROM BOND.—

“(A) IN GENERAL.—If—

“(i) there is net interest income for any taxable year with respect to any market discount bond, and

“(ii) the taxpayer makes an election under this subparagraph with respect to such bond,

any disallowed interest expense with respect to such bond shall be treated as interest paid or accrued by the taxpayer during such taxable year to the extent such disallowed interest expense does not exceed the net interest income with respect to such bond.

“(B) DETERMINATION OF DISALLOWED INTEREST EXPENSE.—For purposes of subparagraph (A), the amount of the disallowed interest expense—

“(i) shall be determined as of the close of the preceding taxable year, and

“(ii) shall not include any amount previously taken into account under subparagraph (A).

“(C) NET INTEREST INCOME.—For purposes of this paragraph, the term ‘net interest income’ means the excess of the

amount determined under paragraph (2) of subsection (c) over the amount determined under paragraph (1) of subsection (c).

“(2) REMAINDER OF DISALLOWED INTEREST EXPENSE ALLOWED FOR YEAR OF DISPOSITION.—

“(A) IN GENERAL.—Except as otherwise provided in this paragraph, the amount of the disallowed interest expense with respect to any market discount bond shall be treated as interest paid or accrued by the taxpayer in the taxable year in which such bond is disposed of.

“(B) NONRECOGNITION TRANSACTIONS.—If any market discount bond is disposed of in a nonrecognition transaction—

“(i) the disallowed interest expense with respect to such bond shall be treated as interest paid or accrued in the year of disposition only to the extent of the amount of gain recognized on such disposition, and

“(ii) the disallowed interest expense with respect to such property (to the extent not so treated) shall be treated as disallowed interest expense—

“(I) in the case of a transaction described in section 1276(c)(1), of the transferee with respect to the transferred basis property, or

“(II) in the case of a transaction described in section 1276(c)(2), with respect to the exchanged basis property.

“(C) DISALLOWED INTEREST EXPENSE REDUCED FOR AMOUNTS PREVIOUSLY TAKEN INTO ACCOUNT UNDER PARAGRAPH 1.—For purposes of this paragraph, the amount of the disallowed interest expense shall not include any amount previously taken into account under paragraph (1).

“(3) DISALLOWED INTEREST EXPENSE.—For purposes of this subsection, the term ‘disallowed interest expense’ means the aggregate amount disallowed under subsection (a) with respect to the market discount bond.

“(c) NET DIRECT INTEREST EXPENSE.—For purposes of this section, the term ‘net direct interest expense’ means, with respect to any market discount bond, the excess (if any) of—

“(1) the amount of interest paid or accrued during the taxable year on indebtedness which is incurred or continued to purchase or carry such bond, over

“(2) the aggregate amount of interest (including original issue discount) includible in gross income for the taxable year with respect to such bond.

In the case of any financial institution to which section 585 or 593 applies, the determination of whether interest is described in paragraph (1) shall be made under principles similar to the principles of section 291(e)(1)(B)(ii). Under rules similar to the rules of section 265(5), short sale expenses shall be treated as interest for purposes of determining net direct interest expense.

“(d) SPECIAL RULE FOR GAIN RECOGNIZED ON DISPOSITION OF MARKET DISCOUNT BONDS ISSUED ON OR BEFORE DATE OF ENACTMENT OF SECTION.—In the case of a market discount bond issued on or before the date of the enactment of this section, any gain recognized by the taxpayer on any disposition of such bond shall be treated as ordinary income to the extent the amount of such gain does not exceed the amount allowable with respect to such bond under

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Post, p. 574.

subsection (b)(2) for the taxable year in which such bond is disposed of.

“SEC. 1278. DEFINITIONS AND SPECIAL RULES.

26 USC 1278.

“(a) IN GENERAL.—For purposes of this part—

“(1) MARKET DISCOUNT BOND.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the term ‘market discount bond’ means any bond having market discount.

“(B) EXCEPTIONS.—The term ‘market discount bond’ shall not include—

“(i) SHORT-TERM OBLIGATIONS.—Any obligation with a fixed maturity date not exceeding 1 year from the date of issue.

“(ii) TAX-EXEMPT OBLIGATIONS.—Any tax-exempt obligation (as defined in section 1275(a)(3)).

“(iii) UNITED STATES SAVINGS BONDS.—Any United States savings bond.

“(iv) INSTALLMENT OBLIGATIONS.—Any installment obligation to which section 453B applies.

Ante, p. 540.

“(2) MARKET DISCOUNT.—

“(A) IN GENERAL.—The term ‘market discount’ means the excess (if any) of—

“(i) the stated redemption price of the bond at maturity, over

“(ii) the basis of such bond immediately after its acquisition by the taxpayer.

“(B) COORDINATION WHERE BOND HAS ORIGINAL ISSUE DISCOUNT.—In the case of any bond having original issue discount, for purposes of subparagraph (A), the stated redemption price of such bond at maturity shall be treated as equal to its revised issue price.

“(C) DE MINIMIS RULE.—If the market discount is less than $\frac{1}{4}$ of 1 percent of the stated redemption price of the bond at maturity multiplied by the number of complete years to maturity (after the taxpayer acquired the bond), then the market discount shall be considered to be zero.

“(3) BOND.—The term ‘bond’ means any bond, debenture, note, certificate, or other evidence of indebtedness.

“(4) REVISED ISSUE PRICE.—The term ‘revised issue price’ means of the sum of—

“(A) the issue price of the bond, and

“(B) the aggregate amount of the original issue discount includible in the gross income of all holders for periods before the acquisition of the bond by the taxpayer (determined without regard to section 1272 (a)(6) or (b)(4)).

Ante, p. 533.

“(5) ORIGINAL ISSUE DISCOUNT, ETC.—The terms ‘original issue discount’, ‘stated redemption price at maturity’, and ‘issue price’ have the respective meanings given such terms by subpart A of this part.

“(b) ELECTION TO INCLUDE MARKET DISCOUNT CURRENTLY.—

“(1) IN GENERAL.—If the taxpayer makes an election under this subsection—

“(A) sections 1276 and 1277 shall not apply, and

“(B) market discount on any market discount bond shall be included in the gross income of the taxpayer for the

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Ante, p. 543.

taxable years to which it is attributable (as determined under the rules of subsection (b) of section 1276).

Except for purposes of sections 871(a), 881, 1441, 1442, and 6049 (and such other provisions as may be specified in regulations), any amount included in gross income under subparagraph (B) shall be treated as interest for purposes of this title.

“(2) SCOPE OF ELECTION.—An election under this subsection shall apply to all market discount bonds acquired by the taxpayer on or after the 1st day of the 1st taxable year to which such election applies.

“(3) PERIOD TO WHICH ELECTION APPLIES.—An election under this subsection shall apply to the taxable year for which it is made and for all subsequent taxable years, unless the taxpayer secures the consent of the Secretary to the revocation of such election.

“(c) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subpart.

“Subpart C—Discount on Short-Term Obligations

“Sec. 1281. Current inclusion in income of discount on certain short-term obligations.

“Sec. 1282. Deferral of interest deduction allocable to accrued discount.

“Sec. 1283. Definitions and special rules.

26 USC 1281.

“SEC. 1281. CURRENT INCLUSION IN INCOME OF DISCOUNT ON CERTAIN SHORT-TERM OBLIGATIONS.

“(a) IN GENERAL.—In the case of any short-term obligation to which this section applies, for purposes of this title, there shall be included in the gross income of the holder an amount equal to the sum of the daily portions of the acquisition discount for each day during the taxable year on which such holder held such obligation.

“(b) SHORT-TERM OBLIGATIONS TO WHICH SECTION APPLIES.—

“(1) IN GENERAL.—This section shall apply to any short-term obligation which—

“(A) is held by a taxpayer using an accrual method of accounting,

“(B) is held primarily for sale to customers in the ordinary course of the taxpayer's trade or business,

“(C) is held by a bank (as defined in section 581),

“(D) is held by a regulated investment company or a common trust fund, or

“(E) is identified by the taxpayer under section 1256(e)(2) as being part of a hedging transaction.

“(2) TREATMENT OF OBLIGATIONS HELD BY PASS-THRU ENTITIES.—

“(A) IN GENERAL.—This section shall apply also to—

“(i) any short-term obligation which is held by a pass-thru entity which is formed or availed of for purposes of avoiding the provisions of this section, and

“(ii) any short-term obligation which is acquired by a pass-thru entity (not described in clause (i)) during the required accrual period.

“(B) REQUIRED ACCRUAL PERIOD.—For purposes of subparagraph (A), the term ‘required accrual period’ means the period—

“(i) which begins with the first taxable year for which the ownership test of subparagraph (C) is met

with respect to the pass-thru entity (or a predecessor), and

“(ii) which ends with the first taxable year after the taxable year referred to in clause (i) for which the ownership test of subparagraph (C) is not met and with respect to which the Secretary consents to the termination of the required accrual period.

“(C) OWNERSHIP TEST.—The ownership test of this subparagraph is met for any taxable year if, on at least 90 days during the taxable year, 20 percent or more of the value of the interests in the pass-thru entity are held by persons described in paragraph (1) or by other pass-thru entities to which subparagraph (A) applies.

“(D) PASS-THRU ENTITY.—The term ‘pass-thru entity’ means any partnership, S corporation, trust, or other pass-thru entity.

“(c) CROSS REFERENCE.—

“For special rules limiting the application of this section to original issue discount in the case of nongovernmental obligations, see section 1283(c).

“SEC. 1282. DEFERRAL OF INTEREST DEDUCTION ALLOCABLE TO ACCRUED DISCOUNT. 26 USC 1282.

“(a) GENERAL RULE.—Except as otherwise provided in this section, the net direct interest expense with respect to any short-term obligation shall be allowed as a deduction for the taxable year only to the extent that such expense exceeds the sum of the daily portions of the acquisition discount for each day during the taxable year on which the taxpayer held such obligation.

“(b) SECTION NOT TO APPLY TO OBLIGATIONS TO WHICH SECTION 1281 APPLIES.—

Ante, p. 548.

“(1) IN GENERAL.—This section shall not apply to any short-term obligation to which section 1281 applies.

“(2) ELECTION TO HAVE SECTION 1281 APPLY TO ALL OBLIGATIONS.—

“(A) IN GENERAL.—A taxpayer may make an election under this paragraph to have section 1281 apply to all short-term obligations acquired by the taxpayer on or after the 1st day of the 1st taxable year to which such election applies.

“(B) PERIOD TO WHICH ELECTION APPLIES.—An election under this paragraph shall apply to the taxable year for which it is made and for all subsequent taxable years, unless the taxpayer secures the consent of the Secretary to the revocation of such election.

“(c) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of subsections (b) and (c) of section 1277 shall apply for purposes of this section.

Ante, p. 545.

“(d) CROSS REFERENCE.—

“For special rules limiting the application of this section to original issue discount in the case of nongovernmental obligations, see section 1283(c).

“SEC. 1283. DEFINITIONS AND SPECIAL RULES.

26 USC 1283.

“(a) DEFINITIONS.—For purposes of this subpart—

“(1) SHORT-TERM OBLIGATION.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the term ‘short-term obligation’ means any bond, debenture, note, certificate, or other evidence of indebtedness which has a fixed maturity date not more than 1 year from the date of issue.

Ante, p. 540.

“(B) EXCEPTIONS FOR TAX-EXEMPT OBLIGATIONS.—The term ‘short-term obligation’ shall not include any tax-exempt obligation (as defined in section 1275(a)(3)).

“(2) ACQUISITION DISCOUNT.—The term ‘acquisition discount’ means the excess of—

Ante, p. 536.

“(A) the stated redemption price at maturity (as defined in section 1273), over

“(B) the taxpayer’s basis for the obligation.

“(b) DAILY PORTION.—For purposes of this subpart—

“(1) RATABLE ACCRUAL.—Except as otherwise provided in this subsection, the daily portion of the acquisition discount is an amount equal to—

“(A) the amount of such discount, divided by

“(B) the number of days after the day on which the taxpayer acquired the obligation and up to (and including) the day of its maturity.

“(2) ELECTION OF ACCRUAL ON BASIS OF CONSTANT INTEREST RATE (IN LIEU OF RATABLE ACCRUAL).—

“(A) IN GENERAL.—At the election of the taxpayer with respect to any obligation, the daily portion of the acquisition discount for any day is the portion of the acquisition discount accruing on such day determined (under regulations prescribed by the Secretary) on the basis of—

“(i) the taxpayer’s yield to maturity based on the taxpayer’s cost of acquiring the obligation, and

“(ii) compounding daily.

“(B) ELECTION IRREVOCABLE.—An election under subparagraph (A), once made with respect to any obligation, shall be irrevocable.

“(c) SPECIAL RULES FOR NONGOVERNMENTAL OBLIGATIONS.—

“(1) IN GENERAL.—In the case of any short-term obligation which is not a short-term Government obligation (as defined in section 1271(a)(3)(B))—

Ante, p. 532.

Ante, pp. 548, 549.

“(A) sections 1281 and 1282 shall be applied by taking into account original issue discount in lieu of acquisition discount, and

“(B) appropriate adjustments shall be made in the application of subsection (b) of this section.

“(2) ELECTION TO HAVE PARAGRAPH (1) NOT APPLY.—

“(A) IN GENERAL.—A taxpayer may make an election under this paragraph to have paragraph (1) not apply to all obligations acquired by the taxpayer on or after the first day of the first taxable year to which such election applies.

“(B) PERIOD TO WHICH ELECTION APPLIES.—An election under this paragraph shall apply to the taxable year for which it is made and for all subsequent taxable years, unless the taxpayer secures the consent of the Secretary to the revocation of such election.

“(d) OTHER SPECIAL RULES.—

“(1) BASIS ADJUSTMENTS.—The basis of any short-term obligation in the hands of the holder thereof shall be increased by the amount included in his gross income pursuant to section 1281.

“(2) **DOUBLE INCLUSION IN INCOME NOT REQUIRED.**—Section 1281 shall not require the inclusion of any amount previously includible in gross income.

Ante, p. 548.

“(3) **COORDINATION WITH OTHER PROVISIONS.**—Section 454(b) and section 1271(a)(3) shall not apply to any short-term obligation to which section 1281 applies.

Ante, p. 532.

“Subpart D—Miscellaneous Provisions

“Sec. 1286. Tax treatment of stripped bonds.

“Sec. 1287. Denial of capital gain treatment for gains on certain obligations not in registered form.

“Sec. 1288. Treatment of original issue discount on tax-exempt obligations.

“SEC. 1286. TAX TREATMENT OF STRIPPED BONDS.

26 USC 1286.

“(a) **INCLUSION IN INCOME AS IF BOND AND COUPONS WERE ORIGINAL ISSUE DISCOUNT BONDS.**—If any person purchases after July 1, 1982, a stripped bond or a stripped coupon, then such bond or coupon while held by such purchaser (or by any other person whose basis is determined by reference to the basis in the hands of such purchaser) shall be treated for purposes of this part as a bond originally issued on the purchase date and having an original issue discount equal to the excess (if any) of—

“(1) the stated redemption price at maturity (or, in the case of coupon, the amount payable on the due date of such coupon), over

“(2) such bond's or coupon's ratable share of the purchase price.

For purposes of paragraph (2), ratable shares shall be determined on the basis of their respective fair market values on the date of purchase.

“(b) **TAX TREATMENT OF PERSON STRIPPING BOND.**—For purposes of this subtitle, if any person strips 1 or more coupons from a bond and after July 1, 1982, disposes of the bond or such coupon—

“(1) such person shall include in gross income an amount equal to the interest accrued on such bond while held by such person and before the time that such coupon or bond was disposed of (to the extent such interest has not theretofore been included in such person's gross income),

“(2) the basis of the bond and coupons shall be increased by the amount of the accrued interest described in paragraph (1),

“(3) the basis of the bond and coupons immediately before the disposition (as adjusted pursuant to paragraph (2)) shall be allocated among the items retained by such person and the items disposed of by such person on the basis of their respective fair market values, and

“(4) for purposes of subsection (a), such person shall be treated as having purchased on the date of such disposition each such item which he retains for an amount equal to the basis allocated to such item under paragraph (3).

A rule similar to the rule of paragraph (4) shall apply in the case of any person whose basis in any bond or coupon is determined by reference to the basis of the person described in the preceding sentence.

“(c) **RETENTION OF EXISTING LAW FOR STRIPPED BONDS PURCHASED BEFORE JULY 2, 1982.**—If a bond issued at any time with interest coupons—

“(1) is purchased after August 16, 1954, and before January 1, 1958, and the purchaser does not receive all the coupons which first become payable more than 12 months after the date of the purchase, or

“(2) is purchased after December 31, 1957, and before July 2, 1982, and the purchaser does not receive all the coupons which first become payable after the date of the purchase,

then the gain on the sale or other disposition of such bond by such purchaser (or by a person whose basis is determined by reference to the basis in the hands of such purchaser) shall be considered as ordinary income to the extent that the fair market value (determined as of the time of the purchase) of the bond with coupons attached exceeds the purchase price. If this subsection and section 1271(a)(2)(A) apply with respect to gain realized on the sale or exchange of any evidence of indebtedness, then section 1271(a)(2)(A) shall apply with respect to that part of the gain to which this subsection does not apply.

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“(d) SPECIAL RULES FOR TAX-EXEMPT OBLIGATIONS.—In the case of any tax-exempt obligation (as defined in section 1275(a)(3))—

Ante, p. 540.

“(1) subsections (a) and (b)(1) shall not apply,

“(2) the rules of subsection (b)(4) shall apply for purposes of subsection (c), and

“(3) subsection (c) shall be applied without regard to the requirement that the bond be purchased before July 2, 1982.

“(e) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) BOND.—The term ‘bond’ means a bond, debenture, note, or certificate or other evidence of indebtedness.

“(2) STRIPPED BOND.—The term ‘stripped bond’ means a bond issued at any time with interest coupons where there is a separation in ownership between the bond and any coupon which has not yet become payable.

“(3) STRIPPED COUPON.—The term ‘stripped coupon’ means any coupon relating to a stripped bond.

“(4) STATED REDEMPTION PRICE AT MATURITY.—The term ‘stated redemption price at maturity’ has the meaning given such term by section 1273(a)(2).

Ante, p. 536.

“(5) COUPON.—The term ‘coupon’ includes any right to receive interest on a bond (whether or not evidenced by a coupon). This paragraph shall apply for purposes of subsection (c) only in the case of purchases after July 1, 1982.

“(6) PURCHASE.—The term ‘purchase’ has the meaning given such term by section 1272(d)(1).

Ante, p. 533.

“(f) REGULATION AUTHORITY.—The Secretary may prescribe regulations providing that where, by reason of varying rates of interest, put or call options, or other circumstances, the tax treatment under this section does not accurately reflect the income of the holder of a stripped coupon or stripped bond, or of the person disposing of such bond or coupon, as the case may be, for any period, such treatment shall be modified to require that the proper amount of income be included for such period.

26 USC 1287.

“SEC. 1287. DENIAL OF CAPITAL GAIN TREATMENT FOR GAINS ON CERTAIN OBLIGATIONS NOT IN REGISTERED FORM.

“(a) IN GENERAL.—If any registration-required obligation is not in registered form, any gain on the sale or other disposition of such

obligation shall be treated as ordinary income (unless the issuance of such obligation was subject to tax under section 4701).

“(b) DEFINITIONS.—For purposes of subsection (a)—

“(1) REGISTRATION-REQUIRED OBLIGATION.—The term ‘registration-required obligation’ has the meaning given to such term by section 163(f)(2) except that clause (iv) of subparagraph (A), and subparagraph (B), of such section shall not apply.

“(2) REGISTERED FORM.—The term ‘registered form’ has the same meaning as when used in section 163(f).

“SEC. 1238. TREATMENT OF ORIGINAL ISSUE DISCOUNT ON TAX-EXEMPT OBLIGATIONS.

26 USC 1238.

“(a) GENERAL RULE.—Original issue discount on any tax-exempt obligation shall be treated as accruing—

“(1) for purposes of section 163, in the manner provided by section 1272(a) (determined without regard to paragraph (6) thereof), and

Ante, p. 533.

“(2) for purposes of determining the adjusted basis of the holder, in the manner provided by section 1272(a) (determined with regard to paragraph (6) thereof).

“(b) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) ORIGINAL ISSUE DISCOUNT.—The term ‘original issue discount’ has the meaning given to such term by section 1273(a) without regard to paragraph (3) thereof. In applying section 483 or 1274, under regulations prescribed by the Secretary, appropriate adjustments shall be made to the applicable Federal rate to take into account the tax exemption for interest on the obligation.

Ante, p. 536.

Infra.

Ante, p. 538.

“(2) TAX-EXEMPT OBLIGATION.—The term ‘tax-exempt obligation’ has the meaning given to such term by section 1275(a)(3).

Ante, p. 540.

“(3) SHORT-TERM OBLIGATIONS.—In applying this section to obligations with maturity of 1 year or less, rules similar to the rules of section 1283(b) shall apply.”

Ante, p. 549.

(b) AMENDMENT OF SECTION 483.—Section 483 (relating to interest on certain deferred payments) is amended to read as follows:

26 USC 483.

“SEC. 483. INTEREST ON CERTAIN DEFERRED PAYMENTS.

“(a) AMOUNT CONSTITUTING INTEREST.—For purposes of this title, in the case of any payment—

“(1) under any contract for the sale or exchange of any property, and

“(2) to which this section applies,

there shall be treated as interest that portion of the total unstated interest under such contract which, as determined in a manner consistent with the method of computing interest under section 1272(a), is properly allocable to such payment.

“(b) TOTAL UNSTATED INTEREST.—For purposes of this section, the term ‘total unstated interest’ means, with respect to a contract for the sale or exchange of property, an amount equal to the excess of—

“(1) the sum of the payments to which this section applies which are due under the contract, over

“(2) the sum of the present values of such payments and the present values of any interest payments due under the contract.

For purposes of the preceding sentence, the present value of a payment shall be determined under the rules of section 1274(b)(2)

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using a discount rate equal to 120 percent of the applicable Federal rate determined under section 1274(d).

“(c) PAYMENTS TO WHICH SUBSECTION (a) APPLIES.—

“(1) IN GENERAL.—Except as provided in subsection (d), this section shall apply to any payment on account of the sale or exchange of property which constitutes part or all of the sales price and which is due more than 6 months after the date of such sale or exchange under a contract—

“(A) under which some or all of the payments are due more than 1 year after the date of such sale or exchange, and

“(B) under which, using a discount rate equal to 110 percent of the applicable Federal rate determined under section 1274(d), there is total unstated interest.

“(2) TREATMENT OF OTHER DEBT INSTRUMENTS.—For purposes of this section, a debt instrument of the purchaser which is given in consideration for the sale or exchange of property shall not be treated as a payment, and any payment due under such debt instrument shall be treated as due under the contract for the sale or exchange.

Ante, p. 540.

“(3) DEBT INSTRUMENT DEFINED.—For purposes of this subsection, the term ‘debt instrument’ has the meaning given such term by section 1275(a)(1).

“(d) EXCEPTIONS AND LIMITATIONS.—

Ante, p. 533.

“(1) COORDINATION WITH ORIGINAL ISSUE DISCOUNT RULES.—This section shall not apply to any debt instrument to which section 1272 applies.

“(2) SALES PRICES OF \$3,000 OR LESS.—This section shall not apply to any payment on account of the sale or exchange of property if it can be determined at the time of such sale or exchange that the sales price cannot exceed \$3,000.

“(3) CARRYING CHARGES.—In the case of the purchaser, the tax treatment of amounts paid on account of the sale or exchange of property shall be made without regard to this section if any such amounts are treated under section 163(b) as if they included interest.

“(4) CERTAIN SALES OF PATENTS.—In the case of any transfer described in section 1235(a) (relating to sale or exchange of patents), this section shall not apply to any amount contingent on the productivity, use, or disposition of the property transferred.

“(e) INTEREST RATES IN CASE OF SALES OF PRINCIPAL RESIDENCES OR FARM LANDS.—

Ante, p. 494.

“(1) IN GENERAL.—In the case of any debt instrument arising from a sale or exchange to which this subsection applies, subsections (b) and (c)(1)(B) shall be applied by using, in lieu of the discount rates determined under such subsections, discount rates determined under subsections (b) and (c)(1), respectively, of this section as it was in effect before the amendments made by the Tax Reform Act of 1984.

“(2) SALES OR EXCHANGES TO WHICH SUBSECTION APPLIES.—This subsection shall apply—

“(A) to any sale or exchange by an individual of his principal residence (within the meaning of section 1034), and

“(B) to any sale or exchange by a person of land used by such person as a farm (within the meaning of section 6420(c)(2)).

“(3) **LIMITATION.**—Paragraph (1) shall apply to any sale or exchange by an individual of his principal residence (within the meaning of section 1034), only to the extent the purchase price of such residence does not exceed \$250,000. For purposes of the preceding sentence, the purchase price of a residence shall be determined without regard to this section.

“(f) **MAXIMUM RATE OF INTEREST ON CERTAIN TRANSFERS OF LAND BETWEEN RELATED PARTIES.**—

“(1) **IN GENERAL.**—In the case of any qualified sale, the discount rate used in determining the total unstated interest rate under subsection (b) shall not exceed 7 percent, compounded semiannually.

“(2) **QUALIFIED SALE.**—For purposes of this subsection, the term ‘qualified sale’ means any sale or exchange of land by an individual to a member of such individual’s family (within the meaning of section 267(c)(4)).

“(3) **\$500,000 LIMITATION.**—Paragraph (1) shall not apply to any qualified sale between individuals made during any calendar year to the extent that the sales price for such sale (when added to the aggregate sales price for prior qualified sales between such individuals during the calendar year) exceeds \$500,000.

“(4) **NONRESIDENT ALIEN INDIVIDUALS.**—Paragraph (1) shall not apply to any sale or exchange if any party to such sale or exchange is a nonresident alien individual.

“(g) **REGULATIONS.**—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section including regulations providing for the application of this section in the case of—

“(1) any contract for the sale or exchange of property under which the liability for, or the amount or due date of, a payment cannot be determined at the time of the sale or exchange, or

“(2) any change in the liability for, or the amount or due date of, any payment (including interest) under a contract for the sale or exchange of property.

“(h) **CROSS REFERENCE.**—

“For special rules in the case of the borrower under certain loans for personal use, see section 1275(b).”

Ante, p. 540.

(c) **PENALTY FOR FAILURE TO MEET INFORMATION REQUIREMENTS.**—

(1) **IN GENERAL.**—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

“SEC. 6706. **ORIGINAL ISSUE DISCOUNT INFORMATION REQUIREMENTS.**

26 USC 6706.

“(a) **FAILURE TO SHOW INFORMATION ON DEBT INSTRUMENT.**—In the case of a failure to set forth on a debt instrument the information required to be set forth on such instrument under section 1275(c)(1), unless it is shown that such failure is due to reasonable cause and not to willful neglect, the issuer shall pay a penalty of \$50 for each instrument with respect to which such a failure exists.

Penalty.

Ante, p. 540.

“(b) **FAILURE TO FURNISH INFORMATION TO SECRETARY.**—Any issuer who fails to furnish information required under section 1275(c)(2) with respect to any issue of debt instruments on the date prescribed therefor (determined with regard to any extension of

Penalty.

time for filing) shall pay a penalty equal to 1 percent of the aggregate issue price of such issue, unless it is shown that such failure is due to reasonable cause and not willful neglect. The amount of the penalty imposed under the preceding sentence with respect to any issue of debt instruments shall not exceed \$50,000 for such issue.

26 USC 6211. “(c) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by this section.”

(2) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 68 is amended by adding at the end thereof the following new item:

“Sec. 6706. Original issue discount information requirements.”

SEC. 42. TECHNICAL AND CONFORMING AMENDMENTS RELATED TO ORIGINAL ISSUE DISCOUNT CHANGES.

(a) IN GENERAL.—

Repeals.

26 USC 1232,
1232A, 1232B.
26 USC 103A.

26 USC 163.
Post, p. 654.

(1) Sections 1232, 1232A, and 1232B are hereby repealed.

(2) Clause (i) of section 103A(i)(2)(C) (defining yield on the issue) is amended by striking out “section 1232(b)(2)” and inserting in lieu thereof “sections 1273(b) and 1274”.

(3) Subsection (e) of section 163 (relating to original issue discount) is amended to read as follows:

“(e) ORIGINAL ISSUE DISCOUNT.—

“(1) IN GENERAL.—In the case of any debt instrument issued after July 1, 1982, the portion of the original issue discount with respect to such debt instrument which is allowable as a deduction to the issuer for any taxable year shall be equal to the aggregate daily portions of the original issue discount for days during such taxable year.

“(2) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

Ante, p. 540.

“(A) DEBT INSTRUMENT.—The term ‘debt instrument’ has the meaning given such term by section 1275(a)(1).

Ante, p. 533.

Ante, p. 536.

“(B) DAILY PORTIONS.—The daily portion of the original issue discount for any day shall be determined under section 1272(a) (without regard to paragraph (6) thereof and without regard to section 1273(a)(3)).

“(3) EXCEPTIONS.—This subsection shall not apply to any debt instrument described in—

“(A) subparagraph (D) of section 1272(a)(2) (relating to obligations issued by natural persons before March 2, 1984), and

“(B) subparagraph (E) of section 1272(a)(2) (relating to loans between natural persons).

“(4) CROSS REFERENCES.—

Ante, p. 553.

“For provision relating to deduction of original issue discount on tax-exempt obligation, see section 1288.

Ante, p. 540.

“For special rules in the case of the borrower under certain loans for personal use, see section 1275(b).”

26 USC 165.

(4) Paragraph (3) of section 165(j) (relating to denial of deductions for losses on certain obligations not in registered form) is amended by striking out “subsection (d) of section 1232” and inserting in lieu thereof “section 1287”.

(5) Paragraph (1) of section 249(b) (relating to limitation on deduction of bond premium on repurchase) is amended by striking out "section 1232(b)" and inserting in lieu thereof "sections 1273(b) and 1274". 26 USC 249.

(6) Paragraph (1) of section 405(d) (relating to taxability of beneficiary of qualified bond purchase plan) is amended by striking out "section 1232 (relating to bonds and other evidences of indebtedness)" and inserting in lieu thereof "section 1271 (relating to treatment of amounts received on retirement or sale or exchange of debt instruments)". 26 USC 405.

(7) Paragraph (1) of section 409(b) (relating to income tax treatment of bonds) is amended by striking out "section 1232 (relating to bonds and other evidences of indebtedness)" and inserting in lieu thereof "section 1271 (relating to treatment of amounts received on retirement or sale or exchange of debt instruments)". 26 USC 409.
Post, p. 852.

(8) Paragraph (3) of section 811(b) (relating to amortization of premium and accrual of discount), as amended by this Act, is amended by striking out "section 1232(b)" and inserting in lieu thereof "section 1273". *Post*, p. 740.

(9) Subparagraph (A) of section 871(a)(1) (relating to income other than capital gains) is amended by striking out "section 1232(b)" and inserting in lieu thereof "section 1273". 26 USC 871.

(10) Paragraph (1) of section 881(a) (relating to imposition of tax) is amended by striking out "section 1232(b)" and inserting in lieu thereof "section 1273". 26 USC 881.

(11) Subsection (b) of section 1037 (relating to application of section 1232) is amended— 26 USC 1037.

(A) by striking out "section 1232(a)(2)(B)" in paragraph (1) and inserting in lieu thereof "section 1271(c)(2)",

(B) by striking out "section 1232" in paragraphs (1) and (2) and inserting in lieu thereof "subpart A of part V of subchapter P", and

(C) by striking out "SECTION 1232" in the subsection heading and inserting in lieu thereof "ORIGINAL ISSUE DISCOUNT RULES".

(12) Subsection (h) of section 1351 (relating to special rule for evidences of indebtedness) is amended by striking out "section 1232(a)(2)" and inserting in lieu thereof "section 1273(a)". 26 USC 1351.

(13) Subsection (b) of section 1441 (relating to withholding of tax on nonresident alien) is amended by striking out "section 1232(b)" and inserting in lieu thereof "section 1273". 26 USC 1441.

(14) Paragraph (6) of section 6049(d) (relating to treatment of original issue discount) is amended— 26 USC 6049.

(A) by striking out "section 1232A" each place it appears in subparagraph (A) and inserting in lieu thereof "section 1272", and

(B) by striking out "section 1232(b)(1)" and inserting in lieu thereof "section 1273(a)".

(b) CLERICAL AMENDMENTS.—

(1) The table of parts for subchapter P of chapter 1 is amended by adding at the end thereof the following new item:

"PART V. Special rules for bonds and other debt instruments."

(2) The table of sections for part IV of subchapter P of chapter 1 is amended by striking out the items relating to sections 1232, 1232A, and 1232B.

SEC. 43. TECHNICAL AND CONFORMING AMENDMENTS RELATED TO TREATMENT OF MARKET DISCOUNT AND ACQUISITION DISCOUNT.

(a) DEFINITION OF SUBSTITUTED BASIS PROPERTY; ETC.—

97 Stat. 379.
26 USC 7701.

(1) **IN GENERAL.**—Section 7701(a) (relating to definitions) is amended by adding at the end thereof the following new paragraphs:

“(42) **SUBSTITUTED BASIS PROPERTY.**—The term ‘substituted basis property’ means property which is—

“(A) transferred basis property, or

“(B) exchanged basis property.

“(43) **TRANSFERRED BASIS PROPERTY.**—The term ‘transferred basis property’ means property having a basis determined under any provision of subtitle A (or under any corresponding provision of prior income tax law) providing that the basis shall be determined in whole or in part by reference to the basis in the hands of the donor, grantor, or other transferor.

“(44) **EXCHANGED BASIS PROPERTY.**—The term ‘exchanged basis property’ means property having a basis determined under any provision of subtitle A (or under any corresponding provision of prior income tax law) providing that the basis shall be determined in whole or in part by reference to other property held at any time by the person for whom the basis is to be determined.

“(45) **NONRECOGNITION TRANSACTION.**—The term ‘nonrecognition transaction’ means any disposition of property in a transaction in which gain or loss is not recognized in whole or in part for purposes of subtitle A.”

26 USC 1016.

(2) **TECHNICAL AMENDMENT.**—Subsection (b) of section 1016 is amended by striking out the last sentence.

26 USC 7805.

(b) **ELECTIONS MADE IN MANNER PRESCRIBED BY SECRETARY.**—Section 7805 (relating to rules and regulations) is amended by adding at the end thereof the following new subsection:

“(d) **MANNER OF MAKING ELECTIONS PRESCRIBED BY SECRETARY.**—Except to the extent otherwise provided by this title, any election under this title shall be made at such time and in such manner as the Secretary shall by regulations or forms prescribe.”

(c) OTHER TECHNICAL AMENDMENTS.—

26 USC 341.

(1) Paragraph (12) of section 341(e) (related to nonapplication of section 1254(a)) is amended by striking out “and 1254(a)” and inserting in lieu thereof “1254(a), and 1276(a)”.

26 USC 453B.

(2) Paragraph (2) of section 453B(d) (relating to liquidations to which section 337 applies) is amended by striking out “or 1254(a)” and inserting in lieu thereof “1254(a), or 1276(a)”.

26 USC 751.

(3) Subsection (c) of section 751 (defining unrealized receivables) is amended by adding at the end thereof the following new sentence: “For purposes of this section and sections 731, 736, and 741, such term also includes any market discount bond (as defined in section 1278) and any short-term obligation (as defined in section 1283) but only to the extent of the amount which would be treated as ordinary income if (at the time of the transaction described in this section or section 731, 736, or 741, as the case may be) such property had been sold by the partnership.”

Ante, p. 547.

Ante, p. 549.

SEC. 44. EFFECTIVE DATES.

26 USC 1271
note.

(a) **GENERAL RULE.**—Except as otherwise provided in this section, the amendments made by this subtitle shall apply to taxable years ending after the date of the enactment of this Act.

(b) **TREATMENT OF DEBT INSTRUMENTS RECEIVED IN EXCHANGE FOR PROPERTY.**—

(1) **IN GENERAL.**—

(A) Except as otherwise provided in this subsection, section 1274 of the Internal Revenue Code of 1954 (as added by section 41) and the amendment made by section 41(b) (relating to amendment of section 483) shall apply to sales or exchanges after December 31, 1984.

Ante, p. 538.*Ante*, p. 553.

(B) Section 1274 of such Code and the amendment made by section 41(b) shall not apply to any sale or exchange pursuant to a written contract which was binding on March 1, 1984, and at all times thereafter before the sale or exchange.

(2) **REVISION OF SECTION 482 REGULATIONS.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Treasury or his delegate shall modify the safe harbor interest rates applicable under the regulations prescribed under section 482 of the Internal Revenue Code of 1954 so that such rates are consistent with the rates applicable under section 483 of such Code by reason of the amendments made by section 41.

Ante, p. 531.

(3) **CLARIFICATION OF INTEREST ACCRUAL; FAIR MARKET VALUE RULE IN CASE OF POTENTIALLY ABUSIVE SITUATIONS.**—

(A) **IN GENERAL.**—

(i) **CLARIFICATION OF INTEREST ACCRUAL.**—In the case of any sale or exchange—

(I) after March 1, 1984, and before January 1, 1985, nothing in section 483 of the Internal Revenue Code of 1954 shall permit any interest to be deductible before the period to which such interest is properly allocable, or

Ante, p. 553.

(II) after June 8, 1984, and before January 1, 1985, notwithstanding section 483 of the Internal Revenue Code of 1954 or any other provision of law, no interest shall be deductible before the period to which such interest is properly allocable.

(ii) **FAIR MARKET RULE.**—In the case of any sale or exchange after March 1, 1984, and before January 1, 1985, such section 483 shall be treated as including provisions similar to the provisions of section 1274(b)(3) of such Code (as added by section 41).

Ante, p. 538.

(B) **EXCEPTION FOR BINDING CONTRACTS.**—Subparagraph (A) shall not apply to any sale or exchange pursuant to a written contract which was binding on March 1, 1984, and at all times thereafter before the sale or exchange.

(C) **INTEREST ACCRUAL RULE NOT TO APPLY WHERE SUBSTANTIALLY EQUAL ANNUAL PAYMENTS.**—Clause (i) of subparagraph (A) shall not apply to any debt instrument with substantially equal annual payments.

(c) **MARKET DISCOUNT RULES.**—

(1) **ORDINARY INCOME TREATMENT.**—Section 1276 of the Internal Revenue Code of 1954 (as added by section 41) shall apply to

Ante, p. 543.

obligations issued after the date of the enactment of this Act in taxable years ending after such date.

Ante, p. 545.

(2) **INTEREST DEFERRAL RULES.**—Section 1277 of such Code (as added by section 41) shall apply to obligations acquired after the date of the enactment of this Act in taxable years ending after such date.

Ante, p. 548.

(d) **RULES RELATING TO DISCOUNT ON SHORT-TERM OBLIGATIONS.**—Subpart C of part V of subchapter P of chapter 1 of such Code (as added by section 41) shall apply to obligations acquired after the date of the enactment of this Act.

(e) **5-YEAR SPREAD OF ADJUSTMENTS REQUIRED BY REASON OF ACCRUAL OF DISCOUNT ON CERTAIN SHORT-TERM OBLIGATIONS.**—

Ante, p. 548.

(1) **ELECTION TO HAVE SECTION 1281 APPLY TO ALL OBLIGATIONS HELD DURING TAXABLE YEAR.**—A taxpayer may elect for his first taxable year ending after the date of the enactment of this Act to have section 1281 of the Internal Revenue Code of 1954 apply to all short-term obligations described in subsection (b) of such section which were held by the taxpayer at any time during such first taxable year.

(2) **5-YEAR SPREAD.**—

(A) **IN GENERAL.**—In the case of any taxpayer who makes an election under paragraph (1)—

(i) the provisions of section 1281 of the Internal Revenue Code of 1954 (as added by section 41) shall be treated as a change in the method of accounting of the taxpayer,

(ii) such change shall be treated as having been made with the consent of the Secretary, and

(iii) the net amount of the adjustments required by section 481(a) of such Code to be taken into account by the taxpayer in computing taxable income (hereinafter in this paragraph referred to as the “net adjustments”) shall be taken into account during the spread period with the amount taken into account in each taxable year in such period determined under subparagraph (B).

(B) **AMOUNT TAKEN INTO ACCOUNT DURING EACH YEAR OF SPREAD PERIOD.**—

(i) **FIRST YEAR.**—The amount taken into account for the first taxable year in the spread period shall be the sum of—

(I) one-fifth of the net adjustments, and

(II) the excess (if any) of—

(a) the cash basis income over the accrual basis income, over

(b) one-fifth of the net adjustments.

(ii) **FOR SUBSEQUENT YEARS IN SPREAD PERIOD.**—The amount taken into account in the second or any succeeding taxable year in the spread period shall be the sum of—

(I) the portion of the net adjustments not taken into account in the preceding taxable year of the spread period divided by the number of remaining taxable years in the spread period (including the year for which the determination is being made), and

(II) the excess (if any) of—

(a) the excess of the cash basis income over the accrual basis income, over

(b) one-fifth of the net adjustments, multiplied by 5 minus the number of years remaining in the spread period (not including the current year).

The excess described in subparagraph (B)(i)(II)(a) shall be reduced by any amount taken into account under this subclause or clause (i)(II) in any prior year.

(C) **SPREAD PERIOD.**—For purposes of this paragraph, the term “spread period” means the period consisting of the 5 taxable years beginning with the year for which the election is made under paragraph (1).

(D) **CASH BASIS INCOME.**—For purposes of this paragraph, the term “cash basis income” means for any taxable year the aggregate amount which would be includible in the gross income of the taxpayer with respect to short-term obligations described in subsection (b) of section 1281 of such Code if the provisions of section 1281 of such Code did not apply to such taxable year and all prior taxable years within the spread period.

Ante, p. 548.

(E) **ACCRUAL BASIS INCOME.**—For purposes of this paragraph, the term “accrual basis income” means for any taxable year the aggregate amount includible in gross income under section 1281(a) of such Code for such a taxable year and all prior taxable years within the spread period.

(f) **TREATMENT OF ORIGINAL ISSUE DISCOUNT ON TAX-EXEMPT OBLIGATIONS.**—Section 1288 of such Code (as added by section 41) shall apply to obligations issued after September 3, 1982, and acquired after March 1, 1984.

Ante, p. 553.

(g) **REPEAL OF CAPITAL ASSET REQUIREMENT.**—Section 1272 of such Code (as added by section 41) shall not apply to any obligation issued before December 31, 1984, which is not a capital asset in the hands of the taxpayer.

Ante, p. 533.

(h) **REPORTING REQUIREMENTS.**—Section 1275(c) of such Code (as added by section 41) and the amendments made by section 41(c) shall take effect on the day 30 days after the date of the enactment of this Act.

Ante, p. 540.

Ante, p. 531.

(i) **OTHER MISCELLANEOUS CHANGES.**—

(1) **ACCRUAL PERIOD.**—In the case of any obligation issued after July 1, 1982, and before January 1, 1985, the accrual period, for purposes of section 1272(a) of the Internal Revenue Code of 1954 (as amended by section 41(a)), shall be a 1-year period (or shorter period to maturity) beginning on the day in the calendar year which corresponds to the date of original issue of the obligation.

Ante, p. 533.

(2) **CHANGE IN REDUCTION FOR PURCHASE AFTER ORIGINAL ISSUE.**—Section 1272(a)(6) of such Code (as so amended) shall not apply to any purchase on or before the date of the enactment of this Act, and the rules of section 1232A(a)(6) of such Code (as in effect on the day before the date of the enactment of this Act) shall continue to apply to such purchase.

(j) **CLARIFICATION THAT PRIOR EFFECTIVE DATE RULES NOT AFFECTED.**—Nothing in the amendment made by section 41(a) shall affect the application of any effective date provision (including any

Ante, p. 531.

Ante, p. 531. transitional rule) for any provision which was a predecessor to any provision contained in part V of subchapter P of chapter 1 of the Internal Revenue Code of 1954 (as added by section 41).

Subtitle D—Corporate Provisions

PART I—LIMITATIONS ON DIVIDENDS RECEIVED DEDUCTION

SEC. 51. DIVIDENDS RECEIVED DEDUCTION REDUCED WHERE PORTFOLIO STOCK IS DEBT FINANCED.

(a) **GENERAL RULE.**—Part VIII of subchapter B of chapter 1 (relating to special deductions for corporations) is amended by inserting after section 246 the following new section:

26 USC 246A.

“SEC. 246A. DIVIDENDS RECEIVED DEDUCTION REDUCED WHERE PORTFOLIO STOCK IS DEBT FINANCED.

“(a) **GENERAL RULE.**—In the case of any dividend on debt-financed portfolio stock, there shall be substituted for the percentage which (but for this subsection) would be used in determining the amount of the deduction allowable under section 243, 244, or 245 a percentage equal to the product of—

“(1) 85 percent, and

“(2) 100 percent minus the average indebtedness percentage.

“(b) **SECTION NOT TO APPLY TO DIVIDENDS FOR WHICH 100 PERCENT DIVIDENDS RECEIVED DEDUCTION ALLOWABLE.**—Subsection (a) shall not apply to—

“(1) qualifying dividends (as defined in section 243(b) without regard to section 243(c)(4)), and

“(2) dividends received by a small business investment company operating under the Small Business Investment Act of 1958.

15 USC 661 note.

“(c) **DEBT FINANCED PORTFOLIO STOCK.**—For purposes of this section—

“(1) **IN GENERAL.**—The term ‘debt financed portfolio stock’ means any portfolio stock if at some time during the base period there is portfolio indebtedness with respect to such stock.

“(2) **PORTFOLIO STOCK.**—The term ‘portfolio stock’ means any stock of a corporation unless—

“(A) as of the beginning of the ex-dividend date, the taxpayer owns stock of such corporation—

“(i) possessing at least 50 percent of the total voting power of the stock of such corporation, and

“(ii) having a value equal to at least 50 percent of the total value of the stock of such corporation, or

“(B) as of the beginning of the ex-dividend date—

“(i) the taxpayer owns stock of such corporation which would meet the requirements of subparagraph (A) if ‘20 percent’ were substituted for ‘50 percent’ each place it appears in such subparagraph, and

“(ii) stock meeting the requirements of subparagraph (A) is owned by 5 or fewer corporate shareholders.

“(3) **SPECIAL RULE FOR STOCK IN A BANK OR BANK HOLDING COMPANY.**—

“(A) **IN GENERAL.**—If, as of the beginning of the ex-dividend date, the taxpayer owns stock of any bank or bank

holding company having a value equal to at least 80 percent of the total value of the stock of such bank or bank holding company, for purposes of paragraph (2)(A)(i), the taxpayer shall be treated as owning any stock of such bank or bank holding company which the taxpayer has an option to acquire.

“(B) DEFINITIONS.—For purposes of subparagraph (A)—

“(i) BANK.—The term ‘bank’ has the meaning given such term by section 581.

“(ii) BANK HOLDING COMPANY.—The term ‘bank holding company’ means a bank holding company (within the meaning of section 2(a) of the Bank Holding Company Act of 1956).

12 USC 1841.

“(4) TREATMENT OF CERTAIN PREFERRED STOCK.—For purposes of determining whether the requirements of subparagraph (A) or (B) of paragraph (2) or of subparagraph (A) of paragraph (3) are met, stock described in section 1504(a)(4) shall not be taken into account.

Post, p. 577.

“(d) AVERAGE INDEBTEDNESS PERCENTAGE.—For purposes of this section—

“(1) IN GENERAL.—Except as provided in paragraph (2), the term ‘average indebtedness percentage’ means the percentage obtained by dividing—

“(A) the average amount (determined under regulations prescribed by the Secretary) of the portfolio indebtedness with respect to the stock during the base period, by

“(B) the average amount (determined under regulations prescribed by the Secretary) of the adjusted basis of the stock during the base period.

“(2) SPECIAL RULE WHERE STOCK NOT HELD THROUGHOUT BASE PERIOD.—In the case of any stock which was not held by the taxpayer throughout the base period, paragraph (1) shall be applied as if the base period consisted only of that portion of the base period during which the stock was held by the taxpayer.

“(3) PORTFOLIO INDEBTEDNESS.—

“(A) IN GENERAL.—The term ‘portfolio indebtedness’ means any indebtedness directly attributable to investment in the portfolio stock.

“(B) CERTAIN AMOUNTS RECEIVED FROM SHORT SALE TREATED AS INDEBTEDNESS.—For purposes of subparagraph (A), any amount received from a short sale shall be treated as indebtedness for the period beginning on the day on which such amount is received and ending on the day the short sale is closed.

“(4) BASE PERIOD.—The term ‘base period’ means, with respect to any dividend, the shorter of—

“(A) the period beginning on the ex-dividend date for the most recent previous dividend on the stock and ending on the day before the ex-dividend date for the dividend involved, or

“(B) the 1-year period ending on the day before the ex-dividend date for the dividend involved.

“(e) REDUCTION IN DIVIDENDS RECEIVED DEDUCTION NOT TO EXCEED ALLOCABLE INTEREST.—Under regulations prescribed by the Secretary, any reduction under this section in the amount allowable as a deduction under section 243, 244, or 245 with respect to any dividend shall not exceed the amount of any interest deduction

(including any deductible short sale expense) allocable to such dividend.

Post, p. 567.

“(f) REGULATIONS.—The regulations prescribed for purposes of this section under section 7701(f) shall include regulations providing for the disallowance of interest deductions or other appropriate treatment (in lieu of reducing the dividend received deduction) where the obligor of the indebtedness is a person other than the person receiving the dividend.”

(b) CLERICAL AMENDMENT.—The table of sections for part VIII of subchapter B of chapter 1 is amended by inserting after the item relating to section 246 the following new item:

“Sec. 246A. Dividends received deduction reduced where portfolio stock is debt financed.”

26 USC 246A
note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to stock the holding period for which begins after the date of the enactment of this Act in taxable years ending after such date.

SEC. 52. TREATMENT OF DIVIDENDS FROM REGULATED INVESTMENT COMPANIES.

26 USC 854.

(a) INCREASE IN REQUIRED AMOUNT OF DIVIDENDS.—Paragraph (1) of section 854(b) (relating to other dividends) is amended to read as follows:

“(1) AMOUNT TREATED AS DIVIDEND.—

“(A) DEDUCTION UNDER SECTION 243.—In any case in which—

“(i) a dividend is received from a regulated investment company (other than a dividend to which subsection (a) applies), and

“(ii) such investment company meets the requirements of section 852(a) for the taxable year during which it paid such dividend,

then, in computing any deduction under section 243, there shall be taken into account only that portion of such dividend designated under this subparagraph by the regulated investment company.

“(B) EXCLUSION UNDER SECTION 116.—If the aggregate dividends received by a regulated investment company during any taxable year are less than 95 percent of its gross income, then, in computing the exclusion under section 116, rules similar to the rules of subparagraph (A) shall apply.

“(C) LIMITATION.—The aggregate amount which may be designated as dividends under subparagraph (A) or (B) shall not exceed the aggregate dividends received by the company for the taxable year.”

(b) CERTAIN DIVIDENDS NOT TAKEN INTO ACCOUNT FOR PURPOSES OF COMPUTING DEDUCTION UNDER SECTION 243.—Subsection (b) of section 854 is amended by adding at the end thereof the following new paragraph:

“(4) SPECIAL RULE FOR COMPUTING DEDUCTION UNDER SECTION 243.—For purposes of subparagraph (A) of paragraph (1), an amount shall be treated as a dividend for the purpose of paragraph (1) only if a deduction would have been allowable under section 243 to the regulated investment company determined—

“(A) as if section 243 applied to dividends received by a regulated investment company,

“(B) after the application of section 246 (but without regard to subsection (b) thereof), and

“(C) after the application of section 246A.”

Ante, p. 562.

(c) GROSS INCOME INCLUDES NET SHORT-TERM CAPITAL GAIN.—Paragraph (3)(A) of section 854(b) is amended to read as follows:

26 USC 854.

“(A) In the case of 1 or more sales or other dispositions of stock and securities, the term ‘gross income’ includes only the excess of—

“(i) the net short-term capital gain from such sales or dispositions, over

“(ii) the net long-term capital loss from such sales or dispositions.”

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of regulated investment companies beginning after the date of the enactment of this Act.

26 USC 854 note.

PART II—TREATMENT OF CERTAIN DISTRIBUTIONS

SEC. 53. CORPORATE SHAREHOLDER'S BASIS IN STOCK REDUCED BY NON-TAXED PORTION OF EXTRAORDINARY DIVIDENDS.

(a) GENERAL RULE.—Part IV of subchapter O of chapter 1 (relating to special rules for gain or loss on disposition of property) is amended by redesignating section 1059 as section 1060 and by inserting after section 1058 the following new section:

26 USC 1060.

“SEC. 1059. CORPORATE SHAREHOLDER'S BASIS IN STOCK REDUCED BY NONTAXED PORTION OF EXTRAORDINARY DIVIDENDS.

26 USC 1059.

“(a) GENERAL RULE.—If any corporation—

“(1) receives an extraordinary dividend with respect to any share of stock, and

“(2) sells or otherwise disposes of such stock before such stock has been held for more than 1 year, the basis of such corporation in such stock shall be reduced by the nontaxed portion of such dividend. If the nontaxed portion of such dividend exceeds such basis, such excess shall be treated as gain from the sale or exchange of such stock.

“(b) NONTAXED PORTION.—For purposes of this section—

“(1) IN GENERAL.—The nontaxed portion of any dividend is the excess (if any) of—

“(A) the amount of such dividend, over

“(B) the taxable portion of such dividend.

“(2) TAXABLE PORTION.—The taxable portion of any dividend is—

“(A) the portion of such dividend includible in gross income, reduced by

“(B) the amount of any deduction allowable with respect to such dividend under section 243, 244, or 245.

“(c) EXTRAORDINARY DIVIDEND DEFINED.—For purposes of this section—

“(1) IN GENERAL.—The term ‘extraordinary dividend’ means any dividend with respect to a share of stock if the amount of such dividend equals or exceeds the threshold percentage of the taxpayer's adjusted basis in such share of stock (determined without regard to this section).

“(2) THRESHOLD PERCENTAGE.—The term ‘threshold percentage’ means—

“(A) 5 percent in the case of stock which is preferred as to dividends, and

“(B) 10 percent in the case of any other stock.

“(3) AGGREGATION OF DIVIDENDS.—

“(A) AGGREGATION WITHIN 85-DAY PERIOD.—All dividends—

“(i) which are received by the taxpayer (or a person described in subparagraph (C)) with respect to any share of stock, and

“(ii) which have ex-dividend dates within the same period of 85 consecutive days, shall be treated as 1 dividend.

“(B) AGGREGATION WITHIN 1 YEAR WHERE DIVIDENDS EXCEED 20 PERCENT OF ADJUSTED BASIS.—All dividends—

“(i) which are received by the taxpayer (or a person described in subparagraph (C)) with respect to any share of stock, and

“(ii) which have ex-dividend dates during the same period of 365 consecutive days, shall be treated as extraordinary dividends if the aggregate of such dividends exceeds 20 percent of the taxpayer's adjusted basis in such stock (determined without regard to this section).

“(C) SUBSTITUTED BASIS TRANSACTIONS.—In the case of any stock, a person is described in this subparagraph if—

“(i) the basis of such stock in the hands of such person is determined in whole or in part by reference to the basis of such stock in the hands of the taxpayer, or

“(ii) the basis of such stock in the hands of the taxpayer is determined in whole or in part by reference to the basis of such stock in the hands of such person.

“(d) SPECIAL RULES.—For purposes of this section—

“(1) TIME FOR REDUCTION.—Any reduction in basis under subsection (a) by reason of any distribution which is an extraordinary dividend shall occur at the beginning of the ex-dividend date for such distribution.

“(2) DISTRIBUTIONS IN KIND.—To the extent any dividend consists of property other than cash, the amount of such dividend shall be treated as the fair market value of such property (as of the date of the distribution) reduced as provided in section 301(b)(2).

“(3) DETERMINATION OF HOLDING PERIOD.—For purposes of determining the holding period of stock under subsection (a)(2), rules similar to the rules of paragraphs (3) and (4) of section 246(c) shall apply; except that ‘1 year’ shall be substituted for the number of days specified in subparagraph (B) of section 246(c)(3).

“(4) EX-DIVIDEND DATE.—The term ‘ex-dividend date’ means the date on which the share of stock becomes ex-dividend.

“(5) EXTENSION TO CERTAIN PROPERTY DISTRIBUTIONS.—In the case of any distribution of property (other than cash) to which section 301 applies—

“(A) such distribution shall be treated as a dividend without regard to whether the corporation has earnings and profits, and

“(B) the amount so treated shall be reduced by the amount of any reduction in basis under section 301(c)(2) by reason of such distribution.

“(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including regulations providing for the application of this section in the case of stock dividends, stock splits, reorganizations, and other similar transactions.”

(b) HOLDING PERIODS.—

(1) 45-DAY HOLDING PERIOD.—Subsection (c) of section 246 (relating to the exclusion of certain dividends) is amended by striking out “15” each place it appears and inserting in lieu thereof “45”.

26 USC 246.

(2) RULES FOR COMPUTING HOLDING PERIODS.—Subsection (c) of section 246 (relating to the exclusion of certain dividends) is amended by adding at the end thereof the following new paragraph:

“(4) HOLDING PERIOD REDUCED FOR PERIODS WHERE RISK OF LOSS DIMINISHED.—The holding periods determined under paragraph (3) shall be appropriately reduced (in the manner provided in regulations prescribed by the Secretary) for any period (during such periods) in which—

“(A) the taxpayer has an option to sell, is under a contractual obligation to sell, or has made (and not closed) a short sale of, substantially identical stock or securities,

“(B) the taxpayer is the grantor of an option to buy substantially identical stock or securities, or

“(C) under regulations prescribed by the Secretary, a taxpayer has diminished his risk of loss by holding 1 or more other positions with respect to substantially similar or related property.

The preceding sentence shall not apply in the case of any qualified covered call (as defined in section 1092(c)(4) but without regard to the requirement that gain or loss with respect to the option not be ordinary income or loss).”

Post, p. 616.

(3) Subparagraph (B) of section 246(c)(1) is amended to read as follows:

“(B) to the extent that the taxpayer is under an obligation (whether pursuant to a short sale or otherwise) to make related payments with respect to positions in substantially similar or related property.”

(4) Paragraph (3) of section 246(c) is amended by striking out the last sentence.

(c) APPLICATION OF RELATED PERSON RULES TO SECTION 246(c) AND CERTAIN OTHER PROVISIONS.—Section 7701 is amended by redesignating subsection (f) as (g) and by inserting after subsection (e) the following new subsection:

Ante, p. 518.

“(f) USE OF RELATED PERSONS OR PASS-THRU ENTITIES.—The Secretary shall prescribe such regulations as may be necessary or appropriate to prevent the avoidance of those provisions of this title which deal with—

Regulations.

“(1) the linking of borrowing to investment, or

“(2) diminishing risks, through the use of related persons, pass-thru entities, or other intermediaries.”

(d) CONFORMING AMENDMENTS.—

(1) The table of sections for part IV of subchapter O of chapter 1 is amended by striking out the item relating to section 1059 and inserting in lieu thereof the following new items:

"Sec. 1059. Corporate shareholder's basis in stock reduced by nontaxed portion of extraordinary dividends.

"Sec. 1060. Cross references."

26 USC 246.

(2) Paragraph (1) of section 246(b) (relating to limitation on aggregate amount of deduction) is amended by striking out "and without regard" and inserting in lieu thereof "without regard to any adjustment under section 1059, and without regard".

26 USC 1016.

(3) Section 1016(a) (relating to adjustments to basis) is amended by striking out "and" at the end of paragraph (24), by striking out the period at the end of paragraph (25) and inserting in lieu thereof ", and" and by adding at the end thereof the following new paragraph:

Ante, p. 565.

"(26) to the extent provided in section 1059 (relating to reduction in basis for extraordinary dividends)."

26 USC 1059
note.

(e) EFFECTIVE DATE.—

(1) **IN GENERAL.**—Except as provided in this subsection, the amendments made by this section shall apply to distributions after March 1, 1984, in taxable years ending after such date.

(2) **SUBSECTION (b).**—The amendments made by subsection (b) shall apply to stock acquired after the date of the enactment of this Act in taxable years ending after such date.

(3) **RELATED PERSON PROVISIONS.**—The amendment made by subsection (c) shall take effect on the date of the enactment of this Act.

SEC. 54. DISTRIBUTIONS OF APPRECIATED PROPERTY BY CORPORATIONS.

(a) GAIN RECOGNIZED ON DISTRIBUTIONS OF APPRECIATED PROPERTY.—

26 USC 311.

(1) **IN GENERAL.**—Paragraph (1) of section 311(d) (relating to appreciated property used to redeem stock) is amended to read as follows:

"(1) **IN GENERAL.**—If—

"(A) a corporation distributes property (other than an obligation of such corporation) to a shareholder in a distribution to which subpart A applies, and

"(B) the fair market value of such property exceeds its adjusted basis (in the hands of the distributing corporation), then gain shall be recognized to the distributing corporation in an amount equal to such excess as if the property distributed had been sold at the time of the distribution. This subsection shall be applied after the application of subsections (b) and (c)."

(2) EXCEPTIONS.—

(A) Paragraph (2) of section 311(d) is amended by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) a distribution which is made with respect to qualified stock if—

"(i) section 302(b)(4) applies to such distribution, or
"(ii) such distribution is a qualified dividend;"

(B) Paragraph (2) of section 311(d) is amended by redesignating subparagraphs (C), (D), (E), and (F) as subparagraphs (B), (C), (D), and (E), respectively.

(C) Subsection (e) of section 311 is amended by adding at the end thereof the following new paragraph:

“(3) QUALIFIED DIVIDEND.—The term ‘qualified dividend’ means any distribution of property to a shareholder other than a corporation if—

“(A) such distribution is a dividend,

“(B) such property was used by the distributing corporation in the active conduct of a qualified business (as defined in paragraph (2)), and

“(C) such property is not property described in paragraph (1) or (4) of section 1221.”

(3) CLERICAL AMENDMENT.—The subsection heading of subsection (d) of section 311 is amended to read as follows:

26 USC 311.

“(d) DISTRIBUTIONS OF APPRECIATED PROPERTY.—”

(b) HOLDING PERIOD OF CORPORATE DISTRIBUTE OF APPRECIATED PROPERTY.—Section 301 (relating to distributions of property) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

26 USC 301.

“(e) SPECIAL RULE FOR HOLDING PERIOD OF APPRECIATED PROPERTY DISTRIBUTED TO CORPORATION.—For purposes of this subtitle—

“(1) WHERE GAIN RECOGNIZED UNDER SECTION 311(d).—If—

“(A) property is distributed to a corporation, and

“(B) gain is recognized on such distribution under paragraph (1) of section 311(d),

Ante, p. 568.

then such corporation’s holding period in the distributed property shall begin on the date of such distribution.

“(2) WHERE GAIN NOT RECOGNIZED UNDER SECTION 311(d).—If—

“(A) property is distributed to a corporation,

“(B) gain is not recognized on such distribution under paragraph (1) of section 311(d), and

“(C) the basis of such property in the hands of such corporation is determined under subsection (d)(2)(B),

then (except for purposes of section 1248) such corporation shall not be treated as holding the distributed property during any period before the date on which such corporation’s holding period in the stock began.”

(c) CROSS REFERENCE.—Paragraph (13) of section 1223 (relating to holding period of property) is amended to read as follows:

Post, p. 890.

“(13) CROSS REFERENCES.—

“(A) For special holding period provision relating to certain partnership distributions, see section 735(b).

“(B) For special holding period provision relating to distributions of appreciated property to corporations, see section 301(e).”

Supra.

(d) EFFECTIVE DATES.—

26 USC 311 note.

(1) SUBSECTION (a).—Except as otherwise provided in this subsection, the amendments made by subsection (a) shall apply to distributions declared on or after June 14, 1984, in taxable years ending after such date.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to distributions after the date of the enactment of this Act in taxable years ending after such date.

(3) EXCEPTION FOR DISTRIBUTIONS BEFORE JANUARY 1, 1985, TO 80-PERCENT CORPORATE SHAREHOLDERS.—

(A) IN GENERAL.—The amendments made by subsection (a) shall not apply to any distribution before January 1, 1985, to an 80-percent corporate shareholder if the basis of

the property distributed is determined under section 301(d)(2) of the Internal Revenue Code of 1954.

(B) 80-PERCENT CORPORATE SHAREHOLDER.—The term “80-percent corporate shareholder” means, with respect to any distribution, any corporation which owns—

(i) stock in the corporation making the distribution possessing at least 80 percent of the total combined voting power of all classes of stock entitled to vote, and

(ii) at least 80 percent of the total number of shares of all other classes of stock of the distributing corporation (except nonvoting stock which is limited and preferred as to dividends).

(C) SPECIAL RULE FOR AFFILIATED GROUP FILING CONSOLIDATED RETURN.—For purposes of this paragraph and paragraph (4), all members of the same affiliated group (as defined in section 1504 of the Internal Revenue Code of 1954) which file a consolidated return for the taxable year which includes the date of the distribution shall be treated as 1 corporation.

(4) EXCEPTION FOR CERTAIN DISTRIBUTIONS WHERE TENDER OFFER COMMENCED ON MAY 23, 1984.—

(A) IN GENERAL.—The amendments made by subsection (a) shall not apply to any distribution made before September 1, 1986, if—

(i) such distribution consists of qualified stock held (directly or indirectly) on June 15, 1984, by the distributing corporation,

(ii) control of the distributing corporation (as defined in section 368(c) of the Internal Revenue Code of 1954) is acquired other than in a tax-free transaction after January 1, 1984, but before January 1, 1985,

(iii) a tender offer for the shares of the distributing corporation was commenced on May 23, 1984, and was amended on May 24, 1984, and

(iv) the distributing corporation and the distributee corporation are members of the same affiliated group (as defined in section 1504 of such Code) which filed a consolidated return for the taxable year which includes the date of the distribution.

If the common parent of any affiliated group filing a consolidated return meets the requirements of clauses (ii) and (iii), each other member of such group shall be treated as meeting such requirements.

(B) QUALIFIED STOCK.—For purposes of subparagraph (A), the term “qualified stock” means any stock in a corporation which on June 15, 1984, was a member of the same affiliated group as the distributing corporation and which filed a consolidated return with the distributing corporation for the taxable year which included June 15, 1984.

(5) EXCEPTION FOR CERTAIN DISTRIBUTIONS.—

(A) IN GENERAL.—The amendments made by this section shall not apply to distributions before February 1, 1986, if—

(i) the distribution consists of property held on March 7, 1984 (or property acquired thereafter in the ordinary course of a trade or business) by—

(I) the controlled corporation, or

(II) any subsidiary controlled corporation,

(ii) a group of 1 or more shareholders (acting in concert)—

(I) acquired, during the 1-year period ending on February 1, 1984, at least 10 percent of the outstanding stock of the controlled corporation,

(II) held at least 10 percent of the outstanding stock of the common parent on February 1, 1984, and

(III) submitted a proposal for distributions of interests in a royalty trust from the common parent or the controlled corporation, and

(iii) the common parent acquired control of the controlled corporation during the 1-year period ending on February 1, 1984.

(B) DEFINITIONS.—For purposes of this paragraph—

(i) The term “common parent” has the meaning given such term by section 1504(a) of the Internal Revenue Code of 1954.

(ii) The term “controlled corporation” means a corporation with respect to which 50 percent or more of the outstanding stock of its common parent is tendered for pursuant to a tender offer outstanding on March 7, 1984.

(iii) The term “subsidiary controlled corporation” means any corporation with respect to which the controlled corporation has control (within the meaning of section 368(c) of such Code) on March 7, 1984.

(6) EXCEPTION FOR CERTAIN DISTRIBUTION OF PARTNERSHIP INTERESTS.—The amendments made by this section shall not apply to any distribution before February 1, 1986, of an interest in a partnership the interests of which were being traded on a national securities exchange on March 7, 1984, if—

(A) such interest was owned by the distributing corporation (or any member of an affiliated group within the meaning of section 1504(a) of such Code of which the distributing corporation was a member) on March 7, 1984,

(B) the distributing corporation (or any such affiliated member) owned more than 80 percent of the interests in such partnership on March 7, 1984, and

(C) more than 10 percent of the interests in such partnership was offered for sale to the public during the 1-year period ending on March 7, 1984.

SEC. 55. EXTENSION OF HOLDING PERIOD FOR LOSSES ATTRIBUTABLE TO CAPITAL GAIN DIVIDENDS OF REGULATED INVESTMENT COMPANIES OR REAL ESTATE INVESTMENT TRUSTS.

(a) REGULATED INVESTMENT COMPANIES.—

(1) IN GENERAL.—Subparagraph (A) of section 852(b)(4) (relating to loss attributable to capital gain dividend) is amended to read as follows:

“(A) LOSS ATTRIBUTABLE TO CAPITAL GAIN DIVIDEND.—If—

“(i) subparagraph (B) or (D) of paragraph (3) provides that any amount with respect to any share is to be treated as long-term capital gain, and

“(ii) such share is held by the taxpayer for 6 months or less,

Post, p. 577.

26 USC 852.

then any loss (to the extent not disallowed under subparagraph (B)) on the sale or exchange of such share shall, to the extent of the amount described in clause (i), be treated as a long-term capital loss."

26 USC 852

(2) DETERMINATION OF HOLDING PERIODS.—Subparagraph (C) of section 852(b)(4) is amended to read as follows:

Ante, p. 567.

"(C) DETERMINATION OF HOLDING PERIODS.—For purposes of this paragraph, the rules of paragraphs (3) and (4) of section 246(c) shall apply in determining the period for which the taxpayer held any share of stock; except that for the number of days specified in subparagraph (B) of section 246(c)(3) there shall be substituted—

"(i) '6 months' for purposes of subparagraph (A), and

"(ii) '30 days' for purposes of subparagraph (B)."

(3) EXCEPTION FOR LOSSES INCURRED UNDER PERIODIC LIQUIDATION PLANS.—Paragraph (4) of section 852(b) is amended by adding at the end thereof the following new subparagraph:

"(D) LOSSES INCURRED UNDER A PERIODIC LIQUIDATION PLAN.—To the extent provided in regulations, subparagraph (A) shall not apply to losses incurred on the sale or exchange of shares of stock in a regulated investment company pursuant to a plan which provides for the periodic liquidation of such shares."

26 USC 857.

(b) REAL ESTATE INVESTMENT TRUST.—Paragraph (7) of section 857(b) (relating to loss on sale or exchange of stock in real estate investment trust) is amended to read as follows:

"(7) LOSS ON SALE OR EXCHANGE OF STOCK HELD 6 MONTHS OR LESS.—

"(A) IN GENERAL.—If—

"(i) subparagraph (B) of paragraph (3) provides that any amount with respect to any share or beneficial interest is to be treated as a long-term capital gain, and

"(ii) the taxpayer has held such share or interest for 6 months or less,

then any loss on the sale or exchange of such share or interest shall, to the extent of the amount described in clause (i), be treated as a long-term capital loss.

Ante, p. 567.

"(B) DETERMINATION OF HOLDING PERIOD.—For purposes of this paragraph, the rules of paragraphs (3) and (4) of section 246(c) shall apply in determining the period for which the taxpayer has held any share of stock or beneficial interest; except that '6 months' shall be substituted for the number of days specified in subparagraph (B) of section 246(c)(3).

"(C) EXCEPTION FOR LOSSES INCURRED UNDER PERIODIC LIQUIDATION PLANS.—To the extent provided in regulations, subparagraph (A) shall not apply to any loss incurred on the sale or exchange of shares of stock of, or beneficial interest in, a real estate investment trust pursuant to a plan which provides for the periodic liquidation of such shares or interests."

26 USC 852 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to losses incurred with respect to shares of stock and beneficial interests with respect to which the taxpayer's holding period begins after the date of the enactment of this Act.

PART III—MISCELLANEOUS PROVISIONS**SEC. 56. DENIAL OF DEDUCTIONS FOR CERTAIN EXPENSES INCURRED IN CONNECTION WITH SHORT SALES.**

(a) **SHORT SALE PAYMENTS ATTRIBUTABLE TO DIVIDENDS.**—Section 263 (relating to capital expenditures) is amended by adding at the end thereof the following new subsection:

26 USC 263.

“(h) **PAYMENTS IN LIEU OF DIVIDENDS IN CONNECTION WITH SHORT SALES.**—

“(1) **IN GENERAL.**—If—

“(A) a taxpayer makes any payment with respect to any stock used by such taxpayer in a short sale and such payment is in lieu of a dividend payment on such stock, and

“(B) the closing of such short sale occurs on or before the 45th day after the date of such short sale,

then no deduction shall be allowed for such payment. The basis of the stock used to close the short sale shall be increased by the amount not allowed as a deduction by reason of the preceding sentence.

“(2) **LONGER PERIOD IN CASE OF EXTRAORDINARY DIVIDENDS.**—If the payment described in paragraph (1)(A) is in respect of an extraordinary dividend, paragraph (1)(B) shall be applied by substituting ‘the day 1 year after the date of such short sale’ for ‘the 45th day after the date of such short sale’.

“(3) **EXTRAORDINARY DIVIDEND.**—For purposes of this subsection, the term ‘extraordinary dividend’ has the meaning given to such term by section 1059(c); except that such section shall be applied by treating the amount realized by the taxpayer in the short sale as his adjusted basis in the stock.

Ante, p. 565.

“(4) **SPECIAL RULE WHERE RISK OF LOSS DIMINISHED.**—The running of any period of time applicable under paragraph (1)(B) (as modified by paragraph (2)) shall be suspended during any period in which—

“(A) the taxpayer holds, has an option to buy, or is under a contractual obligation to buy, substantially identical stock or securities, or

“(B) under regulations prescribed by the Secretary, a taxpayer has diminished his risk of loss by holding 1 or more other positions with respect to substantially similar or related property.

“(5) **DEDUCTION ALLOWABLE TO EXTENT OF ORDINARY INCOME FROM AMOUNTS PAID BY LENDING BROKER FOR USE OF COLLATERAL.**—

“(A) **IN GENERAL.**—Paragraph (1) shall apply only to the extent that the payments or distributions with respect to any short sale exceed the amount which—

“(i) is treated as ordinary income by the taxpayer, and

“(ii) is received by the taxpayer as compensation for the use of any collateral with respect to any stock used in such short sale.

“(B) **EXCEPTION NOT TO APPLY TO EXTRAORDINARY DIVIDENDS.**—Subparagraph (A) shall not apply if one or more payments or distributions is in respect of an extraordinary dividend.

“(6) APPLICATION OF THIS SUBSECTION WITH SUBSECTION (g).—In the case of any short sale, this subsection shall be applied before subsection (g).”

26 USC 163. (b) INVESTMENT INTEREST TO INCLUDE CERTAIN EXPENSES INVOLVING SHORT SALES.—Subparagraph (D) of section 163(d)(3) (defining investment interest) is amended to read as follows:

“(D) INVESTMENT INTEREST.—

“(i) IN GENERAL.—The term ‘investment interest’ means interest paid or accrued on indebtedness incurred or continued to purchase or carry property held for investment.

“(ii) CERTAIN EXPENSES INCURRED IN CONNECTION WITH SHORT SALES.—For purposes of clause (i), the term ‘interest’ includes any amount allowable as a deduction in connection with personal property used in a short sale.”

26 USC 265. (c) APPLICATION OF SECTION 265(2) TO SHORT SALES.—Section 265 (relating to denial of deduction of interest relating to tax-exempt income) is amended by adding at the end thereof the following new paragraph:

“(5) SPECIAL RULES FOR APPLICATION OF PARAGRAPH (2) IN THE CASE OF SHORT SALES.—For purposes of paragraph (2)—

“(A) IN GENERAL.—The term ‘interest’ includes any amount paid or incurred—

“(i) by any person making a short sale in connection with personal property used in such short sale, or

“(ii) by any other person for the use of any collateral with respect to such short sale.

“(B) EXCEPTION WHERE NO RETURN ON CASH COLLATERAL.—

If—

“(i) the taxpayer provides cash as collateral for any short sale, and

“(ii) the taxpayer receives no material earnings on such cash during the period of the sale,

subparagraph (A)(i) shall not apply to such short sale.”

26 USC 163 note. (d) EFFECTIVE DATE.—The amendments made by this section shall apply to short sales after the date of the enactment of this Act in taxable years ending after such date.

SEC. 57. NONRECOGNITION OF GAIN OR LOSS BY CORPORATION ON OPTIONS WITH RESPECT TO ITS STOCK.

26 USC 1032. (a) GENERAL RULE.—Subsection (a) of section 1032 (relating to exchange of stock of property) is amended by adding at the end thereof the following new sentence: “No gain or loss shall be recognized by a corporation with respect to any lapse or acquisition of an option to buy or sell its stock (including treasury stock).”

26 USC 1032 note. (b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to options acquired or lapsed after the date of the enactment of this Act in taxable years ending after such date.

SEC. 58. AMENDMENTS TO ACCUMULATED EARNINGS TAX.

26 USC 532. (a) CLARIFICATION THAT TAX APPLIES TO CORPORATIONS WHICH ARE NOT CLOSELY HELD.—Section 532 (relating to corporations subject to accumulated earnings tax) is amended by adding at the end thereof the following new subsection:

“(c) APPLICATION DETERMINED WITHOUT REGARD TO NUMBER OF SHAREHOLDERS.—The application of this part to a corporation shall

be determined without regard to the number of shareholders of such corporation.”

(b) TREATMENT OF CAPITAL GAINS AND LOSSES.—Subsection (b) of section 535 (defining accumulated taxable income) is amended by striking out paragraphs (5), (6), and (7) and inserting in lieu thereof the following:

26 USC 535.

“(5) CAPITAL LOSSES.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), there shall be allowed as a deduction an amount equal to the net capital loss for the taxable year (determined without regard to paragraph (7)(A)).

“(B) RECAPTURE OF PREVIOUS DEDUCTIONS FOR CAPITAL GAINS.—The aggregate amount allowable as a deduction under subparagraph (A) for any taxable year shall be reduced by the lesser of—

“(i) the nonrecaptured capital gains deductions, or

“(ii) the amount of the accumulated earnings and profits of the corporation as of the close of the preceding taxable year.

“(C) NONRECAPTURED CAPITAL GAINS DEDUCTIONS.—For purposes of subparagraph (B), the term ‘nonrecaptured capital gains deductions’ means the excess of—

“(i) the aggregate amount allowable as a deduction under paragraph (6) for preceding taxable years beginning after the date of the enactment of the Tax Reform Act of 1984, over

“(ii) the aggregate of the reductions under subparagraph (B) for preceding taxable years.

Ante, p. 494.

“(6) NET CAPITAL GAINS.—

“(A) IN GENERAL.—There shall be allowed as a deduction—

“(i) the net capital gain for the taxable year (determined with the application of paragraph (7)), reduced by

“(ii) the taxes attributable to such net capital gain.

“(B) ATTRIBUTABLE TAXES.—For purposes of subparagraph (A), the taxes attributable to the net capital gain shall be an amount equal to the difference between—

“(i) the taxes imposed by this subtitle (except the tax imposed by this part) for the taxable year, and

“(ii) such taxes computed for such year without including in taxable income the net capital gain for the taxable year (determined without the application of paragraph (7)).

“(7) CAPITAL LOSS CARRYOVERS.—

“(A) UNLIMITED CARRYFORWARD.—The net capital loss for any taxable year shall be treated as a short-term capital loss in the next taxable year.

“(B) SECTION 1212 INAPPLICABLE.—No allowance shall be made for the capital loss carryback or carryforward provided in section 1212.

“(8) SPECIAL RULES FOR MERE HOLDING OR INVESTMENT COMPANIES.—In the case of a mere holding or investment company—

“(A) CAPITAL LOSS DEDUCTION, ETC., NOT ALLOWED.—Paragraphs (5) and (7)(A) shall not apply.

“(B) DEDUCTION FOR CERTAIN OFFSETS.—There shall be allowed as a deduction the net short-term capital gain for

the taxable year to the extent such gain does not exceed the amount of any capital loss carryover to such taxable year under section 1212 (determined without regard to paragraph (7)(B)).

“(C) EARNINGS AND PROFITS.—For purposes of subchapter C, the accumulated earnings and profits at any time shall not be less than they would be if this subsection had applied to the computation of earnings and profits for all taxable years beginning after the date of the enactment of the Tax Reform Act of 1984.”

Ante, p. 494.

26 USC 532 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 59. REPEAL OF STOCK FOR DEBT EXCEPTION FOR PURPOSES OF DETERMINING INCOME FROM DISCHARGE OF INDEBTEDNESS.

26 USC 108.

(a) GENERAL RULE.—Subsection (e) of section 108 (relating to income from discharge of indebtedness) is amended by adding at the end thereof the following new paragraph:

“(10) INDEBTEDNESS SATISFIED BY CORPORATION’S STOCK.—

“(A) IN GENERAL.—For purposes of determining income of a debtor from discharge of indebtedness, if a debtor corporation transfers stock to a creditor in satisfaction of its indebtedness, such corporation shall be treated as having satisfied the indebtedness with an amount of money equal to the fair market value of the stock.

“(B) EXCEPTION FOR TITLE 11 CASES AND INSOLVENT DEBTORS.—Subparagraph (A) shall not apply in the case of a debtor in a title 11 case or to the extent the debtor is insolvent.”

11 USC 101 *et seq.*

(b) EXCEPTION FOR CERTAIN WORKOUTS.—

(1) IN GENERAL.—Paragraph (10) of section 108(e) (as added by subsection (a)) is amended by adding at the end thereof the following new subparagraph:

“(C) EXCEPTION FOR TRANSFERS IN CERTAIN WORKOUTS.—

“(i) IN GENERAL.—Subparagraph (A) shall not apply to any transfer of stock in a qualified workout.

“(ii) QUALIFIED WORKOUT.—For purposes of clause (i), the term ‘qualified workout’ means any plan under which stock is transferred to creditors in satisfaction of indebtedness if—

“(I) because of cash flow and credit problems, the corporation making such transfer will have trouble in meeting liabilities coming due during the next 12 months to such an extent that there is a substantial threat of involuntary proceedings relating to insolvency or bankruptcy,

“(II) such corporation in any report to its shareholders for the period during which such transfer occurs includes a statement that such corporation believes it meets the requirement of subclause (I) and that it is availing itself of the workout provisions of this subparagraph,

“(III) the holders of more than 50 percent of the total indebtedness of the corporation approve such plan, and

“(IV) at least 25 percent of the total indebtedness of the corporation is extinguished by transfers pursuant to such plan.”

26 USC 108 note.

(2) **EFFECTIVE DATE.**—The amendment made by paragraph (1) shall take effect as if it had been included in the amendments made by subsections (e) and (f) of section 806 of the Tax Reform Act of 1976.

26 USC 368, 382, 383.

(b) **EFFECTIVE DATE.**—

26 USC 108 note.

(1) **IN GENERAL.**—Except as otherwise provided in this subsection, the amendment made by subsection (a) shall apply to transfers after the date of the enactment of this Act in taxable years ending after such date.

(2) **TRANSITIONAL RULE.**—The amendment made by subsection (a) shall not apply to the transfer by a corporation of its stock in exchange for debt of the corporation after the date of the enactment of this Act if such transfer is—

(A) pursuant to a written contract requiring such transfer which was binding on the corporation at all times on June 7, 1984, and at all times after such date but only if the transfer takes place before January 1, 1985, and only if the transferee held the debt at all times on June 7, 1984, or

(B) pursuant to the exercise of an option to exchange debt for stock but only if such option was in effect at all times on June 7, 1984, and at all times after such date and only if at all times on June 7, 1984, the option and the debt were held by the same person.

(3) **CERTAIN TRANSFERS TO CONTROLLING SHAREHOLDER.**—The amendment made by subsection (a) shall not apply to any transfer before January 1, 1985, by a corporation of its stock in exchange for debt of such corporation if—

(A) such transfer is to another corporation which at all times on June 7, 1984, owned 75 percent or more of the total value of the stock of the corporation making such transfer, and

(B) immediately after such transfer, the transferee corporation owns 80 percent or more of the total value of the stock of the transferor corporation.

(4) **CERTAIN TRANSFERS PURSUANT TO DEBT RESTRUCTURE AGREEMENT.**—The amendment made by subsection (a) shall not apply to the transfer by a corporation of its stock in exchange for debt of the corporation after the date of the enactment of this Act and before January 1, 1985, if—

(A) such transfer is covered by a debt restructure agreement entered into by the corporation during November 1983, and

(B) such agreement was specified in a registration statement filed with the Securities and Exchange Commission by the corporation on March 7, 1984.

SEC. 60. AFFILIATED GROUP DEFINED.

(a) **IN GENERAL.**—Subsection (a) of section 1504 (defining affiliated group) is amended to read as follows:

26 USC 1504.

“(a) **AFFILIATED GROUP DEFINED.**—For purposes of this subtitle—

“(1) **IN GENERAL.**—The term ‘affiliated group’ means—

“(A) 1 or more chains of includible corporations connected through stock ownership with a common parent corporation which is an includible corporation, but only if—

“(B)(i) the common parent owns directly stock meeting the requirements of paragraph (2) in at least 1 of the other includible corporations, and

“(ii) stock meeting the requirements of paragraph (2) in each of the includible corporations (except the common parent) is owned directly by 1 or more of the other includible corporations.

“(2) 80-PERCENT VOTING AND VALUE TEST.—The ownership of stock of any corporation meets the requirements of this paragraph if it—

“(A) possesses at least 80 percent of the total voting power of the stock of such corporation, and

“(B) has a value equal to at least 80 percent of the total value of the stock of such corporation.

“(3) 5 YEARS MUST ELAPSE BEFORE RECONSOLIDATION.—

“(A) IN GENERAL.—If—

“(i) a corporation is included (or required to be included) in a consolidated return filed by an affiliated group for a taxable year which includes any period after December 31, 1984, and

“(ii) such corporation ceases to be a member of such group in a taxable year beginning after December 31, 1984,

with respect to periods after such cessation, such corporation (and any successor of such corporation) may not be included in any consolidated return filed by the affiliated group (or by another affiliated group with the same common parent or a successor of such common parent) before the 61st month beginning after its first taxable year in which it ceased to be a member of such affiliated group.

“(B) SECRETARY MAY WAIVE APPLICATION OF SUBPARAGRAPH (A).—The Secretary may waive the application of subparagraph (A) to any corporation for any period subject to such conditions as the Secretary may prescribe.

“(4) STOCK NOT TO INCLUDE CERTAIN PREFERRED STOCK.—For purposes of this subsection, the term ‘stock’ does not include any stock which—

“(A) is not entitled to vote,

“(B) is limited and preferred as to dividends and does not participate in corporate growth to any significant extent,

“(C) has redemption and liquidation rights which do not exceed the paid-in capital or par value represented by such stock (except for a reasonable redemption premium in excess of such paid-in capital or par value), and

“(D) is not convertible into another class of stock.

“(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including (but not limited to) regulations—

“(A) which treat warrants, obligations convertible into stock, and other similar interests as stock, and stock as not stock,

“(B) which treat options to acquire or sell stock as having been exercised,

“(C) which provide that the requirements of paragraph (2)(B) shall be treated as met if the affiliated group, in

reliance on a good faith determination of value, treated such requirements as met,

“(D) which disregard an inadvertent ceasing to meet the requirements of paragraph (2)(B) by reason of changes in relative values of different classes of stock,

“(E) which provide that transfers of stock within the group shall not be taken into account in determining whether a corporation ceases to be a member of an affiliated group, and

“(F) which disregard changes in voting power to the extent such changes are disproportionate to related changes in value.”

(b) EFFECTIVE DATE.—

(1) **IN GENERAL.**—Except as otherwise provided in this subsection, the amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1984.

(2) **SPECIAL RULE FOR CORPORATIONS AFFILIATED ON JUNE 22, 1984.**—In the case of a corporation which on June 22, 1984, is a member of an affiliated group which files a consolidated return for such corporation's taxable year which includes June 22, 1984, for purposes of determining whether such corporation continues to be a member of such group for taxable years beginning before January 1, 1988, the amendment made by subsection (a) shall not apply.

(3) **SPECIAL RULE NOT TO APPLY TO SELL-DOWNS AFTER JUNE 22, 1984.**—If—

(A) the requirements of subsection (b)(2) are satisfied with respect to a corporation,

(B) more than a de minimis amount of the stock of such corporation is sold or exchanged (including in a redemption), or issued (other than in the ordinary course of business) after June 22, 1984, and

(C) the requirements of the amendment made by subsection (a) are not satisfied after such sale, exchange, or issuance, then the amendments made by subsection (a) shall apply for purposes of determining whether such corporation continues to be a member of such group.

(4) **EXCEPTION FOR CERTAIN SELL-DOWNS.**—Subsection (b)(2) (and not subsection (b)(3)) will apply to a corporation if such corporation issues or sells stock after June 22, 1984, pursuant to a registration statement filed with the Securities and Exchange Commission on or before June 22, 1984, but only if the requirements of the amendment made by subsection (a) (substituting “more than 50 percent” for “at least 80 percent” in paragraph (2)(B) of section 1504(a) of the Internal Revenue Code of 1954) are satisfied immediately after such issuance or sale and at all times thereafter until the first day of the first taxable year beginning after December 31, 1987.

(5) **NATIVE CORPORATIONS.**—The amendments made by subsection (a) shall not apply to any Native Corporation established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) during any taxable year beginning before 1992 or any part thereof in which such Corporation is subject to the provisions of section 7(h)(1) of such Act (43 U.S.C. 1606 (h)(1)).

SEC. 61. PROVISIONS RELATING TO EARNINGS AND PROFITS.

(a) ADJUSTMENTS TO EARNINGS AND PROFITS.—

26 USC 1504
note.

Ante, p. 577.

26 USC 312.

(1) IN GENERAL.—Section 312 (relating to effect on earnings and profits) is amended by adding at the end thereof the following new subsection:

“(n) ADJUSTMENTS TO EARNINGS AND PROFITS TO MORE ACCURATELY REFLECT ECONOMIC GAIN AND LOSS.—For purposes of computing the earnings and profits of a corporation, the following adjustments shall be made:

“(1) CONSTRUCTION PERIOD CARRYING CHARGES.—

“(A) IN GENERAL.—In the case of any amount paid or incurred for construction period carrying charges—

“(i) no deduction shall be allowed with respect to such amount, and

“(ii) the basis of the property with respect to which such charges are allocable shall be increased by such amount.

“(B) CONSTRUCTION PERIOD CARRYING CHARGES DEFINED.—For purposes of this paragraph, the term ‘construction period carrying charges’ means all—

“(i) interest paid or accrued on indebtedness incurred or continued to acquire, construct, or carry property,

“(ii) property taxes, and

“(iii) similar carrying charges,

to the extent such interest, taxes, or charges are attributable to the construction period for such property and would be allowable as a deduction in determining taxable income under this chapter for the taxable year in which paid or incurred (determined without regard to section 189).

“(C) CONSTRUCTION PERIOD.—The term ‘construction period’ has the meaning given such term by section 189(e)(2) (determined without regard to any real property limitation).

“(2) INTANGIBLE DRILLING COSTS AND MINERAL EXPLORATION AND DEVELOPMENT COSTS.—

“(A) INTANGIBLE DRILLING COSTS.—Any amount allowable as a deduction under section 263(c) in determining taxable income (other than costs incurred in connection with a nonproductive well)—

“(i) shall be capitalized, and

“(ii) shall be allowed as a deduction ratably over the 60-month period beginning with the month in which the production from the well begins.

“(B) MINERAL EXPLORATION AND DEVELOPMENT COSTS.—Any amount allowable as a deduction under section 616(a) or 617 in determining taxable income—

“(i) shall be capitalized, and

“(ii) shall be allowed as a deduction ratably over the 120-month period beginning with the later of—

“(I) the month in which production from the deposit begins, or

“(II) the month in which such amount was paid or incurred.

“(3) CERTAIN AMORTIZATION PROVISIONS NOT TO APPLY.—Sections 173, 177, and 248 shall not apply.

“(4) CERTAIN UNTAXED APPRECIATION OF DISTRIBUTED PROPERTY.—In the case of any distribution of property by a corporation described in section 311(d), earnings and profits shall be increased by the amount of any gain which would be includible

in gross income for any taxable year if section 311(d)(2) did not apply. *Ante*, p. 568.

“(5) LIFO INVENTORY ADJUSTMENTS.—Earnings and profits shall be increased or decreased by the amount of any increase or decrease in the LIFO recapture amount (determined under section 336(b)(3)) as of the close of each taxable year; except that any decrease below the LIFO recapture amount as of the close of the taxable year preceding the first taxable year to which this paragraph applies to the taxpayer shall be taken into account only to the extent provided in regulations prescribed by the Secretary.

“(6) INSTALLMENT SALES.—In the case of any installment sale, earnings and profits shall be computed as if the corporation did not use the installment method.

“(7) COMPLETED CONTRACT METHOD OF ACCOUNTING.—In the case of a taxpayer who uses the completed contract method of accounting, earnings and profits shall be computed as if such taxpayer used the percentage of completion method of accounting.

“(8) REDEMPTIONS.—If a corporation distributes amounts in a redemption to which section 302(a) or 303 applies, the part of such distribution which is properly chargeable to earnings and profits shall be an amount which is not in excess of the ratable share of the earnings and profits of such corporation accumulated after February 28, 1913, attributable to the stock so redeemed.

“(9) SPECIAL RULE FOR CERTAIN FOREIGN CORPORATIONS.—In the case of a foreign corporation described in subsection (k)(4), paragraphs (5), (6), and (7) shall apply only in the case of taxable years beginning after December 31, 1985.”

(2) CONFORMING AMENDMENTS.—

(A) Section 312(j) (relating to earnings and profits of foreign investment companies) is amended by striking out paragraph (3). *26 USC 312.*

(B) Subsection (e) of section 312 is hereby repealed.

(b) ADJUSTMENT TO EFFECT OF DEPRECIATION ON EARNINGS AND PROFITS.—The table contained in section 312(k)(3)(A) (relating to recovery property), as amended by this Act, is amended by striking out “35 years” in the item relating to 15-year real property and 20-year real property and inserting in lieu thereof “40 years”.

(c) DISTRIBUTIONS OF OBLIGATIONS HAVING ORIGINAL ISSUE DISCOUNT.—

(1) EFFECT ON EARNINGS AND PROFITS.—

(A) Paragraph (2) of section 312(a) (relating to effect of earnings and profits) is amended to read as follows:

“(2) the principal amount of the obligations of such corporation (or, in the case of obligations having original issue discount, the aggregate issue price of such obligations), and”.

(B) Section 312, as amended by subsection (a), is amended by adding at the end thereof the following new subsection: *Ante*, p. 580.

“(o) DEFINITION OF ORIGINAL ISSUE DISCOUNT AND ISSUE PRICE FOR PURPOSES OF SUBSECTION (a)(2).—For purposes of subsection (a)(2), the terms ‘original issue discount’ and ‘issue price’ have the same respective meanings as when used in subpart A of part V of subchapter P of this chapter.”

Ante, p. 531.

(2) TREATMENT UNDER ORIGINAL ISSUE DISCOUNT RULES.—Subsection (a) of section 1275 (relating to other definitions and *Ante*, p. 540.

special rules), as added by this Act, is amended by adding at the end thereof the following new paragraph:

“(4) TREATMENT OF OBLIGATIONS DISTRIBUTED TO CORPORATIONS.—Any debt obligation of a corporation distributed by such corporation with respect to its stock shall be treated as if it had been issued by such corporation for property.”

Ante, p. 569. (d) SPECIAL RULE IN CASE OF DISTRIBUTIONS RECEIVED BY 20 PERCENT CORPORATE SHAREHOLDER.—Section 301 (relating to distributions of property) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

“(f) SPECIAL RULE FOR CERTAIN DISTRIBUTIONS RECEIVED BY 20 PERCENT CORPORATE SHAREHOLDER.—

“(1) IN GENERAL.—Except to the extent otherwise provided in regulations, solely for purposes of determining the taxable income of any 20 percent corporate shareholder (and its adjusted basis in the stock of the distributing corporation), section 312 shall be applied with respect to the distributing corporation as if it did not contain subsection (n) thereof.

Ante, p. 580.

“(2) 20 PERCENT CORPORATE SHAREHOLDER.—For purposes of this subsection, the term ‘20 percent corporate shareholder’ means, with respect to any distribution, any corporation which owns (directly or through the application of section 318)—

“(A) stock in the corporation making the distribution possessing at least 20 percent of the total combined voting power of all classes of stock entitled to vote, or

“(B) at least 20 percent of the total value of all stock of the distributing corporation (except nonvoting stock which is limited and preferred as to dividends), but only if, but for this subsection, the distributee corporation would be entitled to a deduction under section 243, 244, or 245 with respect to such distribution.

“(3) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.”

26 USC 312 note.

(e) EFFECTIVE DATES.—

(1) ADJUSTMENTS TO EARNINGS AND PROFITS.—

(A) PARAGRAPHS (1), (2), AND (3) OF SECTION 312(n).—The provisions of paragraphs (1), (2), and (3) of section 312(n) of the Internal Revenue Code of 1954 (as added by subsection (a)) shall apply to amounts paid or incurred in taxable years beginning after September 30, 1984.

Ante, p. 580.

(B) PARAGRAPH (4) OF SECTION 312(n).—The provisions of paragraph (4) of section 312(n) of such Code (as so added) shall apply to distributions after September 30, 1984; except that such provisions shall not apply to any distribution to which the amendments made by section 54(a) of this Act do not apply.

Ante, p. 568.

(C) LIFO INVENTORY.—The provisions of paragraph (5) of section 312(n) of such Code (as so added) shall apply to taxable years beginning after September 30, 1984.

(D) INSTALLMENT SALES.—The provisions of paragraph (6) of section 312(n) of such Code (as so added) shall apply to sales after September 30, 1984, in taxable years ending after such date.

(E) COMPLETED CONTRACT METHOD.—The provisions of paragraph (7) of section 312(n) of such Code (as so added)

shall apply to contracts entered into after September 30, 1984, in taxable years ending after such date.

(2) **SUBSECTION (b).**—The amendments made by subsection (b) shall apply to property placed in service in taxable years beginning after September 30, 1984.

(3) **SUBSECTION (c).**—The amendments made by subsection (c) shall apply with respect to distributions declared after March 15, 1984, in taxable years ending after such date.

(4) **SUBSECTION (d).**—The amendment made by subsection (d) shall apply to distributions after the date of the enactment of this Act in taxable years ending after such date.

26 USC 301 note.

SEC. 62. 2-YEAR DELAY IN APPLICATION OF THE NET OPERATING LOSS RULES ADDED BY THE TAX REFORM ACT OF 1976.

(a) **IN GENERAL.**—Subsection (g) of section 806 of the Tax Reform Act of 1976 (26 U.S.C. 382 note) (relating to effective dates for the amendments to sections 382 and 383 of the Internal Revenue Code of 1954) is amended—

26 USC 382, 383.

(1) by striking out “June 30, 1984” in paragraph (2) and inserting in lieu thereof “December 31, 1985”;

(2) by striking out “January 1, 1984” in paragraph (2)(B) and inserting in lieu thereof “January 1, 1986”; and

(3) by striking out “January 1, 1984” in paragraph (3) and inserting in lieu thereof “January 1, 1986”.

(b) **TECHNICAL AMENDMENT.**—

(1) Paragraph (1) of section 382(b) (as amended by the Tax Reform Act of 1976) is amended by striking out “section 368(a)(1) (A), (B), (C), (D) (but only if the requirements of section 354(b)(1) are met), or (F)” and inserting in lieu thereof “subparagraph (A), (B), (C), or (F) of section 368(a)(1) or subparagraph (D) or (G) of section 368(a)(1) (but only if the requirements of section 354(b)(1) are met)”.

26 USC 382.

(2) The amendment made by paragraph (1) shall take effect as if included in the amendments made by section 4 of the Bankruptcy Tax Act of 1980.

26 USC 382 note.

94 Stat. 3401.

SEC. 63. TARGET CORPORATION MUST DISTRIBUTE ASSETS AFTER REORGANIZATION DESCRIBED IN SECTION 368(a)(1)(C).

(a) **IN GENERAL.**—Paragraph (2) of section 368(a) (relating to special rules for paragraph (1)) is amended by adding at the end thereof the following new subparagraph:

26 USC 368.

“(G) **DISTRIBUTION REQUIREMENT FOR PARAGRAPH (1) (C).**—

“(i) **IN GENERAL.**—A transaction shall fail to meet the requirements of paragraph (1)(C) unless the acquired corporation distributes the stock, securities, and other properties it receives, as well as its other properties, in pursuance of the plan of reorganization.

“(ii) **EXCEPTION.**—The Secretary may waive the application of clause (i) to any transaction subject to any conditions the Secretary may prescribe.”

(b) **ALLOCATION IN CERTAIN CORPORATE SEPARATIONS AND REORGANIZATIONS.**—Subsection (h) of section 312 (relating to allocation in certain corporate separations) is amended to read as follows:

26 USC 312.

“(h) **ALLOCATION IN CERTAIN CORPORATE SEPARATIONS AND REORGANIZATIONS.**—

“(1) SECTION 355.—In the case of a distribution or exchange to which section 355 (or so much of section 356 as relates to section 355) applies, proper allocation with respect to the earnings and profits of the distributing corporation and the controlled corporation (or corporations) shall be made under regulations prescribed by the Secretary.

“(2) SECTION 368(a)(1)(C) OR (D).—In the case of a reorganization described in subparagraph (C) or (D) of section 368(a)(1), proper allocation with respect to the earnings and profits of the acquired corporation shall, under regulations prescribed by the Secretary, be made between the acquiring corporation and the acquired corporation (or any corporation which had control of the acquired corporation before the reorganization).”

26 USC 312 note.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to transactions pursuant to plans adopted after the date of the enactment of this Act.

SEC. 64. DEFINITION OF CONTROL FOR PURPOSES OF NONDIVISIVE REORGANIZATIONS UNDER SECTION 368(a)(1)(D).

26 USC 368.

(a) IN GENERAL.—Subsection (c) of section 368 (defining control) is amended to read as follows:

“(c) CONTROL DEFINED.—

26 USC 301
26 USC 331, 351,
381.

“(1) IN GENERAL.—For purposes of part I (other than section 304), part II, this part, and part V, the term ‘control’ means the ownership of stock possessing at least 80 percent of the total combined voting power of all classes of stock entitled to vote and at least 80 percent of the total number of shares of all other classes of stock of the corporation.

“(2) SPECIAL RULE FOR DETERMINING WHETHER CERTAIN TRANSACTIONS ARE DESCRIBED IN SUBSECTION (a)(1)(D).—In the case of any transaction with respect to which the requirements of subparagraphs (A) and (B) of section 354(b)(1) are met, for purposes of determining whether such transaction is described in subparagraph (D) of subsection (a)(1), the term ‘control’ has the meaning given to such term by section 304(c).”

26 USC 368 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transactions pursuant to plans adopted after the date of the enactment of this Act.

SEC. 65. COLLAPSIBLE CORPORATIONS.

26 USC 341.

(a) DEFINITION.—Subparagraph (A) of section 341(b)(1) (relating to collapsible corporations) is amended by striking out “a substantial part” and inserting in lieu thereof “ $\frac{1}{3}$ ”.

(b) LIMITATIONS.—Subsection (d) of section 341 (relating to limitations on application of section) is amended by adding at the end thereof the following sentence: “In determining whether property is described in subsection (b)(1) for purposes of applying paragraph (2), all property described in section 1221(1) shall, to the extent provided in regulations prescribed by the Secretary, be treated as one item of property.”

(c) CONFORMING AMENDMENT.—Paragraph (2) of section 341(d) is amended by striking out “so manufactured, constructed, produced, or purchased” and inserting in lieu thereof “described in subsection (b)(1)”.

26 USC 341 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to sales, exchanges, and distributions made after the date of the enactment of this Act.

SEC. 66. PHASE-OUT OF GRADUATED RATES FOR LARGE CORPORATIONS.

(a) **IN GENERAL.**—Subsection (b) of section 11 (relating to amount of tax imposed on corporations) is amended by adding at the end thereof the following new flush sentence: “In the case of a corporation with taxable income in excess of \$1,000,000 for any taxable year, the amount of tax determined under the preceding sentence for such taxable year shall be increased by the lesser of (A) 5 percent of such excess, or (B) \$20,250.”

26 USC 11.

(b) **CONFORMING AMENDMENT.**—Section 1561(a) (relating to limitations on certain multiple tax benefits in the case of certain control corporations) is amended by adding at the end thereof the following new sentence: “Notwithstanding paragraph (1), in applying the last sentence of section 11(b) to such component members, the taxable income of all such component members shall be taken into account and any increase in tax under such last sentence shall be divided among such component members in the same manner as amounts under paragraph (1).”

26 USC 1561.

(c) **EFFECTIVE DATE.**—

26 USC 11 note.

(1) **IN GENERAL.**—The amendments made by this section shall apply to taxable years beginning after December 31, 1983.

(2) **AMENDMENTS NOT TREATED AS CHANGED IN RATE OF TAX.**—The amendments made by this subsection shall not be treated as a change in a rate of tax for purposes of section 21 of the Internal Revenue Code of 1954.

Post, p. 830.**SEC. 67. RESTRICTIONS ON GOLDEN PARACHUTE PAYMENTS.**

(a) **DENIAL OF DEDUCTION.**—Part IX of subchapter B of chapter 1 (relating to items not deductible) is amended by adding after section 280F the following new section:

“SEC. 280G. GOLDEN PARACHUTE PAYMENTS.

26 USC 280G.

“(a) **GENERAL RULE.**—No deduction shall be allowed under this chapter for any excess parachute payment.

“(b) **EXCESS PARACHUTE PAYMENT.**—For purposes of this section—

“(1) **IN GENERAL.**—The term ‘excess parachute payment’ means an amount equal to the excess of any parachute payment over the portion of the base amount allocated to such payment.

“(2) **PARACHUTE PAYMENT DEFINED.**—

“(A) **IN GENERAL.**—The term ‘parachute payment’ means any payment in the nature of compensation to (or for the benefit of) a disqualified individual if—

“(i) such payment is contingent on a change—

“(I) in the ownership or effective control of the corporation, or

“(II) in the ownership of a substantial portion of the assets of the corporation, and

“(ii) the aggregate present value of the payments in the nature of compensation to (or for the benefit of) such individual which are contingent on such change equals or exceeds an amount equal to 3 times the base amount.

“(B) **AGREEMENTS.**—The term ‘parachute payment’ shall also include any payment in the nature of compensation to (or for the benefit of) a disqualified individual if such payment is pursuant to an agreement which violates any securities laws or regulations.

“(C) TREATMENT OF CERTAIN AGREEMENTS ENTERED INTO WITHIN 1 YEAR BEFORE CHANGE OF OWNERSHIP.—For purposes of subparagraph (A)(i), any payment pursuant to—

“(i) an agreement entered into within 1 year before the change described in subparagraph (A)(i), or

“(ii) an amendment made within such 1-year period of a previous agreement,

shall be presumed to be contingent on such change unless the contrary is established by clear and convincing evidence.

“(3) BASE AMOUNT.—

“(A) IN GENERAL.—The term ‘base amount’ means the individual’s annualized includible compensation for the base period.

“(B) ALLOCATION.—The portion of the base amount allocated to any parachute payment shall be an amount which bears the same ratio to the base amount as—

“(i) the present value of such payment, bears to

“(ii) the aggregate present value of all such payments.

“(4) EXCESS PARACHUTE PAYMENTS REDUCED TO EXTENT TAXPAYER ESTABLISHES REASONABLE COMPENSATION.—In the case of any parachute payment described in paragraph (2)(A), the amount of any excess parachute payment shall be reduced by the portion of such payment which the taxpayer establishes by clear and convincing evidence is reasonable compensation for personal services actually rendered. For purposes of the preceding sentence, reasonable compensation shall be first offset against the base amount.

“(c) DISQUALIFIED INDIVIDUALS.—For purposes of this section, the term ‘disqualified individual’ means any individual who is—

“(1) an employee, independent contractor, or other person specified in regulations by the Secretary who performs personal services for any corporation, and

“(2) is an officer, shareholder, or highly-compensated individual.

For purposes of this section, a personal service corporation (or similar entity) shall be treated as an individual.

“(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) ANNUALIZED INCLUDIBLE COMPENSATION FOR BASE PERIOD.—The term ‘annualized includible compensation for the base period’ means the average annual compensation which—

“(A) was payable by the corporation with respect to which the change in ownership or control described in paragraph (2)(A) of subsection (b) occurs, and

“(B) was includible in the gross income of the disqualified individual for taxable years in the base period.

“(2) BASE PERIOD.—The term ‘base period’ means the period consisting of the most recent 5 taxable years ending before the date on which the change in ownership or control described in paragraph (2)(A) of subsection (b) occurs (or such portion of such period during which the disqualified individual was an employee of the corporation).

“(3) PROPERTY TRANSFERS.—Any transfer of property—

“(A) shall be treated as a payment, and

“(B) shall be taken into account as its fair market value.

“(4) **PRESENT VALUE.**—Present value shall be determined in accordance with section 1274(b)(2).

Ante, p. 538.

“(e) **REGULATIONS.**—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section (including regulations for the application of this section in the case of related corporations and in the case of personal service corporations).”

(b) **EXCISE TAX ON AMOUNTS RECEIVED.**—

(1) **IN GENERAL.**—Subtitle D (relating to miscellaneous excise taxes) is amended by adding at the end thereof the following new chapter:

“CHAPTER 46—GOLDEN PARACHUTE PAYMENTS

“Sec. 4999. Golden parachute payments.

“**SEC. 4999. GOLDEN PARACHUTE PAYMENTS.**

26 USC 4999.

“(a) **IMPOSITION OF TAX.**—There is hereby imposed on any person who receives an excess parachute payment a tax equal to 20 percent of the amount of such payment.

“(b) **EXCESS PARACHUTE PAYMENT DEFINED.**—For purposes of this section, the term ‘excess parachute payment’ has the meaning given to such term by section 280G(b).

Ante, p. 585.

“(c) **ADMINISTRATIVE PROVISIONS.**—

“(1) **WITHHOLDING.**—In the case of any excess parachute payment which is wages (within the meaning of section 3401) the amount deducted and withheld under section 3402 shall be increased by the amount of the tax imposed by this section on such payment.

“(2) **OTHER ADMINISTRATIVE PROVISIONS.**—For purposes of subtitle F, any tax imposed by this section shall be treated as a tax imposed by subtitle A.”

26 USC 6001.

26 USC 1.

26 USC 275.

(2) **DENIAL OF DEDUCTION.**—Paragraph (6) of section 275(a) (relating to denial of deduction for certain taxes) is amended by striking out “and 44” and inserting in lieu thereof “44, and 46”.

(c) **FICA TAXES.**—Subparagraph (A) of section 3121(v)(2) (relating to treatment of certain nonqualified deferred compensation plans) is amended by adding at the end thereof the following new sentence:

97 Stat 122.

26 USC 3121.

“The preceding sentence shall not apply to any excess parachute payment (as defined in section 280G(b)).”

(d) **CLERICAL AMENDMENTS.**—

(1) The table of sections for part IX of subchapter B of chapter 1 is amended by adding after the item relating to section 280F the following new item:

“Sec. 280G. Golden parachute payments.”

(2) The table of chapters for subtitle D is amended by adding at the end thereof the following new item:

“CHAPTER 46. Golden parachute payments.”

(e) **EFFECTIVE DATES.**—

26 USC 280G

note.

(1) **IN GENERAL.**—The amendments made by this section shall apply to payments under agreements entered into or renewed after June 14, 1984, in taxable years ending after such date.

(2) **SPECIAL RULE FOR CONTRACT AMENDMENTS.**—Any contract entered into before June 15, 1984, which is amended after June 14, 1984, in any significant relevant aspect shall be treated as a contract entered into after June 14, 1984.

SEC. 68. INCREASE IN REDUCTION IN CERTAIN CORPORATE PREFERENCE ITEMS FROM 15 PERCENT TO 20 PERCENT.

26 USC 291. (a) **IN GENERAL.**—Each subsection (other than subsection (a)(2)) of section 291 (relating to special rules for corporate preference items) is amended by striking out “15 percent” each place it appears and inserting in lieu thereof “20 percent”.

(b) **DEFERRED FSC INCOME.**—Paragraph (4) of section 291(a) (relating to certain deferred DISC income) is amended to read as follows:

Post, p. 986. “(4) **CERTAIN DEFERRED FSC INCOME.**—If a corporation is a shareholder of the FSC, in the case of taxable years beginning after December 31, 1984, section 923(a) shall be applied with respect to such corporation by substituting—

“(A) ‘30 percent’ for ‘32 percent’ in paragraph (2), and

“(B) ‘15/23’ for ‘16/23’ in paragraph (3).”

(c) **MINIMUM TAX.**—

26 USC 57. (1) **IN GENERAL.**—Paragraph (1) of section 57(b) is amended to read as follows:

“(1) **IN GENERAL.**—

“(A) **POLLUTION CONTROL FACILITIES; BAD DEBT RESERVES.**—

In the case of any item of tax preference of a corporation described in paragraph (4) or (7) of subsection (a), only 59½ percent of the amount of such item of tax preference (determined without regard to this subsection) shall be taken into account as an item of tax preference.

“(B) **IRON ORE AND COAL.**—In the case of any item of tax preference of a corporation described in paragraph (8) of subsection (a) (but only to the extent such item is allocable to a deduction for depletion for iron ore and coal (including lignite)),

only 71.6 percent of the amount of such item of tax preference (determined without regard to this subsection) shall be taken into account as an item of tax preference.”.

(2) **CERTAIN CAPITAL GAINS.**—Paragraph (2) of section 57(h) (relating to capital gains) is amended by striking out “71.6 percent” and inserting in lieu thereof “59½ percent”.

26 USC 995. (d) **DEFERRED DISC INCOME.**—Section 995(b)(1)(F)(i) (relating to deemed distributions) is amended by striking out “one-half” and inserting in lieu thereof “one-seventeenth”.

26 USC 291 note. (e) **EFFECTIVE DATES.**—

(1) **IN GENERAL.**—Except as provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1984.

(2) **1250 GAIN.**—The amendments made by this section to section 291(a)(1) of the Internal Revenue Code of 1954 shall apply to sales or other dispositions after December 31, 1984, in taxable years ending after such date.

(3) **POLLUTION CONTROL FACILITIES.**—The amendments made by this section to section 291(a)(5) of such Code shall apply to property placed in service after December 31, 1984, in taxable years ending after such date.

(4) **DRILLING AND MINING COSTS.**—The amendments made by this section to section 291(b) of such Code shall apply to expenditures after December 31, 1984, in taxable years ending after such date.

Subtitle E—Partnership Provisions

SEC. 71. PARTNERSHIP ALLOCATIONS WITH RESPECT TO CONTRIBUTED PROPERTY.

(a) **GENERAL RULE.**—Subsection (c) of section 704 (relating to contributed property) is amended to read as follows: 26 USC 704.

“(c) **CONTRIBUTED PROPERTY.**—Under regulations prescribed by the Secretary, income, gain, loss, and deduction with respect to property contributed to the partnership by a partner shall be shared among partners so as to take account of the variation between the basis of the property to the partnership and its fair market value at the time of contribution. Under regulations prescribed by the Secretary, rules similar to the rules of the preceding sentence shall apply to contributions by a partner (using the cash receipts and disbursements method of accounting) of accounts payable and other accrued but unpaid items.”

(b) **CONFORMING AMENDMENTS.**—The fourth sentence of section 613A(c)(7)(D) and the third sentence of section 743(b) are each amended by striking out “an agreement described in section 704(c)(2) (relating to effect of partnership agreement on contributed property), such share shall be determined by taking such agreement into account” and inserting in lieu thereof “property contributed to the partnership by a partner, section 704(c) (relating to contributed property) shall apply in determining such share”. 26 USC 613A, 743.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to property contributed to the partnership after March 31, 1984, in taxable years ending after such date. 26 USC 704 note.

SEC. 72. DETERMINATION OF DISTRIBUTIVE SHARES WHEN PARTNER'S INTEREST CHANGES.

(a) **GENERAL RULE.**—Section 706 (relating to taxable years of partner and partnership) is amended by adding at the end thereof the following new subsection: 26 USC 706.

“(d) **DETERMINATION OF DISTRIBUTIVE SHARE WHEN PARTNER'S INTEREST CHANGES.**—

“(1) **IN GENERAL.**—Except as provided in paragraphs (2) and (3), if during any taxable year of the partnership there is a change in any partner's interest in the partnership, each partner's distributive share of any item of income, gain, loss, deduction, or credit of the partnership for such taxable year shall be determined by the use of any method prescribed by the Secretary by regulations which takes into account the varying interests of the partners in the partnership during such taxable year.

“(2) **CERTAIN CASH BASIS ITEMS PRORATED OVER PERIOD TO WHICH ATTRIBUTABLE.**—

“(A) **IN GENERAL.**—If during any taxable year of the partnership there is a change in any partner's interest in the partnership, then (except to the extent provided in regulations) each partner's distributive share of any allocable cash basis item shall be determined—

“(i) by assigning the appropriate portion of each such item to each day in the period to which it is attributable, and

“(ii) by allocating the portion assigned to any such day among the partners in proportion to their interests in the partnership at the close of such day.

“(B) **ALLOCABLE CASH BASIS ITEM.**—For purposes of this paragraph, the term ‘allocable cash basis item’ means any of the following items which are described in paragraph (1) and with respect to which the partnership uses the cash receipts and disbursements method of accounting:

“(i) Interest.

“(ii) Taxes.

“(iii) Payments for services or for the use of property.

“(iv) Any other item of a kind specified in regulations prescribed by the Secretary as being an item with respect to which the application of this paragraph is appropriate to avoid significant misstatements of the income of the partners.

“(C) **ITEMS ATTRIBUTABLE TO PERIODS NOT WITHIN TAXABLE YEAR.**—If any portion of any allocable cash basis item is attributable to—

“(i) any period before the beginning of the taxable year, such portion shall be assigned under subparagraph (A)(i) to the first day of such taxable year, or

“(ii) any period after the close of the taxable year, such portion shall be assigned under subparagraph (A)(i) to the last day of the taxable year.

“(D) **TREATMENT OF DEDUCTIBLE ITEMS ATTRIBUTABLE TO PRIOR PERIODS.**—If any portion of a deductible cash basis item is assigned under subparagraph (C)(i) to the first day of any taxable year—

“(i) such portion shall be allocated among persons who are partners in the partnership during the period to which such portion is attributable in accordance with their varying interests in the partnership during such period, and

“(ii) any amount allocated under clause (i) to a person who is not a partner in the partnership on such first day shall be capitalized by the partnership and treated in the manner provided for in section 755.

“(3) **ITEMS ATTRIBUTABLE TO INTEREST IN LOWER TIER PARTNERSHIP PRORATED OVER ENTIRE TAXABLE YEAR.**—If—

“(A) during any taxable year of the partnership there is a change in any partner’s interest in the partnership (hereinafter in this paragraph referred to as the ‘upper tier partnership’), and

“(B) such partnership is a partner in another partnership (hereinafter in this paragraph referred to as the ‘lower tier partnership’),

then (except to the extent provided in regulations) each partner’s distributive share of any item of the upper tier partnership attributable to the lower tier partnership shall be determined by assigning the appropriate portion (determined by applying principles similar to the principles of subparagraphs (C) and (D) of paragraph (2)) of each such item to the appropriate days during which the upper tier partnership is a partner in the lower tier partnership and by allocating the portion assigned to any such day among the partners in proportion to their interests in the upper tier partnership at the close of such day.

“(4) **TAXABLE YEAR DETERMINED WITHOUT REGARD TO SUBSECTION (C) (2) (A).**—For purposes of this subsection, the taxable

year of a partnership shall be determined without regard to subsection (c)(2)(A)."

(b) **CONFORMING AMENDMENTS.**—Paragraph (2) of section 706(c) is amended— 26 USC 706.

(1) by striking out the last sentence of subparagraph (A), and
(2) by striking out ", but such partner's distributive share of items described in section 702(a) shall be determined by taking into account his varying interests in the partnership during the taxable year" in subparagraph (B).

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply— 26 USC 706 note.

(1) in the case of items described in section 706(d)(2) of the Internal Revenue Code of 1954 (as added by subsection (a)), to amounts attributable to periods after March 31, 1984, and

Ante, p. 589.

(2) in the case of items described in section 706(d)(3) of such Code (as added by subsection (a)), to amounts paid or accrued by the other partnership after March 31, 1984.

SEC. 73. PAYMENTS TO PARTNERS FOR PROPERTY OR CERTAIN SERVICES.

(a) **GENERAL RULE.**—Subsection (a) of section 707 (relating to transactions between partner and partnership) is amended to read as follows: 26 USC 707.

"(a) **PARTNER NOT ACTING IN CAPACITY AS PARTNER.**—

"(1) **IN GENERAL.**—If a partner engages in a transaction with a partnership other than in his capacity as a member of such partnership, the transaction shall, except as otherwise provided in this section, be considered as occurring between the partnership and one who is not a partner.

"(2) **TREATMENT OF PAYMENTS TO PARTNERS FOR PROPERTY OR SERVICES.**—Under regulations prescribed by the Secretary—

"(A) **TREATMENT OF CERTAIN SERVICES AND TRANSFERS OF PROPERTY.**—If—

"(i) a partner performs services for a partnership or transfers property to a partnership,

"(ii) there is a related direct or indirect allocation and distribution to such partner, and

"(iii) the performance of such services (or such transfer) and the allocation and distribution, when viewed together, are properly characterized as a transaction occurring between the partnership and a partner acting other than in his capacity as a member of the partnership,

such allocation and distribution shall be treated as a transaction described in paragraph (1).

"(B) **TREATMENT OF CERTAIN PROPERTY TRANSFERS.**—If—

"(i) there is a direct or indirect transfer of money or other property by a partner to a partnership,

"(ii) there is a related direct or indirect transfer of money or other property by the partnership to such partner (or another partner), and

"(iii) the transfers described in clauses (i) and (ii), when viewed together, are properly characterized as a sale of property,

such transfers shall be treated either as a transaction described in paragraph (1) or as a transaction between 2 or more partners acting other than in their capacity as members of the partnership."

26 USC 707 note.

(b) EFFECTIVE DATE.—

(1) **IN GENERAL.**—The amendment made by subsection (a) shall apply—

Ante, p. 591.

(A) in the case of arrangements described in section 707(a)(2)(A) of the Internal Revenue Code of 1954 (as amended by subsection (a)), to services performed or property transferred after February 29, 1984, and

(B) in the case of transfers described in section 707(a)(2)(B) of such Code (as so amended), to property transferred after March 31, 1984.

(2) **BINDING CONTRACT EXCEPTION.**—The amendment made by subsection (a) shall not apply to a transfer of property described in section 707(a)(2)(B)(i) if such transfer is pursuant to a binding contract in effect on March 31, 1984, and at all times thereafter before the transfer.

(3) **EXCEPTION FOR CERTAIN TRANSFERS.**—The amendment made by subsection (a) shall not apply to a transfer of property described in section 707(a)(2)(B)(i) that is made before December 31, 1984, if—

(A) such transfer was proposed in a written private offering memorandum circulated before February 28, 1984;

(B) the out-of-pocket costs incurred with respect to such offering exceeded \$250,000 as of February 28, 1984;

(C) the encumbrances placed on such property in anticipation of such transfer all constitute obligations for which neither the partnership nor any partner is liable; and

(D) the transferor of such property is the sole general partner of the partnership.

SEC. 74. CONTRIBUTIONS TO A PARTNERSHIP OF UNREALIZED RECEIVABLES, INVENTORY ITEMS, OR CAPITAL LOSS PROPERTY.

(a) **GENERAL RULE.**—Subpart A of part II of subchapter K of chapter 1 (relating to contributions to a partnership) is amended by adding at the end thereof the following new section:

26 USC 724.

“SEC. 724. CHARACTER OF GAIN OR LOSS ON CONTRIBUTED UNREALIZED RECEIVABLES, INVENTORY ITEMS, AND CAPITAL LOSS PROPERTY.

“(a) CONTRIBUTIONS OF UNREALIZED RECEIVABLES.—In the case of any property which—

“(1) was contributed to the partnership by a partner, and

“(2) was an unrealized receivable in the hands of such partner immediately before such contribution,

any gain or loss recognized by the partnership on the disposition of such property shall be treated as ordinary income or ordinary loss, as the case may be.

“(b) CONTRIBUTIONS OF INVENTORY ITEMS.—In the case of any property which—

“(1) was contributed to the partnership by a partner, and

“(2) was an inventory item in the hands of such partner immediately before such contribution,

any gain or loss recognized by the partnership on the disposition of such property during the 5-year period beginning on the date of such contribution shall be treated as ordinary income or ordinary loss, as the case may be.

“(c) CONTRIBUTIONS OF CAPITAL LOSS PROPERTY.—In the case of any property which—

“(1) was contributed by a partner to the partnership, and
 “(2) was a capital asset in the hands of such partner immediately before such contribution,
 any loss recognized by the partnership on the disposition of such property during the 5-year period beginning on the date of such contribution shall be treated as a loss from the sale of a capital asset to the extent that, immediately before such contribution, the adjusted basis of such property in the hands of the partner exceeded the fair market value of such property.

“(d) DEFINITIONS.—For purposes of this section—

“(1) UNREALIZED RECEIVABLE.—The term ‘unrealized receivable’ has the meaning given such term by section 751(c) (determined by treating any reference to the partnership as referring to the partner).

“(2) INVENTORY ITEM.—The term ‘inventory item’ has the meaning given such term by section 751(d)(2) (determined by treating any reference to the partnership as referring to the partner and by applying section 1231 without regard to any holding period therein provided).

“(3) SUBSTITUTED BASIS PROPERTY.—

“(A) IN GENERAL.—If any property described in subsection (a), (b), or (c) is disposed of in a nonrecognition transaction, the tax treatment which applies to such property under such subsection shall also apply to any substituted basis property resulting from such transaction. A similar rule shall also apply in the case of a series of non-recognition transactions.

“(B) EXCEPTION FOR STOCK IN C CORPORATION.—Subparagraph (A) shall not apply to any stock in a C corporation received in an exchange described in section 351.”

(b) AMENDMENT OF SECTION 735.—Section 735 (relating to character of gain or loss on disposition of distributed property) is amended by adding at the end thereof the following new subsection:

26 USC 735.

“(c) SPECIAL RULES.—

“(1) WAIVER OF HOLDING PERIODS CONTAINED IN SECTION 1231.—For purposes of this section, section 751(d)(2) (defining inventory item) shall be applied without regard to any holding period in section 1231(b).

“(2) SUBSTITUTED BASIS PROPERTY.—

“(A) IN GENERAL.—If any property described in subsection (a) is disposed of in a nonrecognition transaction, the tax treatment which applies to such property under such subsection shall also apply to any substituted basis property resulting from such transaction. A similar rule shall also apply in the case of a series of nonrecognition transactions.

“(B) EXCEPTION FOR STOCK IN C CORPORATION.—Subparagraph (A) shall not apply to any stock in a C corporation received in an exchange described in section 351.”

(c) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter K of chapter 1 is amended by adding at the end thereof the following new item:

“Sec. 724. Character of gain or loss on contributed unrealized receivables, inventory items, and capital loss property.”

(d) EFFECTIVE DATES.—

- 26 USC 724 note. (1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to property contributed to a partnership after March 31, 1984, in taxable years ending after such date.
- 26 USC 735 note. (2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to property distributed after March 31, 1984, in taxable years ending after such date.

SEC. 75. TRANSFERS OF PARTNERSHIP AND TRUST INTERESTS BY CORPORATIONS.

(a) GENERAL RULE.—Subchapter C of chapter 1 (relating to corporate distributions and adjustments) is amended by adding at the end thereof the following new part:

“PART VII—MISCELLANEOUS CORPORATE PROVISIONS

“Sec. 386. Transfers of partnership and trust interests by corporations.

- 26 USC 386. “SEC. 386. TRANSFERS OF PARTNERSHIP AND TRUST INTERESTS BY CORPORATIONS.

“(a) CORPORATE DISTRIBUTIONS.—For purposes of determining the amount (and character) of gain recognized by a corporation on any distribution of an interest in a partnership, the distribution shall be treated in the same manner as if it included a property distribution consisting of the corporation’s proportionate share of the recognition property of such partnership.

“(b) SALES OR EXCHANGE TO WHICH SECTION 337 APPLIES.—For purposes of determining the amount (and character) of gain recognized on a sale or exchange described in section 337, any sale or exchange by a corporation of an interest in a partnership shall be treated as a sale or exchange of the corporation’s proportionate share of the recognition property of such partnership.

“(c) RECOGNITION PROPERTY.—For purposes of this section, the term ‘recognition property’ means any property with respect to which gain would be recognized to the corporation if such property—

“(1) were distributed by the corporation in a distribution described in section 311 or 336, or

“(2) were sold in a sale described in section 337, whichever is appropriate. In determining whether property of a partnership is recognition property, such partnership shall be treated as owning its proportionate share of the property of any other partnership in which it is a partner.

“(d) EXTENSION TO TRUSTS.—Under regulations, rules similar to the rules of this section shall also apply in the case of the distribution or sale or exchange by a corporation of an interest in a trust.”

- 26 USC 761. (b) DISTRIBUTIONS TREATED AS EXCHANGES FOR PURPOSES OF SUBCHAPTER K.—Section 761 (relating to definitions) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

“(e) DISTRIBUTIONS TREATED AS EXCHANGES.—For purposes of—

“(1) section 708 (relating to continuation of partnership),

“(2) section 743 (relating to optional adjustment to basis of partnership property), and

“(3) any other provision of this subchapter specified in regulations prescribed by the Secretary, any distribution (not otherwise treated as an exchange) shall be treated as an exchange.”

(c) **CLARIFICATION OF FAIR MARKET VALUE IN THE CASE OF NONRECOURSE INDEBTEDNESS.**—Section 7701 (relating to definitions), as amended by this Act, is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

26 USC 7701.
Ante, p. 567.

“(g) **CLARIFICATION OF FAIR MARKET VALUE IN THE CASE OF NONRECOURSE INDEBTEDNESS.**—For purposes of subtitle A, in determining the amount of gain or loss (or deemed gain or loss) with respect to any property, the fair market value of such property shall be treated as being not less than the amount of any nonrecourse indebtedness to which such property is subject.”

(d) **CLERICAL AMENDMENT.**—The table of parts for subchapter C of chapter 1 is amended by adding at the end thereof the following new item:

“Part VII. Miscellaneous corporate provisions.”

(e) **EFFECTIVE DATE.**—The amendments made by this section shall apply to distributions, sales, and exchanges made after March 31, 1984, in taxable years ending after such date.

26 USC 386 note.

SEC. 76. APPLICATION OF SECTION 751 IN THE CASE OF TIERED PARTNERSHIPS.

(a) **GENERAL RULE.**—Section 751 (relating to unrealized receivables and inventory items) is amended by adding at the end thereof the following new subsection:

26 USC 751.

“(f) **SPECIAL RULES IN THE CASE OF TIERED PARTNERSHIPS, ETC.**—In determining whether property of a partnership is—

“(1) an unrealized receivable, or

“(2) an inventory item,

such partnership shall be treated as owning its proportionate share of the property of any other partnership in which it is a partner. Under regulations, rules similar to the rules of the preceding sentence shall also apply in the case of interests in trusts.”

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to distributions, sales, and exchanges made after March 31, 1984, in taxable years ending after such date.

26 USC 751 note.

SEC. 77. SECTION 1031 NOT APPLICABLE TO PARTNERSHIP INTERESTS; LIMITATION ON THE PERIOD DURING WHICH LIKE KIND EXCHANGES MAY BE MADE.

(a) **IN GENERAL.**—Subsection (a) of section 1031 (relating to nonrecognition of gain or loss from exchanges solely in kind) is amended to read as follows:

26 USC 1031.

“(a) **NONRECOGNITION OF GAIN OR LOSS FROM EXCHANGES SOLELY IN KIND.**—

“(1) **IN GENERAL.**—No gain or loss shall be recognized on the exchange of property held for productive use in a trade or business or for investment if such property is exchanged solely for property of like kind which is to be held either for productive use in a trade or business or for investment.

“(2) **EXCEPTION.**—This subsection shall not apply to any exchange of—

“(A) stock in trade or other property held primarily for sale,

“(B) stocks, bonds, or notes,

“(C) other securities or evidences of indebtedness or interest,

“(D) interests in a partnership,

“(E) certificates of trust or beneficial interests, or

“(F) choses in action.

“(3) REQUIREMENT THAT PROPERTY BE IDENTIFIED AND THAT EXCHANGE BE COMPLETED NOT MORE THAN 180 DAYS AFTER TRANSFER OF EXCHANGED PROPERTY.—For purposes of this subsection, any property received by the taxpayer shall be treated as property which is not like-kind property if—

“(A) such property is not identified as property to be received in the exchange before the day which is 45 days after the date on which the taxpayer transfers the property relinquished in the exchange, or

“(B) such property is received after the earlier of—

“(i) the day which is 180 days after the date on which the taxpayer transfers the property relinquished in the exchange, or

“(ii) the due date (determined with regard to extension) for the transferor’s return of the tax imposed by this chapter for the taxable year in which the transfer of the relinquished property occurs.”

26 USC 1031
note.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendment made by subsection (a) shall apply to transfers made after the date of the enactment of this Act in taxable years ending after such date.

Ante, p. 595.

(2) BINDING CONTRACT EXCEPTION FOR TRANSFER OF PARTNERSHIP INTERESTS.—Paragraph (2)(D) of section 1031(a) of the Internal Revenue Code of 1954 (as amended by subsection (a)) shall not apply in the case of any exchange pursuant to a binding contract in effect on March 1, 1984, and at all times thereafter before the exchange.

(3) REQUIREMENT THAT PROPERTY BE IDENTIFIED WITHIN 45 DAYS AND THAT EXCHANGE BE COMPLETED WITHIN 180 DAYS.—Paragraph (3) of section 1031(a) of the Internal Revenue Code of 1954 (as amended by subsection (a)) shall apply—

(A) to transfers after the date of the enactment of this Act, and

(B) to transfers on or before such date of enactment if the property to be received in the exchange is not received before January 1, 1987.

In the case of any transfer on or before the date of the enactment of this Act which the taxpayer treated as part of a like-kind exchange, the period for assessing any deficiency of tax attributable to the amendment made by subsection (a) shall not expire before January 1, 1988.

(4) SPECIAL RULE WHERE PROPERTY IDENTIFIED IN BINDING CONTRACT.—If the property to be received in the exchange is identified in a binding contract in effect on June 13, 1984, and at all times thereafter before the transfer, paragraph (3) shall be applied—

(A) by substituting “January 1, 1989” for “January 1, 1987”, and

(B) by substituting “January 1, 1990” for “January 1, 1988”.

(5) SPECIAL RULE FOR LIKE-KIND EXCHANGE OF PARTNERSHIP INTERESTS.—Paragraph (2)(D) of section 1031(a) of the Internal Revenue Code of 1954 (as amended by subsection (a)) shall not apply to any exchange of an interest as general partner pursu-

ant to a plan of reorganization of ownership interest under a contract which took effect on March 29, 1984, and which was executed on or before March 31, 1984, but only if all the exchanges contemplated by the reorganization plan are completed on or before December 31, 1984.

SEC. 78. ELIMINATION OF BASIS STRIPS UNDER SECTION 734(b).

(a) **GENERAL RULE.**—Subsection (b) of section 734 is amended by adding at the end thereof the following new sentence: “Paragraph (1)(B) shall not apply to any distributed property which is an interest in another partnership with respect to which the election provided in section 754 is not in effect.” 26 USC 734.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to distributions after March 1, 1984, in taxable years ending after such date. 26 USC 734 note.

SEC. 79. OVERRULING OF RAPHAN CASE.

(a) **GENERAL RULE.**—Section 752 of the Internal Revenue Code of 1954 (and the regulations prescribed thereunder) shall be applied without regard to the result reached in the case of *Raphan vs the United States*, 3 Cl. Ct. 457 (1983). 26 USC 752 note.

(b) **REGULATIONS.**—In amending the regulations prescribed under section 752 of such Code to reflect subsection (a), the Secretary of the Treasury or his delegate shall prescribe regulations relating to liabilities, including the treatment of guarantees, assumptions, indemnity agreements, and similar arrangements.

Subtitle F—Trust Provisions

SEC. 81. TREATMENT OF PROPERTY DISTRIBUTED IN KIND.

(a) **GENERAL RULE.**—Section 643 (relating to definitions applicable to subchapters A, B, C, and D) is amended by adding at the end thereof the following new subsection: 26 USC 643.
Post, p. 975.

“(d) TREATMENT OF PROPERTY DISTRIBUTED IN KIND.—

“(1) BASIS OF BENEFICIARY.—The basis of any property received by a beneficiary in a distribution from an estate or trust shall be—

“(A) the adjusted basis of such property in the hands of the estate or trust immediately before the distribution, adjusted for

“(B) any gain or loss recognized to the estate or trust on the distribution.

“(2) AMOUNT OF DISTRIBUTION.—In the case of any distribution of property (other than cash), the amount taken into account under sections 661(a)(2) and 662(a)(2) shall be the lesser of—

“(A) the basis of such property in the hands of the beneficiary (as determined under paragraph (1)), or

“(B) the fair market value of such property.

“(3) ELECTION TO RECOGNIZE GAIN.—

“(A) IN GENERAL.—In the case of any distribution of property (other than cash) to which an election under this paragraph applies—

“(i) paragraph (2) shall not apply,

“(ii) gain or loss shall be recognized by the estate or trust in the same manner as if such property had been sold to the distributee at its fair market value, and

“(iii) the amount taken into account under sections 661(a)(2) and 662(a)(2) shall be the fair market value of such property.

“(B) ELECTION.—Any election under this paragraph shall be made by the estate or trust on its return for the taxable year for which the distribution was made.

Any such election, once made, may be revoked only with the consent of the Secretary.

“(4) EXCEPTION FOR DISTRIBUTIONS DESCRIBED IN SECTION 663(a).—This subsection shall not apply to any distribution described in section 663(a).”

26 USC 643 note.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to distributions after June 1, 1984, in taxable years ending after such date.

(2) TIME FOR MAKING ELECTION.—In the case of any distribution before the date of the enactment of this Act—

Ante, p. 597.

(A) the time for making an election under section 643(d)(3) of the Internal Revenue Code of 1954 (as added by this section) shall not expire before January 1, 1985, and

(B) the requirement that such election be made on the return of the estate or trust shall not apply.

SEC. 82. TREATMENT OF MULTIPLE TRUSTS.

26 USC 643.

(a) GENERAL RULE.—Section 643 (relating to definitions applicable to subparts A, B, C, and D) is amended by adding at the end thereof the following new subsection:

“(e) TREATMENT OF MULTIPLE TRUSTS.—For purposes of this subchapter, under regulations prescribed by the Secretary, 2 or more trusts shall be treated as 1 trust if—

“(1) such trusts have substantially the same grantor or grantors and substantially the same primary beneficiary or beneficiaries, and

“(2) a principal purpose of such trusts is the avoidance of the tax imposed by this chapter.

For purposes of the preceding sentence, a husband and wife shall be treated as 1 person.”

26 USC 643 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after March 1, 1984.

Subtitle G—Accounting Changes

SEC. 91. CERTAIN AMOUNTS NOT TREATED AS INCURRED BEFORE ECONOMIC PERFORMANCE.

26 USC 461.

(a) IN GENERAL.—Section 461 (relating to general rule for taxable year of deduction) is amended by adding at the end thereof the following new subsections:

“(h) CERTAIN LIABILITIES NOT INCURRED BEFORE ECONOMIC PERFORMANCE.—

“(1) IN GENERAL.—For purposes of this title, in determining whether an amount has been incurred with respect to any item during any taxable year, the all events test shall not be treated as met any earlier than when economic performance with respect to such item occurs.

“(2) TIME WHEN ECONOMIC PERFORMANCE OCCURS.—Except as provided in regulations prescribed by the Secretary, the time

when economic performance occurs shall be determined under the following principles:

“(A) SERVICES AND PROPERTY PROVIDED TO THE TAXPAYER.—If the liability of the taxpayer arises out of—

“(i) the providing of services to the taxpayer by another person, economic performance occurs as such person provides such services,

“(ii) the providing of property to the taxpayer by another person, economic performance occurs as the person provides such property, or

“(iii) the use of property by the taxpayer, economic performance occurs as the taxpayer uses such property.

“(B) SERVICES AND PROPERTY PROVIDED BY THE TAXPAYER.—If the liability of the taxpayer requires the taxpayer to provide property or services, economic performance occurs as the taxpayer provides such property or services.

“(C) WORKERS COMPENSATION AND TORT LIABILITIES OF THE TAXPAYER.—If the liability of the taxpayer requires a payment to another person and—

“(i) arises under any workers compensation act, or

“(ii) arises out of any tort,

economic performance occurs as the payments to such person are made. Subparagraphs (A) and (B) shall not apply to any liability described in the preceding sentence.

“(D) OTHER ITEMS.—In the case of any other liability of the taxpayer, economic performance occurs at the time determined under regulations prescribed by the Secretary.

“(3) EXCEPTION FOR CERTAIN RECURRING ITEMS.—

“(A) IN GENERAL.—Notwithstanding paragraph (1) an item shall be treated as incurred during any taxable year if—

“(i) the all events test with respect to such item is met during such taxable year (determined without regard to paragraph (1)),

“(ii) economic performance with respect to such item occurs within the shorter of—

“(I) a reasonable period after the close of such taxable year, or

“(II) 8½ months after the close of such taxable year,

“(iii) such item is recurring in nature and the taxpayer consistently treats items of such kind as incurred in the taxable year in which the requirements of clause (i) are met, and

“(iv) either—

“(I) such item is not a material item, or

“(II) the accrual of such item in the taxable year in which the requirements of clause (i) are met results in a more proper match against income than accruing such item in the taxable year in which economic performance occurs.

“(B) FINANCIAL STATEMENTS CONSIDERED UNDER SUBPARAGRAPH (A) (iv).—In making a determination under subparagraph (A)(iv), the treatment of such item on financial statements shall be taken into account.

“(C) PARAGRAPH NOT TO APPLY TO WORKERS COMPENSATION AND TORT LIABILITIES.—This paragraph shall not apply to any item described in subparagraph (C) of paragraph (2).

“(4) ALL EVENTS TEST.—For purposes of this subsection, the all events test is met with respect to any item if all events have occurred which determine the fact of liability and the amount of such liability can be determined with reasonable accuracy.

“(5) SUBSECTION NOT TO APPLY TO CERTAIN CASES TO WHICH OTHER PROVISIONS OF THIS TITLE SPECIFICALLY APPLY.—This subsection shall not apply to any item to which any of the following provisions apply:

“(A) Subsection (c) or (f) of section 166 (relating to reserves for bad debts).

“(B) Section 463 (relating to vacation pay).

“(C) Section 466 (relating to discount coupons).

“(D) Any other provisions of this title which specifically provides for a deduction for a reserve for estimated expenses.

“(i) TAX SHELTERS MAY NOT DEDUCT ITEMS EARLIER THAN WHEN ECONOMIC PERFORMANCE OCCURS.—

“(1) IN GENERAL.—In the case of a tax shelter computing taxable income under the cash receipts and disbursements method of accounting, such tax shelter shall not be allowed a deduction under this chapter with respect to any item any earlier than the time when such item would be treated as incurred under subsection (h) (determined without regard to paragraph (3) thereof).

“(2) EXCEPTION (TO EXTENT OF CASH BASIS) WHEN ECONOMIC PERFORMANCE OCCURS WITHIN 90 DAYS AFTER THE CLOSE OF THE TAXABLE YEAR.—

“(A) IN GENERAL.—Paragraph (1) shall not apply to any item if economic performance with respect to such item occurs within 90 days after the close of the taxable year.

“(B) DEDUCTION LIMITED TO CASH BASIS.—

“(i) TAX SHELTER PARTNERSHIPS.—In the case of a tax shelter which is a partnership, in applying section 704(d) to a deduction or loss for any taxable year attributable to an item which is deductible by reason of subparagraph (A), the term ‘cash basis’ shall be substituted for the term ‘adjusted basis’.

“(ii) OTHER TAX SHELTERS.—Under regulations prescribed by the Secretary, in the case of a tax shelter other than a partnership, the aggregate amount of the deductions allowable by reason of subparagraph (A) for any taxable year shall be limited in a manner similar to the limitation under clause (i).

“(C) CASH BASIS DEFINED.—For purposes of subparagraph (B), a partner’s cash basis in a partnership shall be equal to the adjusted basis of such partner’s interest in the partnership, determined without regard to—

“(i) any liability of the partnership, and

“(ii) any amount borrowed by the partner with respect to such partnership which—

“(I) was arranged by the partnership or by any person who participated in the organization, sale, or management of the partnership (or any person

related to such person within the meaning of section 168(e)(4)), or

“(II) was secured by any assets of the partnership.

“(D) SPECIAL CASH BASIS RULE FOR SPUDDING OF OIL OR GAS WELLS.—Solely for purposes of applying subparagraph (A), economic performance with respect to the act of drilling of an oil or gas well shall be treated as occurring when the drilling of the well is commenced.

“(3) TAX SHELTER DEFINED.—For purposes of this subsection, the term ‘tax shelter’ means—

“(A) any enterprise (other than a C corporation) if at any time interests in such enterprise have been offered for sale in any offering required to be registered with any Federal or State agency having the authority to regulate the offering of securities for sale,

“(B) any syndicate (within the meaning of section 1256(e)(3)(B)), and

“(C) any tax shelter (within the meaning of section 6661(b)(2)(C)(ii)).

“(4) SPECIAL RULES FOR FARMING.—In the case of the trade or business of farming (as defined in section 464(e))—

“(A) section 464 shall be applied to any tax shelter described in paragraph (3)(C),

“(B) section 464 shall be applied before this subsection, and

“(C) in determining whether an entity is a tax shelter, the definition of farming syndicate in section 464(c) shall be substituted for subparagraphs (A) and (B) of paragraph (3).

“(5) ECONOMIC PERFORMANCE.—For purposes of this subsection, the term ‘economic performance’ has the meaning given such term by subsection (h).”

(b) SPECIAL RULES FOR MINING AND SOLID WASTE RECLAMATION AND CLOSING COSTS.—

(1) IN GENERAL.—Subpart C of part II of subchapter E of chapter 1 (relating to taxable year for which deduction taken), as amended by section 92, is amended by adding at the end thereof the following new section:

“SEC. 468. SPECIAL RULES FOR MINING AND SOLID WASTE RECLAMATION AND CLOSING COSTS. 26 USC 468.

“(a) ESTABLISHMENT OF RESERVES FOR RECLAMATION AND CLOSING COSTS.—

“(1) ALLOWANCE OF DEDUCTION.—If a taxpayer elects the application of this subsection with respect to any mining or solid waste disposal property, the amount of any deduction for qualified reclamation or closing costs for any taxable year to which such election applies shall be equal to the current reclamation or closing costs allocable to—

“(A) in the case of qualified reclamation costs, the portion of the reserve property which was disturbed during such taxable year, and

“(B) in the case of qualified closing costs, the production from the reserve property during such taxable year.

“(2) OPENING BALANCE AND ADJUSTMENTS TO RESERVE.—

“(A) OPENING BALANCE.—The opening balance of any reserve for its first taxable year shall be zero.

“(B) INCREASE FOR INTEREST.—

“(i) **IN GENERAL.**—A reserve shall be increased each taxable year by an amount equal to the amount of interest which would be earned during such taxable year on the opening balance of such reserve for such taxable year if such interest were computed—

“(I) at the Federal short-term rate or rates (determined under section 1274) in effect, and

“(II) by compounding semiannually.

“(ii) **PHASE-IN OF INTEREST RATE.**—In the case of taxable years ending before 1987, the rate determined under clause (i)(I) shall be equal to the following percentage of such rate (determined without regard to this clause):

“In the case of taxable years ending in: The percentage is:	
1984 or 1985.....	70
1986.....	85.

“(C) **RESERVE TO BE CHARGED FOR AMOUNTS PAID.**— Any amount paid by the taxpayer during any taxable year for qualified reclamation or closing costs allocable to portions of the reserve property for which the election under paragraph (1) was in effect shall be charged to the appropriate reserve as of the close of the taxable year.

“(3) **ALLOWANCE OF DEDUCTION FOR EXCESS AMOUNTS PAID.**— There shall be allowed as a deduction for any taxable year the excess of—

“(A) the amounts described in paragraph (2)(C) paid during such taxable year, over

“(B) the closing balance of the reserve for such taxable year (determined without regard to paragraph (2)(C)).

“(4) **LIMITATION ON BALANCE AS OF THE CLOSE OF ANY TAXABLE YEAR.**—

“(A) **RECLAMATION RESERVES.**—In the case of any reserve for qualified reclamation costs, there shall be included in gross income for any taxable year an amount equal to the excess of—

“(i) the closing balance of the reserve for such taxable year, over

“(ii) the current reclamation costs of the taxpayer for all portions of the reserve property disturbed during any taxable year to which the election under paragraph (1) applies.

“(B) **CLOSING COSTS RESERVES.**—In the case of any reserve for qualified closing costs, there shall be included in gross income for any taxable year an amount equal to the excess of—

“(i) the closing balance of the reserve for such taxable year, over

“(ii) the current closing cost of the taxpayer with respect to the reserve property, determined as if all production with respect to the reserve property for any taxable year to which the election under paragraph (1) applies had occurred in such taxable year.

“(C) ORDER OF APPLICATION.—This paragraph shall be applied after all adjustments to the reserve have been made for the taxable year.

“(5) INCOME INCLUSIONS ON COMPLETION OR DISPOSITION.—

Proper inclusion in income shall be made upon—

“(A) the revocation of an election under paragraph (1), or

“(B) completion of the closing, or disposition of any portion, of a reserve property.

“(b) ALLOCATION FOR PROPERTY WHERE ELECTION NOT IN EFFECT FOR ALL TAXABLE YEARS.—If the election under subsection (a)(1) is not in effect for 1 or more taxable years in which the reserved property is disturbed (or production occurs), items with respect to the reserve property shall be allocated to the reserve in such manner as the Secretary may prescribe by regulations.

“(c) REVOCATION OF ELECTION; SEPARATE RESERVES.—

“(1) REVOCATION OF ELECTION.—

“(A) IN GENERAL.—The taxpayer may revoke an election under subsection (a)(1) with respect to any property. Such revocation, once made, shall be irrevocable.

“(B) TIME AND MANNER OF REVOCATION.—Any revocation under subparagraph (A) shall be made at such time and in such manner as the Secretary may prescribe.

“(2) SEPARATE RESERVES REQUIRED.—If a taxpayer makes an election under subsection (a)(1), the taxpayer shall establish with respect to the property for which the election was made—

“(A) a separate reserve for qualified reclamation costs, and

“(B) a separate reserve for qualified closing costs.

“(d) DEFINITIONS AND SPECIAL RULES RELATING TO RECLAMATION AND CLOSING COSTS.—For purposes of this section—

“(1) CURRENT RECLAMATION AND CLOSING COSTS.—

“(A) CURRENT RECLAMATION COSTS.—The term ‘current reclamation costs’ means the amount which the taxpayer would be required to pay for qualified reclamation costs if the reclamation activities were performed currently.

“(B) CURRENT CLOSING COSTS.—

“(i) IN GENERAL.—The term ‘current closing costs’ means the amount which the taxpayer would be required to pay for qualified closing costs if the closing activities were performed currently.

“(ii) COSTS COMPUTED ON UNIT-OF-PRODUCTION OR CAPACITY METHOD.—Estimated closing costs shall—

“(I) in the case of the closing of any mine site, be computed on the unit-of-production method of accounting, and

“(II) in the case of the closing of any solid waste disposal site, be computed on the unit-of-capacity method.

“(2) QUALIFIED RECLAMATION OR CLOSING COSTS.—The term ‘qualified reclamation or closing costs’ means any of the following expenses:

“(A) MINING RECLAMATION AND CLOSING COSTS.—Any expenses incurred for any land reclamation or closing activity which is conducted in accordance with a reclamation plan (including an amendment or modification thereof)—

“(i) which—

30 USC 1261,
1278.

“(I) is submitted pursuant to the provisions of section 511 or 528 of the Surface Mining Control and Reclamation Act of 1977 (as in effect on January 1, 1984), and

30 USC 1251.

“(II) is part of a surface mining and reclamation permit granted under the provisions of title V of such Act (as so in effect), or

“(ii) which is submitted pursuant to any other Federal or State law which imposes surface mining reclamation and permit requirements substantially similar to the requirements imposed by title V of such Act (as so in effect).

“(B) SOLID WASTE DISPOSAL AND CLOSING COSTS.—

“(i) **IN GENERAL.**—Any expenses incurred for any land reclamation or closing activity in connection with any solid waste disposal site which is conducted in accordance with any permit issued pursuant to—

42 USC 6901
note.

“(I) any provision of the Solid Waste Disposal Act (as in effect on January 1, 1984) requiring such activity, or

“(II) any other Federal, State, or local law which imposes requirements substantially similar to the requirements imposed by the Solid Waste Disposal Act (as so in effect).

42 USC 9605.

“(ii) **EXCEPTION FOR CERTAIN HAZARDOUS WASTE SITES.**—Clause (i) shall not apply to that portion of any property which is disturbed after the property is listed in the national contingency plan established under section 105 of the Comprehensive Environmental, Compensation, and Liability Act of 1980.

“(3) **PROPERTY.**—The term ‘property’ has the meaning given such term by section 614.

“(4) **RESERVE PROPERTY.**—The term ‘reserve property’ means any property with respect to which a reserve is established under subsection (a)(1).”

(2) **CONFORMING AMENDMENT.**—The table of sections for subpart C of part II of subchapter E of chapter 1 is amended by adding at the end thereof the following new item:

“Sec. 468. Special rules for mining and solid waste reclamation and closing costs.”

(c) SPECIAL RULE FOR LIABILITIES IN CONNECTION WITH THE DECOMMISSIONING OF A NUCLEAR POWERPLANT.—

(1) **IN GENERAL.**—Subpart C of part II of subchapter E of chapter 1 (relating to taxable year for which deduction taken), as amended by subsection (b), is amended by adding at the end thereof the following new section:

26 USC 468A.

“SEC. 468A. SPECIAL RULES FOR NUCLEAR DECOMMISSIONING COSTS.

“(a) **IN GENERAL.**—If the taxpayer elects the application of this subsection, there shall be allowed as a deduction for any taxable year the amount of payments made by the taxpayer to a Nuclear Decommissioning Reserve Fund (hereinafter referred to as the ‘Fund’) during such taxable year.

“(b) **LIMITATION ON AMOUNTS PAID INTO FUND.**—The amount which a taxpayer may pay into the Fund for any taxable year shall not exceed the lesser of—

“(1) the amount of nuclear decommissioning costs allocable to the Fund which is included in the taxpayer’s cost of service for ratemaking purposes for such taxable year, or

“(2) the ruling amount applicable to such taxable year.

“(c) INCOME AND DEDUCTIONS OF THE TAXPAYER.—

“(1) INCLUSION OF AMOUNTS DISTRIBUTED.—There shall be includible in the gross income of the taxpayer for any taxable year—

“(A) any amount distributed from the Fund during such taxable year, other than any amount distributed to pay costs described in subsection (e)(2)(B), and

“(B) except to the extent provided in regulations, amounts properly includible in gross income in the case of any deemed distribution under subsection (e)(6), any termination under subsection (e)(7), or the disposition of any interest in the nuclear powerplant.

“(2) DEDUCTION WHEN ECONOMIC PERFORMANCE OCCURS.—In addition to any deduction under subsection (a), there shall be allowable as a deduction for any taxable year the amount of the nuclear decommissioning costs with respect to which economic performance (within the meaning of section 461(h)(2)) occurs during such taxable year.

Ante, p. 598.

“(d) RULING AMOUNT.—For purposes of this subsection—

“(1) REQUEST REQUIRED.—No deduction shall be allowed for any payment to the Fund unless the taxpayer requests, and receives, from the Secretary a schedule of ruling amounts.

“(2) RULING AMOUNT.—The term ‘ruling amount’ means, with respect to any taxable year, the amount which the Secretary determines under paragraph (1) to be necessary to—

“(A) fund that portion of the nuclear decommissioning costs of the taxpayer with respect to the nuclear powerplant which bears the same ratio to the total nuclear decommissioning costs with respect to such nuclear powerplant as the period for which the Fund is in effect bears to the estimated useful life of such nuclear powerplant, and

“(B) prevent any excessive funding of such costs or the funding of such costs at a rate more rapid than level funding, taking into account such discount rates as the Secretary deems appropriate.

“(3) REVIEW OF AMOUNT.—The Secretary shall at least once during the useful life of the nuclear powerplant (or, more frequently, upon the request of the taxpayer) review, and revise if necessary, the schedule of ruling amounts determined under paragraph (1).

“(e) NUCLEAR DECOMMISSIONING TRUST FUND.—

“(1) IN GENERAL.—Each taxpayer who elects the application of this subsection shall establish a Nuclear Decommissioning Trust Fund with respect to each nuclear powerplant to which such election applies.

“(2) TAXATION OF FUND.—There is imposed on the gross income of the Fund for any taxable year a tax at a rate equal to the maximum rate in effect under section 11(b), except that—

“(A) there shall not be included in the gross income of the Fund any payment to the Fund with respect to which a deduction is allowable under subsection (a), and

“(B) there shall be allowed as a deduction any amount paid by the Fund described in paragraph (4)(B) (other than to the taxpayer).

“(3) CONTRIBUTIONS TO FUND.—The Fund shall not accept any payments (or other amounts) other than payments with respect to which a deduction is allowable under subsection (a).

“(4) USE OF FUND.—The Fund shall be used exclusively for—

“(A) satisfying, in whole or in part, any liability of any person contributing to the Fund for the decommissioning of a nuclear powerplant (or unit thereof), and

“(B) to pay administrative costs (including taxes) and other incidental expenses of the Fund (including legal, accounting, actuarial, and trustee expenses) in connection with the operation of the Fund.

“(5) PROHIBITIONS AGAINST SELF-DEALING.—Under regulations prescribed by the Secretary, for purposes of section 4951 (and so much of this title as relates to such section), the Fund shall be treated in the same manner as a trust described in section 501(c)(21).

“(6) DISQUALIFICATION OF FUND.—In any case in which the Fund violates any provision of this subsection or section 4951, the Secretary may disqualify such Fund from the application of this subsection. In any case to which this subparagraph applies, the Fund shall be treated as having distributed all of its funds on the date such determination takes effect.

“(7) TERMINATION UPON COMPLETION.—Upon substantial completion of the nuclear decommissioning of the nuclear powerplant with respect to which a Fund relates, the taxpayer shall terminate such Fund.

“(f) NUCLEAR POWERPLANT.—The term ‘nuclear powerplant’ includes any unit thereof.”

(2) CONFORMING AMENDMENT.—The table of sections for subpart C of part II of subchapter E of chapter 1 is amended by adding at the end thereof the following new item:

“Sec. 468A. Special rules for nuclear decommissioning costs.”

(d) 10-YEAR NET OPERATING LOSS CARRYBACK PERIOD FOR DEFERRED STATUTORY OR TORT LIABILITY DEDUCTIONS.—

26 USC 172.

(1) IN GENERAL.—Paragraph (1) of section 172(b) (relating to years to which loss may be carried) is amended by adding at the end thereof the following new subparagraph:

“(K) SPECIAL RULE FOR DEFERRED STATUTORY OR TORT LIABILITY LOSSES.—In the case of a taxpayer which has a deferred statutory or tort liability loss (as defined in subsection (k)) for any taxable year beginning after December 31, 1983, the deferred statutory or tort liability loss shall be a net operating loss carryback to each of the 10 taxable years preceding the taxable year of such loss.”

26 USC 172.

(2) DEFERRED STATUTORY OR TORT LIABILITY LOSSES.—Section 172 is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

“(k) DEFINITIONS AND SPECIAL RULES RELATING TO DEFERRED STATUTORY OR TORT LIABILITY LOSSES.—For purposes of this section—

“(1) DEFERRED STATUTORY OR TORT LIABILITY LOSS.—The term ‘deferred statutory or tort liability loss’ means, for any taxable year, the lesser of—

“(A) the net operating loss for such taxable year, reduced by any portion thereof attributable to—

- “(i) a foreign expropriation loss, or
- “(ii) a product liability loss, or

“(B) the sum of the amounts allowable as a deduction under this chapter (other than any deduction described in subsection (j)(1)(B)) which—

“(i) is taken into account in computing the net operating loss for such taxable year, and

“(ii) is for an amount incurred with respect to a liability which arises under a Federal or State law or out of any tort of the taxpayer and—

“(I) in the case of a liability arising out of a Federal or State law, the act (or failure to act) giving rise to such liability occurs at least 3 years before the beginning of such taxable year, or

“(II) in the case of a liability arising out of a tort, such liability arises out of a series of actions (or failures to act) over an extended period of time a substantial portion of which occurs at least 3 years before the beginning of such taxable year.

A liability shall not be taken into account under the preceding sentence unless the taxpayer used an accrual method of accounting throughout the period or periods during which the acts or failures to act giving rise to such liability occurred.

“(2) SPECIAL RULE FOR NUCLEAR POWERPLANTS.—Except as provided in regulations prescribed by the Secretary, that portion of a deferred statutory or tort liability loss which is attributable to amounts incurred in the decommissioning of a nuclear powerplant (or any unit thereof) may, for purposes of subsection (b)(1)(K), be carried back to each of the taxable years during the period—

“(A) beginning with the taxable year in which such plant (or unit thereof) was placed in service, and

“(B) ending with the taxable year preceding the loss year.

“(3) COORDINATION WITH SUBSECTION (b) (2).—In applying paragraph (2) of subsection (b), a deferred statutory or tort liability loss shall be treated in a manner similar to the manner in which a foreign expropriation loss is treated.

“(4) NO CARRYBACK TO TAXABLE YEARS BEGINNING BEFORE JANUARY 1, 1984.—No deferred statutory or tort liability loss may be carried back to a taxable year beginning before January 1, 1984, unless such loss may be carried back to such year without regard to subsection (b)(1)(K).”

(3) CONFORMING AMENDMENTS.—

(A) Clause (i) of section 172(b)(1)(A) is amended by striking out “and (J)” and inserting in lieu thereof “(J), and (K)”.

26 USC 172.

(B) Subsections (h) and (j) of section 172 are each amended by striking out “subsection (b)” in the matter preceding paragraph (1) and inserting in lieu thereof “this section”.

(e) CONFORMING AMENDMENT.—Paragraph (4) of section 461(f) (relating to contested liabilities) is amended by inserting “determined after application of subsection (h)” after “taxable year”.

26 USC 461.

(f) INCLUSION IN INCOME OF NUCLEAR DECOMMISSIONING COSTS INCLUDED IN THE TAXPAYER'S RATE BASE.—

(1) IN GENERAL.—Part II of subchapter B of chapter 1 (relating to items specifically included in gross income) is amended by adding at the end thereof the following new section:

26 USC 88. “SEC. 88. CERTAIN AMOUNTS WITH RESPECT TO NUCLEAR DECOMMISSIONING COSTS.

“In the case of any taxpayer who is required to include the amount of any nuclear decommissioning costs in the taxpayer’s cost of service of ratemaking purposes, there shall be includible in the gross income of such taxpayer the amount so included for any taxable year.”

(2) CONFORMING AMENDMENT.—The table of sections for part II of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

“Sec. 88. Certain amounts with respect to nuclear decommissioning costs.”

26 USC 461 note. (g) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection and subsections (h) and (i), the amendments made by this section shall apply to amounts with respect to which a deduction would be allowable under chapter 1 of the Internal Revenue Code of 1954 (determined without regard to such amendments) after—

26 USC 1 *et seq.*

Ante, p. 598.

(A) in the case of amounts to which section 461(h) of such Code (as added by such amendments) applies, the date of the enactment of this Act, and

Ante, p. 598.

(B) in the case of amounts to which section 461(i) of such Code (as so added) applies, after March 31, 1984.

(2) TAXPAYER MAY ELECT EARLIER APPLICATION.—

(A) IN GENERAL.—In the case of amounts described in paragraph (1)(A), a taxpayer may elect to have the amendments made by this section apply to amounts which—

(i) are incurred before the date of the enactment of this Act (determined without regard to such amendments), and

(ii) are incurred on or after the date of the enactment of this Act (determined with regard to such amendments).

(B) ELECTION TREATED AS CHANGE IN THE METHOD OF ACCOUNTING.—For purposes of section 481 of the Internal Revenue Code of 1954, if an election is made under subparagraph (A) with respect to any amount, the application of the amendments made by this section shall be treated as a change in method of accounting—

(i) initiated by the taxpayer,

(ii) made with the consent of the Secretary of the Treasury, and

(iii) with respect to which section 481 of such Code shall be applied by substituting a 3-year adjustment period for a 10-year adjustment period.

Ante, p. 598

(3) SECTION 461(h) TO APPLY IN CERTAIN CASES.—Notwithstanding paragraph (1), section 461(h) of the Internal Revenue Code of 1954 (as added by this section) shall be treated as being in effect to the extent necessary to carry out any amendments made by this section which take effect before section 461(h).

26 USC 461 note.

(h) EXCEPTION FOR CERTAIN EXISTING ACTIVITIES AND CONTRACTS.—If—

(1) **EXISTING ACCOUNTING PRACTICES.**—If, on March 1, 1984, any taxpayer was regularly computing his deduction for mining reclamation activities under a current cost method of accounting (as determined by the Secretary of the Treasury or his delegate), the liability for reclamation activities—

(A) for land disturbed before the date of the enactment of this Act, or

(B) to which paragraph (2) applies,
shall be treated as having been incurred when the land was disturbed.

(2) **FIXED PRICE SUPPLY CONTRACT.**—

(A) **IN GENERAL.**—In the case of any fixed price supply contract entered into before March 1, 1984, the amendments made by subsection (b) shall not apply to any minerals extracted from such property which are sold pursuant to such contract.

(B) **NO EXTENSION OR RENEGOTIATION.**—Subparagraph (A) shall not apply—

(i) to any extension of any contract beyond the period such contract was in effect on March 1, 1984, or

(ii) to any renegotiation of, or other change in, the terms and conditions of such contract in effect on March 1, 1984.

(i) **TRANSITIONAL RULE FOR ACCRUED VACATION PAY.**—

26 USC 461 note.

(1) **IN GENERAL.**—In the case of any taxpayer—

(A) with respect to whom a deduction was allowable (other than under section 463 of the Internal Revenue Code of 1954) for vested accrued vacation pay for the last taxable year ending before the date of the enactment of this Act, and

(B) who elects the application of section 463 of such Code for the first taxable year ending after the date of the enactment of this Act,

then, for purposes of section 463(b) of such Code, the opening balance of the taxpayer with respect to any vested accrued vacation pay shall be determined under section 463(b)(1) of such Code.

(2) **VESTED ACCRUED VACATION PAY.**—For purposes of this subsection, the term “vested accrued vacation pay” means any amount allowable under section 162(a) of such Code with respect to vacation pay of employees of the taxpayer (determined without regard to section 463 of such Code).

SEC. 92. TREATMENT OF CERTAIN DEFERRED PAYMENTS FOR USE OF PROPERTY OR SERVICES.

(a) **GENERAL RULE.**—Subpart C of part II of subchapter E of chapter 1 (relating to taxable year for which deduction is taken) is amended by adding at the end thereof the following new section:

“**SEC. 467. CERTAIN PAYMENTS FOR THE USE OF PROPERTY OR SERVICES.** 26 USC 467.

“(a) **ACCRUAL METHOD ON PRESENT VALUE BASIS.**—In the case of the lessor or lessee under any section 467 rental agreement, there shall be taken into account for purposes of this title for any taxable year the sum of—

“(1) the amount of the rent which accrues during such taxable year as determined under subsection (b), and

“(2) interest for the year on the amounts which were taken into account under this subsection for prior taxable years and which are unpaid.

“(b) ACCRUAL OF RENTAL PAYMENTS.—

“(1) ALLOCATION FOLLOWS AGREEMENT.—Except as provided in paragraph (2), the determination of the amount of the rent under any section 467 rental agreement which accrues during any taxable year shall be made—

“(A) by allocating rents in accordance with the agreement, and

“(B) by taking into account any rent to be paid after the close of the period in an amount determined under regulations which shall be based on present value concepts.

“(2) CONSTANT RENTAL ACCRUAL IN CASE OF CERTAIN TAX AVOIDANCE TRANSACTIONS, ETC.—In the case of any section 467 rental agreement to which this paragraph applies, the portion of the rent which accrues during any taxable year shall be that portion of the constant rental amount with respect to such agreement which is allocable to such taxable year.

“(3) AGREEMENTS TO WHICH PARAGRAPH (2) APPLIES.—Paragraph (2) applies to any rental payment agreement if—

“(A) such agreement is a disqualified leaseback or long-term agreement, or

“(B) such agreement does not provide for the allocation referred to in paragraph (1)(A).

“(4) DISQUALIFIED LEASEBACK OR LONG-TERM AGREEMENT.—For purposes of this subsection, the term ‘disqualified leaseback or long-term agreement’ means any section 467 rental agreement if—

“(A) such agreement is part of a leaseback transaction or such agreement is for a term in excess of 75 percent of the statutory recover period for the property, and

“(B) a principal purpose for providing increasing rents under the agreement is the avoidance of tax imposed by this subtitle.

Regulations.

“(5) EXCEPTIONS TO DISQUALIFICATION IN CERTAIN CASES.—The Secretary shall prescribe regulations setting forth circumstances under which agreements will not be treated as disqualified leaseback or long-term agreements, including circumstances relating to—

“(A) changes in amounts paid determined by reference to price indices,

“(B) rents based on a fixed percentage of lessee receipts or similar amounts,

“(C) reasonable rent holidays, or

“(D) changes in amounts paid to unrelated 3rd parties.

“(c) RECAPTURE OF PRIOR UNDERSTATED INCLUSIONS UNDER LEASEBACK OR LONG-TERM AGREEMENTS.—

“(1) IN GENERAL.—If—

“(A) the lessor under any section 467 rental agreement disposes of any property subject to such agreement during the term of such agreement, and

“(B) such agreement is a leaseback or long-term agreement to which paragraph (2) of subsection (b) did not apply, the recapture amount shall be treated as ordinary income. Such gain shall be recognized notwithstanding any other provision of this subtitle.

“(2) RECAPTURE AMOUNT.—For purposes of paragraph (1), the term ‘recapture amount’ means the lesser of—

“(A) the prior understated inclusions, or

“(B) the excess of the amount realized (or in the case of a disposition other than a sale, exchange, or involuntary conversion, the fair market value of the property) over the adjusted basis of such property.

The amount determined under subparagraph (B) shall be reduced by the amount of any gain treated as ordinary income on the disposition under any other provision of this subtitle.

“(3) PRIOR UNDERSTATED INCLUSIONS.—For purposes of this subsection, the term ‘prior understated inclusion’ means the excess (if any) of—

“(A) the amount which would have been taken into account by the lessor under subsection (a) for periods before the disposition if subsection (b)(2) had applied to the agreement, over

“(B) the amount taken into account under subsection (a) by the lessor for periods before the disposition.

“(4) LEASEBACK OR LONG-TERM AGREEMENT.—For purposes of this subsection, the term ‘leaseback or long-term agreement’ means any agreement described in subsection (b)(3)(A).

“(5) SPECIAL RULES.—Under regulations prescribed by the Secretary—

“(A) exceptions similar to the exceptions applicable under section 1245 or 1250 (whichever is appropriate) shall apply for purposes of this subsection,

“(B) any transferee in a disposition excepted by reason of subparagraph (A) who has a transferred basis in the property shall be treated in the same manner as the transferor, and

“(C) for purposes of sections 163(d), 170(e), 341(e)(12), 453B(d)(2), and 751(c), amounts treated as ordinary income under this section shall be treated in the same manner as amounts treated as ordinary income under section 1245 or 1250.

“(d) SECTION 467 RENTAL AGREEMENTS.—

“(1) IN GENERAL.—Except as otherwise provided in this subsection, the term ‘section 467 rental agreements’ means any rental agreement for the use of tangible property under which—

“(A) there is at least one amount allocable to the use of property during a calendar year which is to be paid after the close of the calendar year following the calendar year in which such use occurs, or

“(B) there are increases in the amount to be paid as rent under the agreement.

“(2) SECTION NOT TO APPLY TO AGREEMENTS INVOLVING PAYMENTS OF \$250,000 OR LESS.—This section shall not apply to any amount to be paid for the use of property if the sum of the following amounts does not exceed \$250,000—

“(A) the aggregate amount of payments received as consideration for such use of property, and

“(B) the aggregate value of any other consideration to be received for such use of property.

For purposes of the preceding sentence, rules similar to the rules of clauses (ii) and (iii) of section 1274(c)(2)(C) shall apply.

Ante, p. 538.

“(e) **DEFINITIONS.**—For purposes of this section—

“(1) **CONSTANT RENTAL AMOUNT.**—The term ‘constant rental amount’ means, with respect to any section 467 rental agreement, the amount which, if paid as of the close of each lease period under the agreement, would result in an aggregate present value equal to the present value of the aggregate payments required under the agreement.

“(2) **LEASEBACK TRANSACTION.**—A transaction is a leaseback transaction if it involves a leaseback to any person who had an interest in such property at any time within 2 years before such leaseback (or to a related person).

“(3) **STATUTORY RECOVERY PERIOD.**—

“(A) **IN GENERAL.**—

“In the case of property which is:	The statutory recovery period is:
3-year property.....	3 years
5-year property.....	5 years
10-year property.....	10 years
Low-income housing	15 years
15-year public utility property	15 years
18-year real property	18 years

“(B) **SPECIAL RULE FOR PROPERTY WHICH IS NOT RECOVERY PROPERTY.**—In the case of any property which is not recovery property, subparagraph (A) shall be applied as if such property were recovery property.

“(4) **DISCOUNT AND INTEREST RATE.**—For purposes of computing present value and interest under subsection (a)(2), the rate used shall be equal to 110 percent of the applicable Federal rate determined under section 1274(d) (compounded semiannually) which is in effect at the time the agreement is entered into with respect to debt instruments having a maturity equal to the term of the agreement.

“(5) **RELATED PERSON.**—The term ‘related person’ has the meaning given to such term by section 168(d)(4)(D).

“(6) **CERTAIN OPTIONS OF LESSEE TO RENEW NOT TAKEN INTO ACCOUNT.**—Except as provided in regulations prescribed by the Secretary, there shall not be taken into account in computing the term of any agreement for purposes of this section any extension which is solely at the option of the lessee.

“(f) **COMPARABLE RULES WHERE AGREEMENT FOR DECREASING PAYMENTS.**—Under regulations prescribed by the Secretary, rules comparable to the rules of this section shall also apply in the case of any agreement where the amount paid under the agreement for the use of property decreases during the term of the agreement.

“(g) **COMPARABLE RULES FOR SERVICES.**—Under regulations prescribed by the Secretary, rules comparable to the rules of subsection (a)(2) shall also apply in the case of payments for services which meet requirements comparable to the requirements of subsection (d).

“(h) **REGULATIONS.**—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including regulations providing for the application of this section in the case of contingent payments.”

(b) **CLERICAL AMENDMENT.**—The table of sections for subpart C of part II of subchapter E of chapter 1 is amended by adding at the end thereof the following new item:

“Sec. 467. Certain payments for use of property or services.”

(1) **IN GENERAL.**—Except as otherwise provided in this subsection, the amendments made by this section shall apply with respect to agreements entered into after June 8, 1984.

(2) **EXCEPTIONS.**—The amendments made by this section shall not apply—

(A) to any agreement entered into pursuant to a written agreement which was binding on June 8, 1984, and at all times thereafter,

(B) subject to the provisions of paragraph (3), to any agreement to lease property if—

(i) there was in effect a firm plan, evidenced by a board of directors' resolution, memorandum of agreement, or letter of intent on March 15, 1984, to enter into such an agreement, and

(ii) construction of the property was commenced (but such property was not placed in service) on or before March 15, 1984, and

(C) to any agreement to lease property if—

(i) the lessee of such property adopted a firm plan to lease the property, evidenced by a resolution of the Finance Committee of the Board of Directors of such lessee, on February 10, 1984,

(ii) the sum of the present values of the rents payable by the lessee under the lease at the inception thereof equals at least \$91,223,034, assuming for purposes of this clause—

(I) the annual discount rate is 12.6 percent,

(II) the initial payment of rent occurs 12 months after the commencement of the lease, and

(III) subsequent payments of rents occur on the anniversary date of the initial payment, and

(iii) during—

(I) the first 5 years of the lease, at least 9 percent of the rents payable by the lessee under the agreement are paid, and

(II) the second 5 years of the lease, at least 16.25 percent of the rents payable by the lessee under the agreement are paid.

Paragraph (3)(B)(ii)(II) shall apply for purposes of clauses (ii) and (iii) of subparagraph (C), as if, as of the beginning of the last stage, the separate agreements were treated as 1 single agreement relating to all property covered by the agreements, including any property placed in service before the property to which the agreement for the last stage relates. If the lessor under the agreement described in subparagraph (C) leases the property from another person, this exception shall also apply to any agreement between the lessor and such person which is integrally related to, and entered into at the same time as, such agreement, and which calls for comparable payments of rent over the primary term of the agreement.

(3) **SCHEDULE OF DEEMED RENTAL PAYMENTS.**—

(A) **IN GENERAL.**—In any case to which paragraph (2)(B) applies, for purposes of the Internal Revenue Code of 1954, the lessor shall be treated as having received or accrued

(and the lessee shall be treated as having paid or incurred rents equal to the greater of—

(i) the amount of rents actually paid under the agreement during the taxable year, or

(ii) the amount of rents determined in accordance with the schedule under subparagraph (B) for such taxable year.

(B) SCHEDULE.—

(i) **IN GENERAL.**—The schedule under this subparagraph is as follows:

Portion of lease term:	Cumulative percentage of total rent deemed paid:
1st $\frac{1}{5}$	10
2nd $\frac{1}{5}$	25
3rd $\frac{1}{5}$	45
4th $\frac{1}{5}$	70
Last $\frac{1}{5}$	100.

(ii) **OPERATING RULES.**—For purposes of this schedule—

(I) the rent allocable to each taxable year within any portion of a lease term described in such schedule shall be a level pro rata amount properly allocable to such taxable year, and

(II) any agreement relating to property which is to be placed in service in 2 or more stages shall be treated as 2 or more separate agreements.

(C) PARAGRAPH NOT TO APPLY.—This paragraph shall not apply to any agreement if the sum of the present values of all payments under the agreement is greater than the sum of the present value of all the payments deemed to be paid or received under the schedule under subparagraph (B). For purposes of computing any present value under this subparagraph, the annual discount rate shall be equal to 12 percent, compounded semiannually.

SEC. 93. AMORTIZATION OF CONSTRUCTION PERIOD INTEREST AND TAXES FOR RESIDENTIAL REAL PROPERTY HELD BY CORPORATIONS.

26 USC 189. (a) **IN GENERAL.**—Subsection (d) of section 189 (relating to amortization of real property construction period interest and taxes) is amended—

(1) by striking out paragraph (2), and

(2) by redesignating paragraph (3) as paragraph (2).

26 USC 189 note. (b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 1984, with respect to construction beginning after March 15, 1984.

SEC. 94. CAPITALIZATION OF START-UP EXPENDITURES.

26 USC 195. (a) **IN GENERAL.**—Section 195 (relating to start-up expenditures) is amended to read as follows:

“SEC. 195. START-UP EXPENDITURES.

“(a) **CAPITALIZATION OF EXPENDITURES.**—Except as otherwise provided in this section, no deduction shall be allowed for start-up expenditures.

“(b) **ELECTION TO AMORTIZE.**—

“(1) IN GENERAL.—Start-up expenditures may, at the election of the taxpayer, be treated as deferred expenses. Such deferred expenses shall be allowed as a deduction prorated equally over such period of not less than 60 months as may be selected by the taxpayer (beginning with the month in which the active trade or business begins).

“(2) DISPOSITIONS BEFORE CLOSE OF AMORTIZATION PERIOD.—In any case in which a trade or business is completely disposed of by the taxpayer before the end of the period to which paragraph (1) applies, any deferred expenses attributable to such trade or business which were not allowed as a deduction by reason of this section may be deducted to the extent allowable under section 165.

“(c) DEFINITIONS.—For purposes of this section—

“(1) START-UP EXPENDITURES.—The term ‘start-up expenditure’ means any amount—

“(A) paid or incurred in connection with—

“(i) investigating the creation or acquisition of an active trade or business, or

“(ii) creating an active trade or business, or

“(iii) any activity engaged in for profit and for the production of income before the day on which the active trade or business begins, in anticipation of such activity becoming an active trade or business, and

“(B) which, if paid or incurred in connection with the operation of an existing active trade or business (in the same field as the trade or business referred to in subparagraph (A)), would be allowable as a deduction for the taxable year in which paid or incurred.

The term ‘start-up expenditure’ does not include any amount with respect to which a deduction is allowable under section 163(a), 164, or 174.

“(2) BEGINNING OF TRADE OR BUSINESS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the determination of when an active trade or business begins shall be made in accordance with such regulations as the Secretary may prescribe.

“(B) ACQUIRED TRADE OR BUSINESS.—An acquired active trade or business shall be treated as beginning when the taxpayer acquires it.

“(d) ELECTION.—

“(1) TIME FOR MAKING ELECTION.—An election under subsection (b) shall be made not later than the time prescribed by law for filing the return for the taxable year in which the trade or business begins (including extensions thereof).

“(2) SCOPE OF ELECTION.—The period selected under subsection (b) shall be adhered to in computing taxable income for the taxable year for which the election is made and all subsequent taxable years.”

(b) CONFORMING AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by striking out the item relating to section 195 and inserting in lieu thereof the following:

“Sec. 195. Start-up expenditures.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after June 30, 1984. 26 USC 195 note.

SEC. 95. LIFO CONFORMITY RULES APPLIED ON CONTROLLED GROUP BASIS.

26 USC 472.

(a) **GENERAL RULE.**—Section 472 (relating to last-in, first-out inventories) is amended by adding at the end thereof the following new subsection:

“(g) **CONFORMITY RULES APPLIED ON CONTROLLED GROUP BASIS.**—

“(1) **IN GENERAL.**—Except as otherwise provided in regulations, all members of the same group of financially related corporations shall be treated as 1 taxpayer for purposes of subsections (c) and (e)(2).

“(2) **GROUP OF FINANCIALLY RELATED CORPORATIONS.**—For purposes of paragraph (1), the term ‘group of financially related corporations’ means—

“(A) any affiliated group as defined in section 1504 determined by substituting ‘50 percent’ for ‘80 percent’ each place it appears in section 1504(a) and without regard to section 1504(b), and

“(B) any other group of corporations which consolidate or combine for purposes of financial statements.”

Ante, p. 577.

26 USC 472 note.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

Subtitle H—Provisions Relating to Tax Straddles

SEC. 101. REPEAL OF EXCEPTION FROM STRADDLE RULES FOR STOCK OPTIONS AND CERTAIN STOCK.

26 USC 1092.

(a) **REPEAL OF EXCEPTION FOR STOCK OPTIONS.**—

(1) **IN GENERAL.**—Paragraph (2) of section 1092(d) (defining position) is amended to read as follows:

“(2) **POSITION.**—The term ‘position’ means an interest (including a futures or forward contract or option) in personal property.”

(2) **SECTIONS 1092 AND 263(g) NOT TO APPLY TO STRADDLES CONSISTING OF QUALIFIED COVERED CALL OPTIONS AND THE OPTIONED STOCK.**—Subsection (c) of section 1092 (defining straddle) is amended by adding at the end thereof the following new paragraph:

“(4) **EXCEPTION FOR CERTAIN STRADDLES CONSISTING OF QUALIFIED COVERED CALL OPTIONS AND THE OPTIONED STOCK.**—

“(A) **IN GENERAL.**—If—

“(i) all the offsetting positions making up any straddle consist of 1 or more qualified covered call options and the stock to be purchased from the taxpayer under such options, and

“(ii) such straddle is not part of a larger straddle, such straddle shall not be treated as a straddle for purposes of this section and section 263(g).

“(B) **QUALIFIED COVERED CALL OPTION DEFINED.**—For purposes of subparagraph (A), the term ‘qualified covered call option’ means any option granted by the taxpayer to purchase stock held by the taxpayer (or stock acquired by the taxpayer in connection with the granting of the option) but only if—

“(i) such option is traded on a national securities exchange which is registered with the Securities and Exchange Commission or other market which the Secretary determines has rules adequate to carry out the purposes of this paragraph,

“(ii) such option is granted more than 30 days before the day on which the option expires,

“(iii) such option is not a deep-in-the-money option,

“(iv) such option is not granted by an options dealer (within the meaning of section 1256(g)(8)) in connection with his activity of dealing in options, and

“(v) gain or loss with respect to such option is not ordinary income or loss.

“(C) **DEEP-IN-THE-MONEY OPTION.**—For purposes of subparagraph (B), the term ‘deep-in-the-money option’ means an option having a strike price lower than the lowest qualified bench mark.

Post, p. 620.

“(D) **LOWEST QUALIFIED BENCH MARK.**—

“(i) **IN GENERAL.**—Except as otherwise provided in this subparagraph, for purposes of subparagraph (C), the term ‘lowest qualified bench mark’ means the highest available strike price which is less than the applicable stock price.

“(ii) **SPECIAL RULE WHERE OPTION IS FOR PERIOD MORE THAN 90 DAYS AND STRIKE PRICE EXCEEDS \$50.**—In the case of an option—

“(I) which is granted more than 90 days before the date on which such option expires, and

“(II) with respect to which the strike price is more than \$50,
the lowest qualified bench mark is the second highest available strike price which is less than the applicable stock price.

“(iii) **85 PERCENT RULE WHERE APPLICABLE STOCK PRICE \$25 OR LESS.**—If—

“(I) the applicable stock price is \$25 or less, and

“(II) but for this clause, the lowest qualified bench mark would be less than 85 percent of the applicable stock price,
the lowest qualified bench mark shall be treated as equal to 85 percent of the applicable stock price.

“(iv) **LIMITATION WHERE APPLICABLE STOCK PRICE \$150 OR LESS.**—If—

“(I) the applicable stock price is \$150 or less, and

“(II) but for this clause, the lowest qualified bench mark would be less than the applicable stock price reduced by \$10,
the lowest qualified bench mark shall be treated as equal to the applicable stock price reduced by \$10.

“(E) **SPECIAL YEAR-END RULE.**—Subparagraph (A) shall not apply to any straddle for purposes of section 1092(a) if—

“(i) the qualified covered call options referred to in such subparagraph are closed during any taxable year,

“(ii) gain on disposition of the stock to be purchased from the taxpayer under such options is includible in gross income for a later taxable year, and

Ante, p. 567.

“(iii) such stock was not held by the taxpayer for 30 days or more after the closing of such options.

For purposes of the preceding sentence, the rules of paragraphs (3) (other than subparagraph (B) thereof) and (4) of section 246(c) shall apply in determining the period for which the taxpayer holds the stock.

“(F) STRIKE PRICE.—For purposes of this paragraph, the term ‘strike price’ means the price at which the option is exercisable.

“(G) APPLICABLE STOCK PRICE.—For purposes of subparagraph (D), the term ‘applicable stock price’ means, with respect to any stock for which an option has been granted—

“(i) the closing price of such stock on the most recent day on which such stock was traded before the date on which such option was granted, or

“(ii) the opening price of such stock on the day on which such option was granted, but only if such price is greater than 110 percent of the price determined under clause (i).

“(H) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this paragraph. Such regulations may include modifications to the provisions of this paragraph which are appropriate to take account of changes in the practices of option exchanges or to prevent the use of options for tax avoidance purposes.”

(b) REPEAL OF EXCEPTION FOR STOCK.—

26 USC 1092.

(1) IN GENERAL.—Paragraph (1) of section 1092(d) (defining personal property) is amended by striking out “(other than stock)”.

(2) EXCEPTION WHERE STRADDLE CONSISTS OF HOLDING STOCK.—Subsection (d) of section 1092 is amended by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively, and by inserting after paragraph (2) the following new paragraph:

“(3) SPECIAL RULES FOR STOCK.—For purposes of paragraph (1)—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the term ‘personal property’ does not include stock.

“(B) EXCEPTIONS.—The term ‘personal property’ includes—

“(i) any stock which is part of a straddle at least 1 of the offsetting positions of which is—

“(I) an option with respect to such stock or substantially identical stock or securities, or

“(II) under regulations, a position with respect to substantially similar or related property (other than stock), and

“(ii) any stock of a corporation formed or availed of to take positions in personal property which offset positions taken by any shareholder.

“(C) SPECIAL RULES.—

“(i) For purposes of subparagraph (B), subsection (c) and paragraph (4) shall be applied as if stock described in clause (i) or (ii) of subparagraph (B) were personal property.

“(ii) For purposes of determining whether subsection (e) applies to any transaction with respect to stock described in clause (ii) of subparagraph (B), all includible corporations of an affiliated group (within the meaning of section 1504(a)) shall be treated as 1 taxpayer.”

Ante, p. 577.

(c) TREATMENT OF GAIN OR LOSS AND SUSPENSION OF HOLDING PERIOD WHERE TAXPAYER GRANTOR OF OPTION TO BUY STOCK.—Section 1092 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

26 USC 1092.

“(f) TREATMENT OF GAIN OR LOSS AND SUSPENSION OF HOLDING PERIOD WHERE TAXPAYER GRANTOR OF QUALIFIED COVERED CALL OPTION.—If a taxpayer holds any stock and grants a qualified covered call option to purchase such stock with a strike price less than the applicable stock price—

“(1) TREATMENT OF LOSS.—Any loss with respect to such option shall be treated as long-term capital loss if, at the time such loss is realized, gain on the sale or exchange of such stock would be treated as long-term capital gain.

“(2) SUSPENSION OF HOLDING PERIOD.—Except for purposes of section 851(b)(3), the holding period of such stock shall not include any period during which the taxpayer is the grantor of such option.”

(d) TREATMENT OF IDENTIFIED STRADDLES INVOLVING SECTION 1256 CONTRACTS.—Paragraph (4) of subsection (d) of section 1092 is amended to read as follows:

Ante, p. 618.

“(4) SPECIAL RULE FOR SECTION 1256 CONTRACTS.—

“(A) GENERAL RULE.—In the case of a straddle at least 1 (but not all) of the positions of which are section 1256 contracts, the provisions of this section shall apply to any section 1256 contract and any other position making up such straddle.

“(B) SPECIAL RULE FOR IDENTIFIED STRADDLES.—For purposes of subsection (a)(2) (relating to identified straddles), subparagraph (A) and section 1256(a)(4) shall not apply to a straddle all of the offsetting positions of which consist of section 1256 contracts.”

(e) EFFECTIVE DATES.—

26 USC 1092
note.

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to positions established after December 31, 1983, in taxable years ending after such date.

(2) SPECIAL RULE FOR OFFSETTING POSITION STOCK.—In the case of any stock of a corporation formed or availed of to take positions in personal property which offset positions taken by any shareholder, the amendments made by this section shall apply to positions established on or after May 23, 1983, in taxable years ending on or after such date.

(3) SUBSECTION (c).—The amendment made by subsection (c) shall apply to positions established after June 30, 1984, in taxable years ending after such date.

(4) SUBSECTION (d).—The amendment made by subsection (d) shall apply to positions established after the date of the enactment of this Act in taxable years ending after such date.

SEC. 102. SECTION 1256 EXTENDED TO CERTAIN OPTIONS.

26 USC 1256.

(a) GENERAL RULE.—

(1) Section 1256 (relating to regulated futures contracts marked to market) is amended—

(A) by striking out “regulated futures contract” each place it appears and inserting in lieu thereof “section 1256 contract”, and

(B) by striking out “regulated futures contracts” each place it appears and inserting in lieu thereof “section 1256 contracts”.

(2) Subsection (b) of section 1256 is amended to read as follows:

“(b) SECTION 1256 CONTRACT DEFINED.—For purposes of this section, the term ‘section 1256 contract’ means—

“(1) any regulated futures contract,

“(2) any foreign currency contract,

“(3) any nonequity option, and

“(4) any dealer equity option.”

(3) Subsection (g) of section 1256 is amended to read as follows:

“(g) DEFINITIONS.—For purposes of this section—

“(1) REGULATED FUTURES CONTRACTS DEFINED.—The term ‘regulated futures contract’ means a contract—

“(A) with respect to which the amount required to be deposited and the amount which may be withdrawn depends on a system of marking to market, and

“(B) which is traded on or subject to the rules of a qualified board or exchange.

“(2) FOREIGN CURRENCY CONTRACT DEFINED.—

“(A) FOREIGN CURRENCY CONTRACT.—The term ‘foreign currency contract’ means a contract—

“(i) which requires delivery of, or the settlement of which depends on the value of, a foreign currency which is a currency in which positions are also traded through regulated futures contracts,

“(ii) which is traded in the interbank market, and

“(iii) which is entered into at arm’s length at a price determined by reference to the price in the interbank market.

“(B) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of subparagraph (A), including regulations excluding from the application of subparagraph (A) any contract (or type of contract) if its application thereto would be inconsistent with such purposes.

“(3) NONEQUITY OPTION.—The term ‘nonequity option’ means any listed option which is not an equity option.

“(4) DEALER EQUITY OPTION.—The term ‘dealer equity option’ means, with respect to an options dealer, any listed option which—

“(A) is an equity option,

“(B) is purchased or granted by such options dealer in the normal course of his activity of dealing in options, and

“(C) is listed on the qualified board or exchange on which such options dealer is registered.

“(5) LISTED OPTION.—The term ‘listed option’ means any option (other than a right to acquire stock from the issuer)

which is traded on (or subject to the rules of) a qualified board or exchange.

“(6) EQUITY OPTION.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the term ‘equity option’ means any option—

“(i) to buy or sell stock, or

“(ii) the value of which is determined directly or indirectly by reference to any stock (or group of stocks) or stock index.

“(B) EXCEPTION FOR CERTAIN OPTIONS REGULATED BY COMMODITIES FUTURES TRADING COMMISSION.—The term ‘equity option’ does not include any option with respect to any group of stocks or stock index if—

“(i) there is in effect a designation by the Commodities Futures Trading Commission of a contract market for a contract based on such group of stocks or index, or

“(ii) the Secretary determines that such option meets the requirements of law for such a designation.

“(7) QUALIFIED BOARD OR EXCHANGE.—The term ‘qualified board or exchange’ means—

“(A) a national securities exchange which is registered with the Securities and Exchange Commission,

“(B) a domestic board of trade designated as a contract market by the Commodity Futures Trading Commission, or

“(C) any other exchange, board of trade, or other market which the Secretary determines has rules adequate to carry out the purposes of this section.

“(8) OPTIONS DEALER.—

“(A) IN GENERAL.—The term ‘options dealer’ means any person registered with an appropriate national securities exchange as a market maker or specialist in listed options.

“(B) PERSONS TRADING IN OTHER MARKETS.—In any case in which the Secretary makes a determination under subparagraph (C) of paragraph (7), the term ‘options dealer’ also includes any person whom the Secretary determines performs functions similar to the persons described in subparagraph (A). Such determinations shall be made to the extent appropriate to carry out the purposes of this section.”

(b) CAPITAL GAIN TREATMENT FOR TRADERS IN SECTION 1256 CONTRACTS.—Subsection (f) of section 1256 (relating to special rules) is amended by adding at the end thereof the following new paragraphs:

26 USC 1256.

“(3) CAPITAL GAIN TREATMENT FOR TRADERS IN SECTION 1256 CONTRACTS.—

“(A) IN GENERAL.—For purposes of this title, gain or loss from trading of section 1256 contracts shall be treated as gain or loss from the sale or exchange of a capital asset.

“(B) EXCEPTION FOR CERTAIN HEDGING TRANSACTIONS.—Subparagraph (A) shall not apply to any section 1256 contract to the extent such contract is held for purposes of hedging property if any loss with respect to such property in the hands of the taxpayer would be ordinary loss.

“(C) TREATMENT OF UNDERLYING PROPERTY.—For purposes of determining whether gain or loss with respect to any property is ordinary income or loss, the fact that the taxpayer is actively engaged in dealing in or trading section

1256 contracts related to such property shall not be taken into account.

“(4) SPECIAL RULE FOR DEALER EQUITY OPTIONS OF LIMITED PARTNERS OR LIMITED ENTREPRENEURS.—In the case of any gain or loss with respect to dealer equity options which are allocable to limited partners or limited entrepreneurs (within the meaning of subsection (e)(3))—

“(A) paragraph (3) of subsection (a) shall not apply to any such gain or loss, and

“(B) all such gains or losses shall be treated as short-term capital gains or losses, as the case may be.”

(c) APPLICATION OF SELF-EMPLOYMENT INCOME TAX TO OPTIONS AND COMMODITIES DEALERS.—

(1) AMENDMENT TO THE INTERNAL REVENUE CODE OF 1954.—
26 USC 1402. Section 1402 (relating to definitions for tax on self-employment income) is amended by adding at the end thereof the following new subsection:

“(i) SPECIAL RULES FOR OPTIONS AND COMMODITIES DEALERS.—

“(1) IN GENERAL.—In determining the net earnings from self-employment of any options dealer or commodities dealer—

“(A) notwithstanding subsection (a)(3)(A), there shall not be excluded any gain or loss (in the normal course of the taxpayer’s activity of dealing in or trading section 1256 contracts) from section 1256 contracts or property related to such contracts, and

“(B) the deduction provided by section 1202 shall not apply.

“(2) DEFINITIONS.—For purposes of this subsection—

Ante, p. 620. “(A) OPTIONS DEALER.—The term ‘options dealer’ has the meaning given such term by section 1256(g)(8).

“(B) COMMODITIES DEALER.—The term ‘commodities dealer’ means a person who is actively engaged in trading section 1256 contracts and is registered with a domestic board of trade which is designated as a contract market by the Commodities Futures Trading Commission.

Ante, p. 620. “(C) SECTION 1256 CONTRACTS.—The term ‘section 1256 contract’ has the meaning given to such term by section 1256(b).”

42 USC 411. (2) AMENDMENT TO THE SOCIAL SECURITY ACT.—Section 211 of the Social Security Act is amended by adding at the end thereof the following new subsection:

“(h)(1) In determining the net earnings from self-employment of any options dealer or commodities dealer—

26 USC 1256. “(A) notwithstanding subsection (a)(3)(A), there shall not be excluded any gain or loss (in the normal course of the taxpayer’s activity of dealing in or trading section 1256 contracts) from section 1256 contracts or property related to such contracts, and

26 USC 1202. “(B) the deduction provided by section 1202 of the Internal Revenue Code of 1954 shall not apply.

“(2) For purposes of this subsection—

Ante, p. 620. “(A) The term ‘options dealer’ has the meaning given such term by section 1256(g)(8) of such Code.

“(B) The term ‘commodities dealer’ means a person who is actively engaged in trading section 1256 contracts and is registered with a domestic board of trade which is designated as a contract market by the Commodities Futures Trading Commission.

“(C) The term ‘section 1256 contracts’ has the meaning given to such term by section 1256(b) of such Code.”

Ante, p. 620.

(d) TREATMENT UNDER SUBCHAPTER S OF OPTIONS AND COMMODITIES DEALERS.—

(1) TAX IMPOSED ON CERTAIN CAPITAL GAINS NOT TO APPLY.— Subsection (c) of section 1374 (relating to tax imposed on certain capital gains) is amended by adding at the end thereof the following new paragraph:

26 USC 1374.

“(4) TREATMENT OF CERTAIN GAINS OF OPTIONS AND COMMODITIES DEALERS.—

“(A) EXCLUSION OF CERTAIN CAPITAL GAINS.—For purposes of this section, the net capital gain of any options dealer or commodities dealer shall be determined by not taking into account any gain or loss (in the normal course of the taxpayer’s activity of dealing in or trading section 1256 contracts) from any section 1256 contract or property related to such a contract.

“(B) DEFINITIONS.—For purposes of this paragraph—

“(i) OPTIONS DEALER.—The term ‘options dealer’ has the meaning given to such term by section 1256(g)(8).

Ante, p. 620.

“(ii) COMMODITIES DEALER.—The term ‘commodities dealer’ means a person who is actively engaged in trading section 1256 contracts and is registered with a domestic board of trade which is designated as a contract market by the Commodities Futures Trading Commission.

“(iii) SECTION 1256 CONTRACTS.—The term ‘section 1256 contracts’ has the meaning given to such term by section 1256(b).”

Ante, p. 620.

(2) CERTAIN GAINS NOT TREATED AS PASSIVE INVESTMENT INCOME.—Subparagraph (D) of section 1362(d)(3) (defining passive investment income) is amended by adding at the end thereof the following new clause:

26 USC 1362.

“(v) SPECIAL RULE FOR OPTIONS AND COMMODITIES DEALERS.—In the case of any options or commodities dealer, passive investment income shall be determined by not taking into account any gain or loss described in section 1374(c)(4)(A).”

(3) SUBCHAPTER S ELECTION.—If a commodities dealer or an options dealer—

Supra,
26 USC 1362
note.

(A) becomes a small business corporation (as defined in section 1361(b) of the Internal Revenue Code of 1954) at any time before the close of the 75th day after the date of the enactment of this Act, and

(B) makes the election under section 1362(a) of such Code before the close of such 75th day,

then such dealer shall be treated as having received approval for and adopted a taxable year beginning on the first day during 1984 on which it was a small business corporation (as so defined) and ending on the date determined under section 1378 of such Code and such election shall be effective for such taxable year.

(e) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 1256 (relating to terminations, etc.) is amended—

(A) by striking out “by taking or making delivery,” in paragraph (1) and inserting in lieu thereof “by taking or

making delivery, by exercise or being exercised, by assignment or being assigned, by lapse,”

(B) by striking out “takes delivery under” in paragraph (2) and inserting in lieu thereof “takes delivery under or exercises”, and

(C) by striking out “TAKES DELIVERY ON” in the heading of paragraph (2) and inserting in lieu thereof “TAKES DELIVERY ON OR EXERCISES”.

26 USC 1092.

(2) Paragraph (5) of section 1092(d) is amended to read as follows:

Ante, p. 620.

26 USC 1212.

“(5) **SECTION 1256 CONTRACT.**—The term ‘section 1256 contract’ has the meaning given such term by section 1256(b).”

(3) Subsection (c) of section 1212 (relating to carryback of losses from regulated futures contracts to offset prior gains from such contracts) is amended—

(A) by striking out “net commodity futures loss” each place it appears (including in any headings) and inserting in lieu thereof “net section 1256 contracts loss”,

(B) by striking out “regulated futures contracts” each place it appears (including in any headings) and inserting in lieu thereof “section 1256 contracts”,

(C) by striking out “regulated futures contract” each place it appears in paragraph (7)(A) (including the heading) and inserting in lieu thereof “section 1256 contract”, and

(D) by striking out “net commodity futures gain” each place it appears (including in any headings) and inserting in lieu thereof “net section 1256 contract gain”.

26 USC 1234A.

(4) Paragraph (2) of section 1234A (relating to gains or losses from certain terminations) is amended by striking out “a regulated futures contract” and inserting in lieu thereof “a section 1256 contract”.

26 USC 1256.

(5) The section heading for section 1256 is amended by striking out “REGULATED FUTURES CONTRACTS” and inserting in lieu thereof “SECTION 1256 CONTRACTS”.

(6) The table of sections for part IV of subchapter P of chapter 1 is amended by striking out “Regulated futures contracts” in the item relating to section 1256 and inserting in lieu thereof “Section 1256 contracts”.

26 USC 263.

(7) Paragraph (2) of section 263(g) (defining interest and carrying charges) is amended to read as follows:

“(2) **INTEREST AND CARRYING CHARGES DEFINED.**—For purposes of paragraph (1), the term ‘interest and carrying charges’ means the excess of—

“(A) the sum of—

“(i) interest on indebtedness incurred or continued to purchase or carry the personal property, and

“(ii) all other amounts (including charges to insure, store, or transport the personal property) paid or incurred to carry the personal property, over

“(B) the sum of—

“(i) the amount of interest (including original issue discount) includible in gross income for the taxable year with respect to the property described in subparagraph (A),

“(ii) any amount treated as ordinary income under section 1271(a)(3)(A), 1278, or 1281(a) with respect to such property for the taxable year, and

Ante, pp. 532,
547, 548.

“(iii) the excess of any dividends includible in gross income with respect to such property for the taxable year over the amount of any deduction allowable with respect to such dividends under section 243, 244, or 245. For purposes of subparagraph (A), the term ‘interest’ includes any amount paid or incurred in connection with personal property used in a short sale.”

(8) Subsection (g) of section 263 (relating to certain interest and carrying charges in the case of straddles) is amended by adding at the end thereof the following new paragraph:

“(4) APPLICATION WITH OTHER PROVISIONS.—

“(A) SUBSECTION (c).—In the case of any short sale, this subsection shall be applied after subsection (h).

“(B) SECTION 1277 OR 1282.—In the case of any obligation to which section 1277 or 1282 applies, this subsection shall be applied after section 1277 or 1282.”

Ante, pp. 545, 549.

(9) Section 1234A (relating to gains or losses from certain terminations) is amended by adding at the end thereof the following new sentence: “The preceding sentence shall not apply to the retirement of any debt instrument (whether or not through a trust or other participation arrangement).”

26 USC 1234A.

(f) EFFECTIVE DATES.—

26 USC 1256 note.

(1) IN GENERAL.—Except as otherwise provided in this subsection or subsection (g), the amendments made by this section shall apply to positions established after the date of the enactment of this Act, in taxable years ending after such date.

(2) SPECIAL RULE FOR OPTIONS ON REGULATED FUTURES CONTRACTS.—In the case of any option with respect to a regulated futures contract (within the meaning of section 1256 of the Internal Revenue Code of 1954), the amendments made by this section shall apply to positions established after October 31, 1983, in taxable years ending after such date.

(3) SPECIAL RULE FOR SELF-EMPLOYMENT TAX.—Except as provided in subsection (g)(2), the amendments made by subsection (c) shall apply to taxable years beginning after the date of the enactment of this Act.

(4) GAINS OR LOSSES FROM CERTAIN TERMINATIONS.—The amendment made by subsection (d)(9) shall apply as if included in the amendment made by section 505(a) of the Economic Recovery Tax Act of 1981, as amended by section 105(e) of the Technical Corrections Act of 1982.

20 USC 237 note, 238.

(g) ELECTIONS WITH RESPECT TO PROPERTY HELD ON OR BEFORE THE DATE OF THE ENACTMENT OF THIS ACT.—At the election of the taxpayer—

26 USC 1234A.
26 USC 1256 note.

(1) the amendments made by this section shall apply to all section 1256 contracts held by the taxpayer on the date of the enactment of this Act, effective for periods after such date in taxable years ending after such date, or

(2) in lieu of an election under paragraph (1), the amendments made by this section shall apply to all section 1256 contracts held by the taxpayer at any time during the taxable year of the taxpayer which includes the date of the enactment of this Act.

(h) ELECTIONS FOR INSTALLMENT PAYMENT OF TAX ATTRIBUTABLE TO STOCK OPTIONS.—

26 USC 1256 note.

(1) IN GENERAL.—If the taxpayer makes an election under subsection (g)(2) and under this subsection—

(A) the taxpayer may pay part or all the tax for the taxable year referred to in subsection (g)(2) in 2 or more (but not exceeding 5) equal installments, and

(B) the maximum amount of tax which may be paid in installments under this subsection shall be the excess of—

(i) the tax for such taxable year determined by taking into account subsection (g)(2), over

(ii) the tax for such taxable year determined by taking into account subsection (g)(2) and by treating—

(I) all section 1256 contracts which are stock options, and

(II) any stock which was a part of a straddle including any such stock options,

as having been acquired for a purchase price equal to their fair market value on the last business day of the preceding taxable year. Stock options and stock shall be taken into account under subparagraph (B)(ii) only if such options or stock were held on the last day of the preceding taxable year and only if income on such options or stock would have been ordinary income if such options or stock were sold at a gain on such last day.

(2) **DATE FOR PAYMENT OF INSTALLMENT.**—

(A) If an election is made under this subsection, the first installment under paragraph (1) shall be paid on or before the due date for filing the return for the taxable year described in paragraph (1), and each succeeding installment shall be paid on or before the date which is 1 year after the date prescribed for payment of the preceding installment.

(B) If a bankruptcy case or insolvency proceeding involving the taxpayer is commenced before the final installment is paid, the total amount of any unpaid installments shall be treated as due and payable on the day preceding the day on which such case or proceeding is commenced.

(3) **INTEREST IMPOSED.**—For purposes of section 6601 of the Internal Revenue Code of 1954, the time for payment of any tax with respect to which an election is made under this subsection shall be determined without regard to this subsection.

(4) **FORM OF ELECTION.**—An election under this subsection shall be made not later than the time for filing the return for the taxable year described in paragraph (1) and shall be made in the manner and form required by regulations prescribed by Secretary of the Treasury or his delegate. The election shall set forth—

(A) the amount determined under paragraph (1)(B) and the number of installments elected by the taxpayer,

(B) the property described in paragraph (1)(B)(ii), and the date on which such property was acquired,

(C) the fair market value of the property described in paragraph (1)(B)(ii) on the last business day of the taxable year preceding the taxable year described in paragraph (1), and

(D) such other information for purposes of carrying out the provisions of this subsection as may be required by such regulations.

(5) **DELAY OF IDENTIFICATION REQUIREMENT.**—Section 1256(e)(2)(C) of the Internal Revenue Code of 1954 shall not

apply to any stock option or stock acquired on or before the 60th day after the date of the enactment of this Act.

(i) **DEFINITIONS.**—For purposes of subsections (g) and (h)—

26 USC 1256
note.

(1) **SECTION 1256 CONTRACT.**—The term “section 1256 contract” has the meaning given to such term by section 1256(b) of the Internal Revenue Code of 1954 (as amended by this section).

Ante, p. 620.

(2) **STOCK OPTION.**—The term “stock option” means any option to buy or sell stock.

SEC. 103. REGULATIONS UNDER SECTION 1092(b).

(a) **GENERAL RULE.**—Subsection (b) of section 1092 (relating to character of gain or loss; wash sales) is amended to read as follows:

26 USC 1092.

“(b) **REGULATIONS.**—

“(1) **IN GENERAL.**—The Secretary shall prescribe such regulations with respect to gain or loss on positions which are a part of a straddle as may be appropriate to carry out the purposes of this section and section 263(g). To the extent consistent with such purposes, such regulations shall include rules applying the principles of subsections (a) and (d) of section 1091 and of subsections (b) and (d) of section 1233.

“(2) **REGULATIONS RELATING TO MIXED STRADDLES.**—

“(A) **ELECTIVE PROVISIONS IN LIEU OF SECTION 1233(d) PRINCIPLES.**—The regulations prescribed under paragraph (1) shall provide that—

“(i) the taxpayer may offset gains and losses from positions which are part of mixed straddles—

“(I) by straddle-by-straddle identification, or

“(II) by the establishment (with respect to any class of activities) of a mixed straddle account for which gains and losses would be recognized (and offset) on a periodic basis,

“(ii) such offsetting will occur before the application of section 1256, and section 1256(a)(3) will only apply to net gain or net loss attributable to section 1256 contracts, and

“(iii) the principles of section 1233(d) shall not apply with respect to any straddle identified under clause (i)(I) or part of an account established under clause (i)(II).

“(B) **LIMITATION ON NET GAIN OR NET LOSS FROM MIXED STRADDLE ACCOUNT.**—In the case of any mixed straddle account referred to in subparagraph (A)(i)(II)—

“(i) **NOT MORE THAN 50 PERCENT OF NET GAIN MAY BE TREATED AS LONG-TERM CAPITAL GAIN.**—In no event shall more than 50 percent of the net gain from such account for any taxable year be treated as long-term capital gain.

“(ii) **NOT MORE THAN 40 PERCENT OF NET LOSS MAY BE TREATED AS SHORT-TERM CAPITAL LOSS.**—In no event shall more than 40 percent of the net loss from such account for any taxable year be treated as short-term capital loss.

“(C) **AUTHORITY TO TREAT CERTAIN POSITIONS AS MIXED STRADDLES.**—The regulations prescribed under paragraph (1) may treat as a mixed straddle positions not described in section 1256(d)(4).”

26 USC 1092
note.

Ante, p. 627.

26 USC 1092
note.

(b) **REQUIREMENT THAT REGULATIONS BE ISSUED WITHIN 6 MONTHS AFTER THE DATE OF ENACTMENT.**—The Secretary of the Treasury or his delegate shall prescribe initial regulations under section 1092(b) of the Internal Revenue Code of 1954 (including regulations relating to mixed straddles) not later than the date 6 months after the date of the enactment of this Act.

(c) **EFFECTIVE DATE OF REGULATIONS WITH RESPECT TO MIXED STRADDLES.**—The regulations described in subsection (b) with respect to the application of section 1233 of the Internal Revenue Code of 1954 to mixed straddles shall not apply to mixed straddles all of the positions of which were established before January 1, 1984.

SEC. 104. LIMITATION ON LOSSES FROM HEDGING TRANSACTIONS.

26 USC 1256.

(a) **GENERAL RULE.**—Subsection (e) of section 1256 (relating to mark to market not to apply to hedging transactions) is amended by adding at the end thereof the following new paragraph:

“(5) **LIMITATION ON LOSSES FROM HEDGING TRANSACTIONS.**—

“(A) **IN GENERAL.**—

“(i) **LIMITATION.**—Any hedging loss for a taxable year which is allocable to any limited partner or limited entrepreneur (within the meaning of paragraph (3)) shall be allowed only to the extent of the taxable income of such limited partner or entrepreneur for such taxable year attributable to the trade or business in which the hedging transactions were entered into. For purposes of the preceding sentence, taxable income shall be determined by not taking into account items attributable to hedging transactions.

“(ii) **CARRYOVER OF DISALLOWED LOSS.**—Any hedging loss disallowed under clause (i) shall be treated as a deduction attributable to a hedging transaction allowable in the first succeeding taxable year.

“(B) **EXCEPTION WHERE ECONOMIC LOSS.**—Subparagraph (A)(i) shall not apply to any hedging loss to the extent that such loss exceeds the aggregate unrecognized gains from hedging transactions as of the close of the taxable year attributable to the trade or business in which the hedging transactions were entered into.

“(C) **EXCEPTION FOR CERTAIN HEDGING TRANSACTIONS.**—In the case of any hedging transaction relating to property other than stock or securities, this paragraph shall apply only in the case of a taxpayer described in section 465(a)(1).

“(D) **HEDGING LOSS.**—The term ‘hedging loss’ means the excess of—

“(i) the deductions allowable under this chapter for the taxable year attributable to hedging transactions (determined without regard to subparagraph (A)(i)), over

“(ii) income received or accrued by the taxpayer during such taxable year from such transactions.

“(E) **UNRECOGNIZED GAIN.**—The term ‘unrecognized gain’ has the meaning given to such term by section 1092(a)(3).”

26 USC 1256
note.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1984.

SEC. 105. CLARIFICATION THAT SECTION 1234 APPLIES TO OPTIONS ON REGULATED FUTURES CONTRACTS AND CASH SETTLEMENT OPTIONS.

(a) **GENERAL RULE.**—Section 1234 (relating to options to buy or sell) is amended by adding at the end thereof the following new subsection:

26 USC 1234.

“(c) **TREATMENT OF OPTIONS ON SECTION 1256 CONTRACTS AND CASH SETTLEMENT OPTIONS.**—

“(1) **SECTION 1256 CONTRACTS.**—Gain or loss shall be recognized on the exercise of an option on a section 1256 contract (within the meaning of section 1256(b)).

Ante, p. 620.

“(2) **TREATMENT OF CASH SETTLEMENT OPTIONS.**—

“(A) **IN GENERAL.**—For purposes of subsections (a) and (b), a cash settlement option shall be treated as an option to buy or sell property.

“(B) **CASH SETTLEMENT OPTION.**—For purposes of subparagraph (A), the term ‘cash settlement option’ means any option which on exercise settles in (or could be settled in) cash or property other than the underlying property.”

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to options purchased or granted after October 31, 1983, in taxable years ending after such date.

26 USC 1234
note.

SEC. 106. WASH SALE RULES TO APPLY TO LOSSES ON CERTAIN SHORT SALES.

(a) **IN GENERAL.**—Section 1091 (relating to losses from wash sales of stock or securities) is amended by adding at the end thereof the following new subsection:

26 USC 1091.

“(e) **CERTAIN SHORT SALES OF STOCK OR SECURITIES.**—Rules similar to the rules of subsection (a) shall apply to any loss realized on the closing of a short sale of stock or securities if, within a period beginning 30 days before the date of such closing and ending 30 days after such date—

“(1) substantially identical stock or securities were sold, or

“(2) another short sale of substantially identical stock or securities was entered into.”

(b) **LOSSES FROM WASH SALES ONLY IN CASE OF DEALER LOSSES.**—Section 1091(a) (relating to disallowance of loss deduction for wash sales) is amended by striking out all that follows “then” and inserting in lieu thereof “no deduction shall be allowed under section 165 unless the taxpayer is a dealer in stock or securities and the loss is sustained in a transaction made in the ordinary course of such business.”

(c) **EFFECTIVE DATE.**—

26 USC 1091
note.

(1) **SUBSECTION (a).**—The amendment made by subsection (a) shall apply to short sales of stock or securities after the date of the enactment of this Act in taxable years ending after such date.

(2) **SUBSECTION (b).**—The amendment made by subsection (b) shall apply to sales after December 31, 1984, in taxable years ending after such date.

SEC. 107. TIME FOR IDENTIFICATION BY TAXPAYER OF CERTAIN TRANSACTIONS.

(a) **IDENTIFIED STRADDLES.**—Clause (i) of section 1092(a)(2)(B) (defining identified straddles) is amended to read as follows:

26 USC 1092.

“(i) which is clearly identified on the taxpayer’s records as an identified straddle before the earlier of—

“(I) the close of the day on which the straddle is acquired, or

“(II) such time as the Secretary may prescribe by regulations.”

(b) DEALERS IN SECURITIES.—

26 USC 1236.

(1) Paragraph (1) of section 1236(a) (relating to capital gain of dealers in securities) is amended to read as follows:

“(1) the security was, before the close of the day on which it was acquired (or such earlier time as the Secretary may prescribe by regulations), clearly identified in the dealer’s records as a security held for investment; and”.

(2) Paragraph (2) of section 1236(a) is amended by inserting “(or such earlier time)” after “such day”.

26 USC 1256.

(c) MIXED STRADDLES.—Subparagraph (B) of section 1256(d)(4) (defining mixed straddles) is amended by inserting “(or such earlier time as the Secretary may prescribe by regulations)” after “acquired”.

(d) HEDGING TRANSACTIONS.—Subparagraph (C) of section 1256(e)(2) (defining hedging transactions) is amended by inserting “(or such earlier time as the Secretary may prescribe by regulations)” after “entered into”.

26 USC 1092
note.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to positions entered into after the date of the enactment of this Act, in taxable years ending after such date.

26 USC 1092
note.

SEC. 108. TREATMENT OF CERTAIN LOSSES ON STRADDLES ENTERED INTO BEFORE EFFECTIVE DATE OF ECONOMIC RECOVERY TAX ACT OF 1981.

(a) GENERAL RULE.—For purposes of the Internal Revenue Code of 1954, in the case of any disposition of 1 or more positions—

26 USC 1 et seq.

(1) which were entered into before 1982 and form part of a straddle, and

95 Stat. 323.

(2) to which the amendments made by title V of the Economic Recovery Tax Act of 1981 do not apply,
any loss from such disposition shall be allowed for the taxable year of the disposition if such position is part of a transaction entered into for profit.

(b) PRESUMPTION THAT TRANSACTION ENTERED INTO FOR PROFIT.—For purposes of subsection (a), any position held by a commodities dealer or any person regularly engaged in investing in regulated futures contracts shall be rebuttably presumed to be part of a transaction entered into for profit.

(c) NET LOSS ALLOWED WHETHER OR NOT TRANSACTION ENTERED INTO FOR PROFIT.—If any loss with respect to a position described in paragraphs (1) and (2) of subsection (a) is not allowable as a deduction (after applying subsections (a) and (b)), such loss shall be allowed in determining the gain or loss from dispositions of other positions in the straddle to the extent required to accurately reflect the taxpayer’s net gain or loss from all positions in such straddle.

(d) OTHER RULES.—Except as otherwise provided in subsections (a) and (c) and in sections 1233 and 1234 of such Code, the determination of whether there is recognized gain or loss with respect to a position, and the amount and timing of such gain or loss, and the treatment of such gain or loss as long-term or short-term shall be

made without regard to whether such position constitutes part of a straddle.

(e) **STRADDLE.**—For purposes of this section, the term “straddle” has the meaning given to such term by section 1092(c) of the Internal Revenue Code of 1954 as in effect on the day after the date of the enactment of the Economic Recovery Tax Act of 1981, and shall include a straddle all the positions of which are regulated futures contracts.

26 USC 1 note.

(f) **COMMODITIES DEALER.**—For purposes of this section, the term “commodities dealer” has the meaning given to such term by section 1402(i)(2)(B) of the Internal Revenue Code of 1954 (as added by this subtitle).

Ante, p. 622.

(g) **REGULATED FUTURES CONTRACTS.**—For purposes of this section, the term “regulated futures contracts” has the meaning given to such term by section 1256(b) of the Internal Revenue Code of 1954 (as in effect before the date of enactment of this Act).

Ante, p. 620.

(h) **SYNDICATES.**—Subsection (b) shall not apply to any syndicate (as defined in section 1256(e)(3)(B) of the Internal Revenue Code of 1954).

26 USC 1256.

Subtitle I—Depreciation

SEC. 111. RECOVERY PERIOD FOR CERTAIN REAL PROPERTY EXTENDED TO 18 YEARS.

(a) **IN GENERAL.**—Paragraph (2) of section 168(b) (relating to 15-year real property) is amended—

26 USC 168.

(1) by striking out “15-year real property” each place it appears in the text and heading thereof and inserting in lieu thereof “18-year real property”,

(2) by striking out “15-year recovery period” in subparagraph (A)(i) and inserting in lieu thereof “18-year recovery period”, and

(3) by striking out “(200 percent declining balance method in the case of low-income housing)”.

(b) **LOW-INCOME HOUSING.**—

(1) **DETERMINATION OF RECOVERY PERCENTAGE.**—Subsection (b) of section 168 (relating to the amount of deduction) is amended by adding at the end thereof the following new paragraph:

“(4) **LOW-INCOME HOUSING.**—

“(A) **IN GENERAL.**—In the case of low-income housing, the applicable percentage shall be determined in accordance with the table prescribed in paragraph (2) (without regard to the mid-month convention), except that in prescribing such table, the Secretary shall—

“(i) assign to the property a 15-year recovery period, and

“(ii) assign percentages generally determined in accordance with use of the 200 percent declining balance method, switching to the method described in section 167(b)(1) at a time to maximize the deduction allowable under subsection (a).

“(B) **SPECIAL RULE FOR YEAR OF DISPOSITION.**—In the case of a disposition of low-income housing, the deduction allowable under subsection (a) for the taxable year in which the disposition occurs shall reflect only the months during such year the property was placed in service.”

26 USC 168.

(2) **LOW-INCOME HOUSING DEFINED.**—Paragraph (2) of section 168(c) (defining recovery property) is amended by redesignating subparagraph (F) as subparagraph (G) and by inserting after subparagraph (E) the following new subparagraph:

“(F) **LOW-INCOME HOUSING.**—The term ‘low-income housing’ means property described in clause (i), (ii), (iii), or (iv) of section 1250(a)(1)(B).”

(3) **CONFORMING AMENDMENTS.**—

(A) Subparagraph (A) of section 168(b)(2) is amended by striking out the last sentence thereof.

(B) Subparagraph (D) of section 168(c)(2) is amended to read as follows:

“(D) **18-YEAR REAL PROPERTY.**—The term ‘18-year real property’ means section 1250 class property which—

“(i) does not have a present class life of 12.5 years or less, and

“(ii) is not low-income housing.”

(c) **TRANSITIONAL RULE FOR COMPONENTS.**—Subparagraph (B) of section 168(f)(1) is amended to read as follows:

“(B) **TRANSITIONAL RULES.**—

“(i) **BUILDINGS PLACED IN SERVICE BEFORE 1981.**—In the case of any building placed in service by the taxpayer before January 1, 1981, for purposes of applying subparagraph (A) to components of such buildings placed in service after December 31, 1980, and before March 16, 1984, the deduction allowable under subsection (a) with respect to such components shall be computed in the same manner as the deduction allowable with respect to the first such component placed in service after December 31, 1980.

“(ii) **BUILDINGS PLACED IN SERVICE BEFORE MARCH 16, 1984.**—In the case of any building placed in service by the taxpayer before March 16, 1984, for purposes of applying subparagraph (A) to components of such buildings placed in service after March 15, 1984, the deduction allowable under subsection (a) with respect to such components shall be computed in the same manner as the deduction allowable with respect to the first such component placed in service after March 15, 1984.

“(iii) **FIRST COMPONENT TREATED AS SEPARATE BUILDING.**—For purposes of clause (i) or (ii), the method of computing the deduction allowable with respect to the first component described in such clause shall be determined as if it were a separate building.”

(d) **USE OF MID-MONTH CONVENTION.**—Subparagraphs (A) and (B) of section 168(b)(2) are each amended by inserting “(using a mid-month convention)” after “months”.

(e) **CONFORMING AMENDMENTS.**—

(1) Subsections (b)(3)(B)(iii), (f)(2)(B), (f)(2)(C)(ii)(II), (f)(2)(E), and (f)(5) of section 168 are each amended by striking out “15-year real property” each place it appears and inserting in lieu thereof “18-year real property or low-income housing”.

(2) Clause (ii) of section 168(b)(3)(B) is amended by striking out “15-year real property” and inserting in lieu thereof “18-year real property or low-income housing.”

(3) Subparagraph (B) of section 168(d)(2) is amended by striking out “15-year real property” and inserting in lieu thereof “18-year real property or low-income housing”. 26 USC 168.

(4) Clause (i) of section 168(f)(2)(C) (relating to recovery period for property used outside United States) is amended by striking out the item relating to 15-year real property in the table and inserting in lieu thereof the following new item:

“18-year real property or low-income housing 35 or 45 years.”

(5) Sections 57(a)(12)(A) and 312(k)(3)(A) and subparagraphs (A), (B), and (C) of section 1245(A)(5) are each amended by striking out “15-year real property” each place it appears in the text and headings and inserting in lieu thereof “18-year real property and low-income housing”. 26 USC 57, 312, 1245.

(6) Subparagraph (B) of section 57(a)(12) (relating to items of tax preference) is amended to read as follows: 26 USC 57.

“(B) 18-YEAR REAL PROPERTY AND LOW-INCOME HOUSING.—

With respect to each recovery property which is 18-year real property or low-income housing, the amount (if any) by which the deduction allowed under section 168(a) for the taxable year exceeds the deduction which would have been allowable for a taxable year had the property been depreciated using the straight-line method (without regard to salvage value) over a recovery period of—

“(i) 18 years in the case of 18-year real property, and

“(ii) 15 years in the case of low-income housing property.”

(7) Subparagraph (E) of section 57(a)(12) is amended by striking out “‘15-year real property’,” and inserting in lieu thereof “‘18-year real property’, ‘low-income housing’,”.

(8) Paragraph (2) of section 48(g) (relating to qualified rehabilitation expenditure) is amended— 26 USC 48.

(A) by striking out “property” each place it appears in subparagraph (A)(i) and inserting in lieu thereof “real property”,

(B) by striking out “15” in subparagraph (A)(i) and inserting in lieu thereof “18 (15 years in the case of low-income housing),

(C) by striking out “15 years” in subparagraph (B)(v) and inserting in lieu thereof “18 years (15 years in the case of low-income housing)”, and

(D) by adding at the end thereof the following new subparagraph:

“(D) LOW-INCOME HOUSING.—For purposes of subparagraph (B), the term ‘low-income housing’ has the meaning given such term by section 168(c)(2)(F).”

(9) Subparagraph (A) of section 168(b)(3) (relating to election of different recovery percentage) is amended— 26 USC 168. *Ante*, p. 632.

(A) by striking out “under paragraphs (1) and (2)” and inserting in lieu thereof “under paragraph (1), (2), or (4)”, and

(B) by striking out the item in the table relating to 15-year real property and inserting in lieu thereof the following new item:

“18-year real property and low-income housing 18, 35, or 45.”

(10) Section 1245(a)(5)(D) is amended to read as follows: 26 USC 1245.

Ante, p. 632.
26 USC 168 note.

“(D) low-income housing (within the meaning of section 168(c)(2)(F)).”

(g) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—Except as otherwise provided in this subsection, the amendments made by this section shall apply with respect to property placed in service by the taxpayer after March 15, 1984.

(2) **EXCEPTION.**—The amendments made by this section shall not apply to property placed in service by the taxpayer before January 1, 1987, if—

(A) the taxpayer or a qualified person entered into a binding contract to purchase or construct such property before March 16, 1984, or

(B) construction of such property was commenced by or for the taxpayer or a qualified person before March 16, 1984.

For purposes of this paragraph the term “qualified person” means any person who transfers his rights in such a contract or such property to the taxpayer, but only if such property is not placed in service by such person before such rights are transferred to the taxpayer.

(3) **SPECIAL RULES FOR APPLICATION OF PARAGRAPH (2).**—

(A) **CERTAIN INVENTORY.**—In the case of any property which—

(i) is held by a person as property described in section 1221(1), and

(ii) is disposed of by such person before January 1, 1985,

such person shall not, for purposes of paragraph (2), be treated as having placed such property in service before such property is disposed of merely because such person rented such property or held such property for rental. No deduction for depreciation or amortization shall be allowed to such person with respect to such property,

(B) **CERTAIN PROPERTY FINANCED BY BONDS.**—In the case of any property with respect to which—

(i) bonds were issued to finance such property before 1984, and

(ii) an architectural contract was entered into before March 16, 1984,

paragraph (2) shall be applied by substituting “May 2” for “March 16”.

(4) **SPECIAL RULE FOR COMPONENTS.**—For purposes of applying section 168(f)(1)(B) of the Internal Revenue Code of 1954 (as amended by this section) to components placed in service after December 31, 1986, property to which paragraph (2) applies shall be treated as placed in service by the taxpayer before March 16, 1984.

(5) **SPECIAL RULE FOR MID-MONTH CONVENTION.**—In the case of the amendment made by subsection (d)—

(A) paragraph (1) shall be applied by substituting “June 22, 1984” for “March 15, 1984”, and

(B) paragraph (2) shall be applied by substituting “June 23, 1984” for “March 15, 1984” each place it appears.

Ante, p. 632.

SEC. 112. RECAPTURE IN CASE OF INSTALLMENT SALES.

(a) GENERAL RULE.—Subsection (i) of section 453 (relating to installment method) is amended to read as follows: 26 USC 453.

“(i) RECOGNITION OF RECAPTURE INCOME IN YEAR OF DISPOSITION.—

“(1) IN GENERAL.—In the case of any installment sale of property to which subsection (a) applies—

“(A) notwithstanding subsection (a), any recapture income shall be recognized in the year of the disposition, and

“(B) any gain in excess of the recapture income shall be taken into account under the installment method.

“(2) RECAPTURE INCOME.—For purposes of paragraph (1), the term ‘recapture income’ means, with respect to any installment sale, the aggregate amount which would be treated as ordinary income under section 1245 or 1250 for the taxable year of the disposition if all payments to be received were received in the taxable year of disposition.”

(b) EFFECTIVE DATE.—

26 USC 453 note.

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply with respect to dispositions made after June 6, 1984.

(2) EXCEPTION.—The amendments made by this section shall not apply with respect to any disposition conducted pursuant to a contract which was binding on March 22, 1984, and at all times thereafter.

(3) SPECIAL RULE FOR CERTAIN DISPOSITIONS BEFORE OCTOBER 1, 1984.—The amendments made by this section shall not apply to any disposition before October 1, 1984, of all or substantially all of the personal property of a cable television business pursuant to a written offer delivered by the seller on June 20, 1984, but only if the last payment under the installment contract is due no later than October 1, 1989.

SEC. 113. PROVISIONS RELATING TO SOUND RECORDINGS AND FILMS.

(a) SOUND RECORDINGS.—

(1) IN GENERAL.—Section 48 (defining section 38 property) is amended by redesignating subsection (r) as subsection (s) and by inserting after subsection (q) the following new subsection: 26 USC 48.

“(r) SPECIAL RULES RELATING TO SOUND RECORDINGS.—

“(1) IN GENERAL.—For purposes of this title, in the case of any sound recording, the original use of which commences with the taxpayer, the taxpayer may elect to treat such recording as recovery property which is 3-year property to the extent that the taxpayer has an ownership interest in such recording.

“(2) FAILURE TO MAKE ELECTION.—If a taxpayer does not make an election under paragraph (1) with respect to any sound recording—

“(A) no credit shall be allowed under section 38 with respect to such recording, and

“(B) such recording shall not be treated as recovery property.

“(3) PREDOMINANT USE TEST AND AT RISK RULES NOT TO APPLY; QUALIFIED INVESTMENT.—In the case of any sound recording—

“(A) sections 46(c)(8), 46(c)(9), and 48(a)(2) shall not apply, and

“(B) in determining the qualified investment under section 46(c)(1), there shall be used (in lieu of the basis of the

Post, p. 827.

Post, p. 807.

property) an amount equal to the production costs which are allocable to the United States (as determined under rules similar to the rules of section 48(k)(5)(D)).

Post, p. 827.

“(4) OWNERSHIP INTEREST.—For purposes of determining the credit allowable under section 38, the ownership interest of any person in a sound recording shall be determined on the basis of his proportionate share of any loss which may be incurred with respect to the production costs of such sound recording.

“(5) SOUND RECORDING.—For purposes of this subsection, the term ‘sound recording’ means any sound recording described in section 280(c)(2).

“(6) PRODUCTION COSTS—

“(A) IN GENERAL.—For purposes of this subsection, the term ‘production costs’ includes—

“(i) a reasonable allocation of general overhead costs,

“(ii) compensation for services performed by song writers, artists, production personnel, directors, producers, and similar personnel,

“(iii) costs of ‘first’ distribution of records or tapes, and

“(iv) the cost of the material being recorded.

“(B) CERTAIN COSTS NOT TAKEN INTO ACCOUNT.—Except as provided in subparagraph (C), the term ‘production costs’ shall not include—

“(i) ‘residuals’ payable under contracts with labor organizations, or

“(ii) participations or royalties payable as compensation to song writers, artists, production personnel, directors, producers, and similar personnel, or

“(iii) any other contingent amounts.

“(C) CERTAIN CONTINGENT AMOUNTS TAKEN INTO ACCOUNT.—In the case of any amount which is described in subparagraph (B) and which is incurred in the taxable year in which the sound recording is placed in service or the next taxable year—

“(i) subparagraph (B) shall not apply, and

“(ii) for purposes of sections 38 and 168, the taxpayer shall be treated as having placed in service in each such taxable year 3-year recovery property with a basis equal to the amount so incurred in such taxable year.

“(7) ELECTION MADE SEPARATELY.—An election under paragraph (1) shall be made separately with respect to each sound recording and must be made by all persons having an ownership interest in such recording.

“(8) UNITED STATES.—For purposes of this subsection, the term ‘United States’ includes the possessions of the United States.”

26 USC 168.

(2) CONFORMING AMENDMENTS.—Section 168(f) (relating to special rules), as amended by this Act, is amended by adding at the end thereof the following new paragraph:

Ante, p. 635.

“(14) SPECIAL RULES FOR SOUND RECORDINGS.—In the case of a sound recording (within the meaning of section 48(r)), the unadjusted basis of such property shall be equal to the production costs (within the meaning of section 48(r)(6)).”

(b) FILMS AND OTHER PROPERTY.—

26 USC 168.

(1) FILMS AND VIDEO TAPES NOT TREATED AS RECOVERY PROPERTY.—Section 168(e) (relating to property excluded from appli-

cation of this section) is amended by adding at the end thereof the following new paragraph:

“(5) FILMS AND VIDEO TAPES NOT RECOVERY PROPERTY.—The term ‘recovery property’ shall not include any motion picture film or video tape.”

(2) APPLICATION OF RECOVERY PROPERTY EXCEPTIONS.—

(A) Section 168(e) is amended by striking out “section” and inserting in lieu thereof “title” in the matter preceding paragraph (1). 26 USC 168.

(B) Subparagraph (A) of section 46(c)(7) is amended by inserting “recovery” before “property” the first place it appears. 26 USC 46.

(3) FILMS NOT SUBJECT TO INVESTMENT CREDIT AT-RISK RULES.—Paragraph (4) of section 48(k) is amended— 26 USC 48.

(A) by inserting “, section 46(c)(8), or section 46(c)(9)” after “section 48(a)(2)” in subparagraph (A),

(B) by inserting “or at-risk rules” after “test” in the heading thereof, and

(C) by striking out “issued” and inserting in lieu thereof “used”.

(4) BASIS ADJUSTMENT FOR FILMS.—Section 48(q) (relating to basis adjustment) is amended by adding at the end thereof the following new paragraph:

“(6) SPECIAL RULE FOR QUALIFIED FILMS.—If a credit is allowed under section 38 with respect to any qualified film (within the meaning of subsection (k)(1)(B)) then, in lieu of any reduction under paragraph (1)— 26 USC 48.

“(A) to the extent that the credit is determined with respect to any amount described in clause (v) or (vi) of subsection (k)(5)(B), any deduction allowable under this chapter with respect to such amount shall be reduced by 50 percent of the amount of the credit so determined, and
“(B) the basis of the taxpayer’s ownership interest (within the meaning of subsection (k)(1)(C)) shall be reduced by the excess of—

“(i) 50 percent of the amount of the credit determined under subsection (k), over

“(ii) the amount of the reduction under subparagraph (A).”

(c) EFFECTIVE DATES.—

(1) SOUND RECORDINGS.—The amendments made by subsection (a) shall apply to property placed in service after March 15, 1984, in taxable years ending after such date. 26 USC 48 note.

(2) FILMS AND OTHER PROPERTY.—

(A) The amendments made by paragraphs (1) of subsection (b) shall apply to any motion picture film or video tape placed in service before, on, or after the date of the enactment of this Act, except that such amendment shall not apply to— 26 USC 168 note.

(i) any qualified film placed in service by the taxpayer before March 15, 1984, if the taxpayer treated such film as recovery property for purposes of section 168 of the Internal Revenue Code of 1954 on a return of tax under chapter 1 of such Code filed before March 16, 1984, or

(ii) any qualified film placed in service by the taxpayer before January 1, 1985, if— 26 USC 1 et seq.

- (I) 20 percent or more of the production costs of such film were incurred before March 16, 1984, and
 (II) the taxpayer treats such film as recovery property for purposes of section 168 of such Code.
- Post*, p. 827. No credit shall be allowable under section 38 of such Code with respect to any qualified film described in clause (ii), except to the extent provided in section 48(k) of such Code.
- 26 USC 168, 46. (B) The amendment made by paragraph (2) and (3) of subsection (b) shall apply as if included in the amendments made by section 201(a), 211(a)(1), and 211(f)(1) of the Economic Recovery Tax Act of 1981.
- 26 USC 48. (C) The amendment made by paragraph (4) of subsection (b) shall take effect as if included in the amendments made by section 205(a)(1) of the Tax Equity and Fiscal Responsibility Act of 1982.
- (D) For purposes of this paragraph, the terms “qualified film” and “production costs” have the same respective meanings as when used in section 48(k) of the Internal Revenue Code of 1954.

SEC. 114. DEFINITION OF SECTION 38 PROPERTY IN SALE-LEASEBACK TRANSACTIONS.

- 26 USC 48. (a) IN GENERAL.—Subsection (b) of section 48 (defining new section 38 property) is amended to read as follows:
- Post*, p. 827. “(b) NEW SECTION 38 PROPERTY.—For purposes of this subpart—
- “(1) IN GENERAL.—The term ‘new section 38 property’ means section 38 property the original use of which commences with the taxpayer.
- “(2) SPECIAL RULE FOR SALE-LEASEBACKS.—For purposes of paragraph (1), in the case of any section 38 property which—
- “(A) is originally placed in service by a person, and
- “(B) is sold and leased back by such person, or is leased to such person, within 3 months of the date such property was originally placed in service,
- such property shall be treated as originally placed in service not earlier than the date on which such property is used under the lease.
- “(3) SPECIAL RULE FOR ENERGY PROPERTY.—The principles of paragraph (2) shall be applicable in determining whether the original use of property commences with the taxpayer for purposes of section 48(l)(2)(B)(ii).”
- 26 USC 48 note. (b) EFFECTIVE DATE.—The amendment made by this section shall apply to property originally placed in service after April 11, 1984 (determined without regard to such amendment).

Subtitle J—Foreign Provisions

PART I—CHANGES IN SOURCE AND CHARACTER RULES

SEC. 121. CERTAIN AMOUNTS TREATED AS DERIVED FROM UNITED STATES SOURCES FOR PURPOSES OF LIMITATION ON FOREIGN TAX CREDIT.

- 26 USC 904. (a) GENERAL RULE.—Section 904 (relating to limitation on foreign tax credit) is amended by redesignating subsections (g) and (h) as subsections (h) and (i), respectively, and by inserting after subsection (f) the following new subsection:
- Post*, p. 843.

“(g) SOURCE RULES IN CASE OF UNITED STATES-OWNED FOREIGN CORPORATIONS.—

“(1) IN GENERAL.—The following amounts which are derived from a United States-owned foreign corporation and which would be treated as derived from sources outside the United States without regard to this subsection shall, for purposes of this section, be treated as derived from sources within the United States to the extent provided in this subsection:

“(A) Any amount included in gross income under—

“(i) section 951(a) (relating to amounts included in gross income of United States shareholders), or

“(ii) section 551 (relating to foreign personal holding company income taxed to United States shareholders).

“(B) Interest.

“(C) Dividends.

“(2) SUBPART F AND FOREIGN PERSONAL HOLDING COMPANY INCLUSIONS.—Any amount described in subparagraph (A) of paragraph (1) shall be treated as derived from sources within the United States to the extent such amount is attributable to income of the United States-owned foreign corporation from sources within the United States.

“(3) CERTAIN INTEREST ALLOCABLE TO UNITED STATES SOURCE INCOME.—Any interest which—

“(A) is paid or accrued by a United States-owned foreign corporation during any taxable year,

“(B) is paid or accrued to a United States shareholder (as defined in section 951(b)) or a related person (within the meaning of section 267(b)) to such a shareholder, and

“(C) is properly allocable (under regulations prescribed by the Secretary) to income of such foreign corporation for the taxable year from sources within the United States,

shall be treated as derived from sources within the United States.

“(4) DIVIDENDS.—

“(A) IN GENERAL.—The United States source ratio of any dividend paid or accrued by a United States-owned foreign corporation shall be treated as derived from sources within the United States.

“(B) UNITED STATES SOURCE RATIO.—For purposes of subparagraph (A), the term ‘United States source ratio’ means, with respect to any dividend paid out of the earnings and profits for any taxable year, a fraction—

“(i) the numerator of which is the portion of the earnings and profits for such taxable year from sources within the United States, and

“(ii) the denominator of which is the total amount of earnings and profits for such taxable year.

“(5) EXCEPTION WHERE UNITED STATES-OWNED FOREIGN CORPORATION HAS SMALL AMOUNT OF UNITED STATES SOURCE INCOME.—Paragraph (3) shall not apply to interest paid or accrued during any taxable year (and paragraph (4) shall not apply to any dividends paid out of the earnings and profits for such taxable year) if—

“(A) the United States-owned foreign corporation has earnings and profits for such taxable year, and

“(B) less than 10 percent of such earnings and profits is attributable to sources within the United States.

For purposes of the preceding sentence, earnings and profits shall be determined without any reduction for interest described in paragraph (8) (determined without regard to subparagraph (C) thereof).

“(6) UNITED STATES-OWNED FOREIGN CORPORATION.—For purposes of this subsection, the term ‘United States-owned foreign corporation’ means any foreign corporation if 50 percent or more of—

“(A) the total combined voting power of all classes of stock of such corporation entitled to vote, or

“(B) the total value of the stock of such corporation, is held directly (or indirectly through applying paragraphs (2) and (3) of section 958(a) and paragraph (4) of section 318(a)) by United States persons (as defined in section 7701(a)(30)).

“(7) DIVIDEND.—For purposes of this subsection, the term ‘dividend’ includes any gain treated as ordinary income under section 1246 or as a dividend under section 1248.

“(8) COORDINATION WITH SUBSECTION (f).—This subsection shall be applied before subsection (f).

“(9) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate for purposes of this subsection, including—

“(A) regulations for the application of this subsection in the case of interest or dividend payments through 1 or more entities, and

“(B) regulations providing that this subsection shall apply to interest paid or accrued to any person (whether or not a United States shareholder).”

26 USC 904 note.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendment made by subsection (a) shall take effect on the date of the enactment of this Act. In the case of any taxable year of any United States-owned foreign corporation ending after the date of the enactment of this Act—

(A) only income received or accrued by such foreign corporation after such date of enactment shall be taken into account under section 904(g) of the Internal Revenue Code of 1954 (as added by subsection (a)); except that

(B) paragraph (5) of such section 904(g) (relating to exception where small amount of United States source income) shall be applied by taking into account all income received or accrued by such foreign corporation during such taxable year.

(2) SPECIAL RULE FOR APPLICABLE CFC.—

(A) IN GENERAL.—In the case of qualified interest received or accrued by an applicable CFC before January 1, 1992—

(i) such interest shall not be taken into account under section 904(g) of the Internal Revenue Code of 1954 (as added by subsection (a)), except that

(ii) such interest shall be taken into account for purposes of applying paragraph (5) of such section 904(g) (relating to exception where small amount of United States source income).

(B) QUALIFIED INTEREST.—For purposes of subparagraph (A), the term “qualified interest” means—

(i) the aggregate amount of interest received or accrued during any taxable year by an applicable CFC on

Ante, p. 638.

United States affiliate obligations held by such applicable CFC, multiplied by,

(ii) a fraction (not in excess of 1)—

(I) the numerator of which is the sum of the aggregate principal amount of United States affiliate obligations held by the applicable CFC on March 31, 1984, but not in excess of the applicable limit, and

(II) the denominator of which is the average daily principal amount of United States affiliate obligations held by such applicable CFC during the taxable year.

Proper adjustments shall be made to the numerator described in clause (ii)(I) for original issue discount accruing after March 31, 1984, on CFC obligations and United States affiliate obligations.

(C) **ADJUSTMENT FOR RETIREMENT OF CFC OBLIGATIONS.**—The amount described in subparagraph (B)(ii)(I) for any taxable year shall be reduced by the sum of—

(i) the excess of (I) the aggregate principal amount of CFC obligations which are outstanding on March 31, 1984, but only with respect to obligations issued before March 8, 1984, or issued after March 7, 1984, by the applicable CFC pursuant to a binding commitment in effect on March 7, 1984, over (II) the average daily outstanding principal amount during the taxable year of the CFC obligations described in subclause (I), and

(ii) the portion of the equity of such applicable CFC allocable to the excess described in clause (i) (determined on the basis of the debt-equity ratio of such applicable CFC on March 31, 1984).

(D) **APPLICABLE CFC.**—For purposes of this paragraph, the term “applicable CFC” means any controlled foreign corporation (within the meaning of section 957)—

(i) which was in existence on March 31, 1984, and

(ii) the principal purpose of which on such date consisted of the issuing of CFC obligations or the holding of short-term obligations and lending the proceeds of such obligations to affiliates.

(E) **AFFILIATES; UNITED STATES AFFILIATES.**—For purposes of this paragraph—

(i) **AFFILIATE.**—The term “affiliate” means any person who is a related person (within the meaning of section 482 of the Internal Revenue Code of 1954) to the applicable CFC.

(ii) **UNITED STATES AFFILIATE.**—The term “United States affiliate” means any United States person which is an affiliate of the applicable CFC.

(F) **UNITED STATES AFFILIATE OBLIGATIONS.**—For purposes of this paragraph, the term “United States affiliate obligations” means any obligation of (and payable by) a United States affiliate.

(G) **CFC OBLIGATION.**—For purposes of this paragraph, the term “CFC obligation” means any obligation of (and issued by) a CFC if—

(i) the requirements of clause (i) of section 163(f)(2)(B) of the Internal Revenue Code of 1954 are met with respect to such obligation, and

(ii) in the case of an obligation issued after December 31, 1982, the requirements of clause (ii) of such section 163(f)(2)(B) are met with respect to such obligation.

(H) TREATMENT OF OBLIGATIONS WITH ORIGINAL ISSUE DISCOUNT.—For purposes of this paragraph, in the case of any obligation with original issue discount, the principal amount of such obligation as of any day shall be treated as equal to the revised issue price as of such day (as defined in section 1278(a)(4) of the Internal Revenue Code of 1954).

Ante, p. 547.

(I) APPLICABLE LIMIT.—For purposes of subparagraph (B)(ii)(I), the term “applicable limit” means the sum of—

(i) the equity of the applicable CFC on March 31, 1984, and

(ii) the aggregate principal amount of CFC obligations outstanding on March 31, 1984, which were issued by an applicable CFC—

(I) before March 8, 1984, or

(II) after March 7, 1984, pursuant to a binding commitment in effect on March 7, 1984.

(3) EXCEPTION FOR CERTAIN TERM OBLIGATIONS.—The amendments made by subsection (a) shall not apply to interest on any term obligations held by a foreign corporation on March 7, 1984. The preceding sentence shall not apply to any United States affiliate obligation (as defined in paragraph (2)(F)) held by an applicable CFC (as defined in paragraph (2)(D)).

Ante, p. 638.

(4) DEFINITIONS.—Any term used in this subsection which is also used in section 904(g) of the Internal Revenue Code of 1954 (as added by subsection (a)) shall have the meaning given such term by such section 904(g).

(5) SEPARATE APPLICATION OF SECTION 904 IN CASE OF INCOME COVERED BY TRANSITIONAL RULES.—Subsections (a), (b), and (c) of section 904 of the Internal Revenue Code of 1954 shall be applied separately to any amount not treated as income derived from sources within the United States but which (but for the provisions of paragraph (2) or (3) of this subsection) would be so treated under the amendments made by subsection (a). Any such separate application shall be made before any separate application required under section 904(d) of such Code.

(6) APPLICATION OF PARAGRAPH (5) DELAYED IN CERTAIN CASES.—In the case of a foreign corporation—

(A) which is a subsidiary of a domestic corporation which has been engaged in manufacturing for more than 50 years, and

(B) which issued certificates with respect to obligations on—

(i) September 24, 1979, denominated in French francs,

(ii) September 10, 1981, denominated in Swiss francs,

(iii) July 14, 1982, denominated in Swiss francs, and

(iv) December 1, 1982, denominated in United States dollars,

with a total principal amount of less than 200,000,000 United States dollars.

then paragraph (5) shall not apply to the proceeds from relending such obligations or related capital before January 1, 1986.

SEC. 122. CERTAIN AMOUNTS TREATED AS INTEREST FOR PURPOSES OF THE LIMITATION ON THE FOREIGN TAX CREDIT.

(a) **GENERAL RULE.**—Subsection (d) of section 904 (relating to limitation on foreign tax credit) is amended by adding at the end thereof the following new paragraph: 26 USC 904.

“(3) **CERTAIN AMOUNTS ATTRIBUTABLE TO UNITED STATES-OWNED FOREIGN CORPORATIONS, ETC., TREATED AS INTEREST.**—

“(A) **IN GENERAL.**—For purposes of this subsection, dividends and interest—

“(i) paid or accrued by a designated payor corporation, and

“(ii) attributable to any taxable year of such corporation, shall be treated as interest income described in paragraph (2) to the extent that the aggregate amount of such dividends and interest does not exceed the separate limitation interest of the designated payor corporation for such taxable year.

“(B) **SEPARATE LIMITATION INTEREST.**—For purposes of this subsection, the term ‘separate limitation interest’ means, with respect to any taxable year—

“(i) the aggregate amount of the interest income described in paragraph (2) (including amounts treated as so described by reason of this paragraph) which is received or accrued by the designated payor corporation during the taxable year, reduced by

“(ii) the deductions properly allocable (under regulations prescribed by the Secretary) to such income.

“(C) **EXCEPTION WHERE DESIGNATED CORPORATION HAS SMALL AMOUNT OF SEPARATE LIMITATION INTEREST.**—Subparagraph (A) shall not apply to any amount attributable to the taxable year of a designated payor corporation, if—

“(i) such corporation has earnings and profits for such taxable year, and

“(ii) less than 10 percent of such earnings and profits is attributable to separate limitation interest.

“(D) **TREATMENT OF CERTAIN INTEREST.**—For purposes of this paragraph, the amount of the separate limitation interest and the earnings and profits of any designated payor corporation shall be determined without any reduction for interest paid or accrued to a United States shareholder (as defined in section 951(b)) or a related person (within the meaning of section 267(b)) to such a shareholder.

“(E) **DESIGNATED PAYOR CORPORATION.**—For purposes of this paragraph, the term ‘designated payor corporation’ means—

“(i) any United States-owned foreign corporation (within the meaning of subsection (g)(6)),

“(ii) any other foreign corporation in which a United States person is a United States shareholder (as defined in section 951(b)) at any time during the taxable year of such foreign corporation, and

“(iii) any regulated investment company.

“(F) DETERMINATION OF YEAR TO WHICH AMOUNT IS ATTRIBUTABLE.—For purposes of determining whether an amount is attributable to a taxable year of a designated payor corporation—

“(i) any amount includible in gross income under section 551 or 951 in respect of such taxable year,

“(ii) any interest paid or accrued by such corporation during such taxable year, and

“(iii) any dividend paid out of the earnings and profits of such corporation for such taxable year, shall be treated as attributable to such taxable year.

“(G) ORDERING RULES.—Subparagraph (A) shall be applied to amounts described therein in the order in which such amounts are described in subparagraph (F).

“(H) DIVIDEND.—For purposes of this paragraph, the term ‘dividend’ includes—

“(i) any amount includible in gross income under section 551 or 951, and

“(ii) any gain treated as ordinary income under section 1246 or as a dividend under section 1248.

“(I) DISTRIBUTIONS THROUGH OTHER ENTITIES.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this paragraph in the case of distributions or payments through 1 or more entities.

“(J) INTEREST FROM MEMBERS OF SAME AFFILIATED GROUP.—For purposes of this paragraph, interest received or accrued by the designated payor corporation from another member of the same affiliated group (determined under section 1504 without regard to subsection (b)(3) thereof) shall not be treated as separate limitation interest, unless such interest is attributable directly or indirectly to separate limitation interest of such other member.”

26 USC 904 note.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

(2) SPECIAL RULES FOR INTEREST INCOME.—

(A) IN GENERAL.—Interest income received or accrued by a designated payor corporation shall be taken into account for purposes of the amendment made by subsection (a) only in taxable years beginning after the date of the enactment of this Act.

(B) EXCEPTION FOR INVESTMENT AFTER JUNE 22, 1984.—Notwithstanding subparagraph (A), the amendment made by subsection (a) shall apply to interest income received or accrued by a designated payor corporation after the date of enactment of this Act if it is attributable to investment in the designated payor corporation after June 22, 1984.

(3) TERM OBLIGATIONS OF DESIGNATED PAYOR CORPORATION WHICH IS NOT APPLICABLE CFC.—In the case of any designated payor corporation which is not an applicable CFC (as defined in section 121(b)(2)(D)), any interest received or accrued by such corporation on a term obligation held by such corporation on March 7, 1984, shall not be taken into account.

Ante, p. 638.

SEC. 123. TREATMENT OF RELATED PERSON FACTORING INCOME.

26 USC 864.

(a) GENERAL RULE.—Section 864 (relating to source definitions) is amended by adding at the end thereof the following new subsection:

“(d) TREATMENT OF RELATED PERSON FACTORING INCOME.—

“(1) IN GENERAL.—For purposes of the provisions set forth in paragraph (2), if any person acquires (directly or indirectly) a trade or service receivable from a related person, any income of such person from the trade or service receivable so acquired shall be treated as if it were interest on a loan to the obligor under the receivable.

“(2) PROVISIONS TO WHICH PARAGRAPH (1) APPLIES.—The provisions set forth in this paragraph are as follows:

“(A) Part III of subchapter G of this chapter (relating to foreign personal holding companies). 26 USC 551.

“(B) Section 904 (relating to limitation on foreign tax credit).

“(C) Subpart F of part III of this subchapter (relating to controlled foreign corporations). 26 USC 951.

“(3) TRADE OR SERVICE RECEIVABLE.—For purposes of this subsection, the term ‘trade or service receivable’ means any account receivable or evidence of indebtedness arising out of—

“(A) the disposition by a related person of property described in section 1221(1), or

“(B) the performance of services by a related person.

“(4) RELATED PERSON.—For purposes of this subsection, the term ‘related person’ means—

“(A) any person who is a related person (within the meaning of section 267(b)), and

“(B) any United States shareholder (as defined in section 951(b)) and any person who is a related person (within the meaning of section 267(b)) to such a shareholder.

“(5) CERTAIN PROVISIONS NOT TO APPLY.—

“(A) CERTAIN EXCEPTIONS.—The following provisions shall not apply to any amount treated as interest under paragraph (1) or (6):

“(i) Subparagraphs (A), (B), (C), and (D) of section 904(d)(2) (relating to interest income to which separate limitation applies).

“(ii) Subparagraph (A) of section 954(b)(3) (relating to exception where foreign base company income is less than 10 percent).

“(iii) Subparagraph (B) of section 954(c)(3) (relating to certain income derived in active conduct of trade or business).

“(iv) Subparagraphs (A) and (B) of section 954(c)(4) (relating to exception for certain income received from related persons).

“(B) SPECIAL RULES FOR POSSESSIONS.—

“(i) PUERTO RICO AND POSSESSIONS TAX CREDIT.—Any amount treated as interest under paragraph (1) shall not be treated as income described in subparagraph (A) or (B) of section 936(a)(1) unless such amount is from sources within a possession of the United States (determined after the application of paragraph (1)).

“(ii) VIRGIN ISLANDS CORPORATIONS.—Subsection (b) of section 934 shall not apply to any amount treated as interest under paragraph (1) unless such amount is from sources within the Virgin Islands (determined after the application of paragraph (1)).

“(6) SPECIAL RULE FOR CERTAIN INCOME FROM LOANS OF A CONTROLLED FOREIGN CORPORATION.—Any income of a controlled foreign corporation (within the meaning of section 957(a)) from a loan to a person for the purpose of financing—

“(A) the purchase of property described in section 1221(1) of a related person, or

“(B) the payment for the performance of services by a related person, shall be treated as interest described in paragraph (1).

Infra. “(7) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to prevent the avoidance of the provisions of this subsection or section 956(b)(3).”

26 USC 956. (b) TREATMENT AS UNITED STATES PROPERTY.—Subsection (b) of section 956 (defining United States property) is amended by adding at the end thereof the following new paragraph:

“(3) CERTAIN TRADE OR SERVICE RECEIVABLES ACQUIRED FROM RELATED UNITED STATES PERSONS.—

“(A) IN GENERAL.—Notwithstanding paragraph (2), the term ‘United States property’ includes any trade or service receivable if—

“(i) such trade or service receivable is acquired (directly or indirectly) from a related person who is a United States person, and

“(ii) the obligor under such receivable is a United States person.

Ante, p. 644. 26 USC 864 note. “(B) DEFINITIONS.—For purposes of this paragraph, the term ‘trade or service receivable’ and ‘related person’ have the respective meanings given to such terms by section 864(d).”

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to accounts receivable and evidences of indebtedness transferred after March 1, 1984, in taxable years ending after such date.

(2) TRANSITIONAL RULE.—The amendments made by this section shall not apply to accounts receivable and evidences of indebtedness acquired after March 1, 1984, and before March 1, 1994, by a Belgian corporation in existence on March 1, 1984, in any taxable year ending after such date, but only to the extent that the amount includible in gross income by reason of section 956 of the Internal Revenue Code of 1954 with respect to such corporation for all such taxable years is not reduced by reason of this paragraph by more than the lesser of—

(A) \$15,000,000 or

(B) the amount of the Belgian corporation’s adjusted basis on March 1, 1984, in stock of a foreign corporation formed to issue bonds outside the United States to the public.

SEC. 124. TREATMENT OF CERTAIN TRANSPORTATION INCOME.

26 USC. 863.

(a) GENERAL RULE.—Section 863 (relating to items not specified in section 861 or 862) is amended by adding at the end thereof the following new subsection:

“(c) SOURCE RULE FOR CERTAIN TRANSPORTATION INCOME.—

“(1) TRANSPORTATION BEGINNING AND ENDING IN THE UNITED STATES.—All transportation income attributable to transportation which begins and ends in the United States shall be treated as derived from sources within the United States.

“(2) TRANSPORTATION BETWEEN UNITED STATES AND ANY POSSESSION.—

“(A) IN GENERAL.—50 percent of all transportation income attributable to transportation which—

“(i) begins in the United States and ends in a possession of the United States, or

“(ii) begins in a possession of the United States and ends in the United States,
shall be treated as derived from sources within the United States.

“(B) SPECIAL RULE FOR CERTAIN LESSORS OF AIRCRAFT.—If—

“(i) the taxpayer owns an aircraft which is section 38 property and leases such aircraft to a United States person (other than a member of the same controlled group of corporations (as defined in section 1563) as the taxpayer), and

“(ii) such United States person is a regularly scheduled air carrier,

subparagraph (A) shall be applied by substituting ‘100 percent’ for ‘50 percent’.

Post, p. 827.

“(3) TRANSPORTATION INCOME.—For purposes of this subsection, the term ‘transportation income’ means any income derived from, or in connection with—

“(A) the use (or hiring or leasing for use) of a vessel or aircraft, or

“(B) the performance of services directly related to the use of a vessel or aircraft.

For purposes of the preceding sentence, the term ‘vessel or aircraft’ includes any container used in connection with a vessel or aircraft.”

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to transportation beginning after the date of the enactment of this Act in taxable years ending after such date.

26 USC 863 note.

SEC. 125. TREATMENT OF CERTAIN DISTRIBUTIONS RECEIVED BY UNITED STATES-OWNED FOREIGN CORPORATIONS.

(a) GENERAL RULE.—Section 535 (defining accumulated taxable income) is amended by adding at the end thereof the following new subsection:

26 USC 535.

“(d) INCOME DISTRIBUTED TO UNITED STATES-OWNED FOREIGN CORPORATION RETAINS UNITED STATES CONNECTION.—

“(1) IN GENERAL.—For purposes of this part, if 10 percent or more of the earnings and profits of any foreign corporation for any taxable year—

“(A) is derived from sources within the United States, or

“(B) is effectively connected with the conduct of a trade or business within the United States,
any distribution out of such earnings and profits (and any interest payment) received (directly or through 1 or more other entities) by a United States-owned foreign corporation shall be treated as derived by such corporation from sources within the United States.

“(2) UNITED STATES-OWNED FOREIGN CORPORATION.—The term ‘United States-owned foreign corporation’ has the meaning given to such term by section 904(g)(6).”

(b) EFFECTIVE DATE.—

Ante, p. 638.
26 USC 535 note.

Ante, p. 647.

(1) **IN GENERAL.**—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to distributions and interest payments received by a United States-owned foreign corporation (within the meaning of section 535(d) of the Internal Revenue Code of 1954) on or after May 23, 1983, in taxable years ending on or after such date.

(2) **CORPORATIONS IN EXISTENCE ON MAY 23, 1983.**—In the case of a United States-owned foreign corporation (as so defined) in existence on May 23, 1983, the amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1984.

26 USC 861 note. **SEC. 126. ALLOCATION UNDER SECTION 861 OF RESEARCH AND EXPERIMENTAL EXPENDITURES.**

(a) **IN GENERAL.**—For purposes of section 861(b), section 862(b), and section 863(b) of the Internal Revenue Code of 1954, all amounts allowable as a deduction for qualified research and experimental expenditures shall be allocated to income from sources within the United States and deducted from such income in determining the amount of taxable income from sources within the United States.

(b) **QUALIFIED RESEARCH AND EXPERIMENTAL EXPENDITURES.**—For purposes of this section—

(1) **IN GENERAL.**—The term “qualified research and experimental expenditures” means amounts—

(A) which are research and experimental expenditures within the meaning of section 174 of such Code, and

(B) which are attributable to activities conducted in the United States.

(2) **TREATMENT OF DEPRECIATION, ETC.**—Rules similar to the rules of subsection (c) of section 174 of such Code shall apply.

(c) **EFFECTIVE DATES.**—

(1) **IN GENERAL.**—This section shall apply to taxable years beginning after August 13, 1983, and on or before August 1, 1985.

(2) **SPECIAL RULE.**—If the taxpayer’s 3rd taxable year beginning after August 13, 1981, is not described in paragraph (1), this section shall apply also to such 3rd taxable year.

PART II—WITHHOLDING PROVISIONS

SEC. 127. REPEAL OF THE 30 PERCENT TAX ON INTEREST RECEIVED BY FOREIGNERS ON CERTAIN PORTFOLIO INVESTMENTS.

(a) **REPEAL OF TAX ON NONRESIDENT INDIVIDUALS.**—

26 USC 871.
Post, p. 653.

(1) **IN GENERAL.**—Section 871 (relating to 30 percent tax on income not connected with United States business), as amended by this Act, is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

“(h) **REPEAL OF TAX ON INTEREST OF NONRESIDENT ALIEN INDIVIDUALS RECEIVED FROM CERTAIN PORTFOLIO DEBT INVESTMENTS.**—

“(1) **IN GENERAL.**—In the case of any portfolio interest received by a nonresident individual from sources within the United States, no tax shall be imposed under paragraph (1)(A) or (1)(C) of subsection (a).

“(2) **PORTFOLIO INTEREST.**—For purposes of this subsection, the term ‘portfolio interest’ means any interest (including original

issue discount) which is described in any of the following subparagraphs:

“(A) CERTAIN OBLIGATIONS WHICH ARE NOT REGISTERED.—

Interest which is paid on any obligation which—

“(i) is not in registered form, and

“(ii) is described in section 163(f)(2)(B).

“(B) CERTAIN REGISTERED OBLIGATIONS.—Interest which is paid on an obligation—

“(i) which is in registered form, and

“(ii) with respect to which the United States person who would otherwise be required to deduct and withhold tax from such interest under section 1441(a) has received a statement (which meets the requirements of paragraph (4)) that the beneficial owner of the obligation is not a United States person.

“(3) PORTFOLIO INTEREST NOT TO INCLUDE INTEREST RECEIVED BY 10-PERCENT SHAREHOLDERS.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘portfolio interest’ shall not include any interest described in subparagraph (A) or (B) of paragraph (2) which is received by a 10-percent shareholder.

“(B) 10-PERCENT SHAREHOLDER.—The term ‘10-percent shareholder’ means—

“(i) in the case of an obligation issued by a corporation, any person who owns 10 percent or more of the total combined voting power of all classes of stock of such corporation entitled to vote, or

“(ii) in the case of an obligation issued by a partnership, any person who owns 10 percent or more of the capital or profits interest in such partnership.

“(C) ATTRIBUTION RULES.—For purposes of determining ownership of stock under subparagraph (B)(i) the rules of section 318(a) shall apply, except that—

“(i) section 318(a)(2)(C) shall be applied without regard to the 50-percent limitation therein, and

“(ii) any stock which a person is treated as owning after application of section 318(a)(4) shall not, for purposes of applying paragraphs (2) and (3) of section 318(a), be treated as actually owned by such person.

Under regulations prescribed by the Secretary, rules similar to the rules of the preceding sentence shall be applied in determining the ownership of the capital or profits interest in a partnership for purposes of subparagraph (B)(ii).

“(4) CERTAIN STATEMENTS.—A statement with respect to any obligation meets the requirements of this paragraph if such statement is made by—

“(A) the beneficial owner of such obligation, or

“(B) a securities clearing organization, a bank, or other financial institution that holds customers’ securities in the ordinary course of its trade or business.

The preceding sentence shall not apply to any statement with respect to payment of interest on any obligation by any person if, at least one month before such payment, the Secretary has published a determination that any statement from such person (or any class including such person) does not meet the requirements of this paragraph.

“(5) SECRETARY MAY PROVIDE SUBSECTION NOT TO APPLY IN CASES OF INADEQUATE INFORMATION EXCHANGE.—

“(A) IN GENERAL.—If the Secretary determines that the exchange of information between the United States and a foreign country is inadequate to prevent evasion of the United States income tax by United States persons, the Secretary may provide in writing (and publish a statement) that the provisions of this subsection shall not apply to payments of interest to any person within such foreign country (or payments addressed to, or for the account of, persons within such foreign country) during the period—

“(i) beginning on the date specified by the Secretary, and

“(ii) ending on the date that the Secretary determines that the exchange of information between the United States and the foreign country is adequate to prevent the evasion of United States income tax by United States persons.

“(B) EXCEPTION FOR CERTAIN OBLIGATIONS.—Subparagraph (A) shall not apply to the payment of interest on any obligation which is issued on or before the date of the publication of the Secretary’s determination under such subparagraph.

“(6) REGISTERED FORM.—For purposes of this subsection, the term ‘registered form’ has the same meaning given such term by section 163(f).”

26 USC 871.

(2) CONFORMING AMENDMENT.—Paragraph (1) of section 871(a) (relating to tax on income other than capital gains) is amended by striking out “There” and inserting in lieu thereof “Except as provided in subsection (i), there”.

(b) FOREIGN CORPORATIONS.—

26 USC 881.
Post, p. 654.

(1) IN GENERAL.—Section 881 (relating to tax on income of foreign corporations not connected with United States business), as amended by this Act, is amended by redesignating subsection (c) as subsection (d) and by adding after subsection (b) the following new subsection:

“(c) REPEAL OF TAX ON INTEREST OF FOREIGN CORPORATIONS RECEIVED FROM CERTAIN PORTFOLIO DEBT INVESTMENTS.—

“(1) IN GENERAL.—In the case of any portfolio interest received by a foreign corporation from sources within the United States, no tax shall be imposed under paragraph (1) or (3) of subsection (a).

“(2) PORTFOLIO INTEREST.—For purposes of this subsection, the term ‘portfolio interest’ means any interest (including original issue discount) which is described in any of the following subparagraphs:

“(A) CERTAIN OBLIGATIONS WHICH ARE NOT REGISTERED.—Interest which is paid on any obligation which is described in section 871(h)(2)(A).

Ante, p. 648.

“(B) CERTAIN REGISTERED OBLIGATIONS.—Interest which is paid on an obligation—

“(i) which is in registered form, and

“(ii) with respect to which the person who would otherwise be required to deduct and withhold tax from such interest under section 1442(a) has received a statement which meets the requirements of section 871(h)(4)

Ante, p. 648.

that the beneficial owner of the obligation is not a United States person.

“(3) PORTFOLIO INTEREST SHALL NOT INCLUDE INTEREST RECEIVED BY CERTAIN PERSONS.—For purposes of this subsection, the term ‘portfolio interest’ shall not include any portfolio interest which—

“(A) except in the case of interest paid on an obligation of the United States, is received by a bank on an extension of credit made pursuant to a loan agreement entered into in the ordinary course of its trade or business,

“(B) is received by a 10-percent shareholder (within the meaning of section 871(h)(3)(B)), or

Ante, p. 648.

“(C) is received by a controlled foreign corporation from a related person (within the meaning of section 864(d)(4).

Ante, p. 644.

“(4) SPECIAL RULES FOR CONTROLLED FOREIGN CORPORATIONS.—

“(A) IN GENERAL.—In the case of any portfolio interest received by a controlled foreign corporation, the following provisions shall not apply:

“(i) Subparagraph (A) of section 954(b)(3) (relating to exception where foreign base company income is less than 10 percent).

“(ii) Paragraph (4) of section 954(b) (relating to corporations not formed or availed of to avoid tax).

“(iii) Subparagraph (B) of section 954(c)(3) (relating to certain income derived in active conduct of trade or business).

“(iv) Subparagraph (C) of section 954(c)(3) (relating to certain income derived by an insurance company).

“(v) Subparagraphs (A) and (B) of section 954(c)(4) (relating to exception for certain income received from related persons).

“(B) CONTROLLED FOREIGN CORPORATION.—For purposes of this subsection, the term ‘controlled foreign corporation’ has the meaning given to such term by section 957(a).

“(5) SECRETARY MAY CEASE APPLICATION OF THIS SUBSECTION.—Under rules similar to the rules of section 871(h)(5), the Secretary may provide that this subsection shall not apply to payments of interest described in section 871(h)(5).

Ante, p. 648.

“(6) REGISTERED FORM.—For purposes of this subsection, the term ‘registered form’ has the meaning given such term by section 163(f).”

(2) CONFORMING AMENDMENT.—Subsection (a) of section 881 (relating to imposition of tax) is amended by striking out “There” and inserting in lieu thereof “Except as provided in subsection (c), there”.

26 USC 881.

(c) AMENDMENT OF SECTION 864(c)(2).—Paragraph (2) of section 864(c) (relating to effectively connected income, etc.) is amended by striking out “section 871(a)(1) or section 881(a)” and inserting in lieu thereof “section 871(a)(1), section 871(h) section 881(a), or section 881(c)”.

26 USC 864.

(d) AMENDMENT OF SECTION 2105.—Subsection (b) of section 2105 (relating to property without the United States) is amended to read as follows:

26 USC 2105.

“(b) BANK DEPOSITS AND CERTAIN OTHER DEBT OBLIGATIONS.—For purposes of this subchapter—

“(1) amounts described in section 861(c), if any interest thereon would be treated by reason of section 861(a)(1)(A) as

income from sources without the United States were such interest received by the decedent at the time of his death,

“(2) deposits with a foreign branch of a domestic corporation or domestic partnership, if such branch is engaged in the commercial banking business, and

Ante, p. 648.

“(3) debt obligations, if, without regard to whether a statement meeting the requirements of section 871(h)(4) has been received, any interest thereon would be eligible for the exemption from tax under section 871(h)(1) were such interest received by the decedent at the time of his death,

shall not be deemed property within the United States.”.

(e) WITHHOLDING.—

26 USC 1441.

(1) NONRESIDENT ALIENS.—Subsection (c) of section 1441 (relating to withholding of tax on nonresident aliens) is amended by adding at the end thereof the following new paragraph:

Ante, p. 648.

“(9) INTEREST INCOME FROM CERTAIN PORTFOLIO DEBT INVESTMENTS.—In the case of portfolio interest (within the meaning of 871(h)(2)), no tax shall be required to be deducted and withheld from such interest unless the person required to deduct and withhold tax from such interest knows, or has reason to know, that such interest is not portfolio interest by reason of section 871(h)(3).”.

26 USC 1442.

(2) FOREIGN CORPORATIONS.—The last sentence of section 1442(a) is amended—

(A) by striking out “and” after “section 881(a)(4),” and

(B) by inserting before the period at the end thereof the following: “, and the references in section 1449(c)(9) to sections 871(h)(2) and 871(h)(3) shall be treated as referring to sections 881(c)(2) and 881(c)(3)”.

26 USC 163.

(f) REGISTERED OBLIGATIONS.—Subparagraph (C)(i) of section 163(f)(2) (relating to authority to include other obligations) is amended to read as follows:

“(i) in the case of—

“(I) subparagraph (A), such obligation is of a type which the Secretary has determined by regulations to be used frequently in avoiding Federal taxes, or

“(II) subparagraph (B), such obligation is of a type specified by the Secretary in regulations, and”.

26 USC 871 note.

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to interest received after the date of the enactment of this Act with respect to obligations issued after such date, in taxable years ending after such date.

(2) SUBSECTION (d).—The amendment made by subsection (d) shall apply to obligations issued after the date of the enactment of this Act with respect to the estates of decedents dying after such date.

(3) SPECIAL RULE FOR CERTAIN UNITED STATES AFFILIATE OBLIGATIONS.—

26 USC 1 *et seq.*

(A) IN GENERAL.—For purposes of the Internal Revenue Code of 1954, payments of interest on a United States affiliate obligation to an applicable CFC in existence on or before June 22, 1984, shall be treated as payments to a resident of the country in which the applicable CFC is incorporated.

(B) EXCEPTION.—Subparagraph (A) shall not apply to any applicable CFC which did not meet requirements which are based on the principles set forth in Revenue Rulings 69-501, 69-377, 70-645, and 73-110.

(C) DEFINITIONS.—

(i) The term “applicable CFC” has the meaning given such term by section 121(b)(2)(D) of this Act, except that such section shall be applied by substituting “the date of interest payment” for “March 31, 1984,” in clause (i) thereof.

Ante, p. 638.

(ii) The term “United States affiliate obligation” means an obligation described in section 121(b)(2)(F) of this Act which was issued before June 22, 1984.

SEC. 128. TREATMENT OF UNITED STATES SOURCE ORIGINAL ISSUE DISCOUNT IN CASE OF FOREIGN PERSONS.

(a) NONRESIDENT ALIEN INDIVIDUALS.—

(1) IN GENERAL.—Subparagraph (C) of section 871(a)(1) (relating to income not connected with United States business) is amended to read as follows:

26 USC 871.

“(C) in the case of—

“(i) a sale or exchange of an original issue discount obligation, the amount of any gain not in excess of the original issue discount accruing while such obligation was held by the nonresident alien individual (to the extent such discount was not theretofore taken into account under clause (ii)), and

“(ii) the payment of interest on an original issue discount obligation, an amount equal to the original issue discount accrued on such obligation since the last payment of interest thereon (except that such original issue discount shall be taken into account under this clause only to the extent that the tax thereon does not exceed the interest payment less the tax imposed by subparagraph (A) thereon), and”.

(2) DEFINITIONS AND SPECIAL RULES.—Section 871 is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

“(g) SPECIAL RULES FOR ORIGINAL ISSUE DISCOUNT.—For purposes of this section and section 881—

“(1) ORIGINAL ISSUE DISCOUNT OBLIGATION.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the term ‘original issue discount obligation’ means any bond or other evidence of indebtedness having original issue discount (within the meaning of section 1273).

Ante, p. 536.

“(B) EXCEPTIONS.—The term ‘original issue discount obligation’ shall not include—

“(i) CERTAIN SHORT-TERM OBLIGATIONS.—Any obligation payable 183 days or less from the date of original issue (without regard to the period held by the taxpayer).

“(ii) TAX-EXEMPT OBLIGATIONS.—Any obligation the interest on which is exempt from tax under section 103 or under any other provision of law without regard to the identity of the holder.

“(2) DETERMINATION OF PORTION OF ORIGINAL ISSUE DISCOUNT ACCRUING DURING ANY PERIOD.—The determination of the

Ante, p. 533.

amount of the original issue discount which accrues during any period shall be made under the rules of section 1272 (or the corresponding provisions of prior law) without regard to any exception for short-term obligations.

Ante, p. 551.

“(3) **SOURCE OF ORIGINAL ISSUE DISCOUNT.**—Except to the extent provided in regulations prescribed by the Secretary, the determination of whether any amount described in subsection (a)(1)(C) is from sources within the United States shall be made at the time of the payment (or sale or exchange) as if such payment (or sale or exchange) involved the payment of interest.

“(4) **STRIPPED BONDS.**—The provisions of section 1286 (relating to the treatment of stripped bonds and stripped coupons as obligations with original issue discount) shall apply for purposes of this section.”

26 USC 881.

(b) **FOREIGN CORPORATIONS.**—

(1) **IN GENERAL.**—Paragraph (3) of section 881(a) (relating to tax on income of foreign corporations not connected with United States business) is amended to read as follows:

“(3) in the case of—

“(A) a sale or exchange of an original issue discount obligation, the amount of any gain not in excess of the original issue discount accruing while such obligation was held by the foreign corporation (to the extent such discount was not therefore taken into account under subparagraph (B)), and

“(B) the payment of interest on an original issue discount obligation, an amount equal to the original issue discount accrued on such obligation since the last payment of interest thereon (except that such original issue discount shall be taken into account under this subparagraph only to the extent that the tax thereon does not exceed the interest payment less the tax imposed by paragraph (1) thereon), and”.

(2) **CROSS REFERENCE.**—Subsection (c) of section 881 (relating to doubling of tax) is amended to read as follows:

“(c) **CROSS REFERENCE.**—

“For doubling of tax on corporations of certain foreign countries, see section 891.

Ante, p. 653.

“For special rules for original issue discount, see section 871(g).”

Ante, p. 556.

(c) **DEDUCTION FOR ORIGINAL ISSUE DISCOUNT HELD BY RELATED FOREIGN PERSON.**—Subsection (e) of section 163 (relating to original issue discount), as amended by this Act, is amended by redesignating paragraph (3) as paragraph (4), and by inserting after paragraph (2) the following new paragraph:

“(3) **SPECIAL RULE FOR ORIGINAL ISSUE DISCOUNT ON OBLIGATION HELD BY RELATED FOREIGN PERSON.**—

“(A) **IN GENERAL.**—If any debt instrument having original issue discount is held by a related foreign person, any portion of such original issue discount shall not be allowable as a deduction to the issuer until paid.

“(B) **RELATED FOREIGN PERSON.**—For purposes of subparagraph (A), the term ‘related foreign person’ means any person—

“(i) who is not a United States person, and

“(ii) who is related (within the meaning of section 267(b)) to the issuer.”

(d) **EFFECTIVE DATE.**—

26 USC 871 note.

(1) **IN GENERAL.**—Except as provided in paragraph (2), the amendments made by this section shall apply to payments made on or after the 60th day after the date of the enactment of this Act with respect to obligations issued after March 31, 1972.

(2) **SUBSECTION (c).**—The amendment made by subsection (c) shall apply to obligations issued after June 9, 1984.

SEC. 129. WITHHOLDING OF TAX ON DISPOSITIONS OF UNITED STATES REAL PROPERTY INTERESTS.

(a) **WITHHOLDING OF TAX.**—

(1) **IN GENERAL.**—Subchapter A of chapter 3 (relating to withholding of tax on nonresident aliens and foreign corporations) is amended by adding at the end thereof the following new section:

“SEC. 1445. WITHHOLDING OF TAX ON DISPOSITIONS OF UNITED STATES REAL PROPERTY INTERESTS.

26 USC 1445.

“(a) GENERAL RULE.—Except as otherwise provided in this section, in the case of any disposition of a United States real property interest (as defined in section 897(c)) by a foreign person, the transferee shall be required to deduct and withhold a tax equal to 10 percent of the amount realized on the disposition.

“(b) EXEMPTIONS.—

“(1) IN GENERAL.—No person shall be required to deduct and withhold any amount under subsection (a) with respect to a disposition if paragraph (2), (3), (4), (5), or (6) applies to the transaction.

“(2) TRANSFEROR FURNISHES NONFOREIGN AFFIDAVIT.—Except as provided in paragraph (7), this paragraph applies to the disposition if the transferor furnishes to the transferee an affidavit by the transferor stating, under penalty of perjury, the transferor's United States taxpayer identification number and that the transferor is not a foreign person.

“(3) NONPUBLICLY TRADED DOMESTIC CORPORATION FURNISHES AFFIDAVIT THAT IT IS NOT A UNITED STATES REAL PROPERTY HOLDING CORPORATION.—Except as provided in paragraph (7), this paragraph applies in the case of a disposition of any interest in any domestic corporation, if the domestic corporation furnishes to the transferee an affidavit by the domestic corporation stating, under penalty of perjury, that the domestic corporation is not and has not been a United States real property holding corporation (as defined in section 897(c)(2)) during the applicable period specified in section 897(c)(1)(A)(ii).

“(4) TRANSFEE RECEIVES QUALIFYING STATEMENT.—

“(A) IN GENERAL.—This paragraph applies to the disposition if the transferee receives a qualifying statement at such time, in such manner, and subject to such terms and conditions as the Secretary may by regulations prescribe.

“(B) QUALIFYING STATEMENT.—For purposes of subparagraph (A), the term ‘qualifying statement’ means a statement by the Secretary that—

“(i) the transferor either—

“(I) has reached agreement with the Secretary (or such agreement has been reached by the transferee) for the payment of any tax imposed by section 871(b)(1) or 882(a)(1) on any gain recognized by

the transferor on the disposition of the United States real property interest, or

“(II) is exempt from any tax imposed by section 871(b)(1) or 882(a)(1) on any gain recognized by the transferor on the disposition of the United States real property interest, and

“(ii) the transferor or transferee has satisfied any transferor’s unsatisfied withholding liability or has provided adequate security to cover such liability.

“(5) RESIDENCE WHERE AMOUNT REALIZED DOES NOT EXCEED \$300,000.—This paragraph applies to the disposition if—

“(A) the property is acquired by the transferee for use by him as a residence, and

“(B) the amount realized for the property does not exceed \$300,000.

“(6) STOCK REGULARLY TRADED ON ESTABLISHED SECURITIES MARKET.—This paragraph applies if the disposition is of a share of a class of stock that is regularly traded on an established securities market.

“(7) SPECIAL RULES FOR PARAGRAPHS (2) AND (3).—Paragraph (2) or (3) (as the case may be) shall not apply to any disposition—

“(A) if—

“(i) the transferee has actual knowledge that the affidavit referred to in such paragraph is false, or

“(ii) the transferee receives a notice (as described in subsection (d)) from a transferor’s agent or a transferee’s agent that such affidavit is false, or

“(B) if the Secretary by regulations requires the transferee to furnish a copy of such affidavit to the Secretary and the transferee fails to furnish a copy of such affidavit to the Secretary at such time and in such manner as required by such regulations.

“(c) LIMITATIONS ON AMOUNT REQUIRED TO BE WITHHELD.—

“(1) CANNOT EXCEED TRANSFEROR’S MAXIMUM TAX LIABILITY.—

“(A) IN GENERAL.—The amount required to be withheld under this section with respect to any disposition shall not exceed the amount (if any) determined under subparagraph (B) as the transferor’s maximum tax liability.

“(B) REQUEST.—At the request of the transferor or transferee, the Secretary shall determine, with respect to any disposition, the transferor’s maximum tax liability.

“(C) REFUND OF EXCESS AMOUNTS WITHHELD.—Subject to such terms and conditions as the Secretary may by regulations prescribe, a transferor may seek and obtain a refund of any amounts withheld under this section in excess of the transferor’s maximum tax liability.

“(2) AUTHORITY OF SECRETARY TO PRESCRIBE REDUCED AMOUNT.—At the request of the transferor or transferee, the Secretary may prescribe a reduced amount to be withheld under this section if the Secretary determines that to substitute such reduced amount will not jeopardize the collection of the tax imposed by section 871(b)(1) or 882(a)(1).

“(3) PROCEDURAL RULES.—

“(A) REGULATIONS.—Requests for—

“(i) qualifying statements under subsection (b)(4),

“(ii) determinations of transferor’s maximum tax liability under paragraph (1), and

“(iii) reductions under paragraph (2) in the amount required to be withheld, shall be made at the time and manner, and shall include such information, as the Secretary shall prescribe by regulations.

“(B) REQUESTS TO BE HANDLED WITHIN 90 DAYS.—The Secretary shall take action with respect to any request described in subparagraph (A) within 90 days after the Secretary receives the request.

“(d) LIABILITY OF TRANSFEROR’S AGENTS OR TRANSFEREE’S AGENTS.—

“(1) NOTICE OF FALSE AFFIDAVIT; FOREIGN CORPORATIONS.—If—

“(A) the transferor furnishes the transferee an affidavit described in paragraph (2)(A) of subsection (b) or a domestic corporation furnishes the transferee an affidavit described in paragraph (3) of subsection (b), and

“(B) in the case of—

“(i) any transferor’s agent, the transferor is a foreign corporation or such agent has actual knowledge that such affidavit is false, or

“(ii) any transferee’s agent, such agent has actual knowledge that such affidavit is false,

such agent shall so notify the transferee at such time and in such manner as the Secretary shall require by regulations.

“(2) FAILURE TO FURNISH NOTICE.—

“(A) IN GENERAL.—If any transferor’s agent or transferee’s agent is required by paragraph (1) to furnish notice, but fails to furnish such notice at such time or times and in such manner as may be required by regulations, such agent shall have the same duty to deduct and withhold that the transferee would have had if such agent had complied with paragraph (1).

“(B) LIABILITY LIMITED TO AMOUNT OF COMPENSATION.—An agent’s liability under subparagraph (A) shall be limited to the amount of compensation the agent derives from the transaction.

“(3) TRANSFEROR’S AGENT.—For purposes of this subsection, the term ‘transferor’s agent’ means any person who represents the transferor—

“(A) in any negotiation with the transferee or any transferee’s agent related to the transaction, or

“(B) in settling the transaction.

“(4) TRANSFEREE’S AGENT.—For purposes of this subsection, the term ‘transferee’s agent’ means any person who represents the transferee—

“(A) in any negotiation with the transferor or any transferor’s agent related to the transaction, or

“(B) in settling the transaction.

“(5) SETTLEMENT OFFICER NOT TREATED AS TRANSFEROR’S AGENT.—For purposes of this subsection, a person shall not be treated as a transferor’s agent or transferee’s agent with respect to any transaction merely because such person performs 1 or more of the following acts:

“(A) The receipt and the disbursement of any portion of the consideration for the transaction.

“(B) The recording of any document in connection with the transaction.

“(e) SPECIAL RULES RELATING TO DISTRIBUTIONS, ETC., BY CORPORATIONS, PARTNERSHIPS, TRUSTS, OR ESTATES.—

“(1) CERTAIN DOMESTIC PARTNERSHIPS, TRUSTS, AND ESTATES.—

A domestic partnership, the trustee of a domestic trust, or the executor of a domestic estate shall be required to deduct and withhold under subsection (a) a tax equal to 10 percent of any amount of which such partnership, trustee, or executor has custody which is—

“(A) attributable to the disposition of a United States real property interest (as defined in section 897(c), other than a disposition described in paragraph (4) or (5)), and

“(B) either—

“(i) includible in the distributive share of a partner of the partnership who is a foreign person,

“(ii) includible in the income of a beneficiary of the trust or estate who is a foreign person, or

“(iii) includible in the income of a foreign person under the provisions of section 671.

“(2) CERTAIN DISTRIBUTIONS BY FOREIGN CORPORATIONS.—In the case of any distribution by a foreign corporation on which gain is recognized under subsection (d) or (e) of section 897, the foreign corporation shall deduct and withhold under subsection (a) a tax equal to 28 percent of the amount of gain recognized on such distribution under such subsection.

“(3) DISTRIBUTIONS BY CERTAIN DOMESTIC CORPORATIONS TO FOREIGN SHAREHOLDERS.—If a domestic corporation which is or has been a United States real property holding corporation (as defined in section 897(c)(2)) during the applicable period specified in section 897(c)(1)(A)(ii) distributes property to a foreign person in a transaction to which section 302 or part II of subchapter C applies, such corporation shall deduct and withhold under subsection (a) a tax equal to 10 percent of the amount realized by the foreign shareholder.

“(4) TAXABLE DISTRIBUTIONS BY DOMESTIC OR FOREIGN PARTNERSHIPS, TRUSTS, OR ESTATES.—A domestic or foreign partnership, the trustee of a domestic or foreign trust, or the executor of a domestic or foreign estate shall be required to deduct and withhold under subsection (a) a tax equal to 10 percent of the fair market value (as of the time of the taxable distribution) of any United States real property interest distributed to a partner of the partnership or a beneficiary of the trust or estate, as the case may be, who is a foreign person in a transaction which would constitute a taxable distribution under the regulations promulgated by the Secretary pursuant to section 897(g).

“(5) RULES RELATING TO DISPOSITIONS OF INTEREST IN PARTNERSHIPS, TRUSTS, OR ESTATES.—To the extent provided in regulations, the transferee of a partnership interest or of a beneficial interest in a trust or estate shall be required to deduct and withhold under subsection (a) a tax equal to 10 percent of the amount realized on the disposition.

“(6) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection, including regulations providing for exceptions from provisions of this subsection.

“(f) DEFINITIONS.—For purposes of this section—

“(1) TRANSFEROR.—The term ‘transferor’ means the person disposing of the United States real property interest.

“(2) TRANSFEREE.—The term ‘transferee’ means the person acquiring the United States real property interest.

“(3) FOREIGN PERSON.—The term ‘foreign person’ means any person other than a United States person.

“(4) TRANSFEROR’S MAXIMUM TAX LIABILITY.—The term ‘transferor’s maximum tax liability’ means, with respect to the disposition of any interest, the sum of—

“(A) the maximum amount which the Secretary determines could be imposed as tax under section 871(b)(1) or 882(a)(1) by reason of the disposition, plus

“(B) the amount the Secretary determines to be the transferor’s unsatisfied withholding liability with respect to such interest.

“(5) TRANSFEROR’S UNSATISFIED WITHHOLDING LIABILITY.—The term ‘transferor’s unsatisfied withholding liability’ means the withholding obligation imposed by this section on the transferor’s acquisition of the United States real property interest or on the acquisition of a predecessor interest, to the extent such obligation has not been satisfied.”

(2) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 3 is amended by adding at the end thereof the following new item:

“Sec. 1445. Withholding of tax on dispositions of United States real property interests.”

(b) REPORTING REQUIREMENTS LIMITED TO FOREIGN PERSONS HOLDING DIRECT INVESTMENTS IN UNITED STATES REAL PROPERTY.—

(1) IN GENERAL.—Section 6039C (relating to returns with respect to United States real property interests) is amended to read as follows:

26 USC 6039C.

“SEC. 6039C. RETURNS WITH RESPECT TO FOREIGN PERSONS HOLDING DIRECT INVESTMENTS IN UNITED STATES REAL PROPERTY INTERESTS.

“(a) GENERAL RULE.—To the extent provided in regulations, any foreign person holding direct investments in United States real property interests for the calendar year shall make a return setting forth—

“(1) the name and address of such person,

“(2) a description of all United States real property interests held by such person at any time during the calendar year, and

“(3) such other information as the Secretary may by regulations prescribe.

“(b) DEFINITION OF FOREIGN PERSONS HOLDING DIRECT INVESTMENTS IN UNITED STATES REAL PROPERTY INTERESTS.—For purposes of this section, a foreign person shall be treated as holding direct investments in United States real property interests during any calendar year if—

“(1) such person did not engage in a trade or business in the United States at any time during such calendar year, and

“(2) the fair market value of the United States real property interests held directly by such person at any time during such year equals or exceeds \$50,000.

“(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) UNITED STATES REAL PROPERTY INTEREST.—The term ‘United States real property interest’ has the meaning given to such term by section 897(c).

“(2) **FOREIGN PERSON.**—The term ‘foreign person’ means any person who is not a United States person.

“(3) **ATTRIBUTION OF OWNERSHIP.**—For purposes of subsection (b)(2)—

“(A) **INTERESTS HELD BY PARTNERSHIPS, ETC.**—United States real property interests held by a partnership, trust, or estate shall be treated as owned proportionately by its partners or beneficiaries.

“(B) **INTERESTS HELD BY FAMILY MEMBERS.**—United States real property interests held by the spouse or any minor child of an individual shall be treated as owned by such individual.

“(4) **TIME AND MANNER OF FILING RETURN.**—All returns required to be made under this section shall be made at such time and in such manner as the Secretary shall by regulations prescribe.

“(d) **SPECIAL RULE FOR UNITED STATES INTEREST AND VIRGIN ISLANDS INTEREST.**—A nonresident alien individual or foreign corporation subject to tax under section 897(a) shall pay any tax and file any return required by this title—

“(1) to the United States, in the case of any interest in real property located in the United States and an interest (other than an interest solely as a creditor) in a domestic corporation (with respect to the United States) described in section 897(c)(1)(A)(ii), and

“(2) to the Virgin Islands, in the case of any interest in real property located in the Virgin Islands and an interest (other than an interest solely as a creditor) in a domestic corporation (with respect to the Virgin Islands) described in section 897(c)(1)(A)(ii).”

(2) **CLERICAL AMENDMENT.**—The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by striking out the item relating to section 6039C and inserting in lieu thereof the following:

“Sec. 6039C. Returns with respect to foreign persons holding direct investments in United States real property interests.”

(c) **EFFECTIVE DATES.**—

(1) **IN GENERAL.**—The amendments made by subsection (a) shall apply to any disposition on or after January 1, 1985.

(2) **REPORTING REQUIREMENTS.**—The amendments made by subsection (b) shall apply to calendar year 1980 and subsequent calendar years.

SEC. 130. TREATMENT OF PAYMENTS TO GUAM AND VIRGIN ISLANDS CORPORATIONS.

(a) **GENERAL RULE.**—Subsection (b) of section 881 (relating to exception for Guam corporations) is amended to read as follows:

“(b) **EXCEPTION FOR CERTAIN GUAM AND VIRGIN ISLANDS CORPORATIONS.**—

“(1) **IN GENERAL.**—For purposes of this section, a corporation created or organized in Guam or the Virgin Islands or under the law of Guam or the Virgin Islands shall not be treated as a foreign corporation for any taxable year if—

“(A) at all times during such taxable year less than 25 percent in value of the stock of such corporation is owned (directly or indirectly) by foreign persons, and

26 USC 1445
note.

26 USC 6039C
note.

26 USC 881.

“(B) at least 20 percent of the gross income of such corporation is shown to the satisfaction of the Secretary to have been derived from sources within Guam or the Virgin Islands (as the case may be) for the 3-year period ending with the close of the preceding taxable year of such corporation (or for such part of such period as the corporation has been in existence).

“(2) PARAGRAPH (1) NOT TO APPLY TO TAX IMPOSED IN GUAM.—For purposes of applying this subsection with respect to income tax liability incurred to Guam—

“(A) Paragraph (1) shall not apply, and

“(B) for purposes of this section, the term ‘foreign corporation’ does not include a corporation created or organized in Guam or under the law of Guam.

“(3) DEFINITIONS.—

“(A) FOREIGN PERSON.—For purposes of paragraph (1), the term ‘foreign person’ means any person other than—

“(i) a United States person, or

“(ii) a person who would be a United States person if references to the United States in section 7701 included references to a possession of the United States.

“(B) INDIRECT OWNERSHIP RULES.—For purposes of paragraph (1), the rules of section 318(a)(2) shall apply except that ‘5 percent’ shall be substituted for ‘50 percent’ in subparagraph (C) thereof.

“(4) CROSS REFERENCE.—

“For tax imposed in the Virgin Islands, see sections 934 and 934A.”

(b) WITHHOLDING OF TAX.—Subsection (c) of section 1442 (relating to exception for Guam corporations) is amended to read as follows: 26 USC 1442.

“(c) EXCEPTION FOR CERTAIN GUAM AND VIRGIN ISLANDS CORPORATIONS.—

“(1) IN GENERAL.—For purposes of this section, the term ‘foreign corporation’ does not include a corporation created or organized in Guam or the Virgin Islands or under the law of Guam or the Virgin Islands if the requirements of subparagraphs (A) and (B) of section 881(b)(1) are met with respect to such corporation.

Ante, p. 660.

“(2) PARAGRAPH (1) NOT TO APPLY TO TAX IMPOSED IN GUAM.—For purposes of applying this subsection with respect to income tax liability incurred to Guam—

“(A) paragraph (1) shall not apply, and

“(B) for purposes of this section, the term ‘foreign corporation’ does not include a corporation created or organized in Guam or under the law of Guam.

“(3) CROSS REFERENCE.—

“For tax imposed in the Virgin Islands, see sections 934 and 934A.”

(c) TECHNICAL AMENDMENT.—Subparagraph (B) of section 7651(5) is amended by inserting “(other than section 881(b)(1))” after “For purposes of this title”. 26 USC 7651.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made after March 1, 1984, in taxable years ending after such date. 26 USC 881 note.

**PART III—TAXATION OF CERTAIN TRANSFERS OF
PROPERTY OUTSIDE THE UNITED STATES****SEC. 131. TAXATION OF CERTAIN TRANSFERS OF PROPERTY OUTSIDE THE
UNITED STATES.**

26 USC 367.

(a) **IN GENERAL.**—Subsection (a) of section 367 (relating to transfers of property from the United States) is amended to read as follows:

“(a) **TRANSFERS OF PROPERTY FROM THE UNITED STATES.**—

“(1) **GENERAL RULE.**—If, in connection with any exchange described in section 332, 351, 354, 355, 356, or 361, a United States person transfers property to a foreign corporation, such foreign corporation shall not, for purposes of determining the extent to which gain shall be recognized on such transfer, be considered to be a corporation.

“(2) **EXCEPTION FOR CERTAIN STOCK OR SECURITIES.**—Except to the extent provided in regulations, paragraph (1) shall not apply to the transfer of stock or securities of a foreign corporation which is a party to the exchange or a party to the reorganization.

“(3) **EXCEPTION FOR TRANSFERS OF CERTAIN PROPERTY USED IN THE ACTIVE CONDUCT OF A TRADE OR BUSINESS.**—

“(A) **IN GENERAL.**—Except as provided in regulations prescribed by the Secretary, paragraph (1) shall not apply to any property transferred to a foreign corporation for use by such foreign corporation in the active conduct of a trade or business outside of the United States.

“(B) **PARAGRAPH NOT TO APPLY TO CERTAIN PROPERTY.**—Except as provided in regulations prescribed by the Secretary, subparagraph (A) shall not apply to any—

“(i) property described in paragraph (1) or (3) of section 1221 (relating to inventory and copyrights, etc.),

“(ii) installment obligations, accounts receivable, or similar property,

“(iii) foreign currency or other property denominated in foreign currency,

“(iv) intangible property (within the meaning of section 936(h)(3)(B)), or

“(v) property with respect to which the transferor is a lessor at the time of the transfer, except that this clause shall not apply if the transferee was the lessee.

“(C) **TRANSFER OF FOREIGN BRANCH WITH PREVIOUSLY DEDUCTED LOSSES.**—Except as provided in regulations prescribed by the Secretary, subparagraph (A) shall not apply to gain realized on the transfer of the assets of a foreign branch of a United States person to a foreign corporation in an exchange described in paragraph (1) to the extent that—

“(i) the sum of losses—

“(I) which were incurred by the foreign branch before the transfer, and

“(II) with respect to which a deduction was allowed to the taxpayer, exceeds

“(ii) the sum of—

“(I) any taxable income of such branch for a taxable year after the taxable year in which the

loss was incurred and through the close of the taxable year of the transfer, and

“(II) the amount which is recognized under section 904(f)(3) on account of the transfer.

Any gain recognized by reason of the preceding sentence shall be treated for purposes of this chapter as income from sources outside the United States having the same character as such losses had.

“(4) SPECIAL RULE FOR TRANSFER OF PARTNERSHIP INTERESTS.—

Except as provided in regulations prescribed by the Secretary, a transfer by a United States person of an interest in a partnership to a foreign corporation in an exchange described in paragraph (1) shall, for purposes of this subsection, be treated as a transfer to such corporation of such person's pro rata share of the assets of the partnership.

“(5) SECRETARY MAY EXEMPT CERTAIN TRANSACTIONS FROM APPLICATION OF THIS SUBSECTION.—Paragraph (1) shall not apply to the transfer of any property which the Secretary, in order to carry out the purposes of this subsection, designates by regulation.”

(b) SPECIAL RULES FOR TRANSFERS OF INTANGIBLES.—Subsection (d) of section 367 (relating to special rule for transfer of intangibles by possession corporations) is amended to read as follows: 26 USC 367.

“(d) SPECIAL RULES RELATING TO TRANSFERS OF INTANGIBLES.—

“(1) IN GENERAL.—Except as provided in regulations prescribed by the Secretary, if a United States person transfers any intangible property (within the meaning of section 936(h)(3)(B)) to a foreign corporation in an exchange described in section 351 or 361—

“(A) subsection (a) shall not apply to the transfer of such property, and

“(B) the provisions of this subsection shall apply to such transfer.

“(2) TRANSFER OF INTANGIBLES TREATED AS TRANSFER PURSUANT TO SALE OF CONTINGENT PAYMENTS.—

“(A) IN GENERAL.—If paragraph (1) applies to any transfer, the United States person transferring such property shall be treated as—

“(i) having sold such property in exchange for payments which are contingent upon the productivity, use, or disposition of such property, and

“(ii) receiving amounts which reasonably reflect the amounts which would have been received—

“(I) annually in the form of such payments over the useful life of such property, or

“(II) in the case of a disposition following such transfer (whether direct or indirect), at the time of the disposition.

“(B) EFFECT ON EARNINGS AND PROFITS.—For purposes of this chapter, the earnings and profits of a foreign corporation to which the intangible property was transferred shall be reduced by the amount required to be included in the income of the transferor of the intangible property under subparagraph (A)(ii).

“(C) AMOUNTS RECEIVED TREATED AS UNITED STATES SOURCE ORDINARY INCOME.—For purposes of this chapter, any amount included in gross income by reason of this subsec-

tion shall be treated as ordinary income from sources within the United States."

26 USC 367.

(c) **TREATMENT OF LIQUIDATIONS UNDER SECTION 336.**—Section 367 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) **TREATMENT OF LIQUIDATIONS UNDER SECTION 336.**—In the case of any distribution described in section 336 by a domestic corporation which is made to a person who is not a United States person, to the extent provided in regulations, gain shall be recognized under principles similar to the principles of this section."

(d) **SECRETARY MUST BE NOTIFIED OF TRANSACTIONS DESCRIBED IN SECTION 367.**—

(1) **NOTIFICATION REQUIREMENT.**—Subpart A of part III of subchapter A of chapter 61 is amended by adding after section 6038A the following new section:

26 USC 6038B.

"**SEC. 6038B. NOTICE OF CERTAIN TRANSFERS TO FOREIGN PERSONS.**

"(a) **IN GENERAL.**—Each United States person who—

"(1) transfers property to a foreign corporation in an exchange described in section 332, 351, 354, 355, 356, or 361, or

"(2) makes a distribution described in section 336 to a person who is not a United States person,

shall furnish to the Secretary, at such time and in such manner as the Secretary shall by regulations prescribe, such information with respect to such exchange or distribution as the Secretary may require in such regulations.

"(b) **PENALTY FOR FAILURE TO FURNISH INFORMATION.**—

"(1) **IN GENERAL.**—If any United States person fails to furnish the information described in subsection (a) at the time and in the manner required by regulations, such person shall pay a penalty equal to 25 percent of the amount of the gain realized on the exchange.

"(2) **REASONABLE CAUSE EXCEPTION.**—Paragraph (1) shall not apply to any failure if the United States person shows such failure is due to reasonable cause and not to willful neglect."

Post, p. 817.
26 USC 6501.

(2) **EXTENSION OF PERIOD FOR ASSESSMENT AND COLLECTION WHERE SECRETARY NOT NOTIFIED.**—Subsection (c) of section 6501 (relating to exceptions to limitations on assessment and collection) is amended by adding at the end thereof the following new paragraph:

"(8) **FAILURE TO NOTIFY SECRETARY UNDER SECTION 6038B.**—In the case of any tax imposed on any exchange by reason of subsection (a) or (d) of section 367, the time for assessment of such tax shall not expire before the date which is 3 years after the date on which the Secretary is notified of such exchange under section 6038B(a)."

Ante, pp. 662,
663.

(3) **CONFORMING AMENDMENT.**—The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by adding after the item relating to section 6038A the following new item:

"Sec. 6038B. Notice of certain transfers to foreign persons."

(e) **REPEAL OF DECLARATORY JUDGMENT PROVISIONS INVOLVING TRANSFERS OF PROPERTY FROM THE UNITED STATES.**—

26 USC 7477.

(1) **IN GENERAL.**—Section 7477 is hereby repealed.

(2) **CONFORMING AMENDMENTS.**—

(A) Section 7482(b)(1) (relating to venue for review of Tax Court decisions) is amended by striking out subparagraph (D) and by redesignating subparagraphs (E) and (F) as subparagraphs (D) and (E), respectively. 26 USC 7482.

(B) The table of sections for part IV of subchapter C of chapter 76 is amended by striking out the item relating to section 7477.

(f) TRANSFERS TO AVOID INCOME TAX.—

(1) IN GENERAL.—Section 1492 (relating to nontaxable transfers) is amended— 26 USC 1492.

(A) by striking out paragraphs (2) and (3) and by inserting in lieu thereof—

“(2) To a transfer—

“(A) described in section 367, or

“(B) not described in section 367 but with respect to which the taxpayer elects (before the transfer) the application of principles similar to the principles of section 367, or”, and

(B) by redesignating paragraph (4) as paragraph (3).

(2) CONFORMING AMENDMENT.—Subsection (b) of section 1494 (relating to abatement or refund) is amended to read as follows: 26 USC 1494.

“(b) ABATEMENT OR REFUND.—Under regulations prescribed by the Secretary, the tax may be abated, remitted, or refunded if the taxpayer, after the transfer, elects the application of principles similar to the principles of section 367.”

(g) EFFECTIVE DATES.—

26 USC 367 note.

(1) IN GENERAL.—The amendments made by this section shall apply to transfers or exchanges after December 31, 1984, in taxable years ending after such date.

(2) SPECIAL RULE FOR CERTAIN TRANSFERS OF INTANGIBLES.—

(A) IN GENERAL.—If, after June 6, 1984, and before January 1, 1985, a United States person transfers any intangible property (within the meaning of section 936(h)(3)(B) of the Internal Revenue Code of 1954) to a foreign corporation or in a transfer described in section 1491, such transfer shall be treated for purposes of sections 367(a), 1492(2), and 1494(b) of such Code as pursuant to a plan having as 1 of its principal purposes the avoidance of Federal income tax.

Ante, p. 662.
Supra.

(B) WAIVER.—Subject to such terms and conditions as the Secretary of the Treasury or his delegate may prescribe, the Secretary may waive the application of subparagraph (A) with respect to any transfer.

(3) RULING REQUEST BEFORE MARCH 1, 1984.—The amendments made by this section (and the provisions of paragraph (2) of this subsection) shall not apply to any transfer or exchange of property described in a request filed before March 1, 1984, under section 367(a), 1492(2), or 1494(b) of the Internal Revenue Code of 1954 (as in effect before such amendments).

PART IV—MISCELLANEOUS FOREIGN CORPORATE PROVISIONS

SEC. 132. AMENDMENTS RELATED TO FOREIGN PERSONAL HOLDING COMPANIES.

(a) ATTRIBUTION FROM FAMILY MEMBERS AND PARTNERSHIPS.—Section 554 (relating to stock ownership) is amended by adding at the end thereof the following new subsection: 26 USC 554.

“(c) SPECIAL RULES FOR APPLICATION OF SUBSECTION (a) (2).—For purposes of the stock ownership requirement provided in section 552(a)(2)—

“(1) stock owned by a nonresident alien individual (other than a foreign trust or foreign estate) shall not be considered by reason of so much of subsection (a)(2) as relates to attribution through family membership as owned by a citizen or by a resident alien individual who is not the spouse of the nonresident individual and who does not otherwise own stock in such corporation (determined after the application of subsection (a), other than attribution through family membership), and

“(2) stock of a corporation owned by any foreign person shall not be considered by reason of so much of subsection (a)(2) as relates to attribution through partners as owned by a citizen or resident of the United States who does not otherwise own stock in such corporation (determined after application of subsection (a) and paragraph (1), other than attribution through partners).”

26 USC 551. (b) INCLUSION IN INCOME OF UNITED STATES PERSONS HOLDING INTEREST THROUGH FOREIGN ENTITY.—Section 551 (relating to foreign personal holding company income taxed to United States shareholders) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

“(f) STOCK HELD THROUGH FOREIGN ENTITY.—For purposes of this section, stock of a foreign personal holding company owned (directly or through the application of this subsection) by—

“(1) a partnership, estate, or trust which is not a United States shareholder, or

“(2) a foreign corporation which is not a foreign personal holding company, shall be considered as being owned proportionately by its partners, beneficiaries, or shareholders. In any case to which the preceding sentence applies, the Secretary may by regulations provide for such adjustments in the application of this part as may be necessary to carry out the purposes of the preceding sentence.”

(c) COORDINATION OF SUBPART F WITH FOREIGN PERSONAL HOLDING COMPANY PROVISIONS.—

26 USC 951. (1) IN GENERAL.—Subsection (d) of section 951 (relating to coordination with foreign personal holding company provisions) is amended to read as follows:

“(d) COORDINATION WITH FOREIGN PERSONAL HOLDING COMPANY PROVISIONS.—If, but for this subsection, an amount would be included in the gross income of a United States shareholder for any taxable year both under subsection (a)(1)(A)(i) and under section 551(b) (relating to foreign personal holding company income included in gross income of United States shareholder), such amount shall be included in the gross income of such shareholder only under subsection (a)(1)(A).”

26 USC 552. (2) CERTAIN DIVIDENDS AND INTEREST NOT TAKEN INTO ACCOUNT FOR PERSONAL HOLDING COMPANY DETERMINATION.—Section 552 (defining foreign personal holding company) is amended by adding at the end thereof the following new subsection:

“(c) CERTAIN DIVIDENDS AND INTEREST NOT TAKEN INTO ACCOUNT.—For purposes of subsection (a)(1) and section 553(a)(1), gross income and foreign personal holding company income shall not include any dividends and interest which—

“(1) are described in subparagraph (A) of section 954(c)(4), and

“(2) are received from a related person which is not a foreign personal holding company (determined without regard to this subsection).”

(d) EFFECTIVE DATES.—

26 USC 551 note.

(1) SUBSECTIONS (a) AND (b).—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by subsections (a) and (b) shall apply to taxable years of foreign corporations beginning after December 31, 1983.

(B) 1-YEAR EXTENSION FOR CERTAIN TRUSTS CREATED BEFORE JUNE 30, 1953.—

(i) IN GENERAL.—The amendment made by subsection (b) shall apply to taxable years of a foreign corporation beginning after December 31, 1984, with respect to stock of such corporation which is held (directly or indirectly, within the meaning of section 554 of the Internal Revenue Code of 1954) by a trust created before June 30, 1953, if—

(I) none of the beneficiaries of such trust was a citizen or resident of the United States at the time of its creation or within 5 years thereafter, and

(II) such trust does not, after July 1, 1983, acquire (directly or indirectly) stock of any foreign personal holding company other than a company described in clause (ii).

(ii) DESCRIPTION OF COMPANY.—A company is described in this clause if—

(I) substantially all of the assets of such company are stock or assets previously held by such trust, or

(II) such company ceases to be a foreign personal holding company before January 1, 1985.

(2) SUBSECTION (c).—

(A) The amendment made by paragraph (1) of subsection (c) shall apply to taxable years of United States shareholders beginning after the date of the enactment of this Act.

26 USC 951 note.

(B) The amendment made by paragraph (2) of subsection (c) shall apply to taxable years of foreign corporations beginning after March 15, 1984.

26 USC 552 note.

SEC. 133. AMENDMENTS RELATED TO SECTION 1248.

(a) SECTION 1248 TO APPLY TO CERTAIN INDIRECT TRANSFERS OF STOCK IN A FOREIGN CORPORATION.—Section 1248 (relating to gain from certain sales or exchanges of stock in foreign corporations) is amended by adding at the end thereof the following new subsection:

26 USC 1248.

“(i) TREATMENT OF CERTAIN INDIRECT TRANSFERS.—

“(1) IN GENERAL.—If any shareholder of a 10-percent corporate shareholder of a foreign corporation exchanges stock of the 10-percent corporate shareholder for stock of the foreign corporation, for purposes of this section, the stock of the foreign corporation received in such exchange shall be treated as if it had been—

“(A) issued to the 10-percent corporate shareholder, and

“(B) then distributed by the 10-percent corporate shareholder to such shareholder in redemption of his stock.

“(2) 10-PERCENT CORPORATE SHAREHOLDER DEFINED.—For purposes of this subsection, the term ‘10-percent corporate shareholder’ means any domestic corporation which, as of the day

before the exchange referred to in paragraph (1), satisfies the stock ownership requirements of subsection (a)(2) with respect to the foreign corporation.”

(b) **ELIMINATION OF DOUBLE TAXATION OF EARNINGS AND PROFITS OF CERTAIN FOREIGN CORPORATIONS.**—

26 USC 959.

(1) Section 959 (relating to exclusion from gross income of previously taxed earnings and profits) is amended by adding at the end thereof the following new subsection:

“(e) **COORDINATION WITH AMOUNTS PREVIOUSLY TAXED UNDER SECTION 1248.**—For purposes of this section and section 960(b), any amount included in the gross income of any person as a dividend by reason of subsection (a) or (f) of section 1248 shall be treated as an amount included in the gross income of such person under section 951(a)(1)(A).”

Ante, p. 667.

(2) Section 1248 is amended by adding at the end thereof the following new subsection:

“(j) **CROSS REFERENCE.**—

Supra.

“For provision excluding amounts previously taxed under this section from gross income when subsequently distributed, see section 959(e).”

26 USC 1248.

(c) **CLARIFICATION OF SECTION 1248(c)(2)(D).**—Subparagraph (D) of section 1248(c)(2) (relating to earnings and profits of subsidiaries of foreign corporations) is amended by striking out “section 958(a)(2)” and inserting in lieu thereof “section 958(a)”.

(d) **EFFECTIVE DATES.**—

26 USC 1248
note.

(1) **SUBSECTION (a).**—The amendment made by subsection (a) shall apply to exchanges after the date of the enactment of this Act in taxable years ending after such date.

26 USC 959 note.

(2) **SUBSECTIONS (b) AND (c).**—Except as provided in paragraph (3), the amendments made by subsections (b) and (c) shall apply with respect to transactions to which subsection (a) or (f) of section 1248 of the Internal Revenue Code of 1954 applies occurring after the date of the enactment of this Act.

26 USC 959 note.

(3) **ELECTION OF EARLIER DATE FOR CERTAIN TRANSACTIONS.**—

(A) **IN GENERAL.**—If the appropriate election is made under subparagraph (B), the amendments made by subsection (b) shall apply with respect to transactions to which subsection (a) or (f) of section 1248 of such Code applies occurring after October 9, 1975.

(B) **ELECTION.**—

(i) Subparagraph (A) shall apply with respect to transactions to which subsection (a) of section 1248 of such Code applies if the foreign corporation described in such subsection (or its successor in interest) so elects.

(ii) Subparagraph (A) shall apply with respect to transactions to which subsection (f) of section 1248 of such Code applies if the domestic corporation described in section 1248(f)(1) of such Code (or its successor) so elects.

(iii) Any election under clause (i) or (ii) shall be made not later than 180 days after the date of the enactment of this Act and shall be made in such manner as the Secretary of the Treasury or his delegate shall prescribe.

SEC. 134. DEFINITION OF FOREIGN INVESTMENT COMPANY.

26 USC 1246.

(a) **GENERAL RULE.**—Paragraph (2) of section 1246(b) (defining foreign investment company) is amended to read as follows:

“(2) engaged (or holding itself out as being engaged) primarily in the business of investing, reinvesting, or trading in—

“(A) securities (as defined in section 2(a)(36) of the Investment Company Act of 1940, as amended),

15 USC 80a-2.

“(B) commodities, or

“(C) any interest (including a futures or forward contract or option) in property described in subparagraph (A) or (B), at a time when 50 percent or more of the total combined voting power of all classes of stock entitled to vote, or the total value of all classes of stock, was held directly (or indirectly through applying paragraphs (2) and (3) of section 958(a) and paragraph (4) of section 318(a)) by United States persons (as defined in section 7701(a)(30)).”

(b) EFFECTIVE DATES.—

26 USC 1246
note.

(1) **IN GENERAL.**—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to sales and exchanges (and distributions) on or after September 29, 1983, in taxable years ending on or after such date.

(2) **STOCK HELD ON SEPTEMBER 29, 1983.**—In the case of a sale or exchange (or distribution) not later than the date which is 1 year after the date of the enactment of this Act, the amendment made by subsection (a) shall not apply with respect to stock held by the taxpayer continuously from September 29, 1983, to the date of such sale or exchange (or distribution).

SEC. 135. APPLICATION OF COLLAPSIBLE CORPORATION RULES TO FOREIGN CORPORATIONS.

(a) **IN GENERAL.**—Subsection (f) of section 341 (relating to collapsible corporations) is amended by adding at the end thereof the following new paragraph:

26 USC 341.

“(8) **SPECIAL RULE FOR FOREIGN CORPORATIONS.**—Except to the extent provided in regulations prescribed by the Secretary—

“(A) any consent given by a foreign corporation under paragraph (1) shall not be effective, and

“(B) paragraph (3) shall not apply if the transferee is a foreign corporation.”

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

26 USC 341 note.

SEC. 136. STAPLED STOCK; STAPLED ENTITIES.

(a) **GENERAL RULE.**—Part IX of subchapter B of chapter 1 is amended by inserting after section 269A the following new section:

“SEC. 269B. STAPLED ENTITIES.

26 USC 269B.

“(a) **GENERAL RULE.**—Except as otherwise provided by regulations, for purposes of this title—

“(1) if a domestic corporation and a foreign corporation are stapled entities, the foreign corporation shall be treated as a domestic corporation.

“(2) in applying section 1563, stock in a second corporation which constitutes a stapled interest with respect to stock of a first corporation shall be treated as owned by such first corporation, and

“(3) in applying subchapter M for purposes of determining whether any stapled entity is a regulated investment company or a real estate investment trust, all entities which are stapled entities with respect to each other shall be treated as 1 entity.

“(b) **SECRETARY TO PRESCRIBE REGULATIONS.**—The Secretary shall prescribe such regulations as may be necessary to prevent avoidance or evasion of Federal income tax through the use of stapled entities. Such regulations may include (but shall not be limited to) regulations providing the extent to which 1 of such entities shall be treated as owning the other entity (to the extent of the stapled interest).

“(c) **DEFINITIONS.**—For purposes of this section—

“(1) **ENTITY.**—The term ‘entity’ means any corporation, partnership, trust, association, estate, or other form of carrying on a business or activity.

“(2) **STAPLED ENTITIES.**—The term ‘stapled entities’ means any group of 2 or more entities if more than 50 percent in value of the beneficial ownership in each of such entities consists of stapled interests.

“(3) **STAPLED INTERESTS.**—Two or more interests are stapled interests if, by reason of form of ownership, restrictions on transfer, or other terms or conditions, in connection with the transfer of 1 of such interests the other such interests are also transferred or required to be transferred.

“(d) **SPECIAL RULE FOR TREATIES.**—Nothing in section 894 or 7852(d) or in any other provision of law shall be construed as permitting an exemption, by reason of any treaty obligation of the United States heretofore or hereafter entered into, from the provisions of this section.”

(b) **CLERICAL AMENDMENT.**—The table of sections for part IX of subchapter B of chapter 1 is amended by inserting after the item relating to section 269A the following new item:

“Sec. 269B. Stapled entities.”

(c) **EFFECTIVE DATES.**—

(1) **IN GENERAL.**—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) **INTERESTS STAPLED AS OF JUNE 30, 1983.**—Except as otherwise provided in this subsection, in the case of any interests which on June 30, 1983, were stapled interests (as defined in section 269B(c)(3) of the Internal Revenue Code of 1954 (as added by this section)), the amendments made by this section shall take effect on January 1, 1985 (January 1, 1987, in the case of stapled interests in a foreign corporation).

(3) **CERTAIN STAPLED ENTITIES WHICH INCLUDE REAL ESTATE INVESTMENT TRUST.**—Paragraph (3) of section 269B(a) of such Code shall not apply in determining the application of the provisions of part II of subchapter M of chapter 1 of such Code to any real estate investment trust which is part of a group of stapled entities if—

(A) all members of such group were stapled entities as of June 30, 1983, and

(B) as of June 30, 1983, such group included one or more real estate investment trusts.

(4) **CERTAIN STAPLED ENTITIES WHICH INCLUDE PUERTO RICAN CORPORATIONS.**—

(A) Paragraph (1) of section 269B(a) of such Code shall not apply to a domestic corporation and a qualified Puerto Rican corporation which, on June 30, 1983, were stapled entities.

26 USC 269B
note.

Ante, p. 669.

26 USC 856.

(B) For purposes of subparagraph (A), the term “qualified Puerto Rican corporation” means any corporation organized in Puerto Rico—

(i) which is described in section 957(c) of such Code or would be so described if any dividends it received from any other corporation described in such section 957(c) were treated as gross income of the type described in such section 957(c), and

(ii) does not, at any time during the taxable year, own (within the meaning of section 958 of such Code but before applying paragraph (2) of section 269B(a) of such Code) any stock of any corporation which is not described in such section 957(c).

Ante, p. 669.

(5) TREATY RULE NOT TO APPLY TO STAPLED ENTITIES ENTITLED TO TREATY BENEFITS AS OF JUNE 30, 1983.—In the case of any entity which was a stapled entity as of June 30, 1983, subsection (d) of section 269B of such Code shall not apply to any treaty benefit to which such entity was entitled as of June 30, 1983.

(6) ELECTIONS TO TREAT STAPLED FOREIGN ENTITIES AS SUBSIDIARIES.—

(A) IN GENERAL.—In the case of any foreign corporation and domestic corporation which as of June 30, 1983, were stapled entities, such domestic corporation may elect (in lieu of applying paragraph (1) of section 269B(a) of such Code) to be treated as owning all interests in the foreign corporation which constitute stapled interests with respect to stock of the domestic corporation.

(B) ELECTION.—Any election under subparagraph (A) shall be made not later than 180 days after the date of the enactment of this Act and shall be made in such manner as the Secretary of the Treasury or his delegate shall prescribe.

(C) ELECTION IRREVOCABLE.—Any election under subparagraph (A), once made, may be revoked only with the consent of the Secretary of the Treasury or his delegate.

(7) OTHER STAPLED ENTITIES WHICH INCLUDE REAL ESTATE INVESTMENT TRUST.—

(A) IN GENERAL.—Paragraph (3) of section 269B(a) of such Code shall not apply in determining the application of the provisions of part II of subchapter M of chapter 1 of such Code to any qualified real estate investment trust which is a part of a group of stapled entities—

26 USC 856.

(i) which was created pursuant to a written board of directors resolution adopted on April 5, 1984, and

(ii) all members of such group were stapled entities as of June 16, 1985.

(B) QUALIFIED REAL ESTATE INVESTMENT TRUST.—The term “qualified real estate investment trust” means any real estate trust—

(i) at least 75 percent of the gross income of which is derived from interest on obligations secured by mortgages on real property (as defined in section 856 of such Code),

(ii) with respect to which the interest on the obligations described in clause (i) made or acquired by such trust (other than to persons who are independent contractors, as defined in section 856(d)(3) of such Code) is

at an arm's length rate or a rate not more than 1 percentage point greater than the associated borrowing cost of the trust, and

(iii) with respect to which any real property held by the trust is not used in the trade or business of any other member of the group of stapled entities.

SEC. 137. SERVICES RELATING TO INSURANCE POLICIES ARE TREATED AS PERFORMED IN COUNTRY OF RISK.

26 USC 954.

Ante, p. 644.

Post, p. 755.

26 USC 954 note.

(a) **IN GENERAL.**—Subsection (e) of section 954 (defining foreign base company services income) is amended by adding at the end thereof the following new sentence: "For purposes of paragraph (2), any services performed with respect to any policy of insurance or reinsurance with respect to which the primary insured is a related person (within the meaning of section 864(d)(4)) shall be treated as having been performed in the country within which the insured hazards, risks, losses, or liabilities occur, and except as provided in regulations prescribed by the Secretary, rules similar to the rules of section 953(b) shall be applied in determining the income from such services."

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall apply to taxable years of controlled foreign corporations beginning after the date of the enactment of this Act.

PART V—TREATMENT OF ALIEN INDIVIDUALS

SEC. 138. DEFINITION OF RESIDENT ALIEN AND NONRESIDENT ALIEN.

Ante, p. 518.

26 USC 7701.

(a) **GENERAL RULE.**—Section 7701 (relating to definitions) is amended by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively, and by inserting after subsection (a) the following new subsection:

"(b) **DEFINITION OF RESIDENT ALIEN AND NONRESIDENT ALIEN.**—

"(1) **IN GENERAL.**—For purposes of this title (other than subtitle B)—

"(A) **RESIDENT ALIEN.**—An alien individual shall be treated as a resident of the United States with respect to any calendar year if (and only if) such individual meets the requirements of clause (i) or (ii):

"(i) **LAWFULLY ADMITTED FOR PERMANENT RESIDENCE.**—Such individual is a lawful permanent resident of the United States at any time during such calendar year.

"(ii) **SUBSTANTIAL PRESENCE TEST.**—Such individual meets the substantial presence test of paragraph (3).

"(B) **NONRESIDENT ALIEN.**—An individual is a nonresident alien if such individual is neither a citizen of the United States nor a resident of the United States (within the meaning of subparagraph (A)).

"(2) **SPECIAL RULES FOR FIRST AND LAST YEAR OF RESIDENCY.**—

"(A) **FIRST YEAR OF RESIDENCY.**—

"(i) **IN GENERAL.**—If an alien individual is a resident of the United States under paragraph (1)(A) with respect to any calendar year, but was not a resident of the United States at any time during the preceding calendar year, such alien individual shall be treated as a resident of the United States only for the portion of

such calendar year which begins on the residency starting date.

“(ii) **RESIDENCY STARTING DATE FOR INDIVIDUALS LAWFULLY ADMITTED FOR PERMANENT RESIDENCE.**—In the case of an individual who is a lawfully permanent resident of the United States at any time during the calendar year, but does not meet the substantial presence test of paragraph (3), the residency starting date shall be the first day in such calendar year on which he was present in the United States while a lawful permanent resident of the United States.

“(iii) **RESIDENCY STARTING DATE FOR INDIVIDUALS MEETING SUBSTANTIAL PRESENCE TEST.**—In the case of an individual who meets the substantial presence test of paragraph (3) with respect to any calendar year, the residency starting date shall be the first day during such calendar year on which the individual is present in the United States.

“(B) **LAST YEAR OF RESIDENCY.**—An alien individual shall not be treated as a resident of the United States during a portion of any calendar year if—

“(i) such portion is after the last day in such calendar year on which the individual was present in the United States (or, in the case of an individual described in paragraph (1)(A)(i), the last day on which he was so described),

“(ii) during such portion the individual has a closer connection to a foreign country than to the United States, and

“(iii) the individual is not a resident of the United States at any time during the next calendar year.

“(C) **CERTAIN NOMINAL PRESENCE DISREGARDED.**—

“(i) **IN GENERAL.**—For purposes of subparagraphs (A)(iii) and (B), an individual shall not be treated as present in the United States during any period for which the individual establishes that he has a closer connection to a foreign country than to the United States.

“(ii) **NOT MORE THAN 10 DAYS DISREGARDED.**—Clause (i) shall not apply to more than 10 days on which the individual is present in the United States.

“(3) **SUBSTANTIAL PRESENCE TEST.**—

“(A) **IN GENERAL.**—Except as otherwise provided in this paragraph, an individual meets the substantial presence test of this paragraph with respect to any calendar year (hereinafter in this subsection referred to as the ‘current year’) if—

“(i) such individual was present in the United States on at least 31 days during the calendar year, and

“(ii) the sum of the number of days on which such individual was present in the United States during the current year and the 2 preceding calendar years (when multiplied by the applicable multiplier determined under the following table) equals or exceeds 183 days:

In the case of days in:		The applicable multiplier is:
Current year		1
1st preceding year		$\frac{1}{3}$
2nd preceding year		$\frac{1}{6}$

“(B) EXCEPTION WHERE INDIVIDUAL IS PRESENT IN THE UNITED STATES DURING LESS THAN ONE-HALF OF CURRENT YEAR AND CLOSER CONNECTION TO FOREIGN COUNTRY IS ESTABLISHED.—An individual shall not be treated as meeting the substantial presence test of this paragraph with respect to any current year if—

“(i) such individual is present in the United States on fewer than 183 days during the current year, and

“(ii) it is established that for the current year such individual has a tax home (as defined in section 911(d)(3) without regard to the second sentence thereof) in a foreign country and has a closer connection to such foreign country than to the United States.

“(C) SUBPARAGRAPH (B) NOT TO APPLY IN CERTAIN CASES.—Subparagraph (B) shall not apply to any individual with respect to any current year if at any time during such year—

“(i) such individual had an application for adjustment of status pending, or

“(ii) such individual took other steps to apply for status as a lawful permanent resident of the United States.

“(D) EXCEPTION FOR EXEMPT INDIVIDUALS OR FOR CERTAIN MEDICAL CONDITIONS.—An individual shall not be treated as being present in the United States on any day if—

“(i) such individual is an exempt individual for such day, or

“(ii) such individual was unable to leave the United States on such day because of a medical condition which arose while such individual was present in the United States.

“(4) EXEMPT INDIVIDUAL DEFINED.—For purposes of this subsection—

“(A) IN GENERAL.—An individual is an exempt individual for any day if, for such day, such individual is—

“(i) a foreign government-related individual,

“(ii) a teacher or trainee, or

“(iii) a student.

“(B) FOREIGN GOVERNMENT-RELATED INDIVIDUAL.—The term ‘foreign government-related individual’ means any individual temporarily present in the United States by reason of—

“(i) diplomatic status, or a visa which the Secretary (after consultation with the Secretary of State) determines represents full-time diplomatic or consular status for purposes of this subsection,

“(ii) being a full-time employee of an international organization, or

“(iii) being a member of the immediate family of an individual described in clause (i) or (ii).

“(C) TEACHER OR TRAINEE.—The term ‘teacher or trainee’ means any individual—

“(i) who is temporarily present in the United States under subparagraph (J) of section 101(15) of the Immi-

gration and Nationality Act (other than as a student), 8 USC 1101.
and

“(ii) who substantially complies with the requirements for being so present.

“(D) STUDENT.—The term ‘student’ means any individual—

“(i) who is temporarily present in the United States—

“(I) under subparagraph (F) of section 101(15) of the Immigration and Nationality Act, or

8 USC 1101.

“(II) as a student under subparagraph (J) of such section 101(15), and

“(ii) who substantially complies with the requirements for being so present.

“(E) SPECIAL RULES FOR TEACHERS, TRAINEES, AND STUDENTS.—

“(i) LIMITATION ON TEACHERS AND TRAINEES.—An individual shall not be treated as an exempt individual by reason of clause (ii) of subparagraph (A) for the current year if, for any 2 calendar years during the preceeding 6 calendar years, such person was an exempt person under clause (ii) or (iii) of subparagraph (A).

“(ii) LIMITATION ON STUDENTS.—For any calendar year after the 5th calendar year for which an individual was an exempt individual under clause (ii) or (iii) of subparagraph (A), such individual shall not be treated as an exempt individual by reason of clause (iii) of subparagraph (A), unless such individual establishes to the satisfaction of the Secretary that such individual does not intend to permanently reside in the United States and that such individual meets the requirements of subparagraph (D)(ii).

“(5) LAWFUL PERMANENT RESIDENT.—For purposes of this subsection, an individual is a lawful permanent resident of the United States at any time if—

“(A) such individual has the status of having been lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws, and

“(B) such status has not been revoked (and has not been administratively or judicially determined to have been abandoned).

“(6) PRESENCE IN THE UNITED STATES.—For purposes of this subsection—

“(A) IN GENERAL.—Except as provided in subparagraph (B) or (C), an individual shall be treated as present in the United States on any day if such individual is physically present in the United States at any time during such day.

“(B) COMMUTERS FROM CANADA OR MEXICO.—If an individual regularly commutes to employment (or self-employment) in the United States from a place of residence in Canada or Mexico, such individual shall not be treated as present in the United States on any day during which he so commutes.

“(C) TRANSIT BETWEEN 2 FOREIGN POINTS.—If an individual, who is in transit between 2 points outside the United

States, is physically present in the United States for less than 24 hours, such individual shall not be treated as present in the United States on any day during such transit.

“(7) ANNUAL STATEMENTS.—The Secretary may prescribe regulations under which an individual who (but for subparagraph (B) or (D) of paragraph (3)) would meet the substantial presence test of paragraph (3) is required to submit an annual statement setting forth the basis on which such individual claims the benefits of subparagraph (B) or (D) of paragraph (3), as the case may be.

“(8) TAXABLE YEAR.—

“(A) IN GENERAL.—For purposes of this title, an alien individual who has not established a taxable year for any prior period shall be treated as having a taxable year which is the calendar year.

“(B) FISCAL YEAR TAXPAYER.—If—

“(i) an individual is treated under paragraph (1) as a resident of the United States for any calendar year, and

“(ii) after the application of subparagraph (A), such individual has a taxable year other than a calendar year,

he shall be treated as a resident of the United States with respect to any portion of a taxable year which is within such calendar year.

“(9) COORDINATION WITH SECTION 877.—If—

“(A) an alien individual was treated as a resident of the United States during any period which includes at least 3 consecutive calendar years (hereinafter referred to as the ‘initial residency period’), and

“(B) such individual ceases to be treated as a resident of the United States but subsequently becomes a resident of the United States before the close of the 3rd calendar year beginning after the close of the initial residency period, such individual shall be taxable for the period after the close of the initial residency period and before the day on which he subsequently became a resident of the United States in the manner provided in section 877(b). The preceding sentence shall apply only if the tax imposed pursuant to section 877(b) exceeds the tax which, without regard to this paragraph, is imposed pursuant to section 871.

“(10) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection.”

26 USC 7701
note.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1984.

(2) TRANSITIONAL RULE FOR APPLYING SUBSTANTIAL PRESENCE TEST.—

(A) If an alien individual was not a resident of the United States as of the close of calendar year 1984, the determination of whether such individual meets the substantial presence test of section 7701(b)(3) of the Internal Revenue Code of 1954 (as added by this section) shall be made by only taking into account presence after 1984.

Ante, p. 672.

(B) If an alien individual was a resident of the United States as of the close of calendar year 1984, but was not a resident of the United States as of the close of calendar year 1983, the determination of whether such individual meets such substantial presence test shall be made by only taking into account presence in the United States after 1983.

(3) TRANSITIONAL RULE FOR APPLYING LAWFUL RESIDENCE TEST.—In the case of any individual who—

“(A) was a lawful permanent resident of the United States (within the meaning of section 7701(b)(5) of the Internal Revenue Code of 1954, as added by this section) throughout calendar year 1984, or

Ante, p. 672.

(B) was present in the United States at any time during 1984 while such individual was a lawful permanent resident of the United States (within the meaning of such section 7701(b)(5)),

for purposes of section 7701(b)(2)(A) of such Code (as so added), such individual shall be treated as a resident of the United States during 1984.

SEC. 139. TREATMENT OF COMMUNITY INCOME.

(a) GENERAL RULE.—Subsection (a) of section 879 (relating to tax treatment of certain community income in the case of a resident or citizen of the United States who is married to a nonresident alien individual) is amended by striking out so much of such subsection as precedes paragraph (1) thereof and inserting in lieu thereof the following:

26 USC 879.

“(a) GENERAL RULE.—In the case of a married couple 1 or both of whom are nonresident alien individuals and who have community income for the taxable year, such community income shall be treated as follows:”.

(b) CLERICAL AMENDMENTS.—

(1) The heading of section 879 is amended to read as follows:

“SEC. 879. TAX TREATMENT OF CERTAIN COMMUNITY INCOME IN THE CASE OF NONRESIDENT ALIEN INDIVIDUALS.”

(2) The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by striking out the item relating to section 879 and inserting in lieu thereof the following:

“Sec. 879. Tax treatment of certain community income in the case of nonresident alien individuals.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1984.

26 USC 879 note.

Subtitle K—Reporting, Penalty, and Other Provisions

PART I—PROVISIONS RELATING TO TAX SHELTERS

SEC. 141. REGISTRATION OF TAX SHELTERS.

(a) IN GENERAL.—Subchapter B of chapter 61 (relating to miscellaneous provisions involving information and returns) is amended by redesignating section 6111 as section 6112 and by inserting after section 6110 the following new section:

26 USC 6112.
Post, p. 681.

26 USC 6111.

"SEC. 6111. REGISTRATION OF TAX SHELTERS.**"(a) REGISTRATION.—**

"(1) **IN GENERAL.**—Any tax shelter organizer shall register the tax shelter with the Secretary (in such form and in such manner as the Secretary may prescribe) not later than the day on which the first offering for sale of interests in such tax shelter occurs.

"(2) **INFORMATION INCLUDED IN REGISTRATION.**—Any registration under paragraph (1) shall include—

"(A) information identifying and describing the tax shelter,

"(B) information describing the tax benefits of the tax shelter represented (or to be represented) to investors, and

"(C) such other information as the Secretary may prescribe.

"(b) FURNISHING OF TAX SHELTER IDENTIFICATION NUMBER; INCLUSION ON RETURN.—

"(1) **SELLERS, ETC.**—Any person who sells (or otherwise transfers) an interest in a tax shelter shall (at such times and in such manner as the Secretary shall prescribe) furnish to each investor who purchases (or otherwise acquires) an interest in such tax shelter from such person the identification number assigned by the Secretary to such tax shelter.

"(2) **INCLUSION OF NUMBER ON RETURN.**—Any person claiming any deduction, credit, or other tax benefit by reason of a tax shelter shall include (in such manner as the Secretary may prescribe) on the return of tax on which such deduction, credit, or other benefit is claimed the identification number assigned by the Secretary to such tax shelter.

"(c) TAX SHELTER.—For purposes of this section—

"(1) **IN GENERAL.**—The term 'tax shelter' means any investment—

"(A) with respect to which any person could reasonably infer from the representations made, or to be made, in connection with the offering for sale of interests in the investment that the tax shelter ratio for any investor as of the close of any of the first 5 years ending after the date on which such investment is offered for sale may be greater than 2 to 1, and

"(B) which is—

"(i) required to be registered under a Federal or State law regulating securities,

"(ii) sold pursuant to an exemption from registration requiring the filing of a notice with a Federal or State agency regulating the offering or sale of securities, or

"(iii) a substantial investment.

"(2) **TAX SHELTER RATIO DEFINED.**—For purposes of this subsection, the term 'tax shelter ratio' means, with respect to any year, the ratio which—

"(A) the aggregate amount of the deductions and 200 percent of the credits which are represented to be potentially allowable to any investor under subtitle A for all periods up to (and including) the close of such year, bears to

"(B) the investment base as of the close of such year.

"(3) INVESTMENT BASE.—

“(A) IN GENERAL.—Except as provided in this paragraph, the term ‘investment base’ means, with respect to any year, the amount of money and the adjusted basis of other property (reduced by any liability to which such other property is subject) contributed by the investor as of the close of such year.

“(B) CERTAIN BORROWED AMOUNTS EXCLUDED.—For purposes of subparagraph (A), there shall not be taken into account any amount borrowed from any person—

“(i) who participated in the organization, sale, or management of the investment, or

“(ii) who is a related person (as defined in section 168(e)(4)) to any person described in clause (i), unless such amount is unconditionally required to be repaid by the investor before the close of the year for which the determination is being made.

“(C) CERTAIN OTHER AMOUNTS INCLUDED OR EXCLUDED.—

“(i) AMOUNTS HELD IN CASH EQUIVALENTS, ETC.—No amount shall be taken into account under subparagraph (A) which is to be held in cash equivalent or marketable securities.

“(ii) AMOUNTS INCLUDED OR EXCLUDED BY SECRETARY.—The Secretary may by regulation—

“(I) exclude from the investment base any amount described in subparagraph (A), or

“(II) include in the investment base any amount not described in subparagraph (A), if the Secretary determines that such exclusion or inclusion is necessary to carry out the purposes of this section.

“(4) SUBSTANTIAL INVESTMENT.—An investment is a substantial investment if—

“(A) the aggregate amount which may be offered for sale exceeds \$250,000, and

“(B) there are expected to be 5 or more investors.

“(d) OTHER DEFINITIONS.—For purposes of this section—

“(1) TAX SHELTER ORGANIZER.—The term ‘tax shelter organizer’ means—

“(A) the person principally responsible for organizing the tax shelter,

“(B) if the requirements of subsection (a) are not met by a person described in subparagraph (A) at the time prescribed therefor, any other person who participated in the organization of the tax shelter, and

“(C) if the requirements of subsection (a) are not met by a person described in subparagraph (A) or (B) at the time prescribed therefor, any person participating in the sale or management of the investment at a time when the tax shelter was not registered under subsection (a).

“(2) YEAR.—The term ‘year’ means—

“(A) the taxable year of the tax shelter, or

“(B) if the tax shelter has no taxable year, the calendar year.

“(e) REGULATIONS.—The Secretary may prescribe regulations which provide—

“(1) rules for the aggregation of similar investments offered by the same person or persons for purposes of applying subsection (c)(4),

“(2) that only 1 person shall be required to meet the requirements of subsection (a) in cases in which 2 or more persons would otherwise be required to meet such requirements,

“(3) exemptions from the requirements of this section, and

“(4) such rules as may be necessary or appropriate to carry out the purposes of this section in the case of foreign tax shelters.”

(b) **PENALTIES.**—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

26 USC 6707.

“SEC. 6707. FAILURE TO FURNISH INFORMATION REGARDING TAX SHELTERS.

“(a) FAILURE TO REGISTER TAX SHELTER.—

Ante, p. 677.

“(1) IMPOSITION OF PENALTY.—If a person who is required to register a tax shelter under section 6111(a)—

“(A) fails to register such tax shelter on or before the date described in section 6111(a)(1), or

“(B) files false or incomplete information with the Secretary with respect to such registration, such person shall pay a penalty with respect to such registration in the amount determined under paragraph (2). No penalty shall be imposed under the preceding sentence with respect to any failure which is due to reasonable cause.

“(2) AMOUNT OF PENALTY.—The penalty imposed under paragraph (1) with respect to any tax shelter shall be an amount equal to the greater of—

“(A) \$500, or

“(B) the lesser of (i) 1 percent of the aggregate amount invested in such tax shelter, or (ii) \$10,000.

The \$10,000 limitation in subparagraph (B) shall not apply where there is an intentional disregard of the requirements of section 6111(a).

“(b) FAILURE TO FURNISH TAX SHELTER IDENTIFICATION NUMBER.—

“(1) SELLERS, ETC.—Any person who fails to furnish the identification number of a tax shelter which such person is required to furnish under section 6111(b)(1) shall pay a penalty of \$100 for each such failure.

“(2) FAILURE TO INCLUDE NUMBER ON RETURN.—Any person who fails to include an identification number on a return on which such number is required to be included under section 6111(b)(2) shall pay a penalty of \$50 for each such failure, unless such failure is due to reasonable cause.”

(c) CONFORMING AMENDMENTS.—

(1) The table of sections for subchapter B of chapter 61 is amended by striking out the item relating to section 6111 and inserting in lieu thereof the following new items:

“Sec. 6111. Registration of tax shelters.

“Sec. 6112. Cross references.”

(2) The table of sections for subchapter B of chapter 68 is amended by adding at the end thereof the following new item:

“Sec. 6707. Failure to furnish information regarding tax shelters.”

(d) EFFECTIVE DATE.—

26 USC 6111
note.

(1) **IN GENERAL.**—The amendments made by this section shall apply to any tax shelter (within the meaning of section 6111 of the Internal Revenue Code of 1954, as added by this section) any interest in which is first sold to any investor after August 31, 1984.

Ante, p. 677.

(2) **SUBSTANTIAL INVESTMENT TEST.**—For purposes of determining whether any investment is a tax shelter by reason of section 6111(c)(1)(B)(iii) of such Code (as added by this section), only offers for sale after August 31, 1984, shall be taken into account.

(3) **FURNISHING OF SHELTER IDENTIFICATION NUMBER FOR INTERESTS SOLD BEFORE SEPTEMBER 1, 1984.**—With respect to interests sold before September 1, 1984, any liability to act under paragraph (1) of section 6111(b) of such Code (as added by this section) which would (but for this sentence) arise before such date shall be deemed to arise on December 31, 1984.

SEC. 142. ORGANIZERS AND SELLERS OF POTENTIALLY ABUSIVE TAX SHELTERS MUST KEEP LISTS OF INVESTORS.

(a) **IN GENERAL.**—Subchapter B of chapter 61 (relating to miscellaneous provisions involving information and returns) is amended by redesignating section 6112 as section 6113 and by inserting after section 6111 the following new section:

Ante, p. 677.
26 USC 6113.

“SEC. 6112. ORGANIZERS AND SELLERS OF POTENTIALLY ABUSIVE TAX SHELTERS MUST KEEP LISTS OF INVESTORS.

26 USC 6112.

“(a) **IN GENERAL.**—Any person who—

“(1) organizes any potentially abusive tax shelter, or

“(2) sells any interest in such a shelter,

shall maintain (in such manner as the Secretary may by regulations prescribe) a list identifying each person who was sold an interest in such shelter and containing such other information as the Secretary may by regulations require.

“(b) **POTENTIALLY ABUSIVE TAX SHELTER.**—For purposes of this section, the term ‘potentially abusive tax shelter’ means—

“(1) any tax shelter (as defined in section 6111) with respect to which registration is required under section 6111, and

Ante, p. 677.

“(2) any entity, investment plan or arrangement, or other plan or arrangement which is of a type which the Secretary determines by regulations as having a potential for tax avoidance or evasion.

“(c) **SPECIAL RULES.**—

“(1) **AVAILABILITY FOR INSPECTION; RETENTION OF INFORMATION ON LIST.**—Any person who is required to maintain a list under subsection (a)—

“(A) shall make such list available to the Secretary for inspection upon request by the Secretary, and

“(B) except as otherwise provided under regulations prescribed by the Secretary, shall retain any information which is required to be included on such list for 7 years.

“(2) **LISTS WHICH WOULD BE REQUIRED TO BE MAINTAINED BY 2 OR MORE PERSONS.**—The Secretary shall prescribe regulations which provide that, in cases in which 2 or more persons are required under subsection (a) to maintain the same list (or portion thereof), only 1 person shall be required to maintain such list (or portion).”

Regulations.

(b) **PENALTY FOR FAILURE TO MAINTAIN LIST.**—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

26 USC 6708.
Post, p. 912.

"SEC. 6708. FAILURE TO MAINTAIN LISTS OF INVESTORS IN POTENTIALLY ABUSIVE TAX SHELTERS.

Ante, p. 681.

"(a) **IN GENERAL.**—Any person who fails to meet any requirement imposed by section 6112 shall pay a penalty of \$50 for each person with respect to whom there is such a failure, unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The maximum penalty imposed under this subsection for any calendar year shall not exceed \$50,000.

"(b) **PENALTY IN ADDITION TO OTHER PENALTIES.**—The penalty imposed by this section shall be in addition to any other penalty provided by law."

(c) **CONFORMING AMENDMENTS.**—

(1) The table of sections for subchapter B of chapter 61 is amended by striking out the item relating to section 6112 and inserting in lieu thereof the following new items:

"Sec. 6112. Organizers and sellers of potentially abusive tax shelters must keep lists of investors.

"Sec. 6113. Cross reference."

(2) The table of sections for subchapter B of chapter 68 is amended by adding at the end thereof the following new item:

"Sec. 6708. Failure to maintain lists of investors in potentially abusive tax shelters."

26 USC 6112
note.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply to any interest which is first sold to any investor after August 31, 1984.

SEC. 143. INCREASE IN PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS; INJUNCTION AGAINST AIDING OR ABETTING UNDERSTATEMENT OF TAX LIABILITY.

26 USC 6700.

(a) **INCREASE IN PROMOTER PENALTY.**—Subsection (a) of section 6700 (relating to promotion of abusive tax shelters) is amended by striking out "10 percent" and inserting in lieu thereof "20 percent".

(b) **INJUNCTION AGAINST AIDING OR ABETTING UNDERSTATEMENTS OF TAX LIABILITY.**—

26 USC 7408.

(1) Subsections (a) and (b) of section 7408 (relating to action to enjoin promoters of abusive tax shelters, etc.) are each amended by inserting "or section 6701 (relating to penalties for aiding and abetting understatement of tax liability)" after "etc.".

(2) Subsection (a) of section 7408 is amended by inserting "or section 6701" before the period at the end of the second sentence.

(3) Subsection (b) of section 7408 is amended by inserting before the period "or section 6701".

26 USC 6700
note.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the day after the date of the enactment of this Act.

SEC. 144. INCREASED RATE OF INTEREST ON SUBSTANTIAL UNDERPAYMENTS ATTRIBUTABLE TO CERTAIN TAX MOTIVATED TRANSACTIONS.

26 USC 6621.

(a) **GENERAL RULE.**—Section 6621 (relating to determination of rate of interest) is amended by adding at the end thereof the following new subsection:

“(d) INTEREST ON SUBSTANTIAL UNDERPAYMENTS ATTRIBUTABLE TO TAX MOTIVATED TRANSACTIONS.—

“(1) **IN GENERAL.**—In the case of interest payable under section 6601 with respect to any substantial underpayment attributable to tax motivated transactions, the annual rate of interest established under this section shall be 120 percent of the adjusted rate established under subsection (b).

“(2) **SUBSTANTIAL UNDERPAYMENT ATTRIBUTABLE TO TAX MOTIVATED TRANSACTIONS.**—For purposes of this subsection, the term ‘substantial underpayment attributable to tax motivated transactions’ means any underpayment of taxes imposed by subtitle A for any taxable year which is attributable to 1 or more tax motivated transactions if the amount of the underpayment for such year so attributable exceeds \$1,000.

“(3) TAX MOTIVATED TRANSACTIONS.—

“(A) **IN GENERAL.**—For purposes of this subsection, the term ‘tax motivated transaction’ means—

“(i) any valuation overstatement (within the meaning of section 6659(c)),

“(ii) any loss disallowed by reason of section 465(a) and any credit disallowed under section 46(c)(8),

“(iii) any straddle (as defined in section 1092(c) without regard to subsections (d) and (e) of section 1092), and

“(iv) any use of an accounting method specified in regulations prescribed by the Secretary as a use which may result in a substantial distortion of income for any period.

“(B) **REGULATORY AUTHORITY.**—The Secretary may by regulations specify other types of transactions which will be treated as tax motivated for purposes of this subsection and may by regulations provide that specified transactions being treated as tax motivated will no longer be so treated. In prescribing regulations under the preceding sentence, the Secretary shall take into account—

“(i) the ratio of tax benefits to cash invested,

“(ii) the methods of promoting the use of this type of transaction, and

“(iii) other relevant considerations.

“(C) **EFFECTIVE DATE FOR REGULATIONS.**—Any regulations prescribed under subparagraph (A)(iv) or (B) shall apply only to interest accruing after a date (specified in such regulations) which is after the date on which such regulations are prescribed.

“(4) **JURISDICTION OF TAX COURT.**—In the case of any proceeding in the Tax Court for a redetermination of a deficiency, the Tax Court shall also have jurisdiction to determine the portion (if any) of such deficiency which is a substantial underpayment attributable to tax motivated transactions.”

(b) **CROSS REFERENCE.**—Section 6214 (relating to determinations by Tax Court) is amended by adding at the end thereof the following new subsection:

“(e) **CROSS REFERENCE.**—

Post, p. 693.

Post, pp. 805, 810.

26 USC 6214.

Ante, p. 682.
26 USC 6621
note.

"For provision giving Tax Court jurisdiction to determine whether any portion of deficiency is a substantial underpayment attributable to tax motivated transactions, see section 6621(d)(4)."

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to interest accruing after December 31, 1984.

PART II—INFORMATION REPORTING PROVISIONS

SEC. 145. RETURNS RELATING TO MORTGAGE INTEREST RECEIVED IN TRADE OR BUSINESS FROM INDIVIDUALS.

(a) **IN GENERAL.**—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by adding at the end thereof the following new section:

26 USC 6050H. "SEC. 6050H. RETURNS RELATING TO MORTGAGE INTEREST RECEIVED IN TRADE OR BUSINESS FROM INDIVIDUALS.

"(a) **MORTGAGE INTEREST OF \$600 OR MORE.**—Any person—

"(1) who is engaged in a trade or business, and

"(2) who, in the course of such trade or business, receives from any individual interest aggregating \$600 or more for any calendar year on any mortgage, shall make the return described in subsection (b) with respect to each individual from whom such interest was received at such time as the Secretary may by regulations prescribe.

"(b) **FORM AND MANNER OF RETURNS.**—A return is described in this subsection if such return—

"(1) is in such form as the Secretary may prescribe,

"(2) contains—

"(A) the name and address of the individual from whom the interest described in subsection (a)(2) was received,

"(B) the amount of such interest received for the calendar year, and

"(C) such other information as the Secretary may prescribe.

"(c) **APPLICATION TO GOVERNMENTAL UNITS.**—For purposes of subsection (a)—

"(1) **TREATED AS PERSONS.**—The term 'person' includes any governmental unit (and any agency or instrumentality thereof).

"(2) **SPECIAL RULES.**—In the case of a governmental unit or any agency or instrumentality thereof—

"(A) subsection (a) shall be applied without regard to the trade or business requirement contained therein, and

"(B) any return required under subsection (a) shall be made by the officer or employee appropriately designated for the purpose of making such return.

"(d) **STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS FURNISHED.**—Every person making a return under subsection (a) shall furnish to each individual whose name is set forth in such return a written statement showing—

"(1) the name and address of the person making such return, and

"(2) the aggregate amount of interest described in subsection (a)(2) received by the person making such return from the individual to whom the statement is furnished.

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) was made.

“(e) **MORTGAGE DEFINED.**—For purposes of this section, except as provided in regulations prescribed by the Secretary, the term ‘mortgage’ means any obligation secured by real property.

“(f) **RETURNS WHICH WOULD BE REQUIRED TO BE MADE BY 2 OR MORE PERSONS.**—Except to the extent provided in regulations prescribed by the Secretary, in the case of interest received by any person on behalf of another person, only the person first receiving such interest shall be required to make the return under subsection (a).”

(b) **PENALTIES—**

(1) Subparagraph (B) of section 6652(a)(1) (relating to failure to file certain information returns, etc.) is amended—

(A) by striking out “or” at the end of clause (iii),

(B) by inserting “or” at the end of clause (iv), and

(C) by inserting after clause (iv) the following new clause:

“(v) section 6050H(a) (relating to mortgage interest received in trade or business from individuals),”.

(2) Clause (iii) of section 6652(a)(3)(A) (relating to penalty in case of intentional disregard) is amended by inserting “or section 6050H” after “section 6041A(b)”.

(3) Paragraph (1) of section 6678(a) (relating to failure to furnish certain statements) is amended—

(A) by striking out “or 6052(b)” and inserting in lieu thereof “6052(b), or 6050H(d)”, and

(B) by striking out “or 6052(a)” and inserting in lieu thereof “6052(a), or 6050H(a)”.

(c) **CONFORMING AMENDMENT.**—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end thereof the following new item:

“Sec. 6050H. Returns relating to mortgage interest received in trade or business from individuals.”

(d) **EFFECTIVE DATES.—**

(1) **IN GENERAL.**—Except as provided in paragraph (2), the amendments made by this section shall apply to amounts received after December 31, 1984.

(2) **SPECIAL RULE FOR OBLIGATIONS IN EXISTENCE ON DECEMBER 31, 1984.**—In the case of any obligation in existence on December 31, 1984, no penalty shall be imposed under section 6652 of the Internal Revenue Code of 1954 by reason of the amendments made by this section on any failure to supply a taxpayer identification number with respect to amounts received before January 1, 1986.

SEC. 146. RETURNS RELATING TO CASH RECEIVED IN TRADE OR BUSINESS.

(a) **IN GENERAL.**—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by adding at the end thereof the following new section:

“**SEC. 6050I. RETURNS RELATING TO CASH RECEIVED IN TRADE OR BUSINESS.**

“(a) **CASH RECEIPTS OF MORE THAN \$10,000.**—Any person—
“(1) who is engaged in a trade or business, and

26 USC 6652.

97 Stat. 381.

26 USC 6678.

26 USC 6050H note.

26 USC 6050I.

“(2) who, in the course of such trade or business, receives more than \$10,000 in cash in 1 transaction (or 2 or more related transactions), shall make the return described in subsection (b) with respect to such transaction (or related transactions) at such time as the Secretary may by regulations prescribe.

“(b) **FORM AND MANNER OF RETURNS.**—A return is described in this subsection if such return—

“(1) is in such form as the Secretary may prescribe,

“(2) contains—

“(A) the name, address, and TIN of the person from whom the cash was received,

“(B) the amount of cash received,

“(C) the date and nature of the transaction, and

“(D) such other information as the Secretary may prescribe.

“(c) **EXCEPTIONS.**—

“(1) **CASH RECEIVED BY FINANCIAL INSTITUTIONS.**—Subsection

(a) shall not apply to—

“(A) cash received in a transaction reported under title 31, United States Code, if the Secretary determines that reporting under this section would duplicate the reporting to the Treasury under title 31, United States Code, or

“(B) cash received by any financial institution (as defined in subparagraphs (A), (B), (C), (D), (E), (F), (G), (J), (K), (R), and (S) of section 5312(a)(2) of title 31, United States Code).

“(2) **TRANSACTIONS OCCURRING OUTSIDE THE UNITED STATES.**—

Except to the extent provided in regulations prescribed by the Secretary, subsection (a) shall not apply to any transaction if the entire transaction occurs outside the United States.

“(d) **CASH INCLUDES FOREIGN CURRENCY.**—For purposes of this section, the term ‘cash’ includes foreign currency.

“(e) **STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS FURNISHED.**—Every person making a return under subsection (a) shall furnish to each person whose name is set forth in such return a written statement showing—

“(1) the name and address of the person making such return, and

“(2) the aggregate amount of cash described in subsection (a) received by the person making such return.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made.”

(b) **PENALTIES**—

Ante, p. 685.

(1) Subparagraph (B) of section 6652(a)(1) (relating to failure to file certain information returns, etc.) is amended—

(A) by striking out “or” at the end of clause (iv),

(B) by inserting “or” at the end of clause (v), and

(C) by inserting after clause (v) the following new clause:

“(vi) section 6050I(a) (relating to cash received in trade or business).”

Ante, p. 685.

(2) Clause (iii) of section 6652(a)(3)(A) (relating to penalty in case of intentional disregard) is amended by striking out “or section 6050H” and inserting in lieu thereof “, 6050H or 6050I”.

Ante, p. 685.

(3) Paragraph (1) of section 6678(a) (relating to failure to furnish certain statements) is amended—

- (A) by striking out “or 6050H(d)” and inserting in lieu thereof “6050H(d), or 6050I(e)”, and
 (B) by striking out “or 6050H(a)” and inserting in lieu thereof “6050H(a), or 6050I(a)”.

(c) **CONFORMING AMENDMENT.**—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end thereof the following new item:

“Sec. 6050I. Returns relating to cash received in trade or business.”

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply to amounts received after December 31, 1984.

26 USC 6050I
note.

SEC. 147. PROVISIONS RELATING TO INDIVIDUAL RETIREMENT ACCOUNTS.

(a) **CLARIFICATION THAT REGULATIONS MAY REQUIRE REPORTS TO IDENTIFY YEARS TO WHICH CONTRIBUTIONS RELATE.**—Subsection (i) of section 408 (relating to individual retirement accounts) is amended by inserting “(and the years to which they relate)” after “contributions”.

26 USC 408.

(b) **INCREASE IN PENALTY FOR FAILURE TO FILE REPORTS.**—Subsection (a) of section 6693 (relating to failure to provide reports on individual retirement accounts and annuities) is amended by striking out “\$10” and inserting in lieu thereof “\$50”.

26 USC 6693.

(c) **CONTRIBUTIONS REQUIRED TO BE MADE ON OR BEFORE UNEXTENDED RETURN FILING DATE.**—Subparagraph (A) of section 219(f)(3) (relating to time when contributions deemed made) is amended by striking out “including” and inserting in lieu thereof “not including”.

26 USC 219.

(d) **EFFECTIVE DATES.**—

26 USC 219 note.

(1) **IN GENERAL.**—Except as provided in paragraph (2), the amendments made by this section shall apply to contributions made after December 31, 1984.

(2) **SUBSECTION (b).**—The amendment made by subsection (b) shall apply to failures occurring after the date of the enactment of this Act.

SEC. 148. RETURNS RELATING TO FORECLOSURES AND ABANDONMENTS OF SECURITY.

(a) **IN GENERAL.**—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by adding at the end thereof the following new section:

“SEC. 6050J. RETURNS RELATING TO FORECLOSURES AND ABANDONMENTS OF SECURITY.

26 USC 6050J.

“(a) **IN GENERAL.**—Any person who, in connection with a trade or business conducted by such person, lends money secured by property and who—

“(1) in full or partial satisfaction of any indebtedness, acquires an interest in any property which is security for such indebtedness, or

“(2) has reason to know that the property in which such person has a security interest has been abandoned, shall make a return described in subsection (c) with respect to each of such acquisitions or abandonments, at such time as the Secretary may by regulations prescribe.

“(b) **EXCEPTION.**—Subsection (a) shall not apply to any loan to an individual secured by an interest in tangible personal property

which is not held for investment and which is not used in a trade or business.

“(c) **FORM AND MANNER OF RETURN.**—The return required under subsection (a) with respect to any acquisition or abandonment of property—

“(1) shall be in such form as the Secretary may prescribe,

“(2) shall contain—

“(A) the name and address of each person who is a borrower with respect to the indebtedness which is secured,

“(B) a general description of the nature of such property and such indebtedness,

“(C) in the case of a return required under subsection (a)(1)—

“(i) the amount of such indebtedness at the time of such acquisition, and

“(ii) the amount of indebtedness satisfied in such acquisition,

“(D) in the case of a return required under subsection (a)(2), the amount of such indebtedness at the time of such abandonment, and

“(E) such other information as the Secretary may prescribe.

“(d) **APPLICATIONS TO GOVERNMENTAL UNITS.**—For purposes of this section—

“(1) **TREATED AS PERSONS.**—The term ‘person’ includes any governmental unit (and any agency or instrumentality thereof).

“(2) **SPECIAL RULES.**—In the case of a governmental unit or any agency or instrumentality thereof—

“(A) subsection (a) shall be applied without regard to the trade or business requirement contained therein, and

“(B) any return under this section shall be made by the officer or employee appropriately designated for the purpose of making such return.

“(e) **STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED TO BE FURNISHED.**—Every person required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing the name and address of the person required to make such return. The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made.

“(f) **TREATMENT OF OTHER DISPOSITIONS.**—To the extent provided by regulations prescribed by the Secretary, any transfer of the property which secures the indebtedness to a person other than the lender shall be treated as an abandonment of such property.”

(b) **PENALTIES.**—

(1) Subparagraph (B) of section 6652(a)(1) (relating to failure to file certain information returns, etc.) is amended—

(A) by striking out “or” at the end of clause (v),

(B) by adding “or” at the end of clause (vi), and

(C) by inserting after clause (vi) the following new clause:

“(vii) section 6050J(a) (relating to foreclosures and abandonments of security),”.

(2) Clause (iii) of section 6652(a)(3)(A) (relating to penalty in case of intentional disregard) is amended by striking out “or 6050I” and inserting in lieu thereof “, 6050I, or 6050J”.

Ante, p. 686.

Ante, p. 686.

(3) Paragraph (1) of section 6678(a) (relating to failure to furnish certain statements) is amended— *Ante*, p. 686.

(A) by striking out “or 6050I(e)” and inserting in lieu thereof “6050I(e), or 6050J(e)”, and

(B) by striking out “or 6050I(a)” and inserting in lieu thereof “6050I(a), or 6050J(a)”.

(c) CONFORMING AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end thereof the following new item:

“Sec. 6050J. Returns relating to foreclosures and abandonments of security.”

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to acquisitions of property and abandonments of property after December 31, 1984. 26 USC 6050J note.

SEC. 149. RETURNS RELATING TO EXCHANGES OF PARTNERSHIP INTERESTS WHERE UNREALIZED RECEIVABLES, ETC., INVOLVED.

(a) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 (relating to information and returns) is amended by adding at the end thereof the following new section.

“SEC. 6050K. RETURNS RELATING TO EXCHANGES OF CERTAIN PARTNERSHIP INTERESTS. 26 USC 6050K.

“(a) IN GENERAL.—Except as provided in regulations prescribed by the Secretary, if there is an exchange described in section 751(a) of any interest in a partnership during any calendar year, such partnership shall make a return for such calendar year stating—

“(1) the name and address of the transferee and transferor in such exchange, and

“(2) such other information as the Secretary may by regulations prescribe.

Such return shall be made at such time and in such manner as the Secretary may require by regulations.

“(b) STATEMENT TO BE FURNISHED TO TRANSFEROR AND TRANSFeree.—Every partnership making a return under subsection (a) shall furnish to each person whose name is set forth in such return a written statement showing—

“(1) the name and address of the partnership making the return, and

“(2) the information shown on the return with respect to such person.

The statement required under the preceding sentence shall be furnished to the person on or before January 31 following the calendar year for which the return under subsection (a) was made.

“(c) REQUIREMENT THAT TRANSFEROR NOTIFY PARTNERSHIP.—

“(1) IN GENERAL.—In the case of any exchange described in subsection (a), the transferor of the partnership interest shall promptly notify the partnership of such exchange.

“(2) PARTNERSHIP NOT REQUIRED TO MAKE RETURN UNTIL NOTICE.—A partnership shall not be required to make a return under this subsection with respect to any exchange until the partnership is notified of such exchange.”

(b) PENALTIES.—

(1) Subparagraph (B) of section 6652(a)(1) (relating to failure to file certain information returns, etc.) is amended by striking out “or” at the end of clause (vi), by adding “or” at the end of clause (vii), and by inserting after clause (vii) the following new clause:

Ante, p. 688.

- “(viii) section 6050K (relating to exchanges of certain partnership interests),”.
- Ante*, p. 689. (2) Paragraph (1) of section 6678(a) (relating to failure to furnish certain statements) is amended—
- (A) by striking out “or 6050J(e)” and inserting in lieu thereof “6050J(e), or 6050K(b)”, and
- (B) by striking out “or 6050J(a)” and inserting in lieu thereof “6050J(a), or 6050K(a)”.
- 97 Stat. 381. (3) Section 6678 (relating to failure to furnish certain statements) is amended by adding at the end thereof the following new subsection:
- “(c) FAILURE TO NOTIFY PARTNERSHIP OF EXCHANGE OF PARTNERSHIP INTEREST.—In the case of any person who fails to furnish the notice required by section 6050K(c)(1) on the date prescribed therefor, unless it is shown that such failure is due to reasonable cause and not to willful neglect, such person shall pay a penalty of \$50 for each such failure.”
- Ante*, p. 689. (c) CONFORMING AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end thereof the following new item:
- “Sec. 6050K. Returns relating to exchanges of certain partnership interests.”
- 26 USC 6050K note. (d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to exchanges after December 31, 1984.
- SEC. 150. STATEMENTS REQUIRED IN CASE OF CERTAIN SUBSTITUTE PAYMENTS.**
- 26 USC 6045. (a) IN GENERAL.—Section 6045 (relating to returns of brokers) is amended by adding at the end thereof the following new subsection:
- “(d) STATEMENTS REQUIRED IN CASE OF CERTAIN SUBSTITUTE PAYMENTS.—If any broker—
- “(1) transfers securities of a customer for use in a short sale or similar transaction, and
- “(2) receives (on behalf of the customer) a payment in lieu of—
- “(A) a dividend,
- “(B) tax-exempt interest, or
- “(C) such other items as the Secretary may prescribe by regulations,
- during the period such short sale or similar transaction is open, the broker shall furnish such customer a written statement (at such time and in the manner as the Secretary shall prescribe by regulations) identifying such payment as being in lieu of the dividend, tax-exempt interest, or such other item. The Secretary may prescribe regulations which require the broker to make a return which includes the information contained in such written statement.”
- 26 USC 6045 note. (b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments received after December 31, 1984.
- SEC. 151. REPORTING OF STATE AND LOCAL REFUNDS NOT REQUIRED WITH RESPECT TO NON-ITEMIZERS.**
- 26 USC 6050E. (a) IN GENERAL.—Subsection (b) of section 6050E (relating to State and local income tax refunds) is amended by adding at the end thereof the following: “No statement shall be required under this subsection with respect to any individual if it is determined (in the manner provided by regulations) that such individual did not claim itemized deductions under chapter 1 for the taxable year giving rise to the refund, credit, or offset.”
- 26 USC 1 *et seq.*

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to payments of refunds, and credits and offsets made, after December 31, 1982. 26 USC 6050E note.

SEC. 152. FURNISHING OF TIN UNDER BACKUP WITHHOLDING.

(a) **IN GENERAL.**—Section 3406(e)(1) (relating to backup withholding) is amended by inserting at the end thereof the following new sentence: “The Secretary may require that a TIN required to be furnished under subsection (a)(1)(A) be provided under penalties of perjury only with respect to interest, dividends, patronage dividends, and amounts subject to broker reporting.” 97 Stat. 371.
26 USC 3406.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall take effect on the date of the enactment of this Act. 26 USC 3406 note

PART III—OTHER COMPLIANCE PROVISIONS

SEC. 155. SUBSTANTIATION OF CHARITABLE CONTRIBUTIONS; MODIFICATIONS OF INCORRECT VALUATION PENALTY. 26 USC 170 note.

(a) **SUBSTANTIATION OF CONTRIBUTIONS OF PROPERTY.**—

(1) **IN GENERAL.**—Not later than December 31, 1984, the Secretary shall prescribe regulations under section 170(a)(1) of the Internal Revenue Code of 1954, which require any individual, closely held corporation, or personal service corporation claiming a deduction under section 170 of such Code for a contribution described in paragraph (2)— Regulations.
Corporations.

(A) to obtain a qualified appraisal for the property contributed,

(B) to attach an appraisal summary to the return on which such deduction is first claimed for such contribution, and

(C) to include on such return such additional information (including the cost basis and acquisition date of the contributed property) as the Secretary may prescribe in such regulations.

Such regulations shall require the taxpayer to retain any qualified appraisal.

(2) **CONTRIBUTIONS TO WHICH PARAGRAPH (1) APPLIES.**—For purposes of paragraph (1), a contribution is described in this paragraph—

(A) if such contribution is of property (other than publicly traded securities), and

(B) if the claimed value of such property (plus the claimed value of all similar items of property donated to 1 or more donees) exceeds \$5,000.

In the case of any property which is nonpublicly traded stock, subparagraph (B) shall be applied by substituting “\$10,000” for “\$5,000”.

(3) **APPRAISAL SUMMARY.**—For purposes of this subsection, the appraisal summary shall be in such form and include such information as the Secretary prescribes by regulations. Such summary shall be signed by the qualified appraiser preparing the qualified appraisal and shall contain the TIN of such appraiser. Such summary shall be acknowledged by the donee of the property appraised in such manner as the Secretary prescribes in such regulations.

(4) **QUALIFIED APPRAISAL.**—The term “qualified appraisal” means an appraisal prepared by a qualified appraiser which includes—

- (A) a description of the property appraised,
- (B) the fair market value of such property on the date of contribution and the specific basis for the valuation,
- (C) a statement that such appraisal was prepared for income tax purposes,
- (D) the qualifications of the qualified appraiser,
- (E) the signature and TIN of such appraiser, and
- (F) such additional information as the Secretary prescribes in such regulations.

(5) **QUALIFIED APPRAISER.**—

(A) **IN GENERAL.**—For purposes of this subsection, the term “qualified appraiser” means an appraiser qualified to make appraisals of the type of property donated, who is not—

- (i) the taxpayer,
- (ii) a party to the transaction in which the taxpayer acquired the property,
- (iii) the donee,
- (iv) any person employed by any of the foregoing persons or related to any of the foregoing persons under section 267(b) of the Internal Revenue Code of 1954, or
- (v) to the extent provided in such regulations, any person whose relationship to the taxpayer would cause a reasonable person to question the independence of such appraiser.

(B) **APPRAISAL FEES.**—For purposes of this subsection, an appraisal shall not be treated as a qualified appraisal if all or part of the fee paid for such appraisal is based on a percentage of the appraised value of the property. The preceding sentence shall not apply to fees based on a sliding scale that are paid to a generally recognized association regulating appraisers.

(6) **OTHER DEFINITIONS.**—For purposes of this subsection—

(A) **CLOSELY HELD CORPORATION.**—The term “closely held corporation” means any corporation (other than an S corporation) with respect to which the stock ownership requirement of paragraph (2) of section 542(a) of such Code is met.

(B) **PERSONAL SERVICE CORPORATION.**—The term “personal service corporation” means any corporation (other than an S corporation) which is a service organization (within the meaning of section 414(m)(3) of such Code).

(C) **PUBLICLY TRADED SECURITIES.**—The term “publicly traded securities” means securities for which (as of the date of the contribution) market quotations are readily available on an established securities market.

(D) **NONPUBLICLY TRADED STOCK.**—The term “nonpublicly traded stock” means any stock of a corporation which is not a publicly traded security.

(E) **THE SECRETARY.**—The term “Secretary” means the Secretary of the Treasury or his delegate.

(b) **INFORMATION REPORT REQUIRED ON DISPOSITION BY DONEE.**—

(1) **IN GENERAL.**—Subpart B of part III of subchapter A of chapter 61 (relating to information and returns) is amended by adding at the end thereof the following new section:

“SEC. 6050L. RETURNS RELATING TO CERTAIN DISPOSITIONS OF DONATED PROPERTY. 26 USC 6050L.

“(a) **GENERAL RULE.**—If the donee of any charitable deduction property sells, exchanges, or otherwise disposes of such property within 2 years after its receipt, the donee shall make a return (in accordance with forms and regulations prescribed by the Secretary) showing—

- “(1) the name, address, and TIN of the donor,
- “(2) a description of the property,
- “(3) the date of the contribution,
- “(4) the amount received on the disposition, and
- “(5) the date of such disposition.

“(b) **CHARITABLE DEDUCTION PROPERTY.**—For purposes of this section, the term ‘charitable deduction property’ means any property (other than publicly traded securities) contributed in a contribution for which a deduction was claimed under section 170 if the claimed value of such property (plus the claimed value of all similar items of property donated by the donor to 1 or more donees) exceeds \$5,000.

“(c) **STATEMENT TO BE FURNISHED TO DONORS.**—Every person making a return under subsection (a) shall furnish a copy of such return to the donor at such time and in such manner as the Secretary may by regulations prescribe.

“(d) **DEFINITION OF PUBLICLY TRADED SECURITIES.**—The term ‘publicly traded securities’ means securities for which (as of the date of the contribution) market quotations are readily available on an established securities market.”

(2) PENALTIES.—

(A) Subparagraph (B) of section 6652(a)(1) (relating to failure to file certain information returns, etc.) is amended—

- (i) by striking out “or” at the end of clause (vii),
- (ii) by adding “or” at the end of clause (viii), and
- (iii) by inserting after clause (viii) the following new clause:

“(ix) section 6050L (relating to returns relating to certain dispositions of donated property).” *Supra.*

(B) Paragraph (1) of section 6678(a) (relating to failure to furnish certain statements) is amended—

- (i) by striking out “or 6050K(b)” and inserting in lieu thereof “6050K(b), or 6050L(c)”, and
- (ii) by striking out “or 6050K(a)” and inserting in lieu thereof “6050K(a), or 6050L(a)”.

(3) **CLERICAL AMENDMENT.**—The table of sections of subpart B of part III of subchapter A of chapter 61 is amended by adding at the end thereof the following new item:

“Sec. 6050L. Returns relating to certain dispositions of donated property.”

(c) MODIFICATIONS OF INCORRECT VALUATION PENALTY.—

(1) MODIFICATIONS OF SECTION 6659.—

(A) **ELIMINATION OF REQUIREMENT THAT PROPERTY BE ACQUIRED WITHIN THE LAST 5 YEARS.**—Subsection (c) of section 6659 is amended to read as follows:

26 USC 6659.

“(c) **VALUATION OVERSTATEMENT DEFINED.**—For purposes of this section, there is a valuation overstatement if the value of any property, or the adjusted basis of any property, claimed on any return is 150 percent or more of the amount determined to be the correct amount of such valuation or adjusted basis (as the case may be).”

26 USC 6659.

(B) **SPECIAL RULES FOR OVERSTATEMENT OF CHARITABLE DEDUCTION.**—Section 6659 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

“(f) **SPECIAL RULES FOR OVERSTATEMENT OF CHARITABLE DEDUCTION.**—

“(1) **AMOUNT OF APPLICABLE PERCENTAGE.**—In the case of any underpayment attributable to a valuation overstatement with respect to charitable deduction property, the applicable percentage for purposes of subsection (a) shall be 30 percent.

“(2) **LIMITATION ON AUTHORITY TO WAIVE.**—In the case of any underpayment attributable to a valuation overstatement with respect to charitable deduction property, the Secretary may not waive any portion of the addition to tax provided by this section unless the Secretary determines that—

“(A) the claimed value of the property was based on a qualified appraisal made by a qualified appraiser, and

“(B) in addition to obtaining such appraisal, the taxpayer made a good faith investigation of the value of the contributed property.

“(3) **DEFINITIONS.**—For purposes of this subsection—

“(A) **CHARITABLE DEDUCTION PROPERTY.**—The term ‘charitable deduction property’ means any property contributed by the taxpayer in a contribution for which a deduction was claimed under section 170. For purposes of paragraph (2), such term shall not include any securities for which (as of the date of the contribution) market quotations are readily available on an established securities market.

“(B) **QUALIFIED APPRAISER.**—The term ‘qualified appraiser’ means any appraiser meeting the requirements of the regulations prescribed under section 170(a)(1).

“(C) **QUALIFIED APPRAISAL.**—The term ‘qualified appraisal’ means any appraisal meeting the requirements of the regulations prescribed under section 170(a)(1).”

(2) **EXTENSION OF INCORRECT VALUATION PENALTY TO ESTATE AND GIFT TAX.**—

(A) Subchapter A of chapter 68 (relating to additions to the tax and additional amounts) is amended by inserting after section 6659 the following new section:

26 USC 6660.

“**SEC. 6660. ADDITION TO TAX IN THE CASE OF VALUATION UNDERSTATEMENT FOR PURPOSES OF THE ESTATE OR GIFT TAXES.**

26 USC 2001.

“(a) **ADDITION TO THE TAX.**—In the case of any underpayment of a tax imposed by subtitle B (relating to estate and gift taxes) which is attributable to a valuation understatement, there shall be added to the tax an amount equal to the applicable percentage of the underpayment so attributed.

“(b) **APPLICABLE PERCENTAGE.**—For purposes of subsection (a), the applicable percentage shall be determined under the following table:

"If the valuation claimed is the following percent of the correct valuation—	The applicable percentage is:
50 percent or more but not more than 66⅔ percent.....	10
40 percent or more but less than 50 percent	20
Less than 40 percent.....	30.

"(c) **VALUATION UNDERSTATEMENT DEFINED.**—For purposes of this section, there is a valuation understatement if the value of any property claimed on any return is 66⅔ percent or less of the amount determined to be the correct amount of such valuation.

"(d) **UNDERPAYMENT MUST BE AT LEAST \$1,000.**—This section shall not apply if the underpayment is less than \$1,000 for any taxable period (or, in the case of the tax imposed by chapter 11, with respect to the estate of the decedent).

26 USC 2001 *et seq.*

"(e) **AUTHORITY TO WAIVE.**—The Secretary may waive all or any part of the addition to the tax provided by this section on a showing by the taxpayer that there was a reasonable basis for the valuation claimed on the return and that such claim was made in good faith."

(B) **CLERICAL AMENDMENT.**—The table of sections for subchapter A of chapter 68 is amended by inserting after the item relating to section 6659 the following new item:

"Sec. 6660. Addition to tax in the case of valuation understatement for purposes of estate or gift taxes."

(d) **EFFECTIVE DATES.**—

(1) **SUBSECTIONS (a) AND (b).**—The amendments made by subsections (a) and (b) shall apply to contributions made after December 31, 1984, in taxable years ending after such date.

26 USC 6050L note.

(2) **SUBSECTION (c).**—The amendments made by subsection (c) shall apply to returns filed after December 31, 1984.

26 USC 6659 note.

SEC. 156. AUTHORIZATION TO DISREGARD APPRAISALS OF PERSONS PENALIZED FOR AIDING IN UNDERSTATEMENTS OF TAX LIABILITY.

(a) **IN GENERAL.**—Section 330 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) After notice and opportunity for a hearing to any appraiser with respect to whom a penalty has been assessed under section 6701(a) of the Internal Revenue Code of 1954, the Secretary may—

26 USC 6701.

"(1) provide that appraisals by such appraiser shall not have any probative effect in any administrative proceeding before the Department of the Treasury or the Internal Revenue Service, and

"(2) bar such appraiser from presenting evidence or testimony in any such proceeding."

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to penalties assessed after the date of the enactment of this Act.

31 USC 330 note.

SEC. 157. LIMITATION ON MAILING OF DEPOSITS OF TAXES.

(a) **IN GENERAL.**—Subsection (e) of section 7502 (relating to mailing of deposits) is amended by adding at the end thereof the following new paragraph:

26 USC 7502.

"(3) **NO APPLICATION TO CERTAIN DEPOSITS.**—Paragraph (1) shall not apply with respect to any deposit of \$20,000 or more by any person who is required to deposit the tax more than once a month."

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to deposits required to be made after July 31, 1984.

26 USC 7502 note.

SEC. 158. INTEREST ON CERTAIN ADDITIONS TO TAX.

26 USC 6601.

(a) **IN GENERAL.**—Paragraph (2) of section 6601(e) (relating to interest on penalties and additions to tax) is amended to read as follows:

“(2) **INTEREST ON PENALTIES, ADDITIONAL AMOUNTS, OR ADDITIONS TO THE TAX.**—

Ante, p. 694.

“(A) **IN GENERAL.**—Interest shall be imposed under subsection (a) in respect of any assessable penalty, additional amount, or addition to the tax (other than an addition to tax imposed under section 6651(a)(1), 6659, 6660, or 6661) only if such assessable penalty, additional amount, or addition to the tax is not paid within 10 days from the date of notice and demand therefor, and in such case interest shall be imposed only for the period from the date of the notice and demand to the date of payment.

“(B) **INTEREST ON CERTAIN ADDITIONS TO TAX.**—Interest shall be imposed under this section with respect to any addition to tax imposed by section 6651(a)(1), 6659, 6660, or 6661 for the period which—

“(i) begins on the date on which the return of the tax with respect to which such addition to tax is imposed is required to be filed (including any extensions), and

“(ii) ends on the date of payment of such addition to tax.”

26 USC 6601
note.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to interest accrued after the date of the enactment of this Act, except with respect to additions to tax for which notice and demand is made before such date.

SEC. 159. PENALTY FOR FRAUDULENT WITHHOLDING EXEMPTION CERTIFICATE OR FAILURE TO SUPPLY INFORMATION.

26 USC 7205.

(a) **IN GENERAL.**—Section 7205 (relating to penalty for fraudulent withholding exemption certificate) is amended—

(1) by striking out “in lieu of” each place it appears and inserting in lieu thereof “in addition to”, and

(2) by striking out “(except the penalty provided by section 6682)” each place it appears.

26 USC 7205
note.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to actions and failures to act occurring after the date of the enactment of this Act.

SEC. 160. APPLICATION OF PENALTY FOR FRIVOLOUS PROCEEDINGS TO PENDING TAX COURT PROCEEDINGS.26 USC 7430
note.

Paragraph (2) of section 292(e) of the Tax Equity and Fiscal Responsibility Act of 1982 is amended to read as follows:

“(2) **PENALTY.**—The amendments made by subsections (b) and (d)(2) shall apply to any action or proceeding in the United States Tax Court which—

“(A) is commenced after December 31, 1982, or

“(B) is pending in the United States Tax Court on the day which is 120 days after the date of the enactment of the Tax Reform Act of 1984.”

Ante, p. 494.**SEC. 161. FAILURE TO REQUEST CHANGE OF METHOD OF ACCOUNTING.**

26 USC 446.

(a) **IN GENERAL.**—Section 446 (relating to general rule for methods of accounting) is amended by adding at the end thereof the following new subsection:

“(f) **FAILURE TO REQUEST CHANGE OF METHOD OF ACCOUNTING.**—If the taxpayer does not file with the Secretary a request to change the method of accounting, the absence of the consent of the Secretary to a change in the method of accounting shall not be taken into account—

“(1) to prevent the imposition of any penalty, or the addition of any amount to tax, under this title, or

“(2) to diminish the amount of such penalty or addition to tax.”

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

26 USC 446 note.

SEC. 162. CLARIFICATION OF CHANGE OF VENUE FOR CERTAIN TAX OFFENSES.

Section 3237(b) of title 18 of the United States Code is amended to read as follows:

“(b) Notwithstanding subsection (a), where an offense is described in section 7203 of the Internal Revenue Code of 1954, or where venue for prosecution of an offense described in section 7201 or 7206 (1), (2), or (5) of such Code (whether or not the offense is also described in another provision of law) is based solely on a mailing to the Internal Revenue Service, and prosecution is begun in a judicial district other than the judicial district in which the defendant resides, he may upon motion filed in the district in which the prosecution is begun, elect to be tried in the district in which he was residing at the time the alleged offense was committed: *Provided*, That the motion is filed within twenty days after arraignment of the defendant upon indictment or information.”

26 USC 7203.

26 USC 7201,
7206.

SEC. 163. EXTENSION OF STATUTE OF LIMITATIONS WITH RESPECT TO CERTAIN EXPENDITURES RELATING TO CONTRIBUTIONS IN AID OF CONSTRUCTION.

(a) **IN GENERAL.**—Section 118 (relating to contributions to the capital of a corporation) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

26 USC 118.

“(c) **STATUTE OF LIMITATIONS.**—If the taxpayer for any taxable year treats an amount as a contribution to the capital of the taxpayer described in subsection (b), then—

“(1) the statutory period for the assessment of any deficiency attributable to any part of such amount shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may prescribe) of—

“(A) the amount of the expenditure referred to in subparagraph (A) of subsection (b)(2),

“(B) the taxpayer's intention not to make the expenditures referred to in such subparagraph, or

“(C) a failure to make such expenditure within the period described in subparagraph (B) of subsection (b)(2); and

“(2) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.”

(b) **TECHNICAL AMENDMENTS.**—

26 USC 6501.

(1) Section 6501 is amended by striking out subsections (l) and (o) and by redesignating subsection (m), (n), and (p) as subsections (k), (l), and (m), respectively, and by inserting after subsection (m) (as so redesignated) the following new subsection:

“(n) CROSS REFERENCES.—

“(1) For period of limitations for assessment and collection in the case of a joint income return filed after separate returns have been filed, see section 6013(b) (3) and (4).

“(2) For extension of period in the case of partnership items (as defined in section 6231(a)(3)), see section 6229.

“(3) For extension of period in the case of certain contributions in aid of construction, see section 118(c).”

Ante, p. 697.

26 USC 6511.

(2) Subsection (f) of section 6511 is amended by striking out “section 6501(n)(1)” and inserting in lieu thereof “section 6501(l)(1)”.

26 USC 118 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures with respect to which the second taxable year described in section 118(b)(2)(B) of the Internal Revenue Code of 1954 ends after December 31, 1984.

Subtitle L—Miscellaneous Provisions

SEC. 171. INCLUSION OF TAX BENEFIT ITEMS IN INCOME.

26 USC 111.

(a) IN GENERAL.—Section 111 (relating to recovery of bad debts, prior taxes, and delinquency amounts) is amended to read as follows:

“SEC. 111. RECOVERY OF TAX BENEFIT ITEMS.

“(a) DEDUCTIONS.—Gross income does not include income attributable to the recovery during the taxable year of any amount deducted in any prior taxable year to the extent such amount did not reduce income subject to tax.

“(b) CREDITS.—

“(1) IN GENERAL.—If—

“(A) a credit was allowable with respect to any amount for any prior taxable year, and

“(B) during the taxable year there is a downward price adjustment or similar adjustment, the tax imposed by this chapter for the taxable year shall be increased by the amount of the credit attributable to the adjustment.

“(2) EXCEPTION WHERE CREDIT DID NOT REDUCE TAX.—Paragraph (1) shall not apply to the extent that the credit allowable for the recovered amount did not reduce the amount of tax imposed by this chapter.

“(3) EXCEPTION FOR INVESTMENT TAX CREDIT AND FOREIGN TAX CREDIT.—This subsection shall not apply with respect to the credit determined under section 46 and the foreign tax credit.

“(c) TREATMENT OF CARRYOVERS.—For purposes of this section, an increase in a carryover which has not expired before the beginning of the taxable year in which the recovery or adjustment takes place shall be treated as reducing income subject to tax or reducing tax imposed by this chapter, as the case may be.

“(d) SPECIAL RULES FOR ACCUMULATED EARNINGS TAX AND FOR PERSONAL HOLDING COMPANY TAX.—In applying subsection (a) for the purpose of determining the accumulated earnings tax under section 531 or the tax under section 541 (relating to personal holding companies)—

“(1) any excluded amount under subsection (a) allowed for the purposes of this subtitle (other than section 531 or section 541) shall be allowed whether or not such amount resulted in a reduction of the tax under section 531 or the tax under section 541 for the prior taxable year; and

“(2) where any excluded amount under subsection (a) was not allowable as a deduction for the prior taxable year for purposes of this subtitle other than of section 531 or section 541 but was allowable for the same taxable year under section 531 or section 541, then such excluded amount shall be allowable if it did not result in a reduction of the tax under section 531 or the tax under section 541.”

(b) **CLERICAL AMENDMENT.**—The table of sections for part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by striking out the item relating to section 111 and inserting in lieu thereof:

“Sec. 111. Recovery of tax benefit items.”

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to amounts recovered after December 31, 1983, in taxable years ending after such date.

26 USC 111 note.

SEC. 172. LOANS WITH BELOW-MARKET INTEREST RATES.

(a) **GENERAL RULE.**—Subchapter C of chapter 80 (relating to provisions affecting more than 1 subtitle) is amended by adding at the end thereof the following new section:

“SEC. 7872. TREATMENT OF LOANS WITH BELOW-MARKET INTEREST RATES.

26 USC 7872.

“(a) **TREATMENT OF GIFT LOANS AND DEMAND LOANS.**—

“(1) **IN GENERAL.**—For purposes of this title, in the case of any below-market loan to which this section applies and which is a gift loan or a demand loan, the foregone interest shall be treated as—

“(A) transferred from the lender to the borrower, and

“(B) retransferred by the borrower to the lender as interest.

“(2) **TIME WHEN TRANSFERS MADE.**—Except as otherwise provided in regulations prescribed by the Secretary, any foregone interest attributable to periods during any calendar year shall be treated as transferred (and retransferred) under paragraph (1) on the last day of such calendar year.

“(b) **TREATMENT OF OTHER BELOW-MARKET LOANS.**—

“(1) **IN GENERAL.**—For purposes of this title, in the case of any below-market loan to which this section applies and to which subsection (a)(1) does not apply, the lender shall be treated as having transferred on the date the loan was made (or, if later, on the first day on which this section applies to such loan), and the borrower shall be treated as having received on such date, cash in an amount equal to the excess of—

“(A) the amount loaned, over

“(B) the present value of all payments which are required to be made under the terms of the loan.

“(2) **OBLIGATION TREATED AS HAVING ORIGINAL ISSUE DISCOUNT.**—For purposes of this title—

“(A) **IN GENERAL.**—Any below-market loan to which paragraph (1) applies shall be treated as having original issue

discount in an amount equal to the excess described in paragraph (1).

“(B) AMOUNT IN ADDITION TO OTHER ORIGINAL ISSUE DISCOUNT.—Any original issue discount which a loan is treated as having by reason of subparagraph (A) shall be in addition to any other original issue discount on such loan (determined without regard to subparagraph (A)).

“(c) BELOW-MARKET LOANS TO WHICH SECTION APPLIES.—

“(1) IN GENERAL.—Except as otherwise provided in this subsection, this section shall apply to—

“(A) GIFTS.—Any below-market loan which is a gift loan.

“(B) COMPENSATION-RELATED LOANS.—Any below-market loan directly or indirectly between—

“(i) an employer and an employee, or

“(ii) an independent contractor and a person for whom such independent contractor provides services.

“(C) CORPORATION-SHAREHOLDER LOANS.—Any below-market loan directly or indirectly between a corporation and any shareholder of such corporation.

“(D) TAX AVOIDANCE LOANS.—Any below-market loan 1 of the principal purposes of the interest arrangements of which is the avoidance of any Federal tax.

“(E) OTHER BELOW-MARKET LOANS.—To the extent provided in regulations, any below-market loan which is not described in subparagraph (A), (B), or (C) if the interest arrangements of such loan have a significant effect on any Federal tax liability of the lender or the borrower.

“(2) \$10,000 DE MINIMIS EXCEPTION FOR GIFT LOANS BETWEEN INDIVIDUALS.—

“(A) IN GENERAL.—In the case of any gift loan directly between individuals, this section shall not apply to any day on which the aggregate outstanding amount of loans between such individuals does not exceed \$10,000.

“(B) DE MINIMIS EXCEPTION NOT TO APPLY TO LOANS ATTRIBUTABLE TO ACQUISITION OF INCOME-PRODUCING ASSETS.—Subparagraph (A) shall not apply to any gift loan directly attributable to the purchase or carrying of income-producing assets.

“(C) CROSS REFERENCE.—

“For limitation on amount treated as interest where loans do not exceed \$100,000, see subsection (d)(1).

“(3) \$10,000 DE MINIMIS EXCEPTION FOR COMPENSATION-RELATED AND CORPORATE-SHAREHOLDER LOANS.—

“(A) IN GENERAL.—In the case of any loan described in subparagraph (B) or (C) of paragraph (1), this section shall not apply to any day on which the aggregate outstanding amount of loans between the borrower and lender does not exceed \$10,000.

“(B) EXCEPTION NOT TO APPLY WHERE 1 OF PRINCIPAL PURPOSES IS TAX AVOIDANCE.—Subparagraph (A) shall not apply to any loan the interest arrangements of which have as 1 of their principal purposes the avoidance of any Federal tax.

“(d) SPECIAL RULES FOR GIFT LOANS.—

“(1) LIMITATION ON INTEREST ACCRUAL FOR PURPOSES OF INCOME TAXES WHERE LOANS DO NOT EXCEED \$100,000.—

“(A) IN GENERAL.—For purposes of subtitle A, in the case of a gift loan directly between individuals, the amount treated as retransferred by the borrower to the lender as of the close of any year shall not exceed the borrower’s net investment income for such year.

“(B) LIMITATION NOT TO APPLY WHERE 1 OF PRINCIPAL PURPOSES IS TAX AVOIDANCE.—Subparagraph (A) shall not apply to any loan the interest arrangements of which have as 1 of their principal purposes the avoidance of any Federal tax.

“(C) SPECIAL RULE WHERE MORE THAN 1 GIFT LOAN OUTSTANDING.—For purposes of subparagraph (A), in any case in which a borrower has outstanding more than 1 gift loan, the net investment income of such borrower shall be allocated among such loans in proportion to the respective amounts which would be treated as retransferred by the borrower without regard to this paragraph.

“(D) LIMITATION NOT TO APPLY WHERE AGGREGATE AMOUNT OF LOANS EXCEED \$100,000.—This paragraph shall not apply to any loan made by a lender to a borrower for any day on which the aggregate outstanding amount of loans between the borrower and lender exceeds \$100,000.

“(E) NET INVESTMENT INCOME.—For purposes of this paragraph—

“(i) IN GENERAL.—The term ‘net investment income’ has the meaning given such term by section 163(d)(3).

“(ii) DE MINIMIS RULE.—If the net investment income of any borrower for any year does not exceed \$1,000, the net investment income of such borrower for such year shall be treated as zero.

“(iii) ADDITIONAL AMOUNTS TREATED AS INTEREST.—In determining the net investment income of a person for any year, any amount which would be included in the gross income of such person for such year by reason of section 1272 if such section applied to all deferred payment obligations shall be treated as interest received by such person for such year.

Ante, p. 533.

“(iv) DEFERRED PAYMENT OBLIGATIONS.—The term ‘deferred payment obligation’ includes any market discount bond, short-term obligation, United States savings bond, annuity, or similar obligation.

“(2) SPECIAL RULE FOR GIFT TAX.—In the case of any gift loan which is a term loan, subsection (b)(1) (and not subsection (a)) shall apply for purposes of chapter 12.

26 USC 2501 *et seq.*

“(e) DEFINITIONS OF BELOW-MARKET LOAN AND FOREGONE INTEREST.—For purposes of this section—

“(1) BELOW-MARKET LOAN.—The term ‘below-market loan’ means any loan if—

“(A) in the case of a demand loan, interest is payable on the loan at a rate less than the applicable Federal rate, or

“(B) in the case of a term loan, the amount loaned exceeds the present value of all payments due under the loan.

“(2) FOREGONE INTEREST.—The term ‘foregone interest’ means, with respect to any period during which the loan is outstanding, the excess of—

“(A) the amount of interest which would have been payable on the loan for the period if interest accrued on the loan at the applicable Federal rate and were payable annually on the day referred to in subsection (a)(2), over

“(B) any interest payable on the loan properly allocable to such period.

“(f) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) PRESENT VALUE.—The present value of any payment shall be determined in the manner provided by regulations prescribed by the Secretary—

“(A) as of the date of the loan, and

“(B) by using a discount rate equal to the applicable Federal rate.

“(2) APPLICABLE FEDERAL RATE.—

“(A) TERM LOANS.—In the case of any term loan, the applicable Federal rate shall be the applicable Federal rate in effect under section 1274(d) (as of the day on which the loan was made), compounded semiannually.

“(B) DEMAND LOANS.—In the case of a demand loan, the applicable Federal rate shall be the Federal short-term rate in effect under section 1274(d) for the period for which the amount of foregone interest is being determined.

“(3) GIFT LOAN.—The term ‘gift loan’ means any below-market loan where the foregoing of interest is in the nature of a gift.

“(4) AMOUNT LOANED.—The term ‘amount loaned’ means the amount received by the borrower.

“(5) DEMAND LOAN.—The term ‘demand loan’ means any loan which is payable in full at any time on the demand of the lender. Such term also includes (for purposes other than determining the applicable Federal rate under paragraph (2)) any loan which is not transferable and the benefits of the interest arrangements of which is conditioned on the future performance of substantial services by an individual.

“(6) TERM LOAN.—The term ‘term loan’ means any loan which is not a demand loan.

“(7) HUSBAND AND WIFE TREATED AS 1 PERSON.—A husband and wife shall be treated as 1 person.

“(8) LOANS TO WHICH SECTION 483 OR 1274 APPLIES.—This section shall not apply to any loan to which section 483 or 1274 applies.

“(9) NO WITHHOLDING.—No amount shall be withheld under chapter 24 with respect to any amount treated as transferred or retransferred under subsection (a).

“(10) SPECIAL RULE FOR TERM LOANS.—If this section applies to any term loan on any day, this section shall continue to apply to such loan notwithstanding paragraphs (2) and (3) of subsection (c). In the case of a gift loan, the preceding sentence shall only apply for purposes of chapter 12.

“(g) REGULATIONS.—

“(1) IN GENERAL.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including—

“(A) regulations providing that where, by reason of varying rates of interest, conditional interest payments, waivers of interest, disposition of the lender’s or borrower’s interest

Ante, p. 538.

Ante, pp. 553, 538.

26 USC 3401 *et seq.*

26 USC 2501 *et seq.*

in the loan, or other circumstances, the provisions of this section do not carry out the purposes of this section, adjustments to the provisions of this section will be made to the extent necessary to carry out the purposes of this section,

“(B) regulations for the purpose of assuring that the positions of the borrower and lender are consistent as to the application (or nonapplication) of this section, and

“(C) regulations exempting from the application of this section any class of transactions the interest arrangements of which have no significant effect on any Federal tax liability of the lender or the borrower.

“(2) ESTATE TAX COORDINATION.—Under regulations prescribed by the Secretary, any loan which is made with donative intent and which is a term loan shall be taken into account for purposes of chapter 11 in a manner consistent with the provisions of subsection (b).”

26 USC 2001 *et seq.*

(b) CLERICAL AMENDMENT.—The table of sections for subchapter C of chapter 80 is amended by adding at the end thereof the following new item:

“Sec. 7872. Treatment of loans with below-market interest rates.”

(c) EFFECTIVE DATES.—

26 USC 7872 note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to—

(A) term loans made after June 6, 1984, and

(B) demand loans outstanding after June 6, 1984.

(2) EXCEPTION FOR DEMAND LOANS OUTSTANDING ON JUNE 6, 1984, AND REPAYED WITHIN 60 DAYS AFTER DATE OF ENACTMENT.—The amendments made by this section shall not apply to any demand loan which—

(A) was outstanding on June 6, 1984, and

(B) was repaid before the date 60 days after the date of the enactment of this Act.

(3) EXCEPTION FOR CERTAIN EXISTING LOANS TO CONTINUING CARE FACILITIES.—Nothing in this subsection shall be construed to apply the amendments made by this section to any loan made before June 6, 1984, to a continuing care facility by a resident of such facility which is contingent on continued residence at such facility.

(4) APPLICABLE FEDERAL RATE FOR PERIODS BEFORE JANUARY 1, 1985.—For periods before January 1, 1985, the applicable Federal rate under paragraph (2) of section 7872(f) of the Internal Revenue Code of 1954, as added by this section, shall be 10 percent, compounded semiannually.

Ante, p. 699.

(5) TREATMENT OF RENEGOTIATIONS, ETC.—For purposes of this subsection, any loan renegotiated, extended, or revised after June 6, 1984, shall be treated as a loan made after such date.

(6) DEFINITION OF TERM AND DEMAND LOANS.—For purposes of this subsection, the terms ‘demand loan’ and ‘term loan’ have the respective meanings given such terms by paragraphs (5) and (6) of section 7872(f) of the Internal Revenue Code of 1954, as added by this section, but the second sentence of such paragraph (5) shall not apply.

SEC. 173. ELIGIBILITY FOR INCOME AVERAGING.

(a) BASE PERIOD SHORTENED TO 3 YEARS.—Paragraph (2) of section 1302(c) (relating to definition of averagable income; related defini-

26 USC 1302.

tions) is amended by striking out "4 taxable years" and inserting in lieu thereof "3 taxable years".

26 USC 1301.

(b) INCREASE IN PERCENTAGE OF AVERAGE BASE INCOME TAKEN INTO ACCOUNT.—Section 1301 (relating to limitation on tax) is amended by striking out "120 percent" and inserting in lieu thereof "140 percent".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 1301 (relating to limitation on tax) is amended—

(A) by striking out "5 times" and inserting in lieu thereof "4 times", and

(B) by striking out "20 percent" and inserting in lieu thereof "25 percent".

26 USC 1302.

(2) Paragraph (1) of section 1302(a) (defining averagable income) is amended by striking out "120 percent" and inserting in lieu thereof "140 percent".

(3) Paragraph (1) of section 1302(b) (defining average base period income) is amended by striking out "one-fourth" and inserting in lieu thereof " $\frac{1}{3}$ ".

(4) Paragraph (3) of section 1302(c) is amended by striking out "4 taxable years" and inserting in lieu thereof "3 taxable years".

26 USC 1302
note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to computation years beginning after December 31, 1983, and to base period years applicable to such computation years.

SEC. 174. AMENDMENTS TO SECTION 267.

(a) ALLOWANCE OF DEDUCTION WHERE EXPENSES AND INTEREST ARE PAID TO RELATED CASH-BASIS TAXPAYERS AFTER 2½-MONTH PERIOD.—

26 USC 267.

(1) IN GENERAL.—Subsection (a) of section 267 (relating to losses, expenses, and interest with respect to transactions between related taxpayers) is amended to read as follows:

“(a) IN GENERAL.—

“(1) DEDUCTION FOR LOSSES DISALLOWED.—No deduction shall be allowed in respect of any loss from the sale or exchange of property (other than a loss in case of a distribution in corporate liquidation), directly or indirectly, between persons specified in any of the paragraphs of subsection (b).

“(2) MATCHING OF DEDUCTION AND PAYEE INCOME ITEM IN THE CASE OF EXPENSES AND INTEREST.—If—

“(A) by reason of the method of accounting of the person to whom the payment is to be made, the amount thereof is not (unless paid) includible in the gross income of such person, and

“(B) at the close of the taxable year of the taxpayer for which (but for this paragraph) the amount would be deductible under this chapter, both the taxpayer and the person to whom the payment is to be made are persons specified in any of the paragraphs of subsection (b),

then any deduction allowable under this chapter in respect of such amount shall be allowable as of the day as of which such amount is includible in the gross income of the person to whom the payment is made (or, if later, as of the day on which it would be so allowable but for this paragraph).”

(2) CONFORMING AMENDMENT.—Subsection (e) of section 267 (relating to rule where last day of 2½-month period falls on Sunday, etc.) is hereby repealed.

(b) EXTENSION OF SECTION 267 TO CERTAIN RELATED ENTRIES.—

(1) PASS-THRU ENTITIES.—Section 267 is amended by striking out subsection (f) and inserting in lieu thereof the following: 26 USC 267.

“(e) SPECIAL RULES FOR PASS-THRU ENTITIES.—

“(1) IN GENERAL.—In the case of any amount paid or incurred by, to, or on behalf of, a pass-thru entity, for purposes of applying subsection (a)(2)—

“(A) such entity,

“(B) in the case of—

“(i) a partnership, any person who owns (directly or indirectly) any capital interest or profits interest of such partnership, or

“(ii) an S corporation, any person who owns (directly or indirectly) any of the stock of such corporation,

“(C) any person who owns (directly or indirectly) any capital interest or profits interest of a partnership in which such entity owns (directly or indirectly) any capital interest or profits interest, and

“(D) any person related (within the meaning of subsection (b) of this section or section 707(b)(1)) to a person described in subparagraph (B) or (C),

shall be treated as persons specified in a paragraph of subsection (b). Subparagraph (C) shall apply to a transaction only if such transaction is related either to the operations of the partnership described in such subparagraph or to an interest in such partnership.

“(2) PASS-THRU ENTITY.—For purposes of this section, the term ‘pass-thru entity’ means—

“(A) a partnership, and

“(B) an S corporation.

“(3) CONSTRUCTIVE OWNERSHIP IN THE CASE OF PARTNERSHIPS.—For purposes of determining ownership of a capital interest or profits interest of a partnership, the principles of subsection (c) shall apply, except that—

“(A) paragraph (3) of subsection (c) shall not apply, and

“(B) interests owned (directly or indirectly) by or for a C corporation shall be considered as owned by or for any shareholder only if such shareholder owns (directly or indirectly) 5 percent or more in value of the stock of such corporation.

“(4) SUBSECTION (a) (2) NOT TO APPLY TO CERTAIN GUARANTEED PAYMENTS OF PARTNERSHIPS.—In the case of any amount paid or incurred by a partnership, subsection (a)(2) shall not apply to the extent that section 707(c) applies to such amount.

“(5) EXCEPTION FOR CERTAIN EXPENSES AND INTEREST OF PARTNERSHIPS OWNING LOW-INCOME HOUSING.—

“(A) IN GENERAL.—This subsection shall not apply with respect to qualified expenses and interest paid or incurred by a partnership owning low-income housing to—

“(i) any qualified 5-percent or less partner of such partnership, or

“(ii) any person related (within the meaning of subsection (b) of this section or section 707(b)(1)) to any qualified 5-percent or less partner of such partnership.

“(B) QUALIFIED 5-PERCENT OR LESS PARTNER.—For purposes of this paragraph, the term ‘qualified 5-percent or less partner’ means any partner who has (directly or indirectly)

an interest of 5 percent or less in the aggregate capital and profits interests of the partnership but only if—

“(i) such partner owned the low-income housing at all times during the 2-year period ending on the date such housing was transferred to the partnership, or

“(ii) such partnership acquired the low-income housing pursuant to a purchase, assignment, or other transfer from the Department of Housing and Urban Development or any State or local housing authority. For purposes of the preceding sentence, a partner shall be treated as holding any interest in the partnership which is held (directly or indirectly) by any person related (within the meaning of subsection (b) of this section or section 707(b)(1)) to such partner.

“(C) **QUALIFIED EXPENSES AND INTEREST.**—For purpose of this paragraph, the term ‘qualified expenses and interest’ means any expense or interest incurred by the partnership with respect to low-income housing held by the partnership but—

“(i) only if the amount of such expense or interest (as the case may be) is unconditionally required to be paid by the partnership not later than 10 years after the date such amount was incurred, and

“(ii) in the case of such interest, only if such interest is incurred at an annual rate not in excess of 12 percent.

“(D) **LOW-INCOME HOUSING.**—For purposes of this paragraph, the term ‘low-income housing’ means—

“(i) any interest in low-income housing (as defined in paragraph (5) of section 189(e)), and

“(ii) any interest in a partnership owning low-income housing (as so defined).”

(2) CERTAIN CONTROLLED GROUPS.—

26 USC 267.

(A) Paragraph (3) of section 267(b) is amended to read as follows:

“(3) Two corporations which are members of the same controlled group (as defined in subsection (f));”

(B) Section 267 is amended by adding at the end thereof the following new subsection:

“(f) **CONTROLLED GROUP DEFINED; SPECIAL RULES APPLICABLE TO CONTROLLED GROUPS.—**

“(1) **CONTROLLED GROUP DEFINED.**—For purposes of this section, the term ‘controlled group’ has the meaning given to such term by section 1563(a), except that—

“(A) ‘more than 50 percent’ shall be substituted for ‘at least 80 percent’ each place it appears in section 1563(a), and

“(B) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

“(2) **DEFERRAL (RATHER THAN DENIAL) OF LOSS FROM SALE OR EXCHANGE BETWEEN MEMBERS.**—In the case of any loss from the sale or exchange of property which is between members of the same controlled group and to which subsection (a)(1) applies (determined without regard to this paragraph but with regard to paragraph (3))—

“(A) subsections (a)(1) and (d) shall not apply to such loss, but

“(B) such loss shall be deferred until the property is transferred outside such controlled group and there would be recognition of loss under consolidated return principles or until such other time as may be prescribed in regulations.

“(3) LOSS DEFERRAL RULES NOT TO APPLY IN CERTAIN CASES.—

“(A) TRANSFER TO DISC.—For purposes of applying subsection (a)(1), the term ‘controlled group’ shall not include a DISC.

“(B) CERTAIN SALES OF INVENTORY.—Except to the extent provided in regulations prescribed by the Secretary, subsection (a)(1) shall not apply to the sale or exchange of property between members of the same controlled group if—

“(i) such property in the hands of the transferor is property described in section 1221(1),

“(ii) such sale or exchange is in the ordinary course of the transferor’s trade or business,

“(iii) such property in the hands of the transferee is property described in section 1221(1), and

“(iv) the transferee or the transferor is a foreign corporation.

“(C) CERTAIN FOREIGN CURRENCY LOSSES.—To the extent provided in regulations, subsection (a)(1) shall not apply to any loss sustained by a member of a controlled group on the repayment of a loan made to another member of such group if such loan is payable in a foreign currency or is denominated in such a currency and such loss is attributable to a reduction in value of such foreign currency.”

(3) CORPORATION AND PARTNERSHIP OWNED BY SAME PERSONS.—Paragraph (10) of section 267(b) is amended—

26 USC 267.

(A) by striking out “An S corporation” and inserting in lieu thereof “A corporation”, and

(B) by striking out “the S corporation” and inserting in lieu thereof “the corporation”.

(4) S CORPORATION AND C CORPORATION OWNED BY SAME PERSONS.—Paragraph (12) of section 267(b) is amended by striking out “the same individual” and inserting in lieu thereof “the same persons”.

(5) TECHNICAL AMENDMENTS.—

(A) Paragraph (3) of section 170(a) is amended by striking out “section 267(b)” and inserting in lieu thereof “section 267(b) or 707(b)”.

26 USC 170.

(B) Clause (iii) of section 514(c)(9)(B) is amended by striking out “section 267(b)” and inserting in lieu thereof “section 267(b) or 707(b)”.

Post, p. 1039.

(C) Subsection (d) of section 1235 is amended—

26 USC 1235.

(i) by striking out “section 267(b)” in the matter preceding paragraph (1) and inserting in lieu thereof “section 267(b) or persons described in section 707(b)”,

(ii) by striking out “section 267 (b) and (c)” and inserting in lieu thereof “section 267 (b) and (c) and section 707(b)”, and

(iii) by striking out “section 267(b)” in paragraph (1) and inserting in lieu thereof “section 267(b) or 707(b)”.

(D) Subparagraph (F) of section 368(a)(2) is amended by striking out clause (viii).

26 USC 368.

(c) EFFECTIVE DATES.—

26 USC 267 note.

26 USC 1 *et seq.*

(1) **SUBSECTIONS (a) AND (b) (1).**—The amendments made by subsections (a) and (b)(1) shall apply to amounts allowable as deductions under chapter 1 of the Internal Revenue Code of 1954 for taxable years beginning after December 31, 1983. For purposes of the preceding sentence, the allowability of a deduction shall be determined without regard to any disallowance or postponement of deductions under section 267 of such Code.

(2) **SUBSECTION (b) (OTHER THAN PARAGRAPH (1)).**—

(A) **IN GENERAL.**—Except as provided in subparagraph (B), the amendments made by subsection (b) (other than paragraph (1) thereof) shall apply to transactions after December 31, 1983, in taxable years ending after such date.

(B) **EXCEPTION FOR TRANSFERS TO FOREIGN CORPORATIONS ON OR BEFORE MARCH 1, 1984.**—The amendments made by subsection (b)(2) shall not apply to property transferred to a foreign corporation on or before March 1, 1984.

(3) **EXCEPTION FOR EXISTING INDEBTEDNESS, ETC.**—

(A) **IN GENERAL.**—The amendments made by this section shall not apply to any amount paid or incurred—

(i) on indebtedness incurred on or before September 29, 1983, or

(ii) pursuant to a contract which was binding on September 29, 1983, and at all times thereafter before the amount is paid or incurred.

(B) **TREATMENT OF RENEGOTIATIONS, EXTENSIONS, ETC.**—If any indebtedness (or contract described in subparagraph (A)) is renegotiated, extended, renewed, or revised after September 29, 1983, subparagraph (A) shall not apply to any amount paid or incurred on such indebtedness (or pursuant to such contract) after the date of such renegotiation, extension, renewal, or revision.

SEC. 175. AMENDMENTS TO SECTION 1239.

Post, p. 898.

(a) **PATENT APPLICATIONS TREATED AS DEPRECIABLE PROPERTY.**—Section 1239 (relating to gain from sale of depreciable property between certain related taxpayers) is amended by adding at the end thereof the following new subsection:

“(e) **PATENT APPLICATIONS TREATED AS DEPRECIABLE PROPERTY.**—For purposes of this section, a patent application shall be treated as property which, in the hands of the transferee, is of a character which is subject to the allowance for depreciation provided in section 167.”

(b) **TAXPAYER AND CERTAIN TRUSTS TREATED AS RELATED PERSONS.**—Subsection (b) of section 1239 is amended to read as follows:

“(b) **RELATED PERSONS.**—For purposes of subsection (a), the term ‘related persons’ means—

“(1) a husband and wife,

“(2) a person and all entities which are 80-percent owned entities with respect to such person,

“(3) a taxpayer and any trust in which such taxpayer (or his spouse) is a beneficiary, unless such beneficiary’s interest in the trust is a remote contingent interest (within the meaning of section 318(a)(3)(B)(i)).”

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to sales or exchanges after March 1, 1984, in taxable years ending after such date.

26 USC 1239
note.

SEC. 176. RECAPTURE OF NET ORDINARY LOSSES UNDER SECTION 1231.

(a) **GENERAL RULE.**—Section 1231 (relating to property used in the trade or business and involuntary conversions) is amended by adding at the end thereof the following new subsection:

26 USC 1231.

“(c) **RECAPTURE OF NET ORDINARY LOSSES.**—

“(1) **IN GENERAL.**—The net section 1231 gain for any taxable year shall be treated as ordinary income to the extent such gain does not exceed the non-recaptured net section 1231 losses.

“(2) **NON-RECAPTURED NET SECTION 1231 LOSSES.**—For purposes of this subsection, the term ‘non-recaptured net section 1231 losses’ means the excess of—

“(A) the aggregate amount of the net section 1231 losses for the 5 most recent preceding taxable years beginning after December 31, 1981, over

“(B) the portion of such losses taken into account under paragraph (1) for such preceding taxable years.

“(3) **NET SECTION 1231 GAIN.**—For purposes of this subsection, the term ‘net section 1231 gain’ means the excess of—

“(A) the section 1231 gains, over

“(B) the section 1231 losses.

“(4) **NET SECTION 1231 LOSS.**—For purposes of this subsection, the term ‘net section 1231 loss’ means the excess of—

“(A) the section 1231 losses, over

“(B) the section 1231 gains.

“(5) **SPECIAL RULES.**—For purposes of determining the amount of the net section 1231 gain or loss for any taxable year, the rules of paragraph (4) of subsection (a) shall apply.”

Post, p. 944.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to net section 1231 gains for taxable years beginning after December 31, 1984.

26 USC 1231 note.

SEC. 177. REPEAL OF EXEMPTION FROM FEDERAL TAX OF THE FEDERAL HOME LOAN MORTGAGE CORPORATION.

(a) **REPEAL OF EXEMPTION.**—Subsection (d) of section 303 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(d)) is amended—

(1) by striking out “by the United States,”

(2) by striking out “possession thereof,” and inserting in lieu thereof “possession of the United States”, and

(3) by striking out the last sentence.

(b) **TREATMENT OF DIVIDENDS PAID BY FEDERAL HOME LOAN BANK WHICH ARE ALLOCABLE TO DIVIDENDS FROM THE FEDERAL HOME LOAN MORTGAGE CORPORATION.**—Subsection (a) of section 246 (relating to denial of dividends received deduction for dividends from certain corporations) is amended to read as follows:

26 USC 246.

“(a) **DEDUCTION NOT ALLOWED FOR DIVIDENDS FROM CERTAIN CORPORATIONS.**—

“(1) **IN GENERAL.**—The deductions allowed by sections 243, 244, and 245 shall not apply to any dividend from a corporation which, for the taxable year of the corporation in which the distribution is made, or for the next preceding taxable year of the corporation, is a corporation exempt from tax under section 501 (relating to certain charitable, etc., organizations) or section 521 (relating to farmers’ cooperative associations).

“(2) **SUBSECTION NOT TO APPLY TO CERTAIN DIVIDENDS OF FEDERAL HOME LOAN BANKS.**—

“(A) **DIVIDENDS OUT OF CURRENT EARNINGS AND PROFITS.**—In the case of any dividend paid by any FHLB out of earnings and profits of the FHLB for the taxable year in which such dividend was paid, paragraph (1) shall not apply to that portion of such dividend which bears the same ratio to the total dividend as—

“(i) the dividends received by the FHLB from the FHLMC during such taxable year, bears to

“(ii) the total earnings and profits of the FHLB for such taxable year.

“(B) **DIVIDENDS OUT OF ACCUMULATED EARNINGS AND PROFITS.**—For purposes of subparagraph (A), in the case of any dividend which is paid out of any accumulated earnings and profits of any FHLB, paragraph (1) shall not apply to that portion of the dividend which bears the same ratio to the total dividend as—

“(i) the amount of dividends received by such FHLB from the FHLMC which are out of earnings and profits of the FHLMC—

“(I) for taxable years ending after December 31, 1984, and

“(II) which were not taken into account under subparagraph (A), bears to

“(ii) the total accumulated earnings and profits of the FHLB as of the time such dividend is paid.

For purposes of clause (ii), the accumulated earnings and profits of the FHLB as of January 1, 1985, shall be treated as equal to its retained earnings as of such date.

“(C) **DEFINITIONS.**—For purposes of this paragraph—

“(i) **FHLB.**—The term ‘FHLB’ means any Federal Home Loan Bank.

“(ii) **FHLMC.**—The term ‘FHLMC’ means the Federal Home Loan Mortgage Corporation.

“(iii) **TAXABLE YEAR OF FHLB.**—The taxable year of an FHLB shall, except as provided in regulations prescribed by the Secretary, be treated as the calendar year.”

(c) **TREATMENT OF NET OPERATING LOSSES OF THE FEDERAL HOME LOAN MORTGAGE CORPORATION.**—

26 USC 172.

(1) **IN GENERAL.**—Subparagraph (H) of section 172(b)(1) (relating to years to which net operating losses may be carried) is amended—

(A) by inserting “, or a net operating loss of the Federal Home Loan Mortgage Corporation for any taxable year beginning after December 31, 1984” after “1981”,

(B) by striking out “the FNMA mortgage disposition loss (within the meaning of subsection (i))” in clause (i) and inserting in lieu thereof “the mortgage disposition loss (within the meaning of subsection (i))”, and

(C) by striking out “FNMA mortgage disposition loss” in clause (ii) and inserting in lieu thereof “mortgage disposition loss”.

(2) **CONFORMING AMENDMENT.**—Subsection (i) of section 172 is amended—

(A) by striking out “FNMA mortgage disposition loss” each place it appears in paragraphs (1) and (2) (including in

headings) and inserting in lieu thereof “mortgage disposition loss”, and

(B) by striking out “FNMA MORTGAGE DISPOSITION LOSS” in the subsection heading and inserting in lieu thereof “MORTGAGE DISPOSITION LOSS OF THE FEDERAL NATIONAL MORTGAGE ASSOCIATION OR THE FEDERAL HOME LOAN MORTGAGE CORPORATION”.

(d) EFFECTIVE DATES.—

26 USC 172 note.

(1) IN GENERAL.—The amendments made by this section shall take effect on January 1, 1985.

(2) ADJUSTED BASIS OF ASSETS.—

(A) IN GENERAL.—Except as otherwise provided in subparagraph (B), the adjusted basis of any asset of the Federal Home Loan Mortgage Corporation held on January 1, 1985, shall—

(i) for purposes of determining any loss, be equal to the lesser of the adjusted basis of such asset or the fair market value of such asset as of such date, and

(ii) for purposes of determining any gain, be equal to the higher of the adjusted basis of such asset or the fair market value of such asset as of such date.

(B) SPECIAL RULE FOR TANGIBLE DEPRECIABLE PROPERTY.—In the case of any tangible property which—

(i) is of a character subject to the allowance for depreciation provided by section 167 of the Internal Revenue Code of 1954, and

(ii) is held by the Federal Home Loan Mortgage Corporation on January 1, 1985, the adjusted basis of such property shall be equal to the lesser of the basis of such property or the fair market value of such property as of such date.

(3) TREATMENT OF PARTICIPATION CERTIFICATES.—

(A) IN GENERAL.—Paragraph (2) shall not apply to any right to receive income with respect to any mortgage pool participation certificate or other similar interest in any mortgage (not including any mortgage).

(B) TREATMENT OF CERTAIN SALES AFTER MARCH 15, 1984, AND BEFORE JANUARY 1, 1985.—If any gain is realized on the sale or exchange of any right described in subparagraph (A) after March 15, 1984, and before January 1, 1985, the gain shall not be recognized when realized but shall be recognized on January 1, 1985.

(4) NO ACCUMULATED EARNINGS AND PROFITS ON JANUARY 1, 1985.—For purposes of the Internal Revenue Code of 1954, the accumulated profits of the Federal Home Loan Mortgage Corporation as of January 1, 1985, shall be treated as zero.

26 USC 1 *et seq.*

(5) ADJUSTED BASIS.—For purposes of this subsection, the adjusted basis of any asset shall be determined under part II of subchapter O of the Internal Revenue Code of 1954.

(6) NO CARRYBACKS FOR YEARS BEFORE 1985.—No net operating loss, capital loss, or excess credit of the Federal Home Loan Mortgage Corporation for any taxable year beginning after December 31, 1984, shall be allowed as a carryback to any taxable year beginning before January 1, 1985.

(7) NO DEDUCTION ALLOWED FOR INTEREST ON REPLACEMENT OBLIGATIONS.—

(A) **IN GENERAL.**—The Federal Home Loan Mortgage Corporation shall not be allowed any deduction for interest accruing after December 31, 1984, on any replacement obligation.

(B) **REPLACEMENT OBLIGATION DEFINED.**—For purposes of subparagraph (A), the term “replacement obligation” means any obligation to any person created after March 15, 1984, which the Secretary of the Treasury or his delegate determines replaces any equity or debt interest of a Federal Home Loan Bank or any other person in the Federal Home Loan Mortgage Corporation existing on such date. The preceding sentence shall not apply to any obligation with respect to which the Federal Home Loan Mortgage Corporation establishes that there is no tax avoidance effect.

SEC. 178. SPECIAL RULE RELATING TO SALES OR EXCHANGES OF CERTAIN ECONOMIC INTERESTS IN COAL BETWEEN RELATED PARTIES.

26 USC 631.

(a) **IN GENERAL.**—The last sentence of section 631(c) (relating to disposal of coal or domestic iron ore with a retained economic interest) is amended by inserting “or coal” after “iron ore” each place it appears.

26 USC 631 note.

(b) **EFFECTIVE DATES.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to dispositions after September 30, 1985.

(2) **SPECIAL RULE FOR FIXED CONTRACTS.**—

(A) **IN GENERAL.**—The amendment made by subsection (a) shall not apply to any disposition of an interest in coal by a person to a related person if such coal is subsequently sold before January 1, 1990, by either such person—

(i) to a person who is not a related person with respect to either such person, and

(ii) pursuant to a qualified fixed contract.

(B) **ALLOCATION WHERE MORE THAN 1 CONTRACT.**—If, for any taxable year, there is a disposition described in subparagraph (A) which is not specifically allocable to a qualified fixed contract or to a contract which is not a qualified fixed contract, such disposition shall be treated as first allocable to the qualified fixed contract.

(C) **QUALIFIED FIXED CONTRACT DEFINED.**—The term “qualified fixed contract” means any contract for the sale of coal which—

(i) was entered into before June 12, 1984,

(ii) is binding at all times thereafter, and

(iii) cannot be adjusted to reflect to any extent the increase in liabilities of the person disposing of the coal for tax under chapter 1 of the Internal Revenue Code of 1954 by reason of the amendment made by subsection (a).

26 USC 1 *et seq.*

(D) **RELATED PERSON.**—For purposes of this paragraph, the term “related person” means a person who bears a relationship to another person described in the last sentence of section 631(c).

SEC. 179. LIMITATION ON AMOUNT OF DEPRECIATION AND INVESTMENT TAX CREDIT FOR LUXURY AUTOMOBILES; LIMITATION WHERE CERTAIN PROPERTY USED FOR PERSONAL PURPOSES.

(a) **IN GENERAL.**—Part IX of subchapter B of chapter 1 (relating to items not deductible) is amended by adding after section 280E the following new section:

“SEC. 280F. LIMITATION ON INVESTMENT TAX CREDIT AND DEPRECIATION FOR LUXURY AUTOMOBILES; LIMITATION WHERE CERTAIN PROPERTY USED FOR PERSONAL PURPOSES.

26 USC 280F.

“(a) LIMITATION ON AMOUNT OF INVESTMENT TAX CREDIT AND DEPRECIATION FOR LUXURY AUTOMOBILES.—

“(1) INVESTMENT TAX CREDIT.—The amount of the credit determined under section 46(a) for any passenger automobile shall not exceed \$1,000.

Post, p. 834.

“(2) DEPRECIATION.—

“(A) LIMITATION.—The amount of the recovery deduction for any taxable year for any passenger automobile shall not exceed—

“(i) \$4,000 for the first taxable year in the recovery period, and

“(ii) \$6,000 for each succeeding taxable year in the recovery period.

“(B) DISALLOWED DEDUCTIONS ALLOWED FOR YEARS AFTER RECOVERY PERIOD.—

“(i) IN GENERAL.—Except as provided in clause (ii), the unrecovered basis of any passenger automobile shall be treated as an expense for the 1st taxable year after the recovery period. Any excess of the unrecovered basis over the limitation of clause (ii) shall be treated as an expense in the succeeding taxable year.

“(ii) \$6,000 LIMITATION.—The amount treated as an expense under clause (i) for any taxable year shall not exceed \$6,000.

“(iii) PROPERTY MUST BE DEPRECIABLE.—No amount shall be allowable as a deduction by reason of this subparagraph with respect to any property for any taxable year unless a depreciation deduction would be allowable with respect to such property for such taxable year.

“(iv) AMOUNT TREATED AS RECOVERY DEDUCTION.—For purposes of this subtitle, any amount allowable as a deduction by reason of this subparagraph shall be treated as a recovery deduction allowable under section 168.

“(3) COORDINATION WITH REDUCTIONS IN AMOUNT ALLOWABLE BY REASON OF PERSONAL USE, ETC.—This subsection shall be applied before—

“(A) the application of subsection (b), and

“(B) the application of any other reduction in the amount of the credit determined under section 46(a) or any recovery deduction allowable under section 168 by reason of any use not qualifying the property for such credit or recovery deduction.

“(4) SPECIAL RULE WHERE ELECTION OF REDUCED CREDIT IN LIEU OF THE BASIS ADJUSTMENT.—In the case of any election under section 48(q)(4) with respect to any passenger automobile, the

limitation of paragraph (1) applicable to such passenger automobile shall be $\frac{2}{3}$ of the amount which would be so applicable but for this paragraph.

“(b) LIMITATION WHERE BUSINESS USE OF LISTED PROPERTY NOT GREATER THAN 50 PERCENT.—

Post, p. 827.

“(1) **INVESTMENT TAX CREDIT.**—For purposes of this subtitle, any listed property shall not be treated as section 38 property for any taxable year unless such property is predominantly used in a qualified business use for such taxable year.

“(2) **DEPRECIATION.**—If any listed property is not predominantly used in a qualified business use for any taxable year, the deduction allowed under section 168 with respect to such property for such taxable year and any subsequent taxable year shall be determined under the straight line method over the earnings and profits life for such property.

“(3) RECAPTURE.—

“(A) WHERE BUSINESS USE PERCENTAGE DOES NOT EXCEED 50 PERCENT.—If—

“(i) property is predominantly used in a qualified business use in a taxable year in which it is placed in service, and

“(ii) such property is not predominantly used in a qualified business use for any subsequent taxable year, then any excess depreciation shall be included in gross income for the taxable year referred to in clause (ii), and the recovery deduction for the taxable year referred to in clause (ii) and any subsequent taxable years shall be determined under the straight line method over the earnings and profits life.

“(B) EXCESS DEPRECIATION.—For purposes of subparagraph (A), the term ‘excess depreciation’ means the excess (if any) of—

“(i) the amount of the recovery deductions allowable with respect to the property for taxable years before the 1st taxable year in which the property was not predominantly used in a qualified business use, over

“(ii) the amount which would have been so allowable if the property had not been predominantly used in a qualified business use for the taxable year in which it was placed in service.

“(4) DEFINITIONS.—For purposes of this subsection—

“(A) PROPERTY PREDOMINANTLY USED IN QUALIFIED BUSINESS USE.—Property shall be treated as predominantly used in a qualified business use for any taxable year if the business use percentage for such taxable year exceeds 50 percent.

“(B) STRAIGHT LINE METHOD OVER EARNINGS AND PROFITS LIFE.—The amount determined under the straight line method over the earnings and profits life with respect to any property shall be the amount which would be determined with respect to such property under the principles of section 312(k)(3). If the recovery period applicable to any property under section 168 is longer than the recovery period applicable to such property under section 312(k)(3), such longer recovery period shall be used for purposes of the preceding sentence.

“(c) TREATMENT OF LEASES.—

“(1) LESSOR’S CREDITS AND DEDUCTIONS NOT AFFECTED.—This section shall not apply to any listed property leased or held for leasing by any person regularly engaged in the business of leasing such property.

“(2) LESSEE’S DEDUCTIONS REDUCED.—For purposes of determining the amount allowable as a deduction under this chapter for rentals or other payments under a lease for a period of 30 days or more of listed property, only the allowable percentage of such payments shall be taken into account.

“(3) ALLOWABLE PERCENTAGE.—For purposes of paragraph (2), the allowable percentage shall be determined under tables prescribed by the Secretary. Such tables shall be prescribed so that the reduction in the deduction under paragraph (2) is substantially equivalent to the applicable restrictions contained in subsections (a) and (b).

“(4) LEASE TERM.—In determining the term of any lease for purposes of paragraph (2), the rules of section 168(j)(6)(B) shall apply.

Ante, p. 509.

“(5) LESSEE RECAPTURE.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (b)(3) shall apply to any lessee to which paragraph (2) applies.

“(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) COORDINATION WITH SECTION 179.—Any deduction allowable under section 179 with respect to any listed property shall be subject to the limitations of subsections (a) and (b) in the same manner as if it were a recovery deduction allowable under section 168.

“(2) SUBSEQUENT DEPRECIATION DEDUCTIONS REDUCED FOR DEDUCTIONS ALLOCABLE TO PERSONAL USE.—Solely for purposes of determining the amount of the recovery deduction for subsequent taxable years, if less than 100 percent of the use of any listed property during any taxable year is not use described in section 168(c)(1) (defining recovery property), all of the use of such property during such taxable year shall be treated as use so described.

“(3) DEDUCTIONS OF EMPLOYEE.—

“(A) IN GENERAL.—Any employee use of listed property shall not be treated as use in a trade or business for purposes of determining the amount of any credit allowable under section 38 to the employee or the amount of any recovery deduction allowable to the employee unless such use is for the convenience of the employer and required as a condition of employment.

Post, p. 827.

“(B) EMPLOYEE USE.—For purposes of subparagraph (A), the term ‘employee use’ means any use in connection with the performance of services as an employee.

“(4) LISTED PROPERTY.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the term ‘listed property’ means—

“(i) any passenger automobile,

“(ii) any other property used as a means of transportation,

“(iii) any property of a type generally used for purposes of entertainment, recreation, or amusement,

“(iv) any computer or peripheral equipment (as defined in section 168(j)(5)(D)), and

Ante, p. 509.

“(v) any other property of a type specified by the Secretary by regulations.

“(B) EXCEPTION FOR CERTAIN COMPUTERS.—The term ‘listed property’ shall not include any computer or peripheral equipment (as so defined) used exclusively at a regular business establishment. For purposes of the preceding sentence, any portion of a dwelling unit shall be treated as a regular business establishment if (and only if) the requirements of section 280A(c)(1) are met with respect to such portion.

“(5) PASSENGER AUTOMOBILE.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the term ‘passenger automobile’ means any 4-wheeled vehicle—

“(i) which is manufactured primarily for use on public streets, roads, and highways, and

“(ii) which is rated at 6,000 pounds gross vehicle weight or less.

“(B) EXCEPTION FOR CERTAIN VEHICLES.—The term ‘passenger automobile’ shall not include—

“(i) any ambulance, hearse, or combination ambulance-hearse used by the taxpayer directly in a trade or business,

“(ii) any vehicle used by the taxpayer directly in the trade or business of transporting persons or property for compensation or hire, and

“(iii) under regulations, any truck or van.

“(6) BUSINESS USE PERCENTAGE.—

“(A) IN GENERAL.—The term ‘business use percentage’ means the percentage of the use of any listed property during any taxable year which is a qualified business use.

“(B) QUALIFIED BUSINESS USE.—Except as provided in subparagraph (C), the term ‘qualified business use’ means any use in a trade or business of the taxpayer.

“(C) EXCEPTION FOR CERTAIN USE BY 5-PERCENT OWNERS AND RELATED PERSONS.—

“(i) IN GENERAL.—The term ‘qualified business use’ shall not include—

“(I) leasing property to any 5-percent owner or related person,

“(II) use of property provided as compensation for the performance of services by a 5-percent owner or related person, or

“(III) use of property provided as compensation for the performance of services by any person not described in subclause (II) unless an amount is included in the gross income of such person with respect to such use, and, where required, there was withholding under chapter 24.

“(ii) SPECIAL RULE FOR AIRCRAFT.—Clause (i) shall not apply with respect to any aircraft if at least 25 percent of the total use of the aircraft during the taxable year consists of qualified business use not described in clause (i).

“(D) DEFINITIONS.—For purposes of this paragraph—

“(i) 5-PERCENT OWNER.—The term ‘5-percent owner’ means any person who is a 5-percent owner with re-

spect to the taxpayer (as defined in section 416(i)(1)(B)(i)).

“(ii) RELATED PERSON.—The term ‘related person’ means any person related to the taxpayer (within the meaning of section 267(b)).

“(7) AUTOMOBILE PRICE INFLATION ADJUSTMENT.—

“(A) IN GENERAL.—In the case of any passenger automobile, subsection (a) shall be applied by increasing each dollar amount contained in such subsection by the automobile price inflation adjustment for the calendar year in which such automobile is placed in service. Any increase under the preceding sentence shall be rounded to the nearest multiple of \$100 (or if the increase is a multiple of \$50, such increase shall be increased to the next higher multiple of \$100).

“(B) AUTOMOBILE PRICE INFLATION ADJUSTMENT.—For purposes of this paragraph—

“(i) IN GENERAL.—The automobile price inflation adjustment for any calendar year is the percentage (if any) by which—

“(I) the CPI automobile component for October of the preceding calendar year, exceeds

“(II) the CPI automobile component for October of 1983.

In the case of calendar year 1984, the automobile price inflation adjustment shall be zero.

“(ii) CPI AUTOMOBILE COMPONENT.—The term ‘CPI automobile component’ means the automobile component of the Consumer Price Index for All Urban Consumers published by the Department of Labor.

“(8) UNRECOVERED BASIS.—For purposes of subsection (a)(2), the term ‘unrecovered basis’ means the excess (if any) of—

“(A) the unadjusted basis (as defined in section 168(d)(1)(A)) of the passenger automobile, over

“(B) the amount of the recovery deductions which would have been allowable for taxable years in the recovery period determined after the application of subsection (a) and as if all use during the recovery period were use described in section 168(c)(1).

“(9) ALL TAXPAYERS HOLDING INTERESTS IN PASSENGER AUTOMOBILE TREATED AS 1 TAXPAYER.—All taxpayers holding interests in any passenger automobile shall be treated as 1 taxpayer for purposes of applying subsection (a) to such automobile, and the limitations of subsection (a) shall be allocated among such taxpayers in proportion to their interests in such automobile.

“(10) SPECIAL RULE FOR PROPERTY ACQUIRED IN NONRECOGNITION TRANSACTIONS.—For purposes of subsection (a)(2), notwithstanding any regulations prescribed under section 168(f)(7), any property acquired in a nonrecognition transaction shall be treated as a single property originally placed in service in the taxable year in which it was placed in service after being so acquired.

“(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations with respect to items properly included in, or excluded from, the adjusted basis of any listed property.”

(b) COMPLIANCE PROVISIONS.—

26 USC 274.

(1) **AMENDMENT OF SECTION 274 (d).**—Subsection (d) of section 274 (relating to substantiation requirements) is amended—

(A) by striking out “No deduction” and inserting in lieu thereof “No deduction or credit”,

(B) by striking out “or” at the end of paragraph (2), by inserting “or” at the end of paragraph (3), and by inserting after paragraph (3) the following new paragraph:

“(4) with respect to any listed property (as defined in section 280F(d)(4)),”

(C) by striking out “adequate records or by sufficient evidence corroborating his own statement” and inserting in lieu thereof “adequate contemporaneous records”, and

(D) by striking out “the facility” each place it appears following paragraph (4) (as added by subparagraph (B)) and inserting in lieu thereof “the facility or property”.

26 USC 6695.

(2) **DUTIES OF RETURN PREPARERS.**—Subsection (b) of section 6695 (relating to failure to sign return) is amended to read as follows:

“(b) **FAILURE TO INFORM TAXPAYER OF CERTAIN RECORDKEEPING REQUIREMENTS OR TO SIGN RETURN.**—Any person who is an income tax return preparer with respect to any return or claim for refund and who is required by regulations to sign such return or claim—

“(1) shall advise the taxpayer of the substantiation requirements of section 274(d) and obtain written confirmation from the taxpayer that such requirements were met with respect to any deduction or credit claimed on such return or claim for refund, and

“(2) shall sign such return or claim for refund.

Any person who fails to comply with the requirements of the preceding sentence with respect to any return or claim shall pay a penalty of \$25 for such failure, unless it is shown that such failure is due to reasonable cause and not to willful neglect.”

26 USC 6653.

(3) **UNDERPAYMENT ATTRIBUTABLE TO FAILURE TO MEET SUBSTANTIATION REQUIREMENTS TREATED AS DUE TO NEGLIGENCE.**—

Section 6653 (relating to failure to pay tax) is amended by adding at the end thereof the following new subsection:

“(h) **SPECIAL RULE IN THE CASE OF UNDERPAYMENT ATTRIBUTABLE TO FAILURE TO MEET CERTAIN SUBSTANTIATION REQUIREMENTS.**—

“(1) **IN GENERAL.**—Any portion of an underpayment attributable to a failure to comply with the requirements of section 274(d) shall be treated, for purposes of subsection (a), as due to negligence in the absence of clear and convincing evidence to the contrary.

“(2) **PENALTY TO APPLY ONLY TO PORTION OF UNDERPAYMENT DUE TO FAILURE TO MEET SUBSTANTIATION REQUIREMENTS.**—If any penalty is imposed under subsection (a) by reason of paragraph (1), the amount of the penalty imposed by paragraph (1) of subsection (a) shall be 5 percent of the portion of the underpayment which is attributable to the failure described in paragraph (1).”

(c) **CLERICAL AMENDMENT.**—The table of sections for part IX of subchapter B of chapter 1 is amended by adding after the item relating to section 280E the following new item:

“Sec. 280F. Limitation on investment tax credit and depreciation for luxury automobiles; limitation where certain property used for personal purposes.”

(d) EFFECTIVE DATES.—**(1) IN GENERAL.—**26 USC 280F
note.

(A) Except as provided in subparagraph (B), the amendments made by subsections (a) and (c) shall apply to—

(i) property placed in service after June 18, 1984, in taxable years ending after such date, and

(ii) property leased after June 18, 1984, in taxable years ending after such date.

(B) The amendments made by subsections (a) and (c) shall not apply to any property—

(i) acquired by the taxpayer pursuant to a binding contract in effect on June 18, 1984, and at all times thereafter (or under construction on such date) but only if the property is placed in service before January 1, 1985 (January 1, 1987, in the case of 15-year real property), or

(ii) of which the taxpayer is the lessee but only if the lease is pursuant to a binding contract in effect on June 18, 1984, and at all times thereafter and only if the taxpayer first uses such property under the lease before January 1, 1985 (January 1, 1987, in the case of 15-year real property).

For purposes of the preceding sentence, the term “15-year real property” includes 18-year real property.

(2) **COMPLIANCE PROVISIONS.**—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 1984.

TITLE II—LIFE INSURANCE PROVISIONS

SEC. 201. TABLE OF SECTIONS FOR PART I OF SUBCHAPTER L.

Under the amendment to part I of subchapter L made by section 211(a), the subparts and sections of such part I will be as follows:

PART I—LIFE INSURANCE COMPANIES

SUBPART A—TAX IMPOSED

Sec. 801. Tax imposed.

SUBPART B—LIFE INSURANCE GROSS INCOME

Sec. 803. Life insurance gross income.

SUBPART C—LIFE INSURANCE DEDUCTIONS

Sec. 804. Life insurance deductions.

Sec. 805. General deductions.

Sec. 806. Special deductions.

Sec. 807. Rules for certain reserves.

Sec. 808. Policyholder dividends deduction.

Sec. 809. Reduction in certain deductions of mutual life insurance companies.

Sec. 810. Operations loss deduction.

SUBPART D—ACCOUNTING, ALLOCATION, AND FOREIGN PROVISIONS

Sec. 811. Accounting provisions.

Sec. 812. Definition of company's share and policyholders' share.

Sec. 813. Foreign life insurance companies.

Sec. 814. Contiguous country branches of domestic life insurance companies.

Sec. 815. Distributions to shareholders from pre-1984 policyholders surplus account.

SUBPART E—DEFINITIONS AND SPECIAL RULES

Sec. 816. Life insurance company defined.

Sec. 817. Treatment of variable contracts.
 Sec. 818. Other definitions and special rules.

Subtitle A—Taxation of Life Insurance Companies

PART I—AMENDMENT OF SUBCHAPTER L

SEC. 211. AMENDMENT OF SUBCHAPTER L.

(a) GENERAL RULE.—Part I of subchapter L of chapter 1 is amended to read as follows:

“PART I—LIFE INSURANCE COMPANIES

“Subpart A. Tax imposed.
 “Subpart B. Life insurance gross income.
 “Subpart C. Life insurance deductions.
 “Subpart D. Accounting, allocation, and foreign provisions.
 “Subpart E. Definitions and special rules.

“Subpart A—Tax Imposed

“Sec. 801. Tax imposed.

26 USC 801.

“SEC. 801. TAX IMPOSED.

“(a) TAX IMPOSED.—

“(1) IN GENERAL.—A tax is hereby imposed for each taxable year on the life insurance company taxable income of every life insurance company. Such tax shall consist of a tax computed as provided in section 11 as though the life insurance company taxable income were the taxable income referred to in section 11.

“(2) ALTERNATIVE TAX IN CASE OF CAPITAL GAINS.—

“(A) IN GENERAL.—If a life insurance company has a net capital gain for the taxable year, then (in lieu of the tax imposed by paragraph (1)), there is hereby imposed a tax (if such tax is less than the tax imposed by paragraph (1)).

“(B) AMOUNT OF TAX.—The amount of the tax imposed by this paragraph shall be the sum of—

“(i) a partial tax, computed as provided by paragraph (1), on the life insurance company taxable income reduced by the amount of the net capital gain, and

“(ii) an amount determined as provided in section 1201(a) on such net capital gain.

“(C) NET CAPITAL GAIN NOT TAKEN INTO ACCOUNT IN DETERMINING SPECIAL LIFE INSURANCE COMPANY DEDUCTION AND SMALL LIFE INSURANCE COMPANY DEDUCTION.—For purposes of subparagraph (B)(i), the amounts allowable as deductions under paragraphs (2) and (3) of section 804 shall be determined by reducing the tentative LICTI by the amount of the net capital gain (determined without regard to items attributable to noninsurance businesses).

“(b) LIFE INSURANCE COMPANY TAXABLE INCOME.—For purposes of this part, the term ‘life insurance company taxable income’ means—

“(1) life insurance gross income, reduced by
 “(2) life insurance deductions.

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“(c) TAXATION OF DISTRIBUTIONS FROM PRE-1984 POLICYHOLDERS SURPLUS ACCOUNT.—

“For provision taxing distributions to shareholders from pre-1984 policyholders surplus account, see section 815.

Post, p. 747.

“Subpart B—Life Insurance Gross Income

“Sec. 803. Life insurance gross income.

“SEC. 803. LIFE INSURANCE GROSS INCOME.

26 USC 803.

“(a) IN GENERAL.—For purposes of this part, the term ‘life insurance gross income’ means the sum of the following amounts:

“(1) PREMIUMS.—

“(A) The gross amount of premiums and other consideration on insurance and annuity contracts, less

“(B) return premiums, and premiums and other consideration arising out of indemnity reinsurance.

“(2) DECREASES IN CERTAIN RESERVES.—Each net decrease in reserves which is required by section 807(a) to be taken into account under this paragraph.

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“(3) OTHER AMOUNTS.—All amounts not includible under paragraph (1) or (2) which under this subtitle are includible in gross income.

“(b) SPECIAL RULES FOR PREMIUMS.—

“(1) CERTAIN ITEMS INCLUDED.—For purposes of subsection (a)(1)(A), the term ‘gross amount of premiums and other consideration’ includes—

“(A) advance premiums,

“(B) deposits,

“(C) fees,

“(D) assessments,

“(E) consideration in respect of assuming liabilities under contracts not issued by the taxpayer, and

“(F) the amount of policyholder dividends reimbursable to the taxpayer by a reinsurer in respect of reinsured policies,

on insurance and annuity contracts.

“(2) POLICYHOLDER DIVIDENDS EXCLUDED FROM RETURN PREMIUMS.—For purposes of subsection (a)(1)(B)—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the term ‘return premiums’ does not include any policyholder dividends.

“(B) EXCEPTION FOR INDEMNITY REINSURANCE.—Subparagraph (A) shall not apply to amounts of premiums or other consideration returned to another life insurance company in respect of indemnity reinsurance.

“Subpart C—Life Insurance Deductions

“Sec. 804. Life insurance deductions.

“Sec. 805. General deductions.

“Sec. 806. Special deductions.

“Sec. 807. Rules for certain reserves.

“Sec. 808. Policyholder dividends deduction.

“Sec. 809. Reduction in certain deductions of mutual life insurance companies.

“Sec. 810. Operations loss deduction.

26 USC 804.

"SEC. 804. LIFE INSURANCE DEDUCTIONS.

"For purposes of this part, the term 'life insurance deductions' means—

Post, p. 724.

- "(1) the general deductions provided in section 805,
- "(2) the special life insurance company deduction determined under section 806(a), and
- "(3) the small life insurance company deduction (if any) determined under section 806(b).

26 USC 805.

"SEC. 805. GENERAL DEDUCTIONS.

"(a) **GENERAL RULE.**—For purposes of this part, there shall be allowed the following deductions:

Post, p. 726.

"(1) **DEATH BENEFITS, ETC.**—All claims and benefits accrued, and all losses incurred (whether or not ascertained), during the taxable year on insurance and annuity contracts.

"(2) **INCREASES IN CERTAIN RESERVES.**—The net increase in reserves which is required by section 807(b) to be taken into account under this paragraph.

Post, p. 732.

"(3) **POLICYHOLDER DIVIDENDS.**—The deduction for policyholder dividends (determined under section 808(c)).

"(4) **DIVIDENDS RECEIVED BY COMPANY.**—

"(A) **IN GENERAL.**—The deductions provided by sections 243, 244, and 245 (as modified by subparagraph (B))—

"(i) for 100 percent dividends received, and

"(ii) for the life insurance company's share of the dividends (other than 100 percent dividends) received.

"(B) **APPLICATION OF SECTION 246 (b).**—In applying section 246(b) (relating to limitation on aggregate amount of deductions for dividends received) for purposes of subparagraph (A), the limit on the aggregate amount of the deductions allowed by sections 243(a)(1), 244(a), and 245 shall be 85 percent of the life insurance company taxable income, computed without regard to—

"(i) the special life insurance company deduction and the small life insurance company deduction,

"(ii) the operations loss deduction provided by section 810,

"(iii) the deductions allowed by sections 243(a)(1), 244(a), and 245, and

"(iv) any capital loss carryback to the taxable year under section 1212(a)(1),

but such limit shall not apply for any taxable year for which there is a loss from operations.

"(C) **100 PERCENT DIVIDEND.**—For purposes of subparagraph (A), the term '100 percent dividend' means any dividend if the percentage used for purposes of determining the deduction allowable under section 243 or 244 is 100 percent. Such term does not include any dividend to the extent it is a distribution out of tax-exempt interest or out of dividends which are not 100 percent dividends (determined with the application of this sentence).

"(D) **CERTAIN DIVIDENDS RECEIVED BY FOREIGN CORPORATIONS.**—Subparagraph (A)(i) (and not subparagraph (A)(ii)) shall apply to any dividend received by a foreign corporation from a domestic corporation which would be a 100 percent dividend if section 1504(b)(3) did not apply for purposes of applying section 243(b)(5).

“(5) **OPERATIONS LOSS DEDUCTION.**—The operations loss deduction (determined under section 810).

Post, p. 738.

“(6) **ASSUMPTION BY ANOTHER PERSON OF LIABILITIES UNDER INSURANCE, ETC., CONTRACTS.**—The consideration (other than consideration arising out of indemnity reinsurance) in respect of the assumption by another person of liabilities under insurance and annuity contracts.

“(7) **REIMBURSABLE DIVIDENDS.**—The amount of policyholder dividends which—

“(A) are paid or accrued by another insurance company in respect of policies the taxpayer has reinsured, and

“(B) are reimbursable by the taxpayer under the terms of the reinsurance contract.

“(8) **OTHER DEDUCTIONS.**—Subject to the modifications provided by subsection (b), all other deductions allowed under this subtitle for purposes of computing taxable income.

Except as provided in paragraph (3), no amount shall be allowed as a deduction under this part in respect of policyholder dividends.

“(b) **MODIFICATIONS.**—The modifications referred to in subsection (a)(8) are as follows:

“(1) **INTEREST.**—In applying section 163 (relating to deduction for interest), no deduction shall be allowed for interest in respect of items described in section 807(c).

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“(2) **BAD DEBTS.**—Section 166(c) (relating to reserve for bad debts) shall not apply.

“(3) **CHARITABLE, ETC., CONTRIBUTIONS AND GIFTS.**—In applying section 170—

“(A) the limit on the total deductions under such section provided by section 170(b)(2) shall be 10 percent of the life insurance company taxable income computed without regard to—

“(i) the deduction provided by section 170,

“(ii) the deductions provided by paragraphs (3) and (4) of subsection (a),

“(iii) the special life insurance company deduction and the small life insurance company deduction,

“(iv) any operations loss carryback to the taxable year under section 810, and

“(v) any capital loss carryback to the taxable year under section 1212(a)(1), and

“(B) under regulations prescribed by the Secretary, a rule similar to the rule contained in section 170(d)(2)(B) (relating to special rule for net operating loss carryovers) shall be applied.

“(4) **AMORTIZABLE BOND PREMIUM.**—

“(A) **IN GENERAL.**—Section 171 shall not apply.

“(B) **CROSS REFERENCE.**—

“For rules relating to amortizable bond premium, see section 811(b).

Post, p. 740.

“(5) **NET OPERATING LOSS DEDUCTION.**—Except as provided by section 844, the deduction for net operating losses provided in section 172 shall not be allowed.

“(6) **DIVIDENDS RECEIVED DEDUCTION.**—Except as provided in subsection (a)(4), the deductions for dividends received provided by sections 243, 244, and 245 shall not be allowed.

26 USC 806.

"SEC. 806. SPECIAL DEDUCTIONS.*Ante*, p. 722.

"(a) SPECIAL LIFE INSURANCE COMPANY DEDUCTION.—For purposes of section 804, the special life insurance company deduction for any taxable year is 20 percent of the excess of the tentative LICTI for such taxable year over the small life insurance company deduction (if any).

"(b) SMALL LIFE INSURANCE COMPANY DEDUCTION.—

"(1) IN GENERAL.—For purposes of section 804, the small life insurance company deduction for any taxable year is 60 percent of so much of the tentative LICTI for such taxable year as does not exceed \$3,000,000.

"(2) PHASEOUT BETWEEN \$3,000,000 AND \$15,000,000.—The amount of the small life insurance company deduction determined under paragraph (1) for any taxable year shall be reduced (but not below zero) by 15 percent of so much of the tentative LICTI for such taxable year as exceeds \$3,000,000.

"(3) SMALL LIFE INSURANCE COMPANY DEDUCTION NOT ALLOWABLE TO COMPANY WITH ASSETS OF \$500,000,000 OR MORE.—

"(A) IN GENERAL.—The small life insurance company deduction shall not be allowed for any taxable year to any life insurance company which, at the close of such taxable year, has assets equal to or greater than \$500,000,000.

"(B) ASSETS.—For purposes of this paragraph, the term 'assets' means all assets of the company.

"(C) VALUATION OF ASSETS.—For purposes of this paragraph, the amount attributable to—

"(i) real property and stock shall be the fair market value thereof, and

"(ii) any other asset shall be the adjusted basis of such asset for purposes of determining gain on sale or other disposition.

"(D) SPECIAL RULE FOR INTERESTS IN PARTNERSHIPS AND TRUSTS.—For purposes of this paragraph—

"(i) an interest in a partnership or trust shall not be treated as an asset of the company, but

"(ii) the company shall be treated as actually owning its proportionate share of the assets held by the partnership or trust (as the case may be).

"(c) TENTATIVE LICTI.—For purposes of this part—

"(1) IN GENERAL.—The term 'tentative LICTI' means life insurance company taxable income determined without regard to—

"(A) the special life insurance company deduction, and

"(B) the small life insurance company deduction.

"(2) EXCLUSION OF ITEMS ATTRIBUTABLE TO NONINSURANCE BUSINESSES.—The amount of the tentative LICTI for any taxable year shall be determined without regard to all items attributable to noninsurance businesses.

"(3) NONINSURANCE BUSINESS.—

"(A) IN GENERAL.—The term 'noninsurance business' means any activity which is not an insurance business.

"(B) CERTAIN ACTIVITIES TREATED AS INSURANCE BUSINESSES.—For purposes of subparagraph (A), any activity which is not an insurance business shall be treated as an insurance business if—

“(i) it is of a type traditionally carried on by life insurance companies for investment purposes, but only if the carrying on of such activity (other than in the case of real estate) does not constitute the active conduct of a trade or business, or

“(ii) it involves the performance of administrative services in connection with plans providing life insurance, pension, or accident and health benefits.

“(C) LIMITATION ON AMOUNT OF LOSS FROM NONINSURANCE BUSINESS WHICH MAY OFFSET INCOME FROM INSURANCE BUSINESS.—In computing the life insurance company taxable income of any life insurance company, any loss from a noninsurance business shall be limited under the principles of section 1503(c).

“(d) SPECIAL RULE FOR CONTROLLED GROUPS.—

“(1) SPECIAL LIFE INSURANCE COMPANY DEDUCTION AND SMALL LIFE INSURANCE COMPANY DEDUCTION DETERMINED ON CONTROLLED GROUP BASIS.—For purposes of subsections (a) and (b)—

“(A) all life insurance companies which are members of the same controlled group shall be treated as 1 life insurance company, and

“(B) any special life insurance company deduction and any small life insurance company deduction determined with respect to such group shall be allocated among the life insurance companies which are members of such group in proportion to their respective tentative LICTI's.

“(2) NONLIFE INSURANCE MEMBERS INCLUDED FOR ASSET TEST.—For purposes of subsection (b)(3), all members of the same controlled group (whether or not life insurance companies) shall be treated as 1 company.

“(3) CONTROLLED GROUP.—For purposes of this subsection, the term ‘controlled group’ means any controlled group of corporations (as defined in section 1563(a)); except that subsections (a)(4) and (b)(2)(D) of section 1563 shall not apply.

“(4) ELECTION WITH RESPECT TO LOSS FROM OPERATIONS OF MEMBER OF GROUP.—

“(A) IN GENERAL.—Any life insurance company which is a member of a controlled group may elect to have its loss from operations for any taxable year not taken into account for purposes of determining the amount of the special life insurance company deduction for the life insurance companies which are members of such group and which do not file a consolidated return with such life insurance company for the taxable year.

“(B) LIMITATION ON AMOUNT OF LOSS WHICH MAY OFFSET NONLIFE INCOME.—In the case of that portion of any loss from operations for any taxable year of a life insurance company which (but for subparagraph (A)) would have reduced tentative LICTI of other life insurance companies for such taxable year—

“(i) only 80 percent of such portion may be used to offset nonlife income, and

“(ii) to the extent such portion is used to offset nonlife income, the loss shall be treated as used at a rate of \$1 for each 80 cents of income so offset.

For purposes of the preceding sentence, any such portion shall be used before the remaining portion of the loss from

the same year and shall be treated as first being offset against income which is not nonlife income.

“(C) NONLIFE INCOME.—

“(i) IN GENERAL.—The term ‘nonlife income’ means the portion of the life insurance company’s taxable income for which the special life insurance company deduction was not allowable and any income of a corporation not subject to tax under this part.

“(ii) SPECIAL RULE FOR TAXABLE YEARS BEGINNING BEFORE JANUARY 1, 1984.—In the case of a taxable year beginning before January 1, 1984, all life insurance company taxable income shall be treated as nonlife income.

“(5) ADJUSTMENTS TO PREVENT EXCESS DETRIMENT OR BENEFIT.—Under regulations prescribed by the Secretary, proper adjustments shall be made in the application of this subsection to prevent any excess detriment or benefit (whether from year-to-year or otherwise) arising from the application of this subsection.

26 USC 807.

“SEC. 807. RULES FOR CERTAIN RESERVES.

“(a) DECREASE TREATED AS GROSS INCOME.—If for any taxable year—

“(1) the opening balance for the items described in subsection (c), exceeds

“(2)(A) the closing balance for such items, reduced by

“(B) the sum of (i) the amount of the policyholders’ share of tax-exempt interest, plus (ii) any excess described in section 809(a)(2) for the taxable year,

such excess shall be included in gross income under section 803(a)(2).

“(b) INCREASE TREATED AS DEDUCTION.—If for any taxable year—

“(1)(A) the closing balance for the items described in subsection (c), reduced by

“(B) the sum of (i) the amount of the policyholders’ share of tax-exempt interest, plus (ii) any excess described in section 809(a)(2) for the taxable year, exceeds

“(2) the opening balance for such items,

such excess shall be taken into account as a deduction under section 805(a)(2).

“(c) ITEMS TAKEN INTO ACCOUNT.—The items referred to in subsections (a) and (b) are as follows:

“(1) The life insurance reserves (as defined in section 816(b)).

“(2) The unearned premiums and unpaid losses included in total reserves under section 816(c)(2).

“(3) The amounts (discounted at the appropriate rate of interest) necessary to satisfy the obligations under insurance and annuity contracts, but only if such obligations do not involve (at the time with respect to which the computation is made under this paragraph) life, accident, or health contingencies.

“(4) Dividend accumulations, and other amounts, held at interest in connection with insurance and annuity contracts.

“(5) Premiums received in advance, and liabilities for premium deposit funds.

“(6) Reasonable special contingency reserves under contracts of group term life insurance or group accident and health insurance which are established and maintained for the provi-

Post, p. 733.

Ante, p. 721.

Ante, p. 722.

Post, p. 748.

sion of insurance on retired lives, for premium stabilization, or for a combination thereof.

For purposes of paragraph (3), the appropriate rate of interest for any obligation is the higher of the prevailing State assumed interest rate as of the time such obligation first did not involve life, accident, or health contingencies or the rate of interest assumed by the company (as of such time) in determining the guaranteed benefit.

“(d) METHOD OF COMPUTING RESERVES FOR PURPOSES OF DETERMINING INCOME.—

“(1) IN GENERAL.—For purposes of this part (other than section 816), the amount of the life insurance reserves for any contract shall be the greater of—

Post, p. 748.

“(A) the net surrender value of such contract, or

“(B) the reserve determined under paragraph (2).

In no event shall the reserve determined under the preceding sentence for any contract as of any time exceed the amount which would be taken into account with respect to such contract as of such time in determining statutory reserves (as defined in section 809(b)(4)(B)).

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“(2) AMOUNT OF RESERVE.—The amount of the reserve determined under this paragraph with respect to any contract shall be determined by using—

“(A) the tax reserve method applicable to such contract,

“(B) the prevailing State assumed interest rate, and

“(C) the prevailing commissioners’ standard tables for mortality and morbidity adjusted as appropriate to reflect the risks (such as substandard risks) incurred under the contract which are not otherwise taken into account.

“(3) TAX RESERVE METHOD.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘tax reserve method’ means—

“(i) LIFE INSURANCE CONTRACTS.—The CRVM in the case of a contract covered by the CRVM.

“(ii) ANNUITY CONTRACTS.—The CARVM in the case of a contract covered by the CARVM.

“(iii) NONCANCELLABLE ACCIDENT AND HEALTH INSURANCE CONTRACTS.—In the case of any noncancellable accident and health insurance contract, a 2-year full preliminary term method.

“(iv) OTHER CONTRACTS.—In the case of any contract not described in clause (i), (ii), or (iii)—

“(I) the reserve method prescribed by the National Association of Insurance Commissioners which covers such contract (as of the date of issuance), or

“(II) if no reserve method has been prescribed by the National Association of Insurance Commissioners which covers such contract, a reserve method which is consistent with the reserve method required under clause (i), (ii), or (iii) or under subclause (I) of this clause as of the date of the issuance of such contract (whichever is most appropriate).

“(B) DEFINITION OF CRVM AND CARVM.—For purposes of this paragraph—

“(i) CRVM.—The term ‘CRVM’ means the Commissioners’ Reserve Valuation Method prescribed by the

National Association of Insurance Commissioners which is in effect on the date of the issuance of the contract.

“(ii) CARVM.—The term ‘CARVM’ means the Commissioners’ Annuities Reserve Valuation Method prescribed by the National Association of Insurance Commissioners which is in effect on the date of the issuance of the contract.

“(C) NO ADDITIONAL RESERVE DEDUCTION ALLOWED FOR DEFICIENCY RESERVES.—Nothing in any reserve method described under this paragraph shall permit any increase in the reserve because the net premium (computed on the basis of assumptions required under this subsection) exceeds the actual premiums or other consideration charged for the benefit.

“(4) PREVAILING STATE ASSUMED INTEREST RATE.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘prevailing State assumed interest rate’ means, with respect to any contract, the highest assumed interest rate permitted to be used in computing life insurance reserves for insurance contracts or annuity contracts (as the case may be) under the insurance laws of at least 26 States. For purposes of the preceding sentence, the effect of the nonforfeiture laws of a State on interest rates for reserves shall not be taken into account.

“(B) WHEN RATE DETERMINED.—Except as provided in subparagraph (C), the prevailing State assumed rate with respect to any contract shall be determined as of the beginning of the calendar year in which the contract was issued.

“(C) ELECTION FOR NONANNUITY CONTRACTS.—In the case of a contract other than an annuity contract, the issuer may elect (at such time and in such manner as the Secretary shall by regulations prescribe) to determine the prevailing State assumed rate as of the beginning of the calendar year preceding the calendar year in which the contract was issued.

“(D) RATE FOR NONCANCELLABLE ACCIDENT AND HEALTH INSURANCE CONTRACTS.—If there is no prevailing State assumed interest rate applicable under subparagraph (A) to any noncancellable accident and health insurance contract when it is issued, the prevailing State assumed interest rate for such contract shall be the prevailing State assumed interest rate which would be determined under subparagraph (A) for a whole life insurance contract issued on the date on which the noncancellable accident and health insurance contract is issued.

“(5) PREVAILING COMMISSIONERS’ STANDARD TABLES.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘prevailing commissioners’ standard tables’ means, with respect to any contract, the most recent commissioners’ standard tables prescribed by the National Association of Insurance Commissioners which are permitted to be used in computing reserves for that type of contract under the insurance laws of at least 26 States when the contract was issued.

“(B) INSURER MAY USE OLD TABLES FOR 3 YEARS WHEN TABLES CHANGE.—If the prevailing commissioners’ standard

tables as of the beginning of any calendar year (hereinafter in this subparagraph referred to as the 'year of change') is different from the prevailing commissioners' standard tables as of the beginning of the preceding calendar year, the issuer may use the prevailing commissioners' standard tables as of the beginning of the preceding calendar year with respect to any contract issued after the change and before the close of the 3-year period beginning on the first day of the year of change.

"(C) SPECIAL RULE FOR CONTRACTS FOR WHICH THERE ARE NO COMMISSIONERS' STANDARD TABLES.—If there are no commissioners' standard tables applicable to any contract when it is issued, the mortality and morbidity tables used for purposes of paragraph (2)(C) shall be determined under regulations prescribed by the Secretary.

"(D) SPECIAL RULE FOR CONTRACTS ISSUED BEFORE 1948.—
If—

"(i) a contract was issued before 1948, and

"(ii) there were no commissioners' standard tables applicable to such contract when it was issued, the mortality and morbidity tables used in computing statutory reserves for such contracts shall be used for purposes of paragraph (2)(C).

"(E) SPECIAL RULE WHERE MORE THAN 1 TABLE OR OPTION APPLICABLE.—If, with respect to any category of risks, there are 2 or more tables (or options under 1 or more tables) which meet the requirements of subparagraph (A) (or, where applicable, subparagraph (B) or (C)), the table (and option thereunder) which generally yields the lowest reserves shall be used for purposes of paragraph (2)(C).

"(e) SPECIAL RULES FOR COMPUTING RESERVES.—

"(1) NET SURRENDER VALUE.—For purposes of this section—

"(A) IN GENERAL.—The net surrender value of any contract shall be determined—

"(i) with regard to any penalty or charge which would be imposed on surrender, but

"(ii) without regard to any market value adjustment on surrender.

"(B) SPECIAL RULE FOR PENSION PLAN CONTRACTS.—In the case of a pension plan contract, the balance in the policyholder's fund shall be treated as the net surrender value of such contract. For purposes of the preceding sentence, such balance shall be determined with regard to any penalty or forfeiture which would be imposed on surrender but without regard to any market value adjustment.

"(2) ISSUANCE DATE IN CASE OF GROUP CONTRACTS.—For purposes of this section, in the case of a group contract, the date on which such contract is issued shall be the date as of which the master plan is issued (or, with respect to a benefit guaranteed to a participant after such date, the date as of which such benefit is guaranteed).

"(3) SUPPLEMENTAL BENEFITS.—

"(A) QUALIFIED SUPPLEMENTAL BENEFITS TREATED SEPARATELY.—For purposes of this part, the amount of the life insurance reserve for any qualified supplemental benefit—

"(i) shall be computed separately as though such benefit were under a separate contract, and

“(ii) shall, except to the extent otherwise provided in regulations, be the reserve taken into account for purposes of the annual statement approved by the National Association of Insurance Commissioners.

“(B) SUPPLEMENTAL BENEFITS WHICH ARE NOT QUALIFIED SUPPLEMENTAL BENEFITS.—In the case of any supplemental benefit described in subparagraph (D) which is not a qualified supplemental benefit, the amount of the reserve determined under paragraph (2) of subsection (d) shall, except to the extent otherwise provided in regulations, be the reserve taken into account for purposes of the annual statement approved by the National Association of Insurance Commissioners.

“(C) QUALIFIED SUPPLEMENTAL BENEFIT.—For purposes of this paragraph, the term ‘qualified supplemental benefit’ means any supplemental benefit described in subparagraph (D) if—

“(i) there is a separately identified premium or charge for such benefit, and

“(ii) any net surrender value under the contract attributable to any other benefit is not available to fund such benefit.

“(D) SUPPLEMENTAL BENEFITS.—For purposes of this paragraph, the supplemental benefits described in this subparagraph are any—

“(i) guaranteed insurability,

“(ii) accidental death or disability benefit,

“(iii) convertibility,

“(iv) disability waiver benefit, or

“(v) other benefit prescribed by regulations,

which is supplemental to a contract for which there is a reserve described in subsection (c).

“(4) CERTAIN CONTRACTS ISSUED BY FOREIGN BRANCHES OF DOMESTIC LIFE INSURANCE COMPANIES.—

“(A) IN GENERAL.—In the case of any qualified foreign contract, the amount of the reserve shall be not less than the minimum reserve required by the laws, regulations, or administrative guidance of the regulatory authority of the foreign country referred to in subparagraph (B) (but not to exceed the net level reserves for such contract).

“(B) QUALIFIED FOREIGN CONTRACT.—For purposes of subparagraph (A), the term ‘qualified foreign contract’ means any contract issued by a foreign life insurance branch (which has its principal place of business in a foreign country) of a domestic life insurance company if—

“(i) such contract is issued on the life or health of a resident of such country,

“(ii) such domestic life insurance company was required by such foreign country (as of the time it began operations in such country) to operate in such country through a branch, and

“(iii) such foreign country is not contiguous to the United States.

“(5) TREATMENT OF SUBSTANDARD RISKS.—

“(A) SEPARATE COMPUTATION.—Except to the extent provided in regulations, the amount of the life insurance reserve for any qualified substandard risk shall be computed

separately under subsection (d)(1) from any other reserve under the contract.

“(B) QUALIFIED SUBSTANDARD RISK.—For purposes of subparagraph (A), the term ‘qualified substandard risk’ means any substandard risk if—

“(i) the insurance company maintains a separate reserve for such risk,

“(ii) there is a separately identified premium or charge for such risk,

“(iii) the amount of the net surrender value under the contract is not increased or decreased by reason of such risk, and

“(iv) the net surrender value under the contract is not regularly used to pay premium charges for such risk.

“(C) LIMITATION ON AMOUNT OF LIFE INSURANCE RESERVE.—The amount of the life insurance reserve determined for any qualified substandard risk shall in no event exceed the sum of the separately identified premiums charged for such risk plus interest less mortality charges for such risk.

“(D) LIMITATION ON AMOUNT OF CONTRACTS TO WHICH PARAGRAPH APPLIES.—The aggregate amount of insurance in force under contracts to which this paragraph applies shall not exceed 10 percent of the insurance in force (other than term insurance) under life insurance contracts of the company.

“(6) SPECIAL RULES FOR CONTRACTS ISSUED BEFORE JANUARY 1, 1989, UNDER EXISTING PLANS OF INSURANCE, WITH TERM INSURANCE OR ANNUITY BENEFITS.—For purposes of this part—

“(A) IN GENERAL.—In the case of a life insurance contract issued before January 1, 1989, under an existing plan of insurance, the life insurance reserve for any benefit to which this paragraph applies shall be computed separately under subsection (d)(1) from any other reserve under the contract.

“(B) BENEFITS TO WHICH THIS PARAGRAPH APPLIES.—This paragraph applies to any term insurance or annuity benefit with respect to which the requirements of clauses (i) and (ii) of paragraph (3)(C) are met.

“(C) EXISTING PLAN OF INSURANCE.—For purposes of this paragraph, the term ‘existing plan of insurance’ means, with respect to any contract, any plan of insurance which was filed by the company using such contract in one or more States before January 1, 1984, and is on file in the appropriate State for such contract.

“(f) ADJUSTMENT FOR CHANGE IN COMPUTING RESERVES.—

“(1) 10-YEAR SPREAD.—

“(A) IN GENERAL.—For purposes of this part, if the basis for determining any item referred to in subsection (c) as of the close of any taxable year differs from the basis for such determination as of the close of the preceding taxable year, then so much of the difference between—

“(i) the amount of the item at the close of the taxable year, computed on the new basis, and

“(ii) the amount of the item at the close of the taxable year, computed on the old basis,

as is attributable to contracts issued before the taxable year shall be taken into account under the method provided in subparagraph (B).

“(B) METHOD.—The method provided in this subparagraph is as follows:

“(i) if the amount determined under subparagraph (A)(i) exceeds the amount determined under subparagraph (A)(ii), $\frac{1}{10}$ of such excess shall be taken into account, for each of the succeeding 10 taxable years, as a deduction under section 805(a)(2); or

Ante, p. 722.

“(ii) if the amount determined under subparagraph (A)(ii) exceeds the amount determined under subparagraph (A)(i), $\frac{1}{10}$ of such excess shall be included in gross income, for each of the 10 succeeding taxable years, under section 803(a)(2).

Ante, p. 721.

“(2) TERMINATION AS LIFE INSURANCE COMPANY.—Except as provided in section 381(c)(22) (relating to carryovers in certain corporate readjustments), if for any taxable year the taxpayer is not a life insurance company, the balance of any adjustments under this subsection shall be taken into account for the preceding taxable year.

26 USC 808.

“SEC. 808. POLICYHOLDER DIVIDENDS DEDUCTION.

“(a) POLICYHOLDER DIVIDEND DEFINED.—For purposes of this part, the term ‘policyholder dividend’ means any dividend or similar distribution to policyholders in their capacity as such.

“(b) CERTAIN AMOUNTS INCLUDED.—For purposes of this part, the term ‘policyholder dividend’ includes—

“(1) any amount paid or credited (including as an increase in benefits) where the amount is not fixed in the contract but depends on the experience of the company or the discretion of the management,

“(2) excess interest,

“(3) premium adjustments, and

“(4) experience-rated refunds.

“(c) AMOUNT OF DEDUCTION.—

“(1) IN GENERAL.—Except as limited by paragraph (2), the deduction for policyholder dividends for any taxable year shall be an amount equal to the policyholder dividends paid or accrued during the taxable year.

“(2) REDUCTION IN CASE OF MUTUAL COMPANIES.—In the case of a mutual life insurance company, the deduction for policyholder dividends for any taxable year shall be reduced by the amount determined under section 809.

Post, p. 733.

“(d) DEFINITIONS.—For purposes of this section—

“(1) EXCESS INTEREST.—The term ‘excess interest’ means any amount in the nature of interest—

“(A) paid or credited to a policyholder in his capacity as such, and

“(B) determined at a rate in excess of the prevailing State assumed interest rate for such contract.

“(2) PREMIUM ADJUSTMENT.—The term ‘premium adjustment’ means any reduction in the premium under an insurance or annuity contract which (but for the reduction) would have been required to be paid under the contract.

“(3) **EXPERIENCE-RATED REFUND.**—The term ‘experience-rated refund’ means any refund or credit based on the experience of the contract or group involved.

“(e) **TREATMENT OF POLICYHOLDER DIVIDENDS.**—For purposes of this part, any policyholder dividend which—

“(1) increases the cash surrender value of the contract or other benefits payable under the contract, or

“(2) reduces the premium otherwise required to be paid, shall be treated as paid to the policyholder and returned by the policyholder to the company as a premium. .

“**SEC. 809. REDUCTION IN CERTAIN DEDUCTIONS OF MUTUAL LIFE INSURANCE COMPANIES.**

26 USC 809.

“(a) **GENERAL RULE.**—

“(1) **POLICYHOLDER DIVIDENDS.**—In the case of any mutual life insurance company, the amount of the deduction allowed under section 808 shall be reduced (but not below zero) by the differential earnings amount.

Ante, p. 732.

“(2) **REDUCTION IN RESERVE DEDUCTION IN CERTAIN CASES.**—In the case of any mutual life insurance company, if the differential earnings amount exceeds the amount allowable as a deduction under section 808 for the taxable year (determined without regard to this section), such excess shall be taken into account under subsections (a) and (b) of section 807.

Ante, p. 726.

“(3) **DIFFERENTIAL EARNINGS AMOUNT.**—For purposes of this section, the term ‘differential earnings amount’ means, with respect to any taxable year, an amount equal to the product of—

“(A) the life insurance company’s average equity base for the taxable year, multiplied by

“(B) the differential earnings rate for such taxable year.

“(b) **AVERAGE EQUITY BASE.**—For purposes of this section—

“(1) **IN GENERAL.**—The term ‘average equity base’ means, with respect to any taxable year, the average of—

“(A) the equity base determined as of the close of the taxable year, and

“(B) the equity base determined as of the close of the preceding taxable year.

“(2) **EQUITY BASE.**—The term ‘equity base’ means an amount determined in the manner prescribed by regulations equal to—

“(A) the surplus and capital,

“(B) adjusted as provided in paragraphs (3), (4), (5), and (6) of this subsection.

“(3) **INCREASE FOR NONADMITTED FINANCIAL ASSETS.**—

“(A) **IN GENERAL.**—The amount of the surplus and capital shall be increased by the amount of the nonadmitted financial assets.

“(B) **NONADMITTED FINANCIAL ASSETS.**—For purposes of subparagraph (A), the term ‘nonadmitted financial asset’ means any nonadmitted asset of the company which is—

“(i) a bond,

“(ii) stock,

“(iii) real estate,

“(iv) a mortgage loan on real estate, or

“(v) any other invested asset.

“(4) **INCREASE WHERE STATUTORY RESERVES EXCEED TAX RESERVES.**—

“(A) IN GENERAL.—If—

“(i) the aggregate amount of statutory reserves, exceeds

“(ii) the aggregate amount of tax reserves, the amount of the surplus and capital shall be increased by the amount of such excess.

“(B) DEFINITIONS.—For purposes of this paragraph—

“(i) STATUTORY RESERVES.—The term ‘statutory reserves’ means the aggregate amount set forth in the annual statement with respect to items described in section 807(c). Such term shall not include any reserve attributable to a deferred and uncollected premium if the establishment of such reserve is not permitted under section 811(c).

“(ii) TAX RESERVES.—The term ‘tax reserves’ means the aggregate of the items described in section 807(c) as determined for purposes of section 807.

“(5) INCREASE BY AMOUNT OF CERTAIN OTHER RESERVES.—The amount of the surplus and capital shall be increased by the sum of—

“(A) the amount of any mandatory securities valuation reserve,

“(B) the amount of any deficiency reserve, and

“(C) the amount of any voluntary reserve or similar liability not described in subparagraph (A) or (B).

“(6) ADJUSTMENT FOR NEXT YEAR’S POLICYHOLDER DIVIDENDS.—

The amount of the surplus and capital shall be increased by 50 percent of the amount of any provision for policyholder dividends (or other similar liability) payable in the following taxable year.

“(c) DIFFERENTIAL EARNINGS RATE.—

“(1) IN GENERAL.—For purposes of this section, the differential earnings rate for any taxable year is the excess of—

“(A) the imputed earnings rate for the taxable year, over

“(B) the average mutual earnings rate for the second calendar year preceding the calendar year in which the taxable year begins.

“(2) TRANSITIONAL RULE.—The differential earnings rate—

“(A) for any taxable year beginning in 1984, or

“(B) for purposes of computing the amount of underpayment under section 6655 (including the application of section 6655(d)(3)) for any taxable year beginning in 1985, shall be equal to 7.8 percent.

“(d) IMPUTED EARNINGS RATE.—

“(1) IN GENERAL.—For purposes of this section, the imputed earnings rate for any taxable year is—

“(A) 16.5 percent in the case of taxable years beginning in 1984, and

“(B) in the case of taxable years beginning after 1984, an amount which bears the same ratio to 16.5 percent as the current stock earnings rate for the taxable year bears to the base period stock earnings rate.

“(2) CURRENT STOCK EARNINGS RATE.—For purposes of this subsection, the term ‘current stock earnings rate’ means, with respect to any taxable year, the average of the stock earnings rates determined under paragraph (4) for the 3 calendar years preceding the calendar year in which the taxable year begins.

Ante, p. 726.

Post, p. 740.

“(3) **BASE PERIOD STOCK EARNINGS RATE.**—For purposes of this subsection, the base period stock earnings rate is the average of the stock earnings rates determined under paragraph (4) for calendar years 1981, 1982, and 1983.

“(4) **STOCK EARNINGS RATE.**—

“(A) **IN GENERAL.**—For purposes of this subsection, the stock earnings rate for any calendar year is the numerical average of the earnings rates of the 50 largest stock companies.

“(B) **EARNINGS RATE.**—For purposes of subparagraph (A), the earnings rate of any stock company is the percentage (determined by the Secretary) which—

“(i) the statement gain or loss from operations for the calendar year of such company, is of

“(ii) such company’s average equity base for such year.

“(C) **50 LARGEST STOCK COMPANIES.**—For purposes of this paragraph, the term ‘50 largest stock companies’ means a group (as determined by the Secretary) of stock life insurance companies which consists of the 50 largest stock life insurance companies which are subject to tax under this part. The Secretary may by regulations provide for exclusion from the group determined under the preceding sentence of any stock life insurance company if (i) the equity of such company is not great enough for such company to be 1 of the 50 largest stock life insurance companies if the determination were made on the basis of equity, and (ii) by reason of the small equity base of such company, it has an earnings rate which would seriously distort the stock earnings rate.

“(D) **TREATMENT OF AFFILIATED GROUPS.**—For purposes of this paragraph, all stock life insurance companies which are members of the same affiliated group shall be treated as one stock life insurance company.

“(e) **AVERAGE MUTUAL EARNINGS RATE.**—For purposes of this section, the average mutual earnings rate for any calendar year is the percentage (determined by the Secretary) which—

“(1) the aggregate statement gain or loss from operations for such year of mutual life insurance companies, is of

“(2) their aggregate average equity bases for such year.

“(f) **RECOMPUTATION IN SUBSEQUENT YEAR.**—

“(1) **INCLUSION IN INCOME WHERE RECOMPUTED AMOUNT GREATER.**—In the case of any mutual life insurance company, if—

“(A) the recomputed differential earnings amount for any taxable year, exceeds

“(B) the differential earnings amount determined under this section for such taxable year,

such excess shall be included in life insurance gross income for the succeeding taxable year.

“(2) **DEDUCTION WHERE RECOMPUTED AMOUNT SMALLER.**—In the case of any mutual life insurance company, if—

“(A) the differential earnings amount determined under this section for any taxable year, exceeds

“(B) the recomputed differential earnings amount for such taxable year,

such excess shall be allowed as a life insurance deduction for the succeeding taxable year.

“(3) RECOMPUTED DIFFERENTIAL EARNINGS AMOUNT.—For purposes of this subsection, the term ‘recomputed differential earnings amount’ means, with respect to any taxable year, the amount which would be the differential earnings amount for such taxable year if the average mutual earnings rate taken into account under subsection (c)(2) were the average mutual earnings rate for the calendar year in which the taxable year begins.

“(4) SPECIAL RULE WHERE COMPANY CEASES TO BE MUTUAL LIFE INSURANCE COMPANY.—Except as provided in section 381(c)(22), if—

“(A) a life insurance company is a mutual life insurance company for any taxable year, but

“(B) such life insurance company is not a mutual life insurance company for the succeeding taxable year, any adjustment under paragraph (1) or (2) by reason of the recomputed differential earnings amount for the first of such taxable years shall be taken into account for the first of such taxable years.

“(g) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) STATEMENT GAIN OR LOSS FROM OPERATIONS.—The term ‘statement gain or loss from operations’ means the net gain or loss from operations required to be set forth in the annual statement—

“(A) determined with regard to policyholder dividends (as defined in section 808) but without regard to Federal income taxes,

“(B) determined on the basis of the tax reserves rather than statutory reserves, and

“(C) properly adjusted for realized capital gains and losses and other relevant items.

“(2) OTHER TERMS.—Except as otherwise provided in this section, the terms used in this section shall have the same respective meanings as when used in the annual statement.

“(3) DETERMINATIONS BASED ON AMOUNT SET FORTH IN ANNUAL STATEMENT.—Except as otherwise provided in this section or in regulations, all determinations under this section shall be made on the basis of the amounts required to be set forth on the annual statement.

“(4) ANNUAL STATEMENT.—The term ‘annual statement’ means the annual statement for life insurance companies approved by the National Association of Insurance Commissioners.

“(5) REDUCTION IN EQUITY BASE FOR PORTION OF EQUITY ALLOCABLE TO LIFE INSURANCE BUSINESS IN NONCONTIGUOUS WESTERN HEMISPHERE COUNTRIES.—The equity base of any mutual life insurance company shall be reduced by an amount equal to the portion of the equity base attributable to the life insurance business multiplied by a fraction—

“(A) the numerator of which is the portion of the tax reserves which is allocable to life insurance contracts issued on the life of residents of countries in the Western Hemisphere which are not contiguous to the United States, and

“(B) the denominator of which is the amount of the tax reserves allocable to life insurance contracts. The preceding sentence shall not apply unless the fraction determined under the preceding sentence exceeds $\frac{1}{20}$.

“(6) SPECIAL RULE FOR CERTAIN CONTRACTS ISSUED BEFORE JANUARY 1, 1985.—In determining the amount of tax reserves of a subsidiary of a mutual insurance company for purposes of subsection (b)(4), section 811(d) shall not apply with respect to any life insurance contract issued before January 1, 1985, under a plan of life insurance in existence on July 1, 1983.

Post, p. 740.

“(h) TREATMENT OF STOCK COMPANIES OWNED BY MUTUAL LIFE INSURANCE COMPANIES.—

“(1) TREATMENT AS MUTUAL LIFE INSURANCE COMPANIES FOR PURPOSES OF DETERMINING STOCK EARNINGS RATES AND MUTUAL EARNINGS RATES.—Solely for purposes of subsections (d) and (e), a stock life insurance company shall be treated as a mutual life insurance company if stock possessing—

“(A) at least 80 percent of the total combined voting power of all classes of stock of such stock life insurance company entitled to vote, or

“(B) at least 80 percent of the total value of shares of all classes of stock of such stock life insurance company, is owned at any time during the calendar year directly (or through the application of section 318) by one or more mutual life insurance companies.

“(2) TREATMENT OF AFFILIATED GROUP WHICH INCLUDES MUTUAL PARENT AND STOCK SUBSIDIARY.—In the case of an affiliated group of corporations which includes a common parent which is a mutual life insurance company and one or more stock life insurance companies, for purposes of determining the average equity base of such common parent (and the statement gain or loss from operations)—

“(A) stock in such stock life insurance companies held by such common parent (and dividends on such stock) shall not be taken into account, and

“(B) such common parent and such stock life insurance companies shall be treated as though they were one mutual life insurance company.

“(3) ADJUSTMENT WHERE STOCK COMPANY NOT MEMBER OF AFFILIATED GROUP.—In the case of any stock life insurance company which is described in paragraph (1) but is not a member of an affiliated group described in paragraph (2), under regulations, proper adjustments shall be made in the average equity bases (and statement gains or losses from operations) of mutual life insurance companies owning stock in such company as may be necessary or appropriate to carry out the purposes of this section.

“(i) TRANSITIONAL RULE FOR CERTAIN HIGH SURPLUS MUTUAL LIFE INSURANCE COMPANIES.—

“(1) IN GENERAL.—For purposes of subsection (a)(3), the average equity base of a high surplus mutual life insurance company for any taxable year shall not include the applicable percentage of the excess equity base of such company for such taxable year.

“(2) DEFINITIONS.—For purposes of this subsection—

“(A) EXCESS EQUITY BASE.—The term ‘excess equity base’ means the excess of—

“(i) the average equity base of the company for the taxable year, over

“(ii) the amount which would be its average equity base if its equity percentage equaled the following percentage:

“For taxable years beginning in:	The percentage is:
1984.....	14.5
1985 or 1986.....	14
1987 or 1988.....	13.5

In no case shall the excess equity base for any taxable year be greater than the excess equity base for the company's first taxable year beginning in 1984.

“(B) APPLICABLE PERCENTAGE.—The term ‘applicable percentage’ means the percentage determined in accordance with the following table:

“For taxable years beginning in:	The applicable percentage is:
1984.....	100
1985.....	80
1986.....	60
1987.....	40
1988.....	20
1989 or thereafter	0.

“(C) HIGH SURPLUS MUTUAL LIFE INSURANCE COMPANY.—The term ‘high surplus mutual life insurance company’ means any mutual life insurance company if, for the taxable year beginning in 1984, its equity percentage exceeded 14.5 percent.

“(D) EQUITY PERCENTAGE.—The term ‘equity percentage’ means, with respect to any mutual life insurance company, the percentage which—

“(i) the average equity base of such company (determined under this section without regard to this subsection) for a taxable year bears to

“(ii) the average of—

“(I) the assets of such company as of the close of the preceding taxable year, and

“(II) the assets of such company as of the close of the taxable year.

For purposes of the preceding sentence, the assets of a company shall include all assets taken into account under this section in determining its equity base (after applying the principles of subsection (h)).

26 USC 810.

“SEC. 810. OPERATIONS LOSS DEDUCTION.

“(a) DEDUCTION ALLOWED.—There shall be allowed as a deduction for the taxable year an amount equal to the aggregate of—

“(1) the operations loss carryovers to such year, plus

“(2) the operations loss carrybacks to such year.

For purposes of this part, the term ‘operations loss deduction’ means the deduction allowed by this subsection.

“(b) OPERATIONS LOSS CARRYBACKS AND CARRYOVERS.—

“(1) YEARS TO WHICH LOSS MAY BE CARRIED.—The loss from operations for any taxable year (hereinafter in this section referred to as the ‘loss year’) shall be—

“(A) an operations loss carryback to each of the 3 taxable years preceding the loss year,

“(B) an operations loss carryover to each of the 15 taxable years following the loss year, and

“(C) if the life insurance company is a new company for the loss year, an operations loss carryover to each of the 3 taxable years following the 15 taxable years described in subparagraph (B).

“(2) AMOUNT OF CARRYBACKS AND CARRYOVERS.—The entire amount of the loss from operations for any loss year shall be carried to the earliest of the taxable years to which (by reason of paragraph (1)) such loss may be carried. The portion of such loss which shall be carried to each of the other taxable years shall be the excess (if any) of the amount of such loss over the sum of the offsets (as defined in subsection (d)) for each of the prior taxable years to which such loss may be carried.

“(3) ELECTION FOR OPERATIONS LOSS CARRYBACKS.—In the case of a loss from operations for any taxable year, the taxpayer may elect to relinquish the entire carryback period for such loss. Such election shall be made by the due date (including extensions of time) for filing the return for the taxable year of the loss from operations for which the election is to be in effect, and, once made for any taxable year, such election shall be irrevocable for that taxable year.

“(c) COMPUTATION OF LOSS FROM OPERATIONS.—For purposes of this section—

“(1) IN GENERAL.—The term ‘loss from operations’ means the excess of the life insurance deductions for any taxable year over the life insurance gross income for such taxable year.

“(2) MODIFICATIONS.—For purposes of paragraph (1)—

“(A) the operations loss deduction shall not be allowed, and

“(B) the deductions allowed by sections 243 (relating to dividends received by corporations), 244 (relating to dividends received on certain preferred stock of public utilities), and 245 (relating to dividends received from certain foreign corporations) shall be computed without regard to section 246(b) as modified by section 805(a)(4).

Ante, p. 722.

“(d) OFFSET DEFINED.—

“(1) IN GENERAL.—For purposes of subsection (b)(2), the term ‘offset’ means, with respect to any taxable year, an amount equal to that increase in the operations loss deduction for the taxable year which reduces the life insurance company taxable income (computed without regard to paragraphs (2) and (3) of section 804) for such year to zero.

Ante, p. 722.

“(2) OPERATIONS LOSS DEDUCTION.—For purposes of paragraph (1), the operations loss deduction for any taxable year shall be computed without regard to the loss from operations for the loss year or for any taxable year thereafter.

“(e) NEW COMPANY DEFINED.—For purposes of this part, a life insurance company is a new company for any taxable year only if such taxable year begins not more than 5 years after the first day on which it (or any predecessor, if section 381(c)(22) applies) was authorized to do business as an insurance company.

“(f) APPLICATION OF SUBTITLES A AND F IN RESPECT OF OPERATION LOSSES.—Except as provided in section 805(b)(5), subtitles A and F shall apply in respect of operation loss carrybacks, operation loss carryovers, and the operations loss deduction under this part, in the same manner and to the same extent as such subtitles apply in

26 USC 1, 6001.

respect of net operating loss carrybacks, net operating loss carryovers, and the net operating loss deduction.

Post, p. 741.

“(g) **TRANSITIONAL RULE.**—For purposes of this section and section 812 (as in effect before the enactment of the Life Insurance Tax Act of 1984), this section shall be treated as a continuation of such section 812.

“Subpart D—Accounting, Allocation, and Foreign Provisions

“Sec. 811. Accounting provisions.

“Sec. 812. Definition of company’s share and policyholders’ share.

“Sec. 813. Foreign life insurance companies.

“Sec. 814. Contiguous country branches of domestic life insurance companies.

“Sec. 815. Distributions to shareholders from pre-1984 policyholders surplus account.

26 USC 811.

“SEC. 811. ACCOUNTING PROVISIONS.

“(a) **METHOD OF ACCOUNTING.**—All computations entering into the determination of the taxes imposed by this part shall be made—

“(1) under an accrual method of accounting, or

“(2) to the extent permitted under regulations prescribed by the Secretary, under a combination of an accrual method of accounting with any other method permitted by this chapter (other than the cash receipts and disbursements method).

To the extent not inconsistent with the preceding sentence or any other provision of this part, all such computations shall be made in a manner consistent with the manner required for purposes of the annual statement approved by the National Association of Insurance Commissioners.

“(b) **AMORTIZATION OF PREMIUM AND ACCRUAL OF DISCOUNT.**—

“(1) **IN GENERAL.**—The appropriate items of income, deductions, and adjustments under this part shall be adjusted to reflect the appropriate amortization of premium and the appropriate accrual of discount attributable to the taxable year on bonds, notes, debentures, or other evidences of indebtedness held by a life insurance company. Such amortization and accrual shall be determined—

“(A) in accordance with the method regularly employed by such company, if such method is reasonable, and

“(B) in all other cases, in accordance with regulations prescribed by the Secretary.

“(2) **SPECIAL RULES.**—

“(A) **AMORTIZATION OF BOND PREMIUM.**—In the case of any bond (as defined in section 171(d)), the amount of bond premium, and the amortizable bond premium for the taxable year, shall be determined under section 171(b) as if the election set forth in section 171(c) had been made.

“(B) **CONVERTIBLE EVIDENCE OF INDEBTEDNESS.**—In no case shall the amount of premium on a convertible evidence of indebtedness include any amount attributable to the conversion features of the evidence of indebtedness.

“(3) **EXCEPTION.**—No accrual of discount shall be required under paragraph (1) on any bond (as defined in section 171(d)), except in the case of discount which is—

“(A) interest to which section 103 applies, or

“(B) original issue discount (as defined in section 1232(b)).

“(c) NO DOUBLE COUNTING.—Nothing in this part shall permit—

“(1) a reserve to be established for any item unless the gross amount of premiums and other consideration attributable to such item are required to be included in life insurance gross income,

“(2) the same item to be counted more than once for reserve purposes, or

“(3) any item to be deducted (either directly or as an increase in reserves) more than once.

“(d) METHOD OF COMPUTING RESERVES ON CONTRACT WHERE INTEREST IS GUARANTEED BEYOND END OF TAXABLE YEAR.—For purposes of this part (other than section 816), amounts in the nature of interest to be paid or credited under any contract for any period which is computed at a rate which—

Post, p. 748.

“(1) exceeds the prevailing State assumed interest rate for the contract for such period, and

“(2) is guaranteed beyond the end of the taxable year on which the reserves are being computed,

shall be taken into account in computing the reserves with respect to such contract as if such interest were guaranteed only up to the end of the taxable year.

“(e) SHORT TAXABLE YEARS.—If any return of a corporation made under this part is for a period of less than the entire calendar year (referred to in this subsection as ‘short period’), then section 443 shall not apply in respect to such period, but life insurance company taxable income shall be determined, under regulations prescribed by the Secretary, on an annual basis by a ratable daily projection of the appropriate figures for the short period.

“SEC. 812. DEFINITION OF COMPANY’S SHARE AND POLICYHOLDERS’ SHARE.

26 USC 812.

“(a) GENERAL RULE.—

“(1) COMPANY’S SHARE.—For purposes of section 805(a)(4), the term ‘company’s share’ means, with respect to any taxable year, the percentage obtained by dividing—

Ante, p. 722.

“(A) the company’s share of the net investment income for the taxable year, by

“(B) the net investment income for the taxable year.

“(2) POLICYHOLDERS’ SHARE.—For purposes of section 807, the term ‘policyholders’ share’ means, with respect to any taxable year, the excess of 100 percent over the percentage determined under paragraph (1).

Ante, p. 726.

“(b) COMPANY’S SHARE OF NET INVESTMENT INCOME.—

“(1) IN GENERAL.—For purposes of this section, the company’s share of net investment income is the excess (if any) of—

“(A) the net investment income for the taxable year, over

“(B) the sum of—

“(i) the policy interest, for the taxable year, plus

“(ii) the gross investment income’s proportionate share of policyholder dividends for the taxable year.

“(2) POLICY INTEREST.—For purposes of this subsection, the term ‘policy interest’ means—

“(A) required interest (at the prevailing State assumed rate) on reserves under section 807(c) (other than paragraph

(2) thereof),

“(B) the deductible portion of excess interest, and

“(C) the deductible portion of any amount (whether or not a policyholder dividend), and not taken into account under subparagraph (A) or (B), credited to—

“(i) a policyholder’s fund under a pension plan contract for employees (other than retired employees), or

“(ii) a deferred annuity contract before the annuity starting date.

“(3) GROSS INVESTMENT INCOME’S PROPORTIONATE SHARE OF POLICYHOLDER DIVIDENDS.—For purposes of paragraph (1), the gross investment income’s proportionate share of policyholder dividends is—

“(A) the deduction for policyholders’ dividends determined under sections 808 and 809 for the taxable year, but not including—

“(i) the deductible portion of excess interest,

“(ii) the deductible portion of policyholder dividends on contracts referred to in clauses (i) and (ii) of paragraph (2)(C), and

“(iii) the deductible portion of the premium and mortality charge adjustments with respect to contracts paying excess interest for such year,

multiplied by

“(B) the fraction—

“(i) the numerator of which is gross investment income for the taxable year (reduced by the policy interest for such year), and

“(ii) the denominator of which is life insurance gross income (including tax-exempt interest) reduced by the excess (if any) of the closing balance for the items described in section 807(c) over the opening balance for such items for the taxable year.

“(c) NET INVESTMENT INCOME.—For purposes of this section, the term ‘net investment income’ means 90 percent of gross investment income.

“(d) GROSS INVESTMENT INCOME.—For purposes of this section, the term ‘gross investment income’ means the sum of the following:

“(1) INTEREST, ETC.—The gross amount of income from—

“(A) interest (including tax-exempt interest), dividends, rents, and royalties,

“(B) the entering into of any lease, mortgage, or other instrument or agreement from which the life insurance company derives interest, rents, or royalties, and

“(C) the alteration or termination of any instrument or agreement described in subparagraph (B).

“(2) SHORT-TERM CAPITAL GAIN.—The amount (if any) by which the net short-term capital gain exceeds the net long-term capital loss.

“(3) TRADE OR BUSINESS INCOME.—The gross income from any trade or business (other than an insurance business) carried on by the life insurance company, or by a partnership of which the life insurance company is a partner. In computing gross income under this paragraph, there shall be excluded any item described in paragraph (1).

Except as provided in paragraph (2), in computing gross investment income under this subsection, there shall be excluded any gain from the sale or exchange of a capital asset, and any gain considered as gain from the sale or exchange of a capital asset.

Ante, pp. 732,
733.

Ante, p. 726.

“(e) **DIVIDENDS FROM CERTAIN SUBSIDIARIES NOT INCLUDED IN GROSS INVESTMENT INCOME.**—For purposes of this section, the term ‘gross investment income’ shall not include any dividend received by the life insurance company which is a 100-percent dividend (as defined in section 805(a)(4)(C)). Such term also shall not include any dividend described in section 805(a)(4)(D) (relating to certain dividends in the case of foreign corporations).

Ante, p. 722.

“(f) **NO DOUBLE COUNTING.**—Under regulations, proper adjustments shall be made in the application of this section to prevent an item from being counted more than once.

“SEC. 813. FOREIGN LIFE INSURANCE COMPANIES.

26 USC 813.

“(a) ADJUSTMENT WHERE SURPLUS HELD IN THE UNITED STATES IS LESS THAN SPECIFIED MINIMUM.—

“(1) **IN GENERAL.**—In the case of any foreign company taxable under this part, if—

“(A) the required surplus determined under paragraph (2), exceeds

“(B) the surplus held in the United States, then its income effectively connected with the conduct of an insurance business within the United States shall be increased by an amount determined by multiplying such excess by such company’s current investment yield.

“(2) **REQUIRED SURPLUS.**—For purposes of this subsection—

“(A) **IN GENERAL.**—The term ‘required surplus’ means the amount determined by multiplying the taxpayer’s total insurance liabilities on United States business by a percentage for the taxable year determined and proclaimed by the Secretary under subparagraph (B).

“(B) **DETERMINATION OF PERCENTAGE.**—The percentage determined and proclaimed by the Secretary under this subparagraph shall be based on such data with respect to domestic life insurance companies for the preceding taxable year as the Secretary considers representative. Such percentage shall be computed on the basis of a ratio the numerator of which is the excess of the assets over the total insurance liabilities, and the denominator of which is the total insurance liabilities.

“(3) **CURRENT INVESTMENT YIELD.**—For purposes of this subsection—

“(A) **IN GENERAL.**—The term ‘current investment yield’ means the percent obtained by dividing—

“(i) the net investment income on assets held in the United States, by

“(ii) the mean of the assets held in the United States during the taxable year.

“(B) **DETERMINATIONS BASED ON AMOUNT SET FORTH IN THE ANNUAL STATEMENT.**—Except as otherwise provided in regulations, determinations under subparagraph (A) shall be made on the basis of the amounts required to be set forth on the annual statement approved by the National Association of Insurance Commissioners.

“(4) **OTHER DEFINITIONS.**—For purposes of this subsection—

“(A) **SURPLUS HELD IN THE UNITED STATES.**—The surplus held in the United States is the excess of the assets (determined under section 806(b)(3)(C)) held in the United States

Ante, p. 724.

over the total insurance liabilities on United States business.

Post, p. 748.

Ante, p. 726.

“(B) **TOTAL INSURANCE LIABILITIES.**—For purposes of this subsection, the term ‘total insurance liabilities’ means the sum of the total reserves (as defined in section 816(c)) plus (to the extent not included in total reserves) the items referred to in paragraphs (3), (4), (5), and (6) of section 807(c).

“(5) **REDUCTION OF SECTION 881 TAXES.**—In the case of any foreign company taxable under this part, there shall be determined—

“(A) the amount which would be subject to taxes under section 881 if the amount taxable under such section were determined without regard to sections 103 and 894, and

“(B) the amount of the increase provided by paragraph (1).

The tax under section 881 (determined without regard to this paragraph) shall be reduced (but not below zero) by an amount which is the same proportion of such tax as the amount referred to in subparagraph (B) is of the amount referred to in subparagraph (A); but such reduction in taxes shall not exceed the increase in taxes under this part by reason of the increase provided by paragraph (1).

Ante, p. 733.

“(b) **ADJUSTMENT TO LIMITATION ON DEDUCTION FOR POLICYHOLDER DIVIDENDS IN THE CASE OF FOREIGN MUTUAL LIFE INSURANCE COMPANIES.**—For purposes of section 809, the equity base of any foreign mutual life insurance company as of the close of any taxable year shall be increased by the amount of any excess determined under paragraph (1) of subsection (a) with respect to such taxable year.

“(c) **CROSS REFERENCE.**—

“For taxation of foreign corporations carrying on life insurance business within the United States, see section 842.

26 USC 814.

“**SEC. 814. CONTIGUOUS COUNTRY BRANCHES OF DOMESTIC LIFE INSURANCE COMPANIES.**

“(a) **EXCLUSION OF ITEMS.**—In the case of a domestic mutual insurance company which—

“(1) is a life insurance company,

“(2) has a contiguous country life insurance branch, and

“(3) makes the election provided by subsection (g) with respect to such branch,

there shall be excluded from each item involved in the determination of life insurance company taxable income the items separately accounted for in accordance with subsection (c).

“(b) **CONTIGUOUS COUNTRY LIFE INSURANCE BRANCH.**—For purposes of this section, the term contiguous country life insurance branch means a branch which—

“(1) issues insurance contracts insuring risks in connection with the lives or health of residents of a country which is contiguous to the United States,

“(2) has its principal place of business in such contiguous country, and

“(3) would constitute a mutual life insurance company if such branch were a separate domestic insurance company.

For purposes of this section, the term ‘insurance contract’ means any life, health, accident, or annuity contract or reinsurance contract or any contract relating thereto.

“(c) **SEPARATE ACCOUNTING REQUIRED.**—Any taxpayer which makes the election provided by subsection (g) shall establish and maintain a separate account for the various income, exclusion, deduction, asset, reserve, liability, and surplus items properly attributable to the contracts described in subsection (b). Such separate accounting shall be made—

“(1) in accordance with the method regularly employed by such company, if such method clearly reflects income derived from, and the other items attributable to, the contracts described in subsection (b), and

“(2) in all other cases, in accordance with regulations prescribed by the Secretary.

“(d) **RECOGNITION OF GAIN ON ASSETS IN BRANCH ACCOUNT.**—If the aggregate fair market value of all the invested assets and tangible property which are separately accounted for by the domestic life insurance company in the branch account established pursuant to subsection (c) exceeds the aggregate adjusted basis of such assets for purposes of determining gain, then the domestic life insurance company shall be treated as having sold all such assets on the first day of the first taxable year for which the election is in effect at their fair market value on such first day. Notwithstanding any other provision of this chapter, the net gain shall be recognized to the domestic life insurance company on the deemed sale described in the preceding sentence.

“(e) **TRANSACTIONS BETWEEN CONTIGUOUS COUNTRY BRANCH AND DOMESTIC LIFE INSURANCE COMPANY.**—

“(1) **REIMBURSEMENT FOR HOME OFFICE SERVICES, ETC.**—Any payment, transfer, reimbursement, credit, or allowance which is made from a separate account established pursuant to subsection (c) to one or more other accounts of a domestic life insurance company as reimbursement for costs incurred for or with respect to the insurance (or reinsurance) of risks accounted for in such separate account shall be taken into account by the domestic life insurance company in the same manner as if such payment, transfer, reimbursement, credit, or allowance had been received from a separate person.

“(2) **REPATRIATION OF INCOME.**—

“(A) **IN GENERAL.**—Except as provided in subparagraph (B), any amount directly or indirectly transferred or credited from a branch account established pursuant to subsection (c) to one or more other accounts of such company shall, unless such transfer or credit is a reimbursement to which paragraph (1) applies, be added to the income of the domestic life insurance company.

“(B) **LIMITATION.**—The addition provided by subparagraph (A) for the taxable year with respect to any contiguous country life insurance branch shall not exceed the amount by which—

“(i) the aggregate decrease in the tentative LICTI of the domestic life insurance company for the taxable year and for all prior taxable years resulting solely from the application of subsection (a) of this section with respect to such branch, exceeds

“(ii) the amount of additions to tentative LICTI pursuant to subparagraph (A) with respect to such contiguous country branch for all prior taxable years.

“(C) TRANSITIONAL RULE.—For purposes of this paragraph, in the case of a prior taxable year beginning before January 1, 1984, the term ‘tentative LICIT’ means life insurance company taxable income determined under this part (as in effect for such year) without regard to this paragraph.

“(f) OTHER RULES.—

“(1) TREATMENT OF FOREIGN TAXES.—

“(A) IN GENERAL.—No income, war profits, or excess profits taxes paid or accrued to any foreign country or possession of the United States which is attributable to income excluded under subsection (a) shall be taken into account for purposes of subpart A of part III of subchapter N (relating to foreign tax credit) or allowable as a deduction.

“(B) TREATMENT OF REPATRIATED AMOUNTS.—For purposes of sections 78 and 902, where any amount is added to the life insurance company taxable income of the domestic life insurance company by reason of subsection (e)(2), the contiguous country life insurance branch shall be treated as a foreign corporation. Any amount so added shall be treated as a dividend paid by a foreign corporation, and the taxes paid to any foreign country or possession of the United States with respect to such amount shall be deemed to have been paid by such branch.

“(2) UNITED STATES SOURCE INCOME ALLOCABLE TO CONTIGUOUS COUNTRY BRANCH.—For purposes of sections 881, 882, and 1442, each contiguous country life insurance branch shall be treated as a foreign corporation. Such sections shall be applied to each such branch in the same manner as if such sections contained the provisions of any treaty to which the United States and the contiguous country are parties, to the same extent such provisions would apply if such branch were incorporated in such contiguous country.

“(g) ELECTION.—A taxpayer may make the election provided by this subsection with respect to any contiguous country for any taxable year. An election made under this subsection for any taxable year shall remain in effect for all subsequent taxable years, except that it may be revoked with the consent of the Secretary. The election provided by this subsection shall be made not later than the time prescribed by law for filing the return for the taxable year (including extensions thereof) with respect to which such election is made, and such election and any approved revocation thereof shall be made in the manner provided by the Secretary.

“(h) SPECIAL RULE FOR DOMESTIC STOCK LIFE INSURANCE COMPANIES.—At the election of a domestic stock life insurance company which has a contiguous country life insurance branch described in subsection (b) (without regard to the mutual requirement in subsection (b)(3)), the assets of such branch may be transferred to a foreign corporation organized under the laws of the contiguous country without the application of section 367 or 1491. Subsection (a) shall apply to the stock of such foreign corporation as if such domestic company were a mutual company and as if the stock were an item described in subsection (c). Subsection (e)(2) shall apply to amounts transferred or credited to such domestic company as if such domestic company and such foreign corporation constituted one domestic mutual life insurance company. The insurance contracts which may be transferred pursuant to this subsection shall include only those

which are similar to the types of insurance contracts issued by a mutual life insurance company. Notwithstanding the first sentence of this subsection, if the aggregate fair market value of the invested assets and tangible property which are separately accounted for by the domestic life insurance company in the branch account exceeds the aggregate adjusted basis of such assets for purposes of determining gain, the domestic life insurance company shall be deemed to have sold all such assets on the first day of the taxable year for which the election under this subsection applies and the net gain shall be recognized to the domestic life insurance company on the deemed sale, but not in excess of the proportion of such net gain which equals the proportion which the aggregate fair market value of such assets which are transferred pursuant to this subsection is of the aggregate fair market value of all such assets.

“SEC. 815. DISTRIBUTIONS TO SHAREHOLDERS FROM PRE-1984 POLICYHOLDERS SURPLUS ACCOUNT.

26 USC 815.

“(a) **GENERAL RULE.**—In the case of a stock life insurance company which has an existing policyholders surplus account, the tax imposed by section 801 for any taxable year shall be the amount which would be imposed by such section for such year on the sum of—

Ante, p. 720.

“(1) life insurance company taxable income for such year (but not less than zero), plus

“(2) the amount of direct and indirect distributions during such year to shareholders from such account.

“(b) **ORDERING RULE.**—For purposes of this section, any distribution to shareholders shall be treated as made—

“(1) first out of the shareholders surplus account, to the extent thereof,

“(2) then out of the policyholders surplus account, to the extent thereof, and

“(3) finally, out of other accounts.

“(c) **SHAREHOLDERS SURPLUS ACCOUNT.**—

“(1) **IN GENERAL.**—Each stock life insurance company which has an existing policyholders surplus account shall continue its shareholders surplus account for purposes of this part.

“(2) **ADDITIONS TO ACCOUNT.**—The amount added to the shareholders surplus account for any taxable year beginning after December 31, 1983, shall be the excess of—

“(A) the sum of—

“(i) the life insurance company’s taxable income (but not below zero),

“(ii) the special deductions provided by section 806, and

Ante, p. 724.

“(iii) the deductions for dividends received provided by sections 243, 244, and 245 (as modified by section 805(a)(4)) and the amount of interest excluded from gross income under section 103, over

Ante, p. 722.

“(B) the taxes imposed for the taxable year by section 801 (determined without regard to this section).

Ante, p. 720.

“(3) **SUBTRACTIONS FROM ACCOUNT.**—There shall be subtracted from the shareholders surplus account for any taxable year the amount which is treated under this section as distributed out of such account.

“(d) **POLICYHOLDERS SURPLUS ACCOUNT.**—

“(1) **IN GENERAL.**—Each stock life insurance company which has an existing policyholders surplus account shall continue such account.

“(2) **NO ADDITIONS TO ACCOUNT.**—No amount shall be added to the policyholders surplus account for any taxable year beginning after December 31, 1983.

“(3) **SUBTRACTIONS FROM ACCOUNT.**—There shall be subtracted from the policyholders surplus account for any taxable year an amount equal to the sum of—

“(A) the amount which (without regard to subparagraph (B)) is treated under this section as distributed out of the policyholders surplus account, and

Ante, p. 720. “(B) the amount by which the tax imposed for the taxable year by section 801 is increased by reason of this section.

“(e) **EXISTING POLICYHOLDERS SURPLUS ACCOUNT.**—For purposes of this section, the term ‘existing policyholders surplus account’ means any policyholders surplus account which has a balance as of the close of December 31, 1983.

Ante, p. 747. “(f) **OTHER RULES APPLICABLE TO POLICYHOLDERS SURPLUS ACCOUNT CONTINUED.**—Except to the extent inconsistent with the provisions of this part, the provisions of subsections (d), (e), (f), and (g) of section 815 (and of sections 6501(c)(6), 6501(k), 6511(d)(6), 6601(d)(3), and 6611(f)(4)) as in effect before the enactment of the Tax Reform Act of 1984 are hereby made applicable in respect of any policyholders surplus account for which there was a balance as of December 31, 1983.

“Subpart E—Definitions and Special Rules

“Sec. 816. Life insurance company defined.

“Sec. 817. Treatment of variable contracts.

“Sec. 818. Other definitions and special rules.

26 USC 816.

“SEC. 816. LIFE INSURANCE COMPANY DEFINED.

“(a) **LIFE INSURANCE COMPANY DEFINED.**—For purposes of this subtitle, the term ‘life insurance company’ means an insurance company which is engaged in the business of issuing life insurance and annuity contracts (either separately or combined with accident and health insurance), or noncancellable contracts of health and accident insurance, if—

“(1) its life insurance reserves (as defined in subsection (b)), plus

“(2) unearned premiums, and unpaid losses (whether or not ascertained), on noncancellable life, accident, or health policies not included in life insurance reserves, comprise more than 50 percent of its total reserves (as defined in subsection (c)). For purposes of the preceding sentence, the term ‘insurance company’ means any company more than half of the business of which during the taxable year is the issuing of insurance or annuity contracts or the reinsuring of risks underwritten by insurance companies.

“(b) **LIFE INSURANCE RESERVES DEFINED.**—

“(1) **IN GENERAL.**—For purposes of this part, the term ‘life insurance reserves’ means amounts—

“(A) which are computed or estimated on the basis of recognized mortality or morbidity tables and assumed rates of interest, and

“(B) which are set aside to mature or liquidate, either by payment or reinsurance, future unaccrued claims arising from life insurance, annuity, and noncancellable accident and health insurance contracts (including life insurance or annuity contracts combined with noncancellable accident and health insurance) involving, at the time with respect to which the reserve is computed, life, accident, or health contingencies.

“(2) RESERVES MUST BE REQUIRED BY LAW.—Except—

“(A) in the case of policies covering life, accident, and health insurance combined in one policy issued on the weekly premium payment plan, continuing for life and not subject to cancellation, and

“(B) as provided in paragraph (3),

in addition to the requirements set forth in paragraph (1), life insurance reserves must be required by law.

“(3) ASSESSMENT COMPANIES.—In the case of an assessment life insurance company or association, the term ‘life insurance reserves’ includes—

“(A) sums actually deposited by such company or association with State officers pursuant to law as guaranty or reserve funds, and

“(B) any funds maintained, under the charter or articles of incorporation or association (or bylaws approved by a State insurance commissioner) of such company or association, exclusively for the payment of claims arising under certificates of membership or policies issued on the assessment plan and not subject to any other use.

“(4) AMOUNT OF RESERVES.—For purposes of this subsection, subsection (a), and subsection (c), the amount of any reserve (or portion thereof) for any taxable year shall be the mean of such reserve (or portion thereof) at the beginning and end of the taxable year.

“(c) TOTAL RESERVES DEFINED.—For purposes of subsection (a), the term ‘total reserves’ means—

“(1) life insurance reserves,

“(2) unearned premiums, and unpaid losses (whether or not ascertained), not included in life insurance reserves, and

“(3) all other insurance reserves required by law.

“(d) ADJUSTMENTS IN RESERVES FOR POLICY LOANS.—For purposes only of determining under subsection (a) whether or not an insurance company is a life insurance company, the life insurance reserves, and the total reserves, shall each be reduced by an amount equal to the mean of the aggregates, at the beginning and end of the taxable year, of the policy loans outstanding with respect to contracts for which life insurance reserves are maintained.

“(e) GUARANTEED RENEWABLE CONTRACTS.—For purposes of this part, guaranteed renewable life, accident, and health insurance shall be treated in the same manner as noncancellable life, accident, and health insurance.

“(f) AMOUNTS NOT INVOLVING LIFE, ACCIDENT, OR HEALTH CONTINGENCIES.—For purposes only of determining under subsection (a) whether or not an insurance company is a life insurance company, amounts set aside and held at interest to satisfy obligations under contracts which do not contain permanent guarantees with respect to life, accident, or health contingencies shall not be included in reserves described in paragraph (1) or (3) of subsection (c).

“(g) **BURIAL AND FUNERAL BENEFIT INSURANCE COMPANIES.**—A burial or funeral benefit insurance company engaged directly in the manufacture of funeral supplies or the performance of funeral services shall not be taxable under this part but shall be taxable under section 821 or section 831.

26 USC 817.

“SEC. 817. TREATMENT OF VARIABLE CONTRACTS.

Ante, p. 726.

“(a) **INCREASES AND DECREASES IN RESERVES.**—For purposes of subsections (a) and (b) of section 807, the sum of the items described in section 807(c) taken into account as of the close of the taxable year with respect to any variable contract shall, under regulations prescribed by the Secretary, be adjusted—

“(1) by subtracting therefrom an amount equal to the sum of the amounts added from time to time (for the taxable year) to the reserves separately accounted for in accordance with subsection (c) by reason of appreciation in value of assets (whether or not the assets have been disposed of), and

“(2) by adding thereto an amount equal to the sum of the amounts subtracted from time to time (for the taxable year) from such reserves by reason of depreciation in value of assets (whether or not the assets have been disposed of).

Ante, p. 722.

The deduction allowable for items described in paragraphs (1) and (6) of section 805(a) with respect to variable contracts shall be reduced to the extent that the amount of such items is increased for the taxable year by appreciation (or increased to the extent that the amount of such items is decreased for the taxable year by depreciation) not reflected in adjustments under the preceding sentence.

“(b) **ADJUSTMENT TO BASIS OF ASSETS HELD IN SEGREGATED ASSET ACCOUNT.**—In the case of variable contracts, the basis of each asset in a segregated asset account shall (in addition to all other adjustments to basis) be—

“(1) increased by the amount of any appreciation in value, and

“(2) decreased by the amount of any depreciation in value, to the extent such appreciation and depreciation are from time to time reflected in the increases and decreases in reserves or other items referred to in subsection (a) with respect to such contracts.

Ante, p. 733.

“(c) **SEPARATE ACCOUNTING.**—For purposes of this part (other than section 809), a life insurance company which issues variable contracts shall separately account for the various income, exclusion, deduction, asset, reserve, and other liability items properly attributable to such variable contracts. For such items as are not accounted for directly, separate accounting shall be made—

“(1) in accordance with the method regularly employed by such company, if such method is reasonable, and

“(2) in all other cases, in accordance with regulations prescribed by the Secretary.

“(d) **VARIABLE CONTRACT DEFINED.**—For purposes of this part, the term ‘variable contract’ means a contract—

“(1) which provides for the allocation of all or part of the amounts received under the contract to an account which, pursuant to State law or regulation, is segregated from the general asset accounts of the company,

“(2) which—

“(A) provides for the payment of annuities, or

“(B) is a life insurance contract, and

“(3) under which—

“(A) in the case of an annuity contract, the amounts paid in, or the amount paid out, reflect the investment return and the market value of the segregated asset account, or

“(B) in the case of a life insurance contract, the amount of the death benefit (or the period of coverage) is adjusted on the basis of the investment return and the market value of the segregated asset account.

If a contract ceases to reflect current investment return and current market value, such contract shall not be considered as meeting the requirements of paragraph (3) after such cessation.

“(e) **PENSION PLAN CONTRACTS TREATED AS PAYING ANNUITY.**—A pension plan contract which is not a life, accident, or health, property, casualty, or liability insurance contract shall be treated as a contract which provides for the payments of annuities for purposes of subsection (d).

“(f) **OTHER SPECIAL RULES.**—

“(1) **LIFE INSURANCE RESERVES.**—For purposes of subsection (b)(1)(A) of section 816, the reflection of the investment return and the market value of the segregated asset account shall be considered an assumed rate of interest.

Ante, p. 748.

“(2) **ADDITIONAL SEPARATE COMPUTATIONS.**—Under regulations prescribed by the Secretary, such additional separate computations shall be made, with respect to the items separately accounted for in accordance with subsection (c), as may be necessary to carry out the purposes of this section and this part.

“(g) **VARIABLE ANNUITY CONTRACTS TREATED AS ANNUITY CONTRACTS.**—For purposes of this part, the term ‘annuity contract’ includes a contract which provides for the payment of a variable annuity computed on the basis of—

“(1) recognized mortality tables, and

“(2)(A) the investment experience of a segregated asset account, or

“(B) the company-wide investment experience of the company.

Paragraph (2)(B) shall not apply to any company which issues contracts which are not variable contracts.

“(h) **TREATMENT OF CERTAIN NONDIVERSIFIED CONTRACTS.**—

“(1) **IN GENERAL.**—For purposes of subchapter L, section 72 (relating to annuities), and section 7702(a) (relating to definition of life insurance contract), a variable contract (other than a pension plan contract) which is otherwise described in this section and which is based on a segregated asset account shall not be treated as an annuity, endowment, or life insurance contract for any period (and any subsequent period) for which the investments made by such account are not, in accordance with regulations prescribed by the Secretary, adequately diversified. For purposes of this paragraph and paragraph (2), beneficial interests in a regulated investment company or in a trust shall not be treated as 1 investment if all of the beneficial interests in such company or trust are held by 1 or more segregated asset accounts of 1 or more insurance companies.

Post, p. 767.

“(2) **SAFE HARBOR FOR DIVERSIFICATION.**—A segregated asset account shall be treated as meeting the requirements of paragraph (1) for any quarter of a taxable year if as of the close of such quarter—

“(A) it meets the requirements of section 851(b)(4), and

“(B) no more than 55 percent of the value of the total assets of the account are assets described in section 851(b)(4)(A)(i).

“(3) SPECIAL RULE FOR VARIABLE LIFE INSURANCE CONTRACTS INVESTING IN UNITED STATES OBLIGATIONS.—In the case of a segregated asset account with respect to variable life insurance contracts, paragraph (1) shall not apply in the case of securities issued by the United States Treasury which are owned by a regulated investment company or by a trust all the beneficial interests in which are held by 1 or more segregated asset accounts of the company issuing the contract.

“(4) INDEPENDENT INVESTMENT ADVISORS PERMITTED.—Nothing in this subsection shall be construed as prohibiting the use of independent investment advisors.

26 USC 818.

“SEC. 818. OTHER DEFINITIONS AND SPECIAL RULES.

“(a) PENSION PLAN CONTRACTS.—For purposes of this part, the term ‘pension plan contract’ means any contract—

53 Stat. 67.

“(1) entered into with trusts which (as of the time the contracts were entered into) were deemed to be trusts described in section 401(a) and exempt from tax under section 501(a) (or trusts exempt from tax under section 165 of the Internal Revenue Code of 1939 or the corresponding provisions of prior revenue laws);

“(2) entered into under plans which (as of the time the contracts were entered into) were deemed to be plans described in section 403(a), or plans meeting the requirements of paragraphs (3), (4), (5), and (6) of section 165(a) of the Internal Revenue Code of 1939;

“(3) provided for employees of the life insurance company under a plan which, for the taxable year, meets the requirements of paragraphs (3), (4), (5), (6), (7), (8), (11), (12), (13), (14), (15), (16), (19), (20), and (22) of section 401(a);

53 Stat. 33.

“(4) purchased to provide retirement annuities for its employees by an organization which (as of the time the contracts were purchased) was an organization described in section 501(c)(3) which was exempt from tax under section 501(a) (or was an organization exempt from tax under section 101(6) of the Internal Revenue Code of 1939 or the corresponding provisions of prior revenue laws), or purchased to provide retirement annuities for employees described in section 403(b)(1)(A)(ii) by an employer which is a State, a political subdivision of a State, or an agency or instrumentality of any one or more of the foregoing;

“(5) entered into with trusts which (at the time the contracts were entered into) were individual retirement accounts described in section 408(a) or under contracts entered into with individual retirement annuities described in section 408(b); or

“(6) purchased by—

“(A) a governmental plan (within the meaning of section 414(d)), or

“(B) the Government of the United States, the government of any State or political subdivision thereof, or by any agency or instrumentality of the foregoing, for use in satisfying an obligation of such government, political subdivision, or agency or instrumentality to provide a benefit under a plan described in subparagraph (A).

“(b) TREATMENT OF CAPITAL GAINS AND LOSSES, ETC.—In the case of a life insurance company—

“(1) in applying section 1231(a), the term ‘property used in the trade or business’ shall be treated as including only—

Post, p. 944.

“(A) property used in carrying on an insurance business, of a character which is subject to the allowance for depreciation provided in section 167, held for more than 1 year, and real property used in carrying on an insurance business, held for more than 1 year, which is not described in section 1231(b)(1) (A), (B), or (C), and

“(B) property described in section 1231(b)(2), and

“(2) in applying section 1221(2), the reference to property used in trade or business shall be treated as including only property used in carrying on an insurance business.

“(c) GAIN ON PROPERTY HELD ON DECEMBER 31, 1958 AND CERTAIN SUBSTITUTED PROPERTY ACQUIRED AFTER 1958.—

“(1) PROPERTY HELD ON DECEMBER 31, 1958.—In the case of property held by the taxpayer on December 31, 1958, if—

“(A) the fair market value of such property on such date exceeds the adjusted basis for determining gain as of such date, and

“(B) the taxpayer has been a life insurance company at all times on and after December 31, 1958,

the gain on the sale or other disposition of such property shall be treated as an amount (not less than zero) equal to the amount by which the gain (determined without regard to this subsection) exceeds the difference between the fair market value on December 31, 1958, and the adjusted basis for determining gain as of such date.

“(2) CERTAIN PROPERTY ACQUIRED AFTER DECEMBER 31, 1958.—In the case of property acquired after December 31, 1958, and having a substituted basis (within the meaning of section 1016(b))—

“(A) for purposes of paragraph (1), such property shall be deemed held continuously by the taxpayer since the beginning of the holding period thereof, determined with reference to section 1223,

“(B) the fair market value and adjusted basis referred to in paragraph (1) shall be that of that property for which the holding period taken into account includes December 31, 1958,

“(C) paragraph (1) shall apply only if the property or properties the holding periods of which are taken into account were held only by life insurance companies after December 31, 1958, during the holding periods so taken into account,

“(D) the difference between the fair market value and adjusted basis referred to in paragraph (1) shall be reduced (to not less than zero) by the excess of (i) the gain that would have been recognized but for this subsection on all prior sales or dispositions after December 31, 1958, of properties referred to in subparagraph (C), over (ii) the gain which was recognized on such sales or other dispositions, and

“(E) the basis of such property shall be determined as if the gain which would have been recognized but for this subsection were recognized gain.

“(3) **PROPERTY DEFINED.**—For purposes of paragraphs (1) and (2), the term ‘property’ does not include insurance and annuity contracts and property described in paragraph (1) of section 1221.

“(d) **INSURANCE OR ANNUITY CONTRACT INCLUDES CONTRACTS SUPPLEMENTARY THERETO.**—For purposes of this part, the term ‘insurance or annuity contract’ includes any contract supplementary thereto.

“(e) **SPECIAL RULE FOR CONSOLIDATED RETURNS.**—If an election under section 1504(c)(2) is in effect with respect to an affiliated group for the taxable year, all items of the members of such group which are not life insurance companies shall not be taken into account in determining the amount of the tentative LICTI of members of such group which are life insurance companies.

“(f) **ALLOCATION OF CERTAIN ITEMS FOR PURPOSES OF FOREIGN TAX CREDIT, ETC.**—

“(1) **IN GENERAL.**—Under regulations, in applying sections 861, 862, and 863 to a life insurance company, the deduction for policyholder dividends (determined under section 808(c)), reserve adjustments under subsections (a) and (b) of section 807, and death benefits and other amounts described in section 805(a)(1) shall be treated as items which cannot definitely be allocated to an item or class of gross income.

“(2) **ELECTION OF ALTERNATIVE ALLOCATION.**—

“(A) **IN GENERAL.**—On or before September 15, 1985, any life insurance company may elect to treat items described in paragraph (1) as properly apportioned or allocated among items of gross income to the extent (and in the manner) prescribed in regulations.

“(B) **ELECTION IRREVOCABLE.**—Any election under subparagraph (A), once made, may be revoked only with the consent of the Secretary.”

(b) **TECHNICAL AND CONFORMING AMENDMENTS.**—

(1) Subclause (IV) of section 72(e)(5)(D)(i) is amended by striking out “section 805(d)(3)” and inserting in lieu thereof “section 818(a)(3)”.

(2) Subsection (a) of section 80 (relating to restoration of value of certain securities) is amended by striking out “802” and inserting in lieu thereof “801”.

(3)(A) Subparagraph (C) of section 243(b)(3) (relating to effect of election) is amended by striking out clause (iii), by adding “and” at the end of clause (ii), and by redesignating clause (iv) as clause (iii).

(B) Paragraph (6) of section 243(b) (relating to special rules for insurance companies) is amended by striking out “section 802” and inserting in lieu thereof “section 801”.

(4) Subsection (d) of section 381 (relating to carryover in certain corporate acquisitions) is amended by striking out “section 812(f)” and inserting in lieu thereof “section 810”.

(5) Paragraph (24) of section 401(a) (relating to qualified pension, profit-sharing, and stock bonus plans) is amended by striking out “section 805(d)(6)” and inserting in lieu thereof “section 818(a)(6)”.

(6)(A) Paragraph (1) of section 453B(e) (relating to life insurance companies) is amended by striking out “section 801(a)” and inserting in lieu thereof “section 816(a)”.

Ante, p. 732.

Ante, p. 726.

Ante, p. 722.

26 USC 72.

26 USC 80.

26 USC 243.

26 USC 381.

26 USC 401.

26 USC 453B.

(B) Paragraph (2) of section 453B(e) is amended to read as follows: 26 USC 453B.

“(2) SPECIAL RULE WHERE LIFE INSURANCE COMPANY ELECTS TO TREAT INCOME AS NOT RELATED TO INSURANCE BUSINESS.—Paragraph (1) shall not apply to any transfer or deemed transfer of an installment obligation if the life insurance company elects (at such time and in such manner as the Secretary may by regulations prescribe) to determine its life insurance company taxable income—

“(A) by returning the income on such installment obligation under the installment method prescribed in section 453, and

“(B) as if such income were an item attributable to a noninsurance business (as defined in section 806(c)(3)).”

Ante, p. 724.

(7) Paragraph (5) of section 542(b) (relating to certain dividend income received from a nonincludible life insurance company) is amended by striking out “section 802” and inserting in lieu thereof “section 801”.

26 USC 542.

(8) Subsection (b) of section 594 (relating to alternative tax for mutual savings banks conducting life insurance business) is amended by striking out “section 801” and inserting in lieu thereof “section 816”.

26 USC 594.

(9) Paragraph (4) of section 832(b) (defining premiums earned) is amended by striking out “section 801(b)” and inserting in lieu thereof “section 816(b) but determined as provided in section 807” and by striking out “section 801” and inserting in lieu thereof “section 816”.

26 USC 832.

(10) Section 841 (relating to credit for foreign taxes) is amended—

26 USC 841.

(A) by striking out “section 802”, each place it appears and inserting in lieu thereof “section 801”, and

(B) by striking out “section 802(b)” and inserting in lieu thereof “section 801(b)”.

(11)(A) Subsection (a) of section 844 (relating to special loss carryover rules) is amended—

26 USC 844.

(i) by striking out “section 812”, and inserting in lieu thereof “section 810 (or the corresponding provisions of prior law)”, and

(ii) by striking out “section 812(a)” and inserting in lieu thereof “section 810(a)”.

(B) Subsection (b) of section 844 is amended—

(i) by striking out “section 812(a)” and inserting in lieu thereof “section 810(a)”, and

(ii) by striking out “section 812(b)(1)(C)” in paragraph (2) and inserting in lieu thereof “section 810(b)(1)(C)”.

(12) Section 891 (relating to doubling of rates of tax on citizens and corporations of certain foreign countries) is amended by striking out “802” and inserting in lieu thereof “801”.

26 USC 891.

(13)(A) Subsection (b) of section 953 (relating to income from insurance of United States risks) is amended by striking out paragraph (1) and by redesignating paragraphs (2), (3), (4), and (5) as paragraphs (1), (2), (3), and (4), respectively.

26 USC 953.

(B) Paragraph (2) of section 953(b), as redesignated by subparagraph (A), is amended to read as follows:

“(2) The following provisions of subchapter L shall not apply:

“(A) The special life insurance company deduction and the small life insurance company deduction.

Ante, p. 722.

“(B) Section 805(a)(5) (relating to operations loss deduction).

Ante, p. 755.

“(C) Section 832(c)(5) (relating to certain capital losses).”

(C) Paragraph (3) of section 953(b), as redesignated by subparagraph (A), is amended by—

(i) striking out “section 809(c)(1)” and inserting in lieu thereof “section 803(a)(1)”, and

(ii) by striking out “section 809(c)(2)” and inserting in lieu thereof “section 803(a)(2)”, and

(iii) by striking out “section 809(d)(2)” and inserting in lieu thereof “section 805(a)(2)”.

(D) Paragraph (2) of section 953(a) is amended by striking out “(2), and (3)” and inserting in lieu thereof “and (2)”.

(E) Paragraph (4) of section 953(b), as redesignated by subparagraph (A), is amended by striking out “paragraph (4)” and inserting in lieu thereof “paragraph (3)”.

26 USC 1016.

(14) Paragraph (17) of section 1016(a) is amended by striking out “section 818(b)” each place it appears and inserting in lieu thereof “section 811(b)”.

26 USC 1035.

(15) Paragraph (1) of section 1035(b) (defining endowment contract) is amended by striking out “section 801” and inserting in lieu thereof “section 816”.

26 USC 1201.

(16) Paragraph (1) of section 1201(b) (relating to cross references) is amended by striking out “section 802(a)(2)” and inserting in lieu thereof “section 801(a)(2)”.

26 USC 1232A.

(17) Subparagraph (B) of section 1232A(c)(4) (relating to original issue discount) is amended by striking out “section 818(b)” and inserting in lieu thereof “section 811(b)”.

26 USC 1351.

(18)(A) Paragraph (1) of section 1351(a) (relating to treatment of recoveries of foreign expropriation losses) is amended by striking out “802” each place it appears and inserting in lieu thereof “801”.

(B) Paragraph (2) of section 1351(c) (relating to amount of recovery) is amended by striking out “section 810(c)” and inserting in lieu thereof “section 807(c)”.

(C) Paragraph (3) of section 1351(i) (relating to adjustments for succeeding years) is amended by striking out “section 812” and inserting in lieu thereof “section 810”.

26 USC 1503.

(19)(A) Subsection (c) of section 1503 (relating to special rules for application of certain losses against income of insurance companies taxed under section 802) is amended by striking out “section 802” each place it appears and inserting in lieu thereof “section 801”.

(B) Paragraph (1) of section 1503(c) is amended by striking out the third sentence.

(C) The subsection heading of section 1503(c) is amended by striking out “SECTION 802” and inserting in lieu thereof “SECTION 801”.

26 USC 1504.

(20) Subsections (b)(2), (c)(1), and (c)(2)(A) of section 1504 (defining affiliated group) are each amended by striking out “section 802” and inserting in lieu thereof “section 801”.

26 USC 1561.

(21)(A) Subsection (a) of section 1561 (relating to limitations on certain multiple tax benefits in the case of certain controlled corporations) is amended—

(i) by striking out paragraphs (3) and (4), by adding “and” at the end of paragraph (1), and by striking out the comma

at the end of paragraph (2) and inserting in lieu thereof a period, and

(ii) by striking out “paragraphs (2), (3), and (4)” in the last sentence and inserting in lieu thereof “paragraph (2)”.

(B) Subsection (b) of section 1561 is amended—

26 USC 1561.

(i) by striking out paragraphs (3) and (4) and by adding “and” at the end of paragraph (1), and

(ii) by striking out “, (2), (3), or (4)” and inserting in lieu thereof “or (2)”.

(22) Subsections (a)(4) and (b)(2)(D) of section 1563 (defining controlled group of corporations) are each amended by striking out “section 802” and inserting in lieu thereof “section 801”.

26 USC 1563.

(23) Paragraph (2) of section 4371 (relating to imposition of tax on policies issued by foreign insurers) is amended by striking out “section 819” and inserting in lieu thereof “section 813”.

26 USC 4371.

(24)(A) Subsection (c) of section 6501 (relating to limitations on assessment and collection) is amended by striking out paragraph (6) and by redesignating paragraph (7) as paragraph (6).

26 USC 6501.

(B) Subsection (k) of section 6501 (relating to reductions of policyholders surplus account of life insurance companies) is hereby repealed.

(25) Subsection (d) of section 6511 (relating to limitations on credit or refund) is amended by striking out paragraph (6) and by redesignating paragraph (7) as paragraph (6).

26 USC 6511.

(26) Subsection (d) of section 6601 (relating to interest on underpayments, etc.) is amended by striking out paragraph (3) and by redesignating paragraph (4) as paragraph (3).

26 USC 6601.

(27) Subsection (f) of section 6611 (relating to interest on overpayments) is amended by striking out paragraph (4).

26 USC 6611.

SEC. 212. CERTAIN REINSURANCE AGREEMENTS.

(a) IN GENERAL.—Part IV of subchapter L of chapter 1 (relating to provisions of general application) is amended by adding at the end thereof the following new section:

“SEC. 845. CERTAIN REINSURANCE AGREEMENTS.

26 USC 845.

“(a) ALLOCATION IN CASE OF REINSURANCE AGREEMENT INVOLVING TAX AVOIDANCE OR EVASION.—In the case of 2 or more related persons (within the meaning of section 482) who are parties to a reinsurance agreement (or where one of the parties to a reinsurance agreement is, with respect to any contract covered by the agreement, in effect an agent of another party to such agreement or a conduit between related persons), the Secretary may—

“(1) allocate between or among such persons income (whether investment income, premium, or otherwise), deductions, assets, reserves, credits, and other items related to such agreement,

“(2) recharacterize any such items, or

“(3) make any other adjustment,

if he determines that such allocation, recharacterization, or adjustment is necessary to reflect the proper source and character of the taxable income (or any item described in paragraph (1) relating to such taxable income) of each such person.

“(b) REINSURANCE CONTRACT HAVING SIGNIFICANT TAX AVOIDANCE EFFECT.—If the Secretary determines that any reinsurance contract has a significant tax avoidance effect on any party to such contract, the Secretary may make proper adjustments with respect to such party to eliminate such tax avoidance effect (including treating such

contract with respect to such party as terminated on December 31 of each year and reinstated on January 1 of the next year)."

(b) **CLERICAL AMENDMENT.**—The table of sections for such part IV is amended by adding at the end thereof the following new item:

"Sec. 845. Certain reinsurance agreements."

PART II—EFFECTIVE DATE; TRANSITIONAL RULES

Subpart A—Effective Date

26 USC 801 note. **SEC. 215. EFFECTIVE DATE.**

The amendments made by this subtitle shall apply to taxable years beginning after December 31, 1983.

Subpart B—Transitional Rules

26 USC 801 note. **SEC. 216. RESERVES COMPUTED ON NEW BASIS; FRESH START.**

(a) RECOMPUTATION OF RESERVES.—

(1) **IN GENERAL.**—As of the beginning of the first taxable year beginning after December 31, 1983, for purposes of subchapter L of the Internal Revenue Code of 1954 (other than section 816 thereof), the reserve for any contract shall be recomputed as if the amendments made by this subtitle had applied to such contract when it was issued.

26 USC 801.
Ante, p. 748.

(2) **PREMIUMS EARNED.**—For the first taxable year beginning after December 31, 1983, in determining "premiums earned on insurance contracts during the taxable year" as provided in section 832(b)(4) of the Internal Revenue Code of 1954, life insurance reserves which are included in unearned premiums on outstanding business at the end of the preceding taxable year shall be determined as provided in section 807 of the Internal Revenue Code of 1954, as amended by this subtitle, as though section 807 was applicable to such reserves in such preceding taxable year.

Ante, p. 726.

(3) **ISSUANCE DATE FOR GROUP CONTRACTS.**—For purposes of this subsection, the issuance date of any group contract shall be determined under section 807(e)(2) of the Internal Revenue Code of 1954 (as added by this subtitle), except that if such issuance date cannot be determined, the issuance date shall be determined on the basis prescribed by the Secretary of the Treasury or his delegate for purposes of this subsection.

(b) FRESH START.—

(1) **IN GENERAL.**—Except as provided in paragraph (2), in the case of any insurance company, any change in the method of accounting (and any change in the method of computing reserves) between such company's first taxable year beginning after December 31, 1983, and the preceding taxable year which is required solely by the amendments made by this subtitle shall be treated as not being a change in the method of accounting (or change in the method of computing reserves) for purposes of the Internal Revenue Code of 1954.

26 USC 1 *et seq.*

(2) TREATMENT OF ADJUSTMENTS FROM YEARS BEFORE 1984.—

(A) **ADJUSTMENTS ATTRIBUTABLE TO DECREASES IN RESERVES.**—No adjustment under section 810(d) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) attributable to any

decrease in reserves as a result of a change in a taxable year beginning before 1984 shall be taken into account in any taxable year beginning after 1983.

(B) ADJUSTMENTS ATTRIBUTABLE TO INCREASES IN RESERVES.—

(i) **IN GENERAL.**—Any adjustment under section 810(d) of the Internal Revenue Code of 1954 (as so in effect) attributable to an increase in reserves as a result of a change in a taxable year beginning before 1984 shall be taken into account in taxable years beginning after 1983 to the extent that—

(I) the amount of the adjustments which would be taken into account under such section in taxable years beginning after 1983 without regard to this subparagraph, exceeds

(II) the amount of any fresh start adjustment attributable to contracts for which there was such an increase in reserves as a result of such change.

(ii) **FRESH START ADJUSTMENT.**—For purposes of clause (i), the fresh start adjustment with respect to any contract is the excess (if any) of—

(I) the reserve attributable to such contract as of the close of the taxpayer's last taxable year beginning before January 1, 1984, over

(II) the reserve for such contract as of the beginning of the taxpayer's first taxable year beginning after 1983 as recomputed under subsection (a) of this section.

(C) RELATED INCOME INCLUSIONS NOT TAKEN INTO ACCOUNT TO THE EXTENT DEDUCTION DISALLOWED UNDER SUBPARAGRAPH (b).—No premium shall be included in income to the extent such premium is directly related to an increase in a reserve for which a deduction is disallowed by subparagraph (B).

(3) REINSURANCE TRANSACTIONS, AND RESERVE STRENGTHENING, AFTER SEPTEMBER 27, 1983.—

(A) IN GENERAL.—Paragraph (1) shall not apply (and section 807(f) of the Internal Revenue Code of 1954 as amended by this subtitle shall apply)—

Ante, p. 726.

(i) to any reserve transferred pursuant to—

(I) a reinsurance agreement entered into after September 27, 1983, and before January 1, 1984, or

(II) a modification of a reinsurance agreement made after September 27, 1983, and before January 1, 1984, and

(ii) to any reserve strengthening reported for Federal income tax purposes after September 27, 1983, for a taxable year ending before January 1, 1984.

Clause (ii) shall not apply to the computation of reserves on any contract issued if such computation employs the reserve practice used for purposes of the most recent annual statement filed before September 27, 1983, for the type of contract with respect to which such reserves are set up.

(B) TREATMENT OF RESERVE ATTRIBUTABLE TO SECTION 818 (c) ELECTION.—In the case of any reserve described in subparagraph (A), for purposes of section 807(f) of the Internal Revenue Code of 1954, any change in the treatment of

any contract to which an election under section 818(c) of such Code (as in effect on the day before the date of the enactment of this Act) applied shall be treated as a change in the basis for determining the amount of any reserve.

Ante, p. 726.

(C) 10-YEAR SPREAD INAPPLICABLE WHERE NO 10-YEAR SPREAD UNDER PRIOR LAW.—In the case of any item to which section 807(f) of such Code applies by reason of subparagraph (A) or (B), such item shall be taken into account for the first taxable year beginning after December 31, 1983 (in lieu of over the 10-year period otherwise provided in such section) unless the item was required to have been taken into account over a period of 10 taxable years under section 810(d) of such Code (as in effect on the day before the date of the enactment of this Act).

(D) DISALLOWANCE OF SPECIAL LIFE INSURANCE COMPANY DEDUCTION AND SMALL LIFE INSURANCE COMPANY DEDUCTION.—Any amount included in income under section 807(f) of such Code by reason of subparagraph (A) or (B) (and any income attributable to expenses transferred in connection with the transfer of reserves described in subparagraph (A)) shall not be taken into account for purposes of determining the amount of special life insurance company deduction and the small life insurance company deduction.

(E) DISALLOWANCE OF DEDUCTIONS UNDER SECTION 809(d).—No deduction shall be allowed under paragraph (5) or (6) of section 809(d) of such Code (as in effect before the amendments made by this subtitle) with respect to any amount described in either such paragraph which is transferred in connection with the transfer of reserves described in subparagraph (A).

(4) ELECTIONS UNDER SECTION 818(c) AFTER SEPTEMBER 27, 1983, NOT TO TAKE EFFECT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), any election after September 27, 1983, under section 818(c) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) shall not take effect.

(B) EXCEPTION FOR CERTAIN CONTRACTS ISSUED UNDER PLAN OF INSURANCE FIRST FILED AFTER MARCH 1, 1982, AND BEFORE SEPTEMBER 28, 1983.—Subparagraph (A) shall not apply to any election under such section 818(c) if more than 95 percent of the reserves computed in accordance with such election are attributable to risks under life insurance contracts issued by the taxpayer under a plan of insurance first filed after March 1, 1982, and before September 28, 1983.

Ante, p. 752.

(5) RECAPTURE OF REINSURANCE AFTER DECEMBER 31, 1983.—If (A) insurance or annuity contracts in force on December 31, 1983, are subject to a conventional coinsurance agreement entered into after December 31, 1981, and before January 1, 1984, and (B) such contracts are recaptured by the reinsured in any taxable year beginning after December 31, 1983, then—

(i) if the amount of the reserves with respect to the recaptured contracts, computed at the date of recapture, that the reinsurer would have taken into account under section 810(c) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) exceeds the amount of the reserves with respect to the

recaptured contracts, computed at the date of recapture, taken into account by the reinsurer under section 807(c) of the Internal Revenue Code of 1954 (as amended by this subtitle), such excess (but not greater than the amount of such excess if computed on January 1, 1984) shall be taken into account by the reinsurer under the method described in section 807(f)(1)(B)(ii) of the Internal Revenue Code of 1954 (as amended by this subtitle) commencing with the taxable year of recapture, and

Ante, p. 726.

(ii) the amount, if any, taken into account by the reinsurer under clause (i) for purposes of part I of subchapter L of chapter 1 of the Internal Revenue Code of 1954 shall be taken into account by the reinsurer under the method described in section 807(f)(1)(B)(i) of the Internal Revenue Code of 1954 (as amended by this subtitle) commencing with the taxable year of recapture.

Ante, p. 720.

The excess described in clause (i) shall be reduced by any portion of such excess to which section 807(f) of the Internal Revenue Code of 1954 applies by reason of paragraph (3) of this subsection. For purposes of this paragraph, the term "reinsurer" refers to the taxpayer that held reserves with respect to the recaptured contracts as of the end of the taxable year preceding the first taxable year beginning after December 31, 1983, and the term "reinsured" refers to the taxpayer to which such reserves are ultimately transferred upon termination.

(c) ELECTION NOT TO HAVE RESERVES RECOMPUTED.—

(1) IN GENERAL.—If a qualified life insurance company makes an election under this paragraph—

(A) subsection (a) shall not apply to such company, and

(B) as of the beginning of the first taxable year beginning after December 31, 1983, and thereafter, the reserve for any contract issued before the first day of such taxable year by such company shall be the statutory reserve for such contract (within the meaning of section 809(b)(4)(B)(i) of the Internal Revenue Code of 1954).

Ante, p. 733.

(2) ELECTION WITH RESPECT TO CONTRACTS ISSUED AFTER 1983 AND BEFORE 1989.—

(A) IN GENERAL.—If—

(i) a qualified life insurance company makes an election under paragraph (1), and

(ii) the tentative LICTI (within the meaning of section 806(c) of such Code) of such company for its first taxable year beginning after December 31, 1983, does not exceed \$3,000,000,

Ante, p. 724.

such company may elect under this paragraph to have the reserve for any contract issued on or after the first day of such first taxable year and before January 1, 1989, be equal to the statutory reserve for such contract, adjusted as provided in subparagraph (B).

(B) ADJUSTMENT TO RESERVES.—If this paragraph applies to any contract, the statutory reserves for such contract shall be adjusted as provided under section 805(c)(1) of such Code (as in effect for taxable years beginning in 1982 and 1983), except that section 805(c)(1)(B)(ii) of such Code (as so in effect) shall be applied by substituting—

(i) the prevailing State assumed interest rate (within the meaning of section 807(c)(4) of such Code), for

Ante, p. 726.

(ii) the adjusted reserves rate.

(3) **QUALIFIED LIFE INSURANCE COMPANY.**—For purposes of this subsection, the term “qualified life insurance company” means any life insurance company which, as of December 31, 1983, had assets of less than \$100,000,000 (determined in the same manner as under section 806(b)(3) of such Code).

Ante, p. 724.

(4) **SPECIAL RULES FOR CONTROLLED GROUPS.**—For purposes of applying the dollar limitations of paragraphs (2) and (3), rules similar to the rules of section 806(d) of such Code shall apply.

(5) **ELECTIONS.**—Any election under paragraph (1) or (2)—
(A) shall be made at such time and in such manner as the Secretary of the Treasury may prescribe, and
(B) once made, shall be irrevocable.

SEC. 217. OTHER SPECIAL RULES.

26 USC 814 note.
Ante, p. 744.

(a) **NEW SECTION 814 TREATED AS CONTINUATION OF SECTION 819A.**—For purposes of section 814 of the Internal Revenue Code of 1954 (relating to contiguous country branches of domestic life insurance companies)—

(1) any election under section 819A of such Code (as in effect on the day before the date of the enactment of this Act) shall be treated as an election under such section 814, and

(2) any reference to a provision of such section 814 shall be treated as including a reference to the corresponding provision of such section 819A.

26 USC 453B
note.
Ante, p. 755.

(b) **TREATMENT OF ELECTIONS UNDER SECTION 453B(e)(2).**—If an election is made under section 453B(e)(2) before January 1, 1984, with respect to any installment obligation, any income from such obligation shall be treated as attributable to a noninsurance business (as defined in section 806(c)(3) of the Internal Revenue Code of 1954).

Ante, p. 724.

26 USC 806 note.

(c) **DETERMINATION OF TENTATIVE LICTI WHERE CORPORATION MADE CERTAIN ACQUISITIONS IN 1980, 1981, 1982, AND 1983.**—If—

(1) a corporation domiciled or having its principal place of business in Alabama, Arkansas, Oklahoma, or Texas acquired the assets of 1 or more insurance companies after 1979 and before April 1, 1983, and

(2) the bases of such assets in the hands of the corporation were determined under section 334(b)(2) of the Internal Revenue Code of 1954 or such corporation made an election under section 338 of such Code with respect to such assets,

then the tentative LICTI of the corporation holding such assets for taxable years beginning after December 31, 1983, shall, for purposes of determining the amount of the special deductions under section 806 of such Code, be increased by the deduction allowable under chapter 1 of such Code for the amortization of the cost of insurance contracts acquired in such asset acquisition (and any portion of any operations loss deduction attributable to such amortization).

26 USC 845 note.

(d) **EFFECTIVE DATE FOR NEW SECTION 845.**—

Ante, p. 757.

(1) Subsection (a) of section 845 of the Internal Revenue Code of 1954 (as added by this title) shall apply with respect to any risk reinsured on or after September 27, 1983.

(2) Subsection (b) of section 845 of such Code (as so added) shall apply with respect to risks reinsured after December 31, 1984.

26 USC 801 note.

(e) **TREATMENT OF CERTAIN COMPANIES OPERATING BOTH AS STOCK AND MUTUAL COMPANY.**—If, during the 10-year period ending on

December 31, 1983, a company has, as authorized by the law of the State in which the company is domiciled, been operating as a mutual life insurance company with shareholders, such company shall be treated as a stock life insurance company.

(f) TREATMENT OF CERTAIN ASSESSMENT LIFE INSURANCE COMPANIES.—

26 USC 807 note.

(1) MORTALITY AND MORBIDITY TABLES.—In the case of a contract issued by an assessment life insurance company, the mortality and morbidity tables used in computing statutory reserves for such contract shall be used for purposes of paragraph (2)(C) of section 807(d) of the Internal Revenue Code of 1954 (as amended by this subtitle) if such tables were—

Ante, p. 726.

(A) in use since 1965, and

(B) developed on the basis of the experience of assessment life insurance companies in the State in which such assessment life insurance company is domiciled.

(2) TREATMENT OF CERTAIN MUTUAL ASSESSMENT LIFE INSURANCE COMPANIES.—In the case of any contract issued by a mutual assessment life insurance company which—

(A) has been in existence since 1965, and

(B) operates under chapter 13 or 14 of the Texas Insurance Code,

for purposes of part I of subchapter L of chapter 1 of the Internal Revenue Code of 1954, the amount of the life insurance reserves for such contract shall be equal to the amount taken into account with respect to such contract in determining statutory reserves.

Ante, p. 720.

(3) STATUTORY RESERVES.—For purposes of this subsection, the term “statutory reserves” has the meaning given to such term by section 809(b)(4)(B) of such Code.

Ante, p. 733.

(g) TREATMENT OF REINSURANCE AGREEMENTS REQUIRED BY NAIC.—Effective for taxable years beginning after December 31, 1981, and before January 1, 1984, subsections (c)(1)(F) and (d)(12) of section 809 of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) shall not apply to dividends to policyholders reimbursed to the taxpayer by a reinsurer in respect of accident and health policies reinsured under a reinsurance agreement entered into before June 30, 1955, pursuant to the direction of the National Association of Insurance Commissioners and approved by the State insurance commissioner of the taxpayer’s State of domicile. For purposes of subchapter L of chapter 1 of such Code (as in effect on the day before the date of the enactment of this Act) any such dividends shall be treated as dividends of the reinsurer and not the taxpayer.

26 USC 801 note.

(h) DETERMINATION OF ASSETS OF CONTROLLED GROUP FOR PURPOSES OF SMALL LIFE INSURANCE COMPANY DEDUCTION FOR 1984.—

26 USC 806 note.

(1) IN GENERAL.—For purposes of applying paragraph (2) of section 806(d) of the Internal Revenue Code of 1954 (relating to nonlife insurance members included for asset test) for the first taxable year beginning after December 31, 1983, the members of the controlled group referred to in such paragraph shall be treated as including only those members of such group which are described in paragraph (2) of this subsection if—

Ante, p. 724.

(A) an election under section 1504(c)(2) of such Code is not in effect for the controlled group for such taxable year,

(B) during such taxable year, the controlled group does not include a member which is taxable under part I of

Ante, p. 720.

subchapter L of chapter 1 of such Code and which became a member of such group after September 27, 1983, and

(C) the sum of the contributions to capital received by members of the controlled group which are taxable under such part I during such taxable year from the members of the controlled group which are not taxable under such part does not exceed the aggregate dividends paid during such taxable year by the members of such group which are taxable under such part I.

(2) **MEMBERS OF GROUP TAKEN INTO ACCOUNT.**—For purposes of paragraph (1), the members of the controlled group which are described in this paragraph are—

(A) any financial institution to which section 585 or 593 of such Code applies,

(B) any lending or finance business (as defined by section 542(d)),

(C) any insurance company subject to tax imposed by subchapter L of chapter 1 of such Code, and

(D) any securities broker.

26 USC 816 note.

(i) **SPECIAL ELECTION TO TREAT INDIVIDUAL NONCANCELLABLE ACCIDENT AND HEALTH CONTRACTS AS CANCELLABLE.**—

(1) **IN GENERAL.**—A mutual life insurance company may elect to treat all individual noncancellable (or guaranteed renewable) accident and health insurance contracts as though they were cancellable for purposes of section 816 of subchapter L of chapter 1 of the Internal Revenue Code of 1954.

Ante, p. 748.

(2) **EFFECT OF ELECTION ON SUBSIDIARIES OF ELECTING PARENT.**—

(A) **TREATED AS MUTUAL LIFE INSURANCE COMPANY.**—Any stock life insurance company which is a member of an affiliated group which has a common parent which made an election under paragraph (1), for purposes of part I of subchapter L of the Internal Revenue Code of 1954, such stock life insurance company shall be treated as though it were a mutual life insurance company.

Ante, p. 720.

(B) **INCOME OF ELECTING PARENT TAKEN INTO ACCOUNT IN DETERMINING SMALL LIFE INSURANCE COMPANY DEDUCTION OF ANY SUBSIDIARY.**—For purposes of determining the amount of the small life insurance company deduction of any controlled group which includes a mutual company which made an election under paragraph (1), the taxable income of such electing company shall be taken into account under section 806(b)(2) of the Internal Revenue Code of 1954 (relating to phase-out of small life insurance company deduction).

Ante, p. 724.

(3) **ELECTION.**—An election under paragraph (1) shall apply to the company's first taxable year beginning after December 31, 1983, and all taxable years thereafter.

(4) **TIME AND MANNER.**—An election under paragraph (1) shall be made—

(A) on the return of the taxpayer for its first taxable year beginning after December 31, 1983, and

(B) in such manner as the Secretary of the Treasury or his delegate may prescribe.

26 USC 809 note.

(j) **REDUCTION IN EQUITY BASE FOR MUTUAL SUCCESSOR OF FRATERNAL BENEFIT SOCIETY.**—In the case of any mutual life insurance company which—

(1) is the successor to a fraternal benefit society, and

(2) which assumed the surplus of such fraternal benefit society in 1950 or in March of 1961, for purposes of section 809 of the Internal Revenue Code of 1954 (as amended by this subtitle), the equity base of such mutual life insurance company shall be reduced by the amount of the surplus so assumed plus earnings thereon, (i) for taxable years before 1984, at a 7 percent interest rate, and (ii) for taxable years 1984 and following, at the average mutual earnings rate for such year.

Ante, p. 733.

(k) SPECIAL RULE FOR CERTAIN DEBT-FINANCED ACQUISITION OF STOCK.—If—

26 USC 806 note.

(1) a life insurance company owns the stock of another corporation through a partnership of which it is a partner,

(2) the stock of the corporation was acquired on January 14, 1981, and

(3) such stock was acquired by debt financing, then, for purposes of determining the special deductions under section 806 of the Internal Revenue Code of 1954 (as amended by this subtitle), the amount of tentative LICTI of such life insurance company shall be computed without taking into account any income, gain, loss, or deduction attributable to the ownership of such stock.

Ante, p. 724

(l) TREATMENT OF LOSSES FROM CERTAIN GUARANTEED INTEREST CONTRACTS.—

26 USC 806 note.

(1) **IN GENERAL.**—For purposes of determining the amount of the special deductions under section 806 of the Internal Revenue Code of 1954 (as amended by this subtitle), for any taxable year beginning before January 1, 1988, the amount of tentative LICTI of any qualified life insurance company shall be computed without taking into account any income, gain, loss, or deduction attributable to a qualified GIC.

(2) **QUALIFIED LIFE INSURANCE COMPANY.**—For purposes of this subsection, the term “qualified life insurance company” means any life insurance company if—

(A) the accrual of discount less amortization of premium for bonds and short-term investments (as shown in the first footnote to Exhibit 3 of its 1983 annual statement for life insurance companies approved by the National Association of Insurance Commissioners (but excluding separate accounts) filed in its State of domicile) exceeds \$72,000,000 but does not exceed \$73,000,000, and

(B) such life insurance company makes an election under this subsection on its return for its first taxable year beginning after December 31, 1983.

(3) **QUALIFIED GIC.**—The term “qualified GIC” means any group contract—

(A) which is issued before January 1, 1984,

(B) which specifies the contract maturity or renewal date,

(C) under which funds deposited by the contract holder plus interest guaranteed at the inception of the contract for the term of the contract and net of any specified expenses are paid as directed by the contract holder, and

(D) which is a pension plan contract (as defined in section 818(a) of the Internal Revenue Code of 1954).

Ante, p. 752.

(4) **SCOPE OF ELECTION.**—An election under this subsection shall apply to all qualified GIC's of a qualified life insurance company. Any such election, once made, shall be irrevocable.

(5) **INCOME ON UNDERLYING ASSETS TAKEN INTO ACCOUNT.**—In determining the amount of any income attributable to a quali-

fied GIC, income on any asset attributable to such contract (as determined in the manner provided by the Secretary of the Treasury or his delegate) shall be taken into account.

Ante, p. 724.

(6) **LIMITATION ON TAX BENEFIT.**—The amount of any reduction in tax for any taxable year by reason of this subsection for any qualified life insurance company (or controlled group within the meaning of section 806(d)(3) of the Internal Revenue Code of 1954) shall not exceed the applicable amount set forth in the following table:

In the case of taxable years beginning in:	The reduction may not exceed:
1984.....	\$4,500,000
1985.....	\$4,500,000
1986.....	\$3,000,000
1987.....	\$2,000,000

26 USC 806 note.

(m) SPECIAL RULE FOR CERTAIN INTERESTS IN OIL AND GAS PROPERTIES.—

(1) **IN GENERAL.**—For purposes of section 806 of the Internal Revenue Code of 1954, the ownership by a qualified life insurance company of any undivided interest in operating mineral interests with respect to any oil or gas properties held on December 31, 1983, shall be treated as an insurance business.

(2) **QUALIFIED LIFE INSURANCE COMPANY.**—For purposes of paragraph (1), the term “qualified life insurance company” means a mutual life insurance company which—

(A) was originally incorporated in March of 1857, and

(B) has a cost to such company (as of December 31, 1983)

in the operating mineral interests described in paragraph

(1) in excess of \$250,000,000.

26 USC 807 note.

(n) SPECIAL RULE FOR COMPANIES USING NET LEVEL RESERVE METHOD FOR NONCANCELLABLE ACCIDENT AND HEALTH INSURANCE CONTRACTS.—A company shall be treated as meeting the requirement of section 807(d)(3)(A)(iii) of the Internal Revenue Code of 1954, as amended by this Act, with respect to any noncancellable accident and health insurance contract for any taxable year if such company—

Ante, p. 726.

(1) uses the net level reserve method to compute its tax reserves under section 807 of such Code on such contracts for such taxable year,

(2) was using the net level reserve method to compute its statutory reserves on such contracts as of December 31, 1982, and

(3) has continuously used such method for computing such reserves on such contracts after December 31, 1982, and through such taxable year.

26 USC 6655 note.

SEC. 218. UNDERPAYMENTS OF ESTIMATED TAX FOR 1984.

No addition to the tax shall be made under section 6655 of the Internal Revenue Code of 1954 (relating to failure by corporation to pay estimated tax) with respect to any underpayment of an installment required to be paid before the date of the enactment of this Act to the extent—

(1) such underpayment was created or increased by any provision of this subtitle, and

(2) such underpayment is paid in full on or before the last date prescribed for payment of the first installment of estimated tax required to be paid after the date of the enactment of this Act.

SEC. 219. CLARIFICATION OF AUTHORITY TO REQUIRE CERTAIN INFORMATION. 26 USC 809 note.

Nothing in any provision of law shall be construed to prevent the Secretary of the Treasury or his delegate from requiring (from time to time) life insurance companies to provide such data with respect to taxable years beginning before January 1, 1984, as may be necessary to carry out the provisions of section 809 of such Code (as added by this title).

Ante, p. 733.

Subtitle B—Taxation of Life Insurance Products

SEC. 221. DEFINITION OF LIFE INSURANCE CONTRACT.

(a) **GENERAL RULE.**—Chapter 79 (relating to definitions) is amended by adding at the end thereof the following new section:

“SEC. 7702. LIFE INSURANCE CONTRACT DEFINED.

26 USC 7702.

“(a) **GENERAL RULE.**—For purposes of this title, the term ‘life insurance contract’ means any contract which is a life insurance contract under the applicable law, but only if such contract—

“(1) meets the cash value accumulation test of subsection (b),

or

“(2)(A) meets the guideline premium requirements of subsection (c), and

“(B) falls within the cash value corridor of subsection (d).

“(b) **CASH VALUE ACCUMULATION TEST FOR SUBSECTION (a)(1).**—

“(1) **IN GENERAL.**—A contract meets the cash value accumulation test of this subsection if, by the terms of the contract, the cash surrender value of such contract may not at any time exceed the net single premium which would have to be paid at such time to fund future benefits under the contract.

“(2) **RULES FOR APPLYING PARAGRAPH (1).**—Determinations under paragraph (1) shall be made—

“(A) on the basis of interest at the greater of an annual effective rate of 4 percent or the rate or rates guaranteed on issuance of the contract,

“(B) on the basis of the rules of subparagraph (B)(i) (and, in the case of qualified additional benefits, subparagraph (B)(ii)) of subsection (c)(3), and

“(C) by taking into account under subparagraphs (A) and (C) of subsection (e)(1) only current and future death benefits and qualified additional benefits.

“(c) **GUIDELINE PREMIUM REQUIREMENTS.**—For purposes of this section—

“(1) **IN GENERAL.**—A contract meets the guideline premium requirements of this subsection if the sum of the premiums paid under such contract does not at any time exceed the guideline premium limitation as of such time.

“(2) **GUIDELINE PREMIUM LIMITATION.**—The term ‘guideline premium limitation’ means, as of any date, the greater of—

“(A) the guideline single premium, or

“(B) the sum of the guideline level premiums to such date.

“(3) **GUIDELINE SINGLE PREMIUM.**—

“(A) **IN GENERAL.**—The term ‘guideline single premium’ means the premium at issue with respect to future benefits under the contract.

“(B) **BASIS ON WHICH DETERMINATION IS MADE.**—The determination under subparagraph (A) shall be based on—

“(i) the mortality charges specified in the contract (or, if none is specified, the mortality charges used in determining the statutory reserves for such contract),

“(ii) any charges (not taken into account under clause (i)) specified in the contract (the amount of any charge not so specified shall be treated as zero), and

“(iii) interest at the greater of an annual effective rate of 6 percent or the rate or rates guaranteed on issuance of the contract.

“(C) **WHEN DETERMINATION MADE.**—Except as provided in subsection (f)(7), the determination under subparagraph (A) shall be made as of the time the contract is issued.

“(4) **GUIDELINE LEVEL PREMIUM.**—The term ‘guideline level premium’ means the level annual amount, payable over a period not ending before the insured attains age 95, computed on the same basis as the guideline single premium, except that paragraph (3)(B)(iii) shall be applied by substituting ‘4 percent’ for ‘6 percent’.

“(d) **CASH VALUE CORRIDOR FOR PURPOSES OF SUBSECTION (a)(2)(B).**—For purposes of this section—

“(1) **IN GENERAL.**—A contract falls within the cash value corridor of this subsection if the death benefit under the contract at any time is not less than the applicable percentage of the cash surrender value.

“(2) **APPLICABLE PERCENTAGE.**—

“In the case of an insured with an attained age as of the beginning of the contract year of:

The applicable percentage shall decrease by a ratable portion for each full year:

More than:	But not more than:	From:	To:
0.....	40	250.....	250
40.....	45	250.....	215
45.....	50	215.....	185
50.....	55	185.....	150
55.....	60	150.....	130
60.....	65	130.....	120
65.....	70	120.....	115
70.....	75	115.....	105
75.....	90	105.....	105
90.....	95	105.....	100.

“(e) **COMPUTATIONAL RULES.**—

“(1) **IN GENERAL.**—For purposes of this section—

“(A) the death benefit (and any qualified additional benefit) shall be deemed not to increase,

“(B) the maturity date, including the date on which any benefit described in subparagraph (C) is payable, shall be no earlier than the day on which the insured attains age 95, and no later than the day on which the insured attains age 100, and

“(C) the amount of any endowment benefit (or sum of endowment benefits, including any cash surrender value on the maturity date described in subparagraph (B)) shall be deemed not to exceed the least amount payable as a death benefit at any time under the contract.

“(2) LIMITED INCREASES IN DEATH BENEFIT PERMITTED.—Notwithstanding paragraph (1)(A)—

“(A) for purposes of computing the guideline level premium, an increase in the death benefit which is provided in the contract may be taken into account but only to the extent necessary to prevent a decrease in the excess of the death benefit over the cash surrender value of the contract, and

“(B) for purposes of the cash value accumulation test, the increase described in subparagraph (A) may be taken into account if the contract will meet such test at all times assuming that the net level reserve (determined as if level annual premiums were paid for the contract over a period not ending before the insured attains age 95) is substituted for the net single premium.

“(f) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) PREMIUMS PAID.—

“(A) IN GENERAL.—The term ‘premiums paid’ means the premiums paid under the contract less amounts (other than amounts includible in gross income) to which section 72(e) applies and less any other amounts received with respect to the contract which are specified in regulations.

“(B) TREATMENT OF CERTAIN PREMIUMS RETURNED TO POLICYHOLDER.—If, in order to comply with the requirements of subsection (a)(2)(A), any portion of any premium paid during any contract year is returned by the insurance company (with interest) within 60 days after the end of a contract year, the amount so returned (excluding interest) shall be deemed to reduce the sum of the premiums paid under the contract during such year.

“(C) INTEREST RETURNED INCLUDIBLE IN GROSS INCOME.—Notwithstanding the provisions of section 72(e), the amount of any interest returned as provided in subparagraph (B) shall be includible in the gross income of the recipient.

“(2) CASH VALUES.—

“(A) CASH SURRENDER VALUE.—The cash surrender value of any contract shall be its cash value determined without regard to any surrender charge, policy loan, or reasonable termination dividends.

“(B) NET SURRENDER VALUE.—The net surrender value of any contract shall be determined with regard to surrender charges but without regard to any policy loan.

“(3) DEATH BENEFIT.—The term ‘death benefit’ means the amount payable by reason of the death of the insured (determined without regard to any qualified additional benefits).

“(4) FUTURE BENEFITS.—The term ‘future benefits’ means death benefits and endowment benefits.

“(5) QUALIFIED ADDITIONAL BENEFITS.—

“(A) IN GENERAL.—The term ‘qualified additional benefits’ means any—

“(i) guaranteed insurability,

- “(ii) accidental death or disability benefit,
- “(iii) family term coverage,
- “(iv) disability waiver benefit, or
- “(v) other benefit prescribed under regulations.

“(B) TREATMENT OF QUALIFIED ADDITIONAL BENEFITS.—For purposes of this section, qualified additional benefits shall not be treated as future benefits under the contract, but the charges for such benefits shall be treated as future benefits.

“(C) TREATMENT OF OTHER ADDITIONAL BENEFITS.—In the case of any additional benefit which is not a qualified additional benefit—

“(i) such benefit shall not be treated as a future benefit, and

“(ii) any charge for such benefit which is not pre-funded shall not be treated as a premium.

“(6) PREMIUM PAYMENTS NOT DISQUALIFYING CONTRACT.—The payment of a premium which would result in the sum of the premiums paid exceeding the guideline premium limitation shall be disregarded for purposes of subsection (a)(2) if the amount of such premium does not exceed the amount necessary to prevent the termination of the contract on or before the end of the contract year (but only if the contract will have no cash surrender value at the end of such extension period).

“(7) ADJUSTMENTS.—

“(A) IN GENERAL.—In the event of a change in the future benefits or any qualified additional benefit (or in any other terms) under the contract which was not reflected in any previous determination made under this section, under regulations prescribed by the Secretary, there shall be proper adjustments in future determinations made under this section.

“(B) CERTAIN CHANGES TREATED AS EXCHANGE.—In the case of any change which reduces the future benefits under the contract, such change shall be treated as an exchange of the contract for another contract.

“(8) CORRECTION OF ERRORS.—If the taxpayer establishes to the satisfaction of the Secretary that—

“(A) the requirements described in subsection (a) for any contract year were not satisfied due to reasonable error, and

“(B) reasonable steps are being taken to remedy the error,

the Secretary may waive the failure to satisfy such requirements.

“(9) SPECIAL RULE FOR VARIABLE LIFE INSURANCE CONTRACTS.—

In the case of any contract which is a variable contract (as defined in section 817), the determination of whether such contract meets the requirements of subsection (a) shall be made whenever the death benefits under such contract change but not less frequently than once during each 12-month period.

“(g) TREATMENT OF CONTRACTS WHICH DO NOT MEET SUBSECTION

(a) TEST.—

“(1) INCOME INCLUSION.—

“(A) IN GENERAL.—If at any time any contract which is a life insurance contract under the applicable law does not meet the definition of life insurance contract under subsection (a), the income on the contract for any taxable year of

the policyholder shall be treated as ordinary income received or accrued by the policyholder during such year.

“(B) INCOME ON THE CONTRACT.—For purposes of this paragraph, the term ‘income on the contract’ means, with respect to any taxable year of the policyholder, the excess of—

“(i) the sum of—

“(I) the increase in the net surrender value of the contract during the taxable year, and

“(II) the cost of life insurance protection provided under the contract during the taxable year, over

“(ii) the amount of premiums paid under the contract during the taxable year reduced by any policyholder dividends received during such taxable year.

“(C) CONTRACTS WHICH CEASE TO MEET DEFINITION.—If, during any taxable year of the policyholder, a contract which is a life insurance contract under the applicable law ceases to meet the definition of life insurance contract under subsection (a), the income on the contract for all prior taxable years shall be treated as received or accrued during the taxable year in which such cessation occurs.

“(D) COST OF LIFE INSURANCE PROTECTION.—For purposes of this paragraph, the cost of life insurance protection provided under the contract shall be the lesser of—

“(i) the cost of individual insurance on the life of the insured as determined on the basis of uniform premiums (computed on the basis of 5-year age brackets) prescribed by the Secretary by regulations, or

“(ii) the mortality charge (if any) stated in the contract.

“(2) TREATMENT OF AMOUNT PAID ON DEATH OF INSURED.—If any contract which is a life insurance contract under the applicable law does not meet the definition of life insurance contract under subsection (a), the excess of the amount paid by the reason of the death of the insured over the net surrender value of the contract shall be deemed to be paid under a life insurance contract for purposes of section 101 and subtitle B.

“(3) CONTRACT CONTINUES TO BE TREATED AS INSURANCE CONTRACT.—If any contract which is a life insurance contract under the applicable law does not meet the definition of life insurance contract under subsection (a), such contract shall, notwithstanding such failure, be treated as an insurance contract for purposes of this title.

“(h) ENDOWMENT CONTRACTS RECEIVE SAME TREATMENT.—

“(1) IN GENERAL.—References in subsections (a) and (g) to a life insurance contract shall be treated as including references to a contract which is an endowment contract under the applicable law.

“(2) DEFINITION OF ENDOWMENT CONTRACT.—For purposes of this title (other than paragraph (1)), the term ‘endowment contract’ means a contract which is an endowment contract under the applicable law and which meets the requirements of subsection (a).

“(i) TRANSITIONAL RULE FOR CERTAIN 20-PAY CONTRACTS.—

“(1) IN GENERAL.—In the case of a qualified 20-pay contract, this section shall be applied by substituting ‘3 percent’ for ‘4 percent’ in subsection (b)(2).

26 USC 2001.

“(2) **QUALIFIED 20-PAY CONTRACT.**—For purposes of paragraph (1), the term ‘qualified 20-pay contract’ means any contract which—

“(A) requires at least 20 nondecreasing annual premium payments, and

“(B) is issued pursuant to an existing plan of insurance.

“(3) **EXISTING PLAN OF INSURANCE.**—For purposes of this subsection, the term ‘existing plan of insurance’ means, with respect to any contract, any plan of insurance which was filed by the company issuing such contract in 1 or more States before September 28, 1983, and is on file in the appropriate State for such contract.

“(j) **REGULATIONS.**—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.”.

(b) **1-YEAR EXTENSION OF FLEXIBLE PREMIUM CONTRACT PROVISIONS.**—

26 USC 101 note. (1) **IN GENERAL.**—Paragraph (1) of section 266(c) of the Tax Equity and Fiscal Responsibility Act of 1982 is amended by striking out “January 1, 1984” and inserting in lieu thereof “January 1, 1985”.

(2) **TECHNICAL AMENDMENTS.**—

26 USC 101. (A) Paragraph (1) of section 101(f) is amended by striking out “flexible premium life insurance contract” and inserting in lieu thereof “flexible premium life insurance contract issued before January 1, 1985”.

(B) The subsection heading of subsection (f) of section 101 is amended by striking out “FLEXIBLE PREMIUM CONTRACTS” and inserting in lieu thereof “FLEXIBLE PREMIUM CONTRACTS ISSUED BEFORE JANUARY 1, 1985”.

(c) **CLERICAL AMENDMENT.**—The table of sections for chapter 79 is amended by adding at the end thereof the following new item:

“Sec. 7702. Life insurance contract defined.”.

26 USC 7702 note.

(d) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—Except as otherwise provided in this subsection, the amendments made by this section shall apply to contracts issued after December 31, 1984, in taxable years ending after such date.

(2) **SPECIAL RULE FOR CERTAIN CONTRACTS ISSUED AFTER JUNE 30, 1984.**—

(A) **GENERAL RULE.**—Except as otherwise provided in this paragraph, the amendments made by this section shall apply also to any contract issued after June 30, 1984, which provides an increasing death benefit and has premium funding more rapid than 10-year level premium payments.

(B) **EXCEPTION FOR CERTAIN CONTRACTS.**—Subparagraph (A) shall not apply to any contract if—

(i) such contract (whether or not a flexible premium contract) would meet the requirements of section 101(f) of the Internal Revenue Code of 1954,

(ii) such contract is not a flexible premium life insurance contract (within the meaning of section 101(f) of such Code) and would meet the requirements of section 7702 of such Code determined by—

(I) substituting “3 percent” for “4 percent” in section 7702(b)(2) of such Code, and

(II) treating subparagraph (B) of section 7702(e)(1) of such Code as if it read as follows: “the maturity date shall be the latest maturity date permitted under the contract, but not less than 20 years after the date of issue or (if earlier) age 95”,
or

Ante, p. 767.

(iii) under such contract—

(I) the premiums (including any policy fees) will be adjusted from time-to-time to reflect the level amount necessary (but not less than zero) at the time of such adjustment to provide a level death benefit assuming interest crediting and an annual effective interest rate of not less than 3 percent, or

(II) at the option of the insured, in lieu of an adjustment under subclause (I) there will be a comparable adjustment in the amount of the death benefit.

(C) CERTAIN CONTRACTS ISSUED BEFORE OCTOBER 1, 1984.—

(i) IN GENERAL.—Subparagraph (A) shall be applied by substituting “September 30, 1984” for “June 30, 1984” in clause (i) thereof in the case of a contract—

(I) which would meet the requirements of section 7702 of such Code if “3 percent” were substituted for “4 percent” in section 7702(b)(2) of such Code, and the rate or rates guaranteed on issuance of the contract were determined without regard to any mortality charges, and

(II) the cash surrender value of which does not at any time exceed the net single premium which would have to be paid at such time to fund future benefits under the contract.

(ii) DEFINITIONS.—For purposes of clause (i)—

(I) IN GENERAL.—Except as provided in subclause (II), terms used in clause (i) shall have the same meanings as when used in section 7702 of such Code.

(II) NET SINGLE PREMIUM.—The term “net single premium” shall be determined by substituting “3 percent” for “4 percent” in section 7702(b)(2) of such Code, by using the 1958 standard ordinary mortality and morbidity tables of the National Association of Insurance Commissioners, and by assuming a level death benefit.

(3) TRANSITIONAL RULE FOR CERTAIN EXISTING PLANS OF INSURANCE.—A plan of insurance on file in 1 or more States before September 28, 1983, shall be treated for purposes of section 7702(i)(3) of such Code as a plan of insurance on file in 1 or more States before September 28, 1983, without regard to whether such plan of insurance is modified after September 28, 1983, to permit the crediting of excess interest or similar amounts annually and not monthly under contracts issued pursuant to such plan of insurance.

(4) EXTENSION OF FLEXIBLE PREMIUM CONTRACT PROVISIONS.—The amendments made by subsection (b) shall take effect on January 1, 1984.

(5) SPECIAL RULE FOR MASTER CONTRACT.—For purposes of this subsection, in the case of a master contract, the date taken into

account with respect to any insured shall be the first date on which such insured is covered under such contract.

SEC. 222. TREATMENT OF CERTAIN ANNUITY CONTRACTS.

26 USC 72.

(a) **PENALTY ON PREMATURE DISTRIBUTIONS.**—Paragraph (1) of section 72(q) (relating to 5-percent penalty for premature distributions from annuity contracts) is amended to read as follows:

“(1) **IMPOSITION OF PENALTY.**—If any taxpayer receives any amount under an annuity contract, the taxpayer’s tax under this chapter for the taxable year in which such amount is received shall be increased by an amount equal to 5 percent of the portion of such amount which is includible in gross income.”

(b) **REQUIRED DISTRIBUTIONS WHERE HOLDER DIES BEFORE ENTIRE INTEREST IS DISTRIBUTED.**—Section 72 (relating to annuities; certain proceeds of endowment and life insurance contracts) is amended by redesignating subsection (s) and subsection (t) and by inserting after subsection (r) the following new subsection:

“(s) **REQUIRED DISTRIBUTIONS WHERE HOLDER DIES BEFORE ENTIRE INTEREST IS DISTRIBUTED.**—

“(1) **IN GENERAL.**—A contract shall not be treated as an annuity contract for purposes of this title unless it provides that—

“(A) if the holder of such contract dies on or after the annuity starting date and before the entire interest in such contract has been distributed, the remaining portion of such interest will be distributed at least as rapidly as under the method of distributions being used as of the date of his death, and

“(B) if the holder of such contract dies before the annuity starting date, the entire interest in such contract will be distributed within 5 years after the death of such holder.

“(2) **EXCEPTION FOR CERTAIN AMOUNTS PAYABLE OVER LIFE OF BENEFICIARY.**—If—

“(A) any portion of the holder’s interest is payable to (or for the benefit of) a designated beneficiary,

“(B) such portion will be distributed (in accordance with regulations) over the life of such designated beneficiary (or over a period not extending beyond the life expectancy of such beneficiary), and

“(C) such distributions begin not later than 1 year after the date of the holder’s death or such later date as the Secretary may by regulations prescribe,

then for purposes of paragraph (1), the portion referred to in subparagraph (A) shall be treated as distributed on the day on which such distributions begin.

“(3) **SPECIAL RULE WHERE SURVIVING SPOUSE BENEFICIARY.**—If the designated beneficiary referred to in paragraph (2)(A) is the surviving spouse of the holder of the contract, paragraphs (1) and (2) shall be applied by treating such spouse as the holder of such contract.

“(4) **DESIGNATED BENEFICIARY.**—For purposes of this subsection, the term ‘designated beneficiary’ means any individual designated a beneficiary by the holder of the contract.”

26 USC 72 note.

(c) **EFFECTIVE DATES.**—

(1) **IN GENERAL.**—The amendments made by this section shall apply to contracts issued after the day which is 6 months after

the date of the enactment of this Act in taxable years ending after such date.

(2) **TRANSITIONAL RULES FOR CONTRACTS ISSUED BEFORE EFFECTIVE DATE.**—In the case of any contract (other than a single premium contract) which is issued on or before the day which is 6 months after the date of the enactment of this Act, for purposes of section 72(q)(1)(A) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act), any investment in such contract which is made during any calendar year shall be treated as having been made on January 1 of such calendar year.

SEC. 223. GROUP-TERM LIFE INSURANCE PURCHASED FOR EMPLOYEES.

(a) **SECTION 79 EXTENDED TO FORMER EMPLOYEES.**—

26 USC 79.

(1) Section 79 (relating to group-term insurance purchased for employees) is amended by adding at the end thereof the following new subsection:

“(e) **EMPLOYEE INCLUDES FORMER EMPLOYEE.**—For purposes of this section, the term ‘employee’ includes a former employee.”

(2) Paragraph (1) of section 79(b) is amended to read as follows:

“(1) the cost of group-term life insurance on the life of an individual which is provided under a policy carried directly or indirectly by an employer after such individual has terminated his employment with such employer and is disabled (within the meaning of section 72(m)(7)).”

(b) **AMOUNT OF INCLUSION IN CASE OF DISCRIMINATORY PLANS.**—Paragraph (1) of section 79(d) (relating to nondiscrimination requirements) is amended to read as follows:

“(1) **IN GENERAL.**—In the case of a discriminatory group-term life insurance plan—

“(A) subsection (a)(1) shall not apply with respect to any key employee, and

“(B) the cost of group-term life insurance on the life of any key employee shall be determined without regard to subsection (c).”

(c) **CLARIFICATION OF COORDINATION WITH SECTION 83.**—Subsection (e) of section 83 (relating to application of section) is amended by striking out “or” at the end of paragraph (3), by striking out the period at the end of paragraph (4) and inserting in lieu thereof “, or”, and by adding at the end thereof the following new paragraph:

26 USC 83.

“(5) the cost of group-term life insurance to which section 79 applies.”

(d) **EFFECTIVE DATE.**—

26 USC 79 note.

(1) **IN GENERAL.**—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1983.

(2) **INCLUSION OF FORMER EMPLOYEES IN THE CASE OF EXISTING GROUP-TERM INSURANCE PLANS.**—

(A) **IN GENERAL.**—The amendments made by subsection (a) shall not apply—

(i) to any group-term life insurance plan of the employer in existence on January 1, 1984, or

(ii) to any group-term life insurance plan of the employer (or a successor employer) which is a comparable successor to a plan described in clause (i),

but only with respect to an individual who attained age 55 on or before January 1, 1984, and either was employed by such employer at any time during 1983 or retired from employment with such employer on or before January 1, 1984.

(B) **SPECIAL RULE IN THE CASE OF DISCRIMINATORY GROUP-TERM LIFE INSURANCE PLAN.**—In the case of any plan which, after December 31, 1986, is a discriminatory group-term life insurance plan (as defined in section 79(d) of the Internal Revenue Code of 1954), subparagraph (A) shall not apply in the case of any individual retiring under such plan after December 31, 1986.

(C) **BENEFITS TO CERTAIN RETIRED INDIVIDUALS NOT TAKEN INTO ACCOUNT FOR PURPOSES OF DETERMINING WHETHER PLAN IS DISCRIMINATORY.**—For purposes of determining whether after December 31, 1986, a plan described in subparagraph (A) meets the requirements of section 79(d) of the Internal Revenue Code of 1954 with respect to group-term life insurance for former employees, coverage provided to employees who retired on or before December 31, 1986, shall not be taken into account.

SEC. 224. TREATMENT OF CERTAIN EXCHANGES OF INSURANCE POLICIES.

26 USC 1035.

(a) **GENERAL RULE.**—Paragraph (1) of section 1035(b) (defining endowment contract) is amended by striking out “a life insurance company as defined in section 801” and inserting in lieu thereof “an insurance company subject to tax under subchapter L”.

26 USC 1035
note.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to all exchanges whether before, on, or after the date of the enactment of this Act.

Subtitle C—Studies

26 USC 801 note.

SEC. 231. STUDIES.

(a) **REVENUE REPORTS.**—Not later than July 1, 1985, and July 1 of each calendar year thereafter, the Secretary of the Treasury shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on—

Ante, p. 720.

(1) the aggregate amount of revenue received under part I of subchapter L of chapter 1 of the Internal Revenue Code of 1954 for the most recent taxable years for which data are available,

(2) a comparison between the amount of such revenue and the amount anticipated by reason of changes made by the Tax Equity and Fiscal Responsibility Act of 1982 or the Life Insurance Tax Act of 1984, and

26 USC 1 note.

(3) the reasons for any difference between such aggregate revenues and anticipated revenues.

(b) **REPORT WITH RESPECT TO SEGMENT BALANCE, ETC.**—

(1) **IN GENERAL.**—The Secretary of the Treasury (in consultation with the Joint Committee on Taxation, the Committee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate) shall conduct a full and complete study of the operation of part I of subchapter L of chapter 1 of the Internal Revenue Code of 1954 during 1984, 1985, and 1986. Such study shall also include an analysis of life

insurance products and the taxation thereof. Such study shall also include an analysis of whether part I of such subchapter L operates as a disincentive to growing companies.

(2) **ITEMS TO BE INCLUDED.**—The study conducted under paragraph (1) shall include—

(A) an analysis of the portion of the taxes paid by mutual life insurance companies and stock life insurance companies, and

(B) any other data considered relevant by either stock life insurance companies or mutual life insurance companies in determining appropriate segment balance, such as the respective amounts of the following items held by each segment of the industry—

- (i) equity,
- (ii) life insurance reserves,
- (iii) other types of reserves,
- (iv) dividends paid to policyholders and shareholders,
- (v) pension business,
- (vi) total assets, and
- (vii) gross receipts.

Such report shall also include an analysis of the extent to which taxes paid by stockholders of life insurance companies shall be included in analyzing segment balance.

(3) **REPORTS.**—

(A) **INTERIM REPORTS.**—The Secretary of the Treasury shall submit interim reports on the study conducted under this subsection to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than July 1, 1986, 1987, and 1988.

(B) **FINAL REPORT.**—Not later than January 1, 1989, the Secretary of the Treasury shall submit a final report on the study conducted under this subsection to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(c) **AUTHORITY TO REQUIRE DATA.**—The Secretary of the Treasury shall have authority to require reporting of such data with respect to life insurance companies and their products as may be necessary to carry out the purposes of this section.

TITLE III—REVISION OF PRIVATE FOUNDATION PROVISIONS

SEC. 301. LIMITATIONS ON DEDUCTION FOR CONTRIBUTIONS TO PRIVATE FOUNDATIONS.

(a) **INCREASE IN PERCENTAGE LIMITATION FOR INDIVIDUALS.**—

(1) **IN GENERAL.**—Clause (i) of section 170(b)(1)(B) (relating to percentage limitations for individuals) is amended by striking out “20 percent” and inserting in lieu thereof “30 percent”.

26 USC 170.

(2) **CARRYOVER OF EXCESS CONTRIBUTIONS.**—Subparagraph (B) of section 170(b)(1) is amended by adding at the end thereof the following new sentence:

“If the aggregate of such contributions exceeds the limitation of the preceding sentence, such excess shall be treated (in a manner consistent with the rules of subsection (d)(1)) as a charitable contribution (to which subparagraph (A)

does not apply) in each of the 5 succeeding taxable years in order of time.”

(b) DEDUCTION ALLOWED FOR FULL FAIR MARKET VALUE OF CERTAIN STOCK CONTRIBUTED TO PRIVATE FOUNDATIONS.—Subsection (e) of section 170 (relating to certain contributions of ordinary income and capital gain property) is amended by adding at the end thereof the following new paragraph:

“(5) SPECIAL RULE FOR CONTRIBUTIONS OF STOCK FOR WHICH MARKET QUOTATIONS ARE READILY AVAILABLE.—

“(A) IN GENERAL.—Subparagraph (B)(ii) of paragraph (1) shall not apply to any contribution of qualified appreciated stock.

“(B) QUALIFIED APPRECIATED STOCK.—Except as provided in subparagraph (C), for purposes of this paragraph, the term ‘qualified appreciated stock’ means any stock of a corporation—

“(i) for which (as of the date of the contribution) market quotations are readily available on an established securities market, and

“(ii) which is capital gain property (as defined in subsection (b)(1)(C)(iv)).

“(C) DONOR MAY NOT CONTRIBUTE MORE THAN 10 PERCENT OF STOCK OF CORPORATION.—

“(i) IN GENERAL.—In the case of any donor, the term ‘qualified appreciated stock’ shall not include any stock of a corporation contributed by the donor in a contribution to which paragraph (1)(B)(ii) applies (determined without regard to this paragraph) to the extent that the amount of the stock so contributed (when increased by the aggregate amount of all prior such contributions by the donor of stock in such corporation) exceeds 10 percent (in value) of all of the outstanding stock of such corporation.

“(ii) SPECIAL RULE.—For purposes of clause (i), an individual shall be treated as making all contributions made by any member of his family (as defined in section 267(c)(4)).

“(D) TERMINATION.—This paragraph shall not apply to contributions made after December 31, 1994.”

(c) 20-PERCENT LIMITATION RETAINED FOR CONTRIBUTIONS OF CAPITAL GAIN PROPERTY.—

(1) IN GENERAL.—Paragraph (1) of section 170(b) (relating to percentage limitations for individuals) is amended by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively, and by inserting after subparagraph (C) the following new subparagraph:

“(D) SPECIAL LIMITATION WITH RESPECT TO CONTRIBUTIONS OF CAPITAL GAIN PROPERTY TO ORGANIZATIONS NOT DESCRIBED IN SUBPARAGRAPH (A).—

“(i) IN GENERAL.—In the case of charitable contributions (other than charitable contributions to which subparagraph (A) applies) of capital gain property, the total amount of such contributions of such property taken into account under subsection (a) for any taxable year shall not exceed the lesser of—

“(I) 20 percent of the taxpayer’s contribution base for the taxable year, or

“(II) the excess of 30 percent of the taxpayer’s contribution base for the taxable year over the amount of the contributions of capital gain property to which subparagraph (C) applies.

For purposes of this subsection, contributions of capital gain property to which this subparagraph applies shall be taken into account after all other charitable contributions.

“(ii) CARRYOVER.—If the aggregate amount of contributions described in clause (i) exceeds the limitation of clause (i), such excess shall be treated (in a manner consistent with the rules of subsection (d)(1)) as a charitable contribution of capital gain property to which clause (i) applies in each of the 5 succeeding taxable years in order of time.”

(2) TECHNICAL AMENDMENTS.—

(A) Clause (vii) of section 170(b)(1)(A) is amended by striking out “subparagraph (D)” and inserting in lieu thereof “subparagraph (E)”. 26 USC 170.

(B) The subparagraph heading and clause (i) of subparagraph (C) of section 170(b)(1) are amended to read as follows:

“(C) SPECIAL LIMITATION WITH RESPECT TO CONTRIBUTIONS DESCRIBED IN SUBPARAGRAPH (A) OF CERTAIN CAPITAL GAIN PROPERTY.—

“(i) In the case of charitable contributions described in subparagraph (A) of capital gain property to which subsection (e)(1)(B) does not apply, the total amount of contributions of such property which may be taken into account under subsection (a) for any taxable year shall not exceed 30 percent of the taxpayer’s contribution base for such year. For purposes of this subsection, contributions of capital gain property to which this subparagraph applies shall be taken into account after all other charitable contributions (other than charitable contributions to which subparagraph (D) applies).”

(C) Subparagraph (B) of section 170(e)(1) is amended by striking out “subsection (b)(1)(D)” and inserting in lieu thereof “subsection (b)(1)(E)”.

(d) EFFECTIVE DATES.—

(1) SUBSECTIONS (a) AND (c).—The amendments made by subsections (a) and (c) shall apply to contributions made in taxable years ending after the date of the enactment of this Act.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to contributions made after the date of the enactment of this Act in taxable years ending after such date.

26 USC 170
note.

SEC. 302. EXEMPTION FOR CERTAIN OPERATING FOUNDATIONS FROM EXCISE TAX ON INVESTMENT INCOME.

(a) GENERAL RULE.—Section 4940 (relating to excise tax based on investment income) is amended by adding at the end thereof the following new subsection:

“(d) EXEMPTION FOR CERTAIN OPERATING FOUNDATIONS.—

“(1) IN GENERAL.—No tax shall be imposed by this section on any private foundation which is an exempt operating foundation for the taxable year.

26 USC 4940.

“(2) **EXEMPT OPERATING FOUNDATION.**—For purposes of this subsection, the term ‘exempt operating foundation’ means, with respect to any taxable year, any private foundation if—

“(A) such foundation is an operating foundation (as defined in section 4942(j)(3)),

“(B) such foundation has been publicly supported for at least 10 taxable years,

“(C) at all times during the taxable year, the governing body of such foundation—

“(i) consists of individuals at least 75 percent of whom are not disqualified individuals, and

“(ii) is broadly representative of the general public, and

“(D) at no time during the taxable year does such foundation have an officer who is a disqualified individual.

“(3) **DEFINITIONS.**—For purposes of this subsection—

“(A) **PUBLICLY SUPPORTED.**—A private foundation is publicly supported for a taxable year if it meets the requirements of section 170(b)(1)(A)(vi) or 509(a)(2) for such taxable year.

“(B) **DISQUALIFIED INDIVIDUAL.**—The term ‘disqualified individual’ means, with respect to any private foundation, an individual who is—

“(i) a substantial contributor to the foundation,

“(ii) an owner of more than 20 percent of—

“(I) the total combined voting power of a corporation,

“(II) the profits interest of a partnership, or

“(III) the beneficial interest of a trust or unincorporated enterprise,

which is a substantial contributor to the foundation, or

“(iii) a member of the family of any individual described in clause (i) or (ii).

“(C) **SUBSTANTIAL CONTRIBUTOR.**—The term ‘substantial contributor’ means a person who is described in section 507(d)(2).

“(D) **FAMILY.**—The term ‘family’ has the meaning given to such term by section 4946(d).

“(E) **CONSTRUCTIVE OWNERSHIP.**—The rules of paragraphs (3) and (4) of section 4946(a) shall apply for purposes of subparagraph (B)(ii).”

(b) **REQUIREMENT OF EXPENDITURE RESPONSIBILITY NOT TO APPLY TO CERTAIN OPERATING FOUNDATIONS.**—Paragraph (4) of section 4945(d) (defining taxable expenditure) is amended to read as follows:

“(4) as a grant to an organization unless—

“(A) such organization is described in paragraph (1), (2), or (3) of section 509(a) or is an exempt operating foundation (as defined in section 4940(d)(2)), or

“(B) the private foundation exercises expenditure responsibility with respect to such grant in accordance with subsection (h), or”.

(c) **EFFECTIVE DATE.**—

(1) **FOR SUBSECTION (a).**—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1984.

Post, p. 784.

26 USC 4945.

Ante, p. 779.

26 USC 4940.
note.

(2) **FOR SUBSECTION (b).**—The amendment made by subsection (b) shall apply to grants made after December 31, 1984, in taxable years ending after such date.

26 USC 4945
note.

(3) **CERTAIN EXISTING FOUNDATIONS.**—A foundation which was an operating foundation (as defined in section 4942(j)(3) of the Internal Revenue Code of 1954) as of January 1, 1983, shall be treated as meeting the requirements of section 4940(d)(2)(B) of such Code (as added by subsection (a)).

26 USC 4940
note.

Ante, p. 779.

SEC. 303. REDUCTION IN EXCISE TAX ON INVESTMENT INCOME WHERE PRIVATE FOUNDATION MEETS CERTAIN DISTRIBUTION REQUIREMENTS.

(a) **GENERAL RULE.**—Section 4940 (relating to excise tax based on investment income) is amended by adding at the end thereof the following new subsection:

26 USC 4940.

“(e) **REDUCTION IN TAX WHERE PRIVATE FOUNDATION MEETS CERTAIN DISTRIBUTION REQUIREMENTS.**—

“(1) **IN GENERAL.**—In the case of any private foundation which meets the requirements of paragraph (2) for any taxable year, subsection (a) shall be applied with respect to such taxable year by substituting ‘1 percent’ for ‘2 percent’.

“(2) **REQUIREMENTS.**—A private foundation meets the requirements of this paragraph for any taxable year if—

“(A) the amount of the qualifying distributions made by the private foundation during such taxable year equals or exceeds the sum of—

“(i) an amount equal to the assets of such foundation for such taxable year multiplied by the average percentage payout for the base period, plus

“(ii) 1 percent of the net investment income of such foundation for such taxable year, and

“(B) the average percentage payout for the base period equals or exceeds 5 percent.

In the case of an operating foundation (as defined in section 4942(j)(3)), subparagraph (B) shall be applied by substituting ‘3½ percent’ for ‘5 percent’.

“(3) **AVERAGE PERCENTAGE PAYOUT FOR BASE PERIOD.**—For purposes of this subsection—

“(A) **IN GENERAL.**—The average percentage payout for the base period is the average of the percentage payouts for taxable years in the base period.

“(B) **PERCENTAGE PAYOUT.**—The term ‘percentage payout’ means, with respect to any taxable year, the percentage determined by dividing—

“(i) the amount of the qualifying distributions made by the private foundation during the taxable year, by

“(ii) the assets of the private foundation for the taxable year.

“(C) **SPECIAL RULE WHERE TAX REDUCED UNDER THIS SUBSECTION.**—For purposes of this paragraph, if the amount of the tax imposed by this section for any taxable year in the base period is reduced by reason of this subsection, the amount of the qualifying distributions made by the private foundation during such year shall be reduced by the amount of such reduction in tax.

“(4) **BASE PERIOD.**—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘base period’ means, with respect to any taxable year, the 5 taxable years preceding such taxable year.

“(B) NEW PRIVATE FOUNDATIONS, ETC.—If an organization has not been a private foundation throughout the base period referred to in subparagraph (A), the base period shall consist of the taxable years during which such foundation has been in existence.

“(5) OTHER DEFINITIONS.—For purposes of this subsection—

“(A) QUALIFYING DISTRIBUTION.—The term ‘qualifying distribution’ has the meaning given such term by section 4942(g).

“(B) ASSETS.—The assets of a private foundation for any taxable year shall be treated as equal to the excess determined under section 4942(e)(1).

“(6) TREATMENT OF SUCCESSOR ORGANIZATIONS, ETC.—In the case of—

“(A) a private foundation which is a successor to another private foundation, this subsection shall be applied with respect to such successor by taking into account the experience of such other foundation, and

“(B) a merger, reorganization, or division of a private foundation, this subsection shall be applied under regulations prescribed by the Secretary.”

26 USC 4940
note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1984.

SEC. 304. AMENDMENT TO TAXES ON FAILURE TO DISTRIBUTE INCOME.

(a) LIMIT ON AMOUNT OF CERTAIN ADMINISTRATIVE EXPENSES TAKEN INTO ACCOUNT AS QUALIFYING DISTRIBUTIONS.—

26 USC 4942.

(1) Subsection (g) of section 4942 (defining qualified distributions) is amended by adding at the end thereof the following new paragraph:

“(4) LIMITATION ON ADMINISTRATIVE EXPENSES ALLOCABLE TO MAKING OF CONTRIBUTIONS, GIFTS, AND GRANTS.—

“(A) IN GENERAL.—The amount of the grant administrative expenses paid during any taxable year which may be taken into account as qualifying distributions shall not exceed the excess (if any) of—

“(i) .65 percent of the sum of the net assets of the private foundation for such taxable year and the immediately preceding 2 taxable years, over

“(ii) the aggregate amount of grant administrative expenses paid during the 2 preceding taxable years which were taken into account as qualifying distributions.

“(B) GRANT ADMINISTRATIVE EXPENSES.—For purposes of this paragraph, the term ‘grant administrative expenses’ means any administrative expenses which are allocable to the making of qualified grants.

“(C) QUALIFIED GRANTS.—For purposes of this paragraph, the term ‘qualified grant’ means any contribution, gift, or grant which is a qualifying distribution.

“(D) NET ASSET.—For purposes of this paragraph, the term ‘net assets’ means, with respect to any taxable year, the excess determined under subsection (e)(1) for such taxable year.

“(E) TRANSITIONAL RULE.—In the case of any preceding taxable year which begins before January 1, 1985, the amount of the grant administrative expenses taken into account under subparagraph (A)(ii) shall not exceed .65 percent of the net assets of the private foundation for such taxable year.

“(F) TERMINATION.—This paragraph shall not apply to taxable years beginning after December 31, 1990.”

(2) Subparagraph (A) of section 4942(g)(1) (defining qualifying distribution) is amended by striking out “including administrative expenses” and inserting in lieu thereof “including that portion of reasonable and necessary administrative expenses”. 26 USC 4942.

(b) REQUIRED DISTRIBUTION INCREASED BY AMOUNT OF CERTAIN REPAYMENTS, ETC.—Paragraph (1) of section 4942(d) (defining distributable amount) is amended to read as follows:

“(1) the sum of the minimum investment return plus the amounts described in subsection (f)(2)(C), reduced by”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1984. 26 USC 4942 note.

SEC. 305. ABATEMENT OF FIRST TIER TAXES IN CERTAIN CASES.

(a) GENERAL RULE.—Subchapter C of chapter 42 (relating to abatement of second tier taxes) is amended by redesignating section 4962 as section 4963 and by inserting after section 4961 the following new section: 26 USC 4963.

“SEC. 4962. ABATEMENT OF PRIVATE FOUNDATION FIRST TIER TAXES IN CERTAIN CASES. 26 USC 4962.

“(a) GENERAL RULE.—If it is established to the satisfaction of the Secretary that—

“(1) a taxable event was due to reasonable cause and not to willful neglect, and

“(2) such event was corrected within the correction period for such event,

then any private foundation first tier tax imposed with respect to such event (including interest) shall not be assessed and, if assessed, the assessment shall be abated and, if collected, shall be credited or refunded as an overpayment.

“(b) PRIVATE FOUNDATION FIRST TIER TAX.—For purposes of this section, the term ‘private foundation first tier tax’ means any first tier tax imposed by subchapter A of chapter 42, except that such term shall not include the tax imposed by section 4941(a) (relating to initial tax on self-dealing).” 26 USC 4940.

(b) CONFORMING AMENDMENTS.—

(1) The heading of subchapter C of chapter 42 is amended to read as follows: 26 USC prec. 4961.

“Subchapter C—Abatement of First and Second Tier Taxes in Certain Cases”.

(2) The table of sections for subchapter C of chapter 42 is amended by striking out the item relating to section 4962 and inserting in lieu thereof the following:

“Sec. 4962. Abatement of private foundation first tier taxes in certain cases.

“Sec. 4963. Definitions.”

(3) The table of subchapters for chapter 42 is amended by striking out the item relating to subchapter C and inserting in lieu thereof the following:

"SUBCHAPTER C. Abatement of first and second tier taxes in certain cases."

26 USC 4942,
6213, 6503.

(4) Sections 4942(g)(2)(C), 6213(e), and 6503(g) are each amended by striking out "section 4962(e)" and inserting in lieu thereof "section 4963(e)".

26 USC 4962
note.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable events occurring after December 31, 1984.

SEC. 306. MISCELLANEOUS AMENDMENTS.

26 USC 4946.

(a) **DEFINITION OF FAMILY MEMBER.**—Subsection (d) of section 4946 (defining members of family) is amended to read as follows:

"(d) **MEMBERS OF FAMILY.**—For purposes of subsection (a)(1), the family of any individual shall include only his spouse, ancestors, children, grandchildren, great grandchildren, and the spouses of children, grandchildren, and great grandchildren."

26 USC 6104.

(b) **REQUIREMENT THAT ANNUAL NOTICE INCLUDE TELEPHONE NUMBER OF THE PRIVATE FOUNDATION.**—Subsection (d) of section 6104 (relating to public inspection of private foundations' annual returns) is amended by striking out "shall state the address of the private foundation's principal office" and inserting in lieu thereof "shall state the address and the telephone number of the private foundation's principal office".

26 USC 4946
note.

(c) **EFFECTIVE DATES.**—The amendments made by this subsection shall take effect on January 1, 1985.

SEC. 307. 5-YEAR EXTENSION OF REQUIREMENT TO DISPOSE OF CERTAIN EXCESS HOLDINGS ATTRIBUTABLE TO LARGE GIFTS AND BEQUESTS.

26 USC 4943.

(a) **GENERAL RULE.**—Subsection (c) of section 4943 (relating to taxes on excess business holdings) is amended by adding at the end thereof the following new paragraph:

"(7) **5-YEAR EXTENSION OF PERIOD TO DISPOSE OF CERTAIN LARGE GIFTS AND BEQUESTS.**—The Secretary may extend for an additional 5-year period the period under paragraph (6) for disposing of excess business holdings in the case of an unusually large gift or bequest of diverse business holdings or holdings with complex corporate structures if—

"(A) the foundation establishes that—

"(i) diligent efforts to dispose of such holdings have been made within the initial 5-year period, and

"(ii) disposition within the initial 5-year period has not been possible (except at a price substantially below fair market value) by reason of such size and complexity or diversity of such holdings,

"(B) before the close of the initial 5-year period—

"(i) the private foundation submits to the Secretary a plan for disposing of all of the excess business holdings involved in the extension, and

"(ii) the private foundation submits the plan described in clause (i) to the Attorney General (or other appropriate State official) having administrative or supervisory authority or responsibility with respect to the foundation's disposition of the excess business holdings involved and submits to the Secretary any response received by the private foundation from the

Attorney General (or other appropriate State official) to such plan during such 5-year period, and
 “(C) the Secretary determines that such plan can reasonably be expected to be carried out before the close of the extension period.”

(b) EFFECTIVE DATE.—

26 USC 4943
note.

(1) **IN GENERAL.**—The amendment made by subsection (a) shall apply to business holdings with respect to which the 5-year period described in section 4943(c)(6) of the Internal Revenue Code of 1954 ends on or after November 1, 1983.

(2) **TRANSITIONAL RULE.**—Any plan submitted to the Secretary of the Treasury or his delegate on or before the 60th day after the date of the enactment of this Act shall be treated as submitted before the close of the initial 5-year period referred to in section 4943(c)(7)(B) of the Internal Revenue Code of 1954 (as added by subsection (a)).

Ante, p. 784.

SEC. 308. DECREASES ATTRIBUTABLE TO STOCK ISSUANCES NOT TO REDUCE PERMITTED PERCENTAGE OF HOLDINGS WHERE DECREASE IS 2 PERCENT OR LESS.

(a) **GENERAL RULE.**—The second sentence of clause (ii) of section 4943(c)(4)(A) (relating to present holdings) is amended to read as follows:

26 USC 4943.

“For purposes of the preceding sentence, any decrease in percentage holdings attributable to issuances of stock (or to issuances of stock coupled with redemptions of stock) shall be disregarded so long as—

“(I) the net percentage decrease disregarded under this sentence does not exceed 2 percent, and

“(II) the number of shares held by the foundation is not affected by any such issuance or redemption.”

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to increases and decreases occurring after the date of the enactment of this Act.

26 USC 4943
note.

SEC. 369. AGGREGATION OF STOCK HOLDINGS OF PRIVATE FOUNDATION AND DISQUALIFIED PERSONS IN APPLYING 95 PERCENT OWNERSHIP TEST.

(a) **GENERAL RULE.**—Clause (i) of section 4943(c)(4)(B) (relating to present holdings) is amended by striking out “the private foundation has” and inserting in lieu thereof “the private foundation and all disqualified persons have”.

26 USC 4943.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect as if included in the amendment made by section 101(b) of the Tax Reform Act of 1969.

26 USC 4943
note.

26 USC prec.
4940, 4940–4948.

SEC. 310. 5-YEAR PERIOD TO DISPOSE OF EXCESS HOLDINGS RESULTING FROM CERTAIN ACQUISITIONS BY DISQUALIFIED PERSONS.

(a) **GENERAL RULE.**—Paragraph (6) of section 4943(c) (relating to 5-year period to dispose of gifts, bequests, etc.) is amended by adding at the end thereof the following new sentence:

26 USC 4943.

“In any case where an acquisition by a disqualified person would result in a substitution under clause (i) or (ii) of subparagraph (D) of paragraph (4), the preceding sentence shall be applied with respect to such acquisition as if it did not contain

the phrase 'or by a disqualified person' in the material preceding subparagraph (A)."

26 USC 4943
note.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to acquisitions after the date of the enactment of this Act.

SEC. 311. THE CONDUCTING OF CERTAIN GAMES OF CHANCE NOT TREATED AS UNRELATED TRADE OR BUSINESS.

26 USC 513 note.

(a) **GENERAL RULE.**—For purposes of section 513 of the Internal Revenue Code of 1954 (defining unrelated trade or business), the term "unrelated trade or business" does not include any trade or business which consists of conducting any game of chance if—

(1) such game of chance is conducted by a nonprofit organization,

(2) the conducting of such game by such organization does not violate any State or local law, and

(3) as of October 5, 1983—

(A) there was a State law in effect which permitted the conducting of such game of chance by such nonprofit organization, but

(B) the conducting of such game of chance by organizations which were not nonprofit organizations would have violated such law.

(b) **EFFECTIVE DATE.**—Subsection (a) shall apply to games of chance conducted after June 30, 1981, in taxable years ending after such date.

SEC. 312. TAX ON SELF-DEALING NOT TO APPLY TO CERTAIN STOCK PURCHASES.

26 USC 4941
note.

(a) **GENERAL RULE.**—Section 4941 of the Internal Revenue Code of 1954 (relating to taxes on self-dealing) shall not apply to the purchase during 1978 of stock from a private foundation (and to any note issued in connection with such purchase) if—

(1) consideration for such purchase equaled or exceeded the fair market value of such stock,

(2) the purchaser of such stock did not make any contribution to such foundation at any time during the 5-year period ending on the date of such purchase,

(3) the aggregate contributions to such foundation by the purchaser before such date were less than \$10,000 and less than 2 percent of the total contributions received by the foundation as of such date, and

(4) such purchase was pursuant to the settlement of litigation involving the purchaser.

(b) **STATUTE OF LIMITATIONS.**—If credit or refund of any overpayment of tax resulting from subsection (a) is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law, refund or credit of such overpayment may, nevertheless, be made or allowed if claim therefor is filed before the close of such 1-year period.

SEC. 313. PERSON CEASES TO BE SUBSTANTIAL CONTRIBUTOR AFTER 10 YEARS WITH NO CONNECTION TO FOUNDATION.

26 USC 507.

(a) **GENERAL RULE.**—Paragraph (2) of section 507(d) (defining substantial contributor) is amended by adding at the end thereof the following new subparagraph:

“(C) PERSON CEASES TO BE SUBSTANTIAL CONTRIBUTOR IN CERTAIN CASES.—

“(i) **IN GENERAL.**—A person shall cease to be treated as a substantial contributor with respect to any private foundation as of the close of any taxable year of such foundation if—

“(I) during the 10-year period ending at the close of such taxable year such person (and all related persons) have not made any contribution to such private foundation,

“(II) at no time during such 10-year period was such person (or any related person) a foundation manager of such private foundation, and

“(III) the aggregate contributions made by such person (and related persons) are determined by the Secretary to be insignificant when compared to the aggregate amount of contributions to such foundation by one other person.

For purposes of subclause (III), appreciation on contributions while held by the foundation shall be taken into account.

“(ii) **RELATED PERSON.**—For purposes of clause (i), the term ‘related person’ means, with respect to any person, any other person who would be a disqualified person (within the meaning of section 4946) by reason of his relationship to such person. In the case of a contributor which is a corporation, the term also includes any officer or director of such corporation.”

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1984.

26 USC 507 note.

SEC. 314. TECHNICAL AMENDMENTS.

(a) **AMENDMENTS OF INTERNAL REVENUE CODE OF 1954.—**

(1) Subparagraph (B) of section 4942(a)(2) (relating to taxes on failure to distribute income) is amended by striking out “subsection (j)(4)” and inserting in lieu thereof “subsection (j)(2)”.

26 USC 4942.

(2) Paragraph (1) of section 4942(f) (defining adjusted net income) is amended by striking out “subsection (d)” and inserting in lieu thereof “subsection (j)”.

(3) Paragraph (3) of section 6501(n) (relating to special rule for chapter 42 and similar taxes) is amended by striking out “section 4942(g)(2)(B)(i)(II)” and inserting in lieu thereof “section 4942(g)(2)(B)(ii)”.

Ante, p. 698.

(4) The amendments made by this subsection shall take effect on the date of the enactment of this Act.

26 USC 4942 note.

(b) **AMENDMENT OF 1969 TAX REFORM ACT.—**

(1) Subparagraph (A) of section 101(l)(4) of the Tax Reform Act of 1969 is amended by striking out “by substituting ‘51 percent’ for ‘50 percent’” and inserting in lieu thereof “as if it did not contain the phrase ‘, but in no event shall the percentage so substituted be more than 50 percent’”.

26 USC 4940 note.

(2) The amendment made by paragraph (1) shall apply as if included in section 101(l)(4) of the Tax Reform Act of 1969.

26 USC 4940 note.

(c) **EXCEPTION TO DEFINITION OF DISQUALIFIED PERSONS.—**

(1) Subsection (d) of section 4943 (relating to definitions and special rules with respect to taxes on excess business holdings)

26 USC 4943.

is amended by adding at the end thereof the following new paragraph:

“(4) **DISQUALIFIED PERSON.**—The term ‘disqualified person’ (as defined in section 4946(a)) does not include a plan described in section 4975(e)(7) with respect to the holdings of a private foundation described in paragraphs (4) and (5) of subsection (c).”

26 USC 4943
note.

(2) The amendment made by paragraph (1) shall apply with respect to taxable years beginning after the date of the enactment of this Act.

TITLE IV—TAX SIMPLIFICATION

Subtitle A—Revision and Simplification of Estimated Income Tax for Individuals

SEC. 411. REVISION OF PENALTY FOR FAILURE TO PAY ESTIMATED INCOME TAX.

26 USC 6654.

Section 6654 (relating to addition to the tax for failure by individual to pay estimated income tax) is amended to read as follows:

“SEC. 6654. FAILURE BY INDIVIDUAL TO PAY ESTIMATED INCOME TAX.

26 USC 1 *et seq.*
26 USC 1401 *et seq.*

“(a) **ADDITION TO THE TAX.**—Except as otherwise provided in this section, in the case of any underpayment of estimated tax by an individual, there shall be added to the tax under chapter 1 and the tax under chapter 2 for the taxable year an amount determined by applying—

“(1) the applicable annual rate established under section 6621,

“(2) to the amount of the underpayment,

“(3) for the period of the underpayment.

“(b) **AMOUNT OF UNDERPAYMENT; PERIOD OF UNDERPAYMENT.**—For purposes of subsection (a)—

“(1) **AMOUNT.**—The amount of the underpayment shall be the excess of—

“(A) the required installment, over

“(B) the amount (if any) of the installment paid on or before the due date for the installment.

“(2) **PERIOD OF UNDERPAYMENT.**—The period of the underpayment shall run from the due date for the installment to which—ever of the following dates is the earlier—

“(A) the 15th day of the 4th month following the close of the taxable year, or

“(B) with respect to any portion of the underpayment, the date on which such portion is paid.

“(3) **ORDER OF CREDITING PAYMENTS.**—For purposes of paragraph (2)(B), a payment of estimated tax shall be credited against unpaid required installments in the order in which such installments are required to be paid.

“(c) **NUMBER OF REQUIRED INSTALLMENTS; DUE DATES.**—For purposes of this section—

“(1) **PAYABLE IN 4 INSTALLMENTS.**—There shall be 4 required installments for each taxable year.

“(2) **TIME FOR PAYMENT OF INSTALLMENTS.**—

"In the case of the following re-
quired installments:

1st.....	April 15
2nd.....	June 15
3rd.....	September 15
4th.....	January 15 of the following tax- able year.

The due date is:

"(d) AMOUNT OF REQUIRED INSTALLMENTS.—For purposes of this section—

"(1) AMOUNT.—

"(A) IN GENERAL.—Except as provided in paragraph (2), the amount of any required installment shall be 25 percent of the required annual payment.

"(B) REQUIRED ANNUAL PAYMENT.—For purposes of subparagraph (A), the term 'required annual payment' means the lesser of—

"(i) 80 percent of the tax shown on the return for the taxable year (or, if no return is filed, 80 percent of the tax for such year), or

"(ii) 100 percent of the tax shown on the return of the individual for the preceding taxable year.

Clause (ii) shall not apply if the preceding taxable year was not a taxable year of 12 months or if the individual did not file a return for such preceding taxable year.

"(2) LOWER REQUIRED INSTALLMENT WHERE ANNUALIZED INCOME INSTALLMENT IS LESS THAN AMOUNT DETERMINED UNDER PARAGRAPH (1).—

"(A) IN GENERAL.—In the case of any required installment, if the individual establishes that the annualized income installment is less than the amount determined under paragraph (1)—

"(i) the amount of such required installment shall be the annualized income installment, and

"(ii) any reduction in a required installment resulting from the application of this subparagraph shall be recaptured by increasing the amount of the next required installment determined under paragraph (1) by the amount of such reduction (and by increasing subsequent required installments to the extent that the reduction has not previously been recaptured under this clause).

"(B) DETERMINATION OF ANNUALIZED INCOME INSTALLMENT.—In the case of any required installment, the annualized income installment is the excess (if any) of—

"(i) an amount equal to the applicable percentage of the tax for the taxable year computed by placing on an annualized basis the taxable income, alternative minimum taxable income, and adjusted self-employment income for months in the taxable year ending before the due date for the installment, over

"(ii) the aggregate amount of any prior required installments for the taxable year.

"(C) SPECIAL RULES.—For purposes of this paragraph—

"(i) ANNUALIZATION.—The taxable income, alternative minimum taxable income, and adjusted self-employment income shall be placed on an annualized basis under regulations prescribed by the Secretary.

"(ii) APPLICABLE PERCENTAGE.—

"In the case of the following required installments:	The applicable percentage is:
1st.....	20
2nd.....	40
3rd.....	60
4th.....	80.

"(iii) **ADJUSTED SELF-EMPLOYMENT INCOME.**—The term 'adjusted self-employment income' means self-employment income (as defined in section 1402(b)); except that section 1402(b) shall be applied by placing wages (within the meaning of section 1402(b)) for months in the taxable year ending before the due date for the installment on an annualized basis consistent with clause (i).

"(e) EXCEPTIONS.—

"(1) **WHERE TAX IS SMALL AMOUNT.**—No addition to tax shall be imposed under subsection (a) for any taxable year if the tax shown on the return for such taxable year (or, if no return is filed, the tax), reduced by the credit allowable under section 31, is less than \$500.

"(2) **WHERE NO TAX LIABILITY FOR PRECEDING TAXABLE YEAR.**—No addition to tax shall be imposed under subsection (a) for any taxable year if—

"(A) the preceding taxable year was a taxable year of 12 months,

"(B) the individual did not have any liability for tax for the preceding taxable year, and

"(C) the individual was a citizen or resident of the United States throughout the preceding taxable year.

"(3) WAIVER IN CERTAIN CASES.—

"(A) **IN GENERAL.**—No addition to tax shall be imposed under subsection (a) with respect to any underpayment to the extent the Secretary determines that by reason of casualty, disaster, or other unusual circumstances the imposition of such addition to tax would be against equity and good conscience.

"(B) **NEWLY RETIRED OR DISABLED INDIVIDUALS.**—No addition to tax shall be imposed under subsection (a) with respect to any underpayment if the Secretary determines that—

"(i) the taxpayer—

"(I) retired after having attained age 62, or

"(II) became disabled,

in the taxable year for which estimated payments were required to be made or in the taxable year preceding such taxable year, and

"(ii) such underpayment was due to reasonable cause and not to willful neglect.

"(f) TAX COMPUTED AFTER APPLICATION OF CREDITS AGAINST TAX.—For purposes of this section, the term 'tax' means—

"(1) the tax imposed by chapter 1, plus

"(2) the tax imposed by chapter 2, minus

"(3) the sum of—

"(A) the credits against tax allowed by part IV of subchapter A of chapter 1, other than the credit against tax provided by section 31 (relating to tax withheld on wages), plus

26 USC 1 *et seq.*
26 USC 1401 *et seq.*

Post, p. 826.

“(B) to the extent allowed under regulations prescribed by the Secretary, any overpayment of the tax imposed by section 4986 (determined without regard to section 4995(a)(4)(B)).

“(g) APPLICATION OF SECTION IN CASE OF TAX WITHHELD ON WAGES.—

“(1) IN GENERAL.—For purposes of applying this section, the amount of the credit allowed under section 31 for the taxable year shall be deemed a payment of estimated tax, and an equal part of such amount shall be deemed paid on each due date for such taxable year, unless the taxpayer establishes the dates on which all amounts were actually withheld, in which case the amounts so withheld shall be deemed payments of estimated tax on the dates on which such amounts were actually withheld.

“(2) SEPARATE APPLICATION.—The taxpayer may apply paragraph (1) separately with respect to—

“(A) wage withholding, and

“(B) all other amounts withheld for which credit is allowed under section 31.

“(h) SPECIAL RULE WHERE RETURN FILED ON OR BEFORE JANUARY 31.—If, on or before January 31 of the following taxable year, the taxpayer files a return for the taxable year and pays in full the amount computed on the return as payable, then no addition to tax shall be imposed under subsection (a) with respect to any underpayment of the 4th required installment for the taxable year.

“(i) SPECIAL RULES FOR FARMERS AND FISHERMEN.—For purposes of this section—

“(1) IN GENERAL.—If an individual is a farmer or fisherman for any taxable year—

“(A) there shall be only 1 required installment for the taxable year,

“(B) the due date for such installment shall be January 15 of the following taxable year,

“(C) the amount of such installment shall be equal to the required annual payment (determined under subsection (d)(1)(B) by substituting ‘66⅔ percent’ for ‘80 percent’, and

“(D) subsection (h) shall be applied—

“(i) by substituting ‘March 1’ for ‘January 31’, and

“(ii) by treating the required installment described in subparagraph (A) of this paragraph as the 4th required installment.

“(2) FARMER OR FISHERMAN DEFINED.—An individual is a farmer or fisherman for any taxable year if—

“(A) the individual’s gross income from farming or fishing (including oyster farming) for the taxable year is at least 66⅔ percent of the total gross income from all sources for the taxable year, or

“(B) such individual’s gross income from farming or fishing (including oyster farming) shown on the return of the individual for the preceding taxable year is at least 66⅔ percent of the total gross income from all sources shown on such return.

“(j) FISCAL YEARS AND SHORT YEARS.—

“(1) FISCAL YEARS.—In applying this section to a taxable year beginning on any date other than January 1, there shall be substituted, for the months specified in this section, the months which correspond thereto.

“(2) **SHORT TAXABLE YEAR.**—This section shall be applied to taxable years of less than 12 months in accordance with regulations prescribed by the Secretary.

“(k) **ESTATES AND TRUSTS.**—This section shall not apply to any estate or trust.

“(l) **REGULATIONS.**—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.”

SEC. 412. REPEAL OF REQUIREMENT OF DECLARATIONS, ETC.

(a) **GENERAL RULE.**—The following provisions are hereby repealed:

26 USC 6015. (1) Section 6015 (relating to declaration of estimated income tax by individuals).

26 USC 6073. (2) Section 6073 (relating to time for filing declarations of estimated income tax by individuals).

26 USC 6153. (3) Section 6153 (relating to installment payments of estimated income tax by individuals).

(b) **TECHNICAL AND CONFORMING AMENDMENTS.**—

26 USC 871. (1) Subsection (g) of section 871 is amended by striking out paragraph (6) and by redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively.

26 USC 1403. (2) Subsection (b) of section 1403 is amended by striking out paragraph (3).

26 USC 6012. (3) Paragraph (2) of section 6012(b) is amended by striking out “or section 6015(a)”.

26 USC 6020. (4) Paragraph (1) of section 6020(b) is amended by striking out “(other than a declaration of estimated tax required under section 6015)”.

26 USC 6201. (5) Paragraph (1) of section 6201(b) is amended to read as follows:

Ante, p. 788. “(1) **ESTIMATED INCOME TAX.**—No unpaid amount of estimated income tax required to be paid under section 6154 or 6654 shall be assessed.”

26 USC 6362. (6) Paragraph (5) of section 6362(e) is amended by striking out “and section 6015 and other provisions relating to declarations of estimated income” and inserting in lieu thereof “and provisions relating to estimated income tax”.

26 USC 6601. (7) Subsection (h) of section 6601 is amended to read as follows:

Ante, p. 788. “(h) **EXCEPTION AS TO ESTIMATED TAX.**—This section shall not apply to any failure to pay any estimated tax required to be paid by section 6154 or 6654.”

26 USC 6651. (8) Subsection (d) of section 6651 is amended to read as follows:

Ante, p. 788. “(d) **EXCEPTION FOR ESTIMATED TAX.**—This section shall not apply to any failure to pay any estimated tax required to be paid by section 6154 or 6654.”

26 USC 7203. (9) Section 7203 is amended by striking out “(other than a return required under the authority of section 6015)”.

26 USC 7216. (10) Subsection (a) of section 7216 is amended—

(A) by striking out “or declarations or amended declarations of estimated tax under section 6015,” and

(B) by striking out “return or declaration” each place it appears and inserting in lieu thereof “return”.

26 USC 7701. (11) Paragraph (34) of section 7701(a) is hereby repealed.

(c) **CLERICAL AMENDMENTS.**—

(1) The table of sections for subpart B of part II of subchapter A of chapter 61 is amended by striking out the item relating to section 6015.

(2) The table of sections for part V of subchapter A of chapter 61 is amended by striking out the item relating to section 6073.

(3) The table of sections for subchapter A of chapter 62 is amended by striking out the item relating to section 6153.

SEC. 413. CREDITING OF INCOME TAX OVERPAYMENT AGAINST ESTIMATED TAX LIABILITY.

The application of the Internal Revenue Code of 1954 with respect to the crediting of a prior year overpayment of income tax against the estimated tax shall be determined—

26 USC 1 *et seq.*

(1) without regard to Revenue Ruling 83-111 (and without regard to any other regulation, ruling, or decision reaching the same result as, or a result similar to, the result set forth in such Revenue Ruling); and

(2) with full regard to the rules (including Revenue Ruling 77-475) before Revenue Ruling 83-111.

SEC. 414. EFFECTIVE DATES.

(a) SECTIONS 411 AND 412.—

26 USC 6654
note.

(1) IN GENERAL.—The amendments made by sections 411 and 412 shall apply with respect to taxable years beginning after December 31, 1984.

Ante, pp. 788,
792.

(2) WAIVER AUTHORITY.—The provisions of paragraph (3) of section 6654(e) of the Internal Revenue Code of 1954 (as amended by section 411) shall also apply with respect to underpayments for taxable years beginning in 1984.

Ante, p. 788.

(b) SECTION 413.—The provisions of section 413 shall take effect on January 1, 1984.

Supra.

Subtitle B—Domestic Relations

SEC. 421. TREATMENT OF TRANSFERS OF PROPERTY BETWEEN SPOUSES OR INCIDENT TO DIVORCE.

(a) GENERAL RULE.—Part III of subchapter O of chapter 1 (relating to common nontaxable exchanges) is amended by adding at the end thereof the following new section:

“SEC. 1041. TRANSFERS OF PROPERTY BETWEEN SPOUSES OR INCIDENT TO DIVORCE.

26 USC 1041.

“(a) GENERAL RULE.—No gain or loss shall be recognized on a transfer of property from an individual to (or in trust for the benefit of)—

“(1) a spouse, or

“(2) a former spouse, but only if the transfer is incident to the divorce.

“(b) TRANSFER TREATED AS GIFT; TRANSFEREE HAS TRANSFEROR'S BASIS.—In the case of any transfer of property described in subsection (a)—

“(1) for purposes of this subtitle, the property shall be treated as acquired by the transferee by gift, and

“(2) the basis of the transferee in the property shall be the adjusted basis of the transferor.

“(c) INCIDENT TO DIVORCE.—For purposes of subsection (a)(2), a transfer of property is incident to the divorce if such transfer—

“(1) occurs within 1 year after the date on which the marriage ceases, or

“(2) is related to the cessation of the marriage.

“(d) SPECIAL RULE WHERE SPOUSE IS NONRESIDENT ALIEN.—Paragraph (1) of subsection (a) shall not apply if the spouse of the individual making the transfer is a nonresident alien.”

(b) TECHNICAL AMENDMENTS.—

26 USC 72.

(1) REPEAL OF SECTION 72(k).—Subsection (k) of section 72 (relating to payments in discharge of alimony) is hereby repealed.

26 USC 101.

(2) REPEAL OF SECTION 101(e).—Subsection (e) of section 101 (relating to alimony, etc., payments) is hereby repealed.

26 USC 453B.

(3) COORDINATION WITH SECTION 453B.—Section 453B (relating to gain or loss on disposition of installment obligations) is amended by adding at the end thereof the following new subsection:

Ante, p. 793.

“(g) TRANSFERS BETWEEN SPOUSES OR INCIDENT TO DIVORCE.—In the case of any transfer described in subsection (a) of section 1041—

“(1) subsection (a) of this section shall not apply, and

“(2) the same tax treatment with respect to the transferred installment obligation shall apply to the transferee as would have applied to the transferor.”

26 USC 1001.

(4) TERM INTERESTS.—Paragraph (1) of section 1001(e) (relating to certain term interest) is amended by striking out “section 1014 or 1015” and inserting in lieu thereof “section 1014, 1015, or 1041”.

26 USC 1015.

(5) COORDINATION WITH SECTION 1015.—Section 1015 (relating to basis of property acquired by gifts and transfers in trust) is amended by adding at the end thereof the following new subsection:

Ante, p. 793.

“(e) GIFTS BETWEEN SPOUSES.—In the case of any property acquired by gift in a transfer described in section 1041(a), the basis of such property in the hands of the transferee shall be determined under section 1041(b)(2) and not this section.”

(6) COORDINATION WITH SECTION 1239.—

Ante, p. 708.

(A) Subsection (b) of section 1239, as amended by this Act, is amended by striking out paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

26 USC 453.

(B) Subparagraph (C) of section 453(h)(1) (relating to special rule where obligor and shareholder are related persons) is amended by striking out “the obligor of any installment obligation and the shareholder are related persons” and inserting in lieu thereof “the obligor of any installment obligation and the shareholder are married to each other or are related persons”.

(C) The subsection heading for section 453(g) is amended by striking out “SPOUSE OR”.

26 USC 47.

(7) COORDINATION WITH SECTION 47.—Section 47 (relating to certain dispositions, etc., of section 38 property) is amended by adding at the end thereof the following new subsection:

Ante, p. 793.

“(e) TRANSFERS BETWEEN SPOUSES OR INCIDENT TO DIVORCE.—In the case of any transfer described in subsection (a) of section 1041—

“(1) subsection (a) of this section shall not apply, and

“(2) the same tax treatment under this section with respect to the transferred property shall apply to the transferee as would have applied to the transferor.”

(c) CLERICAL AMENDMENT.—The table of sections for such part III is amended by adding at the end thereof the following:

"Sec. 1041. Transfers of property between spouses or incident to divorce."

(d) **EFFECTIVE DATES.**—

26 USC 1041
note.

(1) **IN GENERAL.**—Except as otherwise provided in this subsection, the amendments made by this section shall apply to transfers after the date of the enactment of this Act in taxable years ending after such date.

(2) **ELECTION TO HAVE AMENDMENTS APPLY TO TRANSFERS AFTER 1983.**—If both spouses or former spouses make an election under this paragraph, the amendments made by this section shall apply to all transfers made by such spouses (or former spouses) after December 31, 1983.

(3) **EXCEPTION FOR TRANSFERS PURSUANT TO EXISTING DECREES.**—Except in the case of an election under paragraph (2), the amendments made by this section shall not apply to transfers under any instrument in effect on or before the date of the enactment of this Act unless both spouses (or former spouses) elect to have such amendments apply to transfers under such instrument.

(4) **ELECTION.**—Any election under paragraph (2) or (3) shall be made in such manner, at such time, and subject to such conditions, as the Secretary of the Treasury or his delegate may by regulations prescribe.

SEC. 422. TAX TREATMENT OF ALIMONY AND SEPARATE MAINTENANCE PAYMENTS.

(a) **GENERAL RULE.**—Section 71 (relating to alimony and separate maintenance payments) is amended to read as follows:

26 USC 71.

"SEC. 71. ALIMONY AND SEPARATE MAINTENANCE PAYMENTS.

"(a) GENERAL RULE.—Gross income includes amounts received as alimony or separate maintenance payments.

"(b) ALIMONY OR SEPARATE MAINTENANCE PAYMENTS DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'alimony or separate maintenance payment' means any payment in cash if—

"(A) such payment is received by (or on behalf of) a spouse under a divorce or separation instrument,

"(B) the divorce or separation instrument does not designate such payment as a payment which is not includible in gross income under this section and not allowable as a deduction under section 215,

"(C) in the case of an individual legally separated from his spouse under a decree of divorce or of separate maintenance, the payee spouse and the payor spouse are not members of the same household at the time such payment is made, and

"(D) there is no liability to make any such payment for any period after the death of the payee spouse and there is no liability to make any payment (in cash or property) as a substitute for such payments after the death of the payee spouse (and the divorce or separation instrument states that there is no such liability).

Post, p. 797.

"(2) DIVORCE OR SEPARATION INSTRUMENT.—The term 'divorce or separation instrument' means—

"(A) a decree of divorce or separate maintenance or a written instrument incident to such a decree,

"(B) a written separation agreement, or

“(C) a decree (not described in subparagraph (A)) requiring a spouse to make payments for the support or maintenance of the other spouse.

“(c) PAYMENTS TO SUPPORT CHILDREN.—

“(1) IN GENERAL.—Subsection (a) shall not apply to that part of any payment which the terms of the divorce or separation instrument fix (in terms of an amount of money or a part of the payment) as a sum which is payable for the support of children of the payor spouse.

“(2) TREATMENT OF CERTAIN REDUCTIONS RELATED TO CONTINGENCIES INVOLVING CHILD.—For purposes of paragraph (1), if any amount specified in the instrument will be reduced—

“(A) on the happening of a contingency specified in the instrument relating to a child (such as attaining a specified age, marrying, dying, leaving school, or a similar contingency), or

“(B) at a time which can clearly be associated with a contingency of a kind specified in paragraph (1), an amount equal to the amount of such reduction will be treated as an amount fixed as payable for the support of children of the payor spouse.

“(3) SPECIAL RULE WHERE PAYMENT IS LESS THAN AMOUNT SPECIFIED IN INSTRUMENT.—For purposes of this subsection, if any payment is less than the amount specified in the instrument, then so much of such payment as does not exceed the sum payable for support shall be considered a payment for such support.

“(d) SPOUSE.—For purposes of this section, the term ‘spouse’ includes a former spouse.

Post, p. 797.

“(e) EXCEPTION FOR JOINT RETURNS.—This section and section 215 shall not apply if the spouses make a joint return with each other.

“(f) SPECIAL RULES TO PREVENT EXCESS FRONT-LOADING OF ALIMONY PAYMENTS.—

“(1) REQUIREMENT THAT PAYMENTS BE FOR MORE THAN 6 YEARS.—Alimony or separate maintenance payments (in excess of \$10,000 during any calendar year) paid by the payor spouse to the payee spouse shall not be treated as alimony or separate maintenance payments unless such payments are to be made by the payor spouse to the payee spouse in each of the 6 post-separation years (not taking into account any termination contingent on the death of either spouse or the remarriage of the payee spouse).

“(2) RECOMPUTATION WHERE PAYMENTS DECREASE BY MORE THAN \$10,000.—If there is an excess amount determined under paragraph (3) for any computation year—

“(A) the payor spouse shall include such excess amount in gross income for the payor spouse’s taxable year beginning in the computation year, and

“(B) the payee spouse shall be allowed a deduction in computing adjusted gross income for such excess amount for the payee spouse’s taxable year beginning in the computation year.

“(3) DETERMINATION OF EXCESS AMOUNT.—The excess amount determined under this paragraph for any computation year is the sum of—

“(A) the excess (if any) of—

“(i) the amount of alimony or separate maintenance payments paid by the payor spouse during the immediately preceding post-separation year, over

“(ii) the amount of the alimony or separate maintenance payments paid by the payor spouse during the computation year increased by \$10,000, plus

“(B) a like excess for each of the other preceding post-separation years.

In determining the amount of the alimony or separate maintenance payments paid by the payor spouse during any preceding post-separation year, the amount paid during such year shall be reduced by any excess previously determined in respect of such year under this paragraph.

“(4) DEFINITIONS.—For purposes of this subsection—

“(A) POST-SEPARATION YEAR.—The term ‘post-separation year’ means any calendar year in the 6 calendar year period beginning with the first calendar year in which the payor spouse paid to the payee spouse alimony or separate maintenance payments to which this section applies.

“(B) COMPUTATION YEAR.—The term ‘computation year’ means the post-separation year for which the excess under paragraph (3) is being determined.

“(5) EXCEPTIONS.—

“(A) WHERE PAYMENTS CEASE BY REASON OF DEATH OR REMARRIAGE.—Paragraph (2) shall not apply to any post-separation year (and subsequent post-separation years) if—

“(i) either spouse dies before the close of such post-separation year or the payee spouse remarries before the close of such post-separation year, and

“(ii) the alimony or separate maintenance payments cease by reason of such death or remarriage.

“(B) SUPPORT PAYMENTS.—For purposes of this subsection, the term ‘alimony or separate maintenance payment’ shall not include any payment received under a decree described in subsection (b)(2)(C).

“(C) FLUCTUATING PAYMENTS NOT WITHIN CONTROL OF PAYOR SPOUSE.—For purposes of this subsection, the term ‘alimony or separate maintenance payment’ shall not include any payment to the extent it is made pursuant to a continuing liability (over a period of not less than 6 years) to pay a fixed portion of the income from a business or property or from compensation for employment or self-employment.”

(b) AMENDMENT OF SECTION 215.—Section 215 (relating to deduction for alimony, etc., payments) is amended to read as follows: 26 USC 215.

“SEC. 215. ALIMONY, ETC., PAYMENTS.

“(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a deduction an amount equal to the alimony or separate maintenance payments paid during such individual’s taxable year.

“(b) ALIMONY OR SEPARATE MAINTENANCE PAYMENTS DEFINED.—For purposes of this section, the term ‘alimony or separate maintenance payment’ means any alimony or separate maintenance payment (as defined in section 71(b)) which is includible in the gross income of the recipient under section 71.

“(c) REQUIREMENT OF IDENTIFICATION NUMBER.—The Secretary may prescribe regulations under which—

Ante, p. 795.

“(1) any individual receiving alimony or separate maintenance payments is required to furnish such individual’s taxpayer identification number to the individual making such payments, and

“(2) the individual making such payments is required to include such taxpayer identification number on such individual’s return for the taxable year in which such payments are made.

“(d) COORDINATION WITH SECTION 682.—No deduction shall be allowed under this section with respect to any payment if, by reason of section 682 (relating to income of alimony trusts), the amount thereof is not includible in such individual’s gross income.”

26 USC 6676.

(c) PENALTY FOR FAILURE TO SUPPLY IDENTIFYING NUMBER.—Section 6676 (relating to failure to supply identifying number) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

Ante, p. 797.

“(c) PENALTY FOR FAILURE TO SUPPLY IDENTIFYING NUMBER UNDER SECTION 215.—If any person who is required by regulations prescribed under section 215—

“(1) to furnish his taxpayer identification number to another person, or

“(2) to include on his return the taxpayer identification number of another person,

fails to comply with such requirement at the time prescribed by such regulations, such person shall, unless it is shown that such failure is due to reasonable cause and not to willful neglect, pay a penalty of \$50 for each such failure.”

(d) TECHNICAL AMENDMENTS.—

26 USC 219.

(1) Subparagraph (B) of section 219(b)(4) (relating to certain divorced individuals) is amended by striking out all that follows “gross income” and inserting in lieu thereof “under section 71 (relating to alimony and separate maintenance payments) by reason of a payment under a decree of divorce or separate maintenance or a written instrument incident to such a decree.”

26 USC 682.

(2) Subsection (b) of section 682 (relating to income of an estate or trust in case of divorce, etc.) is amended—

(A) by striking out “or section 71”, and

(B) by striking out the last sentence.

26 USC 7701.

(3) Paragraph (17) of section 7701(a) (defining husband and wife) is amended by striking out “71, 152(b)(4), 215, and 682” and inserting in lieu thereof “152(b)(4) and 682”.

26 USC 71 note.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply with respect to divorce or separation instruments (as defined in section 71(b)(2) of the Internal Revenue Code of 1954, as amended by this section) executed after December 31, 1984.

Ante, p. 795.

(2) MODIFICATIONS OF INSTRUMENTS EXECUTED BEFORE JANUARY 1, 1985.—The amendments made by this section shall also apply to any divorce or separation instrument (as so defined) executed before January 1, 1985, but modified on or after such date if the modification expressly provides that the amendments made by this section shall apply to such modification.

Ante, p. 797.

(3) REQUIREMENT OF IDENTIFICATION NUMBER.—Section 215(c) of the Internal Revenue Code of 1954 (as amended by subsection

(b)) and the amendments made by subsection (c) shall apply to payments made after December 31, 1984.

SEC. 423. DEPENDENCY EXEMPTION IN THE CASE OF CHILD OF DIVORCED PARENTS, ETC.

(a) **GENERAL RULE.**—Subsection (e) of section 152 (relating to support test in case of child of divorced parents, etc.) is amended to read as follows: 26 USC 152.

“(e) **SUPPORT TEST IN CASE OF CHILD OF DIVORCED PARENTS, ETC.**—

“(1) **CUSTODIAL PARENT GETS EXEMPTION.**—Except as otherwise provided in this subsection, if—

“(A) a child (as defined in section 151(e)(3)) receives over half of his support during the calendar year from his parents—

“(i) who are divorced or legally separated under a decree of divorce or separate maintenance,

“(ii) who are separated under a written separation agreement, or

“(iii) who live apart at all times during the last 6 months of the calendar year, and

“(B) such child is in the custody of one or both of his parents for more than one-half of the calendar year,

such child shall be treated, for purposes of subsection (a), as receiving over half of his support during the calendar year from the parent having custody for a greater portion of the calendar year (hereinafter in this subsection referred to as the ‘custodial parent’).

“(2) **EXCEPTION WHERE CUSTODIAL PARENT RELEASES CLAIM TO EXEMPTION FOR THE YEAR.**—A child of parents described in paragraph (1) shall be treated as having received over half of his support during a calendar year from the noncustodial parent if—

“(A) the custodial parent signs a written declaration (in such manner and form as the Secretary may by regulations prescribe) that such custodial parent will not claim such child as a dependent for any taxable year beginning in such calendar year, and

“(B) the noncustodial parent attaches such written declaration to the noncustodial parent’s return for the taxable year beginning during such calendar year.

For purposes of this subsection, the term ‘noncustodial parent’ means the parent who is not the custodial parent.

“(3) **EXCEPTION FOR MULTIPLE-SUPPORT AGREEMENT.**—This subsection shall not apply in any case where over half of the support of the child is treated as having been received from a taxpayer under the provisions of subsection (c).

“(4) **EXCEPTION FOR CERTAIN PRE-1985 INSTRUMENTS.**—

“(A) **IN GENERAL.**—A child of parents described in paragraph (1) shall be treated as having received over half his support during a calendar year from the noncustodial parent if—

“(i) a qualified pre-1985 instrument between the parents applicable to the taxable year beginning in such calendar year provides that the noncustodial parent shall be entitled to any deduction allowable under section 151 for such child, and

“(ii) the noncustodial parent provides at least \$600 for the support of such child during such calendar year. For purposes of this subparagraph, amounts expended for the support of a child or children shall be treated as received from the noncustodial parent to the extent that such parent provided amounts for such support.

“(B) QUALIFIED PRE-1985 INSTRUMENT.—For purposes of this paragraph, the term ‘qualified pre-1985 instrument’ means any decree of divorce or separate maintenance or written agreement—

“(i) which is executed before January 1, 1985,

“(ii) which on such date contains the provision described in subparagraph (A)(i), and

“(iii) which is not modified on or after such date in a modification which expressly provides that this paragraph shall not apply to such decree or agreement.

“(5) SPECIAL RULE FOR SUPPORT RECEIVED FROM NEW SPOUSE OF PARENT.—For purposes of this subsection, in the case of the remarriage of a parent, support of a child received from the parent’s spouse shall be treated as received from the parent.

“(6) CROSS REFERENCE.—

“For provision treating child as dependent of both parents for purposes of medical expense deduction, see section 213(d)(4).”

(b) TREATMENT AS DEPENDENT OF BOTH PARENTS FOR MEDICAL EXPENSE DEDUCTION.—

26 USC 213.
Post, p. 847.

(1) Subsection (d) of section 213 (relating to definitions) is amended by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively, and by inserting after paragraph (3) the following new paragraph:

Ante, p. 799.

“(4) SPECIAL RULE IN THE CASE OF CHILD OF DIVORCED PARENTS, ETC.—Any child to whom section 152(e) applies shall be treated as a dependent of both parents for purposes of this section.”

26 USC 105.

(2) Subsection (b) of section 105 is amended by adding at the end thereof the following new sentence: “Any child to whom section 152(e) applies shall be treated as a dependent of both parents for purposes of this subsection.”

(3) Paragraph (6) of section 213(d) (as redesignated by paragraph (1)) is amended by striking out “the limitations of paragraph (4)” and inserting in lieu thereof “the limitations of paragraph (5)”.

26 USC 143.

(c) TREATMENT OF CERTAIN MARRIED INDIVIDUALS LIVING APART.—

(1) Subsection (b) of section 143 (relating to certain married individuals living apart) is amended to read as follows:

“(b) CERTAIN MARRIED INDIVIDUALS LIVING APART.—For purposes of those provisions of this title which refer to this subsection, if—

Ante, p. 799.

“(1) an individual who is married (within the meaning of subsection (a)) and who files a separate return maintains as his home a household which constitutes for more than one-half of the taxable year the principal place of abode of a child (within the meaning of section 151(e)(3)) with respect to whom such individual is entitled to a deduction for the taxable year under section 151 (or would be so entitled but for paragraph (2) or (4) of section 152(e)),

“(2) such individual furnishes over one-half of the cost of maintaining such household during the taxable year, and

“(3) during the last 6 months of the taxable year, such individual’s spouse is not a member of such household, such individual shall not be considered as married.”

(2) Subparagraph (A) of section 2(b)(1) (defining head of household) is amended—

(A) by striking out “which constitutes for such taxable year” and inserting in lieu thereof “which constitutes for more than one-half of such taxable year”, and

(B) by striking out “under section 151” in clause (i) and inserting in lieu thereof “under section 151 (or would be so entitled but for paragraph (2) or (4) of section 152(e))”.

(3) Paragraph (1) of section 43(c) (defining eligible individual) is amended—

(A) by inserting after “section 151(e)(3)” in subparagraph (A)(i) the following: “or would be so entitled but for paragraph (2) or (4) of section 152(e)”, and

(B) by striking out “the child has the same principal place of abode as the individual” in subparagraph (B) and inserting in lieu thereof “the child has the same principal place of abode as the individual for more than one-half of the taxable year”.

(4) Paragraph (5) of section 44A(f) (relating to special dependency test in case of divorced parents, etc.) is amended to read as follows:

“(5) SPECIAL DEPENDENCY TEST IN CASE OF DIVORCED PARENTS, ETC.—If—

“(A) paragraph (2) or (4) of section 152(e) applies to any child with respect to any calendar year, and

“(B) such child is under the age of 15 or is physically or mentally incapable of caring for himself, in the case of any taxable year beginning in such calendar year, such child shall be treated as a qualifying individual described in subparagraph (A) or (B) of subsection (c)(1) (whichever is appropriate) with respect to the custodial parent (within the meaning of section 152(e)(1)), and shall not be treated as a qualifying individual with respect to the noncustodial parent.”

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1984.

SEC. 424. INNOCENT SPOUSE RELIEVED OF LIABILITY IN CERTAIN CASES.

(a) GENERAL RULE.—Subsection (e) of section 6013 (relating to spouse relieved of liability in certain cases) is amended to read as follows:

“(e) SPOUSE RELIEVED OF LIABILITY IN CERTAIN CASES.—

“(1) IN GENERAL.—Under regulations prescribed by the Secretary, if—

“(A) a joint return has been made under this section for a taxable year,

“(B) on such return there is a substantial understatement of tax attributable to grossly erroneous items of one spouse,

“(C) the other spouse establishes that in signing the return he or she did not know, and had no reason to know, that there was such substantial understatement, and

“(D) taking into account all the facts and circumstances, it is inequitable to hold the other spouse liable for the deficiency in tax for such taxable year attributable to such substantial understatement,

then the other spouse shall be relieved of liability for tax (including interest, penalties, and other amounts) for such taxable year to the extent such liability is attributable to such substantial understatement.

“(2) **GROSSLY ERRONEOUS ITEMS.**—For purposes of this subsection, the term ‘grossly erroneous items’ means, with respect to any spouse—

“(A) any item of gross income attributable to such spouse which is omitted from gross income, and

“(B) any claim of a deduction, credit, or basis by such spouse in an amount for which there is no basis in fact or law.

“(3) **SUBSTANTIAL UNDERSTATEMENT.**—For purposes of this subsection, the term ‘substantial understatement’ means any understatement (as defined in section 6661(b)(2)(A)) which exceeds \$500.

“(4) **UNDERSTATEMENT MUST EXCEED SPECIFIED PERCENTAGE OF SPOUSE’S INCOME.**—

“(A) **ADJUSTED GROSS INCOME OF \$20,000 OR LESS.**—If the spouse’s adjusted gross income for the preadjustment year is \$20,000 or less, this subsection shall apply only if the liability described in paragraph (1) is greater than 10 percent of such adjusted gross income.

“(B) **ADJUSTED GROSS INCOME OF MORE THAN \$20,000.**—If the spouse’s adjusted gross income for the preadjustment year is more than \$20,000, subparagraph (A) shall be applied by substituting ‘25 percent’ for ‘10 percent’.

“(C) **PREADJUSTMENT YEAR.**—For purposes of this paragraph, the term ‘preadjustment year’ means the most recent taxable year of the spouse ending before the date the deficiency notice is mailed.

“(D) **COMPUTATION OF SPOUSE’S ADJUSTED GROSS INCOME.**—If the spouse is married to another spouse at the close of the preadjustment year, the spouse’s adjusted gross income shall include the income of the new spouse (whether or not they file a joint return).

“(E) **EXCEPTION FOR OMISSIONS FROM GROSS INCOME.**—This paragraph shall not apply to any liability attributable to the omission of an item from gross income.

“(5) **SPECIAL RULE FOR COMMUNITY PROPERTY INCOME.**—For purposes of this subsection, the determination of the spouse to whom items of gross income (other than gross income from property) are attributable shall be made without regard to community property laws.”

(b) **TREATMENT OF COMMUNITY INCOME.**—

(1) **IN GENERAL.**—Section 66 (relating to treatment of community income where spouses live apart) is amended by redesignating subsection (b) as subsection (d) and by inserting after subsection (a) the following new subsections:

“(b) **SECRETARY MAY DISREGARD COMMUNITY PROPERTY LAWS WHERE SPOUSE NOT NOTIFIED OF COMMUNITY INCOME.**— The Secretary may disallow the benefits of any community property law to any taxpayer with respect to any income if such taxpayer acted as if solely entitled to such income and failed to notify the taxpayer’s spouse before the due date (including extensions) for filing the return for the taxable year in which the income was derived of the nature and amount of such income.

“(c) SPOUSE RELIEVED OF LIABILITY IN CERTAIN OTHER CASES.—Under regulations prescribed by the Secretary, if—

“(1) an individual does not file a joint return for any taxable year,

“(2) such individual does not include in gross income for such taxable year an item of community income properly includible therein which, in accordance with the rules contained in section 879(a), would be treated as the income of the other spouse,

“(3) the individual establishes that he or she did not know of, and had no reason to know of, such item of community income, and

“(4) taking into account all facts and circumstances, it is inequitable to include such item of community income in such individual’s gross income,

then, for purposes of this title, such item of community income shall be included in the gross income of the other spouse (and not in the gross income of the individual).”

(2) CLERICAL AMENDMENTS.—

(A) The section heading of section 66 is amended by striking out “WHERE SPOUSES LIVE APART”. 26 USC 66.

(B) The subsection heading of subsection (a) of section 66 is amended by striking out “GENERAL RULE” and inserting in lieu thereof “TREATMENT OF COMMUNITY INCOME WHERE SPOUSES LIVE APART”.

(C) The table of sections for part I of subchapter B of chapter 1 is amended by striking out “where spouses live apart” in the item relating to section 66.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsections (a) and (b) shall apply to all taxable years to which the Internal Revenue Code of 1954 applies. Corresponding provisions shall be deemed to be included in the Internal Revenue Code of 1939 and shall apply to all taxable years to which such Code applies. 26 USC 6013 note.

(2) AUTHORITY TO DISREGARD COMMUNITY PROPERTY LAWS.—Subsection (b) of section 66 of the Internal Revenue Code of 1954, as added by subsection (b), shall apply to taxable years beginning after December 31, 1984. 26 USC 1 et seq. 53 Stat. 1.

SEC. 425. TREATMENT OF CERTAIN PROPERTY SETTLEMENTS FOR PURPOSES OF ESTATE AND GIFT TAXES.

(a) DEDUCTION ALLOWED AGAINST ESTATE TAX FOR TRANSFERS SATISFYING SECTION 2516.—

(1) IN GENERAL.—Subsection (b) of section 2043 (relating to transfers for insufficient consideration) is amended to read as follows: 26 USC 2043.

“(b) MARITAL RIGHTS NOT TREATED AS CONSIDERATION.—

“(1) IN GENERAL.—For purposes of this chapter, a relinquishment or promised relinquishment of dower or curtesy, or of a statutory estate created in lieu of dower or curtesy, or of other marital rights in the decedent’s property or estate, shall not be considered to any extent a consideration ‘in money or money’s worth’.

“(2) EXCEPTION.—For purposes of section 2053 (relating to expenses, indebtedness, and taxes), a transfer of property which satisfies the requirements of paragraph (1) of section 2516 (relating to certain property settlements) shall be considered to be

made for an adequate and full consideration in money or money's worth."

26 USC 2053.

(2) **CROSS REFERENCE.**—Subsection (e) of section 2053 (relating to deduction for expenses, indebtedness, and taxes) is amended to read as follows:

"(e) **MARITAL RIGHTS.**—

Ante, p. 803.

"For provisions treating certain relinquishments of marital rights as consideration in money or money's worth, see section 2043(b)(2)."

(b) **SECTION 2516 EXTENDED TO AGREEMENTS ENTERED INTO WITHIN 1 YEAR AFTER DIVORCE.**—Section 2516 (relating to certain property settlements) is amended by striking out so much of such section as precedes paragraph (1) thereof and inserting in lieu thereof the following:

"Where a husband and wife enter into a written agreement relative to their marital and property rights and divorce occurs within the 3-year period beginning on the date 1 year before such agreement is entered into (whether or not such agreement is approved by the divorce decree), any transfers of property or interests in property made pursuant to such agreement—".

(c) **EFFECTIVE DATES.**—

26 USC 2043
note.

(1) **SUBSECTION (a).**—The amendments made by subsection (a) shall apply to estates of decedents dying after the date of the enactment of this Act.

26 USC 2516
note.

(2) **SUBSECTION (b).**—The amendment made by subsection (b) shall apply to transfers after the date of the enactment of this Act.

SEC. 426. INCOME FROM SHELTERED WORKSHOPS NOT TAKEN INTO ACCOUNT IN DETERMINING DEPENDENCY EXEMPTION.

26 USC 151.

(a) **IN GENERAL.**—Subsection (e) of section 151 (relating to additional personal exemption for dependents) is amended by adding at the end thereof the following new paragraph:

"(5) **CERTAIN INCOME OF HANDICAPPED DEPENDENTS NOT TAKEN INTO ACCOUNT.**—

"(A) **IN GENERAL.**—For purposes of paragraph (1)(A), the gross income of an individual who is permanently and totally disabled shall not include income attributable to services performed by the individual at a sheltered workshop if—

"(i) the availability of medical care at such workshop is the principal reason for his presence there, and

"(ii) the income arises solely from activities at such workshop which are incident to such medical care.

"(B) **SHELTERED WORKSHOP DEFINED.**—For purposes of subparagraph (A), the term 'sheltered workshop' means a school—

"(i) which provides special instruction or training designed to alleviate the disability of the individual, and

"(ii) which is operated by—

"(I) an organization described in section 501(c)(3) and exempt from tax under section 501(a), or

"(II) a State, a possession of the United States, any political subdivision of any of the foregoing, the United States, or the District of Columbia.

"(C) **PERMANENT AND TOTAL DISABILITY DEFINED.**—An individual shall be treated as permanently and totally disabled

for purposes of this paragraph if such individual would be so treated under paragraph (3) of section 37(e)."

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1984.

97 Stat. 85.
Post, p. 826.
26 USC 151 note.

Subtitle C—Revision of At-Risk Rules

SEC. 431. REVISION OF INVESTMENT CREDIT AT-RISK RULES.

(a) **IN GENERAL.**—So much of paragraph (8) of section 46(c) (relating to limitation to amount at risk) as precedes subparagraph (F) thereof is amended to read as follows:

26 USC 46.

"(8) **CERTAIN NONRECOURSE FINANCING EXCLUDED FROM CREDIT BASE.**—

"(A) **LIMITATION.**—The credit base of any property to which this paragraph applies shall be reduced by the nonqualified nonrecourse financing with respect to such property (as of the close of the taxable year in which placed in service).

"(B) **PROPERTY TO WHICH PARAGRAPH APPLIES.**—This paragraph applies to any property which—

"(i) is placed in service during the taxable year by a taxpayer described in section 465(a)(1), and

"(ii) is used in connection with an activity with respect to which any loss is subject to limitation under section 465.

"(C) **CREDIT BASE DEFINED.**—For purposes of this paragraph, the term 'credit base' means—

"(i) in the case of new section 38 property, the basis of the property, or

Post, p. 827.

"(ii) in the case of used section 38 property, the cost of such property.

"(D) **NONQUALIFIED NONRECOURSE FINANCING.**—

"(i) **IN GENERAL.**—For purposes of this paragraph and paragraph (9), the term 'nonqualified nonrecourse financing' means any nonrecourse financing which is not qualified commercial financing.

"(ii) **QUALIFIED COMMERCIAL FINANCING.**—For purposes of this paragraph, the term 'qualified commercial financing' means any financing with respect to any property if—

"(I) such property is acquired by the taxpayer from a person who is not a related person,

"(II) the amount of the nonrecourse financing with respect to such property does not exceed 80 percent of the credit base of such property, and

"(III) such financing is borrowed from a qualified person or represents a loan from any Federal, State, or local government or instrumentality thereof, or is guaranteed by any Federal, State, or local government.

Such term shall not include any convertible debt.

"(iii) **NONRECOURSE FINANCING.**—For purposes of this subparagraph, the term 'nonrecourse financing' includes—

"(I) any amount with respect to which the taxpayer is protected against loss through guarantees,

stop-loss agreements, or other similar arrangements, and

“(II) except to the extent provided in regulations, any amount borrowed from a person who has an interest (other than as a creditor) in the activity in which the property is used or from a related person to a person (other than the taxpayer) having such an interest.

In the case of amounts borrowed by a corporation from a shareholder, subclause (II) shall not apply to an interest as a shareholder.

“(iv) **QUALIFIED PERSON.**—For purposes of this paragraph, the term ‘qualified person’ means any person which is actively and regularly engaged in the business of lending money and which is not—

“(I) a related person with respect to the taxpayer,

“(II) a person from which the taxpayer acquired the property (or a related person to such person), or

“(III) a person who receives a fee with respect to the taxpayer’s investment in the property (or a related person to such person).

“(v) **RELATED PERSON.**—For purposes of clause (i), the term ‘related person’ has the meaning given such term by section 168(e)(4). Except as otherwise provided in regulations prescribed by the Secretary, the determination of whether a person is a related person shall be made as of the close of the taxable year in which the property is placed in service.

“(E) **APPLICATION TO PARTNERSHIPS AND S CORPORATIONS.**—For purposes of this paragraph and paragraph (9)—

“(i) **IN GENERAL.**—Except as otherwise provided in this subparagraph, in the case of any partnership or S corporation, the determination of whether a partner’s or shareholder’s allocable share of any financing is nonqualified nonrecourse financing shall be made at the partner or shareholder level.

“(ii) **SPECIAL RULE FOR CERTAIN RECOURSE FINANCING OF S CORPORATION.**—A shareholder of an S corporation shall be treated as liable for his allocable share of any financing provided by a qualified person to such corporation if—

“(I) such financing is recourse financing (determined at the corporate level), and

“(II) such financing is provided with respect to qualified business property of such corporation.

“(iii) **QUALIFIED BUSINESS PROPERTY.**—For purposes of clause (ii), the term ‘qualified business property’ means any property if—

“(I) such property is used by the corporation in the active conduct of a trade or business,

“(II) during the entire 12-month period ending on the last day of the taxable year, such corporation had at least 3 full-time employees who were not owner-employees (as defined in section 465(c)(7)(E)(i)) and substantially all the services of

whom were services directly related to such trade or business, and

“(III) during the entire 12-month period ending on the last day of such taxable year, such corporation had at least 1 full-time employee substantially all of the services of whom were in the active management of the trade or business.

Such term shall not include any master sound recording or other tangible or intangible asset associated with literary, artistic, or musical properties.

“(iv) DETERMINATION OF ALLOCABLE SHARE.—The determination of any partner's or shareholder's allocable share of any financing shall be made in the same manner as the credit allowable by section 38 with respect to such property.”

Post, p. 827.

(b) TREATMENT OF SUBSEQUENT INCREASES AND DECREASES IN NONQUALIFIED NONRECOURSE FINANCING.—

(1) SUBSEQUENT DECREASES.—Paragraph (9) of section 46(c) (relating to subsequent increases in the taxpayer's amount at risk with respect to the property) is amended to read as follows:

26 USC 46.

“(9) SUBSEQUENT DECREASES IN NONQUALIFIED NONRECOURSE FINANCING WITH RESPECT TO THE PROPERTY.—

“(A) IN GENERAL.—If, at the close of a taxable year following the taxable year in which the property was placed in service, there is a net decrease in the amount of nonqualified nonrecourse financing with respect to such property, such net decrease shall be taken into account as additional qualified investment in such property in accordance with subparagraph (C).

“(B) CERTAIN TRANSACTIONS NOT TAKEN INTO ACCOUNT.—For purposes of this paragraph, nonqualified nonrecourse financing shall not be treated as decreased through the surrender or other use of property financed by nonqualified nonrecourse financing.

“(C) MANNER IN WHICH TAKEN INTO ACCOUNT.—

“(i) CREDIT DETERMINED BY REFERENCE TO TAXABLE YEAR PROPERTY PLACED IN SERVICE.—For purposes of determining the amount of credit allowable under section 38 and the amount of credit subject to the early disposition or cessation rules under section 47, any increase in a taxpayer's qualified investment in property by reason of this paragraph shall be deemed to be additional qualified investment made by the taxpayer in the year in which the property referred to in subparagraph (A) was first placed in service.

“(ii) CREDIT ALLOWED FOR YEAR OF DECREASE IN NONQUALIFIED NONRECOURSE FINANCING.—Any credit allowable under this subpart for any increase in qualified investment by reason of this paragraph shall be treated as earned during the taxable year of the decrease in the amount of nonqualified nonrecourse financing.”

(2) SUBSEQUENT INCREASES.—So much of subsection (d) of section 47 (relating to property ceasing to be at risk) as precedes paragraph (3) thereof is amended to read as follows:

26 USC 47.

“(d) INCREASES IN NONQUALIFIED NONRECOURSE FINANCING.—

“(1) IN GENERAL.—If, as of the close of the taxable year, there is a net increase with respect to the taxpayer in the amount of

nonqualified nonrecourse financing (within the meaning of section 46(c)(8)) with respect to any property to which section 46(c)(8) applied, then the tax under this chapter for such taxable year shall be increased by an amount equal to the aggregate decrease in credits allowed under section 38 for all prior taxable years which would have resulted from reducing the qualified investment taken into account with respect to such property by the amount of such net increase.

Ante, p. 805.

“(2) TRANSFERS OF DEBT MORE THAN 1 YEAR AFTER INITIAL BORROWING NOT TREATED AS INCREASING NONQUALIFIED NONRE-COURSE FINANCING.—For purposes of paragraph (1), the amount of nonqualified nonrecourse financing (within the meaning of section 46(c)(8)(D)) with respect to the taxpayer shall not be treated as increased by reason of a transfer of (or agreement to transfer) any evidence of an indebtedness if such transfer occurs (or such agreement is entered into) more than 1 year after the date such indebtedness was incurred.”

26 USC 48.

(c) CLARIFICATION OF COORDINATION OF SECTION 48(d) WITH AT-RISK RULES.—Subsection (d) of section 48 (relating to certain leased property) is amended by adding at the end thereof the following new paragraph:

“(6) COORDINATION WITH AT-RISK RULES.—

“(A) EXTENSION OF AT-RISK RULES TO CERTAIN LESSORS.—

“(i) IN GENERAL.—If—

“(I) a lessor makes an election under this subsection with respect to any at-risk property leased to an at-risk lessee, and

“(II) but for this clause, section 46(c)(8) would not apply to such property in the hands of the lessor, section 46(c)(8) shall apply to the lessor with respect to such property.

“(ii) EXCEPTIONS.—Clause (i) shall not apply—

“(I) if the lessor manufactured or produced the property,

“(II) if the property has a readily ascertainable fair market value, or

“(III) in circumstances which the Secretary determines by regulations to be circumstances where the application of clause (i) is not necessary to carry out the purposes of section 46(c)(8).

“(B) REQUIREMENT THAT LESSOR BE AT RISK.—In the case of any property which, in the hands of the lessor, is property to which section 46(c)(8) applies, the amount of the credit allowable to the lessee under section 38 with respect to such property by reason of an election under this subsection shall at no time exceed the credit which would have been allowable to the lessor with respect to such property (determined without regard to section 46(e)(3)) if—

“(i) the lessor's basis in such property were equal to the lessee acquisition amount, and

“(ii) no election had been made under this subsection.

“(C) LESSEE SUBJECT TO AT-RISK LIMITATIONS.—

“(i) IN GENERAL.—In the case of any lease where—

“(I) the lessee is an at-risk lessee,

“(II) the property is at-risk property, and

“(III) the at-risk percentage is less than the required percentage,

Post, p. 827.

any credit allowable under section 38 to the lessee by reason of an election under this subsection (hereinafter in this paragraph referred to as the 'total credit') shall be allowable only as provided in subparagraph (D). *Post*, p. 827.

"(ii) **AT-RISK PERCENTAGE.**—For purposes of this paragraph, the term 'at-risk percentage' means the percentage obtained by dividing—

"(I) the present value (as of the time the lease is entered into) of the aggregate lease at-risk payments, by

"(II) the lessee acquisition amount.

For purposes of subclause (I), the present value shall be determined by using a discount rate equal to the rate in effect under section 6621 as of the time the lease is entered into.

"(iii) **REQUIRED PERCENTAGE.**—For purposes of clause (i)(III), the term 'required percentage' means the sum of—

"(I) 2 times the sum of the percentages applicable to the property under section 46(a), plus

Post, p. 834.

"(II) 10 percent.

In the case of 3-year property, such term means 60 percent of the required percentage determined under the preceding sentence.

"(iv) **LESSEE ACQUISITION AMOUNT.**—For purposes of this paragraph, the term 'lessee acquisition amount' means the amount for which the lessee is treated as having acquired the property by reason of an election under this subsection.

"(v) **LEASE AT-RISK PAYMENT.**—For purposes of this paragraph, the term 'lease at-risk payment' means any rental payment—

"(I) which the lessee is required to make under the lease in all events, and

"(II) with respect to which the lessee is not protected against loss through nonrecourse financing, guarantees, stop-loss agreements, or other similar arrangements.

"(D) **YEAR FOR WHICH CREDIT ALLOWABLE.**—

"(i) **IN GENERAL.**—Except as provided in clause (ii), in any case to which subparagraph (C)(i) applies, the portion of the total credit allowable for any taxable year shall be an amount which bears the same ratio to such total credit as—

"(I) the aggregate rental payments made by the lessee under the lease during such taxable year, bears to

"(II) the lessee acquisition amount.

"(ii) **REMAINING AMOUNT ALLOWABLE FOR YEAR IN WHICH AGGREGATE RENTAL PAYMENTS EXCEED REQUIRED PERCENTAGE OF ACQUISITION AMOUNT.**—The total credit (to the extent not allowable for a preceding taxable year) shall be allowable for the first taxable year as of the close of which the aggregate rental payments made by the lessee under the lease equal or exceed the required percentage (as defined in subparagraph (C)(iii)) of the lessee acquisition amount.

“(E) DEFINITION OF AT-RISK LESSEE AND AT-RISK PROPERTY.—For purposes of this paragraph—

“(i) AT-RISK LESSEE.—The term ‘at-risk lessee’ means any lessee who is a taxpayer described in section 465(a)(1).

“(ii) AT-RISK PROPERTY.—The term ‘at-risk property’ means any property used by an at-risk lessee in connection with an activity with respect to which any loss is subject to limitation under section 465.

“(F) SPECIAL RULES FOR SUBPARAGRAPHS (C) AND (D).—

“(i) SUBPARAGRAPHS (C) AND (D) APPLY IN LIEU OF OTHER AT-RISK RULES.—In the case of any election under this subsection, paragraphs (8) and (9) of section 46(c) and subsection (d) of section 47 shall only apply with respect to the lessor.

“(ii) APPLICATION TO PARTNERSHIPS AND S CORPORATIONS.—For purposes of subparagraphs (C) and (D), rules similar to the rules of subparagraph (E) of section 46(c)(8) shall apply.

“(iii) SUBSEQUENT REDUCTIONS IN AT-RISK AMOUNT.—Under regulations prescribed by the Secretary, the principles of subsection (d) of section 47 shall apply for purposes of subparagraphs (C) and (D).

“(G) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this paragraph, including regulations—

“(i) providing for such adjustments as may be appropriate where expenses connected with the lease are borne by the lessor, and

“(ii) providing the extent to which contingencies in the lease will be disregarded.”

(d) TECHNICAL AMENDMENTS.—

(1) Clause (i) of section 46(c)(8)(F) (relating to special rule for certain energy property) is amended to read as follows:

“(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to qualified energy property.”

(2) Subclause (III) of section 46(c)(8)(F)(ii) (defining qualified energy property) is amended to read as follows:

“(III) as of the close of the taxable year in which the property is placed in service, not more than 75 percent of the basis of such property is attributable to nonqualified nonrecourse financing, and”.

(3) Subclause (IV) of section 46(c)(8)(F)(ii) is amended by striking out “nonrecourse financing (other than financing described in section 46(c)(8)(B)(ii))” and inserting in lieu thereof “nonqualified nonrecourse financing”.

(4) Subparagraph (A) of section 47(d)(3) is amended by striking out “ceasing to be at risk” and inserting in lieu thereof “increasing the amount of nonqualified nonrecourse financing (within the meaning of section 46(c)(8))”.

(5) Clause (i) of section 47(d)(3)(B) is amended by striking out “other than a loan described in section 46(c)(8)(B)(ii)”.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act in taxable years ending after such date; except that such amendments shall not apply to any property to which

Ante, p. 807.

Ante, p. 805.

26 USC 46.

26 USC 47.

26 USC 46 note.

the amendments made by section 211(f) of the Economic Recovery Tax Act of 1981 do not apply.

26 USC 46, 47.

(2) **AMENDMENTS MAY BE ELECTED RETROACTIVELY.**—At the election of the taxpayer, the amendments made by this section shall apply as if included in the amendments made by section 211(f) of the Economic Recovery Tax Act of 1981. Any election made under the preceding sentence shall apply to all property of the taxpayer to which the amendments made by such section 211(f) apply and shall be made at such time and in such manner as the Secretary of the Treasury or his delegate may by regulations prescribe.

SEC. 432. EXCLUSION OF ACTIVE BUSINESSES OF QUALIFIED C CORPORATIONS FROM AT-RISK RULES, ETC.

(a) **EXCLUSION OF ACTIVE BUSINESSES OF QUALIFIED C CORPORATIONS FROM AT-RISK RULES.**—Subsection (c) of section 465 (relating to deductions limited to amount at risk) is amended by adding at the end thereof the following new paragraph:

26 USC 465.

“(7) **EXCLUSION OF ACTIVE BUSINESSES OF QUALIFIED C CORPORATIONS.**—

“(A) **IN GENERAL.**—In the case of a taxpayer which is a qualified C corporation—

“(i) each qualifying business carried on by such taxpayer shall be treated as a separate activity, and

“(ii) subsection (a) shall not apply to losses from such business.

“(B) **QUALIFIED C CORPORATION.**—For purposes of subparagraph (A), the term ‘qualified C corporation’ means any corporation described in subparagraph (B) of subsection (a)(1) which is not—

“(i) a personal holding company (as defined in section 542(a)),

“(ii) a foreign personal holding company (as defined in section 552(a)), or

“(iii) a personal service corporation (as defined in section 269A(b) but determined by substituting ‘5 percent’ for ‘10 percent’ in section 269A(b)(2)).

“(C) **QUALIFYING BUSINESS.**—For purposes of this paragraph, the term ‘qualifying business’ means any active business if—

“(i) during the entire 12-month period ending on the last day of the taxable year, such corporation had at least 1 full-time employee substantially all the services of whom were in the active management of such business,

“(ii) during the entire 12-month period ending on the last day of the taxable year, such corporation had at least 3 full-time, nonowner employees substantially all of the services of whom were services directly related to such business,

“(iii) the amount of the deductions attributable to such business which are allowable to the taxpayer solely by reason of sections 162 and 404 for the taxable year exceeds 15 percent of the gross income from such business for such year, and

“(iv) such business is not an excluded business.

“(D) SPECIAL RULES FOR APPLICATION OF SUBPARAGRAPH (C).—

“(i) PARTNERSHIPS IN WHICH TAXPAYER IS A QUALIFIED CORPORATE PARTNER.—In the case of an active business of a partnership, if—

“(I) the taxpayer is a qualified corporate partner in the partnership, and

“(II) during the entire 12-month period ending on the last day of the partnership’s taxable year, there was at least 1 full-time employee of the partnership (or of a qualified corporate partner) substantially all the services of whom were in the active management of such business, then the taxpayer’s proportionate share (determined on the basis of its profits interest) of the activities of the partnership in such business shall be treated as activities of the taxpayer (and clause (i) of subparagraph (C) shall not apply in determining whether such business is a qualifying business of the taxpayer).

“(ii) QUALIFIED CORPORATE PARTNER.—For purposes of clause (i), the term ‘qualified corporate partner’ means any corporation if—

“(I) such corporation is a general partner in the partnership,

“(II) such corporation has an interest of 10 percent or more in the profits and losses of the partnership, and

“(III) such corporation has contributed property to the partnership in an amount not less than the lesser of \$500,000 or 10 percent of the net worth of the corporation.

For purposes of subclause (III), any contribution of property other than money shall be taken into account at its fair market value.

“(iii) DEDUCTION FOR OWNER EMPLOYEE COMPENSATION NOT TAKEN INTO ACCOUNT.—For purposes of clause (iii) of subparagraph (C), there shall not be taken into account any deduction in respect of compensation for personal services rendered by any employee (other than a non-owner employee) of the taxpayer or any member of such employee’s family (within the meaning of section 318(a)(1)).

“(iv) SPECIAL RULE FOR BANKS.—For purposes of clause (iii) of subparagraph (C), in the case of a bank (as defined in section 581) or a financial institution to which section 591 applies—

“(I) gross income shall be determined without regard to the exclusion of interest from gross income under section 103, and

“(II) in addition to the deductions described in such clause, there shall also be taken into account the amount of the deductions which are allowable for amounts paid or credited to the accounts of depositors or holders of accounts as dividends or interest on their deposits or withdrawable accounts under section 163 or 591.

“(v) SPECIAL RULE FOR LIFE INSURANCE COMPANIES.—

“(I) IN GENERAL.—Clause (iii) of subparagraph (C) shall not apply to any insurance business of a qualified life insurance company.

“(II) INSURANCE BUSINESS.—For purposes of subclause (I), the term ‘insurance business’ means any business which is not a noninsurance business (within the meaning of section 806(c)(3)).

Ante, p. 724.

“(III) QUALIFIED LIFE INSURANCE COMPANY.—For purposes of subclause (I), the term ‘qualified life insurance company’ means any company which would be a life insurance company as defined in section 816 if unearned premiums were not taken into account under subsections (a)(2) and (c)(2) of section 816.

Ante, p. 748.

“(E) DEFINITIONS.—For purposes of this paragraph—

“(i) NON-OWNER EMPLOYEE.—The term ‘non-owner employee’ means any employee who does not own, at any time during the taxable year, more than 5 percent in value of the outstanding stock of the taxpayer. For purposes of the preceding sentence, section 318 shall apply, except that ‘5 percent’ shall be substituted for ‘50 percent’ in section 318(a)(2)(C).

“(ii) EXCLUDED BUSINESS.—The term ‘excluded business’ means—

“(I) equipment leasing (as defined in paragraph (6)), and

“(II) any business involving the use, exploitation, sale, lease, or other disposition of master sound recordings, motion picture films, video tapes, or tangible or intangible assets associated with literary, artistic, musical, or similar properties.

“(iii) SPECIAL RULES RELATING TO COMMUNICATIONS INDUSTRY, ETC.—

“(I) BUSINESS NOT EXCLUDED WHERE TAXPAYER NOT COMPLETELY AT RISK.—A business involving the use, exploitation, sale, lease, or other disposition of property described in subclause (II) of clause (ii) shall not constitute an excluded business by reason of such subclause if the taxpayer is at risk with respect to all amounts paid or incurred (or chargeable to capital account) in such business.

“(II) CERTAIN LICENSED BUSINESSES NOT EXCLUDED.—For purposes of subclause (II) of clause (ii), the provision of radio, television, cable television, or similar services pursuant to a license or franchise granted by the Federal Communications Commission or any other Federal, State, or local authority shall not constitute an excluded business by reason of such subclause.

“(F) AFFILIATED GROUP TREATED AS 1 TAXPAYER.—For purposes of this paragraph—

“(i) IN GENERAL.—Except as provided in subparagraph (G), the component members of an affiliated group of corporations shall be treated as a single taxpayer.

“(ii) AFFILIATED GROUP OF CORPORATIONS.—The term ‘affiliated group of corporations’ means an affiliated

Ante, p. 577.

group (as defined in section 1504(a)) which files or is required to file consolidated income tax returns.

“(iii) COMPONENT MEMBER.—The term ‘component member’ means an includible corporation (as defined in section 1504) which is a member of the affiliated group.

“(G) LOSS OF 1 MEMBER OF AFFILIATED GROUP MAY NOT OFFSET INCOME OF PERSONAL HOLDING COMPANY OR PERSONAL SERVICE CORPORATION.—Nothing in this paragraph shall permit any loss of a member of an affiliated group to be used as an offset against the income of any other member of such group which is a personal holding company (as defined in section 542(a)) or a personal service corporation (as defined in section 269A(b) but determined by substituting ‘5 percent’ for ‘10 percent’ in section 269A(b)(2)).”

26 USC 465.

(b) ACTIVITIES TREATED AS SEPARATE ACTIVITIES BY STATUTE MAY BE AGGREGATED WHERE TAXPAYER ACTIVELY PARTICIPATES IN THE MANAGEMENT OF EACH ACTIVITY.—Paragraph (2) of section 465(c) (relating to activities to which risk applies) is amended to read as follows:

“(2) SEPARATE ACTIVITIES.—For purposes of this section—

“(A) IN GENERAL.—Except as provided in subparagraph (B), a taxpayer’s activity with respect to each—

“(i) film or video tape,

“(ii) section 1245 property which is leased or held for leasing,

“(iii) farm,

“(iv) oil and gas property (as defined under section 614), or

“(v) geothermal property (as defined under section 614),

shall be treated as a separate activity.

“(B) AGGREGATION RULES.—

“(i) SPECIAL RULE FOR LEASES OF SECTION 1245 PROPERTY BY PARTNERSHIPS OR S CORPORATIONS.—In the case of any partnership or S corporation, all activities with respect to section 1245 properties which—

“(I) are leased or held for lease, and

“(II) are placed in service in any taxable year of the partnership or S corporation,

shall be treated as a single activity.

“(ii) OTHER AGGREGATION RULES.—Rules similar to the rules of subparagraphs (B) and (C) of paragraph (3) shall apply for purposes of this paragraph.”

(c) CORPORATIONS CONSIDERED AT RISK WITH RESPECT TO AMOUNTS BORROWED FROM SHAREHOLDERS, ETC.—Paragraph (3) of section 465(b) (relating to certain borrowed amounts excluded) is amended to read as follows:

“(3) CERTAIN BORROWED AMOUNTS EXCLUDED.—

“(A) IN GENERAL.—Except to the extent provided in regulations, for purposes of paragraph (1)(B), amounts borrowed shall not be considered to be at risk with respect to an activity if such amounts are borrowed from any person who has an interest in such activity or from a related person to a person (other than the taxpayer) having such an interest.

“(B) EXCEPTIONS.—

“(i) INTEREST AS CREDITOR.—Subparagraph (A) shall not apply to an interest as a creditor in the activity.

“(ii) INTEREST AS SHAREHOLDER WITH RESPECT TO AMOUNTS BORROWED BY CORPORATION.—In the case of amounts borrowed by a corporation from a shareholder, subparagraph (A) shall not apply to an interest as a shareholder.

“(C) RELATED PERSON DEFINED.—For purposes of subparagraph (A), the term ‘related person’ has the meaning given such term by section 168(e)(4).”

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1983; except that any loss from an activity described in section 465(c)(7)(A) of the Internal Revenue Code of 1954 (as amended by this section) which (but for the amendments made by this section) would have been treated as a deduction for the taxpayer’s first taxable year beginning after December 31, 1983, under section 465(a)(2) of such Code shall be allowed as a deduction for such first taxable year notwithstanding such amendments.

26 USC 465 note.

Ante, p. 811.

Subtitle D—Miscellaneous Treasury Administrative Provisions

PART I—PROVISIONS NOT RELATING TO DISTILLED SPIRITS TAX

SEC. 441. SIMPLIFICATION OF CERTAIN REPORTING REQUIREMENTS.

26 USC 936 note.

(a) REPORT ON POSSESSIONS CORPORATIONS.—The Secretary of the Treasury shall, for the calendar year 1981 and each second calendar year thereafter, submit a report to the Congress within 24 months following the close of such calendar year setting forth an analysis of the operation and effect of sections 936 and 934(b) of the Internal Revenue Code of 1954.

(b) HIGH INCOME TAXPAYER REPORT.—

(1) Section 2123 of the Tax Reform Act of 1976 is amended to read as follows:

26 USC 56 note.

“SEC. 2123. HIGH INCOME TAXPAYER REPORT.

“The Secretary of the Treasury shall publish annually information on the amount of tax paid by individual taxpayers with high total incomes. Total income for this purpose is to be calculated and set forth by adding to adjusted gross income any items of tax preference excluded from, or deducted in arriving at, adjusted gross income, and by subtracting any investment expenses incurred in the production of such income to the extent of the investment income. These data are to include the number of such individuals with total income over \$200,000 who owe no Federal income tax (after credits) and the deductions, exclusions, or credits used by them to avoid tax.”

(2) The amendment made by paragraph (1) shall apply to information published after the date of the enactment of this Act.

26 USC 56 note.

(c) INTERNATIONAL BOYCOTT REPORTS.—

(1) Section 1067 of the Tax Reform Act of 1976 is amended to read as follows:

26 USC 999 note.

"SEC. 1067. REPORTS BY THE SECRETARY.

"(a) GENERAL RULE.—As soon after the close of each 4-year period as the data become available, the Secretary shall transmit a report to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate setting forth for such 4-year period—

"(1) the number of reports filed under section 999(a) of the Internal Revenue Code of 1954 for taxable years ending with or within each calendar year in such 4-year period,

"(2) the number of such reports with respect to each such calendar year on which the taxpayer indicated international boycott participation or cooperation (within the meaning of section 999(b)(3) of such Code), and

"(3) a detailed description of the manner in which the provisions of such Code relating to international boycott activity have been administered during such 4-year period.

"(b) 4-YEAR PERIOD.—For purposes of subsection (a), the term '4-year period' means the period consisting of 4 calendar years beginning with calendar year 1982 and each subsequent fourth calendar year."

26 USC 999 note.

(2) The amendment made by paragraph (1) shall apply to reports for periods after December 31, 1981.

SEC. 442. REMOVAL OF \$1,000,000 LIMITATION ON WORKING CAPITAL FUND.

The last sentence of section 322(a) of title 31, United States Code (placing a \$1,000,000 limitation on the working capital fund for the Department of the Treasury), is hereby repealed.

SEC. 443. INCREASE IN LIMITATION ON REVOLVING FUND FOR REDEMPTION OF REAL PROPERTY.

26 USC 7810.

Subsection (a) of section 7810 (relating to revolving fund for redemption of real property) is amended by striking out "\$1,000,000" and inserting in lieu thereof "\$10,000,000".

SEC. 444. REMOVAL OF \$1,000,000 LIMITATION ON SPECIAL AUTHORITY TO DISPOSE OF OBLIGATIONS.

Subsection (b) of section 324 of title 31, United States Code (relating to disposing and extending the maturity of obligations), is amended by striking out the last sentence.

SEC. 445. SECRETARY OF THE TREASURY AUTHORIZED TO ACCEPT GIFTS AND BEQUESTS.

Section 321 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(d)(1) The Secretary of the Treasury may accept, hold, administer, and use gifts and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of the Department of the Treasury. Gifts and bequests of money and the proceeds from sales of other property received as gifts or bequests shall be deposited in the Treasury in a separate fund and shall be disbursed on order of the Secretary of the Treasury. Property accepted under this paragraph, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift or bequest.

"(2) For purposes of the Federal income, estate, and gift taxes, property accepted under paragraph (1) shall be considered as a gift or bequest to or for the use of the United States.

“(3) The Secretary of the Treasury may invest and reinvest the fund in public debt securities with maturities suitable for the needs of the fund and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities. Income accruing from the securities, and from any other property accepted under paragraph (1), shall be deposited to the credit of the fund, and shall be disbursed on order of the Secretary of the Treasury for purposes as nearly as possible in accordance with the terms of the gifts or bequests.

“(4) The Secretary of the Treasury shall, not less frequently than annually, make a public disclosure of the amount (and sources) of the gifts and bequests received under this subsection, and the purposes for which amounts in the separate fund established under this subsection are expended.”

SEC. 446. EXTENSION OF PERIOD FOR COURT REVIEW OF JEOPARDY ASSESSMENT WHERE PROMPT SERVICE NOT MADE ON THE UNITED STATES.

(a) **GENERAL RULE.**—Paragraph (2) of section 7429(b) (relating to judicial review) is amended by adding at the end thereof the following new sentence: 26 USC 7429.

“If the court determines that proper service was not made on the United States within 5 days after the date of the commencement of the action, the running of the 20-day period set forth in the preceding sentence shall not begin before the day on which proper service was made on the United States.”

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to actions commenced after the date of the enactment of this Act. 26 USC 7429 note.

SEC. 447. EXTENSION OF PERIOD DURING WHICH ADDITIONAL TAX SHOWN ON AMENDED RETURN MAY BE ASSESSED.

(a) **GENERAL RULE.**—Subsection (c) of section 6501 (relating to exceptions) is amended by adding at the end thereof the following new paragraph: *Ante*, p. 757.

“(7) **SPECIAL RULE FOR CERTAIN AMENDED RETURNS.**—Where, within the 60-day period ending on the day on which the time prescribed in this section for the assessment of any tax imposed by subtitle A for any taxable year would otherwise expire, the Secretary receives a written document signed by the taxpayer showing that the taxpayer owes an additional amount of such tax for such taxable year, the period for the assessment of such additional amount shall not expire before the day 60 days after the day on which the Secretary receives such document.”

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply with respect to documents received by the Secretary of the Treasury (or his delegate) after the date of the enactment of this Act. 26 USC 6501 note.

SEC. 448. TREATMENT OF CERTAIN GUARANTEED DRAFTS ISSUED BY FINANCIAL INSTITUTIONS.

(a) **GENERAL RULE.**—Paragraph (2) of section 6311(b) (relating to liability of banks and others) is amended— 26 USC 6311.

(1) by striking out “or cashier’s check” and inserting in lieu thereof “or cashier’s check (or other guaranteed draft)”,

(2) by striking out “the amount of such check” and inserting in lieu thereof “the amount of such check (or draft)”,

(3) by striking out “the bank or trust company” and inserting in lieu thereof “the financial institution”, and

(4) by striking out “such bank” each place it appears and inserting in lieu thereof “such financial institution”.

26 USC 6311
note.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 449. DISCLOSURE OF WINDFALL PROFIT TAX INFORMATION TO STATE TAX OFFICIALS.

26 USC 6103.

(a) **GENERAL RULE.**—Paragraph (1) of section 6103(d) (relating to disclosure to State tax officials) is amended by striking out “44, 51” and inserting in lieu thereof “44, 45, 51”.

26 USC 6103
note.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 450. FINANCIAL REPORTING OF INVESTMENT TAX CREDITS.

26 USC 38 note.

(a) **IN GENERAL.**—Paragraph (1) of section 101(c) of the Revenue Act of 1971 (85 Stat. 499) (relating to accounting for investment credit in certain financial reports and reports to Federal agencies) is amended—

(1) by inserting “and” at the end of subparagraph (A),

(2) by striking out “, and” at the end of subparagraph (B) and inserting in lieu thereof a period, and

(3) by striking out subparagraph (C).

26 USC 38 note.
26 USC 1 note.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall take effect as if included in the Revenue Act of 1971.

PART II—PROVISIONS RELATING TO DISTILLED SPIRITS

SEC. 451. REPEAL OF OCCUPATIONAL TAX ON MANUFACTURERS OF STILLS AND CONDENSERS; NOTICES OF MANUFACTURE AND SET UP OF STILL.

(a) **IN GENERAL.**—Subpart C of part II of subchapter A of chapter 51 (relating to manufacturers of stills) is amended to read as follows:

“Subpart C—Manufacturers of Stills

“Sec. 5101. Notice of manufacture of still; notice of set up of still.

“Sec. 5102. Definition of manufacturer of stills.

26 USC 5101.

“SEC. 5101. NOTICE OF MANUFACTURE OF STILL; NOTICE OF SET UP OF STILL.

“(a) **NOTICE REQUIREMENTS.**—

“(1) **NOTICE OF MANUFACTURE OF STILL.**—The Secretary may, pursuant to regulations, require any person who manufactures any still, boiler, or other vessel to be used for the purpose of distilling, to give written notice, before the still, boiler, or other vessel is removed from the place of manufacture, setting forth by whom it is to be used, its capacity, and the time of removal from the place of manufacture.

“(2) **NOTICE OF SET UP OF STILL.**—The Secretary may, pursuant to regulations, require that no still, boiler, or other vessel be set up without the manufacturer of the still, boiler, or other vessel first giving written notice to the Secretary of that purpose.

“(b) **PENALTIES, ETC.**—

"(1) For penalty and forfeiture for failure to give notice of manufacture, or for setting up a still without first giving notice, when required by the Secretary, see sections 5615(2) and 5687.

Infra.

"(2) For penalty and forfeiture for failure to register still or distilling apparatus when set up, see section 5601(a)(1) and 5615(1).

"SEC. 5102. DEFINITION OF MANUFACTURER OF STILLs.

26 USC 5102.

"Any person who manufactures any still or condenser to be used in distilling shall be deemed a manufacturer of stills."

(b) TECHNICAL AMENDMENTS.—

(1) Paragraph (2) of section 5179(b) (relating to registration of stills) is amended to read as follows:

26 USC 5179.

"(2) For provisions requiring notification to set up a still, boiler, or other vessel for distilling, see section 5101(a)(2)."

Ante, p. 818.

(2) Paragraph (2) of section 5615 (relating to property subject to forfeiture) is amended to read as follows:

26 USC 5615.

"(2) DISTILLING APPARATUS REMOVED WITHOUT NOTICE OR SET UP WITHOUT NOTICE.—Any still, boiler, or other vessel to be used for the purpose of distilling—

"(A) which is removed without notice having been given when required by section 5101(a)(1), or

Ante, p. 818.

"(B) which is set up without notice having been given when required by section 5101(a)(2); and"

(3) Subsection (a) of section 5691 (relating to penalties for nonpayment of special taxes relating to liquors) is amended by striking out "limited retail dealer, or manufacturer of stills" and inserting in lieu thereof "or limited retail dealer".

26 USC 5691.

SEC. 452. ALLOWANCE OF DRAWBACk CLAIMS EVEN WHERE CERTAIN REQUIREMENTS NOT MET.

Section 5134 (relating to drawback) is amended by adding at the end thereof the following new subsection:

26 USC 5134.

"(c) ALLOWANCE OF DRAWBACk EVEN WHERE CERTAIN REQUIREMENTS NOT MET.—

"(1) IN GENERAL.—No claim for drawback under this section shall be denied in the case of a failure to comply with any requirement imposed under this subpart or any rule or regulation issued thereunder upon the claimant's establishing to the satisfaction of the Secretary that distilled spirits on which the tax has been paid or determined were in fact used in the manufacture or production of medicines, medicinal preparations, food products, flavors, or flavoring extracts, which were unfit for beverage purposes.

"(2) PENALTY.—

"(A) IN GENERAL.—In the case of a failure to comply with any requirement imposed under this subpart or any rule or regulation issued thereunder, the claimant shall be liable for a penalty of \$1,000 for each failure to comply unless it is shown that the failure to comply was due to reasonable cause.

"(B) PENALTY MAY NOT EXCEED AMOUNT OF CLAIM.—The aggregate amount of the penalties imposed under subparagraph (A) for failures described in paragraph (1) in respect of any claim shall not exceed the amount of such claim (determined without regard to subparagraph (A)).

“(3) **PENALTY TREATED AS TAX.**—The penalty imposed by paragraph (2) shall be assessed, collected, and paid in the same manner as taxes, as provided in section 6662(a).”

SEC. 453. DISCLOSURE OF ALCOHOL FUEL PRODUCERS TO ADMINISTRATORS OF STATE ALCOHOL LAWS.

26 USC 6103.

(a) **IN GENERAL.**—Subsection (l) of section 6103 (relating to confidentiality and disclosure of returns and return information) is amended by adding at the end thereof the following new paragraph:

“(9) **DISCLOSURE OF ALCOHOL FUEL PRODUCERS TO ADMINISTRATORS OF STATE ALCOHOL LAWS.**—Notwithstanding any other provision of this section, the Secretary may disclose—

“(A) the name and address of any person who is qualified to produce alcohol for fuel use under section 5181, and

“(B) the location of any premises to be used by such person in producing alcohol for fuel, to any State agency, body, or commission, or its legal representative, which is charged under the laws of such State with responsibility for administration of State alcohol laws solely for use in the administration of such laws.”

(b) **TECHNICAL AMENDMENTS.**—

(1) Subparagraph (A) of section 6103(p)(3) (relating to records of inspection and disclosure) is amended by striking out “(5), or (7)” and inserting in lieu thereof “(5), (7), (8), or (9)”.

(2) The material preceding subparagraph (A) of paragraph (4) of section 6103(p) is amended by striking out “or (7)” and inserting in lieu thereof “(7), (8), or (9)”.

(3) Clause (i) of section 6103(p)(4)(F) is amended by striking out “(l) (6) or (7)” and inserting in lieu thereof “(l) (6), (7), (8), or (9)”.

26 USC 7213.

(4) Paragraph (2) of section 7213(a) (relating to unauthorized disclosure of information) is amended by striking out “or (8)” and inserting in lieu thereof “(8), or (9)”.

26 USC 6103.

(5) Section 127(a)(1) of Public Law 96-249 is amended by striking out “Subsection (i)” and inserting in lieu thereof “Subsection (l)”.

26 USC 6103.
94 Stat. 468.

(6) The paragraph (7) of section 6103(l) added by Public Law 96-265 is hereby redesignated as paragraph (8).

SEC. 454. REPEAL OF STAMP REQUIREMENT FOR DISTILLED SPIRITS.

26 USC 5205.

(a) **IN GENERAL.**—Section 5205 (relating to stamps) is hereby repealed.

26 USC 5301.

(b) **BOTTLES MUST HAVE OTHER ANTITAMPERING CLOSURE.**—Section 5301 is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

“(d) **CLOSURES.**—The immediate container of distilled spirits withdrawn from bonded premises, or from customs custody, on determination of tax shall bear a closure or other device which is designed so as to require breaking in order to gain access to the contents of such container. The preceding sentence shall not apply to containers of bulk distilled spirits.”

(c) **TECHNICAL AND CONFORMING AMENDMENTS.**—

26 USC 5062.

(1) The second sentence of section 5062(b) (relating to drawback in case of exportation) is amended by striking out “stamped or restamped, and”.

26 USC 5066.

(2) Paragraph (2) of section 5066(a) (relating to bottled distilled spirits eligible for export with benefit of drawback) is amended

by striking out “stamped or restamped, and marked,” and inserting in lieu thereof “marked”.

(3) Subsection (b) of section 5116 (relating to cross references) is amended to read as follows: 26 USC 5116.

“(b) CROSS REFERENCE.—

“For provisions relating to containers of distilled spirits, see section 5206.”

(4) Subsection (c) of section 5204 (relating to gauging) is amended— 26 USC 5204.

(A) by striking out “STAMPING,” in the heading, and

(B) by striking out “stamping,” in the text.

(5)(A) Section 5206 (relating to containers) is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and by inserting after subsection (c) the following new subsection: 26 USC 5206.

“(d) EFFACEMENT OF MARKS AND BRANDS ON EMPTIED CONTAINERS.—Every person who empties, or causes to be emptied, any container of distilled spirits bearing any mark or brand required by law (or regulations pursuant thereto) shall at the time of emptying such container efface and obliterate such mark or brand; except that the Secretary may, by regulations, waive any requirement of this subsection where he determines that no jeopardy to the revenue will be involved.”

(B) Subsection (f) of section 5206, as redesignated by subparagraph (A), is amended by adding at the end thereof the following new paragraphs:

“(3) For provisions relating to the marking and branding of containers of distilled spirits by proprietors, see section 5204(c).

“(4) For penalties and forfeitures relating to marks and brands, see sections 5604 and 5613.”

Infra.

(6) Paragraph (4) of section 5207(a) (relating to records and reports) is amended by striking out subparagraph (D), by adding “and” at the end of subparagraph (B), and by striking out “, and” at the end of subparagraph (C) and inserting in lieu thereof a period. 26 USC 5207.

(7) Subsection (c) of section 5215 (relating to return of tax determined distilled spirits to bonded premises) is amended— 26 USC 5215.

(A) by striking out “RESTAMPING” in the heading and inserting in lieu thereof “RECLOSING”, and

(B) by striking out “restamping” in the text and inserting in lieu thereof “reclosing”.

(8) Section 5235 (relating to bottling of alcohol for industrial purposes) is amended by striking out “stamped,” in the first sentence and by striking out the second sentence. 26 USC 5235.

(9) Subsection (c) of section 5301 (relating to regulation of traffic in containers of distilled spirits) is amended— 26 USC 5301.

(A) by striking out “stamping” in paragraphs (1) and (3) and inserting in lieu thereof “tax determination”, and

(B) by striking out “, if the liquor bottles are to be again stamped under the provisions of this chapter”.

(10) Subsection (a) of section 5555 (relating to records, statements, and returns) is amended by striking out “or for the affixing of any stamp required to be affixed by this chapter,”. 26 USC 5555.

(11)(A) Section 5604 (relating to penalties relating to stamps, marks, brands, and containers) is amended to read as follows: 26 USC 5604.

"SEC. 5604. PENALTIES RELATING TO MARKS, BRANDS, AND CONTAINERS.**"(a) IN GENERAL.—Any person who shall—***Ante*, p. 820.**"(1) transport, possess, buy, sell, or transfer any distilled spirits unless the immediate container bears the type of closure or other device required by section 5301(d),****"(2) with intent to defraud the United States, empty a container bearing the closure or other device required by section 5301(d) without breaking such closure or other device,***Ante*, p. 821.**"(3) empty, or cause to be emptied, any distilled spirits from an immediate container bearing any mark or brand required by law without effacing and obliterating such mark or brand as required by section 5206(d),****"(4) place any distilled spirits in any bottle, or reuse any bottle for the purpose of containing distilled spirits, which has once been filled and fitted with a closure or other device under the provisions of this chapter, without removing and destroying such closure or other device,****"(5) willfully and unlawfully remove, change, or deface any mark, brand, label, or seal affixed to any case of distilled spirits, or to any bottle contained therein,****"(6) with intent to defraud the United States, purchase, sell, receive with intent to transport, or transport any empty cask or package having thereon any mark or brand required by law to be affixed to any cask or package containing distilled spirits, or****"(7) change or alter any mark or brand on any cask or package containing distilled spirits, or put into any cask or package spirits of greater strength than is indicated by the inspection mark thereon, or fraudulently use any cask or package having any inspection mark thereon, for the purpose of selling other spirits, or spirits of quantity or quality different from the spirits previously inspected,****shall be fined not more than \$10,000 or imprisoned not more than 5 years, or both, for each such offense.****"(b) CROSS REFERENCES.—****"For provisions relating to the authority of internal revenue officers to enforce provisions of this section, see sections 5203, 5557, and 7608."****(B) The table of sections for part I of subchapter J of chapter 51 is amended by striking out the item relating to section 5604 and inserting in lieu thereof the following:**

26 USC 5613.

"Sec. 5604. Penalties relating to marks, brands, and containers."**(12)(A) Subsection (b) of section 5613 (relating to forfeiture of distilled spirits not stamped, marked, or branded as required by law) is amended to read as follows:****"(b) CONTAINERS WITHOUT CLOSURES.—All distilled spirits found in any container which is required by this chapter to bear a closure or other device and which does not bear a closure or other device in compliance with this chapter shall be forfeited to the United States."****(B) The section heading of section 5613 is amended by striking out "STAMPED" and inserting in lieu thereof "CLOSED".****(C) The item relating to section 5613 in the table of sections for part I of subchapter J of chapter 51 is amended by striking out "stamped" and inserting in lieu thereof "closed".**

26 USC 6801.

(13) Subsection (b) of section 6801 (relating to authority for establishment, alteration, and distribution) is amended by strik-

ing out “several stamp taxes;” and all that follows and inserting in lieu thereof “several stamp taxes.”

(14) The table of sections for part I of subchapter C of chapter 51 is amended by striking out the item relating to section 5205.

SEC. 455. COOKING WINE MAY BE FORTIFIED USING DISTILLED SPIRITS.

(a) **IN GENERAL.**—Subsection (a) of section 5214 (relating to withdrawal of distilled spirits from bonded premises free of tax or without payment of tax) is amended by striking out the period at the end of paragraph (12) and inserting in lieu thereof “; or”, and by adding at the end thereof the following new paragraph:

“(13) without payment of tax for use on bonded wine cellar premises in the production of wine or wine products which will be rendered unfit for beverage use and removed pursuant to section 5362(d).”

(b) **LIABILITY FOR TAX.**—

(1) Paragraph (1) of section 5005(e) (relating to withdrawals without payment of tax) is amended by striking out “or (10)” and inserting in lieu thereof “(10), or (13)”.

(2) Paragraph (2) of section 5005(e) is amended by inserting “used in the production of nonbeverage wine or wine products,” after “used in the production of wine,”.

(c) **TECHNICAL AMENDMENT.**—Section 5354 (relating to bonds for bonded wine cellars) is amended by striking out “wine spirits” each place it appears and inserting in lieu thereof “distilled spirits”.

SEC. 456. EFFECTIVE DATES.

(a) **IN GENERAL.**—Except as otherwise provided in this section the amendments made by this part shall take effect on the first day of the first calendar month which begins more than 90 days after the date of the enactment of this Act.

(b) **REPEAL OF STAMP REQUIREMENT.**—The amendments made by section 454 shall take effect on July 1, 1985.

(c) **FORTIFICATION OF COOKING WINE.**—The amendments made by section 455 shall take effect on the date of the enactment of this Act.

Subtitle E—Tax Court Provisions

SEC. 461. INCREASE IN JURISDICTIONAL LIMIT FOR SMALL CASES.

(a) **INCREASE IN JURISDICTIONAL LIMIT FOR SMALL TAX CASES.**—

(1) **IN GENERAL.**—Subsection (a) of section 7463 (relating to disputes involving \$5,000 or less) is amended by striking out “\$5,000” each place it appears and inserting in lieu thereof “\$10,000”.

(2) **CLERICAL AMENDMENTS.**—

(A) The section heading for section 7463 is amended by striking out “\$5,000” and inserting in lieu thereof “\$10,000”.

(B) The table of sections for part II of subchapter C of chapter 76 is amended by striking out “\$5,000” in the item relating to section 7463 and inserting in lieu thereof “\$10,000”.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 462. ANNUITIES TO SURVIVORS OF TAX COURT JUDGES.

26 USC 7448.

(a) **ENTITLEMENT TO ANNUITY.**—Subsection (h) of section 7448 (relating to entitlement to annuity) is amended—

(1) by striking out “\$900 per year divided by the number of such children or \$360 per year,” in paragraph (2) and inserting in lieu thereof “\$4,644 per year divided by the number of such children or \$1,548 per year,”; and

(2) by striking out “\$480 per year” in paragraph (3) and inserting in lieu thereof “\$5,580 per year divided by the number of such children or \$1,860 per year, whichever is lesser”.

26 USC 7448
note.

(b) **EFFECTIVE DATE.**—The amendments made by this subsection (a) shall apply to annuities payable with respect to months beginning after the date of the enactment of this Act.

SEC. 463. PROCEEDINGS WHICH MAY BE ASSIGNED TO COMMISSIONERS.

26 USC 7456.

(a) **IN GENERAL.**—Subsection (d) of section 7456 (relating to proceedings which may be assigned to commissioners) is amended to read as follows:

“(d) **PROCEEDINGS WHICH MAY BE ASSIGNED TO COMMISSIONERS.**—The chief judge may assign—

“(1) any declaratory judgment proceeding,

“(2) any proceeding under section 7463,

“(3) any proceeding where neither the amount of the deficiency placed in dispute (within the meaning of section 7463) nor the amount of any claimed overpayment exceeds \$10,000; and

“(4) any other proceeding which the chief judge may designate,

to be heard by the commissioners of the court, and the court may authorize a commissioner to make the decision of the court with respect to any proceeding described in paragraph (1), (2), or (3), subject to such conditions and review as the court may provide.”

26 USC 7456
note.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect as if enacted as part of the Miscellaneous Revenue Act of 1982.

26 USC 1 note.

SEC. 464. SPECIAL TRIAL JUDGES.

26 USC 7456.

(a) **IN GENERAL.**—Subsection (a) of section 7456 (relating to administration of oaths and procurement of testimony) is amended by striking out “commissioner” each place it appears and inserting in lieu thereof “special trial judge”.

(b) **APPOINTMENT AND COMPENSATION.**—Subsection (c) of section 7456 (relating to commissioners) is amended—

(1) by striking out “COMMISSIONERS” in the heading and inserting in lieu thereof “SPECIAL TRIAL JUDGES”;

(2) by striking out “commissioners” and inserting in lieu thereof “special trial judges”; and

(3) by striking out “commissioner” and inserting in lieu thereof “special trial judge”.

Supra.

(c) **PROCEEDINGS WHICH MAY BE ASSIGNED TO SPECIAL TRIAL JUDGES.**—Subsection (d) of section 7456 (relating to proceedings which may be assigned to commissioners), as amended by section 463, is amended—

(1) by striking out “COMMISSIONERS” in the heading and inserting in lieu thereof “SPECIAL TRIAL JUDGES”;

(2) by striking out “commissioners” and inserting in lieu thereof “special trial judges”; and

(3) by striking out “commissioner” and inserting in lieu thereof “special trial judge”.

(d) **CONFORMING AMENDMENT.**—Subsection (c) of section 7471 (cross reference relating to compensation and travel and subsistence allowances of commissioners) is amended by striking out “COMMISSIONERS” in the heading and inserting in lieu thereof “SPECIAL TRIAL JUDGES”, and by striking out “commissioners” and inserting in lieu thereof “special trial judges”. 26 USC 7471.

(e) **EFFECTIVE DATE.**—

(1) The amendments made by this section shall take effect on the date of the enactment of this Act.

(2) Any reference in any law to a commissioner of the Tax Court shall be treated as a reference to a special trial judge of the Tax Court. 26 USC 7456 note.

SEC. 465. PUBLICITY OF TAX COURT PROCEEDINGS.

(a) **IN GENERAL.**—Section 7461 (relating to publicity of proceedings) is amended to read as follows: 26 USC 7461.

“SEC. 7461. PUBLICITY OF PROCEEDINGS.

“(a) **GENERAL RULE.**—Except as provided in subsection (b), all reports of the Tax Court and all evidence received by the Tax Court and its divisions, including a transcript of the stenographic report of the hearings, shall be public records open to the inspection of the public.

“(b) **EXCEPTIONS.**—

“(1) **TRADE SECRETS OR OTHER CONFIDENTIAL INFORMATION.**—The Tax Court may make any provision which is necessary to prevent the disclosure of trade secrets or other confidential information, including a provision that any document or information be placed under seal to be opened only as directed by the court.

“(2) **EVIDENCE, ETC.**—After the decision of the Tax Court in any proceeding has become final, the Tax Court may, upon motion of the taxpayer or the Secretary, permit the withdrawal by the party entitled thereto of originals of books, documents, and records, and of models, diagrams, and other exhibits, introduced in evidence before the Tax Court or any division; or the Tax Court may, on its own motion, make such other disposition thereof as it deems advisable.”

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act. 26 USC 7461 note.

Subtitle F—Simplification of Income Tax Credits

SEC. 471. CREDITS GROUPED TOGETHER IN MORE LOGICAL ORDER.

(a) **CREDITS DIVIDED INTO 4 CATEGORIES.**—The table of subparts for part IV of subchapter A of chapter 1 (relating to credits against tax) is amended to read as follows:

“Subpart A. Nonrefundable personal credits.

“Subpart B. Foreign tax credit, etc.

“Subpart C. Refundable credits.

“Subpart D. Business-related credits.”

(b) **EXISTING CREDITS ASSIGNED TO APPROPRIATE CATEGORY.**—Part IV of subchapter A of chapter 1 is amended by striking out the

heading and table of sections for subpart A and inserting in lieu thereof the following:

“Subpart A—Nonrefundable Personal Credits

- “Sec. 21. Expenses for household and dependent care services necessary for gainful employment.
 “Sec. 22. Credit for the elderly and the permanently and totally disabled.
 “Sec. 23. Residential energy credit.
 “Sec. 24. Contributions to candidates for public office.
 “Sec. 25. Limitation based on tax liability; definition of tax liability.

“Subpart B—Foreign Tax Credit, Etc.

- “Sec. 27. Taxes of foreign countries and possessions of the United States; possession tax credit.
 “Sec. 28. Clinical testing expenses for certain drugs for rare diseases or conditions.
 “Sec. 29. Credit for producing fuel from a nonconventional source.
 “Sec. 30. Credit for increasing research activities.

“Subpart C—Refundable Credits

- “Sec. 31. Tax withheld on wages.
 “Sec. 32. Earned income.
 “Sec. 33. Tax withheld at source on nonresident aliens and foreign corporations.
 “Sec. 34. Certain uses of gasoline and special fuels.
 “Sec. 35. Overpayments of tax.

“Subpart D—Business Related Credits

- “Sec. 38. General business credit.
 “Sec. 39. Carryback and carryforward of unused credits.
 “Sec. 40. Alcohol used as fuel.
 “Sec. 41. Employee stock ownership credit.”

(c) SECTIONS MOVED TO APPROPRIATE PLACE IN PART IV.—

26 USC 21 *et seq.*

(1) DESIGNATION.—The following sections of such part IV are henceforth to be designated in accordance with the following table:

Old section number:	New section number:	New subpart designation:
44A.....	21.....	A
37.....	22.....	A
44C.....	23.....	A
41.....	24.....	A
33.....	27.....	B
44H.....	28.....	B
44D.....	29.....	B
44F.....	30.....	B
31.....	31.....	C
43.....	32.....	C
32.....	33.....	C
39.....	34.....	C
45.....	35.....	C
44E.....	40.....	D
44G.....	41.....	D

(2) PLACED IN APPROPRIATE SUBPARTS.—Each section for which paragraph (1) provides a new section number is hereby moved to the appropriate place in the appropriate subpart of such part IV.

SEC. 472. UNIFORM LIMITATION ON PERSONAL NONREFUNDABLE CREDITS.

Subpart A of part IV of subchapter A of chapter 1 is amended by adding after section 24 the following new section:

“SEC. 25. LIMITATION BASED ON TAX LIABILITY; DEFINITION OF TAX LIABILITY.

26 USC 25.
Post, p. 905.

“(a) **LIMITATION BASED ON AMOUNT OF TAX.**—The aggregate amount of credits allowed by this subpart for the taxable year shall not exceed the taxpayer's tax liability for such taxable year.

“(b) **TAX LIABILITY.**—For purposes of this section—

“(1) **IN GENERAL.**—The term ‘tax liability’ means the tax imposed by this chapter for the taxable year.

“(2) **EXCEPTION FOR CERTAIN TAXES.**—For purposes of paragraph (1), any tax imposed by any of the following provisions shall not be treated as tax imposed by this chapter:

“(A) section 56 (relating to corporate minimum tax),

“(B) subsection (m)(5)(B), (o)(2), or (q) of section 72 (relating to additional tax on certain distributions),

“(C) section 408(f) (relating to additional tax on income from certain retirement accounts),

“(D) section 531 (relating to accumulated earnings tax),

“(E) section 541 (relating to personal holding company tax),

“(F) section 1351(d)(1) (relating to recoveries of foreign expropriation losses),

“(G) section 1374 (relating to tax on certain capital gains of S corporations), and

“(H) section 1375 (relating to tax imposed when passive investment income of corporation having subchapter C earnings and profits exceeds 25 percent of gross receipts).

“(c) **SIMILAR RULE FOR ALTERNATIVE MINIMUM TAX FOR TAXPAYERS OTHER THAN CORPORATIONS.**—

“For treatment of tax imposed by section 55 as not imposed by this chapter, see section 55(c).”

SEC. 473. UNIFORM CARRYOVER PROVISIONS FOR BUSINESS-RELATED CREDITS.

Subpart D of part IV of subchapter A of chapter 1 is amended by inserting before section 40 the following new sections:

“SEC. 38. GENERAL BUSINESS CREDIT.

26 USC 38.
Post, p. 833.

“(a) **ALLOWANCE OF CREDIT.**—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

“(1) the business credit carryforwards carried to such taxable year,

“(2) the amount of the current year business credit, plus

“(3) the business credit carrybacks carried to such taxable year.

“(b) **CURRENT YEAR BUSINESS CREDIT.**—For purposes of this subpart, the amount of the current year business credit is the sum of the following credits determined for the taxable year:

“(1) the investment credit determined under section 46(a),

“(2) the targeted jobs credit determined under section 51(a),

“(3) the alcohol fuels credit determined under section 40(a),

plus

Post, p. 834.
Post, p. 837.
Ante, p. 826.

Ante, p. 826. “(4) the employee stock ownership credit determined under section 41(a).

“(c) LIMITATION BASED ON AMOUNT OF TAX.—

“(1) IN GENERAL.—The credit allowed under subsection (a) for any taxable year shall not exceed the sum of—

“(A) so much of the taxpayer’s net tax liability for the taxable year as does not exceed \$25,000, plus

“(B) 85 percent of so much of the taxpayer’s net tax liability for the taxable year as exceeds \$25,000.

Ante, p. 827. “(2) NET TAX LIABILITY.—For purposes of paragraph (1), the term ‘net tax liability’ means the tax liability (as defined in section 25(b)), reduced by the sum of the credits allowable under subparts A and B of this part.

“(3) SPECIAL RULES.—

“(A) MARRIED INDIVIDUALS.—In the case of a husband or wife who files a separate return, the amount specified under subparagraphs (A) and (B) of paragraph (1) shall be \$12,500 in lieu of \$25,000. This subparagraph shall not apply if the spouse of the taxpayer has no business credit carryforward or carryback to, and has no current year business credit for, the taxable year of such spouse which ends within or with the taxpayer’s taxable year.

“(B) CONTROLLED GROUPS.—In the case of a controlled group, the \$25,000 amount specified under subparagraphs (A) and (B) of paragraph (1) shall be reduced for each component member of such group by apportioning \$25,000 among the component members of such group in such manner as the Secretary shall by regulations prescribe. For purposes of the preceding sentence, the term ‘controlled group’ has the meaning given to such term by section 1563(a).

“(C) LIMITATIONS WITH RESPECT TO CERTAIN PERSONS.—In the case of a person described in subparagraph (A) or (B) of section 46(e)(1), the \$25,000 amount specified under subparagraphs (A) and (B) of paragraph (1) shall equal such person’s ratable share (as determined under section 46(e)(2)) of such amount.

“(D) ESTATES AND TRUSTS.—In the case of an estate or trust, the \$25,000 amount specified under subparagraphs (A) and (B) of paragraph (1) shall be reduced to an amount which bears the same ratio to \$25,000 as the portion of the income of the estate or trust which is not allocated to beneficiaries bears to the total income of the estate or trust.

Post, pp. 840, 842. “(d) SPECIAL RULES FOR CERTAIN REGULATED COMPANIES.—In the case of any taxpayer to which section 46(f) applies, for purposes of sections 46(f), 47(a), 196(a), and 404(i) and any other provision of this title where it is necessary to ascertain the extent to which the credits determined under section 40(a), 41(a), 46(a), or 51(a) are used in a taxable year or as a carryback or carryforward, the order in which such credits are used shall be determined on the basis of the order in which they are listed in subsection (b).

Post, p. 832;
ante, p. 826;
post, pp. 834,
837.

26 USC 39.
Ante, p. 826.

“SEC. 39. CARRYBACK AND CARRYFORWARD OF UNUSED CREDITS.

“(a) IN GENERAL.—

“(1) 3-YEAR CARRYBACK AND 15-YEAR CARRYFORWARD.—If the sum of the business credit carryforwards to the taxable year plus the amount of the current year business credit for the

taxable year exceeds the amount of the limitation imposed by subsection (c) of section 38 for such taxable year (hereinafter in this section referred to as the 'unused credit year'), such excess (to the extent attributable to the amount of the current year business credit) shall be—

Ante, p. 827.

“(A) a business credit carryback to each of the 3 taxable years preceding the unused credit year, and

“(B) a business credit carryforward to each of the 15 taxable years following the unused credit year,

and, subject to the limitations imposed by subsections (b) and (c), shall be taken into account under the provisions of section 38(a) in the manner provided in section 38(a).

“(2) AMOUNT CARRIED TO EACH YEAR.—

“(A) ENTIRE AMOUNT CARRIED TO FIRST YEAR.—The entire amount of the unused credit for an unused credit year shall be carried to the earliest of the 18 taxable years to which (by reason of paragraph (1)) such credit may be carried.

“(B) AMOUNT CARRIED TO OTHER 17 YEARS.—The amount of the unused credit for the unused credit year shall be carried to each of the other 17 taxable years to the extent that such unused credit may not be taken into account under section 38(a) for a prior taxable year because of the limitations of subsections (b) and (c).

“(b) LIMITATION ON CARRYBACKS.—The amount of the unused credit which may be taken into account under section 38(a)(3) for any preceding taxable year shall not exceed the amount by which the limitation imposed by section 38(c) for such taxable year exceeds the sum of—

“(1) the amounts determined under paragraphs (1) and (2) of section 38(a) for such taxable year, plus

“(2) the amounts which (by reason of this section) are carried back to such taxable year and are attributable to taxable years preceding the unused credit year.

“(c) LIMITATION ON CARRYFORWARDS.—The amount of the unused credit which may be taken into account under section 38(a)(1) for any succeeding taxable year shall not exceed the amount by which the limitation imposed by section 38(c) for such taxable year exceeds the sum of the amounts which, by reason of this section, are carried to such taxable year and are attributable to taxable years preceding the unused credit year.

“(d) TRANSITIONAL RULES.—

“(1) CARRYFORWARDS.—

“(A) IN GENERAL.—Any carryforward from an unused credit year under section 46, 50A, 53, 44E, or 44G which has not expired before the beginning of the first taxable year beginning after December 31, 1983, shall be aggregated with other such carryforwards from such unused credit year and shall be a business credit carryforward to each taxable year beginning after December 31, 1983, which is 1 of the first 15 taxable years after such unused credit year.

Post, p. 838; *ante*, p. 826.

“(B) AMOUNT CARRIED FORWARD.—The amount carried forward under subparagraph (A) to any taxable year shall be properly reduced for any amount allowable as a credit with respect to such carryforward for any taxable year before the year to which it is being carried.

“(2) CARRYBACKS.—In determining the amount allowable as a credit for any taxable year beginning before January 1, 1984, as

the result of the carryback of a general business tax credit from a taxable year beginning after December 31, 1983—

“(A) paragraph (1) of subsection (b) shall be applied as if it read as follows:

“ ‘(1) the sum of the credits allowable for such taxable year under sections 38, 40, 44B, 44E, and 44G (as in effect before enactment of the Tax Reform Act of 1984), plus’, and

“(B) for purposes of section 38(c) the net tax liability for such taxable year shall be the tax liability (as so defined in section 25(b)) reduced by the sum of the credits allowable for such taxable year under sections 33, 37, 41, 44A, 44C, 44D, 44F, and 44H (as so in effect).”

Ante, p. 494.

Ante, p. 827.

Ante, p. 827.

SEC. 474. TECHNICAL AND CONFORMING AMENDMENTS.

(a) REFERENCES TO OLD AND NEW PROVISIONS.—Whenever in this section reference is made to an old or new section or other provision, the reference is to the provision before (in the case of “old”) or after (in the case of “new”) the changes made by section 471 of this Act.

Ante, p. 825.

(b) OLD SECTION 21.—

26 USC 15, 21.

(1) REDESIGNATION.—Old section 21 (relating to effect of changes) is redesignated as section 15.

26 USC 441.

26 USC 6013.

(2) CONFORMING AMENDMENTS.—Sections 441(f)(2)(A) and 6013(c) are each amended by striking out “21” and inserting in lieu thereof “15”.

(3) TABLE OF SECTIONS.—The table of sections for part III of subchapter A of chapter 1 is amended by striking out the item relating to section 21 and inserting in lieu thereof the following:

“Sec. 15. Effect of changes.”

26 USC 21.

Ante, p. 826.

(c) NEW SECTION 21.—New section 21 (relating to expenses for household and dependent care services necessary for gainful employment) is amended—

(1) by striking out subsection (b) and by redesignating subsections (c), (d), (e), (f), and (g) as subsections (b), (c), (d), (e), and (f), respectively,

(2) by striking out “subsection (c)(1)” in subsection (a) and inserting in lieu thereof “subsection (b)(1)”,

(3) by striking out “subsection (c)(2)” in subsection (a) and inserting in lieu thereof “subsection (b)(2)”,

(4) by striking out “subsection (c)(1)(C)” in paragraph (2) of subsection (d) (as redesignated by paragraph (1)) and inserting in lieu thereof “subsection (b)(1)(C)”,

(5) by striking out “subsection (d)(1)” in subparagraph (A) of subsection (d)(2) (as redesignated by paragraph (1)) and inserting in lieu thereof, “subsection (c)(1)”,

(6) by striking out “subsection (d)(2)” in subparagraph (B) of subsection (d)(2) (as redesignated by paragraph (1)) and inserting in lieu thereof “subsection (c)(2)”, and

(7) by striking out “subsection (c)(1)” in subsection (e)(5) (as redesignated by paragraph (1)) and inserting in lieu thereof “subsection (b)(1)”.

26 USC 22.

Ante, p. 826.

(d) NEW SECTION 22.—New Section 22 (relating to the credit for the elderly and the permanently and totally disabled) is amended—

(1) by striking out “Section 37 amount” each place it appears in the text and inserting in lieu thereof “section 22 amount”,

(2) by striking out the heading of subsection (c) and inserting in lieu thereof “(c) SECTION 22 AMOUNT.—”, and

(3) by amending subsection (d) to read as follows:

“(d) **ADJUSTED GROSS INCOME LIMITATION.**—If the adjusted gross income of the taxpayer exceeds—

“(1) \$7,500 in the case of a single individual,

“(2) \$10,000 in the case of a joint return, or

“(3) \$5,000 in the case of a married individual filing a separate return,
the section 22 amount shall be reduced by one-half of the excess of the adjusted gross income over \$7,500, \$10,000, or \$5,000, as the case may be.”

(e) **NEW SECTION 23.**—Subsection (b) of new section 23 (relating to residential energy credit) is amended by striking out paragraphs (5) and (6) and inserting in lieu thereof the following:

26 USC 23.
Ante, p. 826.

“(5) **CARRYFORWARD OF UNUSED CREDIT.**—

“(A) **IN GENERAL.**—If the credit allowable under subsection (a) for any taxable year exceeds the limitation imposed by section 25(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

Ante, p. 827.

“(B) **NO CARRYFORWARD TO TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1987.**—No amount may be carried under subparagraph (A) to any taxable year beginning after December 31, 1987.”

(f) **NEW SECTION 24.**—Subsection (b) of new section 24 (relating to contributions to candidates for political office) is amended by striking out paragraph (2) and by redesignating paragraph (3) as paragraph (2).

26 USC 24.
Ante, p. 826.

(g) **NEW SECTION 28.**—

26 USC 28.
Ante, p. 826.

(1) New section 28 is amended—

(A) by striking out “section 44F” each place it appears and inserting in lieu thereof “section 30”, and

(B) by striking out “section 44F(b)” in subsection (c)(2) and inserting in lieu thereof “section 30(b),” and

(C) by striking out “section 44F(f)” in subsection (d)(4) and inserting in lieu thereof “section 30(f)”.

(2) Paragraph (2) of new section 28(d) is amended to read as follows:

“(2) **LIMITATION BASED ON AMOUNT OF TAX.**—The credit allowed by this section for any taxable year shall not exceed the taxpayer’s tax liability for the taxable year (as defined in section 25(b)), reduced by the sum of the credits allowable under subpart A and section 27.”

Ante, p. 827.
Ante, pp. 825, 826.

(h) **NEW SECTION 29.**—Paragraph (5) of new section 29(b) (relating to credit for producing fuel from a nonconventional source) is amended to read as follows:

26 USC 29.
Ante, p. 826.

“(5) **APPLICATION WITH OTHER CREDITS.**—The credit allowed by subsection (a) for a taxable year shall not exceed the taxpayer’s tax liability for the taxable year (as defined in section 25(b)), reduced by the sum of the credits allowable under subpart A and sections 27 and 28.”

(i) **NEW SECTION 30.**—

26 USC 30.
Ante, p. 826.

(1) New section 30 (relating to credit for increasing research activities) is amended—

(A) by striking out “in computing the credit under section 40 or 44B” in subsection (b)(2)(D)(iii) and inserting in lieu

thereof “in determining the targeted jobs credit under section 51(a)”, and

(B) by amending subparagraph (A) of subsection (g)(1) to read as follows:

“(A) IN GENERAL.—Except as provided in subparagraph (B), the credit allowed by subsection (a) for any taxable year shall not exceed the taxpayer’s tax liability for the taxable year (as defined in section 25(b)), reduced by the sum of the credits allowable under subpart A and sections 27, 28, and 29.”

Ante, p. 827.

Ante, pp. 825, 826.

26 USC 30 note.

(2) NEW SECTION 30 TREATED AS CONTINUATION OF OLD SECTION 44F.—For purposes of determining—

(A) whether any excess credit under old section 44F for a taxable year beginning before January 1, 1984, is allowable as a carryover under new section 30, and

Ante, p. 826.

(B) the period during which new section 30 is in effect, new section 30 shall be treated as a continuation of old section 44F (and shall apply only to the extent old section 44F would have applied).

26 USC 33.

Ante, p. 826.

(j) NEW SECTION 33.—New section 33 (relating to tax withheld at source on nonresident aliens and foreign corporations and on tax-free covenant bonds) is amended to read as follows:

“SEC. 33. TAX WITHHELD AT SOURCE ON NONRESIDENT ALIENS AND FOREIGN CORPORATIONS.

“There shall be allowed as a credit against the tax imposed by this subtitle the amount of tax withheld at source under subchapter A of chapter 3 (relating to withholding of tax on nonresident aliens and on foreign corporations).”

26 USC 1441.

26 USC 40.

Ante, p. 826.

Post, p. 833.

(k) NEW SECTION 40.—New section 40 (relating to alcohol used as fuel) is amended—

(1) by amending subsection (a) to read as follows:

“(a) GENERAL RULE.—For purposes of section 38, the alcohol fuels credit determined under this section for the taxable year is an amount equal to the sum of—

“(1) the alcohol mixture credit, plus

“(2) the alcohol credit.”,

(2) by striking out “the credit allowable under this section” in subsection (c) and inserting in lieu thereof “the credit determined under this section”,

(3) by striking out “credit was allowable” each place it appears in paragraph (3) of subsection (d) and inserting in lieu thereof “credit was determined”,

(4) by striking out subsection (e) and redesignating subsection (f) as subsection (e),

(5) by amending paragraph (2) of subsection (e) (as redesignated by paragraph (4)) to read as follows:

“(2) NO CARRYOVERS TO YEARS AFTER 1994.—No amount may be carried under section 39 by reason of this section (treating the amount allowed by reason of this section as the first amount allowed by this subpart) to any taxable year beginning after December 31, 1994.”, and

Ante, p. 828.

(6) by adding at the end thereof the following new subsection:

“(f) ELECTION TO HAVE ALCOHOL FUELS CREDIT NOT APPLY.—

“(1) IN GENERAL.—A taxpayer may elect to have this section not apply for any taxable year.

“(2) **TIME FOR MAKING ELECTION.**—An election under paragraph (1) for any taxable year may be made (or revoked) at any time before the expiration of the 3-year period beginning on the last date prescribed by law for filing the return for such taxable year (determined without regard to extensions).

“(3) **MANNER OF MAKING ELECTION.**—An election under paragraph (1) (or revocation thereof) shall be made in such manner as the Secretary may by regulations prescribe.”

(l) **NEW SECTION 41.**—New section 41 (relating to employee stock ownership plan) is amended—

26 USC 41.
Ante, p. 826.

(1) by amending paragraph (1) of subsection (a) to read as follows:

“(1) **AMOUNT OF CREDIT.**—In the case of a corporation which elects to have this section apply for the taxable year and which meets the requirements of subsection (c)(1), for purposes of section 38, the amount of the employee stock ownership credit determined under this section for the taxable year is an amount equal to the amount of the credit determined under paragraph (2) for such taxable year.”,

Ante, p. 827.

(2) by amending subsection (b) to read as follows:

“(b) **CERTAIN REGULATED COMPANIES.**—No credit attributable to compensation taken into account for the ratemaking purposes involved shall be determined under this section with respect to a taxpayer if—

“(1) the taxpayer’s cost of service for ratemaking purposes or in its regulated books of account is reduced by reason of any portion of such credit which results from the transfer of employer securities or cash to a tax credit employee stock ownership plan which meets the requirements of section 409;

Post, p. 852.

“(2) the base to which the taxpayer’s rate of return for ratemaking purposes is applied is reduced by reason of any portion of such credit which results from a transfer described in paragraph (1) to such employee stock ownership plan; or

“(3) any portion of the amount of such credit which results from a transfer described in paragraph (1) to such employee stock ownership plan is treated for ratemaking purposes in any way other than as though it had been contributed by the taxpayer’s common shareholders.

Under regulations prescribed by the Secretary, rules similar to the rules of paragraphs (4) and (7) of section 46(f) shall apply for purposes of the preceding sentence.”, and

(3) by striking out “the credit allowed under this section” in subsection (c)(3) and inserting in lieu thereof “the credit determined under this section”.

(m) **REPEAL OF CERTAIN OLD PROVISIONS.**—

(1) Old sections 38, 40, 44, and 44B are hereby repealed.

26 USC 38, 40,
44, 44B.
26 USC 50A,
50B.

(2) Old subpart C of part IV of subchapter A of chapter 1 is hereby repealed.

(n) **REDESIGNATION OF OLD SUBPARTS.**—

(1) Old subparts B and D of part IV of subchapter A of chapter 1 are redesignated as subparts E and F, respectively.

(2) The subpart heading for subpart F of part IV of subchapter A of chapter 1 (as so redesignated) is amended to read as follows:

“Subpart F—Rules for Computing Targeted Jobs Credit”.

(3) The table of subparts for such part IV (as amended by subsection (a) of section 471) is amended by adding at the end thereof the following:

“Subpart E. Rules for computing credit for investment in certain depreciable property.

“Subpart F. Rules for computing targeted jobs credit.”

(o) INVESTMENT TAX CREDIT.—

26 USC 46.

(1) Section 46 (relating to amount of investment tax credit) is amended by striking out subsections (a) and (b) and inserting in lieu thereof the following:

Ante, p. 827.

“(a) **AMOUNT OF INVESTMENT CREDIT.**—For purposes of section 38, the amount of the investment credit determined under this section for any taxable year shall be an amount equal to the sum of the following percentages of the qualified investment (as determined under subsections (c) and (d)):

“(1) the regular percentage,

“(2) in the case of energy property, the energy percentage, and

“(3) in the case of that portion of the basis of any property which is attributable to qualified rehabilitation expenditures, the rehabilitation percentage.

“(b) **DETERMINATION OF PERCENTAGES.**—For purposes of subsection (a)—

“(1) **REGULAR PERCENTAGE.**—The regular percentage is 10 percent.

“(2) **ENERGY PERCENTAGE.**—

“(A) **IN GENERAL.**—The energy percentage shall be determined in accordance with the following table:

“Column A—Description In the case of:	Column B— Percentage The energy percentage is:	Column C—Period For the period:	
		Beginning on:	And ending on:
(i) GENERAL RULE. —Property not described in any of the following provisions of this column.	10 percent	Oct. 1, 1978	Dec. 31, 1982
(ii) SOLAR WIND, OR GEOTHERMAL PROPERTY. —Property described in section 48(l)(2)(A)(ii) or 48(l)(3)(A)(vii).	A. 10 percent B. 15 percent	Oct. 1, 1978 Jan. 1, 1980	Dec. 31, 1979 Dec. 31, 1985
(iii) OCEAN THERMAL PROPERTY. —Property described in section 48(l)(3)(A)(ix).	15 percent	Jan. 1, 1980	Dec. 31, 1985
(iv) QUALIFIED HYDROELECTRIC GENERATING PROPERTY. —Property described in section 48(l)(2)(A)(vii).	11 percent	Jan. 1, 1980	Dec. 31, 1985
(v) QUALIFIED INTERCITY BUSES. —Property described in section 48(l)(2)(A)(ix).	10 percent	Jan. 1, 1980	Dec. 31, 1985
(vi) BIOMASS PROPERTY. —Property described in section 48(l)(15).	10 percent	Oct. 1, 1978	Dec. 31, 1985
(vii) CHLOR-ALKALI ELECTROLYTIC CELLS. —Property described in section 48(l)(5)(M).	10 percent	Jan. 1, 1980	Dec. 31, 1982

“(B) **PERIODS FOR WHICH PERCENTAGE NOT SPECIFIED.**—In the case of any energy property, the energy percentage shall be zero for any period for which an energy percentage is not specified for such property under subparagraph (A) (as modified by subparagraphs (C) and (D)).

“(C) **LONGER PERIOD FOR CERTAIN LONG-TERM PROJECTS.**—For the purpose of applying the energy percentage con-

tained in clause (i) of subparagraph (A) with respect to property which is part of a project with a normal construction period of 2 years or more (within the meaning of subsection (d)(2)(A)(i)), 'December 31, 1990' shall be substituted for 'December 31, 1982' if—

"(i) before January 1, 1983, all engineering studies in connection with the commencement of the construction of the project have been completed and all environmental and construction permits required under Federal, State, or local law in connection with the commencement of the construction of the project have been applied for, and

"(ii) before January 1, 1986, the taxpayer has entered into binding contracts for the acquisition, construction, reconstruction, or erection of equipment specially designed for the project and the aggregate cost to the taxpayer of that equipment is at least 50 percent of the reasonably estimated cost for all such equipment which is to be placed in service as part of the project upon its completion.

"(D) LONGER PERIOD FOR CERTAIN HYDROELECTRIC GENERATING PROPERTY.—If an application has been docketed by the Federal Energy Regulatory Commission before January 1, 1986, with respect to the installation of any qualified hydroelectric generating property, for purposes of applying the energy percentage contained in clause (iv) of subparagraph (A) with respect to such property, 'December 31, 1988' shall be substituted for 'December 31, 1985'.

"(3) SPECIAL RULE FOR CERTAIN ENERGY PROPERTY.—The regular percentage shall not apply to any energy property which, but for section 48(l)(1), would not be section 38 property. In the case of any qualified hydroelectric generating property which is a fish passageway, the preceding sentence shall not apply to any period after 1979 for which the energy percentage for such property is greater than zero.

Ante, p. 827.

"(4) REHABILITATION PERCENTAGE.—

"(A) IN GENERAL.—

"In the case of qualified rehabilitation expenditures with respect to a:	The rehabilitation percentage is:
30-year building.....	15
40-year building.....	20
Certified historic structure.....	25.

"(B) REGULAR AND ENERGY PERCENTAGES NOT TO APPLY.—The regular percentages and the energy percentages shall not apply to that portion of the basis of any property which is attributable to qualified rehabilitation expenditures.

"(C) DEFINITIONS.—For purpose of this paragraph—

"(i) 30-YEAR BUILDING.—The term '30-year building' means a qualified rehabilitated building other than a 40-year building and other than a certified historic structure.

"(ii) 40-YEAR BUILDING.—The term '40-year building' means a qualified rehabilitated building (other than a certified historic structure) which would meet the requirements of section 48(g)(1)(B) if '40' were substituted

for '30' each place it appears in subparagraph (B) thereof.

"(iii) **CERTIFIED HISTORIC STRUCTURE.**—The term 'certified historic structure' means a qualified rehabilitated building which meets the requirements of section 48(g)(3)."

26 USC 46.

(2) Subclause (II) of section 46(c)(8)(F)(ii) is amended by striking out "section 46(a)(2)(C)" and inserting in lieu thereof "subsection (b)(2)".

(3)(A) Paragraph (1) of section 46(e) is amended—

(i) by striking out "and the \$25,000 amount specified under subparagraphs (A) and (B) of subsection (a)(3)", and

(ii) by striking out "such items" and inserting in lieu thereof "such qualified investment".

(B) Paragraph (2) of section 46(e) is amended by striking out "the items described therein" and inserting in lieu thereof "qualified investment".

(4)(A) Paragraphs (1) and (2) of section 46(f) are each amended by striking out "no credit shall be allowed by section 38" and inserting in lieu thereof "no credit determined under subsection (a) shall be allowed by section 38".

(B) Paragraphs (1) and (2) of section 46(f) are each amended by striking out "the credit allowable by section 38" each place it appears and inserting in lieu thereof "the credit determined under subsection (a) and allowable by section 38".

(C) Subparagraph (B) of section 46(f)(4) is amended by striking out "the credit allowed by section 38" and inserting in lieu thereof "the credit determined under subsection (a) and allowed by section 38".

(5) Paragraph (8) of section 46(f) is amended—

(A) by striking out "the credit allowable under section 38" each place it appears and inserting in lieu thereof "the credit determined under subsection (a) and allowable under section 38", and

(B) by striking out "(within the meaning of subsection (a)(7)(C))" and inserting in lieu thereof "(within the meaning of the first sentence of subsection (c)(3)(B))".

(6) Paragraph (2) of section 46(g) is amended by striking out "the limitation of subsection (a)(3)" and inserting in lieu thereof "the limitation of section 38(c)".

(7) Paragraph (1) of section 46(h) is amended—

(A) by striking out "the credit allowable to the organization under section 38" and inserting in lieu thereof "the credit determined under subsection (a) and allowable to the organization under section 38", and

(B) by striking out "the limitation contained in subsection (a)(3)" and inserting in lieu thereof "the limitation contained in section 38(c)".

26 USC 47.

(8) Paragraphs (5) and (6) of section 47(a) are each amended by striking out "under section 46(b)" and inserting in lieu thereof "under section 39".

(9) Subsection (c) of section 47 is amended by striking out "subpart A" and inserting in lieu thereof "subpart A, B, or D".

26 USC 48.

(10) Subparagraph (B) of section 48(c)(3) is amended by striking out "section 46(b)" and inserting in lieu thereof "section 39".

(11) Subparagraph (B) of section 48(d)(1) is amended by striking out “section 46(a)(6)” and inserting in lieu thereof “section 38(c)(3)(B)”. 26 USC 48.

(12) Subsection (f) of section 48 is amended—

(A) by adding “and” at the end of paragraph (1),

(B) striking out “, and” at the end of paragraph (2) and inserting in lieu thereof a period, and

(C) by striking out paragraph (3).

(13) Paragraph (1) of section 48(l) is amended by striking out “section 46(a)(2)(C)” and inserting in lieu thereof “section 46(b)(2)”.

(14) Subsection (m) of section 48 is amended by striking out “subsection (a)(2)” and inserting in lieu thereof “subsection (b)”.

(15) Subsection (n) of section 48 (relating to requirements for allowance of employee plan percentage) is hereby repealed; except that paragraph (4) of section 48(n) of the Internal Revenue Code of 1954 (as in effect before its repeal by this paragraph) shall continue to apply in the case of any recapture under section 47(f) of such Code of a credit allowable for a taxable year beginning before January 1, 1984.

(16) Subsection (o) of section 48 (defining certain credits) is amended by striking out paragraphs (3), (4), (5), (6), and (7) and by redesignating paragraph (8) as paragraph (3).

(17) Subsection (q) of section 48 is amended—

(A) by striking out “section 46(a)(2)” each place it appears and inserting in lieu thereof “section 46(a)”, and

(B) by striking out “section 46(a)(2)(B)” each place it appears and inserting in lieu thereof “section 46(b)(1)”.

(18) Subsection (r) of section 48 is amended by striking out “section 381(c)(23)” and inserting in lieu thereof “section 381(c)(26)”. *Ante*, p. 635.

(p) TARGETED JOBS CREDIT.—

(1) Subsection (a) of section 51 (relating to amount of targeted jobs credit) is amended to read as follows: 26 USC 51.

“(a) DETERMINATION OF AMOUNT.—For purposes of section 38, the amount of the targeted jobs credit determined under this section for the taxable year shall be the sum of—

“(1) 50 percent of the qualified first-year wages for such year, and

“(2) 25 percent of the qualified second-year wages for such year.”

(2) Subsection (g) of section 51 is amended by striking out “the credit provided by section 44B” and inserting in lieu thereof “the targeted jobs credit determined under this subpart”.

(3) Section 51 is amended by adding at the end thereof the following new subsection:

“(j) ELECTION TO HAVE TARGETED JOBS CREDIT NOT APPLY.—

“(1) IN GENERAL.—A taxpayer may elect to have this section not apply for any taxable year.

“(2) TIME FOR MAKING ELECTION.—An election under paragraph (1) for any taxable year may be made (or revoked) at any time before the expiration of the 3-year period beginning on the last date prescribed by law for filing the return for such taxable year (determined without regard to extensions).

“(3) MANNER OF MAKING ELECTION.—An election under paragraph (1) (or revocation thereof) shall be made in such manner as the Secretary may by regulations prescribe.”

26 USC 52.

(4) Subsection (a) of section 52 is amended by striking out “the credit (if any) allowable by section 44B to each such member” and inserting in lieu thereof “the credit (if any) determined under section 51(a) with respect to each such member”.

(5) Subsection (b) of section 52 is amended by striking out “the credit (if any) allowable by section 44B” and inserting in lieu thereof “the credit (if any) determined under section 51(a)”.

(6) Subsection (c) of section 52 is amended by striking out “credit shall be allowed under section 44B” and inserting in lieu thereof “credit shall be allowed under section 38 for any targeted jobs credit determined under this subpart”.

(7) Paragraph (2) of section 52(d) is amended by striking out “, subject to section 53, a credit under section 44B” and inserting in lieu thereof “, subject to section 38(c), a credit under section 38(a)”.

Repeal.
26 USC 53.

(8) Section 53 (relating to limitation based on amount of tax) is hereby repealed.

(9) The table of sections for old subpart D of part IV of subchapter A of chapter 1 is amended by striking out the item relating to section 53.

(q) SECTION 55.—

26 USC 55.

(1) Paragraph (1) of section 55(c) (relating to credits) is amended—

(A) by striking out “subpart A of part IV” and inserting in lieu thereof “subpart A, B, or D of part IV”, and

(B) by striking out “section 33(a)” each place it appears and inserting in lieu thereof “section 27(a)”.

(2) Clause (i) of section 55(c)(2)(B) is amended by striking out “section 33(a)” and inserting in lieu thereof “section 27(a)”.

(3) Paragraph (3) of section 55(c) is amended to read as follows:

“(3) CARRYOVER AND CARRYBACK OF CERTAIN CREDITS.—In the case of any taxable year for which a tax is imposed by this section, for purposes of determining the amount of any carryover or carryback to any other taxable year of any credit allowable under section 23, 30, or 38, the amount of the limitation under section 25, 30(g), or 38(c) (as the case may be) shall be deemed to be—

Ante, p. 826.
Ante, p. 827.

“(A) the amount of such limitation for such taxable year (determined without regard to this paragraph), reduced (but not below zero) by

“(B) the amount of the tax imposed by this section for the taxable year, reduced by—

Ante, p. 826.

“(i) the amount of the credit allowable under section 27(a),

“(ii) in the case of the limitation under section 30(g), the amount of such tax taken into account under this subparagraph with respect to the limitation under section 25, and

“(iii) in the case of the limitation under section 38(c), the amount of such tax taken into account under this subparagraph with respect to limitations under sections 25 and 30(g).”

(4) Paragraph (2) of section 55(f) is amended by striking out “allowable under subpart A of part IV of this subchapter (other than under sections 31, 39, and 43)” and inserting in lieu thereof “allowable under subparts A, B, and D of part IV of this subchapter”.

(r) TECHNICAL AND CONFORMING AMENDMENTS TO OTHER PROVISIONS.—**(1) SECTION 56.—**

(A) Subsection (c) of section 56 (defining regular tax deduction) is amended—

(i) by striking out “subpart A of part IV other than sections 39 and 44G” and inserting in lieu thereof “subparts A, B, and D of part IV”, and

(ii) by amending the last sentence to read as follows: “For purposes of the preceding sentence, the amount of the credit determined under section 38 for any taxable year shall be determined without regard to the employee stock ownership credit determined under section 41.”

Ante, p. 827.*Ante*, p. 826.

(B) Subparagraph (A) of section 56(e)(1) is amended by striking out clauses (i), (ii), (iii), and (iv) and inserting in lieu thereof the following:

“(i) section 27 (relating to foreign tax credit), and

Ante, p. 826.

“(ii) section 38 (relating to general business credit), exceed”.

(2) SECTION 86.—Paragraph (1) of section 86(f) (relating to treatment as pension or annuity for certain purposes) is amended by striking out “section 43(c)(2)” and inserting in lieu thereof “section 32(c)(2)”.

Post, p. 1158.

(3) SECTION 87.—Section 87 (relating to alcohol fuel credit included in income) is amended to read as follows:

26 USC 87.

“SEC. 87. ALCOHOL FUEL CREDIT.

“Gross income includes the amount of the alcohol fuel credit determined with respect to the taxpayer for the taxable year under section 40(a).”

Ante, p. 832.

(4) SECTION 103.—Clause (iv) of section 103(b)(6)(F) (relating to certain capital expenditures not taken into account) is amended by striking out “section 44F(b)(2)(A)” and inserting in lieu thereof “section 30(b)(2)(A)”.

26 USC 103.

(5) SECTION 108.—Subparagraph (B) of section 108(b)(2) (relating to reduction of tax attributes in title 11 case or insolvency) is amended to read as follows:

26 USC 108.

11 USC 101 *et seq.***“(B) RESEARCH CREDIT AND GENERAL BUSINESS CREDIT.—**

Any carryover to or from the taxable year of a discharge of an amount for purposes of determining the amount allowable as a credit under—

“(i) section 30 (relating to credit for increasing research activities), or

Ante, p. 826.

“(ii) section 38 (relating to general business credit).

Ante, p. 827.

For purposes of this subparagraph, there shall not be taken into account any portion of a carryover which is attributable to the employee stock ownership credit determined under section 41.”

Ante, p. 826.**(6) SECTION 129.—**

(A) Paragraph (2) of section 129(b) (relating to earned income limitation) is amended by striking out “section 44A(e)(2)” and inserting in lieu thereof “section 21(d)(2)”.

26 USC 129.

(B) Paragraph (1) of section 129(e) (defining dependent care assistance) is amended by striking out “section 44A(c)(2)” and inserting in lieu thereof “section 21(b)(2)”.

26 USC 129.

(C) Paragraph (2) of section 129(e) (defining earned income) is amended by striking out “section 43(c)(2)” and inserting in lieu thereof “section 32(c)(2)”.

(7) SECTION 168.—

26 USC 168.

(A) Clause (i) of section 168(i)(1)(D), as added by section 208(a) of the Tax Equity and Fiscal Responsibility Act of 1982, is amended by striking out “subpart A of part IV” and inserting in lieu thereof “subparts A, B, and D of part IV”.

(B) Clause (iii) of section 168(i)(1)(D), as added by section 208(a) of the Tax Equity and Fiscal Responsibility Act of 1982, is amended by striking out “under the last sentence of section 53(a)” and inserting in lieu thereof “under section 25(b)(2)”.

(C) Subparagraph (A) of section 168(i)(4), as added by section 208(a) of the Tax Equity and Fiscal Responsibility Act of 1982, is amended by striking out “subpart A of part IV of subchapter A of this chapter” and inserting in lieu thereof “section 38”.

(D) Clause (i) of section 168(i)(1)(D), as added by section 209(b) of the Tax Equity and Fiscal Responsibility Act of 1982, is amended by striking out “subpart A of part IV” and inserting in lieu thereof “subparts A, B, and D of part IV”.

(E) Clause (iii) of section 168(i)(1)(D), as added by section 209(b) of the Tax Equity and Fiscal Responsibility Act of 1982, is amended by striking out “under the last sentence of section 53(a)” and inserting in lieu thereof “under section 25(b)(2)”.

(8) SECTION 196.—

26 USC 196.

(A) Section 196 (relating to deduction for certain unused investment credits) is amended to read as follows:

“SEC. 196. DEDUCTION FOR CERTAIN UNUSED BUSINESS CREDITS.

“(a) ALLOWANCE OF DEDUCTION.—If any portion of the qualified business credits determined for any taxable year has not, after the application of section 38(c), been allowed to the taxpayer as a credit under section 38 for any taxable year, an amount equal to the credit not so allowed shall be allowed to the taxpayer as a deduction for the first taxable year following the last taxable year for which such credit could, under section 39, have been allowed as a credit.

Ante, p. 828.

“(b) TAXPAYER’S DYING OR CEASING TO EXIST.—If a taxpayer dies or ceases to exist before the first taxable year following the last taxable year for which the qualified business credits could, under section 39, have been allowed as a credit, the amount described in subsection (a) (or the proper portion thereof) shall, under regulations prescribed by the Secretary, be allowed to the taxpayer as a deduction for the taxable year in which such death or cessation occurs.

“(c) QUALIFIED BUSINESS CREDITS.—For purposes of this section, the term ‘qualified business credits’ means—

Ante, p. 834.

“(1) the investment credit determined under section 46(a) (but only to the extent attributable to property the basis of which is reduced by section 48(q)),

Ante, p. 837.

“(2) the targeted jobs credit determined under section 51(a), and

Ante, p. 832.

“(3) the alcohol fuels credit determined under section 40(a).

“(d) SPECIAL RULE FOR INVESTMENT TAX CREDIT.—In the case of the investment credit determined under section 46(a) (other than a credit to which section 48(q)(3) applies), subsection (a) shall be

applied by substituting 'an amount equal to 50 percent of' for 'an amount equal to'."

(B) The table of sections for part VI of subchapter B of chapter 1 is amended by striking out the item relating to section 196 and inserting in lieu thereof:

"Sec. 196. Deduction for certain unused business credits."

(9) SECTION 213.—Subsection (e) of section 213 (relating to exclusion of amounts allowed for care of certain dependents) is amended by striking out "section 44A" and inserting in lieu thereof "section 21". 26 USC 213.

(10) SECTION 280C.—

(A) Section 280C (relating to certain expenses for which credits are allowable) is amended by striking out subsection (a) and by redesignating subsections (b) and (c) as subsections (a) and (b), respectively. 26 USC 280C.

(B) Subsection (a) of section 280C (as so redesignated) is amended—

(i) by striking out the first sentence and inserting in lieu thereof the following: "No deduction shall be allowed for that portion of the wages or salaries paid or incurred for the taxable year which is equal to the amount of the credit determined for the taxable year under section 51(a).", and

Ante, p. 837.

(ii) by striking out "SECTION 44B CREDIT" in the subsection heading and inserting in lieu thereof "TARGETED JOBS CREDIT".

(C) Subsection (b) of section 280C (as so redesignated) is amended by striking out "44H" each place it appears and inserting in lieu thereof "29".

(D) Paragraph (3) of section 280C(b) (as so redesignated) is amended—

(i) by striking out "section 44F(f)(5)" and inserting in lieu thereof "section 30(f)(5)",

(ii) by striking out "section 44F(f)(1)(B)" and inserting in lieu thereof "section 30(f)(1)(B)",

(iii) by striking out "section 44F(f)(1)" and inserting in lieu thereof "section 30(f)(1)".

(11) SECTION 381.—Subsection (c) of section 381 is amended— 26 USC 381.

(A) by striking out paragraphs (23), (24), (26), (27), and (30),

(B) by redesignating paragraphs (25), (28), and (29) as paragraphs (23), (24), and (25), respectively,

(C) by striking out "44F" each place it appears in paragraph (25) (as so redesignated) and inserting in lieu thereof "30", and

(D) by adding at the end thereof the following new paragraph:

"(26) CREDIT UNDER SECTION 38.—The acquiring corporation shall take into account (to the extent proper to carry out the purposes of this section and section 38, and under such regulations as may be prescribed by the Secretary) the items required to be taken into account for purposes of section 38 in respect of the distributor or transferor corporation."

Ante, p. 827.

(12) SECTION 383.—

(A) Section 383 (as in effect on the day before the date of 26 USC 383.

the enactment of the Tax Reform Act of 1976) is amended— 26 USC 1 *et seq.*

Ante, p. 828.

Ante, p. 826.

(i) by striking out “with respect to any unused investment credit” and all that follows and inserting in lieu thereof the following: “with respect to any unused business credit of the corporation which can otherwise be carried forward under section 39, to any unused credit of the corporation which could otherwise be carried forward under section 30(g)(2), to any excess foreign taxes of the corporation which could otherwise be carried forward under section 904(c), and to any net capital loss of the corporation which can otherwise be carried forward under section 1212.”, and

(ii) by striking out the section heading and inserting in lieu thereof the following:

“SEC. 383. SPECIAL LIMITATIONS ON UNUSED BUSINESS CREDITS, RESEARCH CREDITS, FOREIGN TAXES, AND CAPITAL LOSSES.”

26 USC 383.

(B) Section 383 (as amended by the Tax Reform Act of 1976) is amended—

(i) by striking out “with respect to any unused investment credit” and all that follows and inserting in lieu thereof the following: “with respect to any unused business credit of the corporation under section 39, to any unused credit of the corporation under section 30(g)(2), to any excess foreign taxes of the corporation under section 904(c), and to any net capital loss of the corporation under section 1212.”, and

(ii) by striking out the section heading and inserting in lieu thereof the following:

“SEC. 383. SPECIAL LIMITATIONS ON UNUSED BUSINESS CREDITS, RESEARCH CREDITS, FOREIGN TAXES, AND CAPITAL LOSSES.”

(C) The table of sections for part V of subchapter C of chapter 1 is amended by striking out the item relating to section 383 and inserting in lieu thereof the following:

“Sec. 383. Special limitations on unused business credits, research credits, foreign taxes, and capital losses.”

26 USC 401.

(13) Paragraph (21) of section 401(a) is amended by striking out “allowable—” and all that follows and inserting in lieu thereof “allowable under section 41 if the employer made the transfer described in section 41(c)(1)(B).”

26 USC 404.

(14) SECTION 404.—Subsection (i) of section 404 (relating to deductibility of unused portions of employee stock ownership credit) is amended to read as follows:

“(i) DEDUCTIBILITY OF UNUSED PORTIONS OF EMPLOYEE STOCK OWNERSHIP CREDIT.—

Ante, p. 826.

Ante, p. 827.

“(1) UNUSED CREDIT CARRYOVERS.—If any portion of the employee stock ownership credit determined under section 41 for any taxable year has not, after the application of section 38(c), been allowed under section 38 for any taxable year, such portion shall be allowed as a deduction (without regard to any limitations provided under this section) for the last taxable year to which such portion could have been allowed as a credit under section 39.

Ante, p. 828.

“(2) REDUCTIONS IN CREDIT.—There shall be allowed as a deduction (subject to the limitations provided under this section) an amount equal to any reduction of the credit allowed under section 41 resulting from a final determination of such credit to

the extent such reduction is not taken into account under section 41(c)(3)."

Ante, p. 826.

(15) SECTION 409.—

(A) Section 409 (relating to qualifications for tax credit employee stock ownership plans), as redesignated by section 491 of this Act, is amended by striking out "44G" each place it appears in subsections (b), (g), (i), (m), and (n) and inserting in lieu thereof "41".

Post, p. 852.

Ante, p. 848.

(B) Paragraph (1) of section 409(b), as so redesignated, is amended by striking out "48(n)(1)(A) or".

(C) Subsection (g) of section 409, as so redesignated, is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, the references to section 48(n)(1) and the employee plan credit shall refer to such section and credit as in effect before the enactment of the Tax Reform Act of 1984."

Ante, p. 837.

Ante, p. 494.

(D) Subparagraph (A) of section 409(i)(1), as so redesignated, is amended by striking out "48(n)(1) or".

(E) Subsection (k) of section 409, as so redesignated, is amended by adding at the end thereof the following new sentence: "For purposes of this subsection, the reference to the matching employee plan credit shall refer to such credit as in effect before the enactment of the Tax Reform Act of 1984."

(16) SECTION 527 (g) (1).—Paragraph (1) of section 527(g) (relating to treatment of newsletter funds) is amended by striking out "section 41(c)(2)" and inserting in lieu thereof "section 24(c)(2)".

26 USC 527.

(17) SECTION 642 (a) (2).—Paragraph (2) of section 642(a) (relating to credit for political contributions) is amended by striking out "section 41" and inserting in lieu thereof "section 24".

26 USC 642.

(18) SECTION 691 (b).—Subsection (b) of section 691 (relating to allowance of deductions and credit) is amended by striking out "section 33" each place it appears and inserting in lieu thereof "section 27".

26 USC 691.

(19) SECTIONS 874 (a) AND 882 (c) (2).—Sections 874(a) and 882(c)(2) are each amended—

26 USC 874, 882.

(A) by striking out "32" and inserting in lieu thereof "33", and

(B) by striking out "section 39" and inserting in lieu thereof "section 34".

(20) SECTION 901 (a).—Subsection (a) of section 901 (relating to allowance of foreign tax credit) is amended by striking out the last sentence and inserting in lieu thereof the following: "The credit shall not be allowed against any tax treated as a tax not imposed by this chapter under section 25(b)."

26 USC 901.

Ante, p. 827.

26 USC 904.

(21) SECTION 904 (g).—Subsection (g) of section 904 (relating to limitation on foreign tax credit) is amended to read as follows: "(g) COORDINATION WITH NONREFUNDABLE PERSONAL CREDITS.—In the case of an individual, for purposes of subsection (a), the tax against which the credit is taken is such tax reduced by the sum of the credits allowable under subpart A of part IV of subchapter A of this chapter."

Ante, p. 826.

(22) SECTION 936.—

(A) Clause (i)(I)(a) of section 936(h)(5)(C) is amended by striking out "section 44F(b)" and inserting in lieu thereof "section 30(b)".

26 USC 936.

(B) Clause (i)(IV)(c) of section 936(h)(5)(C) is amended—

- (i) by striking out “section 44F” and inserting in lieu thereof “section 30”, and
- (ii) by striking out “section 44F(f)” and inserting in lieu thereof “section 30(f)”.
- 26 USC 1016. (23) SECTION 1016 (a) (21).—Paragraph (21) of section 1016(a) (relating to adjustments to basis) is amended—
- (A) by striking out “section 44C(e)” and inserting in lieu thereof “section 23(e)”, and
- (B) by striking out “section 44C” and inserting in lieu thereof “section 23”.
- 26 USC 1033. (24) SECTION 1033 (g) (3) (A).—Subparagraph (A) of section 1033(g)(3) (relating to election to treat outdoor advertising displays as real property) is amended by striking out “the credit allowed by section 38 (relating to investment in certain depreciable property)” and inserting in lieu thereof “the investment credit determined under section 46(a)”.
- 26 USC 1351. (25) SECTION 1351 (i).—Subsection (i) of section 1351 (relating to adjustments for succeeding years) is amended—
- (A) by striking out “section 33” and inserting in lieu thereof “section 27”, and
- (B) by striking out “section 38 (relating to investment credit)” and inserting in lieu thereof “section 38 (relating to general business credit)”.
- 26 USC 1366. (26) SECTION 1366 (f).—Paragraph (1) of section 1366(f) (relating to special rules) is amended by striking out “section 39” each place it appears and inserting in lieu thereof “section 34”.
- 26 USC 1374. (27) SECTION 1374 (b).—Subsection (b) of section 1374 (relating to amount of tax imposed on certain capital gains) is amended by striking out “section 39” and inserting in lieu thereof “section 34”.
- 26 USC 1375. (28) SECTION 1375 (c).—Paragraph (1) of section 1375(c) (relating to disallowance of credit) is amended by striking out “section 39” and inserting in lieu thereof “section 34”.
- (29) SECTION 1451.—
- 26 USC 1451.
26 USC prec.
1461. (A) Chapter 3 (relating to withholding of tax on nonresident aliens and foreign corporations and tax-free covenant bonds) is amended by striking out subchapter B and by redesignating subchapter C as subchapter B.
- (B) The table of subchapters for chapter 3 is amended by striking out the items relating to subchapters B and C and inserting in lieu thereof the following:
- “SUBCHAPTER B. Application of withholding provisions.”
- 26 USC prec.
1441. (C) The heading of chapter 3 is amended by striking out “AND TAX-FREE COVENANT BONDS”.
- (D) The table of chapters for subtitle A is amended by striking out “and tax-free covenant bonds” in the item relating to chapter 3.
- 26 USC 12. (E) Section 12 is amended by striking out paragraph (6) and by redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively.
- 26 USC 164.
97 Stat. 65.
42 USC 1305
note. (F) Subsection (f) of section 164 (as in effect before its redesignation by the Social Security Amendments of 1983) is amended by striking out paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

- (G) Subsection (a) of section 1441 is amended by striking out “except in the cases provided for in section 1451 and”. 26 USC 1441.
- (H) Paragraph (3) of section 1441(c) is amended by striking out “section 1451” and inserting in lieu thereof “section 1451 (as in effect before its repeal by the Tax Reform Act of 1984)”. *Ante*, p. 494.
26 USC 1442.
- (I) Subsection (a) of section 1442 is amended—
 (i) by striking out “or section 1451”, and
 (ii) by striking out “; except that, in the case of interest described in section 1451 (relating to tax-free covenant bonds), the deduction and withholding shall be at the rate specified therein”.
- (J) Paragraph (2) of section 6049(b) (relating to amounts not treated as interest) is amended—
 (i) by adding “and” at the end of subparagraph (C),
 (ii) by striking out “, and” at the end of subparagraph (D) and inserting in lieu thereof a period, and
 (iii) by striking out subparagraph (E). 26 USC 6049.
- (K) Paragraph (16) of section 7701(a) is amended by striking out “1451,”. 26 USC 7701.
- (30) SECTION 3507.—Subsections (b), (c), and (e) of section 3507 (relating to advanced payment of earned income credit) are each amended by striking out “section 43” each place it appears and inserting in lieu thereof “section 32”. 26 USC 3507.
- (31) SECTION 6096 (b).—Subsection (b) of section 6096 (defining income tax liability) is amended by striking out “allowable under sections 33, 37, 38, 40, 41, 42, 44, 44A, 44B, 44C, 44D, 44E, 44F, 44G, and 44H” and inserting in lieu thereof “allowable under part IV of subchapter A of chapter 1 (other than subpart C thereof)”. 26 USC 6096.
- (32) SECTION 6201 (a) (4).—Paragraph (4) of section 6201(a) (relating to erroneous credit under section 39 or 43) is amended—
 (A) by striking out “section 39” and inserting in lieu thereof “section 34”,
 (B) by striking out “section 43” and inserting in lieu thereof “section 32”, and
 (C) by striking out “SECTION 39 OR 43” in the paragraph heading and inserting in lieu thereof “SECTION 32 OR 34”. 26 USC 6201.
- (33) SECTION 6211 (b).—
 (A) Paragraph (1) of section 6211(b) is amended by striking out “without regard to so much of the credit under section 32 as exceeds 2 percent of the interest on obligations described in section 1451” and inserting in lieu thereof “without regard to the credit under section 33”.
 (B) Paragraph (4) of section 6211(b) is amended by striking out “section 39” and inserting in lieu thereof “section 34”. 26 USC 6211.
- (34) SECTION 6213 (h) (3).—Paragraph (3) of section 6213(h) is amended by striking out “section 39” and inserting in lieu thereof “section 32 or 34”. 26 USC 6213.
- (35) SECTION 6362 (c) (1).—Paragraph (1) of section 6362(c) (relating to qualified resident tax which is a percentage of the Federal tax) is amended by striking out “sections 31 and 39” and inserting in lieu thereof “sections 31 and 34”. 26 USC 6362.

26 USC 6401. (36) SECTION 6401 (b).—Subsection (b) of section 6401 (relating to excessive credits treated as overpayments) is amended to read as follows:

“(b) EXCESSIVE CREDITS.—

“*Ante*, p. 825. (1) IN GENERAL.—If the amount allowable as credits under subpart C of part IV of subchapter A of chapter 1 (relating to refundable credits) exceeds the tax imposed by subtitle A (reduced by the credits allowable under subparts A, B, and D of such part IV), the amount of such excess shall be considered an overpayment.

“*Ante*, p. 832. (2) SPECIAL RULE FOR CREDIT UNDER SECTION 33.—For purposes of paragraph (1), any credit allowed under section 33 (relating to withholding of tax on nonresident aliens and on foreign corporations) for any taxable year shall be treated as a credit allowable under subpart C of part IV of subchapter A of chapter 1 only if an election under subsection (g) or (h) of section 6013 is in effect for such taxable year.”

(37) SECTION 6411.—

26 USC 6411. (A) So much of subsection (a) of section 6411 as precedes paragraph (2) thereof (relating to tentative carryback and refund adjustments) is amended to read as follows:

“(a) APPLICATION FOR ADJUSTMENT.—A taxpayer may file an application for a tentative carryback adjustment of the tax for the prior taxable year affected by a net operating loss carryback provided in section 172(b), by a business credit carryback provided in section 39, by a research credit carryback provided in section 30(g)(2) or by a capital loss carryback provided in section 1212(a)(1), from any taxable year. The application shall be verified in the manner prescribed by section 6065 in the case of a return of such taxpayer and shall be filed, on or after the date of filing for the return for the taxable year of the net operating loss, net capital loss, or unused business credit from which the carryback results and within a period of 12 months after such taxable year or, with respect to any portion of a research credit carryback or a business credit carryback attributable to a net operating loss carryback or a net capital loss carryback from a subsequent taxable year, within a period of 12 months from the end of such subsequent taxable year (or, with respect to any portion of a business credit carryback attributable to a research credit carryback from a subsequent taxable year within a period of 12 months from the end of such subsequent taxable year), in the manner and form required by regulations prescribed by the Secretary. The applications shall set forth in such detail and with such supporting data and explanation as such regulations shall require—

“(1) The amount of the net operating loss, net capital loss, unused research credit, or unused business credit;”.

(B) Subsections (b) and (c) of section 6411 are each amended by striking out “unused investment credit, unused work incentive program credit, unused new employee credit, unused research credit, or unused employee stock ownership credit” each place it appears and inserting in lieu thereof “unused research credit, or unused business credit”.

26 USC 6420,
6421.
Post, p. 1005.

(38) SECTIONS 6420 (g) (2), ETC.—Sections 6420(g)(2), 6421(i)(3), and 6427(i)(3) are each amended by striking out “section 39” and inserting in lieu thereof “section 34”.

26 USC 6501.

(39) SECTION 6501 (p).—Section 6501 is amended by striking out subsection (p) and by redesignating subsection (q) as subsection (p).

(40) SECTION 6511(d)(4)(C).—Subparagraph (C) of section 6511(d)(4) (defining credit carryback) is amended to read as follows:

“(C) CREDIT CARRYBACK DEFINED.—For purposes of this paragraph, the term ‘credit carryback’ means any business carryback under section 39 and any research credit carryback under section 30(g)(2).”

(41) SECTION 7871.—Subparagraph (A) of section 7871(a)(6) is amended by striking out “section 41(c)(4)” and inserting in lieu thereof “section 24(c)(4)”.

(42) SECTION 9502(d).—Paragraph (3) of section 9502(d) (relating to transfers from the Airport and Airway Trust Fund on account of certain section 39 credits) is amended—

(A) by striking out “section 39” and inserting in lieu thereof “section 34”, and

(B) by striking out “SECTION 39 CREDITS” in the heading and inserting in lieu thereof “SECTION 34 CREDITS”.

(43) SECTION 9503(c).—Clause (ii) of section 9503(c)(2)(A) (relating to transfers from the Highway Trust Fund for certain repayments and credits) is amended by striking out “section 39” and inserting in lieu thereof “section 34”.

SEC. 475. EFFECTIVE DATES.

(a) GENERAL RULE.—The amendments made by this title shall apply to taxable years beginning after December 31, 1983, and to carrybacks from such years.

(b) TAX-FREE COVENANT BONDS.—The amendments made by subsections (j) and (r)(29) of section 474 shall not apply with respect to obligations issued before January 1, 1984.

(c) CLARIFICATION OF EFFECT OF AMENDMENTS ON INVESTMENT TAX CREDIT.—Nothing in the amendments made by section 474(o) shall be construed as reducing the amount of any credit allowable for qualified investment in taxable years beginning before January 1, 1984.

Subtitle G—Miscellaneous Simplification Provisions

SEC. 481. PREFERRED STOCK ELIGIBLE UNDER SECTION 1244.

(a) GENERAL RULE.—Subsections (c)(1) and (d)(2) of section 1244 (relating to losses on small business stock) are each amended by striking out “common stock” and inserting in lieu thereof “stock”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to stock issued after the date of the enactment of this Act in taxable years ending after such date.

SEC. 482. MEDICAL CARE DEDUCTION ALLOWED FOR LODGING AWAY FROM HOME IN CERTAIN CASES.

(a) IN GENERAL.—Subsection (d) of section 213 (relating to definitions for purposes of the deduction for medical, dental, etc., expenses), as amended by section 423(b), is amended by redesignating paragraphs (2), (3), (4), (5), (6), and (7) as paragraphs (3), (4), (5), (6), (7), and (8), respectively, and by inserting after paragraph (1) the following new paragraph:

“(2) AMOUNTS PAID FOR CERTAIN LODGING AWAY FROM HOME TREATED AS PAID FOR MEDICAL CARE.—Amounts paid for lodging (not lavish or extravagant under the circumstances) while away from home primarily for and essential to medical care referred to in paragraph (1)(A) shall be treated as amounts paid for medical care if—

“(A) the medical care referred to in paragraph (1)(A) is provided by a physician in a licensed hospital (or in a medical care facility which is related to, or the equivalent of, a licensed hospital), and

“(B) there is no significant element of personal pleasure, recreation, or vacation in the travel away from home. The amount taken into account under the preceding sentence shall not exceed \$50 for each night for each individual.”

(b) TECHNICAL AMENDMENT.—

Ante, p. 847.

(1) Paragraph (7) of section 213(d), as redesignated by subsection (a), is amended by striking out “paragraph (5)” and inserting in lieu thereof “paragraph (6)”.

Ante, p. 799.

(2) Paragraph (6) of section 152(e), as amended by section 423 of this Act, is amended by striking out “section 213(d)(4)” and inserting in lieu thereof “section 213(d)(5)”.

26 USC 213 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1983.

Subtitle H—Repeal of Certain Obsolete Provisions

SEC. 491. TERMINATION OF RULES RELATING TO QUALIFIED BOND PURCHASE PLANS AND RETIREMENT BONDS WITH RESPECT TO BONDS ISSUED AFTER DECEMBER 31, 1983.

26 USC 405.

(a) QUALIFIED BOND PURCHASE PLANS.—Section 405 (relating to qualified bond purchase plans) is hereby repealed.

26 USC 409.

(b) RETIREMENT BONDS.—Section 409 (relating to retirement bonds) is hereby repealed.

(c) EXISTING BONDS MAY BE ROLLED OVER INTO QUALIFIED EMPLOYER PLANS.—

(1) Subparagraph (A) of section 405(d)(3) (as in effect before its repeal by subsection (a)) is amended to read as follows:

“(A) IN GENERAL.—If—

“(i) any qualified bond is redeemed,

“(ii) any portion of the excess of the proceeds from such redemption over the basis of such bond is transferred to an individual retirement plan which is maintained for the benefit of the individual redeeming such bond, or to a qualified trust (as defined in section 402(a)(5)(D)(iii)) for the benefit of such individual, and

Post, p. 869.

“(iii) such transfer is made on or before the 60th day after the individual received the proceeds of such redemption,

then gross income shall not include the proceeds to the extent so transferred and the transfer shall be treated as a rollover contribution described in section 408(d)(3).”

26 USC 402.

(2) Subsection (e) of section 402 (relating to tax on lump-sum distributions) is amended by adding at the end thereof the following new paragraph:

"(5) SPECIAL RULE WHERE PORTION OF LUMP-SUM DISTRIBUTION ATTRIBUTABLE TO ROLLOVER OF BOND PURCHASED UNDER QUALIFIED BOND PURCHASE PLAN.—If any portion of a lump-sum distribution is attributable to a transfer described in section 405(d)(3)(A)(ii) (as in effect before its repeal by the Tax Reform Act of 1984), paragraphs (1) and (3) of this subsection and paragraph (2) of subsection (a) shall not apply to such portion."

Ante, p. 494.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 55(f) (defining regular tax) is amended by striking "409(c)," 26 USC 55.

(2) Paragraph (7) of section 62 (defining adjusted gross income) is amended— 26 USC 62.

(A) by striking out "the deductions allowed by section 404 and section 405(c)" and inserting in lieu thereof "the deduction allowed by section 404", and

(B) by striking out "ANNUITY, AND BOND PURCHASE" in the heading and inserting in lieu thereof "AND ANNUITY".

(3) Paragraph (1) of section 72(o) is amended by striking out "402, 403, and 405" and inserting in lieu thereof "402 and 403". 26 USC 72.

(4) Paragraph (4) of section 72(o) is amended by striking out "408(d)(3), and 409(b)(3)(C)" and inserting in lieu thereof "and 408(d)(3)".

(5) Subparagraph (D) of section 172(d)(4) is amended by striking out "or section 405(c)". 26 USC 172.

(6) Paragraph (2) of section 219(d) is amended by striking out "405(d)(3), 408(d)(3), or 409(b)(3)(C)" and inserting in lieu thereof "or 408(d)(3)". 26 USC 219.

(7) Paragraph (1) of section 219(e) is amended by striking out the last sentence.

(8) Paragraph (3) of section 219(e) is amended by striking out subparagraph (C), by adding "and" at the end of subparagraph (B) and by redesignating subparagraph (D) as subparagraph (C).

(9) Clause (iv) of section 402(a)(5)(D) is amended by striking out subclause (III) and by redesignating subclauses (IV) and (V) as subclauses (III) and (IV), respectively. *Post*, p. 869.

(10) Clause (i) of section 402(a)(5)(F), as amended by this Act, is amended by striking out ", (II), or (III)" and inserting in lieu thereof "or (II)".

(11) Clause (ii) of section 402(a)(5)(F), as amended by this Act, is amended by striking out "(IV) or (V)" and inserting in lieu thereof "(III) or (IV)".

(12) The last sentence of section 403(b)(1) is amended by striking out "or 409(b)(3)(C)". 26 USC 403.

(13) Subsection (a) of section 406 is amended by striking out "an annuity plan described in section 403(a), or a bond purchase plan described in section 405(a)" and inserting in lieu thereof "or an annuity plan described in section 403(a)". 26 USC 406.

(14) Paragraph (3) of section 406(a) is amended by striking out "403(a), or 405(a)" and inserting in lieu thereof "or 403(a)".

(15) Subsection (d) of section 406 is amended—

(A) by striking out "sections 404 and 405(c)" and inserting in lieu thereof "section 404",

(B) by striking out "annuity, or bond purchase" and inserting in lieu thereof "or annuity", and

(C) by striking out "(or section 405(c))" in paragraph (2) thereof.

26 USC 407.

(16) Paragraph (1) of section 407(a) is amended by striking out “, an annuity plan described in section 403(a), or a bond purchase plan described in section 405(a)” and inserting in lieu thereof “or an annuity plan described in section 403(a)”.

(17) Subparagraph (B) of section 407(a)(1) is amended by striking out “, 403(a), or 405(a)” and inserting in lieu thereof “or 403(a)”.

(18) Subsection (d) of section 407 is amended—

(A) by striking out “sections 404 and 405(c)” and inserting in lieu thereof “section 404”,

(B) by striking out “annuity, or bond purchase” and inserting in lieu thereof “or annuity”, and

(C) by striking out “(or section 405(c))” in paragraph (2) thereof.

26 USC 408.

(19) Paragraph (1) of section 408(a) is amended by striking out “403(b)(8), 405(d)(3), or 409(b)(3)(C)” and inserting in lieu thereof “or 403(b)(8)”.

(20) Clause (i) of section 408(d)(3)(A) is amended by striking out “or retirement bond”.

(21) Subparagraph (B) of section 408(d)(3) is amended by striking out “, individual retirement annuity, or a retirement bond” and inserting in lieu thereof “or an individual retirement annuity”.

(22) Clause (ii) of section 408(d)(3)(D) (relating to partial rollovers) is amended by striking out “bond,”.

(23) Paragraph (6) of section 408(d) is amended—

(A) by striking out “, individual retirement annuity, or retirement bond” and inserting in lieu thereof “or an individual retirement annuity”, and

(B) by striking out “, annuity, or bond” and inserting in lieu thereof “or annuity”.

(24) Subparagraph (E) of section 408(k)(3) is amended by striking out “, 403(a), or 405(a)” and inserting in lieu thereof “or 403(a)”.

26 USC 412.

(25) Paragraph (2) of section 412(a) is amended by striking out “or 405(a)”.

26 USC 414.

(26) Subsection (h) of section 414 is amended by striking out “or 405(a)”.

(27) Subsection (l) of section 414 is amended by striking out “or 405”.

26 USC 415.

(28) Paragraph (2) of section 415(a) is amended by striking out subparagraph (D), by striking out “or” at the end of subparagraph (C), by adding “or” at the end of subparagraph (B), and by striking out “405(a),”.

(29) Subparagraph (A) of section 415(b)(2) is amended by striking out “408(d)(3), and 409(b)(3)(C)” and inserting in lieu thereof “and 408(d)(3)”.

(30) Subparagraph (B) of section 415(b)(2) is amended by striking out “408(d)(3) and 409(b)(3)(C)” and inserting in lieu thereof “and 408(d)(3)”.

(31) Paragraph (2) of section 415(c) is amended by striking out “405(d)(3), 408(d)(3), and 409(b)(3)(C)” and inserting in lieu thereof “and 408(d)(3)”.

(32) Paragraph (1) of section 415(k) is amended by striking out subparagraphs (C) and (H), by redesignating subparagraphs (D), (E), (F), and (G) as subparagraphs (C), (D), (E), and (F), respectively, by striking out “, or” at the end of subparagraph (F) (as

so redesignated) and inserting in lieu thereof a period, and by adding “or” at the end of subparagraph (E) (as so redesignated).

(33) Paragraph (2) of section 457(e) is amended by striking out subparagraph (C) and by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively. 26 USC 457.

(34) Subsection (e) of section 2039 is amended— 26 USC 2039.

(A) by striking out paragraph (3),

(B) by striking out “, or” at the end of paragraph (2) and inserting in lieu thereof a period,

(C) by adding “or” at the end of paragraph (1),

(D) by striking out “405(d)(3), 408(d)(3), or 409(b)(3)(C)” and inserting in lieu thereof “or 408(d)(3)”, and

(E) by striking out “, annuity, or bond” each place it appears and inserting in lieu thereof “or annuity”.

(35) Paragraph (5) of section 2517(a) is amended by striking out “, an individual retirement annuity described in section 408(b), or a retirement bond described in section 409(a)” and inserting in lieu thereof “or an individual retirement annuity described in section 408(b)”. 26 USC 2517.

(36) Paragraph (5) of section 3121(a) is amended by striking out subparagraph (C) and by redesignating subparagraphs (D) through (G) as subparagraphs (C) through (F), respectively. 26 USC 3121.

(37) Paragraph (5) of section 3306(b) is amended by striking out subparagraph (C) and by redesignating subparagraphs (D) through (G) as subparagraphs (C) through (F), respectively. 26 USC 3306.

(38) Paragraph (12) of section 3401(a) is amended by striking out subparagraph (C) and by redesignating subparagraph (D) as subparagraph (C). 26 USC 3401.

(39) Subsection (e) of section 209 of the Social Security Act is amended by inserting “(as in effect before the enactment of the Tax Reform Act of 1984)” after “Internal Revenue Code of 1954” in paragraph (4) thereof. 26 USC 409.

(40) Subsection (a) of section 4972 is amended by striking out the last sentence and inserting in lieu thereof “This section applies only to plans which include a trust described in section 401(a) or which are described in section 403(a).” 26 USC 4972.

(41) Subsection (a) of section 4973 is amended— 26 USC 4973.

(A) by striking out paragraph (3),

(B) by striking out “or” at the end of paragraph (2),

(C) by adding “or” at the end of paragraph (1),

(D) by striking out “, annuities, or bonds” and inserting in lieu thereof “or annuities”, and

(E) by striking out “, annuity, or bond” and inserting in lieu thereof “or annuity”.

(42) Subparagraph (A) of section 4973(b)(1) is amended by striking out “408(d)(3), and 409(b)(3)(C)” and inserting in lieu thereof “and 408(d)(3)”.

(43) The last sentence of section 4973(b) is amended by striking out “, individual retirement annuity, or bond” and inserting in lieu thereof “or the individual retirement annuity”.

(44) Paragraph (1) of section 4973(c) is amended by striking out “, 408(d)(3)(A)(iii), or 409(b)(3)(C)” and inserting in lieu thereof “or 408(d)(3)(A)(iii)”.

(45) The last sentence of section 4975(d) is amended by striking out “, individual retirement annuity, or an individual retirement bond (as defined in section 408 or 409)” and inserting in 26 USC 4975.

lieu thereof “or an individual retirement annuity (as defined in section 408)”.

26 USC 4975.

(46) Paragraph (1) of section 4975(e) is amended—

(A) by striking out “or 405(a)”,

(B) by striking out “or a retirement bond described in section 409”,

(C) by striking out “annuity, or bond” and inserting in lieu thereof “or annuity”, and

(D) by striking out “account, or bond” and inserting in lieu thereof “or account”.

26 USC 6047.

(47) Section 6047 is amended by striking out subsection (c) and by redesignating subsections (d), (e), and (f) as subsections (c), (d), and (e), respectively.

26 USC 6058.

(48) Subsection (e) of section 6058 is amended by striking out paragraph (2) and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

26 USC 6104.

(49) Clause (i) of section 6104(a)(1)(B) is amended by striking out “, 403(a), or 405(a)” and inserting in lieu thereof “or 403(a)”.

26 USC 6652.

(50) Subsection (f) of section 6652 is amended by striking out “and bond purchase”.

26 USC 7207.

(51) Section 7207 is amended by striking out “or (c)”.

26 USC 7476.

(52) Subsection (c) of section 7476 is amended by striking out paragraph (3), by striking out “, or” at the end of paragraph (2) and inserting in lieu thereof a period, and by adding “, or” at the end of paragraph (1).

26 USC 7701.

(53) Paragraph (37) of section 7701(a) is amended by striking out subparagraph (C), by striking out “, and” at the end of subparagraph (B) and inserting in lieu thereof a period, and by adding “and” at the end of subparagraph (A).

(54) The table of sections of subpart A of part I of subchapter D of chapter 1 is amended by striking out the items relating to sections 405 and 409.

26 USC 4973.

(55) The section heading for section 4973 is amended by striking out “CERTAIN INDIVIDUAL RETIREMENT ANNUITIES, AND CERTAIN RETIREMENT BONDS” and inserting in lieu thereof “AND CERTAIN INDIVIDUAL RETIREMENT ANNUITIES”.

(56) The table of sections for chapter 43 is amended by striking out “certain individual retirement annuities, and certain retirement bonds” in the item relating to section 4973 and inserting in lieu thereof “and certain individual retirement annuities”.

26 USC 6047.

(57) The section heading for section 6047 is amended by striking out “AND BOND PURCHASE”.

(58) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking out “and bond purchase” in the item relating to section 6047.

(59) The first sentence of section 3107 of title 31, United States Code, is amended by inserting before the period “, as in effect before the enactment of the Tax Reform Act of 1984”.

26 USC 409,
409A.

Ante, p. 848.

26 USC 41.

Ante, p. 826.

(e) SECTION 409A REDESIGNATED AS SECTION 409.—

(1) The section heading for section 409A is amended by striking out “SEC. 409A.” and inserting in lieu thereof “SEC. 409.”.

(2) Subsection (c)(1)(A)(i) of old section 44G is amended by striking out “section 409A” and inserting in lieu thereof “section 409”.

(3) Paragraph (6) of old section 44G(c) is amended by striking out “section 409A(l)” and inserting in lieu thereof “section 409(l)”. 26 USC 41.
Ante, p. 826.

(4) Paragraph (22) of section 401(a) is amended by striking out “section 409A” and inserting in lieu thereof “section 409”. 26 USC 401.

(5) Paragraph (23) of section 401(a) is amended by striking out “section 409A(h)” each place it appears and inserting in lieu thereof “section 409(h)”. 26 USC 415.

(6) Clause (ii) of section 415(c)(6)(B) is amended by striking out “section 409A” and inserting in lieu thereof “section 409”. 26 USC 4975.

(7) Paragraph (7) of section 4975(e) is amended—

(A) by striking out “section 409A(h)” and inserting in lieu thereof “section 409(h)”,

(B) by striking out “section 409A(e)(4)” and inserting in lieu thereof “section 409(e)(4)”, and

(C) by striking out “section 409A(e)” and inserting in lieu thereof “section 409(e)”. 26 USC 6699.

(8) Paragraph (8) of section 4975(e) is amended by striking out “section 409A(l)” and inserting in lieu thereof “section 409(l)”. 26 USC 6699.

(9) Paragraphs (1) and (3) of section 6699(a) are each amended by striking out “section 409A” and inserting in lieu thereof “section 409”. 26 USC 6699.

(10) The table of sections for subpart A of part I of subchapter D of chapter 1 is amended by striking out “Sec. 409A” and inserting in lieu thereof “Sec. 409”.

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments and repeals made by subsections (a), (b), and (d) shall apply to obligations issued after December 31, 1983. 26 USC 55 note.

(2) SUBSECTION (c).—The amendment made by subsection (c) shall apply to redemptions after the date of the enactment of this Act in taxable years ending after such date. 26 USC 402 note.

(3) SUBSECTION (e).—The amendments made by subsection (e) shall take effect on January 1, 1984. 26 USC 41 note.

(4) BONDS UNDER QUALIFIED BOND PURCHASE PLANS MAY BE REDEEMED AT ANY TIME.—Notwithstanding— 26 USC 405 note.

(A) subparagraph (D) of section 405(b)(1) of the Internal Revenue Code of 1954 (as in effect before its repeal by this section), and

(B) the terms of any bond described in subsection (b) of such section 405,

such a bond may be redeemed at any time after the date of the enactment of this Act in the same manner as if the individual redeeming the bond had attained age 59½.

(5) TREATMENT OF TAX IMPOSED UNDER SECTION 409 (c).—For purposes of section 26(b) of the Internal Revenue Code of 1954 (as amended by this Act), any tax imposed by section 409(c) of such Code (as in effect before its repeal by this section) shall be treated as a tax imposed by section 408(f) of such Code. 26 USC 26 note.

SEC. 492. REPEAL OF RULES RELATING TO GAINS FROM DISPOSITION OF PROPERTY USED IN FARMING WHERE FARM LOSSES OFFSET NONFARM INCOME.

(a) IN GENERAL.—Section 1251 (relating to gain from disposition of property used in farming where farm losses offset nonfarm income) is hereby repealed. 26 USC 1251.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

26 USC 170.

(1) SECTION 170.—

(A) The second sentence of section 170(e)(1) (relating to certain contributions of ordinary income and capital gain property) is amended by striking out “1251(c),”.

(B) Subparagraph (C) of section 170(e)(3) (relating to special rule for certain contributions of inventory and other property) is amended by striking out “1251,”.

26 USC 341.

(2) **SECTION 341.**—Paragraph (12) of section 341(e) (relating to nonapplication of section 1245(a)) is amended by striking out “1251(c),”.

26 USC 453B.

(3) **SECTION 453B.**—The second sentence of section 453B(d)(2) (relating to liquidations to which section 337 applies) is amended by striking out “1251(c),”.

26 USC 751.

(4) **SECTION 751.**—The second sentence of subsection (c) of section 751 (defining unrealized receivables) is amended—

(A) by striking out “farm recapture property (as defined in section 1251(e)(1)),” and

(B) by striking out “1251(c),”.

26 USC 1252.

(5) **SECTION 1252.**—The second sentence of section 1252(a)(1) (relating to gains from disposition of farm land) is amended by striking out “, except that this section shall not apply to the extent section 1251 applies to such gain”.

(c) **CLERICAL AMENDMENT.**—The table of sections for part IV of subchapter P of chapter 1 is amended by striking out the item relating to section 1251.

26 USC 170 note.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 1983.

TITLE V—EMPLOYEE BENEFIT PROVISIONS

Subtitle A—Welfare Benefit Plans

SEC. 511. TREATMENT OF FUNDED WELFARE BENEFIT PLANS.

(a) **GENERAL RULE.**—Part I of subchapter D of chapter 1 (relating to pension, profit sharing, stock bonus plans, etc.) is amended by adding at the end thereof the following new subpart:

“Subpart D—Treatment of Welfare Benefit Funds

“Sec. 419. Treatment of funded welfare benefit plans.

“Sec. 419A. Qualified asset account; limitation on additions to account.

26 USC 419.

“SEC. 419. TREATMENT OF FUNDED WELFARE BENEFIT PLANS.

“(a) **GENERAL RULE.**—Contributions paid or accrued by an employer to a welfare benefit fund—

“(1) shall not be deductible under section 162 or 212, but

“(2) if they satisfy the requirements of either of such sections, shall (subject to the limitation of subsection (b)) be deductible under this section for the taxable year in which paid.

“(b) **LIMITATION.**—The amount of the deduction allowable under subsection (a)(2) for any taxable year shall not exceed the welfare benefit fund’s qualified cost for the taxable year.

“(c) **QUALIFIED COST.**—For purposes of this section—

“(1) **IN GENERAL.**—Except as otherwise provided in this subsection, the term ‘qualified cost’ means, with respect to any taxable year, the sum of—

“(A) the qualified direct cost for such taxable year, and

“(B) subject to the limitation of section 419A(b), any addition to a qualified asset account for the taxable year.

Post, p. 856.

“(2) **REDUCTION FOR FUNDS AFTER-TAX INCOME.**—In the case of any welfare benefit fund, the qualified cost for any taxable year shall be reduced by such fund’s after-tax income for such taxable year.

“(3) **QUALIFIED DIRECT COST.**—

“(A) **IN GENERAL.**—The term ‘qualified direct cost’ means, with respect to any taxable year, the aggregate amount (including administrative expenses) which would have been allowable as a deduction to the employer with respect to the benefits provided during the taxable year, if—

“(i) such benefits were provided directly by the employer, and

“(ii) the employer used the cash receipts and disbursements method of accounting.

“(B) **TIME WHEN BENEFITS PROVIDED.**—For purposes of subparagraph (A), a benefit shall be treated as provided when such benefit would be includible in the gross income of the employee if provided directly by the employer (or would be so includible but for any provision of this chapter excluding such benefit from gross income).

“(C) **60-MONTH AMORTIZATION OF CHILD CARE FACILITIES.**—

“(i) **IN GENERAL.**—In determining qualified direct costs with respect to any child care facility for purposes of subparagraph (A), in lieu of depreciation the adjusted basis of such facility shall be allowable as a deduction ratably over a period of 60 months beginning with the month in which the facility is placed in service.

“(ii) **CHILD CARE FACILITY.**—The term ‘child care facility’ means any tangible property which qualifies under regulations prescribed by the Secretary as a child care center primarily for children of employees of the employer; except that such term shall not include any property—

“(I) not of a character subject to depreciation; or

“(II) located outside the United States.

“(4) **AFTER-TAX INCOME.**—

“(A) **IN GENERAL.**—The term ‘after-tax income’ means, with respect to any taxable year, the gross income of the welfare benefit fund reduced by the sum of—

“(i) the deductions allowed by this chapter which are directly connected with the production of such gross income, and

“(ii) the tax imposed by this chapter on the fund for the taxable year.

“(B) **TREATMENT OF CERTAIN AMOUNTS.**—In determining the gross income of any welfare benefit fund—

“(i) contributions and other amounts received from employees shall be taken into account, but

“(ii) contributions from the employer shall not be taken into account.

“(5) ITEM ONLY TAKEN INTO ACCOUNT ONCE.—No item may be taken into account more than once in determining the qualified cost of any welfare benefit fund.

“(d) CARRYOVER OF EXCESS CONTRIBUTIONS.—If—

“(1) the amount of the contributions paid (or deemed paid under this subsection) by the employer during any taxable year to a welfare benefit fund, exceeds

“(2) the limitation of subsection (b),

such excess shall be treated as an amount paid by the employer to such fund during the succeeding taxable year.

“(e) WELFARE BENEFIT FUND.—For purposes of this section—

“(1) IN GENERAL.—The term ‘welfare benefit fund’ means any fund—

“(A) which is part of a plan of an employer, and

“(B) through which the employer provides welfare benefits to employees or their beneficiaries.

“(2) WELFARE BENEFIT.—The term ‘welfare benefit’ means any benefit other than a benefit with respect to which—

“(A) section 83(h) applies,

“(B) section 404 applies (determined without regard to section 404(b)(2)),

“(C) section 404A applies, or

“(D) an election under section 463 applies.

“(3) FUND.—The term ‘fund’ means—

“(A) any organization described in paragraph (7), (9), (17), or (20) of section 501(c),

“(B) any trust, corporation, or other organization not exempt from the tax imposed by this chapter, and

“(C) to the extent provided in regulations, any account held for an employer by any person.

“(f) METHOD OF CONTRIBUTIONS, ETC., HAVING THE EFFECT OF A PLAN.—If—

“(1) there is no plan, but

“(2) there is a method or arrangement of employer contributions or benefits which has the effect of a plan, this section shall apply as if there were a plan.

“(g) EXTENSION TO PLANS FOR INDEPENDENT CONTRACTORS.—If any fund would be a welfare benefit fund (as modified by subsection (f)) but for the fact that there is no employee-employer relationship—

“(1) this section shall apply as if there were such a plan, and

“(2) any reference in this section to the employer shall be treated as a reference to the person for whom services are provided, and any reference in this section to an employee shall be treated as a reference to the person providing the services.

26 USC 419A.

“SEC. 419A. QUALIFIED ASSET ACCOUNT; LIMITATION ON ADDITIONS TO ACCOUNT.

“(a) GENERAL RULE.—For purposes of this subpart, the term ‘qualified asset account’ means any account consisting of assets set aside to provide for the payment of—

“(1) disability benefits,

“(2) medical benefits,

“(3) SUB or severance pay benefits, or

“(4) life insurance benefits.

“(b) LIMITATION ON ADDITIONS TO ACCOUNT.—No addition to any qualified asset account may be taken into account under section

419(c)(1)(B) to the extent such addition results in the amount in such account exceeding the account limit. *Ante*, p. 854.

“(c) ACCOUNT LIMIT.—For purposes of this section—

“(1) IN GENERAL.—Except as otherwise provided in this subsection, the account limit for any qualified asset account for any taxable year is the amount reasonably and actuarially necessary to fund—

“(A) claims incurred but unpaid (as of the close of such taxable year) for benefits referred to in subsection (a), and

“(B) administrative costs with respect to such claims.

“(2) ADDITIONAL RESERVE FOR POST-RETIREMENT MEDICAL AND LIFE INSURANCE BENEFITS.—The account limit for any taxable year may include a reserve funded over the working lives of the covered employees and actuarially determined on a level basis (using assumptions that are reasonable in the aggregate) as necessary for—

“(A) post-retirement medical benefits to be provided to covered employees (determined on the basis of current medical costs), or

“(B) post-retirement life insurance benefits to be provided to covered employees.

“(3) AMOUNT TAKEN INTO ACCOUNT FOR SUB OR SEVERANCE PAY BENEFITS.—

“(A) IN GENERAL.—The account limit for any taxable year with respect to SUB or severance pay benefits is 75 percent of the average annual qualified direct costs for SUB or severance pay benefits for any 2 of the immediately preceding 7 taxable years (as selected by the fund).

“(B) SPECIAL RULE FOR CERTAIN NEW PLANS.—In the case of any new plan for which SUB or severance pay benefits are not available to any key employee, the Secretary shall, by regulations, provide for an interim amount to be taken into account under paragraph (1).

“(4) LIMITATION ON AMOUNTS TO BE TAKEN INTO ACCOUNT.—

“(A) DISABILITY BENEFITS.—For purposes of paragraph (1), disability benefits payable to any individual shall not be taken into account to the extent such benefits are payable at an annual rate in excess of the lower of—

“(i) 75 percent of such individual’s average compensation for his high 3 years (within the meaning of section 415(b)(3)), or

“(ii) the limitation in effect under section 415(b)(1)(A).

“(B) LIMITATION ON SUB OR SEVERANCE PAY BENEFITS.—For purposes of paragraph (3), any SUB or severance pay benefit payable to any individual shall not be taken into account to the extent such benefit is payable at an annual rate in excess of 150 percent of the limitation in effect under section 415(c)(1)(A).

“(5) SPECIAL LIMITATION WHERE NO ACTUARIAL CERTIFICATION.—

“(A) IN GENERAL.—Unless there is an actuarial certification of the account limit determined under paragraph (1) for any taxable year, the account limit for such taxable year shall not exceed the sum of the safe harbor limits for such taxable year.

“(B) SAFE HARBOR LIMITS.—

“(i) **SHORT-TERM DISABILITY BENEFITS.**—In the case of short-term disability benefits, the safe harbor limit for any taxable year is 17.5 percent of the qualified direct costs (other than insurance premiums) for the immediately preceding taxable year with respect to such benefits.

“(ii) **MEDICAL BENEFITS.**—In the case of medical benefits, the safe harbor limit for any taxable year is 35 percent of the qualified direct costs (other than insurance premiums) for the immediately preceding taxable year with respect to medical benefits.

“(iii) **SUB OR SEVERANCE PAY BENEFITS.**—In the case of SUB or severance pay benefits, the safe harbor limit for any taxable year is the amount determined under paragraph (3).

“(iv) **LONG-TERM DISABILITY OR LIFE INSURANCE BENEFITS.**—In the case of any long-term disability benefit or life insurance benefit, the safe harbor limit for any taxable year shall be the amount prescribed by regulations.

“(d) **REQUIREMENT OF SEPARATE ACCOUNTS FOR POST-RETIREMENT MEDICAL OR LIFE INSURANCE BENEFITS PROVIDED TO KEY EMPLOYEES.**—

“(1) **IN GENERAL.**—In the case of any employee who is a key employee—

“(A) a separate account shall be established for any medical benefits or life insurance benefits provided with respect to such employee after retirement, and

“(B) medical benefits and life insurance benefits provided with respect to such employee after retirement may only be paid from such separate account.

“(2) **COORDINATION WITH SECTION 415.**—For purposes of section 415, any amount attributable to medical benefits allocated to an account established under paragraph (1) shall be treated as an annual addition to a defined contribution plan for purposes of section 415(c).

“(3) **KEY EMPLOYEE.**—For purposes of this section, the term ‘key employee’ means any employee who, at any time during the plan year or any preceding plan year, is or was a key employee as defined in section 416(i).

“(e) **SPECIAL LIMITATIONS ON RESERVES FOR MEDICAL BENEFITS OR LIFE INSURANCE BENEFITS PROVIDED TO RETIRED EMPLOYEES.**—

“(1) **BENEFITS MUST BE NONDISCRIMINATORY.**—No reserve may be taken into account under subsection (c)(2) for post-retirement medical benefits or life insurance benefits to be provided to covered employees unless the plan meets the requirements of section 505(b)(1) with respect to such benefits.

“(2) **TAXABLE LIFE INSURANCE BENEFITS NOT TAKEN INTO ACCOUNT.**—No life insurance benefit may be taken into account under subsection (c)(2) to the extent—

“(A) such benefit is includible in gross income under section 79, or

“(B) such benefit would be includible in gross income under section 101(b) (determined by substituting ‘\$50,000’ for ‘\$5,000’).

“(f) **DEFINITIONS AND OTHER SPECIAL RULES.**—For purposes of this section—

“(1) **SUB OR SEVERANCE PAY BENEFIT.**—The term ‘SUB or severance pay benefit’ means—

“(A) any supplemental unemployment compensation benefit (as defined in section 501(c)(17)(D)), and

“(B) any severance pay benefit.

“(2) **MEDICAL BENEFIT.**—The term ‘medical benefit’ means a benefit which consists of the providing (directly or through insurance) of medical care (as defined in section 213(d)).

“(3) **LIFE INSURANCE BENEFIT.**—The term ‘life insurance benefit’ includes any other death benefit.

“(4) **VALUATION.**—For purposes of this section, the amount of the qualified asset account shall be the value of the assets in such account (as determined under regulations).

“(5) **HIGHER LIMIT IN CASE OF COLLECTIVELY BARGAINED PLANS.**—Not later than July 1, 1985, the Secretary shall by regulations provide for special account limits in the case of any qualified asset account under a welfare benefit fund established under a collective bargaining agreement.

“(6) **EXCEPTION FOR 10-OR-MORE EMPLOYER PLANS.**—

“(A) **IN GENERAL.**—This subpart shall not apply in the case of any welfare benefit fund which is part of a 10 or more employer plan. The preceding sentence shall not apply to any plan which maintains experience-rating arrangements with respect to individual employers.

“(B) **10 OR MORE EMPLOYER PLAN.**—For purposes of subparagraph (A), the term ‘10 or more employer plan’ means a plan—

“(i) to which more than 1 employer contributes, and

“(ii) to which no employer normally contributes more than 10 percent of the total contributions contributed under the plan by all employers.

“(7) **ADJUSTMENTS FOR EXISTING EXCESS RESERVES.**—

“(A) **INCREASE IN ACCOUNT LIMIT.**—The account limit for any of the first 4 taxable years to which this section applies shall be increased by the applicable percentage of any existing excess reserves.

“(B) **APPLICABLE PERCENTAGE.**—For purposes of subparagraph (A)—

“In the case of:

	The applicable percentage is:
The first taxable year to which this section applies.....	80
The second taxable year to which this section applies.....	60
The third taxable year to which this section applies.....	40
The fourth taxable year to which this section applies.....	20.

“(C) **EXISTING EXCESS RESERVE.**—For purposes of this paragraph, the term ‘existing excess reserve’ means the excess (if any) of—

“(i) the amount of assets set aside for purposes described in subsection (a) as of the close of the first taxable year ending after the date of the enactment of the Tax Reform Act of 1984, over

“(ii) the account limit which would have applied under this section to such taxable year if this section had applied to such taxable year.

“(g) **EMPLOYER TAXED ON INCOME OF WELFARE BENEFIT FUND IN CERTAIN CASES.**—

Ante, p. 494.

“(1) **IN GENERAL.**—In the case of any welfare benefit fund which is not an organization described in paragraph (7), (9), (17), or (20) of section 501(c), the employer shall include in gross income for any taxable year an amount equal to such fund's deemed unrelated income for the fund's taxable year ending within the employer's taxable year.

“(2) **DEEMED UNRELATED INCOME.**—For purposes of paragraph (1), the deemed unrelated income of any welfare benefit fund shall be the amount which would have been its unrelated business taxable income under section 512(a)(3) if such fund were an organization described in paragraph (7), (9), (17), or (20) of section 501(c).

“(h) **AGGREGATION RULES.**—For purposes of this subpart—

“(1) **AGGREGATION OF FUNDS.**—At the election of the employer, 2 or more welfare benefit funds of such employer may be treated as 1 fund.

“(2) **TREATMENT OF RELATED EMPLOYERS.**—Rules similar to the rules of subsections (b), (c), (m), and (n) of section 414 shall apply.

“(i) **REGULATIONS.**—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this subpart. Such regulations may provide that the plan administrator of any welfare benefit fund which is part of a plan to which more than 1 employer contributes shall submit such information to the employers contributing to the fund as may be necessary to enable the employers to comply with the provisions of this section.”

(b) **AMENDMENTS TO TAX ON UNRELATED BUSINESS INCOME.**—

(1) **EXTENSION OF SECTION 512(A)(3) TO SUPPLEMENTAL UNEMPLOYMENT BENEFIT AND GROUP LEGAL TRUSTS.**—

(A) Paragraph (3) of section 512(a) (relating to special rules applicable to organizations described in section 501(c)(7) or (9)) is amended by striking out “section 501(c)(7) or (9)” each place it appears (including in the paragraph heading) and inserting in lieu thereof “paragraph (7), (9), (17), or (20) of section 501(c)”.

(B) Clause (ii) of section 512(a)(3)(B) is amended by striking out “section 501(c)(9)” and inserting in lieu thereof “paragraph (9), (17), or (20) of section 501(c)”.

(2) **LIMITATION ON DEDUCTION FOR SET-ASIDE.**—Paragraph (3) of section 512(a) is amended by adding at the end thereof the following new subparagraph:

“(E) **LIMITATION ON AMOUNT OF SET-ASIDE IN THE CASE OF ORGANIZATIONS DESCRIBED IN PARAGRAPH (9), (17), OR (20) OF SECTION 501(C).**—

“(i) **IN GENERAL.**—In the case of any organization described in paragraph (9), (17), or (20) of section 501(c), a set-aside for any purpose specified in clause (ii) of subparagraph (B) may be taken into account under subparagraph (B) only to the extent that such set-aside does not result in an amount of assets set aside for such purpose in excess of the account limit determined under section 419A(c) for the taxable year (not taking into account any reserve described in section 419A(c)(2)(A) for post-retirement medical benefits).

“(ii) **NO SET-ASIDE FOR FACILITIES.**—No set aside for assets used in the provision of benefits described in

26 USC 512.

Ante, p. 856.

clause (ii) of subparagraph (B) shall be taken into account.

“(iii) TREATMENT OF EXISTING RESERVES FOR POST-RETIREMENT MEDICAL OR LIFE INSURANCE BENEFITS.—

“(I) Clause (i) shall not apply to any income attributable to a existing reserve for post-retirement medical or life insurance benefits.

“(II) For purposes of subclause (I), the term ‘existing reserve or post-retirement medical or life insurance benefit’ means the amount of assets set aside as of the close of the last plan year ending before the date of the enactment of the Tax Reform Act of 1984 for purposes of post-retirement medical benefits or life insurance benefits to be provided to covered employees.

Ante, p. 494.

“(III) All payments during plan years ending on or after the date of the enactment of the Tax Reform Act of 1984 of post-retirement medical benefits or life insurance benefits shall be charged against the reserve referred to in subclause (II). Except to the extent provided in regulations prescribed by the Secretary, all plans of an employer shall be treated as 1 plan for purposes of the preceding sentence.

“(iv) TREATMENT OF TAX EXEMPT ORGANIZATIONS.—

This paragraph shall not apply to any organization if substantially all of the contributions to such organization are made by employers who were exempt from tax under this chapter throughout the 5-taxable year period ending with the taxable year in which the contributions are made.”

(c) TAX ON CERTAIN FUNDED WELFARE BENEFIT PLANS.—

(1) **IN GENERAL.**—Chapter 43 (relating to qualified pension, etc., plans) is amended by adding at the end thereof the following new section:

“SEC. 4976. TAXES WITH RESPECT TO FUNDED WELFARE BENEFIT PLANS. 26 USC 4976.

“(a) GENERAL RULE.—If—

“(1) an employer maintains a welfare benefit fund, and

“(2) there is a disqualified benefit provided during any taxable year,

there is hereby imposed on such employer a tax equal to 100 percent of such disqualified benefit.

“(b) DISQUALIFIED BENEFIT.—For purposes of subsection (a), the term ‘disqualified benefit’ means—

“(1) any medical benefit or life insurance benefit provided with respect to a key employee other than from a separate account established for such owner under section 419A(d), and

Ante, p. 856.

“(2) any post-retirement medical or life insurance benefit unless the plan meets the requirements of section 505(b)(1) with respect to such benefit, and

Post, p. 864.

“(3) any portion of such fund reverting to the benefit of the employer.

“(c) DEFINITIONS.—For purposes of this section, the terms used in this section shall have the same respective meanings as when used in subpart D of part I of subchapter D of chapter 1.”

Ante, p. 854.

(2) **CONFORMING AMENDMENT.**—The table of sections for chapter 43 (relating to qualified pension, etc., plans) is amended by adding at the end thereof the following new item:

“Sec. 4976. Taxes with respect to funded welfare benefit plans.”

(d) **CLERICAL AMENDMENT.**—The table of subparts for part I of subchapter D of chapter 1 is amended by adding at the end thereof the following new item:

“Subpart D. Treatment of welfare benefit funds.”

26 USC 419 note.

(e) **EFFECTIVE DATES.**—

(1) **IN GENERAL.**—Except as otherwise provided in this subsection, the amendments made by this section shall apply to contributions paid or accrued after December 31, 1985, in taxable years ending after such date.

(2) **SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.**—In the case of plan maintained pursuant to 1 or more collective bargaining agreements—

(A) between employee representatives and 1 or more employers, and

(B) in effect on July 1, 1985 (or ratified on or before such date),

the amendments made by this section and section 514 shall not apply to years beginning before the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after July 1, 1985).

(3) **SPECIAL RULE FOR PARAGRAPH (2).**—For purposes of paragraph (2), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.

(4) **SPECIAL EFFECTIVE DATE FOR CONTRIBUTIONS OF FACILITIES.**—Notwithstanding paragraphs (1) and (2), the amendments made by this section shall apply in the case of—

(A) any contribution after June 22, 1984, of a facility to a welfare benefit fund, and

(B) any other contribution after June 22, 1984, to a welfare benefit fund to be used to acquire or improve a facility.

(5) **BINDING CONTRACT EXCEPTIONS TO PARAGRAPH (4).**—Paragraph (4) shall not apply to any facility placed in service before January 1, 1987—

(A) which is acquired or improved by the fund (or contributed to the fund) pursuant to a binding contract in effect on June 22, 1984, and at all times thereafter, or

(B) the construction of which by or for the fund began before June 22, 1984.

SEC. 512. TREATMENT OF UNFUNDED DEFERRED BENEFITS.

26 USC 404.

(a) **GENERAL RULE.**—Subsection (b) of section 404 (relating to method of contributions, etc., having the effect of a plan) is amended to read as follows:

“(b) **METHOD OF CONTRIBUTIONS, ETC., HAVING THE EFFECT OF A PLAN; UNFUNDED DEFERRED BENEFITS.**—

“(1) **METHOD OF CONTRIBUTIONS, ETC., HAVING THE EFFECT OF A PLAN.**—If—

“(A) there is no plan, but

“(B) there is a method or arrangement of employer contributions or compensation which has the effect of a stock bonus, pension, profit-sharing, or annuity plan, or other plan deferring the receipt of compensation (including a plan described in paragraph (2)),

subsection (a) shall apply as if there were such a plan.

“(2) PLANS PROVIDING UNFUNDED DEFERRED BENEFITS.—

“(A) IN GENERAL.—For purposes of this section, any plan providing for deferred benefits (other than compensation) for employees, their spouses, or their dependents shall be treated as a plan deferring the receipt of compensation. In the case of such a plan, for purposes of this section, the determination of when an amount is includible in gross income shall be made without regard to any provisions of this chapter excluding such benefits from gross income.

“(B) EXCEPTION FOR CERTAIN BENEFITS.—Subparagraph (A) shall not apply to—

“(i) any benefit provided through a welfare benefit fund (as defined in section 419(e)), or

Ante, p. 854.

“(ii) to any benefit with respect to which an election under section 463 applies.”

(b) CROSS REFERENCE.—Subsection (j) of section 162 (relating to cross references) is amended by adding at the end thereof the following new paragraph:

26 USC 162.

“(3) For special rules relating to—

“(A) funded welfare benefit plans, see section 419, and

Ante, p. 854.

“(B) deferred compensation and other deferred benefits, see section 404.”

(c) EFFECTIVE DATE.—

26 USC 404 note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act in taxable years ending after such date.

(2) EXCEPTION FOR CERTAIN EXTENDED VACATION PAY PLANS.—In the case of any extended vacation pay plan maintained pursuant to a collective bargaining agreement—

(A) between employee representatives and 1 or more employers, and

(B) in effect on June 22, 1984,

the amendments made by this section shall not apply before the date on which such collective bargaining agreement terminates (determined without regard to any extension thereof agreed to after June 22, 1984). For purposes of the preceding sentence, any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.

SEC. 513. ADDITIONAL REQUIREMENTS FOR TAX-EXEMPT STATUS OF CERTAIN ORGANIZATIONS.

(a) GENERAL RULE.—Part I of subchapter F of chapter 1 (relating to exempt organizations) is amended by adding at the end thereof the following new section:

26 USC 505.

"SEC. 505. ADDITIONAL REQUIREMENTS FOR ORGANIZATIONS DESCRIBED IN PARAGRAPH (9), (17), OR (20) OF SECTION 501(c).**"(a) CERTAIN REQUIREMENTS MUST BE MET IN THE CASE OF ORGANIZATIONS DESCRIBED IN PARAGRAPH (9) OR (20) OF SECTION 501(c).—****"(1) VOLUNTARY EMPLOYEES' BENEFICIARY ASSOCIATIONS, ETC.—**

An organization described in paragraph (9) or (20) of subsection (c) of section 501 which is part of a plan of an employer shall not be exempt from tax under section 501(a) unless such plan meets the requirements of subsection (b) of this section.

"(2) EXCEPTION FOR COLLECTIVE BARGAINING AGREEMENTS.—

Paragraph (1) shall not apply to any organization which is part of a plan maintained pursuant to 1 or more collective bargaining agreements between 1 or more employee organizations and 1 or more employers.

"(b) NONDISCRIMINATION REQUIREMENTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a plan meets the requirements of this subsection only if—

"(A) each class of benefits under the plan is provided under a classification of employees which is set forth in the plan and which is found by the Secretary not to be discriminatory in favor of employees who are highly compensated individuals, and

"(B) in the case of each class of benefits, such benefits do not discriminate in favor of employees who are highly compensated employees.

A life insurance, disability, severance pay, or supplemental unemployment compensation benefit shall not be considered to fail to meet the requirements of subparagraph (B) merely because the benefits available bear a uniform relationship to the total compensation, or the basic or regular rate of compensation, of employees covered by the plan.

"(2) EXCLUSION OF CERTAIN EMPLOYEES.—For purposes of paragraph (1), there may be excluded from consideration—

"(A) employees who have not completed 3 years of service,

"(B) employees who have not attained age 21,

"(C) seasonal employees or less than half-time employees,

"(D) employees not included in the plan who are included in a unit of employees covered by an agreement between employee representatives and 1 or more employers which the Secretary finds to be a collective bargaining agreement if the class of benefits involved was the subject of good faith bargaining between such employee representatives and such employer or employers, and

"(E) employees who are nonresident aliens and who receive no earned income (within the meaning of section 911(d)(2)) from the employer which constitutes income from sources within the United States (within the meaning of section 861(a)(3)).

"(3) APPLICATION OF SUBSECTION WHERE OTHER NONDISCRIMINATION RULES PROVIDED.—In the case of any benefit for which a provision of this chapter other than this subsection provides nondiscrimination rules, paragraph (1) shall not apply but the requirements of this subsection shall be met only if the nondiscrimination rules so provided are satisfied with respect to such benefit.

“(4) AGGREGATION RULES.—For purposes of this subsection—

“(A) AGGREGATION OF PLANS.—At the election of the employer, 2 or more plans of such employer may be treated as 1 plan.

“(B) TREATMENT OF RELATED EMPLOYERS.—Rules similar to the rules of subsections (b), (c), (m), and (n) of section 414 shall apply. For purposes of the preceding sentence, section 414(n) shall be applied without regard to paragraph (5).

“(5) HIGHLY COMPENSATED INDIVIDUAL.—For purposes of this subsection, the term ‘highly compensated individual’ has the meaning given such term by section 105(h)(5). For purposes of the preceding sentence, section 105(h)(5) shall be applied by substituting ‘10 percent’ for ‘25 percent’.

“(c) REQUIREMENT THAT ORGANIZATION NOTIFY SECRETARY THAT IT IS APPLYING FOR TAX-EXEMPT STATUS.—

“(1) IN GENERAL.—An organization shall not be treated as an organization described in paragraph (9), (17), or (20) of section 501(c)—

“(A) unless it has given notice to the Secretary, in such manner as the Secretary may by regulations prescribe, that it is applying for recognition of such status, or

“(B) for any period before the giving of such notice, if such notice is given after the time prescribed by the Secretary by regulations for giving notice under this subsection.

“(2) SPECIAL RULE FOR EXISTING ORGANIZATIONS.—In the case of any organization in existence on the date of the enactment of the Tax Reform Act of 1984, the time for giving notice under paragraph (1) shall not expire before the date 1 year after such date of the enactment.”

Ante, p. 494.

(b) CLERICAL AMENDMENT.—The table of sections for part I of subchapter F of chapter 1 is amended by adding at the end thereof the following new item:

“Sec. 505. Additional requirements for organizations described in paragraph (9), (17), or (20) of section 501(c).”

(c) EFFECTIVE DATE.—

26 USC 505 note.

(1) IN GENERAL.—The amendments made by this section shall apply to years beginning after December 31, 1984.

(2) TREATMENT OF CERTAIN BENEFITS IN PAY STATUS AS OF JANUARY 1, 1985.—For purposes of determining whether a plan meets the requirements of section 505(b) of the Internal Revenue Code of 1954 (as added by subsection (a)), there may (at the election of the employer) be excluded from consideration all disability or severance payments payable to individuals who are in pay status as of January 1, 1985. The preceding sentence shall not apply to any payment to the extent such payment is increased by any plan amendment adopted after June 22, 1984.

Ante, p. 864.

Subtitle B—Provisions Relating to Pension Plans

SEC. 521. REQUIRED DISTRIBUTIONS.

(a) QUALIFIED PENSION PLANS.—

(1) IN GENERAL.—Paragraph (9) of section 401(a) (relating to required distributions), as in effect before the amendments

26 USC 401.

made by section 242 of the Tax Equity and Fiscal Responsibility Act of 1982, is amended to read as follows:

“(9) REQUIRED DISTRIBUTIONS.—

“(A) IN GENERAL.—A trust shall not constitute a qualified trust under this subsection unless the plan provides that the entire interest of each employee—

“(i) will be distributed to such employee not later than the required beginning date, or

“(ii) will be distributed, beginning not later than the required beginning date, in accordance with regulations, over the life of such employee or over the lives of such employee and a designated beneficiary (or over a period not extending beyond the life expectancy of such employee or the life expectancy of such employee and a designated beneficiary).

“(B) REQUIRED DISTRIBUTION WHERE EMPLOYEE DIES BEFORE ENTIRE INTEREST IS DISTRIBUTED.—

“(i) WHERE DISTRIBUTIONS HAVE BEGUN UNDER SUBPARAGRAPH (A)(ii).—A trust shall not constitute a qualified trust under this section unless the plan provides that if—

“(I) the distribution of the employee's interest has begun in accordance with subparagraph (A)(ii), and

“(II) the employee dies before his entire interest has been distributed to him,
the remaining portion of such interest will be distributed at least as rapidly as under the method of distributions being used under subparagraph (A)(ii) as of the date of his death.

“(ii) 5-YEAR RULE FOR OTHER CASES.—A trust shall not constitute a qualified trust under this section unless the plan provides that, if an employee dies before the distribution of the employee's interest has begun in accordance with subparagraph (A)(ii), the entire interest of the employee will be distributed within 5 years after the death of such employee.

“(iii) EXCEPTION TO 5-YEAR RULE FOR CERTAIN AMOUNTS PAYABLE OVER LIFE OF BENEFICIARY.—If—

“(I) any portion of the employee's interest is payable to (or for the benefit of) a designated beneficiary,

“(II) such portion will be distributed (in accordance with regulations) over the life of such designated beneficiary (or over a period not extending beyond the life expectancy of such beneficiary), and

“(III) such distributions begin not later than year after the date of the employee's death or such later date as the Secretary may by regulations prescribe,
for purposes of clause (ii), the portion referred to in subclause (I) shall be treated as distributed on the date on which such distributions begin.

“(iv) SPECIAL RULE FOR SURVIVING SPOUSE OF EMPLOYEE.—If the designated beneficiary referred to in clause (iii)(I) is the surviving spouse of the employee—

“(I) the date on which the distributions are required to begin under clause (iii)(III) shall not be earlier than the date on which the employee would have attained age 70½, and

“(II) if the surviving spouse dies before the distributions to such spouse begin, this subparagraph shall be applied as if the surviving spouse were the employee.

“(C) REQUIRED BEGINNING DATE.—For purposes of this paragraph, the term ‘required beginning date’ means April 1 of the calendar year following the later of—

“(i) the calendar year in which the employee attains age 70½, or

“(ii) the calendar year in which the employee retires. Except as provided in section 409(d), clause (ii) shall not apply in the case of an employee who is a 5-percent owner (as defined in section 416) with respect to the plan year ending in the calendar year in which the employee attains 70½.

Ante, p. 852.

“(D) LIFE EXPECTANCY.—For purposes of this paragraph, the life expectancy of an employee and the employee’s spouse (other than in the case of a life annuity) may be redetermined but not more frequently than annually.

“(E) DESIGNATED BENEFICIARY.—For purposes of this paragraph, the term ‘designated beneficiary’ means any individual designated as a beneficiary by the employee.

“(F) TREATMENT OF PAYMENTS TO CHILDREN.—Under regulations prescribed by the Secretary, for purposes of this paragraph, any amount paid to a child shall be treated as if it had been paid to the surviving spouse if such amount will become payable to the surviving spouse upon such child reaching majority (or other designated event permitted under regulations).”

(2) REPEAL OF SECTION 242.—Section 242 of the Tax Equity and Fiscal Responsibility Act of 1982 is hereby repealed.

26 USC 401, 401 note.

(b) INDIVIDUAL RETIREMENT ACCOUNTS AND ANNUITIES.—

(1) INDIVIDUAL RETIREMENT ACCOUNTS.—Section 408(a) (relating to individual retirement accounts) is amended by striking out paragraphs (6) and (7) and inserting in lieu thereof the following new paragraph:

26 USC 408.

“(6) Under regulations prescribed by the Secretary, rules similar to the rules of section 401(a)(9) (relating to required distributions) shall apply to the distribution of the entire interest of an individual for whose benefit the trust is maintained.”

Ante, p. 865.

(2) INDIVIDUAL RETIREMENT ANNUITIES.—Section 408(b) (relating to individual retirement annuities) is amended by striking out paragraphs (3) and (4), by redesignating paragraph (5) as paragraph (4), and by inserting after paragraph (2) the following new paragraph:

“(3) Under regulations prescribed by the Secretary, rules similar to the rules of section 401(a)(9) (relating to required distributions) shall apply to the distribution of the entire interest of the owner.”

(c) SPECIAL RULE FOR CUSTODIAL ACCOUNTS.—Paragraph (7) of section 403(b) (relating to custodial accounts for regulated investment company stock) is amended by adding at the end thereof the following new subparagraph:

26 USC 403.

“(D) DISTRIBUTION REQUIREMENTS.—For purposes of determining when the interest of an employee in a custodial account must be distributed, such account shall be treated in the same manner as an annuity contract.”

Post, p. 957.

(d) CERTAIN DISTRIBUTION REQUIREMENTS TO APPLY TO 5-PERCENT OWNERS RATHER THAN KEY EMPLOYEES.—Section 72(m)(5) (relating to penalties applicable to certain amounts received by owner-employees) is amended—

(1) by striking out “key employee” each place it appears in subparagraph (A) and inserting in lieu thereof “5-percent owner”;

(2) by striking out “in a top-heavy plan” in clause (i) of subparagraph (A); and

(3) by striking out “the terms ‘key employee’ and ‘top-heavy plan’” in subparagraph (C) and inserting in lieu thereof “the term ‘5 percent owner’”.

26 USC 401 note.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to years beginning after December 31, 1984.

Ante, p. 867.

(2) REPEAL OF SECTION 242 OF TEFRA.—The amendment made by subsection (a)(2) shall take effect as if included in the Tax Equity and Fiscal Responsibility Act of 1982.

Ante, p. 865.

(3) TRANSITION RULE.—A trust forming part of a plan shall not be disqualified under paragraph (9) of section 401(a) of the Internal Revenue Code of 1954, as amended by subsection (a)(1), by reason of distributions under a designation (before January 1, 1984) by any employee in accordance with a designation described in section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act of 1982 (as in effect before the amendments made by this Act).

26 USC 401 note.

(4) SPECIAL RULE FOR GOVERNMENTAL PLANS.—In the case of a governmental plan (within the meaning of section 414(d) of the Internal Revenue Code of 1954), paragraph (1) shall be applied by substituting “1986” for “1984”.

(5) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a plan maintained pursuant to one or more collective bargaining agreements ratified on or before the date of the enactment of this Act between employee representatives and one or more employers, the amendments made by this section shall not apply to years beginning before the earlier of—

(A) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

(B) January 1, 1988.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.

SEC. 522. ROLLOVER OF CERTAIN PARTIAL DISTRIBUTIONS PERMITTED.

(a) GENERAL RULE.—

26 USC 402.

(1) QUALIFIED TRUSTS.—Clause (i) of section 402(a)(5)(A) (relating to rollover amounts) is amended to read as follows—

“(i) any portion of the balance to the credit of an employee in a qualified trust is paid to him,”.

(2) **QUALIFIED ANNUITIES.**—Clause (i) of section 403(a)(4)(A) (relating to rollover amounts) is amended to read as follows: 26 USC 403.

“(i) any portion of the balance to the credit of an employee in an employee annuity described in paragraph (1) is paid to him,”.

(3) **SECTION 403(b) ANNUITIES.**—Clause (i) of section 403(b)(8)(A) (relating to rollover amounts) is amended to read as follows:

“(i) any portion of the balance to the credit of an employee in an annuity contract described in paragraph (1) is paid to him,”.

(b) **SPECIAL RULES FOR ROLLOVERS OF PARTIAL DISTRIBUTIONS.**—Paragraph (5) of section 402(a) is amended by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively, and by inserting after subparagraph (C) the following new subparagraph: 26 USC 402.

“(D) **SPECIAL RULES FOR PARTIAL DISTRIBUTIONS.**—

“(i) **REQUIREMENTS.**—Subparagraph (A) shall apply to a partial distribution only if—

“(I) such distribution is of an amount equal to at least 50 percent of the balance to the credit of the employee in a qualified trust (determined immediately before such distribution and without regard to subsection (e)(4)(C)),

“(II) such distribution is not one of a series of periodic payments, and

“(III) the employee elects (at such time and in such manner as the Secretary shall by regulations prescribe) to have subparagraph (A) apply to such partial distribution.

“(ii) **PARTIAL DISTRIBUTIONS MAY BE TRANSFERRED ONLY TO INDIVIDUAL RETIREMENT PLANS.**—In the case of a partial distribution, a plan described in subclause (IV) or (V) of subparagraph (E)(iv) shall not be treated as an eligible retirement plan.

“(iii) **DENIAL OF 10-YEAR AVERAGING AND CAPITAL GAINS TREATMENT FOR SUBSEQUENT DISTRIBUTIONS.**—If an election under clause (i) is made with respect to any partial distribution paid to any employee—

“(I) paragraph (2) of this subsection,

“(II) paragraphs (1) and (3) of subsection (e), and

“(III) paragraph (2) of section 403(a),

shall not apply to any distribution (paid after such partial distribution) of the balance to the credit of such employee under the plan under which such partial distribution was made (or under any other plan which, under subsection (e)(4)(C), would be aggregated with such plan).

“(iv) **SPECIAL RULE FOR UNREALIZED APPRECIATION.**—If an election under clause (i) is made with respect to any partial distribution, the second and third sentences of paragraph (1) shall not apply to such distribution.”

(c) **PARTIAL DISTRIBUTIONS PAID TO SPOUSE OF EMPLOYEE AFTER EMPLOYEE'S DEATH ELIGIBLE FOR ROLLOVER.**—Paragraph (7) of section 402(a) (relating to rollover where spouse receives lump-sum distribution at death of employee) is amended to read as follows:

“(7) **ROLLOVER WHERE SPOUSE RECEIVES DISTRIBUTIONS AFTER DEATH OF EMPLOYEE.**—If any distribution attributable to an

employee is paid to the spouse of the employee after the employee's death, paragraph (5) shall apply to such distribution in the same manner as if the spouse were the employee."

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The following provisions are each amended by striking out "qualifying rollover distribution" each place it appears and inserting in lieu thereof "qualified total distribution"—

26 USC 402.

Ante, p. 869.

(A) section 402(a)(5)(B),

(B) section 402(a)(5)(E)(i) (as redesignated by subsection (b)), and

(C) section 402(a)(6)(E)(i).

(2) Subparagraph (B) of section 402(a)(5) is amended by adding at the end thereof the following new sentence: "In the case of any partial distribution, the maximum amount transferred to which subparagraph (A) applies shall not exceed the portion of such distribution which is includible in gross income (determined without regard to subparagraph (A))."

(3) Clause (ii) of section 402(a)(5)(E) (as redesignated by subsection (b)) is amended by striking out "gross income" and inserting in lieu thereof "gross income (determined without regard to this paragraph)".

(4) Clause (v) of subparagraph (E) of section 402(a)(5) (as redesignated by subsection (b)) is amended to read as follows:

"(v) PARTIAL DISTRIBUTION.—The term 'partial distribution' means any distribution to an employee of any portion of the balance to the credit of such employee in a qualified trust; except that such term shall not include any distribution which is a qualified total distribution."

(5) Subparagraph (F) of section 402(a)(5) (as redesignated by subsection (b)) is amended by striking out "subparagraph (D)(iv)" each place it appears and inserting in lieu thereof "subparagraph (E)(iv)".

(6) Paragraph (6) of section 402(a) is amended by striking out "paragraph (5)(D)(i)" each place it appears and inserting in lieu thereof "paragraph (5)(E)(i)".

(7) Clauses (iii) and (iv) of section 402(a)(6)(D) are each amended by striking out "employee contributions" and inserting in lieu thereof "employee contributions (or, in the case of a partial distribution, the amount not includible in gross income)".

(8) Clause (i) of section 402(a)(6)(E) is amended by striking out "paragraph (5)(D)(i)(II)" and inserting in lieu thereof "paragraph (5)(D) or (5)(E)(i)(II)".

(9) Subparagraph (B) of section 403(a)(4) is amended by striking out "(B) through (E)" and inserting in lieu thereof "(B) through (F)".

26 USC 403.

(10) Subparagraph (B) of section 403(b)(8) is amended to read as follows:

"(B) SPECIAL RULES FOR PARTIAL DISTRIBUTIONS.—

"(i) IN GENERAL.—In the case of any distribution other than a total distribution, rules similar to the rules of clauses (i) and (ii) of section 402(a)(5)(D) shall apply.

Ante, p. 869.

"(ii) TOTAL DISTRIBUTION.—For purposes of subparagraph (A), the term 'total distribution' means one or more distributions from an annuity contract described in paragraph (1) which would constitute a lump-sum

distribution within the meaning of section 402(e)(4)(A) (determined without regard to subparagraphs (B) and (H) of section 402(e)(4)) if such annuity contract were described in subsection (a), or 1 or more distributions of accumulated deductible employee contributions (within the meaning of section 72(o)(5))."

(11) Subparagraph (C) of section 403(b)(8) is amended by striking out "(D)(v), and (E)(i)" and inserting in lieu thereof "(F)(i)". 26 USC 403.

(12) Clause (ii) of section 408(d)(3)(A) is amended by striking out "rollover contribution from an employee's trust" and inserting in lieu thereof "rollover contribution of a qualified total distribution (as defined in section 402(a)(5)(E)(i)) from an employee's trust". 26 USC 408.

(13) Subparagraph (C) of section 409(b)(3) is amended by striking out the second sentence and inserting in lieu thereof the following new sentences: "This subparagraph does not apply in the case of a transfer to such an employee's trust or such an annuity unless no part of the value of such proceeds is attributable to any source other than a qualified rollover contribution. For purposes of the preceding sentence, the term 'qualified rollover contribution' means any rollover contribution of a qualified total distribution (as defined in section 402(a)(5)(E)(i)) which is from such an employee's trust or annuity plan (other than an annuity plan or a trust forming part of a plan under which the individual was an employee within the meaning of section 401(c)(1) at the time contributions were made on his behalf under such plan), and which did not qualify as a rollover contribution by reason of section 402(a)(7)."

Ante, p. 852.

Ante, p. 869.

Ante, p. 869.

(e) **EFFECTIVE DATE.**—The amendments made by this section shall apply to distributions made after the date of the amendment of this Act, in taxable years ending after such date. 26 USC 402 note.

SEC. 523. TREATMENT OF DISTRIBUTIONS WHERE SUBSTANTIALLY ALL CONTRIBUTIONS ARE EMPLOYEE CONTRIBUTIONS.

(a) **IN GENERAL.**—Subsection (e) of section 72 (relating to amounts not received as annuities) is amended by adding at the end thereof the following new paragraph: 26 USC 72.

"(7) **SPECIAL RULES FOR PLANS WHERE SUBSTANTIALLY ALL CONTRIBUTIONS ARE EMPLOYEE CONTRIBUTIONS.**—

"(A) **IN GENERAL.**—In the case of any plan or contract to which this paragraph applies, subparagraph (D) of paragraph (5) shall not apply to any amount received from such plan or contract.

"(B) **PLANS OR CONTRACTS TO WHICH THIS PARAGRAPH APPLIES.**—This paragraph shall apply to any trust or contract—

"(i) which is described in clause (i) or subclause (I), (II), or (III) of clause (ii) of paragraph (5)(D), and

"(ii) with respect to which 85 percent of the total contributions during a representative period are derived from employee contributions.

"(C) **SPECIAL RULE FOR CERTAIN FEDERAL PLANS.**—If the Federal Government or an instrumentality thereof maintains more than 1 plan, subparagraph (B) shall be applied by aggregating all such plans which are actively administered by the Federal Government or such instrumentality."

(b) **CONFORMING AMENDMENTS.**—

26 USC 72. (1) Subparagraph (D) of section 72(e)(5) (relating to contracts under qualified plans) is amended by striking out "This" and inserting in lieu thereof "Except as provided in paragraph (7), this".

(2) Paragraph (3) of section 72(p) (defining qualified employer plan) is amended by inserting "other than a plan described in subsection (e)(7)" after "section 219(e)(3)".

26 USC 72 note. (c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to any amount received or loan made after the 90th day after the date of the enactment of this Act.

SEC. 524. PROVISIONS RELATING TO TOP-HEAVY PLANS.

(a) **DEFINITION OF KEY EMPLOYEE.**—

26 USC 416. (1) **IN GENERAL.**—Clause (i) of section 416(i)(1)(A) (defining key employee) is amended by inserting "having an annual compensation greater than 150 percent of the amount in effect under section 415(c)(1)(A) for any such plan year" after "employer".

26 USC 416 note. (2) **EFFECTIVE DATE.**—The amendment made by this subsection shall apply to plan years beginning after December 31, 1983.

(b) **ACCRUED BENEFIT OF INDIVIDUAL NOT EMPLOYED WITHIN LAST 5 YEARS DISREGARDED.**—

26 USC 416. (1) **IN GENERAL.**—Paragraph (4) of section 416(g) (relating to other special rules) is amended by adding at the end thereof the following new subparagraph:

"(E) **BENEFITS NOT TAKEN INTO ACCOUNT IF EMPLOYEE NOT EMPLOYED FOR LAST 5 YEARS.**—If any individual has not received any compensation from any employer maintaining the plan (other than benefits under the plan) at any time during the 5-year period ending on the determination date, any accrued benefit for such individual (and the account of such individual) shall not be taken into account."

26 USC 416 note. (2) **EFFECTIVE DATE.**—The amendment made by this subsection shall apply to plan years beginning after December 31, 1984.

(c) **SALARY REDUCTION ARRANGEMENTS MAY BE TAKEN INTO ACCOUNT.**—

26 USC 416. (1) **IN GENERAL.**—Paragraph (2) of section 416(c) (relating to minimum benefits for defined contribution plans) is amended by striking out subparagraph (C).

26 USC 416 note. (2) **EFFECTIVE DATE.**—The amendment made by this subsection shall apply to plan years beginning after December 31, 1984.

(d) **CERTAIN GOVERNMENTAL PLANS EXEMPT FROM TOP-HEAVY PLAN RULES.**—

26 USC 401. (1) **IN GENERAL.**—Paragraph (10)(B) of section 401(a) (relating to plan requirements regarding top-heavy plans) is amended by adding at the end thereof the following new clause:

"(iii) **EXEMPTION FOR GOVERNMENTAL PLANS.**—This subparagraph shall not apply to any governmental plan."

26 USC 401 note. (2) **EFFECTIVE DATE.**—The amendment made by this subsection shall apply to plan years beginning after December 31, 1983.

26 USC 401 note. (e) **QUALIFICATION REQUIREMENTS MODIFIED IF REGULATIONS NOT ISSUED.**—

(1) **IN GENERAL.**—If the Secretary of the Treasury or his delegate does not publish final regulations under section 416 of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) before January 1, 1985, the Secretary shall publish before such date plan amendment

provisions which may be incorporated in a plan to meet the requirements of section 401(a)(10)(B)(ii) of such Code.

(2) **EFFECT OF INCORPORATION.**—If a plan is amended to incorporate the plan amendment provisions described in paragraph (1), such plan shall be treated as meeting the requirements of section 401(a)(10)(B)(ii) of the Internal Revenue Code of 1954 during the period such amendment is in effect but not later than 6 months after the final regulations described in paragraph (1) are published.

(3) **FAILURE BY SECRETARY TO PUBLISH.**—If the Secretary of the Treasury or his delegate does not publish plan amendment provisions described in paragraph (1), the plan shall be treated as meeting the requirements of section 401(a)(10)(B) of the Internal Revenue Code of 1954 if—

(A) such plan is amended to incorporate such requirements by reference, except that

(B) in the case of any optional requirement under section 416 of such Code, if such amendment does not specify the manner in which such requirement will be met, the employer shall be treated as having elected the requirement with respect to each employee which provides the maximum vested accrued benefit for such employee.

SEC. 525. REPEAL OF ESTATE TAX EXCLUSION FOR QUALIFIED PENSION PLAN BENEFITS.

(a) **IN GENERAL.**—Section 2039 (relating to inclusion in the gross estate of annuities) is amended by striking out subsections (c), (d), (e), (f), and (g) and inserting in lieu thereof the following new subsection: 26 USC 2039.

“(c) **EXCEPTION OF CERTAIN ANNUITY INTERESTS CREATED BY COMMUNITY PROPERTY LAWS.**—

“(1) **IN GENERAL.**—In the case of an employee on whose behalf contributions or payments were made by his employer or former employer under a trust, plan, or contract to which this subsection applies, if the spouse of such employee predeceases such employee, then notwithstanding any provision of law, there shall be excluded from the gross estate of such spouse the value of any interest of such spouse in such trust, plan, or contract, to the extent such interest—

“(A) is attributable to such contributions or payments, and

“(B) arises solely by reason of such spouse's interest in community income under the community property laws of a State.

“(2) **TRUSTS, PLANS, AND CONTRACTS TO WHICH SUBSECTION APPLIES.**—This subsection shall apply to—

“(A) any trust, plan, or contract which at the time of the decedent's separation from employment (by death or otherwise), or if earlier, at the time of termination of the plan—

“(i) formed part of a plan which met the requirements of section 401(a), or

“(ii) was purchased pursuant to a plan described in section 403(a), or

“(B) a retirement annuity contract purchased for an employee by an employer which is—

“(i) an organization referred to in clause (ii) or (vi) of section 170(b)(1)(A), or

“(ii) a religious organization (other than a trust) exempt from taxation under section 501(a).

“(3) AMOUNT CONTRIBUTED BY EMPLOYEE.—For purposes of this subsection—

“(A) contributions or payments made by the decedent’s employer or former employer under a trust, plan, or contract described in paragraph (2)(A) shall not be considered to be contributed by the decedent, and

“(B) contributions or payments made by the decedent’s employer or former employer toward the purchase of an annuity contract described in paragraph (2)(B) shall not be considered to be contributed by the decedent to the extent excludable from gross income under section 403(b).”

26 USC 2039
note.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to the estates of decedents dying after December 31, 1984.

(2) EXCEPTION FOR PARTICIPANTS IN PAY STATUS.—The amendments made by this section shall not apply to the estate of any decedent who—

(A) was a participant in any plan who was in pay status on December 31, 1984, and

(B) irrevocably elected the form of the benefit before the date of the enactment of this Act.

(3) PAY STATUS RULE EXTENDED TO \$100,000 LIMITATION.—Subsection (c) of section 245 of the Tax Equity and Fiscal Responsibility Act of 1982 is amended by inserting “, except that such amendments shall not apply to the estate of any decedent who was a participant in any plan who was in pay status on December 31, 1982, and irrevocably elected before January 1, 1983, the form of benefit”.

26 USC 2039
note.

SEC. 526. AFFILIATED SERVICE GROUPS, EMPLOYEE LEASING ARRANGEMENTS, AND COLLECTIVE BARGAINING AGREEMENTS.

(a) ATTRIBUTION RULES FOR AFFILIATED SERVICE GROUPS.—

26 USC 414.

(1) IN GENERAL.—Subparagraph (B) of section 414(m)(6), as in effect for taxable years beginning after December 31, 1983, is amended by striking out “section 267(c)” and inserting in lieu thereof “section 318(a)”.

26 USC 414 note.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years beginning after December 31, 1984.

(b) EMPLOYEE LEASING EXCEPTION ONLY APPLIES TO NON-EMPLOYEES.—

(1) IN GENERAL.—Paragraph (2) of section 414(n) (defining leased employee) is amended by striking out “any person” in the material preceding subparagraph (A) and inserting in lieu thereof “any person who is not an employee of the recipient and”.

26 USC 414 note.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years beginning after December 31, 1983.

(c) DETERMINATION OF WHETHER THERE IS A COLLECTIVE BARGAINING AGREEMENT.—

Ante, p. 558.

(1) IN GENERAL.—Subsection (a) of section 7701 (relating to definitions) is amended by adding at the end thereof the following new paragraph:

“(46) DETERMINATION OF WHETHER THERE IS A COLLECTIVE BARGAINING AGREEMENT.—In determining whether there is a collective bargaining agreement between employee representa-

tives and 1 or more employers, the term 'employee representatives' shall not include any organization more than one-half of the members of which are employees who are owners, officers, or executives of the employer."

(2) **EFFECTIVE DATE.**—The amendment made by this subsection shall take effect on April 1, 1984. 26 USC 7701 note.

(d) **ADDITIONAL REGULATIONS.**—

(1) **IN GENERAL.**—Section 414 (relating to definitions and special rules) is amended by adding at the end thereof the following new subsection: 26 USC 414.

"(o) **REGULATIONS.**—The Secretary shall prescribe such regulations (which may provide rules in addition to the rules contained in subsections (m) and (n)) as may be necessary to prevent the avoidance of any employee benefit requirement listed in subsection (m)(4) or (n)(3) through the use of—

- "(1) separate organizations,
- "(2) employee leasing, or
- "(3) other arrangements."

(2) **CONFORMING AMENDMENT.**—Subsection (m) of section 414 is amended by striking out paragraph (6).

(3) **EFFECTIVE DATE.**—The amendments made by this subsection shall take effect on the date of the enactment of this Act. 26 USC 414 note.

SEC. 527. PROVISIONS RELATING TO CASH OR DEFERRED ARRANGEMENTS.

(a) **PARTICIPATION AND DISCRIMINATION STANDARDS.**—Subparagraph (A) of section 401(k)(3) is amended to read as follows:

26 USC 401.

"(A) A cash or deferred arrangement shall not be treated as a qualified cash or deferred arrangement unless—

"(i) those employees eligible to benefit under the arrangement satisfy the provisions of subparagraph (A) or (B) of section 410(b)(1), and

"(ii) the actual deferral percentage for highly compensated employees (as defined in paragraph (4)) for such year bears a relationship to the actual deferral percentage for all other eligible employees for such plan year which meets either of the following tests:

"(I) The actual deferral percentage for the group of highly compensated employees is not more than the actual deferral percentage of all other eligible employees multiplied by 1.5.

"(II) The excess of the actual deferral percentage for the group of highly compensated employees over that of all other eligible employees is not more than 3 percentage points, and the actual deferral percentage for the group of highly compensated employees is not more than the actual deferral percentage of all other eligible employees multiplied by 2.5.

If 2 or more plans which include cash or deferred arrangements are considered as 1 plan for purposes of section 401(a)(4) or 410(b), the cash or deferred arrangements included in such plans shall be treated as 1 arrangement for purposes of this subparagraph.

The deferral percentage taken into account under this subparagraph for any employee who is a participant under 2 or more cash or deferred arrangements of the employer

shall be the sum of the deferral percentages for such employee under each of such arrangements.”

(b) APPLICATION TO PRE-ERISA MONEY PURCHASE PLAN.—

26 USC 401.

(1) GENERAL RULE.—Paragraphs (1) and (2) of section 401(k) (relating to cash or deferred arrangements) are each amended by inserting “(or a pre-ERISA money purchase plan)” after “stock bonus plan”.

(2) DEFINITION OF PRE-ERISA MONEY PURCHASE PLAN.—Subsection (k) of section 401 is amended by adding at the end thereof the following new paragraph:

“(5) **PRE-ERISA MONEY PURCHASE PLAN.**—For purposes of this subsection, the term ‘pre-ERISA money purchase plan’ means a pension plan—

“(A) which is a defined contribution plan (as defined in section 414(i)),

“(B) which was in existence on June 27, 1974, and which, on such date, included a salary reduction arrangement, and

“(C) under which neither the employee contributions nor the employer contributions may exceed the levels provided for by the contribution formula in effect under the plan on such date.”

(3) TECHNICAL AMENDMENT.—Subparagraph (B) of section 401(k)(2) is amended by striking out “, hardship or the attainment of age 59½,” and inserting in lieu thereof “(or in the case of a profit sharing or stock bonus plan, hardship or the attainment of age 59½)”.

26 USC 401 note.

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendment made by subsection (a) shall apply to plan years beginning after December 31, 1984.

(B) EXCEPTION FOR CERTAIN EXISTING PLANS.—The amendment made by subsection (a) shall not apply to any plan—

(i) which was maintained by a State on June 8, 1984, and

(ii) with respect to which a determination letter had been issued by the Secretary on December 6, 1982.

(2) SUBSECTION (b).—

(A) IN GENERAL.—The amendments made by this section shall apply with respect to plan years beginning after the date of the enactment of this Act.

26 USC 401 note.

Supra.

(B) TRANSITIONAL RULE.—Rules similar to the rules under section 135(c)(2) of the Revenue Act of 1978 shall apply with respect to any pre-ERISA money purchase plan (as defined in section 401(k)(5) of the Internal Revenue Code of 1954) for plan years beginning after December 31, 1979, and on or before the date of the enactment of this Act.

SEC. 528. TREATMENT OF CERTAIN MEDICAL, ETC., BENEFITS UNDER SECTION 415.

26 USC 415.

(a) GENERAL RULE.—Section 415 (relating to limitations on benefits and contributions under qualified plan) is amended by adding at the end thereof the following new subsection:

“(1) TREATMENT OF CERTAIN MEDICAL BENEFITS.—

“(1) IN GENERAL.—For purposes of this section, contributions allocated to any individual medical account which is part of a

defined benefit plan shall be treated as an annual addition to a defined contribution plan for purposes of subsection (c).

“(2) **INDIVIDUAL MEDICAL BENEFIT ACCOUNT.**—For purposes of paragraph (1), the term ‘individual medical benefit account’ means any separate account—

“(A) which is established for a participant under a defined benefit plan, and

“(B) from which benefits described in section 401(h) are payable solely to such participant, his spouse, or his dependents.”

(b) **REQUIREMENT THAT SEPARATE ACCOUNT BE MAINTAINED FOR 5-PERCENT OWNER.**—Subsection (h) of section 401 (relating to medical, etc., benefits for retired employees and their spouses and dependents) is amended by striking out “and” at the end of paragraph (4), by striking out the period at the end of paragraph (5) and inserting in lieu thereof “, and”, and by adding at the end thereof the following new paragraph:

“(6) in the case of an employee who is a 5-percent owner, a separate account is established and maintained for such benefits payable to such employee (and his spouse and dependents) and such benefits (to the extent attributable to plan years beginning after March 31, 1984, for which the employee is a 5-percent owner) are only payable to such employee (and his spouse and dependents) from such separate account.

For purposes of paragraph (6), the term ‘5-percent owner’ means any employee who, at any time during the plan year or any preceding plan year during which contributions were made on behalf of such employee, is or was a 5-percent owner (as defined in section 416(i)(1)(B)).”

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to years beginning after March 31, 1984.

SEC. 529. CERTAIN ALIMONY TREATED AS COMPENSATION.

(a) **IN GENERAL.**—Paragraph (1) of section 219(f) (defining compensation) is amended by adding at the end thereof the following new sentence: “The term ‘compensation’ shall include any amount includible in the individual’s gross income under section 71 with respect to a divorce or separation instrument described in subparagraph (A) of section 71(b)(2).”

(b) **CONFORMING AMENDMENT.**—Subsection (b) of section 219 is amended by striking out paragraph (4).

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 1984.

Subtitle C—Tax Treatment of Fringe Benefits

SEC. 531. EXCLUSION OF CERTAIN FRINGE BENEFITS FROM GROSS INCOME.

(a) **EXCLUSION OF CERTAIN FRINGE BENEFITS.**—

(1) **IN GENERAL.**—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 132 as section 133 and by inserting after section 131 the following new section:

26 USC 132.

"SEC. 132. CERTAIN FRINGE BENEFITS.

"(a) EXCLUSION FROM GROSS INCOME.—Gross income shall not include any fringe benefit which qualifies as a—

- "(1) no-additional-cost service,
- "(2) qualified employee discount,
- "(3) working condition fringe, or
- "(4) de minimis fringe.

"(b) NO-ADDITIONAL-COST SERVICE DEFINED.—For purposes of this section, the term 'no-additional-cost service' means any service provided by an employer to an employee for use by such employee if—

- "(1) such service is offered for sale to customers in the ordinary course of the line of business of the employer in which the employee is performing services, and
- "(2) the employer incurs no substantial additional cost (including forgone revenue) in providing such service to the employee (determined without regard to any amount paid by the employee for such service).

"(c) QUALIFIED EMPLOYEE DISCOUNT DEFINED.—For purposes of this section—

"(1) QUALIFIED EMPLOYEE DISCOUNT.—The term 'qualified employee discount' means any employee discount with respect to qualified property or services to the extent such discount does not exceed—

"(A) in the case of property, the gross profit percentage of the price at which the property is being offered by the employer to customers, or

"(B) in the case of services, 20 percent of the price at which the services are being offered by the employer to customers.

"(2) GROSS PROFIT PERCENTAGE.—

"(A) IN GENERAL.—The term 'gross profit percentage' means the percent which—

"(i) the excess of the aggregate sales price of property sold by the employer to customers over the aggregate cost of such property to the employer, is of

"(ii) the aggregate sale price of such property.

"(B) DETERMINATION OF GROSS PROFIT PERCENTAGE.—Gross profit percentage shall be determined on the basis of—

"(i) all property offered to customers in the ordinary course of the line of business of the employer in which the employee is performing services (or a reasonable classification of property selected by the employer), and

"(ii) the employer's experience during a representative period.

"(3) EMPLOYEE DISCOUNT DEFINED.—The term 'employee discount' means the amount by which—

"(A) the price at which the property or services are provided to the employee by the employer, is less than

"(B) the price at which such property or services are being offered by the employer to customers.

"(4) QUALIFIED PROPERTY OR SERVICES.—The term 'qualified property or services' means any property (other than real property and other than personal property of a kind held for investment) or services which are offered for sale to customers in the ordinary course of the line of business of the employer in which the employee is performing services.

“(d) **WORKING CONDITION FRINGE DEFINED.**—For purposes of this section, the term ‘working condition fringe’ means any property or services provided to an employee of the employer to the extent that, if the employee paid for such property or services, such payment would be allowable as a deduction under section 162 or 167.

“(e) **DE MINIMIS FRINGE DEFINED.**—For purposes of this section—

“(1) **IN GENERAL.**—The term ‘de minimis fringe’ means any property or service the value of which is (after taking into account the frequency with which similar fringes are provided by the employer to the employer’s employees) so small as to make accounting for it unreasonable or administratively impracticable.

“(2) **TREATMENT OF CERTAIN EATING FACILITIES.**—The operation by an employer of any eating facility for employees shall be treated as a de minimis fringe if—

“(A) such facility is located on or near the business premises of the employer, and

“(B) revenue derived from such facility normally equals or exceeds the direct operating costs of such facility.

The preceding sentence shall apply with respect to any officer, owner, or highly compensated employee only if access to the facility is available on substantially the same terms to each member of a group of employees which is defined under a reasonable classification set up by the employer which does not discriminate in favor of officers, owners, or highly compensated employees.

“(f) **CERTAIN INDIVIDUALS TREATED AS EMPLOYEES FOR PURPOSES OF SUBSECTIONS (a) (1) AND (2).**—For purposes of paragraphs (1) and (2) of subsection (a)—

“(1) **RETIRED AND DISABLED EMPLOYEES AND SURVIVING SPOUSE OF EMPLOYEE TREATED AS EMPLOYEE.**—With respect to a line of business of an employer, the term ‘employee’ includes—

“(A) any individual who was formerly employed by such employer in such line of business and who separated from service with such employer in such line of business by reason of retirement or disability, and

“(B) any widow or widower of any individual who died while employed by such employer in such line of business or while an employee within the meaning of subparagraph (A).

“(2) **SPOUSE AND DEPENDENT CHILDREN.**—

“(A) **IN GENERAL.**—Any use by the spouse or a dependent child of the employee shall be treated as use by the employee.

“(B) **DEPENDENT CHILD.**—For purposes of subparagraph (A), the term ‘dependent child’ means any child (as defined in section 151(e)(3)) of the employee—

“(i) who is a dependent of the employee, or

“(ii) both of whose parents are deceased.

For purposes of the preceding sentence, any child to whom section 152(e) applies shall be treated as the dependent of both parents.

Ante, p. 799.

“(g) **SPECIAL RULES RELATING TO EMPLOYER.**—For purposes of this section—

“(1) **CONTROLLED GROUPS, ETC.**—All employees treated as employed by a single employer under subsection (b), (c), or (m) of section 414 shall be treated as employed by a single employer for purposes of this section.

“(2) **RECIPROCAL AGREEMENTS.**—For purposes of paragraph (1) of subsection (a), any service provided by an employer to an employee of another employer shall be treated as provided by the employer of such employee if—

“(A) such service is provided pursuant to a written agreement between such employers, and

“(B) neither of such employers incurs any substantial additional cost (including forgone revenue) in providing such service or pursuant to such agreement.

“(h) **SPECIAL RULES.**—

“(1) **EXCLUSIONS UNDER SUBSECTION (a) (1) AND (2) APPLY TO OFFICERS, ETC., ONLY IF NO DISCRIMINATION.**—Paragraphs (1) and (2) of subsection (a) shall apply with respect to any fringe benefit described therein provided with respect to any officer, owner, or highly compensated employee only if such fringe benefit is available on substantially the same terms to each member of a group of employees which is defined under a reasonable classification set up by the employer which does not discriminate in favor of officers, owners, or highly compensated employees.

“(2) **SPECIAL RULE FOR LEASED SECTIONS OF DEPARTMENT STORES.**—

“(A) **IN GENERAL.**—For purposes of paragraph (2) of subsection (a), in the case of a leased section of a department store—

“(i) such section shall be treated as part of the line of business of the person operating the department store, and

“(ii) employees in the leased section shall be treated as employees of the person operating the department store.

“(B) **LEASED SECTION OF DEPARTMENT STORE.**—For purposes of subparagraph (A), a leased section of a department store is any part of a department store where over-the-counter sales of property are made under a lease or similar arrangement where it appears to the general public that individuals making such sales are employed by the person operating the department store.

“(3) **AUTO SALESMEN.**—

“(A) **IN GENERAL.**—For purposes of subsection (a)(3), qualified automobile demonstration use shall be treated as a working condition fringe.

“(B) **QUALIFIED AUTOMOBILE DEMONSTRATION USE.**—For purposes of subparagraph (A), the term ‘qualified automobile demonstration use’ means any use of an automobile by a full-time automobile salesman in the sales area in which the automobile dealer’s sales office is located if—

“(i) such use is provided primarily to facilitate the salesman’s performance of services for the employer, and

“(ii) there are substantial restrictions on the personal use of such automobile by such salesman.

“(4) **PARKING.**—The term ‘working condition fringe’ includes parking provided to an employee on or near the business premises of the employer.

“(5) **ON-PREMISES GYMS AND OTHER ATHLETIC FACILITIES.**—

“(A) IN GENERAL.—Gross income shall not include the value of any on-premises athletic facility provided by an employer to his employees.

“(B) ON-PREMISES ATHLETIC FACILITY.—For purposes of this paragraph, the term ‘on-premises athletic facility’ means any gym or other athletic facility—

“(i) which is located on the premises of the employer,

“(ii) which is operated by the employer, and

“(iii) substantially all the use of which is by employees of the employer, their spouses, and their dependent children (within the meaning of subsection (f)).

“(i) CUSTOMERS NOT TO INCLUDE EMPLOYEES.—For purposes of this section (other than subsection (c)(2)(B)), the term ‘customers’ shall only include customers who are not employees.

“(j) SECTION NOT TO APPLY TO FRINGE BENEFITS EXPRESSLY PROVIDED FOR ELSEWHERE.—This section (other than subsection (e)) shall not apply to any fringe benefits of a type the tax treatment of which is expressly provided for in any other section of this chapter.

“(k) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.”

(2) CLERICAL AMENDMENT.—The table of sections for such part III is amended by striking out the item relating to section 132 and inserting in lieu thereof the following:

“Sec. 132. Certain fringe benefits.

“Sec. 133. Cross references to other Acts.”

(b) CAFETERIA PLAN.—

(1) DEFINITION OF CAFETERIA PLAN.—Paragraph (1) of section 125(d) (defining cafeteria plan) is amended to read as follows: 26 USC 125.

“(1) IN GENERAL.—The term ‘cafeteria plan’ means a written plan under which—

“(A) all participants are employees, and

“(B) the participants may choose among 2 or more benefits consisting of cash and statutory nontaxable benefits.”

(2) DEFINITION OF STATUTORY NONTAXABLE BENEFIT.—

(A) IN GENERAL.—Subsection (f) of section 125 is amended to read as follows:

“(f) STATUTORY NONTAXABLE BENEFITS DEFINED.—For purposes of this section, the term ‘statutory nontaxable benefit’ means any benefit which, with the application of subsection (a) is not includible in the gross income of the employee by reason of an express provision of this chapter (other than section 117, 124, 127, or 132). Such term includes any group term life insurance which is includible in gross income only because it exceeds the dollar limitation of section 79.”

Ante, p. 877.

(B) CONFORMING AMENDMENT.—Subsection (c) of section 125 is amended by striking out “nontaxable benefits” each place it appears and inserting in lieu thereof “statutory nontaxable benefits”.

(3) EXCEPTION FOR KEY EMPLOYEES.—Subsection (b) of section 125 (relating to exception for highly compensated participants) is amended to read as follows:

“(b) EXCEPTION FOR HIGHLY COMPENSATED PARTICIPANTS AND KEY EMPLOYEES.—

“(1) HIGHLY COMPENSATED PARTICIPANTS.—In the case of a highly compensated participant, subsection (a) shall not apply

to any benefit attributable to a plan year for which the plan discriminates in favor of—

“(A) highly compensated individuals as to eligibility to participate, or

“(B) highly compensated participants as to contributions and benefits.

“(2) **KEY EMPLOYEES.**—In the case of a key employee (within the meaning of section 416(i)(1)), subsection (a) shall not apply to any benefit attributable to a plan for which the statutory nontaxable benefits provided to key employees exceed 25 percent of the aggregate of such benefits provided for all employees under the plan. For purposes of the preceding sentence, statutory nontaxable benefits shall be determined without regard to the last sentence of subsection (f).

“(3) **YEAR OF INCLUSION.**—For purposes of determining the taxable year of inclusion, any benefit described in paragraph (1) or (2) shall be treated as received or accrued in the taxable year of the participant or key employee in which the plan year ends.”

(4) **REPORTING REQUIREMENTS.**—

26 USC 125.

(A) Section 125 (relating to cafeteria plans) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

“(h) **REPORTING REQUIREMENTS.**—

“(1) **IN GENERAL.**—Each employer maintaining a cafeteria plan during any year which begins after December 31, 1984, and to which this section applies shall file a return (at such time and in such manner as the Secretary shall by regulations prescribe) with respect to such plan showing for such year—

“(A) the number of employees of the employer,

“(B) the number of employees participating under the plan,

“(C) the total cost of the plan during the year, and

“(D) the name, address, and taxpayer identification number of the employer and the type of business in which the employer is engaged.

“(2) **RECORDKEEPING REQUIREMENT.**—Each employer maintaining a cafeteria plan during any year shall keep such records as may be necessary for purposes of determining whether the requirements of this section are met.

“(3) **ADDITIONAL INFORMATION WHEN REQUIRED BY THE SECRETARY.**—Any employer—

“(A) who maintains a cafeteria plan during any year for which a return is required under paragraph (1), and

“(B) who is required by the Secretary to file an additional return for such year,

shall file such additional return. Such additional return shall be filed at such time and in such manner as the Secretary shall prescribe and shall contain such information as the Secretary shall prescribe.”

26 USC 6652.

(B) Subsection (f) of section 6652 is amended—

(i) by striking out “or 6047 (relating to information relating to certain trusts and annuity and bond purchase plans)” and inserting in lieu thereof “, 6047 (relating to information relating to certain trusts and annuity and bond purchase plans), or 125(h) (relating to information with respect to cafeteria plans)”, and

(ii) by striking out “DEFERRED COMPENSATION.—” in the subsection heading and inserting in lieu thereof “DEFERRED COMPENSATION; ETC.—”.

(5) EXCEPTION FOR CERTAIN CAFETERIA PLANS AND BENEFITS.— 26 USC 125 note.

(A) GENERAL TRANSITIONAL RULE.—Any cafeteria plan in existence on February 10, 1984, which failed as of such date and continued to fail thereafter to satisfy the rules relating to section 125 under proposed Treasury regulations, and any benefit offered under such a cafeteria plan which failed as of such date and continued to fail thereafter to satisfy the rules of section 105, 106, 120, or 129 under proposed Treasury regulations, will not fail to be a cafeteria plan under section 125 or a nontaxable benefit under section 105, 106, 120, or 129 solely because of such failures. The preceding sentence shall apply only with respect to cafeteria plans and benefits provided under cafeteria plans before the earlier of—

(i) January 1, 1985, or

(ii) the effective date of any modification to provide additional benefits after February 10, 1984.

(B) SPECIAL TRANSITION RULE FOR ADVANCE ELECTION BENEFIT BANKS.—Any benefit offered under a cafeteria plan in existence on February 10, 1984, which failed as of such date and continued to fail thereafter to satisfy the rules of section 105, 106, 120, or 129 under proposed Treasury regulations because an employee was assured of receiving (in cash or any other benefit) amounts available but unused for covered reimbursement during the year without regard to whether he incurred covered expenses, will not fail to be a nontaxable benefit under such applicable section solely because of such failure. The preceding sentence shall apply only with respect to benefits provided under cafeteria plans before the earlier of—

(i) July 1, 1985, or

(ii) the effective date of any modification to provide additional benefits after February 10, 1984.

Except as provided in Treasury regulations, the special transition rule is available only for benefits with respect to which, after December 31, 1984, contributions are fixed before the period of coverage and taxable cash is not available until the end of such period of coverage.

(C) PLANS FOR WHICH SUBSTANTIAL IMPLEMENTATION COSTS WERE INCURRED.—For purposes of this paragraph, any plan with respect to which substantial implementation costs had been incurred before February 10, 1984, shall be treated as in existence on February 10, 1984.

(6) STUDY OF EFFECTS OF CAFETERIA PLANS ON HEALTH CARE COSTS.—

(A) STUDY.—The Secretary of Health and Human Services, in cooperation with the Secretary of the Treasury, shall conduct a study of the effects of cafeteria plans (within the meaning of section 125 of the Internal Revenue Code of 1954) on the containment of health care costs.

(B) REPORT.—The Secretary of Health and Human Services, in cooperation with the Secretary of the Treasury, shall submit a report on the study conducted under subparagraph (A) to the Committee on Ways and Means of the

House of Representatives and the Committee on Finance of the Senate by no later than April 1, 1985.

26 USC 61. (c) CLARIFICATION THAT FRINGE BENEFITS NOT COVERED BY STATUTORY EXCLUSION INCLUDED IN GROSS INCOME.—Paragraph (1) of section 61(a) (defining gross income) is amended by striking out “commissions, and similar items” and inserting in lieu thereof “commissions, fringe benefits, and similar items”.

(d) CONFORMING AMENDMENTS TO EMPLOYMENT TAXES.—

26 USC 3121. (1) SOCIAL SECURITY TAXES.—

97 Stat. 126. (A) Subsection (a) of section 3121 (defining wages) is amended—

(i) by striking out “all remuneration paid in any medium” in the material preceding paragraph (1) and inserting in lieu thereof “all remuneration (including benefits) paid in any medium”, and

(ii) by striking out “or” at the end of paragraph (18), by striking out the period at the end of paragraph (19) and inserting in lieu thereof “; or”, and by inserting after paragraph (19) the following new paragraph:

“(20) any benefit provided to or on behalf of an employee if at the time such benefit is provided it is reasonable to believe that the employee will be able to exclude such benefit from income under section 117 or 132.”

Ante, p. 877.

42 USC 409.

97 Stat. 127.

(B) Section 209 of the Social Security Act is amended—

(i) by striking out “all remuneration paid in any medium” in the material preceding subsection (a) and inserting in lieu thereof “all remuneration (including benefits) paid in any medium”, and

(ii) by striking out “or” at the end of subsection (q), by striking out the period at the end of subsection (r) and inserting in lieu thereof “; or”, and by inserting after subsection (r) the following new subsection:

“(s) Any benefit provided to or on behalf of an employee if at the time such benefit is provided it is reasonable to believe that the employee will be able to exclude such benefit from income under section 117 or 132 of the Internal Revenue Code of 1954.”

26 USC 3231.

(2) RAILROAD RETIREMENT TAX.—Subsection (e) of section 3231 (defining compensation) is amended by adding at the end thereof the following new paragraph:

“(5) The term ‘compensation’ shall not include any benefit provided to or on behalf of an employee if at the time such benefit is provided it is reasonable to believe that the employee will be able to exclude such benefit from income under section 117 or 132.”

26 USC 3306.

97 Stat. 860.

(3) UNEMPLOYMENT TAX.—Subsection (b) of section 3306 (defining wages) is amended—

(A) by striking out “all remuneration paid in any medium” in the material preceding paragraph (1) and inserting in lieu thereof “all remuneration (including benefits) paid in any medium”, and

(B) by striking out “or” at the end of paragraph (14), by striking out the period at the end of paragraph (15) and inserting in lieu thereof “; or”, and by inserting after paragraph (15) the following new paragraph:

“(16) any benefit provided to or on behalf of an employee if at the time such benefit is provided it is reasonable to believe that

the employee will be able to exclude such benefit from income under section 117 or 132."

Ante, p. 877.

(4) **WITHHOLDING.**—Subsection (a) of section 3401 (defining wages) is amended—

26 USC 3401.

(A) by striking out "all remuneration paid in any medium" in the material preceding paragraph (1) and inserting in lieu thereof "all remuneration (including benefits) paid in any medium", and

(B) by striking out "or" at the end of paragraph (18), by striking out the period at the end of paragraph (19) and inserting in lieu thereof "; or", and by adding at the end thereof the following new paragraph:

"(20) any benefit provided to or on behalf of an employee if at the time such benefit is provided it is reasonable to believe that the employee will be able to exclude such benefit from income under section 117 or 132."

(5) **METHOD OF COLLECTING TAX FROM NON-CASH FRINGE BENEFITS.**—Section 3501 (relating to collection and payment of taxes) is amended—

26 USC 3501.

(A) by striking out "The taxes" and inserting in lieu thereof the following:

"(a) **GENERAL RULE.**—The taxes", and

(B) by adding at the end thereof the following new subsection:

"(b) **TAXES WITH RESPECT TO NON-CASH FRINGE BENEFITS.**—The taxes imposed by this subtitle with respect to non-cash fringe benefits shall be collected (or paid) by the employer at the time and in the manner prescribed by the Secretary by regulations."

(e) **ELECTION WITH RESPECT TO CERTAIN EXISTING LINES OF BUSINESS.**—

(1) **IN GENERAL.**—Chapter 43 (relating to qualified pension, etc., plans), as amended by this Act, is amended by adding at the end thereof the following new section:

"SEC. 4977. TAX ON CERTAIN FRINGE BENEFITS PROVIDED BY AN EMPLOYER.

26 USC 4977.

"(a) **IMPOSITION OF TAX.**—In the case of an employer to whom an election under this section applies for any calendar year, there is hereby imposed a tax for such calendar year equal to 30 percent of the excess fringe benefits.

"(b) **EXCESS FRINGE BENEFITS.**—For purposes of subsection (a), the term 'excess fringe benefits' means, with respect to any calendar year—

"(1) the aggregate value of the fringe benefits provided by the employer during the calendar year which were not includible in gross income under paragraphs (1) and (2) of section 132(a), over

Ante, p. 877.

"(2) 1 percent of the aggregate amount of compensation—

"(A) which was paid by the employer during such calendar year to employees, and

"(B) was includible in gross income for purposes of chapter 1.

"(c) **EFFECT OF ELECTION ON SECTION 132(a).**—If—

"(1) an election under this section is in effect with respect to an employer for any calendar year, and

"(2) as of January 1, 1984, substantially all of the employees of the employer were entitled to employee discounts or services provided by the employer in 1 line of business,

Ante, p. 877.

for purposes of paragraphs (1) and (2) of section 132(a) (but not for purposes of section 132(g)(2)), all employees of any line of business of the employer which was in existence on January 1, 1984, shall be treated as employees of the line of business referred to in paragraph (2).

“(d) PERIOD OF ELECTION.—An election under this section shall apply to the calendar year for which made and all subsequent calendar years unless revoked by the employer.

“(e) TREATMENT OF CONTROLLED GROUPS.—All employees treated as employed by a single employer under subsection (b), (c), or (m) of section 414 shall be treated as employed by a single employer for purposes of this section.”

(2) CLERICAL AMENDMENT.—The table of sections for chapter 43 is amended by adding at the end thereof the following new item:

“Sec. 4977. Tax on certain fringe benefits provided by an employer.”

26 USC 132 note.

(f) DETERMINATION OF LINE OF BUSINESS IN CASE OF AFFILIATED GROUP OPERATING RETAIL DEPARTMENT STORES.—If—

(1) as of October 5, 1983, the employees of one member of an affiliated group (as defined in section 1504 of the Internal Revenue Code of 1954 without regard to subsections (b)(2) and (b)(4) thereof) were entitled to employee discounts at the retail department stores operated by another member of such affiliated group, and

(2) the primary business of the affiliated group is the operation of retail department stores,

Ante, p. 877.

then, for purpose of applying section 132(a)(2) of the Internal Revenue Code of 1954, with respect to discounts provided for such employees at the retail department stores operated by such other member, the employer shall be treated as engaged in the same line of business as such other member.

(g) MORATORIUM ON ISSUANCE OF REGULATIONS RELATING TO FACULTY HOUSING.—

(1) IN GENERAL.—Any regulation providing for the inclusion in gross income under section 61 of the Internal Revenue Code of 1954 of the excess (if any) of the fair market value of qualified campus lodging over the greater of—

(A) the operating costs paid or incurred in furnishing such lodging, or

(B) the rent received for such lodging, shall not be issued before January 1, 1986.

(2) QUALIFIED CAMPUS LODGING.—For purposes of this subsection, the term “qualified campus lodging” means lodging which is—

(A) located on (or in close proximity to) a campus of an educational institution (described in section 170(b)(1)(A)(ii) of the Internal Revenue Code of 1954), and

(B) provide by such institution to an employee of such institution, or to a spouse or dependent (within the meaning of section 152 of such Code) of such employee.

(3) APPLICATION OF SUBSECTION.—This subsection shall apply with respect to lodging furnished after December 31, 1983, and before January 1, 1986.

26 USC 132 note.

(h) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1985.

SEC. 532. EXCLUSION OF CERTAIN REDUCTIONS IN TUITION FROM GROSS INCOME.

(a) **IN GENERAL.**—Section 117 (relating to scholarships and fellowship grants) is amended by adding at the end thereof the following new subsection:

26 USC 117.

“(d) **QUALIFIED TUITION REDUCTIONS.**—

“(1) **IN GENERAL.**—Gross income shall not include any qualified tuition reduction.

“(2) **QUALIFIED TUITION REDUCTION.**—For purposes of this subsection, the term ‘qualified tuition reduction’ means the amount of any reduction in tuition provided to an employee of an organization described in section 170(b)(1)(A)(ii) for the education (below the graduate level) at such organization (or another organization described in section 170(b)(1)(A)(ii)) of—

“(A) such employee, or

“(B) any person treated as an employee (or whose use is treated as an employee use) under the rules of section 132(f).

Ante, p. 877.

“(3) **REDUCTION MUST NOT DISCRIMINATE IN FAVOR OF HIGHLY COMPENSATED, ETC.**—Paragraph (1) shall apply with respect to any qualified tuition reduction provided with respect to any officer, owner, or highly compensated employee only if such reduction is available on substantially the same terms to each member of a group of employees which is defined under a reasonable classification set up by the employer which does not discriminate in favor of officers, owners, or highly compensated employees.”

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to qualified tuition reductions (as defined in section 117(d)(2) of the Internal Revenue Code of 1954) for education furnished after June 30, 1985, in taxable years ending after such date.

26 USC 117 note.

Supra.

Subtitle D—Employee Stock Ownership Plans

SEC. 541. NONRECOGNITION OF GAIN ON STOCK SOLD TO EMPLOYEE STOCK OWNERSHIP PLANS OR CERTAIN COOPERATIVES IF QUALIFIED REPLACEMENT PROPERTY ACQUIRED.

(a) **IN GENERAL.**—Part III of subchapter 0 of chapter 1 (relating to nontaxable exchanges), as amended by this Act, is amended by adding at the end thereof the following new section:

“**SEC. 1042. SALES OF STOCK TO STOCK OWNERSHIP PLANS OR CERTAIN COOPERATIVES.**

26 USC 1042.

“(a) **NONRECOGNITION OF GAIN.**—If—

“(1) the taxpayer elects the application of this section with respect to any sale of qualified securities,

“(2) the taxpayer purchases qualified replacement property within the replacement period, and

“(3) the requirements of subsection (b) are met with respect to such sale,

then the gain (if any) on such sale shall be recognized only to the extent that the amount realized on such sale exceeds the cost to the taxpayer of such qualified replacement property.

“(b) **REQUIREMENTS TO QUALIFY FOR NONRECOGNITION.**—A sale of qualified securities meets the requirements of this subsection if—

“(1) SALE TO EMPLOYEE ORGANIZATIONS.—The qualified securities are sold to—

“(A) an employee stock ownership plan (as defined in section 4975(e)(7)), or

“(B) an eligible worker-owned cooperative.

“(2) EMPLOYEES MUST OWN 30 PERCENT OF STOCK AFTER SALE.—The plan or cooperative referred to in paragraph (1) owns, immediately after the sale, at least 30 percent of the total value of the employer securities (within the meaning of section 409(l)) outstanding as of such time.

“(3) PLAN MAINTAINED FOR BENEFIT OF EMPLOYEES.—No portion of the assets of the plan or cooperative attributable to employer securities (within the meaning of section 409(l)) acquired by the plan or cooperative described in paragraph (1) accrue under such plan, or are allocated by such cooperative, for the benefit of—

“(A) the taxpayer,

“(B) any person who is a member of the family of the taxpayer (within the meaning of section 267(c)(4)), or

“(C) any other person who owns (after application of section 318(a)) more than 25 percent in value of any class of outstanding employer securities (within the meaning of section 409(l)).

“(4) WRITTEN STATEMENT REQUIRED.—

“(A) IN GENERAL.—The taxpayer files with the Secretary the written statement described in subparagraph (B).

“(B) STATEMENT.—A statement is described in this subparagraph if it is a verified written statement of—

“(i) the employer whose employees are covered by the plan described in paragraph (1), or

“(ii) any authorized officer of the cooperative described in paragraph (1),

consenting to the application of section 4978(a) with respect to such employer or cooperative.

“(c) DEFINITIONS; SPECIAL RULES.—For purposes of this section.—

“(1) QUALIFIED SECURITIES.—The term ‘qualified securities’ means employer securities (as defined in section 409(l)) which—

“(A) are issued by a domestic corporation that has no securities outstanding that are readily tradable on an established securities market,

“(B) at the time of the sale described in subsection (a)(1), have been held by the taxpayer for more than 1 year, and

“(C) were not received by the taxpayer in—

“(i) a distribution from a plan described in section 401(a), or

“(ii) a transfer pursuant to an option or other right to acquire stock to which section 83, 422, 422A, 423, or 424 applies.

“(2) ELIGIBLE WORKER-OWNED COOPERATIVE.—The term ‘eligible worker-owned cooperative’ means any organization—

“(A) to which part I of subchapter T applies,

“(B) a majority of the membership of which is composed of employees of such organization,

“(C) a majority of the voting stock of which is owned by members,

“(D) a majority of the board of directors of which is elected by the members on the basis of 1 person 1 vote, and

Ante, p. 852.

Post, p. 894.

“(E) a majority of the allocated earnings and losses of which are allocated to members on the basis of—

“(i) patronage,

“(ii) capital contributions, or

“(iii) some combination of clauses (i) and (ii).

“(3) REPLACEMENT PERIOD.—The term ‘replacement period’ means the period which begins 3 months before the date on which the sale of qualified securities occurs and which ends 12 months after the date of such sale.

“(4) QUALIFIED REPLACEMENT PROPERTY.—The term ‘qualified replacement property’ means any securities (as defined in section 165(g)(2)) issued by a domestic corporation which does not, for the taxable year in which such stock is issued, have passive investment income (as defined in section 1362(d)(3)(D)) that exceeds 25 percent of the gross receipts of such corporation for such taxable year.

“(5) SECURITIES ACQUIRED BY UNDERWRITER.—No acquisition of securities by an underwriter in the ordinary course of his trade or business as an underwriter, whether or not guaranteed, shall be treated as a sale for purposes of subsection (a).

“(6) TIME FOR FILING ELECTION.—An election under subsection (a) shall be filed not later than the last day prescribed by law (including extensions thereof) for filing the return of tax imposed by this chapter for the taxable year in which the sale occurs.

“(d) BASIS OF QUALIFIED REPLACEMENT PROPERTY.—The basis of the taxpayer in qualified replacement property purchased by the taxpayer during the replacement period shall be reduced by the amount of gain not recognized by reason of such purchase and the application of subsection (a). If more than one item of qualified replacement property is purchased, the basis of each of such items shall be reduced by an amount determined by multiplying the total gain not recognized by reason of such purchase and the application of subsection (a) by a fraction—

“(1) the numerator of which is the cost of such item of property, and

“(2) the denominator of which is the total cost of all such items of property.

“(e) STATUTE OF LIMITATIONS.—If any gain is realized by the taxpayer on the sale or exchange of any qualified securities and there is in effect an election under subsection (a) with respect to such gain, then—

“(1) the statutory period for the assessment of any deficiency with respect to such gain shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may by regulations prescribe) of—

“(A) the taxpayer’s cost of purchasing qualified replacement property which the taxpayer claims results in nonrecognition of any part of such gain,

“(B) the taxpayer’s intention not to purchase qualified replacement property within the replacement period, or

“(C) a failure to make such purchase within the replacement period, and

“(2) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other

law or rule of law which would otherwise prevent such assessment."

(b) CONFORMING AMENDMENTS.—

Ante, p. 569.
26 USC 1223.

(1) Section 1223 (relating to holding period of property) is amended by redesignating paragraph (13) as paragraph (14) and by inserting after paragraph (12) the following:

Ante, p. 887.

"(13) In determining the period for which the taxpayer has held qualified replacement property (within the meaning of section 1042(b)) the acquisition of which resulted under section 1042 in the nonrecognition of any part of the gain realized on the sale of qualified securities (within the meaning of section 1042(b)), there shall be included the period for which such qualified securities had been held by the taxpayer."

Ante, p. 568.

(2) Subsection (a) of section 1016 (relating to adjustments to basis), as amended by this Act, is amended—

(A) by striking out "and" at the end of paragraph (25),

(B) by striking out the period at the end of paragraph (26) and inserting in lieu thereof "and", and

(C) by adding at the end thereof the following new paragraph:

Ante, p. 887.

"(27) in the case of qualified replacement property, the acquisition of which resulted under section 1042 in the nonrecognition of any part of the gain realized on the sale or exchange of any property, to the extent provided in section 1042(c)."

(3) The table of sections for part III of subchapter O of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 1042. Sales of stock to employees."

26 USC 1042
note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales of securities in taxable years beginning after the date of enactment of this Act.

SEC. 542. DEDUCTIBILITY OF CERTAIN DIVIDEND DISTRIBUTIONS FROM EMPLOYEE STOCK OWNERSHIP PLANS.

26 USC 404.

(a) DEDUCTION.—Section 404 (relating to deductions for employer contributions to an employees' trust) is amended by adding at the end thereof the following new subsection:

"(k) DIVIDENDS PAID DEDUCTIONS.—In addition to the deductions provided under subsection (a), there shall be allowed as a deduction to a corporation the amount of any dividend paid in cash by such corporation during the taxable year with respect to the stock of such corporation if—

Ante, p. 852.

"(1) such stock is held on the record date for the dividend by a tax credit employee stock ownership plan (as defined in section 409) or an employee stock ownership plan (as defined in section 4975(e)(7)) which is maintained by such corporation or by any other corporation that is a member of a controlled group of corporations (within the meaning of section 409(l)(4)) that includes such corporation, and

"(2) in accordance with the plan provisions—

"(A) the dividend is paid in cash to the participants in the plan, or

"(B) the dividend is paid to the plan and is distributed in cash to participants in the plan not later than 90 days after the close of the plan year in which paid."

(b) **DENIAL OF PARTIAL EXCLUSION.**—Section 116 (relating to partial exclusion of dividends) is amended by adding at the end thereof the following new subsection:

26 USC 116.

“(e) **DIVIDENDS FROM EMPLOYEE STOCK OWNERSHIP PLANS.**—Subsection (a) shall not apply to any dividend described in section 404(k).”

Ante, p. 890.

(c) **NO WITHHOLDING ON DIVIDEND DISTRIBUTION.**—Subparagraph (B) of section 3405(d)(1) (relating to designated distributions) is amended—

Post, p. 963.

- (1) by striking out “and” at the end of clause (i),
- (2) by striking out the period at the end of clause (ii) and inserting in lieu thereof “, or”, and
- (3) by adding at the end thereof the following new clause:

“(iii) any distribution described in section 404(k)(2).”

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after the date of enactment of this Act.

26 USC 404 note.

SEC. 543. EXCLUSION OF INTEREST ON LOANS USED TO FINANCE ACQUISITION OF EMPLOYER SECURITIES BY AN ESOP.

(a) **IN GENERAL.**—Part III of subchapter B of chapter 1 (relating to items excluded from gross income), as amended by this Act, is amended by redesignating section 133 as section 134 and by inserting after section 132 the following new section:

26 USC 134.

Ante, p. 877.

“SEC. 133. INTEREST ON CERTAIN LOANS USED TO ACQUIRE EMPLOYER SECURITIES.

26 USC 133.

“(a) **IN GENERAL.**—Gross income does not include 50 percent of the interest received by—

- “(1) a bank (within the meaning of section 581),
- “(2) an insurance company to which subchapter L applies, or
- “(3) a corporation actively engaged in the business of lending money,

with respect to a securities acquisition loan.

“(b) **SECURITIES ACQUISITION LOAN.**—

“(1) **IN GENERAL.**—For purposes of this section, the term ‘securities acquisition loan’ means any loan to a corporation, or to an employee stock ownership plan, to the extent that the proceeds are used to acquire employer securities (within the meaning of section 409(l)) for the plan.

Ante, p. 852.

“(2) **LOANS BETWEEN RELATED PERSONS.**—The term ‘securities acquisition loan’ shall not include—

“(A) any loan made between corporations which are members of the same controlled group of corporations, or

“(B) any loan made between an employee stock ownership plan and any person that is—

“(i) the employer of any employees who are covered by the plan; or

“(ii) a member of a controlled group of corporations which includes such employer.

“(3) **CONTROLLED GROUP OF CORPORATIONS.**—For purposes of this paragraph, the term ‘controlled group of corporations’ has the meaning given such term by section 409(l)(4).

“(c) **EMPLOYEE STOCK OWNERSHIP PLAN.**—For purposes of this section, the term ‘employee stock ownership plan’ has the meaning given to such term by section 4975(e)(7).”

(b) **CONFORMING AMENDMENT.**—The table of sections for part III of subchapter B of chapter 1 is amended by striking out the item relating to section 133 and inserting in lieu thereof the following:

“Sec. 133. Interest on certain loans used to acquire employer securities.

“Sec. 134. Cross references to other Act.”

26 USC 133 note.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to loans used to acquire employer securities after the date of the enactment of this Act.

SEC. 544. ASSUMPTION OF ESTATE TAX LIABILITY BY EMPLOYER STOCK OWNERSHIP PLAN OR COOPERATIVE RECEIVING EMPLOYER SECURITIES.

(a) **IN GENERAL.**—Subchapter C of chapter 11 (relating to miscellaneous estate tax provisions) is amended by adding at the end thereof the following new section:

26 USC 2210.

“SEC. 2210. LIABILITY FOR PAYMENT IN CASE OF TRANSFER OF EMPLOYER SECURITIES TO AN EMPLOYEE STOCK OWNERSHIP PLAN OR A WORKER-OWNED COOPERATIVE.

“(a) **IN GENERAL.**—If—

“(1) employer securities—

“(A) are acquired from the decedent by an employee stock ownership plan or by an eligible worker-owned cooperative from any decedent,

“(B) pass from the decedent to such a plan or cooperative,

or

“(C) are transferred by the executor to such a plan or cooperative, and

“(2) the executor elects the application of this section and files the agreements described in subsection (e) before the due date (including extensions) for filing the return of tax imposed by section 2001,

then the executor is relieved of liability for payment of that portion of the tax imposed by section 2001 which such employee stock ownership plan or cooperative is required to pay under subsection (b).

“(b) **PAYMENT OF TAX BY EMPLOYEE STOCK OWNERSHIP PLAN OR COOPERATIVE.**—

“(1) **IN GENERAL.**—An employee stock ownership plan or eligible worker-owned cooperative—

“(A) which has acquired employer securities from the decedent, or to which such securities have passed from the decedent or been transferred by the executor, and

“(B) with respect to which an agreement described in subsection (e)(1) is in effect,

shall pay that portion of the tax imposed by section 2001 with respect to the taxable estate of the decedent which is described in paragraph (2).

“(2) **AMOUNT OF TAX TO BE PAID.**—The portion of the tax imposed by section 2001 with respect to the taxable estate of the decedent that is referred to in paragraph (1) is equal to the lesser of—

“(A) the value of the employer securities described in subsection (a)(1) which is included in the gross estate of the decedent, or

“(B) the tax imposed by section 2001 with respect to such taxable estate reduced by the sum of the credits allowable against such tax.

“(c) **INSTALLMENT PAYMENTS.**—

“(1) **IN GENERAL.**—If—

“(A) the executor of the estate of the decedent (without regard to this section) elects to have the provisions of section 6166 (relating to extensions of time for payment of estate tax where estate consists largely of interest in closely held business) apply to payment of that portion of the tax imposed by section 2001 with respect to such estate which is attributable to employer securities, and

“(B) the plan administrator or the cooperative provides to the executor the agreement described in subsection (e)(1), then the plan administrator or the cooperative may elect, before the due date (including extensions) for filing the return of such tax, to pay all or part of the tax described in subsection (b)(2) in installments under the provisions of section 6166.

“(2) **INTEREST ON INSTALLMENTS.**—In determining the 4-per-cent portion for purposes of section 6601(j)—

“(A) the portion of the tax imposed by section 2001 with respect to an estate for which the executor is liable, and

“(B) the portion of such tax for which an employee stock ownership plan or an eligible worker-owned cooperative is liable,

shall be aggregated.

“(d) **GUARANTEE OF PAYMENTS.**—Any employer—

“(1) whose employees are covered by an employee stock ownership plan, and

“(2) who has entered into an agreement described in subsection (e)(2) which is in effect, shall guarantee (in such manner as the Secretary may prescribe) the payment of any amount such plan is required to pay under subsection (b), including any interest payable under section 6601 which is attributable to such amount.

“(e) **AGREEMENTS.**—The agreements described in this subsection are as follows:

“(1) A written agreement signed by the plan administrator, or by any authorized officer of the eligible worker-owned cooperative, consenting to the application of subsection (b) to such plan or cooperative.

“(2) A written agreement signed by the employer whose employees are covered by the plan described in subsection (b) consenting to the application of subsection (d).

“(f) **EXEMPTION FROM TAX ON PROHIBITED TRANSACTIONS.**—The assumption under this section by an employee stock ownership plan of any portion of the liability for the tax imposed by section 2001 shall be treated as a loan described in section 4975(d)(3).

“(g) **DEFINITIONS.**—For purposes of this section—

“(1) **EMPLOYER SECURITIES.**—The term ‘employer securities’ has the meaning given such term by section 409(l).

Ante, p. 852.

“(2) **EMPLOYEE STOCK OWNERSHIP PLAN.**—The term ‘employee stock ownership plan’ has the meaning given such term by section 4975(e)(7).

“(3) **ELIGIBLE WORKER-OWNED COOPERATIVE.**—The term ‘eligible worker-owned cooperative’ has the meaning given to such term by section 1041(b)(2).

Ante, p. 793.

“(4) **PLAN ADMINISTRATOR.**—The term ‘plan administrator’ has the meaning given such term by section 414(g).”
 (b) **CONFORMING AMENDMENTS.**—

26 USC 2002.

(1) Section 2002 (relating to liability for payment of estate tax) is amended to read as follows:

“SEC. 2002. LIABILITY FOR PAYMENT.

Ante, p. 892.

“Except as provided in section 2210, the tax imposed by this chapter shall be paid by the executor.”

(2) The table of sections for subchapter C of chapter 11 is amended by adding at the end thereof the following:

“Sec. 2210. Liability for payment in case of transfer of employer securities to an employee stock ownership plan or a worker-owned cooperative.”

26 USC 6018.

(3) Section 6018 (relating to estate tax returns) is amended by adding at the end thereof the following new subsection:

“(c) **ELECTION UNDER SECTION 2210.**—In all cases in which subsection (a) requires the filing of a return, if an executor elects the applications of section 2210—

Ante, p. 892.

“(1) **RETURN BY EXECUTOR.**—The return which the executor is required to file under the provisions of subsection (a) shall be made with respect to that portion of estate tax imposed by subtitle B which the executor is required to pay.

“(2) **RETURN BY PLAN ADMINISTRATOR.**—The plan administrator of an employee stock ownership plan or the eligible worker-owned cooperative, as the case may be, shall make a return with respect to that portion of the tax imposed by section 2001 which such plan or cooperative is required to pay under section 2210(b).”

26 USC 6166.

(4) Subsection (j) of section 6166 (relating to cross references) is amended by adding at the end thereof the following new paragraph:

“(6) **PAYMENT OF ESTATE TAX BY EMPLOYEE STOCK OWNERSHIP PLAN OR ELIGIBLE WORKER-OWNED COOPERATIVE.**—For provision allowing plan administrator or eligible worker-owned cooperative to elect to pay a certain portion of the estate tax in installments under the provisions of this section, see section 2210(c).”

Ante, p. 892.26 USC 2210
note.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply to those estates of decedents which are required to file returns on a date (including any extensions) after the date of enactment of this Act.

SEC. 545. EXCISE TAX ON CERTAIN DISPOSITIONS OF EMPLOYER SECURITIES BY EMPLOYEE STOCK OWNERSHIP PLANS AND CERTAIN COOPERATIVES.

(a) **IN GENERAL.**—Chapter 43 (relating to excise taxes on qualified pension plans), as amended by this Act, is amended by adding at the end thereof the following new section:

26 USC 4978.

“SEC. 4978. TAX ON CERTAIN DISPOSITIONS BY EMPLOYEE STOCK OWNERSHIP PLANS AND CERTAIN COOPERATIVES.

“(a) **TAX ON DISPOSITIONS OF SECURITIES TO WHICH SECTION 1042 APPLIES BEFORE CLOSE OF MINIMUM HOLDING PERIOD.**—If, during the 3-year period after the date on which the employee stock ownership plan or eligible worker-owned cooperative acquired any qualified

securities in a sale to which section 1042 applied, such plan or cooperative disposes of any qualified securities and— *Ante*, p. 887.

“(1) the total number of shares held by such plan or cooperative after such disposition is less than the total number of employer securities held immediately after such sale, or

“(2) except to the extent provided in regulations, the value of qualified securities held by such plan or cooperative after such disposition is less than 30 percent of the total value of all employer securities as of such disposition,
there is hereby imposed a tax on the disposition equal to the amount determined under subsection (b).

“(b) AMOUNT OF TAX.—

“(1) IN GENERAL.—The amount of the tax imposed by paragraph (1) shall be equal to 10 percent of the amount realized on the disposition.

“(2) LIMITATION.—The amount realized taken into account under paragraph (1) shall not exceed that portion allocable to qualified securities acquired in the sale to which section 1042 applied (determined as if such securities were disposed of before any other securities).

“(3) DISTRIBUTIONS TO EMPLOYEES.—The amount realized on any distribution to an employee for less than fair market value shall be determined as if the qualified security had been sold to the employee at fair market value.

“(c) LIABILITY FOR PAYMENT OF TAXES.—The tax imposed by this subsection shall be paid by—

“(1) the employer, or

“(2) the eligible worker-owned cooperative,
that made the written statement described in section 1042(a)(2)(B).

“(d) SECTION NOT TO APPLY TO CERTAIN DISPOSITIONS.—

“(1) CERTAIN DISTRIBUTIONS TO EMPLOYEES.—This section shall not apply with respect to any distribution of qualified securities (or sale of such securities) which is made by reason of—

“(A) the death of the employee,

“(B) the retirement of the employee after the employee has attained 59½ years of age,

“(C) the disability of the employee (within the meaning of section 72(m)(5)), or

“(D) the separation of the employee from service for any period which results in a 1-year break in service (within the meaning of section 411(a)(6)(A)).

“(2) CERTAIN REORGANIZATIONS.—In the case of any exchange of qualified securities in any reorganization described in section 368(a)(1) for stock of another corporation, such exchange shall not be treated as a disposition for purposes of this section.

“(e) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) EMPLOYEE STOCK OWNERSHIP PLAN.—The term ‘employee stock ownership plan’ has the meaning given to such term by section 4975(e)(7).

“(2) QUALIFIED SECURITIES.—The term ‘qualified securities’ has the meaning given to such term by section 1042(b)(1).

“(3) ELIGIBLE WORKER-OWNED COOPERATIVE.—The term ‘eligible worker-owned cooperative’ has the meaning given to such term by section 1042(b)(1).

“(4) DISPOSITION.—The term ‘disposition’ includes any distribution.

- Ante*, p. 852. “(5) **EMPLOYER SECURITIES**.—The term ‘employer securities’ has the meaning given to such term by section 409(l).”
- (b) **CONFORMING AMENDMENT**.—The table of sections for chapter 43 is amended by adding at the end thereof the following new item:
- “Sec. 4978. Tax on certain dispositions and allocations by employee stock ownership plans and certain cooperatives.”
- 26 USC 4978 note. (c) **EFFECTIVE DATE**.—The amendments made by this section shall apply to taxable years beginning after the date of enactment of this Act.

Subtitle E—Miscellaneous

26 USC 402 note. SEC. 551. TREATMENT OF CERTAIN DISTRIBUTIONS FROM A QUALIFIED TERMINATED PLAN.

26 USC 1 *et seq.* (a) **IN GENERAL**.—For purposes of the Internal Revenue Code 1954, if—

(1) a distribution was made from a qualified terminated plan to an employee on December 16, 1976, and on January 6, 1977, such employee transferred all of the property received in such distribution to an individual retirement account (within the meaning of section 408(a) of such Code) established for the benefit of such employee, and

(2) the remaining balance to the credit of such employee in such qualified terminated plan was distributed to such employee on January 21, 1977, and all the property received by such employee in such distribution was transferred by such employee to such individual retirement account on January 21, 1977,

then such distributions shall be treated as qualifying rollover distributions (within the meaning of section 402(a)(5) of such Code) and shall not be includible in the gross income of such employee for the taxable year in which paid.

(b) **QUALIFIED TERMINATED PLAN**.—For purposes of this section, the term “qualified terminated plan” means a pension plan—

(1) with respect to which a notice of sufficiency was issued by the Pension Benefit Guaranty Corporation on December 2, 1976, and

(2) which was terminated by corporate action on February 20, 1976.

(c) **REFUND OR CREDIT OF OVERPAYMENT BARRED BY STATUTE OF LIMITATIONS**.—Notwithstanding section 6511(a) of the Internal Revenue Code of 1954 or any other period of limitation or lapse of time, a claim for credit or refund of overpayment of the tax imposed by such Code which arises by reason of this section may be filed by any person at any time within the 1-year period beginning on the date of enactment of this Act. Sections 6511(b) and 6514 of such Code shall not apply to any claim for credit or refund filed under this subsection within such 1-year period.

SEC. 552. PARTIAL TERMINATION FOR CERTAIN PENSION PLANS.

For purposes of section 411(d)(3) of the Internal Revenue Code of 1954 (relating to minimum vesting standards in the case of partial terminations), a partial termination shall not be treated as occurring if—

(1) the partial termination is a result of a decline in plan participation which—

- (A) occurs by reason of the completion of the Trans-Alaska Oil Pipeline construction project, and
- (B) occurred after December 31, 1975, and before January 1, 1980, with respect to participants employed in Alaska,
- (2) no discrimination prohibited by section 401(a)(4) of such Code occurred with respect to such partial termination, and
- (3) the plan administrator establishes to the satisfaction of the Secretary of the Treasury or his delegate that the benefits of this section will not accrue to the employers under the plan.

SEC. 553. DISTRIBUTION REQUIREMENTS FOR ACCOUNTS AND ANNUITIES OF AN INSURER IN A REHABILITATION PROCEEDING.

26 USC 401 note.

(a) **IN GENERAL.**—For purposes of sections 401(a)(9), 408(a) (6) and (7), and 408(b) (3) and (4) of the Internal Revenue Code of 1954—

Ante, pp. 865, 867.

(1) a trust, custodial account, or annuity or other contract forming part of a pension or profit-sharing plan, or a retirement annuity, or

(2) a grantor of an individual retirement account or an individual retirement annuity, shall not be treated as failing to meet the requirements of such sections if such account, annuity, or contract was issued by an insurance company which, on March 15, 1984, was a party to a rehabilitation proceeding under the applicable State insurance law.

(b) **LIMITATION.**—Subsection (a) shall apply only during the period during which—

(1) the insurance company continues to be a party to the proceeding described in subsection (a), and

(2) distributions under the trust, custodial account, or annuity or other contract may not be made by reason of such proceeding.

SEC. 554. EXTENSION OF TIME FOR REPAYMENT OF QUALIFIED REFUNDING LOANS.

Paragraph (2) of section 236(c) of the Tax Equity and Fiscal Responsibility Act of 1982 is amended by adding at the end thereof the following new subparagraph:

26 USC 72 note.

“(D) **SPECIAL RULE FOR NON-KEY EMPLOYEES.**—In the case of a non-key employee (within the meaning of section 416(i)(2) of the Internal Revenue Code of 1954), this paragraph shall be applied by substituting ‘January 1, 1985’ for ‘August 14, 1983’ each place it appears.”

SEC. 555. TECHNICAL AMENDMENTS TO THE INCENTIVE STOCK OPTION PROVISIONS.

(a) **DETERMINATION OF FAIR MARKET VALUE.**—

(1) **IN GENERAL.**—Subsection (c) of section 422A (relating to special rules) is amended by adding at the end thereof of the following new paragraph:

26 USC 422A.

“(10) **FAIR MARKET VALUE.**—For purposes of this section, the fair market value of stock shall be determined without regard to any restriction other than a restriction which, by its terms, will never lapse.”

(2) **INCENTIVE STOCK OPTION AS AN ITEM OF TAX PREFERENCE.**—Paragraph (10) of section 57(a) (relating to items of tax preference) is amended by adding at the end thereof the following new sentence: “For purposes of this paragraph, the fair market value of a share of stock shall be determined without regard to

26 USC 57.

any restriction other than a restriction which, by its terms, will never lapse."

26 USC 425. (b) **MODIFICATION OF INCENTIVE STOCK OPTIONS.**—Subparagraph (B) of section 425(h)(3) (relating to modifications) is amended by striking out "422A(b)(5),".

26 USC 422A note. (c) **EFFECTIVE DATES.**—

(1) **FAIR MARKET VALUE.**—The amendment made by subsection (a) shall apply to options granted after March 20, 1984, except that such subsection shall not apply to any incentive stock option granted before September 20, 1984, pursuant to a plan adopted or corporate action taken by the board of directors of the grantor corporation before May 15, 1984.

26 USC 57 note. (2) **ITEMS OF TAX PREFERENCE.**—The amendment made by subsection (b) shall apply to options exercised after March 20, 1984. In the case of an option issued after March 20, 1984, pursuant to a plan adopted or corporate action taken by the board of directors of the grantor corporation before May 15, 1984, the preceding sentence shall be applied by substituting "December 31, 1984" for "March 20, 1984".

26 USC 425 note. (3) **MODIFICATIONS.**—The amendment made by subsection (c) shall apply with respect to modifications of options after March 20, 1984.

26 USC 83 note. **SEC. 556. TIME FOR MAKING CERTAIN SECTION 83(b) ELECTIONS.**

In the case of any transfer of property in connection with the performance of services after June 30, 1976, and on or before November 18, 1982, the election permitted by section 83(b) of the Internal Revenue Code of 1954 may be made, notwithstanding paragraph (2) of such section 83(b), with the income tax return for the first taxable year ending after the date of the enactment of this Act, if—

(1) the amount paid for such property was not less than its fair market value at the time of transfer (determined without regard to any restriction other than a restriction which by its terms will never lapse), and

(2) the election is consented to by the person transferring such property.

The election shall contain that information required by the Secretary of the Treasury or his delegate for elections permitted by such section 83(b). The period for assessing any tax attributable to a transfer of property which is the subject of an election made pursuant to this section shall not expire before the date which is 3 years after the date such election was made.

SEC. 557. EMPLOYER AND EMPLOYEE BENEFIT ASSOCIATION TREATED AS RELATED PERSONS UNDER SECTION 1239.

26 USC 1239. (a) **GENERAL RULE.**—Section 1239 (relating to gain from sale of depreciable property between certain related taxpayers) is amended by adding at the end thereof the following new subsection:

"(d) **EMPLOYER AND RELATED EMPLOYEE ASSOCIATION.**—For purposes of subsection (a), the term 'related person' also includes—

"(1) an employer and any person related to the employer (within the meaning of subsection (b)), and

"(2) a welfare benefit fund (within the meaning of section 419(e)) which is controlled directly or indirectly by persons referred to in paragraph (1)."

Ante, p. 854.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to sales or exchanges after the date of the enactment of this Act in taxable years ending after such date. 26 USC 1239 note.

SEC. 558. ELIMINATION OF RETROACTIVE APPLICATION OF AMENDMENTS MADE BY MULTIEMPLOYER PENSION PLAN AMENDMENTS ACT OF 1980.

(a) **IN GENERAL.**—

29 USC 1381 note.

(1) **LIABILITY.**—Any withdrawal liability incurred by an employer pursuant to part 1 of subtitle E of title IV of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1381 et seq.) as a result of the complete or partial withdrawal of such employer from a multiemployer plan before September 26, 1980, shall be void.

(2) **REFUNDS.**—Any amounts paid by an employer to a plan sponsor as a result of such withdrawal liability shall be refunded by the plan sponsor to the employer with interest (in accordance with section 401(a)(2)), less a reasonable amount for administrative expenses incurred by the plan sponsor (other than legal expenses incurred with respect to the plan) in calculating, assessing, and refunding such amounts.

26 USC 401.

(b) **CONFORMING AMENDMENTS.**—

(1) **EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.**—

(A) Sections 4211 (b) and (c), 4217(a), and 4235(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1391 (b) and (c), 1397(a), and 1415(a)) are amended by striking out “April 28, 1980” each place it appears and inserting in lieu thereof “September 25, 1980”.

(B) Sections 4211 (b) and (c), 4217(a), 4219(c)(1)(C)(iii), and 4402(e) of such Act (29 U.S.C. 1391 (b) and (c), 1397(a), 1399(c)(1)(C)(iii), and 1461(e)) are amended by striking out “April 29, 1980” each place it appears and inserting in lieu thereof “September 26, 1980”.

“(C) Section 4402(f)(1) of such Act (29 U.S.C. 1461(f)(1)) is amended by striking out “April 29, 1985” and inserting in lieu thereof “September 26, 1985”.

(2) **MULTIEMPLOYER PENSION PLAN AMENDMENTS ACT OF 1980.**—Section 108(d) of the Multiemployer Pension Plan Amendments Act of 1980 (29 U.S.C. 1385 note) is amended—

(A) by striking out “April 29, 1982” in paragraph (1) and inserting in lieu thereof “September 26, 1982”; and

(B) by striking out “April 29, 1980” each place it appears in paragraphs (2) and (3) and inserting in lieu thereof “September 26, 1980”.

(c) **NO INCREASE IN LIABILITY.**—The amendments made by this section shall not be construed to increase the liability incurred by any employer pursuant to part 1 of subtitle E of title IV of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1381 et seq.), as in effect immediately before the amendments made by subsection (b), as a result of the complete or partial withdrawal of such employer from a multiemployer plan prior to September 26, 1980.

29 USC 1381 note.

(d) **SPECIAL RULE FOR CERTAIN BINDING AGREEMENTS.**—In the case of an employer who, on September 26, 1980, has a binding agreement to withdraw from a multiemployer plan, subsection (a)(1) shall be applied by substituting “December 31, 1980” for “September 26, 1980”.

29 USC 1381 note.

SEC. 559. TELECOMMUNICATION EMPLOYEES.

(a) **EMPLOYEE PROTECTION.**—Notwithstanding any provisions of the divestiture interchange agreement to the contrary, in the case of any change in employment on or after January 1, 1985, by a covered employee, the recognition of service credit, and enforcement of such recognition, shall be governed in the same manner and to same extent as provided under the divestiture interchange agreement for a change in employment by a covered employee during calendar year 1984.

(b) **EMPLOYEES COVERED.**—For purposes of this section, a covered employee is an individual—

(1) who is an employee of an entity subject to the modified final judgment,

(2) who is serving in an eligible position, and

(3) who—

(A) on December 31, 1983, was an employee of any such entity serving in an eligible position, or

(B) was a former employee with rehire or recall rights on such date and is rehired during the period of the employee's rehire or recall rights.

(c) **DEFINITIONS.**—For purposes of this section—

(1) The term "service credit" means service credit for benefit accrual, vesting, and eligibility for benefits under any pension plan, or any other employee benefits, including the interchange and treatment of associated benefit obligations and assets.

(2) The term "change in employment" means the commencement of employment of a covered employee by an entity subject to the modified final judgment after the termination of employment (with or without break in service) of such individual from an eligible position within another entity subject to the modified final judgment.

(3) The term "eligible position" means any position (A) which is not a supervisory position, within the meaning of section 2(11) of the National Labor Relations Act (29 U.S.C. 152(11)) or (B) the annual base pay rate for which is not more than \$50,000, adjusted by the percentage increase in the consumer price index since December 31, 1983.

(4) The term "modified final judgment" means the judgment of the United States District Court for the District of Columbia in the case, United States against Western Electric, et alia, No. 82-0192, as modified.

(5) The term "entity subject to the modified final judgment" means—

(A) any carrier divested as a result of the modified final judgment,

(B) the corporation owning such carrier before divestiture,

(C) any other communications common carrier owned, in whole or in part, by such corporation on December 31, 1983, or

(D) any Interchange Company (as defined in the divestiture interchange agreement) excluding any subsidiary of such company other than any such subsidiary—

(i) which was established as of December 31, 1983, and

(ii) which participates in a defined benefit pension plan maintained by such Interchange Company.

(6) The term “divestiture interchange agreement” refers to the agreement between entities subject to the modified final judgment which was executed as of November 1, 1983, and which provides for mutual reciprocal recognition of service credit.

(7) The term “consumer price index” means the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics.

(d) **COORDINATION WITH OTHER BENEFIT-RELATED PROVISIONS.**—Nothing in this section shall be construed to limit benefits which would otherwise be available to any individual, whether provided under the modified final judgment, under applicable law, or otherwise.

SEC. 560. STUDY OF EMPLOYEE WELFARE BENEFIT PLANS.

(a) **IN GENERAL.**—The Secretary of the Treasury shall make a study of the problems relating to the use of employee welfare benefit plans for the provision of benefits to current and retired employees. Such study shall include a study of the need for participation, vesting, and funding standards.

(b) **REPORT.**—A report of the study conducted under subsection (a), together with such recommendations for legislation as the Secretary deems appropriate, shall be made to the Congress by not later than February 1, 1985.

SEC. 561. LIMITATION ON ACCRUAL OF VACATION PAY.

(a) **GENERAL RULE.**—Paragraph (1) of section 463(a) (relating to accrual of vacation pay) is amended by striking out “and payable during” and inserting in lieu thereof “and expected to be paid during”. 26 USC 463

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to taxable years beginning after March 31, 1984. 26 USC 463 note.

TITLE VI—TAX-EXEMPT BOND PROVISIONS

Subtitle A—Mortgage Subsidy Bonds

SEC. 611. 4-YEAR EXTENSION OF MORTGAGE SUBSIDY BOND AUTHORITY.

(a) **GENERAL RULE.**—Subparagraph (B) of section 103A(c)(1) (defining qualified mortgage bond) is amended by striking out “December 31, 1983” each place it appears and inserting in lieu thereof “December 31, 1987”. 26 USC 103A.

(b) **REPORTING, ETC., REQUIREMENTS FOR MORTGAGE SUBSIDY BONDS.**—

(1) **IN GENERAL.**—Subsection (j) of section 103A (relating to other requirements) is amended by adding at the end thereof the following new paragraphs:

“(3) **INFORMATION REPORTING REQUIREMENT.**—

“(A) **IN GENERAL.**—An issue meets the requirements of this subsection only if the issuer submits to the Secretary, not later than the 15th day of the 2nd calendar month after the close of the calendar quarter in which the issue is

issued (or such later time as the Secretary may prescribe with respect to any portion of the statement) a statement concerning the issue which contains—

“(i) the name and address of the issuer,

“(ii) the date of the issue, the amount of the lendable proceeds of the issue, and the stated interest rate, term, and face amount of each obligation which is part of the issue,

“(iii) such information as the Secretary may require in order to determine whether such issue meets the requirements of this section and the extent to which proceeds of such issue have been made available to low-income individuals, and

“(iv) such other information as the Secretary may require.

“(B) EXTENSION OF TIME.—The Secretary may grant an extension of time for the filing of any statement under subparagraph (A) if there is reasonable cause for the failure to file such statement in a timely fashion.

“(4) STATE CERTIFICATION REQUIREMENTS.—

“(A) IN GENERAL.—An issue meets the requirements of this subsection only if, before the issue, a State official designated by State law (or, where there is no such State official, the Governor) certifies in the manner prescribed by regulations that the issue meets the requirements of subsection (g).

“(B) CERTIFICATION FURNISHED TO SECRETARY.—Any certification under subparagraph (A) shall be submitted to the Secretary at the same time as the statement with respect to such issue is submitted under paragraph (3) or such other time as the Secretary may prescribe.

“(C) SPECIAL RULE FOR CONSTITUTIONAL HOME RULE CITIES.—In the case of any constitutional home rule city (as defined in subsection (g)(5)(C)), the certification under subparagraph (A) shall be made by the chief executive officer of such city.

“(5) POLICY STATEMENT.—

“(A) IN GENERAL.—An issue meets the requirements of this subsection only if the applicable elected representative of the governmental unit—

“(i) which is the issuer, or

“(ii) on whose behalf such issue was issued, has published (after a public hearing following reasonable public notice) a report described in subparagraph (B) by the last day of the year preceding the year in which such issue is issued and a copy of such report has been submitted to the Secretary on or before such last day.

“(B) REPORT.—The report referred to in subparagraph (A) which is published by the applicable elected representative of the governmental unit shall include—

“(i) a statement of the policies with respect to housing, development, and low-income housing assistance which such governmental unit is to follow in issuing qualified mortgage bonds and mortgage credit certificates, and

“(ii) an assessment of the compliance of such governmental unit during the preceding 1-year period preceding the date of the report with—

“(I) the statement of policy on qualified mortgage bonds and mortgage credit certificates that was set forth in the previous report, if any, of an applicable elected representative of such governmental unit, and

“(II) the intent of Congress that State and local governments are expected to use their authority to issue qualified mortgage bonds and mortgage credit certificates to the greatest extent feasible (taking into account prevailing interest rates and conditions in the housing market) to assist lower income families to afford home ownership before assisting higher income families.”

(c) TREATMENT OF QUALIFIED VETERANS' MORTGAGE BONDS.—

(1) Subparagraph (C) of section 103A(c)(3) (defining qualified veterans' mortgage bond) is amended by striking out “subsection (j)(1)” and inserting in lieu thereof “subsection (d), paragraphs (1) and (3) of subsection (j), and subsection (o)”.

26 USC 103A.

(2) Section 103A is amended by adding at the end thereof the following new subsection:

“(o) ADDITIONAL REQUIREMENTS FOR QUALIFIED VETERANS' MORTGAGE BONDS.—

“(1) VETERANS TO WHOM FINANCING MAY BE PROVIDED.—An obligation meets the requirements of this subsection only if each mortgagor to whom financing is provided under the issue is a qualified veteran.

“(2) REQUIREMENT THAT STATE PROGRAM BE IN EFFECT BEFORE JUNE 22, 1984.—An issue meets the requirements of this subsection only if it is a general obligation of a State which issued qualified veterans' mortgage bonds before June 22, 1984.

“(3) VOLUME LIMITATION.—

“(A) IN GENERAL.—An issue meets the requirements of this subsection only if the aggregate amount of bonds issued pursuant thereto (when added to the aggregate amount of qualified veterans' mortgage bonds previously issued by the State during the calendar year) does not exceed the State veterans limit for such calendar year.

“(B) STATE VETERANS LIMIT.—A State veterans limit for any calendar year is the amount equal to—

“(i) the aggregate amount of qualified veterans bonds issued by such State during the period beginning on January 1, 1979, and ending on June 22, 1984 (not including the amount of any qualified veterans bond issued by such State during the calendar year (or portion thereof) in such period for which the amount of such bonds so issued was the lowest), divided by

“(ii) the number (not to exceed 5) of calendar years after 1979 and before 1985 during which the State issued qualified veterans bonds (determined by only taking into account bonds issued on or before June 22, 1984).

“(4) QUALIFIED VETERAN.—For purposes of this subsection, the term ‘qualified veteran’ means any veteran—

“(A) who served on active duty at some time before January 1, 1977, and

“(B) who applied for the financing before the later of—

“(i) the date 30 years after the last date on which such veteran left active service, or

“(ii) January 1, 1985.

“(5) **GOOD FAITH EFFORT RULES MADE APPLICABLE.**—Rules similar to the rules of subparagraphs (B) and (C) of subsection (c)(2) shall apply to the requirements of this subsection.

“(6) **SPECIAL RULE FOR CERTAIN SHORT-TERM OBLIGATIONS.**—In the case of any obligation which has a term of 1 year or less and which was issued to provide financing for property taxes, the amount taken into account under this subsection with respect to such obligation shall be $\frac{1}{15}$ of its principal amount.”

26 USC 103A
note.

(d) **EFFECTIVE DATES.**—

(1) **SUBSECTION (a).**—The amendment made by subsection (a) shall apply with respect to obligations issued after December 31, 1983.

(2) **SUBSECTION (b).**—The amendments made by subsection (b) shall apply to obligations issued after December 31, 1984.

(3) **SUBSECTION (c).**—

(A) **IN GENERAL.**—Except as provided in subparagraph (B), the amendments made by subsection (c) shall apply to obligations issued after the date of the enactment of this Act.

Ante, p. 903.

(B) **VOLUME LIMITATION.**—The requirements of paragraph (3) of section 103A(o) of the Internal Revenue Code of 1954 (as added by this section) shall apply to obligations issued after June 22, 1984. In applying such requirements to obligations issued after such date, obligations issued on or before such date shall not be taken into account under such paragraph (3).

(C) **QUALIFIED VETERANS' MORTGAGE BONDS AUTHORIZED BEFORE OCTOBER 18, 1983, NOT TAKEN INTO ACCOUNT.**—The requirements of section 103A(o)(3) of the Internal Revenue Code of 1954 shall not apply to any qualified veterans' mortgage bond if—

(i) the issuance of such bond was authorized by a State referendum before October 18, 1983, or

(ii) the issuance of such bond was authorized pursuant to a State referendum before December 1, 1983, where such referendum was authorized by action of the State legislature before October 18, 1983.

(4) **TRANSITIONAL RULE WHERE STATE FORMULA FOR ALLOCATING STATE CEILING EXPIRES.**—

(A) **IN GENERAL.**—If a State law which provided a formula for allocating the State ceiling under section 103A(g) of the Internal Revenue Code of 1954 for calendar year 1983 expires as of the close of calendar year 1983, for purposes of section 103A(g) of such Code, such State law shall be treated as remaining in effect after 1983. In any case to which the preceding sentence applies, where the State's expiring allocation formula requires action by a State official to allocate the State ceiling among issuers, actions of such State official in allocating such ceiling shall be effective.

(B) **TERMINATION.**—Subparagraph (A) shall not apply on or after the effective date of any State legislation enacted

after the date of the enactment of this Act with respect to the allocation of the State ceiling.

(C) SPECIAL RULE FOR TEXAS.—In the case of Texas, the Governor of such State may take the actions described in subparagraph (A) pursuant to procedures established by the Governor consistent with the State laws of Texas.

(5) SPECIAL RULE FOR DETERMINATIONS OF STATISTICAL AREA.—For purposes of applying section 103A of the Internal Revenue Code of 1954 and any other provision of Federal law—

(A) RESCISSION.—The Director of the Office of Management and Budget shall rescind the designation of the Kansas City, Missouri primary metropolitan statistical area (KCMO PMSA) and the designation of the Kansas City, Kansas primary metropolitan statistical area (Kansas City, KS PMSA), and shall not take any action to designate such two primary metropolitan statistical areas as a consolidated metropolitan statistical area.

(B) DESIGNATION.—The Director of the Office of Management and Budget shall designate a single metropolitan statistical area which includes the following:

- (i) Kansas City, Kansas.
- (ii) Kansas City, Missouri.
- (iii) The counties of Johnson, Wyandotte, Leavenworth, and Miami in Kansas.
- (iv) The counties of Cass, Clay, Jackson, Platte, Ray, and Lafayette in Missouri.

The metropolitan statistical area designation pursuant to this subsection shall be known as the “Kansas City Missouri-Kansas Metropolitan Statistical Area”.

(6) TRANSITIONAL RULE FOR KENTUCKY AND NEVADA.—For purposes of section 103A(g) of the Internal Revenue Code of 1954, in the case of Kentucky and Nevada, subclause (I) of section 103A(g)(6)(B)(ii) of such Code shall be applied as if the first day referred to in such subclause were January 1, 1987.

(7) REPORT TO CONGRESS.—The Secretary of the Treasury, in consultation with the Secretary of Housing and Urban Development, shall, not later than January 1, 1987, submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives regarding the performance of issuers of qualified mortgage bonds and mortgage credit certificates relative to the intent of Congress described in section 103A(j) of the Internal Revenue Code of 1954.

SEC. 612. MORTGAGE CREDIT CERTIFICATES.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits against tax) is amended by redesignating section 25 as section 26 and by inserting after section 24 the following new section:

26 USC 26.

“SEC 25. INTEREST ON CERTAIN HOME MORTGAGES.

26 USC 25.

“(a) ALLOWANCE OF CREDIT.—

“(1) IN GENERAL.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the product of—

“(A) the certificate credit rate, and

“(B) the interest paid or incurred by the taxpayer during the taxable year on the remaining principal of the certified indebtedness amount.

“(2) LIMITATION WHERE CREDIT RATE EXCEEDS 20 PERCENT.—

“(A) IN GENERAL.—If the certificate credit rate exceeds 20 percent, the amount of the credit allowed to the taxpayer under paragraph (1) for any taxable year shall not exceed \$2,000.

“(B) SPECIAL RULE WHERE 2 OR MORE PERSONS HOLD INTERESTS IN RESIDENCE.—If 2 or more persons hold interests in any residence, the limitation of subparagraph (A) shall be allocated among such persons in proportion to their respective interests in the residence.

“(b) CERTIFICATE CREDIT RATE; CERTIFIED INDEBTEDNESS AMOUNT.—For purposes of this section—

“(1) CERTIFICATE CREDIT RATE.—The term ‘certificate credit rate’ means the rate of the credit allowable by this section which is specified in the mortgage credit certificate.

“(2) CERTIFIED INDEBTEDNESS AMOUNT.—The term ‘certified indebtedness amount’ means the amount of indebtedness which is—

“(A) incurred by the taxpayer—

“(i) to acquire the principal residence of the taxpayer,

“(ii) as a qualified home improvement loan (as defined in section 103A(l)(6)) with respect to such residence, or

“(iii) as a qualified rehabilitation loan (as defined in section 103A(l)(7)) with respect to such residence, and

“(B) specified in the mortgage credit certificate.

“(c) MORTGAGE CREDIT CERTIFICATE; QUALIFIED MORTGAGE CREDIT CERTIFICATE PROGRAM.—For purposes of this section—

“(1) MORTGAGE CREDIT CERTIFICATE.—The term ‘mortgage credit certificate’ means any certificate which—

“(A) is issued under a qualified mortgage credit certificate program by the State or political subdivision having the authority to issue a qualified mortgage bond to provide financing on the principal residence of the taxpayer,

“(B) is issued to the taxpayer in connection with the acquisition, qualified rehabilitation, or qualified home improvement of the taxpayer’s principal residence,

“(C) specifies—

“(i) the certificate credit rate, and

“(ii) the certified indebtedness amount, and

“(D) is in such form as the Secretary may prescribe.

“(2) QUALIFIED MORTGAGE CREDIT CERTIFICATE PROGRAM.—

“(A) IN GENERAL.—The term ‘qualified mortgage credit certificate program’ means any program—

“(i) which is established by a State or political subdivision thereof for any calendar year for which it is authorized to issue qualified mortgage bonds,

“(ii) under which the issuing authority elects (in such manner and form as the Secretary may prescribe) not to issue an amount of qualified mortgage bonds which it may otherwise issue during such calendar year under section 103A,

“(iii) under which the indebtedness certified by mortgage credit certificates meets the requirements of the

following subsections of section 103A (as modified by subparagraph (B) of this paragraph):

“(I) subsection (d) (relating to residence requirements),

“(II) subsection (e) (relating to 3-year requirement),

“(III) subsection (f) (relating to purchase price requirement),

“(IV) subsection (h) (relating to portion of loans required to be placed in targeted areas), and

“(V) paragraph (1) of subsection (j) (relating to other requirements),

“(iv) under which no mortgage credit certificate may be issued with respect to any residence any of the financing of which is provided from the proceeds of a qualified mortgage bond or a qualified veterans' mortgage bond,

“(v) except to the extent provided in regulations, which is not limited to indebtedness incurred from particular lenders,

“(vi) except to the extent provided in regulations, which provides that a mortgage credit certificate is not transferrable, and

“(vii) if the issuing authority allocates a block of mortgage credit certificates for use in connection with a particular development, which requires the developer to furnish to the issuing authority and the homebuyer a certificate that the price for the residence is no higher than it would be without the use of a mortgage credit certificate.

“(B) MODIFICATIONS OF SECTION 103A.—Under regulations prescribed by the Secretary, in applying section 103A for purposes of subclauses (II) and (IV) of subparagraph (A)(iii)—

“(i) each qualified mortgage certificate credit program shall be treated as a separate issue,

“(ii) the product determined by multiplying—

“(I) the certified indebtedness amount of each mortgage credit certificate issued under such program, by

“(II) the certificate credit rate specified in such certificate,

shall be treated as proceeds of such issue and the sum of such products shall be treated as the total proceeds of such issue, and

“(iii) paragraph (1) of section 103A(e) shall be applied by substituting ‘100 percent’ for ‘90 percent or more’.

Clause (iii) shall not apply if the issuing authority submits a plan to the Secretary for administering the 90-percent requirement of section 103A(e)(1) and the Secretary is satisfied that such requirement will be met under such plan.

“(d) DETERMINATION OF CERTIFICATE CREDIT RATE.—For purposes of this section—

“(1) IN GENERAL.—The certificate credit rate specified in any mortgage credit certificate shall not be less than 10 percent or more than 50 percent.

“(2) AGGREGATE LIMIT ON CERTIFICATE CREDIT RATES.—

“(A) IN GENERAL.—In the case of each qualified mortgage credit certificate program, the sum of the products determined by multiplying—

“(i) the certified indebtedness amount of each mortgage credit certificate issued under such program, by

“(ii) the certificate credit rate with respect to such certificate,

shall not exceed 20 percent of the nonissued bond amount.

“(B) NONISSUED BOND AMOUNT.—For purposes of subparagraph (A), the term ‘nonissued bond amount’ means, with respect to any qualified mortgage credit certificate program, the amount of qualified mortgage bonds which the issuing authority is otherwise authorized to issue and elects not to issue under subsection (c)(2)(A)(ii).

“(3) ADDITIONAL LIMIT IN CERTAIN CASES.—In the case of a qualified mortgage credit certificate program in a State which—

“(A) has a State ceiling (as defined in section 103A(g)(4)) for the year an election is made that exceeds 20 percent of the average annual aggregate principal amount of mortgages executed during the immediately preceding 3 calendar years for single family owner-occupied residences located within the jurisdiction of such State, or

“(B) issued qualified mortgage bonds in an aggregate amount less than \$150,000,000 for calendar year 1983,

the certificate credit rate for any mortgage credit certificate shall not exceed 20 percent unless the issuing authority submits a plan to the Secretary to ensure that the weighted average of the certificate credit rates in such mortgage credit certificate program does not exceed 20 percent and the Secretary approves such plan.

“(e) SPECIAL RULES AND DEFINITIONS.—For purposes of this section—

“(1) CARRYFORWARD OF UNUSED CREDIT.—

“(A) IN GENERAL.—If the credit allowable under subsection (a) for any taxable year exceeds the applicable tax limit for such taxable year, such excess shall be a carryover to each of the 3 succeeding taxable years and, subject to the limitations of subparagraph (B), shall be added to the credit allowable by subsection (a) for such succeeding taxable year.

“(B) LIMITATION.—The amount of the unused credit which may be taken into account under subparagraph (A) for any taxable year shall not exceed the amount by which the applicable tax limit for such taxable year exceeds the sum of the amounts which, by reason of this paragraph, are carried to such taxable year and are attributable to taxable years before the unused credit year.

“(C) APPLICABLE TAX LIMIT.—For purposes of this paragraph, the term ‘applicable tax limit’ means the limitation imposed by section 26(a) for the taxable year reduced by the sum of the credits allowable under this subpart (other than this section).

“(2) INDEBTEDNESS NOT TREATED AS CERTIFIED WHERE CERTAIN REQUIREMENTS NOT IN FACT MET.—Subsection (a) shall not apply to any indebtedness if all the requirements of subsection (d)(1), (e), (f), and (j) of section 103A and clauses (iv), (v), and (vii) of subsection (c)(2)(A)”, were not in fact met with respect to such

indebtedness. Except to the extent provided in regulations, the requirements described in the preceding sentence shall be treated as met if there is a certification, under penalty of perjury, that such requirements are met.

“(3) PERIOD FOR WHICH CERTIFICATE IN EFFECT.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), a mortgage credit certificate shall be treated as in effect with respect to interest attributable to the period—

“(i) beginning on the date such certificate is issued, and

“(ii) ending on the earlier of the date on which—

“(I) the certificate is revoked by the issuing authority, or

“(II) the residence to which such certificate relates ceases to be the principal residence of the individual to whom the certificate relates.

“(B) CERTIFICATE INVALID UNLESS INDEBTEDNESS INCURRED WITHIN CERTAIN PERIOD.—A certificate shall not apply to any indebtedness which is incurred after the close of the second calendar year following the calendar year for which the issuing authority made the applicable election under subsection (c)(2)(A)(ii).

“(C) NOTICE TO SECRETARY WHEN CERTIFICATE REVOKED.—

Any issuing authority which revokes any mortgage credit certificate shall notify the Secretary of such revocation at such time and in such manner as the Secretary shall prescribe by regulations.

“(4) REISSUANCE OF MORTGAGE CREDIT CERTIFICATES.—The Secretary may prescribe regulations which allow the administrator of a mortgage credit certificate program to reissue a mortgage credit certificate specifying a certified mortgage indebtedness that replaces the outstanding balance of the certified mortgage indebtedness specified on the original certificate to any taxpayer to whom the original certificate was issued, under such terms and conditions as the Secretary determines are necessary to ensure that the amount of the credit allowable under subsection (a) with respect to such reissued certificate is equal to or less than the amount of credit which would be allowable under subsection (a) with respect to the original certificate for any taxable year ending after such reissuance.

“(5) PUBLIC NOTICE THAT CERTIFICATES WILL BE ISSUED.—At least 90 days before any mortgage credit certificate is to be issued after a qualified mortgage credit certificate program, the issuing authority shall provide reasonable public notice of—

“(A) the eligibility requirements for such certificate,

“(B) the methods by which such certificates are to be issued, and

“(C) such other information as the Secretary may require.

“(6) INTEREST PAID OR ACCRUED TO RELATED PERSONS.—No credit shall be allowed under subsection (a) for any interest paid or accrued to a person who is a related person to the taxpayer (within the meaning of section 103(b)(6)(C)(i)).

“(7) PRINCIPAL RESIDENCE.—The term ‘principal residence’ has the same meaning as when used in section 1034.

“(8) QUALIFIED REHABILITATION AND HOME IMPROVEMENT.—

“(A) QUALIFIED REHABILITATION.—The term ‘qualified rehabilitation’ has the meaning given such term by section 103A(l)(7)(B).

“(B) QUALIFIED HOME IMPROVEMENT.—The term ‘qualified home improvement’ means an alteration, repair, or improvement described in section 103A(l)(6).

“(9) QUALIFIED MORTGAGE BOND.—The term ‘qualified mortgage bond’ has the meaning given such term by section 103A(c)(1).

“(10) MANUFACTURED HOUSING.—For purposes of this section, the term ‘single family residence’ includes any manufactured home which has a minimum of 400 square feet of living space and a minimum width in excess of 102 inches and which is of a kind customarily used at a fixed location. Nothing in the preceding sentence shall be construed as providing that such a home will be taken into account in making determinations under section 103A.

“(f) REDUCTION IN AGGREGATE AMOUNT OF QUALIFIED MORTGAGE BONDS WHICH MAY BE ISSUED WHERE CERTAIN REQUIREMENTS NOT MET.—

“(1) IN GENERAL.—If for any calendar year any mortgage credit certificate program which satisfies procedural requirements with respect to volume limitations prescribed by the Secretary fails to meet the requirements of paragraph (2) of subsection (d), such requirements shall be treated as satisfied with respect to any certified indebtedness of such program, but the applicable State ceiling under paragraph (4) of section 103A(g) for the State in which such program operates shall be reduced by 1.25 times the correction amount with respect to such failure. Such reduction shall be applied to such State ceiling for the calendar year following the calendar year in which the Secretary determines the correction amount with respect to such failure.

“(2) CORRECTION AMOUNT.—

“(A) IN GENERAL.—For purposes of paragraph (1), the term ‘correction amount’ means an amount equal to the excess credit amount divided by 0.20.

“(B) EXCESS CREDIT AMOUNT.—

“(i) IN GENERAL.—For purposes of subparagraph (A)(ii), the term ‘excess credit amount’ means the excess of—

“(I) the credit amount for any mortgage credit certificate program, over

“(II) the amount which would have been the credit amount for such program had such program met the requirements of paragraph (2) of subsection (d).

“(ii) CREDIT AMOUNT.—For purposes of clause (i), the term ‘credit amount’ means the sum of the products determined under clauses (i) and (ii) of subsection (d)(2)(A).

“(3) SPECIAL RULE FOR STATES HAVING CONSTITUTIONAL HOME RULE CITIES.—In the case of a State having one or more constitutional home rule cities (within the meaning of section 103A(g)(5)(C)), the reduction in the State ceiling by reason of paragraph (1) shall be allocated to the constitutional home rule

city, or to the portion of the State not within such city, which ever caused the reduction.

“(4) EXCEPTION WHERE CERTIFICATION PROGRAM.—The provisions of this subsection shall not apply in any case in which there is a certification program which is designed to insure that the requirements of this section are met and which meets such requirements as the Secretary may by regulations prescribe.

“(5) WAIVER.—The Secretary may waive the application of paragraph (1) in any case in which he determines that the failure is due to reasonable cause.

“(g) REPORTING REQUIREMENTS.—Each person who makes a loan which is a certified indebtedness amount under any mortgage credit certificate shall file a report with the Secretary containing—

“(1) the name, address, and social security account number of the individual to which the certificate was issued,

“(2) the certificate’s issuer, date of issue, certified indebtedness amount, and certificate credit rate, and

“(3) such other information as the Secretary may require by regulations.

Each person who issues a mortgage credit certificate shall file a report showing such information as the Secretary shall by regulations prescribe. Any such report shall be filed at such time and in such manner as the Secretary may require by regulations.

“(h) TERMINATION.—No election may be made under subsection (c)(2)(A)(ii) for any calendar year after 1987.

“(i) REGULATIONS; CONTRACTS.—

“(1) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section, including regulations which may require recipients of mortgage credit certificates to pay a reasonable processing fee to defray the expenses incurred in administering the program.

“(2) CONTRACTS.—The Secretary is authorized to enter into contracts with any person to provide services in connection with the administration of this section.”

(b) APPLICATION WITH SECTION 103A.—Subsection (g) of section 103A (relating to limitation on aggregate amount of qualified mortgage bonds issued during any calendar year) is amended by adding at the end thereof the following new paragraph:

26 USC 103A.

“(8) REDUCTION FOR MORTGAGE CREDIT CERTIFICATES.—The applicable limit of any issuing authority for any calendar year shall be reduced by the sum of—

“(A) the amount of qualified mortgage bonds which such authority elects not to issue under section 25(c)(2)(A)(ii) during such year, plus

Ante, p. 905.

“(B) the amount of any reduction in such ceiling under section 25(f) applicable to such authority for such year.”

(c) DISALLOWANCE OF PORTION OF DEDUCTION FOR INTEREST WHERE CREDIT TAKEN.—Section 163 (relating to deduction for interest) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

26 USC 163.

“(g) REDUCTION OF DEDUCTION WHERE SECTION 25 CREDIT TAKEN.—The amount of the deduction under this section for interest paid or accrued during any taxable year on indebtedness with respect to which a mortgage credit certificate has been issued under section 25 shall be reduced by the amount of the credit allowable with respect to such interest under section 25 (determined without regard to section 26).”

Ante, p. 905.

(d) CIVIL PENALTIES.—

(1) Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

26 USC 6708.
Ante, p. 682.

“SEC. 6708. PENALTIES WITH RESPECT TO MORTGAGE CREDIT CERTIFICATES.**“(a) NEGLIGENCE.—If—**

“(1) any person makes a material misstatement in any verified written statement made under penalties of perjury with respect to the issuance of a mortgage credit certificate, and

“(2) such misstatement is due to the negligence of such person,

such person shall pay a penalty of \$1,000 for each mortgage credit certificate with respect to which such a misstatement was made.

“(b) FRAUD.—If a misstatement described in subsection (a)(1) is due to fraud on the part of the person making such misstatement, in addition to any criminal penalty, such person shall pay a penalty of \$10,000 for each mortgage credit certificate with respect to which such a misstatement is made.

Ante, p. 905.

“(c) REPORTS.—Any person required by section 25(g) to file a report with the Secretary who fails to file the report with respect to any mortgage credit certificate at the time and in the manner required by the Secretary shall pay a penalty of \$200 for such failure unless it is shown that such failure is due to reasonable cause and not to willful neglect. In the case of any report required under the second sentence of section 25(g), the aggregate amount of the penalty imposed by the preceding sentence shall not exceed \$2,000.

“(d) MORTGAGE CREDIT CERTIFICATE.—The term ‘mortgage credit certificate’ has the meaning given to such term by section 25(c).”

(2) The table of sections for subchapter B of chapter 68 is amended by adding at the end thereof the following new item:

“Sec. 6708. Penalties with respect to mortgage credit certificates.”

(e) TECHNICAL AMENDMENTS.—

Ante, pp. 826,
827; 26 USC 901.

(1) Sections 28(d)(2), 29(b)(5), 30(g)(1)(A), 38(c)(2), and 901(a), as amended by this Act, are each amended by striking out “section 25(b)” and inserting in lieu thereof “section 26(b)”.

Ante, p. 826.

(2) Section 23(b)(5), as amended by this Act, is amended by striking out “section 25(a)” and inserting in lieu thereof “section 26(a)” and by striking out “(other than this section)” and inserting in lieu thereof “(other than this section and section 25)”.

Ante, p. 838.

(3) Paragraph (3) of section 55(c) is amended—

(A) by striking out “25” each place it appears and inserting in lieu thereof “26”, and

(B) by striking out “section 23, 30, or 38” and inserting in lieu thereof “section 23, 25, 30, or 38”.

26 USC 168.

(4) Clause (iii) of section 168(i)(1)(D), as added by section 208(a) of the Tax Equity and Fiscal Responsibility Act of 1982 and amended by this Act, is amended by striking out “section 25(b)(2)” and inserting in lieu thereof “section 26(b)(2)”.

(5) Clause (iii) of section 168(i)(1)(D), as added by section 209(b) of the Tax Equity and Fiscal Responsibility Act of 1982 and amended by this Act, is amended by striking out “section 25(b)(2)” and inserting in lieu thereof “section 26(b)(2)”.

(f) **CONFORMING AMENDMENT.**—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by striking out the item relating to section 25 and inserting in lieu thereof the following:

“Sec. 25. Interest on certain home mortgages.

“Sec. 26. Limitation based on tax liability; definition of tax liability.”

(g) **EFFECTIVE DATE.**—

26 USC 25 note.

(1) **IN GENERAL.**—Except as otherwise provided in this subsection, the amendments made by this section shall apply to interest paid or accrued after December 31, 1984, on indebtedness incurred after December 31, 1984.

(2) **ELECTIONS.**—The amendments made by this section shall apply to elections under section 25(c)(2)(A)(ii) of the Internal Revenue Code of 1954 (as added by this section) for calendar years after 1983.

Ante, p. 905.

SEC. 613. AUTHORITY TO BORROW FROM FEDERAL FINANCING BANK.

(a) **GENERAL RULE.**—Upon application by the appropriate State Housing Agency of Oregon, the Federal Financing Bank shall make qualified cash flow loans to such Agency. Such loans shall bear interest at a rate equal to the average rate on the applicable mortgage bonds with respect to which such loans were made.

(b) **QUALIFIED CASH FLOW LOANS.**—For purposes of this section, the term “qualified cash flow loan” means any loan with respect to an applicable mortgage bond reasonably necessary to cover any excess determined under subsection (c)(2) on the basis of actual payments. The aggregate amount of such loans which may be outstanding at any 1 time shall not exceed \$300,000,000.

(c) **APPLICABLE MORTGAGE BONDS.**—For purposes of this section, the term “applicable mortgage bond” means any qualified veterans’ mortgage bond issued as part of an issue—

(1) which was outstanding on December 5, 1980,

(2) with respect to which the excess of—

(A) the projected aggregate payments of principal on the applicable mortgage bonds during the 15-fiscal year period beginning with fiscal year 1984, over

(B) the projected aggregate payments during such period of principal on mortgages financed by the applicable mortgage bonds,

exceeds 12 percent of the aggregate principal amount of such bonds outstanding on July 1, 1983,

(3) with respect to which the amount of the average annual prepayments during fiscal years 1981, 1982, and 1983 was less than 2 percent of the average of the loan balances as of the beginning of each of such fiscal years, and

(4) which, for fiscal year 1983, had a prepayment experience rate that did not exceed 20 percent of the prepayment experience rate of the Federal Housing Administration in the State or region in which the issuer is located.

(d) **DEFINITIONS.**—

(1) **ASSUMPTIONS USED IN MAKING PROJECTION.**—The computation under subsection (c)(2) shall be made by using the following percentage of the prepayment experience of the Federal Housing Administration in the State or region in which the issuer of the applicable mortgage bonds is located:

Fiscal Year:	Percentage:
1984.....	15
1985.....	20
1986.....	25
1987 and thereafter.....	30.

(2) **QUALIFIED VETERANS' MORTGAGE BONDS.**—The term “qualified veterans’ mortgage bonds” has the meaning given to such term by section 103A(c)(3) of the Internal Revenue Code of 1954.

SEC. 614. ELIMINATION OF CERTAIN EXCEPTIONS TO THE APPLICATION OF THE MORTGAGE SUBSIDY BOND TAX ACT OF 1980.

26 USC 103A
note.

Section 1104 of the Mortgage Subsidy Bond Tax Act of 1980 is amended by adding at the end thereof the following new subsections:

26 USC 103A,
prec. 101.

“(p) **MOST EXCEPTIONS NOT TO APPLY TO BONDS ISSUED AFTER DECEMBER 31, 1984.**—In addition to any obligations to which the amendments made by section 1102 apply by reason of the provisions of this section, the amendments made by section 1102 shall apply, notwithstanding any other provision of this section (other than subsection (n)), to obligations issued after December 31, 1984, all or a major portion of the proceeds of which are used to finance new mortgages on single-family residences that are owner occupied.

“(q) **REDUCTION OF STATE CEILING BY AMOUNT OF SPECIAL MORTGAGE BONDS ISSUED BEFORE 1985.**—

“(1) **IN GENERAL.**—Notwithstanding any other provision of this section (other than subsections (n) and (r)), any obligation—

“(A) which is part of an issue all or a major portion of the proceeds of which are used to finance new mortgages in single-family residences that are owner occupied,

“(B) which were issued by issuing authorities in such State after June 15, 1984, and before January 1, 1985, and

“(C) to which the amendments made by section 1102 do not apply by reason of any provision of this section other than subsection (n),

26 USC 1 *et seq.*

shall, for purposes of applying the Internal Revenue Code of 1954, be treated as an obligation which is not described in section 103(a) of such Code if the aggregate face amount of such issue exceeds the portion of the State ceiling that is allocated by the State to such issue prior to the date of issuance of such issue.

“(2) **APPLICATION OF SECTION 103A (g).**—For purposes of applying section 103A(g) of such Code, the State ceiling for calendar year 1984 shall be reduced by the aggregate amount allocated by the State to any issues described in paragraph (1).

“(3) **STATE CEILING.**—For purposes of this subsection, the term ‘State ceiling’ has the meaning given to such term by section 103A(g)(4) of the Internal Revenue Code of 1954.

“(r) **EXCEPTIONS TO SUBSECTION (q).**—Subsection (q) shall not apply with respect to—

“(1) obligations—

“(A) the proceeds of which are used to finance the River Place Project located in Minneapolis, Minnesota, and

“(B) the aggregate face amount of which does not exceed \$55,000,000, or

“(2) obligations—

“(A) the proceeds of which are used to finance the Waseca, Minnesota project, and

“(B) the aggregate face amount of which does not exceed \$7,800,000.”

Subtitle B—Private Activity Bonds

PART I—GENERAL RESTRICTIONS

SEC. 621. LIMITATION ON AGGREGATE AMOUNT OF PRIVATE ACTIVITY BONDS.

Section 103 (relating to interest on certain governmental obligations) is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

26 USC 103.
Post, p. 926.

“(n) LIMITATION ON AGGREGATE AMOUNT OF PRIVATE ACTIVITY BONDS ISSUED DURING ANY CALENDAR YEAR.—

“(1) IN GENERAL.—A private activity bond issued as part of an issue shall be treated as an obligation not described in subsection (a) if the aggregate amount of private activity bonds issued pursuant to such issue, when added to the aggregate amount of private activity bonds previously issued by the issuing authority during the calendar year, exceeds such authority's private activity bond limit for such calendar year.

“(2) PRIVATE ACTIVITY BOND LIMIT FOR STATE AGENCIES.—For purposes of this subsection—

“(A) IN GENERAL.—The private activity bond limit for any agency of the State authorized to issue private activity bonds for any calendar year shall be 50 percent of the State ceiling for such calendar year.

“(B) SPECIAL RULE WHERE STATE HAS MORE THAN 1 AGENCY.—If more than 1 agency of the State is authorized to issue private activity bonds, all such agencies shall be treated as a single agency.

“(3) PRIVATE ACTIVITY BOND LIMIT FOR OTHER ISSUERS.—For purposes of this subsection—

“(A) IN GENERAL.—The private activity bond limit for any issuing authority (other than a State agency) for any calendar year shall be an amount which bears the same ratio to 50 percent of the State ceiling for such calendar year as—

“(i) the population of the jurisdiction of such issuing authority, bears to

“(ii) the population for the entire State.

“(B) OVERLAPPING JURISDICTIONS.—For purposes of subparagraph (A)(i), the rules of section 103A(g)(3)(B) shall apply.

“(4) STATE CEILING.—For purposes of this subsection—

“(A) IN GENERAL.—The State ceiling applicable to any State for any calendar year shall be the greater of

“(i) an amount equal to \$150 multiplied by the State's population, or

“(ii) \$200,000,000.

“(B) PHASE IN OF LIMITATION WHERE AMOUNT OF 1983 PRIVATE ACTIVITY BONDS EXCEEDS THE CEILING.—

“(i) IN GENERAL.—In the case of any State which has an excess bond amount for 1983, the State ceiling for calendar year 1984 shall be the sum of the State ceiling determined under subparagraph (A) plus 50 percent of the excess bond amount for 1983.

“(ii) **EXCESS BOND AMOUNT FOR 1983.**—For purposes of clause (i), the excess bond amount for 1983 in any State is the excess (if any) of—

“(I) the aggregate amount of private activity bonds issued by issuing authorities in such State during the first 9 months of calendar year 1983 multiplied by $\frac{1}{3}$, over

“(II) the State ceiling determined under subparagraph (A) for calendar year 1984.

“(C) **ADJUSTMENT OF CEILING TO REFLECT PARTIAL TERMINATION OF SMALL ISSUE EXEMPTION.**—In the case of calendar years after 1986, subparagraph (A) shall be applied by substituting ‘\$100’ for ‘\$150’.

“(5) **SPECIAL RULE FOR STATES WITH CONSTITUTIONAL HOME RULE CITIES.**—In the case of any State with 1 or more constitutional home rule cities (as defined in section 103A(g)(5)(C)), the rules of paragraph (5) of section 103A(g) shall apply for purposes of this subsection.

“(6) **STATE MAY PROVIDE FOR DIFFERENT ALLOCATION.**—

“(A) **IN GENERAL.**—A State may, by law provide a different formula for allocating the State ceiling among the governmental units in such State having authority to issue private activity bonds.

“(B) **INTERIM AUTHORITY FOR GOVERNOR.**—

“(i) **IN GENERAL.**—The Governor of any State may proclaim a different formula for allocating the State ceiling among the governmental units in such State having authority to issue private activity bonds.

“(ii) **TERMINATION OF AUTHORITY.**—The authority provided in clause (i) shall not apply after the earlier of—

“(I) the first day of the first calendar year beginning after the legislature has met in regular session for more than 60 days after the date of the enactment of this paragraph, or

“(II) the effective date of any State legislation with respect to the allocation of the State ceiling.

“(C) **STATE MAY NOT ALTER ALLOCATION TO CONSTITUTIONAL HOME RULE CITIES.**—The rules of paragraph (6)(C) of section 103A(g) shall apply for purposes of this paragraph.

“(7) **PRIVATE ACTIVITY BOND.**—For purposes of this subsection—

“(A) **IN GENERAL.**—Except as otherwise provided in the paragraph, the term ‘private activity bond’ means any obligation the interest on which is exempt from tax under subsection (a) and which is—

“(i) an industrial development bond, or

“(ii) a student loan bond.

“(B) **EXCEPTION FOR MULTIFAMILY HOUSING.**—The term ‘private activity bond’ shall not include any obligation described in subsection (b)(4)(A) nor any housing program obligation under section 11(b) of the United States Housing Act of 1937.

“(C) **EXCEPTION FOR CERTAIN FACILITIES DESCRIBED IN SECTION 103(b)(4)(C) OR (D).**—

“(i) **IN GENERAL.**—The term ‘private activity bond’ shall not include any obligation described in subparagraph (C) or (D) of subsection (b)(4), but only if the

property described in such subparagraph is owned by or on behalf of a governmental unit.

“(ii) EXCEPTION NOT TO APPLY TO CERTAIN PARKING FACILITIES.—For purposes of clause (i), subparagraph (D) of subsection (b)(4) shall be applied as if it did not contain the phrase ‘parking facilities’.

“(iii) DETERMINATION OF WHETHER PROPERTY OWNED BY GOVERNMENTAL UNIT.—For purposes of clause (i), property shall not be treated as not owned by a governmental unit solely by reason of the length of the lease to which it is subject if the lessee makes an irrevocable election (binding on the lessee and all successors in interest under the lease) not to claim depreciation or an investment credit with respect to such property.

“(iv) RESTRICTION WHERE SIGNIFICANT FRONT END LOADING.—Under regulations prescribed by the Secretary, clause (i) shall not apply in any case where the property is leased under a lease which has significant front end loading of rental accruals or payments.

“(D) REFUNDING ISSUES.—The term ‘private activity bond’ shall not include any obligation which is issued to refund another obligation to the extent that the amount of such obligation does not exceed the amount of the refunded obligation. In the case of any student loan bond, the preceding sentence shall apply only if the maturity date of the refunding obligation is not later than the later of—

“(i) the maturity of the obligation to be refunded, or

“(ii) the date 17 years after the date on which the refunded obligation was issued (or in the case of a series of refundings, the date on which the original obligation was issued).

“(8) STUDENT LOAN BONDS.—For purposes of this subsection, the term ‘student loan bond’ means an obligation which is issued as part of an issue all or a major portion of the proceeds of which are to be used directly or indirectly to finance loans to individuals for educational expenses.

“(9) POPULATION.—For purposes of this subsection, determinations of the population of any State (or issuing authority) shall be made with respect to any calendar year on the basis of the most recent census estimate of the resident population of such State (or issuing authority) published by the Bureau of the Census before the beginning of such calendar year.

“(10) ELECTIVE CARRYFORWARD OF UNUSED LIMITATION FOR SPECIFIED PROJECT.—

“(A) IN GENERAL.—If—

“(i) an issuing authority’s private activity bond limit for any calendar year after 1983, exceeds

“(ii) the aggregate amount of private activity bonds issued during such calendar year by such authority, such authority may elect to treat all (or any portion) of such excess as a carryforward for 1 or more carryforward projects.

“(B) ELECTION MUST SPECIFY PROJECT.—In any election under subparagraph (A), the issuing authority shall—

“(i) specify the project (or projects) for which the carryforward is elected, and

“(ii) specify the portion of the excess described in subparagraph (A) which is to be a carryforward for each such project.

“(C) USE OF CARRYFORWARD.—

“(i) IN GENERAL.—If any issuing authority elects a carryforward under subparagraph (A) with respect to any carryforward project, any private activity bonds issued by such authority with respect to such project during the 3 calendar years (or, in the case of a project described in subsection (b)(4)(F), 6 calendar years) following the calendar year in which the carryforward arose shall not be taken into account under paragraph (1) to the extent the amount of such bonds do not exceed the amount of the carryforward elected for such project.

“(ii) ORDER IN WHICH CARRYFORWARD USED.—Carryforwards elected with respect to any project shall be used in the order of the calendar years in which they arose.

“(D) ELECTION.—Any election made under this paragraph shall be made at such time and in such manner as the Secretary shall by regulations prescribe. Any such election (and any specification contained therein), once made, shall be irrevocable.

“(E) CARRYFORWARD PROJECT.—For purposes of this paragraph, the term ‘carryforward project’ means—

“(i) any project described in paragraph (4) or (5) of subsection (b), and

“(ii) the purpose of issuing student loan bonds.

“(11) TREATMENT OF QUALIFIED SCHOLARSHIP FUNDING BONDS.—In the case of a qualified scholarship funding bond (as defined in subsection (e)), such bond shall be treated for purposes of this subsection as issued by a State or local issuing authority (whichever is appropriate).

“(12) CERTIFICATION OF NO CONSIDERATION FOR ALLOCATION.—

“(A) IN GENERAL.—Any private activity bond allocated any portion of the State limit shall not be exempt from tax under subsection (a) unless the public official if any responsible for such allocation certifies under penalty of perjury that the allocation was not made in consideration of any bribe, gift, gratuity, or direct or indirect contribution to any political campaign.

“(B) ANY CRIMINAL PENALTY MADE APPLICABLE.—Any person willfully making an allocation described in subparagraph (A) in consideration of any bribe, gift, gratuity, or direct or indirect contribution to any political campaign shall be subject to criminal penalty to the same extent as if such allocation were a willful attempt to evade tax imposed by this title.”

SEC. 622. TAX EXEMPTION DENIED WHERE OBLIGATION DIRECTLY OR INDIRECTLY GUARANTEED BY FEDERAL GOVERNMENT.

26 USC 103.

Subsection (h) of section 103 (relating to certain obligations which must not be guaranteed or subsidized under a energy program) is amended to read as follows:

“(h) OBLIGATION MUST NOT BE GUARANTEED, ETC.—

“(1) IN GENERAL.—An obligation shall not be treated as an obligation described in subsection (a) if such obligation is federally guaranteed.

“(2) FEDERALLY GUARANTEED DEFINED.—For purposes of paragraph (1), an obligation is federally guaranteed if—

“(A) the payment of principal or interest with respect to such obligation is guaranteed (in whole or in part) by the United States (or any agency or instrumentality thereof),

“(B) such obligation is issued as part of an issue and a significant portion of the proceeds of such issue are to be—

“(i) used in making loans the payment of principal or interest with respect to which are to be guaranteed (in whole or in part) by the United States (or any agency or instrumentality thereof), or

“(ii) invested (directly or indirectly) in federally insured deposits or accounts, or

“(C) the payment of principal or interest on such obligation is otherwise indirectly guaranteed (in whole or in part) by the United States (or an agency or instrumentality thereof).

“(3) EXCEPTIONS.—

“(A) CERTAIN INSURANCE PROGRAMS.—An obligation shall not be treated as federally guaranteed by reason of—

“(i) any guarantee by the Federal Housing Administration, the Veterans' Administration, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Government National Mortgage Association,

“(ii) any guarantee of student loans and any guarantee by the Student Loan Marketing Association to finance student loans,

“(iii) any guarantee by the Small Business Administration with respect to qualified contracts for pollution control facilities (within the meaning of section 404(a) of the Small Business Investment Act of 1958, as in effect on the date of the enactment of the Tax Reform Act of 1984) if—

15 USC 694-1.

“(I) the Administrator of the Small Business Administration charges a fee for making such guarantee, and

“(II) the amount of such fee equals or exceeds 1 percent of the amount guaranteed, or

“(iv) any guarantee by the Bonneville Power Authority pursuant to the Northwest Power Act (16 U.S.C. 839d) as in effect on the date of the enactment of the Tax Reform Act of 1984 with respect to any obligation issued before July 1, 1989.

“(B) DEBT SERVICE, ETC.—Paragraph (1) shall not apply to—

“(i) proceeds of the issue invested for an initial temporary period until such proceeds are needed for the purpose for which such issue was issued,

“(ii) investments of a bona fide debt service fund,

“(iii) investments of a reserve which meet the requirements of subsection (c)(4)(B),

“(iv) investments in obligations issued by the United States Treasury, or

42 USC 1437i.

“(v) other investments permitted under regulations.
 “(C) EXCEPTION FOR HOUSING PROGRAMS.—

“(i) IN GENERAL.—Except as provided in clause (ii), paragraph (1) shall not apply to—

“(I) an obligation described in subsection (b)(4)(A) or a housing program obligation under section 11(b) of the United States Housing Act of 1937,

“(II) a qualified mortgage bond (as defined in section 103A(c)(1)), or

“(III) a qualified veterans’ mortgage bond (as defined in section 103A(c)(3)).

“(ii) EXCEPTION NOT TO APPLY WHERE OBLIGATION INVESTED IN FEDERALLY INSURED DEPOSITS OR ACCOUNTS.—Clause (i) shall not apply to any obligation which is federally guaranteed within the meaning of paragraph (2)(B)(ii).

“(D) LOANS TO, OR GUARANTEES BY, FINANCIAL INSTITUTIONS.—Except as provided in paragraph (2)(B)(ii), an obligation which is issued as part of an issue shall not be treated as federally guaranteed merely by reason of the fact that the proceeds of such issue are used in making loans to a financial institution or there is a guarantee by a financial institution.

“(4) DEFINITIONS.—For purposes of this subsection—

“(A) TREATMENT OF CERTAIN ENTITIES WITH AUTHORITY TO BORROW FROM UNITED STATES.—To the extent provided in regulations prescribed by the Secretary, any entity with statutory authority to borrow from the United States shall be treated as an instrumentality of the United States. Except in the case of a private activity bond (as defined in subsection (n)(7)), nothing in the preceding sentence shall be construed as treating the District of Columbia or any possession of the United States as an instrumentality of the United States.

“(B) FEDERALLY INSURED DEPOSIT OR ACCOUNT.—The term ‘federally insured deposit or account’ means any deposit or account in a financial institution to the extent such deposit or account is insured under Federal law by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, the National Credit Union Administration, or any similar federally chartered corporation.

“(5) CERTAIN OBLIGATIONS SUBSIDIZED UNDER ENERGY PROGRAM.—

“(A) IN GENERAL.—An obligation to which this paragraph applies shall be treated as an obligation not described in subsection (a) if the payment of the principal or interest with respect to such obligation is to be made (in whole or in part) under a program of the United States, a State, or a political subdivision of a State the principal purpose of which is to encourage the production or conservation of energy.

“(B) OBLIGATIONS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to any obligations to which paragraph (1) of subsection (b) does not apply by reason of—

“(i) subsection (b)(4)(H) (relating to qualified hydroelectric generating facilities), or

“(ii) subsection (g) (relating to qualified steam-generating or alcohol-producing facilities).”

SEC. 623. AGGREGATE LIMIT PER TAXPAYER FOR SMALL ISSUE EXCEPTION.

Subsection (b) of section 103 (relating to industrial development bonds) is amended by adding at the end thereof the following new paragraph: 26 USC 103.

“(15) AGGREGATE LIMIT PER TAXPAYER FOR SMALL ISSUE EXCEPTION.—

“(A) IN GENERAL.—Paragraph (6) of this subsection shall not apply to any issue if the aggregate authorized face amount of such issue allocated to any test-period beneficiary (when increased by the outstanding tax-exempt IDB's of such beneficiary) exceeds \$40,000,000.

“(B) OUTSTANDING TAX-EXEMPT IDB'S OF ANY PERSON.—For purposes of applying subparagraph (A) with respect to any issue, the outstanding tax-exempt IDB's of any person who is a test-period beneficiary with respect to such issue is the aggregate face amount of all industrial development bonds the interest on which is exempt from tax under subsection (a)—

“(i) which are allocated to such beneficiary, and

“(ii) which are outstanding at the time of such later issue (not including as outstanding any obligation which is to be redeemed from the proceeds of the later issue).

“(C) ALLOCATION OF FACE AMOUNT OF AN ISSUE.—

“(i) IN GENERAL.—Except as otherwise provided in regulations, the portion of the face amount of an issue allocated to any test-period beneficiary of a facility financed by the proceeds of such issue (other than an owner of such facility) is an amount which bears the same relationship to the entire face amount of such issue as the portion of such facility used by such beneficiary bears to the entire facility.

“(ii) OWNERS.—Except as otherwise provided in regulations, the portion of the face amount of an issue allocated to any test-period beneficiary who is an owner of a facility financed by the proceeds of such issue is an amount which bears the same relationship to the entire face amount of such issue as the portion of such facility owned by such beneficiary bears to the entire facility.

“(D) TEST-PERIOD BENEFICIARY.—For purposes of this paragraph, except as provided in regulations, the term ‘test-period beneficiary’ means any person who was an owner or a principal user of facilities being financed by the issue at any time during the 3-year period beginning on the later of—

“(i) the date such facilities were placed in service, or

“(ii) the date of the issue.

“(E) TREATMENT OF RELATED PERSONS.—For purposes of this paragraph, all persons who are related (within the meaning of paragraph (6)(C)) to each other shall be treated as one person.”

PART II—ARBITRAGE LIMITATIONS**SEC. 624. ARBITRAGE ON NONPURPOSE OBLIGATIONS.**

26 USC 103.

(a) **IN GENERAL.**—Subsection (c) of section 103 (relating to arbitrage bonds) is amended by redesignating paragraph (6) as paragraph (7) and inserting after paragraph (5) the following new paragraph:

“(6) **INVESTMENTS IN NONPURPOSE OBLIGATIONS.**—

“(A) **IN GENERAL.**—For purposes of this title, any obligation which is part of an issue of industrial development bonds which does not meet the requirements of subparagraphs (C) and (D) shall be treated as an obligation which is not described in subsection (a).

“(B) **EXCEPTIONS.**—Subparagraph (A) shall not apply to any obligation described in subsection (b)(4)(A) or to any housing program obligation under section 11(b) of the Housing Act of 1937.

42 USC 1437i.

“(C) **LIMITATION ON INVESTMENT IN NONPURPOSE OBLIGATIONS.**—

“(i) **IN GENERAL.**—An issue meets the requirements of this subparagraph only if—

“(I) at no time during any bond year, the amount invested in nonpurpose obligations with a yield higher than the yield on the issue exceeds 150 percent of the debt service on the issue for the bond year, and

“(II) the aggregate amount invested as provided in subclause (I) is promptly and appropriately reduced as the amount of outstanding obligations of the issue is reduced.

“(ii) **EXCEPTION FOR TEMPORARY PERIODS.**—Clause (i) shall not apply to—

“(I) proceeds of the issue invested for an initial temporary period until such proceeds are needed for the governmental purpose of the issue, and

“(II) temporary investment periods related to debt service.

“(iii) **DEBT SERVICE DEFINED.**—For purposes of this subparagraph, the debt service on the issue for any bond year is the scheduled amount of interest and amortization of principal payable for such year with respect to such issue. For purposes of the preceding sentence, there shall not be taken into account amounts scheduled with respect to any bond which has been retired before the beginning of the bond year.

“(iv) **NO DISPOSITION IN CASE OF LOSS.**—This subparagraph shall not require the sale or disposition of any investment if such sale or disposition would result in a loss which exceeds the amount which would be paid to the United States (but for such sale or disposition) at the time of such sale or disposition.

“(D) **REBATE TO UNITED STATES.**—An issue shall be treated as meeting the requirements of this subparagraph only if an amount equal to the sum of—

“(i) the excess of—

“(I) the aggregate amount earned on all nonpurpose obligations (other than investments attributable to an excess described in this clause), over

“(II) the amount which would have been earned if all nonpurpose obligations were invested at a rate equal to the yield on the issue, plus

“(ii) any income attributable to the excess described in clause (i),
is paid to the United States by the issuer in accordance with the requirements of subparagraph (E).

“(E) DUE DATE OF PAYMENTS UNDER SUBPARAGRAPH (D).—The amount which is required to be paid to the United States by the issuer shall be paid in installments which are made at least once every 5 years. Each installment shall be in an amount which insures that 90 percent of the amount described in subparagraph (D) with respect to the issue at the time payment of such installment is required will have been paid to the United States. The last installment shall be made no later than 30 days after the day on which the last obligation of the issue is redeemed and shall be in an amount sufficient to pay the remaining balance of the amount described in subparagraph (D) with respect to such issue.

“(F) SPECIAL RULES FOR APPLYING SUBPARAGRAPH (D).—

“(i) IN GENERAL.—In determining the aggregate amount earned on nonpurpose obligations for purposes of subparagraph (D)—

“(I) any gain or loss on the disposition of a nonpurpose obligation shall be taken into account, and

“(II) unless the issuer otherwise elects, any amount earned on a bona fide debt service fund shall not be taken into account if the gross earnings on such fund for the bond year is less than \$100,000.

“(ii) TEMPORARY INVESTMENTS.—Under regulations prescribed by the Secretary, an issue shall, for purposes of this paragraph, be treated as meeting the requirements of subparagraph (D) if the gross proceeds of such issue are expended for the governmental purpose for which the bond was issued by no later than the day which is 6 months after the date of issuance of such issue. Gross proceeds which are held in a bona fide debt service fund shall not be considered gross proceeds for purposes of this clause only.

“(G) EXEMPTION FROM GROSS INCOME OF SUM REBATED.—Gross income does not include the sum described in subparagraph (D). Notwithstanding any other provision of this title, no deduction shall be allowed for any amount paid to the United States under subparagraph (D).

“(H) DEFINITIONS.—For purposes of this paragraph—

“(i) NONPURPOSE OBLIGATIONS.—The term ‘nonpurpose obligation’ means any security (within the meaning of subparagraph (A) or (B) of section 165(g)(2)) or any obligation not described in subsection (a) which—

“(I) is acquired with the gross proceeds of an issue, and

“(II) is not acquired in order to carry out the governmental purpose of the issue.

“(ii) GROSS PROCEEDS.—The gross proceeds of an issue include—

“(I) amounts received (including repayments of principal) as a result of investing the original proceeds of the issue, and

“(II) amounts used to pay debt service on the issue.

“(iii) YIELD.—The yield on the issue shall be determined on the basis of the issue price (within the meaning of section 1273 or 1274).”

Ante, pp. 536, 538.

26 USC 103A.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 103A(i) (relating to arbitrage) is amended by striking out “section 103(c)” and inserting in lieu thereof “section 103(c) (other than section 103(c)(6))”.

26 USC 103.

(2) Subsection (c) of section 103 is amended by striking out “Bonds” in the heading.

(3) Paragraph (1) of section 103(c) is amended by inserting “to arbitrage bonds” in the heading.

26 USC 103 note.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply with respect to bonds issued after December 31, 1984.

(2) EXCEPTION.—The amendments made by this section shall not apply to obligations issued by the Essex County Port Authority of New York and New Jersey as part of an issue approved by Essex County, New Jersey, on July 7, 1981, and approved by the State of New Jersey on December 31, 1981. The aggregate face amount of bonds to which this paragraph applies shall not exceed \$350,000,000.

26 USC 103 note. SEC. 625. STUDENT LOAN BONDS.

(a) ARBITRAGE REGULATIONS.—

(1) IN GENERAL.—The Secretary shall prescribe regulations which specify the circumstances under which a qualified student loan bond shall be treated as an arbitrage bond for purposes of section 103 of the Internal Revenue Code of 1954. Such regulations may provide that—

(A) paragraphs (4) and (5) of section 103(c) of such Code shall not apply, and

Ante, p. 922.

(B) rules similar to section 103(c)(6) shall apply, to qualified student loan bonds.

(2) DEFINITIONS.—For purposes of this subsection—

(A) QUALIFIED STUDENT LOAN BOND.—The term ‘qualified student loan bond’ has the meaning given to such term by section 103(o)(3) of the Internal Revenue Code of 1954 (as amended by this Act).

Post, p. 926.

(B) ARBITRAGE BOND.—The term “arbitrage bond” has the meaning given to such term by section 103(c)(2).

(3) EFFECTIVE DATE.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, any regulations prescribed by the Secretary under paragraph (1) shall apply to obligations issued after the qualified date.

(B) QUALIFIED DATE.—

(i) **IN GENERAL.**—For purposes of this paragraph, the term “qualified date” means the earlier of—

(I) the date on which the Higher Education Act of 1965 expires, or

20 USC 1001
note.

(II) the date, after the date of enactment of this Act, on which the Higher Education Act of 1965 is reauthorized.

(ii) **PUBLICATION OF REGULATIONS.**—Notwithstanding clause (i), the qualified date shall not be a date which is prior to the date that is 6 months after the date on which the regulations prescribed under paragraph (1) are published in the Federal Register.

Federal
Register,
publication.

(C) **REFUNDING OBLIGATIONS.**—Regulations prescribed by the Secretary under paragraph (1) shall not apply to any obligation issued exclusively to refund any qualified student loan bond which was issued before the qualified date, except that the requirements of subparagraphs (A) and (B) of section 626(b)(4) of this Act must be met with respect to such refunding.

Post, p. 926.

(D) **FULFILLMENT OF COMMITMENTS.**—Regulations prescribed by the Secretary under paragraph (1) shall not apply to any obligations which are needed to fulfill written commitments to acquire or finance student loans which are originated after June 30, 1984, and before the qualified date, but only if—

(i) such commitments are binding on the qualified date, and

(ii) the amount of such commitments is consistent with practices of the issuer which were in effect on March 15, 1984, with respect to establishing secondary markets for student loans.

(b) **ARBITRAGE LIMITATION ON STUDENT LOAN BONDS WHICH ARE NOT QUALIFIED STUDENT LOAN BONDS.**—Under regulations prescribed by the Secretary of the Treasury or his delegate, any student loan bond (other than a qualified student loan bond) issued after December 31, 1985, shall be treated as an obligation not described in subsection (a) (1) or (2) of section 103 of the Internal Revenue Code of 1954 unless the issue of which such obligation is a part meets requirements similar to those of sections 103(c)(6) and 103A(i) of such Code.

Ante, p. 922.

(c) **ISSUANCE OF STUDENT LOAN BONDS WHICH ARE NOT TAX-EXEMPT.**—Any issuer who may issue obligations described in section 103(a) of the Internal Revenue Code of 1954 may elect to issue student loan bonds which are not described in such section 103(a) of such Code without prejudice to—

(1) the status of any other obligations issued, or to be issued, by such issuer as obligations described in section 103(a) of such Code, or

(2) the status of the issuer as an organization exempt from taxation under such Code.

(d) **FEDERAL EXECUTIVE BRANCH JURISDICTION OVER TAX-EXEMPT STATUS.**—For purposes of Federal law, any determination by the executive branch of the Federal Government of whether interest on any obligation is exempt from taxation under the Internal Revenue Code of 1954 shall be exclusively within the jurisdiction of the Department of the Treasury.

26 USC 1 *et seq.*

(e) **STUDY ON TAX-EXEMPT STUDENT LOAN BONDS.**—

(1) **IN GENERAL.**—The Comptroller General of the United States and the Director of the Congressional Budget Office, shall conduct studies of—

20 USC 1001
note.

(A) the appropriate role of tax-exempt bonds which are issued in connection with the guaranteed student loan program and the PLUS program established under the Higher Education Act of 1965, and

(B) the appropriate arbitrage rules for such bonds.

(2) **REPORT.**—The Comptroller General of the United States and the Director of the Congressional Budget Office, shall submit to the Committee on Finance and the Committee on Labor and Human Resources of the Senate and the Committee on Ways and Means and the Committee on Education and Labor of the House of Representatives reports on the studies conducted under paragraph (1) by no later than 9 months after the date of enactment of this Act.

PART III—OTHER RESTRICTIONS

SEC. 626. DENIAL OF TAX EXEMPTION TO CONSUMER LOAN BONDS.

Ante, p. 926.

(a) **IN GENERAL.**—Section 103 (relating to interest on certain governmental obligations) is amended by adding at the end thereof the following new subsection:

“(o) **CONSUMER LOAN BONDS.**—

“(1) **DENIAL OF TAX EXEMPTION.**—For purposes of this title, any consumer loan bond shall be treated as an obligation which is not described in subsection (a).

“(2) **CONSUMER LOAN BONDS.**—For purposes of this subsection—

“(A) **IN GENERAL.**—The term ‘consumer loan bond’ means any obligation which is issued as part of an issue all or a significant portion of the proceeds of which are reasonably expected to be used directly or indirectly to make or finance loans (other than loans described in subparagraph (C)) to persons who are not exempt persons (within the meaning of subsection (b)(3)).

“(B) **EXCLUDED OBLIGATIONS.**—The term ‘consumer loan bond’ shall not include any—

“(i) qualified student loan bond,

“(ii) industrial development bond, or

“(iii) qualified mortgage bond or qualified veterans’ mortgage bond.

“(C) **EXCLUDED LOANS.**—A loan is described in this subparagraph if the loan—

“(i) enables the borrower to finance any governmental tax or assessment of general application for an essential governmental function, or

“(ii) is used to acquire or carry nonpurpose obligations (within the meaning of subsection (c)(6)(G)(i)).

“(3) **QUALIFIED STUDENT LOAN BONDS.**—For purposes of this subsection, the term ‘qualified student loan bond’ means any obligation which is issued as part of an issue all or a major portion of the proceeds of which are reasonably expected to be used directly or indirectly to make or finance student loans under a program of general application to which the Higher Education Act of 1965 applies if—

20 USC 1001
note.

“(A) limitations are imposed under the program on—

“(i) the maximum amount of loans outstanding to any student, and

“(ii) the maximum rate of interest payable on any loan,

“(B) the loans are directly or indirectly guaranteed by the Federal Government,

“(C) the financing of loans under the program is not limited by Federal law to the proceeds of obligations the interest on which is exempt from taxation under this title, and

“(D) special allowance payments under section 438 of the Higher Education Act of 1965—

“(i) are authorized to be paid with respect to loans made under the program, or

“(ii) would be authorized to be made with respect to loans under the program if such loans were not financed with the proceeds of obligations the interest on which is exempt from taxation under this title.

Such term shall not include any obligation issued under a State program which discriminates on the basis of the location (in the United States) at which the educational institution is located.”

20 USC 1087-1.

(b) EFFECTIVE DATES.—

26 USC 103 note.

(1) IN GENERAL.—Except as otherwise provided in this subsection the amendment made by subsection (a) shall apply to obligations issued after the date of enactment of this Act.

(2) EXCEPTIONS FOR CERTAIN STUDENT LOAN PROGRAMS.—

(A) IN GENERAL.—The amendments made by this section shall not apply to obligations issued by a program described in the following table to the extent the aggregate face amount of such obligations does not exceed the amount of allowable obligations specified in the following table with respect to such program:

Program	Amount of Allowable Obligations
Colorado Student Obligation Bond Authority	\$60 million
Connecticut Higher Education Supplementary Loan Authority.	\$15.5 million
District of Columbia	\$50 million
Illinois Higher Education Authority	\$11 million
State of Iowa	\$16 million
Louisiana Public Facilities Authority	\$75 million
Maine Health and Higher Education Facilities Authority ..	\$5 million
Maryland Higher Education Supplemental Loan Program ..	\$24 million
Massachusetts College Student Loan Authority	\$90 million
Minnesota Higher Education Coordinating Board	\$60 million
New Hampshire Higher Education and Health Facilities Authority.	\$39 million
New York Dormitory Authority	\$120 million
Pennsylvania Higher Education Assistance Agency	\$300 million
Georgia Private Colleges and University Authority	\$31 million
Wisconsin State Building Commission	\$60 million
South Dakota Health and Educational Facilities Authority.	\$6 million

(B) PENNSYLVANIA HIGHER EDUCATION ASSISTANCE AGENCY.—Subparagraph (A) shall apply to obligations

issued by the Pennsylvania Higher Education Assistance Agency only if such obligations are issued solely for the purpose of refunding student loan bonds outstanding on March 15, 1984.

Ante, p. 915.

26 USC 103A,
prec. 101.

(3) **CERTAIN TAX-EXEMPT MORTGAGE SUBSIDY BONDS.**—For purposes of applying section 103(o) of the Internal Revenue Code of 1954, the term “consumer loan bond” shall not include any mortgage subsidy bond (within the meaning of section 103A(b) of such Code) to which the amendments made by section 1102 of the Mortgage Subsidy Bond Tax Act of 1980 do not apply.

(4) **REFUNDING EXCEPTION.**—The amendments made by this section shall not apply to any obligation or series of obligations the proceeds of which are used exclusively to refund obligations issued before March 15, 1984, except that—

(A) the amount of the refunding obligations may not exceed 101 percent of the aggregate face amount of the refunded obligations, and

(B) the maturity date of any refunding obligation may not be later than the date which is 17 years after the date on which the refunded obligation was issued (or, in the case of a series of refundings, the date on which the original obligation was issued).

(5) **EXCEPTION FOR CERTAIN ESTABLISHED PROGRAMS.**—The amendments made by this section shall not apply to any obligation substantially all of the proceeds of which are used to carry out a program established under State law which has been in effect in substantially the same form during the 30-year period ending on the date of enactment of this Act, but only if such proceeds are used to make loans or to fund similar obligations—

(A) in the same manner in which,

(B) in the same (or lesser) amount per participant, and

(C) for the same purposes for which,

such program was operated on March 15, 1984. This subparagraph shall not apply to obligations issued on or after March 15, 1987.

(6) **CERTAIN BONDS FOR RENEWABLE ENERGY PROPERTY.**—The amendments made by this section shall not apply to any obligations described in section 243 of the Crude Oil Windfall Profit Tax Act of 1980.

26 USC 103 note.

SEC. 627. LIMITATIONS ON ACQUISITIONS OF LAND, EXISTING FACILITIES, ETC.

Ante, p. 921.

(a) **LIMITATION ON USE FOR LAND ACQUISITION.**—Subsection (b) of section 103 is amended by adding at the end thereof the following new paragraph:

“(16) **LIMITATION ON USE FOR LAND ACQUISITION.**—

“(A) **IN GENERAL.**—Paragraphs (4), (5), and (6) shall not apply with respect to any obligation issued as part of an issue if—

“(i) any portion of the proceeds of such issue are to be used (directly or indirectly) for the acquisition of land (or an interest therein) to be used for farming purposes, or

“(ii) 25 percent or more of the proceeds of such issue are to be used (directly or indirectly) for the acquisition of land not described in clause (i) (or an interest therein).

In the case of an obligation described in paragraph (5) (relating to industrial parks), clause (i) shall be applied by substituting '50 percent' for '25 percent'.

"(B) EXCEPTION FOR FIRST-TIME FARMERS.—

"(i) IN GENERAL.—If the requirements of clause (ii) are met with respect to any land, subparagraph (A) shall not apply to such land, and paragraph (17) shall not apply to property located thereon or to property to be acquired within 1 year to be used in farming, but only to the extent of expenditures (financed with the proceeds of the issue) not in excess of \$250,000.

"(ii) ACQUISITION BY FIRST-TIME FARMERS.—The requirements of this clause are met with respect to any land if—

"(I) such land is to be used for farming purposes, and

"(II) such land is to be acquired by an individual who is a first-time farmer, who will be the principal user of such land, and who will materially and substantially participate on the farm of which such land is a part in the operation of such farm.

"(iii) FIRST-TIME FARMER.—For purposes of this subparagraph, the term 'first-time farmer' means any individual if such individual has not at any time had any direct or indirect ownership interest in substantial farmland in the operation of which such individual materially participated. For purposes of this subparagraph, any ownership or material participation by an individual's spouse or minor child shall be treated as ownership and material participation by the individual.

"(iv) FARM.—For purposes of this subparagraph, the term 'farm' has the meaning given such term by section 6420(c)(2).

"(v) SUBSTANTIAL FARMLAND.—The term 'substantial farmland' means any parcel of land unless—

"(I) such parcel is smaller than 15 percent of the median size of a farm in the county in which such parcel is located, and

(II) the fair market value of the land does not at any time while held by the individual exceed \$125,000.

"(C) EXCEPTION FOR CERTAIN LAND ACQUIRED FOR ENVIRONMENTAL PURPOSES.—Any land acquired by a public agency in connection with an airport, mass transit, or port development project which consists of facilities described in paragraph (4)(D) shall not be taken into account under subparagraph (A) if—

"(i) such land is acquired for a noise abatement, wetland preservation, future use, or other public purpose, and

"(ii) there is not other significant use of such land."

(b) ACQUISITION OF EXISTING PROPERTY NOT PERMITTED.—Subsection (b) of section 103 (relating to industrial development bonds) is amended by adding at the end thereof the following new paragraph:

"(17) ACQUISITION OF EXISTING PROPERTY NOT PERMITTED.—

“(A) IN GENERAL.—Paragraphs (4), (5), (6), and (7) shall not apply to any obligation issued as part of an issue if any portion of the proceeds of such issue is to be used for the acquisition of any property (or an interest therein) unless the first use of such property is pursuant to such acquisition.

“(B) EXCEPTION FOR CERTAIN REHABILITATIONS.—Subparagraph (A) shall not apply with respect to any building (and the equipment therefor) if—

“(i) the rehabilitation expenditures with respect to such building equals or exceeds

“(ii) 15 percent of the portion of the cost of acquiring such building (and equipment) financed with the proceeds of the issue.

A rule similar to the rule of the preceding sentence shall apply in the case of facilities other than a building except that clause (ii) shall be applied by substituting ‘100 percent’ for ‘15 percent’.

“(C) REHABILITATION EXPENDITURES.—For purposes of this paragraph—

“(i) IN GENERAL.—Except as provided in this subparagraph, the term ‘rehabilitation expenditures’ means any amount properly chargeable to capital account which is incurred by the person acquiring the building for property (or additions or improvements to property) in connection with the rehabilitation of a building. In the case of an integrated operation contained in a building before its acquisition, such term includes rehabilitating existing equipment in such building or replacing it with equipment having substantially the same function. For purposes of this clause, any amount incurred by a successor to the person acquiring the building or by the seller under a sales contract with such person shall be treated as incurred by such person.

“(ii) CERTAIN EXPENDITURES NOT INCLUDED.—The term ‘rehabilitation expenditures’ does not include any expenditure described in section 48(g)(2)(B) (other than clause (i) thereof).

“(iii) PERIOD DURING WHICH EXPENDITURES MUST BE INCURRED.—The term ‘rehabilitation expenditures’ shall not include any amount which is incurred after the date 2 years after the later of—

“(I) the date on which the building was acquired, or

“(II) the date on which the obligation was issued.

“(D) SPECIAL RULE FOR CERTAIN PROJECTS.—In the case of a project involving 2 or more buildings, this paragraph shall be applied on a project basis.”

(c) USE OF TAX-EXEMPT BONDS PROHIBITED FOR SKYBOXES, AIRPLANES, GAMBLING ESTABLISHMENTS, ETC.—Subsection (b) of section 103 (relating to industrial development bonds) is amended by adding at the end thereof the following new paragraph:

“(18) NO PORTION OF BONDS MAY BE ISSUED FOR SKYBOXES, AIRPLANES, GAMBLING ESTABLISHMENTS, ETC.—Paragraphs (4), (5), and (6) shall not apply to any obligation issued as part of an issue if any portion of the proceeds of such issue is to be used to

provide any airplane, skybox, or other private luxury box, any health club facility, any facility primarily used for gambling, or any store the principal business of which is the sale of alcoholic beverages for consumption off premises."

SEC. 628. MISCELLANEOUS INDUSTRIAL DEVELOPMENT BOND PROVISIONS.

(a) CERTAIN RESTRICTIONS APPLY TO EXEMPTIONS NOT CONTAINED IN INTERNAL REVENUE CODE OF 1954.—

(1) Paragraph (1) of section 103(m) (relating to obligations exempt other than under this title) is amended by adding at the end thereof the following new sentence: "In the case of an obligation issued after December 31, 1983, such obligation shall not be treated as described in this paragraph unless the appropriate requirements of subsections (b), (c), (h), (k), (l), and (n) of this section and section 103A are met with respect to such obligation. For purposes of applying such requirements, a possession of the United States shall be treated as a State; except that clause (ii) of subsection (n)(4)(A) shall not apply."

26 USC 103.

(2) Subparagraph (B) of section 103(m)(2) is amended to read as follows:

"(B) is exempt from tax under this title without regard to any provision of law which is not contained in this title and which is not contained in a revenue Act."

(3) Subsection (m) of section 103 is amended by adding at the end thereof the following new paragraph:

"(3) EXCEPTIONS.—The following obligations shall be treated as obligations described in paragraph (1) (without regard to the second sentence thereof):

"(A) Any obligation issued pursuant to the Northwest Power Act (16 U.S.C. 839d) as in effect on the date of the enactment of the Tax Reform Act of 1984.

Ante, p. 494.

"(B) Any obligation issued pursuant to section 608(6)(A) of Public Law 97-468.

45 USC 1207.

"(C) Any obligation issued before June 19, 1984, under section 11(b) of the United States Housing Act of 1937."

42 USC 1437i.

(b) EXPANSION OF TAX-EXEMPT BOND FINANCED PROPERTY REQUIRED TO BE DEPRECIATED ON STRAIGHT-LINE BASIS.—

(1) IN GENERAL.—Subparagraph (C) of section 168(f)(12) (relating to limitations on property financed with tax-exempt bonds) is amended to read as follows:

26 USC 168.

"(C) EXCEPTION FOR PROJECTS FOR RESIDENTIAL RENTAL PROPERTY.—Subparagraph (A) shall not apply to any recovery property which is placed in service in connection with projects for residential rental property financed by the proceeds of obligations described in section 103(b)(4)(A)."

(2) CONFORMING AMENDMENT.—Paragraph (12) of section 168(f) is amended by striking out subparagraph (D) and by redesignating subparagraph (E) as subparagraph (D).

(c) AGGREGATION OF ISSUES FOR SINGLE PROJECT.—Paragraph (6) of section 103(b) (relating to exemption for small issues) is amended by adding at the end thereof the following new subparagraph:

26 USC 103.

"(P) AGGREGATION OF ISSUES WITH RESPECT TO SINGLE PROJECT.—For purposes of this paragraph, 2 or more issues part or all of which are to be used with respect to a single building, an enclosed shopping mall, or a strip of offices, stores, or warehouses using substantial common facilities

shall be treated as 1 issue (and any person who is a principal user with respect to any of such issues shall be treated as a principal user with respect to the aggregated issue)."

26 USC 103. (d) **DEFINITION OF RELATED PERSONS IN THE CASE OF PARTNERSHIPS.**—Paragraph (13) of section 103(b) (relating to exception where bond held by substantial user) is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph—

"(A) a partnership and each of its partners (and their spouses and minor children) shall be treated as related persons, and

"(B) an S corporation and each of its shareholders (and their spouses and minor children) shall be treated as related persons."

(e) **RESIDENTIAL RENTAL PROPERTY MAY BE IN MIXED USE STRUCTURE.**—Paragraph (4) of section 103(b) (relating to certain exempt activities) is amended by adding at the end thereof the following new sentence: "For purposes of subparagraph (A), any property shall not be treated as failing to be residential rental property merely because part of the building in which such property is located is used for purposes other than residential rental purposes."

26 USC 103 note. (f) **PUBLIC APPROVAL REQUIREMENT IN THE CASE OF PUBLIC AIRPORT.**—If—

(1) the proceeds of any issue are to be used to finance a facility or facilities located on a public airport, and

(2) the governmental unit issuing such obligations is the owner or operator of such airport, such governmental unit shall be deemed to be the only governmental unit having jurisdiction over such airport for purposes of subsection (k) of section 103 of the Internal Revenue Code of 1954 (relating to public approval for industrial development bonds).

(g) **REPEAL OF ADVANCE REFUNDING OF QUALIFIED PUBLIC FACILITIES.**—Paragraph (7) of section 103(b) (relating to advance refunding of qualified public facilities) is hereby repealed.

26 USC 103 note. (h) **SMALL ISSUE LIMIT IN CASE OF CERTAIN URBAN DEVELOPMENT ACTION GRANTS.**—In the case of any obligation issued on December 11, 1981, section 103(b)(6)(I) of the Internal Revenue Code of 1954 shall be applied by substituting "\$15,000,000" for "\$10,000,000" if—

(1) such obligation is part of an issue,

42 USC 5318. (2) substantially all of the proceeds of such issue are used to provide facilities with respect to which an urban development action grant under section 119 of the Housing and Community Development Act of 1974 was preliminarily approved by the Secretary of Housing and Urban Development on January 10, 1980, and

(3) the Secretary of Housing and Urban Development determines, at the time such grant is approved, that the amount of such grant will equal or exceed 5 percent of the total capital expenditures incurred with respect to such facilities.

SEC. 629. CERTAIN PUBLIC UTILITIES TREATED AS EXEMPTED PERSONS UNDER SECTION 103(b); SPECIAL RULES FOR CERTAIN RAILROADS.

(a) **CERTAIN PUBLIC UTILITIES.**—For purposes of applying section 103(b)(3) of the Internal Revenue Code with respect to—

(1) any obligations issued after the date of enactment of this Act, and

(2) any obligations issued after December 31, 1969, which were treated as obligations described in section 103(a) of such Code on the day on which such obligations were issued, the term “exempt person” shall include a regulated public utility having any customer service area within a State served by a public power authority which was required as a condition of a Federal Power Commission license specified by an Act of Congress enacted prior to the enactment of section 107 of the Revenue and Expenditure Control Act of 1968 (Public Law 90-364) to contract to sell power to one such utility and which is authorized by State law to sell power to other such utilities, but only with respect to the purchase by any such utility and resale to its customers of any output of any electrical generation facility or any portion thereof or any use of any electrical transmission facility or any portion thereof financed by such power authority and owned by it or by such State, and provided that by agreement between such power authority and any such utility there shall be no markup in the resale price charged by such utility of that component of the resale price which represents the price paid by such utility for such output or use.

26 USC 103 and notes.

(b) CERTAIN RAILROADS.—Section 103(b)(1) of the Internal Revenue Code of 1954 shall not apply to any obligation which is described in section 103(b)(6)(A) of such Code if—

(1) substantially all of the proceeds of such obligation are used to acquire railroad track and right-of-way from a railroad involved in a title 11 or similar proceeding (within the meaning of section 368(a)(3)(A) of such Code), and

(2) the Federal Railroad Administration provides joint financing for such acquisitions.

(c) SPECIAL RULES FOR SUBSECTION (a).—

(1) OBLIGATIONS SUBJECT TO CAP.—Any obligation described in subsection (a) shall be treated as a private activity bond for purposes of section 103(n) of the Internal Revenue Code of 1954.

Ante, p. 915.

(2) LIMITATION ON AMOUNT OF OBLIGATIONS TO WHICH SUBSECTION (a) (1) APPLIES.—The aggregate amount of obligations to which subsection (a)(1) applies shall not exceed \$625,000,000

(3) LIMITATION ON PURPOSES.—Subsection (a)(1) shall only apply to obligations issued as part of an issue substantially all the proceeds of which are used to provide 1 or more of the following:

(A) Cable facilities.

(B) Small hydroelectric facilities.

(C) The acquisition of an interest in an electrical generating facility.

SEC. 630. EXTENSION OF SMALL ISSUE INDUSTRIAL DEVELOPMENT BOND EXCEPTION.

Subparagraph (N) of section 103(b)(6) (relating to termination date) is amended to read as follows:

26 USC 103.

“(N) TERMINATION DATES.—

“(i) IN GENERAL.—This paragraph shall not apply to any obligation issued after December 31, 1986 (including any obligations issued to refund an obligation issued on or before such date).

“(ii) OBLIGATIONS USED TO FINANCE MANUFACTURING FACILITIES.—In the case of any obligation which is part of an issue substantially all of the proceeds of which are to be used to provide a manufacturing facility

clause (i) shall be applied by substituting '1988' for '1986'.

"(iii) **MANUFACTURING FACILITY.**—For purposes of this subparagraph, the term 'manufacturing facility' means any facility which is used in the manufacturing or production of tangible personal property (including the processing resulting in a change in the condition of such property).

26 USC 103 note. **SEC. 631. EFFECTIVE DATES.**

(a) **PRIVATE ACTIVITY BOND CAP.**—

Ante, p. 915.

(1) **IN GENERAL.**—Except as otherwise provided in this subsection, the amendment made by section 621 shall apply to obligations issued after December 31, 1983.

(2) **INDUCEMENT RESOLUTION BEFORE JUNE 19, 1984.**—The amendment made by section 621 shall not apply to any issue of obligations if—

(A) there was an inducement resolution (or other comparable preliminary approval) for the issue before June 19, 1984, and

(B) the issue is issued before January 1, 1985.

(3) **CERTAIN PROJECTS PRELIMINARILY APPROVED BEFORE OCTOBER 19, 1983, GIVEN APPROVAL.**—If—

(A) there was an inducement resolution (or other comparable preliminary approval) for a project before October 19, 1983, by any issuing authority,

(B) a substantial user of such project notifies the issuing authority within 30 days after the date of the enactment of this Act that it intends to claim its rights under this paragraph, and

(C) construction of such project began before October 19, 1983, or the substantial user was under a binding contract on such date to incur significant expenditures with respect to such project,

Ante, p. 915.

such issuing authority shall allocate its share of the limitation under section 103(n) of such Code for the calendar year during which the obligations were to be issued pursuant to such resolution (or other approval) first to such project. If the amount of obligations required by all projects which meet the requirements of the preceding sentence exceeds the issuing authority's share of the limitation under section 103(n) of such Code, priority under the preceding sentence shall be provided first to those projects for which substantial expenditures were incurred before October 19, 1983. If any issuing authority fails to meet the requirements of this paragraph, the limitation under section 103(n) of such Code for the issuing authority for the calendar year following such failure shall be reduced by the amount of obligations with respect to which such failure occurred.

(3) **EXCEPTION FOR CERTAIN BONDS FOR A CONVENTION CENTER AND RESOURCE RECOVERY PROJECT.**—In the case of any city, if—

(A) the city council of such city authorized a feasibility study for a convention center on June 10, 1982, and

(B) on November 4, 1983, a municipal authority acting for such city accepted a proposal for the construction of a facility that is capable of generating steam and electricity through the combustion of municipal waste,

the amendment made by section 621 shall not apply to any issue, issued during 1984, 1985, 1986, or 1987 and substantially all of the proceeds of which are to be used to finance the convention center (or access ramps and parking facilities therefor) described in subparagraph (A) or the facility described in subparagraph (B).

Ante, p. 915.

(b) PROPERTY FINANCED WITH TAX-EXEMPT BONDS REQUIRED TO BE DEPRECIATED ON STRAIGHT-LINE BASIS.—

(1) **IN GENERAL.**—Except as otherwise provided in this section, the amendments made by section 628(b) shall apply to property placed in service after December 31, 1983, to the extent such property is financed by the proceeds of an obligation (including a refunding obligation) issued after October 18, 1983.

Ante, p. 931.

(2) EXCEPTIONS.—

(A) **CONSTRUCTION OR BINDING AGREEMENT.**—The amendments made by section 628(b) shall not apply with respect to facilities—

(i) the original use of which commences with the taxpayer and the construction, reconstruction, or rehabilitation of which began before October 19, 1983, or

(ii) with respect to which a binding contract to incur significant expenditures was entered into before October 19, 1983.

(B) REFUNDING.—

(i) **IN GENERAL.**—Except as provided in clause (ii), in the case of property placed in service after December 31, 1983, which is financed by the proceeds of an obligation which is issued solely to refund another obligation which was issued before October 19, 1983, the amendments made by section 628(b) shall apply only with respect to an amount equal to the basis in such property which has not been recovered before the date such refunded obligation is issued.

(ii) **SIGNIFICANT EXPENDITURES.**—In the case of facilities the original use of which commences with the taxpayer and with respect to which significant expenditures are made before January 1, 1984, the amendments made by section 628(b) shall not apply with respect to such facilities to the extent such facilities are financed by the proceeds of an obligation issued solely to refund another obligation which was issued before October 19, 1983.

(C) **FACILITIES.**—In the case of an inducement resolution or other comparable preliminary approval adopted by an issuing authority before October 19, 1983, for purposes of applying subparagraphs (A)(i) and (B)(ii) with respect to obligations described in such resolution, the term “facilities” means the facilities described in such resolution.

(c) OTHER PROVISIONS RELATING TO TAX-EXEMPT BONDS.—

(1) **IN GENERAL.**—Except as otherwise provided in this subtitle, the amendments made by this subtitle shall apply to obligations issued after December 31, 1983.

(2) **OBLIGATIONS INVESTED IN FEDERALLY INSURED DEPOSITS.**—Notwithstanding any other provision of this section, clause (ii) of section 103(h)(2)(B) of the Internal Revenue Code of 1954 (as amended by this subtitle) shall apply to obligations issued after April 14, 1983; except that such clause shall not apply to any

Ante, p. 918

obligation issued pursuant to a binding contract in effect on March 4, 1983.

(3) EXCEPTIONS.—

Ante, p. 915.

(A) CONSTRUCTION OR BINDING AGREEMENT.—The amendments made by this subtitle (other than section 621) shall not apply to obligations with respect to facilities—

(i) the original use of which commences with the taxpayer and the construction, reconstruction, or rehabilitation of which began before October 19, 1983, or

(ii) with respect to which a binding contract to incur significant expenditures was entered into before October 19, 1983.

(B) FACILITIES.—Subparagraph (C) of subsection (b)(2)(A) shall apply for purposes of subparagraph (A) of this paragraph.

Ante, p. 931.

(4) REPEAL OF ADVANCE REFUNDING OF QUALIFIED PUBLIC FACILITIES.—The amendment made by section 628(g) shall apply to refunding obligations issued after the date of the enactment of this Act; except that if substantially all the proceeds of the refunded issue were used to provide airports or docks, such amendment shall only apply to refunding obligations issued after December 31, 1984. In the case of any refunding obligation with respect to the Alabama State Docks Department or the Dade County Florida Airport, the preceding sentence shall be applied by substituting “December 31, 1985” for “December 31, 1984”.

(d) PROVISIONS OF THIS SUBTITLE NOT TO APPLY TO CERTAIN PROPERTY.—The amendments made by this subtitle shall not apply to any property (and shall not apply to obligations issued to finance such property) if such property is described in any of the following paragraphs:

Ante, p. 509.

(1) Any property described in paragraph (5), (6), or (7) of section 31(g) of this Act.

26 USC 1 *et seq.*

(2) Any property described in paragraph (4), (8), or (17) of section 31(g) of this Act but only if the obligation is issued before January 1, 1985, and only if before June 19, 1984, the issuer had evidenced an intent to issue obligations exempt from taxation under the Internal Revenue Code of 1954 in connection with such property.

96 Stat. 470.

(3) Any property described in paragraph (3) of section 216(b) of the Tax Equity and Fiscal Responsibility Act of 1982.

(4) Any solid waste disposal facility described in section 103(b)(4)(E) of the Internal Revenue Code of 1954 if—

(A) a State public authority created pursuant to State legislation which took effect on June 18, 1973, took formal action before October 19, 1983, to commit development funds for such facility.

(B) such authority issues obligations for any such facility before January 1, 1987, and

(C) expenditures have been made for the development of any such facility before October 19, 1983.

(e) DETERMINATION OF SIGNIFICANT EXPENDITURE.—

(1) IN GENERAL.—For purposes of this section, the term “significant expenditures” means expenditures which equal or exceed the lesser of—

(A) \$15,000,000, or

(B) 20 percent of the estimated cost of the facilities.

(2) **CERTAIN GRANTS TREATED AS EXPENDITURES.**—For purposes of paragraph (1), the amount of any UDAG grant preliminarily approved on May 5, 1981, or April 4, 1983, shall be treated as an expenditure with respect to the facility for which such grant was so approved.

(f) **EXCEPTIONS FOR CERTAIN OTHER AMENDMENTS.**—If—

(1) there was an inducement resolution (or other comparable preliminary approval) for an issue before June 19, 1984, by any issuing authority, and

(2) such issue is issued before January 1, 1985, the following amendments shall not apply:

(A) the amendments made by section 623,

Ante, p. 921.

(B) the amendments made by subsections (a) and (b) of section 627 (except to the extent such amendments relate to farm land),

Ante, p. 928.

(C) in the case of a race track, the amendment made by section 627(c), and

(D) the amendments made by section 628(c).

Ante, p. 931.

SEC. 632. MISCELLANEOUS EXCEPTIONS AND SPECIAL RULES.

(a) **EXCEPTION FROM PROVISIONS OTHER THAN ARBITRAGE AND FEDERAL GUARANTEES.**—Notwithstanding any other provision of this subtitle, the amendments made by this subtitle (other than by section 622 (relating to Federal guarantees) and section 623 (relating to arbitration)) shall not apply to the following obligations:

Ante, p. 918.

(1) Obligations issued with respect to any waste-to-energy facility authorized by official action on April 10, 1980 and with respect to which a subsequent agreement was signed between a city government and the Department of the Army on December 27, 1982, to jointly pursue construction and operation of such facility.

(2) Obligations issued to finance a redevelopment program on 9 city blocks adjacent to a transit station but only if such program was approved on October 25, 1983.

(3) Obligations issued pursuant to an inducement resolution adopted on August 8, 1978, for a redevelopment plan for which a redevelopment trust fund was established on September 7, 1977.

(4) Obligations issued to finance a UDAG project which was preliminarily approved on December 29, 1982, and which received final approval on May 3, 1984.

(5) Obligations issued to finance a parking garage pursuant to an inducement resolution adopted on March 9, 1984, in connection with a project for which a UDAG grant application was made on January 31, 1984.

(6) Obligations which—

(A) are issued to finance a downtown development project with respect to which an urban development action grant is made but only if such grant—

(i) was preliminarily approved on November 3, 1983, and

(ii) received final approval before June 1, 1984, and

(B) are issued in connection with inducement resolutions that were adopted on December 21, 1982, July 5, 1983, and March 1, 1983,

but only to the extent the aggregate face amount of such obligations does not exceed \$34,000,000.

(7) Obligations with respect to which an inducement resolution was adopted on March 5, 1984, for the purpose of acquiring existing airport facilities at more than 12 locations in 1 State but—

(A) only if the Civil Aeronautics Board certifies that such transaction would reduce the amount of Federal subsidies provided under section 419 of the Airline Deregulation Act of 1978, and

49 USC app.
1389.

(B) only to the extent the aggregate face amount of such obligations does not exceed \$25,000,000.

(8) Obligations described in subsection (b).

26 USC 1 *et seq.*

(b) **CERTAIN PARKING FACILITY BONDS.**—For purposes of the Internal Revenue Code of 1954, any obligation issued with respect to a parking facility approved by an agency of a county government on December 1, 1982, as part of an urban revitalization plan shall be treated as an obligation described in section 103(b)(4)(D) of such Code.

Ante, p. 915.
Ante, p. 926.

(c) **EXCEPTION TO CERTAIN BOND LIMITATIONS.**—The amendments made by section 621 (relating to the limitations on amount of private activity bonds) and section 626(a) (relating to the prohibition on acquiring existing facilities) shall not apply to obligations issued before January 1, 1987, in connection with the Claymont, Delaware, regeneration plant of the Delaware Economic Development Authority, but only to the extent the aggregate face amount of such obligation does not exceed \$30,000,000.

Ante, p. 918.

(d) **CERTAIN OBLIGATIONS TREATED AS NOT FEDERALLY GUARANTEED.**—For purposes of section 103(h) of the Internal Revenue Code of 1954, obligations (including refunding obligations) shall not be treated as federally guaranteed if—

(A) such obligations are issued with respect to any facility, and

(B) any obligation was issued on June 3, 1982 in the principal amount of \$11,312,125 for the purpose of financing the development, study, or related costs incurred with respect to such facility.

(e) **CERTAIN EXPENDITURES TREATED AS SIGNIFICANT EXPENDITURES.**—For purposes of this title, expenditures of \$850,000 incurred with respect to any project involving \$15,000,000 shall be treated as significant expenditures if such expenditures were incurred pursuant to an agreement entered into on July 13, 1982, relating to the discharge of industrial waste after January 1, 1986.

(f) **CERTAIN ORDINANCES TREATED AS INDUCEMENT RESOLUTIONS.**—For purposes of this title, any ordinance passed on May 3, 1982, with respect to a planned development district shall be treated as an inducement resolution with respect to obligations issued in 1984 in connection with a mall project for such district.

(g) **DELAYED EFFECTIVE DATE WITH RESPECT TO CERTAIN IDBS.**—

(1) **FERC PROJECTS.**—Notwithstanding any other provision of this title, any amendments made by this title (other than the amendments to section 103(c) of the Internal Revenue Code of 1954) which, but for this paragraph, would apply to industrial development bonds issued after December 31, 1984, shall not apply to any of the following obligations issued before January 1, 1986:

(A) obligations issued with respect to Federal Energy Regulatory Commission project 4657, but only to the extent

the aggregate face amount of such obligations does not exceed \$12,900,000;

(B) obligations issued with respect to Federal Energy Regulatory Commission project 2853, but only to the extent the aggregate face amount of such obligations does not exceed \$28,600,000; or

(C) obligations issued with respect to Federal Energy Regulatory Commission project 4700, but only to the extent the aggregate face amount of such obligations does not exceed \$3,850,000.

(2) **PARK CENTRAL NEW TOWN IN TOWN PROJECT.**—Notwithstanding any other provision of this title, any amendments made by this title (other than the amendments to section 103(c) of the Internal Revenue Code of 1954) which, but for this paragraph, would apply to industrial development bonds issued after December 31, 1984, shall not apply to any obligation issued before January 1, 1988, with respect to Park Central New Town In Town Project located in Port Arthur, Texas, but only to the extent the aggregate face amount of such obligations does not exceed \$80,000,000.

Subtitle C—Miscellaneous Provisions

SEC. 641. CLARIFICATION OF TREATMENT OF CERTAIN EXEMPTIONS FOR PURPOSES OF THE FEDERAL ESTATE AND GIFT TAXES.

26 USC 2001
note.

(a) **GENERAL RULE.**—Nothing in any provision of law exempting any property (or interest therein) from taxation shall exempt the transfer of such property (or interest therein) from Federal estate, gift, and generation-skipping transfer taxes. In the case of any provision of law enacted after the date of the enactment of this Act, such provision shall not be treated as exempting the transfer of property from Federal estate, gift, and generation-skipping transfer taxes unless it refers to the appropriate provisions of the Internal Revenue Code of 1954.

26 USC 1 *et seq.*

(b) **EFFECTIVE DATE.**—

“(1) **IN GENERAL.**—The provisions of subsection (a) shall apply to the estates of decedents dying, gifts made, and transfers made on or after June 19, 1984.

“(2) **TREATMENT OF CERTAIN TRANSFERS TREATED AS TAXABLE.**—The provisions of subsection (a) shall also apply in the case of any transfer of property (or interest therein) if at any time there was filed an estate or gift tax return showing such transfer as subject to Federal estate or gift tax.

“(3) **NO INFERENCE.**—No inference shall arise from paragraphs (1) and (2) that any transfer of property (or interest therein) before June 19, 1984, is exempt from Federal estate and gift taxes.

SEC. 642. REPORTS WITH TRANSFERS OF PUBLIC HOUSING BONDS.

26 USC 2001
note.

(a) **GENERAL RULE.**—With respect to transfers of public housing bonds occurring after December 31, 1983, and before June 19, 1984, the taxpayer shall report the date and amount of such transfer and such other information as the Secretary of the Treasury or his delegate shall prescribe by regulations to allow the determination of the tax and interest due if it is ultimately determined that such transfers are subject to estate, gift, or generation-skipping tax.

(b) **PENALTY FOR FAILURE TO REPORT.**—Any taxpayer failing to provide the information required by subsection (a) shall be liable for a penalty equal to 25 percent of the excess of (1) the estate, gift, or generation-skipping tax that is payable assuming that such transfers are subject to tax, over (2) the tax payable assuming such transfers are not so subject.

SEC. 643. TAX-EXEMPT STATUS OF OBLIGATIONS OF CERTAIN EDUCATIONAL ORGANIZATIONS.

(a) **IN GENERAL.**—For purposes of section 103 of the Internal Revenue Code of 1954, a qualified educational organization shall be treated as a State governmental unit, but only with respect to a trade or business carried on by such organization which is not an unrelated trade or business (determined by applying section 513(a) of such Code to such organization).

(b) **QUALIFIED EDUCATIONAL ORGANIZATION.**—For purposes of subsection (a), the term “qualified educational organization” means a college or university created on February 22, 1855, by specific act of the legislature of the State within which such college or university is located.

(c) **EFFECTIVE DATE.**—This section shall apply to obligations issued after December 31, 1953.

SEC. 644. LOCAL FURNISHING OF ELECTRICITY OR GAS.

(a) **GENERAL RULE.**—For the purposes of section 103(b)(4)(E), facilities for the local furnishing of electric energy also shall include a facility that is part of a system providing service to the general populace (i) if at least 97 percent (measured both by total number of metered customers and by their annual consumption on a kilowatt hour basis) of the retail customers of such system are located in two contiguous counties, and (ii) if the remainder of such customers are located in a portion of a third contiguous county which portion is located on a peninsula not directly connected by land to the rest of the county of which it is a part.

(b) **ELECTION TO ALLOCATE TO 1984 ONE-HALF OF STATE LIMIT FOR 1985, 1986, AND 1987.**—Solely for purposes of issuing obligations described in subsection (a), the issuing authorities of a State may elect (at such time and in such manner as the Secretary of the Treasury shall by regulations prescribe) to use in 1984 one-half of the amount which would have been the State limit for the calendar years 1985, 1986, and 1987.

SEC. 645. LOCAL FURNISHING WHERE FACILITY INITIALLY AUTHORIZED BY FEDERAL GOVERNMENT.

For the purpose of section 103(b)(4)(E), facilities for the local furnishing of electric energy also shall include a facility that is part of a system providing service to the general populace—

(i) if the facility was initially authorized by the Federal Government in 1962;

(ii) if the facility receives financing of at least 25 percent by an exempt person;

(iii) if the electric energy generated by the facility is purchased by an electric cooperative qualified as a rural electric borrower under 7 U.S.C. section 901 et seq. and if;

(iv) the facility is located in a noncontiguous State.

SEC. 646. TREASURY DEPARTMENT DECISIONS AFFECTING TAX-EXEMPT BONDS.20 USC 1087-1
note.

(a) The Secretary of Education and the Secretary of the Treasury shall within 90 days of the date of enactment of this provision, establish procedures under which issuers affected by any decision of the Secretary of Education or his delegate under section 7 of the Student Loan Consolidation and Technical Amendments Act of 1983 may request and obtain a review of such decision by the Secretary of the Treasury or his delegate followed by a written report to the Secretary of Education and to such person with respect to such review to be filed no later than 60 days of the request for review (unless the person requesting such review consents to an extension of time).

20 USC 1087-1
and note,
1087-1a.

(b) Nothing in this section shall affect the exemption from income taxation of interest on any student loan bond or any issuer of such bonds.

SEC. 647. SPECIAL RULE FOR POSSESSIONS AND DISTRICT OF COLUMBIA.

Notwithstanding any other provision of law, in the case of obligations issued before July 1, 1987—

(1) the Virgin Islands and American Samoa shall have authority to issue industrial development bonds (within the meaning of section 103(b)(2) of the Internal Revenue Code of 1954), and

(2) the District of Columbia Housing Finance Agency shall have the authority to issue obligations described in section 103(b)(4)(A) of such Code and to issue mortgage subsidy bonds (as defined in section 103A of such Code).

SEC. 648. SPECIAL ARBITRAGE RULE.

Securities or obligations are not described in section 103(c)(2) (A) or (B) of the Internal Revenue Code of 1954 and are not subject to yield restrictions to the extent that on the date of issue of a bond issue which is payable from the investment earnings on such securities or obligations—

(1) such securities or obligations are held in a fund which, except to the extent of the investment earnings on such securities or obligations, cannot be used, under State constitutional or statutory restrictions continuously in effect since October 9, 1969, to pay debt service on the bond issue or to finance the facilities that are to be financed with the proceeds of the bonds,

(2) the fund has received no substantial discretionary contributions after October 9, 1969,

(3) the issuer (A) had a practice of issuing bonds secured by the investment earnings of the fund during the period commencing January 1, 1960, and ending on October 9, 1969, and (B) has had a continuous practice of issuing bonds secured by the investment earnings of the fund at least once during each 5-year period beginning on October 9, 1969, and

(4) the amount of securities or obligations benefitting from this rule cannot exceed the principal amount of bonds (to which such securities or other obligations would, but for this rule, be allocated) which could be issued under applicable laws restricting the amount of bonds that can be issued (but not restrictions on the purposes for which bonds can be issued) in effect on October 9, 1969, as applied to the facts on the day of issue.

TITLE VII—TECHNICAL CORRECTIONS

26 USC 31 note. **SEC. 701. COORDINATION WITH OTHER TITLES.**

For purposes of applying the amendments made by any title of this Act other than this title, the provisions of this title shall be treated as having been enacted immediately before the provisions of such other titles.

Subtitle A—Amendments Related to the Tax Equity and Fiscal Responsibility Act of 1982**SEC. 711. TECHNICAL CORRECTIONS OF PROVISIONS RELATING TO INDIVIDUALS.****(a) AMENDMENTS RELATED TO SECTION 201.—**

26 USC 55. (1) **DEFINITION OF REGULAR TAX.**—Paragraph (2) of section 55(f) (defining regular tax) is amended by striking out “sections 72(m)(5)(B)” and inserting in lieu thereof “sections 47(a), 72(m)(5)(B)”.

26 USC 58. (2) **SPECIAL ELECTION FOR INTANGIBLE DRILLING AND DEVELOPMENT COSTS LIMITED TO WELLS LOCATED IN THE UNITED STATES.**—Subparagraph (A) of section 58(i)(4) (relating to special election for intangible drilling and development cost not allocable to interest as limited partner) is amended by inserting “(with respect to wells located in the United States)” after “intangible drilling costs”.

(3) 3-YEAR AMORTIZATION FOR CIRCULATION EXPENSES.—

26 USC 57. (A) Subparagraph (B) of section 57(a)(6) (relating to circulation and research and experimental expenditures) is amended to read as follows:

“(B) the amount which would have been allowable for the taxable year with respect to expenditures paid or incurred during such taxable year if—

“(i) the circulation expenditures described in section 173 had been capitalized and amortized ratably over the 3-year period beginning with the taxable year in which such expenditures were made, or

“(ii) the research and experimental expenditures described in section 174 had been capitalized and amortized ratably over the 10-year period beginning with the taxable year in which such expenditures were made.”

26 USC 58. (B) Paragraph (1) of section 58(i) (relating to optional 10-year writeoff of certain tax preferences) is amended by striking out “10-year period” and inserting in lieu thereof “10-year period (3-year period in the case of circulation expenditures described in section 173)”.

26 USC 173. (C) Subsection (b) of section 173 is amended by striking out “10-year” and inserting in lieu thereof “3-year”.

26 USC 55. (4) **LOSSES TREATED AS INVESTMENT LOSSES.**—Subparagraph (B) of section 55(e)(8) is amended to read as follows:

“(B) **INCOME AND LOSSES TAKEN INTO ACCOUNT IN COMPUTING QUALIFIED NET INVESTMENT INCOME.**—Any income or loss derived from a limited business interest shall be taken

into account in computing qualified net investment income.”

(5) **TREATMENT OF ALCOHOL FUELS CREDIT.**—Subparagraph (c) of section 55(b)(1) (defining alternative minimum taxable income) is amended by striking out “section 667” and inserting in lieu thereof “section 87 or 667”. 26 USC 55.

(b) **AMENDMENT RELATED TO SECTION 202.**—Paragraph (5) of section 213(d) (relating to definitions) is amended by striking out “paragraph (2)” and inserting in lieu thereof “paragraph (4)”. *Ante*, p. 847.

(c) **AMENDMENTS RELATED TO SECTION 203.**—

(1) **CLARIFICATION OF ADJUSTED GROSS INCOME IN THE CASE OF ESTATES AND TRUSTS.**—Paragraph (2) of section 165(h) (relating to casualty and theft losses) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph: 26 USC 165.

“(B) **DETERMINATION OF ADJUSTED GROSS INCOME IN CASE OF ESTATES AND TRUSTS.**—For purposes of paragraph (1), the adjusted gross income of an estate or trust shall be computed in the same manner as in the case of an individual, except that the deductions for costs paid or incurred in connection with the administration of the estate or trust shall be treated as allowable in arriving at adjusted gross income.”

(2) **COORDINATION OF SECTION 165(h) WITH SECTION 1231.**—

(A) **COORDINATION FOR 1984 AND SUBSEQUENT YEARS.**—

(i) **CLARIFICATION OF LOSSES TO WHICH SECTION 165(c)(3) APPLIES.**—Paragraph (3) of section 165(c) (relating to limitation on loss of individuals) is amended by striking out “trade or business” and inserting in lieu thereof “trade or business or a transaction entered into for profit”.

(ii) **AMENDMENT OF SECTION 165(h).**—Subsection (h) of section 165 (relating to casualty and theft losses) is amended to read as follows:

“(h) **TREATMENT OF CASUALTY GAINS AND LOSSES.**—

“(1) **\$100 LIMITATION PER CASUALTY.**—Any loss of an individual described in subsection (c)(3) shall be allowed only to the extent that the amount of the loss to such individual arising from each casualty, or from each theft, exceeds \$100.

“(2) **NET CASUALTY LOSS ALLOWED ONLY TO THE EXTENT IT EXCEEDS 10 PERCENT OF ADJUSTED GROSS INCOME.**—

“(A) **IN GENERAL.**—If the personal casualty losses for any taxable year exceed the personal casualty gains for such taxable year, such losses shall be allowed for the taxable year only to the extent of the sum of—

“(i) the amount of the personal casualty gains for the taxable year, plus

“(ii) so much of such excess as exceeds 10 percent of the adjusted gross income of the individual.

“(B) **SPECIAL RULE WHERE PERSONAL CASUALTY GAINS EXCEED PERSONAL CASUALTY LOSSES.**—If the personal casualty gains for any taxable year exceed the personal casualty losses for such taxable year—

“(i) all such gains shall be treated as gains from sales or exchanges of capital assets, and

“(ii) all such losses shall be treated as losses from sales or exchanges of capital assets.

“(3) **DEFINITIONS OF PERSONAL CASUALTY GAIN AND PERSONAL CASUALTY LOSS.**—For purposes of this subsection—

“(A) **PERSONAL CASUALTY GAIN.**—The term ‘personal casualty gain’ means the recognized gain from any involuntary conversion of property which is described in subsection (c)(3) arising from fire, storm, shipwreck, or other casualty, or from theft.

“(B) **PERSONAL CASUALTY LOSS.**—The term ‘personal casualty loss’ means any loss described in subsection (c)(3). For purposes of paragraph (2), the amount of any personal casualty loss shall be determined after the application of paragraph (1).

“(4) **SPECIAL RULES.**—

“(A) **PERSONAL CASUALTY LOSSES ALLOWABLE IN COMPUTING ADJUSTED GROSS INCOME TO THE EXTENT OF PERSONAL CASUALTY GAINS.**—In any case to which paragraph (2)(A) applies, the deduction for personal casualty losses for any taxable year shall be treated as a deduction allowable in computing adjusted gross income to the extent such losses do not exceed the personal casualty gains for the taxable year.

“(B) **JOINT RETURNS.**—For purposes of this subsection, a husband and wife making a joint return for the taxable year shall be treated as 1 individual.

“(C) **DETERMINATION OF ADJUSTED GROSS INCOME IN CASE OF ESTATES AND TRUSTS.**—For purposes of paragraph (2), the adjusted gross income of an estate or trust shall be computed in the same manner as in the case of an individual, except that the deductions for costs paid or incurred in connection with the administration of the estate or trust shall be treated as allowable in arriving at adjusted gross income.

“(D) **COORDINATION WITH ESTATE TAX.**—No loss described in subsection (c)(3) shall be allowed if, at the time of filing the return, such loss has been claimed for estate tax purposes in the estate tax return.”

26 USC 1231.

(iii) **SECTION 1231 NOT TO APPLY TO PERSONAL CASUALTY GAINS OR LOSSES.**—Subsection (a) of section 1231 (relating to property used in the trade or business and involuntary conversions) is amended to read as follows:

“(a) **GENERAL RULE.**—

“(1) **GAINS EXCEED LOSSES.**—If—

“(A) the section 1231 gains for any taxable year, exceed

“(B) the section 1231 losses for such taxable year, such gains and losses shall be treated as long-term capital gains or long-term capital losses, as the case may be.

“(2) **GAINS DO NOT EXCEED LOSSES.**—If—

“(A) the section 1231 gains for any taxable year, do not exceed

“(B) the section 1231 losses for such taxable year, such gains and losses shall not be treated as gains and losses from sales or exchanges of capital assets.

“(3) **SECTION 1231 GAINS AND LOSSES.**—For purposes of this subsection—

“(A) **SECTION 1231 GAIN.**—The term ‘section 1231 gain’ means—

“(i) any recognized gain on the sale or exchange of property used in the trade or business, and

“(ii) any recognized gain from the compulsory or involuntary conversion (as a result of destruction in whole or in part, theft or seizure, or an exercise of the power of requisition or condemnation or the threat or imminence thereof) into other property or money of—

“(I) property used in the trade or business, or

“(II) any capital asset which is held for more than 1 year and is held in connection with a trade or business or a transaction entered into for profit.

“(B) SECTION 1231 LOSS.—The term ‘section 1231 loss’ means any recognized loss from a sale or exchange or conversion described in subparagraph (A).

“(4) SPECIAL RULES.—For purposes of this subsection—

“(A) In determining under this subsection whether gains exceed losses—

“(i) the section 1231 gains shall be included only if and to the extent taken into account in computing gross income, and

“(ii) the section 1231 losses shall be included only if and to the extent taken into account in computing taxable income, except that section 1211 shall not apply.

“(B) Losses (including losses not compensated for by insurance or otherwise) on the destruction, in whole or in part, theft or seizure, or requisition or condemnation of—

“(i) property used in the trade or business, or

“(ii) capital assets which are held for more than 1 year and are held in connection with a trade or business or a transaction entered into for profit,

shall be treated as losses from a compulsory or involuntary conversion.

“(C) In the case of any involuntary conversion (subject to the provisions of this subsection but for this sentence) arising from fire, storm, shipwreck, or other casualty, or from theft, of any—

“(i) property used in the trade or business, or

“(ii) any capital asset which is held for more than 1 year and is held in connection with a trade or business or a transaction entered into for profit,

this subsection shall not apply to such conversion (whether resulting in gain or loss) if during the taxable year the recognized losses from such conversions exceed the recognized gains from such conversions.”

(iv) Sections 873(b)(1) and 931(d)(2)(B) are each amended by striking out “, for losses of property not connected with the trade or business if arising from certain casualties or theft,” and inserting in lieu thereof “for losses”.

26 USC 873, 931.

(v) EFFECTIVE DATE.—The amendments made by this subparagraph shall apply to taxable years beginning after December 31, 1983.

26 USC 165 note.

(B) TRANSITIONAL RULE.—In the case of taxable years beginning before January 1, 1984—

26 USC 165 note.

(i) For purposes of paragraph (1)(B) of section 165(h) of the Internal Revenue Code of 1954, adjusted gross

Ante, p. 943.

income shall be determined without regard to the application of section 1231 of such Code to any gain or loss from an involuntary conversion of property described in subsection (c)(3) of section 165 of such Code arising from fire, storm, shipwreck, or other casualty or from theft.

(ii) Section 1231 of such Code shall be applied after the application of paragraph (1) of section 165(h) of such Code.

Ante, p. 943.
26 USC 6405.

(3) **CLERICAL AMENDMENT.**—Subsection (d) of section 6405 (relating to refunds attributable to certain disaster losses) is amended by striking out “section 165(h)” and inserting in lieu thereof “section 165(i)”.

SEC. 712. TECHNICAL CORRECTIONS OF PROVISIONS PRIMARILY RELATING TO BUSINESSES.

(a) AMENDMENTS RELATED TO SECTION 204.—

(1) **CLARIFICATION OF ADDITIONAL AMOUNT TREATED AS ORDINARY INCOME UNDER SECTION 1250.—**

26 USC 291.

(A) Paragraph (1) of section 291(a) (relating to section 1250 capital gain treatment) is amended—

(i) by striking out “under section 1250” in subparagraph (B) and inserting in lieu thereof “under section 1250 (determined without regard to this paragraph)”, and

(ii) by striking out “which is ordinary income” and inserting in lieu thereof “which is ordinary income under section 1250”.

26 USC 1250.

(B) Subsection (a) of section 1250 is amended by adding at the end thereof the following new paragraph:

“(4) **CROSS REFERENCE.**—

“For reduction in the case of corporations on capital gain treatment under this section, see section 291(a)(1).”

(2) **INVESTMENT TAX CREDIT ALLOWED ONLY FOR MINERAL EXPLORATION AND DEVELOPMENT COSTS FOR DEPOSITS LOCATED IN THE UNITED STATES.**—Clause (ii) of section 291(b)(2)(B) is amended by inserting “in the case of a deposit located in the United States,” after “(ii)”.

26 USC 291.

(3) **CLARIFICATION OF COORDINATION WITH COST DEPLETION.**—Paragraph (6) of section 291(b) (relating to coordination with cost depletion) is amended to read as follows:

“(6) **COORDINATION WITH COST DEPLETION.**—The portion of the adjusted basis of any property which is attributable to amounts to which paragraph (1) applied shall not be taken into account for purposes of determining depletion under section 611.”

(4) **CLARIFICATION OF DEFINITION OF INTEREST.**—Subparagraph (B) of section 291(e)(1) (relating to interest on debt to carry tax-exempt obligations acquired after December 31, 1982) is amended by adding at the end thereof the following new clause:

“(iii) **INTEREST.**—For purposes of this subparagraph, the term ‘interest’ includes amounts (whether or not designated as interest) paid in respect of deposits, investment certificates, or withdrawable or repurchasable shares.”

26 USC 48.

(b) **AMENDMENT RELATED TO SECTION 205.**—Subsection (q) of section 48 (relating to basis adjustment to section 38 property) is amended by adding at the end thereof the following new paragraph:

“(6) ADJUSTMENT IN BASIS OF INTEREST IN PARTNERSHIP OR S CORPORATION.—The adjusted basis of—

“(A) a partner’s interest in a partnership, and

“(B) stock in an S corporation,

shall be appropriately adjusted to take into account adjustments made under this subsection in the basis of property held by the partnership or S corporation (as the case may be).”

(c) AMENDMENT RELATED TO SECTION 207.—Paragraph (4) of section 189(e) (defining residential real property) is amended by striking out “or” at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof “, or”, and by adding at the end thereof the following new subparagraph:

26 USC 189.

“(C) real property held by a cooperative housing corporation (as defined in section 216(b)) and used for dwelling purposes.”

(d) AMENDMENTS RELATED TO SECTION 210.—

(1) SPECIAL RULE WHERE DEALER-LESSEE REQUIRED TO PURCHASE VEHICLE.—Paragraph (2) of section 210(b) of the Tax Equity and Fiscal Responsibility Act of 1982 (defining terminal rental adjustment clause) is amended by adding at the end thereof the following new sentence: “Such term also includes a provision of an agreement which requires a lessee who is a dealer in motor vehicles to purchase the motor vehicle for a predetermined price and then resell such vehicle where such provision achieves substantially the same results as a provision described in the preceding sentence.”

26 USC 168 note.

(2) EXCEPTION WHERE LESSEE TOOK POSITION ON RETURN THAT HE WAS OWNER.—Section 210 of the Tax Equity and Fiscal Responsibility Act of 1982 is amended by adding at the end thereof the following new subsection:

“(c) EXCEPTION WHERE LESSEE TOOK POSITION ON RETURN.—Subsection (a) shall not apply to deny a deduction for interest paid or accrued claimed by a lessee with respect to a qualified motor vehicle agreement on a return of tax imposed by chapter 1 of the Internal Revenue Code of 1954 which was filed before the date of the enactment of this Act or to deny a credit for investment in depreciable property claimed by the lessee on such a return pursuant to an agreement with the lessor that the lessor would not claim the credit.”

26 USC 1 *et seq.*

(e) AMENDMENT RELATED TO SECTION 211.—Subparagraph (A) of section 211(e)(2) of the Tax Equity and Fiscal Responsibility Act of 1982 (relating to retention of old sections 907(b) and 904(f)(4) where taxpayer had separate basket foreign loss) is amended by striking out “the 8-year period” and inserting in lieu thereof “the 8-year period (or such shorter period as the taxpayer may select)”.

26 USC 907 note.

(f) AMENDMENT RELATED TO SECTION 212.—Paragraph (1) of section 954(h) (defining foreign base company oil-related income) is amended by striking out “section 907(c)(2)” and inserting in lieu thereof “paragraphs (2) and (3) of section 907(c)”.

26 USC 954.

(g) AMENDMENT RELATED TO SECTION 213.—The table contained in subparagraph (C) of section 936(a)(2) is amended by striking out “The percentage tax is:” and inserting in lieu thereof “The percentage is:”.

26 USC 936.

(h) AMENDMENT RELATED TO SECTION 217.—Subsection (e) of section 217 of the Tax Equity and Fiscal Responsibility Act of 1982 (relating to effective date) is amended by adding at the end thereof

26 USC 103 note.

the following new sentence: "For purposes of applying section 168(f)(8)(D)(v) of the Internal Revenue Code of 1954, the amendments made by subsection (c) shall apply to agreements entered into after the date of the enactment of this Act."

(i) AMENDMENTS RELATED TO SECTION 222.—

Ante, p. 569.
26 USC 302.

(1) Sections 301(e)(2) and 302(f)(3) are each amended by striking out "partial or complete liquidation" and inserting in lieu thereof "complete liquidation".

26 USC 306.

(2) The paragraph heading of paragraph (1) of section 306(b) (relating to exceptions) is amended by striking out "INTEREST." and inserting in lieu thereof "INTEREST, ETC.".

26 USC 543.

(3) Paragraph (1) of section 543(a) (defining personal holding company income) is amended by striking out subparagraph (C), by adding "and" at the end of subparagraph (A), and by striking out ", and" at the end of subparagraph (B) and inserting in lieu thereof a period.

26 USC 311.

(j) AMENDMENT RELATED TO SECTION 223.—Paragraph (1) of section 311(e) (defining qualified stock) is amended by adding at the end thereof the following new subparagraph:

"(C) RULES FOR PASSTHRU ENTITIES.—In the case of an S corporation, partnership, trust, or estate—

"(i) the determination of whether subparagraph (A) is satisfied shall be made at the shareholder, partner, or beneficiary level (rather than at the entity level), and

"(ii) the distribution shall be treated as made directly to the shareholders, partners, or beneficiaries in proportion to their respective interests in the entity."

(k) AMENDMENTS RELATED TO SECTION 224.—

26 USC 338.

(1) ASSETS TREATED AS SOLD AT FAIR MARKET VALUE.—

(A) IN GENERAL.—Paragraph (1) of section 338(a) (relating to general rule) is amended by inserting "at fair market value" after "acquisition date".

(B) BASIS OF ASSETS AFTER DEEMED PURCHASE.—Subsection (b) of section 338 (relating to price at which deemed sale made) is amended to read as follows:

"(b) BASIS OF ASSETS AFTER DEEMED PURCHASE.—

"(1) IN GENERAL.—For purposes of subsection (a), the assets of the target corporation shall be treated as purchased for an amount equal to the sum of—

"(A) the grossed-up basis of the purchasing corporation's recently purchased stock, and

"(B) the basis of the purchasing corporation's nonrecently purchased stock.

"(2) ADJUSTMENT FOR LIABILITIES AND OTHER RELEVANT ITEMS.—The amount described in paragraph (1) shall be adjusted under regulations prescribed by the Secretary for liabilities of the target corporation and other relevant items.

"(3) ELECTION TO STEP-UP THE BASIS OF CERTAIN TARGET STOCK.—

"(A) IN GENERAL.—Under regulations prescribed by the Secretary, the basis of the purchasing corporation's nonrecently purchased stock shall be the basis amount determined under subparagraph (B) of this paragraph if the purchasing corporation makes an election to recognize gain as if such stock were sold on the acquisition date for an amount equal to the basis amount determined under subparagraph (B).

“(B) DETERMINATION OF BASIS AMOUNT.—For purposes of subparagraph (A), the basis amount determined under this subparagraph shall be an amount equal to the grossed-up basis determined under subparagraph (A) of paragraph (1) multiplied by a fraction—

“(i) the numerator of which is the percentage of stock (by value) in the target corporation attributable to the purchasing corporation’s nonrecently purchased stock, and

“(ii) the denominator of which is 100 percent minus the percentage referred to in clause (i).

“(4) GROSSED-UP BASIS.—For purposes of paragraph (1), the grossed-up basis shall be an amount equal to the basis of the corporation’s recently purchased stock, multiplied by a fraction—

“(A) the numerator of which is 100 percent, minus the percentage of stock (by value) in the target corporation attributable to the purchasing corporation’s nonrecently purchased stock, and

“(B) the denominator of which is the percentage of stock (by value) in the target corporation attributable to the purchasing corporation’s recently purchased stock.

“(5) ALLOCATION AMONG ASSETS.—The amount determined under paragraphs (1) and (2) shall be allocated among the assets of the target corporation under regulations prescribed by the Secretary.

“(6) DEFINITIONS OF RECENTLY PURCHASED STOCK AND NONRECENTLY PURCHASED STOCK.—For purposes of this subsection—

“(A) RECENTLY PURCHASED STOCK.—The term ‘recently purchased stock’ means any stock in the target corporation which is held by the purchasing corporation on the acquisition date and which was purchased by such corporation during the 12-month acquisition period.

“(B) NONRECENTLY PURCHASED STOCK.—The term ‘nonrecently purchased stock’ means any stock in the target corporation which is held by the purchasing corporation on the acquisition date and which is not recently purchased stock.”

(2) COORDINATION WITH SECTION 333.—The last sentence of paragraph (1) of section 338(c) (relating to coordination with section 337 where purchasing corporation holds less than 100 percent of stock) is amended by striking out “such 1-year period” and inserting in lieu thereof “such 1-year period and section 333 does not apply to such liquidation”.

26 USC 338.

(3) EXCEPTIONS TO DEEMED ELECTION RULE.—Paragraph (2) of section 338(e) (relating to exceptions) is amended—

(A) by striking out “(in whole or in part)” in subparagraph (B) and inserting in lieu thereof “wholly”,

(B) by inserting “or” at the end of subparagraph (C), and

(C) by striking out subparagraphs (D) and (E) and inserting in lieu thereof the following:

“(D) such acquisition is described in regulations prescribed by the Secretary and meets such conditions as such regulations may provide.”

(4) TIME FOR MAKING ELECTION.—Paragraph (1) of section 338(g) (relating to election) is amended to read as follows:

“(1) WHEN MADE.—Except as otherwise provided in regulations, an election under this section shall be made not later than the 15th day of the 9th month beginning after the month in which the acquisition date occurs.”

(5) DEFINITION OF PURCHASE.—

26 USC 338.

(A) Subparagraph (B) of section 338(h)(3) (defining purchase) is amended to read as follows:

“(B) DEEMED PURCHASE UNDER SUBSECTION (a).—The term ‘purchase’ includes any deemed purchase under subsection (a)(2). The acquisition date for a corporation which is deemed purchased under subsection (a)(2) shall be determined under regulations prescribed by the Secretary.”

(B) Paragraph (3) of section 338(h) is amended by adding at the end thereof the following new subparagraph:

“(C) CERTAIN STOCK ACQUISITIONS FROM RELATED CORPORATIONS.—

“(i) IN GENERAL.—Clause (iii) of subparagraph (A) shall not apply to an acquisition of stock from a related corporation if at least 50 percent in value of the stock of such related corporation was acquired by purchase (within the meaning of subparagraph (A) and (B)).

“(ii) CERTAIN DISTRIBUTIONS.—Clause (i) of subparagraph (A) shall not apply to an acquisition of stock described in clause (i) of this subparagraph if the corporation acquiring such stock—

“(I) made a qualified stock purchase of stock of the related corporation, and

“(II) made an election under this section (or is treated under subsection (e) as having made such an election) with respect to such qualified stock purchase.

“(iii) RELATED CORPORATION DEFINED.—For purposes of this subparagraph, a corporation is a related corporation if stock owned by such corporation is treated (under section 318(a) other than paragraph (4) thereof) as owned by the corporation acquiring the stock.”

(C) Paragraph (1) of section 338(h) (defining 12-month acquisition period) is amended by inserting before the period at the end thereof the following: “(or, if any of such stock was acquired in an acquisition which is a purchase by reason of subparagraph (C) of paragraph (3), the date on which the acquiring corporation is first considered under section 318(a) (other than paragraph (4) thereof) as owning stock owned by the corporation from which such acquisition was made).”

(D) Clause (ii) of section 338(h)(3)(A) (defining purchase) is amended to read as follows:

“(ii) the stock is not acquired in an exchange to which section 351, 354, 355, or 356 applies and is not acquired in any other transaction described in regulations in which the transferor does not recognize the entire amount of the gain or loss realized on the transaction, and”.

26 USC 318.

(E) Paragraph (4) of section 318(b) (relating to cross references) is amended to read as follows: “(4) section 338(h)(3) (defining purchase);”.

(6) SPECIAL RULES FOR APPLYING SECTION 338.—

(A) Subsection (h) of section 338 (relating to definitions and special rules) is amended by striking out paragraph (7), by redesignating paragraphs (8) and (9) as paragraphs (9) and (10), respectively, and by inserting after paragraph (6) the following new paragraphs:

26 USC 338.

“(7) ADDITIONAL PERCENTAGE MUST BE ATTRIBUTABLE TO PURCHASE, ETC.—For purposes of subsection (c)(1), any increase in the maximum percentage of stock taken into account over the percentage of stock (by value) of the target corporation held by the purchasing corporation on the acquisition date shall be taken into account only to the extent such increase is attributable to—

“(A) purchase, or

“(B) a redemption of stock of the target corporation—

“(i) to which section 302(a) applies, or

“(ii) in the case of a shareholder who is not a corporation, to which section 301 applies.

“(8) ACQUISITIONS BY AFFILIATED GROUP TREATED AS MADE BY 1 CORPORATION.—Except as provided in regulations prescribed by the Secretary, stock and asset acquisitions made by members of the same affiliated group shall be treated as made by 1 corporation.”

(B) Paragraph (9) of section 338(h), as redesignated by subparagraph (A), is amended by striking out “paragraph (9)” and inserting in lieu thereof “paragraph (10)”.

(C) Subsection (h) of section 338 is amended by adding at the end thereof the following new paragraphs:

“(11) ELECTIVE FORMULA FOR DETERMINING FAIR MARKET VALUE.—For purposes of subsection (a)(1), fair market value may be determined on the basis of a formula provided in regulations prescribed by the Secretary which takes into account liabilities and other relevant items.

“(12) SECTION 337 TO APPLY WHERE TARGET HAD ADOPTED PLAN FOR COMPLETE LIQUIDATION.—If—

“(A) during the 12-month period ending on the acquisition date the target corporation adopted a plan of complete liquidation,

“(B) such plan was not rescinded before the close of the acquisition date, and

“(C) the purchasing corporation makes an election under this section (or is treated under subsection (e) as having made such an election) with respect to the target corporation,

then, subject to rules similar to the rules of subsection (c)(1), for purposes of section 337 (and other provisions which relate to section 337), the target corporation shall be treated as having distributed all of its assets as of the close of the acquisition date.

“(13) TAX ON DEEMED SALE NOT TAKEN INTO ACCOUNT FOR ESTIMATED TAX PURPOSES.—For purposes of section 6655, tax attributable to the sale described in subsection (a)(1) shall not be taken into account.

“(14) COORDINATION WITH SECTION 341.—For purposes of determining whether section 341 applies to a disposition within 1 year after the acquisition date of stock by a shareholder (other than the acquiring corporation) who held stock in the target corporation on the acquisition date, section 341 shall be applied without regard to this section.

“(15) **COMBINED DEEMED SALE RETURN.**—Under regulations prescribed by the Secretary, a combined deemed sale return may be filed by all target corporations acquired by a purchasing corporation on the same acquisition date if such target corporations were members of the same selling consolidated group (as defined in subparagraph (B) of paragraph (10)).”

26 USC 338.

(7) Subsection (i) of section 338 (relating to regulations) is amended to read as follows:

“(i) **REGULATIONS.**—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including—

“(1) regulations to ensure that the purpose of this section to require consistency of treatment of stock and asset sales and purchases may not be circumvented through the use of any provision of law or regulations (including the consolidated return regulations) and

“(2) regulations providing for the coordination of the provisions of this section with the provision of this title relating to foreign corporations and their shareholders.”

26 USC 269.

(8) **TREATMENT OF CERTAIN LIQUIDATIONS.**—

(A) **IN GENERAL.**—Section 269 (relating to acquisitions made to evade or avoid income tax) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

“(b) **CERTAIN LIQUIDATIONS AFTER QUALIFIED STOCK PURCHASES.**—

“(1) **IN GENERAL.**—If—

“(A) there is a qualified stock purchase by a corporation of another corporation,

“(B) an election is not made under section 338 with respect to such purchase,

“(C) the acquired corporation is liquidated pursuant to a plan of liquidation adopted not more than 2 years after the acquisition date, and

“(D) the principal purpose for such liquidation is the evasion or avoidance of Federal income tax by securing the benefit of a deduction, credit, or other allowance which the acquiring corporation would not otherwise enjoy,

then the Secretary may disallow such deduction, credit, or other allowance.

“(2) **MEANING OF TERMS.**—For purposes of paragraph (1), the terms ‘qualified stock purchase’ and ‘acquisition date’ have the same respective meanings as when used in section 338.”

(B) **CONFORMING AMENDMENT.**—Subsection (c) of section 269 (as redesignated by subparagraph (A)) is amended by striking out “subsection (a)” and inserting in lieu thereof “subsection (a) or (b)”.

26 USC 269
note.

(C) **EFFECTIVE DATE.**—The amendments made by this paragraph shall apply to liquidations after October 20, 1983, in taxable years ending after such date.

(9) **AMENDMENTS NOT TO APPLY TO ACQUISITIONS BEFORE SEPTEMBER 1, 1982.**—

26 USC 338 note.

(A) **IN GENERAL.**—The amendments made by this subsection shall not apply to any qualified stock purchase (as defined in section 338(d)(3) of the Internal Revenue Code of 1954) where the acquisition date (as defined in section 338(h)(2) of such Code) is before September 1, 1982.

(B) **EXTENSION OF TIME FOR MAKING ELECTION.**—In the case of any qualified stock purchase described in subparagraph (A), the time for making an election under section 338 of such Code shall not expire before the close of the 60th day after the date of the enactment of this Act.

(10) **SPECIAL RULES FOR DEEMED PURCHASES UNDER PRIOR LAW.**—If, before October 20, 1983, a corporation was treated as making a qualified stock purchase (as defined in section 338(d)(3) of the Internal Revenue Code of 1954), but would not be so treated under the amendments made by paragraphs (5) and (6) of this subsection, the amendments made by such paragraphs shall not apply to such purchase unless such corporation elects (at such time and in such manner as the Secretary of the Treasury or his delegate may by regulations prescribe) to have the amendments made by such paragraphs apply.

26 USC 338 note.

(I) **AMENDMENTS RELATED TO SECTION 226.**—

(1) **AMOUNT CONSTITUTING DIVIDEND.**—Paragraph (2) of section 304(b) (relating to amount constituting dividend) is amended to read as follows:

26 USC 304.

“(2) **AMOUNT CONSTITUTING DIVIDEND.**—In the case of any acquisition of stock to which subsection (a) applies, the determination of the amount which is a dividend (and the source thereof) shall be made as if the property were distributed—

“(A) by the acquiring corporation to the extent of its earnings and profits, and

“(B) then by the issuing corporation to the extent of its earnings and profits.”

(2) **COORDINATION WITH SECTION 351.**—Subparagraph (A) of section 304(b)(3) (relating to coordination with section 351) is amended by striking out “(and not part III)” and inserting in lieu thereof “(and not section 351 and not so much of sections 357 and 358 as relates to section 351)”.

(3) **CERTAIN ASSUMPTIONS OF LIABILITY.**—

(A) The first sentence of clause (i) of section 304(b)(3)(B) (relating to certain assumptions of liability, etc.) is amended by striking out “Subsection (a)” and inserting in lieu thereof “In the case of an acquisition described in section 351, subsection (a)”.

(B) Subparagraph (B) of section 304(b)(3) (relating to coordination with section 351) is amended by adding at the end thereof the following new clause:

“(iii) **CLAUSE (i) DOES NOT APPLY TO STOCK ACQUIRED FROM RELATED PERSON EXCEPT WHERE COMPLETE TERMINATION.**—Clause (i) shall apply only to stock acquired by the transferor from a person—

“(I) none of whose stock is attributable to the transferor under section 318(a) (other than paragraph (4) thereof), or

“(II) who satisfies rules similar to the rules of section 302(c)(2) with respect to both the acquiring and the issuing corporations (determined as if such person were a distributee of each such corporation).”

(4) **DISTRIBUTIONS INCIDENT TO FORMATION OF BANK HOLDING COMPANIES.**—Subparagraph (C) of section 304(b)(3) (relating to distributions incident to formation of bank holding companies) is amended by adding at the end thereof the following new

sentence: "For purposes of this subparagraph, any assumption of (or acquisition of stock subject to) a liability under subparagraph (B) shall not be treated as a distribution of property."

(5) **CONSTRUCTIVE OWNERSHIP.**—

26 USC 304.

(A) Paragraph (3) of section 304(c) (relating to constructive ownership) is amended to read as follows:

"(3) **CONSTRUCTIVE OWNERSHIP.**—

"(A) **IN GENERAL.**—Section 318(a) (relating to constructive ownership of stock) shall apply for purposes of determining control under this section.

"(B) **MODIFICATION OF 50-PERCENT LIMITATIONS IN SECTION 318.**—For purposes of subparagraph (A)—

26 USC 318.

"(i) paragraph (2)(C) of section 318(a) shall be applied by substituting '5 percent' for '50 percent', and

"(ii) paragraph (3)(C) of section 318(a) shall be applied—

"(I) by substituting '5 percent' for '50 percent', and

"(II) in any case where such paragraph would not apply but for subclause (I), by considering a corporation as owning the stock (other than stock in such corporation) owned by or for any shareholder of such corporation in that proportion which the value of the stock which such shareholder owned in such corporation bears to the value of all stock in such corporation."

26 USC 306.

(B) Paragraph (4) of section 306(c) is amended by striking out the last sentence and inserting in lieu thereof the following: "For purposes of applying the preceding sentence to paragraph (3), the rules of section 304(c)(3)(B) shall apply."

Supra.

(6) **CERTAIN STOCK ACQUIRED IN SECTION 351 EXCHANGE.**—Paragraph (3) of section 306(c) (relating to certain stock acquired in section 351 exchange) is amended by striking out the last sentence and inserting in lieu thereof the following: "Rules similar to the rules of section 304(b)(2) shall apply—

Ante, p. 953.

"(A) for purposes of the preceding sentence, and

"(B) for purposes of determining the application of this section to any subsequent disposition of stock which is section 306 stock by reason of an exchange described in the preceding sentence."

26 USC 304 note.

(7) **EFFECTIVE DATES FOR AMENDMENTS MADE BY PARAGRAPHS (1) AND (3).**—

(A) **IN GENERAL.**—Except as otherwise provided in this paragraph, the amendments made by paragraphs (1) and (3) shall apply to stock acquired after June 18, 1984, in taxable years ending after such date.

(B) **ELECTION BY TAXPAYER TO HAVE AMENDMENTS APPLY EARLIER.**—Any taxpayer may elect, at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe, to have the amendments made by paragraphs (1) and (3) apply as if included in section 226 of the Tax Equity and Fiscal Responsibility Act of 1982.

96 Stat. 490.

(C) **SPECIAL RULE FOR CERTAIN TRANSFERS TO FORM BANK HOLDING COMPANY.**—Except as provided in subparagraph (D), the amendments made by paragraphs (1) and (3) shall not apply to transfers pursuant to an application to form a

BHC (as defined in section 304(b)(3)(D)(ii) of the Internal Revenue Code of 1954) filed with the Federal Reserve Board before June 18, 1984, if—

(i) such BHC was formed not later than the 90th day after the date of the last required approval of any regulatory authority to form such BHC, and

(ii) such BHC did not elect (at such time and in such manner as the Secretary of the Treasury or his delegate shall prescribe) not to have the provisions of this subparagraph apply.

(D) AMENDMENTS TO APPLY TO CERTAIN LIABILITIES INCURRED BEFORE OCTOBER 20, 1983.—The amendment made by paragraph (3)(A) shall apply to the acquisition of any stock to the extent the liability assumed, or to which such stock is subject, was incurred by the transferor after October 20, 1983.

(m) AMENDMENT RELATED TO SECTION 229.—Subsection (c) of section 229 of the Tax Equity and Fiscal Responsibility Act of 1982 (relating to modification of regulations on the completed contract method of accounting) is amended by adding at the end thereof the following new paragraph:

26 USC 451 note.

“(4) UNDERPAYMENTS OF ESTIMATED TAX FOR 1982.—To the extent provided in regulations, no addition to tax shall be made under section 6654 or 6655 of the Internal Revenue Code of 1954 for the taxpayer’s first taxable year ending after December 31, 1982, by reason of a long-term contract, but only with respect to installments required to be paid before April 13, 1983.”

Ante, p. 788.

(n) AMENDMENT RELATED TO SECTION 233.—Paragraph (11) of section 51(d) (defining members of economically disadvantaged families) is amended by adding at the end thereof the following new sentence: “Any such determination with respect to an individual who is a qualified summer youth employee or youth participating in a qualified cooperative education program with respect to any employer shall also apply for purposes of determining whether such individual is a member of another targeted group with respect to such employer.”

26 USC 51.

SEC. 713. TECHNICAL CORRECTIONS OF PENSION PROVISIONS.

(a) AMENDMENTS RELATED TO SECTION 235.—

(1) ACTUARIAL ADJUSTMENTS MADE TO BENEFIT LIMIT RATHER THAN TO BENEFIT.—

(A) Subparagraph (C) of section 415(b)(2) (relating to adjustment to \$90,000 limit where benefit begins before age 62) is amended by striking out the first sentence and inserting in lieu thereof the following: “If the retirement income benefit under the plan begins before age 62, the determination as to whether the \$90,000 limitation set forth in paragraph (1)(A) has been satisfied shall be made, in accordance with regulations prescribed by the Secretary, by reducing the limitation of paragraph (1)(A) so that such limitation ‘as so reduced’ equals an annual benefit (beginning when such retirement income benefit begins) which is equivalent to a \$90,000 annual benefit beginning at age 62.”

26 USC 415.

(B) Subparagraph (D) of section 415(b)(2) (relating to adjustment to \$90,000 limitation where benefit begins after age 65) is amended to read as follows:

“(D) ADJUSTMENT TO \$90,000 LIMIT WHERE BENEFIT BEGINS AFTER AGE 65.—If the retirement income benefit under the plan begins after age 65, the determination as to whether the \$90,000 limitation set forth in paragraph (1)(A) has been satisfied shall be made, in accordance with regulations prescribed by the Secretary, by increasing the limitation of paragraph (1)(A) so that such limitation (as so increased) equals an annual benefit (beginning when such retirement income benefit begins) which is equivalent to a \$90,000 annual benefit beginning at age 65.”

26 USC 415.

(C)(i) Clauses (i) and (iii) of section 415(b)(2)(E) are each amended by striking out “any benefit” and inserting in lieu thereof “any benefit or limitation”.

(ii) Clause (ii) of section 415(b)(2)(E) is amended by striking out “any benefit” and inserting in lieu thereof “any limitation”.

(2) DEFINITION OF CURRENT ACCRUED BENEFIT IN THE CASE OF COLLECTIVELY BARGAINED PLANS.—Clause (i) of section 235(g)(4)(B) of the Tax Equity and Fiscal Responsibility Act of 1982 (defining current accrued benefit) is amended by adding at the end thereof the following new sentence: “In the case of any plan described in the first sentence of paragraph (5), the preceding sentence shall be applied by substituting for ‘January 1, 1983’ the applicable date determined under paragraph (5).”

26 USC 415 note.

(3) TRANSITION FRACTION ONLY APPLIES TO PLANS IN EXISTENCE BEFORE JULY 1, 1982.—Paragraph (6) of section 415(e) (relating to special transition rule for defined contribution fraction for years ending after December 31, 1982) is amended by adding at the end thereof the following new subparagraph:

26 USC 415.

“(C) PLAN MUST HAVE BEEN IN EXISTENCE ON OR BEFORE JULY 1, 1982.—This paragraph shall apply only to plans which were in existence on or before July 1, 1982.”

(4) TREATMENT OF CERTAIN COLLECTIVE BARGAINING AGREEMENTS ENTERED INTO BEFORE JULY 1, 1982.—Clause (ii) of section 235(g)(4)(B) of the Tax Equity and Fiscal Responsibility Act of 1982 (defining current accrued benefit) is amended by adding at the end thereof the following new sentence: “For purposes of subclause (I), any change in the terms and conditions of the plan pursuant to a collective bargaining agreement entered into before July 1, 1982, and ratified before September 3, 1982, shall be treated as a change made before July 1, 1982.”

26 USC 415 note.

(b) AMENDMENTS RELATED TO SECTION 236.—

(1) EXCEPTION FOR CERTAIN LOANS NOT TO APPLY TO LOANS FROM DEDUCTIBLE EMPLOYEE CONTRIBUTIONS.—

26 USC 72.

(A) Subparagraph (A) of section 72(o)(3) (relating to amounts constructively received) is amended by striking out “subsection (p)” and inserting in lieu thereof “subsection (p) (other than the exception contained in paragraph (2) thereof)”.

(B) Subparagraph (A) of section 72(p)(2) (relating to exception for certain loans) is amended by adding at the end thereof the following new sentence:

“For purposes of clause (ii), the present value of the nonforfeitable accrued benefit shall be determined without regard to any accumulated deductible employee contributions (as defined in subsection (o)(5)(B)).”

(2) **DEFINITION OF REQUIRED PRINCIPAL PAYMENT.**—Subparagraph (C) of section 236(c)(2) of the Tax Equity and Fiscal Responsibility Act of 1982 is amended by inserting before the period at the end thereof the following: “or if such loan was payable on demand”.

26 USC 72 note.

(3) **REPEAL OF PROVISION TREATING CERTAIN LOAN REPAYMENTS AS CONTRIBUTIONS.**—Subsection (f) of section 404 (relating to certain loan repayments considered as contributions) is hereby repealed.

26 USC 404.

(4) **CLARIFICATION OF EXCEPTION FOR SMALL LOANS.**—Clause (ii) of section 72(p)(2)(A) (relating to exception for certain loans) is amended to read as follows:

26 USC 72.

“(ii) the greater of (I) one-half of the present value of the nonforfeitable accrued benefit of the employee under the plan, or (II) \$10,000.”

(c) **AMENDMENTS RELATED TO SECTION 237.**—

(1) **AMENDMENTS CONFORMING TO LIMITING TO KEY EMPLOYEES THE PENALTY FOR PREMATURE DISTRIBUTIONS.**—

(A) Clause (i) of section 72(m)(5)(A) is amended by striking out “as an owner-employee” and inserting in lieu thereof “as a key employee”.

(B) The paragraph heading of section 72(m)(5) is amended by striking out “OWNER-EMPLOYEES” and inserting in lieu thereof “KEY EMPLOYEES”.

(C) Sections 46(a)(4), 53(a), and 901(a) are each amended by striking out “tax on premature distributions to owner-employees” and inserting in lieu thereof “tax on premature distributions to key employees”.

Ante, p. 834, 838.

26 USC 901.

(2) **CORRECTION OF CROSS REFERENCE TO DEFINITION OF BANK.**—

(A) Subsection (f) of section 401 is amended by striking out “(as defined in subsection (d)(1))” and inserting in lieu thereof “(as defined in section 408(n))”.

26 USC 401.

(B) Subsection (h) of section 408 is amended by striking out “(as defined in section 401(d)(1))” and inserting in lieu thereof “(as defined in subsection (n))”.

26 USC 408.

(3) **LIMITATION ON ROLLOVERS TO APPLY ONLY TO KEY EMPLOYEES.**—Clause (ii) of section 402(a)(5)(E) (relating to self-employed individuals and owner-employees) is amended to read as follows:

Ante, p. 869.

“(ii) **KEY EMPLOYEES.**—An eligible retirement plan described in subclause (IV) or (V) of subparagraph (D)(iv) shall not be treated as an eligible retirement plan for the transfer of a distribution if any part of the distribution is attributable to contributions made on behalf of the employee while he was a key employee in a top-heavy plan. For purposes of the preceding sentence, the terms ‘key employee’ and ‘top-heavy plan’ have the same respective meanings as when used in section 416.”

(d) **AMENDMENTS RELATED TO SECTION 238.**—

(1) **REPEAL OF SECTION 72(m)(9).**—Paragraph (9) of section 72(m) (relating to return of excess contributions before due date of return) is hereby repealed.

26 USC 72.

(2) **INCREASE IN AMOUNT OF DEDUCTION FOR SIMPLIFIED EMPLOYEE PENSIONS.**—Clause (ii) of section 219(b)(2)(A) (relating to special rules for employer contributions under simplified employee pensions) is amended by striking out “but not in excess of

26 USC 219.

\$15,000" and inserting in lieu thereof "but not in excess of the limitation in effect under section 415(c)(1)(A)".

26 USC 401.

(3) **REPEAL OF SECTION 401 (e).**—Subsection (e) of section 401 (relating to contributions for premiums on annuity, etc., contracts) is hereby repealed.

(4) **REPEAL OF SECTION 404 (a) (9).**—

26 USC 404.

(A) Subsection (a) of section 404 is amended by striking out paragraph (9) and by redesignating paragraph (10) as paragraph (9).

26 USC 415.

(B) Subparagraph (C) of section 415(c)(6) is amended—
(i) by striking out "paragraph (10) of section 404(a)" and inserting in lieu thereof "paragraph (9) of section 404(a)",

(ii) by striking out "section 404(a)(10)(A)" and inserting in lieu thereof "section 404(a)(9)(A)", and

(iii) by striking out "section 404(a)(10)(B)" and inserting in lieu thereof "section 404(a)(9)(B)".

26 USC 404.

(5) **REPEAL OF SECTION 404 (h) (4).**—Paragraph (4) of section 404(h) (relating to effect on self-employed individuals or shareholder employees) is hereby repealed.

(6) **DETERMINATION OF EARNED INCOME OF SELF-EMPLOYED FOR PURPOSES OF SECTION 404 (a) (8) (D).**—Subparagraph (D) of section 404(a)(8) is amended by striking out "the earned income of such individual" and inserting in lieu thereof "the earned income of such individual (determined without regard to the deductions allowed by this section and section 405(c))".

Ante, p. 848.

(7) **REPEAL OF SECTION 415 (c) (7).**—

26 USC 415.

(A) Subsection (c) of section 415 is amended by striking out paragraph (7) and by redesignating paragraph (8) as paragraph (7).

(B) Subclause (II) of section 415(e)(3)(B)(ii) is amended by striking out "subsection (c) (7) or (8)" and inserting in lieu thereof "subsection (c)(7)".

26 USC 404 note.

(8) **COORDINATION OF REPEALS OF CERTAIN SECTIONS.**—Sections 404(e) and 1379(b) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of the Tax Equity and Fiscal Responsibility Act of 1982) shall not apply to any plan to which section 401(j) of such Code applies (or would apply but for its repeal).

26 USC 1 note.

(9) **AMENDMENT OF SECTION 404 (e).**—Subsection (e) of section 404 is amended by striking out "under this section" and inserting in lieu thereof "under paragraph (1), (2), or (3) of subsection (a)".

26 USC 404.

(e) **AMENDMENT RELATED TO SECTION 239.**—Subparagraph (B) of section 101(b)(3) (relating to treatment of self-employed individuals for exclusion of employees' death benefits) is amended to read as follows:

26 USC 101.

"(B) **SPECIAL RULE FOR CERTAIN DISTRIBUTIONS.**—In the case of any amount paid or distributed—

"(i) by a trust described in section 401(a) which is exempt from tax under section 501(a), or

"(ii) under a plan described in section 403(a), the term 'employee' includes a self-employed individual described in section 401(c)(1)."

(f) **AMENDMENTS RELATED TO SECTION 240.**—

(1) **DEFINITION OF KEY EMPLOYEE.**—

(A) Subparagraph (A) of section 416(i)(1) (defining key employee) is amended by striking out “any participant in an employer plan” and inserting in lieu thereof “an employee”.

26 USC 416.

(B) Clause (ii) of section 416(i)(1)(A) is amended to read as follows:

“(ii) 1 of the 10 employees having annual compensation from the employer of more than the limitation in effect under section 415(c)(1)(A) and owning (or considered as owning within the meaning of section 318) the largest interests in the employer.”.

(C) Subparagraph (A) of section 416(i)(1) (defining key employee) is amended by adding at the end thereof the following new sentence: “For purposes of clause (ii), if 2 employees have the same interest in the employer, the employee having greater annual compensation from the employer shall be treated as having a larger interest.”

(D) Subparagraph (C) of section 416(i)(1) is amended by striking out “DETERMINING 5-PERCENT OR 1-PERCENT OWNERS” in the subparagraph heading and inserting in lieu thereof “DETERMINING OWNERSHIP IN THE EMPLOYER”.

(2) TREATMENT OF SIMPLIFIED EMPLOYEE PENSIONS.—Paragraph (1) of section 408(k) (defining simplified employee pension) is amended to read as follows:

26 USC 408.

“(1) IN GENERAL.—For purposes of this title, the term ‘simplified employee pension’ means an individual retirement account or individual retirement annuity—

“(A) with respect to which the requirements of paragraphs (2), (3), (4), and (5) of this subsection are met, and

“(B) if such account or annuity is part of a top-heavy plan (as defined in section 416), with respect to which the requirements of section 416(c)(2) are met.”

(3) CLARIFICATION OF TRANSITIONAL RULE.—Paragraph (3) of section 235(g) of the Tax Equity and Fiscal Responsibility Act of 1982 is amended by adding at the end thereof the following new sentence: “A similar rule shall apply with respect to the last plan year beginning before January 1, 1984, for purposes of applying section 416(h) of the Internal Revenue Code of 1954.”

26 USC 415 note.

(4) TREATMENT OF DISTRIBUTIONS FROM TERMINATED PLANS.—Paragraph (3) of section 416(g) (relating to distributions during last 5 years taken into account) is amended by adding at the end thereof the following new sentence: “The preceding sentence shall also apply to distributions under a terminated plan which if it had not been terminated would have been required to be included in an aggregation group.”

26 USC 416.

(5) CLARIFICATION OF COST-OF-LIVING ADJUSTMENTS.—

(A) IN GENERAL.—Paragraph (2) of section 416(d) (relating to cost-of-living adjustments) is amended by striking out “in the same manner” and inserting in lieu thereof “at the same time and in the same manner”.

(B) SIMPLIFIED EMPLOYEE PENSIONS.—Subparagraph (C) of section 408(k)(3) (relating to contributions must bear uniform relationship to total compensation) is amended by adding at the end thereof the following new sentence: “The Secretary shall annually adjust the \$200,000 amount contained in the preceding sentence at the same time and in

26 USC 408.

the same manner as he adjusts the dollar amount contained in section 415(c)(1)(A)."

(6) CLERICAL AMENDMENTS.—

26 USC 416.

(A) Subsection (f) of section 416 is amended by striking out "require" and inserting in lieu thereof "required".

(B) Clause (iii) of section 416(i)(1)(B) is amended by striking out "subparagraph (A)(ii)(II)" and inserting in lieu thereof "subparagraph (A)(ii)".

(g) AMENDMENTS RELATED TO SECTION 243.—

(1) EFFECTIVE DATE FOR PROVISIONS RELATED TO INHERITED INDIVIDUAL RETIREMENT PLANS.—Subsection (c) of section 243 of the Tax Equity and Fiscal Responsibility Act of 1982 is amended to read as follows:

"(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to individuals dying after December 31, 1983."

(2) CLERICAL AMENDMENT.—The subparagraph (C) of section 408(d)(3) which was added by section 335(a)(1) of the Tax Equity and Fiscal Responsibility Act of 1982 is redesignated as subparagraph (D).

(h) AMENDMENT RELATED TO SECTION 247.—Subsection (a) of section 247 of the Tax Equity and Fiscal Responsibility Act of 1982 (relating to existing personal service corporations may liquidate under section 333 during 1983 and 1984) is amended by inserting "which is in existence on September 3, 1982," after "section 535(c)(2)(B) of the Internal Revenue Code of 1954)".

(i) AMENDMENT RELATED TO SECTION 248.—Paragraph (2) of section 414(n) (defining leased employee) is amended by striking out "any person" in the material preceding subparagraph (A) and inserting in lieu thereof "any person who is not an employee of the recipient and".

(j) AMENDMENT RELATED TO SECTION 249.—Subparagraph (D) of section 408(k)(3) (relating to treatment of certain contributions and taxes) is amended by striking out the second and third sentences and inserting in lieu thereof the following: "If the employer does not maintain an integrated plan at any time during the taxable year, OASDI contributions (as defined in section 401(l)(2)) may, for purposes of this paragraph, be taken into account as contributions by the employer to the employee's simplified employee pension, but only if such contributions are so taken into account with respect to each employee maintaining a simplified employee pension."

(k) AMENDMENTS RELATED TO SECTION 253.—

(1) LIMITATION OF PROFIT-SHARING AND STOCK BONUS PLANS.—Subparagraph (C) of section 415(c)(3) is amended by striking out "In the case of a participant" and inserting in lieu thereof "In the case of a participant in a profit-sharing or stock bonus plan".

(2) CLARIFICATION OF RULE THAT CONTRIBUTIONS BE NONFORFEITABLE.—Subparagraph (C) of section 415(c)(3) (relating to special rules for permanent and total disability) is amended by striking out the last sentence and inserting in lieu thereof the following: "This subparagraph shall apply only if contributions made with respect to amounts treated as compensation under this subparagraph are nonforfeitable when made."

SEC. 714. MISCELLANEOUS PROVISIONS.

(a) AMENDMENT RELATED TO SECTION 255.—Subsection (c) of section 811 (relating to special rule for dividends to policyholders under

Ante, p. 740.

reinsurance contracts) is amended by striking out “conventional coinsurance contract” and inserting in lieu thereof “reinsurance contract”.

(b) AMENDMENT RELATED TO SECTION 281A.—Paragraph (2) of section 281A(b) of the Tax Equity and Fiscal Responsibility Act of 1982 is amended by striking out “subsection (a)” and inserting in lieu thereof “paragraph (1)”.

26 USC 7275
note.

(c) AMENDMENT RELATED TO SECTION 292.—Paragraph (2) of section 7430(a) (relating to awarding of court costs and certain fees) is amended by striking out “including the Tax Court” and inserting in lieu thereof “including the Tax Court and the United States Claims Court”.

26 USC 7430.

(d) AMENDMENT RELATED TO SECTION 309.—Paragraph (2) of section 6042(b) (relating to exceptions from dividend reporting requirements) is amended to read as follows:

26 USC 6042.

“(2) EXCEPTIONS.—For purposes of this section, the term ‘dividend’ does not include any distribution or payment—

“(A) to the extent provided in regulations prescribed by the Secretary—

“(i) by a foreign corporation, or

“(ii) to a foreign corporation, a nonresident alien, or a partnership not engaged in a trade or business in the United States and composed in whole or in part of nonresident aliens, or

“(B) except to the extent otherwise provided in regulations prescribed by the Secretary, to any person described in section 6049(b)(4).”

97 Stat. 370.
26 USC 6049.
26 USC 6045.

(e) AMENDMENTS RELATED TO SECTION 311.—

(1) IN GENERAL.—Section 6045(c) (relating to returns of brokers) is amended by adding at the end thereof the following new paragraph:

“(4) PERSON.—The term ‘person’ includes any governmental unit and any agency or instrumentality thereof.”

(2) NO PENALTY FOR PAYMENTS BEFORE JANUARY 1, 1985.—No penalty shall be imposed under the Internal Revenue Code of 1954 with respect to any person required (by reason of the amendment made by paragraph (1)) to file a return under section 6045 of such Code with respect to any payment before January 1, 1985.

26 USC 6045
note.
26 USC 1 *et seq.*

(f) AMENDMENT RELATED TO SECTION 314.—Subparagraph (E) of section 6678(a)(3) is amended by striking out “section 6053(c)” and inserting in lieu thereof “section 6053”.

97 Stat. 381.
26 USC 6678.

(g) AMENDMENTS RELATED TO SECTION 320.—

(1) PERMITTING THE JOINDER OF REFUND AND INJUNCTIVE ACTIONS WITH RESPECT TO CERTAIN PENALTIES.—Section 7422 (relating to civil actions for refund) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

26 USC 7422.

“(i) SPECIAL RULE FOR ACTIONS WITH RESPECT TO TAX SHELTER PROMOTER AND UNDERSTATEMENT PENALTIES.—No action or proceeding may be brought in the United States Claims Court for any refund or credit of a penalty imposed by section 6700 (relating to penalty for promoting abusive tax shelters, etc.) or section 6701 (relating to penalties for aiding and abetting understatement of tax liability).”

(2) AMENDMENT TO TITLE 28.—Chapter 91 of title 28, United States Code, is amended by adding at the end thereof the following new section:

28 USC 1509. **“§ 1509. No jurisdiction in cases involving refunds of tax shelter promoter and understatement penalties**

“The United States Claims Court shall not have jurisdiction to hear any action or proceeding for any refund or credit of any penalty imposed under section 6700 of the Internal Revenue Code of 1954 (relating to penalty for promoting abusive tax shelters, etc.) or section 6701 of such Code (relating to penalties for aiding and abetting understatement of tax liability).”

(3) CONFORMING AMENDMENT.—The table of sections for chapter 91 of title 28, United States Code, is amended by adding at the end thereof the following new item:

“1509. No jurisdiction in cases involving refunds of tax shelter promoter and understatement penalties.”

28 USC 1509
note.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to any claim for refund or credit filed after the date of the enactment of this Act.

(h) AMENDMENTS RELATED TO SECTION 323.—

26 USC 5684.

(1) Subsection (b) of section 5684 is amended—

(A) by striking out “SECTION 6660” in the heading and inserting in lieu thereof “SECTION 6662”, and

(B) by striking out “section 6660(a)” in the text and inserting in lieu thereof “section 6662(a)”.

26 USC 5761.

(2) Subsection (c) of section 5761 is amended—

(A) by striking out “SECTION 6660” in the heading and inserting in lieu thereof “SECTION 6662”, and

(B) by striking out “section 6660(a)” in the text and inserting in lieu thereof “section 6662(a)”.

26 USC 6661.

(3) Clause (ii) of section 6661(b)(2)(A) (defining understatement) is amended by inserting “, reduced by any rebate (within the meaning of section 6211(b)(2))” after “return”.

26 USC 7609.

(i) AMENDMENT RELATED TO SECTION 333.—Section 7609(c)(1) (relating to summons to which section applies) is amended by striking out “section 7602” and inserting in lieu thereof “section 7602(a)”.

(j) AMENDMENTS RELATED TO SECTION 334.—

26 USC 3405.

(1) CLARIFICATION THAT DEATH BENEFIT EXCLUSION APPLIES TO DISTRIBUTIONS UNDER SECTION 403 (b).—Subparagraph (C) of section 3405(b)(2) (relating to special rule for distributions by reason of death) is amended to read as follows:

“(C) SPECIAL RULE FOR DISTRIBUTIONS BY REASON OF DEATH.—In the case of any nonperiodic distribution from or under any plan or contract described in section 401(a), 403(a), or 403(b)—

“(i) which is made by reason of a participant’s death, and

“(ii) with respect to which the requirements of clauses (ii) and (iv) of subsection (d)(4)(A) are met, subparagraph (A) or (B) (as the case may be) shall be applied by taking into account the exclusion from gross income provided by section 101(b) (whether or not allowable).”

(2) CLARIFICATION OF CREDIT FOR WITHHELD AMOUNTS.—Paragraph (1) of section 31(a) is amended by striking out “under

section 3402 as tax on the wages of any individual" and inserting in lieu thereof "as tax under chapter 24".

(3) **PENALTY FOR FAILURE TO GIVE NOTICE.**—Section 6652 (relating to penalty for failure to file certain information returns, registration statements, etc.) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

26 USC 6652.

"(i) **FAILURE TO GIVE NOTICE TO RECIPIENTS OF CERTAIN PENSION, ETC., DISTRIBUTIONS.**—In the case of each failure to provide notice as required by section 3405(d)(10)(B), at the time prescribed therefor, unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid, on notice and demand of the Secretary and in the same manner as tax, by the person failing to provide such notice, an amount equal to \$10 for each such failure, but the total amount imposed on such person for all such failures during any calendar year shall not exceed \$5,000."

(4) **EXCEPTION FOR AMOUNTS PAID TO NONRESIDENT ALIENS.**—Subparagraph (B) of section 3405(d)(1) (relating to exceptions) is amended by striking out "and" at the end of clause (i), by striking out the period at the end of clause (ii) and inserting in lieu thereof ", and", and by adding at the end thereof the following new clause:

26 USC 3405.
Ante, p. 891.

"(iii) any amount which is subject to withholding under subchapter A of chapter 3 (relating to withholding of tax on nonresident aliens and foreign corporations) by the person paying such amount or which would be so subject but for a tax treaty."

26 USC 1441.

(5) **CLARIFICATION OF AMOUNT WITHHELD WHERE EMPLOYER SECURITY DISTRIBUTED.**—Paragraph (8) of section 3405(d) (relating to maximum amount withheld) is amended by adding at the end thereof the following new sentence: "No amount shall be required to be withheld under this section in the case of any designated distribution which consists only of employer securities of the employer corporation (within the meaning of section 402(a)(3)) and cash (not in excess of \$200) in lieu of fractional shares."

(k) **AMENDMENT RELATED TO SECTION 337.**—Subsection (d) of section 982 (relating to admissibility of documentation maintained in foreign countries) is amended by striking out paragraph (3) and by redesignating paragraph (4) as paragraph (3).

26 USC 982.

(l) **AMENDMENT RELATED TO SECTION 339.**—Paragraph (1) of section 6038A(c) (defining control) is amended by striking out "section 6038(d)(1)" and inserting in lieu thereof "section 6038(e)(1)".

26 USC 6038A.

(m) **AMENDMENT RELATED TO SECTION 345.**—Subsection (b) of section 345 of the Tax Equity and Fiscal Responsibility Act of 1982 (relating to effective date) is amended by striking out "taking effect on" and inserting in lieu thereof "taking effect on or after".

26 USC 6621
note.

(n) **AMENDMENTS RELATED TO SECTION 346.**—

(1) **CLERICAL AMENDMENT.**—Subparagraph (B) of section 346(c)(2) of the Tax Equity and Fiscal Responsibility Act of 1982 is amended to read as follows:

26 USC 6601.

"(B) Subparagraph (A) of section 6601(d)(2) is amended by striking out 'the last day of' each place it appears and inserting in lieu thereof 'the filing date for'."

(2) **INTEREST ON REFUNDS CAUSED BY CARRYBACKS.**—

26 USC 6611.

(A) Paragraph (3) of section 6611(f) (relating to refund of tax caused by carryback, etc.) is amended by adding at the end thereof the following new subparagraph:

“(C) APPLICATION OF SUBPARAGRAPH (B) WHERE SECTION 6411(a) CLAIM FILED.—For purposes of subparagraph (B)(i)(II), if a taxpayer—

“(i) files a claim for refund of any overpayment described in paragraph (1) or (2) with respect to the taxable year to which a loss or credit is carried back, and

“(ii) subsequently files an application under section 6411(a) with respect to such overpayment, then the claim for overpayment shall be treated as having been filed on the date the application under section 6411(a) was filed.”

Ante, p. 846.

(B) The last sentence of section 6411(a) is amended by striking out “An” and inserting in lieu thereof “Except for purposes of applying section 6611(f)(3)(B), an”.

26 USC 6331.

(c) AMENDMENT RELATED TO SECTION 349.—Subsection (b) of section 6331 is amended by striking out “subsection (d)(3)” and inserting in lieu thereof “subsection (e)”.

(p) AMENDMENTS RELATED TO TITLE IV.—

(1) EXTENSION OF PARTNERSHIP AUDIT PROVISIONS TO ENTITIES FILING PARTNERSHIP RETURNS, ETC.—Subchapter C of chapter 63 (relating to tax treatment of partnership items) is amended by adding at the end thereof the following new section:

26 USC 6233.

“SEC. 6233. EXTENSION TO ENTITIES FILING PARTNERSHIP RETURNS, ETC.

“(a) GENERAL RULE.—If a partnership return is filed by an entity for a taxable year but it is determined that the entity is not a partnership for such year, then, to the extent provided in regulations, the provisions of this subchapter are hereby extended in respect of such year to such entity and its items and to persons holding an interest in such entity.

“(b) SIMILAR RULES IN CERTAIN CASES.—If for any taxable year—

“(1) an entity files a return as an S corporation but it is determined that the entity was not an S corporation for such year, or

“(2) a partnership return or S corporation return is filed but it is determined that there is no entity for such taxable year, then, to the extent provided in regulations, rules similar to the rules of subsection (a) shall apply.”

(2) TECHNICAL AND CLERICAL AMENDMENTS.—

26 USC 6230.

(A) Subparagraph (B) of section 6230(c)(1) is amended by striking out “(or erroneously computed the amount of any such credit or refund)”.

26 USC 6231.

(B) Paragraph (9) of section 6231(a) is amended by striking out “electing small business corporation” and inserting in lieu thereof “S corporation”.

(C) Subparagraph (A) of section 6231(d)(1) is amended to read as follows:

“(A) in the case of a partner whose entire interest in the partnership is disposed of during such partnership taxable year, as of the moment immediately before such disposition, or”.

(D) Subsection (f) of section 6231 is amended by striking out “such deduction or credit” and inserting in lieu thereof “such loss or credit”. 26 USC 6231.

(E) The table of sections for subpart C of chapter 63 is amended by adding at the end thereof the following new item:

“Sec. 6233. Extension to entities filing partnership returns, etc.”

(F) Paragraph (3) of section 6501(q) is amended to read as follows: 26 USC 6501.

“(3) CROSS REFERENCE.—

“For extension of period for windfall profit tax items of partnerships, see section 6229 as made applicable by section 6232.”

(G) Paragraph (3) of section 6511(h) is amended to read as follows: 26 USC 6511.

“(3) CROSS REFERENCE.—

“For period of limitation for windfall profit tax items of partnerships, see section 6227(a) and subsections (c) and (d) of section 6230 as made applicable by section 6232.”

(H) Subsection (h) of section 7422 is amended by striking out “section 6131(a)(3)” and inserting in lieu thereof “section 6231(a)(3)”. 26 USC 7422.

(I) Subparagraph (B) of section 6231(b)(2) (relating to items cease to be partnership items in certain cases) is amended by striking out “section 6227(b)” and inserting in lieu thereof “section 6227(c)”. 26 USC 6231.

(q) ESTATES AND TRUSTS AND S CORPORATIONS REQUIRED TO PROVIDE INFORMATION TO CERTAIN BENEFICIARIES AND SHAREHOLDERS.—

(1) ESTATES AND TRUSTS.—Subpart A of part III of subchapter A of chapter 61 (relating to information concerning persons subject to special provisions) is amended by adding after section 6034 the following new section:

“SEC. 6034A. INFORMATION TO BENEFICIARIES OF ESTATES AND TRUSTS. 26 USC 6034A.

“The fiduciary of any estate or trust making the return required to be filed under section 6012(a) for any taxable year shall, on or before the date on which such return was filed, furnish to each beneficiary—

“(1) who receives a distribution from such estate or trust with respect to such taxable year, or

“(2) to whom any item with respect to such taxable year is allocated,

a statement containing such information shown on such return as the Secretary may prescribe.”

(2) S CORPORATIONS.—Section 6037 (relating to return of S corporation) is amended— 26 USC 6037.

(A) by striking out “Every” and inserting in lieu thereof “(a) In General.—Every”, and

(B) by adding at the end thereof the following new subsection:

“(b) COPIES TO SHAREHOLDERS.—Each S corporation required to file a return under subsection (a) for any taxable year shall (on or before the day on which the return for such taxable year was filed) furnish to each person who is a shareholder at any time during such taxable year a copy of such information shown on such return as may be required by regulations.”

97 Stat. 381.
26 USC 6678.

(3) **PENALTY FOR FAILURE TO PROVIDE INFORMATION.**—Section 6678(a)(3) (relating to failure to furnish certain statements) is amended by striking out “or” at the end of subparagraph (D), by inserting “or” at the end of subparagraph (E), and by adding after subparagraph (E) the following new subparagraph:

Ante, p. 965.

“(F) section 6031(b), 6034A, or 6037(b) (relating to statements furnished by certain pass-thru entities),”.

(4) **CONFORMING AMENDMENT.**—The table of sections for subpart A of III of subchapter A of chapter 61 is amended by adding after the item relating to section 6034 the following new item:

“Sec. 6034A. Information to beneficiaries of estates and trusts.”

26 USC 6034A
note.

(5) **EFFECTIVE DATE.**—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1984.

26 USC 31 note. **SEC. 715. EFFECTIVE DATE.**

Any amendment made by this subtitle shall take effect as if included in the provision of the Tax Equity and Fiscal Responsibility Act of 1982 to which such amendment relates.

26 USC 1 note.

Subtitle B—Amendments Related to Subchapter S Revision Act of 1982; Etc.

SEC. 721. TECHNICAL CORRECTIONS OF SUBCHAPTER S REVISION ACT OF 1982.

(a) **LIMITATION ON RECOGNITION OF GAIN IN THE CASE OF CERTAIN DISTRIBUTIONS.**—

26 USC 1363.

(1) Section 1363 (relating to effect of election on corporation) is amended by adding at the end thereof the following new subsection:

“(e) **SUBSECTION (d) NOT TO APPLY TO COMPLETE LIQUIDATIONS AND REORGANIZATIONS.**—Subsection (d) shall not apply to any distribution—

“(1) of property in complete liquidation of the corporation, or

“(2) to the extent it consists of property permitted by section 354, 355, or 356 to be received without the recognition of gain.”

(2) Subsection (d) of section 1363 is amended by striking out “If” and inserting in lieu thereof “Except as provided in subsection (e), if”.

(b) **COORDINATION WITH RULES RELATING TO INCOME FROM DISCHARGE OF INDEBTEDNESS.**—

(1) Paragraph (2) of section 1363(c) (relating to elections of the S corporation) is amended by striking out subparagraph (A) and by redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively.

26 USC 108.

(2) Subsection (d) of section 108 (relating to income from discharge of indebtedness) is amended by redesignating paragraphs (7), (8), and (9) as paragraphs (8), (9), and (10), respectively, by striking out paragraph (6), and by inserting after paragraph (5) the following new paragraphs:

“(6) **SUBSECTIONS (a), (b), AND (c) TO BE APPLIED AT PARTNER LEVEL.**—In the case of a partnership, subsections (a), (b), and (c) shall be applied at the partner level.

“(7) **SPECIAL RULES FOR S CORPORATION.**—

“(A) SUBSECTIONS (a), (b), AND (c) TO BE APPLIED AT CORPORATE LEVEL.—In the case of an S corporation, subsections (a), (b), and (c) shall be applied at the corporate level.

“(B) REDUCTION IN CARRYOVER OF DISALLOWED LOSSES AND DEDUCTIONS.—In the case of an S corporation, for purposes of subparagraph (A) of subsection (b)(2), any loss or deduction which is disallowed for the taxable year of the discharge under section 1366(d)(1) shall be treated as a net operating loss for such taxable year. The preceding sentence shall not apply to any discharge to the extent that subsection (a)(1)(C) applies to such discharge.

“(C) COORDINATION WITH BASIS ADJUSTMENTS UNDER SECTION 1367 (b) (2).—For purposes of subsection (e)(6), a shareholder’s adjusted basis in indebtedness of an S corporation shall be determined without regard to any adjustments made under section 1367(b)(2).”

(c) TREATMENT OF INACTIVE SUBSIDIARIES.—Paragraph (6) of section 1361(c) (relating to ownership of stock in certain inactive corporations) is amended to read as follows:

26 USC 1361.

“(6) OWNERSHIP OF STOCK IN CERTAIN INACTIVE CORPORATIONS.—For purposes of subsection (b)(2)(A), a corporation shall not be treated as a member of an affiliated group during any period within a taxable year by reason of the ownership of stock in another corporation if such other corporation—

“(A) has not begun business at any time on or before the close of such period, and

“(B) does not have gross income for such period.”

(d) TREATMENT OF WORTHLESS DEBT.—Paragraph (3) of section 1367(b) (relating to coordination with section 165(g)) is amended to read as follows:

26 USC 1367.

“(3) COORDINATION WITH SECTIONS 165(g) AND 166(d).—This section and section 1366 shall be applied before the application of sections 165(g) and 166(d) to any taxable year of the shareholder or the corporation in which the security or debt becomes worthless.”

(e) ADJUSTMENT TO EARNINGS AND PROFITS FOR RECAPTURE UNDER SECTION 47.—

(1) Subsection (d) of section 1371 (relating to coordination with investment credit recapture) is amended by adding at the end thereof the following new paragraph:

26 USC 1371.

“(3) ADJUSTMENT TO EARNINGS AND PROFITS FOR AMOUNT OF RECAPTURE.—Paragraph (1) of subsection (c) shall not apply to any increase in tax under section 47 for which the S corporation is liable.”

(2) Paragraph (1) of section 1371(c) is amended by striking out “paragraphs (2) and (3)” and inserting in lieu thereof “paragraphs (2) and (3) and subsection (d)(3)”.

(f) QUALIFIED SUBCHAPTER S TRUSTS.—

(1) GRACE PERIOD.—Subparagraph (D) of section 1361(d)(2) (relating to grace period) is amended by striking out “60 days” and inserting in lieu thereof “15 days and 2 months”.

26 USC 1361.

(2) DEFINITION OF QUALIFIED SUBCHAPTER S TRUST.—Subsection (d) of section 1361 (relating to special rule for qualified subchapter S trust) is amended by striking out paragraphs (3) and (4) and inserting in lieu thereof the following:

“(3) QUALIFIED SUBCHAPTER S TRUST.—For purposes of this subsection, the term ‘qualified subchapter S trust’ means a trust—

“(A) the terms of which require that—

“(i) during the life of the current income beneficiary, there shall be only 1 income beneficiary of the trust,

“(ii) any corpus distributed during the life of the current income beneficiary may be distributed only to such beneficiary,

“(iii) the income interest of the current income beneficiary in the trust shall terminate on the earlier of such beneficiary’s death or the termination of the trust, and

“(iv) upon the termination of the trust during the life of the current income beneficiary, the trust shall distribute all of its assets to such beneficiary, and

“(B) all of the income (within the meaning of section 643(b)) of which is distributed (or required to be distributed) currently to 1 individual who is a citizen or resident of the United States.

“(4) TRUST CEASING TO BE QUALIFIED.—

“(A) FAILURE TO MEET REQUIREMENTS OF PARAGRAPH

(3) (A).—If a qualified subchapter S trust ceases to meet any requirement of paragraph (3)(A), the provisions of this subsection shall not apply to such trust as of the date it ceases to meet such requirement.

“(B) FAILURE TO MEET REQUIREMENTS OF PARAGRAPH

(3) (B).—If any qualified subchapter S trust ceases to meet any requirement of paragraph (3)(B) but continues to meet the requirements of paragraph (3)(A), the provisions of this subsection shall not apply to such trust as of the first day of the first taxable year beginning after the first taxable year for which it failed to meet the requirements of paragraph (3)(B).”

26 USC 1361.

(3) TECHNICAL AMENDMENT.—Clause (i) of section 1361(d)(2)(B) (relating to separate election with respect to each S corporation) is amended by striking out “S corporation” each place it appears and inserting in lieu thereof “corporation”.

(g) COORDINATION WITH SECTION 338.—

26 USC 1362.

(1) Paragraph (6) of section 1362(e) (relating to treatment of S termination year) is amended by adding at the end thereof the following new subparagraph:

“(C) PARAGRAPH (2) NOT TO APPLY TO ITEMS RESULTING FROM SECTION 338.—Paragraph (2) shall not apply with respect to any item resulting from the application of section 338.”

(2) Paragraph (2) of section 1362(e) is amended by striking out “as provided in paragraph (3)” and inserting in lieu thereof “as provided in paragraph (3) and subparagraphs (C) and (D) of paragraph (6).”

(h) ELECTION TO HAVE ITEMS ASSIGNED TO SHORT TAXABLE YEAR UNDER NORMAL ACCOUNTING RULES.—Subparagraph (B) of section 1362(e)(3) (relating to election to have items assigned to each short taxable year under normal accounting rules) is amended to read as follows:

“(B) SHAREHOLDERS MUST CONSENT TO ELECTION.—An election under this subsection shall be valid only if all persons

who are shareholders in the corporation at any time during the S short year and all persons who are shareholders in the corporation on the first day of the C short year consent to such election."

(i) **ELECTION TO HAVE NEW PASSIVE INCOME RULES NOT APPLY DURING 1982.**—Paragraph (3) of section 6(b) of the Subchapter S Revision Act of 1982 (relating to new passive income rules apply to taxable years beginning during 1982) is amended by adding at the end thereof the following new sentences: "The preceding sentence shall not apply in the case of any corporation which elects (at such time and in such manner as the Secretary of the Treasury or his delegate shall prescribe) to have such sentence not apply. Subsection (e) shall not apply to any termination resulting from an election under the preceding sentence."

26 USC 1361
note.

(j) **S CORPORATION TREATED AS PARTNERSHIP FOR PURPOSES OF SECTION 318.**—Paragraph (5) of section 318(a) (relating to constructive ownership of stock) is amended by adding at the end thereof the following new subparagraphs:

26 USC 318.

"(E) **S CORPORATION TREATED AS PARTNERSHIP.**—For purposes of this subsection—

"(i) an S corporation shall be treated as a partnership, and

"(ii) any shareholder of the S corporation shall be treated as a partner of such partnership.

The preceding sentence shall not apply for purposes of determining whether stock in the S corporation is constructively owned by any person."

(k) **CLARIFICATION OF TREATMENT OF CERTAIN ELECTIONS UNDER PRIOR LAW.**—Subsection (e) of section 6 of the Subchapter S Revision Act of 1982 (relating to treatment of certain elections under prior law) is amended by striking out "any termination" and inserting in lieu thereof "any termination or revocation".

26 USC 1361
note.

(l) **ELECTION FOR CERTAIN SHORT TAXABLE YEARS.**—

(1) Subsection (b) of section 1362 (relating to when subchapter S election made) is amended by adding at the end thereof the following new paragraph:

26 USC 1362.

"(4) **TAXABLE YEARS OF 2½ MONTHS OR LESS.**—For purposes of this subsection, an election for a taxable year made not later than 2 months and 15 days after the first day of the taxable year shall be treated as timely made during such year."

(2) Paragraph (3) of section 1362(b) is amended by striking out "on or before the last day of such taxable year" and inserting in lieu thereof "on or before the 15th day of the 3rd month of the following taxable year".

(m) **TAXABLE YEAR OF EXISTING S CORPORATIONS.**—Paragraph (1) of section 1378(c) (relating to existing S corporations required to use permitted year after 50-percent shift in ownership) is amended by striking out "which includes December 31, 1982" and inserting in lieu thereof "which includes December 31, 1982 (or which is an S corporation for a taxable year beginning during 1983 by reason of an election made on or before October 19, 1982)".

26 USC 1378.

(n) **REFERENCES TO PRIOR LAW.**—Subsection (b) of section 1379 (relating to references to prior law included) is amended to read as follows:

26 USC 1379.

"(b) **REFERENCES TO PRIOR LAW INCLUDED.**—Any references in this title to a provision of this subchapter shall, to the extent not inconsistent with the purposes of this subchapter, include a refer-

26 USC 1 note. ence to the corresponding provision as in effect before the enactment of the Subchapter S Revision Act of 1982."

26 USC 1371. (o) ELECTION TO TREAT DISTRIBUTIONS AS DIVIDENDS DURING CERTAIN POST-TERMINATION TRANSITION PERIODS.—Subsection (e) of section 1371 (relating to coordination with subchapter C) is amended to read as follows:

"(e) CASH DISTRIBUTIONS DURING POST-TERMINATION TRANSITION PERIOD.—

"(1) IN GENERAL.—Any distribution of money by a corporation with respect to its stock during a post-termination transition period shall be applied against and reduce the adjusted basis of the stock, to the extent that the amount of the distribution does not exceed the accumulated adjustments account.

"(2) ELECTION TO DISTRIBUTE EARNINGS FIRST.—An S corporation may elect to have paragraph (1) not apply to all distributions made during a post-termination transition period described in section 1377(b)(1)(A). Such election shall not be effective unless all shareholders of the S corporation to whom distributions are made by the S corporation during such post-termination transition period consent to such election."

26 USC 1363. (p) CORPORATE PREFERENCE RULES APPLIED TO S CORPORATIONS WHICH WERE RECENT C CORPORATIONS.—Subsection (b) of section 1363 (relating to computation of corporation's taxable income) is amended by striking out "and" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(4) section 291 shall apply if the S corporation (or any predecessor) was a C corporation for any of the 3 immediately preceding taxable years."

26 USC 1378. (q) TREATMENT OF STOCK HELD BY ESTATE OF QUALIFIED TRANSFEROR.—Clause (i) of section 1378(c)(3)(B) (relating to existing S corporations required to use permitted year after 50-percent shift in ownership) is amended by striking out "who held" and inserting in lieu thereof "who (or whose estate) held".

(r) AMENDMENTS RELATED TO ACCUMULATED ADJUSTMENTS ACCOUNT.—

26 USC 1368. (1) Subparagraph (A) of section 1368(e)(1) (defining accumulated adjustments account) is amended by striking out "(except that" and all that follows through the end thereof and inserting in lieu thereof the following: "(except that no adjustment shall be made for income (and related expenses) which is exempt from tax under this title and the phrase '(but not below zero)' shall be disregarded in section 1367(b)(2)(A))".

(2) Subsection (c) of section 1368 (relating to S corporation having earnings and profits) is amended by adding at the end thereof the following new sentence: "Except to the extent provided in regulations, if the distributions during the taxable year exceed the amount in the accumulated adjustments account at the close of the taxable year, for purposes of this subsection, the balance of such account shall be allocated among such distributions in proportion to their respective sizes."

26 USC 267. (s) SPECIAL RULES FOR CERTAIN EXPENSES OF S CORPORATIONS.—Paragraph (1) of section 267(f) (as in effect on the day before the date of the enactment of this Act) is amended by striking out all that follows subparagraph (B) and inserting in lieu thereof the following: "then any deduction allowable under such sections in respect of

such amount shall be allowable as of the day as of which such amount is includible in the gross income of the person to whom the payment is made (or, if later, as of the day on which it would be so allowable but for this paragraph)."

(t) **PRO RATA ALLOCATION FOR S TERMINATION YEAR NOT TO APPLY IF 50-PERCENT CHANGE IN OWNERSHIP.**—Paragraph (6) of section 1362(e) (relating to special rules) is amended by adding at the end thereof the following new subparagraph:

Ante, p. 968.

"(D) **PRO RATA ALLOCATION FOR S TERMINATION YEAR NOT TO APPLY IF 50-PERCENT CHANGE IN OWNERSHIP.**—Paragraph (2) shall not apply to an S termination year if there is a sale or exchange of 50 percent or more of the stock in such corporation during such year."

(u) **TREATMENT OF PREDECESSOR CORPORATION UNDER SECTION 1374.**—Paragraph (2) of section 1374(c) (relating to exception for new corporations) is amended—

26 USC. 1374.

(1) by striking out "(and any predecessor corporation)" in subparagraph (A), and

(2) by adding at the end thereof the following new sentence: "To the extent provided in regulations, an S corporation and any predecessor corporation shall be treated as 1 corporation for purposes of this paragraph and paragraph (1)."

(v) **AUTHORITY TO WAIVE TAX ON PASSIVE INVESTMENT INCOME.**—Section 1375 (relating to tax imposed when passive investment income of corporation having subchapter C earnings and profits exceeds 25 percent of gross receipts) is amended by adding at the end thereof the following new subsection:

26 USC 1375.

"(d) **WAIVER OF TAX IN CERTAIN CASES.**—If the S corporation establishes to the satisfaction of the Secretary that—

"(1) it determined in good faith that it had no subchapter C earnings and profits at the close of a taxable year, and

"(2) during a reasonable period of time after it was determined that it did have subchapter C earnings and profits at the close of such taxable year such earnings and profits were distributed,

the Secretary may waive the tax imposed by subsection (a) for such taxable year."

(w) **APPLICATION OF DEBT RESTORATION RULES.**—Subparagraph (B) of section 1367(b)(2) (relating to adjustments in basis of indebtedness) is amended by striking out "for any taxable year there is" and inserting in lieu thereof "for any taxable year beginning after December 31, 1982, there is".

26 USC 1367.

(x) **CLERICAL AMENDMENTS.**—

(1) Clause (i) of section 48(k)(5)(D) is amended by striking out "electing small business corporation" and inserting in lieu thereof "S corporation".

26 USC 48.

(2) Subparagraph (B) of section 465(a)(1) (relating to limitation to amount at risk) is amended by striking out "a corporation" and inserting in lieu thereof "a C corporation".

26 USC 465.

(3) Subsection (e) of section 1371 (relating to cash distributions during post-termination transition period) is amended by inserting before the period at the end thereof the following: "(within the meaning of section 1368(e))".

Ante, p. 970

(4) Paragraph (2) of section 6659(f) is amended by striking out "section 465(a)(1)(C)" and inserting in lieu thereof "section 465(a)(1)(B)".

Ante, p. 694.

26 USC 6362.

(5) Subparagraph (C) of section 6362(d)(2) is amended by striking out “electing small business corporation (within the meaning of section 1371(a))” and inserting in lieu thereof “an S corporation”.

26 USC 1361 note.

(y) EFFECTIVE DATES.—

(1) **IN GENERAL.**—Except as otherwise provided in this subsection, any amendment made by this section shall take effect as if included in the Subchapter S Revision Act of 1982.

26 USC 1 note.

(2) **AMENDMENT MADE BY SUBSECTION (b) (2).**—Subparagraph (C) of section 108(d)(7) of the Internal Revenue Code of 1954 (as amended by subsection (b)(2)) shall apply to contributions to capital after December 31, 1980, in taxable years ending after such date.

Ante, p. 966.**(3) AMENDMENT MADE BY SUBSECTION (g) (1).—If—**

(A) any portion of a qualified stock purchase is pursuant to a binding contract entered into on or after October 19, 1982, and before the date of the enactment of this Act, and

(B) the purchasing corporation establishes by clear and convincing evidence that such contract was negotiated on the contemplation that, with respect to the deemed sale under section 338 of the Internal Revenue Code of 1954, paragraph (2) of section 1362(e) of such Code would apply, then the amendment made by paragraph (1) of subsection (g) shall not apply to such qualified stock purchase.

(4) **AMENDMENTS MADE BY SUBSECTION (l).**—The amendments made by subsection (l) shall apply to any election under section 1362 of the Internal Revenue Code of 1954 (or any corresponding provision of prior law) made after October 19, 1982.

(5) AMENDMENT MADE BY SUBSECTION (t).—If—

(A) on or before the date of the enactment of this Act 50 percent or more of the stock of an S corporation has been sold or exchanged in 1 or more transactions, and

(B) the person (or persons) acquiring such stock establish by clear and convincing evidence that such acquisitions were negotiated on the contemplation that paragraph (2) of section 1362(e) of the Internal Revenue Code of 1954 would apply to the S termination year in which such sales or exchanges occur,

then the amendment made by subsection (t) shall not apply to such S termination year.

SEC. 722. MISCELLANEOUS PROVISIONS.**(a) AMENDMENTS RELATED TO TECHNICAL CORRECTIONS ACT OF 1982.—**

26 USC 57.

(1) Paragraph (12) of section 57(a) (relating to accelerated cost recovery deduction) is amended—

(A) by striking out “(or, in the case of property described in section 167(k), under section 167)” in subparagraph (A), and

(B) by inserting “(or, in the case of property described in section 167(k), under section 167)” after “section 168(a)” in subparagraph (B).

Ante, p. 620.

(2) Subparagraph (A) of section 1256(g)(1) (defining foreign currency contract) is amended by inserting after “delivery of” the following: “, or the settlement of which depends on the value of,”.

(3) Subclause (I) of section 306(a)(8)(A)(ii) of the Technical Corrections Act of 1982 is amended by striking out “the date of the enactment of the Tax Equity and Fiscal Responsibility Act of 1982” and inserting in lieu thereof “September 1, 1982”.

26 USC 338 note.

(4)(A) Subparagraph (A) of section 172(b)(2) (relating to amount of carrybacks and carryovers) is amended by striking out “and (6)” and inserting in lieu thereof “and (5)”.

26 USC 172.

(B) Subsection (d) of section 172 (relating to modifications) is amended by redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively.

(5) Subsection (b) of section 5684 is amended by striking out “subsections (a) and (b)” and inserting in lieu thereof “subsection (a)”.

26 USC 5684.

(6) Any amendment made by this subsection shall take effect as if included in the provisions of the Technical Corrections Act of 1982 to which such amendment relates.

26 USC 57 note.

26 USC 1 note.

(7)(A) If—

(i) there is an overpayment of tax imposed by section 4986 of the Internal Revenue Code of 1954 for any period before January 1, 1983, by reason of section 201(h)(1)(E) of the Technical Corrections Act of 1982,

26 USC 4996 note.

(ii) refund of such overpayment is payable to the partners of a partnership, and

(iii) such partners are obligated to pay over any such refund to 1 or more organizations referred to in such section 201(h)(1)(E),

such partnership shall be treated as authorized to act for each person who was a partner at any time in such partnership in claiming and paying over such refund.

(B) Notwithstanding section 6511 of the Internal Revenue Code of 1954, the time for filing a claim for credit or refund of the overpayment referred to in subparagraph (A)(i) shall not expire before the date 1 year after the date of the enactment of this Act.

(b) COORDINATION OF CERTAIN AMENDMENTS MADE BY HIGHWAY REVENUE ACT OF 1982 AND PUBLIC LAW 97-473.—For purposes of applying the amendments made by section 547 of the Highway Revenue Act of 1982 and the amendment made by section 202(b)(2) of Public Law 97-473, Public Law 97-473 shall be deemed to have been enacted immediately before the Highway Revenue Act of 1982.

26 USC 103 note.

96 Stat. 2199.

96 Stat. 2608.

26 USC 1 note.

(c) NO DESIGNATION OF PRINCIPAL CAMPAIGN COMMITTEE REQUIRED WHERE ONLY ONE POLITICAL COMMITTEE.—Effective for taxable years beginning after December 31, 1981, subparagraph (B) of section 527(h)(2) (relating to special rule for principal campaign committees) is amended by adding at the end thereof the following new sentence: “Nothing in this subsection shall be construed to require any designation where there is only one political committee with respect to a candidate.”

26 USC 527.

(d) AMOUNT OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE IN CASE OF FISCAL YEAR TAXPAYER.—

(1) Subparagraph (A) of section 44D(b)(1) (relating to credit for producing fuel from a nonconventional source) is amended by striking out “in which the taxable year begins” and inserting in lieu thereof “in which the sale occurs”.

Ante, p. 826.

26 USC 44D.

(2) Paragraph (2) of section 44D(b) is amended by striking out “in which a taxable year begins” and inserting in lieu thereof “in which the sale occurs”.

26 USC 440 note.

(3) The amendments made by this subsection shall apply to taxable years ending after December 31, 1979.

(e) BASIS ADJUSTMENTS IN PARTNERSHIP INTERESTS AND SUBCHAPTER S STOCK FOR PERCENTAGE DEPLETION.—

26 USC 705.

(1) PARTNERSHIP INTERESTS.—Paragraph (3) of section 705(a) (relating to determination of basis of partner's interest) is amended to read as follows:

“(3) decreased (but not below zero) by the amount of the partner's deduction for depletion for any partnership oil and gas property to the extent such deduction does not exceed the proportionate share of the adjusted basis of such property allocated to such partner under section 613A(c)(7)(D).”

26 USC 1367.

(2) SUBCHAPTER S STOCK.—Subparagraph (E) of section 1367(a)(2) (relating to adjustments to basis of stock of shareholders, etc.) is amended to read as follows:

“(E) the amount of the shareholder's deduction for depletion for any oil and gas property held by the S corporation to the extent such deduction does not exceed the proportionate share of the adjusted basis of such property allocated to such shareholder under section 613A(c)(13)(B).”

(3) EFFECTIVE DATE.—

26 USC 705 note.

(A) The amendment made by paragraph (1) shall take effect on January 1, 1975.

26 USC 1367 note.

(B) The amendment made by paragraph (2) shall apply to taxable years beginning after December 31, 1982.

(f) CLARIFICATION OF INCREASE IN BASIS FOR GAIN RECOGNIZED ON TRANSFER TO PARTNERSHIP.—

26 USC 722, 723.

(1) IN GENERAL.—Sections 722 and 723 are each amended by striking out “gain recognized” and inserting in lieu thereof “gain recognized under section 721(b)”.

26 USC 722 note.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect as if included in the amendments made by section 2131 of the Tax Reform Act of 1976.

90 Stat. 1922.

(g) AMENDMENTS RELATED TO INCOME TAXES OF CERTAIN MILITARY AND CIVILIAN EMPLOYEES OF THE UNITED STATES DYING AS A RESULT OF INJURIES SUSTAINED OVERSEAS.—

26 USC 692 note.

(1) EFFECTIVE DATE.—Paragraph (1) of section 1(b) of Public Law 98-259 is amended by striking out “December 31, 1979” and inserting in lieu thereof “November 17, 1978”.

26 USC 692.

Ante, p. 142.

(2) REQUIREMENT THAT EMPLOYMENT RELATIONSHIP EXIST AT TIME OF INJURY.—Paragraph (1) of section 692 (relating to certain military and civilian employees of the United States dying as a result of injuries sustained overseas) is amended by striking out “as a result of wounds or injury incurred” and inserting in lieu thereof “as a result of wounds or injury which was incurred while the individual was a military or civilian employee of the United States and which was incurred”.

(3) CLARIFICATION OF DEFINITION OF TERRORISTIC ACTIVITY AGAINST THE UNITED STATES.—Subparagraph (A) of section 692(c)(2) (defining terroristic or military action) is amended to read as follows:

“(A) any terroristic activity which a preponderance of the evidence indicates was directed against the United States or any of its allies, and”.

26 USC 692 note.

(4) TREATMENT OF DIRECTOR GENERAL OF MULTINATIONAL FORCE IN SINAI.—For purposes of section 692(c) of the Internal Revenue Code of 1954, the Director General of the Multinational Force

and Observers in the Sinai who died on February 15, 1984, shall be treated as if he were a civilian employee of the United States while he served as such Director General.

(5) EFFECTIVE DATE.—

26 USC 692 note.

(A) IN GENERAL.—The amendments made by this subsection shall take effect as if they were included in the amendments made by section 1 of Public Law 98-259.

Ante, p. 142.

(B) STATUTE OF LIMITATIONS WAIVED.—Notwithstanding section 6511 of the Internal Revenue Code of 1954, the time for filing a claim for credit or refund of any overpayment of tax resulting from the amendments made by this subsection shall not expire before the date 1 year after the date of the enactment of this Act.

(h) AMENDMENTS TO THE INTEREST AND DIVIDEND TAX COMPLIANCE ACT OF 1983.—

(1) BROKER NOTIFICATION OF PAYOR.—

(A) Subparagraph (A) of section 3406(d)(2) (relating to special rules for readily tradable instruments) is amended—

97 Stat. 371.

26 USC 3406.

(i) by inserting “the payor was notified by a broker under subparagraph (B) or” after “if (and only if)”, and

(ii) by striking out clause (i) and redesignating clauses (ii) and (iii) as clauses (i) and (ii).

(B) Subparagraph (B) of section 3406(d)(2) is amended to read as follows:

“(B) BROKER NOTIFIES PAYOR.—If—

“(i) a payee acquires any readily tradable instrument through a broker, and

“(ii) with respect to such acquisition—

“(I) the payee fails to furnish his TIN to the broker in the manner required under subsection (a)(1)(A),

“(II) the Secretary notifies such broker before such acquisition that the TIN furnished by the payee is incorrect,

“(III) the Secretary notifies such broker before such acquisition that such payee is subject to withholding under subsection (a)(1)(C), or

“(IV) the payee does not provide a certification to such broker under subparagraph (C),

such broker shall, within such period as the Secretary may prescribe by regulations (but not later than 15 days after such acquisition), notify the payor that such payee is subject to withholding under subparagraph (A), (B), (C), or (D) of subsection (a)(1), respectively.”

(2) NOTIFIED PAYEE UNDERREPORTING.—Paragraph (1) of section 3406(c) (relating to notified payee underreporting) is amended by striking out “(but not the reasons therefor)” and inserting in lieu thereof “(but not the reasons for the withholding under subsection (a)(1)(C))”.

(3) APPLICATION WITH TRUSTS.—Section 643 (relating to definitions applicable to trusts) is amended by adding at the end thereof the following new subsection:

Ante, p. 597.

“(d) COORDINATION WITH BACK-UP WITHHOLDING.—Except to the extent otherwise provided in regulations, this subchapter shall be applied with respect to payments subject to withholding under section 3406—

Supra.

Ante, p. 826.
97 Stat. 379.

“(1) by allocating between the estate or trust and its beneficiaries any credit allowable under section 31(c) (on the basis of their respective shares of any such payment taken into account under this subchapter),

“(2) by treating each beneficiary to whom such credit is allocated as if an amount equal to such credit has been paid to him by the estate or trust, and

“(3) by allowing the estate or trust a deduction in an amount equal to the credit so allocated to beneficiaries.”

26 USC 3405. (4) COORDINATION OF PENSION AND BACK-UP WITHHOLDING.—
(A) Section 3405(d) (relating to definitions and special rules) is amended by adding at the end thereof the following new paragraph:

“(12) FAILURE TO PROVIDE CORRECT TIN.—If—

“(A) a payee fails to furnish his TIN to the payor in the manner required by the Secretary, or

“(B) the Secretary notifies the payor before any payment or distribution that the TIN furnished by the payee is incorrect,

no election under subsection (a)(2) or (b)(3) shall be treated as in effect and subsection (a)(4) shall not apply to such payee.”

26 USC 6041. (B) Section 6041(a) (relating to information at source) is amended by inserting “6047(e),” after “6044(a)(1),”.

26 USC 643 note. (5) EFFECTIVE DATES.—

(A) Except as provided in this paragraph, the amendments made by this subsection shall apply as if included in the amendments made by the Interest and Dividend Tax Compliance Act of 1983.

26 USC 1 note.

(B) The amendments made by paragraph (4) shall apply to payments or distributions after December 31, 1984, unless the payor elects to have such amendments apply to payments or distributions before January 1, 1985.

Subtitle C—Amendments Relating to Highway Revenue Act of 1982

SEC. 731. VALUE OF USED COMPONENTS FURNISHED BY FIRST USER NOT TAKEN INTO ACCOUNT IN DETERMINING PRICE.

26 USC 4052.

Subparagraph (B) of section 4052(b)(1) (relating to determination of price) is amended by striking out “and” at the end of clause (ii) and by inserting after clause (iii) the following new clause:

“(iv) the value of any component of such article if—

“(I) such component is furnished by the first user of such article, and

“(II) such component has been used before such furnishing, and”.

SEC. 732. CLARIFICATION OF APPLICATION OF GASOLINE EXCISE TAX TO GASOHOL, ETC.

26 USC 4081.

(a) GASOLINE EXCISE TAX TO APPLY TO GALLON OF GASOHOL.—

(1) IN GENERAL.—Paragraph (1) of section 4081(c) (relating to gasoline mixed with alcohol) is amended to read as follows:

“(1) IN GENERAL.—Under regulations prescribed by the Secretary, subsection (a) shall be applied—

“(A) by substituting ‘4 cents’ for ‘9 cents’ in the case of the sale of any gasohol (the gasoline in which was not taxed under subparagraph (B)), and

“(B) by substituting ‘4½ cents’ for ‘9 cents’ in the case of the sale of any gasoline for use in producing gasohol. For purposes of this paragraph, the term ‘gasohol’ means any mixture of gasoline if at least 10 percent of such mixture is alcohol.”

(2) **LATER SEPARATION OF GASOLINE.**—Paragraph (2) of section 4081(c) is amended—

26 USC 4081.

(A) by striking out “at the rate of 4 cents a gallon” and inserting in lieu thereof “at a rate equivalent to 4 cents a gallon”, and

(B) by striking out “5 cents a gallon” and inserting in lieu thereof “4½ cents a gallon”.

(3) **CREDIT OR REFUND.**—Paragraph (1) of section 6427(f) (relating to gasoline used to produce certain alcohol fuels) is amended by striking out “5 cents” and inserting in lieu thereof “4½ cents”.

26 USC 6427.

(b) **LOWER FLOOR STOCKS TAX ON GASOHOL.**—Subsection (a) of section 521 of the Highway Revenue Act of 1982 is amended by inserting “(4 cents a gallon in the case of a gallon of gasohol, as defined in section 4081(c))” after “5 cents a gallon”.

26 USC 4061
note.

SEC. 733. CERTAIN CHAIN OPERATORS OF RETAIL GASOLINE STATIONS TREATED AS PRODUCERS.

(a) **IN GENERAL.**—Subsection (d) of section 4082 (defining wholesale distributor) is amended to read as follows:

26 USC 4082.

“(d) **WHOLESALE DISTRIBUTOR.**—As used in subsection (a), the term ‘wholesale distributor’ includes—

“(1) any person who—

“(A) sells gasoline to producers, retailers, or to users who purchase in bulk quantities and deliver into bulk storage tanks, or

“(B) purchases gasoline from a producer and distributes such gasoline to 10 or more retail gasoline stations under common management with such person,

“(2) but only if such person elects to register with respect to the tax imposed by section 4081.

Such term does not include any person who (excluding the term ‘wholesale distributor’ from subsection (a)) is a producer or importer.”

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect on the first day of the first calendar quarter beginning after the date of the enactment of this Act.

26 USC 4082
note.

SEC. 734. OTHER TECHNICAL AMENDMENTS.

(a) **FLOOR STOCKS REFUNDS FOR TIRES TAXED AT LOWER RATE AFTER JANUARY 1, 1984.**—

(1) **IN GENERAL.**—Paragraph (1) of section 523(b) of the Highway Revenue Act of 1982 (relating to floor stocks refunds for tires) is amended by inserting “(or will be subject to a lower rate of tax under such section)” after “and which will not be subject to tax under such section”.

26 USC 4061
note.

(2) **AMOUNT OF REFUND LIMITED TO REDUCTION IN TAX, ETC.**—

(A) **IN GENERAL.**—Subsection (b) of section 523 of the Highway Revenue Act of 1982 (relating to floor stocks

refunds for tires) is amended by adding at the end thereof the following new paragraph:

“(3) SPECIAL RULES FOR TIRES TAXED AT LOWER RATE AFTER JANUARY 1, 1984.—In the case of any tire which is a tax-repealed article solely by reason of the amendment made by subsection (a)(1) or (d) of section 734 of the Tax Reform Act of 1984—

Ante, p. 977.

“(A) the amount of the credit or refund under subsection (a) shall not exceed the excess of—

“(i) the tax imposed with respect to such tire by section 4071(a) as in effect on December 31, 1983, over

“(ii) the tax which would have been imposed with respect to such tire by section 4071(a) on January 1, 1984, and

26 USC 4061
note.

“(B) paragraph (1) of section 522(a) shall be applied—
“(i) by substituting ‘January 1, 1985’ for ‘July 1, 1983’, and

“(ii) by substituting ‘April 1, 1985’ for ‘October 1, 1983’ each place it appears.”

26 USC 4061
note.

(B) CONFORMING AMENDMENT.—Paragraph (2) of section 523(b) of such Act is amended by striking out “In the case of” and inserting in lieu thereof “Except as provided in paragraph (3), in the case of”.

(b) OVERPAYMENTS OF TAX ON TRUCKS, ETC., AND TIRES.—

(1) TRUCKS, ETC.—

26 USC 6416.

(A) IN GENERAL.—Subsection (b) of section 6416 (relating to special cases in which tax payments considered overpayments) is amended by inserting after paragraph (5) the following new paragraph:

“(6) TRUCK CHASSIS, BODIES, AND SEMITRAILERS USED FOR FURTHER MANUFACTURE.—If—

“(A) the tax imposed by section 4051 has been paid with respect to the sale of any article, and

“(B) before any other use, such article is by any person used as a component part of another article taxable under section 4051 manufactured or produced by him,

such tax shall be deemed to be an overpayment by such person. For purposes of the preceding sentence, an article shall be treated as having been used as a component part of another article if, had it not been broken or rendered useless in the manufacture or production of such other article, it would have been so used.”

(B) TECHNICAL AMENDMENT.—Subparagraph (B) of section 6416(a)(2) is amended by striking out “or (5)” and inserting in lieu thereof “(5), or (6)”.

(2) TIRES.—

(A) IN GENERAL.—Paragraph (4) of section 6416(b) (relating to tires) is amended to read as follows:

“(4) TIRES.—If—

“(A) the tax imposed by section 4071 has been paid with respect to the sale of any tire by the manufacturer, producer, or importer thereof, and

“(B) such tire is sold by any person on or in connection with, or with the sale of, any other article, such tax shall be deemed to be an overpayment by such person if such other article is—

“(i) an automobile bus chassis or an automobile bus body, or

“(ii) by such person exported, sold to a State or local government for the exclusive use of a State or local government, sold to a nonprofit educational organization for its exclusive use, or used or sold for use as supplies for vessels or aircraft.”

(B) TECHNICAL AMENDMENTS.—

(i) Paragraph (2) of section 6416(b) is amended by striking out subparagraph (E).

26 USC 6416.
Post, p. 984.

(ii) Paragraph (3) of section 6416(b) (relating to tax-paid articles used for further manufacture, etc.) is amended by striking out subparagraph (C).

(iii) Subparagraph (C) of section 6416(a)(1) is amended by striking out “, (b)(3) (C) or (D), or (b)(4)”.

(iv) Subparagraph (B) of section 6416(a)(2), as amended by paragraph (1)(B), is amended by inserting “(4),” before “(5)”.

Ante, p. 978.

(v) Paragraph (3) of section 6416(a) is amended to read as follows:

“(3) **SPECIAL RULE.**—For purposes of this subsection, in any case in which the Secretary determines that an article is not taxable, the term ‘ultimate purchaser’ (when used in paragraph (1)(B) of this subsection) includes a wholesaler, jobber, distributor, or retailer who, on the 15th day after the date of such determination, holds such article for sale; but only if claim for credit or refund by reason of this paragraph is filed on or before the date for filing the return with respect to the taxes imposed under chapter 32 for the first period which begins more than 60 days after the date on such determination.”

Post, p. 980.

(c) ALLOWANCE OF TAX-FREE SALES OF GASOLINE FOR USE IN NON-COMMERCIAL AVIATION.—

(1) **IN GENERAL.**—Section 4082 (relating to definitions with respect to the tax on gasoline) is amended by adding at the end thereof the following new subsection:

26 USC 4082.

“(e) **CERTAIN SELLERS OF GASOLINE FOR USE IN NONCOMMERCIAL AVIATION TREATED AS PRODUCERS.**—For purposes of this subpart, the term ‘producer’ includes any person who regularly sells gasoline to owners, lessees, or operators of aircraft for use as fuel in such aircraft in noncommercial aviation (as defined in section 4041(c)(4)).”

(2) **REFUNDS.**—Section 6427 (relating to fuels not used for taxable purposes) is amended by redesignating subsections (j), (k), and (l) as subsections (k), (l), and (m), respectively, and by inserting after subsection (i) the following new subsection:

26 USC 6427.
Post, p. 1005.

“(j) **SPECIAL RULES WITH RESPECT TO NONCOMMERCIAL AVIATION.**—For purposes of subsection (a), in the case of gasoline—

“(1) on which tax was imposed under section 4041(c)(2),

“(2) on which tax was not imposed under section 4081, and

“(3) which was not used as an off-highway business use (within the meaning of section 6421(d)(2)),

the amount of the payment under subsection (a) shall be an amount equal to the amount of gasoline used as described in subsection (a) or resold multiplied by the rate equal to the excess of the rate of tax imposed by section 4041(c)(2) over the rate of tax imposed by section 4081.”

(3) **EFFECTIVE DATE.**—The amendments made by this subsection shall take effect on the first day of the first calendar quarter beginning after the date of the enactment of this Act.

26 USC 4082
note.

- 26 USC 4061 note. (d) **FLOOR STOCKS REFUNDS FOR TREAD RUBBER.**—Paragraph (1) of section 523(b) of the Highway Revenue Act of 1982 (relating to floor stocks refunds for tires) is amended by adding at the end thereof the following new sentence: “Any tread rubber which was subject to tax under section 4071(a)(4) as in effect on December 31, 1983, and which on January 1, 1984, is part of a retread tire which is held by a dealer and has not been used and is intended for sale shall be treated as a tax-repealed article for purposes of subsection (a) of section 522.”
- 26 USC 4061 note. (e) **PENALTIES, ETC., TO APPLY TO FLOOR STOCKS TAXES.**—Subsection (c) of section 521 of the Highway Revenue Act of 1982 is amended by adding at the end thereof the following: “All other provisions of law, including penalties, applicable with respect to the taxes imposed by section 4081 or 4071(a) (whichever is appropriate) shall apply to the floor stocks taxes imposed by this section.”
- 26 USC 4481. (f) **NO 1984 SHORT TAXABLE PERIOD FOR OWNER-OPERATORS.**—Subsection (a) of section 4481 (relating to tax on use of certain vehicles), as in effect before the amendments made by the Highway Revenue Act of 1982, is amended by striking out the last sentence.
- 26 USC 1 note. (g) **CLARIFICATION OF SECONDARY LIABILITY OF INSTALLERS OF PARTS AND ACCESSORIES PURCHASED SEPARATELY.**—The text of section 4051(b)(3) is amended to read as follows: “The owners of the trade or business installing the parts or accessories shall be secondarily liable for the tax imposed by paragraph (1).”
- 26 USC 4051. (h) **NO INFERENCE FOR PAST PERIODS TO BE DRAWN FROM AMENDMENT RELATING TO CUSTOMARY USE OF TRAILERS.**—The subsection heading of subsection (c) of section 513 of the Highway Revenue Act of 1982 is amended by striking out “Clarification of”.
- 96 Stat. 2177. (i) **WIRE TRANSFER TO FEDERAL RESERVE BANK REQUIRED WHERE EXTENSION OF PAYMENT DUE DATE FOR CERTAIN FUEL TAXES.**—Subsection (a) of section 518 of the Highway Revenue Act of 1982 (relating to extension of payment due date for certain fuel taxes) is amended by striking out “any government depository authorized under section 6302 of such Code” and inserting in lieu thereof “, except as provided in regulations prescribed by the Secretary of the Treasury or his delegate, any Federal Reserve Bank”.
- 26 USC 4081 note. (j) **CREDIT OR REFUND OF RETAIL TAX ON TRUCKS AND TRAILERS WHERE PRICE READJUSTMENTS.**—Subparagraph (A) of section 6416(b)(1) (relating to price readjustments) is amended by inserting “or by section 4051” after “by chapter 32”.
- 26 USC 6416.

SEC. 735. REPEAL OF CERTAIN PROVISIONS MADE OBSOLETE BY HIGHWAY REVENUE ACT OF 1982.

(a) DELETION OF TERMINATED MANUFACTURERS EXCISE TAX ON MOTOR VEHICLES.—

26 USC
4061-4063.
26 USC prec.
4064.

(1) Part I of subchapter A of chapter 32 is amended by striking out sections 4061, 4062, and 4063.

(2) The part heading and the table of sections for such part I are amended to read as follows:

“PART I—GAS GUZZLERS

“Sec. 4064. Gas guzzlers tax.”

(3) The table of parts for subchapter A of chapter 32 is amended by striking out the item relating to part I and inserting in lieu thereof the following:

“Part I. Gas guzzlers.”

(b) CROSS-REFERENCES TO TERMINATED MANUFACTURERS EXCISE TAX ON MOTOR VEHICLES STATED AS PART OF RETAIL TAX.—

(1) EXEMPTIONS.—Section 4053 (relating to exemptions from retail tax on heavy trucks, etc.) is amended to read as follows:

“SEC. 4053. EXEMPTIONS.

26 USC 4053.

“No tax shall be imposed by section 4051 on any of the following articles:

“(1) CAMPER COACHES BODIES FOR SELF-PROPELLED MOBILE HOMES.—Any article designed—

“(A) to be mounted or placed on automobile trucks, automobile truck chassis, or automobile chassis, and

“(B) to be used primarily as living quarters or camping accommodations.

“(2) FEED, SEED, AND FERTILIZER EQUIPMENT.—Any body primarily designed—

“(A) to process or prepare seed, feed, or fertilizer for use on farms,

“(B) to haul feed, seed, or fertilizer to and on farms,

“(C) to spread feed, seed, or fertilizer on farms,

“(D) to load or unload feed, seed, or fertilizer on farms, or

“(E) for any combination of the foregoing.

“(3) HOUSE TRAILERS.—Any house trailer.

“(4) AMBULANCES, HEARSE, ETC.—Any ambulance, hearse, or combination ambulance-hearse.

“(5) CONCRETE MIXERS.—Any article designed—

“(A) to be placed or mounted on an automobile truck chassis or truck trailer or semitrailer chassis, and

“(B) to be used to process or prepare concrete.

“(6) TRASH CONTAINERS, ETC.—Any box, container, receptacle, bin or other similar article—

“(A) which is designed to be used as a trash container and is not designed for the transportation of freight other than trash, and

“(B) which is not designed to be permanently mounted on or permanently affixed to an automobile truck chassis or body.

“(7) RAIL TRAILERS AND RAIL VANS.—Any chassis or body of a trailer or semitrailer which is designed for use both as a highway vehicle and a railroad car. For purposes of the preceding sentence, piggy-back trailer or semitrailer shall not be treated as designed for use as a railroad car.”

(2) CERTAIN COMBINATIONS NOT TREATED AS MANUFACTURE.—Subsection (c) of section 4052 (relating to definitions and special rules) is amended to read as follows:

26 USC 4052.

“(c) CERTAIN COMBINATIONS NOT TREATED AS MANUFACTURE.—

“(1) IN GENERAL.—For purposes of this subchapter (other than subsection (a)(3)(B)), a person shall not be treated as engaged in the manufacture of any article by reason of merely combining such article with any item listed in paragraph (2).

“(2) ITEMS.—The items listed in this paragraph are any coupling device (including any fifth wheel), wrecker crane, loading and unloading equipment (including any crane, hoist, winch, or power liftgate), aerial ladder or tower, snow and ice control equipment, earthmoving, excavation and construction equipment, spreader, sleeper cab, cab shield, or wood or metal floor.”

(c) OTHER TECHNICAL AND CONFORMING AMENDMENTS.—

26 USC 48.

(1) Clause (i) of section 48(l)(16)(B) (defining qualified intercity bus) is amended to read as follows:

“(i) the chassis of which is an automobile bus chassis and the body of which is an automobile bus body.”.

26 USC 4071.

(2)(A) The first sentence of section 4071(b) is amended by striking out “or inner tube” and by striking out “or tube” each place it appears.

(B) The first sentence of section 4071(c) is amended by striking out “on total weight,” and all that follows and inserting in lieu thereof “on total weight exclusive of metal rims or rim bases.”

(C) Subsection (e) of section 4071 is amended—

(i) by striking out “or inner tubes (other than bicycle tires and inner tubes)”;

(ii) by striking out “and inner tubes” in paragraphs (1) and (2), and

(iii) by striking out the last sentence and inserting in lieu thereof the following: “This subsection shall not apply with respect to the sale of an automobile bus chassis or an automobile bus body.”

(D) Subsection (f) of section 4071 (relating to imported recapped or retreaded United States tires) is hereby repealed.

26 USC 4072.

(3) Section 4072 (relating to definitions) is amended by striking out subsection (b) and by redesignating subsection (c) as subsection (b).

26 USC 4073.

(4) Section 4073 (relating to exemptions) is amended to read as follows:

“SEC. 4073. EXEMPTION FOR TIRES WITH INTERNAL WIRE FASTENING.

“The tax imposed by section 4071 shall not apply to tires of extruded tiring with an internal wire fastening agent.”

26 USC prec.
4071.

(5)(A) The heading for part II of subchapter A of chapter 32 is amended by striking out “AND TUBES”.

(B) The table of parts for subchapter A of chapter 32 is amended by striking out “and tubes” in the item relating to part II.

(C) The item relating to section 4073 in the table of sections for part II of subchapter A of chapter 32 is amended to read as follows:

“Sec. 4073. Exemption for tires with internal wire fastening.”

26 USC 4216.

(6)(A) Paragraph (1) of section 4216(b) (defining constructive sale price) is amended—

(i) by striking out “(other than an article the sale of which is taxable under section 4061(a))” in the second sentence, and

(ii) by striking out the third sentence.

(B) Paragraph (2) of section 4216(b) is amended by striking out subparagraph (C), by adding “and” at the end of subparagraph (B), and by redesignating subparagraph (D) as subparagraph (C).

(C) Subsection (b) of section 4216 is amended by striking out paragraph (5).

(D) Paragraph (3) of section 4216(b) is amended by striking out “paragraphs (4) and (5)” and inserting in lieu thereof “paragraph (4)”.

(E) Paragraph (6) of section 4216(b) is redesignated as paragraph (5) and is amended by striking out “(1), (3), and (5)” and inserting in lieu thereof “(1) and (3)”.

(F) Subsection (f) of section 4216 (relating to certain trucks incorporating used components) is hereby repealed. 26 USC 4216.

(7)(A) Subsection (b) of section 4218 (relating to use by manufacturer or importer considered as sale) is amended— 26 USC 4218.

(i) by striking out “or inner tube”, and

(ii) by striking out “Except as provided in subsection (d), if” and inserting in lieu thereof “If”.

(B) The heading for subsection (b) of section 4218 is amended by striking out “and Tubes”.

(C) Section 4218 is amended by striking out subsections (c) and (d) and by redesignating subsection (e) as subsection (c).

(D) Subsection (a) of section 4218 is amended by striking out “(other than an article specified in subsection (b), (c), or (d))” and inserting in lieu thereof “(other than a tire taxable under section 4071)”.

(8)(A) Subsection (a) of section 4221 (relating to tax-free sales) is amended by inserting “(or under section 4051 on the first retail sale)” after “manufacturer”. 26 USC 4221.

(B) Subsection (c) of section 4221 is amended by striking out “section 4063(a) (6) or (7), 4063(b), 4063(e),” and inserting in lieu thereof “section 4053(a)(6)”.

(C) Paragraph (1) of section 4221(d) (defining manufacturer) is amended by inserting before the period “, and, in the case of the tax imposed by section 4051, includes the retailer with respect to the first retail sale”.

(D) Paragraph (6) of section 4221(d) (relating to use in further manufacture) is amended—

(i) by striking out subparagraph (B) and the last sentence,

(ii) by striking out “(other than an article referred to in subparagraph (B))” in subparagraph (A),

(iii) by redesignating subparagraph (C) as subparagraph (B), and

(iv) by adding “or” at the end of subparagraph (A).

(E) Paragraph (2) of section 4221(e) is amended—

(i) by striking out “or inner tube” each place it appears; and

(ii) by striking out “or tube” each place it appears.

(F) The heading for paragraph (2) of section 4221(e) is amended by striking out “AND TUBES”.

(G) Subsection (e) of section 4221 is amended by striking out paragraphs (4), (5), and (6) and inserting in lieu thereof the following:

“(3) TIRES USED ON INTERCITY, LOCAL, AND SCHOOL BUSES.—Under regulations prescribed by the Secretary, the tax imposed by section 4071 shall not apply in the case of tires sold for use by the purchaser on or in connection with a qualified bus.”

(9) Subsection (d) of section 4222 is amended by striking out “4063(a)(7), 4063(b), 4063(e),” and inserting in lieu thereof “4053(a)(6),”. 26 USC 4222.

(10) Paragraph (1) of section 4223(b) is amended by striking out “section 4218(e)” and inserting in lieu thereof “4218(c)”. 26 USC 4223.

(11) Paragraph (2) of section 4227 is amended by striking out “and tubes”. 26 USC 4227

(12)(A) So much of paragraph (1) of section 6412(a) (relating to floor stock refunds) as precedes “there shall be credited or refunded” is amended to read as follows: 26 USC 6412.

“(1) TIRES AND GASOLINE.—Where before October 1, 1988, any article subject to the tax imposed by section 4071 or 4081 has been sold by the manufacturer, producer, or importer and on such date is held by a dealer and has not been used and is intended for sale,”.

26 USC 6412.

(B) Paragraph (1) of section 6412(a) is amended by striking out the last sentence.

(C) Subparagraph (A) of section 6412(a)(2) is amended to read as follows:

“(A) The term ‘dealer’ includes a wholesaler, jobber, distributor, or retailer.”

(D) Subsection (c) of section 6412 is amended by striking out “4061, 4071,” and inserting in lieu thereof “4071”.

26 USC 6416.

(13)(A) Subparagraph (C) of section 6416(b)(1) (relating to adjustment of tire price) is amended by striking out “section 4071(a) (1) or (2) or section 4071(b)” and inserting in lieu thereof “subsection (a) or (b) of section 4071”.

Ante, p. 979.

(B) Paragraph (2) of section 6416(b) is amended by striking out subparagraph (F) and all that follows to the end thereof and inserting in lieu thereof the following:

Ante, p. 983.

“(E) in the case of any tire taxable under section 4071(a), sold to any person for use as described in section 4221(e)(3); or

“(F) in the case of gasoline, used or sold for use in the production of special fuels referred to in section 4041. Subparagraphs (C) and (D) shall not apply in the case of any tax paid under section 4064.”

(C) Paragraph (3) of section 6416(b) is amended by striking out all subparagraphs and the last sentence thereof and inserting in lieu thereof the following:

“(A) in the case of any article other than gasoline taxable under section 4081, such article is used by the subsequent manufacturer or producer as material in the manufacture or production of, or as a component part of—

26 USC 4061 *et seq.*

“(i) another article taxable under chapter 32, or

Ante, p. 980.

“(ii) an automobile bus chassis or an automobile bus body,

manufactured or produced by him; or

“(B) in the case of gasoline taxable under section 4081, such gasoline is used by the subsequent manufacturer or producer, for nonfuel purposes, as a material in the manufacture or production of any other article manufactured or produced by him.”

(D) Subparagraph (B) of section 6416(a)(2) is amended by striking out “or (B)”.

(E) Section 6416 is amended by striking out subsections (c) and (g) and by redesignating subsections (e), (f), (h), and (i) as subsections (c), (d), (e), and (f), respectively.

(F) Subparagraph (A) of section 6416(b)(2) is amended by striking out “(except in any case to which subsection (g) applies)”.

26 USC 6511.

(14) Section 6511 is amended by striking out subsection (i) and by redesignating subsection (j) as subsection (i).

26 USC 9502.

(15) Paragraph (3) of section 9502(b) is amended by striking out “under paragraphs (2) and (3) of section 4071(a), with respect to tires and tubes of types used on aircraft” and inserting in lieu

thereof “under section 4071 with respect to tires of the types used on aircraft”.

(16) Sections 1366(f)(1) and 6401(b) are each amended by striking out “, special fuels, and lubricating oil” and inserting in lieu thereof “and special fuels”.

26 USC 1366.
Ante, p. 846.

SEC. 736. EFFECTIVE DATE.

Except as otherwise provided in this subtitle, any amendment made by this subtitle shall take effect as if included in the provisions of the Highway Revenue Act of 1982 to which such amendment relates.

26 USC 4051
note.

26 USC 1 note.

TITLE VIII—FOREIGN SALES CORPORATIONS

SEC. 801. FOREIGN SALES CORPORATIONS.

(a) **IN GENERAL.**—Part III of subchapter N of chapter 1 (relating to income from sources outside the United States) is amended by inserting after subpart B the following new subpart:

“Subpart C—Taxation of Foreign Sales Corporations

“Sec. 921. Exempt foreign trade income excluded from gross income.

“Sec. 922. FSC defined.

“Sec. 923. Exempt foreign trade income.

“Sec. 924. Foreign trading gross receipts.

“Sec. 925. Transfer pricing rules.

“Sec. 926. Distributions to shareholders.

“Sec. 927. Other definitions and special rules.

“SEC. 921. EXEMPT FOREIGN TRADE INCOME EXCLUDED FROM GROSS INCOME.

26 USC 921.

“(a) **EXCLUSION.**—Exempt foreign trade income of a FSC shall be treated as foreign source income which is not effectively connected with the conduct of a trade or business within the United States.

“(b) **PROPORTIONATE ALLOCATION OF DEDUCTIONS TO EXEMPT FOREIGN TRADE INCOME.**—Any deductions of the FSC properly apportioned and allocated to the foreign trade income derived by a FSC from any transaction shall be allocated between—

“(1) the exempt foreign trade income derived from such transaction, and

“(2) the foreign trade income (other than exempt foreign trade income) derived from such transaction, on a proportionate basis.

“(c) **DENIAL OF CREDITS.**—Notwithstanding any other provision of this chapter, no credit (other than a credit allowable under section 27(a), 33, or 34) shall be allowed under this chapter to any FSC.

Ante, pp. 826,
832.

“(d) **FOREIGN TRADE INCOME, INVESTMENT INCOME, AND CARRYING CHARGES TREATED AS EFFECTIVELY CONNECTED WITH UNITED STATES BUSINESS.**—For purposes of this chapter—

“(1) all foreign trade income of a FSC other than—

“(A) exempt foreign trade income, and

“(B) section 923(a)(2) non-exempt income,

Post, p. 986.

“(2) all interest, dividends, royalties, and other investment income received or accrued by a FSC, and

“(3) all carrying charges received or accrued by a FSC, shall be treated as income effectively connected with a trade or business conducted through a permanent establishment of such

corporation within the United States. Income described in paragraph (1) shall be treated as derived from sources within the United States.

26 USC 922.

"SEC. 922. FSC DEFINED.

"(a) FSC DEFINED.—For purposes of this title, the term 'FSC' means any corporation—

"(1) which—

"(A) was created or organized—

"(i) under the laws of any foreign country which meets the requirements of section 927(e)(3), or

"(ii) under the laws applicable to any possession of the United States,

"(B) has no more than 25 shareholders at any time during the taxable year,

"(C) does not have any preferred stock outstanding at any time during the taxable year,

"(D) during the taxable year—

"(i) maintains an office located outside the United States in a foreign country which meets the requirements of section 927(e)(3) or in any possession of the United States,

"(ii) maintains a set of the permanent books of account (including invoices) of such corporation at such office, and

"(iii) maintains at a location within the United States the records which such corporation is required to keep under section 6001,

"(E) at all times during the taxable year, has a board of directors which includes at least one individual who is not a resident of the United States, and

"(F) is not a member, at any time during the taxable year, of any controlled group of corporations of which a DISC is a member, and

"(2) which has made an election (at the time and in the manner provided in section 927(f)(1)) which is in effect for the taxable year to be treated as a FSC.

"(b) SMALL FSC DEFINED.—For purposes of this title, a FSC is a small FSC with respect to any taxable year if—

"(1) such corporation has made an election (at the time and in the manner provided in section 927(f)(1)) which is in effect for the taxable year to be treated as a small FSC, and

"(2) such corporation is not a member, at any time during the taxable year, of a controlled group of corporations which includes a FSC unless such other FSC has also made an election under paragraph (1) which is in effect for such year.

26 USC 923.

"SEC. 923. EXEMPT FOREIGN TRADE INCOME.

"(a) EXEMPT FOREIGN TRADE INCOME.—For purposes of this subpart—

"(1) IN GENERAL.—The term 'exempt foreign trade income' means the aggregate amount of all foreign trade income of a FSC for the taxable year which is described in paragraph (2) or (3).

"(2) INCOME DETERMINED WITHOUT REGARD TO ADMINISTRATIVE PRICING RULES.—In the case of any transaction to which paragraph (3) does not apply, 32 percent of the foreign trade income

derived from such transaction shall be treated as described in this paragraph. For purposes of the preceding sentence, foreign trade income shall not include any income properly allocable to excluded property described in subparagraph (B) of section 927(a)(2) (relating to intangibles).

Post, p. 991.

“(3) **INCOME DETERMINED WITH REGARD TO ADMINISTRATIVE PRICING RULES.**—In the case of any transaction with respect to which paragraph (1) or (2) of section 925(a) (or the corresponding provisions of the regulations prescribed under section 925(b)) applies, 16/23 of the foreign trade income derived from such transaction shall be treated as described in this paragraph.

Post, p. 990.

“(4) **SPECIAL RULE FOR FOREIGN TRADE INCOME ALLOCABLE TO A COOPERATIVE.**—

“(A) **IN GENERAL.**—In any case in which a qualified cooperative is a shareholder of a FSC, paragraph (3) shall be applied with respect to that portion of the foreign trade income of such FSC for any taxable year which is properly allocable to the marketing of agricultural or horticultural products (or the providing of related services) by such cooperative by substituting ‘100 percent’ for ‘16/23’.

“(B) **PARAGRAPH ONLY TO APPLY TO AMOUNTS FSC DISTRIBUTES.**—Subparagraph (A) shall not apply for any taxable year unless the FSC distributes to the qualified cooperative the amount which (but for such subparagraph) would not be treated as exempt foreign trade income. Any distribution under this subparagraph for any taxable year—

“(i) shall be made before the due date for filing the return of tax for such taxable year, but

“(ii) shall be treated as made on the last day of such taxable year.

“(5) **SPECIAL RULE FOR MILITARY PROPERTY.**—Under regulations prescribed by the Secretary, that portion of the foreign trading gross receipts of the FSC for the taxable year attributable to the disposition of, or services relating to, military property (within the meaning of section 995(b)(3)(B)) which may be treated as exempt foreign trade income shall equal 50 percent of the amount which (but for this paragraph) would be treated as exempt foreign trade income.

“(b) **FOREIGN TRADE INCOME DEFINED.**—For purposes of this subpart, the term ‘foreign trade income’ means the gross income of a FSC attributable to foreign trading gross receipts.

“**SEC. 924. FOREIGN TRADING GROSS RECEIPTS.**

26 USC 924.

“(a) **IN GENERAL.**—Except as otherwise provided in this section, for purposes of this subpart, the term ‘foreign trading gross receipts’ means the gross receipts of any FSC which are—

“(1) from the sale, exchange, or other disposition of export property,

“(2) from the lease or rental of export property for use by the lessee outside the United States,

“(3) for services which are related and subsidiary to—

“(A) any sale, exchange, or other disposition of export property by such corporation, or

“(B) any lease or rental of export property described in paragraph (2) by such corporation,

“(4) for engineering or architectural services for construction projects located (or proposed for location) outside the United States, or

“(5) for the performance of managerial services for an unrelated FSC or DISC in furtherance of the production of foreign trading gross receipts described in paragraph (1), (2), or (3). Paragraph (5) shall not apply to a FSC for any taxable year unless at least 50 percent of its gross receipts for such taxable year is derived from activities described in paragraph (1), (2), or (3).

“(b) FOREIGN MANAGEMENT AND FOREIGN ECONOMIC PROCESS REQUIREMENTS.—

“(1) IN GENERAL.—Except as provided in paragraph (2)—

“(A) a FSC shall be treated as having foreign trading gross receipts for the taxable year only if the management of such corporation during such taxable year takes place outside the United States as required by subsection (c), and

“(B) a FSC has foreign trading gross receipts from any transaction only if economic processes with respect to such transaction take place outside the United States as required by subsection (d).

“(2) EXCEPTION FOR SMALL FSC.—

“(A) IN GENERAL.—Paragraph (1) shall not apply with respect to any small FSC.

“(B) LIMITATION ON AMOUNT OF FOREIGN TRADING GROSS RECEIPTS OF SMALL FSC TAKEN INTO ACCOUNT.—

“(i) IN GENERAL.—Any foreign trading gross receipts of a small FSC for the taxable year which exceed \$5,000,000 shall not be taken into account in determining the exempt foreign trade income of such corporation and shall not be taken into account under any other provision of this subpart.

“(ii) ALLOCATION OF LIMITATION.—If the foreign trading gross receipts of a small FSC exceed the limitation of clause (i), the corporation may allocate such limitation among such gross receipts in such manner as it may select (at such time and in such manner as may be prescribed in regulations).

“(iii) RECEIPTS OF CONTROLLED GROUP AGGREGATED.—For purposes of applying clauses (i) and (ii), all small FSC's which are members of the same controlled group of corporations shall be treated as a single corporation.

“(iv) ALLOCATION OF LIMITATION AMONG MEMBERS OF CONTROLLED GROUP.—The limitation under clause (i) shall be allocated among the foreign trading gross receipts of small FSC's which are members of the same controlled group of corporations in a manner provided in regulations prescribed by the Secretary.

“(c) REQUIREMENT THAT FSC BE MANAGED OUTSIDE THE UNITED STATES.—The management of a FSC meets the requirements of this subsection for the taxable year if—

“(1) all meetings of the board of directors of the corporation, and all meetings of the shareholders of the corporation, are outside the United States,

“(2) the principal bank account of the corporation is maintained outside the United States at all times during the taxable year, and

“(3) all dividends, legal and accounting fees, and salaries of officers and members of the board of directors of the corporation disbursed during the taxable year are disbursed out of bank accounts of the corporation maintained outside the United States.

“(d) REQUIREMENT THAT ECONOMIC PROCESSES TAKE PLACE OUTSIDE THE UNITED STATES.—

“(1) IN GENERAL.—The requirements of this subsection are met with respect to the gross receipts of a FSC derived from any transaction if—

“(A) such corporation (or any person acting under a contract with such corporation) has participated outside the United States in the solicitation (other than advertising), the negotiation, or the making of the contract relating to such transaction, and

“(B) the foreign direct costs incurred by the FSC attributable to the transaction equal or exceed 50 percent of the total direct costs attributable to the transaction.

“(2) ALTERNATIVE 85-PERCENT TEST.—A corporation shall be treated as satisfying the requirements of paragraph (1)(B) with respect to any transaction if, with respect to each of at least 2 paragraphs of subsection (e), the foreign direct costs incurred by such corporation attributable to activities described in such paragraph equal or exceed 85 percent of the total direct costs attributable to activities described in such paragraph.

“(3) DEFINITIONS.—For purposes of this subsection—

“(A) TOTAL DIRECT COSTS.—The term ‘total direct costs’ means, with respect to any transaction, the total direct costs incurred by the FSC attributable to activities described in subsection (e) performed at any location by the FSC or any person acting under a contract with such FSC.

“(B) FOREIGN DIRECT COSTS.—The term ‘foreign direct costs’ means, with respect to any transaction, the portion of the total direct costs which are attributable to activities performed outside the United States.

“(4) RULES FOR COMMISSIONS, ETC.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection and subsection (e) in the case of commissions, rentals, and furnishing of services.

“(e) ACTIVITIES RELATING TO DISPOSITION OF EXPORT PROPERTY.—The activities referred to in subsection (d) are—

“(1) advertising and sales promotion,

“(2) the processing of customer orders and the arranging for delivery of the export property,

“(3) transportation from the time of acquisition by the FSC (or, in the case of a commission relationship, from the beginning of such relationship for such transaction) to the delivery to the customer,

“(4) the determination and transmittal of a final invoice or statement of account and the receipt of payment, and

“(5) the assumption of credit risk.

“(f) CERTAIN RECEIPTS NOT INCLUDED IN FOREIGN TRADING GROSS RECEIPTS.—

“(1) CERTAIN RECEIPTS EXCLUDED ON BASIS OF USE; SUBSIDIZED RECEIPTS AND RECEIPTS FROM RELATED PARTIES EXCLUDED.—The term ‘foreign trading gross receipts’ shall not include receipts of a FSC from a transaction if—

“(A) the export property or services—

“(i) are for ultimate use in the United States, or

“(ii) are for use by the United States or any instrumentality thereof and such use of export property or services is required by law or regulation,

“(B) such transaction is accomplished by a subsidy granted by the United States or any instrumentality thereof, or

“(C) such receipts are from another FSC which is a member of the same controlled group of corporations of which such corporation is a member.

“(2) INVESTMENT INCOME; CARRYING CHARGES.—The term ‘foreign trading gross receipts’ shall not include any investment income or carrying charges.

26 USC 925.

“SEC. 925. TRANSFER PRICING RULES.

“(a) IN GENERAL.—In the case of a sale of export property to a FSC by a person described in section 482, the taxable income of such FSC and such person shall be based upon a transfer price which would allow such FSC to derive taxable income attributable to such sale (regardless of the sales price actually charged) in an amount which does not exceed the greatest of—

“(1) 1.83 percent of the foreign trading gross receipts derived from the sale of such property by such FSC,

“(2) 23 percent of the combined taxable income of such FSC and such person which is attributable to the foreign trading gross receipts derived from the sale of such property by such FSC, or

“(3) taxable income based upon the sale price actually charged (but subject to the rules provided in section 482).

Paragraphs (1) and (2) shall apply only if the FSC meets the requirements of subsection (c) with respect to the sale.

“(b) RULES FOR COMMISSIONS, RENTALS, AND MARGINAL COSTING.—The Secretary shall prescribe regulations setting forth—

“(1) rules which are consistent with the rules set forth in subsection (a) for the application of this section in the case of commissions, rentals, and other income, and

“(2) rules for the allocation of expenditures in computing combined taxable income under subsection (a)(2) in those cases where a FSC is seeking to establish or maintain a market for export property.

“(c) REQUIREMENTS FOR USE OF ADMINISTRATIVE PRICING RULES.—A sale by a FSC meets the requirements of this subsection if—

“(1) all of the activities described in section 924(e) attributable to such sale, and

“(2) all of the activities relating to the solicitation (other than advertising), negotiation, and making of the contract for such sale,

have been performed by such FSC (or by another person acting under a contract with such FSC).

“(d) LIMITATION ON GROSS RECEIPTS PRICING RULE.—The amount determined under subsection (a)(1) with respect to any transaction shall not exceed 2 times the amount which would be determined under subsection (a)(2) with respect to such transaction.

“(e) TAXABLE INCOME.—For purposes of this section, the taxable income of a FSC shall be determined without regard to section 921.

Ante, p. 987.

Ante, p. 985.

“(f) SPECIAL RULE FOR COOPERATIVES.—In any case in which a qualified cooperative sells export property to a FSC, in computing the combined taxable income of such FSC and such organization for purposes of subsection (a)(2), there shall not be taken into account any deduction allowable under subsection (b) or (c) of section 1382 (relating to patronage dividends, per-unit retain allocations, and nonpatronage distributions).

“SEC. 926. DISTRIBUTIONS TO SHAREHOLDERS.

26 USC 926.

“(a) DISTRIBUTIONS MADE FIRST OUT OF FOREIGN TRADE INCOME.—For purposes of this title, any distribution to a shareholder of a FSC by such FSC which is made out of earnings and profits shall be treated as made—

“(1) first, out of earnings and profits attributable to foreign trade income, to the extent thereof, and

“(2) then, out of any other earnings and profits.

“(b) DISTRIBUTIONS BY FSC TO NONRESIDENT ALIENS AND FOREIGN CORPORATIONS TREATED AS UNITED STATES CONNECTED.—For purposes of this title, any distribution by a FSC which is made out of earnings and profits attributable to foreign trade income to any shareholder of such corporation which is a foreign corporation or a nonresident alien individual shall be treated as a distribution—

“(1) which is effectively connected with the conduct of a trade or business conducted through a permanent establishment of such shareholder within the United States, and

“(2) of income which is derived from sources within the United States.

“(c) FSC INCLUDES FORMER FSC.—For purposes of this section, the term ‘FSC’ includes a former FSC.

“SEC. 927. OTHER DEFINITIONS AND SPECIAL RULES.

26 USC 927.

“(a) EXPORT PROPERTY.—For purposes of this subpart—

“(1) IN GENERAL.—The term ‘export property’ means property—

“(A) manufactured, produced, grown, or extracted in the United States by a person other than a FSC,

“(B) held primarily for sale, lease, or rental, in the ordinary course of trade or business, by, or to, a FSC, for direct use, consumption, or disposition outside the United States, and

“(C) not more than 50 percent of the fair market value of which is attributable to articles imported into the United States.

For purposes of subparagraph (C), the fair market value of any article imported into the United States shall be its appraised value, as determined by the Secretary under section 402 of the Tariff Act of 1930 (19 U.S.C. 1401a) in connection with its importation.

“(2) EXCLUDED PROPERTY.—The term ‘export property’ shall not include—

“(A) property leased or rented by a FSC for use by any member of a controlled group of corporations of which such FSC is a member,

“(B) patents, inventions, models, designs, formulas, or processes whether or not patented, copyrights (other than films, tapes, records, or similar reproductions, for commer-

50 USC app.
2402.

cial or home use), good will, trademarks, trade brands, franchises, or other like property,

“(C) oil or gas (or any primary product thereof), or

“(D) products the export of which is prohibited or curtailed to effectuate the policy set forth in paragraph (2)(C) of section 3 of the Export Administration Act of 1979 (relating to the protection of the domestic economy).

“(3) PROPERTY IN SHORT SUPPLY.—If the President determines that the supply of any property described in paragraph (1) is insufficient to meet the requirements of the domestic economy, he may by Executive order designate the property as in short supply. Any property so designated shall not be treated as export property during the period beginning with the date specified in the Executive order and ending with the date specified in an Executive order setting forth the President’s determination that the property is no longer in short supply.

“(4) QUALIFIED COOPERATIVE.—The term ‘qualified cooperative’ means any organization to which part I of subchapter T applies which is engaged in the marketing of agricultural or horticultural products.

“(b) GROSS RECEIPTS.—

“(1) IN GENERAL.—For purposes of this subpart, the term ‘gross receipts’ means—

“(A) the total receipts from the sale, lease, or rental of property held primarily for sale, lease, or rental in the ordinary course of trade or business, and

“(B) gross income from all other sources.

“(2) GROSS RECEIPTS TAKEN INTO ACCOUNT IN CASE OF COMMISSIONS.—In the case of commissions on the sale, lease, or rental of property, the amount taken into account for purposes of this subpart as gross receipts shall be the gross receipts on the sale, lease, or rental of the property on which such commissions arose.

“(c) INVESTMENT INCOME.—For purposes of this subpart, the term ‘investment income’ means—

“(1) dividends,

“(2) interest,

“(3) royalties,

“(4) annuities,

“(5) rents (other than rents from the lease or rental of export property for use by the lessee outside of the United States),

“(6) gains from the sale or exchange of stock or securities,

“(7) gains from futures transactions in any commodity on, or subject to the rules of, a board of trade or commodity exchange (other than gains which arise out of a bona fide hedging transaction reasonably necessary to conduct the business of the FSC in the manner in which such business is customarily conducted by others),

“(8) amounts includible in computing the taxable income of the corporation under part I of subchapter J, and

“(9) gains from the sale or other disposition of any interest in an estate or trust.

“(d) OTHER DEFINITIONS.—For purposes of this subpart—

“(1) CARRYING CHARGES.—The term ‘carrying charges’ means—

“(A) carrying charges, and

“(B) under regulations prescribed by the Secretary, any amount in excess of the price for an immediate cash sale and any other unstated interest.

“(2) TRANSACTION.—

“(A) IN GENERAL.—The term ‘transaction’ means—

“(i) any sale, exchange, or other disposition,

“(ii) any lease or rental, and

“(iii) any furnishing of services.

“(B) GROUPING OF TRANSACTIONS.—To the extent provided in regulations, any provision of this subpart which, but for this subparagraph, would be applied on a transaction-by-transaction basis may be applied by the taxpayer on the basis of groups of transactions based on product lines or recognized industry or trade usage. Such regulations may permit different groupings for different purposes.

“(3) UNITED STATES DEFINED.—The term ‘United States’ includes the Commonwealth of Puerto Rico.

“(4) CONTROLLED GROUP OF CORPORATIONS.—The term ‘controlled group of corporations’ has the meaning given to such term by section 1563(a), except that—

“(A) ‘more than 50 percent’ shall be substituted for ‘at least 80 percent’ each place it appears therein, and

“(B) section 1563(b) shall not apply.

“(5) POSSESSIONS.—The term ‘possession of the United States’ means Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands of the United States.

“(6) SECTION 923 (A) (2) NON-EXEMPT INCOME.—The term ‘section 923(a)(2) non-exempt income’ means any foreign trade income from a transaction with respect to which paragraph (1) or (2) of section 925(a) does not apply and which is not exempt foreign trade income.

Ante, p. 986.

Ante, p. 990.

“(e) SPECIAL RULES.—

“(1) SOURCE RULES FOR RELATED PERSONS.—Under regulations, the income of a person described in section 482 from a transaction giving rise to foreign trading gross receipts of a FSC which is treated as from sources outside the United States shall not exceed the amount which would be treated as foreign source income earned by such person if the pricing rule under section 994 which corresponds to the rule used under section 925 with respect to such transaction applied to such transaction.

“(2) PARTICIPATION IN INTERNATIONAL BOYCOTTS, ETC.—Under regulations prescribed by the Secretary, the exempt foreign trade income of a FSC for any taxable year shall be limited under rules similar to the rules of clauses (i) and (ii) of section 995(b)(1)(F).

“(3) EXCHANGE OF INFORMATION REQUIREMENTS.—For purposes of this title, the term ‘FSC’ shall not include any corporation which was created or organized under the laws of any foreign country unless, at the time such corporation was created or organized, there was in effect between such country and the United States—

“(A) a bilateral or multilateral agreement described in section 274(h)(6)(C), or

“(B) an income tax treaty with respect to which the Secretary certifies that the exchange of information pro-

97 Stat. 395.
26 USC 274.

gram with such country under such treaty carries out the purposes of this paragraph.

“(4) **DISALLOWANCE OF TREATY BENEFITS.**—Any corporation electing to be treated as a FSC under subsection (f)(1) may not claim any benefits under any income tax treaty between the United States and any foreign country.

“(5) **EXEMPTION FROM CERTAIN OTHER TAXES.**—No tax shall be imposed by any jurisdiction described in subsection (d)(5) on any foreign trade income derived before January 1, 1987.

“(f) **ELECTION OF STATUS AS FSC (AND AS SMALL FSC).**—

“(1) **ELECTION.**—

“(A) **TIME FOR MAKING.**—An election by a corporation under section 922(a)(2) to be treated as a FSC, and an election under section 922(b)(1) to be a small FSC, shall be made by such corporation for a taxable year at any time during the 90-day period immediately preceding the beginning of the taxable year, except that the Secretary may give his consent to the making of an election at such other times as he may designate.

“(B) **MANNER OF ELECTION.**—An election under subparagraph (A) shall be made in such manner as the Secretary shall prescribe and shall be valid only if all persons who are shareholders in such corporation on the first day of the first taxable year for which such election is effective consent to such election.

“(2) **EFFECT OF ELECTION.**—If a corporation makes an election under paragraph (1), then the provisions of this subpart shall apply to such corporation for the taxable year of the corporation for which made and for all succeeding taxable years.

“(3) **TERMINATION OF ELECTION.**—

“(A) **REVOCATION.**—An election under this subsection made by any corporation may be terminated by revocation of such election for any taxable year of the corporation after the first taxable year of the corporation for which the election is effective. A termination under this paragraph shall be effective with respect to such election—

“(i) for the taxable year in which made, if made at any time during the first 90 days of such taxable year, or

“(ii) for the taxable year following the taxable year in which made, if made after the close of such 90 days, and

for all succeeding taxable years of the corporation. Such termination shall be made in such manner as the Secretary shall prescribe by regulations.

“(B) **CONTINUED FAILURE TO BE A FSC.**—If a corporation is not a FSC for each of any 5 consecutive taxable years of the corporation for which an election under this subsection is effective, the election to be a FSC shall be terminated and not be in effect for any taxable year of the corporation after such 5th year.”

(b) **DIVIDEND RECEIVED DEDUCTION FOR DOMESTIC CORPORATIONS.**—

(1) **IN GENERAL.**—Section 245 (relating to dividends received from certain foreign corporations) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection

(b) the following new subsection:

“(c) **CERTAIN DIVIDENDS RECEIVED FROM FSC.**—

Ante, p. 986.

“(1) **IN GENERAL.**—In the case of a domestic corporation, there shall be allowed as a deduction an amount equal to 100 percent of any dividend received by such corporation from another corporation which is distributed out of earnings and profits attributable to foreign trade income for a period during which such other corporation was a FSC. The deduction allowable under the preceding sentence with respect to any dividend shall be in lieu of any deduction allowable under subsection (a) or (b) with respect to such dividend.

“(2) **EXCEPTION FOR CERTAIN DIVIDENDS.**—Paragraph (1) shall not apply to any dividend which is distributed out of earnings and profits attributable to foreign trade income which—

“(A) is section 923(a)(2) non-exempt income (within the meaning of section 927(d)(6)), or

Ante, p. 986.

“(B) would not, but for section 923(a)(4), be treated as exempt foreign trade income.

Ante, p. 991.

“(3) **DEFINITIONS.**—For purposes of this subsection, the terms ‘foreign trade income’ and ‘exempt foreign trade income’ have the meaning given such terms by section 923.”.

(2) **CONFORMING AMENDMENTS.**—

(A) Paragraph (1) of section 246(b) (relating to limitation on aggregate amount of deduction) is amended by striking out “245” each place it appears and inserting in lieu thereof “subsection (a) or (b) of section 245”.

26 USC 246.

(B) Subsection (d) of section 245 (relating to property distributions), as redesignated by paragraph (1), is amended by striking out “subsections (a) and (b)” and inserting in lieu thereof “this section”.

Ante, p. 994.

(c) **CLARIFICATION OF INFORMATION EXCHANGE AGREEMENTS.**—Subparagraph (D) of section 274(h)(6) (relating to coordination with section 6103) is amended—

97 Stat. 395.
26 USC 274.

(1) by adding at the end thereof the following new sentence:

“The Secretary may exercise his authority under subchapter A of chapter 78 to carry out any obligation of the United States under an agreement referred to in subparagraph (C).”, and

26 USC 7601 *et seq.*

(2) by striking out the heading thereof and inserting in lieu thereof “COORDINATION WITH OTHER PROVISIONS.—”.

(d) **CONFORMING AMENDMENTS.**—

(1) Section 901 (relating to foreign tax credit) is amended by redesignating subsection (h) as subsection (i) and inserting after subsection (g) the following new subsection:

26 USC 901.

“(h) **TAXES PAID WITH RESPECT TO FOREIGN TRADE INCOME.**—No credit shall be allowed under this section for any income, war profits, and excess profits taxes paid or accrued with respect to the foreign trade income (within the meaning of section 923(b)) of a FSC, other than section 923(a)(2) non-exempt income (within the meaning of section 927(d)(6)).”.

Ante, p. 986.

Ante, p. 991.

26 USC 904.

(2) Paragraph (1) of section 904(d) (relating to application of section in case of certain interest income and dividends from a DISC) as amended—

(A) by striking out “and” at the end of subparagraph (B),

(B) by striking out subparagraph (C) and inserting in lieu thereof the following:

“(C) taxable income attributable to foreign trade income (within the meaning of section 923(b)),

Ante, p. 986.

“(D) distributions from a FSC (or former FSC) out of earnings and profits attributable to foreign trade income (within the meaning of section 923(b)), and

“(E) income other than income described in subparagraph (A), (B), (C), or (D).”, and

(C) by striking out the heading and inserting in lieu thereof:

“(d) SEPARATE APPLICATION OF SECTION WITH RESPECT TO CERTAIN INTEREST INCOME AND INCOME FROM DISC, FORMER DISC, FSC, OR FORMER FSC.—”

26 USC 906.

(3) Subsection (b) of section 906 (relating to special rules) is amended by adding at the end thereof the following new paragraph:

“(5) No credit shall be allowed under this section for any income, war profits, and excess profits taxes paid or accrued with respect to the foreign trade income (within the meaning of section 923(b)) of a FSC.”

26 USC 951.

(4) Section 951 (relating to amounts included in gross income of shareholders) is amended by adding at the end thereof the following new subsection:

“(e) FOREIGN TRADE INCOME NOT TAKEN INTO ACCOUNT.—

Ante, p. 985.

“(1) IN GENERAL.—The foreign trade income of a FSC and any deductions which are apportioned or allocated to such income shall not be taken into account under this subpart. For purposes of the preceding sentence, income described in paragraph (2) or (3) of section 921(d) shall be treated as derived from sources within the United States.

Ante, p. 986.

Ante, p. 991.

26 USC 275.

“(2) FOREIGN TRADE INCOME.—For purposes of this subsection, the term ‘foreign trade income’ has the meaning given such term by section 923(b), but does not include section 923(a)(2) non-exempt income (within the meaning of section 927(d)(6)).”

(5) Paragraph (4) of section 275(a) (relating to disallowance of deduction for certain taxes) is amended to read as follows:

“(4) Income, war profits, and excess profits taxes imposed by the authority of any foreign country or possession of the United States if—

“(A) the taxpayer chooses to take to any extent the benefits of section 901, or

“(B) such taxes are paid or accrued with respect to foreign trade income (within the meaning of section 923(b)) of a FSC.”

26 USC 1248.

(6) Subsection (d) of section 1248 (relating to exclusions from earnings and profits) is amended by adding at the end thereof the following new paragraph:

“(6) FOREIGN TRADE INCOME.—Earnings and profits of the foreign corporation attributable to foreign trade income (within the meaning of section 923(b)) of a FSC.”

Ante, p. 986.

26 USC 934.

(7) Section 934 (relating to limitation on reduction in income tax liability incurred to the Virgin Islands) is amended by adding at the end thereof the following new subsection:

“(f) FSC.—Subsection (a) shall not apply in the case of a Virgin Islands corporation which is a FSC.”

26 USC 956.

(8) Paragraph (2) of section 956(b) (defining United States property) is amended by striking out “and” at the end of subparagraph (G), by striking out the period at the end of subparagraph (H) and inserting in lieu thereof a semicolon and

“and”, and by adding at the end thereof the following new subparagraph:

“(I) to the extent provided in regulations prescribed by the Secretary, property which is otherwise United States property which is held by a FSC and which is related to the export activities of such FSC.”.

(9) Subparagraph (B) of section 7651(5), as amended by this Act, is amended by inserting “or subpart C of part III of subchapter N of chapter 1” after “881(b)(1)”. 26 USC 7651.

(10) Section 996(g) (relating to effectively connected income) is amended by inserting “and which are derived from sources within the United States” after “United States”. 26 USC 996.

(11) Section 936(f) (relating to DISC or former DISC ineligible for credit) is amended to read as follows: 26 USC 936.

“(f) LIMITATION ON CREDIT FOR DISC’S AND FSC’S.—No credit shall be allowed under this section to a corporation for any taxable year—

“(1) for which it is a DISC or former DISC, or

“(2) in which it owns at any time stock in a—

“(A) DISC or former DISC, or

“(B) FSC or former FSC.”

(12) Section 6011(c) (relating to returns of DISC’s and former DISC’s) is amended— 26 USC 6011.

(A) by inserting “or a FSC or former FSC” after “former DISC” in paragraph (1), and

(B) by inserting “and FSC’s and Former FSC’s” after “Former DISC’s” in the heading thereof.

(13) Section 6072(c) (relating to returns by nonresident alien individuals and foreign corporations) is amended by inserting “or a FSC or former FSC” after “United States”. 26 USC 6072.

(14) Section 6501(g)(3) (relating to income tax returns of DISC’s) is amended by striking out “section 6011(e)(2)” and inserting in lieu thereof “section 6011(c)(2)”. 26 USC 6501.

(15)(A) Section 6686 (relating to failure of DISC to file returns) is amended— 26 USC 6686.

(i) by striking out “section 6011(e)” and inserting in lieu thereof “section 6011(c)”, and

(ii) by striking out the heading thereof and inserting in lieu thereof the following:

“SEC. 6686. FAILURE TO FILE RETURNS OR SUPPLY INFORMATION BY DISC OR FSC.”

(B) The table of sections for subchapter B of chapter 68 is amended by striking out the item relating to section 6686 and inserting in lieu thereof the following new item:

“Sec. 6686. Failure to file returns or supply information by DISC or FSC.”

SEC. 802. INTEREST CHARGE DISC.

(a) INTEREST CHARGE ON DEFERRED TAX.—Section 995 (relating to taxation of DISC income to shareholders) is amended— 26 USC 995.

(1) by striking out subsections (e) and (f),

(2) by redesignating subsection (g) as subsection (e), and

(3) by adding at the end thereof the following new subsection:

“(f) INTEREST ON DISC-RELATED DEFERRED TAX LIABILITY.—

“(1) IN GENERAL.—A shareholder of a DISC shall pay for each taxable year interest in an amount equal to the product of—

“(A) the shareholder’s DISC-related deferred tax liability for such year, and

“(B) the base period T-bill rate.

“(2) **SHAREHOLDER’S DISC-RELATED DEFERRED TAX LIABILITY.**—For purposes of this subsection—

“(A) **IN GENERAL.**—The term ‘shareholder’s DISC-related deferred tax liability’ means, with respect to any taxable year of a shareholder of a DISC, the excess of—

“(i) the amount which would be the tax liability of the shareholder for the taxable year if the deferred DISC income of such shareholder for such taxable year were included in gross income as ordinary income, over

“(ii) the actual amount of the tax liability of such shareholder for such taxable year.

Determinations under the preceding sentence shall be made without regard to carrybacks to such taxable year.

“(B) **ADJUSTMENTS FOR LOSSES, CREDITS, AND OTHER ITEMS.**—The Secretary shall prescribe regulations which provide such adjustments—

“(i) to the accounts of the DISC, and

“(ii) to the amount of any carryover or carryback of the shareholder,

as may be necessary or appropriate in the case of net operating losses, credits, and carryovers, and carrybacks of losses and credits.

“(C) **TAX LIABILITY.**—The term ‘tax liability’ means the amount of the tax imposed by this chapter for the taxable year reduced by credits allowable against such tax (other than credits allowable under sections 31, 32, and 34).

“(3) **DEFERRED DISC INCOME.**—For purposes of this subsection—

“(A) **IN GENERAL.**—The term ‘deferred DISC income’ means, with respect to any taxable year of a shareholder, the excess of—

“(i) the shareholder’s pro rata share of accumulated DISC income (for periods after 1984) of the DISC as of the close of the computation year, over

“(ii) the amount of the distributions-in-excess-of-income for the taxable year of the DISC following the computation year.

“(B) **COMPUTATION YEAR.**—For purposes of applying subparagraph (A) with respect to any taxable year of a shareholder, the computation year is the taxable year of the DISC which ends with (or within) the taxable year of the shareholder which precedes the taxable year of the shareholder for which the amount of deferred DISC income is being determined.

“(C) **DISTRIBUTIONS-IN-EXCESS-OF-INCOME.**—For purposes of subparagraph (A), the term ‘distributions-in-excess-of-income’ means, with respect to any taxable year of a DISC, the excess (if any) of—

“(i) the amount of actual distributions to the shareholder out of accumulated DISC income, over

“(ii) the shareholder’s pro rata share of the DISC income for such taxable year.

“(3) **BASE PERIOD T-BILL RATE.**—For purposes of this subsection, the term ‘base period T-bill rate’ means the annual rate of

interest determined by the Secretary to be equivalent to the average investment yield of United States Treasury bills with maturities of 52 weeks which were auctioned during the 1-year period ending on September 30 of the calendar year ending with (or of the most recent calendar year ending before) the close of the taxable year of the shareholder.

“(4) **SHORT YEARS.**—The Secretary shall prescribe such regulations as may be necessary for the application of this subsection to short years of the DISC, the shareholder, or both.

“(5) **PAYMENT AND ASSESSMENT AND COLLECTION OF INTEREST.**—The interest accrued during any taxable year which a shareholder is required to pay under paragraph (1) shall be treated, for purposes of this title, as interest payable under section 6601 and shall be paid by the shareholder at the time the tax imposed by this chapter for such taxable year is required to be paid.”.

(b) TAXABLE INCOME IN EXCESS OF \$10,000,000 DEEMED DISTRIBUTED.—

(1) **IN GENERAL.**—Subparagraph (E) of section 995(b)(1) (relating to based period export gross receipts) is amended to read as follows: 26 USC 995.

“(E) the taxable income of the DISC attributable to qualified export receipts of the DISC for the taxable year which exceed \$10,000,000.”.

(2) **AGGREGATION OF RECEIPTS.**—Subsection (b) of section 995 (relating to deemed distributions) is amended by adding at the end thereof the following new paragraph:

“(4) **AGGREGATION OF QUALIFIED EXPORT RECEIPTS.**—

“(A) **IN GENERAL.**—For purposes of applying paragraph (1)(E), all DISC's which are members of the same controlled group shall be treated as a single corporation.

“(B) **ALLOCATION.**—The dollar amount under paragraph (1)(E) shall be allocated among the DISC's which are members of the same controlled group in a manner provided in regulations prescribed by the Secretary.”.

(c) CONFORMING AMENDMENTS.—

(1) Subsection (a)(1) of section 992 (relating to definition of DISC) is amended— 26 USC 992.

(A) by striking out “and” at the end of subparagraph (C),
(B) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof “, and”, and
(C) by adding at the end thereof the following new subparagraph:

“(E) such corporation is not a member of any controlled group of which a FSC is a member.”.

(2) Paragraph (3) of section 993(a) (relating to controlled groups) is amended by striking out “such term by” and inserting in lieu thereof “the term ‘controlled group of corporations’ by”. 26 USC 993.

(3) Subsection (c) of section 999 (relating to international boycott factor) is amended by striking out “995(b)(1)(F)(ii)” each place it appears and inserting in lieu thereof “995(b)(1)(F)(i)”. 26 USC 999.

(4) The table of subparts of part III of subchapter N of chapter 1 is amended by inserting after the item relating to subpart B the following new item:

“Subpart C. Taxation of foreign sales corporations.”

SEC. 803. TAXABLE YEAR OF DISC AND FSC REQUIRED TO CONFORM TO TAXABLE YEAR OF MAJORITY SHAREHOLDER.

26 USC 441.

(a) **IN GENERAL.**—Subsection (b) of section 441 (relating to period for computation of taxable income) is amended—

- (1) by striking out “or” at the end of paragraph (2),
- (2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof “; or”, and
- (3) by adding at the end thereof the following new paragraph:

“(4) in the case of a FSC or DISC filing a return for a period of at least 12 months, the period determined under subsection (h).”

(b) **DETERMINATION OF TAXABLE YEAR.**—Section 441 is amended by adding at the end thereof the following new subsection:

“(h) **TAXABLE YEAR OF FSC’S AND DISC’S.**—

“(1) **IN GENERAL.**—For purposes of this subtitle, the taxable year of any FSC or DISC shall be the taxable year of that shareholder (or group of shareholders with the same 12-month taxable year) who has the highest percentage of voting power.

“(2) **SPECIAL RULE WHERE MORE THAN ONE SHAREHOLDER (OR GROUP) HAS HIGHEST PERCENTAGE.**—If 2 or more shareholders (or groups) have the highest percentage of voting power under paragraph (1), the taxable year of the FSC or DISC shall be the same 12-month period as that of any such shareholder (or group).

“(3) **SUBSEQUENT CHANGES OF OWNERSHIP.**—The Secretary shall prescribe regulations under which paragraphs (1) and (2) shall apply to a change of ownership of a corporation after the taxable year of the corporation has been determined under paragraph (1) or (2) only if such change is a substantial change of ownership.

“(4) **VOTING POWER DETERMINED.**—For purposes of this subsection, voting power shall be determined on the basis of total combined voting power of all classes of stock of the corporation entitled to vote.”

SEC. 804. REPORTING REQUIREMENTS.

26 USC 921 note.

(a) **IN GENERAL.**—The Secretary of the Treasury shall, for calendar year 1985 and each second calendar year thereafter, submit a report to the Congress within 27½ months following the close of such calendar year setting forth an analysis of the operation and effect of the provisions of this title.

(b) **REPEAL OF DISC REPORTING REQUIREMENTS.**—

26 USC 991 note.

(1) **IN GENERAL.**—Section 806 of the Revenue Act of 1971 (relating to submission of annual reports to Congress) is hereby repealed.

26 USC 991 note.

(2) **EFFECTIVE DATE.**—The amendment made by paragraph (1) shall apply to reports for calendar years after 1984.

SEC. 805. EFFECTIVE DATE; TRANSITION RULES.

26 USC 921 note.

(a) **EFFECTIVE DATES.**—

(1) **IN GENERAL.**—Except as provided in this subsection, the amendments made by this title shall apply to transactions after December 31, 1984, in taxable years ending after such date.

(2) **SPECIAL RULE FOR CERTAIN CONTRACTS.**—To the extent provided in regulations prescribed by the Secretary, subsections (c) and (d) of section 924 of the Internal Revenue Code of 1954 (as added by this title) shall not apply to—

Ante, p. 987.

(A) any contract with respect to which the taxpayer uses the completed contract method of accounting and which—

- (i) was entered into before March 16, 1984, or
- (ii) was entered into after March 15, 1984, and before January 1, 1985, pursuant to a written plan to enter into such contract which was in effect on March 15, 1984,

(B) any contract which was entered into before March 16, 1984, except that this subparagraph shall only apply to the first 2 taxable years of the FSC ending after January 1, 1985, or such later taxable years as the Secretary of the Treasury may designate, or

(C) any contract which was entered into after March 15, 1984, and before January 1, 1985, except that this subparagraph shall only apply to the first taxable year of the FSC ending after January 1, 1985, or such later taxable years as the Secretary of the Treasury may designate.

(3) SECTION 801(d)(10).—The amendment made by section 801(d)(10) shall apply to distributions on or after June 22, 1984.

Ante, p. 985.

(4) SECTION 803.—The amendments made by section 803 shall apply to any DISC established after March 21, 1984.

Ante, p. 1000.

(b) TRANSITION RULES FOR DISC'S.—

26 USC 991 note.

(1) CLOSE OF 1984 TAXABLE YEARS OF DISC'S.—

(A) IN GENERAL.—For purposes of applying the Internal Revenue Code of 1954, the taxable year of each DISC which begins before January 1, 1985, and which (but for this paragraph) would include January 1, 1985, shall close on December 31, 1984. For purposes of such Code, the requirements of section 992(a)(1)(B) of such Code (relating to percentage of qualified export assets on last day of the taxable year) shall not apply to any taxable year ending on December 31, 1984.

26 USC 1 *et seq.*

(B) UNDERPAYMENTS OF ESTIMATED TAX.—To the extent provided in regulations prescribed by the Secretary of the Treasury or his delegate, no addition to tax shall be made under section 6654 or 6655 of such Code with respect to any underpayment of any installment required to be paid before April 13, 1985, to the extent the underpayment was created or increased by reason of subparagraph (A).

Ante, p. 788.

(2) EXEMPTION OF ACCUMULATED DISC INCOME FROM TAX.—

(A) IN GENERAL.—For purposes of applying the Internal Revenue Code of 1954 with respect to actual distributions made after December 31, 1984, by a DISC or former DISC which was a DISC on December 31, 1984, any accumulated DISC income of a DISC or former DISC (within the meaning of section 996(f)(1) of such Code) which is derived before January 1, 1985, shall be treated as previously taxed income (within the meaning of section 996(f)(2) of such Code) with respect to which there had previously been a deemed distribution to which section 996(e)(1) of such Code applied.

(B) EXCEPTION FOR DISTRIBUTION OF AMOUNTS PREVIOUSLY DISQUALIFIED.—Subparagraph (A) shall not apply to the distribution of any accumulated DISC income of a DISC or former DISC to which section 995(b)(2) of such Code applied by reason of any revocation or disqualification (other than a

revocation which under regulations prescribed by the Secretary results solely from the provisions of this title.

(3) **INSTALLMENT TREATMENT OF CERTAIN DEEMED DISTRIBUTIONS OF SHAREHOLDERS.**—

(A) **IN GENERAL.**—Notwithstanding section 995(b) of such Code, if a shareholder of a DISC elects the application of this paragraph, any qualified distribution shall be treated, for purposes of such Code, as received by such shareholder in 10 equal installments on the last day of each of the 10 taxable years of such shareholder which begins after the first taxable year of such shareholder beginning in 1984. The preceding sentences shall apply without regard to whether the DISC exists after December 31, 1984.

(B) **QUALIFIED DISTRIBUTION.**—The term ‘qualified distribution’ means any distribution which a shareholder is deemed to have received by reason of section 995(b) of such Code with respect to income derived by the DISC in the first taxable year of the DISC beginning—

(i) in 1984, and

(ii) after the date in 1984 on which the taxable year of such shareholder begins.

(C) **SHORTER PERIOD FOR INSTALLMENTS.**—The Secretary of the Treasury or his delegate may by regulations provide for the election by any shareholder to be treated as receiving a qualified distribution over such shorter period as the taxpayer may elect.

(D) **ELECTIONS.**—Any election under this paragraph shall be made at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe.

(4) **TREATMENT OF TRANSFERS FROM DISC TO FSC.**—Except to the extent provided in regulations, section 367 of such Code shall not apply to transfers made before January 1, 1986 (or, if later, the date 1 year after the date on which the corporation ceases to be a DISC), to a FSC of qualified export assets (as defined in section 993(b) of such Code) held on August 4, 1983, by a DISC in a transaction described in section 351 or 368(a)(1) of such Code.

(5) **DEEMED TERMINATION OF A DISC.**—Under regulations prescribed by the Secretary, if any controlled group of corporations of which a DISC is a member establishes a FSC, then any DISC which is a member of such group shall be treated as having terminated its DISC status.

(6) **DEFINITIONS.**—For purposes of this subsection, the terms “DISC” and “former DISC” have the respective meanings given to such terms by section 992 of such Code.

26 USC 991 note.

(c) **SPECIAL RULE FOR EXPORT TRADE CORPORATIONS.**—

(1) **IN GENERAL.**—If, before January 1, 1985, any export trade corporation—

(A) makes an election under section 927(f)(1) of the Internal Revenue Code of 1954 to be treated as a FSC, or

(B) elects not to be treated as an export trade corporation with respect to taxable years beginning after December 31, 1984,

rules similar to the rules of paragraphs (2) and (4) of subsection (b) shall apply to such export trade corporation.

(2) **TREATMENT OF TRANSFERS TO FSC.**—In the case of any export trade corporation which—

(A) makes an election described in paragraph (1), and

Ante, p. 991.

(B) transfers before January 1, 1986, any portion of its property to a FSC in a transaction described in section 351 or 368(a)(1),

then, subject to such rules as the Secretary of the Treasury or his delegate may prescribe based on principles similar to the principles of section 505 (a) and (b) of the Revenue Act of 1971, no income, gain, or loss shall be recognized on such transfer or on the distribution of any stock of the FSC received (or treated as received) in connection with such transfer.

26 USC 970 note.

(3) EXPORT TRADE CORPORATION.—For purposes of this subsection, the term “export trade corporation” has the meaning given such term by section 971 of the Internal Revenue Code of 1954.

TITLE IX—HIGHWAY REVENUE PROVISIONS

Subtitle A—Provisions Relating to Heavy Vehicle Use Tax

SEC. 901. REDUCTION OF HEAVY VEHICLE USE TAX.

(a) GENERAL RULE.—Subsection (a) of section 4481 (as amended by section 513(a) of the Highway Revenue Act of 1982) is amended to read as follows:

26 USC 4481.

“(a) IMPOSITION OF TAX.—A tax is hereby imposed on the use of any highway motor vehicle which (together with the semitrailers and trailers customarily used in connection with highway motor vehicles of the same type as such highway motor vehicle) has a taxable gross weight of at least 55,000 pounds at the rate specified in the following table:

Taxable gross weight:	Rate of tax:
“At least 55,000 pounds, but not over 75,000 pounds.	\$100 per year plus \$22 for each 1,000 pounds (or fraction thereof) in excess of 55,000 pounds.
Over 75,000 pounds	\$550.”

(b) SPECIAL RULES IN THE CASE OF CERTAIN OWNER-OPERATORS.—

26 USC 4481 note.

(1) SPECIAL RULE FOR TAXABLE PERIOD BEGINNING ON JULY 1, 1984.—In the case of a small owner-operator, the amount of the tax imposed by section 4481 of the Internal Revenue Code of 1954 on the use of any highway motor vehicle subject to tax under section 4481(a) of such Code (as amended by subsection (a)) for the taxable period which begins on July 1, 1984, shall be the lesser of—

(A) \$3 for each 1,000 pounds of taxable gross weight (or fraction thereof), or

(B) the amount of the tax which would be imposed under such section 4481(a) without regard to this paragraph.

(2) EXEMPTION FOR VEHICLES USED FOR LESS THAN 5,000 MILES (AND CERTAIN OTHER AMENDMENTS) TO TAKE EFFECT ON JULY 1, 1984.—In the case of a small owner-operator, notwithstanding subsection (f)(2) of section 513 of the Highway Revenue Act of 1982, the amendments made by subsections (b), (c), and (d) of such section shall take effect on July 1, 1984.

26 USC 4481 note.

26 USC 4481
note.

(3) **SMALL OWNER-OPERATOR DEFINED.**—For purposes of this subsection, the term “small owner-operator” has the meaning given such term by section 513(f)(2) of the Highway Revenue Act of 1982.

26 USC 4481
note.

(4) **TAXABLE GROSS WEIGHT.**—For purposes of this subsection, the term ‘taxable gross weight’ has the same meaning as when used in section 4481 of the Internal Revenue Code of 1954.

(c) **EFFECTIVE DATE.**—The amendment made by subsection (a) (and the provisions of subsection (b)) shall take effect on July 1, 1984.

SEC. 902. SPECIAL RULE FOR TRUCKS USED IN LOGGING.

26 USC 4483.

(a) **IN GENERAL.**—Section 4483 (relating to exemptions from highway use tax) is amended by redesignating subsection (e) as subsection (f) and inserting after subsection (d) the following new subsection:

“(e) **REDUCTION IN TAX FOR TRUCKS USED IN LOGGING.**—The tax imposed by section 4481 shall be reduced by 25 percent with respect to any highway motor vehicle if—

“(1) the exclusive use of such vehicle during any taxable period is the transportation, to and from a point located on a forested site, of products harvested from such forested site, and

“(2) such vehicle is registered (under the laws of the State in which such vehicle is required to be registered) as a highway motor vehicle used in the transportation of harvested forest products.”.

26 USC 4483
note.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall take effect on July 1, 1984.

SEC. 903. SPECIAL RULE FOR CERTAIN AGRICULTURAL VEHICLES.

(a) **IN GENERAL.**—Subsection (d) of section 4483 (relating to exemptions from highway use tax) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

“(5) **7,500-MILES EXEMPTION FOR AGRICULTURAL VEHICLES.**—

“(A) **IN GENERAL.**—In the case of an agricultural vehicle, paragraphs (1) and (2) shall be applied by substituting ‘7,500’ for ‘5,000’ each place it appears.

“(B) **DEFINITIONS.**—For purposes of this paragraph—

“(i) **AGRICULTURAL VEHICLE.**—The term ‘agricultural vehicle’ means any highway motor vehicle—

“(I) used primarily for farming purposes, and

“(II) registered (under the laws of the State in which such vehicle is required to be registered) as a highway motor vehicle used for farming purposes.

“(ii) **FARMING PURPOSES.**—The term ‘farming purposes’ means the transporting of any farm commodity to or from a farm or the use directly in agricultural production.

“(iii) **FARM COMMODITY.**—The term ‘farm commodity’ means any agricultural or horticultural commodity, feed, seed, fertilizer, livestock, bees, poultry, fur-bearing animals, or wildlife.”.

26 USC 4483
note.

96 Stat. 2177.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall take effect as if included in the amendments made by section 513 of the Highway Revenue Act of 1982.

Subtitle B—Provisions Relating to Fuel Taxes

SEC. 911. INCREASE IN DIESEL FUEL TAX.

(a) **GENERAL RULE.**—Paragraph (1) of section 4041(a) (relating to diesel fuel) is amended by striking out “9 cents” and inserting in lieu thereof “15 cents”. 26 USC 4041.

(b) **INCOME TAX CREDIT FOR PURCHASE OF DIESEL-POWERED AUTOMOBILE OR LIGHT TRUCK.**—Section 6427 (relating to fuels not used for taxable purposes), as amended by this Act, is amended by redesignating subsections (g), (h), (i), (j), (k), (l), and (m) as subsections (h), (i), (j), (k), (l), (m), and (n), respectively, and by inserting after subsection (f) the following new subsection: *Ante*, p. 979.

“(g) **ADVANCE REPAYMENT OF INCREASED DIESEL FUEL TAX TO ORIGINAL PURCHASERS OF DIESEL-POWERED AUTOMOBILES AND LIGHT TRUCKS.**—

“(1) **IN GENERAL.**—Except as provided in subsection (j), the Secretary shall pay (without interest) to the original purchaser of any qualified diesel-powered highway vehicle an amount equal to the diesel fuel differential amount.

“(2) **QUALIFIED DIESEL-POWERED HIGHWAY VEHICLE.**—For purposes of this subsection, the term ‘qualified diesel-powered highway vehicle’ means any diesel-powered highway vehicle which—

“(A) has at least 4 wheels,

“(B) has a gross vehicle weight rating of 10,000 pounds or less, and

“(C) is registered for highway use in the United States under the laws of any State.

“(3) **DIESEL FUEL DIFFERENTIAL AMOUNT.**—For purposes of this subsection, the term ‘diesel fuel differential amount’ means—

“(A) except as provided in subparagraph (B), \$102, or

“(B) in the case of a truck or van, \$198.

“(4) **ORIGINAL PURCHASER.**—For purposes of this subsection—

(A) **IN GENERAL.**—Except as provided in subparagraph (B), the term ‘original purchaser’ means the first person to purchase the qualified diesel-powered vehicle for use other than resale.

“(B) **EXCEPTION FOR CERTAIN PERSONS NOT SUBJECT TO FUELS TAX.**—The term ‘original purchaser’ shall not include any State or local government (as defined in section 4221(d)(4)) or any nonprofit educational organization (as defined in section 4221(d)(5)).

“(C) **TREATMENT OF DEMONSTRATION USE BY DEALER.**—For purposes of subparagraph (A), use as a demonstrator by a dealer shall not be taken into account.

“(5) **VEHICLES TO WHICH SUBSECTION APPLIES.**—Except as provided in paragraph (6), this subsection shall only apply to qualified diesel-powered highway vehicles originally purchased after January 1, 1985, and before January 1, 1988.

“(6) **SPECIAL RULE FOR CERTAIN VEHICLES HELD ON JANUARY 1, 1985.**—

“(A) **IN GENERAL.**—In the case of any person holding a qualified diesel-powered highway vehicle on January 1, 1985—

“(i) such person shall be treated as if he originally purchased such vehicle on December 31, 1984, but

“(ii) the amount payable under paragraph (1) to such person for such vehicle shall be the applicable fraction of the diesel fuel differential amount.

“(B) APPLICABLE FRACTION.—For purposes of subparagraph (A), the applicable fraction is the fraction determined in accordance with the following table:

“If the model year of the vehicle is:	The applicable fraction is:
1984 or 1985	1
1983.....	$\frac{5}{6}$
1982.....	$\frac{4}{6}$
1981.....	$\frac{3}{6}$
1980.....	$\frac{2}{6}$
1979.....	$\frac{1}{6}$

In the case of a 1978 or earlier model year vehicle, the applicable fraction shall be zero.

“(7) BASIS REDUCTION.—For the purposes of subtitle A, the basis of any qualified diesel-powered highway vehicle shall be reduced by the amount payable under this subsection with respect to such vehicle.”

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) AMENDMENTS TO HIGHWAY TRUST FUND.—

26 USC 9503.

(A) TRANSFERS TO MASS TRANSIT ACCOUNT.—Paragraph (2) of section 9503(e) (relating to transfers to Mass Transit Account) is amended to read as follows:

“(2) TRANSFERS TO MASS TRANSIT ACCOUNT.—The Secretary of the Treasury shall transfer to the Mass Transit Account the mass transit portion of the amounts appropriated to the Highway Trust Fund under subsection (b) which are attributable to taxes under sections 4041 and 4081 imposed after March 31, 1983. For purposes of the preceding sentence, the term ‘mass transit portion’ means an amount determined at the rate of 1 cent for each gallon with respect to which tax was imposed under section 4041 or 4081.”

(B) INCOME TAX CREDITS PAYABLE OUT OF HIGHWAY TRUST FUND.—Clause (ii) of section 9503(c)(2)(A) is amended by striking out “used before October 1, 1988” and inserting in lieu thereof “used before October 1, 1988 (or with respect to qualified diesel-powered highway vehicles purchased before January 1, 1988)”.

26 USC 39.

(2) CONFORMING AMENDMENTS TO INCOME TAX CREDIT.—

(A) Subsections (a)(4) and (b) of section 39 (as in effect before the enactment made by title IV of this Act) are each amended by striking out “6427(i)” and inserting in lieu thereof “6427(j)”.

26 USC 6427.

(B) Subsections (a), (b)(1), (c), (d), (e)(1), and (f)(1) of section 6427 are each amended by striking out “(i)” and inserting in lieu thereof “(j)”.

Ante, p. 1005.

(C) Subsection (h)(1) of section 6427 (as redesignated by subsection (c)) is amended—

(i) by striking out “or (f)” and inserting in lieu thereof “(f, or (g))”, and

(ii) by striking out “fuel used” each place it appears and inserting in lieu thereof “fuel used (or a qualified diesel powered highway vehicle purchased)”.

(D) Subsection (h)(2)(A) of section 6427 (as so redesignated) is amended—

(i) by striking out “and (e)” in clause (i) and inserting in lieu thereof “(e), and (g)”, and

(ii) by striking out “fuel used” each place it appears and inserting in lieu thereof “fuel used (or a qualified diesel powered highway vehicle purchased)”.

(E) Subsection (k)(2) of section 6427 (as so redesignated) is amended by striking out “(g)(2)” and inserting in lieu thereof “(h)(2)”. *Ante*, p. 1005.

(F) Subsection (m) of section 6427 (as so redesignated) is amended by striking out “and (d)” each place it appears and inserting in lieu thereof “(d), and (g)”.

(G) Sections 7210, 7603, 7604(b), 7604(c)(2), 7605(a), 7609(c)(1), and 7610(c) are each amended by striking out “6427(h)(2)” each place it appears and inserting in lieu thereof “6427(i)(2)”. 26 USC 7210, 7603-7605, 7609, 7610.

(e) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on August 1, 1984. 26 USC 6427 note.

SEC. 912. DECREASE IN TAX IMPOSED ON GASOHOL.

(a) **AMENDMENT OF SECTION 4041.**—Paragraph (1) of section 4041(k) (relating to fuels containing alcohol) is amended to read as follows: 26 USC 4041.

“(1) **IN GENERAL.**—Under regulations prescribed by the Secretary, in the case of the sale or use of any liquid at least 10 percent of which consists of alcohol (as defined in section 4081(c)(3))—

“(A) subsection (a)(1) shall be applied by substituting ‘9 cents’ for ‘15 cents’, and

“(B) subsection (a)(2) shall be applied by substituting ‘3 cents’ for ‘9 cents’, and

“(C) no tax shall be imposed by subsection (c).”.

(b) **AMENDMENTS OF SECTION 4081.**—Subsection (c) of section 4081 (relating to imposition of tax on petroleum products), as amended by title VII of this Act, is amended— 26 USC 4081.

(A) by striking out “4 cents” each place it appears and inserting in lieu thereof “3 cents”,

(B) by striking out “4½ cents” and inserting in lieu thereof “3½ cents”, and

(C) by striking out “4½ cents” and inserting in lieu thereof “5½ cents”.

(c) **CREDIT FOR ALCOHOL USED AS A FUEL.**—Section 40 (relating to alcohol used as a fuel) (as amended by title IV of this Act) is amended— *Ante*, p. 826.

(1) by striking out “50 cents” each place it appears and inserting in lieu thereof “60 cents”, and

(2) by striking out “37.5 cents” each place it appears and inserting in lieu thereof “45 cents”.

(d) **AMENDMENT OF SECTION 6427.**—Paragraph (1) of section 6427(f) (relating to gasoline used to produce certain alcohol fuels) is amended by striking out “4½ cents” and inserting in lieu thereof “5½ cents”. 26 USC 6427.

(e) **TARIFF IMPORTED FOR USE AS A FUEL.**—Item 901.50 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by striking out “50 cents per gal.” each place it appears and inserting in lieu thereof “60 cents per gal.”.

(f) **DEFINITION OF ALCOHOL.**—Sections 40(d)(1)(A)(i) (as amended by title IV of this Act) and 4081(c)(3) (defining alcohol) are each *Ante*, p. 826. 26 USC 4081.

amended by striking out “coal” and inserting in lieu thereof “coal (including peat)”.

26 USC 40 note. (g) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on January 1, 1985.

SEC. 913. MODIFICATION OF TAX IMPOSED ON METHANOL AND ETHANOL.

26 USC 4041. (a) **IN GENERAL.**—Section 4041 (relating to imposition of tax on special fuels) is amended by adding at the end thereof the following new subsection.

“(m) **CERTAIN ALCOHOL FUELS.**—

“(1) **IN GENERAL.**—In the case of the sale or use of any partially exempt methanol or ethanol fuel—

“(A) subsection (a)(2) shall be applied by substituting ‘4½ cents’ for ‘9 cents’, and

“(B) no tax shall be imposed by subsection (c).

“(2) **PARTIALLY EXEMPT METHANOL OR ETHANOL FUEL.**—The term ‘partially exempt methanol or ethanol fuel’ means any liquid at least 85 percent of which consists of methanol, ethanol, or other alcohol produced from natural gas.”.

Ante, p. 826.

(b) **CONFORMING AMENDMENT.**—Subsection (c) of section 40 (relating to coordination of credit for alcohol used as a fuel with exemption from excise tax) (as redesignated by title IV of this Act) is amended by striking out “(b)(2) or (k)” and inserting in lieu thereof “(b)(2), (k), or (m)”.

26 USC 4041 note.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on August 1, 1984.

SEC. 914. EXTENSION OF REDUCTION IN TAX FOR FUEL USED BY TAXICABS.

26 USC 6427.

Paragraph (3) of section 6427(e) (relating to termination of use in certain taxicabs) is amended by striking out “September 30, 1984” and inserting in lieu thereof “September 30, 1985”.

SEC. 915. 3 CENT TAX ON DIESEL FUEL, ETC., USED IN CERTAIN BUSES.

(a) **IN GENERAL.**—Subsection (b) of section 6427 (relating to fuels not used for taxable purposes) is amended by redesignating paragraph (2) as paragraph (3) and inserting after paragraph (1) the following new paragraph:

“(2) **3-CENT REDUCTION IN REFUND IN CERTAIN CASES.**—

“(A) **IN GENERAL.**—Except as provided in subparagraph (B), the rate of tax taken into account under paragraph (1) shall not exceed 12 cents.

“(B) **EXCEPTION.**—Subparagraph (A) shall not apply to fuel used in any automobile bus while engaged in furnishing (for compensation) intracity passenger land transportation—

“(i) which is available to the general public, and

“(ii) which is scheduled and along regular routes, but only if such bus is a qualified local bus.

“(C) **QUALIFIED LOCAL BUS.**—For purposes of this paragraph, the term ‘qualified local bus’ means any local bus—

“(i) which has a seating capacity of at least 20 adults (not including the driver), and

“(ii) which is under contract (or is receiving more than a nominal subsidy) from any State or local government (as defined in section 4221(d)) to furnish such transportation.”

(b) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on August 1, 1984. 26 USC 6427 note.

Subtitle C—Temporary Reduction in Retail Tax on Certain Piggyback Trailers

SEC. 921. TEMPORARY REDUCTION IN TAX.

Section 4051 (relating to retail tax on heavy trucks and trailers) is amended by redesignating subsection (d) as subsection (e) and inserting after subsection (c) the following new subsection: 26 USC 4051.

“(d) TEMPORARY REDUCTION IN TAX ON CERTAIN PIGGYBACK TRAILERS.—

“(1) **IN GENERAL.**—In the case of piggyback trailers or semitrailers sold within the 1-year period beginning on the date of the enactment of the Tax Reform Act of 1984, subsection (a) shall be applied by substituting ‘6 percent’ for ‘12 percent’. *Ante*, p. 494.

“(2) **PIGGYBACK TRAILERS OR SEMITRAILERS.**—For purposes of this subsection, the term ‘piggyback trailers or semitrailers’ means any trailer or semitrailer—

“(A) which is designed for use principally in connection with trailer-on-flatcar service by rail, and

“(B)(i) both the seller and the purchaser of which are registered in a manner similar to registration under section 4222, and

“(ii) with respect to which the purchaser certifies (at such time and in such form and manner as the Secretary prescribes by regulations) to the seller that such trailer or semitrailer—

“(I) will be used, or resold for use, principally in connection with such service, or

“(II) will be incorporated into an article which will be so used or resold.

“(3) **ADDITIONAL TAX WHERE NONQUALIFIED USE.**—If any piggyback trailer or semitrailer was subject to tax under subsection (a) at the 6 percent rate and such trailer or semitrailer is used or resold for use other than for a use described in paragraph (2)—

“(A) such use or resale shall be treated as a sale to which subsection (a) applies,

“(B) the amount of the tax imposed under subsection (a) on such sale shall be equal to the amount of the tax which was imposed on the first retail sale, and

“(C) the person so using or reselling such trailer or semitrailer shall be liable for the tax imposed by subsection (a).”

Subtitle D—Studies

PART I—STUDIES RELATING TO HEAVY VEHICLE USE TAX

26 USC 4481
note.

SEC. 931. WHETHER HEAVY VEHICLES BEAR FAIR SHARE OF HIGHWAY COSTS.

The Secretary of Transportation shall conduct a study of whether highway motor vehicles with taxable gross weights of 80,000 pounds or more bear their fair share of the costs of the highway system.

26 USC 4481
note.

SEC. 932. TRANS-BORDER TRUCKING.

The Secretary of Transportation shall conduct a study to determine the significance of the tax imposed by section 4481 of the Internal Revenue Code of 1954 (relating to tax on use of certain vehicles) on trans-border trucking operations.

26 USC 4481
note.

SEC. 933. WEIGHT-DISTANCE TAXES.

The Secretary of Transportation shall conduct a study to evaluate the feasibility and ability of weight-distance truck taxes to provide the greatest degree of equity among highway users, to ease the costs of compliance of such taxes, and to improve the efficiency by which such taxes might be administered. Such study shall also include an evaluation of the evasion potential for weight-distance taxes and an assessment of the benefits to interstate commerce of replacing all Federal truck taxes (other than fuel taxes) with a weight-distance tax.

26 USC 4481
note.

SEC. 934. REPORTS, ETC.

(a) CONSULTATION WITH TREASURY.—Studies conducted under this part shall be conducted in consultation with the Secretary of the Treasury.

(b) REPORT.—Not later than October 1, 1987, the Secretary of Transportation shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on each study conducted under this part together with such recommendations as the Secretary may deem advisable.

PART II—OTHER STUDIES

SEC. 935. STUDY OF REDUCED FUEL TAXES FOR TAXICABS.

The Secretary of the Treasury or his delegate shall conduct a study of the reduced rate of fuel taxes provided by section 6427(e) of the Internal Revenue Code of 1954. Not later than January 1, 1985, such Secretary shall submit a report on such study to the Congress, together with such recommendations as the Secretary may deem advisable.

SEC. 936. STUDY OF PIGGYBACK TRAILERS.

(a) IN GENERAL.—The Secretary of Transportation (in consultation with the Secretary of the Treasury) shall conduct a study of the appropriate application and level of the tax imposed by section 4051 of the Internal Revenue Code of 1954 (relating to tax on trucks and trailers sold at retail) on piggyback trailers and semi-trailers.

(b) REPORT.—Not later than May 1, 1985, the Secretary of Transportation shall submit to the Committee on Ways and Means of the

House of Representatives and the Committee on Finance of the Senate a report on the study conducted under subsection (a) together with such recommendations as the Secretary may deem advisable.

TITLE X—MISCELLANEOUS REVENUE PROVISIONS

Subtitle A—Capital Gains and Losses

SEC. 1001. DECREASE IN HOLDING PERIOD REQUIRED FOR LONG-TERM CAPITAL GAIN TREATMENT.

(a) IN GENERAL.—

(1) CAPITAL GAINS.—Paragraphs (1) and (3) of section 1222 (relating to other terms relating to capital gains and losses) are each amended by striking out “1 year” and inserting in lieu thereof “6 months”. 26 USC 1222.

(2) CAPITAL LOSSES.—Paragraphs (2) and (4) of section 1222 are each amended by striking out “1 year” and inserting in lieu thereof “6 months”.

(b) CONFORMING AMENDMENTS.—The following provisions are each amended by striking out “1 year” each place it appears and inserting in lieu thereof “6 months”:

(1) Paragraph (1)(B) of section 166(d) (relating to nonbusiness debts). 26 USC 166.

(2) Subsection (a) of section 341 (relating to treatment of gain to shareholders in the case of collapsible corporations). 26 USC 341.

(3) Paragraph (2) of subsection (a) and subparagraph (L) of subsection (e)(4) of section 402 (relating to capital gains treatment for certain distributions in the case of a beneficiary of an exempt employees’ trust). 26 USC 402.

(4) Subparagraph (A) of section 403(a)(2) (relating to capital gains treatment for certain distributions in the case of a beneficiary under a qualified annuity plan). 26 USC 403.

(5) Paragraph (1) of section 423(a) (relating to employee stock purchase plans). 26 USC 423.

(6) Paragraph (2) of section 582(c) (relating to capital gains of banks). 26 USC 582.

(7) Subparagraphs (A) and (B) of section 584(c)(1) (relating to inclusions in taxable income of participants in common trust funds). 26 USC 584.

(8) Paragraphs (3) and (4) of section 642(c) (relating to charitable deductions for certain trusts). 26 USC 642.

(9) Paragraphs (1) and (2) of section 702(a) (relating to income and credits of partner). 26 USC 702.

(10) Subparagraph (A) of section 818(b)(1) (relating to certain gains and losses in the case of life insurance companies). *Ante*, p. 752.

(11) Subparagraph (B) of section 852(b)(3) (relating to taxation of shareholders of regulated investment companies). 26 USC 852.

(12) Subparagraph (A) of section 856(c)(4) (relating to definition of real estate investment trust). 26 USC 856.

(13) Paragraphs (3)(B) and (7) of section 857(b) (relating to taxation of shareholders of real estate investment trust). *Ante*, p. 572.

(14) Paragraphs (11) and (12) of section 1223 (relating to holding period of property). 26 USC 1223.

- 26 USC 1231. (15) Section 1231 (relating to property used in the trade or business and involuntary conversions).
- 26 USC 1232. (16) Paragraph (2) of section 1232(a) (relating to sale or exchange in the case of bonds and other evidences of indebtedness).
- 26 USC 1233. (17) Subsections (b), (d), and subparagraph (A) of subsection (e)(4) of section 1233 (relating to gains and losses from short sales).
- 26 USC 1234. (18) Paragraph (1) of section 1234(b) (relating to treatment of the grantor of an option in the case of stock, securities, or commodities).
- 26 USC 1235. (19) Subsection (a) of section 1235 (relating to sale or exchange of patents).
- 26 USC 1246. (20) Paragraph (4) of section 1246(a) (relating to holding period in the case of gain on foreign investment company stock).
- 26 USC 1247. (21) Subsection (i) of section 1247 (relating to loss on sale or exchange of certain stock in the case of foreign investment companies electing to distribute income currently).
- 26 USC 1248. (22) Subsections (b) and (g)(3)(C) of section 1248 (relating to gain from certain sales or exchanges of stock in certain foreign corporations).
- Ante*, p. 853. (23) Subparagraph (A) of section 1251(e)(1) (defining farm recapture property).
- 26 USC 631. (c) TECHNICAL AMENDMENT RELATING TO TIMBER, COAL, AND DOMESTIC IRON ORE.—Section 631 (relating to gain or loss in the case of timber, coal, or domestic iron ore) is amended—
- (1) by striking out “for a period of more than 1 year” in the first sentence of subsection (a) and inserting in lieu thereof “on the first day of such year and for a period of more than 6 months before such cutting”, and
- (2) by striking out “1 year” in subsections (b) and (c) and inserting in lieu thereof “6 months”.
- 26 USC 1232. (d) TECHNICAL AMENDMENT RELATING TO CERTAIN SHORT-TERM GOVERNMENT OBLIGATIONS.—Section 1232(a)(3)(A) (relating to certain short-term government obligations) is amended by striking out “held less than 1 year”.
- 26 USC 166 note. (e) EFFECTIVE DATE.—The amendments made by this section shall apply to property acquired after June 22, 1984, and before January 1, 1988.
- SEC. 1002. REPEAL OF SPECIAL RULE FOR PRE-1970 LOSSES.
- 26 USC 1212. (a) IN GENERAL.—Paragraph (3) of section 1212(b) (relating to transitional rule for taxpayers other than corporations) is repealed.
- 26 USC 1212 note. (b) EFFECTIVE DATE.—The repeal made by subsection (a) shall apply to taxable years beginning after December 31, 1986.

Subtitle B—Excise Tax Provisions

PART I—BOATING SAFETY AND SPORT FISH RESTORATION

Subpart A—Boating Safety Amendments

46 USC 13101
note.

SEC. 1010. POLICY.

It is declared to be the policy of Congress and the purpose of this part to improve recreational boating safety and to foster greater development, use, and enjoyment of all waters of the United States

by encouraging and assisting participation by the States, the boating industry, and the boating public in activities related to increasing boating safety; by authorizing the establishment of national construction and performance standards for boats and associated equipment; by creating more flexible authority governing the use of boats and equipment; and by facilitating the provision of services by the United States Coast Guard on behalf of boating safety. It is further declared to be the policy of Congress to encourage greater and continuing uniformity of boating laws and regulations among the States and the Federal Government, to encourage and assist the States in exercising their authorities in boating safety, to foster greater cooperation and assistance between the Federal Government and the States in administering and enforcing Federal and State laws and regulations pertaining to boating safety, and to equitably utilize taxes paid on fuel use in motor boats in a manner which enhances boating safety.

SEC. 1011. GENERAL AMENDMENTS TO TITLE 46.

- (a) Section 2102 of title 46, United States Code, is amended— 97 Stat. 505.
 - (1) by striking out “and facilities improvement” in paragraph (1);
 - (2) by striking out paragraphs (3) and (4); and
 - (3) by redesignating paragraph (5) as paragraph (3).
- (b)(1) Section 13101 of such title is amended— 97 Stat. 592.
 - (A) by striking out “and facility improvement” in subsection (a); and
 - (B) by striking out “and facilities improvement” each place it appears.
- (2) Subsection (a) of section 13101 of such title is amended by striking out “may” in the second sentence and inserting in lieu thereof “shall”.
- (c)(1) Section 13102 of such title is amended by striking out “and facilities improvement” each place it appears. 97 Stat. 593.
- (2) Subsection (a) of section 13102 of such title is amended by striking out “may” and inserting in lieu thereof “shall”.
- (3) Paragraph (2) of section 13102(a) of such title is amended by striking out “; (d), or (f)”.
- (4) Subsections (d) and (f) of section 13102 of such title are repealed, and subsection (e) of such section (and any reference thereto) is redesignated as subsection (d).
- (d)(1) Subsections (b), (d), and (f) of section 13103 of such title are repealed, and subsections (c) and (e) of such section (and all references thereto) are redesignated as subsections (b) and (c), respectively. 97 Stat. 594.
- (2) Subsections (b) and (c) of section 13103 of such title (as redesignated by paragraph (1) of this subsection) are amended by striking out “and facilities improvement” each place it appears.
- (e) Section 13105 of such title is amended by striking out “and facilities improvement”. 97 Stat. 596.
- (f) Subsection (c) of section 13108 of such title is amended by striking out “and facilities improvement” each place it appears. 97 Stat. 596.
- (g) Section 13109 of such title is amended by striking out “and facilities improvement” each place it appears. 97 Stat. 597.

SEC. 1012. AUTHORIZATION OF FUNDS FOR BOATING SAFETY.

Section 13106 of title 46, United States Code, is amended to read as follows: 97 Stat. 596.

Post, p. 1020.
97 Stat. 594.

“(a) The Secretary may expend in each of the fiscal years 1985, 1986, 1987, and 1988, subject to amounts as are provided in appropriations laws for liquidation of contract authority, an amount equal to two-thirds of the amount transferred for such fiscal year to the Boat Safety Account under section 9503(c)(4) of the Internal Revenue Code of 1954 (26 U.S.C. 9503(c)(4)). The amount shall be allocated as provided under section 13103 of this title and shall be available for State recreational boating safety programs as provided under the guidelines established under subsection (b) of this section. Amounts authorized to be expended for State recreational boating safety programs shall remain available until expended and are deemed to have been expended only if an amount equal to the total amounts authorized to be expended under this section for the fiscal year in question and all prior fiscal years have been obligated. Amounts previously obligated but released by payment of a final voucher or modification of a program acceptance shall be credited to the balance of unobligated amounts and are immediately available for expenditure.

“(b) The Secretary shall establish guidelines prescribing the purposes for which amounts available under this chapter for State recreational boating safety programs may be used. Those purposes may include—

“(1) providing facilities, equipment, and supplies for boating safety education and law enforcement, including purchase, operation, maintenance, and repair;

“(2) training personnel in skills related to boating safety and to the enforcement of boating safety laws and regulations;

“(3) providing public boating safety education, including educational programs and lectures, to the boating community and the public school system;

“(4) acquiring, constructing, or repairing public access sites used primarily by recreational boaters;

“(5) conducting boating safety inspections and marine casualty investigations;

“(6) establishing and maintaining emergency or search and rescue facilities, and providing emergency or search and rescue assistance;

“(7) establishing and maintaining waterway markers and other appropriate aids to navigation; and

“(8) providing State recreational vessel numbering or titling programs.

“(c) An amount equal to one-third of the amount transferred for each fiscal year to the Boat Safety Account under section 9503(c)(4) of the Internal Revenue Code of 1954 (26 U.S.C. 9503(c)(4)) is available to the Secretary for expenditures out of the operating expenses account of the Coast Guard for services provided by the Coast Guard for recreational boating safety, including services provided by the Coast Guard Auxiliary. Amounts made available by this subsection shall remain available until expended.”

46 USC 13101
note.

SEC. 1013. EFFECTIVE DATE.

The amendments made by this subpart shall take effect on October 1, 1984, and shall apply with respect to fiscal years beginning after September 30, 1984.

Subpart B—Sport Fish Restoration Program**SEC. 1014. AMENDMENTS TO THE SPORT FISH RESTORATION PROGRAM.**

(a) The Act entitled “An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes”, approved August 9, 1950 (16 U.S.C. 777 et seq.), is amended as follows:

(1) The first section is amended—

16 USC 777.

(A) by inserting “(a)” after “That”; and

(B) by adding at the end thereof the following new subsection:

“(b) Each coastal State, to the extent practicable, shall equitably allocate the following sums between marine fish projects and freshwater fish projects in the same proportion as the estimated number of resident marine anglers and the estimated number of resident freshwater anglers, respectively, bear to the estimated number of all resident anglers in that State:

“(1) The additional sums apportioned to such State under this Act as a result of the taxes imposed by the amendments made by section 1015 of the Tax Reform Act of 1984 on items not taxed under section 4161(a) of the Internal Revenue Code of 1954 before October 1, 1984.

Post, p. 1017.

“(2) The sums apportioned to such State under this Act that are not attributable to any tax imposed by such section 4161(a). As used in this subsection, the term ‘coastal State’ means any one of the States of Alabama, Alaska, California, Connecticut, Delaware, Florida, Georgia, Hawaii, Louisiana, Maine, Maryland, Massachusetts, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Oregon, Rhode Island, South Carolina, Texas, Virginia, and Washington. The term also includes the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Marianas.”

(2) The first sentence of section 3 is amended to read as follows: “To carry out the provisions of this Act for fiscal years after September 30, 1984, there are authorized to be appropriated from the Sport Fish Restoration Account established by section 9504(a) of the Internal Revenue Code of 1954 the amounts paid, transferred, or otherwise credited to that Account. For purposes of the provision of the Act of August 31, 1951, which refers to this section, such amounts shall be treated as the amounts that are equal to the revenues described in this section.”

Appropriation
authorization.
16 USC 777b.

Post, p. 1019.

65 Stat. 262.

(3) The first sentence of section 4 is amended to read as follows: “So much, not to exceed 6 per centum, of each annual appropriation made in accordance with the provisions of section 3 of this Act as the Secretary of the Interior may estimate to be necessary for his expenses in the conduct of necessary investigations, administration, and the execution of this Act and for aiding in the formulation, adoption, or administration of any compact between two or more States for the conservation and management of migratory fishes in marine or freshwaters shall be deducted for that purpose, and such sum is authorized to be made available therefor until the expiration of the next succeeding fiscal year.”

16 USC 777c.
Conservation.

(4) Section 5 is amended by striking all after the first sentence.

16 USC 777d.

16 USC 777e. (5) Section 6 is amended by adding at the end thereof the following new subsection:

“(d) The Secretary of the Interior may enter into agreements to finance up to 75 per centum of the initial costs of the acquisition of lands or interests therein and the construction of structures or facilities for appropriations currently available for the purposes of this Act; and to agree to finance up to 75 per centum of the remaining costs over such a period of time as the Secretary may consider necessary. The liability of the United States in any such agreement is contingent upon the continued availability of funds for the purposes of this Act.”

16 USC 777g. (6) Section 8 is amended by inserting “(a)” before the first sentence, and by adding at the end thereof the following new subsections:

16 USC 777c. “(b)(1) Each State shall allocate 10 per centum of the funds apportioned to it for each fiscal year under section 4 of this Act for the payment of up to 75 per centum of the costs of the acquisition, development, renovation, or improvement of facilities (and auxiliary facilities necessary to insure the safe use of such facilities) that create, or add to, public access to the waters of the United States to improve the suitability of such waters for recreational boating purposes.

“(2) So much of the funds that are allocated by a State under paragraph (1) in any fiscal year that remained unexpended or unobligated at the close of such year are authorized to be made available for the purposes described in paragraph (1) during the succeeding fiscal year, but any portion of such funds that remain unexpended or unobligated at the close of such succeeding fiscal year are authorized to be made available for expenditure by the Secretary of the Interior in carrying out the research program of the Fish and Wildlife Service in respect to fish of material value for sport or recreation.

Public information. “(c) Each State may use not to exceed 10 per centum of the funds apportioned to it under section 4 of this Act to pay up to 75 per centum of the costs of an aquatic resource education program for the purpose of increasing public understanding of the Nation’s water resources and associated aquatic life forms. The non-Federal share of such costs may not be derived from other Federal grant programs. The Secretary shall issue not later than the one hundred and twentieth day after the effective date of this subsection such regulations as he deems advisable regarding the criteria for such programs.”

16 USC 777k. (7) Section 12 is amended—
 (A) inserting “the Mayor of the District of Columbia,” immediately after “the Secretary of Agriculture of Puerto Rico,”;

(B) by inserting “for the District of Columbia one-third of 1 per centum,” immediately after “for Puerto Rico 1 per centum,”; and

(C) by inserting “the District of Columbia,” after “Puerto Rico,” each place it appears therein.

16 USC 777 note. (b) The amendments made by subsection (a) shall take effect on October 1, 1984, and shall apply with respect to fiscal years beginning after September 30, 1984.

Subpart C—Taxes on Sales of Sport Fishing Equipment, Etc.**SEC. 1015. TAX ON SALE OF SPORT FISHING EQUIPMENT.**

(a) **GENERAL RULE.**—Subsection (a) of section 4161 (relating to imposition of tax on the sale of rods, reels, etc.) is amended to read as follows:

26 USC 4161.

“(a) SPORT FISHING EQUIPMENT.—

“(1) **IMPOSITION OF TAX.**—There is hereby imposed on the sale of any article of sport fishing equipment by the manufacturer, producer, or importer a tax equal to 10 percent of the price for which so sold.

“(2) **3 PERCENT RATE OF TAX FOR ELECTRIC OUTBOARD MOTORS AND SONAR DEVICES SUITABLE FOR FINDING FISH.—**

“(A) **IN GENERAL.**—In the case of an electric outboard motor or a sonar device suitable for finding fish, paragraph (1) shall be applied by substituting ‘3 percent’ for ‘10 percent’.

“(B) **\$30 LIMITATION ON TAX IMPOSED ON SONAR DEVICES SUITABLE FOR FINDING FISH.**—The tax imposed by paragraph (1) on any sonar device suitable for finding fish shall not exceed \$30.

“(3) **PARTS OR ACCESSORIES SOLD IN CONNECTION WITH TAXABLE SALE.**—In the case of any sale by the manufacturer, producer, or importer of any article of sport fishing equipment, such article shall be treated as including any parts or accessories of such article sold on or in connection therewith or with the sale thereof.”

(b) **DEFINITION OF SPORT FISHING EQUIPMENT, ETC.**—Part I of subchapter D of chapter 32 is amended by adding at the end thereof the following new section:

“SEC. 4162. DEFINITIONS; TREATMENT OF CERTAIN REALES.

26 USC 4162.

“(a) **SPORT FISHING EQUIPMENT DEFINED.**—For purposes of this part, the term ‘sport fishing equipment’ means—

“(1) fishing rods and poles (and component parts therefor),

“(2) fishing reels,

“(3) fly fishing lines, and other fishing lines not over 130 pounds test,

“(4) fishing spears, spear guns, and spear tips,

“(5) items of terminal tackle, including—

“(A) leaders,

“(B) artificial lures,

“(C) artificial baits,

“(D) artificial flies,

“(E) fishing hooks,

“(F) bobbers,

“(G) sinkers,

“(H) snaps,

“(I) drayles, and

“(J) swivels,

but not including natural bait or any item of terminal tackle designed for use and ordinarily used on fishing lines not described in paragraph (3), and

“(6) the following items of fishing supplies and accessories—

“(A) fish stringers,

“(B) creels,

“(C) tackle boxes,

“(D) bags, baskets, and other containers designed to hold fish,

“(E) portable bait containers,

“(F) fishing vests,

“(G) landing nets,

“(H) gaff hooks,

“(I) fishing hood disgorgers, and

“(J) dressing for fishing lines and artificial flies,

“(7) fishing tip-ups and tilts,

“(8) fishing rod belts, fishing rodholders, fishing harnesses, fish fighting chairs, fishing outriggers, and fishing downriggers,

“(9) electric outboard boat motors, and

“(10) sonar devices suitable for finding fish.

“(b) SONAR DEVICE SUITABLE FOR FINDING FISH.—For purposes of this part, the term ‘sonar device suitable for finding fish’ shall not include any sonar device which is—

“(1) a graph recorder,

“(2) a digital type,

“(3) a meter readout, or

“(4) a combination graph recorder or combination meter readout.

“(c) TREATMENT OF CERTAIN REALES.—

“(1) IN GENERAL.—If—

“(A) the manufacturer, producer, or importer sells any article taxable under section 4161(a) to any person,

“(B) the constructive sale price rules of section 4216(b) do not apply to such sale, and

“(C) such person (or any other person) sells such article to a related person with respect to the manufacturer, producer, or importer,

then such related person shall be liable for tax under section 4161 in the same manner as if such related person were the manufacturer of the article.

“(2) CREDIT FOR TAX PREVIOUSLY PAID.—If—

“(A) tax is imposed on the sale of any article by reason of paragraph (1), and

“(B) the related person establishes the amount of the tax which was paid on the sale described in paragraph (1)(A), the amount of the tax so paid shall be allowed as a credit against the tax imposed by reason of paragraph (1).

“(3) RELATED PERSON.—For purposes of this subsection, the term ‘related person’ has the meaning given such term by section 168(e)(4)(D).

“(4) REGULATIONS.—Except to the extent provided in regulations, rules similar to the rules of this subsection shall also apply in cases (not described in paragraph (1)) in which intermediaries or other devices are used for purposes of reducing the amount of the tax imposed by section 4161(a).”

26 USC 6302.

(c) TIME FOR PAYMENT OF TAX.—Section 6302 (relating to mode or time of collecting tax) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

Ante, p. 1017.

“(d) TIME FOR PAYMENT OF MANUFACTURERS EXCISE TAX ON SPORT FISHING EQUIPMENT.—The tax imposed by section 4161(a) (relating to manufacturers excise tax on sport fishing equipment) shall be due and payable on the date for filing the return for such tax.”

(d) CLERICAL AMENDMENT.—The table of sections for part I of subchapter D of chapter 32 is amended by adding at the end thereof the following new item:

“Sec. 4162. Definitions; treatment of certain resales.”

(e) EFFECTIVE DATE.—

26 USC 4162
note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply with respect to articles sold by the manufacturer, producer, or importer after September 30, 1984.

(2) TREATMENT OF CERTAIN REALES.—Subsection (c) of section 4162 of the Internal Revenue Code of 1954 (relating to treatment of certain resales), as added by this section, shall apply to sales by related persons (as defined in such subsection) after the date of the enactment of this Act.

Ante, p. 1017.

SEC. 1016. ESTABLISHMENT OF AQUATIC RESOURCES TRUST FUND.

(a) GENERAL RULE.—Subchapter A of chapter 98 (relating to Trust Fund Code) is amended by adding at the end thereof the following new section:

“SEC. 9504. AQUATIC RESOURCES TRUST FUND.

26 USC 9504.

“(a) CREATION OF TRUST FUND.—

“(1) IN GENERAL.—There is hereby established in the Treasury of the United States a trust fund to be known as the ‘Aquatic Resources Trust Fund’.

“(2) ACCOUNTS IN TRUST FUND.—The Aquatic Resources Trust Fund shall consist of—

“(A) a Sport Fish Restoration Account, and

“(B) a Boat Safety Account.

Each such Account shall consist of such amounts as may be appropriated, credited, or paid to it as provided in this section, section 9503(c)(4), or section 9602(b).

“(b) SPORT FISH RESTORATION ACCOUNT.—

“(1) TRANSFER OF CERTAIN TAXES TO ACCOUNT.—There is hereby appropriated to the Sport Fish Restoration Account amounts equivalent to the following amounts received in the Treasury on or after October 1, 1984—

“(A) the taxes imposed by section 4161(a) (relating to sport fishing equipment), and

“(B) the import duties imposed on fishing tackle under subpart B of part 5 of schedule 7 of the Tariff Schedules of the United States (19 U.S.C. 1202) and on yachts and pleasure craft under subpart D of part 6 of schedule 6 of such Schedules.

“(2) EXPENDITURES FROM ACCOUNT.—Amounts in the Sport Fish Restoration Account shall be available, as provided by appropriation Acts, to carry out the purposes of the Act entitled ‘An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes’, approved August 9, 1950 (as in effect on June 1, 1984).

“(c) EXPENDITURES FROM BOAT SAFETY ACCOUNT.—Amounts in the Boat Safety Account shall be available, as provided by appropriation Acts, for making expenditures before April 1, 1989, to carry out the purposes of section 13106 of title 46, United States Code (as in effect on June 1, 1984).

97 Stat. 596

“(d) CROSS REFERENCE.—

"For provision transferring motorboat fuels taxes to Boat Safety Account and Sport Fish Restoration Account, see section 9503(c)(4)."

(b) TRANSFERS FROM HIGHWAY TRUST FUND.—

26 USC 9503.

(1) Subparagraph (A) of section 9503(c)(4) of such Code is amended—

(A) by striking out "the National Recreational Boating Safety and Facilities Improvement Fund established by section 202 of the Recreational Boating Fund Act" in clause (i) and inserting in lieu thereof "the Boat Safety Account in the Aquatic Resources Trust Fund",

(B) by striking out "the amount in the National Recreational Boating Safety and Facilities Improvement Fund" in clause (ii) and inserting in lieu thereof "the amount in the Boat Safety Account", and

(C) by striking out "NATIONAL RECREATIONAL BOATING SAFETY AND FACILITIES IMPROVEMENT FUND" in the subparagraph heading and inserting in lieu thereof "BOAT SAFETY ACCOUNT".

(2) Paragraph (4) of section 9503(c) is amended by redesignating subparagraph (C) as subparagraph (D) and by striking out subparagraph (B) and inserting in lieu thereof the following new subparagraphs:

"(B) \$1,000,000 PER YEAR OF EXCESS TRANSFERRED TO LAND AND WATER CONSERVATION FUND.—

"(i) IN GENERAL.—Any amount received in the Highway Trust Fund—

"(I) which is attributable to motorboat fuel taxes, and

"(II) which is not transferred from the Highway Trust Fund under subparagraph (A),

shall be transferred (subject to the limitation of clause (ii)) by the Secretary from the Highway Trust Fund into the land and water conservation fund provided for in title I of the Land and Water Conservation Fund Act of 1965.

"(ii) LIMITATION.—The aggregate amount transferred under this subparagraph during any fiscal year shall not exceed \$1,000,000.

"(C) EXCESS FUNDS TRANSFERRED TO SPORT FISH RESTORATION ACCOUNT.—Any amount received in the Highway Trust Fund—

"(i) which is attributable to motorboat fuel taxes, and

"(ii) which is not transferred from the Highway Trust Fund under subparagraph (A) or (B),

shall be transferred by the Secretary from the Highway Trust Fund into the Sport Fish Restoration Account in the Aquatic Resources Trust Fund."

(c) CONFORMING AMENDMENTS.—

(1) Section 13107 of title 46, United States Code, is hereby repealed.

(2) The table of sections for chapter 131 of title 46, United States Code, is amended by striking out the item relating to section 13107.

(d) **CLERICAL AMENDMENT.—**The table of sections for subchapter A of chapter 98 is amended by adding at the end thereof the following new item:

"Sec. 9504. Aquatic Resources Trust Fund."

16 USC 4601-4-4601-11.

Repeal.
97 Stat. 596.

(e) EFFECTIVE DATE.—

26 USC 9504
note.

(1) IN GENERAL.—The amendments made by this section shall take effect on October 1, 1984.

(2) BOAT SAFETY ACCOUNT TREATED AS CONTINUATION OF NATIONAL RECREATIONAL BOATING SAFETY AND FACILITIES IMPROVEMENT FUND.—The Boat Safety Account in the Aquatic Resources Trust Fund established by the amendments made by this section shall be treated for all purposes of law as the continuation of the National Recreational Boating Safety and Facilities Improvement Fund established by section 13107 of title 46, United States Code. Any reference in any law to the National Recreational Boating Safety and Facilities Improvement Fund established by such section shall be deemed to include (wherever appropriate) a reference to such Boat Safety Account.

Ante, p. 1020.

SEC. 1017. TAX ON CERTAIN ARROWS.

(a) GENERAL RULE.—Paragraph (1) of section 4161(b) (relating to bows and arrows) is amended to read as follows: 26 USC 4161.

“(1) BOWS AND ARROWS.—There is hereby imposed on the sale by the manufacturer, producer, or importer—

“(A) of any bow which has a draw weight of 10 pounds or more, and

“(B) of any arrow which—

“(i) measures 18 inches overall or more in length, or

“(ii) measures less than 18 inches overall in length

but is suitable for use with a bow described in subparagraph (A).

a tax equal to 11 percent of the price for which so sold.”

(b) COORDINATION WITH TAX ON SPORT FISHING EQUIPMENT.—

(1) Subsection (b) of section 4161 is amended by adding at the end thereof the following new paragraph:

“(3) COORDINATION WITH SUBSECTION (a).—No tax shall be imposed under this subsection with respect to any article taxable under subsection (a).”

(2) Paragraph (2) of section 4161(b) is amended by striking out “(other than a fishing reel)”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to articles sold by the manufacturer, producer, or importer after September 30, 1984. 26 USC 4161
note.

PART II—OTHER EXCISE TAXES

SEC. 1018. EXEMPTION FROM AVIATION EXCISE TAX FOR CERTAIN HELICOPTER OPERATIONS.

(a) EXEMPTION FROM FUEL TAX.—Paragraph (1) of section 4041(l) (relating to exemption for certain helicopter uses) is amended to read as follows: 26 USC 4041.

“(1) transporting individuals, equipment, or supplies in—

“(A) the exploration for, or the development or removal of, hard minerals, or

“(B) the exploration for oil or gas, or”.

(b) EXEMPTION FROM TAX ON TRANSPORTATION BY AIR.—Paragraph (1) of section 4261(e) (relating to exemption for certain helicopter uses) is amended to read as follows:

“(1) transporting individuals, equipment, or supplies in—

“(A) the exploration for, or the development or removal of, hard minerals, or

“(B) the exploration for oil or gas, or”.

(c) EFFECTIVE DATE.—

26 USC 4041
note.

(1) SUBSECTION (a).—The amendment made by subsection (a) shall take effect on April 1, 1984.

26 USC 4261
note.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to transportation beginning after March 31, 1984, but shall not apply to any amount paid on or before such date.

SEC. 1019. TECHNICAL AMENDMENTS TO THE HAZARDOUS SUBSTANCE RESPONSE REVENUE ACT OF 1980.

(a) CLARIFICATION OF EXCEPTED SUBSTANCES.—

26 USC 4662.

(1) IN GENERAL.—Subsection (b) of section 4662 (relating to definitions and special rules with respect to tax on certain chemicals) is amended by adding at the end thereof the following new paragraphs:

“(5) SUBSTANCES USED IN THE PRODUCTION OF MOTOR FUEL, ETC.—

“(A) IN GENERAL.—In the case of any chemical described in subparagraph (D) which is a qualified fuel substance, no tax shall be imposed under section 4661(a).

“(B) QUALIFIED FUEL SUBSTANCE.—For purposes of this section, the term ‘qualified fuel substance’ means any substance—

“(i) used in a qualified fuel use by the manufacturer, producer, or importer,

“(ii) sold for use by any purchaser in a qualified fuel use, or

“(iii) sold for resale by any purchaser for use, or resale for ultimate use, in a qualified fuel use.

“(C) QUALIFIED FUEL USE.—For purposes of this subsection, the term ‘qualified fuel use’ means—

“(i) any use in the manufacture or production of any motor fuel, diesel fuel, aviation fuel, or jet fuel, or

“(ii) any use as such a fuel.

“(D) CHEMICALS TO WHICH PARAGRAPH APPLIES.—For purposes of this subsection, the chemicals described in this subparagraph are acetylene, benzene, butylene, butadiene, ethylene, naphthalene, propylene, toluene, and xylene.

“(E) TAXATION OF NONQUALIFIED SALE OR USE.—For purposes of section 4661(a), if no tax was imposed by such section on the sale or use of any chemical by reason of subparagraph (A), the first person who sells or uses such chemical other than in a sale or use described in subparagraph (A) shall be treated as the manufacturer of such chemical.

“(6) SUBSTANCE HAVING TRANSITORY PRESENCE DURING REFINING PROCESS, ETC.—

“(A) IN GENERAL.—No tax shall be imposed under section 4661(a) on any taxable chemical described in subparagraph (B) by reason of the transitory presence of such chemical during any process of smelting, refining, or otherwise extracting any substance not subject to tax under section 4661(a).

“(B) CHEMICALS TO WHICH SUBPARAGRAPH (A) APPLIES.—The chemicals described in this subparagraph are—

“(i) barium sulfide, cupric sulfate, cupric oxide, cuprous oxide, lead oxide, zinc chloride, and zinc sulfate, and

“(ii) any solution or mixture containing any chemical described in clause (i).

“(C) REMOVAL TREATED AS USE.—Nothing in subparagraph (A) shall be construed to apply to any chemical which is removed from or ceases to be part of any smelting, refining, or other extraction process.”

(2) CREDIT OR REFUND FOR USE AS QUALIFIED FUEL, ETC.—Subsection (d) of section 4662 (relating to refund or credit for certain uses) is amended by adding at the end thereof the following new paragraph: 26 USC 4662.

“(3) USE AS QUALIFIED FUEL.—Under regulations prescribed by the Secretary, if—

“(A) a tax under section 4661 was paid with respect to any chemical described in subparagraph (D) of subsection (b)(5) without regard to subsection (b)(5), and

“(B) any person uses such chemical as a qualified fuel substance,

then an amount equal to the excess of the tax so paid over the tax determined with regard to subsection (b)(5) shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by this section.”

(3) METHANE AND BUTANE USED IN PRODUCTION OF MOTOR FUEL, ETC.—Paragraph (1) of section 4662(b) is amended by inserting “or in the manufacture or production of any motor fuel, diesel fuel, aviation fuel, or jet fuel” after “than as a fuel”.

(b) CLARIFICATION OF USE AS FERTILIZER.—

(1) IN GENERAL.—Paragraph (2) of section 4662(b) is amended by striking out subparagraphs (B) and (C) and inserting in lieu thereof the following:

“(B) QUALIFIED FERTILIZER SUBSTANCE.—For purposes of this section, the term ‘qualified fertilizer substance’ means any substance—

“(i) used in a qualified fertilizer use by the manufacturer, producer, or importer,

“(ii) sold for use by any purchaser in a qualified fertilizer use, or

“(iii) sold for resale by any purchaser for use, or resale for ultimate use, in a qualified fertilizer use.

“(C) QUALIFIED FERTILIZER USE.—The term ‘qualified fertilizer use’ means any use in the manufacture or production of fertilizer or for direct application as a fertilizer.

“(D) TAXATION OF NONQUALIFIED SALE OR USE.—For purposes of section 4661(a), if no tax was imposed by such section on the sale or use of any chemical by reason of subparagraph (A), the first person who sells or uses such chemical other than in a sale or use described in subparagraph (A) shall be treated as the manufacturer of such chemical.”

(2) TECHNICAL AMENDMENTS.—

(A) Subparagraph (A) of section 4662(b)(2) is amended by striking out “qualified substance” and inserting in lieu thereof “qualified fertilizer substance”.

26 USC 4662.

(B) Subparagraph (B) of section 4662(d)(2) is amended to read as follows:

“(B) any person uses such substance as a qualified fertilizer substance.”.

(c) CONFORMING AMENDMENT.—Subsection (c) of section 4662 (relating to use by manufacturer, etc., considered sale) is amended by striking out “If” and inserting in lieu thereof “Except as provided in subsection (b), if”.

26 USC 4662
note.

(d) EFFECTIVE DATE.—

94 Stat. 2797.

(1) IN GENERAL.—The amendments made by this section shall take effect as if included in the amendments made by section 211(a) of the Hazardous Substance Response Revenue Act of 1980.

(2) WAIVER OF LIMITATION.—If refund or credit of any overpayment of tax resulting from the application of the amendments made by this section is prevented at any time before the date which for one year after the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), refund or credit of such overpayment (to the extent attributable to the application of such amendments) may, nevertheless, be made or allowed if claim therefor is filed on or before the date which for one year after the date of the enactment of this Act.

Subtitle C—Estate and Gift Tax Provisions

SEC. 1021. DEFERRAL OF ESTATE TAXES FOR INTEREST IN HOLDING COMPANY WHICH OWNS STOCK IN CLOSELY HELD OPERATING COMPANY.

26 USC 6166.

(a) GENERAL RULE.—Subsection (b) of section 6166 (relating to extension of time for payment of estate tax where estate consists largely of interests in closely held business) is amended by adding at the end thereof the following new paragraph:

“(8) STOCK IN HOLDING COMPANY TREATED AS BUSINESS COMPANY STOCK IN CERTAIN CASES.—

“(A) IN GENERAL.—If the executor elects the benefits of this paragraph, then—

“(i) HOLDING COMPANY STOCK TREATED AS BUSINESS COMPANY STOCK.—For purposes of this section, the portion of the stock of any holding company which represents direct ownership (or indirect ownership through 1 or more other holding companies) by such company in a business company shall be deemed to be stock in such business company.

“(ii) 5-YEAR DEFERRAL FOR PRINCIPAL NOT TO APPLY.—The executor shall be treated as having selected under subsection (a)(3) the date prescribed by section 6151(a).

“(iii) 4-PERCENT INTEREST RATE NOT TO APPLY.—Section 6601(j) (relating to 4-percent rate of interest) shall not apply.

“(B) ALL STOCK MUST BE NON-READILY-TRADABLE STOCK.—No stock shall be taken into account for purposes of applying this paragraph unless it is non-readily-tradable stock (within the meaning of paragraph (7)(B)).

“(C) APPLICATION OF VOTING STOCK REQUIREMENT OF PARAGRAPH (1)(C) (i).—For purposes of clause (i) of paragraph (1)(C), the deemed stock resulting from the application of

subparagraph (A) shall be treated as voting stock to the extent that voting stock in the holding company owns directly (or through the voting stock of 1 or more other holding companies) voting stock in the business company.

“(D) DEFINITIONS.—For purposes of this paragraph—

“(i) HOLDING COMPANY.—The term ‘holding company’ means any corporation holding stock in another corporation.

“(ii) BUSINESS COMPANY.—The term ‘business company’ means any corporation carrying on a trade or business.”

(b) DEFERRAL OF ESTATE TAXES NOT AVAILABLE FOR PASSIVE ASSETS.—Subsection (b) of section 6166 is amended by adding at the end thereof the following new paragraph: 26 USC 6166.

“(9) DEFERRAL NOT AVAILABLE FOR PASSIVE ASSETS.—

“(A) IN GENERAL.—For purposes of subsection (a)(1) and determining the closely held business amount (but not for purposes of subsection (g)), the value of any interest in a closely held business shall not include the value of that portion of such interest which is attributable to passive assets held by the business.

“(B) PASSIVE ASSET DEFINED.—For purposes of this paragraph—

“(i) IN GENERAL.—The term ‘passive asset’ means any asset other than an asset used in carrying on a trade or business.

“(ii) STOCK TREATED AS PASSIVE ASSET.—The term ‘passive asset’ includes any stock in another corporation unless—

“(I) such stock is treated as held by the decedent by reason of an election under paragraph (8), and

“(II) such stock qualified under subsection (a)(1).

“(iii) EXCEPTION FOR ACTIVE CORPORATIONS.—If—

“(I) a corporation owns 20 percent or more in value of the voting stock of another corporation, or such other corporation has 15 or fewer shareholders, and

“(II) 80 percent or more of the value of the assets of each such corporation is attributable to assets used in carrying on a trade or business, then such corporations shall be treated as 1 corporation for purposes of clause (ii). For purposes of applying subclause (II) to the corporation holding the stock of the other corporation, such stock shall not be taken into account.”

(c) ACCELERATION OF PAYMENT.—Paragraph (1) of section 6166(g) (relating to disposition of interest; withdrawal of funds from business) is amended by adding at the end thereof the following new subparagraphs:

“(E) CHANGES IN INTEREST IN HOLDING COMPANY.—If any stock in a holding company is treated as stock in a business company by reason of subsection (b)(8)(A)—

“(i) any disposition of any interest in such stock in such holding company which was included in determining the gross estate of the decedent, or

“(ii) any withdrawal of any money or other property from such holding company attributable to any interest

included in determining the gross estate of the decedent, shall be treated for purposes of subparagraph (A) as a disposition of (or a withdrawal with respect to) the stock qualifying under subsection (a)(1).

“(F) CHANGES IN INTEREST IN BUSINESS COMPANY.—If any stock in a holding company is treated as stock in a business company by reason of subsection (b)(8)(A)—

“(i) any disposition of any interest in such stock in the business company by such holding company, or

“(ii) any withdrawal of any money or other property from such business company attributable to such stock by such holding company owning such stock, shall be treated for purposes of subparagraph (A) as a disposition of (or a withdrawal with respect to) the stock qualifying under subsection (a)(1).”

26 USC 6166. (d) **UNDISTRIBUTED INCOME OF ESTATE.**—Paragraph (2) of section 6166(g) (relating to undistributed income of estate) is amended by adding at the end thereof the following new subparagraph:

“(C) For purposes of this paragraph, if any stock in a corporation is treated as stock in another corporation by reason of subsection (b)(8)(A), any dividends paid by such other corporation to the corporation shall be treated as paid to the estate of the decedent to the extent attributable to the stock qualifying under subsection (a)(1).”

26 USC 6166
note.

(e) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—The amendments made by this section shall apply with respect to estates of decedents dying after the date of the enactment of this Act.

(2) **SPECIAL RULE.**—

(A) **IN GENERAL.**—At the election of the executor, if—

(i) a corporation has 15 or fewer shareholders on June 22, 1984, and at all times thereafter before the date of the decedent's death, and

(ii) stock of such corporation is included in the gross estate of the decedent,

then all other corporations all of the stock of which is owned directly or indirectly by the corporation described in clauses (i) and (ii) shall be treated as one corporation for purposes of section 6166 of the Internal Revenue Code of 1954.

(B) **EFFECT OF ELECTION.**—Any executor who elects the application of this paragraph shall be treated as having made the election under paragraph (8) of section 6166(b) of such Code.

Ante, p. 1024.

SEC. 1022. PERMANENT RULES FOR REFORMING GOVERNING INSTRUMENTS CREATING CHARITABLE REMAINDER TRUSTS AND OTHER CHARITABLE INTERESTS.

26 USC 2055.

(a) **GENERAL RULE.**—Paragraph (3) of section 2055(e) (relating to disallowance of deductions in certain cases) is amended to read as follows:

“(3) **REFORMATIONS TO COMPLY WITH PARAGRAPH (2).**—

“(A) **IN GENERAL.**—A deduction shall be allowed under subsection (a) in respect of any qualified reformation.

“(B) **QUALIFIED REFORMATION.**—For purposes of this paragraph, the term ‘qualified reformation’ means a change of a

governing instrument by reformation, amendment, construction, or otherwise which changes a reformable interest into a qualified interest but only if—

“(i) any difference between—

“(I) the actuarial value (determined as of the date of the decedent’s death) of the qualified interest, and

“(II) the actuarial value (as so determined) of the reformable interest,

does not exceed 5 percent of the actuarial value (as so determined) of the reformable interest,

“(ii) in the case of—

“(I) a charitable remainder interest, the nonremainder interest (before and after the qualified reformation) terminated at the same time, or

“(II) any other interest, the reformable interest and the qualified interest are for the same period, and

“(iii) such change is effective as of the date of the decedent’s death.

A nonremainder interest (before reformation) for a term of years in excess of 20 years shall be treated as satisfying subclause (I) of clause (ii) if such interest (after reformation) is for a term of 20 years.

“(C) REFORMABLE INTEREST.—For purposes of this paragraph—

“(i) IN GENERAL.—The term ‘reformable interest’ means any interest for which a deduction would be allowable under subsection (a) at the time of the decedent’s death but for paragraph (2).

“(ii) BENEFICIARY’S INTEREST MUST BE FIXED.—The term ‘reformable interest’ does not include any interest unless, before the remainder vests in possession, all payments to persons other than an organization described in subsection (a) are expressed either in specified dollar amounts or a fixed percentage of the fair market value of the property. For purposes of determining whether all such payments are expressed as a fixed percentage of the fair market value of the property, section 664(d)(3) shall be taken into account.

“(iii) SPECIAL RULE WHERE TIMELY COMMENCEMENT OF REFORMATION.—Clause (ii) shall not apply to any interest if a judicial proceeding is commenced to change such interest into a qualified interest not later than the 90th day after—

“(I) if an estate tax return is required to be filed, the last date (including extensions) for filing such return, or

“(II) if no estate tax return is required to be filed, the last date (including extensions) for filing the income tax return for the 1st taxable year for which such a return is required to be filed by the trust.

“(iv) SPECIAL RULE FOR WILL EXECUTED BEFORE JANUARY 1, 1979, ETC.—In the case of any interest passing under a will executed before January 1, 1979, or under

a trust created before such date, clause (ii) shall not apply.

“(D) **QUALIFIED INTEREST.**—For purposes of this paragraph, the term ‘qualified interest’ means an interest for which a deduction is allowable under subsection (a).

“(E) **LIMITATION.**—The deduction referred to in subparagraph (A) shall not exceed the amount of the deduction which would have been allowable for the reformable interest but for paragraph (2).

“(F) **SPECIAL RULE WHERE INCOME BENEFICIARY DIES.**—If (by reason of the death of any individual, or by termination or distribution of a trust in accordance with the terms of the trust instrument) by the due date for filing the estate tax return (including any extension thereof) a reformable interest is in a wholly charitable trust or passes directly to a person or for a use described in subsection (a), a deduction shall be allowed for such reformable interest as if it had met the requirements of paragraph (2) on the date of the decedent’s death. For purposes of the preceding sentence, the term ‘wholly charitable trust’ means a charitable trust which, upon the allowance of a deduction, would be described in section 4947(a)(1).

“(G) **STATUTE OF LIMITATIONS.**—The period for assessing any deficiency of any tax attributable to the application of this paragraph shall not expire before the date 1 year after the date on which the Secretary is notified that such reformation has occurred.

“(H) **REGULATIONS.**—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this paragraph, including regulations providing such adjustments in the application of the provisions of section 508 (relating to special rules relating to section 501(c)(3) organizations), subchapter J (relating to estates, trusts, beneficiaries, and decedents), and chapter 42 (relating to private foundations) as may be necessary by reason of the qualified reformation.

“(I) **REFORMATIONS PERMITTED IN CASE OF REMAINDER INTERESTS IN RESIDENCE OR FARM, POOLED INCOME FUNDS, ETC.**—The Secretary shall prescribe regulations (consistent with the provisions of this paragraph) permitting reformations in the case of any failure—

“(i) to meet the requirements of section 170(f)(3)(B) (relating to remainder interests in personal residence or farm, etc.), or

“(ii) to meet the requirements of section 642(c)(5).”

26 USC 170.

(b) **INCOME TAX DEDUCTION.**—Subsection (f) of section 170 (relating to disallowance of deduction in certain cases and special rules) is amended by adding at the end thereof the following new paragraph:

“(7) **REFORMATIONS TO COMPLY WITH PARAGRAPH (2).**—

“(A) **IN GENERAL.**—A deduction shall be allowed under subsection (a) in respect of any qualified reformation (within the meaning of section 2055(e)(3)(B)).

Ante, p. 1026

“(B) **RULES SIMILAR TO SECTION 2055 (e) (3) TO APPLY.**—For purposes of this paragraph, rules similar to the rules of section 2055(e)(3) shall apply.”

26 USC 2522.

(c) **GIFT TAX DEDUCTION.**—Subsection (c) of section 2522 is amended by adding at the end thereof the following new paragraph:

“(4) REFORMATIONS TO COMPLY WITH PARAGRAPH (2).—

“(A) IN GENERAL.—A deduction shall be allowed under subsection (a) in respect of any qualified reformation (within the meaning of section 2055(e)(3)(B)).

Ante, p. 1026.

“(B) RULES SIMILAR TO SECTION 2055 (e) (3) TO APPLY.—For purposes of this paragraph, rules similar to the rules of section 2055(e)(3) shall apply.”

(d) TREATMENT OF CERTAIN CONTINGENCIES UNDER SECTION 664.—Section 664 (relating to charitable remainder trusts) is amended by adding at the end thereof the following subsection: 26 USC 664.

“(f) CERTAIN CONTINGENCIES PERMITTED.—

“(1) GENERAL RULE.—If a trust would, but for a qualified contingency, meet the requirements of paragraph (1)(A) or (2)(A) of subsection (d), such trust shall be treated as meeting such requirements.

“(2) VALUE DETERMINED WITHOUT REGARD TO QUALIFIED CONTINGENCY.—For purposes of determining the amount of any charitable contribution (or the actuarial value of any interest), a qualified contingency shall not be taken into account.

“(3) QUALIFIED CONTINGENCY.—For purposes of this subsection, the term ‘qualified contingency’ means any provision of a trust which provides that, upon the happening of a contingency, the payments described in paragraph (1)(A) or (2)(A) of subsection (d) (as the case may be) will terminate not later than such payments would otherwise terminate under the trust.”

(e) EFFECTIVE DATE.—

26 USC 2055
note.

(1) SUBSECTIONS (a), (b), AND (c).—The amendments made by subsections (a), (b), and (c) shall apply to reformations after December 31, 1978; except that such amendments shall not apply to any reformation to which section 2055(e)(3) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) applies. For purposes of applying clause (iii) of section 2055(e)(3)(C) of such Code (as amended by this section), the 90th day described in such clause shall be treated as not occurring before the 90th day after the date of the enactment of this Act.

(2) SUBSECTION (d).—The amendment made by subsection (d) shall apply to transfers after December 31, 1978.

(3) STATUTE OF LIMITATIONS.—

(A) IN GENERAL.—If on the date of the enactment of this Act (or at any time before the date 1 year after such date of enactment), credit or refund of any overpayment of tax attributable to the amendments made by this section is barred by any law or rule of law, such credit or refund of such overpayment may nevertheless be made if claim therefor is filed before the date 1 year after the date of the enactment of this Act.

(B) NO INTEREST WHERE STATUTE CLOSED ON DATE OF ENACTMENT.—In any case where the making of the credit or refund of the overpayment described in subparagraph (A) is barred on the date of the enactment of this Act, no interest shall be allowed with respect to such overpayment (or any related adjustment) for the period before the date 180 days after the date on which the Secretary of the Treasury (or his delegate) is notified that the reformation has occurred.

SEC. 1023. ALTERNATE VALUATION ELECTION AVAILABLE ONLY WHERE IT RESULTS IN REDUCTION OF GROSS ESTATE AND ESTATE TAX.

26 USC 2032.

(a) **GENERAL RULE.**—Section 2032 (relating to alternate valuation) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

“(c) **ELECTION MUST DECREASE GROSS ESTATE AND ESTATE TAX.**—No election may be made under this section with respect to an estate unless such election will decrease—

“(1) the value of the gross estate, and

“(2) the amount of the tax imposed by this chapter (reduced by credits allowable against such tax).”

26 USC 2032
note.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall apply with respect to estates of decedents dying after the date of the enactment of this Act.

SEC. 1024. ALTERNATE VALUATION ELECTION AVAILABLE ON CERTAIN LATE RETURNS.

(a) **GENERAL RULE.**—Subsection (d) of section 2032 (relating to time of election), as amended by section 1023, is amended to read as follows:

“(d) **ELECTION.**—

“(1) **IN GENERAL.**—The election provided for in this section shall be made by the executor on the return of the tax imposed by this chapter. Such election, once made, shall be irrevocable.

“(2) **EXCEPTION.**—No election may be made under this section if such return is filed more than 1 year after the time prescribed by law (including extensions) for filing such return.”

(b) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—The amendment made by subsection (a) shall apply to estates of decedents dying after the date of the enactment of this Act.

(2) **TRANSITIONAL RULE.**—In the case of an estate of a decedent dying before the date of the enactment of this Act if—

26 USC 2001 *et seq.*

(A) a credit or refund of the tax imposed by chapter 11 of the Internal Revenue Code of 1954 is not prevented on the date of the enactment of this Act by the operation of any law or rule of law,

Supra.

(B) the election under section 2032 of the Internal Revenue Code of 1954 would have met the requirements of such section (as amended by this section and section 1023) had the decedent died after the date of enactment of this Act, and

(C) a claim for credit or refund of such tax with respect to such estate is filed not later than the 90th day after the date of the enactment of this Act,

then such election shall be treated as a valid election under such section 2032. The statutory period for the assessment of any deficiency which is attributable to an election under this paragraph shall not expire before the close of the 2-year period beginning on the date of the enactment of this Act.

SEC. 1025. MODIFICATION OF ELECTION OR AGREEMENT UNDER SECTION 2032A.

26 USC 2032A

(a) **IN GENERAL.**—Section 2032A(d) (relating to election and agreement) is amended by adding at the end thereof the following new paragraph:

“(3) **MODIFICATION OF ELECTION AND AGREEMENT TO BE PERMITTED.**—The Secretary shall prescribe procedures which provide that in any case in which—

“(A) the executor makes an election under paragraph (1) within the time prescribed for filing such election, and

“(B) substantially complies with the regulations prescribed by the Secretary with respect to such election, but—

“(i) the notice of election, as filed, does not contain all required information, or

“(ii) signatures of 1 or more persons required to enter into the agreement described in paragraph (2) are not included on the agreement as filed, or the agreement does not contain all required information,

the executor will have a reasonable period of time (not exceeding 90 days) after notification of such failures to provide such information or agreements.”

(b) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—The amendment made by this section shall apply to estates of decedents dying after December 31, 1976.

(2) **REFUND OR CREDIT OF OVERPAYMENT BARRED BY STATUTE OF LIMITATIONS.**—Notwithstanding section 6511(a) of the Internal Revenue Code of 1954 or any other period of limitation or lapse of time, a claim for credit or refund of overpayment of the tax imposed by such Code which arises by reason of this section may be filed by any person at any time within the 1-year period beginning on the date of the enactment of this Act. Sections 6511(b) and 6514 of such Code shall not apply to any claim for credit or refund filed under this subsection within such 1-year period.

26 USC 2032A
note

SEC. 1026. NO GAIN RECOGNIZED FROM NET GIFTS MADE BEFORE MARCH 4, 1981.

26 USC 61 note.

(a) **IN GENERAL.**—In the case of any transfer of property subject to gift tax made before March 4, 1981, for purposes of subtitle A of the Internal Revenue Code of 1954, gross income of the donor shall not include any amount attributable to the donee's payment of (or agreement to pay) any gift tax imposed with respect to such gift.

26 USC 1.

(b) **GIFT TAX DEFINED.**—For purposes of subsection (a), the term “gift tax” means—

(1) the tax imposed by chapter 12 of such Code, and

(2) any tax imposed by a State (or the District of Columbia) on transfers by gifts.

26 USC 2501 *et seq*

(c) **STATUTE OF LIMITATIONS.**—If refund or credit of any overpayment of tax resulting from subsection (a) is prevented on the date of the enactment of this Act (or at any time within 1 year after such date) by the operation of any law or rule of law (including res judicata), refund or credit of such overpayment (to the extent attributable to subsection (a)) may nevertheless be made or allowed if claim therefor is filed within 1 year after the date of the enactment of this Act.

SEC. 1027. MARITAL DEDUCTION FOR A USUFRUCT.

(a) **IN GENERAL.**—Subclause (1) of section 2056(b)(7)(B)(ii) (relating to qualifying income interest for life) is amended by inserting “, or has a usufruct interest for life in the property” after “intervals”.

26 USC 2056.

(b) **LIMITATION ON DEDUCTIONS FROM GROSS ESTATE.**—Paragraph (1) of section 2053(c) (relating to limitations on deductions for ex-

26 USC 2053

penses, indebtedness, and taxes) is amended by adding at the end thereof the following new subparagraph:

“(C) CERTAIN CLAIMS BY REMAINDERMEN.—No deduction shall be allowed under this section for a claim against the estate by a remainderman relating to any property described in section 2044.”

26 USC 2053
note.
95 Stat. 301.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendment made by section 403 of the Economic Recovery Tax Act of 1981.

SEC. 1028. CREDIT AGAINST ESTATE TAX FOR TRANSFERS TO TOIYABE NATIONAL FOREST.

26 USC 2001 *et*
seq.

(a) CREDIT ALLOWED.—Subject to the provisions of this section, and notwithstanding any period of limitation or lapse of time, the Secretary of the Treasury or his delegate shall allow credit against the tax imposed by chapter 11 of the Internal Revenue Code of 1954 (relating to the imposition of estate tax)—

(1) upon the estate of Nell J. Redfield for the conveyance by the estate of the United States of real property included in the gross estate and located within and adjacent to the boundaries of the Toiyabe National Forest; and

(2) upon the estate of Elizabeth Schultz Rabe for the conveyance by the estate to the United States of real property included in the gross estate and known as Parcel No. 4 containing 97.60 acres, more or less, located in the County of Douglas, State of Nevada, and described as follows:

The NE $\frac{1}{4}$ of the SW $\frac{1}{4}$, the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$, and a portion of the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 23, Township 13 North, Range 18 East, M.D.B.&M., more particularly described as follows:

All that portion of the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ excepting therefrom the following:

Beginning at a United States Forest Service Brass Cap, being the C-N $\frac{1}{16}$ corner of Section 23; thence South 0°45'24" West 500.00 feet to an iron pipe; thence South 44°50'02" West 945.42 feet to an iron pipe; thence North 89°46'12" West 301.78 feet to a point; thence tangent North 20°28'20" East on the arc of a circular curve to the left with a radius of 800 feet through a central angle of 40°44'50" an arc distance of 568.94 feet to a point; thence North 20°02'42" West 683.17 feet to a point; thence South 88°35'38" East 1206.29 feet to the Point of Beginning, containing 22.40 acres, more or less.

(b) AMOUNT OF CREDIT.—The amount allowed as a credit under subsection (a) shall be equal to the lesser of—

(1) the fair market value of the real property transferred by each estate as of the valuation date used for purposes of the tax imposed by chapter 11 of such Code, or

(2) the Federal estate tax liability (and interest thereon) of each estate.

(c) LIMITATIONS.—

(1) The provisions of this section shall apply only if the executor of each estate executes a deed (in accordance with the laws of the State in which such real property is situated) transferring title to the United States before the date which is 90 days after the date of the enactment of this Act, but only if such title is satisfactory to the Attorney General or his delegate.

(2) The provisions of this section shall apply only if the real property transferred is accepted by the Secretary of Agriculture and added to the Toiyabe National Forest. The lands shall be transferred to the Secretary of Agriculture without reimbursement or payment from the Department of Agriculture.

(3) Unless the Secretary of Agriculture determines and certifies to the Secretary of the Treasury that there has been an expeditious transfer of the real property under this section, no interest payable with respect to the tax imposed by chapter 11 of the Internal Revenue Code of 1954 shall be deemed to be waived by reasons of the provisions of this section.

26 USC 2001 *et seq.*

Subtitle D—Charitable Contributions and Exempt Organizations

SEC. 1031. INCREASE IN CHARITABLE VOLUNTEER MILEAGE.

(a) **IN GENERAL.**—Section 170 (relating to charitable, etc., contributions and gifts) is amended by redesignating subsections (j) and (k) as subsections (k) and (l), respectively, and by inserting after subsection (i) the following new subsection:

26 USC 170.

“(j) **STANDARD MILEAGE RATE FOR USE OF PASSENGER AUTOMOBILE.**—For purposes of computing the deduction under this section for use of a passenger automobile the standard mileage rate shall be 12 cents per mile.”

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1984.

26 USC 170 note.

SEC. 1032. CERTAIN ORGANIZATIONS PROVIDING CHILD CARE INCLUDED WITHIN THE DEFINITION OF TAX-EXEMPT ORGANIZATIONS.

(a) **IN GENERAL.**—Section 501 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (k) as subsection (l) and inserting after subsection (j) the following new subsection:

26 USC 501.
Post, p. 1206.

“(k) **TREATMENT OF CERTAIN ORGANIZATIONS PROVIDING CHILD CARE.**—For purposes of subsection (c)(3) of this section and sections 170(c)(2), 2055(a)(2), and 2522(a)(2), the term ‘educational purposes’ includes the providing of care of children away from their homes if—

“(1) substantially all of the care provided by the organization is for purposes of enabling individuals to be gainfully employed, and

“(2) the services provided by the organization are available to the general public.”

(b) **CROSS REFERENCES.**—

“(1) Subsection (k) of section 170, as redesignated by section 1031 of this Act, is amended by redesignating paragraphs (1) through (8) as paragraphs (2) through (9), respectively, and by inserting before paragraph (2) (as so redesignated) the following new paragraph:

26 USC 170.
Post, p. 1206.

“(1) For treatment of certain organizations providing child care, see section 501(k).”

Supra.

(2) Subsection (f) of section 2055 is amended by redesignating paragraphs (2) through (11) as paragraphs (3) through (12), respectively, and by inserting after paragraph (1) the following new paragraph:

26 USC 2055.

Ante, p. 1033.
26 USC 2522.

"(2) For treatment of certain organizations providing child care, see section 501(k)."

(3) Subsection (d) of section 2522 is amended by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively, and by inserting before paragraph (2) (as so redesignated) the following new paragraph:

"(1) For treatment of certain organizations providing child care, see section 501(k)."

26 USC 170 note.

(c) **EFFECTIVE DATES.**—The amendments made by subsections (a) and (b) shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 1033. RESTRICTIONS ON CHURCH TAX INQUIRIES AND EXAMINATIONS.

26 USC 7612.

(a) **IN GENERAL.**—Subchapter A of chapter 78 (relating to discovery of liability and enforcement of title) is amended by redesignating section 7611 as section 7612 and inserting after section 7610 the following new section:

26 USC 7611.

"SEC. 7611. RESTRICTIONS ON CHURCH TAX INQUIRIES AND EXAMINATIONS.

"(a) RESTRICTIONS ON INQUIRIES.—

"(1) **IN GENERAL.**—The Secretary may begin a church tax inquiry only if—

"(A) the reasonable belief requirements of paragraph (2),
and

"(B) the notice requirements of paragraph (3), have been met.

"(2) **REASONABLE BELIEF REQUIREMENTS.**—The requirements of this paragraph are met with respect to any church tax inquiry if an appropriate high-level Treasury official reasonably believes (on the basis of facts and circumstances recorded in writing) that the church—

"(A) may not be exempt, by reason of its status as a church, from tax under section 501(a), or

"(B) may be carrying on an unrelated trade or business (within the meaning of section 513) or otherwise engaged in activities subject to taxation under this title.

"(3) INQUIRY NOTICE REQUIREMENTS.—

"(A) **IN GENERAL.**—The requirements of this paragraph are met with respect to any church tax inquiry if, before beginning such inquiry, the Secretary provides written notice to the church of the beginning of such inquiry.

"(B) **CONTENTS OF INQUIRY NOTICE.**—The notice required by this paragraph shall include—

"(i) an explanation of—

"(I) the concerns which gave rise to such inquiry,
and

"(II) the general subject matter of such inquiry,
and

"(ii) a general explanation of the applicable—

"(I) administrative and constitutional provisions with respect to such inquiry (including the right to a conference with the Secretary before any examination of church records), and

“(II) provisions of this title which authorize such inquiry or which may be otherwise involved in such inquiry.

“(b) RESTRICTIONS ON EXAMINATIONS.—

“(1) IN GENERAL.—The Secretary may begin a church tax examination only if the requirements of paragraph (2) have been met and such examination may be made only—

“(A) in the case of church records, to the extent necessary to determine the liability for, and the amount of, any tax imposed by this title, and

“(B) in the case of religious activities, to the extent necessary to determine whether an organization claiming to be a church is a church for any period.

“(2) NOTICE OF EXAMINATION; OPPORTUNITY FOR CONFERENCE.—The requirements of this paragraph are met with respect to any church tax examination if—

“(A) at least 15 days before the beginning of such examination, the Secretary provides the notice described in paragraph (3) to both the church and the appropriate regional counsel of the Internal Revenue Service, and

“(B) the church has a reasonable time to participate in a conference described in paragraph (3)(A)(iii), but only if the church requests such a conference before the beginning of the examination.

“(3) CONTENTS OF EXAMINATION NOTICE, ET CETERA.—

“(A) IN GENERAL.—The notice described in this paragraph is a written notice which includes—

“(i) a copy of the church tax inquiry notice provided to the church under subsection (a),

“(ii) a description of the church records and activities which the Secretary seeks to examine,

“(iii) an offer to have a conference between the church and the Secretary in order to discuss, and attempt to resolve, concerns relating to such examination, and

“(iv) a copy of all documents which were collected or prepared by the Internal Revenue Service for use in such examination and the disclosure of which is required by the Freedom of Information Act (5 U.S.C. 552).

“(B) EARLIEST DAY EXAMINATION NOTICE MAY BE PROVIDED.—The examination notice described in subparagraph (A) shall not be provided to the church before the 15th day after the date on which the church tax inquiry notice was provided to the church under subsection (a).

“(C) OPINION OF REGIONAL COUNSEL WITH RESPECT TO EXAMINATION.—Any regional counsel of the Internal Revenue Service who receives an examination notice under paragraph (1) may, within 15 days after such notice is provided, submit to the regional commissioner for the region an advisory objection to the examination.

“(4) EXAMINATION OF RECORDS AND ACTIVITIES NOT SPECIFIED IN NOTICE.—Within the course of a church tax examination which (at the time the examination begins) meets the requirements of paragraphs (1) and (2), the Secretary may examine any church records or religious activities which were not specified in the examination notice to the extent such examination meets the

requirement of subparagraph (A) or (B) of paragraph (1) (whichever applies).

“(c) LIMITATION ON PERIOD OF INQUIRIES AND EXAMINATIONS.—

“(1) INQUIRIES AND EXAMINATIONS MUST BE COMPLETED WITHIN 2 YEARS.—

“(A) IN GENERAL.—The Secretary shall complete any church tax status inquiry or examination (and make a final determination with respect thereto) not later than the date which is 2 years after the examination notice date.

“(B) INQUIRIES NOT FOLLOWED BY EXAMINATIONS.—In the case of a church tax inquiry with respect to which there is no examination notice under subsection (b), the Secretary shall complete such inquiry (and make a final determination with respect thereto) not later than the date which is 90 days after the inquiry notice date.

“(2) SUSPENSION OF 2-YEAR PERIOD.—The running of the 2-year period described in paragraph (1)(A) and the 90-day period in paragraph (1)(B) shall be suspended—

“(A) for any period during which—

“(i) a judicial proceeding brought by the church against the Secretary with respect to the church tax inquiry or examination is pending or being appealed,

“(ii) a judicial proceeding brought by the Secretary against the church (or any official thereof) to compel compliance with any reasonable request of the Secretary in a church tax examination for examination of church records or religious activities is pending or being appealed, or

“(iii) the Secretary is unable to take actions with respect to the church tax inquiry or examination by reason of an order issued in any judicial proceeding brought under section 7609,

“(B) for any period in excess of 20 days (but not in excess of 6 months) in which the church or its agents fail to comply with any reasonable request of the Secretary for church records or other information, or

“(C) for any period mutually agreed upon by the Secretary and the church.

“(d) LIMITATIONS ON REVOCATION OF TAX-EXEMPT STATUS, ETC.—

“(1) IN GENERAL.—The Secretary may—

“(A) determine that an organization is not a church which—

“(i) is exempt from taxation by reason of section 501(a), or

“(ii) is described in section 170(c), or

“(B)(i) send a notice of deficiency of any tax involved in a church tax examination, or

“(ii) in the case of any tax with respect to which subchapter B of chapter 63 (relating to deficiency procedures) does not apply, assess any underpayment of such tax involved in a church tax examination,

only if the appropriate regional counsel of the Internal Revenue Service determines in writing that there has been substantial compliance with the requirements of this section and approves in writing of such revocation, notice of deficiency, or assessment.

“(2) LIMITATIONS ON PERIOD OF ASSESSMENT.—

“(A) REVOCATION OF TAX-EXEMPT STATUS.—

“(i) 3-YEAR STATUTE OF LIMITATIONS GENERALLY.—In the case of any church tax examination with respect to the revocation of tax-exempt status under section 501(a), any tax imposed by chapter 1 (other than section 511) may be assessed, or a proceeding in court for collection of such tax may be begun without assessment, only for the 3 most recent taxable years ending before the examination notice date.

“(ii) 6-YEAR STATUTE OF LIMITATIONS WHERE TAX-EXEMPT STATUS REVOKED.—If an organization is not a church exempt from tax under section 501(a) for any of the 3 taxable years described in clause (i), clause (i) shall be applied by substituting ‘6 most recent taxable years’ for ‘3 most recent taxable years’.

“(B) UNRELATED BUSINESS TAX.—In the case of any church tax examination with respect to the tax imposed by section 511 (relating to unrelated business income), such tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, only with respect to the 6 most recent taxable years ending before the examination notice date.

“(C) EXCEPTION WHERE SHORTER STATUTE OF LIMITATIONS OTHERWISE APPLICABLE.—Subparagraphs (A) and (B) shall not be construed to increase the period otherwise applicable under subchapter A of chapter 66 (relating to limitations on assessment and collection).

26 USC 6501.

“(e) INFORMATION NOT COLLECTED IN SUBSTANTIAL COMPLIANCE WITH PROCEDURES TO STAY SUMMONS PROCEEDING.—

“(1) IN GENERAL.—If there has not been substantial compliance with—

“(A) the notice requirements of subsection (a) or (b),

“(B) the conference requirement described in subsection (b)(3)(A)(iii), or

“(C) the approval requirement of subsection (d)(1) (if applicable),

with respect to any church tax inquiry or examination, any proceeding to compel compliance with any summons with respect to such inquiry or examination shall be stayed until the court finds that all practicable steps to correct the noncompliance have been taken. The period applicable under paragraph (1) or subsection (c) shall not be suspended during the period of any stay under the preceding sentence.

“(2) REMEDY TO BE EXCLUSIVE.—No suit may be maintained, and no defense may be raised in any proceeding (other than as provided in paragraph (1)), by reason of any noncompliance by the Secretary with the requirements of this section.

“(f) LIMITATIONS ON ADDITIONAL INQUIRIES AND EXAMINATIONS.—

“(1) IN GENERAL.—If any church tax inquiry or examination with respect to any church is completed and does not result in—

“(A) a revocation, notice of deficiency, or assessment described in subsection (d)(1), or

“(B) a request by the Secretary for any significant change in the operational practices of the church (including the adequacy of accounting practices),

no other church tax inquiry or examination may begin with respect to such church during the applicable 5-year period

unless such inquiry or examination is approved in writing by the Assistant Commissioner for Employee Plans and Exempt Organizations of the Internal Revenue Service or does not involve the same or similar issues involved in the preceding inquiry or examination. For purposes of the preceding sentence, an inquiry or examination shall be treated as completed not later than the expiration of the applicable period under paragraph (1) of subsection (c).

“(2) **APPLICABLE 5-YEAR PERIOD.**—For purposes of paragraph (1), the term ‘applicable 5-year period’ means the 5-year period beginning on the date the notice taken into account for purposes of subsection (c)(1) was provided. For purposes of the preceding sentence, the rules of subsection (c)(2) shall apply.

“(g) **TREATMENT OF FINAL REPORT OF REVENUE AGENT.**—Any final report of an agent of the Internal Revenue Service shall be treated as a determination of the Secretary under paragraph (1) of section 7428(a), and any church receiving such a report shall be treated for purposes of sections 7428 and 7430 as having exhausted the administrative remedies available to it.

“(h) **DEFINITIONS.**—For purposes of this section—

“(1) **CHURCH.**—The term ‘church’ includes—

“(A) any organization claiming to be a church, and

“(B) any convention or association of churches.

“(2) **CHURCH TAX INQUIRY.**—The term ‘church tax inquiry’ means any inquiry to a church (other than an examination) to serve as a basis for determining whether a church—

“(A) is exempt from tax under section 501(a) by reason of its status as a church, or

“(B) is carrying on an unrelated trade or business (within the meaning of section 513) or otherwise engaged in activities which may be subject to taxation under this title.

“(3) **CHURCH TAX EXAMINATION.**—The term ‘church tax examination’ means any examination for purposes of making a determination described in paragraph (2) of—

“(A) church records at the request of the Internal Revenue Service, or

“(B) the religious activities of any church.

“(4) **CHURCH RECORDS.**—

“(A) **IN GENERAL.**—The term ‘church records’ means all corporate and financial records regularly kept by a church, including corporate minute books and lists of members and contributors.

“(B) **EXCEPTION.**—Such term shall not include records acquired—

“(i) pursuant to a summons to which section 7609 applies, or

“(ii) from any governmental agency.

“(5) **INQUIRY NOTICE DATE.**—The term ‘inquiry notice date’ means the date the notice with respect to a church tax inquiry is provided under subsection (a).

“(6) **EXAMINATION NOTICE DATE.**—The term ‘examination notice date’ means the date the notice with respect to a church tax examination is provided under subsection (b) to the church.

“(7) **APPROPRIATE HIGH-LEVEL TREASURY OFFICIAL.**—The term ‘appropriate high-level Treasury official’ means the Secretary of the Treasury or any delegate of the Secretary whose rank is

no lower than that of a principal Internal Revenue officer for an internal revenue region.

“(i) SECTION NOT TO APPLY TO CRIMINAL INVESTIGATIONS, ETC.—This section shall not apply to—

“(A) any criminal investigation,

“(B) any inquiry or examination relating to the tax liability of any person other than a church,

“(C) any assessment under section 6851 (relating to termination assessments of income tax) or section 6861 (relating to jeopardy assessments of income taxes, etc),

“(D) any willful attempt to defeat or evade any tax imposed by this title, or

“(E) any knowing failure to file a return of tax imposed by the title.”

(b) TECHNICAL AMENDMENT RELATING TO SUBPOENA POWER OF THE DISTRICT COURT FOR THE DISTRICT OF COLUMBIA.—Section 7428 (relating to declaratory judgments relating to status and classification of organizations under section 501(c)(3), etc.) is amended by adding at the end thereof the following new subsection: 26 USC 7428.

“(d) SUBPOENA POWER FOR DISTRICT COURT FOR DISTRICT OF COLUMBIA.—In any action brought under this section in the district court of the United States for the District of Columbia, a subpoena requiring the attendance of a witness at a trial or hearing may be served at any place in the United States.”

(c) CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 7605 (relating to time and place of examination) is amended to read as follows: 26 USC 7605.

“(C) CROSS REFERENCE.—

“For provisions restricting church tax inquiries and examinations, see section 7611.”

Ante, p. 1034.

(2) The table of sections for subchapter A of chapter 78 is amended by striking out the item relating to section 7611 and inserting in lieu thereof the following:

“Sec. 7611. Restrictions on church tax inquiries and examinations.

“Sec. 7612. Cross references.”

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to inquiries and examinations beginning after December 31, 1984. 26 USC 7611 note.

SEC. 1034. ACQUISITION INDEBTEDNESS OF CERTAIN EDUCATIONAL INSTITUTIONS.

(a) GENERAL RULE.—Paragraph (9) of section 514(c) (relating to unrelated debt-financed income) is amended to read as follows: 26 USC 514.

“(9) REAL PROPERTY ACQUIRED BY A QUALIFIED ORGANIZATION.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the term ‘acquisition indebtedness’ does not, for purposes of this section, include indebtedness incurred by a qualified organization in acquiring or improving any real property.

“(B) EXCEPTIONS.—The provisions of subparagraph (A) shall not apply in any case in which—

“(i) the price for the acquisition or improvement is not a fixed amount determined as of the date of the acquisition or the completion of the improvement;

“(ii) the amount of any indebtedness or any other amount payable with respect to such indebtedness, or

the time for making any payment of any such amount, is dependent, in whole or in part, upon any revenue, income, or profits derived from such real property;

“(iii) the real property is at any time after the acquisition leased by the qualified organization to the person selling such property to such organization or to any person who bears a relationship described in section 267(b) or 707(b) to such person;

“(iv) the real property is acquired by a qualified trust from, or is at any time after the acquisition leased by such trust to, any person who—

“(I) bears a relationship which is described in subparagraph (C), (E), or (G) of section 4975(e)(2) to any plan with respect to which such trust was formed, or

“(II) bears a relationship which is described in subparagraph (F) or (H) of section 4975(e)(2) to any person described in subclause (I);

“(v) any person described in clause (iii) or (iv) provides the qualified organization with financing in connection with the acquisition or improvement; or

“(vi) the real property is held by a partnership unless the partnership meets the requirements of clauses (i) through (v) and unless—

“(I) all of the partners of the partnership are qualified organizations, or

“(II) each allocation to a partner of the partnership which is a qualified organization is a qualified allocation (within the meaning of section 168(j)(9)).

For purposes of clause (vi)(I), an organization shall not be treated as a qualified organization if any income of such organization would be unrelated business taxable income (determined without regard to this paragraph).

“(C) QUALIFIED ORGANIZATION.—For purposes of this paragraph, the term ‘qualified organization’ means—

“(i) an organization described in section 170(b)(1)(A) (ii) and its affiliated support organizations described in section 509(a); or

“(ii) any trust which constitutes a qualified trust under section 401.

“(D) OTHER PASS-THRU ENTITIES; TIERED ENTITIES.—Rules similar to the rules of subparagraph (B)(vi) shall also apply in the case of any pass-thru entity other than a partnership and in the case of tiered partnerships and other entities.”

26 USC 514.

(b) TREATMENT OF SEGREGATED ASSET ACCOUNTS.—Section 514 (relating to unrelated debt-financed income) is amended by adding at the end thereof the following new subsection:

“(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations to prevent the circumvention of any provision of this section through the use of segregated asset accounts.

26 USC 514 note.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to indebtedness incurred after the date of the enactment of this Act.

Ante, p. 509.

(2) EXCEPTION FOR INDEBTEDNESS ON CERTAIN PROPERTY ACQUIRED BEFORE JANUARY 1, 1985.—

(A) The amendment made by subsection (a) shall not apply to any indebtedness incurred before January 1, 1985, by a partnership described in subparagraph (B) if such indebtedness is incurred with respect to property acquired (directly or indirectly) by such partnership before such date.

(B) A partnership is described in this subparagraph if—

(i) before October 21, 1983, the partnership was organized, a request for exemption with respect to such partnership was filed with the Department of Labor, and a private placement memorandum stating the maximum number of units in the partnership that would be offered had been circulated,

(ii) the interest in the property to be acquired, directly or indirectly (including through acquiring an interest in another partnership) by such partnership was described in such private placement memorandum, and

(iii) the marketing of partnership interests in such partnership is completed not later than 2 years after the later of the date of enactment of this Act or the date of publication in the Federal Register of such exemption by the Department of Labor and the aggregate number of units in such partnership sold does not exceed the amount described in clause (i).

(3) EXCEPTION FOR INDEBTEDNESS ON CERTAIN PROPERTY ACQUIRED BEFORE JANUARY 1, 1986.—

(A) The amendment made by subsection (a) shall not apply to any indebtedness incurred before January 1, 1986, by a partnership described in subparagraph (B) if such indebtedness is incurred with respect to property acquired (directly or indirectly) by such partnership before such date.

(B) A partnership is described in this paragraph if—

(i) before March 6, 1984, the partnership was organized and publicly announced, the maximum amount of interests which would be sold in such partnership, and

(ii) the marketing of partnership interests in such partnership is completed not later than the 90th day after the date of the enactment of this Act and the aggregate amount of interests in such partnership sold does not exceed the maximum amount described in clause (i).

For purposes of clause (i), the maximum amount taken into account shall be the greatest of the amounts shown in the registration statement, prospectus, or partnership agreement.

(C) BINDING CONTRACTS.—For purposes of this paragraph, property shall be deemed to have been acquired before January 1, 1986, if such property is acquired pursuant to a written contract which, on January 1, 1986, and at all times thereafter, required the acquisition of such property and such property is placed in service not later than 6 months after the date such contract was entered into.

SEC. 1035. TRANSITIONAL RULE RELATING TO THE DEFINITION OF QUALIFIED CONSERVATION CONTRIBUTIONS.

26 USC 170.

(a) **IN GENERAL.**—Subparagraph (B) of section 170(h)(5) (defining exclusively for conservation purposes) is amended to read as follows:

“(B) **NO SURFACE MINING PERMITTED.**—

“(i) **IN GENERAL.**—Except as provided in clause (ii), in the case of a contribution of any interest where there is a retention of a qualified mineral interest, subparagraph (A) shall not be treated as met if at any time there may be extraction or removal of minerals by any surface mining method.

“(ii) **SPECIAL RULE.**—With respect to any contribution of property in which the ownership of the surface estate and mineral interests were separated before June 13, 1976, and remain so separated, subparagraph (A) shall be treated as met if the probability of surface mining occurring on such property is so remote as to be negligible.”

26 USC 170 note.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to contributions made after the date of the enactment of this Act.

Subtitle E—Income Tax Credits**SEC. 1041. 1-YEAR EXTENSION OF TARGETED JOBS CREDIT.**

26 USC 51.

(a) **IN GENERAL.**—Paragraph (3) of section 51(c) (defining wages qualifying for targeted jobs credit) is amended by striking out “December 31, 1984” and inserting in lieu thereof “December 31, 1985”.

26 USC 51 note

(b) **ADDITIONAL AUTHORIZATION OF APPROPRIATIONS.**—Paragraph (2) of section 261(f) of the Economic Recovery Tax Act of 1981 is amended by striking out “fiscal years 1983 and 1984” and inserting in lieu thereof “fiscal years 1983, 1984, and 1985”.

(c) **TARGETED JOBS CREDIT TECHNICAL AMENDMENTS.**—

26 USC 51.

(1) **TREATMENT OF SUCCESSOR EMPLOYERS; TREATMENT OF EMPLOYEES PERFORMING SERVICES FOR OTHER PERSONS.**—Section 51 (relating to amount of targeted jobs credit) is amended by adding at the end thereof the following new subsection:

“(j) **TREATMENT OF SUCCESSOR EMPLOYERS; TREATMENT OF EMPLOYEES PERFORMING SERVICES FOR OTHER PERSONS.**—

“(1) **TREATMENT OF SUCCESSOR EMPLOYERS.**—Under regulations prescribed by the Secretary, in the case of a successor employer referred to in section 3306(b)(1), the determination of the amount of the credit under this section with respect to wages paid by such successor employer shall be made in the same manner as if such wages were paid by the predecessor employer referred to in such section.

“(2) **TREATMENT OF EMPLOYEES PERFORMING SERVICES FOR OTHER PERSONS.**—No credit shall be determined under this section with respect to remuneration paid by an employer to an employee for services performed by such employee for another person unless the amount reasonably expected to be received by the employer for such services from such other person exceeds the remuneration paid by the employer to such employee for such services.”

(2) **SPECIAL RULE FOR CERTIFICATION.**—Subparagraph (A) of section 51(d)(16) (relating to special rules for certifications) is amended by adding at the end thereof the following new sentence: 26 USC 51.

“For purposes of the preceding sentence, if on or before the day on which such individual begins work for the employer, such individual has received from a designated local agency (or other agency or organization designated pursuant to a written agreement with such designated local agency) a written preliminary determination that such individual is a member of a targeted group, then ‘the fifth day’ shall be substituted for ‘the day’ in such sentence.”

(3) **AGE REQUIREMENT FOR QUALIFIED SUMMER YOUTH EMPLOYEE.**—Clause (ii) of section 51(d)(12)(A) (defining qualified summer youth employee) is amended by striking out “(as defined in paragraph (14))” and inserting in lieu thereof “(or if later, on May 1 of the calendar year involved)”.

(4) **TECHNICAL AMENDMENT.**—Paragraph (2) of section 51(b) is amended by striking out “(or, in the case of a vocational rehabilitation referral, the day the individual begins work for the employer on or after the beginning of such individual’s rehabilitation plan)”.

(5) **EFFECTIVE DATES.**—

26 USC 51 note.

(A) **IN GENERAL.**—Except as provided in subparagraph (B), the amendments made by this section shall apply to individuals who begin work for the employer after the date of the enactment of this Act.

(B) **SPECIAL RULE FOR EMPLOYEES PERFORMING SERVICES FOR OTHER PERSONS.**—Paragraph (2) of section 51(j) of the Internal Revenue Code of 1954 (as added by this subsection) and the amendment made by paragraph (3) of this subsection shall apply to individuals who begin work for the employer after December 31, 1984.

Ante, p. 837.

SEC. 1042. INCREASE IN EARNED INCOME CREDIT.

(a) **INCREASE IN RATE OF CREDIT.**—Subsection (a) of section 32 (relating to earned income credit), as redesignated by title IV of this Act, is amended by striking out “10 percent” and inserting in lieu thereof “11 percent”. 26 USC 32. *Ante*, p. 826.

(b) **ADJUSTMENT OF CREDIT PHASE-OUT.**—Paragraph (2) of section 32(b) (as so redesignated) is amended to read as follows:

“(2) 12% percent of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds \$6,500.”

(c) **CREDIT NOT ALLOWABLE TO TAXPAYERS SUBJECT TO ALTERNATIVE MINIMUM TAX.**—Section 32 (as so redesignated) is amended by adding at the end thereof the following new subsection:

“(h) **REDUCTION OF CREDIT TO TAXPAYERS SUBJECT TO ALTERNATIVE MINIMUM TAX.**—The credit allowed under this section for the taxable year shall be reduced by the amount of tax imposed by section 55 (relating to alternative minimum tax for taxpayers other than corporations) with respect to such taxpayer for such taxable year.”

(d) **TECHNICAL AMENDMENTS.**—

(1) Paragraph (1) of section 32(b) (as so redesignated) is amended by striking out “\$500” and inserting in lieu thereof “\$550”.

(2) Subparagraphs (A) and (B) of section 32(f)(2) (as so redesignated) are amended to read as follows:

- “(A) for earned income between \$0 and \$11,000, and
 “(B) for adjusted gross income between \$6,500 and \$11,000.”
- 26 USC 3507. (3) Clauses (i) and (ii) of section 3507(c)(2)(B) are amended to read as follows:
 “(i) of not more than 11 percent of the first \$5,000 of earned income, which
 “(ii) phases out between \$6,500 and \$11,000 of earned income, or”.
- (4) Clauses (i) and (ii) of section 3507(c)(2)(C) are amended to read as follows:
 “(i) of not more than 11 percent of the first \$2,500 of earned income, which
 “(ii) phases out between \$3,250 and \$5,500 of earned income.”
- 26 USC 32 note. (e) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 1984.
- SEC. 1043. ALTERNATIVE TEST FOR DEFINITION OF QUALIFIED REHABILITATED BUILDING.**
- 26 USC 48. (a) **IN GENERAL.**—Paragraph (1) of section 48(g) (relating to qualified rehabilitated buildings) is amended by adding at the end thereof the following new subparagraph:
 “(E) **ALTERNATIVE TEST FOR DEFINITION OF QUALIFIED REHABILITATED BUILDING.**—The requirement in clause (iii) of subparagraph (A) shall be deemed to be satisfied if in the rehabilitation process—
 “(i) 50 percent or more of the existing external walls of the building are retained in place as external walls,
 “(ii) 75 percent or more of the existing external walls of such building are retained in place as internal or external walls, and
 “(iii) 75 percent or more of the existing internal structural framework of such building is retained in place.”
- 26 USC 48 note. (b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to expenditures incurred after December 31, 1983, in taxable years ending after such date.

Subtitle F—Miscellaneous Housing Provisions

SEC. 1051. DISASTER LOSS DEDUCTION WHERE TAXPAYER ORDERED TO DEMOLISH OR RELOCATE RESIDENCE IN DISASTER AREA BECAUSE OF DISASTER.

- 26 USC 165. (a) **GENERAL RULE.**—Section 165 (relating to losses) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:
 “(k) **TREATMENT AS DISASTER LOSS WHERE TAXPAYER ORDERED TO DEMOLISH OR RELOCATE RESIDENCE IN DISASTER AREA BECAUSE OF DISASTER.**—In the case of a taxpayer whose residence is located in an area which has been determined by the President of the United States to warrant assistance by the Federal Government under the Disaster Relief Act of 1974, if—
 “(1) not later than the 120th day after the date of such determination, the taxpayer is ordered, by the government of the State or any political subdivision thereof in which such residence is located, to demolish or relocate such residence, and
- 42 USC 5121 note.

“(2) the residence has been rendered unsafe for use as a residence by reason of the disaster, any loss attributable to such disaster shall be treated as a loss which arises from a casualty and which is described in subsection (i).”

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to taxable years ending after December 31, 1981, with respect to residences in areas determined by the President of the United States, after such date, to warrant assistance by the Federal Government under the Disaster Relief Act of 1974.

26 USC 165 note.

42 USC 5121 note.

SEC. 1052. ALLOCATION OF EXPENSES TO PARSONAGE ALLOWANCES.

With respect to any mortgage interest or real property tax costs paid or incurred before January 1, 1986, by any minister of the gospel who owned and occupied a home before January 3, 1983 (or had a contract to purchase a home before such date and subsequently owned and occupied such home), the application of section 265(1) of the Internal Revenue Code of 1954 to such costs shall be determined without regard to Revenue Ruling 83-3 (and without regard to any other regulation, ruling, or decision reaching the same result, or a result similar to the result, set forth in such Revenue Ruling).

SEC. 1053. ARMED FORCES OVERSEAS QUARTERS.

(a) **IN GENERAL.**—Subsection (h) of section 1034 (relating to roll-over of gain on sale of principal residence) is amended to read as follows:

26 USC 1034.

“(h) **MEMBERS OF ARMED FORCES.**—

“(1) **IN GENERAL.**—The running of any period of time specified in subsection (a) or (c) (other than the 2 years referred to in subsection (c)(4)) shall be suspended during any time that the taxpayer (or his spouse if the old residence and the new residence are each used by the taxpayer and his spouse as their principal residence) serves on extended active duty with the Armed Forces of the United States after the date of the sale of the old residence, except that any such period of time as so suspended shall not extend beyond the date 4 years after the date of the sale of the old residence.

“(2) **MEMBERS STATIONED OUTSIDE THE UNITED STATES OR REQUIRED TO RESIDE IN GOVERNMENT QUARTERS.**—In the case of any taxpayer who, during any period of time the running of which is suspended by paragraph (1)—

“(A) is stationed outside of the United States, or

“(B) after returning from a tour of duty outside of the United States and pursuant to a determination by the Secretary of Defense that adequate off-base housing is not available at a remote base site, is required to reside in on-base Government quarters,

any such period of time as so suspended shall not expire before the last day described in subparagraph (A) or (B), as the case may be, except that any such period of time as so suspended shall not extend beyond the date which is 8 years after the date of the sale of the old residence.

“(3) **EXTENDED ACTIVE DUTY DEFINED.**—For purposes of this subsection, the term ‘extended active duty’ means any period of active duty pursuant to a call or order to such duty for a period in excess of 90 days or for an indefinite period.”

26 USC 1034
note.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to sales of old residences (within the meaning of section 1034 of the Internal Revenue Code of 1954) after the date of the enactment of this Act.

SEC. 1054. TREATMENT OF HOME WON IN LOCAL RADIO CONTEST AND SPECIALLY DESIGNED FOR HANDICAPPED FOSTER CHILD.

26 USC 1 *et seq.*

(a) **IN GENERAL.**—If the Federal income tax attributable to the receipt of the prize described in subsection (b) is paid not later than one year after the date of the enactment of this Act, such payment shall be treated for purposes of the Internal Revenue Code of 1954 as being in full satisfaction of such tax and all interest, additions to the tax, additional amounts, and penalties in respect of liability for such Federal income tax.

(b) **DESCRIPTION OF PRIZE.**—For purposes of subsection (a), the prize described in this subsection is a residence which—

- (1) was won by the taxpayer in a local radio contest,
- (2) was specially designed to meet the needs of a handicapped foster child of the taxpayer,
- (3) is the principal residence (within the meaning of section 1034 of such Code) of the taxpayer, and
- (4) had a lien placed on it by the Internal Revenue Service on May 24, 1983, after an Internal Revenue Service supervisor had overruled two payment schedules negotiated with the taxpayer for the payment of taxes, interest, and penalties on income attributable to such residence for the taxpayer's 1980 taxable year.

(c) **TAX DETERMINED WITHOUT REGARD TO INTEREST, ETC.**—For purposes of subsection (a), the Federal income tax attributable to the prize described in subsection (b) shall be determined without regard to interest, additions to the tax, additional amounts, and penalties.

Subtitle G—Extension of Existing Provisions and Transition Rules

SEC. 1061. EXTENSION OF PAYMENT-IN-KIND TAX TREATMENT ACT OF 1983 TO WHEAT FOR 1984 CROP YEAR.

(a) **EXTENSION.**—

26 USC 61 note.

(1) **IN GENERAL.**—Section 5 of the Payment-in-Kind Tax Treatment Act of 1983 (relating to definitions and special rules) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

“(b) **EXTENSION TO WHEAT PLANTED AND HARVESTED IN 1984.**—In the case of wheat—

“(1) any reference in this Act to the 1983 crop year shall include a reference to the 1984 crop year, and

“(2) any reference to the 1983 payment-in-kind program shall include a reference to any program for the 1984 year for wheat which meets the requirements of subparagraphs (A) and (B) of subsection (a)(1).”

(2) **DEFINITION OF CROP YEAR.**—Paragraph (2) of section 5(a) of such Act is amended to read as follows:

“(2) **CROP YEAR.**—The term ‘1983 crop year’ means the crop year for any crop the planting or harvesting period for which occurs during 1983. The term ‘1984 crop year’ means the crop

year for wheat the planting and harvesting period for which occurs during 1984.”

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to commodities received for the 1984 crop year (as defined in section 5(a)(2) of the Payment-in-Kind Tax Treatment Act of 1983 as amended by subsection (a)).

26 USC 61 note.

Ante, p. 1046.

SEC. 1062. EXTENSION OF INCREASED DEDUCTION FOR ELIMINATING ARCHITECTURAL AND TRANSPORTATION BARRIERS TO THE HANDICAPPED.

(a) **EXTENSION.**—

(1) **IN GENERAL.**—Subsection (d) of section 190 (relating to expenditures to remove architectural and transportation barriers to the handicapped and elderly) is amended to read as follows:

26 USC 190.

“(d) **APPLICATION OF SECTION.**—This section shall apply to—

“(1) taxable years beginning after December 31, 1976, and before January 1, 1983, and

“(2) taxable years beginning after December 31, 1983, and before January 1, 1986.”

(2) **CONFORMING AMENDMENT.**—Subsection (c) of section 2122 of the Tax Reform Act of 1976 (26 U.S.C. 190 note) (relating to effective date for allowance of deduction for eliminating architectural and transportation barriers for the handicapped) is amended by striking out “and before January 1, 1983”.

(b) **INCREASE IN DEDUCTION.**—Subsection (c) of section 190 (relating to limitation of deduction) is amended by striking out “\$25,000” and inserting in lieu thereof “\$35,000”.

(c) **EFFECTIVE DATE.**—The amendment made by subsection (b) shall apply to taxable years beginning after December 31, 1983.

26 USC 190 note.

SEC. 1063. PERMANENT DISALLOWANCE OF DEDUCTION FOR EXPENSES OF DEMOLITION OF CERTAIN STRUCTURES.

(a) **EXTENSION TO ALL STRUCTURES; DISALLOWANCE MADE PERMANENT.**—Section 280B (relating to demolition of certain historic structures) is amended—

26 USC 280B.

(1) by striking out all of subsection (a) which precedes paragraph (1) thereof and inserting in lieu thereof the following: “In the case of the demolition of any structure—”; and

(2) by striking out subsections (b) and (c).

(b) **CONFORMING AMENDMENTS.**—

(1) The heading for section 280B is amended by striking out “CERTAIN HISTORIC”.

(2) The item relating to section 280B in the table of sections for part IX of subchapter B of chapter 1 is amended by striking out “certain historic”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 1983.

26 USC 280B note.

SEC. 1064. AMORTIZATION OF EXPENDITURES TO REHABILITATE LOW-INCOME RENTAL HOUSING.

Subsection (k) of section 167 (relating to depreciation of expenditures to rehabilitate low-income rental housing) is amended by striking out “January 1, 1984” each place it appears and inserting in lieu thereof “January 1, 1987”.

26 USC 167.

SEC. 1065. RULES TREATING INDIAN TRIBAL GOVERNMENTS AS STATES MADE PERMANENT.26 USC 7871
note.(a) **IN GENERAL.**—Section 204 of the Indian Tribal Governmental Tax Status Act of 1982 is amended—

(1) by striking out “and before January 1, 1985,” each place it appears, and

(2) by striking out “, and shall cease to apply at the close of December 31, 1984” in paragraph (5) thereof.

97 Stat. 87
26 USC 7871.(b) **TREATMENT AS STATE EXPANDED FOR CERTAIN PURPOSES.**—Paragraph (6) of section 7871 (relating to Indian tribal governments treated as States for certain purposes) is amended by striking out subparagraphs (B) and (C) and inserting in lieu thereof the following:

“(B) section 105(e) (relating to accident and health plans),

“(C) section 117(b)(2)(A) (relating to scholarships and fellowship grants),

“(D) section 162(e) (relating to appearances, etc., with respect to legislation),

“(E) section 403(b)(1)(A)(ii) (relating to the taxation of contributions of certain employers for employee annuities), and

“(F) section 454(b)(2) (relating to discount obligations).

26 USC 7871
note.(c) **EFFECTIVE DATE.**—The amendment made by subsection (b) shall apply to taxable years beginning after December 31, 1984.**SEC. 1066. TRANSITIONAL RULE FOR TREATMENT OF CERTAIN INCOME FROM S CORPORATIONS.**

26 USC 163 note.

(a) **IN GENERAL.**—If—

(1) a corporation had an election in effect under subchapter S of the Internal Revenue Code of 1954 for the taxable years of such corporation beginning in 1982, 1983, and 1984, and

(2) a shareholder of such corporation makes an election to have this section apply,

then any qualified income which such shareholder takes into account by reason of holding stock in such corporation for any taxable year of such corporation beginning in 1983 or 1984 shall be treated for purposes of section 163(d) of the Internal Revenue Code of 1954 as such income would have been treated but for the enactment of the Subchapter S Revision Act of 1982.

26 USC 1 note.

(b) **QUALIFIED INCOME.**—For purposes of subsection (a), the term “qualified income” means any income other than income which is attributable to personal services performed by the shareholder for the corporation.(c) **ELECTION.**—The election under subsection (a)(2) shall be made at such time and in such manner as the Secretary of the Treasury or his delegate may by regulations prescribe.**SEC. 1067. SPECIAL LEASING RULES FOR CERTAIN COAL GASIFICATION FACILITIES.**

26 USC 168 note.

(a) **IN GENERAL.**—Paragraph (3) of section 208(d) of the Tax Equity and Fiscal Responsibility Act of 1982 is amended by adding at the end thereof the following new subparagraph:“(G) **COAL GASIFICATION FACILITIES.**—“(i) **IN GENERAL.**—Property is described in this subparagraph if such property—

“(I) is used directly in connection with the manufacture or production of low sulfur gaseous fuel from coal, and

“(II) would be described in subparagraph (A) if ‘July 1, 1984’ were substituted for ‘January 1, 1983’.

“(ii) SPECIAL RULE.—For purposes of determining whether property described in this subparagraph is described in subparagraph (A), such property shall be treated as having been acquired during the period referred to in subparagraph (A)(ii) if at least 20 percent of the cost of such property is paid during such period.

“(iii) LIMITATION ON AMOUNT.—Clause (i) shall only apply to the lease of an undivided interest in the property in an amount which does not exceed the lesser of—

“(I) 50 percent of the cost basis of such property,

or

“(II) \$67,500,000.

“(iv) PLACED IN SERVICE.—In the case of property to which this subparagraph applies—

“(I) such property shall be treated as placed in service when the taxpayer receives an operating permit with respect to such property from a State environmental protection agency, and

“(II) the term of the lease with respect to such property shall be treated as being 5 years.”

(b) SPECIAL RULE FOR SUBSECTION (a).—The amount of any recapture under section 47 of the Internal Revenue Code of 1954 with respect to the credit allowed under section 38 of such Code with respect to progress expenditures (within the meaning of section 46(d) of such Code) shall apply only to the percentage of the cost basis of the coal gasification facility to which the amendment made by subsection (a) applies.

26 USC 168 note.

Ante, p. 827

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the provision of section 208(d)(3) of the Tax Equity and Fiscal Responsibility Act of 1982.

26 USC 168 note.

Subtitle H—Additional Provisions

SEC. 1071. TAX TREATMENT OF REGULATED INVESTMENT COMPANIES.

(a) PERSONAL HOLDING COMPANIES PERMITTED TO BE REGULATED INVESTMENT COMPANIES.—

(1) IN GENERAL.—Subsection (a) of section 851 (defining regulated investment company) is amended by striking out “(other than a personal holding company as defined in section 542)”.

26 USC 851.

(2) SPECIAL RULE FOR RATE OF TAX.—Paragraph (1) of section 852(b) (relating to imposition of tax on regulated investment companies) is amended by adding at the end thereof the following new sentence: “In the case of a regulated investment company which is a personal holding company (as defined in section 542), that tax shall be computed at the highest rate of tax specified in section 11(b).”

26 USC 852.

(3) REQUIREMENT THAT INVESTMENT COMPANY HAVE NO EARNINGS AND PROFITS ACCUMULATED IN YEAR FOR WHICH IT WAS NOT A REGULATED INVESTMENT COMPANY.—Subsection (a) of section

26 USC 852.

852 (relating to requirements applicable to regulated investment companies) is amended by striking out "and" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(3) either—

"(A) the provisions of this part applied to the investment company for all taxable years ending on or after November 8, 1983, or

"(B) as of the close of the taxable year, the investment company has no earnings and profits accumulated in any taxable year to which the provisions of this part (or the corresponding provisions of prior law) did not apply to it."

(4) PROCEDURES SIMILAR TO DEFICIENCY DIVIDEND PROCEDURES MADE APPLICABLE.—Section 852 is amended by adding at the end thereof the following new subsection:

"(e) PROCEDURES SIMILAR TO DEFICIENCY DIVIDEND PROCEDURES MADE APPLICABLE.—

"(1) IN GENERAL.—If—

"(A) there is a determination that the provisions of this part do not apply to an investment company for any taxable year (hereinafter in this subsection referred to as the 'non-RIC year'), and

"(B) such investment company meets the distribution requirements of paragraph (2) with respect to the non-RIC year,

for purposes of applying subsection (a)(3) to subsequent taxable years, the provisions of this part shall be treated as applying to such investment company for the non-RIC year.

"(2) DISTRIBUTION REQUIREMENTS.—

"(A) IN GENERAL.—The distribution requirements of this paragraph are met with respect to any non-RIC year if, within the 90-day period beginning on the date of the determination (or within such longer period as the Secretary may permit), the investment company makes 1 or more qualified designated distributions and the amount of such distributions is not less than the excess of—

"(i) the portion of the accumulated earnings and profits of the investment company (as of the date of the determination) which are attributable to the non-RIC year, over

"(ii) any interest payable under paragraph (3).

"(B) QUALIFIED DESIGNATED DISTRIBUTION.—For purposes of this paragraph, the term 'qualified designated distribution' means any distribution made by the investment company if—

"(i) section 301 applies to such distribution, and

"(ii) such distribution is designated (at such time and in such manner as the Secretary shall by regulations prescribe) as being taken into account under this paragraph with respect to the non-RIC year.

"(C) EFFECT ON DIVIDENDS PAID DEDUCTION.—Any qualified designated distribution shall not be included in the amount of dividends paid for purposes of computing the dividends paid deduction for any taxable year.

"(3) INTEREST CHARGE.—

“(A) IN GENERAL.—If paragraph (1) applies to any non-RIC year of an investment company, such investment company shall pay interest at the annual rate established under section 6621—

“(i) on an amount equal to 50 percent of the amount referred to in paragraph (2)(A)(i),

“(ii) for the period—

“(I) which begins on the last day prescribed for payment of the tax imposed for the non-RIC year (determined without regard to extensions), and

“(II) which ends on the date the determination is made.

“(B) COORDINATION WITH SUBTITLE F.—Any interest payable under subparagraph (A) may be assessed and collected at any time during the period during which any tax imposed for the taxable year in which the determination is made may be assessed and collected.

“(4) PROVISION NOT TO APPLY IN THE CASE OF FRAUD.—The provisions of this subsection shall not apply if the determination contains a finding that the failure to meet any requirement of this part was due to fraud with intent to evade tax.

“(5) DETERMINATION.—For purposes of this subsection, the term ‘determination’ has the meaning given to such term by section 860(e). Such term also includes a determination by the investment company filed with the Secretary that the provisions of this part do not apply to the investment company for a taxable year.”

(5) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the amendments made by this subsection shall apply to taxable years beginning after December 31, 1982.

(B) INVESTMENT COMPANIES WHICH WERE REGULATED INVESTMENT COMPANIES FOR YEARS ENDING BEFORE NOVEMBER 8, 1983.—In the case of any investment company to which the provisions of part I of subchapter M of chapter 1 of the Internal Revenue Code of 1954 applied for any taxable year ending before November 8, 1983, for purposes of section 852(a)(3)(B) of the Internal Revenue Code of 1954 (as amended by this subsection), no earnings and profits accumulated in any taxable year ending before January 1, 1984, shall be taken into account.

(C) INVESTMENT COMPANIES BEGINNING BUSINESS IN 1983.—In the case of an investment company which began business in 1983 (and was not a successor corporation), earnings and profits accumulated during its first taxable year shall not be taken into account for purposes of section 852(a)(3)(B) of such Code (as so amended).

(D) INVESTMENT COMPANIES REGISTERING BEFORE NOVEMBER 8, 1983.—In the case of any investment company—

(i) which, during the period after December 31, 1981, and before November 8, 1983—

(I) was engaged in the active conduct of a trade or business,

(II) sold substantially all of its operating assets, and

26 USC 852 note.

26 USC 851.

Ante, p. 1050.

15 USC 80b-20. (III) registered under the Investment Company Act of 1940 as either a management company or a unit investment trust, and

26 USC 851. (ii) to which the provisions of part I of subchapter M of chapter 1 of the Internal Revenue Code of 1954 applied for its first taxable year beginning after November 8, 1983,

Ante, p. 1050. for purposes of section 852(a)(3)(A) of such Code (as amended by paragraph (3)), the provisions of part I of subchapter M of chapter 1 of such Code shall be treated as applying to such investment company for its first taxable year ending after November 8, 1983. For purposes of the preceding sentence, all members of an affiliated group (as defined in section 1504(a) of such Code) filing a consolidated return shall be treated as 1 taxpayer.

Ante, p. 577.

(b) **SHORT-TERM OBLIGATIONS ISSUED ON A DISCOUNT BASIS.**—

26 USC 852. (1) **IN GENERAL.**—Paragraph (2) of section 852(b) (defining investment company taxable income) is amended by adding at the end thereof the following new subparagraph—

“(F) The taxable income shall be computed without regard to section 454(b) (relating to short-term obligations issued on a discount basis) if the company so elects in a manner prescribed by the Secretary.”

26 USC 852 note. (2) **EFFECTIVE DATE.**—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1978.

SEC. 1072. TECHNICAL MODIFICATIONS TO TIP REPORTING REQUIREMENTS.

26 USC 6053. (a) **LOWER ALLOCATION OF GROSS RECEIPTS.**—Subparagraph (C) of section 6053(c)(3) (relating to employee allocation of 8 percent of gross receipts) is amended—

(1) by striking out “The Secretary” and inserting in lieu thereof “Upon the petition of the employer or the majority of employees of such employer, the Secretary”, and

(2) by striking out “5 percent” and inserting in lieu thereof “2 percent”.

Regulations.
26 USC 6053
note. (b) **RECORDKEEPING BY TIPPED EMPLOYEES.**—The Secretary of the Treasury shall prescribe by regulations within 1 year after the date of the enactment of this Act the applicable recordkeeping requirements for tipped employees.

(c) **50 PERCENT OWNERS NOT TREATED AS EMPLOYEES FOR CERTAIN PURPOSES.**—

26 USC 6053. (1) **IN GENERAL.**—Paragraph (4) of section 6053(c) (defining large food or beverage establishment) is amended by inserting before the period at the end of the last sentence the following: “, and an individual who owns 50 percent or more in value of the stock of the corporation operating the establishment shall not be treated as an employee”.

26 USC 6053
note. (2) **EFFECTIVE DATE.**—The amendment made by paragraph (1) shall apply to calendar years beginning after December 31, 1982.

SEC. 1073. TIPS TREATED AS WAGES FOR PURPOSES OF FEDERAL UNEMPLOYMENT TAX.

97 Stat 123.
26 USC 3306. (a) **GENERAL RULE.**—Section 3306 (relating to definitions for purposes of Federal unemployment tax) is amended by adding at the end thereof the following new subsection:

“(s) TIPS TREATED AS WAGES.—For purposes of this chapter, the term ‘wages’ includes tips which are—

“(1) received while performing services which constitute employment, and

“(2) included in a written statement furnished to the employer pursuant to section 6053(a).”

(b) EFFECTIVE DATE.—

26 USC 3306
note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall take effect on January 1, 1986.

(2) EXCEPTION FOR CERTAIN STATES.—In the case of any State the legislature of which—

(A) did not meet in a regular session which begins during 1984 and after the date of the enactment of this Act, and

(B) did not meet in a session which began before the date of the enactment of this Act and remained in session for at least 25 calendar days after such date of enactment,

the amendment made by subsection (a) shall take effect on January 1, 1987.

SEC. 1074. EXCLUSION OF CERTAIN SERVICES FROM THE FEDERAL UNEMPLOYMENT TAX ACT.

Subsection (b) of section 822 of the Economic Recovery Tax Act of 1981 (26 U.S.C. 3306 note) is amended by striking out “and before January 1, 1983” and inserting in lieu thereof “and before January 1, 1985”.

SEC. 1075. TAXATION OF UNEMPLOYMENT COMPENSATION NOT TO APPLY TO COMPENSATION PAID FOR WEEKS OF UNEMPLOYMENT ENDING BEFORE DECEMBER 1, 1978.

(a) GENERAL RULE.—Subsection (d) of section 112 of the Revenue Act of 1978 (relating to taxation of unemployment compensation benefits at certain income levels) is amended to read as follows:

26 USC 85 note.

“(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments of unemployment compensation made after December 31, 1978, in taxable years ending after such date; except that such amendments shall not apply to payments made for weeks of unemployment ending before December 1, 1978.”

(b) WAIVER OF STATUTE OF LIMITATIONS.—If credit or refund of any overpayment of tax resulting from the amendment made by subsection (a) is barred on the date of the enactment of this Act or at any time during the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), refund or credit of such overpayment (to the extent attributable to the amendment made by subsection (a)) may, nevertheless, be made or allowed if claim therefor is filed before the close of such 1-year period.

26 USC 85 note.

SEC. 1076. EXCLUSION FROM GROSS INCOME OF CANCELLATIONS OF CERTAIN STUDENT LOANS.

(a) IN GENERAL.—Section 108 (relating to income from discharge of indebtedness) is amended by adding at the end thereof the following new subsection:

26 USC 108.

“(f) STUDENT LOANS.—

“(1) IN GENERAL.—In the case of an individual, gross income does not include any amount which (but for this subsection) would be includible in gross income by reason of the discharge

(in whole or in part) of any student loan if such discharge was pursuant to a provision of such loan under which all or part of the indebtedness of the individual would be discharged if the individual worked for a certain period of time in certain professions for any of a broad class of employers.

“(2) STUDENT LOAN.—For purposes of this subsection, the term ‘student loan’ means any loan to an individual to assist the individual in attending an educational organization described in section 170(b)(1)(A)(ii) made by—

“(A) the United States, or an instrumentality or agency thereof,

“(B) a State, territory, or possession of the United States, or the District of Columbia, or any political subdivision thereof, or

“(C) a public benefit corporation—

“(i) which is exempt from taxation under section 501(c)(3),

“(ii) which has assumed control over a State, county, or municipal hospital, and

“(iii) whose employees have been deemed to be public employees under State law, or

“(D) any educational organization so described pursuant to an agreement with any entity described in subparagraph (A), (B), or (C) under which the funds from which the loan was made were provided to such educational organization.”

26 USC 108 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to discharges of indebtedness made on or after January 1, 1983.

SEC. 1077. MIGRATORY BIRD HUNTING STAMPS.

(a) IN GENERAL.—Section 5 of the Act of March 16, 1934 (48 Stat. 451, Chapter 71; 16 U.S.C. 718e) is amended by adding at the end thereof the following new subsection:

“(c) Notwithstanding the provisions of subsection (b), or the prohibition in section 474 of title 18, United States Code, or other provisions of law, the Secretary of the Interior may authorize, with the concurrence of the Secretary of the Treasury,

“(1) the color reproduction, or

“(2) the black and white reproduction,

of migratory bird hunting stamps authorized by sections 1 through 4 and 6 through 9 of this Act, which otherwise satisfies the requirements of clauses (ii) and (iii) of section 504(1) of title 18, United States Code. Any such reproduction shall be subject to those terms and conditions deemed necessary by the Secretary of the Interior by regulation or otherwise and any proceeds received by the Federal Government as a result of such reproduction shall be paid into the migratory bird conservation fund established under section 4 of this Act.”

16 USC
718a-718d.
16 USC
718f-718h, 718.

(b) TECHNICAL AMENDMENTS.—

(1) Clause (i) of section 504(1)(D) of title 18, United States Code, is amended by inserting “and stamps issued under the Migratory Bird Hunting Stamp Act of 1934” after “foreign government”.

(2) Clause (ii) of such section is amended by inserting “and illustrations of stamps issued under the Migratory Bird Hunting Stamp Act of 1934 in color” after “postage stamps in color”.

(3) Subsection (b) of section 5 of the Act referred to in subsection (a) is amended by striking out “No person” and inserting in lieu thereof “Except as provided in clauses (i) and (ii) of section 504(1)(D) of title 18, United States Code, no person”.

16 USC 718e.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the date of the enactment of this Act.

16 USC 718e note.

SEC. 1078. EXCLUSION FROM GROSS INCOME OF PAYMENTS FROM THE UNITED STATES FOREST SERVICE AS A RESULT OF RESTRICTING MOTORIZED TRAFFIC IN THE BOUNDARY WATERS CANOE AREA.

(a) **GENERAL RULE.**—At the election of the taxpayer, for purposes of the Internal Revenue Code of 1954, gross income does not include the excludable portion of payments received from the United States Forest Service as a result of restricting motorized traffic in the Boundary Waters Canoe Area, pursuant to section 19(a) of “An Act to designate the Boundary Waters Canoe Area Wilderness, to establish the Boundary Waters Canoe Area Mining Protection Area, and for other purposes”, approved October 21, 1978 (Public Law 95-495; 92 Stat. 1649).

26 USC 1 *et seq.*

(b) **EXCLUDABLE PORTION.**—For purposes of this section, the term “excludable portion” means that portion (or all) of a payment made to any taxpayer during the period after December 31, 1979, and before the later of the date which is 2 years after—

92 Stat. 1659.

(1) the date of the enactment of this Act, or

(2) the date of such payment,

which payment is reinvested within such period in depreciable property used in a trade or business of such taxpayer as authorized by the Act referred to in subsection (a). In determining whether reinvestment has occurred, no direct tracing is required.

(c) **ELECTION.**—An election under subsection (a) shall identify such property for which such payment has been allocated. An election may be made at any time before the expiration of the period for making a claim for credit or refund of the tax imposed by chapter 1 of such Code for the taxable year in which the reinvestment occurred, and shall be made in such manner as the Secretary of the Treasury or his delegate shall by regulations prescribe.

26 USC 1 *et seq.*

(d) **BASIS OF PROPERTY.**—

(1) **IN GENERAL.**—The basis of any property, with respect to which an allocation of any payment has been elected, shall be reduced by the amount of such payment.

(2) **INCREASE DUE TO REPAYMENT.**—The basis of any property described in paragraph (1) shall be increased by the amount of any repayments made to the United States Forest Service upon the sale of such property.

(e) **DENIAL OF DOUBLE BENEFIT.**—No deduction or credit shall be allowed under such Code with respect to any expenditure which is properly associated with any amount excluded from gross income under subsection (a).

(f) **EFFECTIVE DATE; SPECIAL RULE.**—

(1) **EFFECTIVE DATE.**—The amendments made by this section shall apply to payments made in taxable years beginning after December 31, 1979.

(2) **ELECTIONS FOR PRIOR YEARS.**—In the case of any taxable year ending before the date of the enactment of this Act—

(A) the period for making the election under subsection (c) shall not expire before the date which is 1 year after the date of the enactment of this Act, and

(B) if, after the application of subparagraph (A), refund or credit of any overpayment of tax resulting from the application of this section is prevented at any time before the close of such 1-year period by the operation of any law or rule of law (including *res judicata*), refund or credit of such overpayment (to the extent attributable the application of this section) may, nevertheless, be made or allowed if claim therefore is filed before the close of such 1-year period.

SEC. 1079. TAX EXEMPTION OF CORPORATIONS ORGANIZED UNDER ACTS OF CONGRESS.

Post, p. 1207.

Paragraph (1) of section 501(c) (relating to list of exempt organizations), as amended by section 2813 of the bill, is amended by striking out subparagraph (A) thereof and inserting in lieu thereof the following:

“(A) is exempt from Federal income taxes—

“(i) under such Act as amended and supplemented before the date of the enactment of the Tax Reform Act of 1984, or

Ante, p. 494.

“(ii) under this title without regard to any provision of law which is not contained in this title and which is not contained in a revenue Act, or”.

Subtitle I—Studies

SEC. 1081. STUDY OF ALTERNATIVE INCOME TAX SYSTEMS.

(a) **IN GENERAL.**—The Secretary of the Treasury or his delegate shall conduct a study covering the advisability of—

(1) replacing only the Federal individual income tax, or

(2) replacing both the Federal individual income tax and the Federal corporate income tax, with an alternative tax system.

(b) **CONTENTS OF STUDY.**—Such study shall take into account the administrative complexity of the existing Federal income tax system and address the ramifications of replacing that system with an alternative tax system. Such study shall focus on (but not be limited to) the following factors:

(1) protecting the economically disadvantaged,

(2) increasing economic efficiency in both the private and public sectors of the economy,

(3) reducing paperwork and auditing requirements, reducing taxpayer fraud and evasion, and expediting resolution of tax disputes between taxpayers and the Federal Government,

(4) increasing economic incentives for capital formation and productivity,

(5) removing economic disincentives to employment,

(6) excluding certain items, such as social security benefits, from gross income,

(7) equalizing the tax burden on taxpayers with equal ability to pay taxes, and

(8) achieving the appropriate burden of taxes for each income class of taxpayers.

Such study shall also identify the strengths and potential weaknesses of an alternative tax system and propose possible solutions for any such potential weakness.

(c) **ALTERNATIVE TAX SYSTEM.**—For purposes of this section, the term “alternative tax system” means a system based on—

- (1) a simplified income tax based on gross income;
- (2) a consumption tax;
- (3) a consumption-based tax; or
- (4) the broadening of the base and lowering of the rates of the current income tax.

(d) **STUDY OF TAX SHELTERS TO BE INCLUDED.**—The study conducted under subsection (a) shall include a study of the entire area of tax shelters and how they impact on the equity of the tax system.

(e) **REPORTING DATE.**—The report of the study required by subsection (a) shall be submitted to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than December 31, 1984.

SEC. 1082. STUDY OF TAXATION BY FOREIGN COUNTRIES ON SERVICES PERFORMED IN THE UNITED STATES.

(a) **STUDY.**—The Secretary of the Treasury or his delegate shall conduct a study of the practices of foreign countries of taxing income on services performed within the United States, including, but not limited to—

- (1) the status of treaty negotiations with such foreign countries with respect to such practices, and
- (2) any options to alleviate the taxation of such income by more than 1 country without appropriate credit for taxes paid.

(b) **REPORT.**—The Secretary of the Treasury or his delegate shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives the results of the study conducted under subsection (a) no later than December 31, 1984.

DIVISION B—SPENDING REDUCTION ACT OF 1984

SEC. 2001. This division may be cited as the “Spending Reduction Act of 1984”.

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TITLE I—GENERAL PROVISIONS

SENSE OF SENATE STATEMENT

SEC. 2101. It is the sense of the Senate that ceilings on fiscal year 1985 appropriation bills shall not exceed, in the aggregate, \$139.8 billion for non-defense, discretionary accounts, and shall not exceed \$299 billion for defense accounts. Further, it is the sense of the Senate that the allocations of these sums, normally done through

2 USC 633.

the section 302(b) process under the Congressional Budget and Impoundment Control Act of 1974, in the absence of a first concurrent budget resolution for fiscal year 1985 will be done by the Senate Appropriations Committee to guide its subcommittees in their separate deliberations on individual appropriation bills for fiscal year 1985.

SENSE OF HOUSE STATEMENT

Ante, p. 494.

SEC. 2102. (a) It is the sense of the House that in fiscal years 1985, 1986, and 1987, Federal deficits be reduced by \$182 billion as a result of the first concurrent resolution on the budget for fiscal year 1985 and the Deficit Reduction Act of 1984. Further, it is the sense of the House that these deficit reductions shall be divided among revenue increases, domestic spending reductions, and limits on the growth in military spending.

(b) It is the sense of the House that in the absence of agreement on a first concurrent resolution on the budget for fiscal year 1985 that the House will continue to abide by House Concurrent Resolution 280, as passed the House.

(c) It is the sense of the House that the Congress shall immediately adopt a conference report on the first concurrent resolution on the budget for fiscal year 1985 and that the Congress shall enforce the aggregate levels of revenue and spending provided in such resolution.

RESCISSION

42 USC 5915
note.

93 Stat. 954.

SEC. 2103. Of the amounts provided in Public Law 96-126, the Department of the Interior and Related Agencies Appropriation Act, 1980, for the "Energy Security Reserve", \$2,000,000,000 are rescinded, of which \$1,154,950,000 is to be derived from the unused portion of the commitment of financial assistance previously awarded to The Oil Shale Company (Colony Shale Oil Project).

TITLE II—CIVIL SERVICE AND MILITARY RETIREMENT PROGRAMS

COST-OF-LIVING ADJUSTMENTS UNDER GOVERNMENT RETIREMENT SYSTEMS

5 USC 8340 note.

SEC. 2201. (a) Notwithstanding any other provision of law, beginning with the monthly rate payable for December 1984, any annuity or retired or retirement pay payable under any retirement system for Government officers or employees which the President adjusts pursuant to section 8340(b) of title 5, United States Code, shall be paid no earlier than the first business day of the succeeding month.

(b) Section 8340(c)(1) of title 5, United States Code, is amended—

(1) in subparagraph (A), by striking out "computer" and inserting in lieu thereof "computed"; and

(2) in subparagraph (B), by striking out "counting" and inserting in lieu thereof "not to exceed 12 months, counting".

TECHNICAL AMENDMENT RELATING TO PREVAILING RATE EMPLOYEES

5 USC 5343 note.

SEC. 2202. (a) Notwithstanding any other provision of law, effective as of October 1, 1983, any adjustment in a wage schedule or rate—

(1) that applies—

(A) to a prevailing rate employee described in section 5342(a)(2) of title 5, United States Code;

(B) to an employee covered by section 5348 of such title; 5 USC 5348.
or

(C) to any other employee subject to section 202(b)(1) of the Omnibus Budget Reconciliation Act of 1983 (Public Law 98-270; 98 Stat. 158); 5 USC 5343 note.

(2) that results from a wage survey; and

(3) that first becomes effective during the fiscal year ending September 30, 1984;

shall not take effect until the first day of the first applicable pay period beginning after the expiration of the 90-day period beginning on the date on which such adjustment would otherwise have taken effect.

(b) The Office of Personnel Management shall take such actions as may be necessary to carry out the provisions of this section.

DEDUCTION FROM CIVILIAN PAY FOR COST-OF-LIVING ADJUSTMENT OF RETIRED OR RETAINER PAY

SEC. 2203. Subsection (d) of section 301 of the Omnibus Budget Reconciliation Act of 1982 (96 Stat. 791; 5 U.S.C. 5532 note) is repealed, effective with respect to pay periods beginning after the date of enactment of this Act.

LEAVE FOR CERTAIN OVERSEAS EMPLOYEES

SEC. 2204. Subsection (a) of section 6 of the Defense Department Overseas Teachers Pay and Personnel Practices Act (73 Stat. 214; 20 U.S.C. 904(a)) is amended by striking out “except that—” and all that follows through the end of such subsection and inserting in lieu thereof “except that if the school year includes more than eight months, any such teacher who shall have served for the entire school year shall be entitled to ten days of cumulative leave with pay.”.

CIVIL SERVICE RETIREMENT DEPOSITS COVERING MILITARY SERVICE

SEC. 2205. The first sentence of section 306(g) of the Omnibus Budget Reconciliation Act of 1982 (5 U.S.C. 8331 note) is amended by striking out “October 1, 1983” and inserting in lieu thereof “October 1, 1985”.

ELECTION OF RETIREMENT PLAN

SEC. 2206. (a) For the purposes of this section, the term “covered retirement system” shall have the same meaning as provided in section 203(a)(2) of the Federal Employees’ Retirement Contribution Temporary Adjustment Act of 1983 (Public Law 98-168; 97 Stat. 1107). 5 USC 8331 note.

(b)(1) Any individual who was entitled to make an election under section 208(a) of the Federal Employees’ Retirement Contribution Temporary Adjustment Act of 1983 (97 Stat. 1111), but who did not make such an election, may make an election under such section not later than September 15, 1984. 5 USC 8331 note.

(2)(A) Not later than September 15, 1984, any such individual who made an election under paragraph (1) of section 208(a) of the Federal

Employees' Retirement Contribution Temporary Adjustment Act of 1983 may—

(i) make any other election which such individual was entitled to make under such section before January 1, 1984; or
 (ii) elect to become a participant in a covered retirement system (if such individual is otherwise eligible to participate in such system), subject to sections 201 through 207 of such Act.

97 Stat. 1106
 5 USC 8331 note.

(B) Not later than September 15, 1984, any such individual who made an election under paragraph (2) of section 208(a) of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983 may—

97 Stat. 1111.
 5 USC 8331 note.

(i) make any other election which such individual was entitled to make under such section before January 1, 1984; or

(ii) elect to terminate participation in the covered retirement system with respect to which such individual made the election under such paragraph (2).

(3) An election under this subsection shall be made by a written application submitted to the official by whom the electing individual is paid.

(4) An election made as provided in this subsection shall take effect with respect to service performed on or after the first day of the first applicable pay period commencing after September 15, 1984.

(c)(1) Section 8342(a)(4) of title 5, United States Code, does not apply for the purpose of determining an entitlement to a refund under section 208(c) of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983 (97 Stat. 1111).

(2) Paragraph (1) shall take effect with respect to any election made under section 208(a) of such Act or this Act before, on, or after January 1, 1984.

97 Stat. 1106.
 5 USC 8331 note.

(d) Nothing in this section or the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983 affects any entitlement to benefits accrued under a covered retirement system before January 1, 1984, except to the extent that any amount refunded under section 208(c) of such Act is not redeposited in the applicable retirement fund.

SALARY ADJUSTMENTS FOR JUDGES

28 USC 461 note.

SEC. 2207. Effective on the first day of the first applicable pay period commencing on or after January 1, 1984, each rate of pay subject to adjustment by section 461 of title 28, United States Code, shall be increased by an amount, rounded to the nearest multiple of \$100 (or if midway between multiples of \$100, to the next higher multiple of \$100), equal to the overall percentage of the adjustment taking effect under section 5305 of title 5, United States Code, in the rates of pay under the General Schedule during fiscal year 1984.

RETIREMENT BENEFITS FOR NATIVES OF THE PRIBILOF ISLANDS

97 Stat. 843.

SEC. 2208. (a) Section 8332(b) of title 5, United States Code, is amended by striking out the period at the end of the second paragraph (13) and inserting in lieu thereof the following: “, and regardless of whether the Native who performs the service retires before, on, or after the effective date of this paragraph.”.

(b) Title II of Public Law 89-702, as amended by section 2 of Public Law 98-129, is amended by adding at the end thereof the following new section: 16 USC 1161.

“SEC. 212. (a)(1) An annuity or survivor annuity based on the service of an employee or Member who performed service described in the second paragraph (13) of subsection (b) or subsection (l)(1)(C) of section 8332 of title 5, United States Code, as added by subsections (b) and (e), respectively, of section 209 of this Act, shall, upon application to the Office of Personnel Management, be recomputed in accordance with the second paragraph (13) of subsection (b) and subsection (l), respectively, of such section 8332, regardless of whether the employee or Member retires before, on, or after the effective date of this paragraph. 16 USC 1169a.

“(2) Any recomputation of annuity under paragraph (1) of this subsection shall apply with respect to months beginning more than 30 days after the date on which application for such recomputation is received by the Office.”. 97 Stat. 843.

(c) The amendments made by this section shall take effect as of October 14, 1983. Effective date. 16 USC 1169a note.

AMENDMENT TO OMNIBUS BUDGET RECONCILIATION ACT OF 1981

SEC. 2209. Section 1722 of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35; 95 Stat. 759) is amended by striking out “1984” and inserting in lieu thereof “1987”. 39 USC 403 note.

TITLE III—MEDICARE, MEDICAID, AND MATERNAL AND CHILD HEALTH AMENDMENTS

Medicare and Medicaid Budget Reconciliation Amendments of 1984.

SHORT TITLE OF TITLE

SEC. 2300. This title may be cited as the “Medicare and Medicaid Budget Reconciliation Amendments of 1984”. 42 USC 1305 note.

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Subtitle A—Medicare Amendments

PART I—REIMBURSEMENT AND BENEFIT CHANGES

MODIFICATION OF WORKING AGED PROVISION

SEC. 2301. (a) Section 1862(b)(3)(A)(i) of the Social Security Act is amended by striking out “over 64 but” each place it appears. 42 USC 1395y.

(b) Section 4(g)(1) of the Age Discrimination in Employment Act of 1967 is amended—

29 USC 623.

(1) by inserting “, and any employee’s spouse aged 65 through 69,” after “aged 65 through 69”; and

(2) by inserting “, and the spouse of such employee,” after “same conditions as any employee”.

(c)(1) The amendment made by subsection (a) shall be effective with respect to items and services furnished on or after January 1, 1985.

Effective date.
42 USC 1395y
note.

(2) The amendment made by subsection (b) shall become effective on January 1, 1985.

Effective date.
29 USC 623 note.

PART B PREMIUM

SEC. 2302. (a) Section 1839(e) of the Social Security Act is amended by striking out “1986” each place it appears and inserting in lieu thereof in each instance “1988”.

97 Stat. 170.
42 USC 1395r.

(b) Section 1839 of such Act is amended by adding at the end thereof the following new subsection:

“(f)(1) If no cost-of-living increase becomes effective under section 215(i) in December of 1985 or 1986, the monthly premium of each individual enrolled under this part for each month in the succeeding year shall (except as otherwise provided in subsection (b)) be the same as the monthly premium (disregarding subsection (b)) of the individual for such December.

42 USC 415.

“(2) If paragraph (1) does not apply to the monthly premiums for 1986 or 1987, if an individual is entitled to monthly benefits under section 202 or 223 for November and for December in the preceding year, and if the monthly premium for that December and for the following January is deducted from those benefits under section 1840(a)(1), the monthly premium for that individual for that January and for each of the succeeding 11 months for which he is entitled to benefits under section 202 or 223 shall (except as otherwise provided in subsection (b)) be the greater of—

42 USC 402, 423.

42 USC 1395s.

42 USC 402, 423.

“(A) the monthly premium amount determined under subsection (a)(2) for that January reduced by the amount (if any) necessary to make the monthly benefits under section 202 or 223 for that January after the deduction of the monthly premium (disregarding subsection (b)) for that January at least equal to the monthly benefits under section 202 or 223 for the preceding November after the deduction of the premium (disregarding subsection (b)) for that individual for that November, or

“(B) the monthly premium (disregarding subsection (b)) for that individual for that December.

For purposes of this subsection, retroactive adjustments or payments and deductions on account of work shall not be taken into account in determining the monthly benefits to which an individual is entitled under section 202 or 223.”.

42 USC 402, 423.

Effective date.
42 USC 1395r
note.

(c) The amendments made by this section shall apply to premiums for months beginning with January 1986.

PAYMENT FOR CLINICAL DIAGNOSTIC LABORATORY TESTS

42 USC 1395l.

SEC. 2303. (a) Section 1833(a)(1)(D) of the Social Security Act is amended to read as follows: “(D) with respect to clinical diagnostic laboratory tests for which payment is made under this part (i) on the basis of a fee schedule under subsection (h)(1), the amount paid shall be equal to 80 percent (or 100 percent, in the case of such tests for which payment is made on the basis of an assignment described in section 1842(b)(3)(B)(ii) or under the procedure described in section 1870(f)(1)) of the lesser of the amount determined under such fee schedule or the amount of the charges billed for the tests, or (ii) on the basis of a negotiated rate established under subsection (h)(6), the amount paid shall be equal to 100 percent of such negotiated rate.”.

42 USC 1395u.

42 USC 1395gg.

(b) Section 1833(a)(2) of such Act is amended—

(1) in subparagraph (B), by inserting “or (D)” after “subparagraph (C)”;

(2) by striking out “and” at the end of subparagraph (B);

(3) by adding “and” at the end of subparagraph (C); and

(4) by adding at the end thereof the following new subparagraph:

“(D) with respect to clinical diagnostic laboratory tests for which payment is made under this part (i) on the basis of a fee schedule determined under subsection (h)(1), the amount paid shall be equal to 80 percent (or 100 percent, in the case of such tests for which payment is made on the basis of an assignment described in section 1842(b)(3)(B)(ii), under the procedure described in section 1870(f)(1), or to a provider having an agreement under section 1866) of the lesser of the amount determined under such fee schedule or the amount of the charges billed for the tests, or (ii) on the basis of a negotiated rate established under subsection (h)(6), the amount paid shall be equal to 100 percent of such negotiated rate for such tests;”.

42 USC 1395cc.

(c) Section 1833(b) of the Social Security Act is amended by striking out “and” at the end of clause (2) and by inserting before the period at the end of clause (3) the following: “, and (4) such deductible shall not apply with respect to clinical diagnostic laboratory tests for which payment is made under this part (A) under subsection (a)(1)(D)(i) or (a)(2)(D)(i) on the basis of an assignment described in section 1842(b)(3)(B)(ii), under the procedure described in section 1870(f)(1), or to a provider having an agreement under section 1866, or (B) on the basis of a negotiated rate determined under subsection (h)(6)”.

(d) Section 1833(h) of such Act is amended to read as follows:

“(h)(1)(A) The Secretary shall establish fee schedules for clinical diagnostic laboratory tests for which payment is made under this part, other than such tests performed by a provider of services for an inpatient of such provider.

“(B) In the case of clinical diagnostic laboratory tests performed by a physician or by a laboratory (other than tests performed by a

hospital laboratory for outpatients of such hospital), the fee schedules established under subparagraph (A) shall be established on a regional, statewide, or carrier service area basis (as the Secretary may determine to be appropriate) for tests furnished during the period beginning on July 1, 1984, and ending on June 30, 1987. For such tests furnished on or after July 1, 1987, the fee schedule shall be established on a nationwide basis.

“(C) In the case of clinical diagnostic laboratory tests performed by a hospital laboratory for outpatients of such hospital, the fee schedules established under subparagraph (A) shall be established on a regional, statewide, or carrier service area basis (as the Secretary may determine to be appropriate) for tests furnished during the period beginning on July 1, 1984, and ending on June 30, 1987. For such tests furnished on or after July 1, 1987, the fee schedule under subparagraph (A) shall not apply with respect to clinical diagnostic laboratory tests performed by a hospital laboratory for outpatients of such hospital.

“(2) Except as provided in paragraph (4), the Secretary shall set the fee schedules at 60 percent (or, in the case of a test performed by a hospital laboratory for outpatients of such hospital, 62 percent) of the prevailing charge level determined pursuant to the third and fourth sentences of section 1842(b)(3) for similar clinical diagnostic laboratory tests for the applicable region, State, or area (or, effective July 1, 1987, for the United States) for the 12-month period beginning July 1, 1984, adjusted annually by a percentage increase or decrease equal to the percentage increase or decrease in the Consumer Price Index for All Urban Consumers (United States city average), and subject to such other adjustments as the Secretary determines are justified by technological changes. The Secretary may make further adjustments or exceptions to the fee schedules to assure adequate reimbursement of (A) emergency laboratory tests needed for the provision of bona fide emergency services, and (B) certain low volume high-cost tests where highly sophisticated equipment or extremely skilled personnel are necessary to assure quality.

42 USC 1395u.

“(3) In addition to the amounts provided under the fee schedules, the Secretary shall provide for and establish a nominal fee to cover the appropriate costs in collecting the sample on which a clinical diagnostic laboratory test was performed and for which payment is made under this part, except that not more than one such fee may be provided under this paragraph with respect to samples collected in the same encounter.

“(4) In establishing any fee schedule under this subsection, the Secretary may provide for an adjustment to take into account, with respect to the portion of the expenses of clinical diagnostic laboratory tests attributable to wages, the relative difference between a region's or local area's wage rates and the wage rate presumed in the data on which the schedule is based.

“(5)(A) In the case of a bill or request for payment for a clinical diagnostic laboratory test for which payment may otherwise be made under this part on the basis of an assignment described in section 1842(b)(3)(B)(ii), under the procedure described in section 1870(f)(1), or under a provider agreement under section 1866, payment may be made only to the person or entity which performed or supervised the performance of such test; except that—

42 USC 1395u.
42 USC 1395gg,
1395cc.

“(i) if a physician performed or supervised the performance of such test, payment may be made to another physician with whom he shares his practice, and

“(ii) in the case of a test performed at the request of a laboratory by another laboratory, payment may be made to the referring laboratory.

“(B) In the case of such a bill or request for payment for a clinical diagnostic laboratory test for which payment may otherwise be made under this part, and which is not described in subparagraph (A), payment may be made to the beneficiary only on the basis of the itemized bill of the person or entity which performed or supervised the performance of the test.

“(C) Payment for a clinical diagnostic laboratory test performed by a laboratory which is independent of a physician’s office or a rural health clinic may only be made on the basis of an assignment described in section 1842(b)(3)(B)(ii), in accordance with section 1842(b)(6)(B) under the procedure described in section 1870(f)(1), or to a provider of services with an agreement in effect under section 1866.

“(6) In the case of any diagnostic laboratory test payment for which is not made on the basis of a fee schedule under paragraph (1), the Secretary may establish a payment rate which is acceptable to the person or entity performing the test and which would be considered the full charge for such tests. Such negotiated rate shall be limited to an amount not in excess of the total payment that would have been made for the services in the absence of such rate.”.

(e) Section 1842 of such Act is amended by striking out subsection (h) thereof.

(f) The last sentence of section 1866(a)(2)(A) of such Act is amended by inserting “and with respect to clinical diagnostic laboratory tests” after “section 1861(s)(10)”.

(g)(1) Section 1902(a) of such Act is amended—

(A) by inserting “and” at the end of paragraph (42);

(B) by striking out paragraph (43); and

(C) by redesignating paragraph (44) as paragraph (43).

(2) Section 1903(i) of such Act is amended—

(A) by striking out the period at the end of paragraph (6) and inserting in lieu thereof “; or”, and

(B) by adding after paragraph (6) the following new paragraph:

“(7) with respect to any amount expended for clinical diagnostic laboratory tests performed by a physician, independent laboratory, or hospital, to the extent such amount exceeds the amount that would be recognized under section 1833(h) for such tests performed for an individual enrolled under part B of title XVIII.”.

(h) The Secretary of Health and Human Services shall simplify the procedures under section 1842 of the Social Security Act with respect to claims and payments for clinical diagnostic laboratory tests so as to reduce unnecessary paperwork while assuring that sufficient information is supplied to identify instances of fraud and abuse.

(i)(1) The Comptroller General shall report to the Congress on—

(A) the appropriateness of the fee schedules under section 1833(h) of the Social Security Act and their impact on the volume and quality of clinical diagnostic laboratory tests;

(B) the potential impact of the adoption of a national fee schedule; and

42 USC 1395u.

Post, p. 1070.

42 USC 1395gg.

42 USC 1395cc.

42 USC 1395u.

42 USC 1395cc.

42 USC 1396a.

42 USC 1396b.

Ante, p. 1064.

42 USC 1395j.

42 USC 1395u
note.

Report.

42 USC 1395f
note.

(C) the potential impact of applying a national fee schedule to clinical diagnostic laboratory tests provided by hospitals to their outpatients.

(2) The Secretary of Health and Human Services shall report to the Congress with respect to the advisability and feasibility of a system of direct payment to any physician for all clinical diagnostic laboratory tests ordered by such physician.

Report.

(3) The reports required by paragraphs (1) and (2) shall be submitted not later than January 1, 1987.

(j)(1) Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to clinical diagnostic laboratory tests furnished on or after July 1, 1984.

Effective dates.
42 USC 1395f
note.

(2) The amendments made by subsection (g)(2) shall apply to payments for calendar quarters beginning on or after October 1, 1984.

(3) The amendments made by this section shall not apply to clinical diagnostic laboratory tests furnished to inpatients of a provider operating under a waiver granted pursuant to section 602(k) of the Social Security Amendments of 1983. Payment for such services shall be made under part B of title XVIII of the Social Security Act at 80 percent (or 100 percent in the case of such tests for which payment is made on the basis of an assignment described in section 1842(b)(3)(B)(ii) of the Social Security Act or under the procedure described in section 1870(f)(1) of such Act) of the reasonable charge for such service. The deductible under section 1833(b) of such Act shall not apply to such tests if payment is made on the basis of such an assignment or procedure.

97 Stat. 163.
42 USC 1395y
note.
42 USC 1395j.
42 USC 1395u.
42 USC 1395gg.
42 USC 1395l.

PACEMAKER REIMBURSEMENT REVIEW AND REFORM

SEC. 2304. (a)(1) The Secretary of Health and Human Services shall issue revisions to the current guidelines for the payment under part B of title XVIII of the Social Security Act for the transtelephonic monitoring of cardiac pacemakers. Such revised guidelines shall include provisions regarding the specifications for and frequency of transtelephonic monitoring procedures which will be found to be reasonable and necessary.

42 USC 1395f
note.

(2)(A) Except as provided in subparagraph (B), if the guidelines required by paragraph (1) have not been issued and put into effect by October 1, 1984, and until such guidelines have been issued and put into effect, payment may not be made under part B of title XVIII of the Social Security Act for transtelephonic monitoring procedures, with respect to a single-chamber cardiac pacemaker powered by lithium batteries, conducted more frequently than—

- (i) weekly during the first month after implantation,
- (ii) once every two months during the period representing 80 percent of the estimated life of the implanted device, and
- (iii) monthly thereafter.

(B) Subparagraph (A) shall not apply in cases where the Secretary determines that special medical factors (including possible evidence of pacemaker or lead malfunction) justify more frequent transtelephonic monitoring procedures.

(b)(1) The Secretary shall review, and report to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate, regarding the appropriateness of the amounts recognized as reasonable under part B of title XVIII of the Social Security Act for physicians

Report.

services associated with implantation or replacement of pacemaker devices and pacemaker leads. Such review shall take into account the amounts recognized as reasonable with respect to such procedures and the time and difficulty of such procedures at the current time in comparison with such amounts and the time and difficulty of such procedures at the time the amounts for such procedures were first established under such part.

Report.
97 Stat. 152.
42 USC 1395ww.

(2) The Prospective Payment Assessment Commission, established under section 1886(e) of the Social Security Act, shall review and report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate regarding the appropriateness of the payment amounts provided under section 1886(d) of such Act for inpatient hospital services associated with implantation or replacement of pacemaker devices and pacemaker leads. Such review shall take into account the time, difficulty, and costs associated with such procedures at the current time in comparison with the time, difficulty, and costs associated with such procedures upon which the payment rates for such procedures under part A of title XVIII of such Act are based.

42 USC 1395c.

(3) The Secretary and the Commission shall each complete the review described in paragraph (1) or (2), respectively, of this subsection and report on such review not later than March 1, 1985.

42 USC 1395y.

(c) Section 1862 of the Social Security Act is amended by adding at the end the following new subsection:

“(h)(1)(A) The Secretary shall, through the Commissioner of the Food and Drug Administration, provide for a registry of all cardiac pacemaker devices and pacemaker leads for which payment was made under this title.

“(B) Such registry shall include the manufacturer, model, and serial number of each such device or lead, the name of the recipient of such device or lead, the date and location of the implantation or removal of the device or lead, the name of the physician implanting or removing such device or lead, the name of the hospital or other provider billing for such procedure, any express or implied warranties associated with such device or lead under contract or State law, and such other information as the Secretary deems to be appropriate.

“(C) Each physician and provider of services performing the implantation or replacement of pacemaker devices and leads for which payment is made or requested to be made under this title shall, in accordance with regulations of the Secretary, submit information respecting such implantation or replacement for the registry.

“(D) Such registry shall be for the purposes of assisting the Secretary in determining when payments may properly be made under this title, in tracing the performance of cardiac pacemaker devices and leads, in determining when inspection by the manufacturer of such a device or lead may be necessary under paragraph (3), and in carrying out studies with respect to the use of such devices and leads. In carrying out any such study, the Secretary may not reveal any specific information which identifies any pacemaker device or lead recipient by name (or which would otherwise identify a specific recipient).

“(E) Any person or organization may provide information to the registry with respect to cardiac pacemaker devices and leads other than those for which payment is made under this title.

“(2) The Secretary may, by regulation, require each provider of services—

“(A) to return, to the manufacturer of the device or lead for testing under paragraph (3), any cardiac pacemaker device or lead which is removed from a patient and payment for the implantation or replacement of which was made or requested by such provider under this title, and

“(B) not to charge any beneficiary for replacement of such a device or lead if the device or lead has not been returned in accordance with subparagraph (A).

“(3) The Secretary may, by regulation, require the manufacturer of a cardiac pacemaker device or lead (A) to test or analyze each pacemaker device or lead for which payment is made or requested under this title and which is returned to the manufacturer by a provider of services under paragraph (2), and (B) to provide the results of such test or analysis to that provider, together with information and documentation with respect to any warranties covering such device or lead. In any case where the Secretary has reason to believe, based upon information in the pacemaker registry or otherwise available to him, that replacement of a cardiac pacemaker device or lead for which payment is or may be requested under this title is related to the malfunction of a device or lead, the Secretary may require that personnel of the Food and Drug Administration be present at the testing of such device by the manufacturer, to determine whether such device was functioning properly.

“(4) The Secretary may deny payment under this title, in whole or in part and for such period of time as the Secretary determines to be appropriate, with respect to the implantation or replacement of a pacemaker device or lead of a manufacturer performed by a physician and provider of services after the Secretary determines (in accordance with the procedures established under paragraphs (2) and (3) of subsection (d)) that—

“(A) the physician or provider of services has failed to submit information to the registry as required under paragraph (1)(C),

“(B) the provider of services has failed to return devices and leads as required under paragraph (2)(A) or has improperly charged beneficiaries as prohibited under paragraph (2)(B), or

“(C) the manufacturer of the device or lead has failed to perform and to report on the testing of devices and leads returned to it as required under paragraph (3).”.

(d) The Secretary of Health and Human Services shall promulgate final regulations to carry out this section and the amendment made by this section prior to January 1, 1985, and the amendment made by subsection (c) shall apply to pacemaker devices and leads implanted or removed on or after the effective date of such regulations.

Regulations.
42 USC 1395f
note.

ELIMINATION OF SPECIAL PAYMENT PROVISIONS FOR PREADMISSION DIAGNOSTIC TESTING

SEC. 2305. (a) Section 1833(a)(1) of the Social Security Act is amended by striking out “(F) with respect to” and all that follows through “(G)” and inserting in lieu thereof “and (F)”.

42 USC 1395f.

(b) Section 1833(a) of such Act is amended—

(1) by adding “and” at the end of paragraph (3);

(2) by striking out “; and” at the end of paragraph (4) and inserting in lieu thereof a period; and

(3) by striking out paragraph (5).

42 USC 1395l.

(c) Section 1833(a)(2) of such Act is amended by striking out “and in paragraph (5) of this subsection”.

(d) Section 1833(b) and section 1833(i)(3) of such Act are each amended by striking out “subsection (a)(1)(G)” and inserting in lieu thereof “subsection (a)(1)(F)”.

42 USC 1395l
note.

(e) The amendments made by this section shall apply to services performed after the date of the enactment of this Act.

42 USC 1395l
note.

(f) The amendments made by this section shall not be construed as prohibiting payment, subject to the applicable copayments, under part B of title XVIII of the Social Security Act for preadmission diagnostic testing performed in a physician's office to the extent such testing is otherwise reimbursable under regulations of the Secretary.

42 USC 1395j.

LIMITATION ON PHYSICIAN FEE PREVAILING AND CUSTOMARY CHARGE LEVELS; PARTICIPATING PHYSICIAN INCENTIVES

42 USC 1395u.

SEC. 2306. (a) Section 1842(b) of the Social Security Act is amended by redesignating paragraphs (4) through (6) as paragraphs (5) through (7), respectively, and by inserting after paragraph (3) the following new paragraph:

“(4)(A) In determining the prevailing charge levels under the third and fourth sentences of paragraph (3) for physicians' services furnished during the 15-month period beginning July 1, 1984, the Secretary shall not set any level higher than the same level as was set for the 12-month period beginning July 1, 1983.

“(B) In determining the reasonable charge under paragraph (3) for physicians' services furnished during the 15-month period beginning July 1, 1984, the customary charges shall be the same customary charges as were recognized under this section for the 12-month period beginning July 1, 1983.

“(C) In determining the prevailing charge levels under the third and fourth sentences of paragraph (3) for physicians' services furnished during periods beginning after September 30, 1985, the Secretary shall treat the level as set under subparagraph (A) as having fully provided for the economic changes which would have been taken into account but for the limitations contained in subparagraph (A).

“(D) In determining the customary charges for physicians' services furnished during the 12-month period beginning October 1, 1985, or October 1, 1986, by a physician who at no time for any services furnished during the 12-month period beginning October 1, 1984, was a participating physician (as defined in subsection (h)(1)), the Secretary shall not recognize increases in actual charges for services furnished during the 15-month period beginning on July 1, 1984, above the level of the physician's actual charges billed in the 3-month period ending on June 30, 1984.”.

(b)(1) Section 1842(b)(3) of such Act is amended—

(A) in subparagraph (F), by striking out “June 30” and inserting in lieu thereof “September 30”;

(B) by striking out “July 1” each place it appears in the third and eighth sentences and inserting in lieu thereof in each instance “October 1”; and

(C) in the third sentence thereof, by striking out “during the last preceding calendar year elapsing prior to” and inserting in

lieu thereof “during the 12-month period ending on the March 31 last preceding”.

Effective date.
42 USC 1395u
note.

(2) The amendments made by paragraph (1) shall apply to items and services furnished on or after October 1, 1985.

(c) Section 1842 of such Act, as amended by section 2303(e) of this title, is amended by adding at the end thereof the following new subsections:

Ante, p. 1066.

“(h)(1) Any physician or supplier may voluntarily enter into an agreement with the Secretary to become a participating physician or supplier. For purposes of this section, the term ‘participating physician or supplier’ means a physician or supplier (excluding any provider of services) who, before October 1 of any year beginning with 1984, enters into an agreement with the Secretary which provides that such physician or supplier will accept payment under this part on the basis of an assignment described in subsection (b)(3)(B)(ii), in accordance with subsection (b)(6)(B), or under the procedure described in section 1870(f)(1) for all items and services furnished to individuals enrolled under this part during the 12-month period beginning on October 1 of such year. In the case of a newly licensed physician or a physician who begins a practice in a new area, or in the case of a new supplier who begins a new business, or in such similar cases as the Secretary may specify, such physician or supplier may enter into such an agreement after October 1 of a year, for items and services furnished during the remainder of the 12-month period beginning on such October 1.

42 USC 1395gg.

“(2) Each carrier having an agreement with the Secretary under subsection (a) shall maintain a toll-free telephone number or numbers at which individuals enrolled under this part may obtain the names, addresses, specialty, and telephone numbers of participating physicians and suppliers.

“(3) In any case in which a carrier having an agreement with the Secretary under subsection (a) is able to develop a system for the electronic transmission to such carrier of bills for services, such carrier shall establish direct lines for the electronic receipt of claims from participating physicians and suppliers.

“(i)(1) Each year the Secretary shall publish a list containing the name, address, specialty, and percent of claims submitted with respect to each physician and supplier during the preceding year that were paid on the basis of an assignment described in subsection (b)(3)(B)(ii), in accordance with subsection (b)(6)(B), or under the procedure described in section 1870(f)(1). The Secretary may limit such list to those physicians and suppliers who accepted such an assignment in a certain percentage of such physician’s or supplier’s billings or who provide at least a certain volume of services, as the Secretary may determine to be appropriate. Such list shall be organized by such geographical area as the Secretary determines, after consultation with carriers, would facilitate the use of such list by individuals enrolled under this part.

“(2) At the beginning of each fiscal year the Secretary shall publish a directory containing the name, address, and specialty of all participating physicians and suppliers (as defined in subsection (h)(1)) for that fiscal year. The directory shall be organized to make the most useful presentation of the information (as determined by the Secretary) for individuals enrolled under this part.

“(3) The Secretary shall promptly notify individuals enrolled under this part of the publication of such list and directory and shall make such list and directory available in each district and branch

office of the Social Security Administration, in the offices of carriers, and to senior citizen organizations.

"(4) The Secretary shall provide that the list and directory shall be available for purchase by the public.

"(j)(1) In the case of a physician who is not a participating physician, the Secretary shall monitor each such physician's actual charges to individuals enrolled under this part for physicians' services furnished during the 15-month period beginning July 1, 1984. If such physician knowingly and willfully bills individuals enrolled under this part for actual charges in excess of such physician's actual charges for the calendar quarter beginning on April 1, 1984, the Secretary may apply sanctions against such physician in accordance with paragraph (2).

"(2) Subject to paragraph (3), the sanctions which the Secretary may apply under paragraph (1) are—

42 USC 1395y. "(A) barring a physician from participation under the program under this title for a period not to exceed 5 years, in accordance with the procedures of paragraphs (2) and (3) of section 1862(d), or

42 USC "(B) the imposition of civil monetary penalties and assessments, in the same manner as such penalties are authorized
1320a-7a. under section 1128A(a),

or both. No payment may be made under this title with respect to any item or service furnished by a physician during the period when he is barred from participation in the program under this title pursuant to this subsection.

"(3)(A) The Secretary may not bar a physician pursuant to paragraph (2)(A) if such physician is a sole community physician or sole source of essential specialized services in a community.

"(B) The Secretary shall take into account access of beneficiaries to physicians' services for which payment may be made under this part in determining whether to bar a physician from participation under paragraph (2)(A).

"(4) The Secretary may, out of any civil monetary penalty or assessment collected from a physician pursuant to this subsection, make a payment to a beneficiary enrolled under this part in the nature of restitution for amounts paid by such beneficiary to such physician which was determined to be an excess charge under paragraph (1)."

42 USC 1395j. (d)(1) During the 15-month period beginning July 1, 1984, the Secretary of Health and Human Services shall monitor physicians' services in order to determine any changes in the per capita volume and mix of physicians' services provided to beneficiaries under part B of title XVIII of the Social Security Act, classified by participating and nonparticipating physicians, by assigned and nonassigned claims, by specialty, and by geographic area.

Report. (2) A report on changes monitored pursuant to paragraph (1) shall be provided to Congress prior to July 1, 1985.

(3) Such report shall include recommendations in sufficient detail to serve as the basis for legislative action which Congress can take to assure that any burden of effectively constraining the growth of costs in the medicare part B program, which Congress intends to be borne by providers and physicians, is not transferred (in whole or in part) so as to become an additional burden on part B beneficiaries in the form of increased out-of-pocket costs, reduced services, or reduced access to needed physician care.

(e) In addition to any funds otherwise provided for fiscal years 1984 and 1985 for payment to carriers under contracts entered into under section 1842 of the Social Security Act, there are transferred from the Federal Supplementary Medical Insurance Trust Fund, for payments to such carriers under such contracts to implement the amendments made by this section, not less than \$8,000,000 for fiscal year 1984, and not less than \$15,000,000 for fiscal year 1985. 42 USC 1395u.

(f)(1) Section 1128A(a)(2) of the Social Security Act is amended by inserting before the comma at the end thereof the following: “, or (C) an agreement to be a participating physician or supplier under section 1842(h)(1)”. 42 USC 1320a-7a.

(2) Section 1877(d) of such Act is amended— 42 USC 1395nn.

(A) by inserting “or agrees to be a participating physician or supplier under section 1842(h)(1)” after “1842(b)(3)(B)(ii)”, and

(B) by striking out “specified in subclause (I) of such section” and inserting in lieu thereof “or agreement”.

PAYMENT FOR SERVICES OF TEACHING PHYSICIANS

SEC. 2307. (a)(1) Subparagraph (A) of section 1842(b)(7)(A) of the Social Security Act (as redesignated by section 2306 of this title) is amended by adding at the end the following sentence: “If all the teaching physicians in a hospital agree to have payment made for all of their physicians’ services under this part furnished patients in the hospital on the basis of an assignment described in paragraph (3)(B)(ii) or under the procedure described in section 1870(f)(1), notwithstanding clause (ii) of this subparagraph, the carrier shall provide for payment in an amount equal to 90 percent of the prevailing charges paid for similar services in the same locality.”. *Ante*, p. 1070. 42 USC 1395gg.

(2) Section 1842(b)(7)(B) of such Act is amended—

(A) by striking out “physician who has a substantial practice outside the teaching setting” in clause (i) and inserting in lieu thereof “physician who is not a teaching physician (as defined by the Secretary)”;

(B) by striking out “outside practice” in clause (i) and inserting in lieu thereof “practice outside the teaching setting”;

(C) by striking out “In the case of a physician who does not have a practice described in clause (i)” in clause (ii) and inserting in lieu thereof “In the case of a teaching physician”;

(D) by striking out “greater” in clause (ii) and inserting in lieu thereof “greatest”;

(E) by striking out “or” at the end of subclause (I) of clause (ii);

(F) by striking out the period at the end of subclause (II) of clause (ii) and inserting in lieu thereof “, or”; and

(G) by adding at the end of clause (ii) the following new subclause:

“(III) 85 percent of the prevailing charges paid for similar services in the same locality.”.

(3) The amendments made by this subsection shall apply to services furnished on or after July 1, 1984.

(b)(1) Section 1886(d)(5)(B) of the Social Security Act is amended by adding at the end thereof the following new sentence: “In determining such adjustment the Secretary shall not distinguish between those interns and residents who are employees of a hospital and those interns and residents who furnish services to a hospital but are not employees of such hospital.”.

Effective date.
42 USC 1395u
note.
97 Stat. 152.
42 USC 1395ww.

Effective date.
42 USC 1395ww
note.
Study.
42 USC 1395u
note.
Ante, p. 1070.
Report.

(2) The amendment made by paragraph (1) shall apply to cost reporting periods beginning on or after October 1, 1984.

(c) The Comptroller General shall conduct a study of the amounts billed for physician services and paid by carriers under section 1842(b)(7) of the Social Security Act to determine whether such payments have been made only where the physician satisfies the requirements of section 1842(b)(7)(A)(i) of such Act. The Comptroller General shall submit to the Committees on Ways and Means and on Energy and Commerce of the House of Representatives and to the Committee on Finance of the Senate a report on the results of such study not later than 18 months after the date of the enactment of this Act.

LESSER OF COST OR CHARGES

Regulations.
42 USC 1395f
note.
42 USC 1395.

SEC. 2308. (a) The Secretary of Health and Human Services shall issue regulations which require, for purposes of title XVIII of the Social Security Act, that providers of services calculate and report the lesser-of-cost-or-charges determinations separately with respect to payments for services under part A and services under part B of such title (other than clinical diagnostic laboratory tests paid under section 1833(h)), and that payment under such title be based upon such separate determinations. Such regulations shall apply to cost reporting periods beginning on or after October 1, 1984.

42 USC 1395c,
1395j.
Ante, p. 1064.

(b)(1) For purposes of applying the nominality test under sections 1814(b)(2) and 1833(a)(2)(B)(ii) of the Social Security Act, the Secretary shall, in addition to those rules for establishing nominality which the Secretary determines to be appropriate, provide that charges representing 60 percent or less of costs shall be considered nominal. The charges used in making such determinations shall be the charges actually billed to charge-paying patients who are not entitled to benefits under either part of such title. Such determination shall be made separately with respect to payments for services under part A and services under part B of such title (other than clinical diagnostic laboratory tests paid under section 1833(h)), or on the basis of inpatient and outpatient services, except that the determination need not be made separately for home health services if the Secretary finds that such separation is not appropriate.

42 USC 1395f
note.
42 USC 1395f,
1395l.

42 USC 1395f.

(2)(A) Section 1814(b)(2) of such Act is amended by inserting after "public provider of services" the following: "or by another provider which demonstrates to the satisfaction of the Secretary that a significant portion of its patients are low-income (and requests that payment be made under this paragraph)."

42 USC 1395l.

(B) Section 1833(a)(2)(B)(ii) of such Act is amended by inserting after "public provider of services" the following: "or by another provider which demonstrates to the satisfaction of the Secretary that a significant portion of its patients are low-income (and requests that payment be made under this clause)."

STUDY OF MEDICARE PART B PAYMENTS

Report.
42 USC 1395l
note.

SEC. 2309. (a)(1) The Director of the Office of Technology Assessment shall conduct a study of physician reimbursement under the medicare program and report to Congress on such study not later than December 31, 1985. The report shall include specific findings and recommendations on methods by which payment amounts and other program policies under part B of title XVIII of the Social Security Act may be modified—

42 USC 1395j.

(A) to eliminate inequities in the relative amounts paid to physicians by type of service, locality, and specialty, with particular attention to any inequities between cognitive services and medical procedures; and

(B) to increase incentives for physicians and other suppliers under such part to accept assignment for services covered under title XVIII of the Social Security Act.

42 USC 1395.

The study shall also examine the influence of payment methodology and payment levels on the utilization of services.

(2) In carrying out the study under paragraph (1)(A), the Director shall take into account the relative time, complexity, investment in professional training, and overhead expenses necessary to the provision of various medical services and procedures, as well as the influence of the changes in technology.

(3) The report under paragraph (1)(A) shall include information on methodologies which could be applied in the development of fee schedules on a national or regional basis for payments under part B of title XVIII of the Social Security Act in a manner consistent with the findings of the study under this subsection.

42 USC 1395j.

(4) In preparing the report and recommendations, the Director shall consult with the Secretary of Health and Human Services and, as appropriate, with national organizations of physicians and other interested associations and individuals.

(b) In order to assist the Director in completing the study and to facilitate Congressional review, the Secretary of Health and Human Services shall compile a centralized medicare part B charge data base, utilizing information gathered by the medicare carriers for charges in 1983. Such data shall include information, by procedure, on—

- (1) utilization,
- (2) assignment rates of physicians and suppliers,
- (3) actual, customary, and prevailing charges, and
- (4) the differences in charges by physician specialty and locality.

Such information shall be provided to the Director of the Office of Technology Assessment.

(c) The Secretary shall review the report submitted under subsection (a)(1) and shall report to the Congress his comments on the report and recommendations for legislative amendments.

LIMITATION ON INCREASE IN HOSPITAL COSTS PER CASE

SEC. 2310. (a) Section 1886(b)(3)(B) of the Social Security Act is amended—

42 USC 1395ww.

(1) by striking out “1 percentage point”, and by inserting in lieu thereof “one-quarter of 1 percentage point”, and

(2) by adding at the end thereof the following: “In determining a percentage change under subsection (e)(4) with respect to discharges occurring in any cost reporting period or fiscal year beginning on or after October 1, 1985, and before October 1, 1986, the Secretary may not establish a percentage increase which exceeds the applicable percentage increase otherwise determined for that period or fiscal year under the preceding sentence.”.

(b) The amendments made by this section shall apply to cost reporting periods beginning in, and discharges occurring in, fiscal year 1985 and thereafter.

Effective date.
42 USC 1395ww
note.

CLASSIFICATION OF CERTAIN RURAL HOSPITALS

97 Stat. 152.
42 USC 1395ww.

SEC. 2311. (a) Section 1886(d)(5)(C)(i) of the Social Security Act is amended by adding at the end thereof the following: "A hospital which is classified as a rural hospital may appeal to the Secretary to be classified as a rural referral center under this clause on the basis of criteria (established by the Secretary) which shall allow the hospital to demonstrate that it should be so reclassified by reason of certain of its operating characteristics being similar to those of a typical urban hospital located in the same census region. Such characteristics may include wages, scope of services, service area, and the mix of medical specialties. The Secretary shall publish the criteria not later than 30 days after the date of the enactment of this Act, for implementation by October 1, 1984. An appeal allowed under this clause must be submitted to the Secretary (in such form and manner as the Secretary may prescribe) during the quarter before the first quarter of the hospital's cost reporting period (or, in the case of a cost reporting period beginning during October 1984, during the first quarter of that period), and the Secretary must make a final determination with respect to such appeal within 60 days after the date the appeal was submitted. Any payment adjustments necessitated by a reclassification based upon the appeal shall be effective at the beginning of such cost reporting period."

(b) Section 1886(d)(2)(D) of such Act is amended by adding at the end thereof the following: "A hospital located in a Metropolitan Statistical Area shall be deemed to be located in the region in which the largest number of the hospitals in the same Metropolitan Statistical Area are located, or, at the option of the Secretary, the region in which the majority of the inpatient discharges (with respect to which payments are made under this title) from hospitals in the same Metropolitan Statistical Area are made."

(c) Section 1886(d) of such Act is amended by adding at the end thereof the following new paragraph:

"(8) In the case of any hospital which is located in an area which is, at any time after April 20, 1983, reclassified from an urban to a rural area, payments to such hospital for the first two cost reporting periods for which such reclassification is effective shall be made as follows:

"(A) For the first such cost reporting period, payment shall be equal to the amount payable to such hospital for such reporting period on the basis of the rural classification, plus an amount equal to two-thirds of the amount (if any) by which—

"(i) the amount which would have been payable to such hospital for such reporting period on the basis of an urban classification, exceeds

"(ii) the amount payable to such hospital for such reporting period on the basis of the rural classification.

"(B) For the second such cost reporting period, payment shall be equal to the amount payable to such hospital for such reporting period on the basis of the rural classification, plus an amount equal to one-third of the amount (if any) by which—

"(i) the amount which would have been payable to such hospital for such reporting period on the basis of an urban classification, exceeds

"(ii) the amount payable to such hospital for such reporting period on the basis of the rural classification."

(d)(1) Except as provided in paragraph (2), the amendments made by subsections (b) and (c) shall be effective with respect to cost reporting periods beginning on or after October 1, 1983, and the amendment made by subsection (a) shall be effective with respect to cost reporting periods beginning on or after October 1, 1984.

Effective date.
42 USC 1395ww
note.

(2) The amendment made by subsection (b) shall not apply so as to reduce any payment under section 1886(d) of the Social Security Act to a hospital the region of which is deemed to be changed pursuant to such amendment for discharges occurring in any cost reporting period beginning before October 1, 1984.

97 Stat. 152.
42 USC 1395ww.

(e) The Secretary of Health and Human Services shall conduct a study of the distinction between urban and rural hospitals for purposes of the DRG payment provisions under section 1886(d) of the Social Security Act, and the effect which such distinction may have on rural hospitals in the case of those DRG's which have high fixed nonlabor components which do not vary significantly between urban and rural areas (such as those DRG's which involve expensive medical devices). The Secretary also shall conduct a study of the advisability and feasibility of varying by DRG the proportions of the labor and nonlabor components of the Federal payment amount instead of applying the average proportion of those components to all DRG's. The Secretary shall report the results of such studies to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives within six months after the date of the enactment of this Act.

Study.

Report.

(f) The Secretary of Health and Human Services shall conduct a study of further refinements which may be appropriate in the inpatient hospital prospective payment provisions of title XVIII of the Social Security Act, in order to address the problems of differences in payment amounts to specific hospitals. The study shall include (but shall not be limited to) the degree of variation in inpatient hospital costs per discharge within each diagnosis-related group. The Secretary shall also present alternative methods of computing the amount of such payments. The study shall include a discussion of the relative merits of a method of payment under which a percentage of the payment amount (for discharges classified within a diagnosis-related group) could be determined on a regional basis. The Secretary shall report the result of the study, and any recommended changes in the prospective payment system, to the Congress prior to September 1, 1984.

Study.

42 USC 1395.

Report.

PAYMENT FOR SERVICES OF A NURSE ANESTHETIST

SEC. 2312. (a) Section 1886(d)(5) of the Social Security Act is amended by adding at the end thereof the following new subparagraph:

97 Stat. 152.
42 USC 1395ww.

“(E) The Secretary shall provide for an additional payment amount for any subsection (d) hospital equal to the reasonable costs incurred by such hospital for anesthesia services provided by a certified registered nurse anesthetist. Payment under this subparagraph shall be the only payment made to such hospital with respect to such services.”

(b) The second sentence of section 1886(a)(4) of such Act is amended by inserting “, costs of anesthesia services provided by a certified registered nurse anesthetist” after “approved educational activities”.

97 Stat. 149.
42 USC 1395ww

Effective date.
42 USC 1395ww
note.

Study.

42 USC 1395.
Report.

(c) The amendments made by subsections (a) and (b) shall apply to cost reporting periods beginning on or after October 1, 1984, and before October 1, 1987.

(d) The Secretary of Health and Human Services shall conduct a study of possible methods of reimbursement under title XVIII of the Social Security Act which would not discourage the use of certified registered nurse anesthetists by hospitals. The Secretary shall report the results of such study to the Congress as soon as is practicable.

PROSPECTIVE PAYMENT ASSESSMENT COMMISSION

97 Stat. 152.

42 USC 1395ww.

SEC. 2313. (a) Section 1886(e)(2) of the Social Security Act is amended by inserting "(without regard to the provisions of title 5, United States Code, governing appointments in the competitive service)" after "appointed by the Director".

(b)(1) Section 1886(e)(6)(C)(i) of such Act is amended to read as follows:

"(i) employ and fix the compensation of an Executive Director (subject to the approval of the Director of the Office) and such other personnel (not to exceed 25) as may be necessary to carry out its duties (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service);".

(2) Section 1886(e)(6)(C)(iii) of such Act is amended by inserting "(without regard to section 3709 of the Revised Statutes (41 U.S.C. 5))" after "Commission".

5 USC app.

(3) Section 1886(e)(6)(C) of such Act is amended by adding at the end the following: "Section 10(a)(1) of the Federal Advisory Committee Act shall not apply to any portion of a Commission meeting if the Commission, by majority vote, determines that such portion of such meeting should be closed.".

(4) Section 1886(e)(6)(D) of such Act is amended by adding at the end thereof the following sentence: "Physicians serving as personnel of the Commission may be provided a physician comparability allowance by the Commission in the same manner as Government physicians may be provided such an allowance by an agency under section 5948 of title 5, United States Code, and for such purpose subsection (i) of such section shall apply to the Commission in the same manner as it applies to the Tennessee Valley Authority.".

Ante, p. 1068.

(c) Section 1862 of such Act, as amended by section 2304(c) of this title, is amended by adding at the end the following new subsection.

Supra.

"(i) In order to supplement the activities of the Prospective Payment Assessment Commission under section 1886(e) in assessing the safety, efficacy, and cost-effectiveness of new and existing medical procedures, the Secretary may carry out, or award grants or contracts for, original research and experimentation of the type described in clause (ii) of section 1886(e)(6)(E) with respect to such a procedure if the Secretary finds that—

"(1) such procedure is not of sufficient commercial value to justify research and experimentation by a commercial organization;

"(2) research and experimentation with respect to such procedure is not of a type that may appropriately be carried out by an institute, division, or bureau of the National Institutes of Health; and

“(3) such procedure has the potential to be more cost-effective in the treatment of a condition than procedures currently in use with respect to such condition.”.

(d) Section 1886(e)(6) of such Act is amended by adding at the end the following new subparagraph:

97 Stat. 152.
42 USC 1395ww.

“(J) The Commission shall submit requests for appropriations in the same manner as the Office submits requests for appropriations, but amounts appropriated for the Commission shall be separate from amounts appropriated for the Office.”.

(e) The amendments made by this section shall become effective on the date of the enactment of this Act.

Effective date.
42 USC 1395y
note.

REVALUATION OF ASSETS

SEC. 2314. (a) Section 1861(v)(1) of the Social Security Act is amended by adding at the end thereof the following new subparagraph:

42 USC 1395x.

“(O)(i) In establishing an appropriate allowance for depreciation and for interest on capital indebtedness and (if applicable) a return on equity capital with respect to an asset of a hospital or skilled nursing facility which has undergone a change of ownership, such regulations shall provide that the valuation of the asset after such change of ownership shall be the lesser of the allowable acquisition cost of such asset to the owner of record as of the date of the enactment of this subparagraph (or, in the case of an asset not in existence as of such date, the first owner of record of the asset after such date), or the acquisition cost of such asset to the new owner.

“(ii) Such regulations shall provide for recapture of depreciation in the same manner as provided under the regulations in effect on June 1, 1984.

“(iii) Such regulations shall not recognize, as reasonable in the provision of health care services, costs (including legal fees, accounting and administrative costs, travel costs, and the costs of feasibility studies) attributable to the negotiation or settlement of the sale or purchase of any capital asset (by acquisition or merger) for which any payment has previously been made under this title.”.

(b) Section 1902(a)(13) of such Act is amended—

42 USC 1396a.

(1) by striking out “and” at the end of subparagraph (A),

(2) by redesignating subparagraph (B) as subparagraph (C), and

(3) by inserting after subparagraph (A) the following new subparagraph:

“(B) that the State shall provide assurances satisfactory to the Secretary that the payment methodology utilized by the State for payments to hospitals, skilled nursing facilities, and intermediate care facilities can reasonably be expected not to increase such payments, solely as a result of a change of ownership, in excess of the increase which would result from the application of section 1861(v)(1)(O); and”.

Supra.

(c)(1) Clause (i) of section 1861(v)(1)(O) of the Social Security Act shall not apply to changes of ownership of assets pursuant to an enforceable agreement entered into before the date of the enactment of this Act.

42 USC 1395x
note.

(2) Clause (iii) of section 1861(v)(1)(O) of such Act shall apply to costs incurred on or after the date of the enactment of this Act.

Effective date.
42 USC 1396a
note.

(3)(A) Except as provided in subparagraph (B), the amendments made by subsection (b) shall apply to medical assistance furnished on or after October 1, 1984.

42 USC 1396.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirement imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet this additional requirement before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

TECHNICAL AMENDMENTS RELATING TO THE DRG PAYMENT SYSTEM

97 Stat. 149.
42 USC 1395ww.

SEC. 2315. (a) Section 1886(c)(4)(A) of the Social Security Act is amended by striking out “and (D)” and inserting in lieu thereof “(D), and (E)”.

97 Stat. 152.
42 USC 1395ww.

(b) Section 1886(d)(2)(D) of such Act is amended by striking out “Standard”.

(c) Section 1886(e)(5) of such Act is amended—

(1) by striking out “for public comment” in the matter before subparagraph (A), and

(2) by inserting “for public comment” in subparagraph (A) after “that fiscal year”.

97 Stat. 163.
42 USC 1395cc.

(d) Section 1886(a)(1)(F) of such Act (as added by section 602(f)(1)(C) of the Social Security Amendments of 1983) is amended by striking out “(c) or (d)” and inserting in lieu thereof “(b), (c), or (d)”.

97 Stat. 170.
42 USC 1395i-2.

(e) Section 1818(c) of such Act is amended by striking out “subsection (a) of section 1839” and inserting in lieu thereof “subsection (b) of section 1839”.

97 Stat. 168.
42 USC 1395ww
note.

(f)(1) Section 604(c)(3) of the Social Security Amendments of 1983 (Public Law 98-21) is amended by striking out “to implement subsection (d) of section 1886 of the Social Security Act (as so amended)” and inserting in lieu thereof “to implement the amendments made by this title”.

Federal
Register,
publication.
42 USC 1395ww
note.
42 USC 1395ww.

(2) Notwithstanding section 604(c) of the Social Security Amendments of 1983, the Secretary of Health and Human Services shall cause to be published in the Federal Register proposed regulations to carry out subsection (c) of section 1886 of the Social Security Act not later than July 1, 1984, and allow for a period of 45 days for public comment thereon. After consideration of the comments received, the Secretary shall cause to be published in the Federal Register final regulations to carry out such subsection not later than October 1, 1984.

Effective date.
42 USC 1395ww
note.

(g) The amendments made by this section shall be effective as though they had been included in the enactment of the Social Security Amendments of 1983 (Public Law 98-21).

97 Stat. 65.
42 USC 1395ww
note.

(h) The Secretary of Health and Human Services shall, prior to December 31, 1984—

(1) develop and publish a definition of “hospitals that serve a significantly disproportionate number of patients who have low income or are entitled to benefits under part A” of title XVIII of the Social Security Act for purposes of section 1886(d)(5)(C)(i) of that Act, and

42 USC 1395c.
Ante, p. 1076.

(2) identify those hospitals which meet such definition, and make such identity available to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

PROSPECTIVE PAYMENT WAGE INDEX

SEC. 2316. (a) The Secretary of Health and Human Services, in consultation with the Secretary of Labor, shall conduct a study to develop an appropriate index for purposes of adjusting payment amounts under section 1886(d) of the Social Security Act to reflect area differences in average hospital wage levels, as required under paragraphs (2)(H) and (3)(E) of such section, taking into account wage differences of full time and part time workers. The Secretary of Health and Human Services shall report the results of such study to the Congress not later than 30 days after the date of the enactment of this Act, including any changes which the Secretary determines to be necessary to provide for an appropriate index.

Study.
42 USC 1395ww
note.

97 Stat. 152.
42 USC 1395ww.

Report.

(b) The Secretary shall adjust the payment amounts for hospitals for cost reporting periods beginning on or after October 1, 1983, to reflect any changes made in the wage index pursuant to subsection (a). Any adjustment in such payments to take account of overpayments or underpayments for the first cost reporting period of a hospital to which section 1886(d) of the Social Security Act applies, shall be made by decreasing or increasing payments in the succeeding cost reporting period.

(c) The Secretary shall conduct a study and report to the Congress on proposed criteria under which, in the case of a hospital that demonstrates to the Secretary in a current fiscal year that the adjustment being made under paragraph (2)(H) or (3)(E) of section 1886(d) of the Social Security Act for that hospital's discharges in that fiscal year does not accurately reflect the wage levels in the labor market serving the hospital, the Secretary, to the extent he deems appropriate, would modify such adjustment for that hospital for discharges in the subsequent fiscal year to take into account a difference in payment amounts in that current fiscal year to the hospital that resulted from such inaccuracy.

Study.
Report.

DEADLINE FOR REPORT ON INCLUDING PAYMENT FOR PHYSICIANS' SERVICES TO HOSPITAL INPATIENTS IN DRG PAYMENT AMOUNTS

SEC. 2317. The second sentence of section 603(a)(2)(B) of the Social Security Amendments of 1983 (Public Law 98-21) is amended by striking out "include, in a report to Congress in 1985," and inserting in lieu thereof "submit to Congress, not later than July 1, 1985, a report to Congress which includes".

42 USC 1395ww
note.
97 Stat. 166.

EMERGENCY ROOM SERVICES

SEC. 2318. (a) Section 1861(v)(1)(K) of the Social Security Act is amended by inserting "(i)" after "(K)" and by adding at the end thereof the following new clause:

42 USC 1395x.

"(ii) For purposes of clause (i), the term 'bona fide emergency services' means services provided in a hospital emergency room after the sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in—

“(I) placing the patient’s health in serious jeopardy;
 “(II) serious impairment to bodily functions; or
 “(III) serious dysfunction of any bodily organ or part.”

Ante, p. 1081.

(b) Section 1861(v)(1)(K)(i) of such Act as so designated is amended by striking out “provided in an emergency room” and inserting in lieu thereof “as defined in clause (ii)”.

Effective date.
 42 USC 1395x
 note.

(c) The amendments made by this section shall apply to services furnished on or after the date of the enactment of this Act.

SKILLED NURSING FACILITY REIMBURSEMENT

42 USC 1395x.

SEC. 2319. (a)(1) Section 1861(v)(1)(E) of the Social Security Act is amended by striking out clause (i) thereof, and by striking out “(ii)”.

(2) Section 1861(v)(7) of such Act is amended by adding at the end thereof the following new subparagraph:

Infra.

“(D) For further limitations on reasonable cost and determination of payment amounts for routine service costs of skilled nursing facilities, see section 1888.”

(b) Title XVIII of the Social Security Act is amended by adding at the end thereof the following new section:

“PAYMENT TO SKILLED NURSING FACILITIES FOR ROUTINE SERVICE COSTS

42 USC 1395yy.

“SEC. 1888. (a) The Secretary, in determining the amount of the payments which may be made under this title with respect to routine service costs of extended care services shall not recognize as reasonable (in the efficient delivery of health services) per diem costs of such services to the extent that such per diem costs exceed the following per diem limits, except as otherwise provided in this section:

“(1) With respect to freestanding skilled nursing facilities located in urban areas, the limit shall be equal to 112 percent of the mean per diem routine service costs for freestanding skilled nursing facilities located in urban areas.

“(2) With respect to freestanding skilled nursing facilities located in rural areas, the limit shall be equal to 112 percent of the mean per diem routine service costs for freestanding skilled nursing facilities located in rural areas.

“(3) With respect to hospital-based skilled nursing facilities located in urban areas, the limit shall be equal to the sum of the limit for freestanding skilled nursing facilities located in urban areas, plus 50 percent of the amount by which 112 percent of the mean per diem routine service costs for hospital-based skilled nursing facilities located in urban areas exceeds the limit for freestanding skilled nursing facilities located in urban areas.

“(4) With respect to hospital-based skilled nursing facilities located in rural areas, the limit shall be equal to the sum of the limit for freestanding skilled nursing facilities located in rural areas, plus 50 percent of the amount by which 112 percent of the mean per diem routine service costs for hospital-based skilled nursing facilities located in rural areas exceeds the limit for freestanding skilled nursing facilities located in rural areas. In applying this subsection the Secretary shall make appropriate adjustments to the labor related portion of the costs based upon an appropriate wage index.

“(b) With respect to a hospital-based skilled nursing facility, the Secretary shall recognize as reasonable the portion of the cost differences between hospital-based and freestanding skilled nursing facilities attributable to excess overhead allocations (as determined by the Secretary) resulting from the reimbursement principles under this title, notwithstanding the limits set forth in paragraph (3) or (4) of subsection (a).

“(c) The Secretary may make adjustments in the limits set forth in subsection (a) with respect to any skilled nursing facility to the extent the Secretary deems appropriate, based upon case mix or circumstances beyond the control of the facility.”

(c) The amendments made by subsections (a) and (b) shall apply to cost reporting periods beginning on or after July 1, 1984.

Effective date.
42 USC 1395yy
note.
42 USC 1395x
note.
42 USC 1395x.

(d) Notwithstanding limits on the cost of skilled nursing facilities which may have been issued under section 1861(v) of the Social Security Act prior to the date of the enactment of this Act, in the case of cost reporting periods beginning on or after October 1, 1982, and prior to July 1, 1984, the cost limits for routine services for urban and rural hospital-based skilled nursing facilities shall be 112 percent of the mean of the respective routine costs for urban and rural hospital-based skilled nursing facilities.

(e) The Secretary of Health and Human Services shall submit to the Congress, prior to December 1, 1984, the report required under section 605(b) of the Social Security Amendments of 1983.

Report.
42 USC 1395x
note.
97 Stat. 169.
Report.

(f)(1) The Secretary of Health and Human Services shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, prior to August 1, 1984, the proposals developed, as required under section 1135(c) of the Social Security Act, for prospective reimbursement of skilled nursing facilities.

42 USC 1320b-5.

(2) The Secretary of Health and Human Services shall submit to the Congress, prior to December 1, 1984, a report on the range of options for prospective payment of skilled nursing facilities under title XVIII of the Social Security Act. The report shall take into account case mix differences among skilled nursing facilities. The report shall analyze the feasibility of permitting inclusion of payments to hospital-based facilities within the DRG payment system under section 1886(d) of such Act.

Report.

42 USC 1395.

97 Stat. 152.
42 USC 1395www.

PAYMENT FOR COSTS OF HOSPITAL-BASED MOBILE INTENSIVE CARE UNITS

SEC. 2320. (a)(1) In the case of a project described in subsection (b), the Secretary of Health and Human Services shall provide, except as provided in paragraph (2), that the amount of payments to hospitals covered under the project during the period described in paragraph (3) shall include payments for their operation of hospital-based mobile intensive care units (as defined by State statute) if the State provides satisfactory assurances that the total amount of payments to such hospitals under titles XVIII and XIX of the Social Security Act under the demonstration project (including any such additional amount of payment) would not exceed the total amount of payments which would have been paid under such titles if the demonstration project were not in effect.

42 USC 1395b-1
note.

42 USC 1395,
1396.

(2) Paragraph (1) shall not apply if the State in which the project is located notifies the Secretary, within 30 days after the date of the

enactment of this section, that the State does not want paragraph (1) to apply to that project.

(3) The period referred to in paragraph (1) begins on the date of the enactment of this section and continues so long as the Secretary continues the Statewide waiver referred to in subsection (b), but in no case ends earlier than 90 days after the date final regulations to implement section 1886(c) of the Social Security Act are published.

(b) The project referred to in subsection (a) is the statewide demonstration project established in the State of New Jersey under section 402 of the Social Security Amendments of 1967, as amended by section 222(b) of the Social Security Amendments of 1972 (Public Law 92-603), which project provides for payments to hospitals in the State on a prospective basis and related to a classification of patients by diagnosis-related groups.

(c) Payment for services described in this section shall be considered to be payments for services under part A of title XVIII of the Social Security Act.

COST SHARING FOR DURABLE MEDICAL EQUIPMENT FURNISHED AS A HOME HEALTH BENEFIT

SEC. 2321. (a)(1) The matter in section 1814(b) of the Social Security Act preceding paragraph (1) is amended by inserting "and other than a home health agency with respect to durable medical equipment" after "hospice care".

(2) Section 1814 of such Act is amended by adding at the end thereof the following new subsection:

"Payments to Home Health Agencies for Durable Medical Equipment

"(k) The amount paid to any home health agency with respect to durable medical equipment for which payment may be made under this part shall be—

"(1) the lesser of—

"(A) the reasonable cost of such equipment, as determined under section 1861(v), or

"(B) the customary charges with respect to such equipment,

less the amount the home health agency may charge as described in section 1866(a)(2)(A)(ii), but in no case may the payment for such equipment exceed 80 percent of such reasonable cost, or

"(2) if such equipment is furnished by a public home health agency free of charge or at nominal charge to the public, the amount which the Secretary finds will provide fair compensation to the home health agency."

(b)(1) The matter in section 1833(a)(2)(A) of such Act preceding clause (i) is amended by inserting "(other than durable medical equipment)" after "home health services".

(2) The matter in section 1833(a)(2)(B) of such Act preceding clause (i) is amended by inserting "items and" after "other".

(c) Section 1866(a)(2)(A)(ii) of such Act is amended by inserting "or which are durable medical equipment furnished as home health services" after "part B".

(d)(1) The first sentence of section 1833(f)(1) of such Act is amended by striking out "as described in section 1861(s)(6)".

(2) Section 1833(f)(2) of such Act is amended—

(A) by striking out “the 20 percent” and inserting in lieu thereof “any”, and

(B) by striking out “under subsection (a)”.

42 USC 1395l.
Infra.

(3) Section 1833(f)(3) of such Act is amended by striking out “paragraph (1)” and inserting in lieu thereof “subsection (a)”.

(4)(A) Subsection (f) of section 1833 of such Act is redesignated as section 1889, is assigned the heading “PURCHASE OF DURABLE MEDICAL EQUIPMENT”, and is moved to and inserted at the end of part C after the section added by section 2319 of this title.

42 USC 1395zz.

(B) Paragraphs (1) through (4) of such section 1889 are redesignated as subsections (a) through (d), respectively.

(e)(1) Section 1861(m)(5) of such Act is amended by striking out “, and the use of medical appliances” and inserting in lieu thereof “and durable medical equipment”.

42 USC 1395x.

(2) Section 1861(s)(6) of such Act is amended by striking out everything after “durable medical equipment” up to the semicolon.

(3) Section 1861 of such Act is amended by inserting after subsection (m) the following:

“Durable Medical Equipment

“(n) The term ‘durable medical equipment’ includes iron lungs, oxygen tents, hospital beds, and wheelchairs (which may include a power-operated vehicle that may be appropriately used as a wheelchair, but only where the use of such a vehicle is determined to be necessary on the basis of the individual’s medical and physical condition and the vehicle meets such safety requirements as the Secretary may prescribe) used in the patient’s home (including an institution used at his home other than an institution that meets the requirements of subsection (e)(1) or (j)(1) of this section), whether furnished on a rental basis or purchased.”.

(4) Section 1861(cc)(1)(G) of such Act is amended by striking out “, appliances, and equipment, including the purchase or rental of equipment” and inserting in lieu thereof “and durable medical equipment”.

(f) Section 1814(j)(2) of such Act is amended—

(1) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively, and

(2) by inserting the following after subparagraph (A):

“(B) Subsection (k)(1)(B).”.

97 Stat. 152.
42 USC 1395f.

(g) The amendments made by this section shall apply to items and services furnished on or after the date of the enactment of this Act.

Effective date.
42 USC 1395f
note.

SERVICES OF A CLINICAL PSYCHOLOGIST PROVIDED TO MEMBERS OF AN HMO

SEC. 2322. (a) Section 1861(s)(2)(H) of the Social Security Act is amended by inserting “(i)” after “(H)”, by adding “and” at the end of clause (i) as so designated, and by adding at the end thereof the following new clause:

42 USC 1395x.

“(ii) services furnished pursuant to a risk-sharing contract under section 1876(g) to a member of an eligible organization by a clinical psychologist (as defined by the Secretary), and such services and supplies furnished as an incident to his services to such a member as would otherwise be covered under this part if

42 USC 1395mm.

furnished by a physician or as an incident to a physician's service; and".

Effective date.
42 USC 1395x
note.

(b) The amendments made by subsection (a) shall be effective with respect to services furnished on or after the date of the enactment of this Act.

COVERAGE OF ADMINISTRATION OF HEPATITIS B VACCINE

42 USC 1395x.

SEC. 2323. (a) Section 1861(s)(10) of the Social Security Act is amended—

(1) by inserting "(A)" after "(10)";

(2) by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new subparagraph:

"(B) hepatitis B vaccine and its administration, furnished to an individual who is at high or intermediate risk of contracting hepatitis B (as determined by the Secretary under regulations)."

42 USC 1395l.

(b)(1) Paragraphs (1)(B), (2)(A), and (3) of section 1833(a) of such Act are each amended by striking out "1861(s)(10)" and inserting in lieu thereof "1861(s)(10)(A)".

(2) Section 1833(b)(1) of such Act is amended by striking out "1861(s)(10)" and inserting in lieu thereof "1861(s)(10)(A)".

42 USC 1395cc.

(3) The last sentence of section 1866(a)(2)(A) of such Act is amended by striking out "1861(s)(10)" and inserting in lieu thereof "1861(s)(10)(A)".

42 USC 1395l.

(4) Section 1833 of such Act is amended by adding at the end thereof the following new subsection:

Supra.

"(k) With respect to services described in section 1861(s)(10)(B), the Secretary may provide, instead of the amount of payment otherwise provided under this part, for payment of such an amount or amounts as reasonably reflects the general cost of efficiently providing such services."

42 USC 1395rr.

(c) Section 1881(b) of such Act is amended by adding at the end thereof the following new paragraph:

"(11) Hepatitis B vaccine and its administration, when provided to a patient determined to have end stage renal disease, shall not be included as dialysis services for purposes of payment under any prospective payment amount or comprehensive fee established under this section. Payment for such vaccine and its administration shall be made separately in accordance with section 1833."

Effective date.
42 USC 1395l
note.

(d) The amendments made by this section apply to services furnished on or after September 1, 1984.

42 USC 1395l
note.

(e) The Secretary shall monitor the provision of hepatitis B vaccine under part B of title XVIII of the Social Security Act, and shall review any changes in medical technology which may have an effect on the amounts which should be paid for such service.

42 USC 1395j.

COVERAGE OF HEMOPHILIA CLOTTING FACTOR

42 USC 1395x.

SEC. 2324. (a) Section 1861(s)(2) of the Social Security Act is amended by striking out "and" at the end of subparagraph (G) and by adding at the end thereof the following new subparagraph:

"(I) blood clotting factors, for hemophilia patients competent to use such factors to control bleeding without medical or other

supervision, and items related to the administration of such factors, subject to utilization controls deemed necessary by the Secretary for the efficient use of such factors;”.

(b) The amendments made by subsection (a) shall be effective with respect to items and services purchased on or after the date of the enactment of this Act.

Effective date.
42 USC 1395x
note.

PAYMENT FOR DEBRIDEMENT OF MYCOTIC TOENAILS

SEC. 2325. The Secretary shall provide, pursuant to section 1862(a) of the Social Security Act, that payment will not be made under part B of title XVIII of such Act for a physician's debridement of mycotic toenails to the extent such debridement is performed for a patient more frequently than once every 60 days, unless the medical necessity for more frequent treatment is documented by the billing physician.

42 USC 1395y
note.

42 USC 1395y.
42 USC 1395j.

CONTRACTS FOR MEDICARE CLAIMS PROCESSING

SEC. 2326. (a) During each of the fiscal years 1985 and 1986, the Secretary of Health and Human Services may enter into not more than two agreements under section 1816 of the Social Security Act, and not more than two contracts under section 1842 of such Act, on the basis of competitive bidding, without regard to the nominating process under section 1816(a) of such Act during the term of the agreement. Such procedure may be used only for the purpose of replacing an agency or organization or carrier which over a period of time has been in the lowest 20th percentile of agencies and organizations or carriers having agreements or contracts under the respective section, as measured by the Secretary's cost and performance criteria. Any agency or organization or carrier selected on the basis of competitive bidding must perform all of the duties listed in section 1816(a)(1) of such Act, or the duties listed in paragraphs (1) through (4) of section 1842(a) of such Act, as the case may be, and must be a health insuring organization (as determined by the Secretary).

42 USC 1395h
note.

42 USC 1395h.
42 USC 1395u.

(b) Section 1816(e)(4) of the Social Security Act is amended by adding at the end thereof the following new sentence: “By not later than July 1, 1987, the Secretary shall limit the number of such regional agencies or organizations to not more than ten.”.

42 USC 1395h.

(c)(1) Section 1816(f) of such Act is amended by striking out “, by regulation,” in clause (2), and by adding at the end thereof the following: “Such standards and criteria shall be published in the Federal Register, and opportunity shall be provided for public comment prior to implementation.”.

Federal
Register,
publication.

(2) Section 1842(b)(2) of such Act is amended by adding at the end thereof the following new sentence: “The Secretary shall publish in the Federal Register standards and criteria for the efficient and effective performance of contract obligations under this section, and opportunity shall be provided for public comment prior to implementation.”.

42 USC 1395u.

Federal
Register,
publication.

(d)(1) Section 1816(c) of such Act is amended by adding at the end the following new sentence: “The Secretary shall provide that in determining the necessary and proper cost of administration, the Secretary shall, with respect to each agreement, take into account the amount that is reasonable and adequate to meet the costs which

42 USC 1395h.

must be incurred by an efficiently and economically operated agency or organization in carrying out the terms of its agreement.”.

42 USC 1395u.

(2) Section 1842(c) of such Act is amended by adding at the end the following new sentence: “The Secretary shall provide that in determining a carrier’s necessary and proper cost of administration, the Secretary shall, with respect to each contract, take into account the amount that is reasonable and adequate to meet the costs which must be incurred by an efficiently and economically operated carrier in carrying out the terms of its contract.”.

Effective date.
42 USC 1395h
note.

(3) The amendments made by this subsection shall apply to agreements and contracts entered into or renewed after September 30, 1984.

Study.

(e)(1) The Comptroller General shall conduct a study on—

42 USC 1395h,
1395u.

(A) the ability of the Administrator of the Health Care Financing Administration to manage competitive bidding for agreements and contracts under sections 1816 and 1842 of the Social Security Act, and on the relative costs and efficiency of such competitive agreements and contracts as compared to current cost reimbursement for such agreements and contracts;

(B) the need (if any) for eliminating the provider nomination procedure under section 1816(a) of such Act;

(C) the disparities (if any) in costs and quality of claims processing among the various entities performing claims processing pursuant to sections 1816 and 1842 of such Act;

(D) whether the standards of the Secretary of Health and Human Services for evaluating costs and performance of intermediaries and carriers are adequate and properly applied; and

(E) whether the Secretary’s statutory authority is sufficient to deal with inefficient intermediaries and carriers either through the contract negotiation and budget review process or through the process for termination or nonrenewal of contracts.

Report.

(2) The Comptroller General shall submit a report on the results of such study to the Congress not later than 12 months after the date of the enactment of this Act.

PART II—ADMINISTRATIVE AND MISCELLANEOUS CHANGES

REPEAL OF EXCLUSION OF FOR-PROFIT ORGANIZATIONS FROM RESEARCH AND DEMONSTRATION GRANTS

42 USC 1310.

SEC. 2331. (a) Section 1110(a)(1) of the Social Security Act is amended by striking out “nonprofit”.

42 USC 1395b-1.

(b) The first sentence of section 402(a)(1) of the Social Security Amendments of 1967 (Public Law 90-248) is amended by striking out “nonprofit”.

Effective date.
42 USC 1310
note.

(c) The amendments made by this section shall become effective on the date of the enactment of this Act.

PRESIDENTIAL APPOINTMENT OF AND PAY LEVEL FOR THE ADMINISTRATOR OF THE HEALTH CARE FINANCING ADMINISTRATION

SEC. 2332. (a) Title XI of the Social Security Act is amended by inserting after section 1116 the following new section:

“APPOINTMENT OF THE ADMINISTRATOR OF THE HEALTH CARE
FINANCING ADMINISTRATION

“SEC. 1117. The Administrator of the Health Care Financing Administration shall be appointed by the President by and with the advice and consent of the Senate.” 42 USC 1317.

(b) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following:

“Administrator of the Health Care Financing Administration.”.

(c) The amendments made by this section shall apply to appointments made after the date of the enactment of this Act.

Effective date.
42 USC 1317
note.

EXCLUSION OF CERTAIN ENTITIES OWNED OR CONTROLLED BY
INDIVIDUALS CONVICTED OF MEDICARE- OR MEDICAID-RELATED CRIMES

SEC. 2333. (a) Section 1128 of the Social Security Act is amended— 42 USC 1320a-7.

(1) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively, and

(2) by inserting after subsection (a) the following new subsection:

“(b) Whenever the Secretary determines, with respect to an entity, that a person who has a direct or indirect ownership or control interest of 5 percent or more in the entity, or who is an officer, director, agent, or managing employee (as defined in section 1126(b)) of such entity, is a person described in section 1126(a), the Secretary—

42 USC 1320a-5.

“(1) may bar from participation in the program under title XVIII, for such period as he may deem appropriate, each such entity otherwise eligible to participate in such program;

42 USC 1395.

“(2) shall promptly notify each appropriate State agency administering or supervising the administration of a State plan approved under title XIX of the fact and circumstances of the determination, and may require each such agency to bar the entity from participation under the State plan for such period as he specifies, which may not exceed the period established pursuant to paragraph (1); and

42 USC 1396.

“(3) shall promptly notify the appropriate State or local agency or authority having responsibility for the licensing or certification of such entity of the fact and circumstances of such determination, request that appropriate investigations be made and sanctions invoked in accordance with applicable State law and policy, and request that such State or local agency or authority keep the Secretary and the Inspector General of the Department of Health and Human Services fully and currently informed with respect to any actions taken in response to such request.”.

(b) Section 1128(e) of such Act (as redesignated by subsection (a)(1)) is amended—

(1) by inserting “or entity” after “Any person”, and

(2) by striking out “(a) or (b)” and inserting in lieu thereof “(a), (b), or (c)”.

(c) The amendments made by this section become effective on the date of the enactment of this Act and shall apply to convictions of persons occurring after such date.

Effective date.
42 USC 1320a-7
note.

PROVIDER REPRESENTATION IN PEER REVIEW ORGANIZATIONS

42 USC 1320c-2.

SEC. 2334. (a) Section 1153(b)(3) of the Social Security Act is amended by inserting "(A)" after "(3)" and by adding at the end thereof the following new subparagraph:

"(B) For purposes of subparagraph (A), an entity shall not be considered to be affiliated with a health care facility or association of facilities by reason of management, ownership, or common control if the management, ownership, or common control consists only of not more than 20 percent of the members of the governing board of the entity being affiliated (through management, ownership, or common control) with one or more of such facilities or associations."

(b) Section 1153(b)(2)(A) of such Act is amended—

(1) by striking out "an entity which directly" and inserting in lieu thereof "an entity (other than a self-insured employer) which directly"; and

(2) by adding at the end thereof the following new sentence: "For purposes of this paragraph, an entity shall not be considered to be affiliated with another entity which makes payments (directly or indirectly) to any practitioner or provider, by reason of management, ownership, or common control, if the management, ownership, or common control consists only of one individual member of the governing board being affiliated (through management, ownership, or common control) with a health maintenance organization or competitive medical plan which is an 'eligible organization' as defined in section 1876(b)."

42 USC 1395mm.
Effective date.
42 USC 1320c-2
note.

(c) The amendments made by this section shall become effective on the date of the enactment of this Act.

REPEAL OF SPECIAL TUBERCULOSIS TREATMENT REQUIREMENTS UNDER MEDICARE AND MEDICAID

42 USC 1395f.

SEC. 2335. (a) Section 1814(a) of the Social Security Act is amended—

(1) in paragraph (2), by striking out subparagraph (B) and redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively;

(2) in paragraph (3), by striking out "and inpatient tuberculosis hospital services";

(3) by striking out paragraph (5) and redesignating paragraphs (6), (7), and (8) as paragraphs (5), (6), and (7), respectively; and

(4) in the matter following paragraph (7) (as so redesignated), by striking out "(D), or (E)" and inserting in lieu thereof "or (D)".

42 USC 1395x.

(b)(1) Subsections (d) and (g) of section 1861 of such Act are repealed.

(2) The fifth sentence of section 1861(e) of such Act is amended by striking out "or tuberculosis unless it is a tuberculosis hospital (as defined in subsection (g)) or".

(3) Section 1861(j) of such Act is amended in the matter following paragraph (15) by striking out "or tuberculosis".

42 USC 1395z.

(c) Section 1863 of such Act is amended by striking out "(g)(4),".

42 USC 1395cc.

(d) Section 1866 of such Act is amended—

(1) in subsection (b)(3), by striking out "tuberculosis hospital services and"; and

- (2) in subsection (d), by striking out “inpatient tuberculosis hospital services and”.
- (e) Section 1902(a)(28) of such Act is amended by striking out “and tuberculosis”.
- (f) Section 1905(a) of such Act is amended by striking out “tuberculosis or” each place it appears in paragraphs (1), (4)(A), (14), and (15) and in the subdivision (B) after paragraph (18).
- (g) The amendments made by this section shall become effective on the date of the enactment of this Act.

42 USC 1396a.

42 USC 1396d.

Effective date.
42 USC 1395f
note.

ACCESS TO HOME HEALTH SERVICES

- SEC. 2336. (a) Sections 1814(a) and 1835(a) of the Social Security Act are each amended by adding at the end the following new sentence: “For purposes of the preceding sentence, service by a physician as an uncompensated officer or director of a home health agency shall not constitute having a significant ownership interest in, or a significant financial or contractual relationship with, such agency”.
- (b) The third sentence of section 1814(a) of the Social Security Act and the fourth sentence of section 1835(a) of such Act are each amended by inserting before the period at the end the following: “, except that such prohibition shall not apply with respect to a home health agency which is a sole community home health agency (as determined by the Secretary)”.
- (c)(1) The amendments made by subsection (a) shall apply to certifications and plans of care made or established on or after the date of the enactment of this Act.
- (2) The Secretary shall provide, not later than 90 days after the date of the enactment of this Act, for such revision of regulations as may be required to reflect the amendments made by subsection (b).

42 USC 1395f,
1395n.Effective date.
42 USC 1395f
note.Effective date.
42 USC 1395f
note.

NORMALIZATION OF TRUST FUND TRANSFERS

- SEC. 2337. (a) Section 1817(a) of the Social Security Act is amended—
- (1) by striking out “monthly on the first day of each calendar month” in the next to last sentence and inserting in lieu thereof “from time to time”;
- (2) by striking out “to be paid to or deposited into the Treasury during such month” in such sentence and inserting in lieu thereof “paid to or deposited into the Treasury”, and
- (3) by striking out the last sentence.
- (b) The amendments made by subsection (a) shall become effective on the first day of the month following the month in which this Act is enacted.

97 Stat. 98.
42 USC 1395i.Effective date.
42 USC 1395i
note.

ENROLLMENT AND PREMIUM PENALTY WITH RESPECT TO WORKING AGED PROVISION

- SEC. 2338. (a) The second sentence of section 1839(b) of the Social Security Act is amended by adding before the period at the end the following: “, but there shall not be taken into account months in which the individual has met the conditions specified in clauses (i) and (iii) of section 1862(b)(3)(A) and can demonstrate that the individual was enrolled in a group health plan described in clause (iv) of such section by reason of the individual's (or the individual's spouse's) current employment”.

97 Stat. 170.
42 USC 1395r.

42 USC 1395y.

42 USC 1395p.

(b) Section 1837 of such Act is amended by adding at the end the following new subsection:

“(i)(1) In the case of an individual who—

42 USC 1395y.

“(A) meets the conditions described in clauses (i) and (iii) of section 1862(b)(3)(A),

42 USC 1395o.

“(B) at the time the individual first satisfies paragraph (1) or (2) of section 1836, is enrolled in a group health plan described in section 1862(b)(3)(A)(iv) by reason of the individual's (or the individual's spouse's) current employment, and

“(C) has elected not to enroll (or to be deemed enrolled) under this section during the individual's initial enrollment period, there shall be a special enrollment period described in paragraph (3).

“(2) In the case of an individual who—

“(A) meets the conditions described in clauses (i) and (iii) of section 1862(b)(3)(A),

“(B) has enrolled (or has been deemed to have enrolled) in the medical insurance program established under this part during the individual's initial enrollment period and any subsequent special enrollment period under this subsection during which the individual was not enrolled in a group health plan described in section 1862(b)(3)(A)(iv) by reason of the individual's (or individual's spouse's) current employment, and

“(C) has not terminated enrollment under this section at any time at which the individual is not enrolled in such a group health plan by reason of the individual's (or individual's spouse's) current employment,

there shall be a special enrollment period described in paragraph (3).

“(3) The special enrollment period referred to in paragraphs (1) and (2) is the period—

“(A) beginning with the first day of the third month before the month in which the individual attains the age of 70 and ending seven months later, or

“(B) beginning with the first day of the first month in which the individual is no longer enrolled in a group health plan described in section 1862(b)(3)(A)(iv) by reason of current employment and ending seven months later,

whichever period results in earlier coverage.”

42 USC 1395q.

(c) Section 1838 of such Act is amended by adding at the end the following new subsection:

“(e) Notwithstanding subsection (a), in the case of an individual who enrolls during a special enrollment period pursuant to—

Supra.

“(1) subparagraph (A) of section 1837(i)(3)—

“(A) before the month in which he attains the age of 70, the coverage period shall begin on the first day of the month in which he has attained the age of 70, or

“(B) in or after the month in which he attains the age of 70, the coverage period shall begin on the first day of the month following the month in which he so enrolls; or

“(2) subparagraph (B) of section 1837(i)(3)—

“(A) in the first month of the special enrollment period, the coverage period shall begin on the first day of such month, or

“(B) in a month after the first month of the special enrollment period, the coverage period shall begin on the

first day of the month following the month in which he so enrolls.”.

(d)(1) The amendment made by subsection (a) shall apply to months beginning with January 1983 for premiums for months beginning with the first month which begins more than 30 days after the date of the enactment of this Act.

Effective date.
42 USC 1395r
note.

(2)(A) The amendments made by subsections (b) and (c) shall apply to enrollments in months beginning with the first effective month, except that in the case of any individual who would have had a special enrollment period under section 1837(i) of the Social Security Act that would have begun before such first effective month, such period shall be deemed to begin with the first day of such first effective month.

Effective date.
42 USC 1395p
note.

Ante, p. 1092

(B) For purposes of subparagraph (A), the term “first effective month” means the first month which begins more than 90 days after the date of the enactment of this Act.

INDIRECT PAYMENT OF SUPPLEMENTARY MEDICAL INSURANCE BENEFITS

SEC. 2339. (a) The first sentence of section 1842(b)(6) of the Social Security Act, as redesignated by section 2306 of this title, is amended—

Ante, p. 1070.

(1) by inserting “(i)” after “(A)”,

(2) by striking out “(B)” and inserting in lieu thereof “(ii)”,
and

(3) by inserting before the period the following: “, or (B) to an entity (i) which provides coverage of the services under a health benefits plan, but only to the extent that payment is not made under this part, (ii) which has paid the person who provided the service an amount (including the amount payable under this part) which that person has accepted as payment in full for the service, and (iii) to which the individual has agreed in writing that payment may be made under this part”.

(b) The second sentence of such section is amended by striking out “or (B)”.

CERTIFICATION OF PSYCHIATRIC HOSPITALS

SEC. 2340. (a) Section 1861(f) of the Social Security Act is amended—

42 USC 1395x.

(1) by adding “and” at the end of paragraph (3);

(2) by striking out “; and” at the end of paragraph (4) and inserting in lieu thereof a period;

(3) by striking out paragraph (5); and

(4) in the second sentence, by striking out “if the institution is accredited” and all that follows through “Secretary”.

(b) Section 1905(h)(1)(A) of such Act is amended to read as follows:

42 USC 1396d.

“(A) inpatient services which are provided in an institution (or distinct part thereof) which is a psychiatric hospital as defined in section 1861(f);”.

(c) The amendments made by this section shall become effective on the date of the enactment of this Act.

Effective date.
42 USC 1395x
note.

INCLUDING PODIATRISTS IN DEFINITION OF "PHYSICIAN" FOR OUTPATIENT PHYSICAL THERAPY SERVICES AND INCLUDING PODIATRISTS AND DENTISTS IN DEFINITION OF "PHYSICIAN" FOR OUTPATIENT AMBULATORY SURGERY

- 42 USC 1395x. SEC. 2341. (a) Section 1861(p)(1) of the Social Security Act is amended by striking out "section 1861(r)(1)" and inserting in lieu thereof "paragraph (1) or (3) of section 1861(r)".
- 42 USC 1395k. (b) Section 1832(a)(2)(F)(ii) of such Act is amended by striking out "section 1861(r)(1)" and inserting in lieu thereof "paragraph (1), (2), or (3) of section 1861(r)".
- 42 USC 1395x. (c) Section 1861(r)(3) of such Act is amended—
- (1) by striking out "and (m)" the first place it appears and inserting in lieu thereof ", (m), and (p)(1)", and
- (2) by inserting ", 1832(a)(2)(F)(ii)," after "1814(a)" the first place it appears.
- Effective date.
42 USC 1395k
note. (d) The amendments made by this section apply to services furnished on or after the date of the enactment of this Act.

ESTABLISHMENT BY PHYSICAL THERAPISTS OF PLANS FOR PHYSICAL THERAPY

- 42 USC 1395x. SEC. 2342. (a) Section 1861(p)(2) of the Social Security Act is amended by striking out ", and is periodically reviewed, by a physician (as so defined)" and inserting in lieu thereof "by a physician (as so defined) or by a qualified physical therapist and is periodically reviewed by a physician (as so defined)".
- 42 USC 1395n. (b) Section 1835(a)(2)(C)(ii) of such Act is amended by striking out ", and is periodically reviewed, by a physician" and inserting in lieu thereof "by a physician or by the qualified physical therapist providing such services and is periodically reviewed by a physician".
- Effective date.
42 USC 1395n
note. (c) The amendments made by this section apply to plans of care established on or after the date of the enactment of this Act.

HOSPICE CONTRACTING FOR CORE SERVICES

- 42 USC 1395x. SEC. 2343. (a) Section 1861(dd)(2)(A)(ii)(I) of the Social Security Act is amended by inserting "except as otherwise provided in paragraph (5)," before "and" at the end thereof.
- (b) Section 1861(dd) of such Act is amended by adding at the end thereof the following new paragraph:
- "(5)(A) The Secretary may waive the requirements of paragraph (2)(A)(ii)(I) for an agency or organization with respect to all or part of the nursing care described in paragraph (1)(A) if such agency or organization—
- "(i) is located in an area which is not an urbanized area (as defined by the Bureau of the Census);
- "(ii) was in operation on or before January 1, 1983; and
- "(iii) has demonstrated a good faith effort (as determined by the Secretary) to hire a sufficient number of nurses to provide such nursing care directly.
- "(B) Any waiver, which is in such form and containing such information as the Secretary may require and which is requested by an agency or organization under subparagraph (A), shall be deemed to be granted unless such request is denied by the Secretary within 60 days after the date such request is received by the Secretary. The granting of a waiver under subparagraph (A) shall not preclude the

granting of any subsequent waiver request should such a waiver again become necessary.”.

(c) The amendments made by subsections (a) and (b) shall become effective on the date of the enactment of this Act.

(d) The Secretary of Health and Human Services shall conduct a study of the necessity and appropriateness of the requirements that certain “core” services be furnished directly by a hospice, as required under section 1861(dd)(2)(A)(ii)(I) of the Social Security Act. The Secretary shall report the results of such study to the Congress with the report required under section 122(i)(1) of the Tax Equity and Fiscal Responsibility Act of 1982.

Effective date.
42 USC 1395x
note.

42 USC 1395x
note.

42 USC 1395x.
Report.

42 USC 1395f
note.

MEDICARE RECOVERY AGAINST CERTAIN THIRD PARTIES

SEC. 2344. (a) Section 1862(b)(1) of the Social Security Act is amended—

42 USC 1395y.

(1) in the first sentence, by inserting “promptly” after “to be made”;

(2) in the second sentence, by inserting “or could be” after “has been”; and

(3) by inserting after the second sentence the following new sentences: “In order to recover payment made under this title for an item or service, the United States may bring an action against any entity which would be responsible for payment with respect to such item or service (or any portion thereof) under such a law, policy, plan, or insurance, or against any entity (including any physician or provider) which has been paid with respect to such item or service under such law, policy, plan, or insurance, and may join or intervene in any action related to the events that gave rise to the need for such item or service. The United States shall be subrogated (to the extent of payment made under this title for an item or service) to any right of an individual or any other entity to payment with respect to such item or service under such a law, policy, plan, or insurance.”.

(b) Section 1862(b)(2)(B) of such Act is amended—

(1) in the first sentence, by inserting “or could be” after “has been”; and

(2) by inserting after the first sentence the following new sentences: “In order to recover payment made under this title for an item or service, the United States may bring an action against any entity which would be responsible for payment with respect to such item or service (or any portion thereof) under such a plan, or against any entity (including any physician or provider) which has been paid with respect to such item or service under such plan, and may join or intervene in any action related to the events that gave rise to the need for such item or service. The United States shall be subrogated (to the extent of payment made under this title for an item or service) to any right of an individual or any other entity to payment with respect to such item or service under such a plan.”.

(c) Section 1862(b)(3)(A)(ii) of such Act is amended—

(1) in the first sentence, by inserting “or could be” after “has been”; and

(2) by inserting after the first sentence the following new sentences: “In order to recover payment made under this title for an item or service, the United States may bring an action against any entity which would be responsible for payment with

respect to such item or service (or any portion thereof) under such a plan, or against any entity (including any physician or provider) which has been paid with respect to such item or service under such plan, and may join or intervene in any action related to the events that gave rise to the need for such item or service. The United States shall be subrogated (to the extent of payment made under this title for an item or service) to any right of an individual or any other entity to payment with respect to such item or service under such a plan.”.

Effective date.
42 USC 1395y
note.

(d) The amendments made by this section shall apply to items and services furnished on or after the date of the enactment of this Act.

CONFIDENTIALITY OF ACCREDITATION SURVEYS

42 USC 1395bb.

SEC. 2345. (a) Section 1865(a) of the Social Security Act is amended—

(1) in paragraph (2), by striking out “(on a confidential basis)”;

and

(2) by adding at the end thereof the following new sentence: “The Secretary may not disclose any accreditation survey made and released to him by the Joint Commission on Accreditation of Hospitals, the American Osteopathic Association, or any other national accreditation body, of an entity accredited by such body.”.

Effective date.
42 USC 1395bb
note.

(b) The amendments made by this section shall become effective on the date of the enactment of this Act, and shall apply with respect to surveys released to the Secretary on, before, or after such date.

USE OF ADDITIONAL ACCREDITING ORGANIZATIONS UNDER MEDICARE

SEC. 2346. (a) The third sentence of section 1865(a) of the Social Security Act is amended—

(1) by striking out “section 1861(e), (j), (o), or (dd)” and inserting in lieu thereof “section 1832(a)(2)(F)(i), 1861(e), 1861(f), 1861(j), 1861(o), 1861(p)(4)(A) or (B), paragraphs (11) and (12) of section 1861(s), section 1861(aa)(2), 1861(cc)(2), or 1861(dd)(2)”;

and

(2) by striking out “institution or agency” each place it appears and inserting in lieu thereof in each instance “entity”.

Effective date.
42 USC 1395bb.
note.

(b) The amendments made by this section shall become effective on the date of the enactment of this Act.

FUNDING FOR PSRO REVIEW

97 Stat. 163.
42 USC 1395cc.

SEC. 2347. (a)(1) Section 1866(a)(1)(F) of the Social Security Act is amended by striking out “maintain an agreement” and all that follows through “under which the organization”, and inserting in lieu thereof “maintain an agreement with a professional standards review organization (if there is such an organization in existence in the area in which the hospital is located) or with a utilization and quality control peer review organization which has a contract with the Secretary under part B of title XI for the area in which the hospital is located, under which the organization”.

42 USC 1320c.

(2) Section 602(l)(1) of the Social Security Amendments of 1983 is repealed.

97 Stat.163.
42 USC 1395cc
and note.
42 USC 1395cc
note.

(b) Notwithstanding section 604(a)(2) of the Social Security Amendments of 1983, the requirement that a hospital maintain an

agreement with a utilization and quality control peer review organization, as contained in section 1866(a)(1)(F) of the Social Security Act, shall become effective on November 15, 1984.

97 Stat. 163.

(c)(1) Section 1153(b)(2)(A) of the Social Security Act is amended by striking out “During the first twelve months in which the Secretary is entering into contracts under this section” and inserting in lieu thereof “Prior to November 15, 1984”.

42 USC 1320c-2.

(2) Section 1153(b)(2)(B) of such Act is amended by striking out “after the expiration of the twelve-month period referred to in subparagraph (A)” and inserting in lieu thereof “after November 14, 1984”.

(3) Section 1153(b)(2) of such Act is amended by striking out subparagraph (C).

97 Stat. 163.

(d) The provisions of, and amendments made by, this section shall become effective on the date of the enactment of this Act.

Effective date.
42 USC 1320c-2
note.

PAYMENT FOR SERVICES FOLLOWING TERMINATION OF PARTICIPATION AGREEMENTS WITH HOME HEALTH AGENCIES OR HOSPICE PROGRAMS

SEC. 2348. (a) Section 1866(b)(4)(B) of the Social Security Act is amended by striking out “after the calendar year in which such termination is effective” and inserting in lieu thereof “more than 30 days after such effective date”.

42 USC 1395cc.

(b) The amendment made by this section shall apply to terminations issued on or after the date of the enactment of this Act.

Effective date.
42 USC 1395cc
note.

ELIMINATION OF HEALTH INSURANCE BENEFITS ADVISORY COUNCIL

SEC. 2349. (a) Section 1867 of the Social Security Act is repealed.

42 USC 1395dd.

(b)(1) The first sentence of section 1863 of such Act is amended by striking out “the Health Insurance Benefits Advisory Council established by section 1867, appropriate State agencies,” and inserting in lieu thereof “appropriate State agencies”.

42 USC 1395z.

(2) The first sentence of section 7(d)(4) of the Railroad Retirement Act of 1974 is amended by striking out “1867,”.

45 USC 231f.

(3) Section 361 of the Social Security Amendments of 1977 (Public Law 95-216) is amended by striking out subsection (i).

42 USC 907a.

(c) The amendments made by this section shall become effective on the date of the enactment of this Act.

Effective date.
42 USC 907a
note.

HEALTH MAINTENANCE ORGANIZATIONS AND COMPETITIVE MEDICAL PLANS

SEC. 2350. (a)(1) Section 1876(c)(3)(A) of the Social Security Act is amended—

42 USC 1395mm.

(A) by inserting “(i)” after “(3)(A)”,

(B) by inserting “and including the 30-day period specified under clause (ii)” after “30 days duration every year”, and

(C) by adding at the end thereof the following new clause:
“(ii) For each area served by more than one eligible organization under this section, the Secretary (after consultation with such organizations) shall establish a single 30-day period each year during which all eligible organizations serving the area must provide for open enrollment under this section. The Secretary shall determine annual per capita rates under subsection (a)(1)(A) in a manner that assures that individuals enrolling during such a 30-day period will not have premium charges increased or any additional benefits decreased for 12 months beginning on the date the individual's

enrollment becomes effective. An eligible organization may provide for such other open enrollment period or periods as it deems appropriate consistent with this section."

42 USC 1395mm
note.

(2) The Secretary of Health and Human Services may phase in, over a period of not longer than three years, the application of the amendments made by paragraph (1) to all applicable areas in the United States if the Secretary determines that it is not administratively feasible to establish a single 30-day open enrollment period for all such applicable areas before the end of the period.

42 USC 1395mm.

(b)(1) The first sentence of section 1876(g)(2) of such Act is amended by inserting before the period at the end thereof the following: "and except that an organization (with the approval of the Secretary) may provide that a part of the value of such additional benefits be withheld and reserved by the Secretary as provided in paragraph (5)".

(2) Section 1876(g) of such Act is amended by adding at the end thereof the following new paragraph:

"(5) An organization having a risk-sharing contract under this section may (with the approval of the Secretary and during a period of not longer than four years) provide that a part of the value of additional benefits otherwise required to be provided by reason of paragraph (2) be withheld and reserved in the Federal Hospital Insurance Trust Fund and in the Federal Supplementary Medical Insurance Trust Fund (in such proportions as the Secretary determines to be appropriate) by the Secretary for subsequent annual contract periods, to the extent required to stabilize and prevent undue fluctuations in the additional benefits offered in those subsequent periods by the organization in accordance with paragraph (3). Any of such value of additional benefits which is not provided to members of the organization in accordance with paragraph (3) prior to the end of such period, shall revert for the use of such trust funds."

Effective date.
42 USC 1395mm
note.

(3) The Secretary of Health and Human Services may not approve the establishment of a stabilization fund by an eligible organization under section 1876(g)(5) of the Social Security Act for any contract period beginning later than four years after the date of the enactment of this Act.

Report.
42 USC 1395mm.

(4) The Secretary of Health and Human Services shall report to the Congress with respect to the use of stabilization funds by eligible organizations under section 1876(g)(5) of the Social Security Act, and shall assess the need for such funds. The report shall be submitted not later than 54 months after the month in which this Act is enacted.

(c) Section 1876(g)(4)(A) of such Act is amended—

(1) by inserting "and skilled nursing facilities" after "hospitals";

(2) by inserting "or other appropriate basis for payment established under this title" after "section 1861(v)"; and

(3) by striking out "hospital".

Effective date.
42 USC 1395mm
note.

(d) The amendments made by this section shall become effective on the date of the enactment of this Act.

JUDICIAL REVIEW OF PROVIDER REIMBURSEMENT REVIEW BOARD DECISIONS

42 USC 1395oo. SEC. 2351. (a)(1) The third sentence of section 1878(f)(1) of the Social Security Act is amended by striking out "such determination .

is rendered" and inserting in lieu thereof "notification of such determination is received".

(2) The amendment made by paragraph (1) shall be effective with respect to any civil action commenced on or after the date of the enactment of this Act.

Effective date.
42 USC 1395oo
note.

(b)(1) The last sentence of section 1878(f)(1) of such Act is amended by inserting "or which have obtained a hearing under subsection (b)" after "common ownership or control".

42 USC 1395oo.

(2) The amendment made by paragraph (1) shall be effective with respect to any appeal or action brought on or after the date of the enactment of this Act.

Effective date.
42 USC 1395oo
note.

(c) Notwithstanding section 604 of the Social Security Amendments of 1983 (Public Law 98-21)—

Effective date.
42 USC 1395oo
note.

(1) the amendments made by section 602(h)(2)(A) of that Act shall be effective with respect to any appeal or action brought on or after April 20, 1983; and

97 Stat. 168.
97 Stat. 163.

(2) the amendments made by section 602(h)(2)(B) of that Act shall be effective with respect to any appeal or action brought on or after the date of the enactment of this Act.

FLEXIBLE SANCTIONS FOR NONCOMPLIANCE WITH REQUIREMENTS FOR END STAGE RENAL DISEASE FACILITIES

SEC. 2352. (a) Section 1881(c)(3) of the Social Security Act is amended by adding at the end thereof the following new sentence: "If the Secretary determines that the facility's or provider's failure to cooperate with network plans and goals does not jeopardize patient health or safety or justify termination of certification, he may instead, after reasonable notice to the provider or facility and to the public, impose such other sanctions as he determines to be appropriate, which sanctions may include denial of reimbursement with respect to some or all patients admitted to the facility after the date of notice to the facility or provider, and graduated reduction in reimbursement for all patients."

42 USC 1395rr.

(b) The amendment made by this section shall apply to determinations made by the Secretary on or after the date of the enactment of this Act.

Effective date.
42 USC 1395rr
note.

PAYMENTS TO PROMOTE CLOSURE AND CONVERSION OF UNDERUTILIZED HOSPITAL FACILITIES

SEC. 2353. (a) The Secretary of Health and Human Services shall carry out a study and report to the Congress on the modifications required in section 1884 of the Social Security Act in order to conform the closure and conversion program authorized in that section to the prospective payment system under section 1886(d) of such Act, so as to provide assistance to hospitals which may have particular problems in converting facilities (or parts thereof) from acute care to less intensive care or in closing facilities (or parts thereof). The report shall include recommendations as to how, and whether, implementation of section 1884 as modified may result in reductions in total hospital inpatient costs and total expenditures under title XVIII of the Social Security Act. The Secretary shall submit the report prior to March 31, 1985.

Study and
report.
42 USC 1395uu
note.
42 USC 1395uu.
97 Stat. 152.
42 USC 1395ww.

(b) During the period prior to March 31, 1985, and notwithstanding section 2101(c) of the Omnibus Budget Reconciliation Act of 1981

42 USC 1395.

42 USC 1395uu
note.

(Public Law 97-35), the Secretary shall not implement section 1884 of the Social Security Act.

42 USC 1395uu.

MISCELLANEOUS TECHNICAL CORRECTIONS RELATING TO MEDICARE

42 USC 1320a-1. SEC. 2354. (a)(1) Section 1122(b) of the Social Security Act is amended—

(A) by striking out the period at the end of paragraph (1) and inserting in lieu thereof a comma, and

(B) by striking out “(or the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963)”.

(2) Section 1122(i)(3) of such Act is amended by striking out “5703(b)” and inserting in lieu thereof “5703”.

42 USC

1320a-7a.

(3) Section 1128A(g) of such Act is amended by striking out “Professional Standards Review Organization” and inserting in lieu thereof “utilization and quality control peer review organization”.

42 USC 1320a-8.

(4) Section 1129(a) of such Act is amended by striking out “Sate” and inserting in lieu thereof “State”.

42 USC 1301.

(5) The heading of title XI of such Act is amended by striking out “PROFESSIONAL STANDARDS REVIEW” and inserting in lieu thereof “PEER REVIEW”.

42 USC 1395f,
1395n.

(b)(1) The last sentence of sections 1814(a) of such Act and the last sentence of section 1835(a) of such Act are each amended by striking out “contractural” and inserting in lieu thereof “contractual”.

42 USC 1395i,
1395t.

(2) Sections 1817(c) and 1841(c) of such Act are each amended by striking out “under the Second Liberty Bond Act, as amended” and inserting in lieu thereof “under chapter 31 of title 31, United States Code”.

42 USC 1395i-2.

(3) Section 1818(c)(1) of such Act is amended by striking out “Act” and inserting in lieu thereof “section”.

(4) Section 1818(d)(2) of such Act is amended by striking out “if midway between multiples of \$1” and inserting in lieu thereof “, if a multiple of 50 cents but not a multiple of \$1,”.

42 USC 1395l.

(5) Section 1833(a)(2) of such Act is amended by indenting subparagraphs (A) and (B) two additional ems so as to align their left margins with the left margin of subparagraph (C) and by appropriately further indenting the clauses and subclauses of such subparagraphs.

42 USC 1395k.

(6) Section 1832(a)(2)(F)(ii)(II) of such Act is amended by striking out “Organization” and inserting in lieu thereof “organization”.

42 USC 1395l.

(7) Section 1833(a)(1) of such Act is amended by striking out “and” at the end thereof.

42 USC 1395n.

(8) Section 1835(a)(2) of such Act is amended—

(A) by striking out “and” at the end of subparagraphs (B) and (C), and

(B) by indenting subparagraph (D) two additional ems so as to align its left margin with the left margin of subparagraph (C).

(9) Section 1835(e) of such Act is amended—

(A) by inserting “(i)” in paragraph (2) after “written assurances that”,

(B) by striking out “(B)” in paragraph (2) and inserting in lieu thereof “(ii)”,

(C) by striking out “return for” in paragraph (2) and inserting in lieu thereof “return of”, and

(D) by striking out “(1) such hospital” and “(2) the Secretary” and inserting in lieu thereof “(A) such hospital” and “(B) the Secretary”, respectively.

(10) Section 1837(g)(1) of such Act is amended by striking out “section 226(a)(2)(B)” and “section 1839(e)” and inserting in lieu thereof “section 226(b)” and “section 1839(d)”, respectively. 42 USC 1395p.

(11) Sections 1840(d)(1), 1840(d)(2), and 1841(h) of such Act are each amended by striking out “Civil Service Commission” and inserting in lieu thereof “Director of the Office of Personnel Management” each place it appears. 42 USC 1395s, 1395t.

(12) Section 1841(h) of such Act is amended by striking out “it” and inserting in lieu thereof “the Director”.

(13) Section 1842(b)(3)(B)(ii)(II) of such Act is amended by striking out the period following “title”. 42 USC 1395u.

(14) The seventh sentence of section 1842(b)(3) of such Act is amended by striking out “(i)” and “(ii)” and inserting in lieu thereof “(I)” and “(II)”, respectively.

(15) Section 1843(d)(3)(B) of such Act is amended by striking out “1937” and inserting in lieu thereof “1974”. 42 USC 1395v.

(16) Section 1844(a)(1)(B)(ii) of such Act is amended by striking out the period and inserting in lieu thereof “; plus”. 42 USC 1395w.

(17) Sections 1864(c) and 1875(b) of such Act are each amended by striking out “the” after “Joint Commission on”. 42 USC 1395aa, 1395ll.

(18) Section 1861(j)(2) of such Act is amended by striking out “provision of” and inserting in lieu thereof “provision for”. 42 USC 1395x.

(19) Section 1861(j)(13) of such Act is amended by striking out “a nursing home” and inserting in lieu thereof “an institution”.

(20) Section 1861(u) of such Act is amended by striking out “or” before “home health agency”.

(21) Section 1861(v)(1) of such Act is amended—

(A) by redesignating the clause (B) in subparagraph (A) as subparagraph (B) and by indenting the first line of such subparagraph 2 spaces;

(B) by aligning subparagraphs (C) and (D) flush with the left margin (but with appropriate indentation in the case of the clauses and subclauses of subparagraph (C)); and

(C) by inserting a comma after “section 1832(a)(2)(B)(i)” in subparagraph (D).

(22) Section 1861(v)(1)(C)(i) of such Act is amended by inserting a dash after “but only if”.

(23) Section 1861(v)(1)(E)(ii) of such Act is amended by striking out “uses” and inserting in lieu thereof “use”.

(24) Section 1861(v)(1)(I) of such Act is amended by striking out “to the Secretary, or upon request to the Comptroller General” in clauses (i) and (ii) and inserting in lieu thereof “by the Secretary, or upon request by the Comptroller General”.

(25) Section 1861(v)(3) of such Act is amended by striking out “semiprivate” and inserting in lieu thereof “semi-private”.

(26) Section 1861(z)(2) of such Act is amended by striking out “subparagraph (1)” and inserting in lieu thereof “paragraph (1)”.

(27) Section 1861(aa)(2)(I) of such Act is amended by striking out “utilization” and inserting in lieu thereof “utilization”.

(28) Section 1861(cc)(1)(F) of such Act is amended by striking out “self administered” and inserting in lieu thereof “self-administered”.

(29) Section 1861(cc)(2)(F) of such Act is amended by striking out “standard establishment” and inserting in lieu thereof “standards established”.

(30) Section 1862(a)(12) of such Act is amended by striking out the second comma after “dental procedure”. 42 USC 1395y.

- 42 USC 1395y. (31) Section 1862(b)(3)(A)(iii) of such Act is amended by inserting "before the month" after "ending with the month".
- 42 USC 1395z. (32) Section 1863 of such Act is amended by striking out "(j)(11)" and inserting in lieu thereof "(j)(15)".
- 42 USC 1395cc. (33) Section 1866(a)(1)(E) of such Act is amended by adding at the end a comma.
- (34) Section 1866(b) of such Act is amended by moving the alignment of paragraph (3) two ems to the left so as to align its left margin with the left margin of paragraph (4).
- 42 USC 1395ff. (35) Section 1869(b)(1)(B) of such Act is amended by striking out ", or section 1818, or section 1819" and inserting in lieu thereof "or section 1818".
- 42 USC 1395ii. (36) Section 1872 of such Act is amended—
- (A) by striking out the comma after "206", and
- (B) by striking out "(f)".
- 42 USC 1395mm. (37) Section 1876(b)(2)(D) of such Act is amended by striking out "paragraph (1)" and inserting in lieu thereof "subparagraph (A)".
- (38) Section 1876(c)(4)(A)(i) of such Act is amended by striking out "promptly as appropriate" and inserting in lieu thereof "with reasonable promptness".
- 42 USC 1395oo. (39) Section 1878(c) of such Act is amended by striking out "inadmissible" and inserting in lieu thereof "inadmissible".
- (40) Section 1878(e) of such Act is amended by striking out ", (e), and (f)" and inserting in lieu thereof "and (e)".
- 42 USC 1395rr. (41) Section 1881 of such Act is amended by striking out "end-stage" and inserting in lieu thereof "end stage" each place it appears.
- 42 USC 1395ww. (42) Section 1886(a)(2)(B) of such Act is amended by striking out "disproportionate" and inserting in lieu thereof "disproportionate".
- (43) Section 1886(b)(3)(A)(ii) of such Act is amended by inserting "of" after "in the case".
- (44) Section 1886(d)(3)(D)(i)(I) of such Act is amended by striking out "(C)," and inserting in lieu thereof "(C)".
- 42 USC 1395f. (c)(1)(A) Section 903(a)(4) of Public Law 96-499 is amended by striking out "new paragraph".
- 42 USC 1395x note. (B) Section 937(c) of Public Law 96-499 is amended by striking out "on on" and inserting in lieu thereof "on or".
- 42 USC 1316. (2) Section 2353(h)(1) of Public Law 97-35 is amended by striking out the comma after "XIX".
- 42 USC 1395mm note. (3)(A) Section 114(c)(2)(C)(ii) of Public Law 97-248 is amended by inserting "and enrolled under part B" after "part A".
- 42 USC 1395mm note. (B) Section 114(c)(3)(E) of Public Law 97-248 is amended—
- (i) by striking out "section 1833(a)(1) of the Social Security Act or", and
- (ii) by adding before the period at the end the following: ", or reimbursement on a reasonable cost basis under section 1833(a)(1)(A) of such Act".
- 42 USC 1320c note. (C) Section 149 of Public Law 97-248 is amended by striking out "part" and inserting in lieu thereof "subtitle".
- 26 USC 162. (d) Section 162(i)(2) of the Internal Revenue Code of 1954 is amended by striking out "213(e)" and inserting in lieu thereof "213(d)".
- 42 USC 1320a-1 note. (e)(1) Except as provided in paragraph (2), the amendments made by this section shall be effective on the date of the enactment of this Act; but none of such amendments shall be construed as changing or affecting any right, liability, status, or interpretation which existed (under the provisions of law involved) before that date.

(2) The amendments made by paragraphs (1), (2), and (3) of subsection (c) shall be effective as if they had been originally included in Public Laws 96-499, 97-35, and 97-248, respectively.

94 Stat. 2599;
95 Stat. 357.
26 USC 1 note.

WAIVERS FOR SOCIAL HEALTH MAINTENANCE ORGANIZATIONS

SEC. 2355. (a) In the case of a project described in subsection (b), the Secretary of Health and Human Services shall approve, with appropriate terms and conditions as defined by the Secretary, applications or protocols submitted for waivers described in subsection (c), and the evaluation of such protocols, in order to carry out such project. Such approval shall be effected not later than 30 days after the date on which the application or protocol for a waiver is submitted or not later than 30 days after the date of the enactment of this Act in the case of an application or protocol submitted before the date of the enactment of this Act.

(b) A project referred to in subsection (a) is a project—

(1) to demonstrate the concept of a social health maintenance organization with the organizations as described in Project No. 18-P-9 7604/1-04 of the University Health Policy Consortium of Brandeis University;

(2) which provides for the integration of health and social services under the direct financial management of a provider of services;

(3) under which all medicare services will be provided by or under arrangements made by the organization at a fixed annual prepaid capitation rate for medicare of 100 percent of the adjusted average per capita cost;

(4) under which medicaid services will be provided at a rate approved by the Secretary;

(5) under which all payors will share risk for no more than two years, with the organization being at full risk in the third year;

(6) which is being provided funds under a grant provided by the Secretary of Health and Human Services; and

(7) with respect to which substantial private funds are being provided other than under the grant referred to in paragraph (5).

(c) The waivers referred to in subsection (a) are appropriate waivers of—

(1) certain requirements of title XVIII of the Social Security Act, pursuant to section 402(a) of the Social Security Amendments of 1967 (as amended by section 222 of the Social Security Amendments of 1972); and

42 USC 1395.

(2) certain requirements of title XIX of the Social Security Act, pursuant to section 1115 of such Act.

42 USC 1395b-1.

(d)(1) The Secretary of Health and Human Services shall submit a preliminary report to the Congress on the status of the projects and waivers referred to in subsection (a) 45 days after the date of the enactment of this Act.

42 USC 1396,
1315.
Report.

(2) The Secretary shall submit a final report to the Congress on the projects referred to in subsection (a) not later than 42 months after the date of the enactment of this Act.

Report.

Subtitle B—Medicaid and Maternal and Child Health Amendments

MEDICAID COVERAGE FOR PREGNANT WOMEN AND CHILDREN

- SEC. 2361. (a) Clause (i) of section 1902(a)(10)(A) of the Social Security Act is amended to read as follows:
- 42 USC 1396a. “(i) all individuals—
- “*(I)* who are receiving aid or assistance under any plan of the State approved under title I, X, XIV, or XVI, or part A or part E of title IV (including individuals eligible under this title by reason of section 402(a)(37), or considered by the State to be receiving such aid as authorized under section 414(g)),
- 42 USC 301, 1201, 1351, 1381, 601, 670.
Post, p. 1134.
 42 USC 614. “*(II)* with respect to whom supplemental security income benefits are being paid under title XVI, or
- “*(III)* who are qualified pregnant women or children as defined in section 1905(n);”.
- 42 USC 1396d. (b) Section 1905 of such Act is amended by adding at the end thereof the following new subsection:
- “(n) The term ‘qualified pregnant woman or child’ means—
- “*(1)* a pregnant woman who—
- “*(A)* would be eligible for aid to families with dependent children under part A of title IV (or would be eligible for such aid if coverage under the State plan under part A of title IV included aid to families with dependent children of unemployed parents pursuant to section 407) if her child had been born and was living with her in the month such aid would be paid, and such pregnancy has been medically verified; or
- “*(B)* is a member of a family which would be eligible for aid under the State plan under part A of title IV pursuant to section 407 if the plan required the payment of aid pursuant to such section; and
- “*(2)* a child who is under 5 years of age, who was born after September 30, 1983, and who meets the income and resources requirements of the State plan under part A of title IV.”.
- 42 USC 601. (c) Section 406(g) of such Act is amended by striking out “(1)” after “(g)”, by striking out paragraph (2), and by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2).
- 42 USC 607. (d)(1) Except as provided in paragraph (2), the amendments made by this section shall apply to calendar quarters beginning on or after October 1, 1984, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.
- Effective date.
 42 USC 1396a note. (2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.
- 42 USC 1396.

CLARIFICATION OF MEDICAID ENTITLEMENT FOR CERTAIN NEWBORNS

SEC. 2362. (a) Section 1902(e) of the Social Security Act is amended 42 USC 1396a.
by adding at the end the following new paragraph:

“(4) A child born to a woman eligible for and receiving medical assistance under a State plan on the date of the child’s birth shall be deemed to have applied for medical assistance and to have been found eligible for such assistance under such plan on the date of such birth and to remain eligible for such assistance for a period of one year so long as the child is a member of the woman’s household and the woman remains eligible for such assistance.”.

(b) The amendment made by subsection (a) shall apply to children 42 USC 1396a
born on or after October 1, 1984. note.

RECERTIFICATION OF SNF AND ICF PATIENTS

SEC. 2363. (a)(1) Section 1902(a) of the Social Security Act, as 42 USC 1396a.
amended by section 2303(g) of this title, is amended— *Ante*, p. 1064.

(A) in paragraph (30)—

(i) by inserting “(A)” after “(30)”, and

(ii) by adding at the end the following new subparagraph:

“(B) provide, under the program described in subparagraph (A), that—

“(i) each admission to a hospital, skilled nursing facility, intermediate care facility, or hospital for mental diseases is reviewed or screened in accordance with criteria established by medical and other professional personnel who are not themselves directly responsible for the care of the patient involved, and who do not have a significant financial interest in any such institution and are not, except in the case of a hospital, employed by the institution providing the care involved, and

“(ii) the information developed from such review or screening, along with the data obtained from prior reviews of the necessity for admission and continued stay of patients by such professional personnel, shall be used as the basis for establishing the size and composition of the sample of admissions to be subject to review and evaluation by such personnel, and any such sample may be of any size up to 100 percent of all admissions and must be of sufficient size to serve the purpose of (I) identifying the patterns of care being provided and the changes occurring over time in such patterns so that the need for modification may be ascertained, and (II) subjecting admissions to early or more extensive review where information indicates that such consideration is warranted to a hospital, skilled nursing facility, intermediate care facility, or hospital for mental diseases.”; and

(B) by striking out “and” at the end of paragraph (42), by striking out the period at the end of paragraph (43) and inserting in lieu thereof “; and”, and by inserting after paragraph (43) the following new paragraph:

“(44) in each case for which payment for inpatient hospital services, skilled nursing facility services, intermediate care facility services, or inpatient mental hospital services is made under the State plan—

42 USC 1396b.

“(A) a physician certifies at the time of admission, or, if later, the time the individual applies for medical assistance under the State plan (and the physician, or a physician assistant or nurse practitioner under the supervision of a physician, recertifies, where such services are furnished over a period of time, in such cases, at least as often as required under section 1903(g)(6) (or, in the case of services that are intermediate care facility services provided in an institution for the mentally retarded, every year), and accompanied by such supporting material, appropriate to the case involved, as may be provided in regulations of the Secretary), that such services are or were required to be given on an inpatient basis because the individual needs or needed such services, and

“(B) such services were furnished under a plan established and periodically reviewed and evaluated by a physician.”.

42 USC 1396b.

(2) Section 1903(g)(1) of such Act is amended—

(A) in the matter preceding subparagraph (A), by striking out “care as an inpatient” and all that follows through “hospital for mental diseases on” and inserting in lieu thereof “inpatient hospital services or intermediate care facility services for 60 days, skilled nursing facility services for 30 days, or inpatient mental hospital services for”,

(B) in the matter before subparagraph (A), by striking out “which for purposes of this section means the four calendar quarters ending with June 30,” and by striking out “in the same fiscal year”, and

(C) by striking out “(including tuberculosis hospitals)” and all that follows through the end of subparagraph (D) and inserting in lieu thereof “, skilled nursing facility services, or intermediate care facility services furnished beyond 60 days (or inpatient mental hospital services furnished beyond 90 days), such State has an effective program of medical review of the care of patients in mental hospitals, skilled nursing facilities, and intermediate care facilities pursuant to paragraphs (26) and (31) of section 1902(a) whereby the professional management of each case is reviewed and evaluated at least annually by independent professional review teams.”.

Post, p. 1109.

(4) Section 1903(g) of such Act is further amended by striking out paragraph (6) and inserting in lieu thereof the following:

Ante, pp. 1066, 1105.

“(6)(A) Recertifications required under section 1902(a)(44) shall be conducted at least every 60 days in the case of inpatient hospital services.

“(B) Such recertifications in the case of skilled nursing facility services shall be conducted at least—

“(i) 30 days after the date of the initial certification,

“(ii) 60 days after the date of the initial certification,

“(iii) 90 days after the date of the initial certification, and

“(iv) every 60 days thereafter.

“(C) Such recertifications in the case of intermediate care facility services shall be conducted at least—

“(i) 60 days after the date of the initial certification,

“(ii) 180 days after the date of the initial certification,

“(iii) 12 months after the date of the initial certification,

“(iv) 18 months after the date of the initial certification,

“(v) 24 months after the date of the initial certification, and

“(vi) every 12 months thereafter.

“(D) For purposes of determining compliance with the schedule established by this paragraph, a recertification shall be considered to have been done on a timely basis if it was performed not later than 10 days after the date the recertification was otherwise required and the State establishes good cause why the physician or other person making such recertification did not meet such schedule.”.

(b) Section 1903 of such Act is further amended by adding at the end the following new paragraph: 42 USC 1396b.

“(7) It is the duty and responsibility of the Secretary to assure that standards which govern the provision of care in skilled nursing facilities and intermediate care facilities under plans approved under this title, and the enforcement of such standards, are adequate to protect the health and safety of residents and to promote the effective and efficient use of public moneys.”.

(c) The amendments made by subsection (a) apply to calendar quarters beginning on or after the date of the enactment of this Act, except that, in the case of individuals admitted to skilled nursing facilities before such date, the amendments made by such subsection shall not require recertifications sooner or more frequently than were required under the law in effect before such date. Effective date. 42 USC 1396b note.

WAIVER OF CERTAIN MEMBERSHIP REQUIREMENTS FOR CERTAIN HEALTH MAINTENANCE ORGANIZATIONS

SEC. 2364. Section 1903(m)(2) of the Social Security Act is amended— 42 USC 1396b.

(1) by inserting “except as provided under subparagraph (F),” in subparagraph (A)(vi) after “(I)”, and

(2) by adding at the end the following new subparagraphs:

“(E) In the case of a health maintenance organization that—

“(i) is a nonprofit organization with at least 25,000 members,

“(ii) is and has been a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act) for a period of at least four years,

42 USC 300e-9.

“(iii) provides basic health services through members of the staff of the organization,

“(iv) is located in an area designated as medically underserved under section 1302(7) of the Public Health Service Act, and

42 USC 300e-1.

“(v) previously received a waiver of the requirement described in subparagraph (A)(ii) under section 1115,

42 USC 1315.

the Secretary may modify or waive the requirement described in subparagraph (A)(ii) but only if the Secretary determines that special circumstances warrant such modification or waiver and that the organization has taken and is taking reasonable efforts to enroll individuals who are not entitled to benefits under the State plan approved under this title or under title XVIII.

42 USC 1395.

“(F)(i) In the case of a contract with a health maintenance organization described in clause (ii), a State plan may restrict the period in which requests for termination of enrollment without cause under subparagraph (A)(vi)(I) are permitted to the first month of each period of enrollment, each such period of enrollment not to exceed six months in duration, but only if the State provides notification, at least twice per year, to individuals enrolled with such organization of the right to terminate such enrollment and the restriction on the

exercise of this right. Such restriction shall not apply to requests for termination of enrollment for cause.

“(ii) A health maintenance organization referred to in clause (i) is an organization which—

- 42 USC 300e-9. “(I) is a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act) or a health maintenance organization which is receiving (and has received during the previous two years) a grant of at least \$100,000 under section 329(d)(1)(A) or 330(d)(1) of the Public Health Service Act or is receiving (and has received during the previous two years) at least \$100,000 (by grant, subgrant, or subcontract) under the Appalachian Regional Development Act of 1965, and
- 42 USC 254b, 254c. “(II) meets the requirement of subparagraph (A)(ii).”
- 40 USC app. 1.

INCREASE IN MEDICAID CEILING AMOUNT FOR PUERTO RICO, THE VIRGIN ISLANDS, GUAM, THE NORTHERN MARIANA ISLANDS, AND AMERICAN SAMOA

42 USC 1308. **SEC. 2365.** (a) Section 1108(c) of the Social Security Act is amended to read as follows:

42 USC 1396. “(c) The total amount certified by the Secretary under title XIX with respect to a fiscal year for payment to—

“ (1) Puerto Rico shall not exceed \$63,400,000;

“ (2) the Virgin Islands shall not exceed \$2,100,000;

“ (3) Guam shall not exceed \$2,000,000;

“ (4) the Northern Mariana Islands shall not exceed \$550,000;

and

“ (5) American Samoa shall not exceed \$1,150,000.”

42 USC 1308 note. (b) The amendment made by subsection (a) shall be effective for fiscal years beginning on or after October 1, 1983.

PAYMENT FOR PSYCHIATRIC HOSPITAL SERVICES

42 USC 1396a note. **SEC. 2366.** The provisions of section 1902(a)(13) of the Social Security Act, in so far as they require a reduction of the amount of payment otherwise to be made to a public psychiatric hospital due to the level of care received in such hospital, shall not apply to payments to hospitals before July 1, 1985, and such a reduction made for payments during the 12-month period ending June 30, 1986, and during the 12-month period ending June 30, 1987, shall be one-third and two-thirds, respectively, of the amount of the reduction which would have been made without regard to this section.

MANDATORY ASSIGNMENT OF RIGHTS OF PAYMENT BY MEDICAID RECIPIENTS

SEC. 2367. (a) Section 1902(a) of the Social Security Act (as amended by sections 2303 and 2363 of this title) is amended—

(1) by striking out “and” at the end of paragraph (43);

(2) by striking out the period at the end of paragraph (44) and inserting in lieu thereof “; and”; and

(3) by inserting after paragraph (44) the following new paragraph:

“(45) provide for mandatory assignment of rights of payment for medical support and other medical care owed to recipients, in accordance with section 1912.”

42 USC 1396k.

(b) Section 1912(a) of such Act is amended by striking out “State plan for medical assistance may” and inserting in lieu thereof “State plan for medical assistance shall”. 42 USC 1396k.

(c)(1) Except as provided in paragraph (2), the amendments made by this section shall become effective on October 1, 1984. Effective date. 42 USC 1396a note.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirement imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet this additional requirement before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. 42 USC 1396.

**REQUIREMENTS FOR MEDICAL REVIEW AND INDEPENDENT
PROFESSIONAL REVIEW UNDER MEDICAID**

SEC. 2368. (a) Section 1902(a)(31) of the Social Security Act is amended to read as follows: 42 USC 1396a.

“(31) with respect to skilled nursing facility services (and with respect to intermediate care facility services, where the State plan includes medical assistance for such services) provide—

“(A) with respect to each patient receiving such services, for a written plan of care, prior to admission to or authorization of benefits in such facility, in accordance with regulations of the Secretary, and for a regular program of independent professional review (including medical evaluation) which shall periodically review his need for such services;

“(B) with respect to each skilled nursing or intermediate care facility within the State, for periodic onsite inspections of the care being provided to each person receiving medical assistance, by one or more independent professional review teams (composed of a physician or registered nurse and other appropriate health and social service personnel), including with respect to each such person (i) the adequacy of the services available to meet his current health needs and promote his maximum physical well-being, (ii) the necessity and desirability of his continued placement in the facility, and (iii) the feasibility of meeting his health care needs through alternative institutional or noninstitutional services; and

“(C) for full reports to the State agency by each independent professional review team of the findings of each inspection under subparagraph (B), together with any recommendations.”

(b) Section 1902(a)(26) of such Act is amended to read as follows:

“(26) if the State plan includes medical assistance for inpatient mental hospital services, provide—

“(A) with respect to each patient receiving such services, for a regular program of medical review (including medical evaluation) of his need for such services, and for a written plan of care;

“(B) for periodic inspections to be made in all mental institutions within the State by one or more medical review

teams (composed of physicians and other appropriate health and social service personnel) of the care being provided to each person receiving medical assistance, including (i) the adequacy of the services available to meet his current health needs and promote his maximum physical well-being, (ii) the necessity and desirability of his continued placement in the institution, and (iii) the feasibility of meeting his health care needs through alternative institutional or noninstitutional services; and

“(C) for full reports to the State agency by each medical review team of the findings of each inspection under subparagraph (B), together with any recommendations;”.

(c) The amendments made by this section shall become effective on the date of the enactment of this Act.

Effective date.
42 USC 1396a
note.

FLEXIBILITY IN SETTING PAYMENT RATES FOR HOSPITALS FURNISHING LONG-TERM CARE SERVICES UNDER MEDICAID

42 USC 1396l.

SEC. 2369. (a)(1) Section 1913(b)(1) of the Social Security Act is amended by striking out “Payment” and inserting in lieu thereof “Except as provided in paragraph (3), payment”.

(2) Section 1913(b) of such Act is amended by adding at the end thereof the following new paragraph:

“(3) Payment to all such hospitals, for any skilled nursing or intermediate care facility services furnished pursuant to subsection (a), may be made at a payment rate established by the State in accordance with the requirements of section 1902(a)(13)(A).”.

(b) The amendments made by this section shall apply to payments for services furnished after the date of the enactment of this Act.

42 USC 1396a.
Effective date.
42 USC 1396l
note.

AUTHORITY OF THE SECRETARY TO ISSUE AND ENFORCE SUBPOENAS UNDER MEDICAID

SEC. 2370. (a) Title XIX of the Social Security Act is amended by adding at the end thereof the following new section:

“APPLICATION OF PROVISIONS OF TITLE II RELATING TO SUBPOENAS

“SEC. 1918. The provisions of subsections (d) and (e) of section 205 of this Act shall apply with respect to this title to the same extent as they are applicable with respect to title II.”.

(b) The amendment made by this section shall become effective on the date of the enactment of this Act.

42 USC 1396q.
42 USC 405.

Effective date.
42 USC 1396q
note.

MEDICAID CLINIC ADMINISTRATION

42 USC 1396d.

SEC. 2371. (a) Section 1905(a)(9) of the Social Security Act is amended to read as follows:

“(9) clinic services furnished by or under the direction of a physician, without regard to whether the clinic itself is administered by a physician;”.

(b) The amendment made by subsection (a) shall apply to services furnished on or after the date of the enactment of this Act.

Effective date.
42 USC 1396d
note.

INCREASE IN AUTHORIZATION FOR MATERNAL AND CHILD HEALTH BLOCK GRANT

42 USC 701.

SEC. 2372. (a) Section 501(a) of the Social Security Act is amended by striking out “\$373,000,000 for fiscal year 1982 and for each fiscal

year thereafter” and inserting in lieu thereof “\$478,000,000 for fiscal year 1984 and each fiscal year thereafter”.

(b) The amendment made by subsection (a) shall be effective for fiscal years beginning on or after October 1, 1983.

Effective date.
42 USC 701 note.

MISCELLANEOUS TECHNICAL AMENDMENTS

SEC. 2373. (a)(1) Section 503(a) of the Social Security Act is amended by striking out “section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4213)” and inserting in lieu thereof “section 6503(a) of title 31, United States Code”. 42 USC 703.

(2) Section 506(d)(3) of such Act is amended by striking out “section 202 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4212)” and inserting in lieu thereof “section 6503(b) of title 31, United States Code”. 42 USC 706.

(b)(1) Section 1902(a)(9) of such Act is amended by indenting subparagraph (C) two additional ems so as to align its left margin with the left margin of subparagraph (B). 42 USC 1396a.

(2) Section 1902(a)(10) of such Act is amended by indenting subparagraph (A) (and each of its clauses and subclauses) two additional ems so as to align its left margin (before clause (i)) with the left margin of subparagraph (B).

(3) Section 1902(a)(13)(A) of such Act is amended by striking out “(A)” and all that follows through “hospital” the first place it appears and inserting in lieu thereof “(A) for payment (except where the State agency is subject to an order under section 1914) of the hospital”.

(4) Section 1902(a)(20)(B) of such Act is amended by striking out “periodical” and inserting in lieu thereof “periodic”.

(5) Section 1902(a)(20)(C) of such Act is amended by striking out “, section 603(a)(1)(A) (i) and (ii),”.

(6) Section 1902(a)(26)(B)(ii) of such Act is amended by striking out “homes” and inserting in lieu thereof “facilities”. *Ante*, p. 1109.

(7) Section 1902(a)(33)(A) of such Act is amended by striking out “penultimate sentence” and inserting in lieu thereof “second sentence”.

(8) Section 1902(a)(42)(B) of such Act is amended by striking out “part” and inserting in lieu thereof “title”.

(9) Section 1902(a) of such Act is amended by striking out “For purposes of paragraphs (9)(A)” and all that follows through “do not include” in the last sentence of the third to last paragraph and inserting in lieu thereof “The provisions of paragraphs (9)(A), (31), and (33) and of section 1903(i)(4) shall not apply to”.

(10) Section 1902(f) of such Act is amended by striking out “clause (10)(A)” and “clause (10)(C)” and inserting in lieu thereof “paragraph (10)(A)” and “paragraph (10)(C)”, respectively, each place each appears.

(11) Section 1903(g)(4)(B) of such Act is amended— 42 USC 1396b.

(A) by striking out “paragraph (26)” and inserting in lieu thereof “paragraphs (26)”, and

(B) by striking out “diligence” and inserting in lieu thereof “diligence”.

(12) Section 1903(m)(2)(B)(i) of such Act is amended—

(A) by striking out “(II)” before “for the period”,

(B) by striking out “of such section” in subclause (II) and inserting in lieu thereof “of section 1905(a)”, and

- (C) by striking out “peroid” and inserting in lieu thereof “period”.
- 42 USC 1396b. (13) Section 1903(m)(2) of such Act is amended by aligning subparagraph (C) flush with the left margin.
- (14) Section 1903(s)(3)(B) of such Act is amended by striking out “nonfederal” and inserting in lieu thereof “non-Federal”.
- 42 USC 1396d. (15) Section 1905(a)(4) of such Act is amended by inserting a semicolon before “(B)”.
- (16) Section 1905(a)(17) of such Act is amended by striking out “he” and inserting in lieu thereof “the nurse-midwife” each place it appears.
- (17) The last sentence of section 1905(a) of such Act is amended by striking out “clauses (vi)” and inserting in lieu thereof “clause (vi)”, and by striking out “well being” and inserting in lieu thereof “well-being”.
- (18) The second sentence of section 1905(b) of such Act is amended by striking out everything that follows “the provisions of” and inserting in lieu thereof “section 1101(a)(8)(B).”.
- (19) Section 1905(d)(1) of such Act is amended by striking out “which meet” and inserting in lieu thereof “the institution meets”.
- (20) Section 1905(m) of such Act is amended by striking out “he” each place it appears and inserting in lieu thereof “the nurse”.
- 42 USC 1396n. (21) Section 1915(c)(1) of such Act is amended by striking out “under this part” and inserting in lieu thereof “under this title”.
- 42 USC 1396a note. (c)(1) The Secretary of Health and Human Services shall not take any compliance, disallowance, penalty, or other regulatory action against a State during the moratorium period described in paragraph (2) by reason of such State’s plan under title XIX of the Social Security Act being determined to be in violation of section 1902(a)(10)(C)(i)(III) of such Act on account of such plan’s having a standard or methodology which the Secretary interprets as being less restrictive than the standard or methodology required under such section.
- 42 USC 1396. (2) The moratorium period is the period beginning on the date of the enactment of this Act and ending 18 months after the date on which the Secretary submits the report required under paragraph (3).
- 42 USC 1396a. (3) The Secretary shall report to the Congress within 12 months after the date of the enactment of this Act with respect to the appropriateness, and impact on States and recipients of medical assistance, of applying standards and methodologies utilized in cash assistance programs to those recipients of medical assistance who do not receive cash assistance, and any recommendations for changes in such requirements.
- Report. (4) No provision of law shall repeal or suspend the moratorium imposed by this subsection unless such provision specifically amends or repeals this subsection.

Subtitle C—Recovery of Hill-Burton Funds

RECOVERY OF HILL-BURTON FUNDS

42 USC 291i.

SEC. 2381. (a) Section 609 of the Public Health Service Act is amended to read as follows:

"Sec. 609. (a) If any facility with respect to which funds have been paid under section 606 shall, at any time within 20 years after the completion of construction or modernization— 42 USC 291f.

"(1) be sold or transferred to any entity (A) which is not qualified to file an application under section 605, or (B) which is not approved as a transferee by the State agency designated pursuant to section 604, or its successor, or 42 USC 291e.
42 USC 291d.

"(2) cease to be a public health center or a public or other nonprofit hospital, outpatient facility, facility for long-term care, or rehabilitation facility,

the United States shall be entitled to recover, whether from the transferor or the transferee (or, in the case of a facility which has ceased to be public or nonprofit, from the owners thereof) an amount determined under subsection (c).

"(b) The transferor of a facility which is sold or transferred as described in subsection (a)(1), or the owner of a facility the use of which is changed as described in subsection (a)(2), shall provide the Secretary written notice of such sale, transfer, or change not later than the expiration of 10 days from the date on which such sale, transfer, or change occurs.

"(c)(1) Except as provided in paragraph (2), the amount the United States shall be entitled to recover under subsection (a) is an amount bearing the same ratio to the then value (as determined by the agreement of the parties or in an action brought in the district court of the United States for the district for which the facility involved is situated) of so much of the facility as constituted an approved project or projects as the amount of the Federal participation bore to the cost of the construction or modernization of such project or projects.

"(2)(A) After the expiration of—

"(i) 180 days after the date of the sale, transfer, or change of use for which a notice is required by subsection (b), in the case of a facility which is sold or transferred or the use of which changes after the date of the enactment of this subsection, or

"(ii) thirty days after the date of the enactment of this subsection or if later 180 days after the date of the sale, transfer, or change of use for which a notice is required by subsection (b), in the case of a facility which was sold or transferred or the use of which changed before the date of the enactment of this subsection.

the amount which the United States is entitled to recover under paragraph (1) with respect to a facility shall be the amount prescribed by paragraph (1) plus interest, during the period described in subparagraph (B), at a rate (determined by the Secretary) based on the average of the bond equivalent of the weekly ninety-day Treasury bill auction rate:

"(B) The period referred to in subparagraph (A) is the period beginning—

"(i) in the case of a facility which was sold or transferred or the use of which changed before the date of the enactment of this subsection, thirty days after such date or if later 180 days after the date of the sale, transfer, or change of use for which a notice is required by subsection (b),

“(ii) in the case of a facility with respect to which notice is provided in accordance with subsection (b), upon the expiration of 180 days after the receipt of such notice, or

“(iii) in the case of a facility with respect to which such notice is not provided as prescribed by subsection (b), on the date of the sale, transfer, or change of use for which such notice was to be provided,

and ending on the date the amount the United States is entitled to under paragraph (1) is collected.

“(d)(1) The Secretary may waive the recovery rights of the United States under subsection (a)(1) with respect to a facility in any State if the Secretary determines, in accordance with regulations, that the entity to which the facility was sold or transferred—

“(A) has established an irrevocable trust—

“(i) in an amount equal to the greater of twice the cost of the remaining obligation of the facility under clause (2) of section 603(e) or the amount, determined under subsection (c), that the United States is entitled to recover, and

“(ii) which will only be used by the entity to provide the care required by clause (2) of section 603(e); and

“(B) will meet the obligation of the facility under clause (1) of section 603(e).

“(2) The Secretary may waive the recovery rights of the United States under subsection (a)(2) with respect to a facility in any State if the Secretary determines, in accordance with regulations, that there is good cause for waiving such rights with respect to such facility.

“(e) The right of recovery of the United States under subsection (a) shall not constitute a lien on any facility with respect to which funds have been paid under section 606.”

(b) Section 1622 of such Act is amended to read as follows:

“RECOVERY

“SEC. 1622. (a) If any facility with respect to which funds have been paid under this title shall, at any time within 20 years after the completion of construction or modernization—

“(1) be sold or transferred to any entity (A) which is not qualified to file an application under section 1621 or 1642 or (B) which is not approved as a transferee by the State Agency of the State in which such facility is located, or its successor, or

“(2) cease to be a public health center or a public or other nonprofit hospital, outpatient facility, facility for long-term care, or rehabilitation facility,

the United States shall be entitled to recover, whether from the transferor or the transferee (or, in the case of a facility which has ceased to be public or nonprofit, from the owners thereof) an amount determined under subsection (c).

“(b) The transferor of a facility which is sold or transferred as described in subsection (a)(1), or the owner of a facility the use of which is changed as described in subsection (a)(2), shall provide the Secretary written notice of such sale, transfer, or change not later than the expiration of 10 days from the date on which such sale, transfer, or change occurs.

“(c)(1) Except as provided in paragraph (2), the amount the United States shall be entitled to recover under subsection (a) is an amount bearing the same ratio to the then value (as determined by the

42 USC 291c.

42 USC 291f.
42 USC 300s-1a.

42 USC 300q-1,
300t-12.

agreement of the parties or in an action brought in the district court of the United States for the district for which the facility involved is situated) of so much of the facility as constituted an approved project or projects as the amount of the Federal participation bore to the cost of the construction or modernization of such project or projects.

“(2)(A) After the expiration of—

“(i) 180 days after the date of the sale, transfer, or change of use for which a notice is required by subsection (b) in the case of a facility which is sold or transferred or the use of which changes after the date of the enactment of this subsection, or

“(ii) thirty days after the date of enactment of this subsection or if later 180 days after the date of the sale, transfer, or change of use for which a notice is required by subsection (b), in the case of a facility which was sold or transferred or the use of which changed before the date of the enactment of this subsection,

the amount which the United States is entitled to recover under paragraph (1) with respect to a facility shall be the amount prescribed by paragraph (1) plus interest, during the period described in subparagraph (B), at a rate (determined by the Secretary) based on the average of the bond equivalent of the weekly 90-day Treasury bill auction rate.

“(B) The period referred to in subparagraph (A) is the period beginning—

“(i) in the case of a facility which was sold or transferred or the use of which changed before the date of the enactment of this subsection, thirty days after such date or if later 180 days after the date of the sale, transfer, or change of use for which a notice is required by subsection (b).

“(ii) in the case of a facility with respect to which notice is provided in accordance with subsection (b), upon the expiration of 180 days after the receipt of such notice, or

“(iii) in the case of a facility with respect to which such notice is not provided as prescribed by subsection (b), on the date of the sale, transfer, or changes of use for which such notice was to be provided,

and ending on the date the amount the United States is entitled to under paragraph (1) is collected.

“(d)(1) The Secretary may waive the recovery rights of the United States under subsection (a)(1) with respect to a facility in any State if the Secretary determines, in accordance with regulations, that the entity to which the facility was sold or transferred—

“(A) has established an irrevocable trust—

“(i) in an amount equal to the greater of twice the cost of the remaining obligation of the facility under clause (ii) of section 1621(b)(1)(K) or the amount, determined under subsection (c), that the United States is entitled to recover, and

“(ii) which will only be used by the entity to provide the care required by clause (ii) of section 1621(b)(1)(K); and

“(B) will meet the obligation of the facility under clause (i) of section 1621(b)(1)(K).

“(2) The Secretary may waive the recovery rights of the United States under subsection (a)(2) with respect to a facility in any State if the Secretary determines, in accordance with regulations, that there is good cause for waiving such rights with respect to such facility.

“(e) The right of recovery of the United States under subsection (a) shall not constitute a lien on any facility with respect to which funds have been paid under this title.”.

42 USC 291i
note.

(c) Not later than the expiration of the one-hundred-and-eighty-day period beginning on the date of the enactment of this section, the Secretary shall have in effect regulations and personnel to place in effect the amendments made by this section.

Subtitle D—Uncompensated Services Provided by Skilled Nursing Facilities and Intermedi- ate Care Facilities

STUDY

42 USC 291c,
300q-1.

SEC. 2391. (a) The Secretary of Health and Human Services shall conduct a study relating to compliance with sections 603(e)(2) and 1621(b)(1)(K)(ii) of the Public Health Service Act (as such sections were in effect on September 30, 1979) to determine whether the regulations implementing such sections should distinguish between hospitals and long-term care facilities assisted under titles VI and XVI of such Act. Not later than January 1, 1985, the Secretary shall transmit to the Congress a report of the results of the study.

42 USC 291,
300o.
Report.

(b) Subsection (a) shall take effect October 1, 1984.

TITLE IV—SMALL BUSINESS PROGRAMS

SBA DISASTER LOANS

15 USC 647.

SEC. 2401. Section 18(a) of the Small Business Act is amended by striking out “October 1, 1986” and by inserting in lieu thereof “October 1, 1987”.

TITLE V—VETERANS’ PROGRAMS

PART A—COST SAVINGS UNDER THE VETERANS’ ADMINISTRATION PENSION PROGRAM

EFFECTIVE DATE FOR AWARD OF PENSION FOR NON-SERVICE-CONNECTED DISABILITY OR DEATH

SEC. 2501. (a)(1) Subsection (b)(3) of section 3010 of title 38, United States Code, is amended—

(A) by inserting “(A)” after “(3)”;

(B) by inserting “described in subparagraph (B) of this paragraph” after “to a veteran”;

(C) by striking out “an application therefor is received” and inserting in lieu thereof “the veteran applies for a retroactive award”; and

(D) by adding at the end the following new subparagraph:
“(B) A veteran referred to in subparagraph (A) of this paragraph is a veteran who is permanently and totally disabled and who is prevented by a disability from applying for disability pension for a period of at least 30 days beginning on the date on which the veteran became permanently and totally disabled.”.

(2) Subsection (d) of such section is amended to read as follows:
“(d)(1) The effective date of an award of death compensation or dependency and indemnity compensation for which application is received within one year from the date of death shall be the first day of the month in which the death occurred.”

“(2) The effective date of an award of death pension for which application is received within 45 days from the date of death shall be the first day of the month in which the death occurred.”.

(b) The amendments made by subsection (a)(1) and the provisions of paragraph (2) of section 3010(d) of title 38, United States Code, as added by subsection (a)(2), shall take effect with respect to applications that are first received after September 30, 1984, for benefits under chapter 15 of title 38, United States Code.

38 USC 3010
note.

38 USC 501 *et*
seq.

PART B—ACTIONS TO INCREASE RECEIPTS AND REDUCE COSTS UNDER THE VETERANS' ADMINISTRATION HOME-LOAN GUARANTY PROGRAM

INCREASE IN FEE FOR HOME LOANS GUARANTEED BY THE VETERANS' ADMINISTRATION AND EXTENSION OF FEE TO VENDEE LOANS

SEC. 2511. (a) Section 1829 of title 38, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting “and from each person obtaining a loan from the Administrator to finance the purchase of real property from the Administrator,” after “under this chapter,”;

(B) by striking out “one-half of”; and

(C) by striking out “to the veteran” after “in the loan”;

(2) by striking out subsection (c); and

(3) by redesignating subsection (d) as subsection (c) and striking out “September 30, 1985” in such subsection and inserting in lieu thereof “September 30, 1987”.

(b) Section 1824(c) of such title is amended by striking out “and (2)” and inserting in lieu thereof “(2) amounts received by the Administrator as fees collected under section 1829 of this title, and (3)”.

(c)(1) The amendments made by subsection (a)(1) shall apply with respect to loans closed after the end of the 30-day period beginning on the date of the enactment of this Act.

38 USC 1829
note.

(2) The amendments made by subsections (a)(2) and (b) shall apply with respect to loans closed on or after the date of the enactment of this Act.

(3) The amendment made by subsection (a)(3) shall take effect on the date of the enactment of this Act.

ACTIONS TO REDUCE COSTS UNDER HOME-LOAN PROGRAM

SEC. 2512. (a) Section 1816 of title 38, United States Code, is amended—

(1) in subsection (a)—

(A) by designating the first sentence as paragraph (1), the second and third sentences as paragraph (2), and the fourth sentence as paragraph (3);

(B) by striking out “Administrator who shall thereupon” in paragraph (1) (as so designated) and inserting in lieu

thereof "Administrator of such default. Upon receipt of such notice, the Administrator may, subject to subsection (c) of this section,"; and

(C) by striking out "guaranteed, and shall" in paragraph (1) (as so designated) and inserting in lieu thereof "guaranteed. If the Administrator makes such a payment, the Administrator shall"; and

(2) by adding at the end the following new subsections:

"(c)(1) For purposes of this subsection—

"(A) The term 'defaulted loan' means a loan that is guaranteed under this chapter, that was made for a purpose described in section 1810(a) of this title, and that is in default.

"(B) The term 'liquidation sale' means a judicial sale or other disposition of real property to liquidate a defaulted loan that is secured by such property.

"(C) The term 'net value', with respect to real property, means the amount equal to (i) the fair market value of the property, minus (ii) the total of the amounts which the Administrator estimates the Administrator would incur (if the Administrator were to acquire and dispose of the property) for property taxes, assessments, liens, property maintenance, property improvement, administration, resale, and other costs resulting from the acquisition and disposition of the property.

"(D) The term 'total indebtedness', with respect to a defaulted loan, means the amount equal to the total of (i) the unpaid principal of the loan, (ii) the interest on the loan as of the date of the liquidation sale of the property securing the loan (or such earlier date following the expiration of a reasonable period of time for such sale to occur as the Administrator may specify pursuant to regulations prescribed by the Administrator to implement this subsection), and (iii) such reasonably necessary and proper charges (as specified in the loan instrument and permitted by such regulations) associated with liquidation of the loan, including advances for taxes, insurance, and maintenance or repair of the real property securing the loan.

"(2)(A) Except as provided in subparagraph (B) of this paragraph, this subsection applies to any case in which the holder of a defaulted loan undertakes to liquidate the loan by means of a liquidation sale.

"(B) This subsection does not apply to a case in which the Administrator proceeds under subsection (a)(2) of this section.

"(3)(A) Before carrying out a liquidation sale of real property securing a defaulted loan, the holder of the loan shall notify the Administrator of the proposed sale. Such notice shall be provided in accordance with regulations prescribed by the Administrator to implement this subsection.

"(B) After receiving a notice described in subparagraph (A) of this paragraph, the Administrator shall determine the net value of the property securing the loan and the amount of the total indebtedness under the loan and shall notify the holder of the loan of the determination of such net value.

"(4) A case referred to in paragraphs (5), (6), and (7) of this subsection as being described in this paragraph is a case in which the net value of the property securing a defaulted loan exceeds the amount of the total indebtedness under the loan minus the amount guaranteed under this chapter.

"(5) In a case described in paragraph (4) of this subsection, if the holder of the defaulted loan acquires the property securing the loan

at a liquidation sale for an amount that does not exceed the lesser of the net value of the property or the total indebtedness under the loan—

“(A) the holder shall have the option to convey the property to the United States in return for payment by the Administrator of an amount equal to the lesser of such net value or total indebtedness; and

“(B) the liability of the United States under the loan guaranty under this chapter shall be limited to the amount of such total indebtedness minus the net value of the property.

“(6) In a case described in paragraph (4) of this subsection, if the holder of the defaulted loan either does not acquire the property securing the loan at the liquidation sale or acquires the property at such sale for an amount that exceeds the lesser of the net value of the property or the total indebtedness under the loan—

“(A) the Administrator may not accept conveyance of the property except as provided in paragraph (7) of this subsection; and

“(B) the liability of the United States under the loan guaranty under this chapter shall be limited to the amount equal to (i) the amount of such total indebtedness, minus (ii) the amount realized by the holder incident to the sale or the net value of the property, whichever is greater.

“(7) In a case described in paragraph (4) of this subsection, if the holder of the defaulted loan acquires the property securing the loan at the liquidation sale for an amount that exceeds the lesser of the total indebtedness under the loan or the net value and that was the minimum amount for which, under applicable State law, the property was permitted to be sold at the liquidation sale—

“(A) the Administrator may accept conveyance of the property to the United States for a price not exceeding the lesser of the amount for which the holder acquired the property or the total indebtedness under the loan; and

“(B) the liability of the United States under the loan guaranty under this chapter is as provided in paragraph (6)(B) of this subsection.

“(8) If the net value of the property securing a defaulted loan is not greater than the amount of the total indebtedness under the loan minus the amount guaranteed under this chapter—

“(A) the Administrator may not accept conveyance of the property from the holder of the loan; and

“(B) the liability of the United States under the loan guaranty shall be limited to the amount of the total indebtedness under the loan minus the amount realized by the holder of the loan incident to the sale at a liquidation sale of the property.

“(9) In no event may the liability of the United States under a guaranteed loan exceed the amount guaranteed with respect to that loan under section 1803(b) of this title. All determinations under this subsection of net value and total indebtedness shall be made by the Administrator.

38 USC 1803.

“(d)(1) Of the number of purchases made during any fiscal year of real property acquired by the Administrator as the result of a default on a loan guaranteed under this chapter for a purpose described in section 1810(a) of this title, not more than 75 percent, nor less than 60 percent, of such purchases may be financed by a loan made by the Administrator. The maximum percentage stated in the preceding sentence may be increased to 80 percent for any

fiscal year if the Administrator determines that such an increase is necessary in order to maintain the effective functioning of the loan guaranty program.

“(2) In carrying out paragraph (1) of this subsection, the Administrator, to the maximum extent consistent with that paragraph and with maintaining the effective functioning of the loan guaranty program under this chapter, shall minimize the number of loans made by the Administrator to finance purchases of real property from the Administrator described in that paragraph.

“(3) Notes securing such loans may be sold with recourse only to the extent that the Administrator determines that selling such notes with recourse is necessary in order to maintain the effective functioning of the loan guaranty program under this chapter.”.

(b)(1) Subchapter III of chapter 37 of title 38, United States Code, is amended by adding at the end the following new section:

38 USC 1830.

“§1830. Use of attorneys in court

“(a) Within 180 days after the date of the enactment of this section, the Administrator shall take appropriate steps to authorize attorneys employed by the Veterans’ Administration to exercise the right of the United States to bring suit in court to foreclose a loan made or acquired by the Administrator under this chapter and to recover possession of any property acquired by the Administrator under this chapter. With the concurrence of the Attorney General of the United States, the Administrator may acquire the services of attorneys, other than those who are employees of the Veterans’ Administration, to exercise that right. The activities of attorneys in bringing suit under this section shall be subject to the direction and supervision of the Attorney General and to such terms and conditions as the Attorney General may prescribe.

“(b) Nothing in this section derogates from the authority of the Attorney General under sections 516 and 519 of title 28 to direct and supervise all litigation to which the United States or an agency or officer of the United States is a party.”

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1829 the following new item:

“1830. Use of attorneys in court.”.

38 USC 1816
note.

(c)(1) The amendments made by subsection (a) shall take effect on October 1, 1984.

38 USC 1816
note.

(2) Subsections (c) and (d) of section 1816 of title 38, United States Code (as added by subsection (a) of this section), shall cease to have effect on October 1, 1987.

38 USC 1830
note.

(3) The amendments made by subsection (b) shall take effect on the date of the enactment of this Act.

Report.

(d) Not later than 180 days after the date of the enactment of this Act, the Administrator of Veterans’ Affairs and the Attorney General of the United States shall submit to the appropriate committees of the Congress a joint report that—

Supra.

(1) describes and explains the actions taken by the Administrator and the Attorney General to implement section 1830 of title 38, United States Code, as added by subsection (b); and

(2) sets forth their views with respect to the advisability of actions, pursuant to the second sentence of subsection (a) of such section, to employ private attorneys to bring actions described in that section.

(e)(1) Not later than December 1, 1986, the Administrator of Veterans' Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the administration and functioning of the loan guaranty program conducted by the Veterans' Administration under chapter 37 of title 38, United States Code, and the status of the Veterans' Administration Loan Guaranty Revolving Fund established under section 1824(a) of such title.

Report.
38 USC 1824
note.

38 USC 1801 *et*
seq.
38 USC 1824.

(2) The report shall include—

(A) a description of the actions taken by the Administrator during the period beginning on June 1, 1984, and ending on September 30, 1986, and the actions planned as of September 30, 1986 (together with a schedule for completing any actions planned), to maintain the effective functioning of that program and to ensure the solvency of the Fund, including actions with respect to the acquisition of properties following liquidation sales, the making of loans (known as "vendee loans") to finance the sale of properties so acquired, the quality of property appraisals by the Veterans' Administration, and assessments of home-buyer credit worthiness;

(B) the Administrator's evaluation of the effects of the amendments made by subsection (a) (relating to acquisition of properties after liquidation sales and to vendee loans), including the Administrator's evaluation of the effects of subsection (d) of section 1816 of title 38, United States Code (as added by subsection (a)(2)) (relating to vendee loans), on the operation and effective functioning of such program; and

Ante, p. 1118

(C) the recommendations of the Administrator regarding any need for administrative or legislative action with respect to such program, including the Administrator's recommendations as to whether or not subsection (c)(2) (providing for the termination of provisions relating to the acquisition of properties and to vendee loans) should be amended.

TITLE VI—OASDI, SSI, AFDC, AND OTHER PROGRAMS

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Subtitle A—Improvements in OASDI Program**SOCIAL SECURITY COVERAGE FOR FEDERAL EMPLOYEES; TREATMENT OF LEGISLATIVE BRANCH EMPLOYEES NOT COVERED BY CIVIL SERVICE RETIREMENT SYSTEM**

SEC. 2601. (a)(1) Section 210(a)(5)(B) of the Social Security Act is amended to read as follows:

“(B) is performed by an individual who—

“(i) has been continuously performing service described in subparagraph (A) since December 31, 1983, and for purposes of this clause—

“(I) if an individual performing service described in subparagraph (A) returns to the performance of such service after being separated therefrom for a period of less than 366 consecutive days, regardless of whether the period began before, on, or after December 31, 1983, then such service shall be considered continuous,

“(II) if an individual performing service described in subparagraph (A) returns to the performance of such service after being detailed or transferred to an international organization as described under section 3343 of subchapter III of chapter 33 of title 5, United States Code, or under section 3581 of chapter 35 of such title, then the service performed for that organization shall be considered service described in subparagraph (A),

“(III) if an individual performing service described in subparagraph (A) is reemployed or reinstated after being separated from such service for the purpose of accepting employment with the American Institute of Taiwan as provided under section 3310 of chapter 48 of title 22, United States Code, then the service performed for that Institute shall be considered service described in subparagraph (A), and

“(IV) if an individual performing service described in subparagraph (A) returns to the performance of such service after performing service as a member of a uniformed service (including, for purposes of this clause, service in the National Guard and temporary service in the Coast Guard Reserve) and after exercising restoration or reemployment rights as provided under chapter 43 of title 38, United States Code, then the service so performed as a member of a uniformed service shall be considered service described in subparagraph (A); or

38 USC 2021 *et seq.*

“(ii) is receiving an annuity from the Civil Service Retirement and Disability Fund, or benefits (for service as an employee) under another retirement system established by a law of the United States for employees of the Federal Government (other than for members of the uniformed services);”.

(2) Section 210(a)(5) of such Act is further amended (in the matter which follows “except that this paragraph shall not apply with respect to—”)

42 USC 410.

(A) by striking out “(i)”, “(ii)”, “(iii)”, “(iv)”, and “(v)” and inserting in lieu thereof “(C)”, “(D)”, “(E)”, “(F)”, and “(G)”, respectively;

(B) by striking out “(I)”, “(II)”, and “(III)” and inserting in lieu thereof “(i)”, “(ii)”, and “(iii)”, respectively; and

(C) by striking out subparagraph (G) (as redesignated by subparagraph (A) of this paragraph) and inserting in lieu thereof the following:

“(G) Any other service in the legislative branch of the Federal Government if such service—

5 USC 8331.

“(i) is performed by an individual who was not subject to subchapter III of chapter 83 of title 5, United States Code, or to another retirement system established by a law of the United States for employees of the Federal Government (other than for members of the uniformed services), on December 31, 1983, or

“(ii) is performed by an individual who has, at any time after December 31, 1983, received a lump-sum payment under section 8342(a) of title 5, United States Code, or under the corresponding provision of the law establishing the other retirement system described in clause (i), or

“(iii) is performed by an individual after such individual has otherwise ceased to be subject to subchapter III of chapter 83 of title 5, United States Code (without having an application pending for coverage under such subchapter), while performing service in the legislative branch (determined without regard to the provisions of subparagraph (B) relating to continuity of employment), for any period of time after December 31, 1983, and for purposes of this subparagraph (G) an individual is subject to such subchapter III or to any such other retirement system at any time only if (a) such individual's pay is subject to deductions, contributions, or similar payments (concurrent with the service being performed at that time) under section 8334(a) of such title 5 or the corresponding provision of the law establishing such other system, or (in a case to which section 8332(k)(1) of such title applies) such individual is making payments of amounts equivalent to such deductions, contributions, or similar payments while on leave without pay, or (b) such individual is receiving an annuity from the Civil Service Retirement and Disability Fund, or is receiving benefits (for service as an employee) under another retirement system established by a law of the United States for employees of the Federal Government (other than for members of the uniformed services);”.

26 USC 3121.

(b)(1) Section 3121(b)(5)(B) of the Internal Revenue Code of 1954 is amended to read as follows:

“(B) is performed by an individual who—

“(i) has been continuously performing service described in subparagraph (A) since December 31, 1983, and for purposes of this clause—

“(I) if an individual performing service described in subparagraph (A) returns to the performance of such service after being separated therefrom for a period of less than 366 consecutive days, regardless of whether the period began before, on, or after December 31, 1983, then such service shall be considered continuous,

“(II) if an individual performing service described in subparagraph (A) returns to the performance of such service after being detailed or transferred to an international organization as described under section 3343 of subchapter III of chapter 33 of title 5, United States Code, or under

section 3581 of chapter 35 of such title, then the service performed for that organization shall be considered service described in subparagraph (A),

“(III) if an individual performing service described in subparagraph (A) is reemployed or reinstated after being separated from such service for the purpose of accepting employment with the American Institute in Taiwan as provided under section 3310 of chapter 48 of title 22, United States Code, then the service performed for that Institute shall be considered service described in subparagraph (A), and

“(IV) if an individual performing service described in subparagraph (A) returns to the performance of such service after performing service as a member of a uniformed service (including, for purposes of this clause, service in the National Guard and temporary service in the Coast Guard Reserve) and after exercising restoration or reemployment rights as provided under chapter 43 of title 38, United States Code, then the service so performed as a member of a uniformed service shall be considered service described in subparagraph (A); or

38 USC 2021 *et seq.*

“(ii) is receiving an annuity from the Civil Service Retirement and Disability Fund, or benefits (for service as an employee) under another retirement system established by a law of the United States for employees of the Federal Government (other than for members of the uniformed service);”.

(2) Section 3121(b)(5) of such Code is further amended (in the matter which follows “except that this paragraph shall not apply with respect to—”)

26 USC 3121.

(A) by striking out “(i)”, “(ii)”, “(iii)”, “(iv)”, and “(v)” and inserting in lieu thereof “(C)”, “(D)”, “(E)”, “(F)”, and “(G)”, respectively;

(B) by striking out “(I)”, “(II)”, and “(III)” and inserting in lieu thereof “(i)”, “(ii)”, and “(iii)”, respectively; and

(C) by striking out subparagraph (G) (as redesignated by subparagraph (A) of this paragraph) and inserting in lieu thereof the following:

“(G) any other service in the legislative branch of the Federal Government if such service—

“(i) is performed by an individual who was not subject to subchapter III of chapter 83 of title 5, United States Code, or to another retirement system established by a law of the United States for employees of the Federal Government (other than for members of the uniformed services), on December 31, 1983, or

5 USC 8331.

“(ii) is performed by an individual who has, at any time after December 31, 1983, received a lump-sum payment under section 8342(a) of title 5, United States Code, or under the corresponding provision of the law establishing the other retirement system described in clause (i), or

“(iii) is performed by an individual after such individual has otherwise ceased to be subject to subchapter III

of chapter 83 of title 5, United States Code (without having an application pending for coverage under such subchapter), while performing service in the legislative branch (determined without regard to the provisions of subparagraph (B) relating to continuity of employment), for any period of time after December 31, 1983, and for purposes of this subparagraph (G) an individual is subject to such subchapter III or to any such other retirement system at any time only if (a) such individual's pay is subject to deductions, contributions, or similar payments (concurrent with the service being performed at that time) under section 8334(a) of such title 5 or the corresponding provision of the law establishing such other system, or (in a case to which section 8332(k)(1) of such title applies) such individual is making payments of amounts equivalent to such deductions, contributions, or similar payments while on leave without pay, or (b) such individual is receiving an annuity from the Civil Service Retirement and Disability Fund, or is receiving benefits (for service as an employee) under another retirement system established by a law of the United States for employees of the Federal Government (other than for members of the uniformed services);”.

42 USC 410 note
Ante, pp. 1123,
1125.

5 USC 8331.

(c) For purposes of section 210(a)(5)(G) of the Social Security Act and section 3121(b)(5)(G) of the Internal Revenue Code of 1954, an individual shall not be considered to be subject to subchapter III of chapter 83 of title 5, United States Code, or to another retirement system established by a law of the United States for employees of the Federal Government (other than for members of the uniformed services), if he is contributing a reduced amount by reason of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983.

97 Stat. 1106.

42 USC 410 note.

(d)(1) Any individual who—

(A) was subject to subchapter III of chapter 83 of title 5, United States Code, or to another retirement system established by a law of the United States for employees of the Federal Government (other than for members of the uniformed services), on December 31, 1983 (as determined for purposes of section 210(a)(5)(G) of the Social Security Act), and

Ante, p. 1123.

(B)(i) received a lump-sum payment under section 8342(a) of such title 5, or under the corresponding provision of the law establishing the other retirement system described in subparagraph (A), after December 31, 1983, and prior to June 15, 1984, or received such a payment on or after June 15, 1984, pursuant to an application which was filed in accordance with such section 8342(a) or the corresponding provision of the law establishing such other retirement system prior to that date, or

(ii) otherwise ceased to be subject to subchapter III of chapter 83 of title 5, United States Code, for a period after December 31, 1983, to which section 210(a)(5)(g)(iii) of the Social Security Act applies,

shall, if such individual again becomes subject to subchapter III of chapter 83 of title 5 (or effectively applies for coverage under such subchapter) after the date on which he last ceased to be subject to such subchapter but prior to, or within 30 days after, the date of the enactment of this Act, requalify for the exemption from social security coverage and taxes under section 210(a)(5) of the Social

Security Act and section 3121(b)(5) of the Internal Revenue Code of 1954 as if the cessation of coverage under title 5 had not occurred. 42 USC 410.
26 USC 3121.

(2) An individual meeting the requirements of subparagraphs (A) and (B) of paragraph (1) who is not in the employ of the United States or an instrumentality thereof on the date of the enactment of this Act may requalify for such exemptions in the same manner as under paragraph (1) if such individual again becomes subject to subchapter III of chapter 83 of title 5 (or effectively applies for coverage under such subchapter) within 30 days after the date on which he first returns to service in the legislative branch after such date of enactment, if such date (on which he returns to service) is within 365 days after he was last in the employ of the United States or an instrumentality thereof. 5 USC 8331.

(3) If an individual meeting the requirements of subparagraphs (A) and (B) of paragraph (1) does not again become subject to subchapter III of chapter 83 of title 5 (or effectively apply for coverage under such subchapter) prior to the date of the enactment of this Act or within the relevant 30-day period as provided in paragraph (1) or (2), social security coverage and taxes by reason of section 210(a)(5)(G) of the Social Security Act and section 3121(b)(5)(G) of the Internal Revenue Code of 1954 shall, with respect to such individual's service in the legislative branch of the Federal Government, become effective with the first month beginning after such 30-day period. *Ante*, p. 1123.
Ante, p. 1125.

(4) The provisions of paragraphs (1) and (2) shall apply only for purposes of reestablishing an exemption from social security coverage and taxes, and do not affect the amount of service to be credited to an individual for purposes of title 5, United States Code.

(e)(1) For purposes of section 210(a)(5) of the Social Security Act (as in effect in January 1983 and as in effect on and after January 1, 1984) and section 3121(b)(5) of the Internal Revenue Code of 1954 (as so in effect), service performed in the employ of a nonprofit organization described in section 501(c)(3) of the Internal Revenue Code of 1954 by an employee who is required by law to be subject to subchapter III of chapter 83 of title 5, United States Code, with respect to such service, shall be considered to be service performed in the employ of an instrumentality of the United States. 42 USC 410 note
26 USC 501.

(2) For purposes of section 203 of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983, service described in paragraph (1) which is also "employment" for purposes of title II of the Social Security Act, shall be considered to be "covered service". 97 Stat. 1107.
5 USC 8331 note.
42 USC 401

(f) Except as provided in subsection (d), the amendments made by subsections (a) and (b) (and the provisions of subsection (e)) shall be effective with respect to service performed after December 31, 1983. Effective date
42 USC 410 note.

PROCEDURES TO PREVENT OVERPAYMENTS DUE TO FAILURE TO REPORT EARNINGS

Sec. 2602. (a) Section 203(h) of the Social Security Act is amended by adding at the end thereof the following new paragraph: 42 USC 403.

"(4) The Secretary shall develop and implement procedures in accordance with this subsection to avoid paying more than the correct amount of benefits to any individual under this title as a result of such individual's failure to file a correct report or estimate of earnings or wages. Such procedures may include identifying categories of individuals who are likely to be paid more than the

correct amount of benefits and requesting that they estimate their earnings or wages more frequently than other persons subject to deductions under this section on account of earnings or wages.”.

Effective date.
42 USC 403 note.

(b) The amendment made by subsection (a) shall be effective upon the date of the enactment of this Act.

SPECIAL SOCIAL SECURITY TREATMENT FOR CHURCH EMPLOYEES

42 USC 410.

SEC. 2603. (a)(1) Section 210(a)(8) of the Social Security Act is amended by inserting “(A)” after “(8)”, by striking out “this paragraph” and inserting in lieu thereof “this subparagraph”, and by adding at the end thereof the following new subparagraph:

Infra.

“(B) Service performed in the employ of a church or qualified church-controlled organization if such church or organization has in effect an election under section 3121(w) of the Internal Revenue Code of 1954, other than service in an unrelated trade or business (within the meaning of section 513(a) of such Code);”.

26 USC 3121.

(2) Section 3121(b)(8) of the Internal Revenue Code of 1954 is amended by inserting “(A)” after “(8)”, by striking out “this paragraph” and inserting in lieu thereof “this subparagraph”, and by adding at the end thereof the following new subparagraph:

“(B) service performed in the employ of a church or qualified church-controlled organization if such church or organization has in effect an election under subsection (w), other than service in an unrelated trade or business (within the meaning of section 513(a));”.

(b) Section 3121 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new subsection:

“(w) EXEMPTION OF CHURCHES AND QUALIFIED CHURCH-CONTROLLED ORGANIZATIONS.—

42 USC 401.
26 USC 3101 *et seq.*

“(1) GENERAL RULE.—Any church or qualified church-controlled organization (as defined in paragraph (3)) may make an election within the time period described in paragraph (2), in accordance with such procedures as the Secretary determines to be appropriate, that services performed in the employ of such church or organization shall be excluded from employment for purposes of title II of the Social Security Act and chapter 21 of this Code. An election may be made under this subsection only if the church or qualified church-controlled organization states that such church or organization is opposed for religious reasons to the payment of the tax imposed under section 3111.

“(2) TIMING AND DURATION OF ELECTION.—An election under this subsection must be made prior to the first date, more than 90 days after the date of the enactment of this subsection, on which a quarterly employment tax return for the tax imposed under section 3111 is due, or would be due but for the election, from such church or organization. An election under this subsection shall apply to current and future employees, and shall apply to service performed after December 31, 1983. The election may not be revoked by the church or organization, but shall be permanently revoked by the Secretary if such church or organization fails to furnish the information required under section 6051 to the Secretary for a period of 2 years or more with respect to remuneration paid for such services by such church or organization, and, upon request by the Secretary, fails to furnish all such previously unfurnished information for the

period covered by the election. Such revocation shall apply retroactively to the beginning of the 2-year period for which the information was not furnished.

“(3) DEFINITIONS—

“(A) For purposes of this subsection, the term ‘church’ means a church, a convention or association of churches, or an elementary or secondary school which is controlled, operated, or principally supported by a church or by a convention or association of churches.

“(B) For purposes of this subsection, the term ‘qualified church-controlled organization’ means any church-controlled tax-exempt organization described in section 501(c)(3), other than an organization which—

“(i) offers goods, services, or facilities for sale, other than on an incidental basis, to the general public, other than goods, services, or facilities which are sold at a nominal charge which is substantially less than the cost of providing such goods, services, or facilities; and

“(ii) normally receives more than 25 percent of its support from either (I) governmental sources, or (II) receipts from admissions, sales of merchandise, performance of services, or furnishing of facilities, in activities which are not unrelated trades or businesses, or both.”.

(c)(1) Section 211(c)(2) of the Social Security Act is amended— 42 USC 411.

(A) by striking out “and” at the end of subparagraph (E);

(B) by striking out the semicolon at the end of subparagraph (F) and inserting in lieu thereof “, and”; and

(C) by adding at the end thereof the following new subparagraph:

“(G) service described in section 210(a)(8)(B);”.

Ante, p. 1128.

(2) Section 1402(c)(2) of the Internal Revenue Code of 1954 is amended— 26 USC 1402.

(A) by striking out “and” at the end of subparagraph (E);

(B) by striking out the semicolon at the end of subparagraph (F) and inserting in lieu thereof “, and”; and

(C) by adding at the end thereof the following new subparagraph:

“(G) service described in section 3121(b)(8)(B);”.

(d)(1) Section 211(a) of the Social Security Act is amended— 42 USC 411.

(A) by striking out “and” at the end of paragraph (11);

(B) by striking out the period at the end of paragraph (12) and inserting in lieu thereof “, and”; and

(C) by inserting after paragraph (12) the following new paragraph:

“(13) With respect to remuneration for services which are treated as services in a trade or business under subsection (c)(2)(G)—

“(A) no deduction for trade or business expenses provided under the Internal Revenue Code of 1954 (other than the deduction under paragraph (11) of this subsection) shall apply;

26 USC 1 *et seq.*

“(B) the provisions of subsection (b)(2) shall not apply; and

“(C) if the amount of such remuneration from an employer for the taxable year is less than \$100, such remuneration from that employer shall not be included in self-employment income.”.

26 USC 1402.

(2) Section 1402(a) of the Internal Revenue Code of 1954 is amended—

(A) by striking out “and” at the end of paragraph (12);

(B) by striking out the period at the end of paragraph (13) and inserting in lieu thereof “; and”; and

(C) by inserting after paragraph (13) the following new paragraph:

“(14) with respect to remuneration for services which are treated as services in a trade or business under subsection (c)(2)(G)—

“(A) no deduction for trade or business expenses provided under this Code (other than the deduction under paragraph (12)) shall apply;

“(B) the provisions of subsection (b)(2) shall not apply; and

“(C) if the amount of such remuneration from an employer for the taxable year is less than \$100, such remuneration from that employer shall not be included in self-employment income.”.

Effective date.
42 USC 410 note.

(e) The amendments made by this section shall apply to service performed after December 31, 1983.

26 USC 3121
note.

Ante, p. 1128.

(f) In any case where a church or qualified church-controlled organization makes an election under section 3121(w) of the Internal Revenue Code of 1954, the Secretary of the Treasury shall refund (without interest) to such church or organization any taxes paid under sections 3101 and 3111 of such Code with respect to service performed after December 31, 1983, which is covered under such election. The refund shall be conditional upon the church or organization agreeing to pay to each employee (or former employee) the portion of the refund attributable to the tax imposed on such employee (or former employee) under section 3101, and such employee (or former employee) may not receive any other refund payment of such taxes.

Subtitle B—Improvements in SSI and AFDC Programs

PART 1—IMPROVEMENTS IN SSI PROGRAM

INCREASE IN DOLLAR LIMITATIONS UNDER ASSETS TEST

42 USC 1382.

SEC. 2611. (a) Section 1611(a)(1)(B) of the Social Security Act is amended—

(1) by striking out “\$2,250” and inserting in lieu thereof “the applicable amount determined under paragraph (3)(A)”; and

(2) by striking out “\$1,500” and inserting in lieu thereof “the applicable amount determined under paragraph (3)(B)”.

(b) Section 1611(a)(2)(B) of such Act is amended by striking out “\$2,250” and inserting in lieu thereof “the applicable amount determined under paragraph (3)(A)”.

(c) Section 1611(a) of such Act is further amended by adding at the end thereof the following new paragraph:

“(3)(A) The dollar amount referred to in clause (i) of paragraph (1)(B), and in paragraph (2)(B), shall be \$2,250 prior to January 1, 1985, and shall be increased to \$2,400 on January 1, 1985, to \$2,550 on January 1, 1986, to \$2,700 on January 1, 1987, to \$2,850 on January 1, 1988, and to \$3,000 on January 1, 1989.

“(B) The dollar amount referred to in clause (ii) of paragraph (1)(B), shall be \$1,500 prior to January 1, 1985, and shall be increased to \$1,600 on January 1, 1985, to \$1,700 on January 1, 1986, to \$1,800 on January 1, 1987, to \$1,900 on January 1, 1988, and to \$2,000 on January 1, 1989.”

(d) Section 1621(b)(2)(B) of such Act is amended—

42 USC 1382j.

(1) by striking out “\$1,500” and inserting in lieu thereof “the applicable amount determined under section 1611(a)(3)(B)”;

Ante, p. 1130.

(2) by striking out “\$2,250” and inserting in lieu thereof “the applicable amount determined under section 1611(a)(3)(A)”.

LIMITATION OF RECOUPMENT RATE IN CASE OF OVERPAYMENTS

SEC. 2612. (a) Section 1631(b)(1) of the Social Security Act is amended—

42 USC 1383.

(1) by inserting “(A)” after “The Secretary” in the second sentence; and

(2) by striking out the period at the end of the second sentence and inserting in lieu thereof the following: “, and (B) shall in any event make the adjustment or recovery (in the case of payment of more than the correct amount of benefits), in the case of an individual or eligible spouse receiving benefit payments under this title (including supplementary payments of the type described in section 1616(a) and payments pursuant to an agreement entered into under section 212(a) of Public Law 93-66), in amounts which in the aggregate do not exceed (for any month) the lesser of (i) the amount of his or their benefit under this title for that month or (ii) an amount equal to 10 percent of his or their income for that month (including such benefit but excluding any other income excluded pursuant to section 1612(b)), unless fraud, willful misrepresentation, or concealment of material information was involved on the part of the individual or spouse in connection with the overpayment, or unless the individual requests that such adjustment or recovery be made at a higher or lower rate and the Secretary determines that adjustment or recovery at such rate is justified and appropriate. The availability (in the case of an individual who has been paid more than the correct amount of benefits) of procedures for adjustment or recovery at a limited rate under clause (B) of the preceding sentence shall not, in and of itself, prevent or restrict the provision (in such case) of more substantial relief under clause (A) of such sentence.”

42 USC 1382e.

87 Stat. 155.

42 USC 1382a.

(b) If an adjustment referred to in section 1631(b)(1) of the Social Security Act is in effect with respect to an individual or eligible spouse on the effective date of this subsection, and the amount of such adjustment for a month is greater than the amount described in section 1631(b)(1)(B)(ii) of such Act, as added by subsection (a), the Secretary shall notify the individual whose benefits are being adjusted, in writing, of his or her right to have the adjustment reduced to the amount described in such section 1631(b)(1)(B)(ii).

42 USC 1383 note.

TREATMENT OF OVERPAYMENTS WHEN RECIPIENT'S COUNTABLE ASSETS EXCEED LIMITS IN CERTAIN CASES

SEC. 2613. Section 1631(b) of the Social Security Act is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph:

42 USC 1682. “(3) If any overpayment with respect to an individual (or an individual and his or her spouse) is attributable solely to the ownership or possession by such individual (and spouse if any) of resources having a value which exceeds the applicable dollar figure specified in paragraph (1)(B) or (2)(B) of section 1611(a) by \$50 or less, such individual (and spouse if any) shall be deemed for purposes of the second sentence of paragraph (1) to have been without fault in connection with the overpayment, and no adjustment or recovery shall be made under the first sentence of such paragraph, unless the Secretary finds that the failure of such individual (and spouse if any) to report such value correctly and in a timely manner was knowing and willful.”.

EXCLUSION OF UNDERPAYMENTS FROM RESOURCES

42 USC 1682b. SEC. 2614. Section 1613(a) of the Social Security Act is amended—

(1) by striking out “and” after the semicolon at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof “; and”; and

(3) by inserting after paragraph (6) the following new paragraph:

42 USC 401. “(7) any amount received from the United States which is attributable to underpayments of benefits due for one or more prior months, under this title or title II, to such individual (or spouse) or to any other person whose income is deemed to be included in such individual’s (or spouse’s) income for purposes of this title; but the application of this paragraph in the case of any such individual (and eligible spouse if any), with respect to any amount so received from the United States, shall be limited to the first 6 months following the month in which such amount is received, and written notice of this limitation shall be given to the recipient concurrently with the payment of such amount.”.

ADJUSTMENTS IN SSI BENEFITS ON ACCOUNT OF RETROACTIVE BENEFITS UNDER TITLE II

42 USC 1320a-6. SEC. 2615. (a) Section 1127 of the Social Security Act is amended to read as follows:

“ADJUSTMENTS IN SSI BENEFITS ON ACCOUNT OF RETROACTIVE BENEFITS UNDER TITLE II

“SEC. 1127. (a) Notwithstanding any other provision of this Act, in any case where an individual—

42 USC 401. “(1) is entitled to benefits under title II that were not paid in the months in which they were regularly due; and

“(2) is an individual or eligible spouse eligible for supplemental security income benefits for one or more months in which the benefits referred to in clause (1) were regularly due, then any benefits under title II that were regularly due in such month or months, or supplemental security income benefits for such month or months, which are due but have not been paid to such individual or eligible spouse shall be reduced by an amount equal to

so much of the supplemental security income benefits, whether or not paid retroactively, as would not have been paid or would not be paid with respect to such individual or spouse if he had received such benefits under title II in the month or months in which they were regularly due. 42 USC 401.

“(b) For purposes of this section, the term ‘supplemental security income benefits’ means benefits paid or payable by the Secretary under title XVI, including State supplementary payments under an agreement pursuant to section 1616(a) or an administration agreement under section 212(b) of Public Law 93-66. 42 USC 1381.
42 USC 1382e.
87 Stat. 155.

“(c) From the amount of the reduction made under subsection (a), the Secretary shall reimburse the State on behalf of which supplementary payments were made for the amount (if any) by which such State’s expenditures on account of such supplementary payments for the month or months involved exceeded the expenditures which the State would have made (for such month or months) if the individual had received the benefits under title II at the times they were regularly due. An amount equal to the portion of such reduction remaining after reimbursement of the State under the preceding sentence shall be covered into the general fund of the Treasury.”.

(b) The amendment made by this section shall apply for purposes of reducing retroactive benefits under title II of the Social Security Act or retroactive supplemental security income benefits payable beginning with the seventh month following the month in which this Act is enacted; except that in the case of retroactive title II benefits other than those which result from a determination of entitlement following an application for benefits under title II or from a reinstatement of benefits under title II following a period of suspension or termination of such benefits, it shall apply when the Secretary of Health and Human Services determines that it is administratively feasible. Effective date.
42 USC 1320a-6
note.

EXCLUSION FROM INCOME OF CERTAIN ALASKA BONUS PAYMENTS

SEC. 2616. (a) Section 1612(b)(2)(B) of the Social Security Act is amended to read as follows: 42 USC 1382a.

“(B) monthly (or other periodic) payments received by any individual, under a program established prior to July 1, 1973 (or any program established prior to such date but subsequently amended so as to conform to State or Federal constitutional standards), if (i) such payments are made by the State of which the individual receiving such payments is a resident, (ii) eligibility of any individual for such payments is not based on need and is based solely on attainment of age 65 or any other age set by the State and residency in such State by such individual, and (iii) on or before September 30, 1985, such individual (I) first becomes an eligible individual or an eligible spouse under this title, and (II) satisfies the twenty-five-year residency requirement of such program as such program was in effect prior to January 1, 1983.”.

(b) The amendment made by subsection (a) shall become effective on the date of the enactment of this Act. Effective date.
42 USC 1382a
note.

PART 2—IMPROVEMENTS IN AFDC PROGRAM**GROSS INCOME LIMITATION**

42 USC 602.

SEC. 2621. Section 402(a)(18) of the Social Security Act is amended by striking out “150 percent of the State’s standard of need” and inserting in lieu thereof “185 percent of the State’s standard of need”.

WORK EXPENSE DEDUCTION

SEC. 2622. Section 402(a)(8)(A)(ii) of the Social Security Act is amended by striking out all that follows “the first \$75 of the total of such earned income for such month” and inserting in lieu thereof a semicolon.

CONTINUATION OF \$30 DISREGARD FROM EARNED INCOME

SEC. 2623. (a) Section 402(a)(8)(A)(iv) of the Social Security Act is amended by inserting “(I)” after “equal to”, and by inserting “(II)” after “plus”.

(b) Section 402(a)(8)(B)(ii)(I) of such Act is amended—

(1) by striking out all that precedes “specified in subparagraph (A)(ii)” and inserting in lieu thereof the following:

“(I) shall not disregard—

“(a) under subclause (II) of subparagraph (A)(iv), in a case where such subclause has already been applied to the income of the persons involved for four consecutive months while they were receiving aid under the plan, or

“(b) under subclause (I) of subparagraph (A)(iv), in a case where such subclause has already been applied to the income of the persons involved for twelve consecutive months while they were receiving aid under the plan,

any earned income of any of the persons”; and

(2) by striking out “and subparagraph (A)(iv) has not already been applied to their income for four consecutive months while they were receiving aid under the plan”.

(c) Section 402(a)(8)(B)(ii)(II) of such Act is amended by striking out “shall not apply” where it first appears and all that follows down through “any month thereafter” and inserting in lieu thereof the following: “shall not apply the provisions of subclause (II) of such subparagraph to any month after such month, or apply the provisions of subclause (I) of such subparagraph to any month after the eighth month following such month, for so long as he continues to receive aid under the plan, and shall not apply the provisions of either such subclause to any month thereafter”.

WORK TRANSITION IN THE CASE OF CERTAIN FAMILIES WHO LOSE AFDC BENEFITS BECAUSE OF EARNED INCOME

SEC. 2624. (a) Section 402(a) of the Social Security Act is amended—

(1) by striking out “and” after the semicolon at the end of paragraph (35);

(2) by striking out the period at the end of paragraph (36) and inserting in lieu thereof “; and”; and

(3) by adding after paragraph (36) the following new paragraph:

“(37) provide that, in any case where a family has ceased to receive aid under the plan because (by reason of paragraph (8)(B)(ii)(II)) the provisions of paragraph (8)(A)(iv) no longer apply, such family shall be considered for purposes of title XIX to be receiving aid to families with dependent children under such plan for a period of 9 months after the last month for which the family actually received such aid; and the State may at its option extend such period by an additional period of up to 6 months in the case of a family that would be eligible during such additional period to receive aid under the plan (without regard to this paragraph) if such paragraph (8)(A)(iv) applied.”.

42 USC 1396.

(b)(1) The amendments made by this section shall apply with respect to months beginning on or after October 1, 1984.

Effective date.
42 USC 602 note.

(2) Such amendments shall apply with respect to families which ceased to receive aid under the applicable State plan (for the reason stated in section 402(a)(37) of the Social Security Act as added by subsection (a) of this section) before October 1, 1984, as well as with respect to families which cease to receive aid (for that reason) on or after that date; but any family which ceased to receive such aid before that date, in order to be eligible to be treated as receiving aid under the plan for any period after ceasing to receive such aid (as provided for in such section 402(a)(37))—

Supra.

(A) must make its application for such treatment no later than the end of the sixth month after the month in which final regulations governing the application of such section 402(a)(37) are promulgated by the Secretary of Health and Human Services (and in the case of any such family the term “last month for which the family actually received such aid” as used in such section 402(a)(37) means the month before the month in which the family makes such application);

(B) must be a family that would have been continuously eligible for aid under the State plan (without regard to the amendments made by this section), from the time it ceased to receive such aid to the time of its application under subparagraph (A), if section 402(a)(8)(A)(iv) of such Act applied; and

(C) must fully disclose, in its application under subparagraph (A), any health insurance coverage which its members may have in effect.

CLARIFICATION OF EARNED INCOME PROVISION

SEC. 2625. (a) Section 402(a)(8) of the Social Security Act is amended by striking out “and” at the end of subparagraph (A), by adding “and” at the end of subparagraph (B), and by adding at the end thereof the following new subparagraph:

42 USC 602.

“(C) provide that in implementing this paragraph the term ‘earned income’ shall mean gross earned income, prior to any deductions for taxes or for any other purposes.”.

(b) The amendments made by subsection (a) shall become effective on the date of the enactment of this Act.

Effective date.
42 USC 602 note.

EXCLUSION OF BURIAL PLOTS, FUNERAL AGREEMENTS, AND CERTAIN
PROPERTY FROM LIMITATION ON FAMILY RESOURCES

42 USC 602.

SEC. 2626. Section 402(a)(7)(B) of the Social Security Act is amended by inserting "(i)" after "for purposes of this subparagraph", and by inserting before the semicolon at the end thereof the following: ", (ii) under regulations prescribed by the Secretary, burial plots (one for each such child, relative, and other individual), and funeral agreements or (iii) for such period or periods of time as the Secretary may prescribe, real property which the family is making a good-faith effort to dispose of, but any aid payable to the family for any such period shall be conditioned upon such disposal, and any payments of such aid for that period shall (at the time of the disposal) be considered overpayments to the extent that they would not have been made had the disposal occurred at the beginning of the period for which the payments of such aid were made".

FEDERAL MATCHING FOR EXPENSES INCURRED BY STATES IN REIMBURS-
ING AFDC RECIPIENTS FOR TRANSPORTATION AND DAY CARE COSTS AT-
TRIBUTABLE TO PARTICIPATION IN CWEP

42 USC 609.

SEC. 2627. Section 409(a)(1)(F) of the Social Security Act is amended—

(1) by inserting "(i) except as provided in clause (ii)" after "that"; and

42 USC 602.

(2) by inserting before the period at the end thereof the following: ", and (ii) to the extent that the State is unable to provide for the costs involved through the furnishing of services directly to the individuals participating in the program, participants who are recipients of aid under the State's plan approved under section 402 will instead be reimbursed for transportation costs directly related to their participation in the program (in amounts equal to the cost of transportation by the most appropriate means as determined by the State agency), and for day care expenses directly attributable to such participation (in amounts determined by the State agency to be reasonable, necessary, and cost-effective but not in excess of the comparable maximum day care deduction allowed under section 402(a)(8)(A)(iii) for recipients of aid under the plan generally); and amounts paid as reimbursement to participants under clause (i) or (ii) shall be considered, for purposes of section 403(a), to be expenditures made for the proper and efficient administration of the State's plan approved under section 402".

42 USC 603.

MONTHLY REPORTING AND RETROSPECTIVE BUDGETING

42 USC 602.

SEC. 2628. (a) Section 402(a)(13) of the Social Security Act is amended—

(1) by striking out "provide that—" and inserting in lieu thereof "with respect to families who are required to report monthly to the State agency pursuant to paragraph (14) (and at the option of the State with respect to other families), provide that—"; and

(2) by striking out "but only where the Secretary determines it to be appropriate" in subparagraphs (A) and (B) and inserting in lieu thereof "(but only where the Secretary determines it to be appropriate, in the case of families who are required to

report monthly to the State agency pursuant to paragraph (14))”.

(b) Section 402(a)(14) of such Act is amended—

42 USC 602.

(1) by striking out “(A) provide that” and inserting in lieu thereof “with respect to families in the category of recent work history or earned income cases (and at the option of the State with respect to families in other categories), provide (A) that”;

(2) by striking out “with the prior approval of the Secretary” and inserting in lieu thereof “(with the prior approval of the Secretary in recent work history and earned income cases)”;

and
(3) by striking out “upon the State’s showing to the satisfaction of the Secretary that” and inserting in lieu thereof “upon a determination that”.

(c) Section 402(a) of such Act is further amended by adding at the end thereof (after and below paragraph (37), as added by section 2624(a) of this Act) the following new sentence: “The Secretary may waive any of the requirements imposed under or in connection with paragraphs (13) and (14) of this subsection to the extent necessary to make such requirements compatible with the corresponding reporting and budgeting requirements by the Food Stamp Act of 1977.”.

7 USC 2011.

TREATMENT OF EARNED INCOME TAX CREDIT IN DETERMINING COUNTABLE INCOME

SEC. 2629. Section 402(d)(1) of the Social Security Act is amended to read as follows:

“(1) For purposes of paragraphs (7) and (8) of subsection (a), any refund of Federal income taxes made by reason of section 32 of the Internal Revenue Code of 1954 (relating to earned income credit) and any payment made by an employer under section 3507 of such Code (relating to advance payment of earned income credit) shall be considered earned income.”.

Ante, p. 826.

26 USC 3507.

FEDERALLY ASSISTED PILOT PROJECTS TO DEMONSTRATE ONE-STOP SERVICE DELIVERY SYSTEMS

SEC. 2630. Part A of title XI of the Social Security Act is amended by adding at the end thereof the following new section:

“PILOT PROJECTS TO DEMONSTRATE THE USE OF INTEGRATED SERVICE DELIVERY SYSTEMS FOR HUMAN SERVICES PROGRAMS

“SEC. 1136. (a) In order to develop and demonstrate ways of improving the delivery of services to individuals and families who need them under the various human services programs, by eliminating programmatic fragmentation and thereby assuring that an applicant for services under any one such program will be informed of and have access to all of the services which may be available to him or his family under the other human services programs being carried out in the community involved, any State having an approved plan under part A of title IV may, subject to the provisions of this section, establish and conduct one or more pilot projects to demonstrate the use of integrated service delivery systems for human services programs in that State or in one or more political subdivisions thereof.

42 USC 1320b-6.

42 USC 601.

“(b) The integration of service delivery systems for human services programs in any State or locality under a pilot project established under this section shall involve or include—

“(1) the development of a common set of terms for use in all of the human services programs involved;

“(2) the development for each applicant of a single comprehensive family profile which is suitable for use under all of the human services programs involved;

“(3) the establishment and maintenance of a single resources directory by which the citizens of the community involved may be informed of and gain access to the services which are available under all such programs;

“(4) the development of a unified budget and budgeting process, and a unified accounting system, with standardized audit procedures;

“(5) the implementation of unified planning, needs assessment, and evaluation;

“(6) the consolidation of agency locations and related transportation services;

“(7) the standardization of procedures for purchasing services from nongovernmental sources;

“(8) the creation of communications linkages among agencies to permit the serving of individual and family needs across program and agency lines;

“(9) the development, to the maximum extent possible, of uniform application and eligibility determination procedures; and

“(10) any other methods, arrangements, and procedures which the Secretary determines are necessary or desirable for, and consistent with, the establishment and operation of an integrated service delivery system.

“(c)(1) Any State which desires to establish and conduct a pilot project under this section, after having published a description of the proposed project and invited comments thereon from interested persons in the community or communities which would be affected, shall submit an application to the Secretary (in such form and containing such information as the Secretary may require) within 6 months after the date of the enactment of this section. The proposed project may be statewide in operation or may be limited to one or more political subdivisions of the State; and the application shall in any event include or be accompanied by satisfactory assurances that the project as proposed would be permitted under applicable State and local law.

“(2) The Secretary shall consider all applications and accompanying comments and materials which are submitted under paragraph (1), and, no later than 9 months after the date of the enactment of this section, shall approve no fewer than 3 nor more than 5 of the proposed projects (including one such project to be operated on a statewide basis). In considering and approving such applications the Secretary shall take into account the size and characteristics of the population that would be served by each proposed project, the desirability of wide geographic distribution among the projects, the number and nature of the human services programs which are in active operation in the various communities involved, and such other factors as may tend to indicate whether or not a particular proposed project would provide a useful and effective demonstration of the value of an integrated service delivery system. Each project

approved under this paragraph shall be deemed for purposes of this section to begin on the first day of the month following the month in which the application with respect to such project is approved.

“(3) The Secretary shall approve any application for a project under this section only after determining that the conduct of such project will not lower or restrict the levels of aid, assistance, benefits, or services, or the income or resource standards, deductions, or exclusions, under any of the human services programs involved, and will not delay the provision of aid, assistance, benefits, or services under any of such programs.

“(d)(1) Any State whose application is approved under subsection (c) may submit to the Secretary a request for the waiver of any requirement which would otherwise apply with respect to the proposed project under any of the laws governing the human services programs to be included in the project; and—

“(A) if the law involved is within the jurisdiction of the Secretary and authority to grant the waiver involved is otherwise available to the Secretary under this title, title IV, or any other provision of law, the Secretary shall approve such request upon a determination that the waiver is necessary for the project to provide a useful and effective demonstration of the value of an integrated service delivery system; and

42 USC 601.

“(B) if the law involved is within the jurisdiction of a Federal agency other than the Department of Health and Human Services and authority to grant the waiver involved is available to the head of such other agency under that law or any other provision of law, the Secretary shall transmit such request (on behalf of the requesting State) to the head of such other agency, who shall approve such request upon a determination that the waiver is necessary for the project to provide a useful and effective demonstration of the value of an integrated service delivery system and who shall certify such approval to the Secretary.

“(2) If under the law governing any of the human services programs included within a project there are provisions establishing safeguards which limit or restrict the use or disclosure of information (concerning applicants for or recipients of benefits or services) which has been obtained or developed by the agency involved in the conduct of that program, and a waiver of such provisions is granted under paragraph (1) in order to make such information available for purposes of the project—

Public
information.

“(A) the State shall provide each applicant for and recipient of aid, assistance, benefits, or services under the proposed integrated service delivery system with a clear and readily comprehensible notice that such information may be disclosed to and used by project personnel, or exchanged with the other agencies having responsibility for human services programs included within the project;

“(B) the State shall take such steps as may be necessary to ensure that the information disclosed will be used only for purposes of, and by persons directly connected with, such project; and

“(C) the State's application with respect to the project under subsection (c) shall contain or be accompanied by satisfactory assurances that the preceding requirements of this paragraph will be fully complied with.

“(e) The Secretary shall from time to time pay to each State which has an approved pilot project under this section, in such manner and according to such schedule as may be agreed upon by the Secretary and such State, amounts equal in the aggregate to—

“(1) 90 percent of the costs incurred by such State and its political subdivisions in carrying out such project during the first 18 months after the date on which the project begins,

“(2) 80 percent of any such costs incurred during the 12-month period beginning with the nineteenth month after such date, and

“(3) 70 percent of any such costs incurred during the 12-month period beginning with the thirty-first month after such date.

42 USC 601.

42 USC 1381.

29 USC 701 note.

“(f)(1) For purposes of this section, the term ‘human services program’ includes the program of aid to families with dependent children under part A of title IV, the supplemental security income benefits program under title XVI, the Federal food stamp program, and any other Federal or federally assisted program (other than a program under the Rehabilitation Act of 1973) which provides aid, assistance, or benefits based wholly or partly on need or on income-related qualifications to specified classes or types of individuals or families or which is designed to help in crisis or emergency situations by meeting the basic human needs of individuals or families whose own resources are insufficient for that purpose.

“(2) In carrying out this section the Secretary shall regularly consult with the Secretary of Labor, the Secretary of Agriculture, the Secretary of Housing and Urban Development, and the head of any other Federal agency having jurisdiction over or responsibility for one or more human services programs, in order to ensure that the administrative efforts of the various agencies involved are coordinated with respect to all of the pilot projects being carried out under this section.

Reports.

“(g) The Secretary shall require each State which is carrying out a pilot project under this section to submit periodic reports on the progress of such project, giving particular attention to the cost-effectiveness of the integrated service delivery system involved and the extent to which such system is improving the delivery of services. No pilot project under this section shall be conducted for a period of longer than 42 months. The first such report shall be submitted no later than 3 months after the date on which the project begins.

Report.

“(h) The Secretary shall from time to time submit to the Congress a report on the progress and current status of each of the approved pilot projects under this section. Each such report shall reflect the periodic reports theretofore submitted to the Secretary by the States involved under subsection (g), and shall contain such additional comments, findings, and recommendations with respect to the operation of the program under this section as the Secretary may determine to be appropriate.

“(i) The Comptroller General shall, at such time or times as he determines to be appropriate, review and evaluate any or all of the pilot projects undertaken pursuant to this section, and shall from time to time report to the Congress on the results of such reviews and evaluations together with his findings and recommendations with respect thereto.

Appropriation
authorization.

“(j) There are authorized to be appropriated, for the four-fiscal-year period beginning with the fiscal year 1985, such sums, not to

exceed \$8,000,000 in the aggregate, as may be necessary to carry out this section.”.

**EXEMPTION OF CERTAIN PREGNANT WOMEN FROM REGISTRATION FOR
WORK OR TRAINING**

SEC. 2631. Section 402(a)(19)(A) of the Social Security Act is amended— 42 USC 602.

- (1) by striking out “or” at the end of clause (vii);
- (2) by adding “or” after the semicolon at the end of clause (viii); and
- (3) by inserting immediately after clause (viii) the following new clause:

“(ix) a woman who is pregnant if it has been medically verified that the child is expected to be born in the month in which such registration would otherwise be required or within the 3-month period immediately following such month;”.

TREATMENT OF NONRECURRING LUMP SUM INCOME

SEC. 2632. (a) Section 402(a)(17) of the Social Security Act is amended by adding at the end thereof (after and below subparagraph (B)) the following:

“except that the State may at its option recalculate the period of ineligibility otherwise determined under subparagraph (A) (but only with respect to the remaining months in such period) in any one or more of the following cases: (i) an event occurs which, had the family been receiving aid under the State plan for the month of the occurrence, would result in a change in the amount of aid payable for such month under the plan, or (ii) the income received has become unavailable to the members of the family for reasons that were beyond the control of such members, or (iii) the family incurs, becomes responsible for, and pays medical expenses (as allowed by the State) in a month of ineligibility determined under subparagraph (A) (which expenses may be considered as an offset against the amount of income received in the first month of such ineligibility);”.

(b) Section 402(a)(17) of such Act is further amended—

- (1) by striking out “a person specified in paragraph (8)(A) (i) or (ii)” in the matter preceding subparagraph (A) and inserting in lieu thereof “a child or relative applying for or receiving aid to families with dependent children, or any other person whose need the State considers when determining the income of a family,”; and
- (2) effective on the date of the enactment of this Act, by striking out “an amount of income” in the matter preceding subparagraph (A) and inserting in lieu thereof “an amount of earned or unearned income”.

**WAIVER OF OVERPAYMENT RECOUPMENT WHEN COST OF COLLECTION
WOULD EXCEED AMOUNT DUE**

SEC. 2633. (a) Section 402(a)(22) of the Social Security Act is amended by adding at the end thereof (after and below subparagraph (C)) the following:

“except that no recovery need be attempted or carried out under subparagraph (B) in any case, other than a case involving fraud on the part of the recipient, where (as determined by the State agency in accordance with criteria for determining cost-effectiveness, and with dollar limitations, which shall be prescribed by the Secretary in regulations) the cost of recovery would equal or exceed the amount of the overpayment involved;”.

42 USC 602.

(b) Section 402(a)(22)(A) of such Act is amended by inserting after “current recipient of such aid” the following: “(including a current recipient whose overpayment occurred during a prior period of eligibility)”.

EXCEPTIONS TO REQUIREMENTS FOR PROTECTIVE PAYMENTS

SEC. 2634. (a) Section 402(a)(19)(F)(i) of the Social Security Act is amended by striking out “will be made” and inserting in lieu thereof “will be made unless the State agency, after making reasonable efforts, is unable to locate an appropriate individual to whom such payments can be made”.

(b) Section 402(a)(26)(B) of such Act is amended by inserting before the semicolon at the end thereof the following: “unless the State agency, after making reasonable efforts, is unable to locate an appropriate individual to whom such payments can be made”.

ELIGIBILITY REQUIREMENTS FOR ALIENS

42 USC 615.

SEC. 2635. Section 415(c)(1) of the Social Security Act is amended by striking out “Any individual” and all that follows down through “be required to provide” where it first appears and inserting in lieu thereof the following: “Any individual who is an alien and whose sponsor was a public or private agency shall be ineligible for aid under a State plan approved under this part during the period of three years after his or her entry into the United States, unless the State agency administering such plan determines that such sponsor either no longer exists or has become unable to meet such individual’s needs; and such determination shall be made by the State agency based upon such criteria as it may specify in the State plan, and upon such documentary evidence as it may therein require. Any such individual, and any other individual who is an alien (as a condition of his or her eligibility for aid under a State plan approved under this part during the period of three years after his or her entry into the United States), shall be required to provide”.

PROVISION BY STATE AGENCIES OF INFORMATION REGARDING FUGITIVE FELONS

42 USC 602.

SEC. 2636. Section 402(a)(9) of the Social Security Act is amended by inserting before the semicolon at the end thereof the following: “; but such safeguards shall not prevent the State agency or the local agency responsible for the administration of the State plan in the locality (whether or not the State has enacted legislation allowing public access to Federal welfare records) from furnishing a State or local law enforcement officer, upon his request, with the current address of any recipient if the officer furnishes the agency with such recipient’s name and social security account number and satisfactorily demonstrates that such recipient is a fugitive felon, that the

location or apprehension of such felon is within the officer's official duties, and that the request is made in the proper exercise of those duties".

**PAYMENT SCHEDULE FOR REIMBURSEMENT OF CERTAIN BACK CLAIMS
DUE THE STATES**

SEC. 2637. The payment schedule contemplated by section 136 of Public Law 97-276 for reimbursement of expenditures described in that section is hereby established as follows: 96 Stat. 1197.

(1) For expenditures identified in the decree entered by the United States District Court for the District of Columbia on July 21, 1983, in the case of *State of Connecticut v. Heckler*, No. 81-2237, and allowed by the Secretary of Health and Human Services prior to the date of the enactment of this Act, payment shall be made, by supplemental grant award or otherwise, within 30 days after the date of the enactment of this Act; and

(2) for any other expenditure described in such section 136 which was identified in such decree or in any other decree entered by a Federal court in a suit (with respect to such an expenditure) filed prior to September 30, 1982, payment shall be made, by supplemental grant award or otherwise, as soon as the expenditure or portion thereof involved is finally determined by the Secretary to be an allowable claim under the substantive provisions of the applicable title of the Social Security Act. 42 USC 1305.

**MODIFICATION OF REQUIREMENTS FOR WORK SUPPLEMENTATION
PROGRAM**

SEC. 2638. (a)(1) Section 414(b)(6) of the Social Security Act is amended— 42 USC 614.

(A) by inserting "(A)" before "may"; and

(B) by inserting ", and (B) during one or more of the first nine months of an individual's employment pursuant to a program under this section, may apply to the wages of the individual the provisions of section 402(a)(8)(A)(iv) without regard to the provisions of (B)(ii)(II) of such section" before the period. 42 USC 602.

(2) Section 414(c)(3) of such Act is amended—

(A) by inserting "or" after the semicolon in subparagraph (A);

(B) by striking out "a public or nonprofit entity" in subparagraph (B) and inserting in lieu thereof "any other employer";

(C) by striking out "; or" in subparagraph (B) and inserting in lieu thereof a period; and

(D) by striking out subparagraph (C).

(3) Section 414(d) of such Act is amended—

(A) by striking out "for any quarter for expenditures incurred in operating" and inserting in lieu thereof "for expenditures incurred in making payments to individuals and employers under"; and

(B) by striking out all after "equal to the" and inserting in lieu thereof "amount which would otherwise be payable under such section if the family of each individual employed in the program established in such State under this section had received the maximum amount of aid payable under the State plan to such a family with no income (without regard to adjustments under subsection (b) of this section) for a period of months equal to the lesser of (1) nine months, or (2) the number

of months in which such individual was employed in such program.”.

42 USC 614.

(4) Section 414(h) of such Act is amended by inserting “(except during any period in which such individual is employed under such work supplementation program)” before the period.

26 USC 51.

(b) Section 51(c)(2) of the Internal Revenue Code of 1954 is amended to read as follows:

“(2) ON-THE-JOB TRAINING AND WORK SUPPLEMENTATION PAYMENTS.—

“(A) EXCLUSION FOR EMPLOYERS RECEIVING ON-THE-JOB TRAINING PAYMENTS.—The term ‘wages’ shall not include any amounts paid or incurred by an employer for any period to any individual for whom the employer receives federally funded payments for on-the-job training of such individual for such period.

“(B) REDUCTION FOR WORK SUPPLEMENTATION PAYMENTS TO EMPLOYERS.—The amount of wages which would (but for this subparagraph) be qualified wages under this section for an employer with respect to an individual for a taxable year shall be reduced by an amount equal to the amount of the payments made to such employer (however utilized by such employer) with respect to such individual for such taxable year under a program established under section 414 of the Social Security Act.”

42 USC 614.

Effective date.

42 USC 614 note.

26 USC 51 note.

(c)(1) The amendments made by subsection (a) shall become effective on the date of the enactment of this Act.

(2) The amendments made by subsection (b) shall apply with respect to payments made on or after the date of the enactment of this Act.

3-YEAR EXTENSION OF PROVISIONS FOR DISREGARDING IN-KIND ASSISTANCE

42 USC 602.

SEC. 2639. (a) Section 402(a)(36) of the Social Security Act is amended to read as follows:

“(36) provide, at the option of the State, that in making the determination for any month under paragraph (7), the State agency shall not include as income any support or maintenance assistance furnished to or on behalf of the family which (as determined under regulations of the Secretary by such State agency as the chief executive officer of the State may designate) is based on need for such support and maintenance, including assistance received to assist in meeting the costs of home energy (including both heating and cooling), and which is (A) assistance furnished in kind by a private nonprofit agency, or (B) assistance furnished by a supplier of home heating oil or gas, by an entity whose revenues are primarily derived on a rate-of-return basis regulated by a State or Federal governmental entity, or by a municipal utility providing home energy.”.

42 USC 1382a.

(b) Section 1612(b)(13) of such Act is amended to read as follows:

“(13) any support or maintenance assistance furnished to or on behalf of such individual (and spouse if any) which (as determined under regulations of the Secretary by such State agency as the chief executive officer of the State may designate) is based on need for such support or maintenance, including assistance received to assist in meeting the costs of home energy (including both heating and cooling), and which is (A) assistance

furnished in kind by a private nonprofit agency, or (B) assistance furnished by a supplier of home heating oil or gas, by an entity providing home energy whose revenues are primarily derived on a rate-of-return basis regulated by a State or Federal governmental entity, or by a municipal utility providing home energy.”.

(c)(1) Section 545 of the Surface Transportation Assistance Act of 1982 is amended by striking out subsections (a), (b), and (c).

42 USC 1382a,
602, 602 note.

(2) Section 404 of the Social Security Amendments of 1983 is repealed.

42 USC 1382a,
602, 602 note.

(d) The amendments made by this section shall be effective with respect to months which begin after September 30, 1984; but sections 402(a)(36) and 1612(b)(13) of the Social Security Act (as amended by subsections (a) and (b) of this section) shall be effective only with respect to months which end before October 1, 1987.

Effective date.
42 USC 602 note.

**PARENTS AND SIBLINGS OF DEPENDENT CHILD INCLUDED IN AFDC
FAMILY; CHILD SUPPORT PAYMENTS**

SEC. 2640. (a) Section 402(a) of the Social Security Act (as amended by section 2624 of this Act) is further amended—

42 USC 602.

(1) by striking out “and” at the end of paragraph (36);

(2) by striking out the period at the end of paragraph (37) and inserting in lieu thereof “; and”; and

(3) by inserting immediately after paragraph (37) the following new paragraphs:

“(38) provide that in making the determination under paragraph (7) with respect to a dependent child and applying paragraph (8), the State agency shall (except as otherwise provided in this part) include—

“(A) any parent of such child, and

“(B) any brother or sister of such child, if such brother or sister meets the conditions described in clauses (1) and (2) of section 406(a), if such parent, brother, or sister is living in the same home as the dependent child, and any income of or available for such parent, brother, or sister shall be included in making such determination and applying such paragraph with respect to the family (notwithstanding section 205(j), in the case of benefits provided under title II); and

42 USC 606.

42 USC 405.

“(39) provide that in making the determination under paragraph (7) with respect to a dependent child whose parent or legal guardian is under the age selected by the State pursuant to section 406(a)(2), the State agency shall (except as otherwise provided in this part) include any income of such minor’s own parents or legal guardians who are living in the same home as such minor and dependent child, to the same extent that income of a stepparent is included under paragraph (31).”.

(b)(1) Section 457(b) of such Act is amended by redesignating paragraphs (1), (2), and (3) as paragraphs (2), (3), and (4), respectively, and by inserting immediately before the paragraph redesignated as paragraph (2) the following new paragraph:

42 USC 657.

“(1) the first \$50 of such amounts as are collected periodically which represent monthly support payments shall be paid to the family without affecting its eligibility for assistance or decreasing any amount otherwise payable as assistance to such family during such month;”.

42 USC 657. (2) Section 457(b) of such Act, as amended by paragraph (1) of this subsection, is further amended—

(A) by inserting “which are in excess of any amount paid to the family under paragraph (1) and” after “periodically” in paragraph (2);

(B) by striking out “paragraph (1)” in paragraph (3) and inserting in lieu thereof “paragraph (2)”; and

42 USC 602. (C) by striking out “paragraphs (1) and (2)” in paragraph (4) and inserting in lieu thereof “paragraphs (1), (2), and (3)”.

(c) Section 402(a)(8)(A) of such Act is amended by striking out “and” after the semicolon at the end of clause (iv), and by adding after clause (v) the following new clause:

“(vi) shall disregard the first \$50 of any child support payments received in such month with respect to the dependent child or children in any family applying for or receiving aid to families with dependent children (including support payments collected and paid to the family under section 457(b)); and”.

CWEP WORK FOR FEDERAL AGENCIES

42 USC 609. SEC. 2641. (a) Section 409(a) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

“(4)(A) Participants in community work experience programs under this section may, subject to subparagraph (B), perform work in the public interest (which otherwise meets the requirements of this section) for a Federal office or agency with its consent, and, notwithstanding section 1342 of title 31, United States Code, or any other provision of law, such agency may accept such services, but such participants shall not be considered to be Federal employees for any purpose.

“(B) The State agency shall provide appropriate workers’ compensation and tort claims protection to each participant performing work for a Federal office or agency pursuant to subparagraph (A) on the same basis as such compensation and protection are provided to other participants in community work experience programs in the State.”.

Effective date.
42 USC 609 note. (b) The amendment made by subsection (a) shall become effective on the date of the enactment of this Act.

EARNED INCOME OF FULL-TIME STUDENTS

42 USC 602. SEC. 2642. (a) Section 402(a)(18) of the Social Security Act is amended by inserting before the semicolon at the end thereof the following: “, except that in determining the total income of the family the State may exclude any earned income of a dependent child who is a full-time student, in such amounts and for such period of time (not to exceed 6 months) as the State may determine”.

(b) Section 402(a)(8)(A) of such Act (as amended by section 2640(c) of this Act) is further amended by striking out “and” after the semicolon at the end of clause (v), and by adding after clause (vi) the following new clause:

“(vii) may disregard all or any part of the earned income of a dependent child who is a full-time student and who is applying for aid to families with dependent children, but only if the earned income of such child is excluded for such

month in determining the family's total income under paragraph (18); and".

(c) The amendments made by this section shall become effective June 1, 1984.

Effective date.
42 USC 602 note.

PART 3—GENERAL EFFECTIVE DATE

GENERAL EFFECTIVE DATE

SEC. 2646. Except as otherwise specifically provided in this subtitle, the provisions of parts 1 and 2 and the amendments made thereby shall take effect on October 1, 1984.

42 USC 602 note.

Subtitle C—Implementation of Grace Commission Recommendations

INCOME AND ELIGIBILITY VERIFICATION PROCEDURES

SEC. 2651. (a) Part A of title XI of the Social Security Act (as amended by section 2630 of this Act) is further amended by adding at the end thereof the following new section:

"INCOME AND ELIGIBILITY VERIFICATION SYSTEM

"SEC. 1137. (a) In order to meet the requirements of this section, a State must have in effect an income and eligibility verification system under which—

42 USC 1320b-7.

"(1) the State shall require, as a condition of eligibility for benefits under any program listed in subsection (b), that each applicant for or recipient of benefits under that program furnish to the State his social security account number (or numbers, if he has more than one such number), and the State shall utilize such account numbers in the administration of that program so as to enable the association of the records pertaining to the applicant or recipient with his account number;

"(2) wage information from agencies administering State unemployment compensation laws available pursuant to section 3304(a)(16) of the Internal Revenue Code of 1954, wage information reported pursuant to paragraph (3) of this subsection, and wage, income, and other information from the Social Security Administration and the Internal Revenue Service available pursuant to section 6103(1)(7) of such Code, shall be requested and utilized to the extent that such information may be useful in verifying eligibility for, and the amount of, benefits available under any program listed in subsection (b), as determined by the Secretary of Health and Human Services (or, in the case of the unemployment compensation program, by the Secretary of Labor, or, in the case of the food stamp program, by the Secretary of Agriculture);

26 USC 3304.

Ante, p. 820.
Post, p. 1150.

"(3) employers in such State are required, effective September 30, 1988, to make quarterly wage reports to a State agency (which may be the agency administering the State's unemployment compensation law) except that the Secretary of Labor (in consultation with the Secretary of Health and Human Services and the Secretary of Agriculture) may waive the provisions of this paragraph if he determines that the State has in effect a

alternative system which is as effective and timely for purposes of providing employment related income and eligibility data for the purposes described in paragraph (2);

“(4) the State agencies administering the programs listed in subsection (b) adhere to standardized formats and procedures established by the Secretary of Health and Human Services (in consultation with the Secretary of Agriculture) under which—

“(A) the agencies will exchange with each other information in their possession which may be of use in establishing or verifying eligibility or benefit amounts under any other such program;

42 USC 651.

42 USC 401,
1381.

26 USC 6103.

“(B) such information shall be made available to assist in the child support program under part D of title IV of this Act, and to assist the Secretary of Health and Human Services in establishing or verifying eligibility or benefit amounts under titles II and XVI of this Act, but subject to the safeguards and restrictions established by the Secretary of the Treasury with respect to information released pursuant to section 6103(l) of the Internal Revenue Code of 1954; and

“(C) the use of such information shall be targeted to those uses which are most likely to be productive in identifying and preventing ineligibility and incorrect payments;

“(5) adequate safeguards are in effect so as to assure that—

“(A) the information exchanged by the State agencies is made available only to the extent necessary to assist in the valid administrative needs of the program receiving such information, and the information released pursuant to section 6103(l) of the Internal Revenue Code of 1954 is only exchanged with agencies authorized to receive such information under such section 6103(l); and

“(B) the information is adequately protected against unauthorized disclosure for other purposes, as provided in regulations established by the Secretary of Health and Human Services, or, in the case of the unemployment compensation program, the Secretary of Labor, or, in the case of the food stamp program, the Secretary of Agriculture, or in the case of information released pursuant to section 6103(l) of the Internal Revenue Code of 1954, the Secretary of the Treasury;

“(6) all applicants for and recipients of benefits under any such program shall be notified at the time of application, and periodically thereafter, that information available through the system will be requested and utilized; and

“(7) accounting systems are utilized which assure that programs providing data receive appropriate reimbursement from the programs utilizing the data for the costs incurred in providing the data.

“(b) The programs which must participate in the income verification system are—

42 USC 601.

42 USC 1396.

26 USC 3304.

7 USC 2011.

“(1) the aid to families with dependent children program under part A of title IV of this Act;

“(2) the medicaid program under title XIX of this Act;

“(3) the unemployment compensation program under section 3304 of the Internal Revenue Code of 1954;

“(4) the food stamp program under the Food Stamp Act of 1977; and

“(5) any State program under a plan approved under title I, X, XIV, or XVI of this Act.

42 USC 301,
1201, 1351, 1381.

“(c)(1) In order to protect applicants for and recipients of benefits under the programs identified in subsection (b), or under the supplemental security income program under title XVI, from the improper use of information obtained from the Secretary of the Treasury under section 6103(l)(7)(B) of the Internal Revenue Code of 1954, no Federal, State, or local agency receiving such information may terminate, deny, suspend, or reduce any benefits of an individual until such agency has taken appropriate steps to independently verify information relating to—

Post, p. 1150.

“(A) the amount of the asset or income involved,

“(B) whether such individual actually has (or had) access to such asset or income for his own use, and

“(C) the period or periods when the individual actually had such asset or income.

“(2) Such individual shall be informed by the agency of the findings made by the agency on the basis of such verified information, and shall be given an opportunity to contest such findings, in the same manner as applies to other information and findings relating to eligibility factors under the program.”

(b)(1) Section 402(a)(25) of the Social Security Act is amended to read as follows:

42 USC 602.

“(25) provide that information is requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of section 1137 of this Act.”

Ante, p. 1147.

(2) Section 402(a)(29) of such Act is repealed.

42 USC 602.

(3) Section 411 of such Act is repealed.

42 USC 611.

(c) Section 1902(a) of the Social Security Act (as amended by section 2367 of this Act) is further amended—

42 USC 1396a.

(1) by striking out “and” at the end of paragraph (44);

(2) by striking out the period at the end of paragraph (45) and inserting in lieu thereof “; and”; and

(3) by inserting after paragraph (45) the following new paragraph:

“(46) provide that information is requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of section 1137 of this Act.”

Ante, p. 1147.

(d) Section 303 of the Social Security Act is amended by adding at the end thereof the following new subsection:

42 USC 503.

“(f) The State agency charged with the administration of the State law shall provide that information shall be requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of section 1137 of this Act.”

(e) Section 2(a) of the Social Security Act is amended—

42 USC 302.

(1) by striking out the period at the end of paragraph (10) and inserting in lieu thereof “; and”; and

(2) by adding at the end thereof the following new paragraph:

“(11) provide that information is requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of section 1137 of this Act.”

Ante, p. 1147.

(f) Section 1002(a) of the Social Security Act is amended—

42 USC 1202.

(1) by striking out “and” at the end of clause (12); and

Ante, p. 1147.
42 USC 1352.

(2) by inserting before the period at the end thereof the following: “; and (14) provide that information is requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of section 1137 of this Act”.

(g) Section 1402(a) of the Social Security Act is amended—
 (1) by striking out “and” at the end of clause (11); and
 (2) by inserting before the period at the end thereof the following: “; and (13) provide that information is requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of section 1137 of this Act”.

42 USC 1382
note.

(h) Section 1602(a) of the Social Security Act (as in effect with respect to Puerto Rico, Guam, and the Virgin Islands) is amended—
 (1) by striking out “and” at the end of paragraph (13);
 (2) by striking out the period at the end of paragraph (14) and inserting in lieu thereof “; and”; and
 (3) by inserting after paragraph (14) the following new paragraph:

“(15) provide that information is requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of section 1137 of this Act.”.

Ante, p. 1147.
97 Stat. 1386.
7 USC 2020.

(i) Section 11(e)(19) of the Food Stamp Act of 1977 is amended to read as follows:

“(19) that information is requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of section 1137 of the Social Security Act and that any additional information available from agencies administering State unemployment compensation laws under the provisions of section 303(d) of the Social Security Act shall be requested and utilized by the State agency (described in section 3(n)(1) of this Act) to the extent permitted under the provisions of section 303(d) of the Social Security Act;”.

42 USC 503.
7 USC 2012.

42 USC 1383.

42 USC 1382e.
87 Stat. 155.

Infra.
Ante, p. 1147.

(j) Section 1631(e)(1)(B) of the Social Security Act is amended by adding at the end thereof the following: “For this purpose and for purposes of federally administered supplementary payments of the type described in section 1616(a) of this Act (including payments pursuant to an agreement entered into under section 212(a) of Public Law 93-66), the Secretary shall, as may be necessary, request and utilize information available pursuant to section 6103(l)(7) of the Internal Revenue Code of 1954, and any information which may be available from State systems under section 1137 of this Act, and shall comply with the requirements applicable to States (with respect to information available pursuant to section 6103(l)(7)(B) of such Code) under subsections (a) (6) and (c) of such section 1137.”.

26 USC 6103.
Ante, p. 820.

(k)(1) Section 6103(l)(7) of the Internal Revenue Code of 1954 is amended to read as follows:

“(7) DISCLOSURE OF RETURN INFORMATION TO FEDERAL, STATE, AND LOCAL AGENCIES ADMINISTERING CERTAIN PROGRAMS UNDER THE SOCIAL SECURITY ACT OR THE FOOD STAMP ACT OF 1977.—

“(A) RETURN INFORMATION FROM SOCIAL SECURITY ADMINISTRATION.—The Commissioner of Social Security shall, upon written request, disclose return information from returns with respect to net earnings from self-employment (as defined in section 1402), wages (as defined in section 3121(a)

or 3401(a)), and payments of retirement income, which have been disclosed to the Social Security Administration as provided by paragraph (1) or (5) of this subsection, to any Federal, State, or local agency administering a program listed in subparagraph (D).

“(B) RETURN INFORMATION FROM INTERNAL REVENUE SERVICE.—The Secretary shall, upon written request, disclose current return information from returns with respect to unearned income from the Internal Revenue Service files to any Federal, State, or local agency administering a program listed in subparagraph (D).

“(C) RESTRICTION ON DISCLOSURE.—The Commissioner of Social Security and the Secretary shall disclose return information under subparagraphs (A) and (B) only for purposes of, and to the extent necessary in, determining eligibility for, or the correct amount of, benefits under a program listed in subparagraph (D).

“(D) PROGRAMS TO WHICH RULE APPLIES.—The programs to which this paragraph applies are:

“(i) aid to families with dependent children provided under a State plan approved under part A of title IV of the Social Security Act;

42 USC 601.

“(ii) medical assistance provided under a State plan approved under title XIX of the Social Security Act;

42 USC 1396.

“(iii) supplemental security income benefits provided under title XVI of the Social Security Act, and federally administered supplementary payments of the type described in section 1616(a) of such Act (including payments pursuant to an agreement entered into under section 212(a) of Public Law 93-66);

42 USC 1381.

42 USC 1382e.

87 Stat. 155.

“(iv) any benefits provided under a State plan approved under title I, X, XIV, or XVI of the Social Security Act (as those titles apply to Puerto Rico, Guam, and the Virgin Islands);

42 USC 301,
1201, 1351, 1381.

“(v) unemployment compensation provided under a State law described in section 3304 of this Code;

“(vi) assistance provided under the Food Stamp Act of 1977; and

7 USC 2011.

“(vii) State-administered supplementary payments of the type described in section 1616(a) of the Social Security Act (including payments pursuant to an agreement entered into under section 212(a) of Public Law 93-66).”

(2) Section 6103(a)(2) of such Code is amended by striking out “or of any local child support enforcement agency” and inserting in lieu thereof “, any local child support enforcement agency, or any local agency administering a program listed in subsection (1)(7)(D)”.

26 USC 6103.

(1)(1) The amendments made by subsections (j) and (k) shall become effective on the date of the enactment of this Act.

Effective date.
42 USC 1320b-7
note.

(2) Except as otherwise specifically provided, the amendments made by subsections (a) through (i) shall become effective on April 1, 1985. In the case of any State which submits a plan describing a good faith effort by such State to come into compliance with the requirements of such subsections, the Secretary of Health and Human Services (or, in the case of the State unemployment compensation program, the Secretary of Labor, or, in the case of the food stamp program, the Secretary of Agriculture) may by waiver grant a

Ante, p. 1147.

delay in the effective date of such subsections, except that no such waiver may delay the effective date of section 1137(c) of the Social Security Act (as added by subsection (a) of this section), or delay the effective date of any other provision of or added by this section beyond September 30, 1986.

COLLECTION AND DEPOSIT OF PAYMENTS TO EXECUTIVE AGENCIES

SEC. 2652. (a)(1) Subchapter II of chapter 37 of title 31, United States Code, is amended by adding at the end thereof the following new section:

31 USC 3720.

“§ 3720. Collection of payments

“(a) Each head of an executive agency (other than an agency subject to section 9 of the Act of May 18, 1933 (48 Stat. 63, chapter 32; 16 U.S.C. 831h)) shall, under such regulations as the Secretary of the Treasury shall prescribe, provide for the timely deposit of money by officials and agents of such agency in accordance with section 3302, and for the collection and timely deposit of sums owed to such agency by the use of such procedures as withdrawals and deposits by electronic transfer of funds, automatic withdrawals from accounts at financial institutions, and a system under which financial institutions receive and deposit, on behalf of the executive agency, payments transmitted to post office lockboxes. The Secretary is authorized to collect from any agency not complying with the requirements imposed pursuant to the preceding sentence a charge in an amount the Secretary determines to be the cost to the general fund caused by such noncompliance.

“(b) The head of an executive agency shall pay to the Secretary of the Treasury charges imposed pursuant to subsection (a). Payments shall be made out of amounts appropriated or otherwise made available to carry out the program to which the collections relate. The amounts of the charges paid under this subsection shall be deposited in the Cash Management Improvements Fund established by subsection (c).

“(c) There is established in the Treasury of the United States a revolving fund to be known as the ‘Cash Management Improvements Fund’. Sums in the fund shall be available without fiscal year limitation for the payment of expenses incurred in developing the methods of collection and deposit described in subsection (a) of this section and the expenses incurred in carrying out collections and deposits using such methods, including the costs of personal services and the costs of the lease or purchase of equipment and operating facilities.”.

(2) The analysis of subchapter II of chapter 37 of title 31, United States Code, is amended by adding at the end thereof the following new item:

“3720. Collection of payments.”.

Regulations.
31 USC 3720
note.

(3) The Secretary of the Treasury shall prescribe regulations, including regulations under section 3720 of title 31, United States Code, designed to achieve by October 1, 1986, full implementation of the purposes of this subsection.

(b)(1) Subsection (c) of section 3302 of title 31, United States Code, is amended—

(A) by inserting “(1)” after the subsection designation;

(B) by striking out “, but not later than the 30th day after the custodian receives the money,”;

(C) by inserting after the first sentence the following new sentence: “Except as provided in paragraph (2), money required to be deposited pursuant to this subsection shall be deposited not later than the third day after the custodian receives the money,”; and

(D) by adding at the end thereof the following new paragraph:

“(2) The Secretary of the Treasury may by regulation prescribe that a person having custody or possession of money required by this subsection to be deposited shall deposit such money during a period of time that is greater or lesser than the period of time specified by the second sentence of paragraph (1).”

(2) The amendments made by this subsection shall become effective January 1, 1985.

Effective date.
31 USC 3302
note.

COLLECTION OF NON-TAX DEBTS OWED TO FEDERAL AGENCIES

SEC. 2653. (a)(1) Subchapter II of chapter 37 of title 31, United States Code, as amended by section 2652(a)(1) of this Act, is further amended by adding at the end thereof the following new section:

“§ 3720A. Reduction of tax refund by amount of debt

31 USC 3720A.

“(a) Any Federal agency that is owed a past-due legally enforceable debt (other than any OASDI overpayment and past-due support) by a named person shall, in accordance with regulations issued pursuant to subsection (d), notify the Secretary of the Treasury of the amount of such debt.

“(b) No Federal agency may take action pursuant to subsection (a) with respect to any debt until such agency—

“(1) notifies the person incurring such debt that such agency proposes to take action pursuant to such paragraph with respect to such debt;

“(2) gives such person at least 60 days to present evidence that all or part of such debt is not past-due or not legally enforceable;

“(3) considers any evidence presented by such person and determines that an amount of such debt is past due and legally enforceable; and

“(4) satisfies such other conditions as the Secretary may prescribe to ensure that the determination made under paragraph (3) with respect to such debt is valid and that the agency has made reasonable efforts to obtain payment of such debt.

“(c) Upon receiving notice from any Federal agency that a named person owes to such agency a past-due legally enforceable debt, the Secretary of the Treasury shall determine whether any amounts, as refunds of Federal taxes paid, are payable to such person. If the Secretary of the Treasury finds that any such amount is payable, he shall reduce such refunds by an amount equal to the amount of such debt, pay the amount of such reduction to such agency, and notify such agency of the individual's home address.

“(d) The Secretary of the Treasury shall issue regulations prescribing the time or times at which agencies must submit notices of past-due legally enforceable debts, the manner in which such notices must be submitted, and the necessary information that must be contained in or accompany the notices. The regulations shall specify the minimum amount of debt to which the reduction procedure established by subsection (c) may be applied and the fee that an

Regulations.

agency must pay to reimburse the Secretary of the Treasury for the full cost of applying such procedure. Any fee paid to the Secretary pursuant to the preceding sentence may be used to reimburse appropriations which bore all or part of the cost of applying such procedure.

“(e) Any Federal agency receiving notice from the Secretary of the Treasury that an erroneous payment has been made to such agency under subsection (c) shall pay promptly to the Secretary, in accordance with such regulations as the Secretary may prescribe, an amount equal to the amount of such erroneous payment (without regard to whether any other amounts payable to such agency under such subsection have been paid to such agency).

“(f) For purposes of this section—

“(1) the term ‘Federal agency’ means a department, agency, or instrumentality of the United States (other than an agency subject to section 9 of the Act of May 18, 1933 (48 Stat. 63, chapter 32; 16 U.S.C. 831h)), and includes a Government corporation (as such term is defined in section 103 of title 5, United States Code);

42 USC 664.

“(2) the term ‘past-due support’ means any delinquency subject to section 464 of the Social Security Act; and

“(3) the term ‘OASDI overpayment’ means any overpayment of benefits made to an individual under title II of the Social Security Act”.

(2) The analysis of subchapter II of chapter 37 of title 31, United States Code, as amended by section 2652(a)(2) of this Act, is further amended by adding at the end thereof the following new item: “3720A. Reduction of tax refund by amount of debt.”.

26 USC 6402.

(b)(1) Section 6402 of the Internal Revenue Code of 1954 (relating to authority to make credits or refunds) is amended by adding at the end thereof the following new subsections:

“(d) COLLECTION OF DEBTS OWED TO FEDERAL AGENCIES.—

“(1) IN GENERAL.—Upon receiving notice from any Federal agency that a named person owes a past-due legally enforceable debt (other than any OASDI overpayment and past-due support subject to the provisions of subsection (c)) to such agency, the Secretary shall—

“(A) reduce the amount of any overpayment payable to such person by the amount of such debt;

“(B) pay the amount by which such overpayment is reduced under subparagraph (A) to such agency; and

“(C) notify the person making such overpayment that such overpayment has been reduced by an amount necessary to satisfy such debt.

“(2) PRIORITIES FOR OFFSET.—Any overpayment by a person shall be reduced pursuant to this subsection after such overpayment is reduced pursuant to subsection (c) with respect to past-due support collected pursuant to an assignment under section 402(a)(26) of the Social Security Act and before such overpayment is credited to the future liability for tax of such person pursuant to subsection (b). If the Secretary receives notice from a Federal agency or agencies of more than one debt subject to paragraph (1) that is owed by a person to such agency or agencies, any overpayment by such person shall be applied against such debts in the order in which such debts accrued.

42 USC 602.

“(3) DEFINITIONS.—For purposes of this subsection the term ‘OASDI overpayment’ means any overpayment of benefits made to an individual under title II of the Social Security Act.

42 USC 401.

“(e) REVIEW OF REDUCTIONS.—No court of the United States shall have jurisdiction to hear any action, whether legal or equitable, brought to restrain or review a reduction authorized by subsection (c) or (d). No such reduction shall be subject to review by the Secretary in an administrative proceeding. No action brought against the United States to recover the amount of any such reduction shall be considered to be a suit for refund of tax. This subsection does not preclude any legal, equitable, or administrative action against the Federal agency to which the amount of such reduction was paid.

“(f) FEDERAL AGENCY.—For purposes of this section, the term ‘Federal agency’ means a department, agency, or instrumentality of the United States (other than an agency subject to section 9 of the Act of May 18, 1933 (48 Stat. 63, chapter 32; 16 U.S.C. 831h)), and includes a Government corporation (as such term is defined in section 103 of title 5, United States Code).

“(g) CROSS REFERENCE.—For procedures relating to agency notification of the Secretary, see section 3721 of title 31, United States Code.”.

(2) Subsection (a) of section 6402 of such Code is amended by striking out “subsection (c)” and inserting in lieu thereof “subsections (c) and (d)”. 26 USC 6402.

(3)(A) Subsection (l) of section 6103 of such Code (relating to confidentiality and disclosure of returns and information), as amended by section 453 of this Act, is further amended by adding at the end thereof the following new paragraph: *Ante*, p. 820.

“(10) DISCLOSURE OF CERTAIN INFORMATION TO AGENCIES REQUESTING A REDUCTION UNDER SECTION 6402(c) OR 6402(d).—

“(A) RETURN INFORMATION FROM INTERNAL REVENUE SERVICE.—The Secretary may, upon receiving a written request, disclose to officers and employees of an agency seeking a reduction under section 6402(c) or 6402(d)—

Ante, p. 1154.

“(i) the fact that a reduction has been made or has not been made under such subsection with respect to any person;

“(ii) the amount of such reduction; and

“(iii) taxpayer identifying information of the person against whom a reduction was made or not made.

“(B) RESTRICTION ON USE OF DISCLOSED INFORMATION.—Any officers and employees of an agency receiving return information under subparagraph (A) shall use such information only for the purposes of, and to the extent necessary in, establishing appropriate agency records or in the defense of any litigation or administrative procedure ensuing from reduction made under section 6402(c) or section 6402(d).”.

(B)(i) Section 6103(p)(3)(A) of such Code (relating to procedure and recordkeeping), as so amended, is amended by striking out “or (9)” and inserting in lieu thereof “(9), or (10)”.

(ii) Section 6103(p)(4) of such Code, as so amended, is amended by striking out “(l) (1), (2), (3), or (5)” and inserting in lieu thereof “(l) (1), (2), (3), (5), or (10)”.

- 26 USC 6103. (iii) Section 6103(p)(4)(F)(ii) of such Code, as so amended, is amended by striking out “(1) (1), (2), (3), or (5)” and inserting in lieu thereof “(1) (1), (2), (3), (5), or (10)”.
- 26 USC 7213. (4) Section 7213(a)(2) of such Code (relating to unauthorized disclosure of information), as so amended, is amended by striking out “(1) (6), (7), (8), or (9)” and inserting in lieu thereof “(1) (6), (7), (8), (9), or (10)”.
- Effective date.
26 USC 6402
note. (c) The amendments made by this section shall apply with respect to refunds payable under section 6402 of the Internal Revenue Code of 1954 after December 31, 1985, and before January 1, 1988.

Subtitle D—Technical Corrections

CHANGES IN OASDI PROVISIONS NECESSITATED BY THE 1983 AMENDMENTS

- 97 Stat. 99.
42 USC 401. SEC. 2661. (a) Section 201(l)(3)(B)(i) of the Social Security Act is amended by inserting “Insurance” after “Survivors”.
- 42 USC 402.
97 Stat. 109. (b)(1) Section 202(c)(1) of such Act is amended (in the matter appearing between subparagraphs (D) and (E) of such section)—
- (A) by striking out all that follows “has attained” and precedes “, the first month” in clause (i) and inserting in lieu thereof “retirement age (as defined in section 216(l))”;
- (B) by striking out all that follows “has not attained” and precedes “, or” in clause (ii)(I) and inserting in lieu thereof “retirement age (as defined in section 216(l))”; and
- (C) by striking out “to which” in the matter following clause (ii) and inserting in lieu thereof “in which”.
- (2) Section 202(c)(5)(A) of such Act is amended by striking out “classes (i) and (ii)” and inserting in lieu thereof “clauses (i) and (ii)”.
- 97 Stat. 95. (c)(1) Section 202(e)(2)(A) of such Act is amended by striking out all that follows “subsection (q),” and precedes “subparagraph (D) of this paragraph” and inserting in lieu thereof “paragraph (7) of this subsection, and”.
- (2) Section 202(e)(2)(C) of such Act is amended—
- (A) by striking out the period immediately after “deceased individual”; and
- (B) by inserting a closing parenthesis after “paragraph (3) of such subsection (w)”.
- 97 Stat. 92. (3) Paragraph (7) of section 202(e) of such Act is amended by striking out “paragraph (2)(B),” and inserting in lieu thereof “paragraph (2)(D),”.
- 97 Stat. 114. (d)(1) Section 202(f)(1)(C)(ii) of such Act is amended by striking out all that follows “attained” and precedes “, and” and inserting in lieu thereof “retirement age (as defined in section 216(l))”.
- (2) Section 202(f)(2)(A) of such Act is amended by striking out “paragraph (3)(B),” and inserting in lieu thereof “paragraph (3)(D),”.
- 97 Stat. 96. (3) Section 202(f)(3)(C) of such Act is amended by striking out the period immediately after “deceased individual”.
- 97 Stat. 108. (e) Section 202(q)(9)(B)(i) of such Act is amended by striking out “section 216(a)” and inserting in lieu thereof “section 216(l)”.
- 97 Stat. 133. (f) Section 202(x) of such Act is amended by adding at the beginning thereof the following heading:

“Limitation on Payments to Prisoners”.

(g)(1)(A) Section 203(d) of such Act is amended—

97 Stat. 94.
42 USC 403.

(i) by striking out “on seven or more different calendar days of which he engaged” in paragraph (1)(A) and inserting in lieu thereof “for more than forty-five hours of which such individual engaged”; and

(ii) by striking out “on seven or more different calendar days” in paragraph (2) and inserting in lieu thereof “for more than forty-five hours”.

(B) The amendments made by subparagraph (A) shall apply only with respect to months beginning with the second month after the month in which this Act is enacted.

Effective date.
42 USC 403 note.

(2)(A) Section 203(f) of such Act is amended by adding at the end thereof the following new paragraph:

“(9) For purposes of paragraphs (3), (5)(D)(i), and (8)(D), the term ‘retirement age (as defined in section 216(1))’, with respect to any individual entitled to monthly insurance benefits under section 202, means the retirement age (as so defined) which is applicable in the case of old-age insurance benefits, regardless of whether or not the particular benefits to which the individual is entitled (or the only such benefits) are old-age insurance benefits.”.

97 Stat. 107.
42 USC 416.
42 USC 402.

(B) The amendment made by subparagraph (A) shall be effective as though it had been enacted on April 20, 1983, as a part of section 201 of the Social Security Amendments of 1983.

Effective date.
42 USC 403 note.

(h) Section 205(r) of such Act is amended—

97 Stat. 107.
97 Stat. 130.
42 USC 405.

(1) by striking out “(r)(3)(A) and (r)(3)(B)” in paragraph (4) and inserting in lieu thereof “subparagraphs (A) and (B) of paragraph (3)”; and

(2) by striking out “the Act” in paragraph (7) and inserting in lieu thereof “this Act”; and

(3) by striking out the heading and inserting in lieu thereof the following:

“Use of Death Certificates to Correct Program Information”.

(i)(1) Section 209(e) of such Act is amended by striking out the semicolon after “Act of 1974”.

97 Stat. 125.
42 USC 409.

(2) The next to last unnumbered paragraph of section 209 of such Act is amended by striking out “section 414(h)(2) of such Code” in subdivision (2) and inserting in lieu thereof “section 414(h)(2) of such Code where the pickup referred to in such section is pursuant to a salary reduction agreement (whether evidenced by a written instrument or otherwise)”.

(j) Section 210(a) of such Act, in the matter preceding paragraph (1), is amended by striking out the matter which follows “such affiliate” and precedes “or (C)” and the matter which follows “section 233” and precedes “except”, and by inserting in lieu thereof a comma and a semicolon, respectively.

97 Stat. 120.
42 USC 410.

(k)(1) Section 215(a)(7)(B)(ii)(I) of such Act is amended by striking out “who initially become eligible for old-age or disability insurance benefits” and inserting in lieu thereof “who become eligible (as defined in paragraph (3)(B)) for old-age insurance benefits (or became eligible as so defined for disability insurance benefits before attaining age 62)”.

97 Stat. 76.
42 USC 415.

42 USC 415.
97 Stat. 76.
97 Stat. 78.

(2) Section 215(a)(7)(C)(ii) of such Act is amended by striking out "survivors" and inserting in lieu thereof "survivor's".

(3) Section 215(f)(9)(B)(i) of such Act is amended by striking out "as though such primary insurance amount had initially been computed without regard to subsection (a)(7) or (d)(5)" and inserting in lieu thereof "as though the recomputed primary insurance amount were being computed under subsection (a)(7) or (d)(5)".

97 Stat. 74.

(4) Section 215(i)(5)(A) of such Act is amended by adding at the end thereof the following new sentence: "Any amount so increased that is not a multiple of \$0.10 shall be decreased to the next lower multiple of \$0.10."

(5) Section 215(i)(5)(B) of such Act is amended—

(A) by striking out clause (iii) and inserting in lieu thereof the following:

"(iii) multiplying such quotient by 100 so as to yield such applicable additional percentage (which shall be rounded to the nearest one-tenth of 1 percent);";

(B) by striking out "ending with such subsequent calendar year" in clauses (iv) and (v) and inserting in lieu thereof "ending with the year before such subsequent calendar year"; and

(C) by striking out "initially became eligible for an old-age or disability insurance benefit" in clause (v) and inserting in lieu thereof "became eligible (as defined in subsection (a)(3)(B)) for the old-age or disability insurance benefit that is being increased under this subsection".

42 USC 416.

(1)(1) Section 216(f) of such Act is amended by adding at the end thereof the following new sentence: "For purposes of subparagraph (C) of section 202(c)(1), a divorced husband shall be deemed not to be married throughout the month which he becomes divorced."

42 USC 402.

Post, p. 1159.

(2) Section 216(h)(3)(A)(i) of such Act (as in effect after the application of section 2662(c)(1) of this Act) is amended by striking out "(as defined in section 216(l))" and inserting in lieu thereof "(as defined in subsection (l))".

(3) Section 216(i)(2) of such Act (as amended by section 2662(c)(1) of this Act) is amended by striking out "(as defined in section 216(l))" in subparagraphs (B) and (D) and inserting in lieu thereof "(as defined in subsection (l))".

97 Stat. 129.
42 USC 423.

(m) Subparagraph (B) of section 223(c)(1) of such Act is amended by moving clause (iii) two ems to the left, and by moving the preceding provisions of such subparagraph two ems to the right, so that the left margin of such subparagraph and its clauses is indented four ems and is aligned with the margin of subparagraph (A) of such section.

97 Stat. 104.
42 USC 429.

(n) Section 229(b) of such Act is amended by adding at the end thereof the following new sentence: "Additional adjustments may be made in the amounts so authorized to be appropriated to the extent that the amounts transferred in accordance with clauses (i) and (ii) of section 151(b)(3)(B) of the Social Security Amendments of 1983 with respect to wages deemed to have been paid in 1983 were in excess of or were less than the amount which the Secretary, on the basis of appropriate data, determines should have been so transferred."

97 Stat. 103.

97 Stat. 80.
26 USC 86.

(o)(1) Subsection (f) of section 86 of the Internal Revenue Code of 1954 is amended by redesignating paragraphs (1), (2), (3), and (4) as paragraphs (2), (3), (4), and (5), respectively, and by inserting before paragraph (2) (as so redesignated) the following new paragraph:

- “(1) section 37(c)(3)(A) (relating to reduction for amounts received as pension or annuity).”
- (2) Subsection (a) of section 134 of such Code is amended by striking out paragraphs (6) and (7) and by redesignating paragraph (8) as paragraph (6). *Ante*, p. 891.
- (3) Effective January 1, 1984, subparagraph (B) of section 3121(v)(1) of such Code is amended to read as follows: 97 Stat. 122.
26 USC 3121.
- “(B) any amount treated as an employer contribution under section 414(h)(2) where the pickup referred to in such section is pursuant to a salary reduction agreement (whether evidenced by a written instrument or otherwise).”
- (4) Effective January 1, 1985, subparagraph (B) of section 3306(r)(1) of such Code is amended to read as follows: 97 Stat. 123.
26 USC 3306.
- “(B) any amount treated as an employer contribution under section 414(h)(2) where the pickup referred to in such section is pursuant to a salary reduction agreement (whether evidenced by a written instrument or otherwise).”
- (5) Section 6334(c) of such Code is amended by inserting “(including section 207 of the Social Security Act)” immediately after “any other law of the United States”. 26 USC 6334.

CHANGES IN TEXT OF THE 1983 AMENDMENTS

- SEC. 2662. (a) Section 101(d) of the Social Security Amendments of 1983 (Public Law 98-21) is amended by striking out “remuneration paid” and inserting in lieu thereof “service performed”. 97 Stat. 67.
26 USC 3121 note.
- (b) Section 112(f) of such Amendments is amended by inserting “of such Act” after “section 201(a)”. 97 Stat. 73.
42 USC 415 note.
- (c) Section 201(c) of such Amendments is amended— 97 Stat. 107.
42 USC 402, 403, 415, 416, 423.
- (1) by inserting “the” immediately before “age of 65” in paragraph (1); and
- (2) by inserting “the” immediately before “age of sixty-five” in paragraph (3). 42 USC 423.
- (d) Section 301(a)(5) of such Amendments is amended by striking out “Section 202(c)” and inserting in lieu thereof “Effective with respect to monthly insurance benefits for months after December 1984 (but only on the basis of applications filed on or after January 1, 1985), section 202(c)”. 97 Stat. 109.
42 USC 402 note.
- (e) Section 305(d)(2) of such Amendments is amended by inserting “each place it appears” immediately before “in subsection (c)(4)(C)”. 97 Stat. 113.
42 USC 428.
- (f)(1) Section 422A(c)(9) of the Internal Revenue Code of 1954 (relating to special rule when disabled) is amended by striking out “section 105(d)(4)” and inserting in lieu thereof “section 37(e)(3)”. 26 USC 422A.
- (2)(A) Section 324(d)(1) of the Social Security Amendments of 1983 is amended by adding at the end thereof the following new sentence: “For purposes of applying such amendments to remuneration paid after December 31, 1983, which would have been taken into account before January 1, 1984, if such amendments had applied to periods before January 1, 1984, such remuneration shall be taken into account when paid (or, at the election of the payor, at the time which would be appropriate if such amendments had applied).” 97 Stat. 122.
26 USC 3121 note.
- (B) Section 324(d)(2) of such Amendments is amended by adding at the end thereof the following new sentence: “For purposes of applying such amendments to remuneration paid after December 31, 1984, which would have been taken into account before January 1, 1985, if such amendments had applied to periods before January 1, 1985, such remuneration shall be taken into account when paid (or,

at the election of the payor, at the time which would be appropriate if such amendments had applied).”

97 Stat. 122.
26 USC 3121
note.

(C) Section 324(d)(4) of such Amendments is amended by adding at the end thereof the following new sentence: “For purposes of this paragraph, any plan or agreement to make payments described in paragraph (2), (3), or (13)(A)(iii) of section 3121(a) of such Code (as in effect on the day before the date of the enactment of this Act) shall be treated as a nonqualified deferred compensation plan.”

Effective date.
97 Stat. 126.
26 USC 3121
note.

(g) Section 327(d) of such Amendments (relating to codification of Rowan decision with respect to meals and lodging) is amended to read as follows:

“(d)(1) The amendment made by subsection (a) shall apply to remuneration paid after December 31, 1983.

“(2) The amendments made by subsection (b) and subsection (c)(4) shall apply to remuneration (other than amounts excluded under section 119 of the Internal Revenue Code of 1954) paid after March 4, 1983, and to any such remuneration paid on or before such date which the employer treated as wages when paid.

“(3) The amendments made by paragraphs (1), (2), and (3) of subsection (c) shall apply to remuneration paid after December 31, 1984.”

97 Stat. 132.
42 USC 902 note.

(h)(1) Section 338(b) of such Amendments is amended by adding at the end thereof the following new paragraph:

“(6) The provisions of section 8344 of title 5, United States Code, shall not apply to service by an individual as a member of the Panel.”

Effective date.
42 USC 902 note.

(2) The amendment made by this subsection shall take effect on January 1, 1984.

97 Stat. 133.
42 USC 423.

(i) Section 339(b) of such Amendments is amended to read as follows:

“(b) Section 223 of such Act is amended by adding at the end thereof the following new subsection:

“‘(h) For provisions relating to limitation on payments to prisoners, see section 202(x).’”

97 Stat. 72.
38 USC 3023
note.

(j) Section 111(e) of such Amendments is amended by inserting “Budget” before “Reconciliation”.

OTHER TECHNICAL CORRECTIONS IN THE SOCIAL SECURITY ACT AND RELATED PROVISIONS

42 USC 401. SEC. 2663. (a)(1)(A) The fourth sentence of section 201(d) of the Social Security Act is amended—

(i) by striking out “the Second Liberty Bond Act, as amended,” and inserting in lieu thereof “chapter 31 of title 31, United States Code,”; and

(ii) by striking out “public-debt obligation” and inserting in lieu thereof “public-debt obligations”.

(B) Section 201(g)(1)(B) of such Act is amended by striking out “clauses” in the first sentence and inserting in lieu thereof “clause”.

42 USC 402.

(2)(A)(i) Section 202(d)(1) of such Act, in clause (ii) in the matter which follows subparagraph (C) and precedes subparagraph (D), is amended by striking out “paragraphs” and “paragraph” and inserting in lieu thereof “subparagraphs” and “subparagraph”, respectively.

(ii) Section 202(d)(1)(G) of such Act is amended—

(I) by striking out the comma after “age of 18”;

(II) by striking out “the age of 22,” and inserting in lieu thereof “the age of 22—”;

(III) by striking out “, or, subject to section 223(e), the termination month (and for purposes” and inserting in lieu thereof the following:

“(i) the termination month, subject to section 223(e) (and for purposes”;

(IV) by striking out “after the 15 months” and all that follows down through “such earlier month.” and inserting in lieu thereof the following:

“after the 15 months following such period of trial work in which he engages or is determined able to engage in substantial gainful activity),

or (if later) the earlier of—

“(ii) the first month during no part of which he is a full-time elementary or secondary school student, or

“(iii) the month in which he attains the age of 19,

but only if he was not under a disability (as so defined) in such earlier month.”; and

(V) by indenting all of clause (i) (as designated and amended by the preceding provisions of this subparagraph) four ems, so as to align its left margin with the margins of clauses (ii) and (iii) (as so designated).

(iii) The second sentence of section 202(d)(7)(A) of such Act is amended by striking out “the date of the enactment of this paragraph” and inserting in lieu thereof “the effective date of this sentence”. 42 USC 402.

(B) Section 202(e)(1) of such Act is amended—

(i) by striking out the first comma after “age 60” in the matter following subparagraph (F)(ii); and

(ii) by striking out “he engages” in the last sentence and inserting in lieu thereof “she engages”.

(C) Section 202(f)(1) of such Act is amended by striking out the first comma after “age 60” in the matter following subparagraph (F)(ii).

(D) Section 202(f)(3)(D)(i) of such Act is amended by striking out the semicolon after “applicable,”. 97 Stat. 96.

(E) Section 2202(a)(1)(B) of Public Law 97-35 is amended by striking out “as”. 42 USC 402.

(F)(i) Section 202(q)(3)(G) of the Social Security Act is amended by striking out “as if the period” and inserting in lieu thereof “if the period”.

(ii) Section 202(q)(7)(E) of such Act is amended by striking out “he attained retirement age” and inserting in lieu thereof “she or he attained retirement age”.

(G) Section 202(t)(4)(E) of such Act is amended—

(i) by inserting “of 1937 or 1974” after “Railroad Retirement Act” where it first appears; and

(ii) by inserting before the semicolon at the end thereof the following: “of 1937 or section 18(2) of the Railroad Retirement Act of 1974”.

(H) Section 202(u)(1)(B) of such Act is amended by striking out “, 112, or 113”.

(3)(A) Section 203(a)(8) of such Act is amended by adding a period at the end thereof. 42 USC 403.

42 USC 403.

(B) Section 203(d)(2) of such Act is amended by striking out “an individual who is entitled” and inserting in lieu thereof “an individual under the age of seventy who is entitled”.

(C) Section 203(f)(5)(B)(ii) of such Act is amended by striking out “702(a)(9)” and inserting in lieu thereof “702(a)(8)”.

(D) Section 203(f)(8) of such Act is amended by indenting subparagraphs (B) and (C) two additional ems (for a total indentation of four ems) so as to align their left margins with the margins of subparagraphs (A) and (D).

42 USC 405.

(4)(A) Section 205(c)(5)(D) of such Act is amended by inserting “of 1937 or 1974” after “Railroad Retirement Act” each place it appears.

(B) Section 205(c)(5)(I) of such Act is amended by inserting before the semicolon at the end thereof the following: “or section 7(b)(7) of the Railroad Retirement Act of 1974”.

(C) Section 205(e) of such Act is amended by striking out “on order” and inserting in lieu thereof “an order”.

(D) Section 205(h) of such Act is amended by striking out “section 24 of the Judicial Code of the United States” and inserting in lieu thereof “section 1331 or 1346 of title 28, United States Code,”.

(E) Section 205(i) of such Act is amended by striking out all that follows “through” and precedes “and prior” and inserting in lieu thereof “the Fiscal Service of the Department of the Treasury,”.

(F) Section 205(p)(1) of such Act is amended by striking out “section 1420(e) of the Internal Revenue Code” and inserting in lieu thereof “section 3122 of the Internal Revenue Code of 1954”.

42 USC 408.

(5) Section 208 of such Act is amended by indenting paragraphs (f) through (h) two ems so as to align their left margins with the margins of paragraphs (a) through (e) (and by appropriately further indenting subdivisions (1), (2), and (3) of paragraph (g)).

42 USC 409.

(6)(A) Section 209 of such Act is amended—

(i) by indenting paragraphs (5) through (9) of subsection (a) two ems so as to align their left margins with the margins of the preceding paragraphs of such subsection;

(ii) by striking out “(p) Remuneration” and inserting in lieu thereof “(p)(1) Remuneration”;

(iii) by striking out the period at the end of paragraph (p)(1) as redesignated by clause (ii) of this subparagraph and inserting in lieu thereof a semicolon;

(iv) by striking out “(p) Any contribution” and inserting in lieu thereof “(2) Any contribution”; and

97 Stat. 127.

(v) by indenting subsections (e), (f), and (k) through (r) two ems so as to align their left margins with the margins of subsections (a) through (d) and subsections (g), (h), and (j) (appropriately further indenting paragraphs (1) and (2) of subsection (f) and paragraphs (1) and (2) of subsection (m)).

(B) The seventh unnumbered paragraph from the end of section 209 of such Act (relating to remuneration for service performed as a member of a uniformed service) is amended by striking out “section 102(10) of the Servicemen’s and Veterans’ Survivor Benefits Act” and inserting in lieu thereof “chapter 3 and section 1009 of title 37, United States Code”.

42 USC 410.

(7)(A) Section 210(a)(1) of such Act is amended by striking out “(A)” and all that follows down through “or (B)”.

(B) Section 210(a)(7) of such Act is amended by indenting subparagraph (D) two additional ems (for a total indentation of four ems) so

as to align its left margin with the margins of subparagraphs (A) through (C).

(C) Section 210(a)(9) of such Act is amended by striking out “section 1532 of the Internal Revenue Code” and inserting in lieu thereof “section 3231 of the Internal Revenue Code of 1954”. 42 USC 410.

(D) Section 210(a)(19) of such Act is amended by striking out the comma after “; or”.

(E) Section 210(1)(2) of such Act is amended—

(i) by striking out “section 102 of the Servicemen’s and Veterans’ Survivor Benefits Act” and inserting in lieu thereof “paragraph (21) of section 101 of title 38, United States Code”; and

(ii) by striking out “such section” and inserting in lieu thereof “paragraph (22) of such section”.

(F) Section 210(1)(3) of such Act is amended by striking out “such section 102” and inserting in lieu thereof “paragraph (23) of such section 101”.

(G) Section 210(m) of such Act is amended—

(i) by striking out “a reserve component of a uniformed service as defined in section 102(3) of the Servicemen’s and Veterans’ Survivor Benefits Act” in the first sentence and inserting in lieu thereof “a reserve component as defined in section 101(27) of title 38, United States Code”;

(ii) by inserting “, the National Oceanic and Atmospheric Administration Corps,” after “Coast and Geodetic Survey” in the first sentence;

(iii) by striking out “military or naval” each place it appears in paragraph (5) and inserting in lieu thereof “military, naval, or air”; and

(iv) by striking out “Universal Military Training and Service Act” in paragraph (5)(B) and inserting in lieu thereof “Military Selective Service Act”.

(8)(A) Section 211(a) of such Act is amended by striking out “chapter 1 of the Internal Revenue Code”, “such chapter”, and “section 183 of such code” in the matter preceding paragraph (1) and inserting in lieu thereof “subtitle A of the Internal Revenue Code of 1954”, “such subtitle”, and “section 702(a)(8) of such Code”, respectively. 42 USC 411.

(B) Section 211(a)(3) of such Act is amended—

(i) by striking out “chapter 1 of the Internal Revenue Code” and inserting in lieu thereof “subtitle A of the Internal Revenue Code of 1954”; and

(ii) by inserting “or” before “(C)”.

(C) Section 211(a)(4) of such Act is amended by striking out “section 23(s) of such code” and inserting in lieu thereof “section 172 of the Internal Revenue Code of 1954”.

(D) Section 211(a) of such Act is further amended by striking out “702(a)(9)” in clauses (iii) and (iv) (in the matter following paragraph (12)) and inserting in lieu thereof in each instance “702(a)(8)”. 97 Stat. 90.

(E) Section 211(b)(1) of such Act is amended by indenting subparagraphs (D), (G), (H), and (I) an additional two ems (for a total indentation of four ems) so as to align their left margins with the margins of the other subparagraphs of such section.

(F) Section 211(c) of such Act is amended by striking out “section 23 of the Internal Revenue Code” and inserting in lieu thereof “section 162 of the Internal Revenue Code of 1954”.

42 USC 411.

(G) Section 211(c)(3) of such Act is amended by striking out "section 1532 of the Internal Revenue Code" and inserting in lieu thereof "section 3231 of the Internal Revenue Code of 1954".

(H) Section 211(d) of such Act is amended by striking out "supplement F of chapter 1 of the Internal Revenue Code" and inserting in lieu thereof "subchapter K of chapter 1 of the Internal Revenue Code of 1954".

(I) Section 211(e) of such Act is amended by striking out "chapter 1 of the Internal Revenue Code", "chapter 1 of such code", and "such chapter 1" and inserting in lieu thereof "subtitle A of the Internal Revenue Code of 1954", "subtitle A of such Code", and "such subtitle A", respectively.

42 USC 413.

(9)(A) Section 213(a)(1) of such Act is amended by striking out "means" and inserting in lieu thereof "mean".

(B) Section 213(a)(2)(B)(ii) of such Act is amended by striking out "equal to \$3,000" and inserting in lieu thereof "equal \$3,000".

42 USC 415.

(10)(A) Section 215(a)(1) of such Act is amended—

(i) by striking out "of such benefits" in subparagraph (B)(i) and inserting in lieu thereof "for such benefits";

(ii) by striking out "amounts" in subparagraph (B)(iii) and inserting in lieu thereof "amount"; and

(iii) by striking out "scetion 217" in subparagraph (C)(ii) and inserting in lieu thereof "section 217".

(B) Section 215(a)(4) of such Act is amended by indenting subparagraph (B) two ems so as to align its left margin with the margin of subparagraph (A) (and by appropriately further indenting clauses (i) and (ii) of such subparagraph (B)).

(C) Section 215(f)(2)(A) of such Act is amended by striking out "primary insurance account" and inserting in lieu thereof "primary insurance amount".

(D) Section 215(h) of such Act is amended—

(i) by adding at the beginning thereof the following heading: "Service of Certain Public Health Service Officers"; and

(ii) by striking out "Civil Service Commission" in paragraph (1) and inserting in lieu thereof "Director of the Office of Personnel Management".

42 USC 416.

(11)(A) Section 2203(d)(4) of Public Law 97-35 is amended by inserting after "at the end of paragraph (3)" the following: "(after and below subparagraph (C)(ii))".

42 USC 416.

(B) Section 216(i)(2)(F)(ii) of the Social Security Act is amended by striking out "enacted," in the matter immediately preceding subdivision (I) and inserting in lieu thereof "enacted—".

42 USC 417.

(12)(A) Section 217(d) of such Act is amended by indenting paragraphs (1) and (2) two ems.

(B) Section 217(e)(1) of such Act is amended by inserting "National Oceanic and Atmospheric Administration Corps," after "Coast and Geodetic Survey" in the last sentence.

(C) Section 217(f)(1) of such Act is amended by striking out "Civil Service Commission" and inserting in lieu thereof "Director of the Office of Personnel Management".

42 USC 418.

(13) Section 218(i) of such Act is amended by striking out "subchapter A or E of chapter 9 of the Internal Revenue Code" and inserting in lieu thereof "chapter 21 and subtitle F of the Internal Revenue Code of 1954".

42 USC 421.

(14) Section 221(e) of such Act is amended by striking out "Federal Disability Trust Fund is charged" and inserting in lieu thereof "Federal Disability Insurance Trust Fund is charged".

(15)(A) Subsections (a) and (b)(1) of section 222 of such Act are amended by striking out “the Vocational Rehabilitation Act” each place it appears and inserting in lieu thereof “title I of the Rehabilitation Act of 1973” 42 USC 422.

(B) Section 222(b)(3) of such Act is amended by striking out “equal” and inserting in lieu thereof “equals”.

(C) Section 222(b)(4) of such Act is amended by striking out “full-time student” and inserting in lieu thereof “full-time elementary or secondary school student”.

(16) Section 223(d)(2)(A) of such Act is amended by striking out “an individual” and inserting in lieu thereof “An individual” 42 USC 423.

(17) Section 226(b) of such Act is amended (in the matter following paragraph (2)(C)) by striking out “part (A)” and inserting in lieu thereof “part A” 42 USC 426.

(18) The last sentence of section 230(c) of such Act is amended by striking out “(3)(f)(3)” and inserting in lieu thereof “3(f)(3)” 97 Stat. 425.
42 USC 430.

(b)(1) Section 302(b) of such Act is amended by striking out all that follows “through” and precedes “and prior” and inserting in lieu thereof “the Fiscal Service of the Department of the Treasury” 42 USC 502.

(2) Section 303(a)(4) of such Act is amended by striking out “1606(b)” and inserting in lieu thereof “3305(b)” 42 USC 503.

(3) Section 303(a)(5) of such Act (as amended by the 1983 Amendments) is amended—

(A) by striking out “1606(b)” and inserting in lieu thereof “3305(b)”; and

(B) by striking out the punctuation mark immediately before the last proviso and inserting in lieu thereof a colon.

(4) Section 303(c) of such Act is amended by striking out “That” in paragraphs (1) and (2) and inserting in lieu thereof “that”.

(5) Section 303(e)(2)(A)(i) of such Act is amended by striking out “child support obligations” and inserting in lieu thereof “child support obligations”.

(c)(1)(A) Section 402(a)(9) of such Act is amended by striking out “use of disclosure” and inserting in lieu thereof “use or disclosure” 42 USC 602.

(B) Section 402(a)(14) of such Act is amended by striking out “(A) provide that” and inserting in lieu thereof “provide (A) that”.

(C) Section 402(a)(19)(F)(i) of such Act is amended by striking out “or section 408” and inserting in lieu thereof “or section 472”.

(D) Section 402(a)(19)(G) of such Act is amended by striking out the comma before “that” in clause (iv).

(E) Section 402(a) of such Act is further amended—

(i) by striking out “must” immediately before the first of its 36 numbered subdivisions and inserting in lieu thereof “must—”;

(ii) by indenting and aligning such numbered subdivisions (without altering any of the numbering, language, or punctuation) to the extent necessary to make each of such subdivisions a numbered paragraph with its left margin indented two ems (and with any designated internal subdivisions within such paragraphs (including the numbered subdivisions in subparagraphs (A) and (B) of paragraph (8) and in subparagraph (A) of paragraph (14) but not including such subparagraphs themselves, and not including any of the subdivisions in paragraphs (9), (10), (15), (19)(G), (25), (30), (31), (33), and (36)) being appropriately further indented and aligned as subparagraphs or clauses);

(iii) by striking out “and” after the semicolon at the end of paragraph (5);

- (iv) by striking out "clause" each place it appears in paragraphs (15)(A), (15)(B), and (19)(F) and inserting in lieu thereof "paragraph"; and
- (v) by striking out "section 402(a)(7)" in paragraph (19)(D) and inserting in lieu thereof "paragraph (7)".
- 42 USC 602. (F) Section 402(c) of such Act is amended by striking out "clause" each place it appears and inserting in lieu thereof "paragraph".
- (G) Section 402(d)(2) of such Act is amended by striking out "section 43" and "section 43(g)" and inserting in lieu thereof "section 32" and "section 32(g)", respectively.
- 42 USC 603. (2)(A) Section 403(b)(3) of such Act is amended by striking out all that follows "through" and precedes "and prior" and inserting in lieu thereof "the Fiscal Service of the Department of the Treasury".
- (B) Clause (ii) in the last sentence of section 403(j) of such Act is amended by striking out the comma after "excess payments".
- 42 USC 606. (3)(A) Section 406(b)(2) of such Act is amended by adding "and" after the semicolon at the end of clause (C), by striking out clause (D), and by redesignating clause (E) as clause (D).
- (B)(i) The last sentence of section 406(b) of such Act, and section 402(a)(19)(F)(i) of such Act, are each amended by striking out "clauses (A) through (E)" and inserting in lieu thereof "clauses (A) through (D)".
- (ii) Section 402(a)(26)(B) of such Act is amended by striking out "subparagraphs (A) through (E)" and inserting in lieu thereof "clauses (A) through (D)".
- 42 USC 607. (4)(A) Section 407(b)(1)(C) of such Act is amended by striking out "such father", and "he" each place it appears, and by inserting in lieu thereof in each instance "such parent".
- (B) Section 407(b)(2)(A) of such Act is amended by striking out "thirty days" and inserting in lieu thereof "30 days".
- 42 USC 609. (5) Section 409(a) of such Act is amended—
- (A) by striking out "vacancies" in paragraph (1)(B) and inserting in lieu thereof "vacancies"; and
- (B) by striking out "part (C)" in paragraph (3) and inserting in lieu thereof "part C"
- 42 USC 610. (6) Section 410 of such Act is amended by striking out "Food Stamp Act of 1964" in subsections (a) and (c) and inserting in lieu thereof "Food Stamp Act of 1977".
- 42 USC 614. (7)(A) Section 414(b)(5) of such Act is amended by striking out "receipients" and inserting in lieu thereof "recipients".
- 42 USC 615. (B) Section 415(b)(1)(B)(i) of such Act is amended by striking out "determinig" and inserting in lieu thereof "determining".
- 42 USC 620. (8) Section 420(b) of such Act is amended by striking out the comma immediately after "preceding sentence".
- 42 USC 641. (9) Section 441 of such Act is amended by striking out "(a)".
- 42 USC 644. (10) Section 444(d) of such Act is amended by striking out "rereferred" and inserting in lieu thereof "referred".
- 42 USC 645. (11) Section 445(b)(1)(E) of such Act is amended by striking out "Comprehensive Employment and Training Act of 1973" and inserting in lieu thereof "Job Training Partnership Act".
- 42 USC 652. (12) The second sentence of section 452(c)(2) of such Act is amended by striking out "preceding section" and inserting in lieu thereof "preceding sentence".
- 42 USC 653. (13) Section 453(b)(2) of such Act is amended by striking out ", or the United States" and inserting in lieu thereof "of the United States".
- 42 USC 654. (14) Section 454 of such Act is amended—

- (A) by striking out “of such parent” in paragraph (9)(C);
- (B) by striking out “collection and distribution,” in clause (A)(ii) of paragraph (16) and inserting in lieu thereof “collection, and distribution”; and
- (C) by indenting paragraph (17) two ems so as to align its left margin with the margins of the preceding paragraphs, and amending such paragraph (as so indented)—
 - (i) by striking out “to accept” and inserting in lieu thereof “provide that the State will accept”,
 - (ii) by striking out “and to impose” and inserting in lieu thereof “will impose”,
 - (iii) by striking out “to transmit” and inserting in lieu thereof “will transmit”, and
 - (iv) by striking out “, otherwise to comply” and inserting in lieu thereof “will otherwise comply”.
- (15) Section 456 of such Act is amended— 42 USC 656.
 - (A) by inserting “(1)” after “Sec. 456. (a)”;
 - (B) by striking out “(1) The amount” and inserting in lieu thereof “(2) The amount”;
 - (C) by striking out “(2) Any” and inserting in lieu thereof “(3) Any”; and
 - (D) by striking out “paragraphs (1) (A) and (B)” and inserting in lieu thereof “subparagraphs (A) and (B) of paragraph (2)”.
- (16) The heading of section 458 of such Act is amended by striking out “STATES” and inserting in lieu thereof “STATES”. 42 USC 658.
- (17) Section 462(f)(2) of such Act is amended by striking out “dependents” and inserting in lieu thereof “dependents”. 42 USC 662.
- (18)(A) Section 474(b)(4)(A) of such Act is amended by striking out “subparagraph (c)” and inserting in lieu thereof “subparagraph (C)”. 42 USC 674.
- (B) Section 474(c)(2) of such Act is amended by striking out “relvant” and inserting in lieu thereof “relevant”.
- (C) Section 474(d)(1) of such Act is amended—
 - (i) by striking out “and (c)” the second place it appears and inserting in lieu thereof “and (C)”; and
 - (ii) by striking out “secretary” and inserting in lieu thereof “Secretary”.
- (d)(1) Section 901(c) of such Act is amended by aligning paragraphs (1) through (4) (including the subparagraphs in paragraph (3)) flush with the left margin (but with appropriate indentation in the case of the subparagraphs and clauses in paragraph (1)). 42 USC 1101.
- (2) Section 901(f) of such Act is amended by moving paragraph (3) two ems to the left, so that its left margin is in flush alignment with the margins of the other paragraphs in such section.
- (3) Section 904(b) of such Act is amended by striking out “the Second Liberty Bond Act, as amended,” and inserting in lieu thereof “chapter 31 of title 31, United States Code,”. 42 USC 1104.
- (4) Section 908(d) of such Act is amended by striking out “5703(b)” and inserting in lieu thereof “5703”. 42 USC 1108.
- (e)(1)(A) Subparagraphs (C) and (D) of section 1101(a)(8) of such Act are amended by indenting them 2 ems so as to align their left margin with the left margin of subparagraphs (A) and (B) of such section. 42 USC 1301.
- (B) Paragraph (9) of section 1101(a) of such Act is amended by indenting it (including subparagraphs (A) through (D) and clauses (i) and (ii) of subparagraph (C)) 2 ems so as to align the left margin at the beginning of such paragraph with the left margin of paragraph (8)(A) of such section.

42 USC 1307.

(2)(A) Section 1107(a) of such Act is amended by striking out “subchapter E of chapter 1 or subchapter A, C, or E of chapter 9 of the Internal Revenue Code,” and inserting in lieu thereof “of chapter 2, 21, or 23 of the Internal Revenue Code of 1954, or of any provision of subtitle F of such Code which corresponds (within the meaning of section 7852(b) of such Code) to a provision contained in subchapter E of chapter 9 of the Internal Revenue Code of 1939,”.

Effective date.
42 USC 1307
note.

(B) The amendment made by subparagraph (A) shall not apply to returns filed or representations made on or before the date of the enactment of this Act.

(3) Section 1107(b) of such Act is amended by striking out “former wife divorced,” each place it appears and inserting in lieu thereof “divorced wife, divorced husband, surviving divorced wife, surviving divorced husband, surviving divorced mother, surviving divorced father,”.

42 USC 1314.

(4)(A) Section 1114(g) of such Act is amended by striking out the period after “Code” and inserting in lieu thereof a comma.

(B) Section 1114(h)(1) of such Act is amended by striking out “sections 281, 283, and 1914 of title 18 of the United States Code, and section 190 of the Revised Statutes (5 U.S.C. 99)” and insert in lieu thereof “sections 203, 205, and 209 of title 18, United States Code”.

42 USC 1315.

(5) Section 1115(a) of such Act is amended by striking out “VI,” “602,” and “603,”.

42 USC 1316.

(6) Section 1116 of such Act is amended—

(A) by striking out “VI,” in subsections (a)(1), (b), and (d);

(B) by striking out “604,” in subsection (a)(3); and

(C) by striking out “XVI,” and all that follows through “part A” in subsection (d) and inserting in lieu thereof “XVI, or XIX, or part A”.

42 USC 1320b-1.

(7) Section 1131(a) of such Act is amended—

(A) by striking out the period after “section 204(d) of this Act” in paragraph (2)(B) and inserting in lieu thereof a comma; and

(B) by moving the matter following paragraph (2)(B) two ems to the left so that it is flush with the left margin.

42 USC
1331-1336.

(f) Title XIII of such Act is repealed.

(g)(1) Section 1611(c) of such Act is amended by adding at the beginning thereof the following heading:

“Period for Determination of Benefits”.

42 USC 1382.

(2) Section 1611(g) of such Act is amended by striking out “or individuals” and inserting in lieu thereof “or such individual”.

42 USC 1382a.

(3) Section 1612(b)(2) of such Act is amended by indenting subparagraph (B) two ems so as to align its left margin with the margin of subparagraph (A).

(4) Section 1612(b)(9) of such Act is amended by inserting a comma after “child”.

42 USC 1382b.

(5) The heading of section 1613(c) of such Act is amended to read as follows:

“Disposal of Resources For Less Than Fair Market Value”.

42 USC 1382c.

(6) Section 1614(a)(3) of such Act is amended by moving subparagraph (E) two ems to the left, so that its left margin is in flush alignment with the margins of the other subparagraphs in such section.

(7) Section 1614(d)(1) of such Act is amended by striking out “man and women” and inserting in lieu thereof “man and woman”. 42 USC 1382c.

(8) Section 1615 of such Act is amended by striking out “the Vocational Rehabilitation Act” in subsections (a), (c), and (d) and inserting in lieu thereof “title I of the Rehabilitation Act of 1973”. 42 USC 1382d.

(9) Section 1618 of such Act is amended— 42 USC 1382g.

(A) by moving subsection (d) two ems to the left, so that its left margin is in flush alignment with the margins of the other subsections in such section;

(B) by striking out the comma after “levels of its” in such subsection (d); and

(C) by inserting a comma after “1980”, and after “1976” each place it appears, in such subsection.

(10) Section 1621(e) of such Act is amended by striking out “severably” and inserting in lieu thereof “severally”. 42 USC 1382j.

(11)(A) Section 1631(b)(1) of such Act is amended by striking out “equity or” and inserting in lieu thereof “equity and”. 42 USC 1383.

(B) Section 1631(b)(2) of such Act is amended by striking out “section 43” and “section 43(g)” and inserting in lieu thereof “section 32” and “section 32(g)”, respectively.

(12) Section 1631(d)(1) of such Act is amended by striking out “(e), and (f)” and inserting in lieu thereof “and (e)”.

(h)(1) Section 2002(b) of such Act is amended by striking out “section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4213)” and inserting in lieu thereof “section 6503 of title 31, United States Code”. 42 USC 1397a.

(2) Section 2006(c) of such Act is amended by striking out “section 202 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4212)” and inserting in lieu thereof “section 6503 of title 31, United States Code”. 42 USC 1397e.

(i)(1) Section 3121(b)(1) of the Internal Revenue Code of 1954 is amended by striking out “(A)” and all that follows down through “or (B)”. 26 USC 3121.

(2) Section 3121(i)(2) of such Code is amended by striking out “section 102(10) of the Servicemen’s and Veterans’ Survivor Benefits Act” and inserting in lieu thereof “chapter 3 and section 1009 of title 37, United States Code”.

(3) Section 3121(m)(2) of such Code is amended—

(A) by striking out “section 102 of the Servicemen’s and Veterans’ Survivor Benefits Act” and inserting in lieu thereof “paragraph (21) of section 101 of title 38, United States Code”; and

(B) by striking out “such section” and inserting in lieu thereof “paragraph (22) of such section”.

(4) Section 3121(m)(3) of such Code is amended by striking out “such section 102” and inserting in lieu thereof “paragraph (23) of such section 101”.

(5) Section 3121(n) of such Code is amended—

(A) by striking out “a reserve component of a uniformed service as defined in section 102(3) of the Servicemen’s and Veterans’ Survivor Benefits Act” in the first sentence and inserting in lieu thereof “a reserve component as defined in section 101(27) of title 38, United States Code”;

(B) by inserting “, the National Oceanic and Atmospheric Administration Corps,” after “Coast and Geodetic Survey” in the first sentence;

(C) by striking out “military or naval” each place it appears in paragraph (5) and inserting in lieu thereof “military, naval, or air”; and

(D) by striking out “Universal Military Training and Service Act” in paragraph (5)(B) and inserting in lieu thereof “Military Selective Service Act”.

42 USC 1301.

(j)(1) Section 1101(a)(6) of the Social Security Act is amended by striking out “means” and all that follows and inserting in lieu thereof “means the Secretary of Health and Human Services.”.

(2) The following provisions of such Act are amended by striking out “Health, Education, and Welfare” wherever it appears and inserting in lieu thereof “Health and Human Services”:

(A) In title II—

(i) subsections (a)(3), (a)(4), (b)(1), (b)(2), (g)(1), (g)(2), (g)(4), and (i)(1) of section 201;

(ii) subsections (q)(4)(B), (q)(6)(B), and (r)(1) of section 218; and

(iii) subsections (b)(3) and (b)(4) of section 231;

42 USC 431.

(B) in title IV—

(i) subsections (b)(2) and (b)(3) of section 403;

(ii) subsection (a) of section 431;

(iii) subsection (b) of section 436;

(iv) section 439;

(v) section 441;

(vi) section 443;

(vii) subsection (a) of section 444;

(viii) subsection (a) of section 452;

(ix) subsection (b)(1) of section 453;

(x) paragraph (8)(B) of section 454; and

(xi) section 460;

42 USC 660.

(C) in title VII—

(i) section 702; and

(ii) subsection (c)(1) of section 706;

42 USC 902.

42 USC 907.

(D) in title XI—

(i) section 1102;

(ii) subsection (b) of section 1106;

(iii) subsection (b) of section 1107;

(iv) subsection (c) of section 1114;

(v) section 1120; and

(vi) subsection (a) of section 1126;

42 USC 1320a-5.

42 USC 1381a.

(E) in title XVI, section 1602; and

(F) in title XVIII—

(i) subsections (a), (f)(1), (g), and (h) of section 1817;

(ii) subsections (a)(2) and (d)(1) of section 1840;

(iii) subsections (f), (g), (h), and (i) of section 1841; and

(iv) subsection (b)(3) of section 1842.

42 USC 1395i.

42 USC 1395s.

42 USC 1395t.

42 USC 1395u.

(3) The following provisions of such Act are amended by striking out “of Health, Education, and Welfare” wherever it appears:

(A) In title II—

(i) subsections (a)(10)(B) and (l)(4)(A) of section 210;

(ii) subsections (a)(2), (a)(3), (b)(2), (e)(2), (e)(3), and (f)(1) of section 217;

42 USC 410.

42 USC 417.

(iii) subsections (a)(1), (c)(4), (d)(3), (d)(7), (h)(2), (h)(3), (i), (j), (k)(1), (l), and (p)(2) of section 218;

(iv) subsection (g) of section 228; and

42 USC 418.

42 USC 428.

42 USC 433.

42 USC 433.

(v) subsection (d) of section 233;

(B) in title IV—

- (i) subsection (a)(3) of section 403; and 42 USC 603.
- (ii) subsection (e) of section 407; and 42 USC 607.
- (C) in title XIX, section 1901. 42 USC 1396.
- (4) Section 205(l) of such Act is amended by striking out “employee” and all that follows down through “designated” and inserting in lieu thereof “employee of the Department of Health and Human Services designated”. 42 USC 405.
- (5) The following provisions of the Internal Revenue Code of 1954 are amended by striking out “Health, Education, and Welfare” each place it appears and inserting in lieu thereof “Health and Human Services”:
 - (A) Subsection (d)(6)(B)(ii) of section 51; 26 USC 51.
 - (B) subsections (c)(1), (c)(2)(E), (g)(1), (g)(3)(A), and (g)(3)(B) of section 1402; 26 USC 1402.
 - (C) subsection (b)(10)(B) of section 3121; 26 USC 3121.
 - (D) subsections (d) and (f) of section 6057; 26 USC 6057.
 - (E) subsection (l)(5) of section 6103; and 26 USC 6103.
 - (F) paragraph (5) of section 6511(d). 26 USC 6511.
- (k) Sections 432(d), 432(f)(1), 433(g), and 434(b) of the Social Security Act are each amended by striking out “of Labor” wherever it appears. 42 USC 632, 633, 634.
- (l) Any reference to the Federal Security Administrator which may remain in the provisions of title II, IV, VII, or XI of the Social Security Act (other than section 1101(a)(6) of such Act) is amended—
 - (1) by substituting “Secretary” or “Secretary’s” for the term “Administrator” or “Administrator’s”, where the reference is to that term alone; 42 USC 1301 note.
 - (2) by substituting “Secretary of Health, Education, and Welfare” for the term “Federal Security Administrator”, where the reference is to that term, if the provision containing such reference is amended by paragraph (2) or (3) of subsection (j) (in which case the amendment of such provision under this paragraph shall be deemed to have taken effect immediately prior to the amendment of such provision under such paragraph (2) or (3)); and 42 USC 401, 601, 901, 1301.
 - (3) by substituting “Secretary of Health and Human Services” for the term “Federal Security Administrator” in any other case where the reference is to that term; 42 USC 1301.
- and any reference to the Federal Security Agency which may remain in such provisions is amended by substituting “Department of Health and Human Services” for the term “Federal Security Agency”; but nothing in this subsection shall affect the exercise under section 402(a)(5) of such Act of the functions, powers, and duties relating to the prescription of personnel standards on a merit basis which were transferred from the Secretary of Health, Education, and Welfare by section 208(a)(3)(D) of Public Law 91-648. 42 USC 602.

EFFECTIVE DATES

- SEC. 2664. (a) Except as otherwise specifically provided, the amendments made by sections 2661 and 2662 shall be effective as though they had been included in the enactment of the Social Security Amendments of 1983 (Public Law 98-21). 42 USC 401 note. *Ante*, pp. 1156, 1159.
- (b) Except to the extent otherwise specifically provided in this subtitle, the amendments made by section 2663 shall be effective on the date of the enactment of this Act; but none of such amendments shall be construed as changing or affecting any right, liability, 97 Stat. 65. 42 USC 1305 note. *Ante*, p. 1160.

status, or interpretation which existed (under the provisions of law involved) before that date.

Subtitle E—Trade Adjustment Assistance

LIMITATIONS ON TRADE READJUSTMENT ALLOWANCES

19 USC 2296. SEC. 2671. The first sentence of section 233(a)(3) of the Trade Act of 1974 (19 U.S.C. 2293(a)(3)) is amended to read as follows: "Notwithstanding paragraph (1), in order to assist the adversely affected worker to complete training approved for him under section 236, and in accordance with regulations prescribed by the Secretary, payments may be made as trade readjustment allowances for up to 26 additional weeks in the 26-week period that—

"(A) follows the last week of entitlement to trade readjustment allowances otherwise payable under this chapter; or

"(B) begins with the first week of such training, if such training is approved after the last week described in subparagraph (A)."

JOB SEARCH AND RELOCATION ALLOWANCES

SEC. 2672. (a) Section 237(a)(1) of the Trade Act of 1974 (19 U.S.C. 2297(a)(1)) is amended by striking out "\$600" and inserting in lieu thereof "\$800".

(b) Section 238(d)(2) of the Trade Act of 1974 (19 U.S.C. 2298(d)(2)) is amended by striking out "\$600" and inserting in lieu thereof "\$800".

ASSISTANCE TO INDUSTRY

SEC. 2673. Section 265 of the Trade Act of 1974 (19 U.S.C. 2355) is amended—

(1) by amending subsection (a)—

(A) by inserting "or workers" immediately after "substantial number of firms", and

(B) by inserting "223 or" immediately before "251"; and
(2) by striking out "\$2,000,000" in subsection (b) and inserting in lieu thereof "\$10,000,000".

Subtitle F—Certain Provisions Relating to Puerto Rico and the Virgin Islands

SEC. 2681. CLARIFICATION OF DEFINITION OF ARTICLES PRODUCED IN PUERTO RICO OR THE VIRGIN ISLANDS.

97 Stat. 395.
26 USC 7652. (a) IN GENERAL.—Section 7652 of the Internal Revenue Code of 1954 (relating to shipments to the United States) is amended by redesignating subsection (c) as subsection (e) and by inserting after subsection (b) the following new subsections:

"(c) ARTICLES CONTAINING DISTILLED SPIRITS.—For purposes of subsections (a)(3) and (b)(3), any article containing distilled spirits shall in no event be treated as produced in Puerto Rico or the Virgin Islands unless at least 92 percent of the alcoholic content in such article is attributable to rum.

"(d) ARTICLES OTHER THAN ARTICLES CONTAINING DISTILLED SPIRITS.—For purposes of subsections (a)(3) and (b)(3)—

“(1) VALUE ADDED REQUIREMENT FOR PUERTO RICO.—Any article, other than an article containing distilled spirits, shall in no event be treated as produced in Puerto Rico unless the sum of—

“(A) the cost or value of the materials produced in Puerto Rico, plus

“(B) the direct costs of processing operations performed in Puerto Rico,
equals or exceeds 50 percent of the value of such article as of the time it is brought into the United States.

“(2) PROHIBITION OF FEDERAL EXCISE TAX SUBSIDIES.—

“(A) **IN GENERAL.**—No amount shall be transferred under subsection (a)(3) or (b)(3) in respect of taxes imposed on any article, other than an article containing distilled spirits, if the Secretary determines that a Federal excise tax subsidy was provided by Puerto Rico or the Virgin Islands (as the case may be) with respect to such article.

“(B) **FEDERAL EXCISE TAX SUBSIDY.**—For purposes of this paragraph, the term ‘Federal excise tax subsidy’ means any subsidy—

“(i) of a kind different from, or

“(ii) in an amount per value or volume of production greater than,
the subsidy which Puerto Rico or the Virgin Islands offers generally to industries producing articles not subject to Federal excise taxes.

“(3) DIRECT COSTS OF PROCESSING OPERATIONS.—For purposes of this subsection, the term ‘direct cost of processing operations’ has the same meaning as when used in section 213 of the Caribbean Basin Economic Recovery Act.”.

(b) EFFECTIVE DATES AND SPECIAL RULES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsection (a) shall apply with respect to articles brought into the United States on or after March 1, 1984.

(2) EXCEPTION FOR PUERTO RICO FOR PERIODS BEFORE JANUARY 1, 1985.—

(A) IN GENERAL.—Subject to the limitations of subparagraphs (B) and (C), the amendments made by subsection (a) shall not apply with respect to articles containing distilled spirits brought into the United States from Puerto Rico after February 29, 1984, and before January 1, 1985.

(B) \$130,000,000 LIMITATION.—In the case of such articles brought into the United States after February 29, 1984, and before July 1, 1984, the aggregate amount payable to Puerto Rico by reason of subparagraph (A) shall not exceed the excess of—

(i) \$130,000,000, over

(ii) the aggregate amount payable to Puerto Rico under section 7652(a) of the Internal Revenue Code of 1954 with respect to such articles which were brought into the United States after June 30, 1983, and before March 1, 1984, and which would not meet the requirements of section 7652(c) of such Code.

(C) \$75,000,000 LIMITATION.—The aggregate amount payable to Puerto Rico by reason of subparagraph (A) shall not exceed \$75,000,000 in the case of articles—

97 Stat. 384.
19 USC 2703.
26 USC 7652
note.

Ante, p. 1172.

Ante, p. 1172

(i) brought into the United States after June 30, 1984, and before January 1, 1985,

(ii) which would not meet the requirements of section 7652(c) of such Code,

(iii) which have been redistilled in Puerto Rico, and

(iv) which do not contain distilled spirits derived from cane.

(3) LIMITATION ON INCENTIVE PAYMENTS TO UNITED STATES DISTILLERS.—

(A) IN GENERAL.—In the case of articles to which this paragraph applies, the aggregate amount of incentive payments paid to any United States distiller with respect to such articles shall not exceed the limitation described in subparagraph (C).

(B) ARTICLES TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to any article containing distilled spirits described in clauses (i) through (iv) of paragraph (2)(C).

(C) LIMITATION.—

(i) IN GENERAL.—The limitation described in this subparagraph is \$1,500,000.

(ii) SPECIAL RULE.—The limitation described in this subparagraph shall be zero with respect to any distiller who was not entitled to or receiving incentive payments as of March 1, 1984.

(D) PAYMENTS IN EXCESS OF LIMITATION.—If any United States distiller receives any incentive payment with respect to articles to which this paragraph applies in excess of the limitation described in subparagraph (C), such distiller shall pay to the United States the total amount of such incentive payments with respect to such articles in the same manner, and subject to the same penalties, as if such amount were tax due and payable under section 5001 of such Code on the date such payments were received.

(E) INCENTIVE PAYMENTS.—

(i) IN GENERAL.—For purposes of this paragraph, the term “incentive payment” means any payment made directly or indirectly by the commonwealth of Puerto Rico to any United States distiller as an incentive to engage in redistillation operations.

(ii) TRANSPORTATION PAYMENTS EXCLUDED.—Such term shall not include any payment of a direct cost of transportation to or from Puerto Rico with respect to any article to which this paragraph applies.

SEC. 2682. LIMITATIONS ON TRANSFERS OF EXCISE TAX REVENUES TO PUERTO RICO AND THE VIRGIN ISLANDS.

Ante, p. 1172.

(a) IN GENERAL.—Section 7652 of the Internal Revenue Code of 1954 (relating to shipments to the United States) is amended by adding at the end thereof the following new subsection:

“(f) LIMITATION ON COVER OVER OF TAX ON DISTILLED SPIRITS.—For purposes of this section, with respect to taxes imposed under section 5001 or this section on distilled spirits, the amount covered into the treasuries of Puerto Rico and the Virgin Islands shall not exceed the lesser of the rate of—

“(1) \$10.50, or

“(2) the tax imposed under section 5001(a)(1), on each proof gallon.”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to articles containing distilled spirits brought into the United States after September 30, 1985.

26 USC 7652
note.

TITLE VII—COMPETITION IN CONTRACTING

Competition in
Contracting Act
of 1984.

SHORT TITLE

SEC. 2701. This title may be cited as the “Competition in Contracting Act of 1984”.

41 USC 251 note.

Subtitle A—Amendments to the Federal Property and Administrative Services Act of 1949

PROCUREMENT PROCEDURES

SEC. 2711. (a)(1) Section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) is amended to read as follows:

“COMPETITION REQUIREMENTS

“SEC. 303. (a)(1) Except as provided in subsections (b), (c), and (g) and except in the case of procurement procedures otherwise expressly authorized by statute, an executive agency in conducting a procurement for property or services—

“(A) shall obtain full and open competition through the use of competitive procedures in accordance with the requirements of this title and the modifications to regulations promulgated pursuant to section 2752 of the Competition in Contracting Act of 1984; and

Post, p. 1203.

“(B) shall use the competitive procedure or combination of competitive procedures that is best suited under the circumstances of the procurement.

“(2) In determining the competitive procedures appropriate under the circumstance, an executive agency—

“(A) shall solicit sealed bids if—

“(i) time permits the solicitation, submission, and evaluation of sealed bids;

“(ii) the award will be made on the basis of price and other price-related factors;

“(iii) it is not necessary to conduct discussions with the responding sources about their bids; and

“(iv) there is a reasonable expectation of receiving more than one sealed bid; and

“(B) shall request competitive proposals if sealed bids are not appropriate under clause (A).

“(b)(1) An executive agency may provide for the procurement of property or services covered by this section using competitive procedures but excluding a particular source in order to establish or maintain any alternative source or sources of supply for that property or service if the agency head determines that to do so—

“(A) would increase or maintain competition and would likely result in reduced overall costs for such procurement, or for any anticipated procurement, of such property or services;

“(B) would be in the interest of national defense in having a facility (or a producer, manufacturer, or other supplier) available for furnishing the property or service in case of a national emergency or industrial mobilization; or

“(C) would be in the interest of national defense in establishing or maintaining an essential engineering, research, or development capability to be provided by an educational or other nonprofit institution or a federally funded research and development center.

“(2) In fulfilling the statutory requirements relating to small business concerns and socially and economically disadvantaged small business concerns, an executive agency shall use competitive procedures but may restrict a solicitation to allow only such business concerns to compete.

“(c) An executive agency may use procedures other than competitive procedures only when—

“(1) the property or services needed by the executive agency are available from only one responsible source and no other type of property or services will satisfy the needs of the executive agency;

“(2) the executive agency’s need for the property or services is of such an unusual and compelling urgency that the Government would be seriously injured unless the executive agency is permitted to limit the number of sources from which it solicits bids or proposals;

“(3) it is necessary to award the contract to a particular source or sources in order (A) to maintain a facility, producer, manufacturer, or other supplier available for furnishing property or services in case of a national emergency or to achieve industrial mobilization, or (B) to establish or maintain an essential engineering, research, or development capability to be provided by an educational or other nonprofit institution or a federally funded research and development center;

“(4) the terms of an international agreement or treaty between the United States Government and a foreign government or international organization, or the written directions of a foreign government reimbursing the executive agency for the cost of the procurement of the property or services for such government, have the effect of requiring the use of procedures other than competitive procedures;

“(5) a statute expressly authorizes or requires that the procurement be made through another executive agency or from a specified source, or the agency’s need is for a brand-name commercial item for authorized resale;

“(6) the disclosure of the executive agency’s needs would compromise the national security unless the agency is permitted to limit the number of sources from which it solicits bids or proposals; or

“(7) the head of the executive agency—

“(A) determines that it is necessary in the public interest to use procedures other than competitive procedures in the particular procurement concerned, and

“(B) notifies the Congress in writing of such determination not less than 30 days before the award of the contract.

“(d)(1) For the purposes of applying subsection (c)(1)—

“(A) in the case of a contract for property or services to be awarded on the basis of acceptance of an unsolicited research

proposal, the property or services shall be considered to be available from only one source if the source has submitted an unsolicited research proposal that demonstrates a unique and innovative concept the substance of which is not otherwise available to the United States and does not resemble the substance of a pending competitive procurement; and

“(B) in the case of a follow-on contract for the continued development or production of a major system or highly specialized equipment when it is likely that award to a source other than the original source would result in (i) substantial duplication of cost to the Government which is not expected to be recovered through competition, or (ii) unacceptable delays in fulfilling the executive agency’s needs, such property may be deemed to be available only from the original source and may be procured through procedures other than competitive procedures.

“(2) The authority of the head of an executive agency under subsection (c)(7) may not be delegated.

“(e) An executive agency using procedures other than competitive procedures to procure property or services by reason of the application of subsection (c)(2) or (c)(6) shall request offers from as many potential sources as is practicable under the circumstances.

“(f)(1) Except as provided in paragraph (2), an executive agency may not award a contract using procedures other than competitive procedures unless—

“(A) the contracting officer for the contract justifies the use of such procedures in writing and certifies the accuracy and completeness of the justification;

“(B) the justification is approved—

“(i) in the case of a contract for an amount exceeding \$100,000 (but equal to or less than \$1,000,000), by the competition advocate for the procuring activity (without further delegation);

“(ii) in the case of a contract for an amount exceeding \$1,000,000 (but equal to or less than \$10,000,000), by the head of the procuring activity or a delegate who, if a member of the armed forces, is a general or flag officer or, if a civilian; is serving in a position in grade GS-16 or above under the General Schedule (or in a comparable or higher position under another schedule); or

5 USC 5332.

“(iii) in the case of a contract for an amount exceeding \$10,000,000, by the senior procurement executive of the agency designated pursuant to section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3)) (without further delegation); and

97 Stat. 1330.

“(C) Any required notice has been published with respect to such contract pursuant to section 18 of the Office of Federal Procurement Policy Act and all bids or proposals received in response to such notice have been considered by such executive agency.

Post, p. 1196.

“(2) In the case of a procurement permitted by subsection (c)(2), the justification and approval required by paragraph (1) may be made after the contract is awarded. The justification and approval required by paragraph (1) is not required in the case of a procurement permitted by subsection (c)(7) or in the case of a procurement conducted under the Act of June 25, 1938 (41 U.S.C. 46 et seq.), popularly referred to as the Wagner-O’Day Act.

“(3) The justification required by paragraph (1)(A) shall include—

“(A) a description of the agency’s needs;

“(B) an identification of the statutory exception from the requirement to use competitive procedures and a demonstration, based on the proposed contractor’s qualifications or the nature of the procurement, of the reasons for using that exception;

“(C) a determination that the anticipated cost will be fair and reasonable;

“(D) a description of the market survey conducted or a statement of the reasons a market survey was not conducted;

“(E) a listing of the sources, if any, that expressed in writing an interest in the procurement; and

“(F) a statement of the actions, if any, the agency may take to remove or overcome a barrier to competition before a subsequent procurement for such needs.

“(4) The justification required by paragraph (1)(A) and any related information shall be made available for inspection by the public consistent with the provisions of section 552 of title 5, United States Code.

“(5) In no case may an executive agency—

“(A) enter into a contract for property or services using procedures other than competitive procedures on the basis of the lack of advance planning or concerns related to the amount of funds available to the agency for procurement functions; or

“(B) procure property or services from another executive agency unless such other executive agency complies fully with the requirements of this title in its procurement of such property or services.

The restriction set out in clause (B) is in addition to, and not in lieu of, any other restriction provided by law.

“(g)(1) In order to promote efficiency and economy in contracting and to avoid unnecessary burdens for agencies and contractors, the regulations modified, in accordance with section 2752 of the Competition in Contracting Act of 1984 shall provide for special simplified procedures for small purchases of property and services.

“(2) For the purposes of this title, a small purchase is a purchase or contract for an amount which does not exceed \$25,000.

“(3) A proposed purchase or contract for an amount above \$25,000 may not be divided into several purchases or contracts for lesser amounts in order to use the small purchase procedures required by paragraph (1).

“(4) In using small purchase procedures, an executive agency shall promote competition to the maximum extent practicable.”

(2) Title III of such Act is further amended by inserting after section 303 the following new sections:

“PLANNING AND SOLICITATION REQUIREMENTS

“SEC. 303A. (a)(1) In preparing for the procurement of property or services, an executive agency shall—

“(A) specify its needs and solicit bids or proposals in a manner designed to achieve full and open competition for the procurement;

“(B) use advance procurement planning and market research; and

Post, p. 1203.

41 USC 253a.

“(C) develop specifications in such manner as is necessary to obtain full and open competition with due regard to the nature of the property or services to be acquired.

“(2) Each solicitation under this title shall include specifications which—

“(A) consistent with the provisions of this title, permit full and open competition;

“(B) include restrictive provisions or conditions only to the extent necessary to satisfy the needs of the executive agency or as authorized by law.

“(3) For the purposes of paragraphs (1) and (2), the type of specification included in a solicitation shall depend on the nature of the needs of the executive agency and the market available to satisfy such needs. Subject to such needs, specifications may be stated in terms of—

“(A) function, so that a variety of products or services may qualify;

“(B) performance, including specifications of the range of acceptable characteristics or of the minimum acceptable standards; or

“(C) design requirements.

“(b) In addition to the specifications described in subsection (a), each solicitation for sealed bids or competitive proposals (other than for small purchases) shall at a minimum include—

“(1) a statement of—

“(A) all significant factors (including price) which the executive agency reasonably expects to consider in evaluating sealed bids or competitive proposals; and

“(B) the relative importance assigned to each of those factors; and

“(2)(A) in the case of sealed bids—

“(i) a statement that sealed bids will be evaluated without discussions with the bidders; and

“(ii) the time and place for the opening of the sealed bids;

or

“(B) in the case of competitive proposals—

“(i) a statement that the proposals are intended to be evaluated with, and awards made after, discussions with the offerors, but might be evaluated and awarded without discussions with the offerors; and

“(ii) the time and place for submission of proposals.

“EVALUATION AND AWARD

“SEC. 303B. (a) An executive agency shall evaluate sealed bids and competitive proposals based solely on the factors specified in the solicitation. 41 USC 253b.

“(b) All sealed bids or competitive proposals received in response to a solicitation may be rejected if the agency head determines that such action is in the public interest.

“(c) Sealed bids shall be opened publicly at the time and place stated in the solicitation. The executive agency shall evaluate the bids without discussions with the bidders and, except as provided in subsection (b), shall award a contract with reasonable promptness to the responsible source whose bid conforms to the solicitation and is most advantageous to the United States, considering only price and the other price-related factors included in the solicitation. The

award of a contract shall be made by transmitting written notice of the award to the successful bidder.

"(d)(1) The executive agency shall evaluate competitive proposals and may award a contract—

"(A) after discussions conducted with the offerors at any time after receipt of the proposals and before the award of the contract; or

"(B) without discussions with the offerors (other than discussions conducted for the purpose of minor clarification) when it can be clearly demonstrated from the existence of full and open competition or accurate prior cost experience with the product or service that acceptance of an initial proposal without discussions would result in the lowest overall cost to the Government.

"(2) In the case of award of a contract under paragraph (1)(A), the executive agency shall conduct, before such award, written or oral discussions with all responsible sources who submit proposals within the competitive range, considering only price and the other factors included in the solicitation.

"(3) In the case of award of a contract under paragraph (1)(B), the executive agency shall award the contract based on the proposals as received (and as clarified, if necessary, in discussions conducted for the purpose of minor clarification).

"(4) Except as otherwise provided in subsection (b), the executive agency shall award a contract with reasonable promptness to the responsible source whose proposal is most advantageous to the United States, considering only price and the other factors included in the solicitation. The executive agency shall award the contract by transmitting written notice of the award to such source and shall promptly notify all other offerors of the rejection of their proposals.

"(e) If the agency head considers that a bid or proposal evidences a violation of the antitrust laws, such agency head shall refer the bid or proposal to the Attorney General for appropriate action."

(3) Section 309 of such Act (41 U.S.C. 259) is amended by adding at the end thereof the following new subsections:

"(b) The term 'competitive procedures' means procedures under which an executive agency enters into a contract pursuant to full and open competition. Such term also includes—

"(1) procurement of architectural or engineering services conducted in accordance with title IX of this Act (40 U.S.C. 541 et seq.);

"(2) the competitive selection of basic research proposals resulting from a general solicitation and the peer review or scientific review (as appropriate) of such proposals; and

"(3) the procedures established by the Administrator for the multiple awards schedule program of the General Services Administration if—

"(A) participation in the program has been open to all responsible sources; and

"(B) orders and contracts under such procedures result in the lowest overall cost alternative to meet the needs of the Government.

"(c) The terms 'full and open competition' and 'responsible source' have the same meanings provided such terms in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)."

(b) The table of contents of such Act is amended by striking out the item relating to section 303 and inserting in lieu thereof the following:

"Sec. 303. Competition requirements.

"Sec. 303A. Planning and solicitation requirements.

"Sec. 303B. Evaluation and award."

(c) The amendments made by this section do not supersede or affect the provisions of section 8(a) of the Small Business Act (15 U.S.C. 637(a)). 41 USC 253 note.

COST OR PRICING DATA

SEC. 2712. Section 304 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254) is amended by adding at the end thereof the following new subsection:

"(d)(1) A prime contractor or any subcontractor shall be required to submit cost or pricing data under the circumstances listed below, and shall be required to certify that, to the best of such contractor's or subcontractor's knowledge and belief, the cost or pricing data submitted were accurate, complete, and current—

"(A) before the award of any prime contract under this title using procedures other than sealed-bid procedures, if the contract price is expected to exceed \$100,000;

"(B) before the pricing of any contract change or modification, if the price adjustment is expected to exceed \$100,000, or such lesser amount as may be prescribed by the agency head;

"(C) before the award of a subcontract at any tier, when the prime contractor and each higher tier subcontractor have been required to furnish such a certificate, if the price of such subcontract is expected to exceed \$100,000; or

"(D) before the pricing of any contract change or modification to a subcontract covered by clause (C), if the price adjustment is expected to exceed \$100,000, or such lesser amount as may be prescribed by the agency head.

"(2) Any prime contract or change or modification thereto under which a certificate is required under paragraph (1) shall contain a provision that the price to the Government, including profit or fee, shall be adjusted to exclude any significant sums by which it may be determined by the agency head that such price was increased because the contractor or any subcontractor required to furnish such a certificate, furnished cost or pricing data which, as of a date agreed upon between the parties (which date shall be as close to the date of agreement on the price as is practicable), were inaccurate, incomplete, or noncurrent.

"(3) For the purpose of evaluating the accuracy, completeness, and currency of cost or pricing data required to be submitted by this subsection, any authorized representative of the agency who is an employee of the United States Government shall have the right, until the expiration of three years after final payment under the contract or subcontract, to examine all books, records, documents, and other data of the contractor or subcontractor related to the proposal for the contract, the discussions conducted on the proposal, pricing, or performance of the contract or subcontract.

"(4) When cost or pricing data are not required to be submitted by this subsection, such data may nevertheless be required by the agency if the agency head determines that such data are necessary for the evaluation by the executive agency of the reasonableness of the price of the contract or subcontract.

"(5) The requirements of this subsection need not be applied to contracts or subcontracts—

"(A) where the price is based on—

- “(i) adequate price competition,
- “(ii) established catalog or market prices of commercial items sold in substantial quantities to the general public, or
- “(iii) prices set by law or regulation, or
- “(B) in exceptional cases, where the agency head determines that the requirements of this subsection may be waived and states in writing the reasons for such determination.”.

AUTOMATED DATA PROCESSING DISPUTE RESOLUTION

SEC. 2713. (a) Section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) is amended by adding at the end thereof the following new subsection:

“(h)(1) Upon request of an interested party in connection with any procurement conducted under the authority of this section (including procurements conducted under delegations of procurement authority), the board of contract appeals of the General Services Administration (hereafter in this subsection referred to as the ‘board’), shall review any decision by a contracting officer alleged to violate a statute or regulation. Such review shall be conducted under the standard applicable to review of contracting officer final decisions by boards of contract appeals. An interested party who has filed a protest under subchapter V of chapter 35 of title 31, United States Code, with respect to a procurement or proposed procurement may not file a protest with respect to that procurement or proposed procurement under this subsection.

Post, p. 1199.

“(2)(A) When a protest under this subsection is filed before the award of a contract in a protested procurement, the board, at the request of an interested party and within 10 days of the filing of the protest, shall hold a hearing to determine whether the board should suspend the procurement authority of the Administrator or the Administrator’s delegation of procurement authority for the protested procurement on an interim basis until the board can decide the protest.

“(B) The board shall suspend the procurement authority of the Administrator or the Administrator’s delegation of procurement authority unless the Federal agency concerned establishes that—

“(i) absent action by the board, contract award is likely to occur within 30 days of the hearing; and

“(ii) urgent and compelling circumstances which significantly affect interests of the United States will not permit waiting for the decision of the board.

“(3)(A) If the Board receives notice of a protest under this subsection after the contract has been awarded but within 10 days after the contract award, the board shall, at the request of an interested party and within 10 days after the date of the filing of the protest, hold a hearing to determine whether the board should suspend the procurement authority of the Administrator or the Administrator’s delegation of procurement authority for the challenged procurement on an interim basis until the board can decide the protest.

“(B) The board shall suspend the procurement authority of the Administrator or the Administrator’s delegation of procurement authority to acquire any goods or services under the contract which are not previously delivered and accepted unless the Federal agency concerned establishes that urgent and compelling circumstances which significantly affect interests of the United States will not permit waiting for the decision of the board.

“(4)(A) The board shall conduct such proceedings and allow such discovery as may be required for the expeditious, fair, and reasonable resolution of the protest.

“(B) Subject to any deadlines imposed by section 9(a) of the Contract Disputes Act of 1978 (41 U.S.C. 608(a)), the board shall give priority to protests filed under this subsection. The board shall issue its final decision within 45 working days after the date of the filing of the protest, unless the board’s chairman determines that the specific and unique circumstances of the protest require a longer period, in which case the board shall issue such decision within the longer period determined by the chairman.

“(C) The board may dismiss a protest the board determines is frivolous or which, on its face, does not state a valid basis for protest.

“(5)(A) In making a decision on the merits of protests brought under this section, the board shall accord due weight to the policies of this section and the goals of economic and efficient procurement set forth in this section.

“(B) If the board determines that a challenged agency action violates a statute or regulation or the conditions of any delegation of procurement authority issued pursuant to this section, the board may suspend, revoke, or revise the procurement authority of the Administrator or the Administrator’s delegation of procurement authority applicable to the challenged procurement.

“(C) Whenever the board makes such a determination, it may, in accordance with section 1304 of title 31, United States Code, further declare an appropriate interested party to be entitled to the costs of—

“(i) filing and pursuing the protest, including reasonable attorney’s fees, and

“(ii) bid and proposal preparation.

“(6)(A) The final decision of the board may be appealed by the head of the Federal agency concerned and by any interested party, including interested parties who intervene in any protest filed under this subsection, as set forth in the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.).

“(B) If the board revokes, suspends, or revises the procurement authority of the Administrator or the Administrator’s delegation of procurement authority after the contract award, the affected contract shall be presumed valid as to all goods or services delivered and accepted under the contract before the suspension, revocation, or revision of such procurement authority or delegation.

“(C) Nothing contained in this subsection shall affect the board’s power to order any additional relief which it is authorized to provide under any statute or regulation. However, the procedures set forth in this subsection shall only apply to procurements conducted under the authority contained in this section. In addition, nothing contained in this subsection shall affect the right of any interested party to file a protest with the contracting agency or to file an action in a district court of the United States or the United States Claims Court.

“(8) Not later than January 15, 1985, the board shall adopt and issue such rules and procedures as may be necessary to the expeditious disposition of protests filed under the authority of this subsection.

“(9) For purposes of this subsection—

“(A) the term ‘protest’ means a written objection by an interested party to a solicitation by a Federal agency for bids or

proposals for a proposed contract for the procurement of property or services or a written objection to a proposed award or the award of such a contract; and

“(B) the term ‘interested party’ means, with respect to a contract or proposed contract described in subparagraph (A), an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of the contract or by failure to award the contract.”.

Effective date.
40 USC 759 note.

(b) The amendment made by this section shall cease to be effective on January 15, 1988.

CONFORMING AMENDMENTS

SEC. 2714. (a)(1) Section 302 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252) is amended—

(A) by striking out the second sentence in subsection (b); and

(B) by striking out subsections (c), (d), (e), and (f) and inserting in lieu thereof the following:

“(c)(1) This title does not (A) authorize the erection, repair, or furnishing of any public building or public improvement, but such authorization shall be required in the same manner as heretofore, or (B) permit any contract for the construction or repair of buildings, roads, sidewalks, sewers, mains, or similar items using procedures other than sealed-bid procedures under section 303(a)(2)(A), if the conditions set forth in section 303(a)(2)(A) apply or the contract is to be performed outside the United States.

Ante, p. 1175.

“(2) Section 303(a)(2)(A) does not require the use of sealed-bid procedures in cases in which section 204(e) of title 23, United States Code, applies.”.

(2) The heading of section 304 of such Act (41 U.S.C. 254) is amended to read as follows:

“CONTRACT REQUIREMENTS”.

(3) Section 304 of such Act (41 U.S.C. 254) is amended—

(A) by striking out “negotiated pursuant to section 302(c)” in the first sentence of subsection (a) and inserting in lieu thereof “awarded after using procedures other than sealed-bid procedures”;

(B) by striking out “negotiated pursuant to section 302(c)” in the second sentence of subsection (a) and inserting in lieu thereof “awarded after using procedures other than sealed-bid procedures”; and

(C) by striking out “negotiated without advertising pursuant to authority contained in this Act” in the first sentence of subsection (c) and inserting in lieu thereof “awarded after using procedures other than sealed-bid procedures”.

(4) Section 307 of such Act (41 U.S.C. 257) is amended—

(A) by striking out the first sentence of subsection (a) and inserting in lieu thereof the following: “Determinations and decisions provided in this Act to be made by the Administrator or other agency head shall be final. Such determinations or decisions may be made with respect to individual purchases or contracts or, except for determinations or decisions under sections 303, 303A, and 303B, with respect to classes of purchases or contracts.”;

Ante, p. 1175.

(B) by striking out “Except as provided in subsection (b),” in the second sentence of subsection (a) and inserting in lieu thereof “Except as provided in section 303(d)(2),”;

(C) by striking out “this chapter” in such sentence and inserting in lieu thereof “this Act”;

(D) by striking out subsection (b);

(E) by striking out “by paragraphs (11), (12), (13), or (14) of section 302(c),” in subsection (c);

(F) by redesignating subsection (c) as subsection (b); and

(G) by striking out subsection (d).

(5) Section 308 of such Act (41 U.S.C. 258) is amended by striking out “entered into pursuant to section 302(c) without advertising,” and inserting in lieu thereof “made or awarded after using procedures other than sealed-bid procedures”.

(6) Section 310 of such Act (41 U.S.C. 260) is amended by striking out “section 302(c)(15) of this title without regard to the advertising requirements of sections 302(c) and 303” and inserting in lieu thereof “the provisions of this title relating to procedures other than sealed-bid procedures”.

(b) The table of contents of such Act is amended by striking out the item relating to section 304 and inserting in lieu thereof the following:

“Sec. 304. Contract requirements.”.

Subtitle B—Amendments to Title 10, United States Code

DECLARATION OF POLICY

SEC. 2721. Section 2301 of title 10, United States Code, is amended to read as follows:

“§ 2301. Congressional defense procurement policy

“(a) The Congress finds that in order to ensure national defense preparedness, conserve fiscal resources, and enhance defense production capability, it is in the interest of the United States that property and services be acquired for the Department of Defense in the most timely, economic, and efficient manner. It is therefore the policy of Congress that—

“(1) full and open competitive procedures shall be used by the Department of Defense in accordance with the requirements of this chapter;

“(2) services and property (including weapon systems and associated items) for the Department of Defense be acquired by any kind of contract, other than cost-plus-a-percentage-of-cost contracts, but including multiyear contracts, that will promote the interest of the United States;

“(3) contracts, when appropriate, provide incentives to contractors to improve productivity through investment in capital facilities, equipment, and advanced technology;

“(4) contracts for advance procurement of components, parts, and materials necessary for manufacture or for logistics support of a weapon system should, if feasible and practicable, be entered into in a manner to achieve economic-lot purchases and more efficient production rates;

“(5) the head of an agency use advance procurement planning and market research and prepare contract specifications in such a manner as is necessary to obtain full and open competition with due regard to the nature of the property or services to be acquired; and

“(6) the head of an agency encourage the development and maintenance of a procurement career management program to ensure a professional procurement work force.

“(b) Further, it is the policy of Congress that procurement policies and procedures for the agencies named in section 2303 of this title shall in accordance with the requirements of this chapter—

“(1) promote full and open competition;

“(2) be implemented to support the requirements of such agencies in time of war or national emergency as well as in peacetime;

“(3) promote responsiveness of the procurement system to agency needs by simplifying and streamlining procurement processes;

“(4) promote the attainment and maintenance of essential capability in the defense industrial base and the capability of the United States for industrial mobilization;

“(5) provide incentives to encourage contractors to take actions and make recommendations that would reduce the costs to the United States relating to the purchase or use of property or services to be acquired under contracts;

“(6) promote the use of commercial products whenever practicable; and

“(7) require descriptions of agency requirements, whenever practicable, in terms of functions to be performed or performance required.

“(c) Further, it is the policy of Congress that a fair proportion of the purchases and contracts entered into under this chapter be placed with small business concerns.”.

CLARIFICATION OF APPLICABILITY OF CHAPTER 137 OF TITLE 10 TO THE SECRETARY OF DEFENSE; DEFINITIONS

SEC. 2722. (a) Section 2302 of title 10, United States Code, is amended to read as follows:

“§ 2302. Definitions

“In this chapter:

“(1) ‘Head of an agency’ means the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force, the Secretary of Transportation, and the Administrator of the National Aeronautics and Space Administration.

“(2) ‘Competitive procedures’ means procedures under which the head of an agency enters into a contract pursuant to full and open competition. Such term also includes—

“(A) procurement of architectural or engineering services conducted in accordance with title IX of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 541 et seq.);

“(B) the competitive selection for award of basic research proposals resulting from a general solicitation and the peer

review or scientific review (as appropriate) of such proposals; and

“(C) the procedures established by the Administrator of General Services for the multiple award schedule program of the General Services Administration if—

“(i) participation in the program has been open to all responsible sources; and

“(ii) orders and contracts under such program result in the lowest overall cost alternative to meet the needs of the United States.

“(3) The terms ‘full and open competition’ and ‘responsible source’ have the same meanings provided such terms in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).”.

(b) Section 2303 of such title is amended—

(1) in subsection (a)—

(A) by striking out “purchase, and contract to purchase,” and inserting in lieu thereof “procurement”;

(B) by striking out “named in subsection (b), and all services,” and inserting in lieu thereof “(other than land) and all services”;

(C) by redesignating clauses (1) through (5) as clauses (2) through (6), respectively; and

(D) by inserting before clause (2) (as so redesignated) the following new clause:

“(1) The Department of Defense.”;

(2) by striking out subsection (b); and

(3) by redesignating subsection (c) as subsection (b).

Post, p. 1195.

10 USC 2303.

PROCUREMENT PROCEDURES

SEC. 2723. (a)(1) Section 2304 of title 10, United States Code, is amended—

(A) by striking out subsections (a) through (e) and (g), (h), and (i);

(B) by redesignating subsection (f) as subsection (h); and

(C) by inserting after the section heading the following:

“(a)(1) Except as provided in subsections (b), (c), and (g) and except in the case of procurement procedures otherwise expressly authorized by statute, the head of an agency in conducting a procurement for property or services—

“(A) shall obtain full and open competition through the use of competitive procedures in accordance with the requirements of this chapter and the modifications to regulations promulgated pursuant to section 2752 of the Competition in Contracting Act of 1984; and

“(B) shall use the competitive procedure or combination of competitive procedures that is best suited under the circumstances of the procurement.

“(2) In determining the competitive procedure appropriate under the circumstances, the head of an agency—

“(A) shall solicit sealed bids if—

“(i) time permits the solicitation, submission, and evaluation of sealed bids;

“(ii) the award will be made on the basis of price and other price-related factors;

Post, p. 1203.

“(iii) it is not necessary to conduct discussions with the responding sources about their bids; and

“(iv) there is a reasonable expectation of receiving more than one sealed bid; and

“(B) shall request competitive proposals if sealed bids are not appropriate under clause (A).

“(b)(1) The head of an agency may provide for the procurement of property or services covered by this chapter using competitive procedures but excluding a particular source in order to establish or maintain an alternative source or sources of supply for that property or service if the head of the agency determines that to do so—

“(A) would increase or maintain competition and would likely result in reduced overall costs for such procurement, or for any anticipated procurement, of property or services;

“(B) would be in the interest of national defense in having a facility (or a producer, manufacturer, or other supplier) available for furnishing the property or service in case of a national emergency or industrial mobilization; or

“(C) would be in the interest of national defense in establishing or maintaining an essential engineering, research, or development capability to be provided by an educational or other nonprofit institution or a federally funded research and development center.

“(2) In fulfilling the statutory requirements relating to small business concerns and socially and economically disadvantaged small business concerns, the head of an agency shall use competitive procedures but may restrict a solicitation to allow only such business concerns to compete.

“(c) The head of an agency may use procedures other than competitive procedures only when—

“(1) the property or services needed by the agency are available from only one responsible source and no other type of property or services will satisfy the needs of the agency;

“(2) the agency's need for the property or services is of such an unusual and compelling urgency that the United States would be seriously injured unless the agency is permitted to limit the number of sources from which it solicits bids or proposals;

“(3) it is necessary to award the contract to a particular source or sources in order (A) to maintain a facility, producer, manufacturer, or other supplier available for furnishing property or services in case of a national emergency or to achieve industrial mobilization, or (B) to establish or maintain an essential engineering, research, or development capability to be provided by an educational or other nonprofit institution or a federally funded research and development center;

“(4) the terms of an international agreement or a treaty between the United States and a foreign government or international organization, or the written directions of a foreign government reimbursing the agency for the cost of the procurement of the property or services for such government, have the effect of requiring the use of procedures other than competitive procedures;

“(5) a statute expressly authorizes or requires that the procurement be made through another agency or from a specified source, or the agency's need is for a brand-name commercial item for authorized resale;

“(6) the disclosure of the agency’s needs would compromise the national security unless the agency is permitted to limit the number of sources from which it solicits bids or proposals; or

“(7) the head of the agency—

“(A) determines that it is necessary in the public interest to use procedures other than competitive procedures in the particular procurement concerned, and

“(B) notifies the Congress in writing of such determination not less than 30 days before the award of the contract.

“(d)(1) For the purposes of applying subsection (c)(1)—

“(A) in the case of a contract for property or services to be awarded on the basis of acceptance of an unsolicited research proposal, the property or services shall be considered to be available from only one source if the source has submitted an unsolicited research proposal that demonstrates a unique and innovative concept the substance of which is not otherwise available to the United States and does not resemble the substance of a pending competitive procurement; and

“(B) in the case of a follow-on contract for the continued development or production of a major system or highly specialized equipment when it is likely that award to a source other than the original source would result in (i) substantial duplication of cost to the United States which is not expected to be recovered through competition, or (ii) unacceptable delays in fulfilling the agency’s needs, such property may be deemed to be available only from the original source and may be procured through procedures other than competitive procedures.

“(2) The authority of the head of an agency under subsection (c)(7) may not be delegated.

“(e) The head of an agency using procedures other than competitive procedures to procure property or services by reason of the application of subsection (c)(2) or (c)(6) shall request offers from as many potential sources as is practicable under the circumstances.

“(f)(1) Except as provided in paragraph (2), the head of an agency may not award a contract using procedures other than competitive procedures unless—

“(A) the contracting officer for the contract justifies the use of such procedures in writing and certifies the accuracy and completeness of the justification;

“(B) the justification is approved—

“(i) in the case of a contract for an amount exceeding \$100,000 (but equal to or less than \$1,000,000), by the competition advocate for the procuring activity (without further delegation);

“(ii) in the case of a contract for an amount exceeding \$1,000,000 (but equal to or less than \$10,000,000), by the head of the procuring activity or a delegate who, if a member of the armed forces, is a general or flag officer or, if a civilian, is serving in a position in grade GS-16 or above under the General Schedule (or in a comparable or higher position under another schedule); or

“(iii) in the case of a contract for an amount exceeding \$10,000,000, by the senior procurement executive of the agency designated pursuant to section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3)) (without further delegation); and

5 USC 5332.

97 Stat. 1330.

Post, p. 1196.

“(C) any required notice has been published with respect to such contract pursuant to section 18 of the Office of Federal Procurement Policy Act and all bids or proposals received in response to that notice have been considered by the head of the agency.

“(2) In the case of a procurement permitted by subsection (c)(2), the justification and approval required by paragraph (1) may be made after the contract is awarded. The justification and approval required by paragraph (1) is not required in the case of a procurement permitted by subsection (c)(7) or in the case of a procurement conducted under the Act of June 25, 1938 (41 U.S.C. 46 et seq.), popularly referred to as the Wagner-O’Day Act.

“(3) The justification required by paragraph (1)(A) shall include—

“(A) a description of the agency’s needs;

“(B) an identification of the statutory exception from the requirement to use competitive procedures and a demonstration, based on the proposed contractor’s qualifications or the nature of the procurement, of the reasons for using that exception;

“(C) a determination that the anticipated cost will be fair and reasonable;

“(D) a description of the market survey conducted or a statement of the reasons a market survey was not conducted;

“(E) a listing of the sources, if any, that expressed in writing an interest in the procurement; and

“(F) a statement of the actions, if any, the agency may take to remove or overcome any barrier to competition before a subsequent procurement for such needs.

“(4) The justification required by paragraph (1)(A) and any related information shall be made available for inspection by the public consistent with the provisions of section 552 of title 5.

5 USC 552.

“(5) In no case may the head of an agency—

“(A) enter into a contract for property or services using procedures other than competitive procedures on the basis of the lack of advance planning or concerns related to the amount of funds available to the agency for procurement functions; or

“(B) procure property or services from another agency unless such other agency complies fully with the requirements of this chapter in its procurement of such property or services.

The restriction contained in clause (B) is in addition to, and not in lieu of, any other restriction provided by law.

“(g)(1) In order to promote efficiency and economy in contracting and to avoid unnecessary burdens for agencies and contractors, the regulations modified in accordance with section 2752 of the Competition in Contracting Act of 1984 shall provide for special simplified procedures for small purchases of property and services.

Post, p. 1203.

“(2) For the purposes of this chapter, a small purchase is a purchase or contract for an amount which does not exceed \$25,000.

“(3) A proposed purchase or contract for an amount above \$25,000 may not be divided into several purchases or contracts for lesser amounts in order to use the small purchase procedures required by paragraph (1).

“(4) In using small purchase procedures, the head of an agency shall promote competition to the maximum extent practicable.”

(2) The heading of such section is amended to read as follows:

“§ 2304. Contracts: competition requirements”.

(b) Section 2305 of such title is amended to read as follows: 10 USC 2305.

“§ 2305. Contracts: planning, solicitation, evaluation, and award procedures

“(a)(1)(A) In preparing for the procurement of property or services, the head of an agency shall—

“(i) specify the agency’s needs and solicit bids or proposals in a manner designed to achieve full and open competition for the procurement;

“(ii) use advance procurement planning and market research; and

“(iii) develop specifications in such manner as is necessary to obtain full and open competition with due regard to the nature of the property or services to be acquired.

“(B) Each solicitation under this chapter shall include specifications which—

“(i) consistent with the provisions of this chapter, permit full and open competition; and

“(ii) include restrictive provisions or conditions only to the extent necessary to satisfy the needs of the agency or as authorized by law.

“(C) For the purposes of subparagraphs (A) and (B), the type of specification included in a solicitation shall depend on the nature of the needs of the agency and the market available to satisfy such needs. Subject to such needs, specifications may be stated in terms of—

“(i) function, so that a variety of products or services may qualify;

“(ii) performance, including specifications of the range of acceptable characteristics or of the minimum acceptable standards; or

“(iii) design requirements.

“(2) In addition to the specifications described in paragraph (1), a solicitation for sealed bids or competitive proposals (other than for small purchases) shall at a minimum include—

“(A) a statement of—

“(i) all significant factors (including price) which the head of the agency reasonably expects to consider in evaluating sealed bids or competitive proposals; and

“(ii) the relative importance assigned to each of those factors; and

“(B)(i) in the case of sealed bids—

“(I) a statement that sealed bids will be evaluated without discussions with the bidders; and

“(II) the time and place for the opening of the sealed bids;

or

“(ii) in the case of competitive proposals—

“(I) a statement that the proposals are intended to be evaluated with, and awards made after, discussions with the offerors, but might be evaluated and awarded without discussions with the offerors; and

“(II) the time and place for submission of proposals.

(b)(1) The head of an agency shall evaluate sealed bids and competitive proposals based solely on the factors specified in the solicitation.

“(2) All sealed bids or competitive proposals received in response to a solicitation may be rejected if the head of the agency determines that such action is in the public interest.

“(3) Sealed bids shall be opened publicly at the time and place stated in the solicitation. The head of the agency shall evaluate the bids without discussions with the bidders and, except as provided in paragraph (2), shall award a contract with reasonable promptness to the responsible bidder whose bid conforms to the solicitation and is most advantageous to the United States, considering only price and the other price-related factors included in the solicitation. The award of a contract shall be made by transmitting written notice of the award to the successful bidder.

“(4)(A) The head of an agency shall evaluate competitive proposals and may award a contract—

“(i) after discussions conducted with the offerors at any time after receipt of the proposals and before the award of the contract; or

“(ii) without discussions with the offerors (other than discussions conducted for the purpose of minor clarification) when it can be clearly demonstrated from the existence of full and open competition or accurate prior cost experience with the product or service that acceptance of an initial proposal without discussions would result in the lowest overall cost to the United States.

“(B) In the case of award of a contract under subparagraph (A)(i), the head of the agency shall conduct, before such award, written or oral discussions with all responsible sources who submit proposals within the competitive range, considering only price and the other factors included in the solicitation.

“(C) In the case of award of a contract under subparagraph (A)(ii), the head of the agency shall award the contract based on the proposals received (and as clarified, if necessary, in discussions conducted for the purpose of minor clarification).

“(D) Except as provided in paragraph (2), the head of the agency shall award a contract with reasonable promptness to the responsible source whose proposal is most advantageous to the United States, considering only price and the other factors included in the solicitation. The head of the agency shall award the contract by transmitting written notice of the award to such source and shall promptly notify all other offerors of the rejection of their proposals.

“(5) If the head of an agency considers that a bid or proposal evidences a violation of the antitrust laws, he shall refer the bid or proposal to the Attorney General for appropriate action.”.

(c) The amendments made by this section do not supersede or affect the provisions of section 8(a) of the Small Business Act (15 U.S.C. 637(a)).

10 USC 2304
note.

COST OR PRICING DATA; CONFORMING AMENDMENTS

SEC. 2724. (a) The second sentence of subsection (a) of section 2306 of title 10, United States Code, is amended to read as follows: “Subject to the limitation in the preceding sentence, the other provisions of this section, and other applicable provisions of law, the head of an agency, in awarding contracts under this chapter after using procedures other than sealed-bid procedures, may enter into any kind of contract that he considers will promote the best interests of the United States”.

(b) Subsection (b) of such section is amended by striking out “negotiated under section 2304” in the first sentence of subsection (b) and inserting in lieu thereof “awarded under this chapter after using procedures other than sealed-bid procedures”.

(c) Subsection (c) of such section is amended by striking out “section 2304 of this title,” and inserting in lieu thereof “this chapter”.

(d) Subsection (e) of such section is amended by striking out “\$25,000 or” in clause (2) and inserting in lieu thereof “the greater of (A) the small purchase amount under section 2304(g) of this title, or (B)”.

(e) Subsection (f) of such section is amended—

(A) in paragraph (1)—

(i) by striking out “his” in the matter preceding clause (A) and inserting in lieu thereof “such contractor’s or sub-contractor’s”;

(ii) by striking out “he” in the matter preceding clause (A);

(iii) by striking out “negotiated prime contract under this title where” in clause (A) and inserting in lieu thereof “prime contract under this chapter entered into after using procedures other than sealed-bid procedures, if”;

(iv) by striking out “for which” in clauses (B) and (D) and inserting in lieu thereof “if”;

(v) by striking out “where” in clause (C) and inserting in lieu thereof “when”;

(vi) by striking out “\$500,000” each place it appears and inserting in lieu thereof “\$100,000”; and

(vii) by striking out “prior to” each place it appears and inserting in lieu thereof “before”;

(B) in paragraph (2), by striking out “negotiated” both places it appears;

(C) by redesignating paragraph (3) as paragraph (5) and striking out “negotiation,” in such paragraph and inserting in lieu thereof “proposal for the contract, the discussions conducted on the proposal”;

(D) by inserting a period after “noncurrent” in paragraph (2);

(E) by striking out “: *Provided*, That the requirements” in paragraph (2) and inserting in lieu thereof the following:

“(3) The requirements”; and

(F) by inserting after paragraph (3) (as designated by clause (E)) the following new paragraph:

“(4) When cost or pricing data is not required to be submitted by this subsection, such data may nevertheless be required by the head of the agency if the head of the agency determines that such data is necessary for the evaluation by the agency of the reasonableness of the price of the contract or subcontract.”

(f) The heading of such section is amended to read as follows:

“§ 2306. Kinds of contracts; cost or pricing data: truth in negotiation”.

DETERMINATIONS AND DECISIONS

SEC. 2725. Section 2310 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting “, except for determinations and decisions under section 2304 or 2305 of title,” in the first sentence after “contract or”; and

(B) by inserting “, including a determination or decision under section 2304 or 2305 of this title,” in the second sentence after “decision”; and

(2) by striking out subsection (b) and inserting in lieu thereof the following:

“(b) Each determination or decision under section 2306(c), 2306(g)(1), 2307(c), or 2313(c) of this title shall be based on a written finding by the person making the determination or decision, which finding shall set out facts and circumstances that—

“(1) clearly indicate why the type of contract selected under section 2306(c) of this title is likely to be less costly than any other type or that it is impracticable to obtain property or services of the kind or quality required except under such a contract;

“(2) support the findings required by section 2306(g)(1) of this title;

“(3) clearly indicate why advance payments under section 2307(c) of this title would be in the public interest; or

“(4) clearly indicate why the application of section 2313(b) of this title to a contract or subcontract with a foreign contractor or foreign subcontractor would not be in the public interest. Such a finding is final and shall be kept available in the agency for at least six years after the date of the determination or decision. A copy of the finding shall be submitted to the General Accounting Office with each contract to which it applies.”.

LIMITATION ON AUTHORITY TO DELEGATE CERTAIN FUNCTIONS

SEC. 2726. Section 2311 of title 10, United States Code, is amended—

(1) by striking out “The head” and inserting in lieu thereof “Except as provided in section 2304(d)(2) of this title, the head”; and

(2) by striking out “chapter” and all that follows and inserting in lieu thereof “chapter.”.

CONFORMING AMENDMENTS

SEC. 2727. (a) The table of sections at the beginning of chapter 137 of title 10, United States Code, is amended—

(1) by striking out the item relating to section 2301 and inserting in lieu thereof the following:

“2301. Congressional defense procurement policy.”; and

(2) by striking out the items relating to sections 2304, 2305, and 2306 and inserting in lieu thereof the following:

“2304. Contracts: competition requirements.

“2305. Contracts: planning, solicitation, evaluation, and award procedures.

“2306. Kinds of contracts; cost or pricing data: truth in negotiation.”.

(b) Subsection (h) of section 2304 of such title (as redesignated by section 2723(a)(1)(B)) is amended—

(1) by striking out “negotiated under this section” and inserting in lieu thereof “awarded after using procedures other than sealed-bid procedures”; and

(2) by striking out “formal advertising” and inserting in lieu thereof “sealed-bid procedures”.

(c) Section 2313(b) of such title is amended by striking out “negotiated under this chapter” and inserting in lieu thereof “awarded after using procedures other than sealed-bid procedures”. 10 USC 2313.

(d) Section 2356 of such title is amended by striking out “the formal advertising prescribed by section 2305 of this title” and inserting in lieu thereof “a solicitation for sealed bids under chapter 137 of this title”. 10 USC 2356.

Subtitle C—Amendments to the Office of Federal Procurement Policy Act

DEFINITIONS

SEC. 2731. The section of the Office of Federal Procurement Policy Act relating to definitions (41 U.S.C. 403) is redesignated as section 4 and is amended— 97 Stat. 1326.

(1) by striking out “and” at the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting in lieu thereof “; and”; and

(3) by adding at the end thereof the following new paragraphs:

“(6) the term ‘competitive procedures’ means procedures under which an agency enters into a contract pursuant to full and open competition;

“(7) the term ‘full and open competition’, when used with respect to a procurement, means that all responsible sources are permitted to submit sealed bids or competitive proposals on the procurement; and

“(8) the term ‘responsible source’ means a prospective contractor who—

“(A) has adequate financial resources to perform the contract or the ability to obtain such resources;

“(B) is able to comply with the required or proposed delivery or performance schedule, taking into consideration all existing commercial and Government business commitments;

“(C) has a satisfactory performance record;

“(D) has a satisfactory record of integrity and business ethics;

“(E) has the necessary organization, experience, accounting and operational controls, and technical skills, or the ability to obtain such organization, experience, controls, and skills;

“(F) has the necessary production, construction, and technical equipment and facilities, or the ability to obtain such equipment and facilities; and

“(G) is otherwise qualified and eligible to receive an award under applicable laws and regulations.”.

PROCUREMENT NOTICE AND RECORDS; ADVOCATES FOR COMPETITION

SEC. 2732. (a) The Office of Federal Procurement Policy Act is further amended by adding at the end thereof the following new sections:

"PROCUREMENT NOTICE

41 USC 416.

"Sec. 18. (a)(1) Except as provided in subsection (c)—

"(A) an executive agency intending to solicit bids or proposals for a contract for property or services for a price expected to exceed \$10,000 shall furnish for publication by the Secretary of Commerce a notice described in subsection (b); and

"(B) an executive agency awarding a contract for property or services for a price exceeding \$25,000 shall furnish for publication by the Secretary of Commerce a notice announcing such award if there is likely to be any subcontract under such contract.

Commerce
Business Daily,
publication.

"(2) The Secretary of Commerce shall publish promptly in the Commerce Business Daily each notice required by paragraph (1).

"(3) Whenever an executive agency is required by paragraph (1)(A) to furnish a notice of a solicitation to the Secretary of Commerce, such executive agency may not—

"(A) issue such solicitation earlier than 15 days after the date on which such notice is published by the Secretary of Commerce; or

"(B) establish a deadline for the submission of all bids or proposals in response to such solicitation that is earlier than 30 days after the date on which such solicitation is issued.

"(b) Each notice required by subsection (a)(1)(A) shall include—

"(1) an accurate description of the property or services to be contracted for, which description is not unnecessarily restrictive of competition;

"(2) the name, business address, and telephone number of the officer or employee of the executive agency who may be contacted for the purpose of obtaining a copy of the solicitation;

"(3) the name, business address, and telephone number of the contracting officer;

"(4) a statement that all responsible sources may submit a bid, proposal, or quotation which shall be considered by the executive agency; and

"(5) in the case of a procurement using procedures other than competitive procedures, a statement of the reason justifying the use of such procedures and the identity of the intended source.

"(c)(1) A notice is not required under subsection (a)(1) if—

"(A) the notice would disclose the executive agency's needs and the disclosure of such needs would compromise the national security;

"(B) the proposed procurement would result from acceptance of any unsolicited proposal that demonstrates a unique and innovative research concept, and the publication of any notice of such unsolicited research proposal would disclose the originality of thought or innovativeness of the proposal or would disclose proprietary information associated with the proposal;

"(C) the procurement is made against an order placed under a requirements contract, or

"(D) the procurement is made for perishable subsistence supplies.

"(2) The requirements of subsection (a)(1)(A) do not apply to any procurement under conditions described in clause (2), (3), (4), (5), or (7) of section 303(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)) or clause (2), (3), (4), (5), or (7) of section 2304(c) of title 10, United States Code.

Ante, p. 1175.
Ante, p. 1187.

“(3) The requirements of subsection (a)(1)(A) shall not apply in the case of any procurement for which the head of the executive agency makes a determination in writing, with the concurrence of the Administrator, that it is not appropriate or reasonable to publish a notice before issuing a solicitation.

“RECORD REQUIREMENTS

“SEC. 19. (a) Each executive agency shall establish and maintain for a period of five years a computer file, by fiscal year, containing unclassified records of all procurements, other than small purchases, in such fiscal year. 41 USC 417.

“(b) The record established under subsection (a) shall include—

“(1) with respect to each procurement carried out using competitive procedures—

“(A) the date of contract award;

“(B) information identifying the source to whom the contract was awarded;

“(C) the property or services obtained by the Government under the procurement; and

“(D) the total cost of the procurement;

“(2) with respect to each procurement carried out using procedures other than competitive procedures—

“(A) the information described in clauses (1)(A), (1)(B), (1)(C), and (1)(D);

“(B) the reason under section 303(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)) or section 2304(c) of title 10, United States Code, as the case may be, for the use of such procedures; and

“(C) the identity of the organization or activity which conducted the procurement.

“(c) The information that is included in such record pursuant to subsection (b)(1) and relates to procurements resulting in the submission of a bid or proposal by only one responsible source shall be separately categorized from the information relating to other procurements included in such record. The record of such information shall be designated ‘noncompetitive procurements using competitive procedures’.

“(d) The information included in the record established and maintained under subsection (a) shall be transmitted to the General Services Administration and shall be entered in the Federal Procurement Data System referred to in section 6(d)(4).

Ante, p. 1175.
Ante, p. 1187.

“ADVOCATES FOR COMPETITION

“SEC. 20. (a)(1) There is established in each executive agency an advocate for competition. 41 USC 418.

“(2) The head of each executive agency shall—

“(A) designate for the executive agency and for each procuring activity of the executive agency one officer or employee serving in a position authorized for such executive agency on the date of enactment of the Competition in Contracting Act of 1984 (other than the senior procurement executive designated pursuant to section 16(3)) to serve as the advocate for competition;

Ante, p. 1175.
97 Stat. 1330.
41 USC 414.

“(B) not assign such officers or employees any duties or responsibilities that are inconsistent with the duties and responsibilities of the advocates for competition; and

“(C) provide such officers or employees with such staff or assistance as may be necessary to carry out the duties and responsibilities of the advocate for competition, such as persons who are specialists in engineering, technical operations, contract administration, financial management, supply management, and utilization of small and disadvantaged business concerns.

“(b) The advocate for competition of an executive agency shall—

“(1) be responsible for challenging barriers to and promoting full and open competition in the procurement of property and services by the executive agency;

“(2) review the procurement activities of the executive agency;

“(3) identify and report to the senior procurement executive of the executive agency designated pursuant to section 16(3)—

“(A) opportunities and actions taken to achieve full and open competition in the procurement activities of the executive agency; and

“(B) any condition or action which has the effect of unnecessarily restricting competition in the procurement actions of the executive agency; and

“(4) prepare and transmit to such senior procurement executive an annual report describing—

“(A) such advocate’s activities under this section;

“(B) new initiatives required to increase competition; and

“(C) barriers to full and open competition that remain;

“(5) recommend to the senior procurement executive of the executive agency goals and the plans for increasing competition on a fiscal year basis;

“(6) recommend to the senior procurement executive of the executive agency a system of personal and organizational accountability for competition, which may include the use of recognition and awards to motivate program managers, contracting officers, and others in authority to promote competition in procurement programs; and

“(7) describe other ways in which the executive agency has emphasized competition in programs for procurement training and research.

“(c) The advocate for competition for each procuring activity shall be responsible for challenging barriers to and promoting full and open competition in the procuring activity, including unnecessarily detailed specifications and unnecessarily restrictive statements of need.

“ANNUAL REPORT ON COMPETITION

“SEC. 21. (a) Not later than January 31 of each of 1986, 1987, 1988, 1989, and 1990, the head of each executive agency shall transmit to each House of Congress a report including the information specified in subsection (b).

“(b) Each report under subsection (a) shall include—

“(1) a specific description of all actions that the head of the executive agency intends to take during the current fiscal year to—

97 Stat. 1330.
41 USC 414.

Report.

41 USC 419.

“(A) increase competition for contracts with the executive agency on the basis of cost and other significant factors; and

“(B) reduce the number and dollar value of noncompetitive contracts entered into by the executive agency; and

“(2) a summary of the activities and accomplishments of the advocate for competition of the executive agency during the preceding fiscal year.”.

(b)(1) Section 6(e) of such Act (41 U.S.C. 405(e)) is amended by striking out “subsection (c)” and inserting in lieu thereof “subsection (d)”.

97 Stat. 1326.

(2) Section 16(1) of such Act (41 U.S.C. 414(1)) is amended to read as follows:

97 Stat. 1330.

“(1) increase the use of full and open competition in the procurement of property or services by the executive agency by establishing policies, procedures, and practices that assure that the executive agency receives a sufficient number of sealed bids or competitive proposals from responsible sources to fulfill the Government’s requirements (including performance and delivery schedules) at the lowest reasonable cost considering the nature of the property or service procured;”.

Subtitle D—Procurement Protest System

PROCUREMENT PROTEST SYSTEM

SEC. 2741. (a) Chapter 35 of title 31, United States Code, is amended by adding at the end thereof the following new subchapter:

“SUBCHAPTER V—PROCUREMENT PROTEST SYSTEM

“§ 3551. Definitions

31 USC 3551.

“In this subchapter—

“(1) ‘protest’ means a written objection by an interested party to a solicitation by an executive agency for bids or proposals for a proposed contract for the procurement of property or services or a written objection by an interested party to a proposed award or the award of such a contract;

“(2) ‘interested party’, with respect to a contract or proposed contract described in paragraph (1), means an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of the contract or by failure to award the contract; and

“(3) ‘Federal agency’ has the meaning given such term by section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472).

“§ 3552. Protests by interested parties concerning procurement actions

31 USC 3552.

“A protest concerning an alleged violation of a procurement statute or regulation shall be decided by the Comptroller General if filed in accordance with this subchapter. An interested party who has filed a protest under section 111(h) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(h)) with respect to a procurement or proposed procurement may not file a protest with respect to that procurement under this subchapter.

Ante, p. 1182.

31 USC 3553.

Post, p. 1202.

Report.

Post, p. 1201.**“§ 3553. Review of protests; effect on contracts pending decision**

“(a) Under procedures prescribed under section 3555 of this title, the Comptroller General shall decide a protest submitted to the Comptroller General by an interested party.

“(b)(1) Within one working day of the receipt of a protest, the Comptroller General shall notify the Federal agency involved of the protest.

“(2) Except as provided in paragraph (3) of this subsection, a Federal agency receiving a notice of a protested procurement under paragraph (1) of this subsection shall submit to the Comptroller General a complete report (including all relevant documents) on the protested procurement—

“(A) within 25 working days from the date of the agency’s receipt of that notice;

“(B) if the Comptroller General, upon a showing by the Federal agency, determines (and states the reasons in writing) that the specific circumstances of the protest require a longer period, within the longer period determined by the Comptroller General; or

“(C) in a case determined by the Comptroller General to be suitable for the express option under section 3554(a)(2) of this title, within 10 working days from the date of the Federal agency’s receipt of that determination.

“(3) A Federal agency need not submit a report to the Comptroller General pursuant to paragraph (2) of this subsection if the agency is sooner notified by the Comptroller General that the protest concerned has been dismissed under section 3554(a)(3) of this title.

“(c)(1) Except as provided in paragraph (2) of this subsection, a contract may not be awarded in any procurement after the Federal agency has received notice of a protest with respect to such procurement from the Comptroller General and while the protest is pending.

“(2) The head of the procuring activity responsible for award of a contract may authorize the award of the contract (notwithstanding a protest of which the Federal agency has notice under this section)—

“(A) upon a written finding that urgent and compelling circumstances which significantly affect interests of the United States will not permit waiting for the decision of the Comptroller General under this subchapter; and

“(B) after the Comptroller General is advised of that finding.

“(3) A finding may not be made under paragraph (2)(A) of this subsection unless the award of the contract is otherwise likely to occur within 30 days thereafter.

“(d)(1) If a Federal agency receives notice of a protest under this section after the contract has been awarded but within 10 days of the date of the contract award, the Federal agency (except as provided under paragraph (2)) shall, upon receipt of that notice, immediately direct the contractor to cease performance under the contract and to suspend any related activities that may result in additional obligations being incurred by the United States under that contract. Performance of the contract may not be resumed while the protest is pending.

“(2) The head of the procuring activity responsible for award of a contract may authorize the performance of the contract (notwithstanding a protest of which the Federal agency has notice under this section)—

“(A) upon a written finding—

“(i) that performance of the contract is in the best interests of the United States; or

“(ii) that urgent and compelling circumstances that significantly affect interests of the United States will not permit waiting for the decision of the Comptroller General concerning the protest; and

“(B) after the Comptroller General is notified of that finding.

“(e) The authority of the head of the procuring activity to make findings and to authorize the award and performance of contracts under subsections (c) and (d) of this section may not be delegated.

“(f) Within such deadlines as the Comptroller General prescribes, upon request each Federal agency shall provide to an interested party any document relevant to a protested procurement action (including the report required by subsection (b)(2) of this section) that would not give that party a competitive advantage and that the party is otherwise authorized by law to receive.

“§ 3554. Decisions on protests

31 USC 3554.

“(a)(1) To the maximum extent practicable, the Comptroller General shall provide for the inexpensive and expeditious resolution of protests under this subchapter. Except as provided under paragraph (2) of this subsection, the Comptroller General shall issue a final decision concerning a protest within 90 working days from the date the protest is submitted to the Comptroller General unless the Comptroller General determines and states in writing the reasons that the specific circumstances of the protest require a longer period.

“(2) The Comptroller General shall, by regulation prescribed pursuant to section 3555 of this title, establish an express option for deciding those protests which the Comptroller General determines suitable for resolution within 45 calendar days from the date the protest is submitted.

Post, p. 1202.

“(3) The Comptroller General may dismiss a protest that the Comptroller General determines is frivolous or which, on its face, does not state a valid basis for protest.

“(b)(1) With respect to a solicitation for a contract, or a proposed award or the award of a contract, protested under this subchapter, the Comptroller General may determine whether the solicitation, proposed award, or award complies with statute and regulation. If the Comptroller General determines that the solicitation, proposed award, or award does not comply with a statute or regulation, the Comptroller General shall recommend that the Federal agency—

“(A) refrain from exercising any of its options under the contract;

“(B) recompute the contract immediately;

“(C) issue a new solicitation;

“(D) terminate the contract;

“(E) award a contract consistent with the requirements of such statute and regulation;

“(F) implement any combination of recommendations under clauses (A), (B), (C), (D), and (E); or

“(G) implement such other recommendations as the Comptroller General determines to be necessary in order to promote compliance with procurement statutes and regulations.

“(2) If the head of the procuring activity responsible for a contract makes a finding under section 3553(d)(2)(A)(i) of this title, the Comp-

Ante, p. 1200.

troller General shall make recommendations under this subsection without regard to any cost or disruption from terminating, recompeting, or reawarding the contract.

“(c)(1) If the Comptroller General determines that a solicitation for a contract or a proposed award or the award of a contract does not comply with a statute or regulation, the Comptroller General may declare an appropriate interested party to be entitled to the costs of—

“(A) filing and pursuing the protest, including reasonable attorneys’ fees; and

“(B) bid and proposal preparation.

“(2) Monetary awards to which a party is declared to be entitled under paragraph (1) of this subsection shall be paid promptly by the Federal agency concerned out of funds available to or for the use of the Federal agency for the procurement of property and services.

“(d) Each decision of the Comptroller General under this subchapter shall be signed by the Comptroller General or a designee for that purpose. A copy of the decision shall be made available to the interested parties, the head of the procuring activity responsible for the solicitation, proposed award, or award of the contract, and the senior procurement executive of the Federal agency involved.

“(e)(1) The head of the procuring activity responsible for the solicitation, proposed award, or award of the contract shall report to the Comptroller General, if the Federal agency has not fully implemented those recommendations within 60 days of receipt of the Comptroller General’s recommendations under subsection (b) of this section.

Report.

“(2) Not later than January 31 of each year, the Comptroller General shall transmit to Congress a report describing each instance in which a Federal agency did not fully implement the Comptroller General’s recommendations during the preceding fiscal year.

31 USC 3555.

“§ 3555. Regulations; authority of Comptroller General to verify assertions

“(a) Not later than January 15, 1985, the Comptroller General shall prescribe such procedures as may be necessary to the expeditious decision of protests under this subchapter, including procedures for accelerated resolution of protests under the express option authorized by section 3554(a)(2) of this title. Such procedures shall provide that the protest process may not be delayed by the failure of a party to make a filing within the time provided for the filing.

Ante, p. 1201.

“(b) The Comptroller General may use any authority available under chapter 7 of this title and this chapter to verify assertions made by parties in protests under this subchapter.

31 USC 701 *et seq.*

31 USC 3556.

“§ 3556. Nonexclusivity of remedies; matters included in agency record

“This subchapter does not give the Comptroller General exclusive jurisdiction over protests, and nothing contained in this subchapter shall affect the right of any interested party to file a protest with the contracting agency or to file an action in a district court of the United States or the United States Claims Court. In any such action based on a procurement or proposed procurement with respect to which a protest has been filed under this subchapter, the reports required by sections 3553(b)(2) and 3554(e)(1) of this title with respect to such procurement or proposed procurement and any decision or recommendation of the Comptroller General under this subchapter

Ante, p. 1200.

with respect to such procurement or proposed procurement shall be considered to be part of the agency record subject to review.”.

(b) The analysis for such chapter is amended by adding at the end thereof the following:

“SUBCHAPTER V—PROCUREMENT PROTEST SYSTEM

“3551. Definitions.

“3552. Protests by interested parties concerning procurement actions.

“3553. Review of protests; effect on contracts pending decision.

“3554. Decisions on protests.

“3555. Regulations; authority of Comptroller General to verify assertions.

“3556. Nonexclusivity of remedies; matters included in agency record.”.

Subtitle E—Effective Date; Regulations; Study

EFFECTIVE DATES

SEC. 2751. (a) Except as provided in subsection (b), the amendments made by this title shall apply with respect to any solicitation for bids or proposals issued after March 31, 1985. 41 USC 251 note.

(b) The amendments made by section 2713 and subtitle D shall apply with respect to any protest filed after January 14, 1985. *Ante*, pp. 1182, 1199.

MODIFICATION OF FEDERAL ACQUISITION REGULATIONS

SEC. 2752. Not later than March 31, 1985, the single Government-wide procurement regulation referred to in section 4(4)(A) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(4)(A)) shall be modified to conform to the requirements of this title and the amendments made by this title. 41 USC 403 note. *Ante*, p. 1195.

STUDY OF ALTERNATIVES

SEC. 2753. (a) Not later than January 31, 1985, the Administrator of the Office of Federal Procurement Policy, in consultation with the Secretary of Defense, the Administrator of General Services and the Administrator of the National Aeronautics and Space Administration, shall complete a study of alternatives and recommend to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives a plan to increase the opportunities to achieve full and open competition on the basis of technical qualifications, quality, and other factors in the procurement of professional, technical, and managerial services. 41 USC 407 note.

(b) Such plan shall provide for testing the recommended alternative and be developed in accordance with section 15 of the Office of Federal Procurement Policy Act (41 U.S.C. 413), and be consistent with the policies set forth in section 2 of such Act (41 U.S.C. 401). 97 Stat. 1329. 97 Stat. 1325.

TITLE VIII—FEDERAL CREDIT UNION ACT AMENDMENTS

SEC. 2801. Section 201(b)(8) of the Federal Credit Union Act (12 U.S.C. 1781(b)(8)) is amended to read as follows:

“(8) to pay and maintain its deposit and to pay the premium charges for insurance imposed by this title; and”.

SEC. 2802. Section 202 (b) of the Federal Credit Union Act (12 U.S.C. 1782(b)) is amended to read as follows:

“(b)(1) For each insurance year, each insured credit union which became insured prior to the beginning of that year shall file with the Board, at such time as the Board prescribes, a certified statement showing the total amount of insured shares in the credit union at the close of the preceding insurance year and both the amount of its deposit or adjustment thereof and the amount of the premium charge for insurance due to the fund for that year, both as computed under subsection (c) of this section.

“(2) The certified statements required to be filed with the Board pursuant to this subsection shall be in such form and shall set forth such supporting information as the Board shall require.

“(3) Each such statement shall be certified by the president of the credit union, or by any officer of the credit union designated by its board of directors, that to the best of his knowledge and belief that statement is true, correct, and complete and in accordance with this title and regulations issued thereunder.”.

SEC. 2803. Section 202(c) of the Federal Credit Union Act (12 U.S.C. 1782(c)) is amended—

(1) by striking out paragraph (2);

(2) by redesignating paragraph (1) as paragraph (2);

(3) by striking out “Except as provided in paragraph (2) of this subsection, each” in paragraph (2), as redesignated, and inserting in lieu thereof “Each”;

(4) by striking out “on or before January 31 of each insurance year” in paragraph (2), as redesignated, and inserting in lieu thereof “at such time as the Board prescribes”;

(5) by striking out “member accounts” in paragraph (2), as redesignated, and inserting in lieu thereof “insured shares”;

and

(6) by inserting before paragraph (2) the following:

“(1)(A)(i) Each insured credit union shall pay to and maintain with the National Credit Union Share Insurance Fund a deposit in an amount equaling 1 per centum of the credit union’s insured shares.

“(ii) The Board may, in its discretion, authorize insured credit unions to initially fund such deposit over a period of time in excess of one year if necessary to avoid adverse effects on the condition of insured credit unions.

“(iii) The amount of each insured credit union’s deposit shall be adjusted annually, in accordance with procedures determined by the Board, to reflect changes in the credit union’s insured shares.

“(B)(i) The deposit shall be returned to an insured credit union in the event that its insurance coverage is terminated, it converts to insurance coverage from another source, or in the event the operations of the fund are transferred from the National Credit Union Administration Board.

“(ii) The deposit shall be returned in accordance with procedures and valuation methods determined by the Board, but in no event shall the deposit be returned any later than one year after the final date on which no shares of the credit union are insured by the Board.

“(iii) The deposit shall not be returned in the event of liquidation on account of bankruptcy or insolvency.

“(iv) The deposit funds may be used by the fund if necessary to meet its expenses, in which case the amount so used shall be

expensed and shall be replenished by insured credit unions in accordance with procedures established by the Board.”.

SEC. 2804. Section 202(c)(3) of the Federal Credit Union Act (12 U.S.C. 1782(c)(3)) is amended to read as follows:

“(3) When, at the end of a given insurance year, any loans to the fund from the Federal Government and the interest thereon have been repaid and the equity of the fund exceeds the normal operating level, the Board shall effect for that insurance year a pro rata distribution to insured credit unions of an amount sufficient to reduce the equity in the fund to its normal operating level.”.

SEC. 2805. Section 202(c)(4) of the Federal Credit Union Act (12 U.S.C. 1782(c)(4)) is repealed.

SEC. 2806. (a) Subsections (d) through (f) of section 202 of the Federal Credit Union Act (12 U.S.C. 1782 (d) through (f)) are amended—

(1) by inserting “its deposit or” before the words “the premium charge” and “any premium charge” each time they appear, other than in the second sentence of subsection (e) of section 202; and

(2) by striking out “member accounts” and inserting in lieu thereof “insured shares”.

(b) Section 202 of the Federal Credit Union Act (12 U.S.C. 1782) is amended—

(1) in the first sentence of subsection (e), by inserting “deposit or” after “the amount of any unpaid”;

(2) in the second sentence of subsection (e), by inserting “deposit or” before “premium charge due”; and

(3) in the first sentence of subsection (f), by inserting “deposit or” after “statement or pay any such”.

SEC. 2807. Section 202(g) of the Federal Credit Union Act (12 U.S.C. 1782(g)) is amended—

(1) by striking out “statements, and premium charges” and inserting in lieu thereof “statements, and deposit and premium charges”;

(2) by striking out “payment of any premium charge” and inserting in lieu thereof “payment of any deposit or adjustment thereof or any premium charge”; and

(3) by striking out “any premium charge for insurance” and inserting in lieu thereof “any deposit or adjustment thereof or any premium charge for insurance”.

SEC. 2808. Section 202(h)(1) of the Federal Credit Union Act (12 U.S.C. 1782(h)(1)) is amended by inserting before the semicolon at the end thereof the following: “, unless otherwise prescribed by the Board”.

SEC. 2809. Section 202(h)(2) of the Federal Credit Union Act (12 U.S.C. 1782(h)(2)) is amended to read as follows:

“(2) the term ‘normal operating level’, when applied to the fund, means an amount equal to 1.3 per centum of the aggregate amount of the insured shares in all insured credit unions, or such lower level as the Board may determine; and”.

SEC. 2810. Section 202(h)(3) of the Federal Credit Union Act (12 U.S.C. 1782(h)(3)) is amended to read as follows:

“(3) the term ‘insured shares’ when applied to this section includes share, share draft, share certificate and other similar accounts as determined by the Board, but does not include amounts in excess of the insured account limit set forth in section 207(c)(1).”.

SEC. 2811. Section 203(b) of the Federal Credit Union Act (12 U.S.C. 1783(b)) is amended—

- Report. (1) by inserting “deposits and” before “premium charges”; and
 (2) by adding at the end thereof the following: “The Board shall report annually to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives with respect to the operating level of the fund. Such report shall also include the results of an independent audit of the fund.”.

SEC. 2812. Section 206(d)(1) of the Federal Credit Union Act (12 U.S.C. 1786(d)(1)) is amended—

- (1) by inserting “(1)” after “subsection (a)”;
 (2) by inserting “maintain its deposit with and” before “pay premiums to the Board”; and
 (3) by adding at the end thereof the following sentence: “Notwithstanding the above, when an insured credit union’s insured status is terminated and the credit union subsequently obtains comparable insurance coverage from another source, insurance of its accounts by the fund may cease immediately upon the effective date of such comparable coverage by mutual consent of the credit union and the Board.”.

SEC. 2813. (a) Title III of the Federal Credit Union Act (12 U.S.C. 1795 et seq.) is amended—

- 12 USC 1795b. (1) in section 303 by inserting “, an instrumentality of the United States,” after “Central Liquidity Facility” in the second sentence; and
 (2) by adding at the end thereof the following:

“STATE AND LOCAL TAX EXEMPTION

12 USC 1795k. “SEC. 312. (a) The Central Liquidity Facility, and its franchise, activities, capital reserves, surplus, and income, shall be exempt from all State and local taxation now or hereafter imposed, other than taxes on real property held by the Facility (to the same extent, according to its value, as other similar property held by other persons is taxed).

“(b)(1) Except as provided in paragraph (2), the notes, bonds, debentures, and other obligations issued on behalf of the Central Liquidity Facility and the income therefrom shall be exempt from all State and local taxation now or hereafter imposed.

“(2) Any obligation described in paragraph (1) shall not be exempt from State or local gift, estate, inheritance, legacy, succession, or other wealth transfer taxes.

“(c) For purposes of this section—

“(1) the term ‘State’ includes the District of Columbia; and

“(2) taxes imposed by counties or municipalities, or any territory, dependency, or possession of the United States shall be treated as local taxes.”.

Ante, p. 1033.

(b)(1) Section 501 of the Internal Revenue Code of 1954 (relating to organizations exempt from tax), as amended by section 1032(a) of this Act, is amended by redesignating subsection (l) as subsection (m) and by adding after subsection (k) the following new subsection:

“(l) GOVERNMENT CORPORATIONS EXEMPT UNDER SUBSECTION (c)(1).—The organization described in this subsection is the Central Liquidity Facility established under title III of the Federal Credit Union Act (12 U.S.C. 1795 et seq.).”.

(2) Paragraph (1) of section 501(c) of such Code (listing exempt organizations) is amended to read as follows: 26 USC 501.
Ante, p. 1056.

“(1) any corporation organized under Act of Congress which is an instrumentality of the United States but only if such corporation—

“(A) is exempt from Federal income taxes under such Act, as amended and supplemented, or

“(B) is described in subsection (l).”.

(c) The amendments made by this section shall take effect on October 1, 1979. 12 USC 1795k note.

ELIMINATION OF PAYROLL DEDUCTION FEES ON FINANCIAL ORGANIZATIONS; ADMINISTRATION OF DISBURSING FUNCTIONS

SEC. 2814. (a) Section 3332(b) of title 31, United States Code, is amended by inserting “without charge” after “shall be sent”.

(b) Section 3332 of title 31, United States Code, is amended by striking out subsection (c) and redesignating subsections (d), (e), (f), and (g) as subsections (c), (d), (e), and (f), respectively.

TITLE IX—MISCELLANEOUS PROVISIONS

COST SAVINGS BY ADMINISTRATIVE ACTION

SEC. 2901. (a) It is the sense of the Congress that—

(1) departments, agencies, and instrumentalities of the executive branch of government can continue to make significant management improvements in—

(A) the travel and transportation of personnel and transportation of things for personnel;

(B) the use of consultant services;

(C) public affairs, public relations, and advertising activities;

(D) publishing, printing, reproduction, and audio visual activities;

(E) identification, recovery, and collection of Federal overpayments, delinquencies, and indebtedness; and

(F) the operation, maintenance, management, leasing, acquisition, and disposal of motor vehicles; and

(2) such improvements can result in better use of funds and reductions in expenditures for such activities.

(b) Within six months after the date of enactment of this Act, the Director of the Office of Management and Budget shall prepare and transmit to the Committees on Appropriations and Budget of the Senate and House of Representatives and the Senate Governmental Affairs and House Government Operations Committees a report describing for each of the categories specified in subparagraphs (A) through (F) of subsection (a)(1)— Report.

(1) the baseline cost (or best estimate thereof) for fiscal year 1984;

(2) the savings (below such baseline cost or estimate) that can reasonably be expected to be achieved for fiscal year 1985 by improved management;

(3) an explanation of how such savings will be achieved; and

(4) if necessary, draft legislation to achieve such savings.

(c) If the expected savings described pursuant to subsection (b)(2) are—

- (1) less than \$750,000,000 for the category specified in subparagraph (A) of subsection (a)(1),
 - (2) less than \$1,000,000,000 for the category specified in subparagraph (B) of such subsection,
 - (3) less than \$100,000,000 for the category specified in subparagraph (C) of such subsection,
 - (4) less than \$250,000,000 for the category specified in subparagraph (D) of such subsection,
 - (5) less than \$2,100,000,000 for the category specified in subparagraph (E) of such subsection, or
 - (6) less than \$160,000,000 for the category specified in subparagraph (F) of such subsection,
- the report shall state the reasons why the amount specified in paragraph (1), (2), (3), (4), (5), or (6) is not achievable.

DISPOSAL OF CERTAIN LANDS AT MONTAUK AIR FORCE BASE

SEC. 2902. (a) The Congress finds that—

- (1) the highest and best use of the lands described in subsection (b)(1) of this section is use as a park or recreational area;
 - (2) the State of New York has indicated a willingness to convey by donation to the United States the fee interest to the lands described in subsection (b)(2);
 - (3) therefore the Administrator of General Services should assign to the Secretary of the Interior the lands described in subsection (b)(1) for use as a public park or recreational area; and
 - (4) the Secretary of the Interior should, simultaneous with acceptance of the lands described in subsection (b)(2), convey the property described in subsection (b)(1) to the State of New York for use as a public park or recreational area through a public discount conveyance under section 203(k)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(k)(2)).
- (b)(1) The lands described in this subsection are those portions of the Montauk Air Force Station in East Hampton Township, Suffolk County, New York, totaling approximately 278 acres, that were declared surplus to the needs of the United States Government on December 21, 1981.
- (2) The lands described in this subsection are approximately 125 acres of real property owned by the State of New York within the boundaries of the Fire Island National Seashore.

COST SAVINGS REPORT BY THE PRESIDENT

SEC. 2903. The President shall review recent recommendations for management improvement and cost control opportunities including those made by congressional committees, executive and legislative branch agencies, educational and research organizations, and public and private boards, task forces, councils, panels, and study groups, which require administrative or Presidential action. A report on such review shall be submitted with the Budget of the United States Government transmitted in January 1985 under section 1105(a) of title 31, United States Code, and shall contain a list of the recommendations the President has reviewed, the source of those recommendations, the actions which the President proposes to take or has

taken, and the amount of cost savings expected to result therefrom in fiscal years 1985, 1986, and 1987.

COST SAVINGS BY COMMITTEE

SEC. 2904. Each authorizing committee of the Senate and House of Representatives shall review the report required under section 2903 and make recommendations from that report to the Budget Committees including any necessary changes in laws to allow for or facilitate the achievement of savings as identified in that report. The resulting recommendations shall be transmitted to the Budget Committee as part of each committee's report submitted pursuant to section 301(c) of Public Law 93-344, on March 15, 1985.

Ante, p. 1208.

2 USC 632.

ANALYSES OF BUDGET ASSUMPTIONS

SEC. 2905. (a) The director of the Congressional Budget Office shall conduct a study of the nature and reliability of the assumptions upon which budget estimates are based for concurrent resolutions on the budget adopted by the Congress and make a report to the Committee on the Budget of the House of Representatives and the Committee on the Budget of the Senate by June 1, 1985. Such study shall identify—

Study.
Report.

(1) the reasons for the differences between actual revenues and outlays and the revenue and outlay estimates used for concurrent resolutions on the budget;

(2) the extent to which any systematic biases exist in the assumptions or methods used for making revenue and outlay estimates for the concurrent resolutions on the budget; and

(3) the extent to which the use of alternative assumptions or estimating methods would improve the accuracy of budget estimates used by the Congress. This would include time-series analyses of historical budget patterns and economic trends.

(b) On a trial basis, the Congressional Budget Office shall conduct in consultation with the General Accounting Office a review of the budget estimates prepared by the Department of Defense and one civilian agency to determine whether:

(1) there is a systematic underestimation of the costs required to carry out the policies, programs and projects proposed; and

(2) what effects any systematic costing errors may have upon the long-run costs of programs, the mix of programs implemented and the effectiveness of programs in meeting agency missions and goals.

The General Accounting Office component of this review shall look at all phases of budget preparation and program evaluation in the agencies selected, and shall examine historical patterns of funding to determine the effect of cost estimation biases.

FORMULA APPROACH TO FEDERAL BUDGETING

SEC. 2906. The Director of the Congressional Budget Office and the Director of the Office of Management and Budget shall each, in consultation with the Chairman and ranking member of the Committee on the Budget of the House of Representatives and the Committee on the Budget of the Senate, conduct a study of the administrative feasibility and potential impact in terms of effectiveness and equitability of applying alternative formula approaches to

Study.

the entire Federal budget. These studies may include, but need not be limited to, the following formulas:

(1) a fraction (not necessarily limited to less than 1.0) of historical trends in spending within functions or categories of the budget;

(2) an equal percentage growth rate, or an equal percentage reduction in the growth rate of, each function or category of the budget;

(3) a set of percentage growth rates, whereby the budget is divided into major categories and a different percentage growth rate is then applied to each category;

(4) a fraction (not necessarily limited to less than 1.0) of the growth in the Gross National Product (as calculated by the Congressional Budget Office or the Office of Management and Budget) applied to each function or category of the budget. The Congressional Budget Office and the Office of Management and Budget shall each report the findings of such study to the Congress no later than December 31, 1984.

MINING OF NICARAGUAN PORTS

22 USC 2151
note.

SEC. 2907. It is the sense of the Congress that no funds heretofore or hereafter appropriated in any Act of Congress shall be obligated or expended for the purpose of planning, directing, executing, or supporting the mining of the ports or territorial waters of Nicaragua.

Approved July 18, 1984.

LEGISLATIVE HISTORY—H.R. 4170 (H.R. 2163):

HOUSE REPORTS: No. 98-432 and Pt. 2 (Comm. on Ways and Means), No. 98-133 accompanying H.R. 2163, Pt. 1 (Comm. on Merchant Marine and Fisheries) and Pt. 2 (Comm. on Ways and Means), and No. 98-861 (Comm. of Conference).

SENATE REPORT No. 98-312 accompanying H.R. 2163 (Comm. on Finance).

CONGRESSIONAL RECORD:

Vol. 129 (1983): July 12, H.R. 2163 considered and passed House.

Vol. 130 (1984): Apr. 5, 9-12, 24-26, 30, May 1-3, 8-11, 14-17, H.R. 2163 considered in Senate.

Apr. 11, H.R. 4170 considered and passed House.

May 17, considered and passed Senate, amended, in lieu of H.R. 2163.

May 23, House concurred in Senate amendment with an amendment.

June 27, Senate and House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 29 (1984):
July 18, Presidential statement.

Public Law 98-370
98th Congress

An Act

To amend the Energy Policy and Conservation Act to facilitate commerce by the domestic renewable energy industry and related service industries.

July 18, 1984
[H.R. 3169]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “Renewable Energy Industry Development Act of 1983”.

Renewable
Energy Industry
Development
Act of 1983.
42 USC 6201
note.

SEC. 2. Part B of title II of the Energy Policy and Conservation Act (42 U.S.C. 6271 and following), relating to the international energy program, is amended by adding at the end thereof the following:

“DOMESTIC RENEWABLE ENERGY INDUSTRY AND RELATED SERVICE INDUSTRIES

“SEC. 256. (a) It is the purpose of this section to implement the responsibilities of the United States under chapter VII of the international energy program with respect to development of alternative energy by facilitating the overall abilities of the domestic renewable energy industry and related service industries to create new markets.

42 USC 6276.

“(b)(1) Before the later of—

“(A) 6 months after the date of the enactment of this section, and

Study.
Report.

“(B) May 31, 1985,

the Secretary of Commerce shall conduct an evaluation regarding the domestic renewable energy industry and related service industries and submit a report of his findings to the Congress.

“(2) Such evaluation shall include—

“(A) an assessment of the technical and commercial status of the domestic renewable energy industry and related service industries in domestic and foreign markets;

“(B) an assessment of the Federal Government’s activities affecting commerce in the domestic renewable energy industry and related service industries and in consolidating and coordinating such activities within the Federal Government; and

“(C) an assessment of the aspects of the domestic renewable energy industry and related service industries in which improvements must be made to increase the international commercialization of such industry.

“(c)(1) On the basis of the evaluation under subsection (b), the Secretary of Commerce shall, consistent with existing law, establish a program for enhancing commerce in renewable energy technologies and consolidating or coordinating existing activities for such purpose.

Marketing.

“(2) Such program shall provide for—

“(A) the broadening of the participation by the domestic renewable energy industry and related service industries in such activities;

“(B) the promotion of the domestic renewable energy industry and related service industries on a worldwide basis;

“(C) the participation by the Federal Government and the domestic renewable energy industry and related service industries in international standard-setting activities; and

“(D) the establishment of an information program under which—

“(i) technical information about the domestic renewable energy industry and related service industries shall be provided to appropriate public and private officials engaged in commerce, and

“(ii) marketing information about export opportunities shall be available to the domestic renewable energy industry and related service industries.

“(3) Necessary funds required for carrying out such program shall be requested in connection with fiscal years beginning after September 30, 1984.

“(d) There shall be established an interagency working group which, in consultation with the representative industry groups and relevant agency heads, shall make recommendations to coordinate the actions and programs of the Federal Government affecting commerce in renewable energy products and related services. The Secretary of Energy shall be the chairman of such group. The heads of appropriate agencies may detail such personnel and may furnish such services to such working group, with or without reimbursement, as may be necessary to carry out its functions.”.

(b) The table of contents for such Act is amended by inserting the following item after the item relating to section 255:

“Sec. 256. Domestic renewable energy industry and related service industries.”.

SEC. 3. The amendments made by this Act shall take effect on the date of the enactment of this Act.

Approved July 18, 1984.

Effective date.
42 USC 6276
note.

LEGISLATIVE HISTORY—H.R. 3169:

HOUSE REPORT No. 98-537 (Comm. on Energy and Commerce).

SENATE REPORT No. 98-508 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD:

Vol. 129 (1983): Nov. 16, considered and passed House.

Vol. 130 (1984): June 28, considered and passed Senate.

Public Law 98-371
98th Congress

An Act

Making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1985, and for other purposes.

July 18, 1984
[H.R. 5713]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1985, and for other purposes, namely:

Department of
Housing and
Urban
Development—
Independent
Agencies
Appropriation
Act, 1985.

TITLE I

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

The amount of contracts for annual contributions, not otherwise provided for, as authorized by section 5 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437c), and heretofore approved in appropriations Acts, is increased by \$847,524,808: *Provided*, That \$11,215,073 of such contract authority shall be available only for contracts using contract authority released by Acts of Congress prior to 1976: *Provided further*, That the budget authority obligated under contracts for annual contributions shall be increased above amounts heretofore provided in appropriation Acts by \$10,759,482,775: *Provided further*, That of the budget authority provided herein, \$312,760,000 shall be for assistance in financing the development or acquisition cost of public housing for Indian families; \$1,725,000,000 shall be for modernization of existing public housing projects pursuant to section 14 of such Act (42 U.S.C. 1437i), of which (a) \$75,000,000 shall be for the modernization of vacant uninhabitable dwelling units in vacant buildings located in public housing projects, pursuant to section 14 of such Act, other than section 14(f) of such Act and other than projects for which budget authority for this purpose was reserved or obligated during fiscal years 1983 or 1984, and (b) \$100,000,000 shall be made available for modernization under such section 14, other than section 14(f) of such Act, through June 30, 1985, and any balances of such authority remaining unreserved after such date shall only be available for the section 8 existing housing program utilizing a term of one hundred and eighty months (42 U.S.C. 1437f); \$774,287,500 shall be for assistance payments in the housing voucher program under section 8(o) of the United States Housing Act of 1937, as amended (42 U.S.C. 1437f); \$1,709,040,000 shall be for assistance for projects developed for the elderly or handicapped under section 202 of the Housing Act of 1959,

42 USC 1437i.

97 Stat 1185.

42 USC 1437f.

97 Stat 1181.

97 Stat. 1177.
42 USC 1437d

97 Stat. 1181.

97 Stat. 1175

as amended (12 U.S.C. 1701q); and, \$2,620,687,500 shall be for the section 8 existing housing program (42 U.S.C. 1437f); \$419,250,000 shall be for the section 8 moderate rehabilitation program (42 U.S.C. 1437f); and \$945,000,000 shall be used other than for low-income housing for Indian families for public housing new construction, notwithstanding sections 6 (h) and (i) of the United States Housing Act of 1937, as amended, or may be used for acquisition with or without rehabilitation for use as public housing if the public housing authority certifies to the Secretary of Housing and Urban Development before a reservation is made, that comparable dwelling units exist which may be used for its public housing program: *Provided further*, That the Secretary shall not approve the use of any of the budget authority provided herein (except such amounts as are provided for in the third proviso of this paragraph), or reserved and obligated in years prior to fiscal year 1985, for assistance under the housing voucher program authorized under section 8(o) of the United States Housing Act of 1937, as amended: *Provided further*, That any balances of authorities made available prior to the enactment of this Act which are or become available for obligation in fiscal year 1985 shall be added to and merged with the authority approved herein, and such merged amounts shall be made subject only to terms and conditions of law applicable to authorizations becoming available in fiscal year 1985: *Provided further*, That none of the merged amounts available for obligation in 1985 shall be subject to the provisions of section 213(d) of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 1439): *Provided further*, That all amounts of budget authority equal to the amounts of such budget authority which are recaptured during fiscal year 1985 shall be rescinded.

The paragraph under the heading "ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING" in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1984 (Public Law 98-45, 97 Stat. 219, 220), as amended by section 127 of Public Law 98-151, making further continuing appropriations for fiscal year 1984 (97 Stat. 964, 980), is further amended by (a) deleting "\$1,550,000,000" in the second proviso and inserting in lieu thereof "\$1,612,982,000"; (b) striking out in the seventh proviso thereof the second citation to section 1437f of title 42, United States Code (including the parentheses), and inserting in lieu thereof the following: ", \$261,675,000 of budget authority shall only be made available for the section 8 voucher program (section 8(o) of the United States Housing Act of 1937, as added by section 207 of the Housing and Urban-Rural Recovery Act of 1983, Public Law 98-181, 97 Stat. 1153, 1155, 1181), including payment of fees to Public Housing Agencies"; (c) deleting, in the clause numbered (1) in the ninth proviso, "shall not become available until March 31, 1984, and at such time", and in that clause deleting "such heading" and inserting in lieu thereof "this heading"; (d) deleting "\$2,217,150,000" in the seventh and ninth provisos and inserting in each such proviso in lieu thereof "\$3,820,320,000"; and (e) deleting the period at the end thereof and inserting a colon in lieu thereof and the following: "*Provided further*, That, notwithstanding any proviso hereof, any amounts of budget authority recaptured and becoming available for obligation in fiscal year 1984 in excess of \$2,500,000,000 shall be made available only for use under section 14 of the United States Housing Act of 1937, as amended: *Provided further*, That the amount of contracts for annual contributions, not otherwise provided for, as authorized

42 USC 1437f.

by section 5 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437c), and heretofore approved in appropriation Acts, is increased by \$69,490,893, of which \$6,160,000 shall be available for contracts using contract authority released by Acts of Congress prior to 1976: *Provided further*, That budget authority in the amount of \$300,000,000 shall be available as an appropriation of funds only for rental rehabilitation grants to authorized grantees pursuant to section 17(a)(1)(A) of the United States Housing Act of 1937, as amended, as authorized in section 17(a)(3)(A) of that Act, to remain available until September 30, 1986: *Provided further*, That \$150,000,000 of such budget authority shall not be available until October 1, 1984: *Provided further*, That, notwithstanding the provisions of section 17(b)(4) of such Act, any rental rehabilitation grant amounts not obligated at the end of fiscal year 1984 shall not be added to the amount available for allocation for such grants for fiscal year 1985 but shall remain available for obligation according to the fiscal year 1984 allocation and consistent with the terms and conditions of law applicable as of September 30, 1984: *Provided further*, That budget authority in the amount of \$315,000,000 shall be available as an appropriation of funds only for development grants to authorized grantees pursuant to section 17(a)(1)(B) of the United States Housing Act of 1937, as authorized in section 17(a)(3)(B) of that Act, to remain available until September 30, 1986: *Provided further*, That \$115,000,000 of such budget authority shall not be available until October 1, 1984.”

97 Stat 1196.
42 USC 1437o.

Notwithstanding any other provision of this Act, the immediately preceding paragraph shall become effective upon enactment of this Act.

Effective date.

RENT SUPPLEMENT

(RESCISSION)

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s) is reduced in fiscal year 1985 by not more than \$81,617,000 in uncommitted balances of authorizations provided for this purpose in appropriation Acts.

42 USC 1451,
1465.

RENTAL HOUSING ASSISTANCE

(RESCISSION)

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 236 of the National Housing Act (12 U.S.C. 1715z-1) is reduced in fiscal year 1985 by not more than \$7,631,000 in uncommitted balances of authorizations provided for this purpose in appropriation Acts.

HOUSING FOR THE ELDERLY OR HANDICAPPED FUND

In 1985, \$600,000,000 of direct loan obligations may be made under section 202 of the Housing Act of 1959, as amended (12 U.S.C. 1701q), utilizing the resources of the fund authorized by subsection (a)(4) of such section, in accordance with paragraph (C) of such subsection: *Provided*, That such commitments shall be available only to qualified nonprofit sponsors for the purpose of providing 100 per centum

12 USC 1701q
note.
12 USC 1701q.

loans for the development of housing for the elderly or handicapped, with any cash equity or other financial commitments imposed as a condition of loan approval to be returned to the sponsor if sustaining occupancy is achieved in a reasonable period of time: *Provided further*, That the full amount shall be available for permanent financing (including construction financing) for housing projects for the elderly or handicapped: *Provided further*, That the Secretary may borrow from the Secretary of the Treasury in such amounts as are necessary to provide the loans authorized herein: *Provided further*, That, notwithstanding any other provision of law, the receipts and disbursements of the aforesaid fund shall be included in the totals of the Budget of the United States Government: *Provided further*, That, notwithstanding section 202(a)(3) of the Housing Act of 1959, loans made in fiscal year 1985 shall bear an interest rate which does not exceed 9.25 per centum, including the allowance adequate in the judgment of the Secretary to cover administrative costs and probable losses under the program.

CONGREGATE SERVICES

42 USC 8001
note.

For contracts with and payments to public housing agencies and nonprofit corporations for congregate services programs in accordance with the provisions of the Congregate Housing Services Act of 1978, \$4,144,000, to remain available until September 30, 1986.

PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

42 USC 1437l.

For payments to public housing agencies for operating subsidies for low-income housing projects as authorized by section 9 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437g), \$1,138,500,000: *Provided*, That of the authority provided herein, not more than \$15,000,000 shall be obligated to public housing agencies by April 1, 1985, for planning costs associated with the preparation of applications submitted to the Secretary in fiscal year 1985 for modernization assistance under section 14 of such Act, without offset by any amount of operating subsidy payment to which a public housing agency may otherwise be entitled.

HOUSING COUNSELING ASSISTANCE

12 USC 1701x.

For contracts, grants, and other assistance, not otherwise provided for, for providing counseling and advice to tenants and homeowners—both current and prospective—with respect to property maintenance, financial management, and such other matters as may be appropriate to assist them in improving their housing conditions and meeting the responsibilities of tenancy or homeownership, including provisions for training and for support of voluntary agencies and services as authorized by section 106(a)(1)(iii) and section 106(a)(2) of the Housing and Urban Development Act of 1968, as amended, \$3,500,000.

TROUBLED PROJECTS OPERATING SUBSIDY

12 USC 1701.

For assistance payments to owners of eligible multifamily housing projects insured, or formerly insured, under the National Housing Act, as amended, in the program of operating subsidies for troubled multifamily housing projects under the Housing and Community

Development Amendments of 1978, all unobligated balances of excess rental charges and any collections after September 30, 1984, to remain available until September 30, 1986: *Provided*, That assistance payments to an owner of a multifamily housing project assisted, but not insured, under the National Housing Act may be made if the project owner and the mortgagee have provided or agreed to provide assistance to the project in a manner as determined by the Secretary of Housing and Urban Development.

42 USC 5301
note.

12 USC 1701.

FEDERAL HOUSING ADMINISTRATION FUND

For payment to cover losses, not otherwise provided for, sustained by the Special Risk Insurance Fund and General Insurance Fund as authorized by the National Housing Act, as amended (12 U.S.C. 1715z-3(b) and 1735c(f)), \$387,683,000, to remain available until expended.

During 1985, within the resources available, gross obligations for direct loans are authorized in such amounts as may be necessary to carry out the purposes of the National Housing Act, as amended.

12 USC 1701.

During 1985, additional commitments to guarantee loans to carry out the purposes of the National Housing Act, as amended, shall not exceed \$50,900,000,000 of loan principal.

During fiscal year 1985, gross obligations for direct loans of not to exceed \$65,448,000 are authorized for payments under section 230(a) of the National Housing Act, as amended, from the insurance fund chargeable for benefits on the mortgage covering the property to which the payments made relate, and payments in connection with such obligations are hereby approved.

12 USC 1715u.

NONPROFIT SPONSOR ASSISTANCE

During 1985, within the resources and authority available, gross obligations for the principal amounts of direct loans shall not exceed \$1,880,000.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

PAYMENT OF PARTICIPATION SALES INSUFFICIENCIES

For the payment of such insufficiencies as may be required by the Government National Mortgage Association, as trustee, on account of outstanding beneficial interests or participations in assets of the Department of Housing and Urban Development (including the Government National Mortgage Association) authorized by the Independent Offices and Department of Housing and Urban Development Appropriation Act, 1968, to be issued pursuant to section 302(c) of the Federal National Mortgage Association Charter Act, as amended (12 U.S.C. 1717), \$745,000.

81 Stat. 341.

GUARANTEES OF MORTGAGE-BACKED SECURITIES

During 1985, new commitments to issue guarantees to carry out the purposes of section 306 of the National Housing Act, as amended (12 U.S.C. 1721g), shall not exceed \$68,250,000,000 of loan principal.

12 USC 1721.

SPECIAL ASSISTANCE FUNCTIONS FUND

(TRANSFER OF FUNDS)

12 USC 1721
note.

97 Stat. 1240.

The Secretary shall transfer all assets acquired and liabilities incurred pursuant to section 305 of the Federal National Mortgage Association Charter Act, as amended (12 U.S.C. 1720), to the management and liquidating functions fund established pursuant to section 306 of such Act (12 U.S.C. 1721): *Provided*, That on October 1, 1984, each outstanding obligation issued by the Secretary of Housing and Urban Development to the Secretary of the Treasury pursuant to section 305(d) of such Act, together with any promise to repay the principal and unpaid interest which has accrued on each obligation, and any other term or condition specified by each such obligation, is canceled.

EMERGENCY MORTGAGE PURCHASE ASSISTANCE

(TRANSFER OF FUNDS)

12 USC 1723e
note.

97 Stat. 1240.

The Secretary shall transfer all assets acquired and liabilities incurred pursuant to section 313 of the Federal National Mortgage Association Charter Act, as amended (12 U.S.C. 1723e), to the management and liquidating functions fund established pursuant to section 306 of such Act (12 U.S.C. 1721): *Provided*, That on October 1, 1984, each outstanding obligation issued by the Secretary of the Housing and Urban Development to the Secretary of the Treasury pursuant to section 313(c) of such Act, together with any promise to repay the principal and unpaid interest which has accrued on each obligation, and any other term or condition specified by each such obligation, is canceled.

SOLAR ENERGY AND ENERGY CONSERVATION BANK

ASSISTANCE FOR SOLAR AND CONSERVATION IMPROVEMENTS

12 USC 3601
note.

For financial assistance and other expenses, not otherwise provided for, to carry out the provisions of the Solar Energy and Energy Conservation Bank Act of 1980 (12 U.S.C. 3601), \$15,000,000, to remain available until September 30, 1986.

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT GRANTS

For grants to States and units of general local government and for related expenses, not otherwise provided for, necessary for carrying out a community development grant program as authorized by title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), \$3,472,000,000, to remain available until September 30, 1987: *Provided*, That not to exceed 20 per centum of any grant made with funds appropriated herein shall be expended for "Planning and Management Development" and "Administration" as defined in regulations promulgated by the Department of Housing and Urban Development.

42 USC 5308.

During 1985, total commitments to guarantee loans, as authorized by section 108 of the aforementioned Act, shall not exceed \$225,000,000 of contingent liability for loan principal.

URBAN DEVELOPMENT ACTION GRANTS

For grants to carry out urban development action grant programs authorized in section 119 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), pursuant to section 103 of that Act, \$440,000,000, to remain available until September 30, 1988: *Provided*, That \$2,500,000 of such amount shall be made available for technical assistance grants under section 119(q) of such Act: *Provided further*, That notwithstanding section 119(q) such \$2,500,000 shall be made available for such grants only to cities and urban counties eligible for assistance under section 119 which have not been grantees before fiscal year 1985 for programs under section 119 of such Act: *Provided further*, That with respect to funds provided herein the provisions of section 119(i) shall be construed as not applying to such \$2,500,000.

42 USC 5318.

42 USC 5303.

97 Stat. 1169.

42 USC 5318.

97 Stat. 1169.

REHABILITATION LOAN FUND

During 1985, collections, unexpended balances of prior appropriations (including any recoveries of prior reservations) and any other amounts in the revolving fund established pursuant to section 312 of the Housing Act of 1964, as amended (42 U.S.C. 1452b), after September 30, 1984, are available and may be used for commitments for loans and operating costs and the capitalization of delinquent interest on delinquent or defaulted loans notwithstanding section 312(h) of such Act.

URBAN HOMESTEADING

For reimbursement to the Federal Housing Administration Fund for losses incurred under the urban homesteading program (12 U.S.C. 1706e), and for reimbursement to the Administrator of Veterans Affairs and the Secretary of Agriculture for properties conveyed by the Administrator of Veterans Affairs and the Secretary of Agriculture, respectively, for use in connection with an urban homesteading program approved by the Secretary of Housing and Urban Development pursuant to section 810 of the Housing and Community Development Act of 1974, as amended, \$12,000,000, to remain available until expended: *Provided*, That up to \$1,000,000 of the budget authority provided herein shall be made available for the demonstration program authorized pursuant to section 810(i), and for evaluation of such demonstration program pursuant to section 810(j), of such Act.

12 USC 1706e.

97 Stat. 1171.

12 USC 1706e.

97 Stat. 1172.

12 USC 1706e.

COMMUNITY DEVELOPMENT GRANTS

(FISCAL YEAR 1984)

Of the funds appropriated under this heading in the Department of Housing and Urban Development-Independent Agencies Appropriations Act, 1984 (Public Law 98-45), not more than \$2,000,000 shall be available immediately to carry out a neighborhood development demonstration pursuant to section 123 of the Housing and Urban-Rural Recovery Act of 1983.

97 Stat. 222.

97 Stat. 1172.
42 USC 5318
note.

POLICY DEVELOPMENT AND RESEARCH

RESEARCH AND TECHNOLOGY

5 USC app.

For contracts, grants, and necessary expenses of programs of research and studies relating to housing and urban problems, not otherwise provided for, as authorized by title V of the Housing and Urban Development Act of 1970, as amended (12 U.S.C. 1701z-1 et seq.), including carrying out the functions of the Secretary under section 1(a)(1)(i) of Reorganization Plan No. 2 of 1968, \$16,900,000, to remain available until September 30, 1986: *Provided*, That of the funds provided herein \$500,000 shall be used in addition to the \$4,000,000 provided for the modernization study in Public Law 98-45 (97 Stat. 223, 224): *Provided further*, That not more than a total of \$500,000 of the funds available for use on the modernization study shall be used for the energy analysis and program evaluation component of the study: *Provided further*, That \$500,000 of the funds provided herein shall be for the design and implementation of the housing voucher demonstration evaluation, including a comparison of the housing voucher program with fifteen year assistance contracts under the section 8 existing housing program.

FAIR HOUSING AND EQUAL OPPORTUNITY

FAIR HOUSING ASSISTANCE

42 USC 3601.

For contracts, grants, and other assistance, not otherwise provided for, as authorized by title VIII of the Civil Rights Act of 1968, as amended, \$6,700,000, to remain available until September 30, 1986.

MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary administrative and nonadministrative expenses of the Department of Housing and Urban Development, not otherwise provided for, including not to exceed \$4,000 for official reception and representation expenses, \$577,320,000, of which \$282,085,000 shall be provided from the various funds of the Federal Housing Administration.

ADMINISTRATIVE PROVISION

Section 1305 of title 31, United States Code, is amended by adding to the end thereof the following new paragraphs to provide for indefinite appropriations to be available currently and permanently:

“ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

“(7) to make payments required under contracts made under section 5 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437c).

“COLLEGE HOUSING GRANTS

“(8) to make payments required under contracts made under title IV of the Housing Act of 1950, as amended (12 U.S.C. 1749 et seq.).

“RENT SUPPLEMENT PROGRAM

“(9) to make payments required under contracts under section 101 of the Housing and Urban Development Act of 1965, as amended (12 U.S.C. 1701s).

42 USC 1451,
1465.

“HOMEOWNERSHIP AND RENTAL HOUSING ASSISTANCE

“(10) to make payments required under contracts under sections 235 and 236, respectively, of the National Housing Act, as amended (12 U.S.C. 1715z, 1715z-1).”.

TITLE II

INDEPENDENT AGENCIES

AMERICAN BATTLE MONUMENTS COMMISSION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the American Battle Monuments Commission, including the acquisition of land or interest in land in foreign countries; purchases and repair of uniforms for caretakers of national cemeteries and monuments outside of the United States and its territories and possessions; rent of office and garage space in foreign countries; purchase (one for replacement only) and hire of passenger motor vehicles; and insurance of official motor vehicles in foreign countries when required by law of such countries; \$11,065,000: *Provided*, That where station allowance has been authorized by the Department of the Army for officers of the Army serving the Army at certain foreign stations, the same allowance shall be authorized for officers of the Armed Forces assigned to the Commission while serving at the same foreign stations, and this appropriation is hereby made available for the payment of such allowance: *Provided further*, That when traveling on business of the Commission, officers of the Armed Forces serving as members or as Secretary of the Commission may be reimbursed for expenses as provided for civilian members of the Commission: *Provided further*, That the Commission shall reimburse other Government agencies, including the Armed Forces, for salary, pay, and allowances of personnel assigned to it.

36 USC 121b

36 USC 122.

36 USC 122a

CONSUMER PRODUCT SAFETY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Consumer Product Safety Commission, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18, and not to exceed \$500 for official reception and representation expenses, \$36,000,000: *Provided*, That funds provided by this appropriation for laboratories shall be available only for the acquisition or conversion of existing laboratories.

DEPARTMENT OF DEFENSE—CIVIL

CEMETERIAL EXPENSES, ARMY

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, for maintenance, operation, and improvement of Arlington National Cemetery and Soldiers' and Airmen's Home National Cemetery, including the purchase of one passenger motor vehicle for replacement only, \$7,759,000, to remain available until expended: *Provided*, That reimbursement shall be made to the applicable military appropriation for the pay and allowances of any military personnel performing services primarily for the purposes of this appropriation.

ENVIRONMENTAL PROTECTION AGENCY

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, including hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18; purchase of reprints; library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members; and not to exceed \$3,000 for official reception and representation expenses; \$656,275,000: *Provided*, That none of these funds may be expended for purposes of Resource Conservation and Recovery Panels established under section 2003 of the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6913).

RESEARCH AND DEVELOPMENT

For research and development activities, \$193,000,000, to remain available until September 30, 1986.

ABATEMENT, CONTROL, AND COMPLIANCE

For abatement, control, and compliance activities, \$447,500,000, to remain available until September 30, 1986: *Provided*, That none of these funds may be expended for purposes of Resource Conservation and Recovery Panels established under section 2003 of the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6913), or for support to State, regional, local and interstate agencies in accordance with subtitle D of the Solid Waste Disposal Act, as amended, other than section 4008(a)(2) or 4009.

42 USC 6941.
42 USC 6948,
6949.

BUILDINGS AND FACILITIES

For construction, repair, improvement, extension, alteration, and purchase of fixed equipment for facilities of, or use by, the Environmental Protection Agency, \$12,000,000, to remain available until expended: *Provided*, That none of the funds available under this heading may be obligated for construction of new facility projects without the prior approval of the Committees on Appropriations.

PAYMENT TO THE HAZARDOUS SUBSTANCE RESPONSE TRUST FUND

For payment to the Hazardous Substance Response Trust Fund as authorized by the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), \$44,000,000.

HAZARDOUS SUBSTANCE RESPONSE TRUST FUND

For necessary expenses to carry out the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, including sections 111 (c)(3), (c)(5), (c)(6), and (e)(4) (42 U.S.C. 9611), \$620,000,000, to be derived from the Hazardous Substance Response Trust Fund, to remain available until expended: *Provided*, That not to exceed \$87,573,000 shall be available for administrative expenses. Funds appropriated under this account may be allocated to other Federal agencies in accordance with section 111(a) of Public Law 96-510: *Provided further*, That for performance of specific activities in accordance with section 104(i) of Public Law 96-510, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, \$14,620,000 shall be made available to the Department of Health and Human Services on October 1, 1984, to be derived by transfer from the Hazardous Substance Response Trust Fund, of which no less than \$5,125,000 shall be available for toxicological testing of hazardous substances.

42 USC 9611.

42 USC 9604.

CONSTRUCTION GRANTS

For necessary expenses to carry out title II of the Federal Water Pollution Control Act, as amended, other than sections 201(m) (1)-(3), 201(n)(2), 206, 208, and 209, \$2,400,000,000, to remain available until expended.

33 USC 1281.

33 USC 1281,
1286, 1288, 1289.

EXECUTIVE OFFICE OF THE PRESIDENT

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF
ENVIRONMENTAL QUALITY

For necessary expenses of the Council on Environmental Quality and the Office of Environmental Quality, in carrying out their functions under the National Environmental Policy Act of 1969 (Public Law 91-190), the Environmental Quality Improvement Act of 1970 (Public Law 91-224), and Reorganization Plan No. 1 of 1977, including not to exceed \$500 for official reception and representation expenses, and hire of passenger motor vehicles, \$700,000.

42 USC 4321
note.42 USC 4371
note; 5 USC app.

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

For necessary expenses of the Office of Science and Technology Policy, in carrying out the purposes of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 and 6671), hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, not to exceed \$1,500 for official reception and representation expenses, and rental of conference rooms in the District of Columbia, \$2,194,000: *Provided*, That the Office of Science and Technology Policy shall reimburse other agencies for not less than one-half of the personnel compensation costs of individuals detailed to it.

42 USC 6601
note.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

For necessary expenses in carrying out the functions of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 et seq.), \$100,000,000, to remain available until expended.

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, including hire of passenger motor vehicles; uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18; expenses of attendance of cooperating officials and individuals at meetings concerned with the work of emergency preparedness; transportation in connection with the continuity of government program to the same extent and in the same manner as permitted the Secretary of a Military Department under 10 U.S.C. 2632; and not to exceed \$2,000 for official reception and representation expenses, \$130,149,000.

EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

For necessary expenses, not otherwise provided for, to carry out activities under the National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001 et seq.), the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977, as amended (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2201 et seq.), the Strategic and Critical Materials Stock Piling Act, as amended (50 U.S.C. 98 et seq.), the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251 et seq.), the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 et seq.), section 103 of the National Security Act (50 U.S.C. 404), and Reorganization Plan No. 3 of 1978, \$331,219,000: *Provided*, That of this amount \$4,778,000 for expenses under section 1362 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4103, 4127), shall be available until September 30, 1986.

5 USC app.

NATIONAL FLOOD INSURANCE FUND

For repayment under notes issued by the Director of the Federal Emergency Management Agency to the Secretary of the Treasury pursuant to section 15(e) of the Federal Flood Insurance Act of 1956, as amended (42 U.S.C. 2414(e)), \$200,205,000. In fiscal year 1985, not to exceed (1) \$37,045,000 for operating expenses, (2) \$59,283,000 for agents' commissions and taxes, and (3) \$8,500,000 for interest on Treasury borrowings shall be available from the National Flood Insurance Fund without the approval of the Committees on Appropriations.

GENERAL SERVICES ADMINISTRATION

CONSUMER INFORMATION CENTER

For necessary expenses of the Consumer Information Center, including services authorized by 5 U.S.C. 3109, \$1,149,000, to be deposited into the Consumer Information Center Fund: *Provided*, That the appropriations, revenues and collections deposited into the fund shall be available for necessary expenses of Consumer Information Center activities in the aggregate amount of \$4,449,000. Administrative expenses of the Consumer Information Center in fiscal year 1985 shall not exceed \$1,449,000. Appropriations, revenues and collections accruing to this fund during fiscal year 1985 in excess of \$4,449,000 shall remain in the fund and shall not be available for expenditure except as authorized in appropriation Acts.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF CONSUMER AFFAIRS

For necessary expenses of the Office of Consumer Affairs, including services authorized by 5 U.S.C. 3109, \$2,096,000.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

RESEARCH AND DEVELOPMENT

For necessary expenses, not otherwise provided for, including research, development, operations, services, minor construction, maintenance, repair, rehabilitation and modification of real and personal property; purchase, hire, maintenance, and operation of other than administrative aircraft, necessary for the conduct and support of aeronautical and space research and development activities of the National Aeronautics and Space Administration; including not to exceed (1) \$155,500,000 for a space station; (2) \$195,000,000 for space telescope development; (3) \$120,200,000 for the gamma ray observatory; (4) \$92,400,000 for upper stages; (5) \$92,500,000 for the Venus radar mapper mission; and (6) \$56,100,000 for Galileo; without the approval of the Committees on Appropriations; \$2,422,600,000, to remain available until September 30, 1986; including \$155,500,000 for a space station, of which \$5,500,000 shall be made available from prior year appropriations: *Provided*, That of this amount, \$63,800,000 is available for space station systems definition and integration studies, including \$6,300,000 for systems engineering and integration support activities: *Provided further*, That within this amount, NASA shall conduct a study of an option which "phases-in" the permanently manned features of the station, as one of the reference configurations to be examined in the definition studies: *Provided further*, That the result of this study shall be reported to the House and Senate Committees on Appropriations prior to the selection by the Administrator of a configuration for the permanently manned space station: *Provided further*, That of this amount, \$57,500,000 shall be withheld from obligation or expenditure until April 1, 1985: *Provided further*, That the recommendations contained in the report required under the "Research and Program Management" be incorporated in any contract entered into as part of the systems definition and integration studies.

Study.

Report.

SPACE FLIGHT, CONTROL AND DATA COMMUNICATIONS

For necessary expenses, not otherwise provided for; in support of space flight, spacecraft control and communications activities of the National Aeronautics and Space Administration, including operations, production, services, minor construction, maintenance, repair, rehabilitation, and modification of real and personal property; tracking and data relay satellite services as authorized by law; purchase, hire, maintenance and operation of other than administrative aircraft; and including not to exceed (1) \$1,510,600,000 for space shuttle production and operational capability; and (2) \$1,339,000,000 for space transportation operations; without the approval of the Committees on Appropriations; \$3,601,800,000, to remain available until September 30, 1986.

CONSTRUCTION OF FACILITIES

For construction, repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and for facility planning and design not otherwise provided, for the National Aeronautics and Space Administration, and for the acquisition or condemnation of real property, as authorized by law, \$150,000,000, to remain available until September 30, 1987: *Provided*, That, notwithstanding the limitation on the availability of funds appropriated under this heading by this appropriation Act, when any activity has been initiated by the incurrence of obligations therefor, the amount available for such activity shall remain available until expended, except that this provision shall not apply to the amounts appropriated pursuant to the authorization for repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and facility planning and design: *Provided further*, That no amount appropriated pursuant to this or any other Act may be used for the lease or construction of a new contractor-funded facility for exclusive use in support of a contract or contracts with the National Aeronautics and Space Administration under which the Administration would be required to substantially amortize through payment or reimbursement such contractor investment, unless an appropriation Act specifies the lease or contract pursuant to which such facilities are to be constructed or leased or such facility is otherwise identified in such Act: *Provided further*, That the Administrator may authorize such facility lease or construction, with the approval of the Committees on Appropriations, if he determines that deferral of such action until the enactment of the next appropriation Act would be inconsistent with the interest of the Nation in aeronautical and space activities: *Provided further*, That with funds appropriated under the Research and Development account and the Space Flight, Control and Data Communications account to NASA in this Act, and subsequent appropriations Acts, NASA may enter into a contract with the California Institute of Technology to amortize the Central Engineering Building over a twelve-year period for a total cost of not to exceed \$17,000,000, plus applicable financing costs equal to the prime rate plus 2 percent, under the authority granted under Public Law 98-45. The building shall be built at the Jet Propulsion Laboratory with title to be vested initially in the California Institute of Technology, and to revert to NASA upon completion of payments.

RESEARCH AND PROGRAM MANAGEMENT

For necessary expenses of research in government laboratories, management of programs and other activities of the National Aeronautics and Space Administration, not otherwise provided for, including uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); awards; lease, hire, maintenance and operation of administrative aircraft; purchase (not to exceed thirty for replacement only) and hire of passenger motor vehicles; and maintenance and repair of real and personal property, and not in excess of \$100,000 per project for construction of new facilities and additions to existing facilities, repairs, and rehabilitation and modification of facilities; \$1,317,000,000: *Provided*, That contracts may be entered into under this appropriation for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year: *Provided further*, That not to exceed \$35,000 of the foregoing amount shall be available for scientific consultations or extraordinary expense, to be expended upon the approval or authority of the Administrator and his determination shall be final and conclusive: *Provided further*, That the National Aeronautics and Space Administration may test a flat rate per diem system for employee travel allowances under regulations prescribed by the Administrator: *Provided further*, That the rates will be consistent with those authorized by the Administrator of the General Services Administration: *Provided further*, That per diem allowances paid employees under a flat rate per diem system shall be amounts determined by the Administrator of NASA to be sufficient to meet normal and necessary expenses in the area in which travel is performed, but in no event will the travel allowances exceed \$75 for each day in travel status within the continental United States, unless the statutory maximum rate of \$75 per day is increased by the Congress and implemented by the Administrator of the General Services Administration: *Provided further*, That the test approved under this section shall expire on September 30, 1985, or upon the effective date of permanent legislation establishing a flat rate per diem system for civilian personnel, whichever occurs first: *Provided further*, That the Administrator shall establish an Advanced Technology Advisory Committee in conjunction with NASA's Space Station program and that the Committee shall prepare a report by April 1, 1985, identifying specific space station systems which advance automation and robotic technologies, not in use in existing spacecraft, and that the development of such systems shall be estimated to cost no less than 10 per centum of the total Space Station costs.

Report.

GENERAL PROVISIONS

The National Aeronautics and Space Administration has authority, notwithstanding any other provision of law, to take such actions as the Administrator deems necessary to provide to the National Science Foundation, on a fully reimbursable basis, Class VI Computers, otherwise acquired for service at NASA installations under authorized acquisition procedures, with accompanying peripheral equipment, as requested by the Foundation: *Provided*, That the National Science Foundation is authorized to receive from the National Aeronautics and Space Administration, Class VI Computers, with such accompanying peripheral equipment as NASA makes available, and, upon receipt, to sell said computer and peripheral

Computers.

equipment to an institution of higher education under such terms as it deems appropriate notwithstanding any other provision of law.

NATIONAL CREDIT UNION ADMINISTRATION

CENTRAL LIQUIDITY FACILITY

12 USC 1751
note.

During 1985, obligations of the Central Liquidity Facility for new loans to member credit unions as authorized by the National Credit Union Central Liquidity Facility Act (12 U.S.C. 1795) shall not exceed \$600,000,000: *Provided*, That administrative expenses of the Central Liquidity Facility in fiscal year 1985 shall not exceed \$850,000.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

For necessary expenses in carrying out the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875), title IX of the National Defense Education Act of 1958 (42 U.S.C. 1876-1879), and the Act to establish a National Medal of Science (42 U.S.C. 1880-1881); services as authorized by 5 U.S.C. 3109; maintenance and operation of aircraft and purchase of flight services for research support; hire of passenger motor vehicles; not to exceed \$2,500 for official reception and representation expenses; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); rental of conference rooms in the District of Columbia; and reimbursement of the General Services Administration for security guard services; \$1,301,912,000, to remain available until September 30, 1986: *Provided*, That of the funds appropriated in this Act, or from funds appropriated previously to the Foundation, not more than \$70,302,000 shall be available for program development and management in fiscal year 1985: *Provided further*, That contracts may be entered into under the program development and management limitation in fiscal year 1985 for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year: *Provided further*, That receipts for scientific support services and materials furnished by the National Research Centers and other National Science Foundation supported research facilities may be credited to this appropriation: *Provided further*, That to the extent that the amount appropriated is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally: *Provided further*, That not to exceed \$9,000,000 shall be available for the very long baseline array and such funds shall not be obligated before April 1, 1985: *Provided further*, That the Foundation is authorized to indemnify grantees, contractors, and subcontractors associated with the ocean drilling program under the provisions of section 2354 of title 10 of the United States Code, with all approvals and certifications required thereby made by the Director of the National Science Foundation.

UNITED STATES ANTARCTIC PROGRAM ACTIVITIES

For necessary expenses in carrying out the research and operational support for the U.S. Antarctic Program pursuant to the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875); maintenance and operation of aircraft and purchase of flight services for research and operations support; maintenance and operation of research ships and charter or lease of ships for research and operations support; hire of passenger motor vehicles; not to exceed \$1,000 for official reception and representation expenses; \$110,080,000, to remain available until expended: *Provided*, That receipts for support services and materials provided to individuals for non-Federal activities may be credited to this appropriation: *Provided further*, That no funds in this account shall be used for the purchase of aircraft.

Prohibition

SCIENCE EDUCATION ACTIVITIES

For necessary expenses in carrying out science education programs and activities pursuant to the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875), including award of graduate fellowships, services as authorized by 5 U.S.C. 3109, and rental of conference rooms in the District of Columbia, \$87,000,000, to remain available until September 30, 1986: *Provided*, That to the extent that the amount of this appropriation is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally: *Provided further*, That \$5,000,000 shall be transferred from funds provided under this head to and merged with funds made available under "Research and related activities" for the purpose of conducting research on teaching and learning: *Provided further*, That \$2,000,000 shall be made available for a contract to develop a science education plan and management structure for the Foundation.

SCIENTIFIC ACTIVITIES OVERSEAS (SPECIAL FOREIGN CURRENCY PROGRAM)

For payments in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States, for scientific activities, as authorized by law, \$2,800,000, to remain available until September 30, 1986: *Provided*, That this appropriation shall be available in addition to other appropriations to the National Science Foundation for payments in the foregoing currencies.

NEIGHBORHOOD REINVESTMENT CORPORATION

PAYMENT TO THE NEIGHBORHOOD REINVESTMENT CORPORATION

For payment to the Neighborhood Reinvestment Corporation for use in neighborhood reinvestment activities, as authorized by the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8101-8107), \$15,512,000.

SELECTIVE SERVICE SYSTEM

SALARIES AND EXPENSES

For necessary expenses of the Selective Service System, including expenses of attendance at meetings and of training for uniformed personnel assigned to the Selective Service System, as authorized by law (5 U.S.C. 4101-4118) for civilian employees; and not to exceed \$1,000 for official reception and representation expenses; \$27,780,000: *Provided*, That during the current fiscal year, the President may exempt this appropriation from the provisions of 31 U.S.C. 1341, whenever he deems such action to be necessary in the interest of national defense: *Provided further*, That none of the funds appropriated by this Act may be expended for or in connection with the induction of any person into the Armed Forces of the United States.

DEPARTMENT OF THE TREASURY

PAYMENTS TO LOCAL GOVERNMENT

FISCAL ASSISTANCE TRUST FUND

For payments to the Local Government Fiscal Assistance Trust Fund, \$4,566,700,000.

OFFICE OF REVENUE SHARING, SALARIES AND EXPENSES

For necessary expenses of the Office of Revenue Sharing, including hire of passenger motor vehicles, \$7,941,000.

VETERANS ADMINISTRATION

COMPENSATION AND PENSIONS

50 USC app. 540.

For the payment of compensation, pensions, gratuities, and allowances, including burial awards, plot allowances, burial flags, headstones and grave markers, emergency and other officers' retirement pay, adjusted-service credits and certificates, and other benefits as authorized by law; and for payment of premiums due on commercial life insurance policies guaranteed under the provisions of article IV of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, \$13,992,900,000, to remain available until expended.

READJUSTMENT BENEFITS

38 USC 801 *et seq.*, 1500 *et seq.*, 1651-1770 *et seq.*, 1901 *et seq.*, 3001 *et seq.*, 3101 *et seq.*, 3201 *et seq.*, 3501 *et seq.*

For the payment of readjustment and rehabilitation benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 21, 31, 34-36, 39, 51, 53, 55, and 61), \$1,137,800,000, to remain available until expended.

VETERANS INSURANCE AND INDEMNITIES

38 USC 701 *et seq.*

For military and naval insurance, national service life insurance, servicemen's indemnities, and service-disabled veterans insurance, as authorized by law (38 U.S.C. chapter 19; 70 Stat. 887; 72 Stat. 487), \$11,000,000, to remain available until expended.

MEDICAL CARE

For necessary expenses for the maintenance and operation of hospitals, nursing homes, and domiciliary facilities; for furnishing, as authorized by law, inpatient and outpatient care and treatment to beneficiaries of the Veterans Administration, including care and treatment in facilities not under the jurisdiction of the Veterans Administration, and furnishing recreational facilities, supplies and equipment; funeral, burial and other expenses incidental thereto for beneficiaries receiving care in Veterans Administration facilities; repairing, altering, improving or providing facilities in the several hospitals and homes under the jurisdiction of the Veterans Administration, not otherwise provided for, either by contract or by the hire of temporary employees and purchase of materials; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); aid to State homes as authorized by law (38 U.S.C. 641); and not to exceed \$2,000,000 to fund cost comparison studies as referred to in 38 U.S.C. 5010(a)(5); \$8,792,165,000, plus reimbursements.

MEDICAL AND PROSTHETIC RESEARCH

For necessary expenses in carrying out programs of medical and prosthetic research and development, as authorized by law, to remain available until September 30, 1986, \$192,695,000, plus reimbursements.

MEDICAL ADMINISTRATION AND MISCELLANEOUS OPERATING EXPENSES

For necessary expenses in the administration of the medical, hospital, nursing home, domiciliary, construction and supply, research, employee education and training activities, as authorized by law, \$70,000,000, plus reimbursements: *Provided*, That the total FTEE for the following offices within the Department of Medicine and Surgery not exceed 106 FTEE during fiscal year 1985: (1) Program Analysis and Development; (2) Health Systems Planning Service; (3) Planning Methods and Systems Development Service; (4) Facilities Planning Service; and (5) MEDIPP field personnel, without the approval of the Committees on Appropriations.

GENERAL OPERATING EXPENSES

For necessary operating expenses of the Veterans Administration, not otherwise provided for, including uniforms or allowances therefor, as authorized by law; not to exceed \$3,000 for official reception and representation expenses; cemeterial expenses as authorized by law; purchase of twelve passenger motor vehicles, for use in cemeterial operations, and hire of passenger motor vehicles; and reimbursement of the General Services Administration for security guard services, and the Department of Defense for the cost of overseas employee mail; \$750,454,000.

CONSTRUCTION, MAJOR PROJECTS

For constructing, altering, extending and improving any of the facilities under the jurisdiction or for the use of the Veterans Administration, or for any of the purposes set forth in sections 1004, 1006, 5002, 5003, 5006, 5008, 5009, and 5010 of title 38, United States Code, including planning, architectural and engineering services,

2 USC 686.
Prohibition.

and site acquisition, where the estimated cost of a project is \$2,000,000 or more or where funds for a project were made available in a previous major project appropriation, \$568,194,000, to remain available until expended: *Provided*, That, except for advance planning of projects funded through the advance planning fund and the design of projects funded through the Design Fund, none of these funds shall be used for any project which has not been considered and approved by the Congress in the budgetary process: *Provided*, That, notwithstanding any other provision of law, no funding provided in this or any other Act shall be available in fiscal year 1984 for the Design Fund and not to exceed \$15,000,000 in fiscal year 1985 shall be available for the Design Fund: *Provided further*, That funds provided in the appropriation "Construction, major projects" for fiscal year 1985, for each approved project shall be obligated (1) by the awarding of a working drawings contract by September 30, 1985 and (2) by the awarding of a construction contract by September 30, 1986: *Provided further*, That the Administrator shall promptly report in writing to the Comptroller General and to the Committees on Appropriations any approved major construction project in which obligations are not incurred within the time limitations established above; and the Comptroller General shall review the report in accordance with the procedures established by section 1015 of the Impoundment Control Act of 1974 (title X of Public Law 93-344): *Provided further*, That no funds from any other account may be obligated for constructing, altering, extending, or improving a project which was approved in the budget process and funded in this account until one year after final acceptance by the Veterans Administration: *Provided further*, That prior to the issuance of a bidding document for any construction contract for a project approved under this heading (excluding completion items), the director of the affected Veterans Administration medical facility must certify that the design of such project is acceptable from a patient care standpoint.

CONSTRUCTION, MINOR PROJECTS

For constructing, altering, extending, and improving any of the facilities under the jurisdiction or for the use of the Veterans Administration, including planning, architectural and engineering services, and site acquisition, or for any of the purposes set forth in sections 1004, 1006, 5002, 5003, 5006, 5008, 5009, and 5010 of title 38, United States Code, where the estimated cost of a project is less than \$2,000,000, \$200,200,000, to remain available until expended, along with unobligated balances of previous Construction, minor projects appropriations which are hereby made available for any project where the estimated cost is less than \$2,000,000: *Provided*, That not more than \$39,104,000 shall be available for expenses of the Office of Construction: *Provided further*, That funds in this account shall be available for (1) repairs to any of the nonmedical facilities under the jurisdiction or for the use of the Veterans Administration which are necessary because of loss or damage caused by any natural disaster or catastrophe and (2) temporary measures necessary to prevent or to minimize further loss by such causes.

GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES

For grants to assist the several States to construct State nursing home and domiciliary facilities and to remodel, modify or alter

existing hospital, nursing home and domiciliary facilities in State homes, for furnishing care to veterans, as authorized by law (38 U.S.C. 5031-5037), \$34,500,000, to remain available until September 30, 1987.

GRANTS FOR THE CONSTRUCTION OF STATE VETERANS CEMETERIES

For grants to aid States in establishing, expanding or improving State veterans' cemeteries as authorized by law (38 U.S.C. 1008), \$5,000,000, to remain available until September 30, 1987.

GRANTS TO THE REPUBLIC OF THE PHILIPPINES

For payment to the Republic of the Philippines of grants, as authorized by law (38 U.S.C. 632), for assisting in the replacement and upgrading of equipment and in rehabilitating the physical plant and facilities of the Veterans Memorial Medical Center, \$500,000, to remain available until September 30, 1986.

LOAN GUARANTY REVOLVING FUND

(INCLUDING TRANSFER OF FUNDS)

During 1985, the Loan guaranty revolving fund shall be available for expenses for property acquisitions, payment of participation sales insufficiencies, and other loan guaranty and insurance operations, as authorized by law (38 U.S.C. chapter 37, except administrative expenses, as authorized by section 1824 of such title): *Provided*, That the unobligated balances, including retained earnings of the Direct loan revolving fund, shall be available, during 1985, for transfer to the Loan guaranty revolving fund in such amounts as may be necessary to provide for the timely payment of obligations of such fund, and the Administrator of Veterans Affairs shall not be required to pay interest on amounts so transferred after the time of such transfer.

38 USC 1801 *et seq.*
38 USC 1824.

During 1985, with the resources available, gross obligations for direct loans and total commitments to guarantee loans are authorized in such amounts as may be necessary to carry out the purposes of the "Loan guaranty revolving fund".

DIRECT LOAN REVOLVING FUND

During 1985, within the resources available, not to exceed \$1,000,000 in gross obligations for direct loans is authorized for specially adapted housing loans (38 U.S.C. chapter 37).

38 USC 1801 *et seq.*

ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

Not to exceed 5 per centum of any appropriation for 1985 for "Compensation and pensions", "Readjustment benefits", and "Veterans insurance and indemnities" may be transferred to any other of the mentioned appropriations, but not to exceed 10 per centum of the appropriations so augmented.

Appropriations available to the Veterans Administration for 1985 for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

No part of the appropriations in this Act for the Veterans Administration (except the appropriations for "Construction, major projects" and "Construction, minor projects") shall be available for the purchase of any site for or toward the construction of any new hospital or home.

No part of any sum appropriated or otherwise made available in this Act for the Veterans Administration may be obligated or expended for the purchase of any site for, or toward the construction of, any new hospital to replace the Allen Park Veterans' Administration Hospital, prior to the receipt by the Administrator of Veterans Affairs of the ongoing General Accounting Office study of such replacement project, except that such funds may be obligated or expended for design and engineering studies for such replacement project without regard to the limitation under this paragraph.

No part of the foregoing appropriations shall be available for hospitalization or examination of any persons except beneficiaries entitled under the laws bestowing such benefits to veterans, unless reimbursement of cost is made to the appropriation at such rates as may be fixed by the Administrator of Veterans Affairs.

One or more pilot programs shall be conducted to determine the effectiveness of utilizing private contractual services to assist in the administrative collection of various types of delinquent debts or other funds due the Government.

TITLE III

CORPORATIONS

31 USC 9101 *et seq.* Corporations and agencies of the Department of Housing and Urban Development and the Federal Home Loan Bank Board which are subject to the Government Corporation Control Act, as amended, are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Act as may be necessary in carrying out the programs set forth in the budget for 1985 for such corporation or agency except as hereinafter provided: *Provided*, That collections of these corporations and agencies may be used for new loan or mortgage purchase commitments only to the extent expressly provided for in this Act (unless such loans are in support of other forms of assistance provided for in this or prior appropriation Acts), except that this proviso shall not apply to the mortgage insurance or guaranty operations of these corporations, or where loans or mortgage purchases are necessary to protect the financial interest of the United States Government.

31 USC 9104.

FEDERAL HOME LOAN BANK BOARD

LIMITATION ON ADMINISTRATIVE AND NONADMINISTRATIVE EXPENSES, FEDERAL HOME LOAN BANK BOARD

Not to exceed a total of \$67,565,000 shall be available for expenses of the Federal Home Loan Bank Board, which amount shall include nonadministrative expenses for the examination and supervision of Federal and State-chartered institutions in an amount not to exceed \$43,184,000, including \$500,000 which shall be available only for

purposes of training State examiners, and administrative expenses in an amount not to exceed \$24,381,000, and said total amount shall be available for procurement of services as authorized by 5 U.S.C. 3109, and contracts for such services with one organization may be renewed annually, and uniforms or allowances therefor in accordance with law (5 U.S.C. 5901-5902), and said amount shall be derived from funds available to the Federal Home Loan Bank Board, including those in the Federal Home Loan Bank Board revolving fund and receipts of the Board for the current fiscal year and prior fiscal years, and the Board may utilize and may make payment for services and facilities of the Federal Home Loan Banks, the Federal Reserve Banks, the Federal Savings and Loan Insurance Corporation, the Federal Home Loan Mortgage Corporation, and other agencies of the Government (including payment for office space): *Provided*, That, with the prior approval of the Committees on Appropriations, not to exceed 10 per centum of the lesser of the limitations on administrative and nonadministrative expenses may be transferred between said limitations: *Provided further*, That expenses for special examinations of Federal and State-chartered institutions determined by the Board to be necessary, all necessary expenses in connection with the conservatorship or liquidation of institutions insured by the Federal Savings and Loan Insurance Corporation, liquidation or handling of assets of or derived from such insured institutions, payment of insurance, and action for or toward the avoidance, termination, or minimizing of losses in the case of such insured institutions, or activities relating to section 5A(f) or 6(i) of the Federal Home Loan Bank Act, section 5(d) of the Home Owners' Loan Act of 1933, section 12(i) of the Securities Exchange Act of 1934, or section 406(c), 407, or 408 of the National Housing Act and all necessary expenses (including services performed on a contract or fee basis, but not including other personal services) in connection with the handling, including the purchase, sale, and exchange, of securities on behalf of Federal home loan banks, and the sale, issuance, and retirement of or payment of interest on, debentures or bonds, under the Federal Home Loan Bank Act, as amended, shall be excluded from the above limitations: *Provided further*, That members and alternates of the Federal Savings and Loan Advisory Council may be compensated subject to the provisions of section 7 of the Federal Advisory Committee Act, and shall be entitled to reimbursement from the Board as approved by the Board for transportation expenses incurred in attendance at meetings of or concerned with the work of such Council and may be paid in lieu of subsistence per diem not to exceed the dollar amount set forth in 5 U.S.C. 5703: *Provided further*, That not to exceed \$1,500 shall be available for official reception and representation expenses: *Provided further*, That, notwithstanding any other provisions of this Act, except for the limitation in amount hereinbefore specified, the expenses and other obligations of the Board shall be incurred, allowed, and paid in accordance with the provisions of the Federal Home Loan Bank Act of July 22, 1932, as amended (12 U.S.C. 1421-1449).

12 USC 1425a,
1426.
12 USC 1464.
15 USC 78l.
12 USC
1729-1730a.

12 USC 1421.
12 USC 1428a
note.
5 USC app.

LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

Not to exceed \$1,343,000 shall be available for administrative expenses, which shall be on an accrual basis and shall be exclusive

12 USC
1729-1730a.

of interest paid, depreciation, properly capitalized expenditures, expenses in connection with liquidation of insured institutions or activities relating to section 406(c), 407, or 408 of the National Housing Act, liquidation or handling of assets of or derived from insured institutions, payment of insurance, and action for or toward the avoidance, termination, or minimizing of losses in the case of insured institutions, legal fees and expenses and payments for expenses of the Federal Home Loan Bank Board determined by said Board to be properly allocable to said Corporation, and said Corporation may utilize and may make payments for services and facilities of the Federal home loan banks, the Federal Reserve banks, the Federal Home Loan Bank Board, the Federal Home Loan Mortgage Corporation, and other agencies of the Government: *Provided*, That, notwithstanding any other provisions of this Act, except for the limitation in amount hereinbefore specified, the administrative expenses and other obligations of said Corporation shall be incurred, allowed, and paid in accordance with title IV of the Act of June 27, 1934, as amended (12 U.S.C. 1724-1730f).

TITLE IV

GENERAL PROVISIONS

42 USC 5121
note.

42 USC 9601
note.

SEC. 401. Where appropriations in titles I and II of this Act are expendable for travel expenses and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amounts set forth therefor in the budget estimates submitted for the appropriations: *Provided*, That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Veterans Administration; to travel performed in connection with major disasters or emergencies declared or determined by the President under the provisions of the Disaster Relief Act of 1974 to site-related travel performed in connection with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980; or to payments to interagency motor pools where separately set forth in the budget schedules.

SEC. 402. Appropriations and funds available for the administrative expenses of the Department of Housing and Urban Development and the Selective Service System shall be available in the current fiscal year for purchase of uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); hire of passenger motor vehicles; and services as authorized by 5 U.S.C. 3109.

31 USC 9101 *et*
seq.
12 USC 1749a.

SEC. 403. Funds of the Department of Housing and Urban Development subject to the Government Corporation Control Act or section 402 of the Housing Act of 1950 shall be available, without regard to the limitations on administrative expenses, for legal services on a contract or fee basis, and for utilizing and making payment for services and facilities of Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Financing Bank, Federal Reserve banks or any member thereof, Federal home loan banks, and any insured bank within the meaning of the Federal Deposit Insurance Corporation Act, as amended (12 U.S.C. 1811-1831).

12 USC
1811-1831d.

SEC. 404. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 405. No funds appropriated by this Act may be expended— Funds.

(1) pursuant to a certification of an officer or employee of the United States unless—

(A) such certification is accompanied by, or is part of, a voucher or abstract which describes the payee or payees and the items or services for which such expenditure is being made, or

(B) the expenditure of funds pursuant to such certification, and without such a voucher or abstract, is specifically authorized by law; and

(2) unless such expenditure is subject to audit by the General Accounting Office or is specifically exempt by law from such audit.

SEC. 406. None of the funds provided in this Act to any department or agency may be expended for the transportation of any officer or employee of such department or agency between his domicile and his place of employment, with the exception of the Secretary of the Department of Housing and Urban Development, who, under title 5, United States Code, section 101, is exempted from such limitation.

SEC. 407. None of the funds provided in this Act may be used for payment, through grants or contracts, to recipients that do not share in the cost of conducting research resulting from proposals not specifically solicited by the Government: *Provided*, That the extent of cost sharing by the recipient shall reflect the mutuality of interest of the grantee or contractor and the Government in the research.

Research and
development.

SEC. 408. None of the funds provided in this Act may be used, directly or through grants, to pay or to provide reimbursement for payment of the salary of a consultant (whether retained by the Federal Government or a grantee) at more than the daily equivalent of the maximum rate paid for GS-18, unless specifically authorized by law.

SEC. 409. No part of any appropriation contained in this Act for personnel compensation and benefits shall be available for other object classifications set forth in the budget estimates submitted for the appropriations without the approval of the Committees on Appropriations.

SEC. 410. None of the funds in this Act shall be used to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings. Nothing herein affects the authority of the Consumer Product Safety Commission pursuant to section 7 of the Consumer Product Safety Act (15 U.S.C. 2056 et seq.).

15 USC 2056.

SEC. 411. Except as otherwise provided under existing law or under an existing Executive order issued pursuant to an existing law, the obligation or expenditure of any appropriation under this Act for contracts for any consulting service shall be limited to contracts which are (1) a matter of public record and available for public inspection, and (2) thereafter included in a publicly available list of all contracts entered into within twenty-four months prior to the date on which the list is made available to the public and of all contracts on which performance has not been completed by such date. The list required by the preceding sentence shall be updated

quarterly and shall include a narrative description of the work to be performed under each such contract.

Contracts with
U.S.

SEC. 412. Except as otherwise provided by law, no part of any appropriation contained in this Act shall be obligated or expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) for a contract for services unless such executive agency (1) has awarded and entered into such contract in full compliance with such Act and the regulations promulgated thereunder and (2) requires any report prepared pursuant to such contract, including plans, evaluations, studies, analyses and manuals, and any report prepared by the agency which is substantially derived from or substantially includes any report prepared pursuant to such contract, to contain information concerning (A) the contract pursuant to which the report was prepared and (B) the contractor who prepared the report pursuant to such contract.

Regulations.

SEC. 413. No part of any appropriation contained in this Act shall be available to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

SEC. 414. Except as otherwise provided in section 406, none of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency.

SEC. 415. None of the funds provided in this Act to any department or agency shall be obligated or expended to procure passenger automobiles as defined in 15 U.S.C. 2001 with an EPA estimated miles per gallon average of less than 22 miles per gallon.

This Act may be cited as the "Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1985".

Approved July 18, 1984.

LEGISLATIVE HISTORY—H.R. 5713:

HOUSE REPORTS: No. 98-803 (Comm. on Appropriations) and No. 98-867 (Comm. of Conference).

SENATE REPORT No. 98-506 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 130 (1984):

May 30, considered and passed House.

June 21, considered and passed Senate, amended.

June 27, House agreed to conference report, receded and concurred in certain Senate amendments and in others with amendments; Senate agreed to conference report and concurred in House amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 29 (1984):
July 18, Presidential statement.

Public Law 98-372
98th Congress

An Act

To recognize the organization known as the Polish Legion of American Veterans,
U.S.A.

July 23, 1984
[H.R. 29]

*Be it enacted by the Senate and House of Representatives of the
United States of America in Congress assembled,*

CHARTER

SECTION 1. The Polish Legion of American Veterans, U.S.A., a Corporation.
nonprofit corporation organized under the laws of the State of 36 USC 2501.
Illinois, is hereby recognized as such and is granted a charter.

POWERS

SEC. 2. The Polish Legion of American Veterans, U.S.A. (herein- 36 USC 2502.
after referred to as the "corporation"), shall have only those powers
granted to it through its bylaws and articles of incorporation filed in
the State or States in which it is incorporated and subject to the
laws of such State or States.

OBJECTS AND PURPOSES OF CORPORATION

SEC. 3. The objects and purposes of the corporation are those 36 USC 2503.
provided in its articles of incorporation. The corporation shall func-
tion as a veterans' and patriotic organization as authorized by the
laws of the State or States where it is incorporated.

SERVICE OF PROCESS

SEC. 4. With respect to service of process, the corporation shall 36 USC 2504.
comply with the laws of the States in which it is incorporated and
those States in which it carries on its activities in furtherance of its
corporate purposes.

MEMBERSHIP

SEC. 5. Eligibility for membership in the corporation and the Discrimination,
rights and privileges of members shall, except as provided in this prohibition.
Act, be as provided in the constitution and bylaws of the corpora- 36 USC 2505.
tion, and terms of membership and requirements for holding office
within the corporation shall not be discriminatory on the basis of
race, color, religion, or national origin.

BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES

SEC. 6. The board of directors of the corporation and the responsi- 36 USC 2506.
bilities thereof shall be as provided in the articles of incorporation of
the corporation and in conformity with the laws of the State or
States in which it is incorporated.

OFFICERS OF CORPORATION

- 36 USC 2507. SEC. 7. The officers of the corporation, and the election of such officers shall be as is provided in the articles of incorporation of the corporation and in conformity with the laws of the State or States wherein it is incorporated.

RESTRICTIONS

- 36 USC 2508. SEC. 8. (a) No part of the income or assets of the corporation shall inure to any member, officer, or director of the corporation or be distributed to any such person during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual necessary expenses in amounts approved by the board of directors.
- (b) The corporation shall not make any loan to any officer, director, or employee of the corporation.
- (c) The corporation and any officer and director of the corporation, acting as such officer or director, shall not contribute to, support or otherwise participate in any political activity or in any manner attempt to influence legislation.
- (d) The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.
- (e) The corporation shall not claim congressional approval or Federal Government authority for any of its activities.

LIABILITY

- 36 USC 2509. SEC. 9. The corporation shall be liable for the acts of its officers and agents when acting within the scope of their authority.

BOOKS AND RECORDS; INSPECTION

- 36 USC 2510. SEC. 10. The corporation shall keep correct and complete books and records of account and shall keep minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors. The corporation shall keep at its principal office a record of the names and addresses of all members having the right to vote. All books and records of such corporation may be inspected by any member having the right to vote, or by any agent or attorney of such member, for any proper purpose, at any reasonable time. Nothing in this section shall be construed to contravene any applicable State law.

AUDIT OF FINANCIAL TRANSACTIONS

- SEC. 11. The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under the Federal law", approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end thereof the following:
- "(58) Polish Legion of American Veterans, U.S.A."

ANNUAL REPORT

- 36 USC 2511. SEC. 12. The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time

as is the report of the audit required by section 11 of this Act. The report shall not be printed as a public document.

RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER

SEC. 13. The right to alter, amend, or repeal this Act is expressly reserved to the Congress. Congress.
36 USC 2512.

DEFINITION OF STATE

SEC. 14. For purposes of this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States. 36 USC 2513.

TAX EXEMPT STATUS

SEC. 15. The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code. If the corporation fails to maintain such status, the charter granted hereby shall expire. 36 USC 2514.
26 USC 1 *et seq.*

SEC. 16. If the corporation shall fail to comply with any of the restrictions or provisions of this Act, the charter granted hereby shall expire. 36 USC 2515.

Approved July 23, 1984.

LEGISLATIVE HISTORY—H.R. 29:

HOUSE REPORT No. 98-489 (Comm. on the Judiciary).

SENATE REPORT No. 98-525 (Comm. on the Judiciary).

CONGRESSIONAL RECORD:

Vol. 129 (1983): Nov. 14, considered and passed House.

Vol. 130 (1984): June 27, considered and passed Senate.

Public Law 98-373
98th Congress

An Act

July 31, 1984

[S. 373]

To provide for a comprehensive national policy dealing with national research needs and objectives in the Arctic, for a National Critical Materials Council, for development of a continuing and comprehensive national materials policy, for programs necessary to carry out that policy, including Federal programs of advanced materials research and technology, and for innovation in basic materials industries, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Arctic Research
and Policy Act of
1984.

TITLE I—ARCTIC RESEARCH AND POLICY

SHORT TITLE

15 USC 4101
note.

SEC. 101. This title may be cited as the "Arctic Research and Policy Act of 1984".

FINDINGS AND PURPOSES

15 USC 4101.

SEC. 102. (a) The Congress finds and declares that—

(1) the Arctic, onshore and offshore, contains vital energy resources that can reduce the Nation's dependence on foreign oil and improve the national balance of payments;

(2) as the Nation's only common border with the Soviet Union, the Arctic is critical to national defense;

(3) the renewable resources of the Arctic, specifically fish and other seafood, represent one of the Nation's greatest commercial assets;

(4) Arctic conditions directly affect global weather patterns and must be understood in order to promote better agricultural management throughout the United States;

(5) industrial pollution not originating in the Arctic region collects in the polar air mass, has the potential to disrupt global weather patterns, and must be controlled through international cooperation and consultation;

(6) the Arctic is a natural laboratory for research into human health and adaptation, physical and psychological, to climates of extreme cold and isolation and may provide information crucial for future defense needs;

(7) atmospheric conditions peculiar to the Arctic make the Arctic a unique testing ground for research into high latitude communications, which is likely to be crucial for future defense needs;

(8) Arctic marine technology is critical to cost-effective recovery and transportation of energy resources and to the national defense;

(9) the United States has important security, economic, and environmental interests in developing and maintaining a fleet of icebreaking vessels capable of operating effectively in the heavy ice regions of the Arctic;

(10) most Arctic-rim countries, particularly the Soviet Union, possess Arctic technologies far more advanced than those currently available in the United States;

(11) Federal Arctic research is fragmented and uncoordinated at the present time, leading to the neglect of certain areas of research and to unnecessary duplication of effort in other areas of research;

(12) improved logistical coordination and support for Arctic research and better dissemination of research data and information is necessary to increase the efficiency and utility of national Arctic research efforts;

(13) a comprehensive national policy and program plan to organize and fund currently neglected scientific research with respect to the Arctic is necessary to fulfill national objectives in Arctic research;

(14) the Federal Government, in cooperation with State and local governments, should focus its efforts on the collection and characterization of basic data related to biological, materials, geophysical, social, and behavioral phenomena in the Arctic;

(15) research into the long-range health, environmental, and social effects of development in the Arctic is necessary to mitigate the adverse consequences of that development to the land and its residents;

(16) Arctic research expands knowledge of the Arctic, which can enhance the lives of Arctic residents, increase opportunities for international cooperation among Arctic-rim countries, and facilitate the formulation of national policy for the Arctic; and

(17) the Alaskan Arctic provides an essential habitat for marine mammals, migratory waterfowl, and other forms of wildlife which are important to the Nation and which are essential to Arctic residents.

(b) The purposes of this title are—

(1) to establish national policy, priorities, and goals and to provide a Federal program plan for basic and applied scientific research with respect to the Arctic, including natural resources and materials, physical, biological and health sciences, and social and behavioral sciences;

(2) to establish an Arctic Research Commission to promote Arctic research and to recommend Arctic research policy;

(3) to designate the National Science Foundation as the lead agency responsible for implementing Arctic research policy; and

(4) to establish an Interagency Arctic Research Policy Committee to develop a national Arctic research policy and a five year plan to implement that policy.

ARCTIC RESEARCH COMMISSION

Establishment.

SEC. 103. (a) The President shall establish an Arctic Research Commission (hereafter referred to as the "Commission").

15 USC 4102.

(b)(1) The Commission shall be composed of five members appointed by the President, with the Director of the National Science Foundation serving as a nonvoting, ex officio member. The members appointed by the President shall include—

(A) three members appointed from among individuals from academic or other research institutions with expertise in areas of research relating to the Arctic, including the physical, biological, health, environmental, social, and behavioral sciences;

(B) one member appointed from among indigenous residents of the Arctic who are representative of the needs and interests of Arctic residents and who live in areas directly affected by Arctic resource development; and

(C) one member appointed from among individuals familiar with the Arctic and representative of the needs and interests of private industry undertaking resource development in the Arctic.

President
of U.S.

(2) The President shall designate one of the appointed members of the Commission to be chairperson of the Commission.

(c)(1) Except as provided in paragraph (2) of this subsection, the term of office of each member of the Commission appointed under subsection (b)(1) shall be four years.

(2) Of the members of the Commission originally appointed under subsection (b)(1)—

(A) one shall be appointed for a term of two years;

(B) two shall be appointed for a term of three years; and

(C) two shall be appointed for a term of four years.

Federal
Register,
publication.

(3) Any vacancy occurring in the membership of the Commission shall be filled, after notice of the vacancy is published in the Federal Register, in the manner provided by the preceding provisions of this section, for the remainder of the unexpired term.

(4) A member may serve after the expiration of the member's term of office until the President appoints a successor.

(5) A member may serve consecutive terms beyond the member's original appointment.

(d)(1) Members of the Commission may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code. A member of the Commission not presently employed for compensation shall be compensated at a rate equal to the daily equivalent of the rate for GS-16 of the General Schedule under section 5332 of title 5, United States Code, for each day the member is engaged in the actual performance of his duties as a member of the Commission, not to exceed 90 days of service each year. Except for the purposes of chapter 81 of title 5 (relating to compensation for work injuries) and chapter 171 of title 28 (relating to tort claims), a member of the Commission shall not be considered an employee of the United States for any purpose.

5 USC 8101 *et*
seq.
28 USC 2671 *et*
seq.

(2) The Commission shall meet at the call of its Chairman or a majority of its members.

(3) Each Federal agency referred to in section 107(b) may designate a representative to participate as an observer with the Commission. These representatives shall report to and advise the Commission on the activities relating to Arctic research of their agencies.

(4) The Commission shall conduct at least one public meeting in the State of Alaska annually.

DUTIES OF COMMISSION

15 USC 4103.

SEC. 104. (a) The Commission shall—

(1) develop and recommend an integrated national Arctic research policy;

(2) in cooperation with the Interagency Arctic Research Policy Committee established under section 107, assist in establishing a national Arctic research program plan to implement the Arctic research policy;

(3) facilitate cooperation between the Federal Government and State and local governments with respect to Arctic research;

(4) review Federal research programs in the Arctic and suggest improvements in coordination among programs;

(5) recommend methods to improve logistical planning and support for Arctic research as may be appropriate and in accordance with the findings and purposes of this title;

(6) suggest methods for improving efficient sharing and dissemination of data and information on the Arctic among interested public and private institutions;

(7) offer other recommendations and advice to the Interagency Committee established under section 107 as it may find appropriate; and

(8) cooperate with the Governor of the State of Alaska and with agencies and organizations of that State which the Governor may designate with respect to the formulation of Arctic research policy.

(b) Not later than January 31 of each year, the Commission shall—

(1) publish a statement of goals and objectives with respect to Arctic research to guide the Interagency Committee established under section 107 in the performance of its duties; and

(2) submit to the President and to the Congress a report describing the activities and accomplishments of the Commission during the immediately preceding fiscal year.

Report.

COOPERATION WITH THE COMMISSION

SEC. 105. (a)(1) The Commission may acquire from the head of any Federal agency unclassified data, reports, and other nonproprietary information with respect to Arctic research in the possession of the agency which the Commission considers useful in the discharge of its duties.

15 USC 4104.

(2) Each agency shall cooperate with the Commission and furnish all data, reports, and other information requested by the Commission to the extent permitted by law; except that no agency need furnish any information which it is permitted to withhold under section 552 of title 5, United States Code.

Confidentiality.

(b) With the consent of the appropriate agency head, the Commission may utilize the facilities and services of any Federal agency to the extent that the facilities and services are needed for the establishment and development of an Arctic research policy, upon reimbursement to be agreed upon by the Commission and the agency head and taking every feasible step to avoid duplication of effort.

(c) All Federal agencies shall consult with the Commission before undertaking major Federal actions relating to Arctic research.

ADMINISTRATION OF THE COMMISSION

SEC. 106. The Commission may—

15 USC 4105.

(1) in accordance with the civil service laws and subchapter III of chapter 53 of title 5, United States Code, appoint and fix the compensation of an Executive Director and necessary additional staff personnel, but not to exceed a total of seven compensated personnel;

5 USC 5331.

(2) procure temporary and intermittent services as authorized by section 3109 of title 5, United States Code;

(3) enter into contracts and procure supplies, services, and personal property; and

(4) enter into agreements with the General Services Administration for the procurement of necessary financial and administrative services, for which payment shall be made by reimbursement from funds of the Commission in amounts to be agreed upon by the Commission and the Administrator of the General Services Administration.

LEAD AGENCY AND INTERAGENCY ARCTIC RESEARCH POLICY COMMITTEE

15 USC 4106.

SEC. 107. (a) The National Science Foundation is designated as the lead agency responsible for implementing Arctic research policy, and the Director of the National Science Foundation shall insure that the requirements of section 108 are fulfilled.

Establishment.

(b)(1) The President shall establish an Interagency Arctic Research Policy Committee (hereinafter referred to as the "Interagency Committee").

(2) The Interagency Committee shall be composed of representatives of the following Federal agencies or offices:

- (A) the National Science Foundation;
- (B) the Department of Commerce;
- (C) the Department of Defense;
- (D) the Department of Energy;
- (E) the Department of the Interior;
- (F) the Department of State;
- (G) the Department of Transportation;
- (H) the Department of Health and Human Services;
- (I) the National Aeronautics and Space Administration;
- (J) the Environmental Protection Agency; and
- (K) any other agency or office deemed appropriate.

(3) The representative of the National Science Foundation shall serve as the Chairperson of the Interagency Committee.

DUTIES OF THE INTERAGENCY COMMITTEE

15 USC 4107.

SEC. 108. (a) The Interagency Committee shall—

(1) survey Arctic research conducted by Federal, State, and local agencies, universities, and other public and private institutions to help determine priorities for future Arctic research, including natural resources and materials, physical and biological sciences, and social and behavioral sciences;

(2) work with the Commission to develop and establish an integrated national Arctic research policy that will guide Federal agencies in developing and implementing their research programs in the Arctic;

(3) consult with the Commission on—

- (A) the development of the national Arctic research policy and the 5-year plan implementing the policy;
- (B) Arctic research programs of Federal agencies;
- (C) recommendations of the Commission on future Arctic research; and
- (D) guidelines for Federal agencies for awarding and administering Arctic research grants;

(4) develop a 5-year plan to implement the national policy, as provided for in section 109;

(5) provide the necessary coordination, data, and assistance for the preparation of a single integrated, coherent, and multi-agency budget request for Arctic research as provided for in section 110;

(6) facilitate cooperation between the Federal Government and State and local governments in Arctic research, and recommend the undertaking of neglected areas of research in accordance with the findings and purposes of this title;

(7) coordinate and promote cooperative Arctic scientific research programs with other nations, subject to the foreign policy guidance of the Secretary of State;

(8) cooperate with the Governor of the State of Alaska in fulfilling its responsibilities under this title;

(9) promote Federal interagency coordination of all Arctic research activities, including—

(A) logistical planning and coordination; and

(B) the sharing of data and information associated with Arctic research, subject to section 552 of title 5, United States Code; and

(10) provide public notice of its meetings and an opportunity for the public to participate in the development and implementation of national Arctic research policy.

Public
information.

(b) Not later than January 31, 1986, and biennially thereafter, the Interagency Committee shall submit to the Congress through the President, a brief, concise report containing—

Report.

(1) a statement of the activities and accomplishments of the Interagency Committee since its last report; and

(2) a description of the activities of the Commission, detailing with particularity the recommendations of the Commission with respect to Federal activities in Arctic research.

5-YEAR ARCTIC RESEARCH PLAN

SEC. 109. (a) The Interagency Committee, in consultation with the Commission, the Governor of the State of Alaska, the residents of the Arctic, the private sector, and public interest groups, shall prepare a comprehensive 5-year program plan (hereinafter referred to as the "Plan") for the overall Federal effort in Arctic research. The Plan shall be prepared and submitted to the President for transmittal to the Congress within one year after the enactment of this Act and shall be revised biennially thereafter.

15 USC 4108.

(b) The Plan shall contain but need not be limited to the following elements:

(1) an assessment of national needs and problems regarding the Arctic and the research necessary to address those needs or problems;

(2) a statement of the goals and objectives of the Interagency Committee for national Arctic research;

(3) a detailed listing of all existing Federal programs relating to Arctic research, including the existing goals, funding levels for each of the 5 following fiscal years, and the funds currently being expended to conduct the programs;

(4) recommendations for necessary program changes and other proposals to meet the requirements of the policy and goals

as set forth by the Commission and in the Plan as currently in effect; and

(5) a description of the actions taken by the Interagency Committee to coordinate the budget review process in order to ensure interagency coordination and cooperation in (A) carrying out Federal Arctic research programs, and (B) eliminating unnecessary duplication of effort among these programs.

COORDINATION AND REVIEW OF BUDGET REQUESTS

15 USC 4109.

SEC. 110. (a) The Office of Science and Technology Policy shall—

(1) review all agency and department budget requests related to the Arctic transmitted pursuant to section 108(a)(5), in accordance with the national Arctic research policy and the 5-year program under section 108(a)(2) and section 109, respectively; and

(2) consult closely with the Interagency Committee and the Commission to guide the Office of Science and Technology Policy's efforts.

Report.

(b)(1) The Office of Management and Budget shall consider all Federal agency requests for research related to the Arctic as one integrated, coherent, and multiagency request which shall be reviewed by the Office of Management and Budget prior to submission of the President's annual budget request for its adherence to the Plan. The Commission shall, after submission of the President's annual budget request, review the request and report to Congress on adherence to the Plan.

(2) The Office of Management and Budget shall seek to facilitate planning for the design, procurement, maintenance, deployment, and operations of icebreakers needed to provide a platform for Arctic research by allocating all funds necessary to support ice-breaking operations, except for recurring incremental costs associated with specific projects, to the Coast Guard.

AUTHORIZATION OF APPROPRIATIONS; NEW SPENDING AUTHORITY

15 USC 4110.

SEC. 111. (a) There are authorized to be appropriated such sums as may be necessary for carrying out this title.

2 USC 651.

(b) Any new spending authority (within the meaning of section 401 of the Congressional Budget Act of 1974) which is provided under this title shall be effective for any fiscal year only to such extent or in such amounts as may be provided in appropriation Acts.

DEFINITION

15 USC 4111.

SEC. 112. As used in this title, the term "Arctic" means all United States and foreign territory north of the Arctic Circle and all United States territory north and west of the boundary formed by the Porcupine, Yukon, and Kuskokwim Rivers; all contiguous seas, including the Arctic Ocean and the Beaufort, Bering, and Chukchi Seas; and the Aleutian chain.

National Critical
Materials Act of
1984.

TITLE II—NATIONAL CRITICAL MATERIALS ACT OF 1984

SHORT TITLE

30 USC 1801
note.

SEC. 201. This title may be cited as the "National Critical Materials Act of 1984".

FINDINGS AND PURPOSES

SEC. 202. (a) The Congress finds that—

30 USC 1801.

(1) the availability of adequate supplies of strategic and critical industrial minerals and materials continues to be essential for national security, economic well-being, and industrial production;

(2) the United States is increasingly dependent on foreign sources of materials and vulnerable to supply interruption in the case of many of those minerals and materials essential to the Nation's defense and economic well-being;

(3) together with increasing import dependence, the Nation's industrial base, including the capacity to process minerals and materials, is deteriorating—both in terms of facilities and in terms of a trained labor force;

(4) research, development, and technological innovation, especially related to improved materials and new processing technologies, are important factors which affect our long-term capability for economic competitiveness, as well as for adjustment to interruptions in supply of critical minerals and materials;

(5) while other nations have developed and implemented specific long-term research and technology programs to develop high-performance materials, no such policy and program evolution has occurred in the United States;

(6) establishing critical materials reserves, by both the public and private sectors and with proper organization and management, represents one means of responding to the genuine risks to our economy and national defense from dependency on foreign sources;

(7) there exists no single Federal entity with the authority and responsibility for establishing critical materials policy and for coordinating and implementing that policy; and

(8) the importance of materials to national goals requires an organizational means for establishing responsibilities for materials programs and for the coordination, within and at a suitably high level of the Executive Office of the President, with other existing policies within the Federal Government.

(b) It is the purpose of this title—

(1) to establish a National Critical Materials Council under and reporting to the Executive Office of the President which shall—

(A) establish responsibilities for and provide for necessary coordination of critical materials policies, including all facets of research and technology, among the various agencies and departments of the Federal Government, and make recommendations for the implementation of such policies;

(B) bring to the attention of the President, the Congress, and the general public such materials issues and concerns, including research and development, as are deemed critical to the economic and strategic health of the Nation; and

(C) ensure adequate and continuing consultation with the private sector concerning critical materials, materials research and development, use of materials, Federal materials policies, and related matters;

(2) to establish a national Federal program for advanced materials research and technology, including basic phenomena through processing and manufacturing technology; and

(3) to stimulate innovation and technology utilization in basic as well as advanced materials industries.

ESTABLISHMENT OF THE NATIONAL CRITICAL MATERIALS COUNCIL

30 USC 1802.

SEC. 203. There is hereby established a National Critical Materials Council (hereinafter referred to as the "Council") under and reporting to the Executive Office of the President. The Council shall be composed of three members who shall be appointed by the President and who shall serve at the pleasure of the President. Members so appointed who are not already Senate-confirmed officers of the Government shall be appointed by and with the advice and consent of the Senate. The President shall designate one of the members to serve as Chairman. Each member shall be a person who, as a result of training, experience, and achievement, is qualified to carry out the duties and functions of the Council, with particular emphasis placed on fields relating to materials policy or materials science and engineering. In addition, at least one of the members shall have a background in and understanding of environmentally related issues.

RESPONSIBILITIES AND AUTHORITIES OF THE COUNCIL

30 USC 1803.

SEC. 204. (a) It shall be the primary responsibility of the Council—

(1) to assist and advise the President in establishing coherent national materials policies consistent with other Federal policies, and making recommendations necessary to implement such policies;

(2) to assist in establishing responsibilities for, and to coordinate, Federal materials-related policies, programs, and research and technology activities, as well as recommending to the Office of Management and Budget budget priorities for materials activities in each of the Federal departments and agencies;

(3) to review and appraise the various programs and activities of the Federal Government in accordance with the policy and directions given in the National Materials and Minerals Policy, Research and Development Act of 1980 (30 U.S.C. 1601), and to determine the extent to which such programs and activities are contributing to the achievement of such policy and directions;

(4) to monitor and evaluate the critical materials needs of basic and advanced technology industries and the Government, including the critical materials research and development needs of the private and public sectors;

(5) to advise the President of mineral and material trends, both domestic and foreign, the implications thereof for the United States and world economies and the national security, and the probable effects of such trends on domestic industries;

(6) to assess through consultation with the materials academic community the adequacy and quality of materials-related educational institutions and the supply of materials scientists and engineers;

(7) to make or furnish such studies, analyses, reports, and recommendations with respect to matters of materials-related policy and legislation as the President may request;

Report.

(8)(A) to prepare a report providing a domestic inventory of critical materials with projections on the prospective needs of Government and industry for these materials, including a long-range assessment, prepared in conjunction with the Office of

Science and Technology Policy in accordance with the National Materials and Minerals Policy, Research and Development Act of 1980, and in conjunction with such other Government departments or agencies as may be considered necessary, of the prospective major critical materials problems which the United States is likely to confront in the immediate years ahead and providing advice as to how these problems may best be addressed, with the first such report being due on April 1, 1985, and (B) review and update such report and assessment as appropriate and report thereon to the Congress at least biennially; and

30 USC 1601
note.

(9) to recommend to the Congress such changes in current policies, activities, and regulations of the Federal Government, and such legislation, as may be considered necessary to carry out the intent of this title and the National Materials and Minerals Policy, Research and Development Act of 1980.

(b) In carrying out its responsibilities under this section the Council shall have the authority—

Advisory panels
and interagency
committees.

(1) to establish such special advisory panels as it considers necessary, with each such panel consisting of representatives of industry, academia, and other members of the private sector, not to exceed ten members, and being limited in scope of subject and duration; and

(2) to establish and convene such Federal interagency committees as it considers necessary in carrying out the intent of this title.

(c) In seeking to achieve the goals of this title and related Acts, the Council and other Federal departments and agencies with responsibilities or jurisdiction related to materials or materials policy, including the National Security Council, the Council on Environmental Quality, the Office of Management and Budget, and the Office of Science and Technology Policy, shall work collaboratively and in close cooperation.

PROGRAM AND POLICY FOR ADVANCED MATERIALS RESEARCH AND TECHNOLOGY

SEC. 205. (a) In addition to the responsibilities described in section 204, the Council shall be responsible for coordination with appropriate agencies and departments of the Federal Government relative to Federal materials research and development policies and programs. Such policies and programs shall be consistent with the policies and goals described in the National Materials and Minerals Policy, Research and Development Act of 1980. In carrying out this responsibility the Council shall—

30 USC 1804.

(1)(A) establish a national Federal program plan for advanced materials research and development, recommend the designation of the key responsibilities for carrying out such research, and to provide for coordination of this plan with the Office of Science and Technology Policy, the Office of Management and Budget, and such other Federal offices and agencies as may be deemed appropriate, and (B) annually review such plan and report thereon to the Congress;

(2) review annually the materials research, development, and technology authorization requests and budgets of all Federal agencies and departments; and in this activity the Council shall make recommendations, in cooperation with the Office of Sci-

ence and Technology Policy, the Office of Management and Budget, and all other Federal offices and agencies deemed appropriate, to ensure close coordination of the goals and directions of such programs with the policies determined by the Council; and

30 USC 1601
note.

(3) assist the Office of Science and Technology Policy in the preparation of such long-range materials assessments and reports as may be required by the National Materials and Minerals Policy, Research and Development Act of 1980, and assist other Federal entities in the preparation of analyses and reporting relating to critical and advanced materials.

(b) The Office of Management and Budget, in reviewing the materials research, development, and technology authorization requests of the various Federal departments and agencies for any fiscal year, and the recommendations of the Council, shall consider all of such requests and recommendations as an integrated, coherent, multiagency request which shall be reviewed by the Office of Management and Budget for its adherence to the national Federal materials program plan in effect for such fiscal year under subsection (a).

INNOVATION IN BASIC AND ADVANCED MATERIALS INDUSTRIES

Centers for
Industrial
Technology.
30 USC 1805.

SEC. 206. (a)(1) In order to promote the use of more cost-effective, advanced technology and other means of providing for innovation and increased productivity within the basic and advanced materials industries, the Council shall evaluate and make recommendations regarding the establishment of Centers for Industrial Technology as provided in Public Law 96-480 (15 U.S.C. 3705).

(2) The activities of such Centers shall focus on, but not be limited to, the following generic materials areas: corrosion; welding and joining of materials; advanced processing and fabrication technologies; microfabrication; and fracture and fatigue.

(b) In order to promote better use and innovation of materials in design for improved safety or efficiency, the Council shall establish in cooperation with the appropriate Federal agencies and private industry, an effective mechanism for disseminating materials property data in an efficient and timely manner. In carrying out this responsibility, the Council shall consider, where appropriate, the establishment of a computerized system taking into account, to the maximum extent practicable, existing available resources.

COMPENSATION OF MEMBERS AND REIMBURSEMENTS

30 USC 1806.

SEC. 207. (a) The Chairman of the Council, if not otherwise a paid officer or employee of the Federal Government, shall be paid at the rate not to exceed the rate of basic pay provided for level II of the Executive Schedule. The other members of the Council, if not otherwise paid officers or employees of the Federal Government, shall be paid at a per diem rate comparable to the rate not to exceed the rate of basic pay provided for level III of the Executive Schedule.

(b) Subject to existing law and regulations governing conflicts of interest, the Council may accept reimbursement from any private nonprofit organization or from any department, agency, or instrumentality of the Federal Government, or from any State or local government, for reasonable travel expenses incurred by any member or employee of the Council in connection with such mem-

ber's or employee's attendance at any conference, seminar, or similar meeting.

POSITION AND AUTHORITIES OF EXECUTIVE DIRECTOR

SEC. 208. (a) There shall be an Executive Director (hereinafter referred to as the "Director"), who shall be chief administrator of the Council. The Director shall be appointed by the Council full time and shall be paid at the rate not to exceed the rate of basic pay provided for level III of the Executive Schedule. 30 USC 1807.

(b) The Director is authorized—

(1) to employ such personnel as may be necessary for the Council to carry out its duties and functions under this title, but not to exceed twelve compensated employees;

(2) to obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code; and

(3) to develop, subject to approval by the Council, rules and regulations necessary to carry out the purposes of this title.

(c) In exercising his responsibilities and duties under this title, the Director—

(1) may consult with representatives of academia, industry, labor, State and local governments, and other groups; and

(2) shall utilize to the fullest extent possible the services, facilities, and information (including statistical information) of public and private agencies, organizations, and individuals.

(d) Notwithstanding section 367(b) of the Revised Statutes (31 U.S.C. 665(b)), the Council may utilize voluntary and uncompensated labor and services in carrying out its duties and functions. 31 USC 1342.

RESPONSIBILITIES AND DUTIES OF THE DIRECTOR

SEC. 209. In carrying out his functions the Director shall assist and advise the Council on policies and programs of the Federal Government affecting critical and advanced materials by— 30 USC 1808.

(1) providing the professional and administrative staff and support for the Council;

(2) assisting the Federal agencies and departments in appraising the effectiveness of existing and proposed facilities, programs, policies, and activities of the Federal Government, including research and development, which affect critical materials availability and needs;

(3) cataloging, as fully as possible, research and development activities of the Government, private industry, and public and private institutions; and

(4) initiating Government and private studies and analyses, including those to be conducted by or under the auspices of the Council, designed to advance knowledge of critical or advanced materials issues and develop alternative proposals, including research and development, to resolve national critical materials problems.

AUTHORITY

SEC. 210. The Council is authorized—

(1) to establish such internal rules and regulations as may be necessary for its operation; 30 USC 1809. Regulations.

Contracts with
U.S.

(2) to enter into contracts and acquire materials and supplies necessary for its operation to such extent or in such amounts as are provided for in appropriation Acts;

Public
information.

(3) to publish, consistent with title 44 of the United States Code, or arrange to publish critical materials information that it deems to be useful to the public and private industry to the extent that such publication is consistent with the national defense and economic interest;

(4) to utilize such services or personnel as may be provided to the Council on a reimbursable basis by any agency of the United States; and

(5) to exercise such authorities as may be necessary and incidental to carrying out its responsibilities and duties under this title.

AUTHORIZATION OF APPROPRIATIONS

30 USC 1810.

SEC. 211. There are hereby authorized to be appropriated to carry out the provisions of this title a sum not to exceed \$500,000 for the fiscal year ending September 30, 1985, and such sums as may be necessary thereafter: *Provided*, That the authority provided for in this title shall expire on September 30, 1990, unless otherwise authorized by Congress.

DEFINITION

30 USC 1811.

SEC. 212. As used in this title, the term "materials" has the meaning given it by section 2(b) of the National Materials and Minerals Policy, Research and Development Act of 1980.

30 USC 1601.

Approved July 31, 1984.

LEGISLATIVE HISTORY—S. 373:

HOUSE REPORT No. 98-593, Pt. 1 (Comm. on Science and Technology) and Pt. 2 (Comm. on Merchant Marine and Fisheries).

SENATE REPORT No. 98-159 (Comm. on Governmental Affairs).

CONGRESSIONAL RECORD:

Vol. 129 (1983): June 27, considered and passed Senate.

Vol. 130 (1984): Apr. 24, considered and passed House, amended.

June 21, Senate concurred in House amendments with amendment.

June 26, House concurred in Senate amendments.

Public Law 98-374
98th Congress

Joint Resolution

Designating August 1984 as "Polish American Heritage Month".

Aug. 7, 1984
[H.J. Res. 577]

Whereas since the first immigration of Polish settlers to Jamestown in the seventeenth century, Poles and Americans of Polish descent have distinguished themselves by contributing to the development of the United States of America in the arts, sciences, government, military service, athletics, and education;

Whereas Kazimierz Pulaski, Tadeusz Kosciuszko, and other sons of Poland came to our shores to fight in the American War for Independence and to give their lives and fortunes for the creation of the United States;

Whereas the Polish Constitution of May 3, 1791, was directly modeled after the Constitution of the United States, is recognized as the second written constitution in history, and is revered by Poles and Americans of Polish descent;

Whereas Americans of Polish descent and Americans sympathetic to the struggle of the Polish nation to regain its freedom remain committed to a free and independent Polish nation;

Whereas Poles and Americans of Polish descent take great pride in and honor Poland's greatest native son, His Holiness Pope John Paul II;

Whereas Poles and Americans of Polish descent take great pride in and honor Nobel Peace Laureate, Lech Walesa, the founder of the Solidarity Labor Federation;

Whereas the Solidarity Labor Federation was founded in August of 1980 and is continuing its struggle against the oppression of the Polish Government; and

Whereas the Polish American Congress is observing its fortieth anniversary this year and is celebrating August 1984 as Polish American Heritage Month: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That August 1984 is designated "Polish American Heritage Month". The President is requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate ceremonies and activities.

Approved August 7, 1984.

LEGISLATIVE HISTORY—H.J. Res. 577 (S.J. Res. 323):

CONGRESSIONAL RECORD, Vol. 130 (1984):

June 26, considered and passed House.

July 31, considered and passed Senate.

Public Law 98-375
98th Congress

An Act

To establish the Christopher Columbus Quincentenary Jubilee Commission.

Aug. 7, 1984

[H R 1492]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Christopher Columbus Quincentenary Jubilee Act".

Christopher
Columbus
Quincentenary
Jubilee Act.

FINDINGS AND DECLARATIONS

SEC. 2. The Congress finds and declares that—

- (1) October 12, 1992, marks the five hundredth anniversary of the voyages of discovery of Christopher Columbus;
- (2) the governments and people of Spain and Italy should be recognized and commended for their historic role and contribution to those voyages;
- (3) all persons in this country should look with pride on the achievements and contributions of their ancestors with respect to those historic voyages; and
- (4) as the Nation approaches the quincentennial of the voyages of discovery of Christopher Columbus, it is appropriate to celebrate and commemorate this anniversary through local, national, and international observances and activities planned, encouraged, coordinated, and conducted by a national commission representative of appropriate individuals and public and private authorities and organizations.

ESTABLISHMENT; COMPOSITION

SEC. 3. (a) There is established a commission to be known as the Christopher Columbus Quincentenary Jubilee Commission (hereinafter in this Act referred to as the "Commission") to plan, encourage, coordinate, and conduct the commemoration of the voyages of discovery of Christopher Columbus.

(b) The Commission shall be composed of thirty members as follows:

- (1) seven members appointed by the President upon the recommendation of the majority leader of the Senate in consultation with the minority leader of the Senate;
- (2) seven members appointed by the President upon the recommendation of the Speaker of the House of Representatives in consultation with the minority leader of the House of Representatives;
- (3) ten members appointed by the President, which members shall be broadly representative of the people of the United States, and not otherwise officers or employees of the United States;
- (4) the Secretary of State;
- (5) the Archivist of the United States;
- (6) the Librarian of Congress;
- (7) the Chairman of the National Endowment for the Arts;

(8) the Chairman of the National Endowment for the Humanities; and

(9) the Secretary of Commerce.

(c) The President is hereby authorized and requested to invite the governments of Spain and Italy each to appoint, within ninety days after the date of the enactment of this Act, one individual to serve as a nonvoting participant in the activities of the Commission.

(d) The Secretary of State shall call the first meeting for the purpose of electing a Chairman and Vice Chairman, both of whom shall be from among the members of the Commission appointed under subsection (b)(3). The Commission may appoint honorary members, and may establish an Advisory Council to assist the Commission in its work.

(e) Appointments under subsection (b) shall be made within ninety days after the date of the enactment of this Act. Vacancies shall be filled in the same manner in which the original appointments were made.

DUTIES

Spain. SEC. 4. (a) It shall be the duty of the Commission to prepare a comprehensive program for commemorating the quincentennial of the voyages of discovery of Christopher Columbus, and to plan, encourage, coordinate, and conduct observances and activities commemorating the historic events associated with those voyages. In carrying out this subsection, the Commission shall particularly examine the historic role of the government and people of Spain in order to promote a greater public awareness, understanding, and appreciation of the contributions made by Spain with respect to those voyages.

Report. (b) Within two years after the date of the first meeting called pursuant to section 3(d) of this Act, the Commission shall submit to Congress a comprehensive report incorporating its recommendations for the commemoration of the quincentennial of the voyages of discovery of Christopher Columbus. The report required by this subsection shall include—

(1) recommendations for appropriate activities for the commemoration, including—

(A) the production, publication, and distribution of books, pamphlets, films, and other educational materials focusing on the history, culture, and political thought of the lands Christopher Columbus traveled from and to during the voyages of discovery;

(B) bibliographical and documentary projects and publications;

(C) conferences, convocations, lectures, seminars, and other similar programs;

(D) the development of libraries, museums, and exhibits, including mobile exhibits;

(E) ceremonies and celebrations commemorating specific events;

(F) programs focusing on the international significance of the voyages of discovery of Christopher Columbus; and

(G) the design, inscriptions, and other specifications relating to the issuance of commemorative coins, medals, and stamps, by the United States;

(2) recommendations for the allocation of financial and administrative responsibility among the public agencies and private organizations recommended for participation by the Commission; and

(3) recommendations for such legislation and administrative actions as the Commission deems necessary to carry out the commemoration of the voyages of discovery.

The President shall transmit the Commission's report to the Congress together with such comments and additional recommendations for legislation and administrative actions as the President deems appropriate.

President of U.S.

(c) The Commission shall prepare and submit to the Congress an annual report on the activities of the Commission, including an accounting of funds received and expended.

Report.

(d) In preparing its plans and programs, the Commission shall consider any related plans and programs developed by State and local, and foreign governments, and private groups, including the 1992 World's Fair to be held in Chicago, Illinois, and in Seville, Spain. The Commission shall endeavor to plan and conduct its activities in such manner as to ensure that activities conducted pursuant to this Act do not duplicate activities of the 1992 World's Fair, which the Commission recognizes to be a major highlight of the quincentenary celebration.

1992 World's Fair.

(e) The Commission may designate special committees and invite representatives from such public agencies and private organizations to assist the Commission in carrying out this section as the Commission deems appropriate.

ADDITIONAL FUNCTIONS

SEC. 5. In carrying out the purposes of this Act, the Commission is authorized to provide for—

(1) the preparation, distribution, dissemination, exhibition, and sale of historical, commemorative, and informational materials and objects which will contribute to public awareness of, and interest in, the quincentennial, except that any commemorative coins, medals, or stamps issued by the United States shall be sold only by an agency of the United States;

(2) competitions, commissions, and awards for historical, scholarly, artistic, literary, musical, and other works, programs, and projects relating to the quincentennial; and

(3) a quincentennial calendar or register of programs and projects, and in other ways provide a central clearinghouse for information and coordination regarding dates, events, places, documents, artifacts, and personalities of quincentennial historical and commemorative significance.

COORDINATION OF EFFORTS

SEC. 6. (a) In carrying out the purposes of this Act, the Commission shall consult, cooperate with, and seek advice and assistance from appropriate Federal departments and agencies, State and local public bodies, foreign governments, learned societies, and historical, patriotic, philanthropic, civic, professional, and related organizations. Such Federal departments and agencies are authorized and requested to cooperate with the Commission in planning, encourag-

Study.

ing, coordinating, and conducting appropriate commemorative activities.

(b) The Secretary of State shall undertake a study of appropriate cooperative actions which might be taken with foreign governments to preserve and develop historic sites related to the voyages of discovery of Christopher Columbus, at such time and in such manner as will ensure that fitting observances and exhibits may be held at each such site during the commemoration. (In particular, the Secretary may consult with the governments of the nations of the Western Hemisphere which share the Columbian heritage and with the governments of Spain and Italy with respect to joint participation in events in the United States and in such nations.) The Secretary shall submit the results of the study to the Commission, together with his recommendations, affording the Commission an opportunity to review the study, and to incorporate such of its findings and recommendations as the Commission may deem appropriate in the report required by section 4 of this Act.

(c) The Chairman of the National Endowment for the Arts, and the Chairman of the National Endowment for the Humanities shall cooperate with the Commission, especially in the encouragement and coordination of scholarly works and presentations focusing on the history, culture, and political thought of the period surrounding the voyages of discovery.

(d) The Librarian of Congress, the Secretary of the Smithsonian Institution, and the Archivist of the United States shall cooperate with the Commission, especially in the development and display of exhibits and collections, and in the development and distribution of bibliographies, catalogs, and other materials relevant to the period.

1992 World's
Fair.

(e) Nothing in this Act shall be construed to restrict, abridge, or otherwise limit the planning, development, conduct, operations, or activities of the 1992 World's Fair to be held in Chicago, Illinois, and in Seville, Spain, nor shall any provision of this Act be construed to vest in the Commission any right or responsibility to regulate or otherwise oversee the planning, development, conduct, operations, or activities of such Fair.

DONATIONS

SEC. 7. (a) The Commission may accept donations of money, property, or personal services, except that the Commission may not accept donations—

(1) the aggregate value of which exceeds \$25,000, in the case of donations from an individual; or

(2) the aggregate of which exceeds \$50,000, in the case of donations from a foreign government, a corporation, a partnership, or any other person.

(b) All books, manuscripts, miscellaneous printed matter, memorabilia, relics, and other materials relating to the period and donated to the Commission may be deposited for preservation in national, State, or local libraries or museums or be otherwise disposed of by the Commission after consultation with the Librarian of Congress, the Secretary of the Smithsonian Institution, the Archivist of the United States, or the Administrator of General Services, as the case may be.

ADMINISTRATION

SEC. 8. (a)(1) The Chairman, with the advice of the Commission, shall appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, a Director who may be compensated at a rate not to exceed the rate of basic pay payable for level IV of the Executive Schedule established under section 5315 of such title and a Deputy Director who may be compensated at a rate not to exceed the rate of basic pay payable for level V of the Executive Schedule established under section 5316 of such title. Such officers shall serve at the pleasure of the Chairman.

(2) The Commission shall delegate such powers and duties to the Director as may be necessary for the efficient operation and management of the Commission.

(b) Subject to such rules and regulations as may be adopted by the Commission, the Commission may—

(1) appoint and fix the compensation of such additional personnel, not to exceed twenty staff members, as it deems advisable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at such rates not in excess of the maximum rate for grade GS-18 of the General Schedule under section 5332 of such title;

5 USC 5101 *et seq.*, 5331.

(2) appoint such advisory committees as it deems necessary;

(3) procure supplies, services, and property; make contracts; expend in furtherance of this Act funds appropriated, donated, or received in pursuance of contracts hereunder;

Contracts with U.S.

(4) enter into agreements with the General Services Administration for procurement of necessary financial and administrative services, for which payment shall be made by reimbursement from funds of the Commission in such amounts as may be agreed upon by the Chairman and the Administrator of the General Services Administration; and

Contracts with U.S.

(5) use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(c)(1) Upon request of the Commission, the head of any Federal agency may detail any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this Act. Details under this subsection shall be without reimbursement by the Commission to the agency from which the employee concerned was detailed.

(2) The Commission may accept the services of not to exceed twenty employees under this subsection at any time.

COMPENSATION

SEC. 9. (a) Members of the Commission appointed under section 3(b) of this Act shall serve without compensation, but may be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

(b) Persons appointed, designated, or invited to assist the Commission under section 3(c), the second sentence of section 3(d), section 4(e), or section 8(b)(2) of this Act shall serve without compensation,

and shall not be entitled to reimbursement for travel, subsistence, or other expenses incurred by them in the performance of their duties.

PENALTY

Logos, symbols,
or marks.
Regulations.

SEC. 10. (a) The Commission shall prescribe rules and regulations regarding the use of any logos, symbols, or marks originated under authority of and certified by the Commission for use in connection with the commemoration of the quincentennial, or any facsimile thereof. Under the rules and regulations, the Commission may not sell, lease, or otherwise grant to any person the right to use any such logo, symbol, or mark in connection with the production or manufacture of any commercial goods, as part of an advertisement promoting any commercial goods or services, or as part of an endorsement for any such goods or services.

Federal
Register,
publication.

(b) Any person who, except as authorized under rules and regulations issued by the Commission, knowingly manufactures, reproduces, or uses any such logos, symbols, or marks, or any facsimile thereof, or in such a manner as suggests any such logos, symbols, or marks, shall be fined not more than \$10,000, or imprisoned not more than one year, or both. This section shall only apply in the case of such logos, symbols, and marks for which the Commission has published in the Federal Register a notification of certification.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 11. (a) There are authorized to be appropriated to carry out the provisions of this Act, \$220,000 per fiscal year for each of the fiscal years beginning after September 30, 1983, and ending before October 1, 1992; and \$20,000 for the period beginning on October 1, 1992, and ending on November 15, 1992.

(b) Amounts appropriated under this section for any fiscal year shall remain available until November 15, 1992.

(c) The total appropriations authorized under this or any other Act for the purposes of this Act shall not exceed \$2,000,000.

TERMINATION

Report.

SEC. 12. (a) A final report shall be made to the Congress no later than November 15, 1992, upon which date the Commission shall terminate.

(b) Any property acquired by the Commission remaining upon its termination may be used by the Secretary of the Interior for purposes of the National Park Service, or may be disposed of in accordance with the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

Approved August 7, 1984.

LEGISLATIVE HISTORY—H. R. 1492 (S. 500):

HOUSE REPORTS: No. 98-150 (Comm. on Post Office and Civil Service) and No. 98-876 (Comm. of Conference).

SENATE REPORT No. 98-194 accompanying S. 500 (Comm. on the Judiciary).

CONGRESSIONAL RECORD:

Vol. 129 (1983): June 21, considered and passed House.

Vol. 130 (1984): Feb. 1, considered and passed Senate, amended, in lieu of S. 500.

June 27, Senate agreed to conference report.

July 25, House agreed to conference report.

Public Law 98-376
98th Congress

An Act

Aug. 10, 1984
[H R. 559]

To amend the Securities Exchange Act of 1934 to increase the sanctions against trading in securities while in possession of material nonpublic information.

Insider Trading
Sanctions Act of
1984.
15 USC 78a note.
15 USC 78u

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Insider Trading Sanctions Act of 1984".

SEC. 2. Section 21 of the Securities Exchange Act of 1934 is amended by redesignating subsection (d) as subsection (d)(1), and adding at the end thereof the following new paragraph:

"(2)(A) Whenever it shall appear to the Commission that any person has violated any provision of this title or the rules or regulations thereunder by purchasing or selling a security while in possession of material nonpublic information in a transaction (i) on or through the facilities of a national securities exchange or from or through a broker or dealer, and (ii) which is not part of a public offering by an issuer of securities other than standardized options, the Commission may bring an action in a United States district court to seek, and the court shall have jurisdiction to impose, a civil penalty to be paid by such person, or any person aiding and abetting the violation of such person. The amount of such penalty shall be determined by the court in light of the facts and circumstances, but shall not exceed three times the profit gained or loss avoided as a result of such unlawful purchase or sale, and shall be payable into the Treasury of the United States. If a person upon whom such a penalty is imposed shall fail to pay such penalty within the time prescribed in the court's order, the Commission shall refer the matter to the Attorney General who shall recover such penalty by action in the appropriate United States district court. The actions authorized by this paragraph may be brought in addition to any other actions that the Commission or the Attorney General are entitled to bring. For purposes of section 27 of this title, actions under this paragraph shall be actions to enforce a liability or a duty created by this title. The Commission, by rule or regulation, may exempt from the provisions of this paragraph any class of persons or transactions.

15 USC 78aa.

Prohibition.

15 USC 78t.

"(B) No person shall be subject to a sanction under subparagraph (A) of this paragraph solely because that person aided and abetted a transaction covered by such subparagraph in a manner other than by communicating material nonpublic information. Section 20(a) of this title shall not apply to an action brought under this paragraph. No person shall be liable under this paragraph solely by reason of employing another person who is liable under this paragraph.

"(C) For purposes of this paragraph 'profit gained' or 'loss avoided' is the difference between the purchase or sale price of the security and the value of that security as measured by the trading price of the security a reasonable period after public dissemination of the nonpublic information.

“(D) No action may be brought under this paragraph more than five years after the date of the purchase or sale. This paragraph shall not be construed to bar or limit in any manner any action by the Commission or the Attorney General under any other provision of this title, nor shall it bar or limit in any manner any action to recover penalties, or to seek any other order regarding penalties, imposed in an action commenced within five years of such transaction.”. Prohibitions.

SEC. 3. Section 32 of the Securities Exchange Act of 1934 is amended by striking “\$10,000” from subsection (a) and inserting in lieu thereof “\$100,000”. 15 USC 78ff.

SEC. 4. Section 15(c)(4) of the Securities Exchange Act of 1934 is amended to read as follows: 15 USC 78o.

“(4) If the Commission finds, after notice and opportunity for a hearing, that any person subject to the provisions of section 12, 13, 14, or subsection (d) of section 15 of this title or any rule or regulation thereunder has failed to comply with any such provision, rule, or regulation in any material respect, the Commission may publish its findings and issue an order requiring such person, and any person who was a cause of the failure to comply due to an act or omission the person knew or should have known would contribute to the failure to comply, to comply, or to take steps to effect compliance, with such provision or such rule or regulation thereunder upon such terms and conditions and within such time as the Commission may specify in such order.”. 15 USC 78l, 78m-78o.

SEC. 5. Section 20 of the Securities Exchange Act of 1934 is amended by adding at the end thereof the following: 15 USC 78t.

“(d) Wherever communicating, or purchasing or selling a security while in possession of, material nonpublic information would violate, or result in liability to any purchaser or seller of the security under any provision of this title, or any rule or regulation thereunder, such conduct in connection with a purchase or sale of a put, call, straddle, option, or privilege with respect to such security or with respect to a group or index of securities including such security, shall also violate and result in comparable liability to any purchaser or seller of that security under such provision, rule, or regulation.”.

SEC. 6. (a) Section 3(a)(39) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(39)) is amended—

(1) by inserting before the semicolon at the end of subparagraph (A) the following: “, contract market designated pursuant to section 5 of the Commodity Exchange Act (7 U.S.C. 7), or futures association registered under section 17 of such Act (7 U.S.C. 21), or has been and is denied trading privileges on any such contract market”;

(2) by inserting before the semicolon at the end of subparagraph (B) the following: “, or is subject to an order of the Commodity Futures Trading Commission denying, suspending, or revoking his registration under the Commodity Exchange Act (7 U.S.C. 1 et seq.)”; and

(3) by inserting after “municipal securities dealer,” in subparagraph (C) the following: “or while associated with an entity or person required to be registered under the Commodity Exchange Act,”.

(b) Section 15(b)(4) of such Act (15 U.S.C. 78o(b)(4)) is amended— 15 USC 78o.

(1) by striking out “or fiduciary” in subparagraph (B)(ii) and inserting in lieu thereof “fiduciary, or any entity or person

required to be registered under the Commodity Exchange Act (7 U.S.C. 1 et seq.)”;

(2) in subparagraph (C)—

(A) by inserting “entity or person required to be registered under the Commodity Exchange Act,” before “or municipal securities dealer”; and

(B) by inserting “entity or person required to be registered under such Act,” before “or insurance company”; and

(3) by inserting “the Commodity Exchange Act,” after “Investment Company Act of 1940,” each place it appears in subparagraphs (D) and (E).

Effective date.

15 USC 78c note.

SEC. 7. The amendments made by this Act shall become effective immediately upon enactment of this Act.

Approved August 10, 1984.

LEGISLATIVE HISTORY—H.R. 559 (S. 910):

HOUSE REPORT No. 98-355 (Comm. on Energy and Commerce).

CONGRESSIONAL RECORD:

Vol. 129 (1983): Sept. 19, considered and passed House.

Vol. 130 (1984): June 29, considered and passed Senate, amended, in lieu of S. 910.

July 25, House concurred in Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 33 (1984): Aug. 11, Presidential statement.

Public Law 98-377
98th Congress

An Act

To provide assistance to improve elementary, secondary, and postsecondary education in mathematics and science; to provide a national policy for engineering, technical, and scientific personnel; to provide cost sharing by the private sector in training such personnel, to encourage creation of new engineering, technical, and scientific jobs; and for other purposes.

Aug. 11, 1984
[H. R. 1310]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “Education for Economic Security Act”.

Education for
Economic
Security Act.
20 USC 3901
note.

STATEMENT OF PURPOSE

SEC. 2. It is the purpose of this Act to improve the quality of mathematics and science teaching and instruction in the United States.

20 USC 3901.

DEFINITIONS

SEC. 3. For the purpose of this Act—

20 USC 3902.

(1) The term “area vocational education school” has the same meaning given that term under section 195(2) of the Vocational Education Act of 1965.

20 USC 2461.

(2) The term “Director” means the Director of the National Science Foundation.

(3) The term “elementary school” has the same meaning given that term under section 198(a)(7) of the Elementary and Secondary Education Act of 1965.

20 USC 2854.

(4) The term “Governor” means the chief executive of a State.

(5) The term “Foundation” means the National Science Foundation.

(6) The term “institution of higher education” has the same meaning given that term by section 1201(a) of the Higher Education Act of 1965.

20 USC 1141.

(7) The term “local educational agency” has the same meaning given that term under section 198(a)(10) of the Elementary and Secondary Education Act of 1965.

20 USC 2854.

(8) The term “secondary school” has the same meaning given that term under section 198(a)(7) of the Elementary and Secondary Education Act of 1965.

(9) The term “Secretary” means the Secretary of Education.

(10) The term “State” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

(11) The term “State agency for higher education” means the State board of higher education or other agency or officer primarily responsible for the State supervision of higher education, or, if there is no such officer or agency, an officer or agency designated for the purpose of this title by the Governor or by State law.

(12) The term "State educational agency" has the meaning given that term under section 198(a)(17) of the Elementary and Secondary Education Act of 1965.

20 USC 2854.

TITLE I—NATIONAL SCIENCE FOUNDATION MATHEMATICS AND SCIENCE PROGRAMS

PART A—TEACHER INSTITUTES

GRANTS FOR TEACHER INSTITUTES AUTHORIZED

20 USC 3911. SEC. 101. The Foundation is authorized, in accordance with the provisions of this part, to make grants to State and local educational agencies and institutions of higher education, applying jointly, for the establishment and operation of teacher institutes for the enhancement of the subject matter skills of public and private elementary and secondary school teachers of mathematics and physical and life sciences.

APPLICATIONS

20 USC 3912. SEC. 102. (a) Each local educational agency and institution of higher education, and each State educational agency and institution of higher education desiring to receive a grant under this part shall submit a joint application at such time, in such manner, and containing or accompanied by such information as the Director may require. One or more local educational agencies may apply jointly with one or more institutions of higher education under the provisions of this section. A State educational agency may apply jointly with one or more institutions of higher education.

(b) Each such application shall—

(1) describe the establishment and operation of a teacher institute for elementary and secondary school teachers of mathematics and physical and life sciences, including—

(A) the designation of the institute as a full-time summer or part-time school year, or both;

(B) a description of the courses of study to be offered at the institute;

(C) an estimate of the number of teachers, including the number of teachers from private elementary and secondary schools, to attend the institute and describe the selection procedures;

(D) the nature and location of existing facilities to be used in the operation of the institute;

(E) the teaching and administrative staff for the institute;

(F) the academic credits, if any, to be awarded for the completion of the courses of study to be offered at the institute; and

(G) a schedule of stipends to be paid teacher participants in the institute, including (i) allowances for subsistence and other expenses for teachers attending the institute and their dependents and (ii) provisions assuring that there will be no duplication of Federal benefits paid to participants;

(2) provide assurances that the design and operation of the institute will involve the participation of both the subject matter departments or divisions of each institution of higher education making application as well as the teacher education department or division, if any, of each such institution;

(3) provide for prior and continuing consultation with the State educational agency in the formulation and operation of the institute; and

(4) provide such additional assurances as the Director deems essential to assure compliance with the requirements of this part.

DISTRIBUTION OF ASSISTANCE

SEC. 113. (a) In approving applications under this part, the Director shall assure that there is an equitable distribution of institutes established and operated under approved applications among States and within States. The Director shall award not less than one institute in each State, except that the Director may waive the requirements of this sentence if there is no proposal from a State that meets the requirements of this part. 20 USC 3913.

(b) No grant to a single applicant may exceed \$200,000 in any fiscal year.

COOPERATION WITH BUSINESS CONCERNS

SEC. 114. Institutes assisted under this part may, to the extent possible, involve the cooperation of advanced technology business concerns and other business concerns which are able to supply assistance in the teaching of mathematics and science. 20 USC 3914.

SPECIAL CONSIDERATION OF UNDERREPRESENTED AND UNDERSERVED POPULATIONS

SEC. 115. In providing financial assistance under this part the Foundation shall make every effort to ensure that consideration is given to applications which contain provisions designed to meet the needs of underrepresented and underserved populations. 20 USC 3915.

PART B—MATHEMATICS AND SCIENCE EDUCATION DEVELOPMENT PROGRAMS

PROGRAM AUTHORIZED

SEC. 121. The Foundation is authorized, in accordance with the provisions of this part, to enter into agreements with institutions of higher education or local educational agencies for— 20 USC 3921.

(1) developing and disseminating programs and materials for training, retraining, and inservice training for elementary and secondary school teachers in the fields of mathematics, science, including physical and life sciences, computer learning; and

(2) the research, development, and dissemination of instructional programs and materials for courses of study in elementary and secondary schools in the fields of mathematics, science, including physical and life sciences, and computer learning.

APPLICATIONS

SEC. 122. (a) No grant may be made under this part unless an eligible applicant, at such time, in such manner, and containing or accompanied by such information as the Director may reasonably require. Each application shall contain assurances— Grants. 20 USC 3922.

(1) that (A) in the case of an institution of higher education, the institution will enter into a cooperative agreement with one

or more local educational agencies, (B) in the case of a State or local educational agency, the agency will enter into a cooperative agreement with one or more institutions of higher education in the case of a profession or a society or association described in subsection (b)(3) the association or society will enter into a cooperative agreement with one or more local educational agencies and one or more institutions of higher education, for the purpose of furnishing the activities authorized by this part;

(2) that the planning and implementation of the cooperative agreement will involve the participation of both the subject matter departments or divisions of each institution of higher education as well as the teacher education department or division, if any, of each such institution; and

(3) that the applicant has consulted with, as appropriate, the State agency for higher education or the State educational agency in the development of the program for which assistance is sought, and will assure appropriate participation of such agencies in the program.

(b) For the purpose of this part an eligible applicant means—

(1) an institution of higher education,

(2) a State or local educational agency, and

(3) a professional society or association, in the fields of mathematics, physical or biological sciences, or engineering.

SPECIAL CONSIDERATION OF UNDERREPRESENTED AND UNDERSERVED POPULATIONS

20 USC 3923.

SEC. 123. In providing financial assistance under this part, the Foundation shall make every effort to ensure that consideration is given to applications which provide for the development and improvement of instructional programs and materials designed to meet the needs of underrepresented and underserved populations.

Congressional
Merit
Scholarships in
Mathematics,
Science, and
Engineering
Education.
20 USC 3931
note.

PART C—CONGRESSIONAL MERIT SCHOLARSHIPS

SHORT TITLE

SEC. 131. This part may be cited as the "Congressional Merit Scholarships in Mathematics, Science, and Engineering Education".

MERIT SCHOLARSHIPS ESTABLISHED

20 USC 3931.

SEC. 132. (a) The Foundation is authorized, in accordance with the provisions of this part, to award scholarships to individuals who are enrolled in institutions of higher education and who demonstrate outstanding potential for, and who plan to pursue, a career in teaching in the fields of mathematics, science, and engineering.

(b) Scholarships under this part shall be awarded for such period as the Foundation may prescribe, but for not to exceed four academic years.

(c)(1) A student awarded a scholarship under this part may attend any institution of higher education offering courses of study designed to prepare them for teaching careers. Such awards shall be available for periods of study commencing not sooner than the third undergraduate year.

(2) In order to be eligible for a scholarship under this part, each individual shall—

- (A) concentrate, at the undergraduate level, in mathematics or science, and indicate a serious intent to teach at the elementary school level; or
- (B) concentrate, at the undergraduate level, in mathematics or science, and indicate a serious intent to teach mathematics or science at the secondary school level; or
- (C) concentrate, at the undergraduate level, in engineering and indicate a serious intent to teach at the postsecondary level, in an engineering discipline in which the Foundation has determined a shortage of qualified teachers.
- (d) Not to exceed 25 per centum of the scholarships available under this part shall be available for students meeting the criteria of subsection (c)(2)(C).

SELECTION OF MERIT SCHOLARS

SEC. 133. (a) The Foundation shall establish criteria for the selection of merit scholars under this part. 20 USC 3932.

(b) The Foundation shall adopt selection procedures which are designed to assure that—

(1) the number of individuals to be selected will not exceed the product of the number of Members of Congress for each State, multiplied by two, and that the individuals will be selected from among the residents of each State (and in the case of the District of Columbia and the Commonwealth of Puerto Rico, not to exceed ten individuals will be selected); and

(2) each recipient of a merit scholarship will enter into an agreement with the Foundation under which the recipient will agree—

(A) to comply with provisions of paragraph (2) of section 142(c) relating to concentration of study; and

(B) to pursue a career in teaching, as prescribed in section 142(c) for not less than two years for each academic year in which a merit scholarship award is received.

Ante, p. 1270.

STIPENDS AND SCHOLARSHIP CONDITIONS

SEC. 134. (a) Each student awarded a merit scholarship under this part shall receive an award of \$5,000 for each academic year of study. 20 USC 3933.

(b) Each student awarded a merit scholarship under the provisions of this part shall continue to receive payments provided under this part for such scholarship only during such period as the Foundation determines that the student is maintaining satisfactory progress in, and devoting full time to, the course of study for which the scholarship is awarded.

(c) The Foundation is authorized to require reports containing such information in such form and to be filed at such time as the Foundation determines to be necessary from any student awarded a merit scholarship under the provisions of this part. Such reports shall be accompanied by a certificate from any appropriate official of the institution of higher education, approved by the Foundation, stating that such student is making satisfactory progress in, and is devoting essentially full time to, the study described in subsection (b).

PART D—DISCRETIONARY FUNDS OF THE DIRECTOR

AUTHORIZATION

Grants.
Contracts with
U.S.

20 USC 3941.

SEC. 141. (a) From funds available for this part, the Director is authorized to make grants to and to enter into contracts with any public agency or any private organization to carry out any activity authorized by this title. In addition, from such funds, the Director is authorized, directly or by way of grant or contract, to conduct—

(1) a faculty exchange program between institutions of higher education (particularly institutions having established and nationally recognized research facilities) and eligible institutions; and

(2) programs of national significance promoting the improvement of instruction in the fields of mathematics, science, and engineering.

In carrying out the provisions of this part, the Director shall give special consideration to programs and activities for women in science and minorities in science which have been assisted by the Foundation prior to the date of enactment of this Act.

(b) For the purpose of this section the term “eligible institution” means an institution of higher education in any State which—

(1)(A) has an enrollment which includes a substantial percentage of students who are members of a minority group or who are economically or educationally disadvantaged; or

(B) is located in a community that is not within commuting distance of a major institution of higher education; and

(2) demonstrates a commitment to meet the special educational needs of students who are members of a minority group or are economically or educationally disadvantaged.

PART E—GENERAL PROVISIONS

ADMINISTRATIVE PROVISIONS

20 USC 3951.

SEC. 161. (a) In order to carry out the provisions of this title, the Foundation is authorized to—

(1) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this title, except that in no case shall employees be compensated at a rate to exceed the rate provided for employees in grade GS-18 of the General Schedule set forth in section 5332 of title 5, United States Code;

(2) procure temporary and intermittent services of experts and consultants as are necessary to the extent authorized by section 3109 of title 5, United States Code, but at rates not to exceed the rate specified at the time of such service for grade GS-18 of section 5332 of such title;

(3) prescribe such regulations as it deems necessary governing the manner in which its functions shall be carried out;

(4) receive money and other property donated, bequeathed, or devised, without condition or restriction other than it be used for the purposes of this Act; and to use, sell, or otherwise dispose of such property for the purpose of carrying out the functions of the Foundation under this Act;

(5) accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses,

including per diem, as authorized by section 5703 of title 5, United States Code;

(6) enter into contracts, grants, or other arrangements, or modifications thereof, to carry out the provisions of this title, and such contracts or modifications thereof may, with the concurrence of two-thirds of the members of the National Science Board, be entered into without performance or other bonds, and without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5);

Contracts with
U.S.
Grants.

(7) make advances, progress, and other payments which the Board deems necessary under this title without regard to the provisions of section 3324 of title 31, United States Code; and

(8) make other necessary expenditures.

(b) The Foundation shall submit to the President and to the Congress an annual report of its operations under this title.

Report.

PARTICIPATION OF TEACHERS FROM PRIVATE SCHOOLS

SEC. 162. The Foundation shall, after consultation with appropriate private school representatives, make provision for the benefit of teachers in private elementary and secondary schools in the programs authorized by this title, in order to assure equitable participation of such teachers.

20 USC 3952.

PROHIBITION AGAINST FEDERAL CONTROL OF EDUCATION

SEC. 163. The provisions of section 432 of the General Education Provisions Act, relating to prohibition against Federal control of education, shall apply to each program authorized by this title.

20 USC 3953.

20 USC 1232a.

AUTHORIZATION OF APPROPRIATIONS

SEC. 164. (a) There are authorized to be appropriated \$20,000,000 for each of the fiscal years 1984 and 1985 to carry out the provisions of part A of this title.

20 USC 3954.

(b) There are authorized to be appropriated \$20,000,000 for the fiscal year 1985 to carry out the provisions of part B of this title.

(c) There are authorized to be appropriated \$5,000,000 for the fiscal year 1984 and \$15,000,000 for the fiscal year 1985 to carry out the provisions of part C of this title.

(d) There are authorized to be appropriated \$3,000,000 for the fiscal year 1985 to carry out the provisions of part D of this title.

(e) There are authorized to be appropriated to the Foundation \$20,000,000 for the fiscal year 1984 and \$21,000,000 for the fiscal year 1985 to carry out the graduate fellowship program under the National Science Foundation Act of 1950.

42 USC 1861
note.

TITLE II—EDUCATION FOR ECONOMIC SECURITY

STATEMENT OF PURPOSE

SEC. 201. It is the purpose of this title to make financial assistance available to State and local educational agencies, and to institutions of higher education, to improve the skills of teachers and instruction in mathematics, science, computer learning, and foreign languages, and to increase the access of all students to such instruction, and thereby contribute to strengthening the economic security of the United States.

20 USC 3961.

DEFINITION

20 USC 3962.

SEC. 202. As used in this title, the term "junior or community college" means an institution of higher education—

(1) that admits as regular students individuals who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution;

(2) that does not provide an educational program for which it awards a bachelor's degree (or an equivalent degree); and

(3) that—

(A) provides an educational program of not less than two years that is acceptable for full credit toward such a degree, or

(B) offers a two-year program designed to prepare a student to work as a technician or at the semiprofessional level in engineering, scientific, or other technological fields requiring the understanding and application of basic engineering, scientific, or mathematical principles of knowledge.

PROGRAM AUTHORIZED

Grants.

20 USC 3963.

SEC. 203. (a) The Secretary is authorized to make grants to States and to make discretionary grants, in accordance with the provisions of this title, for strengthening the skills of teachers and instruction in mathematics, science, computer learning, and foreign languages.

Appropriations authorization.

(b) There are authorized to be appropriated \$350,000,000 for the fiscal year 1984, and \$400,000,000 for the fiscal year 1985 to carry out the provisions of this title.

ALLOTMENT TO STATES

20 USC 3964.

SEC. 204. (a)(1) From 90 per centum of the amount appropriated to carry out this title for each fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to such 90 per centum as the number of children aged five to seventeen, inclusive, in the State bears to the number of such children in all States, except that no State shall receive less than one-half of 1 per centum of the amount available under this subsection in any fiscal year.

(2) The Secretary shall reserve the remaining 10 per centum to carry out section 212, relating to discretionary grants of national significance.

(3) For the purpose of this subsection, the term "State" does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

(4) The number of children aged five to seventeen, inclusive, in the State and in all States shall be determined by the Secretary on the basis of the most recent satisfactory data available to him.

(b) The amount of any State's allotment under subsection (a) for any fiscal year to carry out this title which the Secretary determines will not be required for that fiscal year to carry out this title shall be available for reallocation from time to time, on such dates during that year as the Secretary may fix, to other States in proportion to the original allotments to those States under subsection (a) for that year but with such proportionate amount for any of those other States being reduced to the extent it exceeds the sum the Secretary

estimates that State needs and will be able to use for that year; and the total of those reductions shall be similarly reallocated among the States whose proportionate amounts were not so reduced. Any amounts reallocated to a State under this subsection during a year shall be deemed a part of its allotment under subsection (a) for that year.

(c) There are authorized to be appropriated for each fiscal year for the purpose of this subsection amounts equal to not more than 1 per centum of the amount appropriated for such year under this title. The Secretary shall allot the amount appropriated pursuant to this subsection among Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands according to their respective needs for assistance under this title. In addition for each fiscal year the Secretary shall allot from not less than one-half of such amount, to such agency as the Secretary deems appropriate, for programs authorized by this title for children in elementary and secondary schools operated for Indian children by the Department of the Interior. The terms upon which payments are made under the previous sentence shall be determined by such criteria as the Secretary determines will best carry out the purpose of this title.

Appropriations
authorization.

Indians.

IN-STATE APPORTIONMENT

SEC. 205. (a) For each of the fiscal years 1984 and 1985, 70 per centum of each State's allotment under section 204 of this title shall be used for elementary and secondary education programs in accordance with section 206.

20 USC 3965.

(b) For each of the fiscal years 1984 and 1985, 30 per centum of each State's allotment under section 204 of this title shall be used for higher education programs in accordance with section 207.

ELEMENTARY AND SECONDARY EDUCATION PROGRAMS

SEC. 206. (a) The amount apportioned under section 205(a) from each State's allotment under this title shall be used by the State educational agency to strengthen elementary and secondary education programs in accordance with the provisions of this section.

20 USC 3966.

(b)(1) Not less than 70 per centum of the amount available under this section shall be distributed to local educational agencies within the State. Each local educational agency shall use funds distributed under this paragraph for—

(A) the expansion and improvement of inservice training and retraining of teachers and other appropriate school personnel in the fields of mathematics and science, including vocational education teachers who use mathematics and science in the courses of study the teachers teach; or

(B) if the local educational agency determines that the agency has met its need for such training and retraining and subject to the provisions of section 210(c), computer learning and instruction, foreign language instruction, and instructional materials and equipment related to mathematics and science instruction. Such training and instruction may be carried out through agreements with public agencies, private industry, institutions of higher education, and nonprofit private organizations, including museums, libraries, educational television stations, professional science, mathematics and engineering associations, and other appropriate institu-

Minorities.
Handicapped
persons.
Migrants.

tions. A local educational agency may carry out the activities authorized by this paragraph with one or more other local educational agencies within the State, or with the State educational agency, or both. Each local educational agency shall assure that programs of inservice training and retraining will take into account the need for greater access to and participation in mathematics, science, and computer learning programs and careers of students from historically underrepresented groups, including females, minorities, individuals with limited-English proficiency, the handicapped, and migrants.

(2)(A) The State educational agency shall distribute 50 per centum of the funds available under this subsection to local educational agencies within the State according to the relative number of children enrolled in public and nonpublic schools within the school districts of such agencies.

(B) The State educational agency shall distribute 50 per centum of the funds available under this subsection based on the relative number of children aged five to seventeen who—

Disadvantaged
persons.
20 USC 2711.

(i) are from families below the poverty level as determined under section 111(c)(2)(A) of the Elementary and Secondary Education Act of 1965; and

(ii) are from families above the poverty level as determined under section 111(c)(2)(B) of the Elementary and Secondary Education Act of 1965;

in the public schools of the local educational agencies within the State.

(3) The State educational agency shall renew payments to local educational agencies under this subsection based upon the criteria set forth in paragraph (2) of this subsection and a determination by the State educational agency that the local educational agency is implementing the program assisted under this title so that a substantial number of teachers in the public and private schools in the school district of such agency are served and several grade levels of instruction in such schools are involved in the program.

(c)(1) If a local educational agency is spending funds under subsection (b)(1)(B), not to exceed 30 per centum of the funds available to the local educational agency under subsection (b) may be used for the purchase of computer and computer-related instructional equipment.

(2) If a local educational agency is spending funds under subsection (b)(1)(B), not to exceed 15 per centum of the funds available to the local educational agency under subsection (b) may be used to strengthen instruction in foreign languages.

(d) Not less than 20 per centum of the amount available under this section shall be used by the State educational agency for demonstration and exemplary programs for—

(1) teacher training and retraining and inservice upgrading of teacher skills in the fields of mathematics and science, foreign language instruction, and computer learning,

(2) instructional equipment and materials in such fields and necessary technical assistance,

(3) special projects for historically underrepresented and underserved populations and for gifted and talented students, and

(4) the dissemination of information to all local educational agencies within the State relating to the exemplary programs in the fields of mathematics, science, foreign languages, and computer learning.

In providing financial assistance for such demonstration and exemplary programs, the State educational agency shall reserve not less than 20 per centum of the amount available under this subsection for special projects in mathematics and science, foreign languages, and computer education to historically underrepresented and underserved populations of students, including females, minorities, handicapped individuals, individuals with limited-English proficiency, and migrant students, and to programs for gifted and talented students. The programs for gifted and talented students may include assistance to magnet schools for such students.

Minorities.
Handicapped
persons.
Migrants.

(e) Not less than 5 per centum of the amount available under this section may be used by the State educational agency to provide technical assistance to local educational agencies, institutions of higher education, and nonprofit organizations, including museums, libraries, and educational television stations, in the conduct of programs specified under subsection (b).

(f) Not to exceed 5 per centum of the amount available under this section may be used by the State educational agency for—

- (1) the State assessment required by section 208 of this title; and
- (2) the costs of administration and evaluation of the program assisted under this title.

HIGHER EDUCATION PROGRAMS

SEC. 207. (a) The amount apportioned under section 205(b) from each State's allotment under this title shall be used by the State agency for higher education for higher education programs in accordance with the provisions of this section.

20 USC 3967.

(b)(1)(A) Not less than 75 per centum of the amount available for this section shall be used by the State agency for higher education for grants to institutions of higher education in accordance with the provisions of this subsection.

(B) The State agency for higher education shall make funds available on a competitive basis to institutions of higher education in the State which apply for payments under this section. The State agency for higher education shall make every effort to ensure equitable participation of private and public institutions of higher education.

(2) The amount available under this subsection shall be used for—

(A) establishing traineeship programs for new teachers who will specialize in teaching mathematics and science at the secondary school level;

(B) retraining of secondary school teachers who specialize in disciplines other than the teaching of mathematics and science to specialize in the teaching of mathematics, science, or computer learning, including provision of stipends for participation in institutes authorized under title I; and

(C) inservice training for elementary, secondary, and vocational school teachers and training for other appropriate school personnel to improve their teaching skills in the fields of mathematics and science, and computer learning, including stipends for participation in institutes authorized under title I.

Each institution of higher education receiving a grant under this subsection shall assure that programs of training, retraining, and inservice training will take into account the need for greater access to and participation in mathematics, science, and computer learning

Minorities
Handicapped
persons.
Migrants.

and careers of students from historically underrepresented and underserved groups, including females, minorities, individuals with limited-English proficiency, the handicapped, migrants, and the gifted and talented.

(3) No institution of higher education may receive assistance under paragraphs (2) (B) and (C) of this subsection unless the institution enters into an agreement with a local educational agency, or consortium of such agencies, to provide inservice training and retraining for the elementary and secondary school teachers in the public and private schools of the school district of each such agency.

(c)(1) Not less than 20 per centum of the amount available under this section shall be used by the State agency for higher education for cooperative programs among institutions of higher education, local educational agencies, State educational agencies, private industry, and private nonprofit organizations, including museums, libraries, educational television stations, and professional mathematics, science, and engineering societies and associations for the development and dissemination of projects designed to improve student understanding and performance in science, mathematics, and critical foreign languages. In carrying out this subsection, the State agency for higher education shall give special consideration to programs involving consortial arrangements which include local educational agencies.

Post, p. 1281.

(2) For the purpose of paragraph (1) of this subsection, critical foreign languages include foreign languages designated by the Secretary pursuant to section 211(d).

(d) Not to exceed 5 per centum of the amount available under this section may be used by the State agency for higher education for—

(1) the State assessment required by section 208 of this title; and

(2) the costs of administration and evaluation of the program assisted under this title incurred by the State higher education agency.

STATE ASSESSMENT OF MATHEMATICS, SCIENCE, FOREIGN LANGUAGES, AND COMPUTER LEARNING

Grants.
20 USC 3968.

Public
availability.

SEC. 208. (a) Each State which desires to receive grants under this title shall prepare not later than nine months following the date for which funds under this title become available, a preliminary assessment of the status of mathematics, science, foreign language, and computer learning within the State. Such preliminary assessment shall be made available to all local educational agencies within the State to assist the local educational agencies to carry out the requirements of section 210. A final version of such assessment shall be submitted to the Secretary not later than the end of the first year for which funds under this title are made available. Each first assessment shall be prepared after an examination of the local assessments submitted under section 210. Each such assessment shall include a description and a five-year projection of—

(1) the availability of qualified mathematics, science, foreign language, and computer learning teachers at the secondary and postsecondary education levels within the State;

(2) the qualifications of teachers in mathematics, science, foreign languages, and computer learning at the secondary and postsecondary education levels, and the qualifications of teach-

ers at the elementary level to teach mathematics, science, foreign languages, and computer learning;

(3) the State standards for teacher certification, including any special exceptions currently made, for teachers of mathematics, science, foreign languages, and computer learning;

(4) the availability of adequate curricula, instructional materials and equipment, in mathematics, science, foreign languages, and computer learning; and

(5) the degree of access to instruction in mathematics, science, foreign languages, and computer learning of historically underrepresented and underserved individuals and of the gifted and talented.

(b) Each such assessment shall also describe the programs, initiatives, and resources committed or projected to be undertaken within the State to—

(1) improve teacher recruitment and retention;

(2) improve teacher qualifications and skills in the fields of mathematics, science, foreign languages, and computer and computer learning;

(3) improve curricula in mathematics, science, foreign languages, and computer learning including instructional materials and equipment; and

(4) improve access for historically underrepresented and underserved populations, and for the gifted and talented, to instruction in mathematics, science, foreign languages, and computer learning.

(c)(1) Each State assessment shall be developed in consultation with the Governor, the State legislature, State Board of Education, local educational agencies within the State, and representatives of—

(A) vocational secondary schools and area vocational education schools,

(B) public and private institutions of higher education,

(C) teacher organizations,

(D) private industry,

(E) other public organizations, including libraries, museums, and educational television stations, and professional scientific and mathematics associations, and

(F) private elementary and secondary schools, within the State.

(2) Each State assessment shall be submitted jointly by the State educational agency and the State agency for higher education.

STATE APPLICATION

SEC. 209. (a) Each State which desires to receive grants under this title shall file an application with the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

Grants.
20 USC 3969.

(b) Each such application shall—

(1) designate the State educational agency for the purpose of programs described in section 206, and the State agency for higher education for programs described in section 207 as the agency or agencies responsible for the administration and supervision of the programs described in sections 207 and 208, as the case may be;

(2) describe the programs for which assistance is sought under the application;

- (3) provide assurances that payments will be distributed by the State in accordance with the provisions of sections 207 and 208, as the case may be;
 - (4) provide procedures—
 - (A) for submitting applications by local educational agencies, institutions of higher education, junior or community colleges, and other organizations for programs described in section 206 for distribution of payments under this title within the State, and
 - (B) for approval of applications by the appropriate State agency, including appropriate procedures to assure that the appropriate State agency will not disapprove an application without notice and opportunity for a hearing;
 - (5) provide assurances that—
 - (A) the State will prepare and submit the assessment required under section 208;
 - (B) in the second year for which funds are available under this title, the State will use funds for purposes consistent with the findings of the State assessment under section 208;
 - (C) for programs described in section 206, the provisions of sections 210 and 211 will be carried out; and
 - (D) to the extent feasible, evaluations of the program assisted under this title will be performed;
 - (6) provide assurances that Federal funds made available under this title for any fiscal year will be so used as to supplement, and to the extent practicable, to increase the level of funds that would, in the absence of such funds, be available for the purposes described in sections 207 and 208, and in no case supplant such funds; and
 - (7) provide such fiscal control and accounting procedures as may be necessary (A) to ensure proper accounting of Federal funds paid to the applicant under this title, and (B) to ensure the verification of the programs assisted under the application.
- (c) The Secretary shall expeditiously approve any State plan that meets the requirements of this section.

LOCAL EDUCATIONAL AGENCY ASSESSMENT

20 USC 3970.

Sec. 210. (a) Each local educational agency which desires to receive a payment from the State educational agency pursuant to section 206 shall provide to the State educational agency an assessment of the local educational agency's need for assistance in—

(1) teacher training, retraining, and inservice training and the training of appropriate school personnel in the areas of mathematics, science, foreign languages, and computer learning, including a description of the availability and qualifications of teachers in the areas of mathematics, science, foreign language, and computer learning, including the qualifications of teachers at the elementary level to teach in such areas;

(2) improving instructional materials and equipment related to mathematics and science education; and

(3) improving the access to instruction in mathematics, science, foreign languages, and computer learning of historically underserved and underrepresented individuals and of the gifted and talented, and an assessment of the current degree of access to such instruction of such individuals.

(b) Such assessment shall also describe the types of services to be provided pursuant to the program assisted under section 206, a description of how the services assisted will meet the program needs of the local educational agency, and in the second year for which funds under this title are made available, a description of how the services assisted will address unmet needs described under section 208.

(c) If a local educational agency determines, pursuant to section 206(b)(1), that the agency has met its teacher retraining and inservice training needs in mathematics and science and desires to expend its funds on other activities prescribed in section 206(b)(1)(B), the local educational agency may request the State educational agency to waive such training requirements. If the State educational agency determines that the local educational agency has met such teacher training needs, the State educational agency shall grant the waiver.

PARTICIPATION OF CHILDREN AND TEACHERS FROM PRIVATE SCHOOLS

SEC. 211. (a) To the extent consistent with the number of children in the State or in the school district of each local educational agency who are enrolled in private elementary and secondary schools, such State or agency shall, after consultation with appropriate private school representatives, make provision for including services and arrangements for the benefit of such children as will assure the equitable participation of such children in the purposes and benefits of this title. 20 USC 3971.

(b) To the extent consistent with the number of children in the State or in the school district of a local educational agency who are enrolled in private elementary and secondary schools, such State, State educational agency, or State agency for higher education shall, after consultation with appropriate private school representatives, make provision, for the benefit of such teachers in such schools, for such inservice and teacher training and retraining as will assure equitable participation of such teachers in the purposes and benefits of this title.

(c) If by reason of any provision of law a State or local educational agency is prohibited from providing for the participation of children or teachers from private schools as required by subsections (a) and (b), or if the Secretary determines that a State or local educational agency has substantially failed or is unwilling to provide for such participation on an equitable basis, the Secretary shall waive such requirements and shall arrange for the provision of services to such children or teachers which shall be subject to the requirements of this section. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with sections 557(b) (3) and (4) of the Education Consolidation and Improvement Act of 1981. 20 USC 3806.

SECRETARY'S DISCRETIONARY FUND FOR PROGRAMS OF NATIONAL SIGNIFICANCE

SEC. 212. (a) From 10 per centum of amounts appropriated under section 203(b), the Secretary shall make grants in accordance with this section. Grants. 20 USC 3972.

(b)(1) From 75 per centum of the amount available under this section in each fiscal year, the Secretary shall make grants to State and local educational agencies, institutions of higher education, and Grants.

Grants. private nonprofit organizations, including museums, libraries, educational television stations, and professional science, mathematics, and engineering societies and associations for programs of national significance in mathematics and science instruction, computer learning, and foreign language instruction in critical languages. The Secretary shall give special consideration to provide assistance to local educational agencies, or consortia thereof, to establish or improve magnet schools for gifted and talented students. In awarding of grants the Secretary shall give special consideration to local educational agencies, institutions of higher education, and private nonprofit organizations, including museums, libraries, educational television stations, and professional science, mathematics, and engineering societies and associations providing special services to historically underserved and underrepresented populations in the fields of mathematics and science.

Research and development. (2) The Secretary, from the amount available under paragraph (1) for each fiscal year, shall reserve not to exceed \$3,000,000 in each such year for the Director of the National Institute of Education for the purpose of conducting evaluation and research activities. Such evaluation and research activities shall include—

(A) a policy analysis of alternative methods to improve instruction in mathematics and science;

(B) an annual evaluation of the programs assisted under this title; and

(C) research on improving teacher training, retraining, inservice training, and retention, as well as the development of curriculum and materials in the fields of mathematics and science. One-half of the funds reserved under this paragraph shall be used for the research activities described in clause (C).

(c) From 25 per centum of the amount available in each fiscal year, the Secretary shall make grants to institutions of higher education for the improvement and expansion of instruction in critical foreign languages.

(d) In determining which languages are critical to national security, economic, and scientific needs, the Secretary shall consult with the Secretary of State, the Secretary of Defense, the Secretary of Health and Human Services, and the Director of the National Science Foundation. The Secretary shall publish in the Federal Register a list of critical foreign languages.

Federal
Register,
publication.

PAYMENTS

20 USC 3973.

SEC. 213. (a) From the amounts appropriated under section 203(b), the Secretary shall pay, in accordance with the provisions of this title, the costs of the programs and activities described in the application approved under section 209, and the costs of programs of national significance under section 211.

(b) Payments under this title shall be made as soon after approval of the application as practicable.

**TITLE III—NATIONAL SCIENCE FOUNDATION PROGRAM
FOR PARTNERSHIPS IN EDUCATION FOR MATHEMATICS,
SCIENCE, AND ENGINEERING**

Partnerships in
Education for
Mathematics,
Science, and
Engineering Act.

SHORT TITLE

SEC. 301. This title may be cited as the “Partnerships in Education for Mathematics, Science, and Engineering Act”.

20 USC 3981
note.

STATEMENT OF PURPOSE

SEC. 302. It is the purpose of this title to supplement State and local resources to—

20 USC 3981.

(1) improve the quality of instruction in the fields of mathematics, science, and engineering in the State;

(2) furnish additional resources and support for research, student scholarships, and faculty exchange programs in the fields of mathematics, science, and engineering; and

(3) encourage partnerships in education between the business community, institutions of higher education, and elementary and secondary schools in the community.

Business and
industry.

DEFINITIONS

SEC. 303. As used in this title—

20 USC 3982.

(1) the term “applicant” means with respect to activities described in section 305(a) an institution of higher education and the other participants described in paragraph (3) of section 305(a), and with respect to activities described in section 305(b) a local educational agency and the other participants described in paragraph (3) of section 305(b);

(2) the term “equipment” includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture, printed, published, and audio-visual instructional materials, and books, periodicals, documents, and other related materials;

(3) the term “Foundation” means the National Science Foundation;

(4) the term “institution of higher education” has the same meaning given that term by section 1201(a) of the Higher Education Act of 1965;

20 USC 1141.

(5) the term “States” includes the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands; and

(6) the term “State agency for higher education” means the State board of higher education or other agency or officer primarily responsible for the State supervision of higher education, or if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

PROGRAM AUTHORIZED

Grants.

20 USC 3983.

Appropriations
authorization.

SEC. 304. (a) The Foundation is authorized, in accordance with the provisions of this title, to make grants to applicants to pay the Federal share of the costs of the activities described in section 305.

(b) There are authorized to be appropriated \$30,000,000 for the fiscal year 1984, and \$60,000,000 for the fiscal year 1985, to carry out the provisions of this title.

AUTHORIZED ACTIVITIES

20 USC 3984.

SEC. 305. (a)(1) An applicant may use payments received under this title in any fiscal year for higher education programs and activities described in this subsection.

(2) Grants under this subsection may be used for partnership in education programs—

(A) for the improvement of instruction in mathematics, science, computer science, and engineering education at the post-secondary level;

(B) for awarding scholarships to students at institutions of higher education in the fields of mathematics, science, computer science, and engineering;

Business and
industry.

(C) for the operation of faculty exchange programs by the institutions of higher education and business concerns within the State;

(D) for research in the fields of mathematics, science, computer science, and engineering;

(E) for the acquisition, rehabilitation, and renovation of equipment and instrumentation for use in instruction in the fields of mathematics, science, computer science, and engineering; and

(F) to promote public understanding of science, mathematics, and computer science.

(3) Education partnerships under this subsection may include institutions of higher education, business concerns, nonprofit private organizations, local educational agencies, professional mathematic and scientific associations, museums, libraries, educational television stations, and if the State so desires, appropriate State agencies.

(b)(1) An applicant may use payments received under this title in any fiscal year for programs and activities described in this subsection.

Business and
industry.

(2) A local educational agency may carry out an elementary and secondary school partnership in education program under which—

(A) elementary and secondary school teachers in the schools of local educational agencies who teach mathematics, science, or computer science are made available to local business concerns and business concerns with establishments located in the community to serve in such concerns or establishments;

(B) personnel of local business concerns and business concerns with establishments located in the community serve as consultants, lecturers, teaching assistants, or teachers of mathematics, science, or computer science in the elementary and secondary schools within the State;

(C) training and retraining is furnished to elementary and secondary school teachers of mathematics, science, and computer science under a cooperative arrangement between the

State or local educational agency and appropriate business concerns;

(D) secondary school students observe, participate, and work in local business concerns and business concerns with establishments located in the community; and

(E) computer clubs and extracurricular activities involving modern technologies are established in elementary and secondary schools.

(3) Partnerships under this subsection may include local educational agencies, business concerns, nonprofit private organizations, institutions of higher education, professional mathematic and scientific associations, museums, libraries, educational television stations, and, if the State so desires, appropriate State agencies.

Business and
industry.

APPLICATION

SEC. 306. (a) Any applicant which desires to receive a grant under this title shall submit an application approved under section 307 to the Foundation, at such time, in such manner, and accompanied by such additional information as the Foundation may reasonably require. Each such application shall—

Grants.
20 USC 3985.

(1) describe the activities for which assistance under this title is sought;

(2) provide assurances that not more than 5 per centum of the amount received by the applicant in any fiscal year may be expended on administrative expenses;

(3) with respect to each program for which assistance is sought, provide assurances that—

(A) 30 per centum of the funds for each such project will be furnished by business concerns within the community;

(B) 20 per centum of the funds will be supplied by—

(i) the State,

(ii) the institution of higher education or the local educational agency, as the case may be, participating in the program; and

(iii) the other parties participating in the program;

(C) no stipend will be paid directly to employees of a profitmaking business concern; and

(D) teachers participating in the exchange program may not be employed by the participating business concern with which the teacher served within three years after the end of the exchange program unless the teacher repays the full cost of the exchange program to the State and local educational agency, as the case may be; and

(4) provide assurances that whenever the program for which assistance is sought includes scholarships, the scholarships be awarded to undergraduate students at institutions of higher education within the State who wish to pursue a course of study in mathematics or science, engineering or computer science, and that each student awarded a scholarship under this title will receive a stipend which shall not exceed the cost of tuition at the institution of higher education plus a stipend of not to exceed \$750 for each academic year of study for which the scholarship is awarded;

(5) set forth policies and procedures to assure that whenever the application includes a local educational agency, to the extent consistent with the number and location of children in

the school district of such agency who are enrolled in private elementary and secondary schools, provision is made for the participation of such children in the program assisted under this title;

(6) provide assurances that consideration is given to programs and activities designed to meet the needs of underrepresented and underserved populations;

(7) provide assurances that in the consideration of applications submitted under section 307(a) that equitable consideration is given to applications submitted by private and public institutions of higher education; and

(8) provide such additional assurances as the Foundation determines essential to ensure compliance with the requirements of this title.

(b) A regional consortium of applicants in two or more States may file a joint application under the provisions of subsection (a) of this section.

SUBMISSION OF APPLICATIONS

Grants.
20 USC 3986.

SEC. 307. Each applicant within a State which desires to receive a grant under this title shall submit the application prepared in accordance with section 306 to the State agency on higher education or the State educational agency, as the case may be, for approval and shall submit the approved application to the Foundation under section 306. Each such application shall be submitted jointly by the local educational agency in the case of activities described in section 305(a), or an institution of higher education in the case of activities described in section 305(b), and each business concern or other party that is to participate in the program for which assistance is sought.

APPROVAL OF APPLICATIONS

20 USC 3987.

SEC. 308. (a)(1) The Foundation shall establish criteria for approval of applications under this title.

(2) No application may be approved by the Foundation unless the State educational agency or the State agency for higher education, as the case may be, determines that the application is consistent with State plans for elementary and secondary education or State plans for higher education, as the case may be, in the State.

(b) The Foundation shall adopt approval procedures designed to assure that there is equitable distribution of grants among the States.

PAYMENTS; FEDERAL SHARE; LIMITATION

20 USC 3988.

SEC. 309. (a)(1) The Foundation shall pay, to each applicant having an application approved under section 308, the Federal share of the cost of the program described in the application.

(2) The Federal share for each fiscal year shall be 50 per centum.

(3) The non-Federal share of payments under this title may be in cash or in kind, fairly evaluated, including plant, equipment, or services.

(b) Not more than 15 per centum of the funds appropriated under this title in any fiscal year may be paid to applicants in any single State.

**TITLE IV—PRESIDENTIAL AWARDS FOR TEACHING
EXCELLENCE IN MATHEMATICS AND SCIENCE****PRESIDENTIAL AWARDS**

SEC. 401. (a) The President is authorized to make Presidential Awards for Teaching Excellence in Mathematics and Science to elementary and secondary school teachers of mathematics or science who have demonstrated outstanding teaching qualifications in the field of teaching mathematics or science.

President of U.S.
20 USC 4001.

(b) Each year the President is authorized to make one hundred awards under subsection (a) of this section. In selecting elementary and secondary school teachers for the award authorized by this section, the President shall select at least one elementary school teacher and one secondary school teacher from each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

ADMINISTRATIVE PROVISIONS

SEC. 402. The President shall carry out the provisions of this title, including the establishment of the selection procedures, after consultation with the Secretary of Education, the Director of the National Science Foundation, and other appropriate officials of Federal agencies.

President of U.S.
20 USC 4002.

AUTHORIZATION OF APPROPRIATIONS

SEC. 403. (a) There are authorized to be appropriated \$1,000,000 for the fiscal year 1985 to carry out the provisions of this title.

20 USC 4003.

(b) Amounts appropriated pursuant to subsection (a) shall be available for making awards under this title, for administrative expenses, for necessary travel by teachers selected under this title, and for special activities related to carrying out the provisions of this title.

TITLE V—ASBESTOS SCHOOL HAZARD ABATEMENT

SEC. 501. This title may be cited as the "Asbestos School Hazard Abatement Act of 1984".

Asbestos School
Hazard
Abatement Act
of 1984.
20 USC 4011
note.

FINDINGS AND PURPOSES

SEC. 502. (a) The Congress finds that—

20 USC 4011.

(1) exposure to asbestos fibers has been identified over a long period of time and by reputable medical and scientific evidence as significantly increasing the incidence of cancer and other severe or fatal diseases, such as asbestosis;

(2) medical evidence has suggested that children may be particularly vulnerable to environmentally induced cancers;

(3) medical science has not established any minimum level of exposure to asbestos fibers which is considered to be safe to individuals exposed to the fibers;

(4) substantial amounts of asbestos, particularly in sprayed form, have been used in school buildings, especially during the period 1946 through 1972;

(5) partial surveys in some States have indicated that (A) in a number of school buildings materials containing asbestos fibers have become damaged or friable, causing asbestos fibers to be

dislodged into the air, and (B) asbestos concentration far exceeding normal ambient air levels have been found in school buildings containing such damaged materials;

(6) the presence in school buildings of friable or easily damaged asbestos creates an unwarranted hazard to the health of the school children and school employees who are exposed to such materials;

(7) the Department of Health and Human Services and the Environmental Protection Agency, as well as several States, have attempted to publicize the potential hazards to school children and employees from exposure to asbestos fibers, but there is no systematic program for remedying hazardous conditions in schools;

(8) because there is no Federal health standard regulating the concentration of asbestos fibers in noncommercial workplace environments such as schools, school employees and students may be exposed to hazardous concentrations of asbestos fibers in the school buildings which they use each day;

(9) without a program of information distribution, technical and scientific assistance, and financial support, many local educational agencies and States will not be able to mitigate the potential asbestos hazards in their schools; and

(10) the effective regulation of interstate commerce for the protection of the public health requires the establishment of programs under this title to mitigate hazards from exposure to asbestos fibers and materials emitting such fibers.

(b) It is the purpose of this title to—

(1) direct the Administrator of the Environmental Protection Agency to establish a program to assist States and local educational agencies to ascertain the extent of the danger to the health of school children and employees from asbestos materials in schools;

(2) provide continuing scientific and technical assistance to State and local agencies to enable them to identify and abate asbestos hazards in schools;

(3) provide financial assistance for the abatement of asbestos threats to the health and safety of school children or employees; and

(4) assure that no employee of any local educational agency suffers any disciplinary action as a result of calling attention to potential asbestos hazards which may exist in schools.

ASBESTOS HAZARD ABATEMENT PROGRAM

Establishment.
20 USC 4012.

SEC. 503. (a)(1) There is hereby established a program within the Environmental Protection Agency to be known as the Asbestos Hazards Abatement Program (hereinafter in this title referred to as "Program").

(b) The duties of the Administrator in implementing and effectuating the Program shall include—

(1) the compilation of medical, scientific, and technical information including, but not limited to—

(A) the health and safety hazards associated with asbestos materials;

(B) the means of identifying, sampling, and testing materials suspected of emitting asbestos fibers; and

- (C) the means of abating the threat posed by asbestos and asbestos containing materials;
- (2) the distribution of the information described in paragraph (1) (in any appropriate form such as pamphlets, reports, or instructions) to State and local agencies and to other institutions for the purpose of carrying out activities described in this title;
- (3) the development within forty-five days of enactment of this title of an interim or final application form, which shall be distributed promptly to local educational agencies; and
- (4) the review of applications for financial assistance, and the approval or disapproval of such applications, in accordance with the provisions of section 505.

STATE PLANS

SEC. 504. (a) Not later than three months after the date of enactment of this title, the Governor of each State shall submit to the Administrator a plan which describes the procedures to be used by the State for maintaining records on—

20 USC 4013.

- (1) the presence of asbestos materials in school buildings of local educational agencies;
 - (2) the asbestos detection and abatement activities conducted by local educational agencies (including activities relating to the replacement of the asbestos materials removed from school buildings with other appropriate building materials);
 - (3) repairs made to restore school buildings to conditions comparable to those which existed before the abatement activities referred to in subparagraph (B) were undertaken.
- (b)(1) Not later than six months after the date of enactment of this title, and annually thereafter, the Governor of each State shall:
- (A) submit to the Administrator and the Secretary of the Department of Education a priority list of all schools under the authority of a local educational agency within the State, without regard to the public or private nature of the school involved, that are candidates for abatement;
 - (B) forward to the Administrator and the Secretary of the Department of Education for each candidate for abatement all applications for financial assistance prepared by the local educational agencies in accordance with the provisions of section 503(b)(3) and section 505; and
 - (C) forward to the Secretary of the Department of Education a copy of all information submitted to the Administrator in accordance with subsection (b)(3).
- (2) The priority list shall rank the potential candidates for abatement action based on the nature and magnitude of the existing and potential exposure presented by the asbestos materials.
- (3) For each school listed, the Governor shall certify that the statement of need contained in the application for assistance accurately reflects the financial resources available to the local educational agency for the asbestos abatement program.
- (4) For the purpose of determining the adequacy of the financial resources available to a local educational agency for the abatement of asbestos threats the Governor shall, to the extent practicable, consider the following:
- (A) A measure of financial need used by the State in which the local educational agency is located.

(B) The estimated per capita income of the locality of such agency or of those directly or indirectly providing financial support for such agency.

(C) The extent to which the local school millage rate falls above or below (i) the millage rate average of the State and (ii) the millage rate of other local educational agencies with comparable enrollment, per capita income and resource base.

(D) The ratio, expressed as a percentage, of the estimated cost of the project to the total budget of the local educational agency.

(E) The borrowing capacity of the local educational agency.

(F) Any other factor that demonstrates that the local educational agency has limited financial resources.

Report.

(c) Not later than nine months after the submission of the plan described in subsection (a), and each twelve months thereafter, the Governor shall submit to the Administrator a report which describes the actions taken by the State in accordance with its plan under such subsection.

FINANCIAL ASSISTANCE

Asbestos
Hazards
Abatement
Assistance
Program.
20 USC 4014.

SEC. 505. (a) There is hereby established within the Environmental Protection Agency an Asbestos Hazards Abatement Assistance Program (hereinafter in this Act referred to as the "Assistance Program"), which shall be administered in accordance with this section.

(b)(1) Applications for financial assistance shall be submitted by a local educational agency, to the Governor, or the Governor's designee, who shall establish a priority list based on the criteria of section 504(b)(2).

(2) Pursuant to section 504, applications shall be submitted, together with the Governor's report and priority list, to the Administrator who shall review and rank such applications pursuant to section 505(c)(2) and propose financing pursuant to the criteria of section 504(b)(4).

Study.

(3) Within sixty days of receipt of the information described in section 504(b)(1), the Secretary of the Department of Education shall review such information and, in the Secretary's discretion, provide to the Administrator comments and recommendations based upon the needs of local educational agencies for financial assistance. Within sixty days of receipt of the Secretary's report, or expiration of the time allowed for such report, the Administrator shall approve or disapprove applications for financial assistance.

(c)(1) The Administrator shall provide financial assistance on a school-by-school basis to local educational agencies in accordance with other provisions of this section to carry out projects for—

(A) abating the threat posed by materials containing asbestos to the health and safety of children or employees;

(B) replacing the asbestos materials removed from school buildings with other appropriate building materials; and

(C) restoring school buildings to conditions comparable to those existing before abatement activities were undertaken pursuant to this section.

(2) The Administrator shall review and list in priority order applications for financial assistance. In ranking applications, the Administrator shall consider—

(A) the priority assigned to the abatement program by the Governor pursuant to section 504(b)(2);

(B)(i) the likelihood of release of asbestos fibers into a school environment;

(ii) any other evidence of the risk caused by the presence of asbestos including, but not limited to, situations in which there is a substantial quantity of dry loose asbestos-containing material on horizontal surfaces or asbestos-containing material is substantially deteriorated or damaged, and there is asbestos-containing material in an air plenum or in a high traffic area, confined space or within easy reach of a passerby;

(iii) the extent to which the corrective action proposed by the applicant will reduce the exposure of school children and school employees; and

(iv) the extent to which the corrective action proposed by the applicant is cost-effective compared to other techniques including management of material containing asbestos.

(3) In determining whether an applicant is eligible for assistance, and the nature and amount of financial assistance, the Administrator shall consider—

(A) the financial resources available to the applicant as certified by the Governor pursuant to section 504(b)(4); and

(B) the report, if any, of the Secretary of Education pursuant to section 504(b)(5).

(d) In no event shall financial assistance be provided under this title to an applicant if the Administrator determines that such applicant has resources adequate to support an appropriate asbestos materials abatement program. In making such a determination, the Administrator may consult with the Secretary of Education.

(e)(1) An applicant for financial assistance may be granted a loan of up to 100 per centum of the costs of an abatement program or, if the Administrator determines the applicant is unable to undertake and complete an asbestos materials abatement program with a loan, such applicant may also receive a grant (alone or in combination with a loan) not to exceed 50 per centum of the total costs of abatement, in the amount which the Administrator deems necessary.

Loans.
Grants.

(2) In approving any grant, the Administrator shall state with particularity the reasons why the applicant is unable to undertake and complete the abatement program with loan funds.

Grants.

(f) Loans under this section shall be made pursuant to agreements which shall provide for the following:

Loans.

(1) the loan shall not bear interest;

(2) the loan shall have a maturity period of not more than twenty years (as determined by the Administrator) and shall be repayable during such period at such times and in such amounts as the Administrator may specify in the loan agreement;

(3) repayment shall be made to the Secretary of the Treasury for deposit in the general fund; and

(4) such other terms and conditions that the Administrator determines necessary to protect the financial interest of the United States.

(g)(1) No financial assistance may be provided under this section unless an application has been submitted to the Administrator within the five-year period beginning on the effective date of this title.

(2) The Administrator shall not approve an application unless—

(A) the application contains such information as the Administrator may require, including but not limited to information describing—

- (i) the nature and extent of the asbestos problem for which the assistance is sought;
- (ii) the asbestos content of the material to be abated;
- (iii) the methods which will be used to abate the asbestos materials;
- (iv) the amount and type of financial assistance requested;
- (v) a description of the financial resources of the local educational agency; and
- (vi) a justification for the type and amount of the financial assistance requested.

(B) the application contains a certification that—

- (i) any employee engaged in an asbestos material abatement program will be trained and equipped pursuant to section 506(b)(2)(B); and
- (ii) no child or inadequately informed or protected school employee will be permitted in the vicinity of any asbestos abatement activity;

(C) the application contains assurances that the local educational agency will furnish such information as is necessary for the Administrator to make the report required by section 507 of this title.

(3) No financial assistance may be provided by the Administrator under this section for projects described in subsection (a)(2) on which abatement action was completed prior to January 1, 1984.

(B) Except as provided in section 512(b)(1) in approving applications the Administrator shall provide assistance to the local educational agencies having the highest priority among applications being considered in order of ranking until the appropriated funds are expended.

Regulations.
20 USC 4015.

SEC. 506. (a) The Administrator shall promulgate rules and regulations as necessary to implement the authorities and requirements of this title.

(b) The Administrator shall also establish—

(1) procedures to be used by local educational agencies, in programs for which financial assistance is made available under section 505 for—

- (A) abating asbestos materials in school buildings;
- (B) replacing the asbestos materials removed from school buildings with other appropriate building materials; and
- (C) restoring such school buildings to conditions comparable to those existing before asbestos containment or removal activities were undertaken; and

(2) within ninety days, standards for determining—

- (A) which contractors are qualified to carry out the activities referred to in paragraph (1), and
- (B) what training, equipment, protective clothing and other information and material must be supplied to adequately advise and protect school employees utilized to carry out the activities in paragraph (1).

(3) nothing contained in this title shall be construed, interpreted or applied to diminish in any way the level of protection required under State or Federal worker protection laws.

(c) In order to effectuate the purposes of this title, the Administrator may also adopt such other procedures, standards and regulations as the Administrator deems necessary, including—

- (1) procedures for testing the level of asbestos fibers in schools, including safety measures to be followed in conducting such tests;
- (2) standards for evaluating (on the basis of such tests) the likelihood of the leakage of asbestos fibers into the school environment; and
- (3) periodic reporting with respect to the activities that have taken place using funds loaned or granted under this title.

ANNUAL REPORT

SEC. 507. During each of the ten calendar years after the year in which this title is enacted, the Administrator shall prepare and submit not later than February 1 of each year a report to the Committee on Environment and Public Works of the United States Senate and the Committee on Energy and Commerce of the United States House of Representatives on the loan and grant program authorized by section 505 of this title. The report shall—

Loans.
Grants.
20 USC 4016.

- (1) describe the number of applications received;
- (2) describe the number of loans and grants made in the preceding calendar year and specify each applicant for and recipient of a loan or grant;
- (3) specify the number of loan or grant applications which were disapproved during the preceding calendar year and describe the reasons for such disapprovals;
- (4) describe the types of programs for which loans or grants were made;
- (5) specify the estimated total costs of such programs to the recipients of loans or grants and specify the amount of loans or grants made under the program authorized by this section; and
- (6) estimate the number of schools still in need of assistance.

SEC. 508. (a)(1) As a condition of the award of any financial assistance under section 505, the recipient of any such loan or grant shall permit the United States to sue on behalf of such recipient any person determined by the Attorney General to be liable to the recipient for the costs of any activities undertaken by the recipient under such sections.

Suits.
20 USC 4017.

(2) The proceeds from any judgment recovered in any suit brought by the United States under paragraph (1) (or, if the recipient files a similar suit on its own behalf, the proceeds from a judgment recovered by the recipient in such suit) shall be used to repay to the United States, to the extent that the proceeds are sufficient to provide for such repayment, an amount equal to the sum of—

- (A) the amount (i) outstanding on any loan and (ii) of any grant made to the recipient; and
- (B) an amount equal to the interest which would have been charged on such loan were the loan made by a commercial lender at prevailing interest rates (as determined by the Administrator).

(b) The Attorney General shall, where appropriate, proceed in an expeditious manner to recover the amounts expended by the United States to carry out this title from the persons identified by the Attorney General as being liable for such costs.

Discrimination,
prohibition.
20 USC 4018.

SEC. 509. No State or local educational agency receiving assistance under this title may discharge any employee or otherwise discriminate against any employee with respect to the employee's compensation, terms, conditions, or privileges of employment because the employee has brought to the attention of the public information concerning any asbestos problem in the school buildings within the jurisdiction of such agency.

Prohibitions.
20 USC 4019.

SEC. 510. Except as otherwise provided in section 508, nothing in this title shall—

(1) affect the right of any party to seek legal redress in connection with the purchase or installation of asbestos materials in schools or any claim of disability or death related to exposure to asbestos in a school setting; or

(2) affect the rights of any party under any other law.

20 USC 4020.

SEC. 511. For purposes of this title—

(1) the term "asbestos" means—

(A) chrysotile, amosite, or crocidolite; or

(B) in fibrous form, tremolite, anthophyllite, or actinolite;

(2) the term "Attorney General" means the Attorney General of the United States;

(3) the term "threat" or "hazard" means that an asbestos material is friable or easily damaged, or within each reach of students or employees or otherwise susceptible to damage (including damage from water or air circulation) which could result in the dispersal of asbestos fibers into the school environment;

(4) the term "local educational agency" means—

(A) any local educational agency as defined in section 198(a)(10) of the Elementary and Secondary Education Act of 1965; and

(B) the governing authority of any nonprofit elementary or secondary school;

(5) the term "nonprofit elementary or school" means—

(A) any elementary or secondary school as defined in section 198(a)(7) of the Elementary and Secondary Education Act of 1965 owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual; and

(B) any school of any agency of the United States;

(6) the term "school buildings" means—

(A) structures suitable for use as classrooms, laboratories, libraries, school eating facilities, or facilities used for the preparation of food;

(B) any gymnasium or other facility which is specially designed for athletic or recreational activities for an academic course in physical education;

(C) other facilities used for the instruction of students, for research, or for the administration of educational or research programs; and

(D) maintenance, storage, or utility facilities essential to the operation of the facilities described in subparagraphs (A) through (C) of this paragraph;

(7) the term "Administrator" means the Administrator of the Environmental Protection Agency, or the Administrator's designee;

20 USC 2854.

(8) the term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Bureau of Indian Affairs.

SEC. 512. (a)(1) There are hereby authorized to be appropriated for the asbestos abatement program not more than \$50,000,000 for the fiscal year ending on September 30, 1984, \$50,000,000 for the fiscal year ending on September 30, 1985, and \$100,000,000 for each of the five succeeding fiscal years.

Appropriations
authorization.
20 USC 4021.

(2) The sums appropriated under this title shall remain available until expended.

(b)(1) A State with qualified applicants shall receive no less than one-half of 1 per centum of the sums appropriated under this title or the total of the amounts requested by such applicants, whichever is less. Those amounts available in each fiscal year under this paragraph shall be obligated before the end of that fiscal year. For the purposes of this paragraph the term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Bureau of Indian Affairs and, taken together, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(2) Of those sums appropriated for the implementation of this title, up to 10 per centum shall be reserved during the fiscal year ending September 30, 1984, and up to 5 per centum for the fiscal year ending September 30, 1985, for the administration of this title and for programs including, but not limited to, the following:

(A) the establishment of a training center for contractors, engineers, school employees, parents and other personnel to provide instruction on asbestos assessment and abatement;

(B) the development and dissemination of abatement guidance documents to assist in evaluation of potential hazards, and the determination of proper abatement programs;

(C) the development of rules and regulations regarding inspection, reporting and record-keeping; and

(D) the development of a comprehensive testing and technical assistance program.

TITLE VI—EXCELLENCE IN EDUCATION PROGRAM

Excellence in
Education Act.

SHORT TITLE

SEC. 601. This title may be cited as the "Excellence in Education Act".

20 USC 4031
note.

STATEMENT OF PURPOSE

SEC. 602. It is the purpose of this title to make awards to local educational agencies, after a competitive selection process, in order to carry out programs of excellence in individual schools of such agencies designed to achieve excellence in education, which—

20 USC 4031.

(1) demonstrate successful techniques for improving the quality of education,

(2) can be disseminated and replicated, and

(3) are conducted with the participation of school principals, schoolteachers, parents, and business concerns in the locality.

DEFINITIONS

20 USC 4032.

SEC. 603. For the purpose of this title—

20 USC 2854.

(1) The term “elementary school” has the same meaning given that term under section 198(a)(7) of the Elementary and Secondary Education Act of 1965.

(2) The term “local educational agency” has the same meaning given that term under section 198(a)(10) of the Elementary and Secondary Education Act of 1965.

(3) The term “secondary school” has the same meaning given that term under section 198(a)(7) of the Elementary and Secondary Education Act of 1965.

(4) The term “Secretary” means the Secretary of Education.

(5) The term “State” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(6) The term “State educational agency” has the same meaning given that term under section 198(a)(17) of the Elementary and Secondary Education Act of 1965.

SCHOOL EXCELLENCE AWARDS AUTHORIZED

20 USC 4033.

SEC. 604. (a) The Secretary is authorized, in accordance with the provisions of this title, to make awards to local educational agencies for school excellence programs which are consistent with the purpose of this title.

Appropriations
authorization.

(b)(1) There are authorized to be appropriated \$16,000,000 for each of the fiscal years 1984 and 1985 to carry out the provisions of this title.

(2) From the amount appropriated in each fiscal year, the Secretary shall reserve \$3,000,000 in each fiscal year to carry out the provisions of section 607.

(3) From the amount appropriated in each fiscal year, the Secretary shall reserve \$1,000,000 in each fiscal year to carry out the provisions of section 608.

SELECTION OF SCHOOLS FOR AWARDS

20 USC 4034.

SEC. 605. (a)(1) The Secretary is authorized to establish, in accordance with the provisions of this section, criteria for the selection of schools to receive awards under this title. Each local educational agency desiring to participate in the awards program authorized by this title shall submit a proposal nominating each specific school of that agency for school improvement activities designed to carry out the purpose of this title. Each such submission shall be made to the chief State school officer of the State in which the local educational agency is located.

(2) The criteria required by paragraph (1) of this subsection shall include standards for each local educational agency to nominate schools of that agency—

(A) which have the potential to experiment with standards of quality; and

(B) which show promise of demonstrating that the school will carry out well-planned, creative, or innovative activities designed to carry out the purposes of this title in a successful manner.

(3) Each proposal submitted under this subsection shall contain—

(A) a description of the activities which will be conducted in the school nominated,

(B) assurances that the school to be nominated will carry out the activities so described, and

(C) such other information as may be necessary to carry out paragraph (2) of this subsection.

(b)(1)(A) The chief State school officer of each State shall in each fiscal year from the proposed nominations made pursuant to subsection (a) select twenty-five schools for submission to the Secretary.

(B) In the case of the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, the chief educational officer of such jurisdiction shall nominate five schools in accordance with this subsection.

(2) In selecting schools from proposed nominations submitted under subsection (a), the chief State school officer shall assure a fair and equitable distribution of schools within the State, after considering—

(A) all categories of elementary and secondary schools within the State, including elementary schools, junior high schools, secondary schools, vocational-technical schools, or any combination of two or more of the schools;

(B) socioeconomic conditions in the State;

(C) geographic distribution within the State;

(D) school size;

(E) the size and location of the community in which the school is located;

(F) the local governmental arrangements between the government and the local educational agency making the nomination;

(G) the potential for the proposed project to successfully demonstrate techniques for improving the quality of education which can be disseminated and replicated; and

(H) such other relevant factors as the Secretary may prescribe.

(3) Each State shall submit to the Secretary the school nominations made in accordance with this subsection. Each such submission may include such additional information as the chief State school officer (the chief educational officer as prescribed in paragraph (1)(B)), and the local educational agency concerned deem appropriate.

(c)(1) The Secretary shall select not more than five hundred schools from among the nominations submitted pursuant to subsection (b) of this section. The selection under this subsection shall be made by the Secretary after an impartial review panel has considered each submission. The review and selection shall be based upon the factors described in subsection (b)(2) and in accordance with uniform criteria developed by the Secretary.

(2) In making the selections under paragraph (1), the Secretary shall give priority to proposals which have the highest potential for successfully demonstrating techniques to improve the quality of education and which can be disseminated and replicated. In addition the Secretary shall give priority to proposals which have as their purposes—

(A) modernization and improvement of secondary school curricula to improve student achievement in academic or vocational subjects, or both, and competency in basic functional skills;

(B) the elimination of excessive electives and the establishment of increased graduation requirements in basic subjects;

(C) improvement in student attendance and discipline through the demonstration of innovative student motivation techniques and attendance policies with clear sanctions to reduce student absenteeism and tardiness;

(D) demonstrations designed to increase learning time for students;

(E) experimentation providing incentives to teachers, and teams of teachers for outstanding performance, including financial awards, administrative relief such as the removal of paperwork and extra duties, and professional development;

(F) demonstrations to increase student motivation and achievement through creative combinations of independent study, team teaching, laboratory experience, technology utilization, and improved career guidance and counseling; or

(G) new and promising models of school-community and school-to-school relationships including the use of nonschool personnel to alleviate shortages in areas such as math, science, and foreign language instruction, as well as other partnerships between business and education, including the use of equipment.

AMOUNT AND CONDITIONS OF AWARDS

20 USC 4035.

SEC. 606. (a)(1) A school award made to a local educational agency pursuant to this title may not exceed \$25,000 in any fiscal year or a total of \$40,000.

(2) The amount of each individual school award made pursuant to this title shall be determined by the Secretary based upon the size of the school, the number of students enrolled in the school, and the number of teachers teaching in the school.

Prohibition.

(b) Awards made under this title may not be made for more than two school years. No individual school may be eligible for any additional award under this title.

SPECIAL SCHOOL AWARDS

20 USC 4036.

SEC. 607. (a) From the amount reserved under section 604(b)(2) in any fiscal year, the Secretary is authorized to make awards to schools nominated in accordance with the provisions of section 605 to pay the Federal share of the activities described in the proposal if the local educational agency provides further assurances that funds from the private sector will be contributed for carrying out the activities for which assistance is sought.

(b) For purposes of this section, the Federal share for each fiscal year shall be not less than 67 $\frac{2}{3}$ per centum nor more than 90 per centum. The Secretary shall set the Federal share for categories of school awards based upon uniform criteria established by the Secretary.

RESEARCH, EVALUATION, DISSEMINATION, AND MONITORING ACTIVITIES

20 USC 4037.

SEC. 608. (a) From the amount set aside under section 604(b)(3), the Secretary shall conduct research, evaluation, and dissemination activities to assure that exemplary projects and practices which are developed with assistance provided under this title are made available to local educational agencies throughout the United States.

(b) The Secretary shall use such amount of the funds reserved pursuant to section 604(b)(3) as is necessary to carry out the provisions of this subsection. The Secretary shall establish an independent panel to monitor the success of the programs assisted by this title in achieving the national objectives in improving instruction and the achievement of the students.

Independent
Monitoring
Panels.

TITLE VII—MAGNET SCHOOLS ASSISTANCE

AUTHORIZATION OF APPROPRIATIONS

SEC. 701. There are authorized to be appropriated \$75,000,000 for each of the fiscal years 1984, 1985, and 1986 to carry out the provisions of this title.

20 USC 4051.

ELIGIBILITY

SEC. 702. A local educational agency is eligible to receive assistance under this title if the local educational agency—

20 USC 4052.

(1) has received \$1,000,000 less in the first fiscal year after the repeal of the Emergency School Assistance Act by section 5 of the Omnibus Budget Reconciliation Act of 1981 as a result of the repeal of that Act; or

20 USC 3191.

(2) is implementing a plan undertaken pursuant to a final order issued by a court of the United States, or a court of any State, or any other State agency or official of competent jurisdiction, and which requires the desegregation of minority group segregated children or faculty in the elementary and secondary schools of such agency; or

Discrimination,
prohibition.

(3) without having been required to do so, has adopted and is implementing, or will, if assistance is made available to it under this title, adopt and implement, a plan which has been approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 for the desegregation of minority group segregated children or faculty in such schools.

42 USC 2000d.

STATEMENT OF PURPOSE

SEC. 703. It is the purpose of this title—

20 USC 4053.

(1) to provide financial assistance to eligible local educational agencies to enable such agencies to establish and operate magnet schools;

(2) to meet the special needs incident to the elimination of minority group segregation and discrimination among students and faculty in elementary and secondary schools;

Discrimination,
prohibition.

(3) to encourage the voluntary elimination, reduction, or prevention of minority group isolation in elementary and secondary schools with substantial proportions of minority group students; and

(4) to encourage the development of courses of instruction within magnet schools that will substantially strengthen the knowledge of academic subjects and the grasp of tangible and marketable vocational skills of students attending such schools.

PROGRAM AUTHORIZED

SEC. 704. The Secretary is authorized, in accordance with the provisions of this title, to make grants to eligible local educational agencies for use in magnet schools which are part of an approved

Grants.
20 USC 4054.

desegregation plan and which are designed to bring students from different social, economic, ethnic, and racial backgrounds together.

DEFINITION

20 USC 4055. SEC. 705. For the purpose of this title the term "magnet school" means a school or education center that offers a special curriculum capable of attracting substantial numbers of students of different racial backgrounds.

USES OF FUNDS

Grants.
20 USC 4056. SEC. 706. (a) Grants made under this title may be used by eligible local educational agencies for the planning for, and conduct of, programs in magnet schools, including—

- (1) courses of academic instruction offered at magnet schools;
- (2) courses of instruction in magnet schools offering secondary education or vocational education which is designed to increase the tangible and marketable skills of secondary school students and vocational school students;
- (3) the purchase of books, materials, and equipment including computers, which directly contribute to academic excellence and the purposes of this title; and
- (4) the payment of or subsidization of the compensation of elementary and secondary school teachers in magnet schools who are certified or licensed by the State and who are necessary to carry out the courses of instruction for which assistance is sought.

APPLICATIONS AND REQUIREMENTS

20 USC 4057. SEC. 707. (a) Each eligible local educational agency which desires to receive assistance under this title shall submit an application to the Secretary. Each such application shall be in such form as the Secretary may reasonably require. Each such application shall contain assurances that the local educational agency will meet the conditions enumerated in subsection (b).

Discrimination,
prohibition. (b) As part of the annual application required by subsection (a), each eligible local educational agency shall certify that the agency agrees—

- (1) to use funds made available under this title for the purposes specified in section 703;
- (2) to employ teachers in the courses of instruction assisted under this title who are certified or licensed by the State to teach the subject matter of the courses of instruction;
- (3) to provide assurances that the local educational agency will not engage in discrimination based upon race, religion, color, or national origin in the hiring, promotion, or assignment of employees of the agency or other personnel for whom the agency has any administrative responsibility;
- (4) to provide assurances that the local educational agency will not engage in discrimination based upon race, religion, color, or national origin in the mandatory assignment of students to schools or to courses of instruction within schools of such agency except to carry out the approved plan;
- (5) to provide assurances that the local educational agency will not engage in discrimination based upon race, religion, color, or national origin in designing or operating extracurricular activities for students; and

(6) to provide such other assurances as the Secretary determines necessary to carry out the provisions of this title.

(c) No application may be approved under this section unless the Assistant Secretary of Education for Civil Rights determines that the assurances contained in clauses (3), (4), and (5) will be met.

SPECIAL CONSIDERATION

SEC. 708. In approving applications under this title the Secretary shall give special consideration to— 20 USC 4058.

(1) the recentness of the implementation of the approved plan or modification thereof;

(2) the proportion of minority group children involved in the approved plan;

(3) the need for assistance based on the expense or difficulty of effectively carrying out an approved plan and the program or projects for which assistance is sought; and

(4) the degree to which the program or project for which assistance is sought affords promise of achieving the purposes of this title.

PROHIBITION

SEC. 709. Grants under this title may not be used for consultants, for transportation, or for any activity which does not augment academic improvement, or for the courses of instruction the substance of which is secular humanism. 20 USC 4059.

LIMITATION ON PAYMENTS

SEC. 710. (a) No local educational agency may receive a grant under this title for more than one fiscal year unless the Secretary determines that the program for which assistance was provided in the first fiscal year is making satisfactory progress in achieving the purposes of this title. 20 USC 4060.

(b) No local educational agency may expend more than 10 percent of the amount that the agency receives in any fiscal year for planning.

(c) No State shall reduce the amount of State aid with respect to the provision of free public education or the amount of assistance received under chapter 2 of the Education Consolidation and Improvement Act of 1981 in any school district of any local educational agency within such State because of assistance made or to be made available to such agency under this title, except that a State may reduce the amount of assistance received under such chapter 2 if the amount is attributable to clause (3) of section 577 (as in effect prior to the date of enactment of section 502 of the Education for Economic Security Act) but only to the extent the amount is so attributable. The Secretary may waive the prohibition against the reduction of assistance received under chapter 2 and permit such a reduction if the State demonstrates that the assistance under such chapter 2 is not necessary to the local education agency concerned. 20 USC 3811 *et seq.* 20 USC 3832. 20 USC 3811 *et seq.*

PAYMENTS

SEC. 711. (a) The Secretary shall pay to each local educational agency having an application under this title the amount set forth in the application. Payments under this title for a fiscal year shall 20 USC 4061.

remain available for obligation and expenditure by the recipient until the end of the succeeding fiscal year.

(b)(1) If a local educational agency in a State is prohibited by law from providing for the participation of children and staff enrolled or employed in private nonprofit elementary and secondary schools as required by this title, the Secretary may waive such requirement with respect to local educational agencies in such State and, upon the approval of an application from a local educational agency within such State, shall arrange for the provision of services to such children enrolled in, or teachers or other educational staff of, any nonprofit private elementary or secondary school located within the school district of such agency if the participation of such children and staff would assist in achieving the purpose of this title. The services to be provided through arrangements made by the Secretary under this paragraph shall be comparable to the services to be provided by such local educational agency under such application.

(2) In determining the amount to be paid pursuant to paragraph (1), the Secretary shall take into account the number of children and teachers and other educational staff who, except for provisions of State law, might reasonably be expected to participate in the program carried out under this title by such local educational agency.

(3) If the Secretary determines that a local educational agency has substantially failed to provide for the participation on an equitable basis of children and staff enrolled or employed in private nonprofit elementary and secondary schools, the Secretary shall arrange for the provision of services to children enrolled in, or teachers or other educational staff of, the nonprofit private elementary or secondary school or schools located within the school district of such local educational agency, which services shall, to the maximum extent feasible, be identical with the services which would have been provided such children or staff had the local educational agency carried out such assurance. The Secretary shall pay the cost of such services from the grant to such local educational agency and shall have the authority for this purpose of recovering from such agency any funds paid to it under such grant.

WITHHOLDING

20 USC 4062.
20 USC 1234b,
1234c.

SEC. 712. The provisions of sections 453 and 454 of the General Education Provisions Act, relating to withholding and cease and desist orders, shall apply to the program authorized by this title.

The Equal
Access Act.

TITLE VIII—THE EQUAL ACCESS ACT

SHORT TITLE

20 USC 4071
note.

SEC. 801. This title may be cited as "The Equal Access Act".

DENIAL OF EQUAL ACCESS PROHIBITED

20 USC 4071.

SEC. 802. (a) It shall be unlawful for any public secondary school which receives Federal financial assistance and which has a limited open forum to deny equal access or a fair opportunity to, or discriminate against, any students who wish to conduct a meeting within that limited open forum on the basis of the religious, political, philosophical, or other content of the speech at such meetings.

(b) A public secondary school has a limited open forum whenever such school grants an offering to or opportunity for one or more

noncurriculum related student groups to meet on school premises during noninstructional time.

(c) Schools shall be deemed to offer a fair opportunity to students who wish to conduct a meeting within its limited open forum if such school uniformly provides that—

- (1) the meeting is voluntary and student-initiated;
- (2) there is no sponsorship of the meeting by the school, the government, or its agents or employees;
- (3) employees or agents of the school or government are present at religious meetings only in a nonparticipatory capacity;
- (4) the meeting does not materially and substantially interfere with the orderly conduct of educational activities within the school; and
- (5) nonschool persons may not direct, conduct, control, or regularly attend activities of student groups.

(d) Nothing in this title shall be construed to authorize the United States or any State or political subdivision thereof—

- (1) to influence the form or content of any prayer or other religious activity;
- (2) to require any person to participate in prayer or other religious activity;
- (3) to expend public funds beyond the incidental cost of providing the space for student-initiated meetings;
- (4) to compel any school agent or employee to attend a school meeting if the content of the speech at the meeting is contrary to the beliefs of the agent or employee;
- (5) to sanction meetings that are otherwise unlawful;
- (6) to limit the rights of groups of students which are not of a specified numerical size; or
- (7) to abridge the constitutional rights of any person.

(e) Notwithstanding the availability of any other remedy under the Constitution or the laws of the United States, nothing in this title shall be construed to authorize the United States to deny or withhold Federal financial assistance to any school.

(f) Nothing in this title shall be construed to limit the authority of the school, its agents or employees, to maintain order and discipline on school premises, to protect the well-being of students and faculty, and to assure that attendance of students at meetings is voluntary.

DEFINITIONS

SEC. 803. As used in this title—

20 USC 4072.

(1) The term "secondary school" means a public school which provides secondary education as determined by State law.

(2) The term "sponsorship" includes the act of promoting, leading, or participating in a meeting. The assignment of a teacher, administrator, or other school employee to a meeting for custodial purposes does not constitute sponsorship of the meeting.

(3) The term "meeting" includes those activities of student groups which are permitted under a school's limited open forum and are not directly related to the school curriculum.

(4) The term "noninstructional time" means time set aside by the school before actual classroom instruction begins or after actual classroom instruction ends.

SEVERABILITY

20 USC 4073. SEC. 804. If any provision of this title or the application thereof to any person or circumstances is judicially determined to be invalid, the provisions of the remainder of the title and the application to other persons or circumstances shall not be affected thereby.

CONSTRUCTION

20 USC 4074. SEC. 805. The provisions of this title shall supersede all other provisions of Federal law that are inconsistent with the provisions of this title.

Approved August 11, 1984.

LEGISLATIVE HISTORY—H.R. 1310 (S. 1285):

HOUSE REPORT No. 98-6, Pt. 1 (Comm. on Education and Labor) and Pt. 2 (Comm. on Science and Technology).

SENATE REPORT No. 98-151 accompanying S. 1285 (Comm. on Labor and Human Resources).

CONGRESSIONAL RECORD:

Vol. 129 (1983): Mar. 2, considered and passed House.

Vol. 130 (1984): June 6, 26, S. 1285 considered in Senate.

June 27, considered and passed Senate, amended, in lieu of S. 1285.

July 25, House concurred in Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 33 (1984): Aug. 11, Presidential statement.

Public Law 98-378
98th Congress

An Act

To amend part D of title IV of the Social Security Act to assure, through mandatory income withholding, incentive payments to States, and other improvements in the child support enforcement program, that all children in the United States who are in need of assistance in securing financial support from their parents will receive such assistance regardless of their circumstances, and for other purposes.

Aug. 16, 1984
[H.R. 4325]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Child Support
Enforcement
Amendments of
1984.
42 USC 1305
note.

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "Child Support Enforcement Amendments of 1984".

TABLE OF CONTENTS

- Sec. 1. Short title; table of contents.
- Sec. 2. Purpose of the program.
- Sec. 3. Improved child support enforcement through required State laws and procedures.
- Sec. 4. Federal matching of administrative costs.
- Sec. 5. Federal incentive payments.
- Sec. 6. 90-percent matching for automated management systems used in income withholding and other required procedures.
- Sec. 7. Continuation of support enforcement for AFDC recipients whose benefits are being terminated.
- Sec. 8. Special project grants to promote improvements in interstate enforcement.
- Sec. 9. Periodic review of effectiveness of State programs; modification of penalty.
- Sec. 10. Extension of section 1115 demonstration authority to child support enforcement program.
- Sec. 11. Child support enforcement for certain children in foster care.
- Sec. 12. Enforcement with respect to both child and spousal support.
- Sec. 13. Modifications in content of annual report of the Secretary.
- Sec. 14. Requirement that availability of child support enforcement services be publicized.
- Sec. 15. State Commissions on child support.
- Sec. 16. Inclusion of medical support in child support orders.
- Sec. 17. Increased availability of Federal parent locator service to State agencies.
- Sec. 18. State guidelines for child support awards.
- Sec. 19. Availability of social security numbers for child support enforcement purposes.
- Sec. 20. Extension of eligibility under title XIX when support collection results in termination of AFDC eligibility.
- Sec. 21. Collection of past-due support from Federal tax refunds.
- Sec. 22. Wisconsin child support initiative.
- Sec. 23. Sense of the Congress that State and local governments should focus on the problems of child custody, child support, and related domestic issues.

PURPOSE OF THE PROGRAM

SEC. 2. Section 451 of the Social Security Act is amended by striking out "and obtaining child and spousal support," and inserting in lieu thereof "obtaining child and spousal support, and assuring that assistance in obtaining support will be available under this 42 USC 651.

- 42 USC 601. part to all children (whether or not eligible for aid under part A) for whom such assistance is requested.”.

IMPROVED CHILD SUPPORT ENFORCEMENT THROUGH REQUIRED STATE LAWS AND PROCEDURES

- 42 USC 654. SEC. 3. (a) Section 454 of the Social Security Act is amended—
 (1) by striking out “and” at the end of paragraph (18);
 (2) by striking out the period at the end of paragraph (19) and inserting in lieu thereof “, and”; and
 (3) by adding after paragraph (19) the following new paragraph:

“(20) provide, to the extent required by section 466, that the State (A) shall have in effect all of the laws to improve child support enforcement effectiveness which are referred to in that section, and (B) shall implement the procedures which are prescribed in or pursuant to such laws.”.

(b) Part D of title IV of such Act is further amended by adding at the end thereof the following new section:

“REQUIREMENT OF STATUTORILY PRESCRIBED PROCEDURES TO IMPROVE EFFECTIVENESS OF CHILD SUPPORT ENFORCEMENT

- 42 USC 666.
Supra.

“SEC. 466. (a) In order to satisfy section 454(20)(A), each State must have in effect laws requiring the use of the following procedures, consistent with this section and with regulations of the Secretary, to increase the effectiveness of the program which the State administers under this part:

“(1) Procedures described in subsection (b) for the withholding from income of amounts payable as support.

“(2) Procedures under which expedited processes (determined in accordance with regulations of the Secretary) are in effect under the State judicial system or under State administrative processes (A) for obtaining and enforcing support orders, and (B) at the option of the State, for establishing paternity. The Secretary may waive the provisions of this paragraph with respect to one or more political subdivisions within the State on the basis of the effectiveness and timeliness of support order issuance and enforcement within the political subdivision (in accordance with the general rule for exemptions under subsection (d)).

“(3) Procedures under which the State child support enforcement agency shall request, and the State shall provide, that for the purpose of enforcing a support order under any State plan approved under this part—

“(A) any refund of State income tax which would otherwise be payable to an absent parent will be reduced, after notice has been sent to that absent parent of the proposed reduction and the procedures to be followed to contest it (and after full compliance with all procedural due process requirements of the State), by the amount of any overdue support owed by such absent parent;

“(B) the amount by which such refund is reduced shall be distributed in accordance with section 457 (b)(4) or (d)(3) in the case of overdue support assigned to a State pursuant to section 402(a)(26) or 471(a)(17), or, in the case of overdue support which a State has agreed to collect under section 454(6), shall be distributed, after deduction of any fees

Ante, p. 1145.
Post, p. 1317.

42 USC 602.
Post, p. 1318.

Post, pp. 1310,
 1319, 1324.
 42 USC 654.

imposed by the State to cover the costs of collection, to the child or parent to whom such support is owed; and

“(C) notice of the absent parent’s social security account number (or numbers, if he has more than one such number) and home address shall be furnished to the State agency requesting the refund offset, and to the State agency enforcing the order.

“(4) Procedures under which liens are imposed against real and personal property for amounts of overdue support owed by an absent parent who resides or owns property in the State.

“(5) Procedures which permit the establishment of the paternity of any child at any time prior to such child’s eighteenth birthday.

“(6) Procedures which require that an absent parent give security, post a bond, or give some other guarantee to secure payment of overdue support, after notice has been sent to such absent parent of the proposed action and of the procedures to be followed to contest it (and after full compliance with all procedural due process requirements of the State).

“(7) Procedures by which information regarding the amount of overdue support owed by an absent parent residing in the State will be made available to any consumer reporting agency (as defined in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f))) upon the request of such agency; except that (A) if the amount of the overdue support involved in any case is less than \$1,000, information regarding such amount shall be made available only at the option of the State, (B) any information with respect to an absent parent shall be made available under such procedures only after notice has been sent to such absent parent of the proposed action, and such absent parent has been given a reasonable opportunity to contest the accuracy of such information (and after full compliance with all procedural due process requirements of the State), and (C) a fee for furnishing such information, in an amount not exceeding the actual cost thereof, may be imposed on the requesting agency by the State.

“(8) Procedures under which all child support orders which are issued or modified in the State will include provision for withholding from wages, in order to assure that withholding as a means of collecting child support is available if arrearages occur without the necessity of filing application for services under this part.

Notwithstanding section 454(20)(B), the procedures which are required under paragraphs (3), (4), (6), and (7) need not be used or applied in cases where the State determines (using guidelines which are generally available within the State and which take into account the payment record of the absent parent, the availability of other remedies, and other relevant considerations) that such use or application would not carry out the purposes of this part or would be otherwise inappropriate in the circumstances.

Ante, p 1306.

“(b) The procedures referred to in subsection (a)(1) (relating to the withholding from income of amounts payable as support) must provide for the following:

Withholding of income.

“(1) In the case of each absent parent against whom a support order is or has been issued or modified in the State, and is being enforced under the State plan, so much of such parent’s wages (as defined by the State for purposes of this section) must be withheld, in accordance with the succeeding provisions of this

42 USC 503.

subsection, as is necessary to comply with the order and provide for the payment of any fee to the employer which may be required under paragraph (6)(A), up to the maximum amount permitted under section 303(b) of the Consumer Credit Protection Act (15 U.S.C. 1673(b)). If there are arrearages to be collected, amounts withheld to satisfy such arrearages, when added to the amounts withheld to pay current support and provide for the fee, may not exceed the limit permitted under such section 303(b), but the State need not withhold up to the maximum amount permitted under such section in order to satisfy arrearages.

42 USC 601.

“(2) Such withholding must be provided without the necessity of any application therefor in the case of a child (whether or not eligible for aid under part A) with respect to whom services are already being provided under the State plan under this part, and must be provided in accordance with this subsection on the basis of an application for services under the State plan in the case of any other child in whose behalf a support order has been issued or modified in the State. In either case such withholding must occur without the need for any amendment to the support order involved or for any further action (other than those actions required under this part) by the court or other entity which issued such order.

“(3) An absent parent shall become subject to such withholding, and the advance notice required under paragraph (4) shall be given, on the earliest of—

“(A) the date on which the payments which the absent parent has failed to make under such order are at least equal to the support payable for one month,

“(B) the date as of which the absent parent requests that such withholding begin, or

“(C) such earlier date as the State may select.

“(4)(A) Such withholding must be carried out in full compliance with all procedural due process requirements of the State, and (subject to subparagraph (B)) the State must send advance notice to each absent parent to whom paragraph (1) applies regarding the proposed withholding and the procedures such absent parent should follow if he or she desires to contest such withholding on the grounds that withholding (including the amount to be withheld) is not proper in the case involved because of mistakes of fact. If the absent parent contests such withholding on those grounds, the State shall determine whether such withholding will actually occur, shall (within no more than 45 days after the provision of such advance notice) inform such parent of whether or not withholding will occur and (if so) of the date on which it is to begin, and shall furnish such parent with the information contained in any notice given to the employer under paragraph (6)(A) with respect to such withholding.

“(B) The requirement of advance notice set forth in the first sentence of subparagraph (A) shall not apply in the case of any State which has a system of income withholding for child support purposes in effect on the date of the enactment of this section if such system provides on that date, and continues to provide, such procedures as may be necessary to meet the procedural due process requirements of State law.

“(5) Such withholding must be administered by a public agency designated by the State, and the amounts withheld must be expeditiously distributed by the State or such agency in accordance with section 457 under procedures (specified by the State) adequate to document payments of support and to track and monitor such payments, except that the State may establish or permit the establishment of alternative procedures for the collection and distribution of such amounts (under the supervision of such public agency) otherwise than through such public agency so long as the entity making such collection and distribution is publicly accountable for its actions taken in carrying out such procedures, and so long as such procedures will assure prompt distribution, provide for the keeping of adequate records to document payments of support, and permit the tracking and monitoring of such payments.

42 USC 657.

“(6)(A)(i) The employer of any absent parent to whom paragraph (1) applies, upon being given notice as described in clause (ii), must be required to withhold from such absent parent's wages the amount specified by such notice (which may include a fee, established by the State, to be paid to the employer unless waived by such employer) and pay such amount (after deducting and retaining any portion thereof which represents the fee so established) to the appropriate agency (or other entity authorized to collect the amounts withheld under the alternative procedures described in paragraph (5)) for distribution in accordance with section 457.

“(ii) The notice given to the employer shall contain only such information as may be necessary for the employer to comply with the withholding order.

“(B) Methods must be established by the State to simplify the withholding process for employers to the greatest extent possible, including permitting any employer to combine all withheld amounts into a single payment to each appropriate agency or entity (with the portion thereof which is attributable to each individual employee being separately designated).

“(C) The employer must be held liable to the State for any amount which such employer fails to withhold from wages due an employee following receipt by such employer of proper notice under subparagraph (A), but such employer shall not be required to vary the normal pay and disbursement cycles in order to comply with this paragraph.

“(D) Provision must be made for the imposition of a fine against any employer who discharges from employment, refuses to employ, or takes disciplinary action against any absent parent subject to wage withholding required by this subsection because of the existence of such withholding and the obligations or additional obligations which it imposes upon the employer.

“(7) Support collection under this subsection must be given priority over any other legal process under State law against the same wages.

“(8) The State may take such actions as may be necessary to extend its system of withholding under this subsection so that such system will include withholding from forms of income other than wages, in order to assure that child support owed by absent parents in the State will be collected without regard to the types of such absent parents' income or the nature of their income-producing activities.

“(9) The State must extend its withholding system under this subsection so that such system will include withholding from income derived within such State in cases where the applicable support orders were issued in other States, in order to assure that child support owed by absent parents in such State or any other State will be collected without regard to the residence of the child for whom the support is payable or of such child’s custodial parent.

42 USC 654.

“(10) Provision must be made for terminating withholding.”
“(c) Any State may at its option, under its plan approved under section 454, establish procedures under which support payments under this part will be made through the State agency or other entity which administers the State’s income withholding system in any case where either the absent parent or the custodial parent requests it, even though no arrearages in child support payments are involved and no income withholding procedures have been instituted; but in any such case an annual fee for handling and processing such payments, in an amount not exceeding the actual costs incurred by the State in connection therewith or \$25, whichever is less, shall be imposed on the requesting parent by the State.

Exemption.

“(d) If a State demonstrates to the satisfaction of the Secretary, through the presentation to the Secretary of such data pertaining to caseloads, processing times, administrative costs, and average support collections, and such other data or estimates as the Secretary may specify, that the enactment of any law or the use of any procedure or procedures required by or pursuant to this section will not increase the effectiveness and efficiency of the State child support enforcement program, the Secretary may exempt the State, subject to the Secretary’s continuing review and to termination of the exemption should circumstances change, from the requirement to enact the law or use the procedure or procedures involved.

“(e) For purposes of this section, the term ‘overdue support’ means the amount of a delinquency pursuant to an obligation determined under a court order, or an order of an administrative process established under State law, for support and maintenance of a minor child which is owed to or on behalf of such child, or for support and maintenance of the absent parent’s spouse (or former spouse) with whom the child is living if and to the extent that spousal support (with respect to such spouse or former spouse) would be included for purposes of paragraph (4) or (6) of section 454. At the option of the State, overdue support may include amounts which otherwise meet the definition in the first sentence of this subsection but which are owed to or on behalf of a child who is not a minor child. The option to include support owed to children who are not minors shall apply independently to each procedure specified under this section.”

(c) Section 454(6)(B) of such Act is amended to read as follows: “(B) an application fee for furnishing such services shall be imposed, which shall be paid by the individual applying for such services, or recovered from the absent parent, or paid by the State out of its own funds (the payment of which from State funds shall not be considered as an administrative cost of the State for the operation of the plan, and shall be considered income to the program), the amount of which (i) will not exceed \$25 (or such higher or lower amount (which shall be uniform for all States) as the Secretary may determine to be appropriate for any fiscal year to reflect increases or decreases in

administrative costs), and (ii) may vary among such individuals on the basis of ability to pay (as determined by the State), and”.

(d) Section 454 of such Act (as amended by subsection (a) of this section) is further amended—

Ante, p. 1306.

(1) by striking out “and” at the end of paragraph (19);

(2) by striking out the period at the end of paragraph (20) and inserting in lieu thereof “; and”; and

(3) by adding after paragraph (20) the following new paragraph:

“(21)(A) at the option of the State, impose a late payment fee on all overdue support (as defined in section 466(e)) under any obligation being enforced under this part, in an amount equal to a uniform percentage determined by the State (not less than 3 percent nor more than 6 percent) of the overdue support, which shall be payable by the absent parent owing the overdue support; and

Ante, p. 1306.

“(B) assure that the fee will be collected in addition to, and only after full payment of, the overdue support, and that the imposition of the late payment fee shall not directly or indirectly result in a decrease in the amount of the support which is paid to the child (or spouse) to whom, or on whose behalf, it is owed.”.

(e) Section 454(5) of such Act is amended by inserting after “directly to the family” the following: “, and the individual will be notified at least annually of the amount of the support payments collected;”.

42 USC 654.

(f) Section 454 of such Act is further amended by adding at the end thereof (after and below paragraph (21) (as added by subsection (d) of this section)) the following new sentence:

Supra.

“The State may allow the jurisdiction which makes the collection involved to retain any application fee under paragraph (6)(B) or any late payment fee under paragraph (21).”.

Ante, p. 1310.

(g)(1) Except as provided in paragraphs (2) and (3), the amendments made by this section shall become effective on October 1, 1985.

Effective dates.
42 USC 654 note.

(2) Section 454(21) of the Social Security Act (as added by subsection (d) of this section), and section 466(e) of such Act (as added by subsection (b) of this section), shall be effective with respect to support owed for any month beginning after the date of the enactment of this Act.

Supra.
Ante, p. 1306.

(3) In the case of a State with respect to which the Secretary of Health and Human Services has determined that State legislation is required in order to conform the State plan approved under part D of title IV of the Social Security Act to the requirements imposed by any amendment made by this section, the State plan shall not be regarded as failing to comply with the requirements of such part solely by reason of its failure to meet the requirements imposed by such amendment prior to the beginning of the fourth month beginning after the end of the first session of the State legislature which ends on or after October 1, 1985. For purposes of the preceding sentence, the term “session” means a regular, special, budget, or other session of a State legislature.

42 USC 651.

FEDERAL MATCHING OF ADMINISTRATIVE COSTS

SEC. 4. (a) Section 455(a) of the Social Security Act is amended—
(1) by inserting “(1)” after “(a)”;

42 USC 655.

(2) by striking out “, beginning with the quarter commencing July 1, 1975,”;

(3) by striking out paragraph (2) and redesignating paragraphs (1) and (3) as subparagraphs (A) and (B), respectively;

(4) by amending paragraph (1)(A) as so redesignated to read as follows:

“(A) equal to the percent specified in paragraph (2) of the total amounts expended by such State during such quarter for the operation of the plan approved under section 454, and”;

(5) in paragraph (1)(B) as so redesignated, by striking out “specified in clause (1) or (2)” and inserting in lieu thereof “specified in subparagraph (A)”;

(6) by adding at the end thereof the following new paragraph:

“(2) The percent applicable to quarters in a fiscal year for purposes of paragraph (1)(A) is—

“(A) 70 percent for fiscal years 1984, 1985, 1986, and 1987,

“(B) 68 percent for fiscal years 1988 and 1989, and

“(C) 66 percent for fiscal year 1990 and each fiscal year thereafter.”

42 USC 652

(b) Subsections (d)(1)(B), (d)(2)(A), (d)(2)(B), and (e) of section 452 of such Act are each amended by striking out “455(a)(3)” and inserting in lieu thereof “455(a)(1)(B)”.

Effective date.

42 USC 652 note.

(c) The amendments made by this section shall apply to fiscal years after fiscal year 1983.

FEDERAL INCENTIVE PAYMENTS

42 USC 658.

SEC. 5. (a) Section 458 of the Social Security Act is amended to read as follows:

“INCENTIVE PAYMENTS TO STATES

“SEC. 458. (a) In order to encourage and reward State child support enforcement programs which perform in a cost-effective and efficient manner to secure support for all children who have sought assistance in securing support, whether such children reside within the State or elsewhere and whether or not they are eligible for aid to families with dependent children under a State plan approved under part A of this title, and regardless of the economic circumstances of their parents, the Secretary shall, from support collected which would otherwise represent the Federal share of assistance to families of absent parents, pay to each State for each fiscal year, on a quarterly basis (as described in subsection (e)) beginning with the quarter commencing October 1, 1985, an incentive payment in an amount determined under subsection (b).

“(b)(1) Except as provided in paragraphs (2), (3), and (4), the incentive payment shall be equal to—

42 USC 602.

Post, p. 1318.

“(A) 6 percent of the total amount of support collected under the plan during the fiscal year in cases in which the support obligation involved is assigned to the State pursuant to section 402(a)(26) or section 471(a)(17) (with such total amount for any fiscal year being hereafter referred to in this section as the State’s ‘AFDC collections’ for that year), plus

“(B) 6 percent of the total amount of support collected during the fiscal year in all other cases under this part (with such total amount for any fiscal year being hereafter referred to in this section as the State’s ‘non-AFDC collections’ for that year).

“(2) If subsection (c) applies with respect to a State’s AFDC collections or non-AFDC collections for any fiscal year, the percent specified in paragraph (1) (A) or (B) (with respect to such collections) shall be increased to the higher percent determined under such subsection (with respect to such collections) in determining the State’s incentive payment under this subsection for that year.

“(3) The dollar amount of the portion of the State’s incentive payment for any fiscal year which is determined on the basis of its non-AFDC collections under paragraph (1)(B) (after adjustment under subsection (c) if applicable) shall in no case exceed—

“(A) the dollar amount of the portion of such payment which is determined on the basis of its AFDC collections under paragraph (1)(A) (after adjustment under subsection (c) if applicable) in the case of fiscal year 1986 or 1987;

“(B) 105 percent of such dollar amount in the case of fiscal year 1988;

“(C) 110 percent of such dollar amount in the case of fiscal year 1989; or

“(D) 115 percent of such dollar amount in the case of fiscal year 1990 or any fiscal year thereafter.

“(4) The Secretary shall make such additional payments to the State under this part, for fiscal year 1986 or 1987, as may be necessary to assure that the total amount of payments under this section and section 455(a)(1)(A) for such fiscal year is no less than 80 percent of the amount that would have been payable to that State and its political subdivisions for such fiscal year under this section and section 455(a)(1)(A) if those sections (including the amendment made by section 5(c)(2)(A) of the Child Support Enforcement Amendments of 1984) had remained in effect as they were in effect for fiscal year 1985.

Ante, p. 1311.

Ante, p. 1312.

“(c) If the total amount of a State’s AFDC collections or non-AFDC collections for any fiscal year bears a ratio to the total amount expended by the State in that year for the operation of its plan approved under section 454 for which payment may be made under section 455 (with the total amount so expended in any fiscal year being hereafter referred to in this section as the State’s ‘combined AFDC/non-AFDC administrative costs’ for that year) which is equal to or greater than 1.4, the relevant percent specified in subparagraph (A) or (B) of subsection (b)(1) (with respect to such collections) shall be increased to—

42 USC 654.

42 USC 655.

“(1) 6.5 percent, plus

“(2) one-half of 1 percent for each full two-tenths by which such ratio exceeds 1.4;

except that the percent so specified shall in no event be increased (for either AFDC collections or non-AFDC collections) to more than 10 percent. For purposes of the preceding sentence, laboratory costs incurred in determining paternity in any fiscal year may at the option of the State be excluded from the State’s combined AFDC/non-AFDC administrative costs for that year.

“(d) In computing incentive payments under this section, support which is collected by one State on behalf of individuals residing in another State shall be treated as having been collected in full by each such State.

“(e) The amounts of the incentive payments to be made to the various States under this section for any fiscal year shall be estimated by the Secretary at or before the beginning of such year on the basis of the best information available. The Secretary shall

make such payments for such year, on a quarterly basis (with each quarterly payment being made no later than the beginning of the quarter involved), in the amounts so estimated, reduced or increased to the extent of any overpayments or underpayments which the Secretary determines were made under this section to the States involved for prior periods and with respect to which adjustment has not already been made under this subsection. Upon the making of any estimate by the Secretary under the preceding sentence, any appropriations available for payments under this section shall be deemed obligated."

Ante, p. 1306.

(b) Section 454 of such Act (as amended by subsections (a), (d), and (f) of section 3 of this Act) is amended—

- (1) by striking out "and" at the end of paragraph (20);
- (2) by striking out the period at the end of paragraph (21) and inserting in lieu thereof "; and"; and
- (3) by inserting immediately after paragraph (21) the following new paragraph:

"(22) in order for the State to be eligible to receive any incentive payments under section 458, provide that, if one or more political subdivisions of the State participate in the costs of carrying out activities under the State plan during any period, each such subdivision shall be entitled to receive an appropriate share (as determined by the State) of any such incentive payments made to the State for such period, taking into account the efficiency and effectiveness of the activities carried out under the State plan by such political subdivision."

Effective dates.
42 USC 658 note.

(c)(1) The amendments made by the preceding provisions of this section shall become effective on October 1, 1985.

Ante, p. 1312.

(2)(A) Effective until September 30, 1985, section 458(a) of the Social Security Act is amended by striking out "distributed as provided in section 457 to reduce or repay assistance payments" and inserting in lieu thereof "distributed as provided in paragraphs (1), (2), and (4)(A) of section 457(b)".

Ante, p. 1145.
42 USC 658 note.

(B) The reference to provisions of section 457(b) of the Social Security Act in the amendment made by subparagraph (A) of this paragraph is a reference to such provisions as in effect after the effective date of section 2640(b) of the Deficit Reduction Act of 1984.

Ante, p. 1145.

90-PERCENT MATCHING FOR AUTOMATED MANAGEMENT SYSTEMS USED IN INCOME WITHHOLDING AND OTHER REQUIRED PROCEDURES

42 USC 654.

SEC. 6. (a) Section 454(16) of the Social Security Act is amended by striking out "and (D)" and inserting in lieu thereof the following: "(D) to facilitate the development and improvement of the income withholding and other procedures required under section 466(a) through the monitoring of support payments, the maintenance of accurate records regarding the payment of support, and the prompt provision of notice to appropriate officials with respect to any arrearages in support payments which may occur, and (E)".

Ante, p. 1311.

(b) Section 455(a)(1)(B) of such Act (as redesignated by section 4(a) of this Act) is amended—

- (1) by inserting after "automatic data processing and information retrieval system" the following: "(including in such sums the full cost of the hardware components of such system)"; and
- (2) by inserting before the semicolon at the end thereof the following: "; or meets such requirements without regard to clause (D) thereof".

(c) The amendments made by this section shall apply with respect to quarters beginning on or after October 1, 1984.

Effective date.
42 USC 654 note.

CONTINUATION OF SUPPORT ENFORCEMENT FOR AFDC RECIPIENTS
WHOSE BENEFITS ARE BEING TERMINATED

SEC. 7. (a) Section 457(c) of the Social Security Act is amended—

42 USC 657.

(1) by striking out “may” in the matter preceding paragraph (1) and inserting in lieu thereof “shall”; and

(2) by striking out “the net amount of” in paragraph (2), and by striking out “to the family” and all that follows in such paragraph and inserting in lieu thereof “to the family (without requiring any formal reapplication and without the imposition of any application fee) on the same basis as in the case of other individuals who are not receiving assistance under part A of this title.”

42 USC 601.

(b) The amendments made by subsection (a) shall become effective October 1, 1984.

Effective date.
42 USC 657 note.

SPECIAL PROJECT GRANTS TO PROMOTE IMPROVEMENTS IN INTERSTATE
ENFORCEMENT

SEC. 8. Section 455 of the Social Security Act is amended by adding at the end thereof the following new subsection:

42 USC 655.

“(e)(1) In order to encourage and promote the development and use of more effective methods of enforcing support obligations under this part in cases where either the children on whose behalf the support is sought or their absent parents do not reside in the State where such cases are filed, the Secretary is authorized to make grants, in such amounts and on such terms and conditions as the Secretary determines to be appropriate, to States which propose to undertake new or innovative methods of support collection in such cases and which will use the proceeds of such grants to carry out special projects designed to demonstrate and test such methods.

“(2) A grant under this subsection shall be made only upon a finding by the Secretary that the project involved is likely to be of significant assistance in carrying out the purpose of this subsection; and with respect to such project the Secretary may waive any of the requirements of this part which would otherwise be applicable, to such extent and for such period as the Secretary determines is necessary or desirable in order to enable the State to carry out the project.

“(3) At the time of its application for a grant under this subsection the State shall submit to the Secretary a statement describing in reasonable detail the project for which the proceeds of the grant are to be used, and the State shall from time to time thereafter submit to the Secretary such reports with respect to the project as the Secretary may specify.

Reports.

“(4) Amounts expended by a State in carrying out a special project assisted under this section shall be considered, for purposes of section 458(b) (as amended by section 5(a) of the Child Support Enforcement Amendments of 1984), to have been expended for the operation of the State’s plan approved under section 454.

Ante, p. 1312.
42 USC 654.

“(5) There is authorized to be appropriated the sum of \$7,000,000 for fiscal year 1985, \$12,000,000 for fiscal year 1986, and \$15,000,000 for each fiscal year thereafter, to be used by the Secretary in making grants under this subsection.”

Appropriation
authorization.

PERIODIC REVIEW OF EFFECTIVENESS OF STATE PROGRAMS;
MODIFICATION OF PENALTY

- 42 USC 652. SEC. 9. (a)(1) Section 452(a)(4) of the Social Security Act is amended by striking out "not less often than annually" and inserting in lieu thereof "not less often than once every three years (or not less often than annually in the case of any State to which a reduction is being applied under section 403(h)(1), or which is operating under a corrective action plan in accordance with section 403(h)(2))".
- Infra.*
- 42 USC 602. (2) Section 402(a)(27) of such Act is amended by striking out "operate a child support program in conformity with such plan" and inserting in lieu thereof "operates a child support program in substantial compliance with such plan".
- 42 USC 603. (b) Section 403(h) of such Act is amended to read as follows:
- 42 USC 651. "(h)(1) Notwithstanding any other provision of this Act, if a State's
Supra. program operated under part D is found as a result of a review conducted under section 452(a)(4) not to have complied substantially with the requirements of such part for any quarter beginning after September 30, 1983, and the Secretary determines that the State's program is not complying substantially with such requirements at the time such finding is made, the amounts otherwise payable to the State under this part for such quarter and each subsequent quarter, prior to the first quarter throughout which the State program is found to be in substantial compliance with such requirements, shall be reduced (subject to paragraph (2)) by—
- "(A) not less than one nor more than two percent, or
- "(B) not less than two nor more than three percent, if the finding is the second consecutive such finding made as a result of such a review, or
- "(C) not less than three nor more than five percent, if the finding is the third or a subsequent consecutive such finding made as a result of such a review.
- "(2)(A) The reductions required under paragraph (1) shall be suspended for any quarter if—
- "(i) the State submits a corrective action plan, within a period prescribed by the Secretary following notice of the finding under paragraph (1), which contains steps necessary to achieve substantial compliance within a time period which the Secretary finds to be appropriate;
- "(ii) the Secretary approves such corrective action plan (and any amendments thereto) as being sufficient to achieve substantial compliance; and
- "(iii) the Secretary finds that the corrective action plan (and any amendment thereto approved by the Secretary under clause (ii)), is being fully implemented by the State and that the State is progressing in accordance with the timetable contained in the plan to achieve substantial compliance with such requirements.
- "(B) A suspension of the penalty under subparagraph (A) shall continue until such time as the Secretary determines that—
- "(i) the State has achieved substantial compliance,
- "(ii) the State is no longer implementing its corrective action plan, or
- "(iii) the State is implementing or has implemented its corrective action plan but has failed to achieve substantial compliance within the appropriate time period (as specified in subparagraph (A)(i)).

“(C)(i) In the case of a State whose penalty suspension ends pursuant to subparagraph (B)(i), the penalty shall not be applied.

“(ii) In the case of a State whose penalty suspension ends pursuant to subparagraph (B)(ii), the penalty shall be applied as if the suspension had not occurred.

“(iii) In the case of a State whose penalty suspension ends pursuant to subparagraph (B)(iii), the penalty shall be applied to all quarters ending after the expiration of the time period specified in such subparagraph (and prior to the first quarter throughout which the State program is found to be in substantial compliance).

“(3) For purposes of this subsection, section 402(a)(27), and section 452(a)(4), a State which is not in full compliance with the requirements of this part shall be determined to be in substantial compliance with such requirements only if the Secretary determines that any noncompliance with such requirements is of a technical nature which does not adversely affect the performance of the child support enforcement program.”.

Ante, p 1316

Ante, p. 1316.

(c) The amendments made by this section shall be effective on and after October 1, 1983.

Effective date.
42 USC 602 note.

EXTENSION OF SECTION 1115 DEMONSTRATION AUTHORITY TO CHILD SUPPORT ENFORCEMENT PROGRAM

SEC. 10. (a) Section 1115(a) of the Social Security Act is amended—

42 USC 1315.

(1) by striking out “part A” in the matter preceding paragraph (1) and inserting in lieu thereof “part A or D”;

(2) by striking out “402,” in paragraph (1) and inserting in lieu thereof “402, 454,”; and

(3) by striking out “403,” in paragraph (2) and inserting in lieu thereof “403, 455.”.

(b) Section 1115 of such Act is further amended by adding at the end thereof the following new subsection:

42 USC 1315.

“(c) In the case of any experimental, pilot, or demonstration project undertaken under subsection (a) to assist in promoting the objectives of part D of title IV, the project—

42 USC 651.

“(1) must be designed to improve the financial well-being of children or otherwise improve the operation of the child support program;

“(2) may not permit modifications in the child support program which would have the effect of disadvantaging children in need of support; and

“(3) must not result in increased cost to the Federal Government under the program of aid to families with dependent children.”.

CHILD SUPPORT ENFORCEMENT FOR CERTAIN CHILDREN IN FOSTER CARE

SEC. 11. (a)(1) Section 457 of the Social Security Act is amended by adding at the end thereof the following new subsection:

42 USC 657.

“(d) Notwithstanding the preceding provisions of this section, amounts collected by a State as child support for months in any period on behalf of a child for whom a public agency is making foster care maintenance payments under part E—

42 USC 670.

“(1) shall be retained by the State to the extent necessary to reimburse it for the foster care maintenance payments made with respect to the child during such period (with appropriate

reimbursement of the Federal Government to the extent of its participation in the financing);

“(2) shall be paid to the public agency responsible for supervising the placement of the child to the extent that the amounts collected exceed the foster care maintenance payments made with respect to the child during such period but not the amounts required by a court or administrative order to be paid as support on behalf of the child during such period; and the responsible agency may use the payments in the manner it determines will serve the best interests of the child, including setting such payments aside for the child’s future needs or making all or a part thereof available to the person responsible for meeting the child’s day-to-day needs; and

“(3) shall be retained by the State, if any portion of the amounts collected remains after making the payments required under paragraphs (1) and (2), to the extent that such portion is necessary to reimburse the State (with appropriate reimbursement to the Federal Government to the extent of its participation in the financing) for any past foster care maintenance payments (or payments of aid to families with dependent children) which were made with respect to the child (and with respect to which past collections have not previously been retained);

and any balance shall be paid to the State agency responsible for supervising the placement of the child, for use by such agency in accordance with paragraph (2).”.

(2) Section 457(b) of such Act is amended by inserting “(subject to subsection (d))” after “shall” in the matter preceding paragraph (1).

(b) Part D of title IV of such Act is further amended—

(1) in section 454(4)(B), by inserting “including an assignment with respect to a child on whose behalf a State agency is making foster care maintenance payments under part E,” immediately after “such assignment is effective,” and by inserting “or E” immediately after “part A”; and

(2) in section 456(a), by inserting “or secured on behalf of a child receiving foster care maintenance payments” immediately after “section 402(a)(26)”.

(c) Section 471(a) of such Act is amended—

(1) by striking out “and” at the end of paragraph (15);

(2) by striking out the period at the end of paragraph (16) and inserting in lieu thereof “; and”; and

(3) by adding at the end thereof the following new paragraph:

“(17) provides that, where appropriate, all steps will be taken, including cooperative efforts with the State agencies administering the plans approved under parts A and D, to secure an assignment to the State of any rights to support on behalf of each child receiving foster care maintenance payments under this part.”.

(d) Section 464(a) of such Act is amended—

(1) by inserting “or section 471(a)(17)” after “402(a)(26)”; and

(2) by striking out “457(b)(3)” and inserting in lieu thereof “457 (b)(4) or (d)(3)”.

(e) The amendments made by this section shall become effective October 1, 1984, and shall apply to collections made on or after that date.

Ante, p. 1145.
42 USC 657.

Post, p. 1319.

42 USC 670.

Ante, p. 1167.
42 USC 656.

42 USC 671.

42 USC 601, 651.

Post, p. 1322.

Effective date.
42 USC 654 note.

ENFORCEMENT WITH RESPECT TO BOTH CHILD AND SPOUSAL SUPPORT

SEC. 12. (a) Section 454(4)(B) of the Social Security Act is amended— 42 USC 654.

(1) by striking out “and, at the option of the State,” and inserting in lieu thereof “, and”; and

(2) by inserting “, and only if the support obligation established with respect to the child is being enforced under the plan” immediately after “but only if a support obligation has been established with respect to such spouse”.

(b) Clause (A) of section 454(6) of such Act is amended—

(1) by striking out “, at the option of the State,”; and

(2) by inserting “, and only if the support obligation established with respect to the child is being enforced under the plan” immediately after “but only if a support obligation has been established with respect to such spouse”.

(c) The amendments made by this section shall become effective October 1, 1985.

Effective date.
42 USC 654 note.

MODIFICATIONS IN CONTENT OF ANNUAL REPORT OF THE SECRETARY

SEC. 13. (a) Section 452(a)(10)(C) of the Social Security Act is amended to read as follows: 42 USC 652.

“(C) the following data, with the data required under each clause being separately stated for cases where the child is receiving aid to families with dependent children (or foster care maintenance payments under part E), cases where the child was formerly receiving such aid or payments and the State is continuing to collect support assigned to it under section 402(a)(26) or 471(a)(17), and all other cases under this part:

42 USC 602.
Ante, p. 1318.

“(i) the total number of cases in which a support obligation has been established in the fiscal year for which the report is submitted, and the total amount of such obligations;

“(ii) the total number of cases in which a support obligation has been established, and the total amount of such obligations;

“(iii) the number of cases described in clause (i) in which support was collected during such fiscal year, and the total amount of such collections;

“(iv) the number of cases described in clause (ii) in which support was collected during such fiscal year, and the total amount of such collections; and

“(v) the number of child support cases filed in each State in such fiscal year, and the amount of the collections made in each State in such fiscal year, on behalf of children residing in another State or against parents residing in another State;”.

(b) Section 452(a)(10) of such Act is further amended—

42 USC 652.

(1) by striking out “and” at the end of subparagraph (G);

(2) by striking out the period at the end of subparagraph (H) and inserting in lieu thereof “; and”; and

(3) by inserting immediately after subparagraph (H) the following new subparagraph:

“(I) the amount of administrative costs which are expended in each functional category of expenditures, including establishment of paternity.”.

Effective date. (c) The amendments made by this section shall be effective for
42 USC 652 note. reports for fiscal year 1986 and each fiscal year thereafter.

REQUIREMENT THAT AVAILABILITY OF CHILD SUPPORT ENFORCEMENT
SERVICES BE PUBLICIZED

Ante, p 1314.

SEC. 14. (a) Section 454 of the Social Security Act (as amended by the preceding provisions of this Act) is further amended—

- (1) by striking out “and” at the end of paragraph (21);
- (2) by striking out the period at the end of paragraph (22) and inserting in lieu thereof “, and”; and
- (3) by inserting immediately after paragraph (22) the following new paragraph:

“(23) provide that the State will regularly and frequently publicize, through public service announcements, the availability of child support enforcement services under the plan and otherwise, including information as to any application fees for such services and a telephone number or postal address at which further information may be obtained.”.

Effective date. (b) The amendments made by subsection (a) shall become effective
42 USC 654 note. October 1, 1985.

STATE COMMISSIONS ON CHILD SUPPORT

42 USC 654 note.
42 USC 601, 651.

SEC. 15. (a) As a condition of the State's eligibility for Federal payments under part A or D of title IV of the Social Security Act for quarters beginning more than 30 days after the date of the enactment of this Act and ending prior to October 1, 1985, the Governor of each State, on or before December 1, 1984, shall (subject to subsection (f)) appoint a State Commission on Child Support.

(b) Each State Commission appointed under subsection (a) shall be composed of members appropriately representing all aspects of the child support system, including custodial and non-custodial parents, the agency or organizational unit administering the State's plan under part D of such title IV, the State judiciary, the executive and legislative branches of the State government, child welfare and social services agencies, and others.

(c) It shall be the function of each State Commission to examine, investigate, and study the operation of the State's child support system for the primary purpose of determining the extent to which such system has been successful in securing support and parental involvement both for children who are eligible for aid under a State plan approved under part A of title IV of such Act and for children who are not eligible for such aid, giving particular attention to such specific problems (among others) as visitation, the establishment of appropriate objective standards for support, the enforcement of interstate obligations, the availability, cost, and effectiveness of services both to children who are eligible for such aid and to children who are not, and the need for additional State or Federal legislation to obtain support for all children.

Report.
Public
availability.

(d) Each State Commission shall submit to the Governor of the State and make available to the public, no later than October 1, 1985, a full and complete report of its findings and recommendations resulting from the examination, investigation, and study under this

section. The Governor shall transmit such report to the Secretary of Health and Human Services along with the Governor's comments thereon.

(e) None of the costs incurred in the establishment and operation of a State Commission under this section, or incurred by such a Commission in carrying out its functions under subsections (c) and (d), shall be considered as expenditures qualifying for Federal payments under part A or D of title IV of the Social Security Act or be otherwise payable or reimbursable by the United States or any agency thereof.

42 USC 601, 651.

(f) If the Secretary determines, at the request of any State on the basis of information submitted by the State and such other information as may be available to the Secretary, that such State—

(1) has placed in effect and is implementing objective standards for the determination and enforcement of child support obligations,

(2) has established within the five years prior to the enactment of this Act a commission or council with substantially the same functions as the State Commissions provided for under this section, or

Ante, p. 1305.

(3) is making satisfactory progress toward fully effective child support enforcement and will continue to do so, then such State shall not be required to establish a State Commission under this section and the preceding provisions of this section shall not apply.

INCLUSION OF MEDICAL SUPPORT IN CHILD SUPPORT ORDERS

SEC. 16. Section 452 of the Social Security Act is amended by adding at the end thereof the following new subsection:

42 USC 652.

“(f) The Secretary shall issue regulations to require that State agencies administering the child support enforcement program under this part petition for the inclusion of medical support as part of any child support order whenever health care coverage is available to the absent parent at a reasonable cost. Such regulation shall also provide for improved information exchange between such State agencies and the State agencies administering the State medicaid programs under title XIX with respect to the availability of health insurance coverage.”

Regulations.

42 USC 1396.

INCREASED AVAILABILITY OF FEDERAL PARENT LOCATOR SERVICE TO STATE AGENCIES

SEC. 17. Section 453(f) of the Social Security Act is amended by striking out “, after determining that the absent parent cannot be located through the procedures under the control of such State agencies,”.

42 USC 653.

STATE GUIDELINES FOR CHILD SUPPORT AWARDS

SEC. 18. (a) Part D of title IV of the Social Security Act (as amended by section 3(b) of this Act) is further amended by adding at the end thereof the following new section:

Ante, p. 1306.

“STATE GUIDELINES FOR CHILD SUPPORT AWARDS

“SEC. 467. (a) Each State, as a condition for having its State plan approved under this part, must establish guidelines for child support

42 USC 667.

award amounts within the State. The guidelines may be established by law or by judicial or administrative action.

“(b) The guidelines established pursuant to subsection (a) shall be made available to all judges and other officials who have the power to determine child support awards within such State, but need not be binding upon such judges or other officials.

“(c) The Secretary shall furnish technical assistance to the States for establishing the guidelines, and each State shall furnish the Secretary with copies of its guidelines.”.

Effective date.
42 USC 667 note.

(b) The amendment made by subsection (a) shall become effective on October 1, 1987.

AVAILABILITY OF SOCIAL SECURITY NUMBERS FOR CHILD SUPPORT ENFORCEMENT PURPOSES

42 USC 653. SEC. 19. (a) Section 453(b) of the Social Security Act is amended by inserting “the social security account number (or numbers, if the individual involved has more than one such number) and” before “the most recent address”.

26 USC 6103. (b)(1) Section 6103(l)(6)(A)(i) of the Internal Revenue Code of 1954 is amended by inserting “social security account number (or numbers, if the individual involved has more than one such number),” before “address”.

Ante, p. 820. (2) Section 6103(l)(8)(A) of such Code is amended by inserting “social security account numbers,” before “net earnings”.

EXTENSION OF ELIGIBILITY UNDER TITLE XIX WHEN SUPPORT COLLECTION RESULTS IN TERMINATION OF AFDC ELIGIBILITY

42 USC 606. SEC. 20. (a) Section 406 of the Social Security Act is amended by adding at the end thereof the following new subsection:

“(h) Each dependent child, and each relative with whom such a child is living (including the spouse of such relative as described in subsection (b)), who becomes ineligible for aid to families with dependent children as a result (wholly or partly) of the collection or increased collection of child or spousal support under part D, and who has received such aid in at least three of the six months immediately preceding the month in which such ineligibility begins, shall be deemed to be a recipient of aid to families with dependent children for purposes of title XIX for an additional four calendar months beginning with the month in which such ineligibility begins.”.

Effective date.
42 USC 606 note. (b) The amendment made by subsection (a) shall apply only with respect to individuals becoming ineligible for aid to families with dependent children (as described in section 406(h) of the Social Security Act as added by such subsection) on or after the date of the enactment of this Act and before October 1, 1988.

Supra. (c) Section 1902(a)(10)(A)(i)(I) of such Act is amended by inserting “or 406(h)” after “402(a)(37)”.

Ante, p. 1104.
42 USC 1396a.

COLLECTION OF PAST-DUE SUPPORT FROM FEDERAL TAX REFUNDS

42 USC 664. SEC. 21. (a) Section 464(a) of the Social Security Act (as amended by section 12(d) of this Act) is further amended by inserting “(1)” after “SEC. 464. (a)” and by adding at the end thereof the following new paragraphs:

“(2)(A) Upon receiving notice from a State agency administering a plan approved under this part that a named individual owes past-due support (as that term is defined for purposes of this paragraph under subsection (c)) which such State has agreed to collect under section 454(6), and that the State agency has sent notice to such individual in accordance with paragraph (3)(A), the Secretary of the Treasury shall determine whether any amounts, as refunds of Federal taxes paid, are payable to such individual (regardless of whether such individual filed a tax return as a married or unmarried individual). If the Secretary of the Treasury finds that any such amount is payable, he shall withhold from such refunds an amount equal to such past-due support, and shall concurrently send notice to such individual that the withholding has been made, including in or with such notice a notification to any other person who may have filed a joint return with such individual of the steps which such other person may take in order to secure his or her proper share of the refund. The Secretary of the Treasury shall pay the amount withheld to the State agency, and the State shall pay to the Secretary of the Treasury any fee imposed by the Secretary of the Treasury to cover the costs of the withholding and any required notification. The State agency shall, subject to paragraph (3)(B), distribute such amount to or on behalf of the child to whom the support was owed.

Ante, p. 1310,
1319.
Post, p. 1324.

“(B) This paragraph shall apply only with respect to refunds payable under section 6402 of the Internal Revenue Code of 1954 after December 31, 1985, and before January 1, 1991.

Effective date.
Ante, p. 1154.

“(3)(A) Prior to notifying the Secretary of the Treasury under paragraph (1) or (2) that an individual owes past-due support, the State shall send notice to such individual that a withholding will be made from any refund otherwise payable to such individual. The notice shall also (i) instruct the individual owing the past-due support of the steps which may be taken to contest the State's determination that past-due support is owed or the amount of the past-due support, and (ii) provide information, as may be prescribed by the Secretary of Health and Human Services by regulation in consultation with the Secretary of the Treasury, with respect to procedures to be followed, in the case of a joint return, to protect the share of the refund which may be payable to another person.

“(B) If the Secretary of the Treasury determines that an amount should be withheld under paragraph (1) or (2), and that the refund from which it should be withheld is based upon a joint return, the Secretary of the Treasury shall notify the State that the withholding is being made from a refund based upon a joint return, and shall furnish to the State the names and addresses of each taxpayer filing such joint return. In the case of a withholding under paragraph (2), the State may delay distribution of the amount withheld until the State has been notified by the Secretary of the Treasury that the other person filing the joint return has received his or her proper share of the refund, but such delay may not exceed six months.

“(C) If the other person filing the joint return with the named individual owing the past-due support takes appropriate action to secure his or her proper share of a refund from which a withholding was made under paragraph (1) or (2), the Secretary of the Treasury shall pay such share to such other person. The Secretary of the Treasury shall deduct the amount of such payment from amounts subsequently payable to the State agency to which the amount originally withheld from such refund was paid.

“(D) In any case in which an amount was withheld under paragraph (1) or (2) and paid to a State, and the State subsequently determines that the amount certified as past-due support was in excess of the amount actually owed at the time the amount withheld is to be distributed to or on behalf of the child, the State shall pay the excess amount withheld to the named individual thought to have owed the past-due support (or, in the case of amounts withheld on the basis of a joint return, jointly to the parties filing such return).”.

Ante, p. 1322.

(b)(1) Section 464(a)(1) of such Act (as redesignated by subsection (a) of this section) is amended by striking out “and pay” in the second sentence and inserting in lieu thereof the following: “shall concurrently send notice to such individual that the withholding has been made (including in or with such notice a notification to any other person who may have filed a joint return with such individual of the steps which such other person may take in order to secure his or her proper share of the refund), and shall pay”.

42 USC 664.

(2) Section 464(b) of such Act is amended—

(A) by inserting “(1)” after “(b)”;

(B) by striking out “The regulations shall specify” in the second sentence and inserting in lieu thereof “The regulations shall be consistent with the provisions of subsection (a)(3), shall specify”;

(C) by striking out “and provide” and inserting in lieu thereof “and shall provide”;

(D) by adding at the end of paragraph (1) as so redesignated the following: “Any fee paid to the Secretary of the Treasury pursuant to this subsection may be used to reimburse appropriations which bore all or part of the cost of applying such procedure.”; and

Ante, p. 1322.

(E) by adding at the end thereof the following new paragraph: “(2) In the case of withholdings made under subsection (a)(2), the regulations promulgated pursuant to this subsection shall include the following requirements:

“(A) The withholding shall apply only in the case where the State determines that the amount of the past-due support which will be owed at the time the withholding is to be made, based upon the pattern of payment of support and other enforcement actions being pursued to collect the past-due support, is equal to or greater than \$500. The State may limit the \$500 threshold amount to amounts of past-due support accrued since the time that the State first began to enforce the child support order involved under the State plan, and may limit the application of the withholding to past-due support accrued since such time.

“(B) The fee which the Secretary of the Treasury may impose to cover the costs of the withholding and notification may not exceed \$25 per case submitted.”.

42 USC 664.

(c) Section 464(c) of such Act is amended—

(1) by striking out “(c) As used in this part” and inserting in lieu thereof “(c)(1) Except as provided in paragraph (2), as used in this part”; and

Ante, p. 1322

(2) by adding at the end thereof the following new paragraph: “(2) For purposes of subsection (a)(2), the term ‘past-due support’ means only past-due support owed to or on behalf of a minor child.”.

Ante, p. 1307.

(d) Section 454(6) of the Social Security Act (as amended by section 3(c) of this Act) is further amended—

(1) by redesignating clause (C) as clause (D);

(2) by striking out “fee so imposed” in clause (D) as so redesignated and inserting in lieu thereof “fees so imposed”; and

(3) by striking out “, and” at the end of clause (B) and inserting in lieu thereof “, (C) a fee of not more than \$25 may be imposed in any case where the State requests the Secretary of the Treasury to withhold past-due support owed to or on behalf of such individual from a tax refund pursuant to section 464(a)(2), and”.

Ante, p. 1322.

(e)(1) Section 6402(c) of the Internal Revenue Code of 1954 is amended—

26 USC 6402.

(A) by striking out “to which such support has been assigned” and inserting in lieu thereof “collecting such support”; and

(B) by inserting before the last sentence thereof the following: “A reduction under this subsection shall be applied first to satisfy any past-due support which has been assigned to the State under section 402(a)(26) or 471(a)(17) of the Social Security Act, and shall be applied to satisfy any other past-due support after any other reductions allowed by law (but before a credit against future liability for an internal revenue tax) have been made.”.

42 USC 602.

Ante, p. 1318.

(2) Section 6402 of such Code (as amended by section 2653 of the Deficit Reduction Act of 1984) is further amended by redesignating subsection (g) as subsection (h), and by inserting after subsection (f) the following new subsection:

Ante, p. 1154.

“(g) TREATMENT OF PAYMENTS TO STATES.—The Secretary may provide that, for purposes of determining interest, the payment of any amount withheld under subsection (c) to a State shall be treated as a payment to the person or persons making the overpayment.”.

(f)(1) Section 6103(l) of such Code (as so amended) is further amended by adding at the end thereof the following new paragraph:

Ante, p. 1155

“(11) DISCLOSURE OF CERTAIN INFORMATION TO AGENCIES REQUESTING A REDUCTION UNDER SECTION 6402(c).—

Supra.

“(A) RETURN INFORMATION FROM INTERNAL REVENUE SERVICE.—The Secretary shall, upon receiving a written request, disclose to officers and employees of a State agency seeking a reduction under section 6402(c)—

“(i) the fact that a reduction has been made or has not been made under such subsection with respect to any taxpayer;

“(ii) the amount of such reduction;

“(iii) whether such taxpayer filed a joint return;

“(iv) taxpayer identity information with respect to the taxpayer against whom a reduction was made or not made and of any other person filing a joint return with such taxpayer; and

“(v) the fact that a payment was made (and the amount of the payment) on the basis of a joint return in accordance with section 464(a)(3) of the Social Security Act.

Ante, p. 1322.

“(B) RESTRICTION ON USE OF DISCLOSED INFORMATION.—Any officers and employees of an agency receiving return information under subparagraph (A) shall use such information only for the purposes of, and to the extent necessary in, establishing appropriate agency records or in the defense of any litigation or administrative procedure ensuing from a reduction made under section 6402(c).”.

Supra.

- Ante*, p. 1155. (2) Section 6103(p)(3)(A) of such Code (as so amended) is further amended by striking out “or (10)” and inserting in lieu thereof “(10), or (11)”.
- Ante*, p. 1155. (3) Section 6103(p)(4) of such Code (as so amended) is further amended by striking out “or (10)” and inserting in lieu thereof “(10), or (11)”.
- Ante*, p. 1156. (4) Section 6103(p)(4)(F)(ii) of such Code (as so amended) is further amended by striking out “or (10)” and inserting in lieu thereof “(10), or (11)”.
- Ante*, p. 1156. (5) Section 7213(a)(2) of such Code (as so amended) is further amended by striking out “or (10)” and inserting in lieu thereof “(10), or (11)”.
- Effective date.
26 USC 6103
note.
Ante, p. 1325. (g) The amendments made by this section shall apply with respect to refunds payable under section 6402 of the Internal Revenue Code of 1954 after December 31, 1985.

WISCONSIN CHILD SUPPORT INITIATIVE

- Waiver.
42 USC 602 note.
42 USC 601, 651. SEC. 22. (a)(1) If the State of Wisconsin requests the Secretary of Health and Human Services to waive the requirements of parts A and D of title IV of the Social Security Act, or to waive the requirements of part D and only those requirements of part A of such Act as relate to the provision of aid to dependent children as defined (without regard to section 407) in section 406(a) of the Social Security Act (hereafter referred to in this section as “dependent children in single-parent families”), in order to permit the State to make an adequate test in any county or counties, or throughout the State, of its Child Support Initiative, the Secretary shall waive such requirements if—
- Public
availability.
42 USC 601, 651. (A) the State provides a complete description, in accordance with paragraph (2), of the program, known as the Initiative, which it will operate in place of the programs under such parts A and D, and makes the description readily available to the public throughout the State;
- (B) the Governor provides assurances that, under the Initiative, assistance will be provided to all children in need of financial support, and the State will continue to operate an effective child support enforcement program;
- Medical
assistance
eligibility.
42 USC 1396.
42 USC 601. (C) the State agrees that, during the conduct of such test, it will continue to determine eligibility for medical assistance under the State plan approved under title XIX of the Social Security Act, applying the criteria (insofar as may be applicable to members of families with dependent children affected by the Initiative) in effect under its State plan approved under part A of title IV for the month preceding the month in which the Initiative (approved under this section) becomes effective, except that such criteria shall be deemed to have been changed to the extent necessary to comply with generally applicable changes in Federal law or regulations occurring after the date of the enactment of this Act;
- Reports. (D) the State specifies measurable performance objectives, submits an evaluation plan (including criteria for evaluating the Initiative), and agrees to submit interim and final evaluations and reports, at such time or times and containing such information, as the Secretary may require; and
- Audit.
Public
availability. (E) the State agrees to obtain, at least once every two years, a financial and compliance audit of the funds received under this

section and to obtain, after the close of the operation of the Initiative under this section, such an audit and make it public within the State on a timely basis and provide a copy to the Secretary within 30 days after its completion.

(2) The program description provided under paragraph (1)(A) shall describe in detail how the proposed Initiative will affect children and families, with specific reference to the principles for calculating benefits and establishing and enforcing child support obligations. The description shall also include estimates of cost and program effects and provide other relevant information necessary for the Secretary to determine whether the financial well-being of children and their families will be adversely affected by the operation of the Initiative.

(b) The Child Support Initiative proposed by the State of Wisconsin as detailed in the program description submitted to the Secretary, and the related requested waivers, shall become effective within 120 days after its submission unless the Secretary determines that the financial well-being of children in the State will be adversely affected by the Initiative. The Secretary shall notify the State in writing that, effective with the beginning of the following quarter (or of such later quarter as the State may select), the State may operate its Child Support Initiative instead of its programs of aid to families with dependent children (or, if the State had so requested, instead of its program of aid to dependent children in single-parent families) and child support enforcement in such county or counties, or on a statewide basis, as the State has indicated in its request. Except as specifically provided in subsection (c), no amount will be payable for any quarter under section 403(a) (or under section 403(a) with respect to single-parent families, if the State had so requested), 455(a), or 458 of the Social Security Act with respect to such county or counties in which the Initiative is in effect.

Effective date.

42 USC 603.

Ante, pp. 1311, 1312.

(c)(1) For each quarter during which such program is in effect throughout the State, the Secretary will pay to the State the sum of its proportionate share (as defined in paragraph (4)(A)) of each of the following:

(A) the amount advanced by the Secretary to all the other States (as defined in section 1101(a) of the Social Security Act) for such quarter with respect to section 403(a) (1) and (2) of such Act;

42 USC 1301
42 USC 603.

(B) the amount so advanced by the Secretary with respect to section 403(a)(3) of such Act;

(C) the amount so advanced by the Secretary with respect to section 455(a) of such Act; and

Ante, p. 1311.

(D) the amount so advanced by the Secretary with respect to section 458(a) of such Act,

Ante, p. 1312.

reduced by so much of its proportionate share of support collections on behalf of individuals receiving aid to families with dependent children (as defined in paragraph (4)(B)) as would have been credited to the Federal Government under section 457(b) of such Act had such collections been made in the last quarter of fiscal year 1986.

Ante, p. 1318.

(2) If in any quarter the Initiative approved under this section is in operation in fewer than all the counties in the State, the amount paid to the State with respect to the counties to which the waiver under subsection (a) applies shall equal (in lieu of the amount specified in paragraph (1)) the proportionate share with respect to the counties in which the Initiative is operated (as defined in paragraph (5)(A)) of the amount advanced to the State under the

Ante, p. 1318.

four authorities specified in paragraph (1) with respect to all the other counties for such quarter, reduced by so much of the proportionate share of support collections (as defined in paragraph (5)(B)) with respect to the counties in which the Initiative is operated, as would have been credited to the Federal Government under section 457(b) of such Act had such collections been made in the last quarter of fiscal year 1986.

42 USC 601, 651.

(3) Payment under this subsection shall be estimated by the Secretary before the beginning of each quarter during which the Initiative is in effect on the basis of the advances made under parts A and D of title IV of the Social Security Act for such quarter, and the Secretary shall make payments for such quarter on a monthly basis (with each payment made no later than the beginning of the month involved), in the amounts so estimated, and adjusted as necessary to reflect the amount of any previously made overpayment or underpayment under this section. Payment of any amount determined with respect to paragraphs (1)(A) and (1)(B) shall be made from amounts appropriated to carry out part A of title IV of the Social Security Act for the appropriate fiscal year; payment of any amount determined with respect to paragraphs (1)(C) and (1)(D) shall be made from amounts appropriated to carry out part D of title IV of the Social Security Act.

(4)(A) The State's proportionate share of each amount enumerated in paragraph (1) shall be the portion of such amount that bears the same ratio to such amount as the corresponding portion advanced to the State for quarters in fiscal years 1984 through 1986 bears to the total corresponding amount advanced to all the other States for such quarters.

(B) The State's proportionate share of support collections means the amount that bears the same ratio to such collections on behalf of individuals receiving aid to families with dependent children by all the other States for the quarter involved as such collections by the State for quarters in fiscal years 1984 through 1986 bear to the total of such collections by all the other States for such quarters.

(5)(A) The proportionate share with respect to the counties in which the Initiative is operated, in the case of—

42 USC 603.

(i) the amount advanced to the State with respect to all other counties under section 403(a)(1) of the Social Security Act;

(ii) the amount so advanced under section 403(a)(3) of such Act;

Ante, p. 1311.

(iii) the amount so advanced under section 455(a) of such Act; and

Ante, p. 1312.

(iv) the amount so advanced with respect to section 458(a) of such Act,

is the sum of such amounts, each having been multiplied by the ratio of (I) the corresponding amount advanced with respect to such counties for all quarters in fiscal years 1984 through 1986 to (II) the corresponding amount advanced with respect to all the other counties in the State for all such quarters.

(B) The proportionate share of support collections for any quarter, with respect to the counties in which the Initiative is operated, means the amount that bears the same ratio to such collections on behalf of individuals receiving aid to families with dependent children with respect to all the other counties in the State for such quarter as such collections by such counties for quarters in fiscal years 1984 through 1986 bear to the total of such collections by all the other counties in the State for such quarters.

(6) If the State requests, under subsection (a), waiver of only those requirements under part A of title IV of the Social Security Act as relate to the provision of aid to dependent children in single-parent families, and continues to operate its program of aid to families with dependent children deprived by reason of the unemployment of a parent— 42 USC 601.

(A) the State's proportionate share of the amount specified in paragraph (1)(A) (and only that amount) shall be computed under paragraph (4) by application of the ratio of (i) the amount advanced to the State, under section 403(a)(1) of the Social Security Act for quarters in fiscal years 1984 through 1986 with respect to expenditures in the form of aid to dependent children in single-parent families, to (ii) the amount advanced to all the other States, under section 403(a) (1) and (2) of such Act with respect to such expenditures, rather than by application of the ratio specified in paragraph (4); and 42 USC 603.

(B) part A of title IV of such Act shall continue to apply to the State's program of aid to families with dependent children deprived by reason of the unemployment of a parent; except that section 403(a)(3) shall not apply during the period that, or in the part or parts of the State where, the Initiative is in effect. 42 USC 601.
42 USC 603.

(d)(1) The State may cease to conduct the Initiative under this section and (if it so chooses) return to the administration of its plans approved under part A and part D of title IV of the Social Security Act upon the provision to the Secretary of at least 3 months advance notice (or such greater advance notice as may be necessary so that administration of such plans will resume at the beginning of a quarter in the fiscal year). 42 USC 601, 651.

(2) The Secretary may terminate approval of the Initiative upon the giving of at least 3 months advance notice (or such greater advance notice as may be necessary as specified in paragraph (1)) to the State if it is determined that the financial well-being of children in the State (or county or counties involved) would be better achieved by the operation of programs under part A and part D of title IV of the Social Security Act.

(e) This section shall be in effect for quarters beginning after September 30, 1986, and ending before October 1, 1994. Effective date.

SENSE OF THE CONGRESS THAT STATE AND LOCAL GOVERNMENTS SHOULD FOCUS ON THE PROBLEMS OF CHILD CUSTODY, CHILD SUPPORT, AND RELATED DOMESTIC ISSUES

Sec. 23. (a) The Congress finds that—

(1) the divorce rate in the United States has reached alarming proportions and the number of children being raised in single parent families has grown accordingly;

(2) there is a critical lack of child support enforcement, which Congress has undertaken to address through the child support enforcement program;

(3) Congress is strengthening that program to recognize the needs of all children;

(4) related domestic issues, such as visitation rights and child custody, are often intricately intertwined with the child support problem and have received inadequate consideration; and

(5) these related issues remain within the jurisdiction of State and local governments, but have a critical impact on the health and welfare of the children of the Nation.

(b) It is the sense of Congress that—

(1) State and local governments must focus on the vital issues of child support, child custody, visitation rights, and other related domestic issues that are properly within the jurisdictions of such governments;

(2) all individuals involved in the domestic relations process should recognize the seriousness of these matters to the health and welfare of our Nation's children and assign them the highest priority; and

(3) a mutual recognition of the needs of all parties involved in divorce actions will greatly enhance the health and welfare of America's children and families.

Approved August 16, 1984.

LEGISLATIVE HISTORY—H.R. 4325:

HOUSE REPORTS: No. 98-527 (Comm. on Ways and Means) and No. 98-925 (Comm. of Conference).

SENATE REPORT No. 98-387 (Comm. on Finance).

CONGRESSIONAL RECORD:

Vol. 129 (1983): Nov. 16, considered and passed House.

Vol. 130 (1984): Apr. 25, considered and passed Senate, amended.

Aug. 1, Senate agreed to conference report.

Aug. 8, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 33 (1984):
Aug. 16, 1984, Presidential statement.

Public Law 98-379
98th Congress

An Act

To authorize the Secretary of Defense to provide assistance to certain Indian tribes for expenses incurred for community impact planning activities relating to the planned deployment of the MX missile system in Nevada and Utah in the same manner that State and local governments were provided assistance for such expenses.

Aug 16, 1984
[H R 4952]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Defense may provide community impact planning assistance to assist Indian tribes located near sites which on October 10, 1980, were considered to be potential sites for the MX missile system. Such assistance shall be provided for the same purposes and in accordance with the same program under which the Secretary provided community planning assistance under section 801 of the Military Construction Authorization Act, 1981 (Public Law 96-418; 94 Stat. 1775) to State and local governments near such areas. The Secretary may provide such assistance using amounts which were made available to the Air Force under Public Law 96-436 for the purpose of assisting State and local governments in community impact planning in potential MX basing areas and which remain available for obligation.

94 Stat 1864.

SEC. 2. This Act shall apply only with respect to assistance for which a request was received by the Secretary of Defense before April 16, 1982, and which relates to expenses for community impact planning activities incurred before October 2, 1981.

Approved August 16, 1984.

LEGISLATIVE HISTORY—H.R. 4952:

HOUSE REPORT No. 98-661 (Comm. on Armed Services).
CONGRESSIONAL RECORD, Vol. 130 (1984):

Apr. 30, May 1, considered and passed House.
Aug. 1, considered and passed Senate.

Public Law 98-380
98th Congress

Joint Resolution

Aug. 17, 1984
[S.J. Res. 302]

To designate the month of September 1984 as "National Sewing Month".

Whereas the sewing industry annually honors the approximately fifty million people who sew at home and the approximately forty million people who sew at least part of their wardrobe;

Whereas the home sewing industry generates over \$3,500,000,000 annually for the economy of the United States; and

Whereas innumerable careers in fashion, retail merchandising, design, patternmaking, and textiles have had their genesis in the home and in elementary school home economics classes: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of September 1984 is designated "National Sewing Month". The President is requested to issue a proclamation calling upon the people of the United States to observe that month with appropriate ceremonies and activities.

Approved August 17, 1984.

LEGISLATIVE HISTORY—S.J. Res. 302:

CONGRESSIONAL RECORD, Vol. 130 (1984):
June 8, considered and passed Senate.
Aug. 8, considered and passed House.

Public Law 98-381
98th Congress

An Act

To authorize the Secretary of the Interior to construct, operate, and maintain certain facilities at Hoover Dam, and for other purposes.

Aug. 17, 1984
[S. 268]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the “Hoover Power Plant Act of 1984”.

Hoover Power
Plant Act of
1984.
Energy.
43 USC 619 note.

TITLE I

SEC. 101. (a) The Secretary of the Interior is authorized to increase the capacity of existing generating equipment and appurtenances at Hoover Powerplant (hereinafter in this Act referred to as “uprating program”); and to improve parking, visitor facilities, and roadways and to provide additional elevators, and other facilities that will contribute to the safety and sufficiency of visitor access to Hoover Dam and Powerplant (hereinafter in this Act referred to as “visitor facilities program”).

43 USC 619.

(b) The Secretary of the Interior is authorized to construct a Colorado River bridge crossing, including suitable approach spans, immediately downstream from Hoover Dam for the purpose of alleviating traffic congestion and reducing safety hazards. This bridge shall not be a part of the Boulder Canyon project and shall neither be funded nor repaid from the Colorado River Dam Fund or the Lower Colorado River Basin Development Fund.

SEC. 102. (a) Section 403(b) of the Colorado River Basin Project Act of 1968 (82 Stat. 894, as amended, 43 U.S.C. 1543) is amended by inserting “(1)” after “(b)” and adding the following new paragraph at the end thereof:

“(2) Except as provided in subsection 309(b), as amended, sums advanced by non-Federal entities for the purpose of carrying out the provisions of title III of this Act shall be credited to the development fund and shall be available without further appropriation for such purpose.”

43 USC 1528.

43 USC 1521.

(b) Paragraph (1) of section 403(c) of the Colorado River Basin Project Act of 1968 (82 Stat. 894, as amended, 43 U.S.C. 1543(c)) is revised to read as follows:

“(1) all revenues collected in connection with the operation of facilities authorized in title III in furtherance of the purposes of this Act (except entrance, admission, and other recreation fees or charges and proceeds received from recreation concessionaires), until completion of repayment requirements of the Central Arizona project;”.

(c) Paragraph (2) of section 403(c) is revised by inserting immediately preceding the existing proviso: “*Provided, however,* That for the Boulder Canyon project commencing June 1, 1987, and for the Parker-Davis project commencing June 1, 2005, and until the end of the repayment period for the Central Arizona project described in section 301(a) of this Act, the Secretary of Energy shall provide for

43 USC 1543.

43 USC 1521.

surplus revenues by including the equivalent of 4½ mills per kilowatthour in the rates charged to purchasers in Arizona for application to the purposes specified in subsection (f) of this section and by including the equivalent 2½ mills per kilowatthour in the rates charged to purchasers in California and Nevada for application to the purposes of subsection (g) of this section as amended and supplemented: *Provided further*, That after the repayment period for said Central Arizona project, the equivalent of 2½ mills per kilowatthour shall be included by the Secretary of Energy in the rates charged to purchasers in Arizona, California, and Nevada to provide revenues for application to the purposes of said subsection (g) of this section.”.

SEC. 103. (a) The Boulder Canyon Project Act of 1928 (45 Stat. 1057, as amended, 43 U.S.C. 617 et seq.), as amended and supplemented, is further amended:

43 USC 617a.

(1) In the first sentence of section 2(b), by striking out “except that the aggregate amount of such advances shall not exceed the sum of \$165,000,000”, and by replacing the comma after the word “Act” with a period.

43 USC 617b.

(2) In section 3, by deleting “\$165,000,000.” and inserting in lieu thereof “\$242,000,000, of which \$77,000,000 (October 1983 price levels) shall be adjusted plus or minus such amounts as may be justified by reason of ordinary fluctuations of construction costs as indicated by engineering cost indices applicable to the type of construction involved herein. Said \$77,000,000 represents the additional amount required for the uprating program and the visitor facilities program.”.

43 USC 617 note.

(b) Except as amended by this Act, the Boulder Canyon Project Act of 1928 (45 Stat. 1057, as amended, 43 U.S.C. 617 et seq.), as amended and supplemented, shall remain in full force and effect.

SEC. 104. (a) The Boulder Canyon Project Adjustment Act of 1940 (54 Stat. 774, as amended, 43 U.S.C. 618), as amended and supplemented, is further amended:

43 USC 618.

(1) In section 1 by deleting the phrase “during the period beginning June 1, 1937, and ending May 31, 1987” appearing in the introductory paragraph of section 1 and in section 1(a) and inserting in lieu thereof “beginning June 1, 1937”.

(2) In section 1(b) by deleting the phrase “and such portion of such advances made on and after June 1, 1937, as (on the basis of repayment thereof within such fifty-year period or periods as the Secretary may determine) will be repayable prior to June 1, 1987” and inserting in lieu thereof “and such advances made on and after June 1, 1937, over fifty-year periods”.

(3) In section 1 by deleting the word “and” at the end of subsection (c); deleting the period at the end of subsection (d) and inserting in lieu thereof “; and”, and by adding after subsection (d) the following new subsection (e):

43 USC 1543.

“(e) To provide, by application of the increments to rates specified in section 403(c)(2) of the Colorado River Basin Project Act of 1968, as amended and supplemented, revenues, from and after June 1, 1987, for application to the purposes there specified.”.

43 USC 618a.

(4) In section 2:

(i) by deleting the first sentence and subsection (a) and inserting in lieu thereof: “All receipts from the project shall be paid into the Colorado River Dam Fund and shall be available, without further appropriation, for:

“(a) Defraying the costs of operation (including purchase of supplemental energy to meet temporary deficiencies in firm energy which the Secretary of Energy is obligated by contract to supply), maintenance and replacements of, and emergency expenditures for, all facilities of the project, within such separate limitations as may be included in annual appropriations Acts,” and

(ii) by amending subsection (e) to read as follows:

“(e) Transfer to the Lower Colorado River Basin Development Fund established by title IV of the Colorado River Basin Project Act of 1968, as amended and supplemented, of the revenues referred to in section 1(e) of this Act.”.

43 USC 1541.

43 USC 618.

43 USC 618e.

(5) By deleting the final period at the end of section 6 and inserting in lieu thereof the following: “: *Provided*, That the respective rates of interest on appropriated funds advanced for the visitor facilities program, as described in section 101(a) of the Hoover Power Plant Act of 1984, shall be determined by the Secretary of the Treasury, taking into consideration average market yields on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the reimbursement period of the program during the month preceding the fiscal year in which the costs of the program are incurred. To the extent that more than one interest rate is determined pursuant to the preceding sentence, the Secretary of the Treasury shall establish for repayment purposes an interest rate at a weighted average of the rates so determined.”.

Ante, p 1333.

(6) In section 12, in the paragraph beginning with “Replacements”, by deleting “during the period from June 1, 1987, to May 31, 1987, inclusive” and inserting in lieu thereof “beginning June 1, 1987”.

43 USC 618k.

(b) Except as amended by this Act, the Boulder Canyon Project Adjustment Act of 1940 (54 Stat. 774, as amended, 43 U.S.C. 618), as amended and supplemented, shall remain in full force and effect.

43 USC 618 note.

43 USC 618o.

SEC. 105. (a)(1) The Secretary of Energy shall offer:

Contracts with
U S.

(A) To each contractor for power generated at Hoover Dam a renewal contract for delivery commencing June 1, 1987, of the amount of capacity and firm energy specified for that contractor in the following table:

43 USC 619a.

SCHEDULE A

LONG TERM CONTINGENT CAPACITY AND ASSOCIATED FIRM ENERGY RESERVED FOR RENEWAL CONTRACT OFFERS TO CURRENT BOULDER CANYON PROJECT CONTRACTORS

Contractor	Contingent capacity (kW)	Firm energy (thousands of kWh)		Total
		Summer	Winter	
Metropolitan Water District of Southern California.....	247,500	904,382	387,592	1,291,974
City of Los Angeles.....	490,875	488,535	209,658	698,193
Southern California Edison Company..	277,500	175,486	75,208	250,694
City of Glendale.....	18,000	47,398	20,313	67,711
City of Pasadena.....	11,000	40,655	17,424	58,079
City of Burbank.....	5,125	14,811	6,347	21,158
Arizona Power Authority.....	189,000	452,192	193,797	645,989
Colorado River Commission of Nevada.....	189,000	452,192	193,797	645,989
United States, for Boulder City.....	20,000	56,000	24,000	80,000
Totals.....	1,448,000	2,631,651	1,128,136	3,759,787

43 USC 617d.

(B) To purchasers in the States of Arizona, Nevada and California eligible to enter into such contracts under section 5 of the Boulder Canyon Project Act, contracts for delivery commencing June 1, 1987, or as it thereafter becomes available, of capacity resulting from the uprating program and for delivery commencing June 1, 1987, of associated firm energy as specified in the following table:

SCHEDULE B

CONTINGENT CAPACITY RESULTING FROM THE UPRATING PROGRAM AND ASSOCIATED FIRM ENERGY

State	Contingent capacity (kW)	Firm energy (thousands of kWh)		
		Summer	Winter	Total
Arizona.....	188,000	148,000	64,000	212,000
California.....	127,000	99,850	43,364	143,214
Nevada.....	188,000	288,000	124,000	412,000
Totals.....	503,000	535,850	231,364	767,214

Provided, however, That in the case of Arizona and Nevada, such contracts shall be offered to the Arizona Power Authority and the Colorado River Commission of Nevada, respectively, as the agency specified by State law as the agent of such State for purchasing power from the Boulder Canyon project: *Provided further,* That in the case of California, no such contract under this subparagraph (B) shall be offered to any purchaser who is offered a contract for capacity exceeding 20,000 kilowatts under subparagraph (A) of this paragraph.

(C) To the Arizona Power Authority and the Colorado River Commission of Nevada and to purchasers in the State of California eligible to enter into such contracts under section 5 of the Boulder Canyon Project Act, contracts for delivery commencing June 1, 1987, of such energy generated at Hoover Dam as is available respectively to the States of Arizona, Nevada, and California in excess of 4,501.001 million kilowatthours in any year of operation (hereinafter called excess energy) in accordance with the following table:

SCHEDULE C

EXCESS ENERGY

Priority of entitlement to excess energy	State
First: Meeting Arizona's first priority right to delivery of excess energy which is equal in each year of operation to 200 million kilowatthours: <i>Provided, however,</i> That in the event excess energy in the amount of 200 million kilowatthours is not generated during any year of operation, Arizona shall accumulate a first right to delivery of excess energy subsequently generated in an amount not to exceed 600 million kilowatthours, inclusive of the current year's 200 million kilowatthours. Said first right of delivery shall accrue at a rate of 200 million kilowatthours per year for each year excess energy in the amount of 200 million kilowatthours is not generated, less amounts of excess energy delivered.	Arizona
Second: Meeting Hoover Dam contractual obligations under schedule A of section 105(a)(1)(A) and under schedule B of section 105(a)(1)(B) not exceeding 26 million kilowatthours in each year of operation.
Third: Meeting the energy requirements of the three States, such available excess energy to be divided equally among the States.	Arizona, Nevada, California

(2) The total obligation of the Secretary of Energy to deliver firm energy pursuant to schedule A of section 105(a)(1)(A) and schedule B of section 105(a)(1)(B) is 4,527.001 million kilowatthours in each year of operation. To the extent that the actual generation at Hoover Powerplant in any year of operation (less deliveries thereof to Arizona required by its first priority under schedule C of section 105(a)(1)(C) whenever actual generation in any year of operation is in excess of 4,501.001 million kilowatthours) is less than 4,527.001 million kilowatthours, such deficiency shall be borne by the holders of contracts under said schedules A and B in the ratio that the sum of the quantities of firm energy to which each contractor is entitled pursuant to said schedules bears to 4,527.001 million kilowatthours. At the request of any such contractor, the Secretary of Energy will purchase energy to meet that contractor's deficiency at such contractor's expense.

(3) Subdivision E of the "General Consolidated Power Marketing Criteria or Regulations for Boulder City Area Projects" published in the Federal Register May 9, 1983 (48 Federal Register commencing at 20881), hereinafter referred to as the "Criteria" or as the "Regulations" shall be deemed to have been modified to conform to this section. The Secretary of Energy shall cause to be included in the Federal Register a notice conforming the text of said Regulations to such modifications.

Federal
Register,
publication.

(4) Each contract offered under subsection (a)(1) of this section shall:

(A) expire September 30, 2017;

(B) not restrict use to which the capacity and energy contracted for by the Metropolitan Water District of Southern California may be placed within the State of California: *Provided,* That to the extent practicable and consistent with sound water management and conservation practice, the Metropolitan Water District of Southern California shall use such capacity and energy to pump available Colorado River water prior to

using such capacity and energy to pump California State water project water; and

(C) conform to the applicable provisions of subdivision E of the Criteria, commencing at 48 Federal Register 20881, modified as provided in this section. To the extent that said provisions of the Criteria, as so modified, are applicable to contracts entered into under this section, those provisions are hereby ratified.

43 USC 617t.

(b) Nothing in the Criteria shall be construed to prejudice any rights conferred by the Boulder Canyon Project Act, as amended and supplemented, on the holder of a contract described in subsection (a) of this section not in default thereunder on September 30, 2017.

(c)(1) The Secretary of Energy shall not execute a contract described in subsection (a)(1)(A) of this section with any entity which is a party to the action entitled the "State of Nevada, et al. against the United States of America, et al." in the United States District Court for the District of Nevada, case numbered CV LV '82 441 RDF, unless that entity agrees to file in that action a stipulation for voluntary dismissal with prejudice of its claims, or counterclaims, or crossclaims, as the case may be, and also agrees to file with the Secretary a document releasing the United States, its officers and agents, and all other parties to that action who join in that stipulation from any claims arising out of the disposition under this section of capacity and energy from the Boulder Canyon project. The Attorney General shall join on behalf of the United States, its officers and agents, in any such voluntary dismissal and shall have the authority to approve on behalf of the United States the form of each release.

43 USC 617d.

(2) If after a reasonable period of time as determined by the Secretary, the Secretary is precluded from executing a contract with an entity by reason of paragraph (1) of this subsection, the Secretary shall offer the capacity and energy thus available to other entities in the same State eligible to enter into such contracts under section 5 of the Boulder Canyon Project Act.

(d) The uprating program authorized under section 101(a) of this Act shall be undertaken with funds advanced under contracts made with the Secretary of the Interior by non-Federal purchasers described in subsection (a)(1)(B) of this section. Funding provided by non-Federal purchasers shall be advanced to the Secretary of the Interior pursuant to the terms and conditions of such contracts.

(e) Notwithstanding any other provisions of the law, funds advanced by non-Federal purchasers for use in the uprating program shall be deposited in the Colorado River Dam Fund and shall be available for the uprating program.

(f) Those amounts advanced by non-Federal purchasers shall be financially integrated as capital costs with other project costs for rate-setting purposes, and shall be returned to those purchasers advancing funds throughout the contract period through credits which include interest costs incurred by such purchasers for funds contributed to the Secretary of the Interior for the uprating program.

(g) The provisions of this section constitute an exercise by the Congress of the right reserved by it in section 5(b) of the Boulder Canyon Project Act, as amended and supplemented, to prescribe terms and conditions for the renewal of contracts for electrical energy generated at Hoover Dam. This section constitutes the exclusive method for disposing of capacity and energy from Hoover Dam for the period beginning June 1, 1987, and ending September 30, 2017.

(h)(1) Notwithstanding any other provision of law, any claim that the provisions of subsection (a) of this section violates any rights to capacity or energy from the Boulder Canyon project is barred unless the complaint is filed within one year after the date of enactment of this Act in the United States Claims Court which shall have exclusive jurisdiction over this action. Any claim that actions taken by any administrative agency of the United States violates any right under this title or the Boulder Canyon Project Act or the Boulder Canyon Project Adjustment Act is barred unless suit asserting such claim is filed in a Federal court of competent jurisdiction within one year after final refusal of such agency to correct the action complained of.

43 USC 617t.

43 USC 618o.

(2) Any contract entered into pursuant to section 105 or section 107 of this Act shall contain provisions by which any dispute or disagreement as to interpretation or performance of the provisions of this title or of applicable regulations or of the contract may be determined by arbitration or court proceedings. The Secretary of Energy or the Secretary of the Interior, as the case may be, if authorized to act for the United States in such arbitration or court proceedings and, except as provided in paragraph (1) of this subsection, jurisdiction is conferred upon any district court of the United States of proper venue to determine the dispute.

(i) It is the purpose of subsections (c), (g), and (h) of this section to ensure that the rights of contractors for capacity and energy from the Boulder Canyon project for the period beginning June 1, 1987, and ending September 30, 2017, will vest with certainty and finality.

SEC. 106. Reimbursement of funds advanced by non-Federal purchasers for the uprating program shall be a repayment requirement of the Boulder Canyon project beginning with the first day of the month following completion of each segment thereof. The cost of the visitor facilities program as defined in section 101(a) of this Act shall become a repayment requirement beginning June 1, 1987, or when substantially completed, as determined by the Secretary of the Interior, if later.

43 USC 619b.

SEC. 107. (a) Subject to the provisions of any existing layoff contracts, electrical capacity and energy associated with the United States' interest in the Navajo generating station which is in excess of the pumping requirements of the Central Arizona project and any such needs for desalting and protective pumping facilities as may be required under section 101(b)(2)(B) of the Colorado River Basin Salinity Control Act of 1974, as amended (hereinafter in this Act referred to as "Navajo surplus") shall be marketed and exchanged by the Secretary of Energy pursuant to this section.

42 USC 7133
note.

43 USC 1571.

(b) Navajo surplus shall be marketed by the Secretary of Energy pursuant to the plan adopted under subsection (c) of this section, directly to, with or through the Arizona Power Authority and/or other entities having the status of preference entities under the reclamation law in accordance with the preference provisions of section 9(c) of the Reclamation Project Act of 1939 and as provided in part IV, section A of the Criteria.

43 USC 485h.

(c) In the marketing and exchanging of Navajo surplus, the Secretary of the Interior shall adopt the plan deemed most acceptable, after consultation with the Secretary of Energy, the Governor of Arizona, and the Central Arizona Water Conservation District (or its successor in interest to the repayment obligation for the Central Arizona project), for the purposes of optimizing the availability of Navajo surplus and providing financial assistance in the timely

43 USC 389.

construction and repayment of construction costs of authorized features of the Central Arizona project. The Secretary of the Interior, in concert with the Secretary of Energy, in accordance with section 14 of the Reclamation Project Act of 1939, shall grant electrical power and energy exchange rights with Arizona entities as necessary to implement the adopted plan: *Provided, however*, That if exchange rights with Arizona entities are not required to implement the adopted plan, exchange rights may be offered to other entities.

(d) For the purposes provided in subsection (c) of this section, the Secretary of Energy, or the marketing entity or entities under the adopted plan, are authorized to establish and collect or cause to be established and collected, rate components, in addition to those currently authorized, and to deposit the revenues received in the Lower Colorado River Basin Development Fund to be available for such purposes and if required under the adopted plan, to credit, utilize, pay over directly or assign revenues from such additional rate components to make repayment and establish reserves for repayment of funds, including interest incurred, to entities which have advanced funds for the purposes of subsection (c) of this section: *Provided, however*, That rates shall not exceed levels that allow for an appropriate saving for the contractor.

(e) To the extent that this section may be in conflict with any other provision of law relating to the marketing and exchange of Navajo surplus, or to the disposition of any revenues therefrom, this section shall control.

Report.

SEC. 108. Recognizing the expiration of Colorado River storage project (CRSP) contracts in 1989, prior to final reallocation of CRSP power pursuant to existing law, and within one year after enactment of this Act, the Secretary of Energy, acting through the Western Area Power Administration, shall report, to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, on all Colorado River storage project (CRSP) power resources, including those presently allocated to the Lower Division States, which may be used to financially support the development of authorized projects in the States of the Upper Division (as that term is used in article II of the Colorado River Compact) of the Colorado River Basin.

Fish and fishing.
16 USC 839b
note.

43 USC 371 note.

16 USC 839 note.

SEC. 109. The Secretary of the Interior, acting pursuant to Federal reclamation law (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof and supplementary thereto) and in accordance with the Pacific Northwest Electric Power Planning and Conservation Act (94 Stat. 2697) is authorized to design, construct, operate, and maintain fish passage facilities within the Yakima River Basin, and to accept funds from any entity, public or private, to design, construct, operate, and maintain such facilities.

TITLE II

Contracts
with U.S.
Conservation.
42 USC 7275.

SEC. 201. (a) Each long-term firm power service contract entered into or amended subsequent to one year from the date of enactment of this Act by the Secretary of Energy acting by and through the Western Area Power Administration (hereinafter "Western"), shall contain an article requiring the development and implementation by the purchaser thereunder of an energy conservation program. A long-term firm power service contract is any contract for the sale by Western of firm capacity, with or without energy, which is to be

delivered over a period of more than one year. The term “purchaser” includes parent-type entities and their distribution or user members. If more than one such contract exists with a purchaser, only one program will be required for that purchaser. Each such contract article shall—

(1) contain time schedules for meeting program goals and delineate actions to be taken in the event such schedules are not met, which may include a reduction of the allocation of capacity or energy to such purchaser as would otherwise be provided under such contract; and

(2) provide for review and modification of the energy conservation program at not to exceed five year intervals.

(b) For purposes of this title, an energy conservation program shall—

(1) apply to all uses of energy and capacity which are provided from any Federal project;

(2) contain definite goals;

(3) encourage customer consumption efficiency improvements and demand management practices which ensure that the available supply of hydroelectric power is used in an economically efficient and environmentally sound manner.

SEC. 202. (a) Within one year after the date of enactment of this Act, Western shall amend its existing regulations (46 Fed. Reg. 56140) to reflect—

(1) the elements to be considered in the energy conservation programs required by this title, and

(2) Western’s criteria for evaluating and approving such programs.

Such amended regulations shall be promulgated only after public notice and opportunity to comment in accordance with the Administrative Procedure Act (5 U.S.C. 551-706).

(b) The following elements shall be considered by Western in evaluating energy conservation programs:

(1) energy consumption efficiency improvements;

(2) use of renewable energy resources in addition to hydroelectric power;

(3) load management techniques;

(4) cogeneration;

(5) rate design improvements, including—

(i) cost of service pricing;

(ii) elimination of declining block rates;

(iii) time of day rates;

(iv) seasonal rates; and

(v) interruptible rates; and

(6) production efficiency improvements.

(c) Where a purchaser is implementing one or more of the foregoing elements under a program responding to Federal, State, or other

Regulations.
42 USC 7276.

Public
information.
5 USC note prec.
551.

initiatives that apply to conservation and renewable energy development, in evaluating that purchaser's energy conservation program submitted pursuant to this title, Western shall make due allowance for the incorporation of such elements within the energy conservation program required by this title.

Approved August 17, 1984.

LEGISLATIVE HISTORY—S. 268 (H.R. 4275):

HOUSE REPORT No. 98-648 accompanying H.R. 4275 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 98-137 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD:

Vol. 129 (1983): Aug. 4, considered and passed Senate.

Vol. 130 (1984): May 3, H.R. 4275 considered and passed House; S. 268, amended, passed in lieu.

July 26, 27, 30, 31, Senate considered and concurred in House amendments.

Public Law 98-382
98th Congress

An Act

To recognize the organization known as the Catholic War Veterans of the United States of America, Incorporated.

Aug. 17, 1984
[S. 1145]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

CHARTER

SECTION 1. The Catholic War Veterans of the United States of America, Incorporated, organized and incorporated under the laws of the State of New York, is hereby recognized as such and is granted a charter. Corporation.
36 USC 2601.

POWERS

SEC. 2. The Catholic War Veterans of the United States of America, Incorporated, (hereinafter referred to as the "corporation") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State or States in which it is incorporated and subject to the laws of such State or States. 36 USC 2602.

OBJECTS AND PURPOSES OF CORPORATION

SEC. 3. The objects and purposes of the corporation are those provided in its articles of incorporation and shall include a continuing commitment, on a national basis, to— 36 USC 2603.

(a) preserve, protect, and defend the Constitution of the United States and the laws of the several States;

(b) commemorate the wars, campaigns, and military actions of the United States in order to reflect profound respect, high honor, and great tribute on the glorious dead and the surviving veterans of those wars, campaigns, and actions and to give all Americans a greater understanding of and appreciation for the sacrifices of those who participated in them on behalf of all Americans;

(c) stimulate to the highest degree possible the interest of the entire Nation in the problems of veterans, their widows, and orphans;

(d) cooperate to the fullest extent and in a harmonious manner with all veterans' organizations in common projects designed to serve the interests of all veterans of all wars in which the United States of America has participated;

(e) collate, preserve, and encourage the study of historical episodes, chronicles, mementos, and events pertaining to the wars, campaigns, and military actions of the United States of America;

(f) inculcate an enduring love of country, a deep and abiding sense of patriotism, and a profound commitment to Americanism among all the people of the United States;

(g) encourage, among the youth of our Nation, respect for our national flag, anthem, and for the traditions of America;

(h) preserve the freedoms of all of the people, national peace, prosperity, tranquility, good will, the permanence of free institutions, and the defense of the United States;

(i) foster the association of veterans of the Catholic faith who have served in the Armed Forces of the United States;

(j) encourage morality in government, labor, management, economic, social, fraternal, and all other phases of American life;

(k) promote the realization that the family is the basic unit of society;

(l) increase our love, honor, service to God, and to our fellow man without regard to race, creed, color, or national origin; and

(m) function as a veterans' and patriotic organization as authorized by the laws of the State or States where it is incorporated.

SERVICE OF PROCESS

36 USC 2604. SEC. 4. With respect to service of process, the corporation shall comply with the laws of the States in which it is incorporated and those States in which it carries on its activities in furtherance of its corporate purposes.

MEMBERSHIP

36 USC 2605. SEC. 5. Eligibility for membership in the corporation and the rights and privileges of members shall be as provided in the bylaws of the corporation.

BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES

36 USC 2606. SEC. 6. The board of directors of the corporation and the responsibilities thereof shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State or States in which it is incorporated.

OFFICERS OF CORPORATION

36 USC 2607. SEC. 7. The officers of the corporation, and the election of such officers shall be as is provided in the articles of incorporation of the corporation and in conformity with the laws of the State or States wherein it is incorporated.

RESTRICTIONS

36 USC 2608. SEC. 8. (a) No part of the income or assets of the corporation shall inure to any member, officer, or director of the corporation or be distributed to any such person during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(b) The corporation shall not make any loan to any officer, director, or employee of the corporation.

(c) The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

(d) The corporation shall not claim congressional approval or Federal Government authority for any of its activities.

LIABILITY

SEC. 9. The corporation shall be liable for the acts of its officers and agents when acting within the scope of their authority. 36 USC 2609.

BOOKS AND RECORDS; INSPECTION

SEC. 10. The corporation shall keep correct and complete books and records of account and shall keep minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors. The corporation shall keep at its principal office a record of the names and addresses of all members having the right of vote. All books and records of such corporation may be inspected by any member having the right to vote, or by any agent or attorney of such member, for any proper purpose, at any reasonable time. Nothing in this section shall be construed to contravene any applicable State law. 36 USC 2610.

AUDIT OF FINANCIAL TRANSACTIONS

SEC. 11. The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end thereof the following:

"(60) Catholic War Veterans of the United States of America, Incorporated."

ANNUAL REPORT

SEC. 12. The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as is the report of the audit required by section 11 of this Act. The report shall not be printed as a public document. 36 USC 2611.

RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER

SEC. 13. The right to alter, amend, or repeal this Act is expressly reserved to the Congress. Congress.
36 USC 2612.

DEFINITION OF "STATE"

SEC. 14. For purposes of this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States. 36 USC 2613.

TAX-EXEMPT STATUS

SEC. 15. The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code. If the corporation fails to maintain such status, the charter granted hereby shall expire. 36 USC 2614.
26 USC 1 *et seq.*

TERMINATION

36 USC 2615.

SEC. 16. If the corporation shall fail to comply with any of the restrictions or provisions of this Act the charter granted hereby shall expire.

Approved August 17, 1984.

LEGISLATIVE HISTORY—S. 1145 (H.R. 1199):

SENATE REPORT No. 98-315 (Comm. on the Judiciary).

CONGRESSIONAL RECORD:

Vol. 129 (1983): Nov. 18, considered and passed Senate.

Vol. 130 (1984): Aug. 6, considered and passed House.

Public Law 98-383
98th Congress

Joint Resolution

Designating August 21, 1984, as "Hawaii Statehood Silver Jubilee Day".

Aug. 17, 1984
[S J Res 248]

Whereas, on March 12, 1959, Americans were thrilled to learn that the United States House of Representatives, by a vote of three hundred and twenty-three to eighty-nine, had approved statehood for Hawaii, following the favorable United States Senate vote of seventy-six to fifteen the day before;

Whereas President Dwight D. Eisenhower signed the Hawaii Statehood Bill on March 18, 1959;

Whereas pursuant to the provisions of the Hawaii Statehood Act, a plebiscite was held in the territory of Hawaii and on June 27, 1959, the people of Hawaii voted one hundred and thirty-two thousand nine hundred to seven thousand eight hundred in favor of statehood;

Whereas President Eisenhower proclaimed Hawaii the fiftieth State on August 21, 1959;

Whereas the admission of Hawaii to the Union has proven to be of immense benefit both to the United States itself and the State of Hawaii;

Whereas Hawaii is essential to our national security as the site of the headquarters of United States military and naval forces in the Pacific at Pearl Harbor, and is the location of the Army's Schofield Barracks, the Air Force's Hickam and Wheeler Air Force Bases, the Kaneohe Marine Corps Air Station, and other defense facilities;

Whereas Hawaii is our Nation's largest producer of sugarcane and pineapple and its only major domestic source of coffee, macadamia nuts, and certain species of decorative flowers, and is a leader in the development of commercial aquaculture;

Whereas Hawaii is also outstanding as a leader in astronomy, in ocean science, and alternate energy research and development, and in the extent and quality of its tourism industry;

Whereas the State of Hawaii contributes significantly to the national balance of trade, operating Hawaii Foreign-Trade Zone numbered 9 and Subzone numbered 9-A, welcoming hundreds of thousands of foreign tourists, and serving as a mid-Pacific base for United States and foreign commercial interchange;

Whereas Hawaii is the site of the unique, congressionally-funded Center for Cultural and Technical Interchange between East and West;

Whereas Hawaii is blessed with great natural beauty, clean waters, pure air, and extraordinary scenery; and

Whereas Hawaii's multiethnic people, in their personal lives and in the various social and civil institutions and policies they have formed, show a warm spirit of aloha, and have expressed this spirit in their Constitution's Preamble, ". . . with an understanding and compassionate heart toward all the peoples of the Earth . . .": Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That August 21, 1984, be known throughout our Nation as “Hawaii Statehood Silver Jubilee Day” in honor of the twenty-fifth anniversary—the Silver Jubilee—of Hawaii’s Statehood.

SEC. 2. The President be requested and authorized to issue a proclamation calling upon the people of the United States and all Federal, State, and local governments to observe “Hawaii Statehood Silver Jubilee Day” with observances and ceremonies appropriate to its importance.

Approved August 17, 1984.

LEGISLATIVE HISTORY—S.J. Res. 248:

CONGRESSIONAL RECORD, Vol. 130 (1984):

Apr. 11, considered and passed Senate.

Aug. 8, considered and passed House.

Public Law 98-384
98th Congress

Joint Resolution

Recognizing the anniversaries of the Warsaw uprising and the Polish resistance to invasion of Poland during World War II.

Aug 17, 1984
[S.J. Res. 272]

Whereas August 1, 1984, marks the fortieth anniversary of the Warsaw uprising, an event of major significance in the history of World War II;

Whereas on August 1, 1944, the Polish Home Army under the command of General Tedeusz Bor-Komorowski rose up against the Nazis who had begun evacuating Warsaw in the face of the Soviet advance through Eastern Europe, held major portions of the city for sixty-three days against insuperable odds, and suffered extreme hardship, retribution, and personal sacrifice throughout a heroic engagement in which approximately two hundred and fifty thousand Poles were killed, wounded, or missing;

Whereas September 1, 1984, marks the forty-fifth anniversary of the invasion of Poland by the Army and Air Force of the Third Reich, which was followed just sixteen days later by the Soviet invasion from the East and the subsequent occupation of a zone populated by thirteen million Poles, these events having led to the development of a strong underground movement directed by the Polish Government in exile;

Whereas the three wartime leaders of the Polish Home Army, Lieutenant General Stefan Rowecki, murdered by the Gestapo in 1944, Lieutenant General Bor-Komorowski, imprisoned by the Nazis and died in London in 1966, and Major General Leopold Okulicki, imprisoned by the Soviets and perished in a Soviet jail in 1945, symbolize the supreme personal sacrifice and commitment to the cause of freedom and self-determination;

Whereas the spirit of Polish resistance to foreign oppression and domination is symbolized by these historic events and remains a vital element in the Polish national character as manifested by the emergence of the Solidarity Trade Union movement in 1980; and

Whereas, in prior years, the President has granted special recognition to these important days in Polish history, with particular regard to the crucial role of the Polish Home Army in the Allied war effort, and to the leaders of the Polish Home Army: Now, therefore, be it

Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled, That the United States joins in recognizing the anniversary of the Warsaw uprising, which stands as a poignant reminder to the world of the power of the human spirit over adversity, and the anniversary of the Polish

resistance to the World War II invasion of Poland and the leaders of that resistance, which symbolizes the currently continuing struggle of the Polish people and freedom loving people everywhere in the preservation of their liberties and in fulfillment of their national aspirations.

Approved August 17, 1984.

LEGISLATIVE HISTORY—S.J. Res. 272:

CONGRESSIONAL RECORD, Vol. 130 (1984):
July 27, considered and passed Senate.
Aug. 1, considered and passed House.

Public Law 98-385
98th Congress

Joint Resolution

To designate the week of September 23, 1984, through September 29, 1984, as
“National Drug Abuse Education and Prevention Week”.

Aug 21, 1984
[H.J. Res. 529]

Whereas the illegal drug trade consists of approximately
\$79,000,000,000 in retail business per year;

Whereas removing the demand for drugs would reduce the illegal
drug trade;

Whereas drug abuse destroys the future of many of the young people
and adults in the Nation;

Whereas the eradication of drug abuse requires a united mobiliza-
tion of national resources, including law enforcement and edu-
cational efforts; and

Whereas the most effective deterrent to drug abuse is education of
parents and children in the home, classroom, and community:
Now, therefore, be it

*Resolved by the Senate and House of Representatives of the
United States of America in Congress assembled*, That the week of
September 23, 1984, through September 29, 1984, is designated as
“National Drug Abuse Education and Prevention Week” and the
President is authorized and requested to issue a proclamation call-
ing upon the people of the United States to participate in drug abuse
education and prevention programs in their communities and
encouraging parents and children to investigate and discuss drug
abuse problems and possible solutions.

Approved August 21, 1984.

LEGISLATIVE HISTORY—H.J. Res. 529

CONGRESSIONAL RECORD, Vol. 130 (1984):

Aug. 8, considered and passed House.

Aug. 10, considered and passed Senate.

Public Law 98-386
98th Congress

Joint Resolution

Aug. 21, 1984
[H.J. Res. 574]

To designate the week beginning on September 9, 1984, as "National Community Leadership Week".

Whereas local communities form the foundation of our Nation; Whereas qualified and well-trained leadership of our local communities helps sustain our democratic institutions;

Whereas, throughout local communities in the United States, community leadership programs have been instituted to identify and train citizens for leadership positions in their communities; and

Whereas hundreds of community leadership programs have produced thousands of talented and well-trained local leaders who are aware of the unique problems confronting their communities and can propose solutions to such problems: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning on September 9, 1984, is designated as "National Community Leadership Week", and the President is authorized and requested to issue a proclamation calling upon local communities and the people of the United States to observe such week with appropriate ceremonies and activities.

Approved August 21, 1984.

LEGISLATIVE HISTORY—H.J. Res. 574:

CONGRESSIONAL RECORD, Vol. 130 (1984):

Aug. 8, considered and passed House.

Aug. 10, considered and passed Senate.

Public Law 98-387
98th Congress

Joint Resolution

To designate January 27, 1985, as "National Jerome Kern Day".

Aug. 21, 1984

[H. J. Res. 583]

Whereas Jerome D. Kern is considered "The Father of the American Musical Theater";

Whereas Jerome Kern composed over 1,000 songs and 108 complete theatrical scores, including the renowned favorites "Lovely to Look At", "Smoke Gets in Your Eyes", "All the Things You Are", "Look for the Silver Lining", and his most popular score, "Showboat";

Whereas Jerome Kern was the honored recipient of two Academy Awards during his lifetime for his works "The Way You Look Tonight" and "The Last Time I Saw Paris";

Whereas the works of Jerome Kern have not only enriched the lives of countless Americans, but are enjoyed to this day by millions of people throughout the world;

Whereas January 27, 1985, marks the 100th anniversary of Jerome Kern's birth; and

Whereas the music industry is planning a year-long tribute to Jerome Kern's Centenary: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That January 27, 1985, is designated "National Jerome Kern Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Approved August 21, 1984.

LEGISLATIVE HISTORY—H.J. Res. 583 (S.J. Res. 287):

CONGRESSIONAL RECORD, Vol. 130 (1984):

Aug. 8, considered and passed House.

Aug. 10, considered and passed Senate.

Public Law 98-388
98th Congress

Joint Resolution

Aug. 21, 1984
[H.J. Res. 587]

Designating the month of August 1984 as "Ostomy Awareness Month".

Whereas the word ostomy refers to a type of surgical operation, such as colostomy, ileostomy, and urostomy, that is required when a person has lost the normal function of the bowel or bladder as a result of birth defect, disease, injury, or other disorder;

Whereas nearly 125,000 new ostomy surgeries are performed each year;

Whereas an ostomy allows normal body wastes to be expelled through a surgical opening (stoma) on the abdominal wall;

Whereas more than 1.5 million individuals in the United States are ostomates, including persons of every age, race, occupation, and ethnic background;

Whereas the United Ostomy Association is dedicated to helping ostomates in North America overcome the trauma associated with this type of surgery and return to normal living and community responsibility through mutual aid, moral support, education about proper ostomy care, exchange of ideas, assistance in improving ostomy equipment and supplies, support of research, and public information; and

Whereas the United Ostomy Association, a nonprofit agency of nearly 650 chapters, is dedicated to improving the quality of life of all children, young adults, and senior adults whose lifestyle has been changed because of this radical surgical procedure: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of August 1984 is designated as "Ostomy Awareness Month". The President is requested to issue a proclamation calling upon all Federal and State departments and agencies, public education groups, the media, the health care community, and the people of the United States to observe that month with appropriate ceremonies and activities.

Approved August 21, 1984.

LEGISLATIVE HISTORY—H.J. Res. 587 (S.J. Res. 330):

CONGRESSIONAL RECORD, Vol. 130 (1984):

Aug. 8, considered and passed House.

Aug. 10, considered and passed Senate.

Public Law 98-389
98th Congress

Joint Resolution

To designate the week beginning September 2, 1984, as "Youth of America Week".

Aug. 21, 1984
[H.J. Res. 597]

Whereas the children of our Nation, numbering more than fifty million, are this Nation's most valuable natural resource; Whereas when adults share their knowledge, experience, and wisdom with the youth of this land, they teach our children to become an integral part of society as they mature into adulthood and contribute their abilities to our Nation's growth; and Whereas all people in the United States can, together, strengthen this Nation's commitment to nurture in our children the development of strong democratic principles and sound, moral, and spiritual values which will help to make these United States a better place for all to live: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning September 2, 1984, is designated "Youth of America Week". The President is requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate ceremonies and activities.

Approved August 21, 1984.

LEGISLATIVE HISTORY—H J. Res. 597 (S.J. Res. 327):

CONGRESSIONAL RECORD, Vol. 130 (1984):
Aug. 8, considered and passed House.
Aug. 10, considered and passed Senate.

Public Law 98-390
98th Congress

An Act

Aug. 21, 1984
[S. 1224]

To provide for the disposition of certain undistributed judgment funds awarded the Creek Nation.

Indians.
Oklahoma.
25 USC 788b
note.
25 USC 788a-
788h.
80 Stat. 1057.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding Public Law 90-506 and any other provision of law, any funds appropriated by Public Law 89-697 in satisfaction of a judgment awarded the Muscogee (Creek) Nation of Oklahoma in docket numbered 276 of the Indian Claims Commission which have not been distributed on the date of enactment of this Act (including all interest and investment income accrued thereon) shall be distributed by the Secretary of the Interior to the Muscogee (Creek) Nation of Oklahoma as needed to make expenditures for any plan or program authorized by ordinance of such Nation.

25 USC 788b
note.
25 USC 788a-
788d.
79 Stat. 81.

SEC. 2. (a) Notwithstanding Public Law 90-504 and any other provision of law, any funds appropriated by Public Law 89-16 in satisfaction of a judgment awarded the Creek Nation of Indians in docket numbered 21 of the Indian Claims Commission which have not been distributed on the date of enactment of this Act (including all interest and investment income accrued thereon) shall be used and distributed in accordance with the provisions of this section.

(b)(1) The Secretary of the Interior (hereinafter in this section referred to as the "Secretary") shall allocate—

(A) 81.6196 per centum of the funds described in subsection (a) to the Muscogee (Creek) Nation of Oklahoma, and

(B) 18.3804 per centum of the funds described in subsection (a) to the Eastern Creeks.

(2) The funds allocated to the Muscogee (Creek) Nation of Oklahoma under paragraph (1) shall be distributed to such Nation by the Secretary as needed to make expenditures for any plan or program authorized by ordinance of such Nation.

(3)(A) The funds allocated to the Eastern Creeks under paragraph (1) shall be held in trust and invested by the Secretary for the benefit of the Eastern Creeks.

25 USC 788b
note.

SEC. 3. (a) If one or more of the Eastern Creek entities that have filed a petition for Federal acknowledgement are acknowledged to be an Indian tribe on or before December 30, 1984, such tribe or tribes shall be deemed to be a successor entity to the original Eastern Creek group for purposes of distribution of the residual funds in docket numbered 21, and the funds held in trust for the benefit of the Eastern Creeks under section 2 of this Act (including all interest and income accrued thereon) shall be distributed to such tribe or tribes by the Secretary as needed to make any expenditures for any plan or program authorized by ordinance or resolution of such tribe or tribes.

(b) If more than one tribal entity is recognized by the Secretary, such funds shall be prorated between the tribes on the basis of their respective base membership rolls on the date of acknowledgement.

(c) If none of the Eastern Creeks which have filed a petition for acknowledgement are recognized as an Indian tribe by the Secretary prior to December 30, 1984, the funds held in trust for the Eastern Creeks under this Act (including all interest and income accrued thereon) shall be distributed by the Secretary in the form of per capita payments in addition to any amount appropriated in satisfaction of a judgment awarded the Eastern Creeks in docket numbered 275 of the Indian Claims Commission.

SEC. 4. If Federal recognition as an Indian tribe is extended to any Eastern Creek entity prior to distribution of the funds awarded in docket numbered 272 and 275, such tribe or tribes shall be entitled to amend the existing distribution plans for these awards by filing with the Secretary an alternative distribution plan for its proportionate share of funds in these dockets.

25 USC 788b
note.

Approved August 21, 1984.

LEGISLATIVE HISTORY—S. 1224:

HOUSE REPORT No. 98-869 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 98-421 (Select Comm. on Indian Affairs).

CONGRESSIONAL RECORD, Vol. 130 (1984):

May 10, considered and passed Senate.

Aug. 6, considered and passed House.

Public Law 98-391
98th Congress

An Act

Aug. 21, 1984
[S. 1806]

To recognize the organization known as the Jewish War Veterans of the United States of America, Incorporated.

Corporation.
36 USC 2701

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Jewish War Veterans of the United States of America, Incorporated, organized and incorporated as a nonprofit entity under the laws of the State of New York, is hereby recognized as such and is granted a Federal charter.

(b) The corporation shall retain and maintain its status as a corporation organized and incorporated under the laws of the State of New York.

POWERS

36 USC 2702.

SEC. 2. The Jewish War Veterans of the United States of America, Incorporated (hereinafter referred to as the "corporation"), shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State or States in which it is incorporated and subject to the laws of such State or States.

OBJECTS AND PURPOSES OF CORPORATION

36 USC 2703.

SEC. 3. The objects and purposes of the corporation are those provided in its articles of incorporation and shall include a continuing commitment, on a national basis, to—

- (1) maintain true allegiance to the United States of America;
- (2) foster and perpetuate true Americanism;
- (3) combat whatever tends to impair the efficiency and permanency of our free institutions;
- (4) uphold the fair name of the Jew and fight his battles wherever unjustly assailed;
- (5) encourage the doctrine of universal liberty, equal rights and full justice to all men;
- (6) combat the powers of bigotry and darkness wherever originating and whatever the target;
- (7) preserve the spirit of comradeship by mutual helpfulness to comrades and their families;
- (8) cooperate with and support existing educational institutions and establish educational institutions, and foster the education of ex-servicemen and ex-servicewomen and members of the corporation in the ideals and principles of Americanism;
- (9) instill love of country and flag and to promote sound minds and bodies in members of the corporation and their youth; and
- (10) preserve the memories and records of patriotic service performed by the men and women of the Jewish faith and to honor their memory and shield from neglect the graves of our heroic dead.

SERVICE OF PROCESS

SEC. 4. With respect to service of process, the corporation shall comply with the laws of the States in which it is incorporated and those States in which it carries on its activities in furtherance of its corporate purposes. 36 USC 2704.

MEMBERSHIP

SEC. 5. Eligibility for membership in the corporation and the rights and privileges of members shall, except as provided in this Act, be as provided in the bylaws and constitution of the corporation. 36 USC 2705.

BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES

SEC. 6. The board of directors of the corporation and the responsibilities thereof shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State or States in which it is incorporated. 36 USC 2706.

OFFICERS OF CORPORATION

SEC. 7. The officers of the corporation, and the election of such officers shall be as is provided in the articles of incorporation of the corporation and in conformity with the laws of the State or States wherein it is incorporated. 36 USC 2707.

RESTRICTIONS

SEC. 8. (a) No part of the income or assets of the corporation shall inure to any member, officer, or director of the corporation or be distributed to any such person during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual necessary expenses in amounts approved by the board of directors. 36 USC 2708.

(b) The corporation shall not make any loan to any officer, director, or employee of the corporation.

(c) The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

(d) The corporation shall not claim congressional approval or Federal Government authority for any of its activities.

LIABILITY

SEC. 9. The corporation shall be liable for the acts of its officers and agents when acting within the scope of their authority. 36 USC 2709.

BOOKS AND RECORDS; INSPECTION

36 USC 2710.

SEC. 10. The corporation shall keep correct and complete books and records of accounts and shall keep minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors. The corporation shall keep at its principal office a record of the names and addresses of all members having the right to vote. All books and records of such corporation may be inspected by any member having the right to vote, or by any agent or attorney of such member, for any proper purpose, at any reasonable time. Nothing in this section shall be construed to contravene any applicable State law.

AUDIT OF FINANCIAL TRANSACTIONS

SEC. 11. The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under the Federal law", approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end thereof the following:

"(62) Jewish War Veterans of the United States of America."

ANNUAL REPORT

36 USC 2711.

SEC. 12. The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as is the report of the audit required by section 11 of this Act. The report shall not be printed as a public document.

RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTERCongress.
36 USC 2712.

SEC. 13. The right to alter, amend, or repeal this Act is expressly reserved to the Congress.

DEFINITION OF STATE

36 USC 2713.

SEC. 14. For purposes of this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

TAX-EXEMPT STATUS

SEC. 15. The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1954. If the corporation fails to maintain such status, the charter granted hereby shall expire. 36 USC 2714.

TERMINATION

SEC. 16. If the corporation shall fail to comply with any of the restrictions or provisions of this Act, the charter granted hereby shall expire. 36 USC 2715.

Approved August 21, 1984.

LEGISLATIVE HISTORY—S. 1806 (H.R. 3775):

SENATE REPORT No. 98-386 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 130 (1984):

Apr. 26, considered and passed Senate.

Aug. 6, considered and passed House, amended, in lieu of H.R. 3775.

Aug. 10, Senate concurred in House amendment.

Public Law 98-392
98th Congress

An Act

Aug 21, 1984
[S. 2556]

To authorize appropriations for the American Folklife Center for fiscal years 1985 and 1986, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8 of the American Folklife Preservation Act (20 U.S.C. 2107) is amended—

(1) by striking out “and” after “1983,”; and

(2) by inserting after “1984” the following: “, \$838,549 for the fiscal year ending September 30, 1985, and \$867,898 for the fiscal year ending September 30, 1986”.

SEC. 2. Section 8 of the American Folklife Preservation Act (20 U.S.C. 2107), as amended by the first section of this Act, is further amended—

(1) by inserting before “There” the following: “(a)”; and

(2) by adding at the end the following new subsection:

“(b) No amount authorized by subsection (a) of this section for the fiscal year ending September 30, 1985, or the fiscal year ending September 30, 1986, may be used for pay, benefits, or other expenses of any personnel position established after the date of the enactment of this subsection.”.

SEC. 3. (a) Notwithstanding any other provision of law and subject to the provisions of paragraph (1) of subsection (b), the Capitol Police Board is authorized to designate certain portions of the Capitol grounds (other than a portion within the area bounded on the North by Constitution Avenue, on the South by Independence Avenue, on the East by First Street, and on the West by First Street) for use exclusively as play areas for the benefit of children attending a day care center which is established for the primary purpose of providing child care for the children of Members and employees of the Senate or the House of Representatives.

(b)(1) In the case of any such designation referred to in subsection (a) involving a day care center established for the benefit of children of Members and employees of the Senate, the designation shall be with the approval of the Senate Committee on Rules and Administration, and in the case of such a center established for the benefit of children of Members and employees of the House of Representatives, the designation shall be with the approval of the House Committee on House Administration, with the concurrence of the House Office Building Commission.

(2) The Architect of the Capitol shall enclose with a fence any area designated pursuant to subsection (a) as a play area.

(3) The authority to use an area designated pursuant to subsection (a) as a play area may be terminated at any time by the Committee which approved such designation.

(c) Nothing in this or any other Act shall be construed as prohibiting any day care center referred to in subsection (a) from placing playground equipment within an area designated pursuant to sub-

Public buildings
and grounds.
Day care center.
40 USC 214b.

section (a) for use solely in connection with the operation of such center, subject to, in the case of a day care center established for the benefit of children of Members and employees of the Senate, the approval of the Senate Committee on Rules and Administration, and in the case of such a center established for the benefit of children of Members and employees of the House of Representatives, the approval of the House Committee on House Administration, with the concurrence of the House Office Building Commission.

(d) The day care center referred to in S. Res. 269, Ninety-eighth Congress, first session, is a day care center for which space may be designated under subsection (a) for use as a play area.

Approved August 21, 1984.

LEGISLATIVE HISTORY—S. 2556 (H.R. 5886):

HOUSE REPORT No. 98-871 accompanying H.R. 5886 (Comm. on House Administration).

SENATE REPORT No. 98-433 (Comm. on Rules and Administration).

CONGRESSIONAL RECORD, Vol. 130 (1984):

May 22, considered and passed Senate.

Aug. 8, H.R. 5886 considered and passed House; S. 2556, amended, passed in lieu.

Aug. 9, Senate concurred in House amendments.

Public Law 98-393
98th Congress

An Act

Aug. 21, 1984
[S. 2820]

To name the Federal Building in McAlester, Oklahoma, the "Carl Albert Federal Building".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Building in McAlester, Oklahoma, is hereby designated as the "Carl Albert Federal Building". Any reference to such Federal building in any law, regulation, map, document, record, or other paper of the United States shall be deemed to be a reference to the Carl Albert Federal Building.

SEC. 2. The Federal building located at 550 Main Street, Cincinnati, Ohio, shall hereafter be named and designated as the "John Weld Peck Federal Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "John Weld Peck Federal Building".

Approved August 21, 1984.

LEGISLATIVE HISTORY—S. 2820 (H.R. 5945):

HOUSE REPORT No. 98-927 accompanying H.R. 5945 (Comm. on Public Works and Transportation).

CONGRESSIONAL RECORD, Vol. 130 (1984):

Aug. 8, considered and passed Senate.

Aug. 9, H.R. 5945 considered and passed House; S. 2820 passed in lieu.

Public Law 98-394
98th Congress

Joint Resolution

To congratulate the athletes of the United States Olympic team for their performance and achievements in the 1984 winter Olympic games in Sarajevo, Yugoslavia and the 1984 summer Olympic games in Los Angeles, California.

Aug 21, 1984
[S J Res. 338]

Whereas the attention of millions of people around the world has focused on the 1984 winter Olympic games in Sarajevo, Yugoslavia and the 1984 summer Olympics in Los Angeles, California;

Whereas the contingent of athletes from the United States include some of the finest athletes and competitors ever produced by the Nation;

Whereas the athletes representing the United States have achieved great success personally and for the Nation; and

Whereas the United States Olympic athletes have represented themselves and the Nation with extraordinary grace and courage: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, the athletes of the United States Olympic team are congratulated for their performance and achievements in the 1984 winter and summer Olympics and the Nation takes great pride in the qualities of commitment to excellence, grace under pressure, and good will toward other competitors exhibited by such athletes.

Approved August 21, 1984.

LEGISLATIVE HISTORY—S.J. Res. 338:

CONGRESSIONAL RECORD, Vol. 130 (1984):

Aug. 3, considered and passed Senate.

Aug. 8, considered and passed House.

Public Law 98-395
98th Congress

An Act

Aug. 21, 1984
[S. 1429]

Small Business
Development
Center
Improvement
Act
of 1984.
15 USC 631 note.
15 USC 648.

To amend the Small Business Act to extend and strengthen the Small Business Development Center Program, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Small Business Development Center Improvement Act of 1984".

SEC. 2. Section 21 of the Small Business Act is amended as follows:

(1) by adding at the end of paragraph (1) of subsection (a) the following: "The term of such grants shall be made on a calendar year basis or to coincide with the Federal fiscal year.";

(2) by striking paragraph (2) of subsection (a) and inserting the following:

"(2) The Small Business Development Center Program shall be under the general management and oversight of the Administration, but with recognition that a partnership exists under this section between the Administration and the applicant for the delivery of assistance to the small business community. Services shall be provided pursuant to a negotiated cooperative agreement with full participation of both parties.

"(3) Except as provided in paragraph (4), the Administration shall require, as a condition to any grant (or amendment or modification thereof) made to an applicant under this section that an additional amount (excluding any fees collected from recipients of such assistance) equal to the amount of such grant be provided from sources other than the Federal Government: *Provided*, That the additional amount shall not include any amount of indirect costs or in-kind contributions paid for under any Federal program, nor shall such indirect costs or in-kind contributions exceed 50 per centum of the non-Federal additional amount: *Provided further*, That no recipient of funds under this section shall receive a grant which would exceed its pro rata share of a \$65,000,000 program based upon the population to be served by the Small Business Development Center as compared to the total population in the United States, or \$200,000, whichever is greater.

"(4) In lieu of the matching funds required in paragraph (3), the Administration shall require as a condition of any grant (or amendment or modification thereof) made to an applicant under this section, that a matching amount (excluding any fees collected from recipients of such assistance) equal to the amount of such grant be provided from sources other than the Federal Government, to be comprised of not less than 50 per centum cash and not more than 50 per centum of indirect costs and in-kind contributions as follows:

"(A) for grants for performance commencing on or after October 1, 1987 if the applicant is located in a State which received its grant for performance under this section on or before August 1, 1984;

“(B) for grants for performance commencing on or after October 1, 1988 if the applicant is located in a State which receives its initial grant for performance under this section commencing after August 1, 1984 and prior to October 1, 1986; and

“(C) for grants for performance commencing on or after October 1, 1986 if the applicant is located in a State which receives its initial grant for performance under this section commencing after October 1, 1986;

Provided, That this matching amount shall not include any indirect costs or in-kind contributions derived from any Federal program: *Provided further*, That no recipient of funds under this section shall receive a grant which would exceed its pro rata share of a \$65,000,000 program based upon the population to be served by the Small Business Development Center as compared to the total population in the United States, or \$200,000 whichever is greater.”;

(3) by striking from paragraph (1) of subsection (b) “During fiscal years 1981, 1982, and 1983, financial” and by inserting in lieu thereof “Financial”;

(4) by inserting after the period at the end of the first sentence of paragraph (2) of subsection (c) the following: “The facilities and staff of each Small Business Development Center shall be located in such places as to provide maximum accessibility and benefits to the small businesses which the center is intended to serve.”;

(5) by amending subparagraph (2)(A) of subsection (c) to read as follows:

“(A) a full-time staff, including a full-time director who shall have the authority to make expenditures under the center’s budget and who shall manage the program activities;”;

(6) by striking subsection (e) and inserting in lieu thereof the following:

“(e) The National Science Foundation is authorized and directed to cooperate with the Administration and with the Small Business Development Centers in developing and establishing programs to support the centers.”;

(7) by striking from the second sentence of paragraph (2) of subsection (h) the word “quarterly” and inserting in lieu thereof “semiannually”;

(8) by striking from paragraph (1) of subsection (i) the word “may” and inserting in lieu thereof “shall”; and

(9) by striking subsection (j) and inserting in lieu thereof the following:

“(j) Within six months of the date of enactment of the Small Business Development Center Improvement Act of 1984, the Administration shall develop and implement a program proposal for onsite evaluation of each Small Business Development Center. Such evaluation shall be conducted at least once every two years and shall provide for the participation of a representative of at least one other Small Business Development Center on a cost-reimbursement basis.”.

SEC. 3. Section 20 of the Small Business Act is amended as follows:

(1) by inserting the following after the second sentence in subsection (a): “For fiscal year 1986 and every year thereafter, there are hereby authorized to be appropriated such sums as may be necessary and appropriate to be available solely (1) to carry out the provisions and purposes of the Small Business

Public
availability.

National Science
Foundation.

Study.
Ante, p. 1366.

15 USC 631 note.

Ante, p. 1366.

Development Center Program in section 21, but not to exceed the level as specified in subsection (a) of such section, (2) to pay the expenses of the National Small Business Development Center Advisory Board as provided in section 21(h), and (3) to reimburse centers for participation in evaluations as provided in section 21(j)."; and

(2) by adding the following new subsection:

Appropriations
authorization.

"(t) There are hereby authorized to be appropriated for fiscal year 1985, \$30,000,000 to be available solely (1) to carry out the provisions and purposes of the Small Business Development Center Program in section 21, (2) to pay the expenses of the National Small Business Development Center Advisory Board as provided in subsection 21(h), and (3) to reimburse centers for participation in evaluations as provided in subsection 21(j)."

97 Stat. 1125.
15 USC 648 note.

SEC. 4. Section 204 of the Small Business Development Center Act of 1980 (Public Law 96-302), as amended, is further amended by striking "January 1, 1985" and by inserting in lieu thereof "October 1, 1990".

15 USC 636.

SEC. 5. Section 7(d)(1) of the Small Business Act is amended to read as follows:

"(d)(1) The Administration shall not fund any Small Business Development Center or any variation thereof, except as authorized in section 21 of this Act."

Approved August 21, 1984.

LEGISLATIVE HISTORY—S. 1429 (H.R. 4013) (HR. 5334):

HOUSE REPORTS: No. 98-739 accompanying H.R. 5334 (Comm. on Small Business) and No. 98-955 (Comm. of Conference).

SENATE REPORT No. 98-309 (Comm. on Small Business).

CONGRESSIONAL RECORD:

Vol. 129 (1983): Nov. 17, considered and passed Senate.

Vol. 130 (1984): May 14, H.R. 5334 considered and passed House; S. 1429, amended, passed in lieu.

Aug. 6, Senate agreed to conference report.

Aug. 8, House agreed to conference report.

Public Law 98-396
98th Congress

An Act

Making supplemental appropriations for the fiscal year ending September 30, 1984,
and for other purposes.Aug. 22, 1984
[H.R. 6040]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to supply supplemental appropriations for the fiscal year ending September 30, 1984, and for other purposes, namely:

Second
Supplemental
Appropriations
Act, 1984.

TITLE I

CHAPTER I

DEPARTMENT OF AGRICULTURE

AGRICULTURAL RESEARCH SERVICE

BUILDINGS AND FACILITIES

For an additional amount for acquisition of land, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of or used by the Agricultural Research Service, \$50,200,000, to remain available until expended.

The Secretary of Agriculture may transfer the public use restrictions on land conveyed to Oklahoma State University in 1954 from that land to land of equal or greater value, as determined by the Secretary.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

SALARIES AND EXPENSES

For an additional amount for expenses, not otherwise provided for, necessary to prevent, control, and eradicate pests and plant and animal diseases; to carry out inspection, quarantine, and regulatory activities; and to protect the environment, as authorized by law, \$1,500,000.

AGRICULTURAL MARKETING SERVICE

None of the funds appropriated or made available under this or any other Act for fiscal year 1984 may be used by the Secretary of Agriculture to implement any amendment to an order applicable to a fruit, vegetable, nut or specialty crop issued pursuant to section 8c of the Agricultural Adjustment Act, as amended and reenacted by the agricultural Marketing Agreement Act of 1937 (7 U.S.C. 608c), unless each such amendment thereto is submitted to a separate vote.

50 Stat. 246.
7 USC 601.

FEDERAL CROP INSURANCE CORPORATION

SUBSCRIPTION TO CAPITAL STOCK

To enable the Secretary of the Treasury to subscribe and pay for additional capital stock of the Federal Crop Insurance Corporation, as provided in section 504(a) of the Federal Crop Insurance Act (7 U.S.C. 1504), \$50,000,000.

FARMERS HOME ADMINISTRATION

PREVENTING FARM FORECLOSURES

The \$250,000,000 transferred to insured and guaranteed operating loans on July 9, 1984, by the Secretary of Agriculture is available to prevent foreclosure of farm loans through extending the period of repayment of existing loans or refinancing of loans, or other means, as authorized by 7 U.S.C. 1981a.

Should such sum be insufficient to meet the need to extend or to refinance farm loans to avoid foreclosure, the Commodity Credit Corporation has authority under law to provide this type of financial assistance in order to protect farm income and provide for adequate supplies of food and fiber as authorized by 15 U.S.C. 714.

AGRICULTURAL CREDIT INSURANCE FUND

Additional loans may be insured or guaranteed, or made to be sold and insured, under this fund in accordance with and subject to the provisions of 7 U.S.C. 1928-1929, as follows: farm ownership loans, \$25,000,000; and guaranteed operating loans, \$150,000,000, to remain available until September 30, 1985.

RURAL HOUSING PRESERVATION GRANTS

97 Stat 1250. For grants for rural housing preservation, as authorized by section 522 of the Housing and Urban-Rural Recovery Act of 1983 (Public Law 98-181), \$15,000,000, to remain available until September 30, 1985.

SOIL CONSERVATION SERVICE

WATERSHED AND FLOOD PREVENTION OPERATIONS

For an additional amount for emergency measures as provided by sections 403-405 of the Agricultural Credit Act of 1978 (16 U.S.C. 2203-2205), \$12,000,000, to remain available until expended, as authorized by 16 U.S.C. 2204.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

EMERGENCY CONSERVATION PROGRAM

16 USC 2201, 2202, 2204. For an additional amount for emergency measures as provided by sections 401, 402, and 404 of the Agricultural Credit Act of 1978 (16 U.S.C. 2201-2205), \$12,000,000, to remain available until expended, as authorized by 16 U.S.C. 2204.

1985 WHEAT PROGRAM

Notwithstanding any other provision of law, in carrying out acreage limitation and land diversion programs for the 1985 crop of wheat, the Secretary shall permit all or any part of the acreage diverted from production under such programs by participating producers to be devoted to grazing except during five of the principal growing months, as determined for each State by the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act.

16 USC 590h.

FOOD AND NUTRITION SERVICE

FOOD STAMP PROGRAM

For an additional amount for the "Food stamp program", \$700,000,000.

FOOD DONATIONS PROGRAMS

Funds provided for the "Food donations programs" for 1984 shall remain available until September 30, 1985.

FOREIGN AGRICULTURAL SERVICE

PUBLIC LAW 480

For an additional amount for "Public Law 480", for financing the sale of agricultural commodities for convertible foreign currencies and for dollars on credit terms, pursuant to titles I and III of said Act, \$175,000,000, of which \$175,000,000 is hereby appropriated, to remain available until September 30, 1985.

7 USC 1691 note

7 USC 1701,
1727.

RELATED AGENCIES

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

BUILDINGS AND FACILITIES

For plans, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of or used by the Food and Drug Administration, where not otherwise provided, \$13,867,000, to remain available until expended.

CHAPTER II

DEPARTMENT OF COMMERCE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", \$3,700,000, to remain available until expended.

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For an additional amount for "Economic development assistance programs", \$26,000,000, to remain available until expended, pursuant to 42 U.S.C. 3151(f) of which \$7,000,000 is for a grant to the Institute for Technology Development in the State of Mississippi, and of which \$19,000,000 is for a grant to Boston University in the State of Massachusetts, for the construction and related costs of the university engineering and technical training center.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for "Operations, research, and facilities", \$9,255,000, to remain available until expended: *Provided*, That \$750,000 shall be made available to the Year of the Ocean Foundation, of which \$250,000 shall be made available contingent on a matching fund basis from private sources.

NATIONAL BUREAU OF STANDARDS

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For an additional amount for "Scientific and technical research and services", \$4,900,000, to remain available until expended.

RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

OPERATIONS AND TRAINING

For an additional amount for "Operations and training", \$2,500,000, to remain available until expended: *Provided*, That these funds shall be made available to the "Association for the Preservation of the Yacht, Potomac" only when matched by an additional \$2,500,000 in contributions from State or local governments or private sources. In addition, for the acquisition and preconversion costs for a training vessel to be used at the State University of New York Maritime College, \$8,500,000, to remain available until expended, of which not to exceed \$1,000,000 shall be used for preconversion costs: *Provided further*, That these funds shall be made available for obligation six months following the enactment of this Act only if a suitable surplus vessel has not been made available to the State University of New York Maritime College: *Provided further*, That all appropriate Federal agencies are hereby authorized and shall expedite making any vessel of this class available which is declared surplus by a Federal agency and that upon the bona fide sale, approved by the Maritime Administration, of the current schoolship utilized by the State University of New York Maritime College, the proceeds of such sale shall be applied by the Maritime Administration toward the rehabilitation of the schoolship acquisition provided for herein.

INTERNATIONAL TRADE COMMISSION

SALARIES AND EXPENSES

For an additional amount for “Salaries and expenses”, \$250,000.

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

SALARIES AND EXPENSES

For an additional amount for “Salaries and expenses”, \$500,000.

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

In the appropriation language under this head in Public Law 98-166, delete “of which \$556,000 is to remain available until expended for the Federal Justice Research Program”. 97 Stat. 1080.

WORKING CAPITAL FUND

For additional capital, \$800,000, to remain available until expended and to be derived from current operating income.

UNITED STATES PAROLE COMMISSION

SALARIES AND EXPENSES

For an additional amount for “Salaries and expenses”, \$449,000.

GENERAL LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For an additional amount for “Salaries and expenses, general legal activities”, \$7,882,000: *Provided*, That of amounts appropriated under this head for fiscal year 1984, not to exceed \$10,374,000 for litigation support contracts shall remain available until September 30, 1985.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS AND MARSHALS

(TRANSFER OF FUNDS)

For an additional amount for “Salaries and expenses, United States attorneys and marshals”, \$4,936,000 of which \$3,855,000 is to be derived by transfer from “Support of United States Prisoners”: *Provided*, That \$1,100,000 shall remain available until September 30, 1985, for the United States Attorney’s office in the District of Columbia for the purpose of relocating, renovating, installing equipment, and renting space: *Provided further*, That \$1,436,000 shall be available until September 30, 1985, for the purpose of paying salaries and expenses of employees supporting the District of Columbia Superior Court.

SUPPORT OF UNITED STATES PRISONERS

For an additional amount for "Support of United States Prisoners", \$5,000,000, to remain available until expended: *Provided*, That this amount shall be for the Cooperative Agreement Program and shall be subject to the same terms and conditions applicable to this program in Public Law 98-166 under the heading "Support of United States Prisoners". In addition to the amount made available in the appropriation under this head, the language governing the Cooperative Agreement Program for fiscal years 1982, 1983, 1984, and 1985, and hereafter is amended to permit State and local jail systems to renovate, construct, and equip facilities that will house non-Federal prisoners: *Provided*, That such expenditure is made under agreements with State and local jail systems which make space of equal or greater value available to house Federal prisoners than would otherwise have been provided under the conditions established by the relevant appropriations Acts.

FEES AND EXPENSES OF WITNESSES

97 Stat. 1082.

Funds appropriated under this head in Public Law 98-166 shall be available for use of facilities required as command posts in the protection of witnesses, and for official phone calls made from command posts.

Of funds appropriated under this head in Public Law 98-166, not to exceed \$850,000 shall be available for planning, construction, renovation, maintenance, remodeling, and repair of buildings and the purchase of equipment incident thereto for protected witness safesites.

INTERAGENCY LAW ENFORCEMENT

ORGANIZED CRIME DRUG ENFORCEMENT

Of funds available under the above head, \$10,692,000 for purchase of automated data processing and telecommunication equipment and \$7,773,000 for undercover operations shall remain available until September 30, 1985.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses, Federal Prison System" \$15,760,000, of which \$8,500,000 shall be available until September 30, 1985.

NATIONAL INSTITUTE OF CORRECTIONS

For an additional amount for "National Institute of Corrections", \$3,300,000, to remain available until expended.

GENERAL PROVISION

International
Criminal Police
Organization
(INTERPOL).

Notwithstanding the provisions of 31 U.S.C. 1342, the Attorney General is hereby authorized to accept, receive, hold, and administer on behalf of the United States, gifts of money, personal property,

and services, for the purpose of hosting the meeting of the General Assembly of the International Criminal Police Organization (INTERPOL) in the United States in September and October, 1985. All moneys received for this purpose shall be credited to the appropriation "Salaries and expenses, general legal activities" notwithstanding 31 U.S.C. 3302. The Attorney General is further authorized to use otherwise available funds from the appropriation "Salaries and expenses, general legal activities" for fiscal years 1984, 1985, and 1986 as he deems necessary, to pay expenses of hosting such General Assembly meeting, including but not limited to reception and representation expenses. The authority of the Attorney General under this section shall continue through September 30, 1986.

Expiration date.

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For an additional amount for "Salaries and expenses", \$279,000, and in addition, \$4,723,000, to be derived by transfer from "Contributions to international organizations" and \$10,879,000, to be derived by transfer from "Contributions for international peacekeeping activities": *Provided*, That of the funds appropriated under this heading in Public Law 97-275, \$3,500,000 shall remain available until September 30, 1985.

96 Stat. 1185.

ACQUISITION, OPERATION, AND MAINTENANCE OF BUILDINGS ABROAD

For an additional amount for "Acquisition, operation, and maintenance of buildings abroad", \$17,140,000, to remain available until expended: *Provided*, That of the funds appropriated under this heading in Public Law 97-275, \$3,000,000 shall remain available until September 30, 1985.

96 Stat. 1185.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For an additional amount for "Payment to the Foreign Service retirement and disability fund", \$5,399,000.

RELATED AGENCIES

BOARD FOR INTERNATIONAL BROADCASTING

GRANTS AND EXPENSES

Notwithstanding section 8(b) of the Board for International Broadcasting Act of 1973, as amended, the amounts placed in reserve, or which would be placed in reserve, in fiscal year 1984 pursuant to that section, shall be available to the Board for carrying out that Act until September 30, 1985.

22 USC 2877.

CHRISTOPHER COLUMBUS QUINCENTENARY JUBILEE COMMISSION

For necessary expenses for the Christopher Columbus Quincentenary Jubilee Commission as authorized by the Christopher Colum-

bus Quincentenary Jubilee Act, \$220,000, to remain available until expended.

THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

CARE OF THE BUILDING AND GROUNDS

For an additional amount for "Care of the building and grounds", \$600,000, to remain available until expended: *Provided*, That this additional amount shall be available for obligation without regard to section 3709 of the Revised Statutes, as amended.

41 USC 5.

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

DEFENDER SERVICES

For an additional amount for "Defender services", \$4,000,000, to remain available until expended.

EXPENSES OF OPERATION AND MAINTENANCE OF THE COURTS

For an additional amount for "Expenses of Operation and Maintenance of the Courts", \$1,125,000, to remain available until expended.

BANKRUPTCY COURTS, SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Bankruptcy Courts, salaries and expenses", \$2,500,000, and in addition, \$1,000,000, to be derived by transfer from "Space and Facilities".

CHAPTER III

DEPARTMENT OF DEFENSE—MILITARY

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For an additional amount for "Military personnel, Army", \$3,200,000.

MILITARY PERSONNEL, MARINE CORPS

For an additional amount for "Military personnel, Marine Corps", \$2,800,000.

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For an additional amount for "Operation and maintenance, Army", \$81,400,000, and in addition, the amount available under this heading that can be used for emergencies and extraordinary expenses is increased to \$11,098,000.

OPERATION AND MAINTENANCE, NAVY

For an additional amount for "Operation and maintenance, Navy", \$107,400,000.

OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for "Operation and maintenance, Marine Corps", \$14,200,000.

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for "Operation and maintenance, Air Force", \$41,200,000, and in addition, the amount available under this heading that can be used for emergencies and extraordinary expenses is increased to \$5,020,000.

OPERATION AND MAINTENANCE, DEFENSE AGENCIES

For an additional amount for "Operation and maintenance, Defense Agencies", \$20,400,000.

OPERATION AND MAINTENANCE, ARMY RESERVE

For an additional amount for "Operation and maintenance, Army Reserve", \$1,300,000.

OPERATION AND MAINTENANCE, NAVY RESERVE

For an additional amount for "Operation and maintenance, Navy Reserve", \$500,000.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For an additional amount for "Operation and maintenance, Air Force Reserve", \$2,600,000.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For an additional amount for "Operation and maintenance, Army National Guard", \$4,300,000.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For an additional amount for "Operation and maintenance, Air National Guard", \$2,600,000.

PROCUREMENT

OTHER PROCUREMENT, AIR FORCE

For an additional amount for "Other Procurement, Air Force", \$50,000,000, to remain available for obligation until September 30, 1986.

GENERAL PROVISIONS

Section 731 of the Department of Defense Appropriation Act, 1984 (Public Law 98-212), is hereby repealed.

Repeal.
97 Stat. 1444.

Section 765(c) of the Department of Defense Appropriation Act, 1984 (Public Law 98-212), is hereby repealed.

97 Stat. 1450.

Aircraft and air
carriers.
97 Stat. 1453.

Section 781 of the Department of Defense Appropriation Act, 1984 (Public Law 98-212), is hereby amended by inserting the following language at the end of the provision: "This limitation shall apply only to ejection seats procured for installation on aircraft produced or assembled in the United States."

Overseas
military
personnel
dependent
students.
97 Stat. 1456.
37 USC 430 note.

Section 799B of the Department of Defense Appropriation Act, 1984 (Public Law 98-212), is hereby amended to read as follows:

"SEC. 799B. Within the funds made available under title III of this Act, the military departments may use such funds as necessary, but not to exceed \$4,461,000, to carry out the provisions of section 430 of title 37, United States Code: *Provided*, That after August 31, 1984, none of the funds appropriated to the Department of Defense for the travel and transportation of dependent students of military personnel stationed overseas shall be obligated for a transportation allowance for travel within or between the contiguous United States."

Petroleum and
petroleum
products.

None of the funds available to the Department of Defense may be used for the floating storage of petroleum or petroleum products except in vessels of or belonging to the United States.

(TRANSFER OF FUNDS)

Highland Falls-
Fort
Montgomery,
N.Y.

Of the funds made available to the Department of Defense, \$300,000 shall be transferred to the Department of Education which shall grant such sum to the Board of Education of the Highland Falls-Fort Montgomery, New York central school district. The funds transferred by this section shall be in addition to any assistance to which the Board may be entitled under subchapter 1, chapter 13 of title 20, United States Code.

20 USC 236.

(TRANSFER OF FUNDS)

Vessels.

Of the amount available to the Department of Defense within the "Shipbuilding and Conversion, Navy 1980/1984" appropriation, not less than \$52,000,000 shall be transferred to the "Shipbuilding and Conversion, Navy 1984/1988" appropriation for the procurement of roll-on/roll-off strategic sealift vessels for the National Defense Reserve Fleet, to remain available for obligation until September 30, 1988.

An additional \$336,200,000 shall be available for the battleship Missouri reactivation from amounts appropriated in "Shipbuilding and Conversion, Navy, 1984/1988".

Aircraft and air
carriers

Of the amounts available for "Aircraft Procurement, Air Force, 1984/1986", \$64,200,000 shall be available only for the purchase of at least thirty-two B-707 aircraft.

CHAPTER IV

DEPARTMENT OF DEFENSE

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

CONSTRUCTION, GENERAL

For an additional amount for "Construction, general", to enable the Secretary of the Army, acting through the Chief of Engineers, pursuant to Public Law 98-213, to be agent for and to allow the

97 Stat. 1459.

construction, operation, maintenance and training of personnel of the hydroelectric project authorized pursuant to section 101 of Public Law 96-205, \$8,000,000, to remain available until expended.

48 USC 1681
note.

GENERAL PROVISION

Notwithstanding any other provision of law, there is hereby appropriated the sum of \$2,000,000, to remain available until expended, to pay for flood damages (not to exceed \$2,000,000) resulting from equipment malfunction and subsequent operation of the W. G. Huxtable Pumping Station, St. Francis River, near Marianna, Arkansas, during May and June 1983.

Flood control.
St. Francis
River, Ark.

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

CONSTRUCTION PROGRAM

Of the total amount appropriated in Public Law 94-438 for payment of claims resulting from the Teton Dam failure, \$10,300,000 may be used to perform work on the Colorado River Front Work and Levee System.

90 Stat. 1415.

If the State of Washington, the Yakima Indian Nation, or any other entity, public or private, prior to an authorization or the providing of an appropriation of funds to the Secretary of the Interior to construct the Yakima River Basin Water Enhancement Project (hereinafter, Yakima Enhancement Project), shares in the costs of or constructs any physical element of that project, including any reregulating dam or fish passage facility, and conveys the same to the United States, the costs incurred by the State, the Yakima Indian Nation, or any other entity in the construction of such elements shall be credited to the total amount of any costs to be borne by the State, the Yakima Indian Nation, or any other entity as contributions toward payment of the cost of the Yakima Enhancement Project; except that no such credit shall be given for any element constructed by the State, the Yakima Indian Nation, or any other entity unless the element has been approved by the Secretary of the Interior prior to its construction. The Secretary shall grant such approval, when requested by the State, the Yakima Indian Nation, or other entity, if the Secretary determines that the element proposed for construction would be an integral part of the Yakima Enhancement Project. The Secretary is authorized to accept title to any reregulating dam or fish passage facility constructed by the State, the Yakima Indian Nation, or any other entity, pursuant to this section, without giving compensation therefor, and thereafter to operate and maintain such facilities. Any such facility shall be operated by the Secretary in a manner consistent with the treaty rights of the Yakima Indian Nation, Federal reclamation law, and water rights established pursuant to State law, including the valid contract rights of irrigation users. The Secretary of the Interior shall negotiate and enter into agreements for the payment of operation and maintenance costs pursuant to Federal reclamation law and other applicable law: *Provided*, That operation and maintenance costs related to anadromous fish, including costs at facilities in the Yakima River Basin authorized to be constructed by the Secretary of the Interior, which are in excess of present obligations,

as determined by the Secretary, shall be nonreimbursable and nonreturnable.

ADMINISTRATIVE PROVISION

A sum of \$6,000,000 allocated to flood control work on the Gila River Channel, within the Wellton-Mohawk Irrigation and Drainage District, Gila Project, Arizona, shall be nonreimbursable and nonreturnable under Federal reclamation law.

INDEPENDENT AGENCIES

FUNDS APPROPRIATED TO THE PRESIDENT

APPALACHIAN REGIONAL DEVELOPMENT PROGRAMS

For an additional amount to carry out the programs authorized by the Appalachian Regional Development Act of 1965, as amended, \$5,000,000 to remain available until expended.

CHAPTER V

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

42 USC 1437c.

12 USC 1715z.

The amount of contracts for annual contributions, not otherwise provided for, as authorized by section 5 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437c), is increased by \$15,000,000: *Provided*, That such contract authority shall be used for the homeownership assistance program under section 235 of the National Housing Act, as amended (12 U.S.C. 1715z), notwithstanding the provisions of the last two sentences of section 235(h)(1) of the National Housing Act, as amended, and notwithstanding that the foregoing contract authority is not authorized under section 5(c)(1) of the United States Housing Act of 1937, as amended: *Provided further*, That the budget authority obligated under such contracts shall be increased above amounts heretofore provided in appropriation Acts by \$150,000,000: *Provided further*, That none of the authority provided herein shall be for the homeownership assistance program authorized by section 235(q) of the National Housing Act, as amended.

RENTAL HOUSING ASSISTANCE

(RESCISSION)

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 236 of the National Housing Act (12 U.S.C. 1715z-1), is further reduced in fiscal year 1984 by not more than \$21,912,000 in uncommitted balances of authorizations provided for this purpose in appropriation Acts.

PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

The funds appropriated under this heading in the Department of Housing and Urban Development-Independent Agencies Appropria-

tion Act, 1984 (Public Law 98-45), shall remain available for obligation for the fiscal year ending September 30, 1985, and shall be used by the Secretary for fiscal year 1985 requirements in accordance with section 9(a), notwithstanding section 9(d) of the United States Housing Act of 1937, as amended.

97 Stat. 219.

42 USC 1437g.

COMMUNITY PLANNING AND DEVELOPMENT

URBAN HOMESTEADING

Of the funds appropriated under this heading in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1984 (Public Law 98-45), not more than \$1,000,000 shall be available for the demonstration program authorized pursuant to section 810(i), and for the evaluation of such demonstration program pursuant to section 810(j) of the Housing and Community Development Act of 1974, as amended.

Ante, p. 219.97 Stat. 1171.
12 USC 1706e.

POLICY DEVELOPMENT AND RESEARCH

RESEARCH AND TECHNOLOGY

For an additional amount for "Research and technology", \$200,000, to remain available until September 30, 1985.

ENVIRONMENTAL PROTECTION AGENCY

RESEARCH AND DEVELOPMENT

For an additional amount for "Research and development", \$3,000,000, to remain available until September 30, 1985.

ABATEMENT, CONTROL, AND COMPLIANCE

For an additional amount for "Abatement, control, and compliance", \$50,000,000, to remain available until expended: *Provided*, That this amount shall be available for the purposes of the Asbestos School Hazards Abatement Act of 1984 (including up to 10 per centum for administrative expenses as provided for in said Act): *Provided further*, That this sum shall not be available for asbestos removal projects until the Environmental Protection Agency develops comprehensive guidelines to classify and evaluate asbestos hazards and appropriate abatement options.

Asbestos.

Ante, p. 1287

HAZARDOUS SUBSTANCE RESPONSE TRUST FUND

For an additional amount to carry out the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, \$50,000,000, to be derived from the Hazardous Substance Response Trust Fund, to remain available until expended: *Provided*, That the limitation on administrative expenses of the Hazardous Substance Response Trust Fund is increased to \$66,989,000.

42 USC 9601
note.

CONSTRUCTION GRANTS

Notwithstanding any other provision of law, for an additional amount for "Construction grants", \$5,000,000, for initial planning and design of an operable sewage treatment facility at or adjacent to San Diego, California for the purpose only of intercepting and

President of U.S.

treating wastewater originating in Mexico, to remain available until September 30, 1986: *Provided*, That the total Federal contribution of the facility shall not exceed \$32,000,000: *Provided further*, That any facility constructed with these funds shall not have a treatment capacity exceeding 30,000,000 gallons per day: *Provided further*, That such funds shall, prior to receipt of any reimbursements, represent not more than 90 per centum of the initial planning and design cost: *Provided further*, That construction funds shall not be made available unless the President of the United States certifies to the Congress that the Government of Mexico has agreed to reimburse the United States for the cost of such facility in such a manner as the President of the United States in his discretion deems acceptable.

EXECUTIVE OFFICE OF THE PRESIDENT

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF
ENVIRONMENTAL QUALITY

97 Stat. 1153.

42 USC 4321
note.42 USC 4371
note.3 USC note prec.
101.

Of the amounts appropriated under this heading in Public Law 98-181, \$175,000 shall be available for the necessary expenses of the Council on Environmental Quality and the Office of Environmental Quality, in carrying out their functions under the National Environmental Policy Act of 1969 (Public Law 91-190), the Environmental Quality Improvement Act of 1970 (Public Law 91-224), and Reorganization Plan No. 1 of 1977, to remain available until September 30, 1985.

FEDERAL EMERGENCY MANAGEMENT AGENCY

EMERGENCY FOOD AND SHELTER PROGRAM

There is hereby appropriated \$70,000,000 to the Federal Emergency Management Agency, to remain available until December 31, 1984, to carry out an emergency food and shelter program. Notwithstanding any other provision of this or any other Act, such amount shall be made available under the terms and conditions of the following paragraphs:

The Director of the Federal Emergency Management Agency shall, as soon as practicable after enactment of this Act, constitute a national board for the purpose of determining how the program funds are to be distributed to individual localities. The national board shall consist of seven members. The United Way of America, the Salvation Army, the National Council of Churches of Christ in the U.S.A., the National Conference of Catholic Charities, the Council of Jewish Federations, Inc., the American Red Cross, and the Federal Emergency Management Agency shall each designate a representative to sit on the national board. The representative of the Federal Emergency Management Agency shall chair the national board.

Each locality designated by the national board to receive funds shall constitute a local board for the purpose of determining how its funds will be distributed. The local board shall consist, to the extent practicable, of representatives of the same organizations as the national board except that the mayor or appropriate head of government will replace the Federal Emergency Management Agency member.

The Director of the Federal Emergency Management Agency shall award a grant for \$70,000,000 to the national board within thirty days after enactment of this Act for the purpose of providing emergency food and shelter to needy individuals through private voluntary organizations and through units of local government.

Eligible private voluntary organizations should be nonprofit, have a voluntary board, have an accounting system, and practice nondiscrimination.

Participation in the program should be based upon a private voluntary organization's or unit of local government's ability to deliver emergency food and shelter to needy individuals and such other factors as are determined by the local boards.

Total administrative costs shall not exceed 2 per centum of the total appropriation.

As authorized by the Charter of the Commodity Credit Corporation, the Corporation shall process and distribute surplus food owned or to be purchased by the Corporation under the food distribution and emergency shelter program in cooperation with the Federal Emergency Management Agency.

EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

For an additional amount for "Emergency management planning and assistance", \$2,000,000, to remain available until September 30, 1986: *Provided*, That this amount shall be for expenses under section 1362 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4103, 4127).

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

RESEARCH AND DEVELOPMENT

The National Aeronautics and Space Administration is authorized, notwithstanding any other provision of law, to acquire for and otherwise take such actions as the Administrator deems necessary to provide to the National Science Foundation, on a reimbursable basis, a Class VI Computer, with accompanying peripheral equipment as requested by the Foundation. NASA is further authorized to lease as a replacement on a two year basis, a compatible upgraded computer, with such peripheral equipment as it deems necessary to conduct requisite research operations. \$13,000,000 is appropriated only for this purpose and shall remain available until expended.

Of the funds appropriated under this heading in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1983 (Public Law 97-272), \$20,000,000 shall remain available for obligation for the fiscal year ending September 30, 1985, and shall be used only for the Advanced Communications Technology Satellite (ACTS) flight test development program.

96 Stat. 1169.

NATIONAL INSTITUTE OF BUILDING SCIENCES

SALARIES AND EXPENSES

For payment to the National Institute of Building Sciences as authorized by section 809 of the Housing and Community Development Act of 1974, as amended (12 U.S.C. 1701j-2), \$250,000.

TRUST FUND

12 USC 1701j-2
note.

There is appropriated out of funds not otherwise appropriated, the sum of \$5,000,000 to a "National Institute of Building Sciences Trust Fund" which is hereby established in the Treasury of the United States: *Provided*, That the Secretary shall invest such funds in U.S. Treasury special issue securities at a fixed rate of ten per centum per annum, that such interest shall be credited to the Trust Fund on a quarterly basis, and that the Secretary shall make quarterly disbursements from such interest to the National Institute of Building Sciences: *Provided further*, That the total amount of such payment during any fiscal year may not exceed \$500,000 or the amount equivalent to non-Federal funds received by the Institute during the preceding fiscal year, whichever is less: *Provided further*, That any amount of interest not used for any such annual payment shall be paid into the general fund of the Treasury: *Provided further*, That the appropriation of \$5,000,000 made in this paragraph shall revert to the Treasury, on October 1, 1989, and the National Institute of Building Sciences Trust Fund shall terminate following the final quarterly disbursement of interest provided for in this paragraph.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

The National Science Foundation is authorized to receive, from the National Aeronautics and Space Administration, a Class VI Computer, with such accompanying peripheral equipment as NASA makes available, and, upon receipt, to transfer said computer and peripheral equipment to an institution of higher education under such terms as it deems appropriate. The Foundation is directed to reimburse NASA for the costs of such transfer. Funds in the amount of \$1,500,000 are appropriated for this purpose and shall remain available until expended.

NEIGHBORHOOD REINVESTMENT CORPORATION

For an additional amount for the Neighborhood Reinvestment Corporation, \$500,000, to remain available until expended.

VETERANS ADMINISTRATION

COMPENSATION AND PENSIONS

For an additional amount for "Compensation and pensions", \$284,900,000, to remain available until expended.

READJUSTMENT BENEFITS

For an additional amount for "Readjustment benefits", \$82,200,000, to remain available until expended.

MEDICAL CARE

For an additional amount for "Medical care", \$15,000,000: *Provided*, That the amount available in the current fiscal year for expenses of travel is increased by \$1,000,000.

GENERAL OPERATING EXPENSES

For an additional amount for “General operating expenses”, \$3,588,000.

LOAN GUARANTY REVOLVING FUND

For expenses necessary to carry out loan guaranty and insurance operations, as authorized by law (38 U.S.C. chapter 37, except administrative expenses, as authorized by section 1824 of such title), \$100,000,000, to remain available until expended.

38 USC 1801 *et seq.*
38 USC 1824.

GENERAL PROVISION

The language “without the approval of the Committees on Appropriations” contained in “Title IV, General Provisions, Section 409” in Public Law 98-371 is hereby repealed.

Ante, p 1237

CHAPTER VI

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

For an additional amount for “Management of lands and resources”, \$44,141,000: *Provided*, That funds available under this head are available to acquire land in the vicinity of Doyle, California, now leased to the Bureau of Land Management by the State of California.

CONSTRUCTION AND ACCESS

For an additional amount for “Construction and access”, \$1,370,000, to remain available until expended.

LAND ACQUISITION

For an additional amount for “Land acquisition”, \$4,500,000, to remain available until expended, for expenses necessary to carry out the provisions of section 11 of Public Law 93-531, as amended, including administrative expenses and acquisition of lands or waters, or interest therein.

25 USC 640d-10.

ADMINISTRATIVE PROVISION

The first section of the Educational Mining Act of 1982 (96 Stat. 2031), is amended by deleting the phrase “comprising approximately seventy-six acres”, and by amending the land description to read “That portion of Mineral Survey 2407, Alaska, situated in Sections 8 and 9, Township 2 North, Range 1 East, Fairbanks Meridian, Alaska, as depicted on the Supplemental Plat of Sections 8 and 9 that was accepted for the Director, Bureau of Land Management, on March 24, 1983, comprising approximately 59.59 acres.”

Notwithstanding the provisions of section 906(f)(2) of the Alaska National Interest Lands Conservation Act (94 Stat. 2440), the State of Alaska may relinquish its selection, under section 6(b) of the Alaska Statehood Act (72 Stat. 340), of the public lands described in the Educational Mining Act of 1982, as amended by this Act.

43 USC 1635.

96 Stat. 2031.

Ante, p. 1385.

Notwithstanding the provisions of section 2 of the Educational Mining Act of 1982, within thirty days of the date of receipt by the Secretary of the Interior of the State of Alaska's relinquishment of its selection, under section 6(b) of the Alaska Statehood Act (72 Stat. 340), of the lands described in the Educational Mining Act of 1982, as amended by this Act, or the date of the enactment of this Act or the date upon which all the requirements of the Educational Mining Act of 1982 are satisfied, whichever occurs last, the Secretary of the Interior is directed to convey to the University of Alaska whatever right, title and interest the United States has in the approximately 59.59 acres of land described in the Educational Mining Act of 1982.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For an additional amount for "Resource management", \$1,785,000, of which \$300,000 for pine vole research shall remain available for obligation until September 30, 1985.

CONSTRUCTION AND ANADROMOUS FISH

For an additional amount for "Construction and anadromous fish", \$6,630,000, to remain available until expended.

LAND ACQUISITION

For an additional amount for "Land acquisition", \$10,000,000, to be derived from the Land and Water Conservation Fund, to remain available until expended, for the acquisition of land or waters, or interest therein, in the Atchafalaya Basin, Louisiana, in accordance with statutory authority applicable to the United States Fish and Wildlife Service, including the Fish and Wildlife Act of 1956.

16 USC 742a
note.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

97 Stat. 923.

16 USC 462.
Repeal.

16 USC 461 note.

For an additional amount for "Operation of the national park system", \$6,100,000: *Provided*, That of the funds appropriated under this heading in Public Law 98-146, and unobligated as of September 30, 1984, \$180,000 shall remain available for obligation until September 30, 1985, of which \$30,000 is to be made available for the operation, maintenance and protection of the several archaeological and historic sites at South Point on the Big Island of Hawaii, as authorized by subsection 2(e) of the Act of August 21, 1935 (49 Stat. 666), and of which \$150,000 is to be made available for the operation and maintenance of the New River Gorge National River: *Provided further*, That section 3 of the Act entitled "An Act to improve the administration of the Historic Sites, Buildings and Antiquities Act of 1935 (49 Stat. 666)", approved September 8, 1980 (Public Law 96-344), is repealed.

CONSTRUCTION

For an additional amount for "Construction", \$22,653,000, to remain available until expended.

LAND AND WATER CONSERVATION FUND

(RESCISSION)

The contract authority provided for fiscal year 1984 by 16 U.S.C. 16 USC 4601-10a. 4601-10a is rescinded.

LAND ACQUISITION AND STATE ASSISTANCE

For an additional amount for "Land acquisition and State assistance", \$30,000,000, to be derived from the Land and Water Conservation Fund, to remain available until expended.

GEOLOGICAL SURVEY

BARROW AREA GAS OPERATION, EXPLORATION, AND DEVELOPMENT

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out the provisions of Public Law 98-366, \$30,000,000, of which \$17,000,000 shall be derived by transfer from "Exploration of the National Petroleum Reserve in Alaska", to remain available until expended. *Ante*, p 468.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

REGULATION AND TECHNOLOGY

For an additional amount for "Regulation and technology", \$4,775,000.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For an additional amount for "Operation of Indian Programs", \$27,000,000: *Provided*, That for fiscal year 1984, no more than \$19,700,000 in total may be obligated or expended for any activities related to automatic data processing operations: *Provided further*, That the Act making Supplemental Appropriations for fiscal year 1983 (Public Law 98-63: 97 Stat. at 326 and 327) is amended under the heading "Bureau of Indian Affairs" and the subheading "Operation of Indian Programs" as follows:

(1) delete the words "no more than 15.25 acres, excluding roads" and insert in lieu thereof: "30 acres, excluding roads as described in the Memorandum of Understanding dated June, 1984 between the Alaska Area Native Health Service and the Department of Education of the State of Alaska. Such description shall be published in the Federal Register by the Secretary of the Interior".

(2) delete the first sentence in the second undesignated paragraph and insert in lieu thereof:

"No final conveyance of any title, interest, or right shall be made unless the State of Alaska has executed an agreement by October 1, 1984 to begin operating a Mount Edgecumbe boarding school facility no later than September 30, 1985, and does in fact open such a facility for school operations by September 30, 1985. To assist the State of Alaska in opening such a facility, and notwithstanding the provisions of title 31 U.S.C. 6308, the \$22,000,000 appropriated under this heading for use by the State of Alaska in renovating the Mount

Edgecumbe school shall be made immediately available, in full, to the State of Alaska upon the execution of the aforementioned agreement, but such funds shall only be expended for facilities to be located within the lands conveyed by this statute. A failure on the part of the State of Alaska to begin operating a Mount Edgecumbe boarding school facility no later than September 30, 1985 shall cause the interim conveyance made under this heading to terminate.”.

(3) insert before the period at the end of the third sentence of the third undesignated paragraph the following: “if the State of Alaska opens a Mount Edgecumbe boarding school facility for school operations by September 30, 1985; if the State of Alaska does not open such a facility for school operations by September 30, 1985, then the interim conveyance terminates as of October 1, 1985, and all interest in the lands covered by the interim conveyance, together with all improvements thereon, revert to the United States”: *Provided further*, That of the unobligated balances in “Construction”, \$856,405 is hereby transferred to “Operation of Indian programs”.

CONSTRUCTION

For an additional amount for “Construction”, \$17,000,000, to remain available until expended.

TERRITORIAL AND INTERNATIONAL AFFAIRS

ADMINISTRATION OF TERRITORIES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Administration of territories”, \$2,440,000, and \$250,000 to be derived by transfer from unobligated balances of grants to the judiciary in American Samoa for compensation and expenses, to remain available until expended.

TRUST TERRITORY OF THE PACIFIC ISLANDS

For an additional amount for “Trust Territory of the Pacific Islands”, \$2,000,000, to remain available until expended.

RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

NATIONAL FOREST SYSTEM

For an additional amount for “National forest system”, \$34,301,000.

LAND ACQUISITION

For an additional amount for “Land acquisition”, \$1,500,000, to be derived from the Land and Water Conservation Fund, to remain available until expended.

ADMINISTRATIVE PROVISION

Notwithstanding section 202(a) of title 23, United States Code, the Secretary of Transportation shall, after making the transfer provided by section 204(g) of title 23, United States Code, on October 1, 1984, allocate \$33,000,000 from the authorization for forest highways provided for the fiscal year ending September 30, 1985, by section 105(a)(6) of the Surface Transportation Act of 1982 and, on October 1, 1985, allocate \$33,000,000 from the authorization for forest highways provided for the fiscal year ending September 30, 1986, by section 105(a)(6) of the Surface Transportation Assistance Act of 1982, in the same percentage as the amounts allocated for expenditure in each State and the Commonwealth of Puerto Rico from funds authorized for forest highways for the fiscal year ending June 30, 1958, adjusted to (1) eliminate the 0.003,243,547 per centum for the State of Iowa, because of the conveyance of all national forest lands in Iowa to the State by deed executed May 26, 1964, and (2) redistribute the above percentage formerly apportioned to the State of Iowa for the other participating States on a proportional basis. The remaining funds authorized to be appropriated for forest highways for the fiscal years ending September 30, 1985, and September 30, 1986, shall be allocated pursuant to section 202(a) of title 23, United States Code.

96 Stat. 2099.

DEPARTMENT OF ENERGY

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

For an additional amount for "Fossil energy research and development", \$2,948,000, to remain available until expended.

ECONOMIC REGULATION

For an additional amount for "Economic regulation", \$1,395,000.

STRATEGIC PETROLEUM RESERVE

For an additional amount for "Strategic petroleum reserve", \$459,190,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS, DEPARTMENT OF ENERGY

None of the funds made available by this or any other Act may be used to implement section 303 of the Supplemental Appropriations Act, 1982 (Public Law 97-257) as it relates to the Economic Regulatory Administration and the Energy Information Administration: *Provided*, That notwithstanding any other provision of law, the minimum employment level established in Public Law 97-257 and amended in Public Law 98-63 for the Office of the Assistant Secretary for Fossil Energy is reduced to 700 of which not less than 135 employees shall be assigned to activities of the headquarters organization.

96 Stat. 873.

96 Stat. 873.

97 Stat. 328.

DEPARTMENT OF EDUCATION

VOCATIONAL AND ADULT EDUCATION

(TRANSFER OF FUNDS)

20 USC 2401.

For expenses necessary to establish a model retraining program for displaced workers to be conducted in the Johnstown, Pennsylvania, area under section 171(a)(1) of the Vocational Education Act, \$570,000, to remain available until expended, is hereby transferred from funds available under the head "Department of the Interior, Bureau of Mines, Mines and Minerals": *Provided*, That none of these funds shall be used for the construction of facilities: *Provided further*, That up to 3 per centum of the funds transferred may be used for related Department of Education administrative expenses.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS

SALARIES AND EXPENSES

20 USC 971
note.

For an additional amount for "Salaries and expenses", \$100,000 to pay a certified claim for losses filed under the Arts and Artifacts Indemnity Act of 1975.

GENERAL PROVISIONS

Public lands.

None of the funds appropriated herein or for fiscal year 1985 from the Land and Water Conservation Fund for the Bureau of Land Management or the Forest Service shall be obligated for the acquisition of lands or waters, or interests therein unless and until the seller has been offered, and has rejected, an exchange, pursuant to current authorities, for specific lands of comparable value (within plus or minus 25 per centum) and utility, if such potential exchange lands are available within the boundary of the same State as the lands to be acquired: *Provided*, That condemnations, declarations of taking, or the acquisition of scenic, conservation, or development easements shall not be subject to this provision: *Provided further*, That acquisition of tracts of lands of less than forty acres shall not be subject to this provision.

Indians.
Education.

Section 306(b)(2) of the Indian Elementary and Secondary School Assistance Act, Public Law 92-318 (20 U.S.C. 241ee(b)(2)) is amended to read as follows:

"(2) No payments shall be made under this title to any local educational agency for any fiscal year unless the State educational agency finds that the combined fiscal effort (as determined in accordance with regulations of the Secretary of Education) of that agency and the State with respect to the provision of free public education by that agency for the preceding fiscal year was not less than 90 per centum of such combined fiscal effort for that purpose for the second preceding fiscal year. In addition, the Secretary may waive this requirement for exceptional circumstances for one year only."

CHAPTER VII

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

TRAINING AND EMPLOYMENT SERVICES

For an additional amount for "Training and employment services", \$21,700,000, to be available for obligation for the period July 1, 1984 through June 30, 1985, and which shall be for the renovation and repair of Job Corps facilities and equipment replacement.

For an additional amount for migrant and seasonal farmworker programs authorized by section 402 of the Job Training Partnership Act, notwithstanding the provisions of sections 3(a)(3)(A) and 402(f) of the Act, \$5,117,000, to be available for obligation for the period July 1, 1984 through June 30, 1985: *Provided*, That funding provided herein shall be distributed to the States so that each State's total program year 1984 allocation is at least equal to its annualized allocation for the period October 1, 1983 through June 30, 1984.

29 USC 1672.

29 USC 1502.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE
OPERATIONS

Public Law 98-139 is amended by deleting under this heading " \$587,310,000" and inserting in lieu thereof "\$567,310,000".

97 Stat. 872.

BUREAU OF LABOR STATISTICS

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", for enhancing service sector activities, \$750,000 to remain available until September 30, 1985.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

CENTERS FOR DISEASE CONTROL

DISEASE CONTROL

For an additional amount for "Disease control", \$1,750,000.

NATIONAL INSTITUTES OF HEALTH

NATIONAL CANCER INSTITUTE

For an additional amount for "National Cancer Institute", \$2,000,000.

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

For an additional amount for "National Institute of Allergy and Infectious Diseases", \$4,150,000.

RESEARCH RESOURCES

For an additional amount for "Research resources", \$400,000.

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH

42 USC 201
note.

For an additional amount for carrying out the Public Health Service Act with respect to mental health, drug abuse, alcohol abuse, and alcoholism, \$1,175,000.

SOCIAL SECURITY ADMINISTRATION

OFFICE OF REFUGEE RESETTLEMENT

REFUGEE AND ENTRANT ASSISTANCE

97 Stat. 964.

For purposes of section 101(c) of Public Law 98-151, the current rate for refugee and entrant assistance activities for fiscal year 1984 is \$541,761,000, of which not less than \$71,700,000 shall be available for social services (exclusive of targeted assistance), and not less than \$77,500,000 shall be available for targeted assistance.

Funds available for refugee and entrant targeted assistance activities under section 101(c) of Public Law 98-151 shall remain available through September 30, 1985.

OFFICE OF HUMAN DEVELOPMENT SERVICES

DEVELOPMENTAL DISABILITIES ASSISTANCE

42 USC 6031.

For an additional amount for carrying out Part B of the Developmental Disabilities Assistance and Bill of Rights Act, \$387,000.

SOCIAL SERVICES BLOCK GRANT

For an additional amount for "Social services block grant", \$25,000,000.

HUMAN DEVELOPMENT SERVICES

42 USC 3030d.
42 USC 3030f.

For an additional amount for "Human development services", \$15,000,000, of which amount \$10,000,000 shall be available for part B of title III of the Older Americans Act of 1965 and \$5,000,000 shall be available for subpart 2 of part C of such title.

FAMILY SOCIAL SERVICES

42 USC 601,
670.

For an additional amount for "Family social services", \$60,000,000, for parts A and E of title IV of the Social Security Act, of which \$43,200,000 is for foster care and \$16,800,000 is for adoption assistance.

WORK INCENTIVES

42 USC 645.

Section 445(b)(1) of the Social Security Act is amended by striking out "June 30, 1984," and inserting in lieu thereof "June 30, 1985,".

Section 445(b)(1)(E) of such Act is amended by striking out "prime sponsors under the Comprehensive Employment and Training Act of 1973," and inserting in lieu thereof "service delivery areas under the Job Training Partnership Act,".

Section 445(d) of such Act is amended by inserting before the period at the end of the first sentence the following: ", except that in the case of a State which has submitted a letter of application on or

before June 30, 1984, such program may continue in force until June 30, 1987”.

Section 445(e) of such Act is amended by striking out the third sentence and inserting in lieu thereof the following new sentence: “The second evaluation shall be conducted three years from the date of the Secretary’s approval of the demonstration program.” 42 USC 645.

Section 445(f) of such Act is amended by adding the following new paragraph:

“(3) The Secretary of Health and Human Services shall conduct, in consultation with the States, a thorough study of the allocation formula described in paragraph (1) of this subsection and report to Congress no later than April 1, 1985, on the findings of this study with recommendations, if appropriate, for modifying the allocation formula to take into account State performance and to provide for the equitable distribution of funds.”.

These provisions shall become effective on the date of the enactment of this Act.

Effective date.
42 USC 645
note.

DEPARTMENT OF EDUCATION

COMPENSATORY EDUCATION FOR THE DISADVANTAGED

For an additional amount for carrying out section 418 of the Higher Education Act, \$750,000. 20 USC 1070d.

SPECIAL PROGRAMS

For an additional amount for “Special programs”, \$500,000 for the purpose of Public Law 92-506, to remain available until September 30, 1985. 86 Stat. 907.

SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS

The last two sentences of section 5(c) of the Act of September 30, 1950 (Public Law 874 Eighty-first Congress) (as added by section 23 of Public Law 98-211) are redesignated as subsection (h) of section 5 of that Act. This amendment shall be effective December 8, 1983. 97 Stat. 1419.
20 USC 240.
Effective date.

For an additional amount for “School assistance in federally affected areas”, \$15,000,000 which shall remain available until expended and shall be for payments under section 7 of the Act of September 30, 1950, as amended (20 U.S.C. ch. 13): *Provided*, That no payments shall be made under section 7 of said Act to any local educational agency whose need for assistance under that section fails to exceed the lesser of \$10,000 or 5 per centum of the district’s current operating expenditures during the fiscal year preceding the one in which the disaster occurred: *Provided further*, That all funds appropriated in fiscal year 1984 under this heading for section 7 of said Act may be used for disasters occurring after October 1, 1983. 20 USC 241-1.
20 USC 241-1
note.

EDUCATION FOR THE HANDICAPPED

For an additional amount for regional resource centers, \$1,200,000.

REHABILITATION SERVICES AND HANDICAPPED RESEARCH

For an additional amount for “Rehabilitation services and handicapped research”, \$34,200,000, of which \$33,900,000 shall be for allotments under section 100(b)(1) of the Rehabilitation Act of 1973, 29 USC 720.

Ante, p. 32.
29 USC 1901
note.

as amended, and \$300,000 shall be for the Helen Keller National Center Act.

HIGHER EDUCATION

97 Stat. 708.
20 USC 1065a.

Funds appropriated in 1984 for the endowment grant program under section 333 of the Higher Education Act of 1965 shall remain available until September 30, 1985.

SPECIAL INSTITUTIONS

GALLAUDET COLLEGE

For an additional amount for "Gallaudet College", \$2,000,000.

HOWARD UNIVERSITY

For an additional amount for "Howard University", \$11,000,000, of which \$1,490,000 shall be for construction and shall remain available until expended: *Provided*, That \$5,000,000 of the foregoing amount shall be derived by transfer from Department of Education "Office for Civil Rights".

DEPARTMENTAL MANAGEMENT

OFFICE OF THE INSPECTOR GENERAL

(TRANSFER OF FUNDS)

For an additional amount for "Office of the Inspector General", \$1,717,000 to be derived by transfer from Department of Education, "Higher education".

RELATED AGENCIES

ACTION

OPERATING EXPENSES

42 USC 4951.

For an additional amount for "Operating expenses", \$6,269,000, of which \$3,169,000 shall be for title I, part A of the Domestic Volunteer Service Act of 1973.

CORPORATION FOR PUBLIC BROADCASTING

PUBLIC BROADCASTING FUND

97 Stat 1467.
47 USC 609
note.

For additional payment to the Corporation for Public Broadcasting, as authorized by the Federal Communications Commission Authorization Act of 1983, Public Law 98-214, the following amounts, which shall be available within limitations specified by said Act, are appropriated: For fiscal year 1984, \$7,500,000; for fiscal year 1985, \$20,500,000; and for fiscal year 1986, \$29,500,000.

CHAPTER VIII
LEGISLATIVE BRANCH

SENATE

SALARIES, OFFICERS AND EMPLOYEES

OFFICE OF THE VICE PRESIDENT

For an additional amount for "Office of the Vice President", \$10,000.

OFFICES OF THE MAJORITY AND MINORITY WHIPS

For an additional amount for "Offices of the Majority and Minority Whips", \$100,000.

OFFICES OF THE SECRETARIES OF THE CONFERENCE OF THE MAJORITY
AND THE CONFERENCE OF THE MINORITY

For an additional amount for "Offices of the Secretaries of the Conference of the Majority and the Conference of the Minority", \$14,000.

ADMINISTRATIVE, CLERICAL, AND LEGISLATIVE ASSISTANCE TO
SENATORS

For an additional amount for "Administrative, clerical, and legislative assistance to Senators", \$94,000.

OFFICE OF THE SERGEANT AT ARMS AND DOORKEEPER

For an additional amount for "Office of the Sergeant at Arms and Doorkeeper", \$100,000.

CONTINGENT EXPENSES OF THE SENATE

SENATE POLICY COMMITTEES

For an additional amount for "Senate Policy Committees", \$100,000.

SECRETARY OF THE SENATE

For an additional amount for "Secretary of the Senate", \$55,000.

SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE

For an additional amount for "Sergeant at Arms and Doorkeeper of the Senate", \$1,652,000.

MISCELLANEOUS ITEMS

For an additional amount for "Miscellaneous Items", \$130,000.

ADMINISTRATIVE PROVISION

SEC. 1. (a) Subject to the approval of the Senate Committee on Rules and Administration, the Architect of the Capitol shall have authority to borrow (and be accountable for), from time to time, from the appropriation account, within the contingent fund of the

40 USC 174j-9.

Senate, for "Miscellaneous Items", such amount as he may determine necessary to carry out the provisions of the joint resolution entitled "Joint Resolution transferring the management of the Senate Restaurants to the Architect of the Capitol, and for other purposes", approved July 6, 1961, as amended (40 U.S.C. 174j-1 through 174j-8), and resolutions of the Senate amendatory thereof or supplementary thereto.

(b) Any such loan authorized pursuant to subsection (a) of this section shall be for such amount and for such period as the Senate Committee on Rules and Administration shall prescribe, and shall be made by the Secretary of the Senate to the Architect of the Capitol upon a voucher approved by the Chairman of the Senate Committee on Rules and Administration.

(c) All proceeds from the repayment of any such loan shall be deposited in the appropriation account, within the contingent fund of the Senate, for "Miscellaneous Items", shall be credited to the fiscal year during which such loan was made, and shall thereafter be available for the same purposes for which the amount loaned was initially appropriated.

HOUSE OF REPRESENTATIVES

PAYMENTS TO WIDOWS AND HEIRS OF DECEASED MEMBERS OF CONGRESS

For payment to the estate of Clement J. Zablocki, late a Representative from the State of Wisconsin, \$69,800. For payment to the estate of Edwin B. Forsythe, late a Representative from the State of New Jersey, \$72,600. For payment to Verna J. Perkins, widow of Carl D. Perkins, late a Representative from the State of Kentucky, \$72,600.

HOUSE LEADERSHIP OFFICES

For an additional amount for "House leadership offices", \$116,000.

SALARIES, OFFICERS AND EMPLOYEES

For an additional amount for "Salaries, officers and employees", \$171,000.

COMMITTEE ON APPROPRIATIONS (STUDIES AND INVESTIGATIONS)

For an additional amount for the "Committee on Appropriations", \$300,000.

MEMBERS' CLERK HIRE

For an additional amount for "Members' clerk hire", \$7,322,000.

ALLOWANCES AND EXPENSES

For an additional amount for "Allowances and expenses", \$18,760,000.

JOINT ITEMS

CONTINGENT EXPENSES OF THE SENATE

JOINT COMMITTEE ON INAUGURAL CEREMONIES OF 1985

For construction of platform and seating stands and for salaries and expenses of conducting the inaugural ceremonies of the President and Vice President of the United States, January 21, 1985, in accordance with such program as may be adopted by the joint committee authorized by Senate Concurrent Resolution 122, Ninety-eighth Congress, agreed to June 29, 1984, \$786,000, to remain available until September 30, 1985.

OFFICE OF THE ATTENDING PHYSICIAN

For an additional amount for the "Office of the attending physician", \$129,000, of which \$51,000 shall not become available until October 1, 1984 and shall remain available until September 30, 1985: *Provided*, That the reimbursement to the Department of the Navy for fiscal year 1985 shall be increased by \$46,200: *Provided further*, That the number of assistants eligible to receive the monthly allowance during fiscal year 1985 shall be increased by two.

CAPITOL POLICE

For an additional amount for "General expenses", \$125,000.

OFFICIAL MAIL COSTS

For an additional amount for "Official mail costs", \$10,200,000.

ARCHITECT OF THE CAPITOL

CONTINGENT EXPENSES

For an additional amount for "Contingent expenses", \$150,000, to remain available until expended.

CAPITOL BUILDINGS

(INCLUDING RESCISSION OF FUNDS)

For an additional amount for "Capitol buildings", \$2,650,000, to remain available until expended: *Provided*, That the cost limitation for security installations authorized by House Concurrent Resolution 550, Ninety-second Congress, agreed to September 19, 1972, is hereby further increased by \$1,900,000.

86 Stat. 1581.

Of the amounts appropriated under this heading in Public Law 98-367, \$72,000 are rescinded.

Ante, p. 482.

CAPITOL GROUNDS

For an additional amount for "Capitol grounds", \$200,000: *Provided*, That the paragraph under this heading in Public Law 98-51 is amended by striking out "\$10,000" and inserting in lieu thereof "\$240,000".

97 Stat. 273.

SENATE OFFICE BUILDINGS

For an additional amount for "Senate office buildings", \$7,000,000 to remain available until expended.

HOUSE OFFICE BUILDINGS

For an additional amount for "House office buildings", \$152,000, to remain available until expended.

LIBRARY BUILDINGS AND GROUNDS

STRUCTURAL AND MECHANICAL CARE

For an additional amount for "Structural and mechanical care", \$81,500,000, to remain available until expended: *Provided*, That not to exceed \$81,000,000 of this amount shall be for the renovation and restoration of the Jefferson and Adams Buildings of the Library of Congress and that funds available under this proviso shall be available for obligation without regard to section 3709 of the revised statutes, as amended.

41 USC 5.

LIBRARY OF CONGRESS

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", \$11,500,000, to remain available until expended, for the construction of a mass book deacidification facility.

CHAPTER IX

MILITARY CONSTRUCTION

MILITARY CONSTRUCTION, NAVY

For an additional amount for "Military construction, Navy", \$25,000,000, to remain available for obligation until September 30, 1988.

MILITARY CONSTRUCTION, AIR FORCE

For an additional amount for "Military construction, Air Force", \$49,000,000, to remain available for obligation until September 30, 1988.

GENERAL PROVISIONS

Contracts with
U.S.

None of the funds appropriated by this or any other Act for military construction in the United States territories and possessions in the Pacific and on Kwajalein Island, may be used to award any contract estimated by the Government to exceed \$5,000,000 to a foreign contractor: *Provided*, That this paragraph shall not be applicable to contract awards for which the lowest responsive bid of a United States contractor exceeds the lowest responsive bid of a foreign contractor by greater than 20 per centum: *Provided further*, That the Secretary of Defense may waive the applicability of this section when he determines that such a waiver is in the public interest.

Notwithstanding any other provision of law, funds appropriated for the design of the renovation of and addition to Brooke Army Medical Center at Fort Sam Houston, Texas, are also available for the design of a replacement facility.

Medical center,
Ft. Sam
Houston, Tex.

The appropriation, "Military Construction, Defense Agencies 1984/1988" (Public Law 98-116) is amended by inserting the following after "Provided,": "That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to such appropriations of the Department of Defense available for military construction as he may designate, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided further,*,"

97 Stat. 798.

Unexpended balances in the Military Family Housing Management Account established pursuant to section 2831 of title 10, United States Code, as well as any additional amounts which would otherwise be transferred to the Military Family Housing Management Account during fiscal year 1984, shall be transferred to the appropriations for Family Housing provided in the fiscal year 1984 Military Construction Appropriation Act, Public Law 98-116, October 11, 1983, as determined by the Secretary of Defense, based on the sources from which the funds were derived, and shall be available for the same purposes, and for the same time period, as the appropriation to which they have been transferred.

Housing.

97 Stat. 797, 798.

Notwithstanding any other provision of law, the Secretary of the Navy may utilize part of the funds from the sale of property at the Naval Base, Port Hueneme, California, as specified in section 812 of Public Law 98-115, to build replacement facilities.

Naval base, Port
Hueneme, Calif.

97 Stat. 790.

CHAPTER X

DEPARTMENT OF TRANSPORTATION

COAST GUARD

OPERATING EXPENSES

(TRANSFER OF FUNDS)

For an additional amount for "Operating expenses", \$6,000,000 to be derived by transfer from "Retired pay": *Provided,* That none of the funds appropriated under this or any other Act may be used to take any measure to reduce below five vessels the polar icebreaker fleet operated by the Coast Guard.

FEDERAL AVIATION ADMINISTRATION

AIRCRAFT PURCHASE LOAN GUARANTEE PROGRAM

For the settlement of promissory notes issued to the Secretary of the Treasury pursuant to the Supplemental Appropriations Act, 1983, \$102,490,000, to remain available until expended together with such sums as may be necessary for the payment of interest due under the terms and conditions of such notes.

97 Stat. 301.

FEDERAL RAILROAD ADMINISTRATION

RAIL SERVICE ASSISTANCE

For an additional amount for "Rail service assistance", \$5,678,000, to remain available until expended, for payment to the Secretary of the Treasury for debt reduction, together with such sums as may be necessary for the payment of interest due to the Secretary of the Treasury under the terms and conditions of such debt.

CONRAIL LABOR PROTECTION

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Conrail labor protection", \$10,000,000, to remain available until expended, together with \$15,000,000 to be derived from the unobligated balances of Conrail Workforce Reduction (section 702) funds.

SETTLEMENTS OF RAILROAD LITIGATION

45 USC 720.

For the settlement of promissory notes pursuant to section 210(f) of the Regional Rail Reorganizational Act of 1973 (Public Law 93-236) as amended, \$286,079,000, to remain available until expended, together with such sums as may be necessary for the payment of interest due to the Secretary of the Treasury under the terms and conditions of such notes.

GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

For an additional amount for "Grants to the national railroad passenger corporation", \$1,119,636,000, to remain available until expended, for payment to the Secretary of the Treasury for debt reduction, along with such sums as may be necessary for the payment of interest due to the Secretary of the Treasury under the terms and conditions of such debt.

RAILROAD REHABILITATION AND IMPROVEMENT FINANCING FUNDS

For an additional amount for "Railroad rehabilitation and improvement financing funds", \$667,000, to remain available until expended, for payment to the Secretary of the Treasury for debt reduction, together with such sums as may be necessary for the payment of interest due to the Secretary of the Treasury under the terms and conditions of such debt.

URBAN MASS TRANSPORTATION ADMINISTRATION

49 USC app.
1604.

The last sentence of section 5(a)(3)(A) of the Urban Mass Transportation Act of 1964 is amended by inserting before the period at the end thereof the following: " , except that such sums may also be available for expenditure for bus and bus related facilities if there are no commuter rail or fixed guideway systems in operation and attributable to the urbanized area in the fiscal year of apportionment".

RELATED AGENCY

PANAMA CANAL COMMISSION

OPERATING EXPENSES

(RESCISSION)

Of the funds provided for “operating expenses” for fiscal year 1984 in Public Law 98-78, \$17,750,000 are rescinded.

97 Stat. 468.

CAPITAL OUTLAY

(RESCISSION)

Of the funds provided for “capital outlay” for fiscal year 1984 in Public Law 98-78, \$7,625,000 are rescinded.

97 Stat. 469.

CHAPTER XI

DEPARTMENT OF THE TREASURY

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For an additional amount for “Salaries and expenses, United States Customs Service”, \$3,000,000, to be derived by transfer from “Salaries and expenses, United States Secret Service”, to remain available until expended.

BUREAU OF GOVERNMENT FINANCIAL OPERATIONS

POSTAL SAVINGS SYSTEM LIQUIDATION

For necessary funds to be held in trust for payment of claims by or on behalf of depositors to the Postal Savings System, as authorized by section 2 of Public Law 92-117, approved August 13, 1971, \$1,000,000.

31 USC 1322.

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

OFFICE OF FEDERAL PROCUREMENT POLICY

Notwithstanding the limitation on expenses for travel contained in the House passed bill (H.R. 4139) and carried forward by Public Law 93-151, expenses for travel within the level of existing resources, such amounts as are necessary are hereby authorized.

97 Stat. 982.

INDEPENDENT AGENCIES

GENERAL SERVICES ADMINISTRATION

FEDERAL BUILDINGS FUND

LIMITATIONS ON AVAILABILITY OF REVENUE

In addition to the aggregate amount heretofore made available for real property management and related activities in fiscal year 1984, \$50,000 shall be made available for such purposes and shall remain available until expended for the construction and acquisition of facilities, as follows:

Payment of Construction Claim:

Kansas: Topeka, Federal Building, Courthouse, and Parking Facility, \$50,000: *Provided*, That the immediately foregoing limit may be exceeded to the extent that savings are effected in other such projects but by not to exceed 10 per centum: *Provided further*, That claims against the Government of less than \$10,000 arising from direct construction projects, acquisitions of buildings, and purchase contract projects pursuant to Public Law 92-313 be liquidated with prior notification of the Committees on Appropriations of the House and Senate to the extent savings are effected in other such projects: *Provided further*, That any revenues and collections and any other sums accruing to this fund during fiscal year 1984, excluding reimbursements under section 210(f)(6) in excess of \$2,016,277,000 shall remain in the fund and shall not be available for expenditure except as authorized in appropriation Acts.

40 USC 601
note.

OFFICE OF PERSONNEL MANAGEMENT

SALARIES AND EXPENSES

(INCLUDING TRANSFERS FROM TRUST FUNDS)

Notwithstanding the limitation on expenses for travel contained in the House passed bill (H.R. 4139) and carried forward by Public Law 98-151, expenses for travel within the level of existing resources, to carry out the requirements of the Voting Rights Act of 1965, such amounts as are necessary are hereby authorized.

97 Stat. 982.

42 USC 1973
note.

PAYMENT TO CIVIL SERVICE RETIREMENT AND DISABILITY FUND

For an additional amount for "Payment to Civil Service Retirement and Disability Fund", \$238,081,000.

REVOLVING FUND

Ante, p. 48.

Pursuant to section 4109(d)(1) of title 5, United States Code, not to exceed \$12,000 shall be for entertainment expenses of the President's Commission on Executive Exchange.

UNITED STATES TAX COURT

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", \$400,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS

Section 301(a)(3) of the Omnibus Budget Reconciliation Act of 1982 (5 U.S.C. 8340 note) is amended by adding at the end thereof the following new sentence: "If the percentage increase in the price index for fiscal year 1985 (as determined by the Office of Personnel Management under section 8340(b) of title 5, United States Code) is less than the assumed increase in the price index for that year, then the increase in the annuity or retired or retainer pay of an early retiree under paragraph (1) taking effect in that fiscal year shall be equal to the percentage increase in the price index for that year (as so determined).".

Section 8344(d) of title 5, United States Code, is amended by striking out "in the same amount on termination of the employment," and inserting in lieu thereof "on termination of the employment in the amount equal to the sum of the amount of the annuity the member was receiving immediately before the commencement of the employment and the amount of the increases which would have been made in the amount of the annuity under section 8340 of this title during the period of the employment if the annuity had been payable during that period,".

CHAPTER XII

FUNDS APPROPRIATED TO THE PRESIDENT

AGENCY FOR INTERNATIONAL DEVELOPMENT

HEALTH, DEVELOPMENT ASSISTANCE

For an additional amount for "Health, development assistance", \$7,500,000: *Provided*, That these funds shall be transferred to "International disaster assistance": *Provided further*, That these funds shall remain available until September 30, 1985: *Provided further*, That these funds shall be used only for assistance for Miskito and other Indian groups in Honduras dislocated or otherwise suffering as a result of the strife in that region, for food, medicine and medical care, clothing, temporary shelter, transportation for supplies and personnel, and similar assistance to alleviate the suffering of such people.

DEPARTMENT OF STATE

INTERNATIONAL ORGANIZATIONS AND PROGRAM

For an additional amount for "International organizations and programs", \$1,000,000: *Provided*, That this amount shall be available only for payment to the International Atomic Energy Agency: *Provided further*, That of the amount made available for the International Atomic Energy Agency under this chapter and the funds made available for the International Atomic Energy Agency in

97 Stat. 964.

Public Law 98-151, not less than \$7,000,000 shall be available only for the safeguards program.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For an additional amount for "Payment to the Foreign Service Retirement and Disability Fund", \$4,083,000.

INTERNATIONAL DISASTER ASSISTANCE

For an additional amount for "International disaster assistance", \$16,000,000: *Provided*, That this sum shall be available only for emergency inland transportation associated with food relief efforts in Africa.

OPERATING EXPENSES

For an additional amount for "Operating Expenses", \$3,700,000, to remain available until September 30, 1985.

ECONOMIC SUPPORT FUND

For an additional amount for the "Economic Support Fund", \$50,000,000, to be available only for the Dominican Republic and to remain available until March 31, 1985.

CLEMENT J. ZABLOCKI MEMORIAL OUTPATIENT FACILITY IN POLAND

Ante, p. 153.

For an additional amount for the "Economic Support Fund", to carry out Public Law 98-266, \$10,000,000, to remain available until expended.

DEPARTMENT OF STATE

MIGRATION AND REFUGEE ASSISTANCE

For an additional amount for "Migration and refugee assistance", \$7,650,000, to remain available until March 31, 1985, of which \$2,000,000 shall be transferred to the Agency for International Development and shall be made available for "International disaster assistance" to be used only for medical and medically related assistance for Afghan refugees.

CENTRAL AMERICA DEMOCRACY, PEACE AND DEVELOPMENT
INITIATIVE

22 USC 2151
note.

For expenses necessary to enable the President to carry out the provisions of the Central America Democracy, Peace and Development Initiative Act of 1984, the Foreign Assistance Act of 1961, as amended, and for other purposes, for assistance for Central American countries, to remain available until March 31, 1985, in addition to amounts otherwise made available for such purposes:

AGENCY FOR INTERNATIONAL DEVELOPMENT

AGRICULTURE, RURAL DEVELOPMENT, AND NUTRITION

For an additional amount for "Agriculture, rural development, and nutrition, Development Assistance", \$10,000,000.

HEALTH

For an additional amount for "Health, Development Assistance", \$18,000,000.

EDUCATION AND HUMAN RESOURCES DEVELOPMENT

For an additional amount for "Education and human resources development, Development Assistance", \$10,00,000: *Provided*, That of this amount not less than \$2,000,000 shall be available only for the International Student Exchange Program.

ENERGY AND SELECTED DEVELOPMENT ACTIVITIES

For an additional amount for "Energy and selected development activities, Development Assistance", \$30,000,000.

ECONOMIC SUPPORT FUND

For an additional amount for the "Economic Support Fund", \$290,500,000.

OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT

For an additional amount for "Operating expenses of the Agency for International Development", \$2,489,000: *Provided*, That not less than \$727,000 shall be available only for the activities of the Inspector General's office.

INDEPENDENT AGENCY

PEACE CORPS

For an additional amount to carry out the provisions of the Peace Corps Act (75 Stat. 612), \$2,000,000. 22 USC 2501 note.

MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

MILITARY ASSISTANCE PROGRAM

For an additional amount for "Military assistance", \$140,000,000, notwithstanding the limitations and restrictions contained in section 101(b) of Public Law 98-151: *Provided*, That not more than \$70,000,000 of the funds made available by this paragraph shall be for El Salvador. 97 Stat. 964. El Salvador.

GENERAL PROVISIONS

Funds under this chapter are made available notwithstanding section 10 of Public Law 91-672 and section 15(a) of the State Department Basic Authorities Act of 1956. 22 USC 2412. 22 USC 2680.

None of the funds made available by this chapter shall be restricted for obligation or disbursement solely as a result of the policies of any multilateral institution.

None of the funds appropriated in this Act for the purpose of providing military assistance to the Government of El Salvador shall be available after October 1, 1984, for obligation or expenditure El Salvador. President of U.S. Report.

unless the President has, by that date, prepared and transmitted to the Congress a report stating his determination that the Government of El Salvador has demonstrated progress towards free elections, land reform, freedom of association, the establishment of the rule of law and an effective judicial system, and the termination of the activities of the so-called death squads, including vigorous action against members of such squads who are guilty of crimes and prosecution to the extent possible of such members who are past offenders.

CHAPTER XIII

DISTRICT OF COLUMBIA

DISTRICT OF COLUMBIA FUNDS

GOVERNMENTAL DIRECTION AND SUPPORT

For an additional amount for "Governmental direction and support", \$250,000, which shall be derived from the earnings of the applicable retirement funds, to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board: *Provided*, That notwithstanding any other provision of law, the District of Columbia Retirement Board shall transfer to the District of Columbia \$748,000 from the District of Columbia Police Officers and Fire Fighters' Retirement Fund and \$1,199,000 from the District of Columbia Teachers' Retirement Fund in conformity with appropriation transfers contained in this Act: *Provided further*, That all budget requests and justifications for the District of Columbia government shall start with the amounts appropriated in the most recently enacted appropriation Act and then explain changes from those amounts to the current budget request.

ECONOMIC DEVELOPMENT AND REGULATION

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Economic development and regulation", \$3,912,300, of which \$1,313,000 shall be derived by transfer from the appropriation "Human support services" and \$2,563,300 shall be derived by transfer from the appropriation "Public works": *Provided*, That notwithstanding the provision regarding the calculation of repayments by the District of Columbia Housing Finance Agency under the heading "Economic development and regulation" in the District of Columbia Appropriation Act, 1984, approved October 13, 1983 (97 Stat. 820, 821; Public Law 98-125), for the fiscal year ending September 30, 1984, the District of Columbia Housing Finance Agency established by section 201 of the District of Columbia Housing Finance Agency Act, effective March 3, 1979 (D.C. Law 2-135; D.C. Code, sec. 45-2111), based upon its capability of repayments as determined each year by the Council of the District of Columbia from the agency's annual audited financial statements to the Council of the District of Columbia, shall repay to the general fund an amount equal to the appropriated administrative cost plus interest at a rate of 4 percent per annum for a term of fifteen years, with a deferral of payments for the first four years.

PUBLIC SAFETY AND JUSTICE

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Public safety and justice", \$4,318,000 of which \$967,000 shall be payable from the revenue sharing trust fund: *Provided*, That \$246,000 of this appropriation shall be derived by transfer from the appropriation "Governmental direction and support", \$15,000 shall be derived by transfer from the appropriation "Economic development and regulation", \$2,815,000 shall be derived by transfer from the appropriation "Public education system", and \$479,000 shall be derived by transfer from the appropriation "Human support services".

HUMAN SUPPORT SERVICES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Human support services", \$15,181,000, of which \$287,000 shall be derived by transfer from the appropriation "Economic development and regulation", and \$437,000 shall be derived by transfer from the appropriation "Public education system".

PUBLIC WORKS

(TRANSFER OF FUNDS)

For an additional amount for "Public works", \$4,926,300, of which \$611,000 shall be derived by transfer from the appropriation "Governmental direction and support", \$97,300 shall be derived by transfer from the appropriation "Economic development and regulation", \$3,660,000 shall be derived by transfer from the appropriation "Public education system", and \$558,000 shall be derived by transfer from the appropriation "Human support services".

ADJUSTMENTS

In addition to the reduction in authorized appropriations and expenditures within object class 30A (energy) required by Public Law 98-125 (97 Stat. 823), the Mayor is authorized and directed to further reduce authorized appropriations and expenditures for the fiscal year ending September 30, 1984, in the amount of \$12,000,300 within one or several of the various appropriation headings in the District of Columbia Appropriation Act, 1984, approved October 13, 1983 (Public Law 98-125), as amended by this Act: *Provided*, That notwithstanding the provision regarding reductions within object class 13 under the heading "Adjustments" in the District of Columbia Appropriation Act, 1984, approved October 13, 1983 (97 Stat. 823; Public Law 98-125), the Mayor shall not be required to reduce authorized appropriations and expenditures within object class 13 (additional gross pay) in the amount of \$361,800 for the fiscal year ending September 30, 1984: *Provided further*, That the Mayor is authorized and directed to further reduce authorized appropriations and expenditures as follows: \$210,800 from "Governmental direction and support", \$57,000 from "Economic development and regulation", and \$94,000 from "Human support services".

WASHINGTON CONVENTION CENTER FUND

For the "Washington Convention Center", \$6,072,000: *Provided*, That the Convention Center Board of Directors, established by section 3 of the Washington Convention Center Management Act of 1979, effective November 3, 1979 (D.C. Law 3-36; D.C. Code, sec. 9-602), shall reimburse the Auditor of the District of Columbia for all reasonable costs for performance of the annual convention center audit.

CAPITAL OUTLAY

For an additional amount for "Capital outlay", \$14,663,000: *Provided*, That \$827,000 shall be available for project management and \$788,000 for design by the Director of the Department of Public Works or by contract for architectural engineering services, as may be determined by the Mayor.

WASHINGTON CONVENTION CENTER ENTERPRISE FUND

(RESCISSION)

Of the funds appropriated for "Washington Convention Center Enterprise Fund" for fiscal year 1984, by the District of Columbia Appropriation Act, 1984, approved October 13, 1983 (97 Stat. 824; Public Law 98-125), \$9,617,000 are rescinded.

TITLE II—INCREASED PAY COSTS FOR THE FISCAL YEAR
1984

For additional amounts for appropriations for the fiscal year 1984, for increased pay costs authorized by or pursuant to law as follows:

LEGISLATIVE BRANCH

SENATE

"Salaries, officers and employees", \$6,752,000;
"Office of the Legislative Counsel of the Senate", \$38,000;
"Senate Policy Committees", \$86,000;
"Inquiries and investigations", \$1,218,000;

HOUSE OF REPRESENTATIVES

"House leadership offices", \$94,000;
"Salaries, officers and employees", \$1,121,000;
"Committee employees", \$1,444,000;
"Committee on Appropriations (Studies and investigations)", \$75,000;
"Members' clerk hire", \$4,634,000;
"Special and select committees", \$1,400,000;

JOINT ITEMS

"Joint Economic Committee", \$75,000;
"Joint Committee on Printing", \$21,000;
"Joint Committee on Taxation", \$88,000;
"Capitol Guide Service", \$19,000;

OFFICE OF TECHNOLOGY ASSESSMENT

“Salaries and expenses”, \$178,000;

CONGRESSIONAL BUDGET OFFICE

“Salaries and expenses”, \$423,000;

ARCHITECT OF THE CAPITOL

Office of the Architect of the Capitol: “Salaries”, \$100,000;

“Capitol buildings”, \$100,000;

“Capitol grounds”, \$50,000;

“Senate office buildings”, \$300,000;

“House office buildings”, \$171,000;

“Capitol power plant”, \$60,000;

Library buildings and grounds: “Structural and mechanical care”, \$90,000;

BOTANIC GARDEN

“Salaries and expenses”, \$40,000;

LIBRARY OF CONGRESS

“Salaries and expenses”, \$2,448,000;

Copyright Office: “Salaries and expenses”, \$141,000;

Congressional Research Service: “Salaries and expenses”, \$1,012,000;

GENERAL ACCOUNTING OFFICE

“Salaries and expenses”, \$4,549,000;

THE JUDICIARY

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

(TRANSFER OF FUNDS)

“Salaries and expenses”, \$50,000, to be derived by transfer from “Fees of Jurors and Commissioners”;

UNITED STATES COURT OF INTERNATIONAL TRADE

(TRANSFER OF FUNDS)

“Salaries and expenses”, \$50,000, to be derived by transfer from “Fees of Jurors and Commissioners”;

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

(TRANSFERS OF FUNDS)

“Salaries of judges”, \$3,775,000, of which \$3,625,000 shall be derived by transfer from “Expenses of Operation and Maintenance of the Courts” and \$150,000 shall be derived by transfer from “Space and Facilities”;

“Salaries of supporting personnel”, \$2,500,000, of which \$1,000,000 shall be derived by transfer from “Fees of Jurors and Commissioners” and \$1,500,000 shall be derived by transfer from “Space and Facilities”;

“Defender services”, \$465,000, of which \$375,000 shall be derived by transfer from “Expenses of Operation and Maintenance of the Courts” and \$90,000 shall be derived by transfer from “Space and Facilities”;

“Bankruptcy courts, Salaries and expenses”, \$3,400,000, to be derived by transfer from “Space and Facilities”;

FEDERAL JUDICIAL CENTER

(TRANSFER OF FUNDS)

“Salaries and expenses”, \$120,000, to be derived by transfer from “Space and Facilities”;

EXECUTIVE OFFICE OF THE PRESIDENT

WHITE HOUSE OFFICE

“Salaries and expenses”, \$356,000;

EXECUTIVE RESIDENCE AT THE WHITE HOUSE

“Operating expenses”, \$82,000;

OFFICE OF MANAGEMENT AND BUDGET

“Salaries and expenses”, \$403,000;

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

“Salaries and expenses”, \$128,000;

FUNDS APPROPRIATED TO THE PRESIDENT

AGENCY FOR INTERNATIONAL DEVELOPMENT

“Operating expenses of the Agency for International Development”, \$4,790,000;

DEPARTMENT OF AGRICULTURE

(INCLUDING TRANSFERS OF FUNDS)

“Office of the Secretary”, \$50,000;

“Departmental Administration”, for budget and program analysis, \$44,000; for personnel, finance and management, operations, information resources management, minority affairs; small and disadvantaged business utilization, and regulatory hearings and decisions; \$239,000; making a total of \$283,000;

“Office of Governmental and Public Affairs”, \$59,000;

“Office of the Inspector General”, \$417,000;

“Office of the General Counsel”, \$330,000;

“Agricultural Research Service”, \$3,448,000;

“National Agricultural Library”, \$59,000;

“Animal and Plant Health Inspection Service”, \$2,344,000;
“Agricultural Cooperative Service”, \$38,000;
“Economic Research Service”, \$488,000;
“Statistical Reporting Service”, \$527,000;
“World Agricultural Outlook Board”, \$33,000;
“Foreign Agricultural Service”, \$266,000;
“Not to exceed an additional \$45,000 may be transferred from the Commodity Credit Corporation funds to support the General Sales Manager”;

RURAL ELECTRIFICATION ADMINISTRATION

“Salaries and expenses”, \$320,000;

FARMERS HOME ADMINISTRATION

“Salaries and expenses”, \$3,254,000;
“Office of the Rural Development Policy”, \$17,000;

SOIL CONSERVATION SERVICE

“Conservation Operations”, \$8,138,000;

AGRICULTURAL MARKETING SERVICE

“Funds for strengthening markets, income and supply” (section 32), (increase of \$58,000 in limitation, “marketing agreements and orders”);
“Salaries and expenses”, \$301,000;
“Office of Transportation”, \$26,000;

FOOD SAFETY AND INSPECTION SERVICE

“Salaries and expenses”, \$5,112,000;

FOOD AND NUTRITION SERVICE

“Food Program Administration”, \$1,710,000;
“Human Nutrition Information Service”, \$34,000;

FOREST SERVICE

(TRANSFERS OF FUNDS)

“Forest research”, \$848,000, to be derived by transfer from “Construction”;
“National forest system”, \$9,769,000, to be derived by transfer from “Construction”;
“State and private forestry”, \$174,000 to remain available until expended to carry out activities authorized in Public Law 95-313, to be derived by transfer from “Construction”;
“Land acquisition”, \$23,000 to remain available until expended, to be derived by transfer from “Construction”;

16 USC 2101
note.

DEPARTMENT OF COMMERCE

GENERAL ADMINISTRATION

(TRANSFER OF FUNDS)

“Salaries and expenses”, \$516,000, to be derived by transfer from “Regional development programs”;

BUREAU OF THE CENSUS

(TRANSFER OF FUNDS)

“Salaries and expenses”, \$700,000, to be derived by transfer from “Regional development programs”;

ECONOMIC DEVELOPMENT ADMINISTRATION

“Salaries and expenses”, \$220,000;

INTERNATIONAL TRADE ADMINISTRATION

“Operations and administration”, \$975,000, to remain available until expended;

MINORITY BUSINESS DEVELOPMENT AGENCY

(TRANSFER OF FUNDS)

“Minority business development”, \$205,000, to be derived by transfer from “Regional development programs”;

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

“Operations, research, and facilities”, \$11,800,000, to remain available until expended;

PATENT AND TRADEMARK OFFICE

“Salaries and expenses”, \$1,200,000, to remain available until expended;

NATIONAL BUREAU OF STANDARDS

(TRANSFER OF FUNDS)

“Scientific and technical research and services”, \$1,659,000, to be derived by transfer from “Regional development programs”, to remain available until expended;

**NATIONAL TELECOMMUNICATIONS AND INFORMATION
ADMINISTRATION**

(TRANSFER OF FUNDS)

“Salaries and expenses”, \$100,000, to be derived by transfer from “Regional development programs”, to remain available until expended;

DEPARTMENT OF DEFENSE—MILITARY

MILITARY PERSONNEL

(INCLUDING TRANSFER OF FUNDS)

“Military personnel, Army”, \$337,100,000;
“Military personnel, Navy”, \$244,630,000, and in addition,
\$30,000,000 shall be derived by transfer from “Retired Pay, Defense,
1984”;
“Military personnel, Marine Corps”, \$83,710,000;
“Military personnel, Air Force”, \$287,360,000;
“Reserve personnel, Navy”, \$17,700,000;
“Reserve personnel, Air Force”, \$8,750,000;

OPERATION AND MAINTENANCE

“Operation and maintenance, Army”, \$161,330,000;
“Operation and maintenance, Navy”, \$198,410,000;
“Operation and maintenance, Marine Corps”, \$8,920,000;
“Operation and maintenance, Air Force”, \$102,050,000;
“Operation and maintenance, Defense Agencies”, \$80,862,000;
“Operation and maintenance, Army Reserve”, \$7,240,000;
“Operation and maintenance, Navy Reserve”, \$1,590,000;
“Operation and maintenance, Marine Corps Reserve”, \$220,000;
“Operation and maintenance, Air Force Reserve”, \$6,950,000;
“Operation and maintenance, Army National Guard”,
\$13,900,000;
“Operation and maintenance, Air National Guard”, \$15,750,000;
“National Board for the Promotion of Rifle Practice, Army”,
\$10,000.

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CEMETERIAL EXPENSES, ARMY

“Salaries and expenses”, \$99,000;

CORPS OF ENGINEERS—CIVIL

(TRANSFERS OF FUNDS)

“General investigations”, \$2,000,000 to remain available until
expended to be derived from “Construction, general”;
“General expenses”, \$2,800,000 to remain available until ex-
pended to be derived from “Construction, general”;

SOLDIERS' AND AIRMEN'S HOME

“Operation and maintenance”, \$362,000;

DEPARTMENT OF EDUCATION

DEPARTMENTAL MANAGEMENT

(TRANSFER OF FUNDS)

“Office of the Inspector General”, \$255,000, to be derived by transfer from “Higher education”;

DEPARTMENT OF ENERGY

“Energy Information Administration”, \$521,000;
“Economic regulation”, \$575,000;

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

(INCLUDING TRANSFERS OF FUNDS)

“Salaries and expenses”, \$7,368,000, of which \$890,000 shall be derived by transfer from “Health resources and services” including \$627,000 from unobligated prior year funds;

HEALTH RESOURCES AND SERVICES ADMINISTRATION

(INCLUDING TRANSFER OF FUNDS)

“Indian health services”, \$1,500,000 and in addition, \$6,904,000 to be derived by transfer of unobligated balances from “Health resources and services”;

CENTERS FOR DISEASE CONTROL

(INCLUDING TRANSFER OF FUNDS)

“Disease control”, \$4,235,000 to be derived by transfer from “Health resources and services”;

NATIONAL INSTITUTES OF HEALTH

(INCLUDING TRANSFER OF FUNDS)

“National Cancer Institute”, \$2,278,000;
“National Heart, Lung and Blood Institute”, \$1,742,000;
“National Institute of Dental Research”, \$511,000;
“National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases”, \$1,448,000;
“National Institute of Neurological and Communicative Disorders and Stroke”, \$678,000;
“National Institute of Allergy and Infectious Diseases”, \$1,329,000;
“National Institute of General Medical Sciences”, \$293,000;
“National Institute of Child Health and Human Development”, \$867,000;
“National Eye Institute”, \$448,000;
“National Institute of Environmental Health Sciences”, \$791,000;
“National Institute on Aging”, \$371,000;
“Research Resources”, \$141,000;

“John E. Fogarty International Center”, \$71,000 to be derived by transfer of unobligated balances from “Health resources and services”;

“National Library of Medicine”, \$607,000 to be derived by transfer of unobligated balances from “Health resources and services”;

“Office of the Director”, \$616,000 to be derived by transfer of unobligated balances from “Health resources and services”;

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

(INCLUDING TRANSFER OF FUNDS)

“Alcohol, drug abuse, and mental health”, \$1,619,000, of which \$985,000 shall be derived by transfer of unobligated balances from “Health resources and services”;

“Federal Subsidy for Saint Elizabeths Hospital”, \$2,082,000 to be derived by transfer of unobligated balances from “Health resources and services”;

SOCIAL SECURITY ADMINISTRATION

(INCLUDING TRANSFER OF FUNDS)

“Low income home energy assistance”, \$44,000 to be derived by transfer of unobligated balances from “Health resources and services”;

“Refugee and entrant assistance”, \$104,000 to be derived by transfer of unobligated balances from “Health resources and services”;

OFFICE OF COMMUNITY SERVICES

(TRANSFER OF FUNDS)

“Community services block grant”, \$69,000 to be derived by transfer from “Health resources and services”;

DEPARTMENTAL MANAGEMENT

(TRANSFER OF FUNDS)

“Office of the Inspector General”, \$1,474,000 to be derived by transfer of unobligated balances from “Health resources and services”;

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

“Management of lands and resources”, \$6,023,000;

UNITED STATES FISH AND WILDLIFE SERVICE

“Resource management”, \$4,446,000;

NATIONAL PARK SERVICE

“Operation of the national park system”, \$9,195,000;

GEOLOGICAL SURVEY

“Surveys, investigation, and research”, \$4,242,000;

MINERALS MANAGEMENT SERVICE

“Leasing and royalty management”, \$1,064,000;

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

“Regulation and technology”, \$470,000;

BUREAU OF RECLAMATION

“General investigations”, \$226,000;

BUREAU OF INDIAN AFFAIRS

“Operation of Indian programs”, \$5,871,000;

OFFICE OF TERRITORIAL AND INTERNATIONAL AFFAIRS

“Administration of territories”, \$54,000;

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

“Salaries and expenses”, \$1,025,000;

UNITED STATES PAROLE COMMISSION

“Salaries and expenses”, \$161,000;

LEGAL ACTIVITIES

“Salaries and expenses, general legal activities”, \$3,370,000;

“Salaries and expenses, Antitrust Division”, \$754,000;

“Salaries and expenses, Foreign Claims Settlement Commission”,
\$16,000;

“Salaries and expenses, United States Attorneys and Marshals”,
\$7,360,000;

“Salaries and expenses, Community Relations Service”, \$131,000;

INTERAGENCY LAW ENFORCEMENT

“Organized Crime Drug Enforcement”, \$1,132,000;

FEDERAL BUREAU OF INVESTIGATION

“Salaries and expenses”, \$16,936,000;

DRUG ENFORCEMENT ADMINISTRATION

“Salaries and expenses”, \$4,500,000;

IMMIGRATION AND NATURALIZATION SERVICE

“Salaries and expenses”, \$9,381,000;

FEDERAL PRISON SYSTEM

“Salaries and expenses”, \$7,506,000;

“Limitation on administrative and vocational training expenses, Federal Prison Industries, Incorporated” (increase of \$19,000 in the limitation on Administrative expenses and \$65,000 on Vocational Training expenses);

OFFICE OF JUSTICE ASSISTANCE

(TRANSFER OF FUNDS)

“Research and Statistics”, \$296,000, to be derived by transfer from “Law Enforcement Assistance”;

DEPARTMENT OF LABOR

EMPLOYMENT STANDARDS ADMINISTRATION

(INCLUDING TRANSFER OF FUNDS)

“Salaries and expenses”, \$2,806,000, together with not to exceed \$9,000 which may be expended from the Special Fund in accordance with sections 39(c) and 44(j) of the Longshoremen’s and Harbor Workers’ Compensation Act; 33 USC 939, 944.

“Black lung disability trust fund”, \$328,000 which shall be available for transfer to Employment Standards Administration, “Salaries and expenses”;

DEPARTMENTAL MANAGEMENT

(INCLUDING TRANSFER OF FUNDS)

“Salaries and expenses”, \$500,000, together with not to exceed \$108,000 which may be expended from the Employment Security Administration account in the Unemployment Trust Fund and of which \$108,000 shall be for carrying into effect the provisions of 38 U.S.C. 2001-03;

“Office of the Inspector General”, \$293,000;

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

“Salaries and expenses”, \$10,196,000;

INTERNATIONAL COMMISSIONS

International Boundary and Water Commission, United States and Mexico: “Salaries and expenses”, \$125,000;

“American Sections, international commissions”, \$38,000;

DEPARTMENT OF TRANSPORTATION

FEDERAL HIGHWAY ADMINISTRATION

(INCLUDING TRANSFER OF FUNDS)

“Motor carrier safety”, \$100,000 to be derived from the unobligated balances of “Railroad research and development”;

“Limitation on general operating expenses” (increase of \$1,700,000 in the limitation on general operating expenses);

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

“Operations and research”, \$300,000, of which \$100,000 shall be derived from the Highway Trust Fund;

FEDERAL RAILROAD ADMINISTRATION

(TRANSFER OF FUNDS)

“Office of the administrator”, \$174,000 to be derived from the unobligated balances of “Railroad research and development”;

URBAN MASS TRANSPORTATION ADMINISTRATION

(TRANSFER OF FUNDS)

“Administrative expenses”, \$200,000 to be derived from the unobligated balances of “Railroad research and development”;

FEDERAL AVIATION ADMINISTRATION

(INCLUDING TRANSFER OF FUNDS)

“Operations”, \$35,000,000, of which \$1,200,000 shall be derived by transfer from the unobligated balances of “Interstate Commerce Commission, Salaries and expenses”, and of which \$3,800,000 shall be derived by transfer from the unobligated balances of “Civil Aeronautics Board, Payments to air carriers”;

“Operation and maintenance, Metropolitan Washington Airports”, \$276,700 to be derived from the unobligated balances of “Construction, Metropolitan Washington Airports”;

COAST GUARD

(INCLUDING TRANSFERS OF FUNDS)

“Operating expenses”, \$9,000,000 together with \$7,000,000 to be derived by transfer from the appropriation “Retired pay”;

“Reserve training”, \$550,000 to be derived by transfer from the appropriation “Retired pay”;

OFFICE OF THE SECRETARY

(TRANSFER OF FUNDS)

“Salaries and expenses”, \$300,000 to be derived from the unobligated balances of “Railroad research and development”;

DEPARTMENT OF THE TREASURY

OFFICE OF THE SECRETARY

“Salaries and expenses”, \$1,409,000;

FEDERAL LAW ENFORCEMENT TRAINING CENTER

“Salaries and expenses”, \$183,000;

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

"Salaries and expenses", \$2,293,000;

UNITED STATES CUSTOMS SERVICE

"Salaries and expenses", \$11,538,000;

INTERNAL REVENUE SERVICE

"Salaries and expenses", \$1,694,000;

"Taxpayer service and returns processing", \$13,150,000;

"Examinations and appeals", \$26,310,000;

"Investigation and collections", \$19,676,000;

Any appropriation made available to the Internal Revenue Service for the current fiscal year by this Act may be transferred to any other Internal Revenue Service appropriation to the extent necessary for increased pay costs authorized by or pursuant to law;

UNITED STATES SECRET SERVICE

"Salaries and expenses", \$1,597,000;

ENVIRONMENTAL PROTECTION AGENCY

"Salaries and expenses", \$4,900,000;

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

"Research and program management", \$17,582,000: *Provided*, That the amount available in the current fiscal year for expenses of travel is increased by \$500,000: *Provided further*, That the amount available for expenses of travel from the "Research and program management" appropriation in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1985 (Public Law 98-371), is increased by \$2,000,000;

Ante, p. 1227.

OFFICE OF PERSONNEL MANAGEMENT

(INCLUDING TRANSFER OF FUNDS)

"Salaries and expenses", \$898,000 for current fiscal year administrative expenses for the retirement and insurance programs to be transferred from the appropriate trust funds of the Office of Personnel Management in amounts to be determined by the Office of Personnel Management without regard to other statutes;

SMALL BUSINESS ADMINISTRATION

"Salaries and expenses", \$3,900,000, of which \$2,000,000 shall be derived by transfer from the "Disaster loan fund";

VETERANS ADMINISTRATION

"Medical care", \$158,688,000;

"Medical and prosthetic research", \$1,381,000;

"Construction, minor projects", an increase of \$334,000 in the limitation on the expenses of the Office of Construction;

OTHER INDEPENDENT AGENCIES

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

“Salaries and expenses”, \$23,000;

ADVISORY COUNCIL ON HISTORIC PRESERVATION

“Salaries and expenses”, \$15,000;

ARMS CONTROL AND DISARMAMENT AGENCY

“Salaries and expenses”, \$128,000;

CIVIL AERONAUTICS BOARD

(TRANSFER OF FUNDS)

“Salaries and expenses”, \$714,000 to be derived from the unobligated balances of “Payments to air carriers”;

COMMISSION ON CIVIL RIGHTS

“Salaries and expenses”, \$123,000;

COMMODITY FUTURES TRADING COMMISSION

“Commodity Futures Trading Commission”, \$339,000;

CONSUMER PRODUCT SAFETY COMMISSION

“Salaries and expenses”, \$250,000;

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

“Salaries and expenses”, \$2,640,000;

FEDERAL COMMUNICATIONS COMMISSION

“Salaries and expenses”, \$1,900,000;

FEDERAL ELECTION COMMISSION

“Salaries and expenses”, \$95,000;

FEDERAL EMERGENCY MANAGEMENT AGENCY

(INCLUDING TRANSFER OF FUNDS)

“Salaries and expenses”, \$2,131,000, of which not to exceed \$400,000 shall be derived from “State and local assistance”, and of which not to exceed \$307,000 shall be derived from “Emergency planning and assistance”, to remain available until September 30, 1985;

FEDERAL LABOR RELATIONS AUTHORITY

“Salaries and expenses”, \$168,000;

FEDERAL MARITIME COMMISSION

“Salaries and expenses”, \$190,000;

FEDERAL MEDIATION AND CONCILIATION SERVICE

“Salaries and expenses”, \$97,000;

FEDERAL TRADE COMMISSION

“Salaries and expenses”, \$650,000;

INTELLIGENCE COMMUNITY STAFF

“Intelligence Community Staff”, \$144,000;

INTERGOVERNMENTAL AGENCIES

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

“Salaries and expenses”, \$16,000;

INTERNATIONAL TRADE COMMISSION

“Salaries and expenses”, \$464,000;

MERIT SYSTEMS PROTECTION BOARD

“Salaries and expenses”, \$273,000;

“Office of Special Counsel, Salaries and expenses”, \$85,000;

NATIONAL CAPITAL PLANNING COMMISSION

“Salaries and expenses”, \$28,000;

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS

“Salaries and expenses”, \$123,000;

NATIONAL ENDOWMENT FOR THE HUMANITIES

“Salaries and expenses”, \$118,000;

NATIONAL SCIENCE FOUNDATION

“Research and related activities”, \$460,000 (and an increase of \$460,000 in the limitation on program development and management);

“United States Antarctic program activities”, \$356,000, to remain available until expended;

NATIONAL TRANSPORTATION SAFETY BOARD

“Salaries and expenses”, \$190,000;

SECURITIES AND EXCHANGE COMMISSION

“Salaries and expenses”, \$1,000,000;

SELECTIVE SERVICE SYSTEM

“Salaries and expenses”, \$369,000;

SMITHSONIAN INSTITUTION

“Salaries and expenses”, \$1,420,000;

“Salaries and expenses, Woodrow Wilson International Center for Scholars”, \$18,000;

OTHER TEMPORARY COMMISSIONS

NAVAJO AND HOPI INDIAN RELOCATION COMMISSION

“Salaries and expenses”, \$22,000;

UNITED STATES HOLOCAUST MEMORIAL COUNCIL

“United States Holocaust Memorial Council”, \$11,000;

UNITED STATES INFORMATION AGENCY

“Salaries and expenses”, \$3,160,000;

UNITED STATES TAX COURT

“Salaries and expenses”, \$400,000.

TITLE III

GENERAL PROVISIONS

SEC. 301. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 302. Except where specifically increased or decreased elsewhere in this Act, the restrictions contained within appropriations, or provisions affecting appropriations or other funds, available during the fiscal year 1984, limiting the amount which may be expended for personal services, or for purposes involving personal services, or amounts which may be transferred between appropriations or authorizations available for or involving such services, are hereby increased to the extent necessary to meet increased pay costs authorized by or pursuant to law.

SEC. 303. None of the funds made available to the United States Postal Service under this Act or any other Act may be used to restructure employee compensation practices as in effect under the most recently effective collective bargaining agreement under section 1206 of title 39, United States Code, except in accordance with the results of procedures set forth in section 1207 of such title.

SEC. 303a. The project for Bonneville Lock and Dam, Second Powerhouse, Washington and Oregon, is hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to acquire in the Steigerwald Lake Wetlands Area, Clark

Postal Service
employee
compensation.
39 USC 1206
note.

Bonneville Lock
and Dam, Wash.
and Ore.
Fish and wildlife
project.

County, Washington, not more than one thousand acres of land at an estimated cost of \$8,500,000 for the fish and wildlife mitigation purposes associated with this project. The Secretary is further authorized to undertake initial development of such lands and convey without monetary consideration the lands to the Department of the Interior, United States Fish and Wildlife Service for operation and maintenance.

An additional amount of \$8,500,000, to remain available until expended, is hereby appropriated for "Construction, general", Corps of Engineers—Civil, Department of the Army to carry out the provisions of this section.

SEC. 304. No funds appropriated by this or any other Act to the Federal Communications Commission may be used to implement the Commission's decision adopted on July 26, 1984, in Docket GEN 83-1009 as it applies to television licenses, prior to April 1, 1985, or for sixty days after the Commission's reconsideration of its decision in this matter, whichever is later. The term "implement" shall include but not be limited to processing, review, approval, or acquisition of any interest in or the transfer or assignment of television licenses.

FCC television
licensing.

SEC. 305. (a) The Congress finds and declares that—

(1) the competing credit demands by State and local governments, agriculture, business, and consumers, aggravated by massive Federal debt financing and increasing credit demands by foreign governments, continue to cause serious economic disruption in rural America;

(2) the United States has a vital interest in protecting the economic health of American farmers;

(3) the American farmer has been caught in an unprecedented credit squeeze;

(4) monetary and fiscal policies have substantially caused real interest rates to remain at two or three times historic levels of such rates;

(5) high real interest rates have dramatically increased the value of the dollar to the detriment of farmers who devote at least one out of three acres of land to production for export;

(6) the average value of an acre of farm land fell this year for the third year in a row, the longest sustained decline since the Great Depression;

(7) the total amount of debt owed by American farmers is \$203,800,000,000;

(8) last year Brazil, Mexico, Argentina, and Venezuela held \$260,000,000,000 in external debt and the interest payments on these loans alone totaled more than \$20,000,000,000;

(9) the Governments of Brazil, Mexico, Argentina, and Venezuela have been successful in securing postponements in debt and principal repayments, favorable renegotiations, new loan guarantees, and other special arrangements through private negotiations, assistance from the United States Government, and the International Monetary Fund; and

(10) American farmers have been unsuccessful in obtaining as favorable special treatment from private banks or the Federal Government.

Farmers,
availability of
credit.

(b) It is therefore the sense of the Congress that—

(1) the President, in cooperation with the Board of Governors of the Federal Reserve System, should exercise appropriate authority to assure that an adequate flow of credit be available

to American farmers at reasonable rates and that American farmers be treated no less favorably than foreign borrowers with comparable levels of risk, and

(2) the President, in cooperation with the Board of Governors of the Federal Reserve System, should take noninflationary actions necessary to reduce interest rates which are currently at levels abnormally above the historic real cost of money.

5 USC 5532.

SEC. 306. Section 5532(f)(2) of title V, United States Code, is amended by striking "December 31, 1984" and inserting "December 31, 1985" in lieu thereof.

Legal Services
Corp., funds.

SEC. 307. Upon the enactment of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1985, the first proviso under the heading "Legal Services Corporation, Payment to the Legal Services Corporation", in title II of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1985, is amended to read as follows: "Provided, That the funds appropriated in this paragraph shall be expended in accordance with the provisions under the heading 'Legal Services Corporation, Payment to the Legal Services Corporation' contained in Public Law 98-166 except that 'fiscal year 1984', wherever it appears in such provisions, shall be construed as 'fiscal year 1985', 'fiscal year 1983', wherever it appears in such provisions, shall be construed as 'fiscal year 1984'; 'January 1, 1984' shall be construed as 'January 1, 1985'; '\$6.50' shall be construed as '\$7.61'; and '\$13' shall be construed as '\$13.57'; and shall not be denied to any grantee or contractor which received funding from the Corporation in fiscal year 1984 as a result of activities which during fiscal year 1984 have been found by an independent hearing officer appointed by the President of the Corporation not to constitute grounds for a denial of refunding:".

Post, p. 1563.

97 Stat. 1088.

Poultry.
Eggs.
Exports.

SEC. 308. (a) The Congress finds that—

(1) the export of American poultry meat products has reduced our Nation's annual trade deficit by over \$275,000,000 but has declined for two straight years;

(2) an even more drastic decline in the exports of American shell eggs has occurred over the same period of time and many foreign markets have been completely lost;

(3) the decline of such exports is largely a result of the use of unfair trade subsidies for poultry and egg exports by countries of the European Economic Community and Brazil;

(4) the United States has been engaged for almost three years in negotiations with such countries to end the use of such subsidies but has been unable to make substantial progress in ending such subsidies; and

(5) further negotiations to end the use of such subsidies are expected to be held in October 1984.

(b) It is the sense of the Congress that—

(1) the President should use all practicable means to necessitate an end to the use of unfair trade subsidies for poultry and egg exports by countries of the European Economic Community and Brazil in order to permit American producers to compete more fairly in international markets and to avoid the imposition of such subsidies by the United States; and

(2) the President should use all of the authorities available, including the Commodity Credit Corporation, to move United States agricultural products in world trade at competitive prices.

SEC. 309. The Secretary of Commerce is directed to submit, within thirty days of the date of enactment of this Act, to the appropriate committees of the Congress a report specifying a proposal to meet the funding obligations of the Fishermen's Guarantee Fund.

Fishermen's
Guarantee Fund.
Report.

This Act may be cited as the "Second Supplemental Appropriations Act, 1984".

Approved August 22, 1984.

LEGISLATIVE HISTORY—H.R. 6040:

HOUSE REPORTS: No. 98-916 (Comm. on Appropriations) and No. 98-977 (Comm. of Conference).

SENATE REPORT No. 98-570 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 130 (1984):

Aug. 1, considered and passed House.

Aug. 7, 8, considered and passed Senate, amended.

Aug. 10, House agreed to conference report, receded and concurred in certain Senate amendments, and in others with amendments. Senate agreed to conference report, receded and concurred in House amendments.

Public Law 98-397
98th Congress

An Act

Aug. 23, 1984
[H.R. 4280]

To amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954 to improve the delivery of retirement benefits and provide for greater equity under private pension plans for workers and their spouses and dependents by taking into account changes in work patterns, the status of marriage as an economic partnership, and the substantial contribution to that partnership of spouses who work both in and outside the home, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Retirement
Equity Act of
1984.
29 USC 1001
note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Retirement Equity Act of 1984".

TITLE I — AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SE- CURITY ACT OF 1974

SEC. 101. AMENDMENT OF ERISA.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Employee Retirement Income Security Act of 1974.

29 USC 1001
note.

SEC. 102. MODIFICATIONS OF MINIMUM PARTICIPATION AND VESTING STANDARDS.

(a) AGE LIMITATION FOR MINIMUM PARTICIPATION STANDARDS LOWERED FROM AGE 25 TO AGE 21.—

(1) IN GENERAL.—Clause (i) of section 202(a)(1)(A) (29 U.S.C. 1052(a)(1)(A)(i)) is amended by striking out "25" and inserting in lieu thereof "21".

(2) SPECIAL RULE FOR CERTAIN PLANS.—Clause (ii) of section 202(a)(1)(B) (29 U.S.C. 1052(a)(1)(B)(ii)) is amended by striking out "'30' for '25'" and inserting in lieu thereof "'26' for '21'".

(b) YEARS OF SERVICE AFTER AGE 18 (INSTEAD OF AGE 22) TAKEN INTO ACCOUNT FOR DETERMINING NONFORFEITABLE PERCENTAGE.—Subparagraph (A) of section 203(b)(1) (29 U.S.C. 1053(b)(1)(A)) is amended by striking out "22" and inserting in lieu thereof "18".

(c) BREAK IN SERVICE FOR VESTING UNDER INDIVIDUAL ACCOUNT PLANS.—Subparagraph (C) of section 203(b)(3) (29 U.S.C. 1053(b)(3)(C)) is amended—

(1) by striking out "any 1-year break in service" and inserting in lieu thereof "5 consecutive 1-year breaks in service", and

(2) by striking out "such break" each place it appears and inserting in lieu thereof "such 5-year period".

(d) RULE OF PARITY FOR NONVESTED PARTICIPANTS TO BE APPLIED ONLY IF BREAK IN SERVICE EXCEEDS 5 YEARS.—

(1) **MINIMUM PARTICIPATION STANDARDS.**—Paragraph (4) of section 202(b) (29 U.S.C. 1052(b)(4)) is amended to read as follows:

“(4)(A) For purposes of paragraph (1), in the case of a nonvested participant, years of service with the employer or employers maintaining the plan before any period of consecutive 1-year breaks in service shall not be required to be taken into account in computing the period of service if the number of consecutive 1-year breaks in service within such period equals or exceeds the greater of—

“(i) 5, or

“(ii) the aggregate number of years of service before such period.

“(B) If any years of service are not required to be taken into account by reason of a period of breaks in service to which subparagraph (A) applies, such years of service shall not be taken into account in applying subparagraph (A) to a subsequent period of breaks in service.

“(C) For purposes of subparagraph (A), the term ‘nonvested participant’ means a participant who does not have any nonforfeitable right under the plan to an accrued benefit derived from employer contributions.”

(2) **MINIMUM VESTING STANDARDS.**—Subparagraph (D) of section 203(b)(3) (29 U.S.C. 1053(b)(3)(D)) is amended to read as follows:

“(D)(i) For purposes of paragraph (1), in the case of a nonvested participant, years of service with the employer or employers maintaining the plan before any period of consecutive 1-year breaks in service shall not be required to be taken into account if the number of consecutive 1-year breaks in service within such period equals or exceeds the greater of—

“(I) 5, or

“(II) the aggregate number of years of service before such period.

“(ii) If any years of service are not required to be taken into account by reason of a period of breaks in service to which clause (i) applies, such years of service shall not be taken into account in applying clause (i) to a subsequent period of breaks in service.

“(iii) For purposes of clause (i), the term ‘nonvested participant’ means a participant who does not have any nonforfeitable right under the plan to an accrued benefit derived from employer contributions.”

(e) **CERTAIN MATERNITY OR PATERNITY ABSENCES NOT TREATED AS BREAKS IN SERVICE.**—

(1) **MINIMUM PARTICIPATION STANDARDS.**—Subsection (b) of section 202 (29 U.S.C. 1052(b)) is amended by adding at the end thereof the following new paragraph:

“(5)(A) In the case of each individual who is absent from work for any period—

“(i) by reason of the pregnancy of the individual,

“(ii) by reason of the birth of a child of the individual,

“(iii) by reason of the placement of a child with the individual in connection with the adoption of such child by such individual, or

“(iv) for purposes of caring for such child for a period beginning immediately following such birth or placement, the plan shall treat as hours of service, solely for purposes of determining under this subsection whether a 1-year break in service

29 USC 1053.

(as defined in section 203(b)(3)(A)) has occurred, the hours described in subparagraph (B).

“(B) The hours described in this subparagraph are—

“(i) the hours of service which otherwise would normally have been credited to such individual but for such absence, or

“(ii) in any case in which the plan is unable to determine the hours described in clause (i), 8 hours of service per day of such absence,

except that the total number of hours treated as hours of service under this subparagraph by reason of any such pregnancy or placement shall not exceed 501 hours.

“(C) The hours described in subparagraph (B) shall be treated as hours of service as provided in this paragraph—

“(i) only in the year in which the absence from work begins, if a participant would be prevented from incurring a 1-year break in service in such year solely because the period of absence is treated as hours of service as provided in subparagraph (A); or

“(ii) in any other case, in the immediately following year.

29 USC 1052.

“(D) For purposes of this paragraph, the term ‘year’ means the period used in computations pursuant to section 202(a)(3)(A).

“(E) A plan may provide that no credit will be given pursuant to this paragraph unless the individual furnishes to the plan administrator such timely information as the plan may reasonably require to establish—

“(i) that the absence from work is for reasons referred to in subparagraph (A), and

“(ii) the number of days for which there was such an absence.”

(2) MINIMUM VESTING STANDARDS.—Section 203(b)(3) (29 U.S.C. 1053(b)(3)) is amended by adding at the end thereof the following new subparagraph:

“(E)(i) In the case of each individual who is absent from work for any period—

“(I) by reason of the pregnancy of the individual,

“(II) by reason of the birth of a child of the individual,

“(III) by reason of the placement of a child with the individual in connection with the adoption of such child by such individual, or

“(IV) for purposes of caring for such child for a period beginning immediately following such birth or placement,

the plan shall treat as hours of service, solely for purposes of determining under this paragraph whether a 1-year break in service has occurred, the hours described in clause (ii).

“(ii) The hours described in this clause are—

“(I) the hours of service which otherwise would normally have been credited to such individual but for such absence, or

“(II) in any case in which the plan is unable to determine the hours described in subclause (I), 8 hours of service per day of absence,

except that the total number of hours treated as hours of service under this clause by reason of such pregnancy or placement shall not exceed 501 hours.

“(iii) The hours described in clause (ii) shall be treated as hours of service as provided in this subparagraph—

“(I) only in the year in which the absence from work begins, if a participant would be prevented from incurring a 1-year break

in service in such year solely because the period of absence is treated as hours of service as provided in clause (i); or

“(II) in any other case, in the immediately following year.

“(iv) For purposes of this subparagraph, the term ‘year’ means the period used in computations pursuant to paragraph (2).

“(v) A plan may provide that no credit will be given pursuant to this subparagraph unless the individual furnishes to the plan administrator such timely information as the plan may reasonably require to establish—

“(I) that the absence from work is for reasons referred to in clause (i), and

“(II) the number of days for which there was such an absence.”.

(3) **ABSENCES DISREGARDED FOR PURPOSES OF ACCRUED BENEFIT REQUIREMENTS.**—Subparagraph (A) of section 204(b)(3) (29 U.S.C. 1054(b)(3)(A)) is amended by inserting “, determined without regard to section 202(b)(5)” after “section 202(b)”.

(f) **APPLICATION OF BREAK IN SERVICE RULES TO ACCRUED BENEFITS.**—Subsection (e) of section 204 (29 U.S.C. 1054(e)) is amended by striking out “any 1-year break in service” and inserting in lieu thereof “5 consecutive 1-year breaks in service”.

SEC. 103. REQUIREMENT OF JOINT AND SURVIVOR ANNUITIES AND PRE-RETIREMENT SURVIVOR ANNUITIES.

(a) **GENERAL RULE.**—Section 205 (29 U.S.C. 1055) is amended to read as follows:

“REQUIREMENT OF JOINT AND SURVIVOR ANNUITY AND PRERETIREMENT SURVIVOR ANNUITY

“Sec. 205. (a) Each pension plan to which this section applies shall provide that—

“(1) in the case of a vested participant who retires under the plan, the accrued benefit payable to such participant shall be provided in the form of a qualified joint and survivor annuity, and

“(2) in the case of a vested participant who dies before the annuity starting date and who has a surviving spouse, a qualified preretirement survivor annuity shall be provided to the surviving spouse of such participant.

“(b)(1) This section shall apply to—

“(A) any defined benefit plan,

“(B) any individual account plan which is subject to the funding standards of section 302, and

“(C) any participant under any other individual account plan unless—

“(i) such plan provides that the participant’s nonforfeitable accrued benefit is payable in full, on the death of the participant, to the participant’s surviving spouse (or, if there is no surviving spouse or the surviving spouse consents in the manner required under subsection (c)(2)(A), to a designated beneficiary),

“(ii) such participant does not elect the payment of benefits in the form of a life annuity, and

“(iii) with respect to such participant, such plan is not a transferee of a plan which is described in subparagraph (A)

or (B) or to which this clause applied with respect to the participant.

“(2)(A) In the case of—

Ante, p. 852.

“(i) a tax credit employee stock ownership plan (as defined in section 409(a) of the Internal Revenue Code of 1954), or

26 USC 4975.

“(ii) an employee stock ownership plan (as defined in section 4975(e)(7) of such Code),

Ante, p. 852.

subsection (a) shall not apply to that portion of the employee's accrued benefit to which the requirements of section 409(h) of such Code apply.

“(B) Subparagraph (A) shall not apply with respect to any participant unless the requirements of clause (i), (ii), and (iii) of paragraph (1)(C) are met with respect to such participant.

“(c)(1) A plan meets the requirements of this section only if—

“(A) under the plan, each participant—

“(i) may elect at any time during the applicable election period to waive the qualified joint and survivor annuity form of benefit or the qualified preretirement survivor annuity form of benefit (or both), and

“(ii) may revoke any such election at any time during the applicable election period, and

“(B) the plan meets the requirements of paragraphs (2) and (3).

“(2) Each plan shall provide that an election under paragraph (1)(A)(i) shall not take effect unless—

“(A) the spouse of the participant consents in writing to such election, and the spouse's consent acknowledges the effect of such election and is witnessed by a plan representative or a notary public, or

“(B) it is established to the satisfaction of a plan representative that the consent required under subparagraph (A) may not be obtained because there is no spouse, because the spouse cannot be located, or because of such other circumstances as the Secretary of the Treasury may by regulations prescribe.

Any consent by a spouse (or establishment that the consent of a spouse may not be obtained) under the preceding sentence shall be effective only with respect to such spouse.

“(3)(A) Each plan shall provide to each participant, within a reasonable period of time before the annuity starting date (and consistent with such regulations as the Secretary of the Treasury may prescribe) a written explanation of—

“(i) the terms and conditions of the qualified joint and survivor annuity,

“(ii) the participant's right to make, and the effect of, an election under paragraph (1) to waive the joint and survivor annuity form of benefit,

“(iii) the rights of the participant's spouse under paragraph (2), and

“(iv) the right to make, and the effect of, a revocation of an election under paragraph (1).

Age limitation.

“(B) Each plan shall provide to each participant, within the period beginning with the first day of the plan year in which the participant attains age 32 and ending with the close of the plan year preceding the plan year in which the participant attains age 35 (and consistent with such regulations as the Secretary of the Treasury may prescribe), a written explanation with respect to the qualified

preretirement survivor annuity comparable to that required under subparagraph (A).

“(4)(A) The requirements of this subsection shall not apply with respect to the qualified joint and survivor annuity form of benefit or the qualified preretirement survivor annuity form of benefit, as the case may be, if the plan fully subsidizes the costs of such benefit.

“(B) For purposes of subparagraph (A), a plan fully subsidizes the costs of a benefit if under the plan the failure to waive such benefit by a participant would not result in a decrease in any plan benefits with respect to such participant and would not result in increased contributions from such participant.

“(5) If a plan fiduciary acts in accordance with part 4 of this subtitle in—

29 USC 1101.

“(A) relying on a consent or revocation referred to in paragraph (1)(A), or

“(B) making a determination under paragraph (2), then such consent, revocation, or determination shall be treated as valid for purposes of discharging the plan from liability to the extent of payments made pursuant to such act.

“(6) For purposes of this subsection, the term ‘applicable election period’ means—

“(A) in the case of an election to waive the qualified joint and survivor annuity form of benefit, the 90-day period ending on the annuity starting date, or

“(B) in the case of an election to waive the qualified preretirement survivor annuity, the period which begins on the first day of the plan year in which the participant attains age 35 and ends on the date of the participant’s death.

In the case of a participant who is separated from service, the applicable election period under subparagraph (B) with respect to benefits accrued before the date of such separation from service shall not begin later than such date.

“(d) For purposes of this section, the term ‘qualified joint and survivor annuity’ means an annuity—

“(1) for the life of the participant with a survivor annuity for the life of the spouse which is not less than 50 percent of (and is not greater than 100 percent of) the amount of the annuity which is payable during the joint lives of the participant and the spouse, and

“(2) which is the actuarial equivalent of a single annuity for the life of the participant.

Such term also includes any annuity in a form having the effect of an annuity described in the preceding sentence.

“(e) For purposes of this section—

“(1) Except as provided in paragraph (2), the term ‘qualified preretirement survivor annuity’ means a survivor annuity for the life of the surviving spouse of the participant if—

“(A) the payments to the surviving spouse under such annuity are not less than the amounts which would be payable as a survivor annuity under the qualified joint and survivor annuity under the plan (or the actuarial equivalent thereof) if—

“(i) in the case of a participant who dies after the date on which the participant attained the earliest retirement age, such participant had retired with an immediate qualified joint and survivor annuity on the day before the participant’s date of death, or

“(ii) in the case of a participant who dies on or before the date on which the participant would have attained the earliest retirement age, such participant had—

“(I) separated from service on the date of death,

“(II) survived to the earliest retirement age,

“(III) retired with an immediate qualified joint and survivor annuity at the earliest retirement age, and

“(IV) died on the day after the day on which such participant would have attained the earliest retirement age, and

“(B) under the plan, the earliest period for which the surviving spouse may receive a payment under such annuity is not later than the month in which the participant would have attained the earliest retirement age under the plan.

“(2) In the case of any individual account plan or participant described in subparagraph (B) or (C) of subsection (b)(1), the term ‘qualified preretirement survivor annuity’ means an annuity for the life of the surviving spouse the actuarial equivalent of which is not less than 50 percent of the account balance of the participant as of the date of death.

“(f)(1) Except as provided in paragraph (2), a plan may provide that a qualified joint and survivor annuity (or a qualified preretirement survivor annuity) will not be provided unless the participant and spouse had been married throughout the 1-year period ending on the earlier of—

“(A) the participant’s annuity starting date, or

“(B) the date of the participant’s death.

“(2) For purposes of paragraph (1), if—

“(A) a participant marries within 1 year before the annuity starting date, and

“(B) the participant and the participant’s spouse in such marriage have been married for at least a 1-year period ending on or before the date of the participant’s death,

such participant and such spouse shall be treated as having been married throughout the 1-year period ending on the participant’s annuity starting date.

“(g)(1) A plan may provide that the present value of a qualified joint and survivor annuity or a qualified preretirement survivor annuity will be immediately distributed if such value does not exceed \$3,500. No distribution may be made under the preceding sentence after the annuity starting date unless the participant and the spouse of the participant (or where the participant has died, the surviving spouse) consent in writing to such distribution.

“(2) If—

“(A) the present value of the qualified joint and survivor annuity or the qualified preretirement survivor annuity exceeds \$3,500, and

“(B) the participant and the spouse of the participant (or where the participant has died, the surviving spouse) consent in writing to the distribution,

the plan may immediately distribute the present value of such annuity.

“(3) For purposes of paragraphs (1) and (2), the present value of a qualified joint and survivor annuity or a qualified preretirement survivor annuity shall be determined as of the date of the distribu-

tion and by using an interest rate not greater than the interest rate which would be used (as of the date of the distribution) by the Pension Benefit Guaranty Corporation for purposes of determining the present value of a lump sum distribution on plan termination.

“(h) For purposes of this section—

“(1) the term ‘vested participant’ means any participant who has a nonforfeitable right (within the meaning of section 3(19)) to any portion of the accrued benefit derived from employer contributions,

29 USC 1002.

“(2) the term ‘annuity starting date’ means the first day of the first period for which an amount is received as an annuity (whether by reason of retirement or disability), and

“(3) the term ‘earliest retirement age’ means the earliest date on which, under the plan, the participant could elect to receive retirement benefits.

“(i) A plan may take into account in any equitable manner (as determined by the Secretary of the Treasury) any increased costs resulting from providing a qualified joint or survivor annuity or a qualified preretirement survivor annuity.

“(j) In prescribing regulations under this section, the Secretary of the Treasury shall consult with the Secretary of Labor.”.

(b) CLERICAL AMENDMENT.—The table of contents in section 1 is amended by striking out the item relating to section 205 and inserting in lieu thereof the following new item:

“Sec. 205. Requirement of joint and survivor annuity and preretirement survivor annuity.”.

SEC. 104. SPECIAL RULES FOR ASSIGNMENTS IN DIVORCE, ETC., PROCEEDINGS.

(a) IN GENERAL.—Section 206(d) (29 U.S.C. 1056(d)) is amended by adding at the end thereof the following new paragraph:

“(3)(A) Paragraph (1) shall apply to the creation, assignment, or recognition of a right to any benefit payable with respect to a participant pursuant to a domestic relations order, except that paragraph (1) shall not apply if the order is determined to be a qualified domestic relations order. Each pension plan shall provide for the payment of benefits in accordance with the applicable requirements of any qualified domestic relations order.

“(B) For purposes of this paragraph—

“(i) the term ‘qualified domestic relations order’ means a domestic relations order—

“(I) which creates or recognizes the existence of an alternate payee’s right to, or assigns to an alternate payee the right to, receive all or a portion of the benefits payable with respect to a participant under a plan, and

“(II) with respect to which the requirements of subparagraphs (C) and (D) are met, and

“(ii) the term ‘domestic relations order’ means any judgment, decree, or order (including approval of a property settlement agreement) which—

“(I) relates to the provision of child support, alimony payments, or marital property rights to a spouse, former spouse, child, or other dependent of a participant, and

“(II) is made pursuant to a State domestic relations law (including a community property law).

“(C) A domestic relations order meets the requirements of this subparagraph only if such order clearly specifies—

“(i) the name and the last known mailing address (if any) of the participant and the name and mailing address of each alternate payee covered by the order,

“(ii) the amount or percentage of the participant’s benefits to be paid by the plan to each such alternate payee, or the manner in which such amount or percentage is to be determined,

“(iii) the number of payments or period to which such order applies, and

“(iv) each plan to which such order applies.

“(D) A domestic relations order meets the requirements of this subparagraph only if such order—

“(i) does not require a plan to provide any type or form of benefit, or any option, not otherwise provided under the plan,

“(ii) does not require the plan to provide increased benefits (determined on the basis of actuarial value), and

“(iii) does not require the payment of benefits to an alternate payee which are required to be paid to another alternate payee under another order previously determined to be a qualified domestic relations order.

“(E)(i) In the case of any payment before a participant has separated from service, a domestic relations order shall not be treated as failing to meet the requirements of clause (i) of subparagraph (D) solely because such order requires that payment of benefits be made to an alternate payee—

“(I) on or after the date on which the participant attains (or would have attained) the earliest retirement age,

“(II) as if the participant had retired on the date on which such payment is to begin under such order (but taking into account only the present value of benefits actually accrued and not taking into account the present value of any employer subsidy for early retirement), and

“(III) in any form in which such benefits may be paid under the plan to the participant (other than in the form of a joint and survivor annuity with respect to the alternate payee and his or her subsequent spouse).

For purposes of subclause (II), the interest rate assumption used in determining the present value shall be the interest rate specified in the plan or, if no rate is specified, 5 percent.

Ante, p. 1429.

“(ii) For purposes of this subparagraph, the term ‘earliest retirement age’ has the meaning given such term by section 205(h)(3), except that in the case of any individual account plan, the earliest retirement age shall be the date which is 10 years before the normal retirement age.

“(F) To the extent provided in any qualified domestic relations order—

“(i) the former spouse of a participant shall be treated as a surviving spouse of such participant for purposes of section 205, and

“(ii) if married for at least 1 year, the former spouse shall be treated as meeting the requirements of section 205(f).

“(G)(i) In the case of any domestic relations order received by a plan—

“(I) the plan administrator shall promptly notify the participant and any other alternate payee of the receipt of such order

and the plan's procedures for determining the qualified status of domestic relations orders, and

"(II) within a reasonable period after receipt of such order, the plan administrator shall determine whether such order is a qualified domestic relations order and notify the participant and each alternate payee of such determination.

"(ii) Each plan shall establish reasonable procedures to determine the qualified status of domestic relations orders and to administer distributions under such qualified orders. Such procedures—

"(I) shall be in writing,

"(II) shall provide for the notification of each person specified in a domestic relations order as entitled to payment of benefits under the plan (at the address included in the domestic relations order) of such procedures promptly upon receipt by the plan of the domestic relations order, and

"(III) shall permit an alternate payee to designate a representative for receipt of copies of notices that are sent to the alternate payee with respect to a domestic relations order.

"(H)(i) During any period in which the issue of whether a domestic relations order is a qualified domestic relations order is being determined (by the plan administrator, by a court of competent jurisdiction, or otherwise), the plan administrator shall segregate in a separate account in the plan or in an escrow account the amounts which would have been payable to the alternate payee during such period if the order had been determined to be a qualified domestic relations order.

"(ii) If within 18 months the order (or modification thereof) is determined to be a qualified domestic relations order, the plan administrator shall pay the segregated amounts (plus any interest thereon) to the person or persons entitled thereto.

"(iii) If within 18 months—

"(I) it is determined that the order is not a qualified domestic relations order, or

"(II) the issue as to whether such order is a qualified domestic relations order is not resolved,

then the plan administrator shall pay the segregated amounts (plus any interest thereon) to the person or persons who would have been entitled to such amounts if there had been no order.

"(iv) Any determination that an order is a qualified domestic relations order which is made after the close of the 18-month period shall be applied prospectively only.

"(I) If a plan fiduciary acts in accordance with part 4 of this subtitle in—

"(i) treating a domestic relations order as being (or not being) a qualified domestic relations order, or

"(ii) taking action under subparagraph (H),

then the plan's obligation to the participant and each alternate payee shall be discharged to the extent of any payment made pursuant to such act.

"(J) A person who is an alternate payee under a qualified domestic relations order shall be considered for purposes of any provision of this Act a beneficiary under the plan. Nothing in the preceding sentence shall permit a requirement under section 4001 of the payment of more than 1 premium with respect to a participant for any period.

29 USC 1301.

"(K) The term 'alternate payee' means any spouse, former spouse, child, or other dependent of a participant who is recognized by a

domestic relations order as having a right to receive all, or a portion of, the benefits payable under a plan with respect to such participant.

“(L) In prescribing regulations under this paragraph, the Secretary shall consult with the Secretary of the Treasury.”.

(b) **CLARIFICATION OF PREEMPTION PROVISION.**—Subsection (b) of section 514 (29 U.S.C. 1144(b)) is amended by adding at the end thereof the following new paragraph:

“(7) Subsection (a) shall not apply to qualified domestic relations orders (within the meaning of section 206(d)(3)(B)(i)).”.

Ante, p. 1433.

SEC. 105. RESTRICTIONS ON MANDATORY DISTRIBUTIONS.

(a) **GENERAL RULE.**—Section 203 (29 U.S.C. 1053) is amended by adding at the end thereof the following new subsection:

“(e)(1) If the present value of any accrued benefit exceeds \$3,500, such benefit shall not be treated as nonforfeitable if the plan provides that the present value of such benefit could be immediately distributed without the consent of the participant.

“(2) For purposes of paragraph (1), the present value shall be calculated by using an interest rate not greater than the interest rate which would be used (as of the date of the distribution) by the Pension Benefit Guaranty Corporation for purposes of determining the present value of a lump sum distribution on plan termination.”.

(b) **CONFORMING AMENDMENT.**—Paragraph (1) of section 204(d) (29 U.S.C. 1054(d)(1)) is amended by striking out “\$1,750” and inserting in lieu thereof “\$3,500”.

SEC. 106. PARTICIPANT TO BE NOTIFIED THAT BENEFITS MAY BE FORFEITABLE.

Subsection (c) of section 105 (29 U.S.C. 1025(c)) is amended by inserting at the end thereof the following new sentence: “Such statement shall also include a notice to the participant of any benefits which are forfeitable if the participant dies before a certain date.”.

TITLE II—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1954

SEC. 201. AMENDMENT OF 1954 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

26 USC 1 *et seq.*

SEC. 202. MODIFICATIONS OF MINIMUM PARTICIPATION AND VESTING STANDARDS.

(a) **AGE LIMITATION FOR MINIMUM PARTICIPATION STANDARDS LOWERED FROM AGE 25 TO AGE 21.**—

26 USC 410.

(1) **IN GENERAL.**—Subparagraph (A)(i) of section 410(a)(1) relating to minimum age requirement for participation is amended by striking out “25” and inserting in lieu thereof “21”.

(2) **SPECIAL RULE FOR CERTAIN PLANS.**—Subparagraph (B)(ii) of section 410(a)(1) (relating to special rules for certain plans) is amended by striking out “‘30’ for ‘25’” and inserting in lieu thereof “‘26’ for ‘21’”.

(b) YEARS OF SERVICE AFTER AGE 18 (INSTEAD OF AGE 22.) TAKEN INTO ACCOUNT FOR DETERMINING NONFORFEITABLE PERCENTAGE.—Subparagraph (A) of section 411(a)(4) (relating to service included in determination of nonforfeitable percentage) is amended by striking out “22” and inserting in lieu thereof “18”.

26 USC 411.

(c) BREAK IN SERVICE FOR VESTING UNDER DEFINED CONTRIBUTION PLANS, ETC.—Subparagraph (C) of section 411(a)(6) (relating to 1-year break in service under defined contribution plan) is amended—

(1) by striking out “1-YEAR BREAK IN SERVICE” in the subparagraph heading and inserting in lieu thereof “5 CONSECUTIVE 1-YEAR BREAKS IN SERVICE”,

(2) by striking out “any 1-year break in service” and inserting in lieu thereof “5 consecutive 1-year breaks in service”, and

(3) by striking out “such break” each place it appears and inserting in lieu thereof “such 5-year period”.

(d) RULE OF PARITY FOR NONVESTED PARTICIPANTS TO BE APPLIED ONLY IF BREAK IN SERVICE EXCEEDS 5 YEARS.—

(1) MINIMUM PARTICIPATION STANDARDS.—Subparagraph (D) of section 410(a)(5) (relating to breaks in service) is amended to read as follows:

26 USC 410.

“(D) NONVESTED PARTICIPANTS.—

“(i) IN GENERAL.—For purposes of paragraph (1), in the case of a nonvested participant, years of service with the employer or employers maintaining the plan before any period of consecutive 1-year breaks in service shall not be required to be taken into account in computing the period of service if the number of consecutive 1-year breaks in service within such period equals or exceeds the greater of—

“(I) 5, or

“(II) the aggregate number of years of service before such period.

“(ii) YEARS OF SERVICE NOT TAKEN INTO ACCOUNT.—If any years of service are not required to be taken into account by reason of a period of breaks in service to which clause (i) applies, such years of service shall not be taken into account in applying clause (i) to a subsequent period of breaks in service.

“(iii) NONVESTED PARTICIPANT DEFINED.—For purposes of clause (i), the term ‘nonvested participant’ means a participant who does not have any nonforfeitable right under the plan to an accrued benefit derived from employer contributions.”.

(2) MINIMUM VESTING STANDARDS.—Subparagraph (D) of section 411(a)(6) (relating to breaks in service) is amended to read as follows:

26 USC 411.

“(D) NONVESTED PARTICIPANTS.—

“(i) IN GENERAL.—For purposes of paragraph (4), in the case of a nonvested participant, years of service with the employer or employers maintaining the plan before any period of consecutive 1-year breaks in service shall not be required to be taken into account if the number of consecutive 1-year breaks in service within such period equals or exceeds the greater of—

“(I) 5, or

“(II) the aggregate number of years of service before such period.

“(ii) YEARS OF SERVICE NOT TAKEN INTO ACCOUNT.—If any years of service are not required to be taken into account by reason of a period of breaks in service to which clause (i) applies, such years of service shall not be taken into account in applying clause (i) to a subsequent period of breaks in service.

“(iii) NONVESTED PARTICIPANT DEFINED.—For purposes of clause (i), the term ‘nonvested participant’ means a participant who does not have any nonforfeitable right under the plan to an accrued benefit derived from employer contributions.”

(e) CERTAIN MATERNITY OR PATERNITY ABSENCES NOT TREATED AS BREAKS IN SERVICE.—

26 USC 410.

(1) MINIMUM PARTICIPATION STANDARDS.—Paragraph (5) of section 410(a) (relating to breaks in service) is amended by adding at the end thereof the following new subparagraph:

“(E) SPECIAL RULE FOR MATERNITY OR PATERNITY ABSENCES.—

“(i) GENERAL RULE.—In the case of each individual who is absent from work for any period—

“(I) by reason of the pregnancy of the individual,

“(II) by reason of the birth of a child of the individual,

“(III) by reason of the placement of a child with the individual in connection with the adoption of such child by such individual, or

“(IV) for purposes of caring for such child for a period beginning immediately following such birth or placement,

the plan shall treat as hours of service, solely for purposes of determining under this paragraph whether a 1-year break in service (as defined in section 411(a)(6)(A)) has occurred, the hours described in clause (ii).

26 USC 411.

“(ii) HOURS TREATED AS HOURS OF SERVICE.—The hours described in this clause are—

“(I) the hours of service which otherwise would normally have been credited to such individual but for such absence, or

“(II) in any case in which the plan is unable to determine the hours described in subclause (I), 8 hours of service per day of such absence, except that the total number of hours treated as hours of service under this clause by reason of any such pregnancy or placement shall not exceed 501 hours.

“(iii) YEAR TO WHICH HOURS ARE CREDITED.—The hours described in clause (ii) shall be treated as hours of service as provided in this subparagraph—

“(I) only in the year in which the absence from work begins, if a participant would be prevented from incurring a 1-year break in service in such year solely because the period of absence is treated as hours of service as provided in clause (i); or

“(II) in any other case, in the immediately following year.

“(iv) YEAR DEFINED.—For purposes of this subparagraph, the term ‘year’ means the period used in computations pursuant to paragraph (3).

“(v) INFORMATION REQUIRED TO BE FILED.—A plan shall not fail to satisfy the requirements of this subparagraph solely because it provides that no credit will be given pursuant to this subparagraph unless the individual furnishes to the plan administrator such timely information as the plan may reasonably require to establish—

“(I) that the absence from work is for reasons referred to in clause (i), and

“(II) the number of days for which there was such an absence.”.

(2) MINIMUM VESTING STANDARDS.—Paragraph (6) of section 411(a) (relating to breaks in service) is amended by adding at the end thereof the following new subparagraph:

26 USC 411.

“(E) SPECIAL RULE FOR MATERNITY OR PATERNITY ABSENCES.—

“(i) GENERAL RULE.—In the case of each individual who is absent from work for any period—

“(I) by reason of the pregnancy of the individual,

“(II) by reason of the birth of a child of the individual,

“(III) by reason of the placement of a child with the individual in connection with the adoption of such child by such individual, or

“(IV) for purposes of caring for such child for a period beginning immediately following such birth or placement,

the plan shall treat as hours of service, solely for purposes of determining under this paragraph whether a 1-year break in service has occurred, the hours described in clause (ii).

“(ii) HOURS TREATED AS HOURS OF SERVICE.—The hours described in this clause are—

“(I) the hours of service which otherwise would normally have been credited to such individual but for such absence, or

“(II) in any case in which the plan is unable to determine the hours described in subclause (I), 8 hours of service per day of absence,

except that the total number of hours treated as hours of service under this clause by reason of any such pregnancy or placement shall not exceed 501 hours.

“(iii) YEAR TO WHICH HOURS ARE CREDITED.—The hours described in clause (ii) shall be treated as hours of service as provided in this subparagraph—

“(I) only in the year in which the absence from work begins, if a participant would be prevented from incurring a 1-year break in service in such year solely because the period of absence is treated as hours of service as provided in clause (i); or

“(II) in any other case, in the immediately following year.

“(iv) YEAR DEFINED.—For purposes of this subparagraph, the term ‘year’ means the period used in computations pursuant to paragraph (5).

“(v) INFORMATION REQUIRED TO BE FILED.—A plan shall not fail to satisfy the requirements of this subparagraph solely because it provides that no credit will be given pursuant to this subparagraph unless the individual furnishes to the plan administrator such timely information as the plan may reasonably require to establish—

“(I) that the absence from work is for reasons referred to in clause (i), and

“(II) the number of days for which there was such an absence.”.

26 USC 411.

(3) ABSENCES DISREGARDED FOR PURPOSES OF ACCRUED BENEFIT REQUIREMENTS.—Subparagraph (A) of section 411(b)(3) (relating to year of participation) is amended by inserting “, determined without regard to section 410(a)(5)(E)” after “section 410(a)(5)”.

(f) APPLICATION OF BREAK IN SERVICE RULES TO ACCRUED BENEFITS.—Subparagraph (C) of section 411(a)(7) (defining accrued benefit) is amended by striking out “any one-year break in service” and inserting in lieu thereof “5 consecutive 1-year breaks in service”.

SEC. 203. REQUIREMENT OF JOINT AND SURVIVOR ANNUITIES AND PRE-RETIREMENT SURVIVOR ANNUITIES.

26 USC 401.

(a) GENERAL RULE.—Paragraph (11) of section 401(a) (relating to requirement of joint and survivor annuities) is amended to read as follows:

Trust.

“(11) REQUIREMENT OF JOINT AND SURVIVOR ANNUITY AND PRERETIREMENT SURVIVOR ANNUITY.—

Post, p. 1441.

“(A) IN GENERAL.—In the case of any plan to which this paragraph applies, except as provided in section 417, a trust forming part of such plan shall not constitute a qualified trust under this section unless—

“(i) in the case of a vested participant who retires under the plan, the accrued benefit payable to such participant is provided in the form of a qualified joint and survivor annuity, and

“(ii) in the case of a vested participant who dies before the annuity starting date and who has a surviving spouse, a qualified preretirement survivor annuity is provided to the surviving spouse of such participant.

“(B) PLANS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to—

26 USC 412.

“(i) any defined benefit plan,

“(ii) any defined contribution plan which is subject to the funding standards of section 412, and

“(iii) any participant under any other defined contribution plan unless—

Post, p. 1441.

“(I) such plan provides that the participant's nonforfeitable accrued benefit is payable in full, on the death of the participant, to the participant's surviving spouse (or, if there is no surviving spouse or the surviving spouse consents in the manner required under section 417(a)(2)(A), to a designated beneficiary),

“(II) such participant does not elect a payment of benefits in the form of a life annuity, and

“(III) with respect to such participant, such plan is not a direct or indirect transferee of a plan which is described in clause (i) or (ii) or to which this clause applied with respect to the participant.

“(C) EXCEPTION FOR CERTAIN ESOP BENEFITS.—

“(i) IN GENERAL.—In the case of—

“(I) a tax credit employee stock ownership plan (as defined in section 409(a)), or

Ante, p. 852.

“(II) an employee stock ownership plan (as defined in section 4975(e)(7)),

26 USC 4975.

subparagraph (A) shall not apply to that portion of the employee's accrued benefit to which the requirements of section 409(h) apply.

Ante, p. 852.

“(ii) NONFORFEITABLE BENEFIT MUST BE PAID IN FULL, ETC.—In the case of any participant, clause (i) shall apply only if the requirements of subclauses (I), (II), and (III) of subparagraph (B)(iii) are met with respect to such participant.

“(D) CROSS REFERENCE.—For—

“(i) provisions under which participants may elect to waive the requirements of this paragraph, and

“(ii) other definitions and special rules for purposes of this paragraph,

see section 417.”

(b) DEFINITIONS AND SPECIAL RULES.—Subpart B of part I of subchapter D of chapter 1 is amended by adding at the end thereof the following new section:

“SEC. 417. DEFINITIONS AND SPECIAL RULES FOR PURPOSES OF MINIMUM SURVIVOR ANNUITY REQUIREMENTS.

26 USC 417.

“(a) ELECTION TO WAIVE QUALIFIED JOINT AND SURVIVOR ANNUITY OR QUALIFIED PRERETIREMENT SURVIVOR ANNUITY.—

“(1) IN GENERAL.—A plan meets the requirements of section 401(a)(ii) only if—

“(A) under the plan, each participant—

“(i) may elect at any time during the applicable election period to waive the qualified joint and survivor annuity form of benefit or the qualified preretirement survivor annuity form of benefit (or both), and

“(ii) may revoke any such election at any time during the applicable election period, and

“(B) the plan meets the requirements of paragraphs (2) and (3) of this subsection.

“(2) SPOUSE MUST CONSENT TO ELECTION.—Each plan shall provide that an election under paragraph (1)(A)(i) shall not take effect unless—

“(A) the spouse of the participant consents in writing to such election, and the spouse's consent acknowledges the effect of such election and is witnessed by a plan representative or a notary public, or

“(B) it is established to the satisfaction of a plan representative that the consent required under subparagraph (A) may not be obtained because there is no spouse, because the spouse cannot be located, or because of such other circumstances as the Secretary may by regulations prescribe.

Any consent by a spouse (or establishment that the consent of a spouse may not be obtained) under the preceding sentence shall be effective only with respect to such spouse.

“(3) PLAN TO PROVIDE WRITTEN EXPLANATIONS.—

“(A) EXPLANATION OF JOINT AND SURVIVOR ANNUITY.—

Each plan shall provide to each participant, within a reasonable period of time before the annuity starting date (and consistent with such regulations as the Secretary may prescribe), a written explanation of—

“(i) the terms and conditions of the qualified joint and survivor annuity,

“(ii) the participant’s right to make, and the effect of, an election under paragraph (1) to waive the joint and survivor annuity form of benefit,

“(iii) the rights of the participant’s spouse under paragraph (2), and

“(iv) the right to make, and the effect of, a revocation of an election under paragraph (1).

Age limitation.

“(B) EXPLANATION OF QUALIFIED PRERETIREMENT SURVIVOR ANNUITY.—Each plan shall provide to each participant, within the period beginning with the first day of the plan year in which the participant attains age 32 and ending with the close of the plan year preceding the plan year in which the participant attains age 35 (and consistent with such regulations as the Secretary may prescribe), a written explanation with respect to the qualified preretirement survivor annuity comparable to that required under subparagraph (A).

“(4) SPECIAL RULES WHERE PLAN FULLY SUBSIDIZES COSTS.—

“(A) IN GENERAL.—The requirements of this subsection shall not apply with respect to the qualified joint and survivor annuity form of benefit or the qualified preretirement survivor annuity form of benefit, as the case may be, if the plan fully subsidizes the costs of such benefit.

“(B) DEFINITION.—For purposes of subparagraph (A), a plan fully subsidizes the costs of a benefit if under the plan the failure to waive such benefit by a participant would not result in a decrease in any plan benefits with respect to such participant and would not result in increased contributions from such participant.

“(5) APPLICABLE ELECTION PERIOD DEFINED.—For purposes of this subsection, the term ‘applicable election period’ means—

“(A) in the case of an election to waive the qualified joint and survivor annuity form of benefit, the 90-day period ending on the annuity starting date, or

“(B) in the case of an election to waive the qualified preretirement survivor annuity, the period which begins on the first day of the plan year in which the participant attains age 35 and ends on the date of the participant’s death.

In the case of a participant who is separated from service, the applicable election period under subparagraph (B) with respect to benefits accrued before the date of such separation from service shall not begin later than such date.

“(b) DEFINITION OF QUALIFIED JOINT AND SURVIVOR ANNUITY.—For purposes of this section and section 401(a)(11), the term ‘qualified joint and survivor annuity’ means an annuity—

Ante, p. 1440.

“(1) for the life of the participant with a survivor annuity for the life of the spouse which is not less than 50 percent of (and is not greater than 100 percent of) the amount of the annuity which is payable during the joint lives of the participant and the spouse, and

“(2) which is the actuarial equivalent of a single annuity for the life of the participant.

Such term also includes any annuity in a form having the effect of an annuity described in the preceding sentence.

“(c) DEFINITION OF QUALIFIED PRERETIREMENT SURVIVOR ANNUITY.—For purposes of this section and section 401(a)(11)—

Ante, p. 1440.

“(1) IN GENERAL.—Except as provided in paragraph (2), the term ‘qualified preretirement survivor annuity’ means a survivor annuity or the life of the surviving spouse of the participant if—

“(A) the payments to the surviving spouse under such annuity are not less than the amounts which would be payable as a survivor annuity under the qualified joint and survivor annuity under the plan (or the actuarial equivalent thereof) if—

“(i) in the case of a participant who dies after the date on which the participant attained the earliest retirement age, such participant had retired with an immediate qualified joint and survivor annuity on the day before the participant’s date of death, or

“(ii) in the case of a participant who dies on or before the date on which the participant would have attained the earliest retirement age, such participant had—

“(I) separated from service on the date of death,

“(II) survived to the earliest retirement age,

“(III) retired with an immediate qualified joint and survivor annuity at the earliest retirement age, and

“(IV) died on the day after the day on which such participant would have attained the earliest retirement age, and

“(B) under the plan, the earliest period for which the surviving spouse may receive a payment under such annuity is not later than the month in which the participant would have attained the earliest retirement age under the plan.

“(2) SPECIAL RULE FOR DEFINED CONTRIBUTION PLANS.—In the case of any defined contribution plan or participant described in clause (ii) or (iii) of section 401(a)(11)(B), the term ‘qualified preretirement survivor annuity’ means an annuity for the life of the surviving spouse the actuarial equivalent of which is not less than 50 percent of the account balance of the participant as of the date of death.

Ante, p. 1440.

“(d) SURVIVOR ANNUITIES NEED NOT BE PROVIDED IF PARTICIPANT AND SPOUSE MARRIED LESS THAN 1 YEAR.—

“(1) IN GENERAL.—Except as provided in paragraph (2), a plan shall not be treated as failing to meet the requirements of section 401(a)(11) merely because the plan provides that a qualified joint and survivor annuity (or a qualified preretirement survivor annuity) will not be provided unless the participant and spouse had been married throughout the 1-year period ending on the earlier of—

Ante, p. 1440.

“(A) the participant’s annuity starting date, or
 “(B) the date of the participant’s death.

“(2) TREATMENT OF CERTAIN MARRIAGES WITHIN 1 YEAR OF ANNUITY STARTING DATE FOR PURPOSES OF QUALIFIED JOINT AND SURVIVOR ANNUITIES.—For purposes of paragraph (1), if—

“(A) a participant marries within 1 year before the annuity starting date, and

“(B) the participant and the participant’s spouse in such marriage have been married for at least a 1-year period ending on or before the date of the participant’s death, such participant and such spouse shall be treated as having been married throughout the 1-year period ending on the participant’s annuity starting date.

“(e) RESTRICTIONS ON CASH-OUTS.—

“(1) PLAN MAY REQUIRE DISTRIBUTION IF PRESENT VALUE NOT IN EXCESS OF \$3,500.—A plan may provide that the present value of a qualified joint and survivor annuity or a qualified preretirement survivor annuity will be immediately distributed if such value does not exceed \$3,500. No distribution may be made under the preceding sentence after the annuity starting date unless the participant and the spouse of the participant (or where the participant has died, the surviving spouse) consents in writing to such distribution.

“(2) PLAN MAY DISTRIBUTE BENEFIT IN EXCESS OF \$3,500 ONLY WITH CONSENT.—If—

“(A) the present value of the qualified joint and survivor annuity or the qualified preretirement survivor annuity exceeds \$3,500, and

“(B) the participant and the spouse of the participant (or where the participant has died, the surviving spouse) consent in writing to the distribution, the plan may immediately distribute the present value of such annuity.

“(3) DETERMINATION OF PRESENT VALUE.—For purposes of paragraphs (1) and (2), the present value of a qualified joint and survivor annuity or a qualified preretirement survivor annuity shall be determined as of the date of the distribution and by using an interest rate not greater than the interest rate which would be used (as of the date of the distribution) by the Pension Benefit Guaranty Corporation for purposes of determining the present value of a lump sum distribution on plan termination.

“(f) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section and section 401(a)(11)—

“(1) VESTED PARTICIPANT.—The term ‘vested participant’ means any participant who has a nonforfeitable right (within the meaning of section 411(a)) to any portion of the accrued benefit derived from employer contributions.

“(2) ANNUITY STARTING DATE.—The term ‘annuity starting date’ means the first day of the first period for which an amount is received as an annuity (whether by reason of retirement or disability).

“(3) EARLIEST RETIREMENT AGE.—The term ‘earliest retirement age’ means the earliest date on which, under the plan, the participant could elect to receive retirement benefits.

“(4) PLAN MAY TAKE INTO ACCOUNT INCREASED COSTS.—A plan may take into account in any equitable manner (as determined by the Secretary) any increased costs resulting from providing a

Ante, p. 1440.

26 USC 411.

qualified joint or survivor annuity or a qualified preretirement survivor annuity.

“(5) CONSULTATION WITH THE SECRETARY OF LABOR.—In prescribing regulations under this section and section 401(a)(11), the Secretary shall consult with the Secretary of Labor.”

Ante, p. 1440.

(c) CLERICAL AMENDMENT.—The table of sections for subpart B of part I of subchapter D of chapter 1 is amended by adding at the end thereof the following new item:

“Sec. 417. Definitions and special rules for purposes of minimum survivor annuity requirements.”

SEC. 204. SPECIAL RULES FOR ASSIGNMENTS IN DIVORCE, ETC., PROCEEDINGS.

(a) PROHIBITION AGAINST ASSIGNMENT NOT TO APPLY IN DIVORCE, ETC., PROCEEDINGS.—Paragraph (13) of section 401(a) (relating to assignment of benefits) is amended—

26 USC 401.

(1) by striking out “(13) A trust” and inserting in lieu thereof the following:

“(13) ASSIGNMENT AND ALIENATION.—

“(A) IN GENERAL.—A trust”, and

(2) by correcting the margin for such subparagraph (A), and

(3) by adding at the end thereof the following new subparagraph:

“(B) SPECIAL RULES FOR DOMESTIC RELATIONS ORDERS.—Subparagraph (A) shall apply to the creation, assignment, or recognition of a right to any benefit payable with respect to a participant pursuant to a domestic relations order, except that subparagraph (A) shall not apply if the order is determined to be a qualified domestic relations order.”

(b) QUALIFIED DOMESTIC RELATIONS ORDER DEFINED.—Section 414 is amended by adding at the end thereof the following new subsection:

Ante, p. 875.
26 USC 414.

“(p) QUALIFIED DOMESTIC RELATIONS ORDER DEFINED.—For purposes of this subsection and section 401(a)(13)—

“(1) IN GENERAL.—

“(A) QUALIFIED DOMESTIC RELATIONS ORDER.—The term ‘qualified domestic relations order’ means a domestic relations order—

“(i) which creates or recognizes the existence of an alternate payee’s right to, or assigns to an alternate payee the right to, receive all or a portion of the benefits payable with respect to a participant under a plan, and

“(ii) with respect to which the requirements of paragraphs (2) and (3) are met.

“(B) DOMESTIC RELATIONS ORDER.—The term ‘domestic relations order’ means any judgment, decree, or order (including approval of a property settlement agreement) which—

“(i) relates to the provision of child support, alimony payments, or marital property rights to a spouse, child, or other dependent of a participant, and

“(ii) is made pursuant to a State domestic relations law (including a community property law).

“(2) ORDER MUST CLEARLY SPECIFY CERTAIN FACTS.—A domestic relations order meets the requirements of this paragraph only if such order clearly specifies—

“(A) the name and the last known mailing address (if any) of the participant and the name and mailing address of each alternate payee covered by the order,

“(B) the amount or percentage of the participant’s benefits to be paid by the plan to each such alternate payee, or the manner in which such amount or percentage is to be determined,

“(C) the number of payments or period to which such order applies, and

“(D) each plan to which such order applies.

“(3) ORDER MAY NOT ALTER AMOUNT, FORM, ETC., OF BENEFITS.—A domestic relations order meets the requirements of this paragraph only if such order—

“(A) does not require a plan to provide any type or form of benefit, or any option, not otherwise provided under the plan,

“(B) does not require the plan to provide increased benefits, (determined on the basis of actuarial value), and

“(C) does not require the payment of benefits to an alternate payee which are required to be paid to another alternate payee under another order previously determined to be a qualified domestic relations order.

“(4) EXCEPTION FOR CERTAIN PAYMENTS MADE AFTER EARLIEST RETIREMENT AGE.—

“(A) IN GENERAL.—In the case of any payment before a participant has separated from service, a domestic relations order shall not be treated as failing to meet the requirements of subparagraph (A) of paragraph (3) solely because such order requires that payment of benefits be made to an alternate payee—

“(i) on or after the date on which the participant attains (or would have attained) the earliest retirement age,

“(ii) as if the participant had retired on the date on which such payment is to begin under such order (but taking into account only the present value of the benefits actually accrued and not taking into account the present value of any employer subsidy for early retirement), and

“(iii) in any form in which such benefits may be paid under the plan to the participant (other than in the form of a joint and survivor annuity with respect to the alternate payee and his or her subsequent spouse).

For purposes of clause (ii), the interest rate assumption used in determining the present value shall be the interest rate specified in the plan or, if no rate is specified, 5 percent.

“(B) EARLIEST RETIREMENT AGE.—For purposes of this paragraph, the term ‘earliest retirement age’ has the meaning given such term by section 417(f)(3), except that in the case of any defined contribution plan, the earliest retirement age shall be the date which is 10 years before the normal retirement age (within the meaning of section 411(a)(8)).

“(5) TREATMENT OF FORMER SPOUSE AS SURVIVING SPOUSE FOR PURPOSES OF DETERMINING SURVIVOR BENEFITS.—To the extent provided in any qualified domestic relations order—

Ante, p. 1441.

26 USC 411.

“(A) the former spouse of a participant shall be treated as a surviving spouse of such participant for purposes of sections 401(a)(11) and 417, and

Ante, pp. 1440, 1441.

“(B) if married for at least 1 year, the surviving spouse shall be treated as meeting the requirements of section 417(d).

A plan shall not be treated as failing to meet the requirements of subsection (a) or (k) of section 401 which prohibit payment of benefits before termination of employment solely by reason of payments to an alternate payee pursuant to a qualified domestic relations order.

Prohibition
26 USC 401.

“(6) PLAN PROCEDURES WITH RESPECT TO ORDERS.—

“(A) NOTICE AND DETERMINATION BY ADMINISTRATOR.—In the case of any domestic relations order received by a plan—

“(i) the plan administrator shall promptly notify the participant and any other alternate payee of the receipt of such order and the plan’s procedures for determining the qualified status of domestic relations orders, and

“(ii) within a reasonable period after receipt of such order, the plan administrator shall determine whether such order is a qualified domestic relations order and notify the participant and each alternate payee of such determination.

“(B) PLAN TO ESTABLISH REASONABLE PROCEDURES.—Each plan shall establish reasonable procedures to determine the qualified status of domestic relations orders and to administer distributions under such qualified orders.

“(7) PROCEDURES FOR PERIOD DURING WHICH DETERMINATION IS BEING MADE.—

“(A) IN GENERAL.—During any period in which the issue of whether a domestic relations order is a qualified domestic relations order is being determined (by the plan administrator, by a court of competent jurisdiction, or otherwise), the plan administrator shall segregate in a separate account in the plan or in an escrow account the amounts which would have been payable to the alternate payee during such period if the order had been determined to be a qualified domestic relations order.

“(B) PAYMENT TO ALTERNATE PAYEE IF ORDER DETERMINED TO BE QUALIFIED DOMESTIC RELATIONS ORDER.—If within 18 months the order (or modification thereof) is determined to be a qualified domestic relations order, the plan administrator shall pay the segregated amounts (plus any interest thereon) to the person or persons entitled thereto.

“(C) PAYMENT TO PLAN PARTICIPANT IN CERTAIN CASES.—If within 18 months—

“(i) it is determined that the order is not a qualified domestic relations order, or

“(ii) the issue as to whether such order is a qualified domestic relations order is not resolved, then the plan administrator shall pay the segregated amounts (plus any interest thereon) to the person or persons who would have been entitled to such amounts if there had been no order.

“(D) SUBSEQUENT DETERMINATION OR ORDER TO BE APPLIED PROSPECTIVELY ONLY.—Any determination that an order is a qualified domestic relations order which is made after the close of the 18-month period shall be applied prospectively only.

“(8) ALTERNATE PAYEE DEFINED.—The term ‘alternate payee’ means any spouse, former spouse, child or other dependent of a participant who is recognized by a domestic relations order as having a right to receive all, or a portion of, the benefits payable under a plan with respect to such participant.

Ante, p. 1445.

“(9) CONSULTATION WITH THE SECRETARY.—In prescribing regulations under this subsection and section 401(a)(13), the Secretary of Labor shall consult with the Secretary.”.

(c) TAX TREATMENT OF DIVORCE DISTRIBUTIONS.—

26 USC 402.

(1) ALTERNATE PAYEE MUST INCLUDE BENEFITS IN GROSS INCOME.—Section 402(a) (relating to taxability of beneficiary of trust) is amended by adding at the end thereof the following new paragraph:

26 USC 72.

“(9) ALTERNATE PAYEE UNDER QUALIFIED DOMESTIC RELATIONS ORDER TREATED AS DIBUTEE.—For purposes of subsection (a)(1) and section 72, the alternate payee shall be treated as the distributee of any distribution or payment made to the alternate payee under a qualified domestic relations order (as defined in section 414(p)).”.

Ante, p. 1445.
26 USC 72.

(2) ALLOCATION OF INVESTMENT IN THE CONTRACT.—Subsection (m) of section 72 (relating to special rules applicable to employee annuities and distributions under employee plans) is amended by adding at the end thereof the following new paragraph:

Supra.

“(10) DETERMINATION OF INVESTMENT IN THE CONTRACT IN THE CASE OF QUALIFIED DOMESTIC RELATIONS ORDERS.—Under regulations prescribed by the Secretary, in the case of a distribution or payment made to an alternate payee pursuant to a qualified domestic relations order (as defined in section 414(p)), the investment in the contract as of the date prescribed in such regulations shall be allocated on a pro rata basis between the present value of such distribution or payment and the present value of all other benefits payable with respect to the participant to which such order relates.”.

26 USC 402.

(3) ROLLOVER OF DISTRIBUTIONS UNDER QUALIFIED DOMESTIC RELATIONS ORDERS.—Paragraph (6) of section 402(a) (relating to special rules for rollovers) is amended by adding at the end thereof the following new subparagraph:

“(F) QUALIFIED DOMESTIC RELATIONS ORDERS.—If—

“(i) within 1 taxable year of the recipient, the balance to the credit of the recipient by reason of any qualified domestic relations order (within the meaning of section 414(p)) is distributed or paid to the recipient,

“(ii) the recipient transfers any portion of the property the recipient receives in such distributions to an eligible retirement plan described in subclause (I) or (II) of paragraph (5)(E)(iv), and

“(iii) in the case of a distribution of property other than money, the amount so transferred consists of the property distributed,

then the portion of the distribution so transferred shall be treated as a distribution described in paragraph (5)(A).”.

(4) **CLARIFICATION OF ELIGIBILITY OF PARTICIPANT FOR LUMP SUM TREATMENT.**—Paragraph (4) of section 402(e) (relating to tax on lump sum distributions) is amended by adding at the end thereof the following new subparagraph: 26 USC 402.

“(M) **BALANCE TO CREDIT OF EMPLOYEE NOT TO INCLUDE AMOUNTS PAYABLE UNDER QUALIFIED DOMESTIC RELATIONS ORDER.**—For purposes of this subsection, subsection (a)(2) of this section, and section 403(a)(2), the balance to the credit of an employee shall not include any amount payable to an alternate payee under a qualified domestic relations order (within the meaning of section 414(p)).” 26 USC 403.
Ante, p. 1445.

SEC. 205. RESTRICTION ON MANDATORY DISTRIBUTIONS.

(a) **GENERAL RULE.**—Subsection (a) of section 411 (relating to minimum vesting standards) is amended by adding at the end thereof the following new paragraph: 26 USC 411.

“(11) **RESTRICTIONS ON CERTAIN MANDATORY DISTRIBUTIONS.**—

“(A) **IN GENERAL.**—If the present value of any accrued benefit exceeds \$3,500, such benefit shall not be treated as nonforfeitable if the plan provides that the present value of such benefit could be immediately distributed without the consent of the participant.

“(B) **DETERMINATION OF PRESENT VALUE.**—For purposes of subparagraph (A), the present value shall be calculated by using an interest rate not greater than the interest rate which would be used (as of the date of the distribution) by the Pension Benefit Guaranty Corporation for purposes of determining the present value of a lump sum distribution on plan termination.”.

(b) **CONFORMING AMENDMENT.**—Subparagraph (B) of section 411(a)(7) (relating to effect of certain distributions) is amended by striking out “\$1,750” and inserting in lieu thereof “\$3,500”. 26 USC 411.

SEC. 206. PARTICIPANT TO BE NOTIFIED THAT BENEFITS MAY BE FORFEITABLE.

Subsection (e) of section 6057 (relating to individual statement to participants) is amended by adding at the end thereof the following new sentence: “Such statement shall also include a notice to the participant of any benefits which are forfeitable if the participant dies before a certain date.”. 26 USC 6057.

SEC. 207. WRITTEN EXPLANATION OF ROLLOVER TREATMENT REQUIRED TO BE GIVEN TO RECIPIENT OF DISTRIBUTIONS ELIGIBLE FOR ROLLOVER TREATMENT.

(a) **GENERAL RULE.**—Section 402 (relating to taxability of beneficiary of employees trusts) is amended by adding at the end thereof the following new subsection: 26 USC 402.

“(f) **WRITTEN EXPLANATION TO RECIPIENTS OF DISTRIBUTIONS ELIGIBLE FOR ROLLOVER TREATMENT.**—

“(1) **IN GENERAL.**—The plan administrator of any plan shall, when making a qualifying rollover distribution, provide a written explanation to the recipient—

“(A) of the provisions under which such distribution will not be subject to tax if transferred to an eligible retirement plan within 60 days after the date on which the recipient received the distribution, and

“(B) if applicable, the provisions of subsections (a)(2) and (e) of this section.

“(2) DEFINITIONS.—For purposes of this subsection, the terms ‘qualifying rollover distribution’ and ‘eligible retirement plan’ have the respective meanings given such terms by subsection (a)(5)(E).”.

Ante, p. 963.
26 USC 6652.

(b) PENALTY FOR FAILURE TO PROVIDE WRITTEN EXPLANATION.—Section 6652 (relating to penalty for failure to file certain information returns, registration statements, etc.) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

Ante, p. 1449.

“(j) FAILURE TO GIVE WRITTEN EXPLANATION TO RECIPIENTS OF CERTAIN QUALIFYING ROLLOVER DISTRIBUTIONS.—In the case of each failure to provide a written explanation as required by section 402(f), at the time prescribed therefor, unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid, on notice and demand of the Secretary and in the same manner as tax, by the person failing to provide such written explanation, an amount equal to the \$10 for each such failure, but the total amount imposed on such person for all such failures during any calendar year shall not exceed \$5,000.”.

TITLE III—GENERAL PROVISIONS

SEC. 301. TREATMENT OF CERTAIN PLAN AMENDMENTS AND ACTUARIAL ASSUMPTIONS.

(a) CERTAIN PLAN AMENDMENTS TREATED AS REDUCING BENEFITS.—

26 USC 411.

(1) AMENDMENT OF INTERNAL REVENUE CODE OF 1954.—Paragraph (6) of section 411(d) of the Internal Revenue Code of 1954 (relating to accrued benefit not to be decreased by amendment) is amended to read as follows:

“(6) ACCRUED BENEFIT NOT TO BE DECREASED BY AMENDMENT.—

26 USC 412.

“(A) IN GENERAL.—A plan shall be treated as not satisfying the requirements of this section if the accrued benefit of a participant is decreased by an amendment of the plan, other than an amendment described in section 412(c)(8), or section 4281 of the Employee Retirement Income Security Act of 1974.

29 USC 1441.

“(B) TREATMENT OF CERTAIN PLAN AMENDMENTS.—For purposes of subparagraph (A), a plan amendment which has the effect of—

“(i) eliminating or reducing an early retirement benefit or a retirement-type subsidy (as defined in regulations), or

“(ii) eliminating an optional form of benefit, with respect to benefits attributable to service before the amendment shall be treated as reducing accrued benefits. In the case of a retirement-type subsidy, the preceding sentence shall apply only with respect to a participant who satisfies (either before or after the amendment) the pre-amendment conditions for the subsidy. The Secretary may by regulations provide that this subparagraph shall not apply to a plan amendment described in clause (ii) (other than a plan amendment having an effect described in clause (i)).”.

(2) AMENDMENT OF EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Subsection (g) of section 204 of the Employee Retirement Income Security Act of 1974 is amended to read as follows:

29 USC 1054.

“(g)(1) The accrued benefit of a participant under a plan may not be decreased by an amendment of the plan, other than an amendment described in section 302(c)(8).

29 USC 1082.

“(2) For purposes of paragraph (1), a plan amendment which has the effect of—

“(A) eliminating or reducing an early retirement benefit or a retirement-type subsidy (as defined in regulations), or

“(B) eliminating an optional form of benefit,

with respect to benefits attributable to service before the amendment shall be treated as reducing accrued benefits. In the case of a retirement-type subsidy, the preceding sentence shall apply only with respect to a participant who satisfies (either before or after the amendment) the preamendment conditions for the subsidy. The Secretary of the Treasury may by regulations provide that this subparagraph shall not apply to a plan amendment described in subparagraph (B) (other than a plan amendment having an effect described in subparagraph (A)).”.

(b) REQUIREMENT THAT ACTUARIAL ASSUMPTIONS BE SPECIFIED.—Subsection (a) of section 401 of the Internal Revenue Code of 1954 (relating to qualified pension, profit-sharing, and stock bonus plans) is amended by inserting after paragraph (24) the following new paragraph:

26 USC 401.

“(25) REQUIREMENT THAT ACTUARIAL ASSUMPTIONS BE SPECIFIED.—A defined benefit plan shall not be treated as providing definitely determinable benefits unless, whenever the amount of any benefit is to be determined on the basis of actuarial assumptions, such assumptions are specified in the plan in a way which precludes employer discretion.”.

SEC. 302. GENERAL EFFECTIVE DATES.

29 USC 1001
note.

(a) IN GENERAL.—Except as otherwise provided in this section or section 303, the amendments made by this Act shall apply to plan years beginning after December 31, 1984.

Post, p. 1452.

(b) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before the date of the enactment of this Act, except as provided in subsection (d) or section 303, the amendments made by this Act shall not apply to plan years beginning before the earlier of—

Post, p. 1452.

(1) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

(2) January 1, 1987.

For purposes of paragraph (1), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by title I or II shall not be treated as a termination of such collective bargaining agreement.

Ante, pp. 1426,
1436.

(c) NOTICE REQUIREMENT.—The amendments made by section 207 shall apply to distributions after December 31, 1984.

Ante, p. 1449.

(d) SPECIAL RULES FOR TREATMENT OF PLAN AMENDMENTS.—

Ante, p. 1450.

(1) **IN GENERAL.**—Except as provided in paragraph (2), the amendments made by section 301 shall apply to plan amendments made after July 30, 1984.

(2) **SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.**—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements entered into before January 1, 1985, which are—

(A) between employee representatives and 1 or more employers, and

(B) successor agreements to 1 or more collective bargaining agreements which terminate after July 30, 1984, and before January 1, 1985,

Ante, p. 1450.

the amendments made by section 301 shall not apply to plan amendments adopted before April 1, 1985, pursuant to such successor agreements (without regard to any modification or reopening after December 31, 1984).

29 USC 1001
note.

SEC. 303. TRANSITIONAL RULES.

(a) **AMENDMENTS RELATING TO VESTING RULES; BREAKS IN SERVICE; MATERNITY OR PATERNITY LEAVE.**—

Ante, pp. 1426,
1436.

(1) **MINIMUM AGE FOR VESTING.**—The amendments made by sections 102(b) and 202(b) shall apply in the case of participants who have at least 1 hour of service under the plan on or after the first day of the first plan year to which the amendments made by this Act apply.

29 USC 1052,
1053.
26 USC 410, 411.

(2) **BREAK IN SERVICE RULES.**—If, as of the day before the first day of the first plan year to which the amendments made by this Act apply, section 202 (a) or (b) or 203(b) of the Employee Retirement Income Security Act of 1974 or section 410(a) or 411(a) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) would not require any service to be taken into account, nothing in the amendments made by subsections (c) and (d) of section 102 of this Act and subsections (c) and (d) of section 202 of this Act shall be construed as requiring such service to be taken into account under such section 202 (a) or (b), 203(b), 410(a), or 411(a); as the case may be.

Supra.

Ante, pp. 1426,
1436.

(3) **MATERNITY OR PATERNITY LEAVE.**—The amendments made by sections 102(e) and 202(e) shall apply in the case of absences from work which begin on or after the first day of the first plan year to which the amendments made by this Act apply.

(b) **SPECIAL RULE FOR AMENDMENTS RELATING TO MATERNITY OR PATERNITY ABSENCES.**—If a plan is administered in a manner which would meet the amendments made by sections 102(e) and 202(e) (relating to certain maternity or paternity absences not treated as breaks in service), such plan need not be amended to meet such requirements until the earlier of—

(1) the date on which such plan is first otherwise amended after the date of the enactment of this Act, or

(2) the beginning of the first plan year beginning after December 31, 1986.

(c) **REQUIREMENT OF JOINT AND SURVIVOR ANNUITY AND PRERETIREMENT SURVIVOR ANNUITY.**—

Ante, pp. 1429,
1440.

(1) **REQUIREMENT THAT PARTICIPANT HAVE AT LEAST 1 HOUR OF SERVICE OR PAID LEAVE ON OR AFTER DATE OF ENACTMENT.**—The amendments made by sections 103 and 203 shall apply only in the case of participants who have at least 1 hour of service

under the plan on or after the date of the enactment of this Act or have at least 1 hour of paid leave on or after such date of enactment.

(2) REQUIREMENT THAT PRERETIREMENT SURVIVOR ANNUITY BE PROVIDED IN CASE OF CERTAIN PARTICIPANTS DYING ON OR AFTER DATE OF ENACTMENT.—In the case of any participant—

(A) who has at least 1 hour of service under the plan on or after the date of the enactment of this Act or has at least 1 hour of paid leave on or after such date of enactment,

(B) who dies before the annuity starting date, and

(C) who dies on or after the date of the enactment of this Act and before the first day of the first plan year to which the amendments made by this Act apply,

the amendments made by sections 103 and 203 shall be treated as in effect as of the time of such participant's death.

Ante, pp 1429, 1440.

(3) SPOUSAL CONSENT REQUIRED FOR CERTAIN ELECTIONS AFTER DECEMBER 31, 1984.—Any election after December 31, 1984, and before the first day of the first plan year to which the amendments made by this Act apply not to take a joint and survivor annuity shall not be effective unless the requirements of section 205(c)(2) of the Employee Retirement Income Security Act of 1974 (as amended by section 103 of this Act) and section 417(a)(2) of the Internal Revenue Code of 1954 (as added by section 203 of this Act) are met with respect to such election.

Ante, p 1429.

Ante, p. 1441.

(d) AMENDMENTS RELATING TO ASSIGNMENTS IN DIVORCE, ETC., PROCEEDINGS.—The amendments made by sections 104 and 204 shall take effect on January 1, 1985, except that in the case of a domestic relations order entered before such date, the plan administrator—

Effective date.

Ante, pp 1433, 1445.

(1) shall treat such order as a qualified domestic relations order if such administrator is paying benefits pursuant to such order on such date, and

(2) may treat any other such order entered before such date as a qualified domestic relations order even if such order does not meet the requirements of such amendments.

(e) TREATMENT OF CERTAIN PARTICIPANTS WHO SEPARATE FROM SERVICE BEFORE DATE OF ENACTMENT.—

(1) JOINT AND SURVIVOR ANNUITY PROVISIONS OF EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974 APPLY TO CERTAIN PARTICIPANTS.—If—

29 USC 1001 note.

(A) a participant had at least 1 hour of service under the plan on or after September 2, 1974,

(B) section 205 of the Employee Retirement Income Security Act of 1974 and section 401(a)(11) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) would not (but for this paragraph) apply to such participant,

29 USC 1055.

26 USC 401.

(C) the amendments made by sections 103 and 203 of this Act do not apply to such participant, and

(D) as of the date of the enactment of this Act, the participant's annuity starting date has not occurred and the participant is alive,

then such participant may elect to have section 205 of the Employee Retirement Income Security Act of 1974 and section 401(a)(11) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) apply.

(2) TREATMENT OF CERTAIN PARTICIPANTS WHO PERFORM SERVICE ON OR AFTER JANUARY 1, 1976.—If—

Ante, pp. 1429,
1440.

(A) a participant had at least 1 hour of service in the first plan year beginning on or after January 1, 1976,

(B) the amendments made by sections 103 and 203 would not (but for this paragraph) apply to such participant,

(C) when such participant separated from service, such participant had at least 10 years of service under the plan and had a nonforfeitable right to all (or any portion) of such participant's accrued benefit derived from employer contributions, and

(D) as of the date of the enactment of this Act, such participant's annuity starting date has not occurred and such participant is alive,

then such participant may elect to have the qualified preretirement survivor annuity requirements of the amendments made by sections 103 and 203 apply.

(3) PERIOD DURING WHICH ELECTION MAY BE MADE.—An election under paragraph (1) or (2) may be made by any participant during the period—

(A) beginning on the date of the enactment of this Act, and

(B) ending on the earlier of the participant's annuity starting date or the date of the participant's death.

(4) REQUIREMENT OF NOTICE.—

(A) IN GENERAL.—

(i) TIME AND MANNER.—Every plan shall give notice of the provisions of this subsection at such time or times and in such manner or manners as the Secretary of the Treasury may prescribe.

(ii) PENALTY.—If any plan fails to meet the requirements of clause (i), such plan shall pay a civil penalty to the Secretary of the Treasury equal to \$1 per participant for each day during the period beginning with the first day on which such failure occurs and ending on the day before notice is given by the plan; except that the amount of such penalty imposed on any plan shall not exceed \$2,500.

(B) RESPONSIBILITIES OF SECRETARY OF LABOR.—The Secretary of Labor shall take such steps (by public announcements and otherwise) as may be necessary or appropriate to bring to public attention the provisions of this subsection.

29 USC 1001
note.
Women.

SEC. 304. STUDY BY COMPTROLLER GENERAL OF THE UNITED STATES.

(a) GENERAL RULE.—The Comptroller General of the United States shall conduct a detailed study (based on a reliable scientific sample of typical pension plans of various designs and sizes) of the effect on women of participation, vesting, funding, integration, survivorship features, and other relevant plan and Federal pension rules.

(b) GENERAL ACCOUNTING OFFICE ACCESS TO RECORDS.—For the purpose of conducting the study under subsection (a), the Comptroller General, or any of his duly authorized representatives, shall have access to and the right to examine and copy—

(1) any pension plan books, documents, papers, records, or other recorded information within the possession or control of the plan administrator or sponsor, or any person providing services to the plan, and

(2) any payroll, employment, or other related records within the possession or control of any employer contributing to or sponsoring a pension plan, that is pertinent to such study. The Comptroller General shall not disclose the identity of any individual or employer in making any information obtained under this subsection available to the public.

(c) DEFINITIONS.—For purposes of this section, the terms “pension plan”, “administrator”, “plan sponsor”, and “employer” are defined in section 3 of the Employee Retirement Income Security Act of 1974, as amended.

29 USC 1001a.

(d) COOPERATION WITH OTHER FEDERAL AGENCIES.—In conducting the study under subsection (a), the Comptroller General shall consult with the Internal Revenue Service, the Department of Labor, and other interested Federal agencies so as to prevent any duplication of data compilation or analyses.

(e) REPORT.—Not later than January 1, 1990, the Comptroller General shall submit a report on the study conducted under this section to the Committee on Ways and Means of the House of Representatives, the Committee on Education and Labor of the House of Representatives, the Committee on Finance of the Senate, the Committee on Labor and Human Resources of the Senate, and the Joint Committee on Taxation.

Approved August 23, 1984.

LEGISLATIVE HISTORY—H.R. 4280:

HOUSE REPORTS: No. 98-655, Pt. 1 (Comm. on Education and Labor) and Pt. 2 (Comm. on Ways and Means).

SENATE REPORT No. 98-575 (Comm. on Finance).

CONGRESSIONAL RECORD, Vol. 130 (1984):

May 22, considered and passed House.

Aug. 6, considered and passed Senate, amended.

Aug. 9, House concurred in Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 35 (1984):

Aug. 23, Presidential statement.

Public Law 98-398
98th Congress

An Act

Aug. 24, 1984
[S. 746]

To establish the Illinois and Michigan Canal National Heritage Corridor in the State of Illinois, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

SHORT TITLE

SEC. 101. This title may be cited as the “Illinois and Michigan Canal National Heritage Corridor Act of 1984”.

FINDINGS; PURPOSE

SEC. 102. (a) FINDINGS.—The Congress makes the following findings:

(1) An abundance of sites and structures within the corridor defined by the Illinois and Michigan Canal from Chicago, Illinois, to LaSalle-Peru, Illinois, symbolize in physical form the cultural evolution from prehistoric aboriginal tribes living in naturally formed ecosystems through European exploration, nineteenth century settlement, commerce, and industry right up to present-day social patterns and industrial technology.

(2) The corridor has become one of the most heavily industrialized regions of the Nation and has potential for further economic expansion and modernization. The area in which the corridor is located is currently experiencing high rates of unemployment and industrial migration. Establishment of the corridor as provided in this Act may provide the stimulus required to retain existing industry and to provide further industrial growth and commercial revitalization.

(3) Despite efforts by the State, political subdivisions of the State, volunteer associations, and private business, the cultural, historical, natural, and recreational resources of the corridor have not realized full potential social value and may be lost without assistance from the Federal Government.

(b) PURPOSE.—It is the purpose of this title to retain, enhance, and interpret, for the benefit and inspiration of present and future generations, the cultural, historical, natural, recreational, and economic resources of the corridor, where feasible, consistent with industrial and economic growth.

DEFINITIONS

SEC. 103. For purposes of this title—

(1) the term “canal” means the Illinois and Michigan Canal, as depicted on the map referred to in section 104(b);

Illinois and
Michigan Canal
National
Heritage
Corridor Act of
1984.
Conservation.
Historic
preservation.
16 USC 461 note.

16 USC 461 note.

16 USC 461 note.

(2) the term "Commission" means the Illinois and Michigan Canal National Heritage Corridor Commission established in section 105;

(3) the term "corridor" means the Illinois and Michigan Canal National Heritage Corridor established in section 104(a);

(4) the term "Governor" means the Governor of the State of Illinois;

(5) the term "National Park Service report" means the report of the National Park Service, dated November 1981, which contains a conceptual plan and implementation strategies for the corridor;

(6) the term "plan" means the goals, objectives, and action statements of the conceptual plan which—

(A) is contained in the National Park Service report; and

(B) may be modified by the Commission under section 108(h);

(7) the term "political subdivision of the State" means any political subdivision of the State of Illinois, any part of which is located in or adjacent to the corridor, including counties, townships, cities, towns, villages, park districts, and forest preserve districts;

(8) the term "Secretary" means the Secretary of the Interior; and

(9) the term "State" means the State of Illinois.

ESTABLISHMENT, BOUNDARIES, AND ADMINISTRATION OF CORRIDOR

SEC. 104. (a) ESTABLISHMENT.—To carry out the purpose of this title, there is established the Illinois and Michigan Canal National Heritage Corridor.

16 USC 461 note.

(b) BOUNDARIES.—(1) The corridor shall consist of the areas depicted on the map dated May 1983, and numbered IMC-80,000, entitled "Illinois and Michigan Canal National Heritage Corridor". Such map shall be on file and available for public inspection in the offices of the Commission and in the offices of the National Park Service.

Public availability.

(2) Upon a request of the Commission signed by not less than twelve members of the Commission, the Secretary may make minor revisions in the boundaries of the corridor. Any such revision shall take effect upon publication by the Secretary in the Federal Register of a revised boundary map.

Effective date.
Federal Register,
publication.

(c) ADMINISTRATION.—The corridor shall be administered in accordance with this Act.

ESTABLISHMENT OF ILLINOIS AND MICHIGAN CANAL NATIONAL HERITAGE CORRIDOR COMMISSION

SEC. 105. There is established a commission to be known as the Illinois and Michigan Canal National Heritage Corridor Commission which shall carry out the duties specified in section 109.

16 USC 461 note.

ORGANIZATION OF COMMISSION

SEC. 106. (a) MEMBERSHIP.—The Commission shall be composed of nineteen members as follows:

16 USC 461 note.

(1) The Director of the National Park Service, ex officio, or a delegate.

(2) Three individuals, nominated by the Governor and appointed by the Secretary, who will represent the interests of State and local government.

(3) One member of the board of a forest preserve district, any part of which is located in or adjacent to the corridor, who shall be nominated by the Governor and appointed by the Secretary. Appointments made under this paragraph shall rotate among the three forest preserve districts, parts of which are located in the corridor, in a manner which will ensure fairly equal representation on the Commission for each such district.

(4) One member of the county board of each county, any part of which is located in the corridor (other than the county which is represented on the Commission by the member appointed under paragraph (5)), who shall be nominated by the Governor and appointed by the Secretary.

(5) Five individuals, nominated by the Governor and appointed by the Secretary, who will represent the interests of history, archaeology, and historic preservation; of recreation; and of conservation.

(6) Five individuals, nominated by the Governor and appointed by the Secretary, who will represent the interests of business and industry.

The Secretary may request that additional names be submitted for members appointed pursuant to paragraphs (2) through (6). Members appointed under paragraphs (5) and (6) shall be selected with due consideration to equitable geographic distribution. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(b) TERMS.—(1) Except as provided in paragraphs (2) and (3), members of the Commission shall be appointed for terms of three years.

(2) Of the members of the Commission first appointed under paragraphs (2), (3), (4), (5), and (6) of subsection (a)—

(A) six shall be appointed for terms of one year;

(B) six shall be appointed for terms of two years; and

(C) six shall be appointed for terms of three years, as designated by the Governor at the time of nomination.

(3) Any member of the Commission appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member of the Commission may serve after the expiration of his term until his successor has taken office.

(c) COMPENSATION.—Members of the Commission shall receive no pay on account of their service on the Commission, but while away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

(d) CHAIRPERSON.—(1) The chairperson of the Commission shall be elected by the members of the Commission from among members appointed under paragraphs (5) and (6) of subsection (a).

(2)(A) Except as provided in subparagraph (B), the term of the chairperson shall be two years.

(B) If a member is appointed to a term on the Commission which is less than two years and is elected chairperson of the Commission,

then such member's term as chairperson shall expire at the end of such member's term on the Commission.

(e) **QUORUM.**—(1) Ten members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(2) Any member of the Commission may vote by means of a signed proxy exercised by another member of the Commission, but any member so voting shall not be considered present for purposes of establishing a quorum.

(3) The affirmative vote of not less than ten members of the Commission shall be required to approve the budget of the Commission.

(f) **MEETINGS.**—The Commission shall meet at least quarterly at the call of the chairperson or ten of its members. Meetings of the Commission shall be subject to section 552b of title 5, United States Code (relating to open meetings).

STAFF OF COMMISSION

SEC. 107. (a) DIRECTOR AND STAFF.—(1) The Commission shall have a Director who shall be appointed by the Commission and who shall be paid at a rate not to exceed the minimum rate of basic pay payable for level GS-15 of the General Schedule.

16 USC 461 note.

(2) The Commission may appoint such additional staff personnel as the Commission considers appropriate and may pay such staff at rates not to exceed the minimum rate of basic pay payable for level GS-15 of the General Schedule. Such staff may include specialists in areas such as interpretation, historic preservation, recreation, conservation, commercial and industrial development and revitalization, financing, and fundraising.

5 USC 5332 note.

(3) Except as otherwise provided in this subsection, such Director and staff—

(A) shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service; and

(B) shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

5 USC 5101 *et seq.*, 5331.

(b) **EXPERTS AND CONSULTANTS.**—Subject to such rules as may be adopted by the Commission, the Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code, but at rates determined by the Commission to be reasonable.

(c) **STAFF OF OTHER AGENCIES.**—(1) Upon request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out the Commission's duties under section 109.

(2) The Commission may accept the services of personnel detailed from the State or any political subdivision of the State and may reimburse the State or such political subdivision for such services.

POWERS OF COMMISSION

SEC. 108. (a) HEARINGS.—(1) The Commission may, for the purpose of carrying out this title, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

16 USC 461 note.

(2) The Commission may not issue subpoenas or exercise any subpoena authority.

(b) **POWERS OF MEMBERS AND AGENTS.**—Any member or agent of the Commission, if so authorized by the Commission, may take any action which the Commission is authorized to take by this title.

(c) **ADMINISTRATIVE SUPPORT SERVICES.**—The Administrator of General Services shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

(d) **MAILS.**—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(e) **USE OF APPROPRIATED AMOUNTS TO OBTAIN FEDERAL FUNDING.**—Notwithstanding any other provision of law, for purposes of any law conditioning the receipt of Federal funding on a non-Federal contribution, any portion of the amounts appropriated pursuant to section 116 of this title may, at the election of the Commission, be used as such non-Federal contribution.

(f) **GIFTS.**—(1) Except as provided in subsection (g)(2)(B), the Commission may, for purposes of carrying out its duties, seek, accept, and dispose of gifts, bequests, or donations of money, personal property, or services, received from any source.

26 USC 170.

(2) For purposes of section 170(c) of the Internal Revenue Code of 1954, any gift to the Commission shall be deemed to be a gift to the United States.

(g) **ACQUISITION OF REAL PROPERTY.**—(1) Except as provided in paragraph (2) and except with respect to any leasing of facilities under subsection (c) of this section, the Commission may not acquire any real property or interest in real property.

(2) Subject to paragraph (3) of this subsection, the Commission may acquire real property, or interests in real property, in the corridor—

(A) by gift or devise; or

(B) by purchase from a willing seller.

(3) Any real property or interest in real property acquired by the Commission under paragraph (2) shall be conveyed by the Commission to an appropriate public or private land managing agency with the consent of such agency, as determined by the Commission. Any such conveyance shall be made—

(A) as soon as practicable after such acquisition;

(B) without consideration; and

(C) on the condition that the real property or interest in real property so conveyed is used for public purposes, consistent with the plan.

(h) **MODIFICATION OF PLAN.**—The Commission may modify the plan if the Commission determines that such modification is necessary to carry out the purpose of this Act. No such modification shall take effect until—

(1) the State and any political subdivision of the State which would be affected by such modification receives notice of such modification; and

(2) if such modification is significant (as determined by the Commission) the Commission—

(A) provides adequate notice (as determined by the Commission) of such modification by publication in the area of the corridor; and

(B) conducts a public hearing with respect to such modification.

(i) **COOPERATIVE AGREEMENTS.**—For purposes of carrying out the plan, the Commission may enter into cooperative agreements with the State, with any political subdivision of the State, or with any person. Any such cooperative agreement shall, at a minimum, establish procedures for providing notice to the Commission of any action proposed by the State, such political subdivision, or such person which may affect the implementation of the plan.

(j) **ADVISORY GROUPS.**—The Commission may establish such advisory groups as the Commission deems necessary to ensure open communication with, and assistance from, the State, political subdivisions of the State, and interested persons.

DUTIES OF COMMISSION

SEC. 109. (a) IMPLEMENTATION OF PLAN.—The Commission shall implement and support the plan as follows: 16 USC 461 note.

(1)(A) The Commission shall assist the State, any political subdivision of the State, or any nonprofit organization in the appropriate preservation treatment and renovation (in accordance with the plan) of structures of the canal.

(B) In providing such assistance, the Commission shall in no way infringe upon the authorities and policies of the State or of any political subdivision of the State concerning the management of canal property.

(C) In providing such assistance or in carrying out any other provision of this Act, the Commission shall not be required to adopt the specifics recommended in the Historic American Engineering Record study published in April 1981.

(2)(A) The Commission shall assist the State or any political subdivision of the State in establishing and maintaining intermittent recreational trails which are compatible with economic development interests in the corridor.

(B) In providing such assistance, the Commission shall in no way infringe upon the authorities and policies of the State or of any political subdivision of the State.

(3) The Commission shall encourage private owners of property which is located in or adjacent to the corridor to retain voluntarily, as a good neighbor policy, a strip of natural vegetation as a visual screen and natural barrier between recreational trails established under paragraph (2) and development in the corridor.

(4) The Commission shall assist in the preservation and enhancement of Natural Areas Inventory, prepared by the Illinois Department of Conservation—

(A) by encouraging private owners of such natural areas to adopt voluntary measures for the preservation of such natural areas; or

(B) by cooperating with the State or any political subdivision of the State in acquiring, on a willing seller basis, any such natural area.

In providing such assistance, the Commission shall in no way infringe upon the authorities and policies of the State or of any political subdivision of the State.

(5) The Commission shall assist in the enhancement of public awareness of, and appreciation for, the historical, architectural,

and engineering structures in the corridor and the archaeological and geological resources and sites in the corridor—

(A) by consulting with the Secretary with respect to inventories to be completed by the Secretary under section 112(1);

(B) by encouraging private owners of structures, sites, and resources identified in such inventories to adopt voluntary measures for the preservation of such structures, sites, and resources; or

(C) by cooperating with the State or any political subdivision of the State in acquiring, on a willing seller basis, any structure, site, or resource so identified.

(6) The Commission may assist the State, any political subdivision of the State, or any nonprofit organization in the restoration of any historic building in the corridor.

Such assistance may include providing technical staff assistance for historic preservation and revitalization efforts.

(7) The Commission shall assist in the interpretation of the cultural and natural resources of the corridor—

(A) by consulting with the Secretary with respect to the implementation of the Secretary's duties under section 112(2);

(B) by establishing visitor orientation centers in the corridor;

(C) by encouraging voluntary cooperation and coordination between the Federal Government, the State, political subdivisions of the State, and nonprofit organizations with respect to ongoing interpretative services in the corridor; and

(D) by encouraging the State, political subdivisions of the State, and nonprofit organizations to undertake new interpretative initiatives with respect to the corridor.

(8) The Commission shall assist in establishing recognition for the corridor by actively promoting the cultural, historical, natural, and recreational resources of the corridor on a community, regional, statewide, national, and international basis.

(b) **ENCOURAGEMENT OF ECONOMIC AND INDUSTRIAL DEVELOPMENT.**—The Commission shall encourage, by appropriate means, enhanced economic and industrial development in the corridor consistent with the goals of the plan.

(c) **ACCESS ROUTES AND TRAFFIC.**—The Commission shall take appropriate action to ensure that—

(1) access routes to the canal and related sites are clearly identified; and

(2) traffic in the corridor is routed away from industrial access routes and sites.

(d) **PROTECTIVE FEATURES.**—(1) The Commission may finance the installation of a fence, warning sign, or other protective feature in the corridor by the State, by any political subdivision of the State, or by any person if such fence, sign, or other feature is approved by the Commission, any affected governmental body, and the owner and any user of property located adjacent to the property on which such fence, sign, or other feature is to be installed.

(2) The Commission shall not require the installation of any fence, warning sign, or other protective feature.

(e) **REDUCING EXCESSIVE LIABILITY.**—The Commission shall encourage the State to take appropriate action to ensure that owners and

users of property located in or adjacent to the corridor will not be subject to excessive liability with respect to activities which are carried out by such owners and users on such property and which affect persons and property in the corridor.

(f) ANNUAL REPORTS.—Not later than May 15 of each year (other than the year in which this Act is enacted) the Commission shall publish and submit an annual report concerning the Commission's activities to the Governor and to the Secretary.

RESTRICTIONS ON COMMISSION

SEC. 110. (a) RESTRICTIONS ON COMMISSION'S DEVELOPMENT.—(1) The Commission may not develop any site or structure in any area described in paragraph (2) unless such development involves the restoration, rehabilitation, or preservation of a facility existing on the date of the enactment of this Act. 16 USC 461 note.

(2) The areas referred to in paragraph (1) are the following areas:

(A) Any area in the corridor designated by the political subdivision of the State which has primary responsibility for regulating land use in such areas (as determined by the Commission) as suitable for industrial development. Areas so designated may include any area adjacent to the Illinois and Michigan Canal State Park, a conservation site, a historical site, or other visitor area.

(B) The area of the corridor in Grundy County, Illinois, extending from Morris, Illinois, to the eastern boundary of section 22, Aux Sable Township, but not including—

(i) lock eight and lock tender's house (identified as sites 1 and 2, respectively, on the map described in section 104(b));

(ii) Rutherford tavern, the old mule barn, and the historic cemetery (identified as sites 3, 4, and 5, respectively, on such map); and

(iii) any trail in such area which follows the historic towpath of the canal.

(C) The area of the corridor in Will County, Illinois, which extends from a line created from Interstate 55 to the center of the sailing line in the Des Plaines River, west on center line of sailing line to the intersection of the line formed by the eastern edge of sections 30 and 31 of Channahon Township east through Brandon Pool, but not including the trail in such area which follows the historic towpath of the canal.

(D) The area of the corridor in Will County, Illinois, which extends from the southern boundary of section 14, Lockport Township, to the eastern boundary of section 25, DuPage Township.

(b) RESTRICTIONS ON DEVELOPMENT OF TRAILS.—The Commission may not develop any new trail along the canal or historic towpath of the canal through industrial sites or railroad rights of way without concurrence of the owner, which—

(1) are located north of the city of Joliet, Illinois; and

(2) existed on the date of the enactment of this Act.

TERMINATION OF COMMISSION

SEC. 111. (a) TERMINATION.—Except as provided in subsection (b), the Commission shall terminate on the day occurring ten years after the date of the enactment of this Act. 16 USC 461 note.

(b) **EXTENSION.**—The Commission may extend the life of the Commission for a period of not more than five years beginning on the day referred to in subsection (a) if, not later than one hundred and eighty days before such day—

- (1) the Commission determines such extension is necessary in order for the Commission to carry out the purpose of this title;
- (2) the Commission submits such proposed extension to the Committee on Interior and Insular Affairs of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate; and
- (3) the Governor and the Secretary each approve such extension.

DUTIES OF THE SECRETARY

16 USC 461 note.

SEC. 112. To carry out the purpose of this Act, the Secretary shall have the following duties:

- (1) Not later than September 30, 1985, and in consultation with the Commission, the Secretary shall complete—

(A) an inventory of sites and structures of historical, architectural, or engineering significance in the corridor; and

(B) an inventory of sites and resources of archaeological or geological significance in the corridor.

- (2) Not later than September 30, 1986, in consultation with the Commission and in accordance with the plan, the Secretary shall—

(A) develop a thematic structure for the interpretation of the heritage story of the corridor; and

(B) design and fabricate interpretative materials based on such thematic structure, including—

(i) trail guide brochures for exploring such heritage story via private auto, bus, bike, boat, or foot, including brochures for exploring such heritage story in towns along the canal;

(ii) visitor orientation displays (including video presentations) at eight locations which are fairly distributed along the corridor;

(iii) a curriculum element for local schools; and

(iv) an appropriate mobile display depicting such heritage story.

- (3) The Secretary shall, upon request of the Commission, provide technical assistance to the Commission in carrying out the provisions of section 109(a)(6). Such assistance may include recommendations concerning appropriate preservation treatment, adaptive reuse potential, strategies for finding private investors, and tax advantages available with respect to such rehabilitation.

- (4) The Secretary shall make available to interested persons information which explains tax advantages available with respect to the rehabilitation of historical structures in the corridor.

- (5) For each fiscal year during the life of the Commission, the Secretary shall make available to interested persons brochures which explain tax advantages available with respect to the rehabilitation of historical structures in the corridor.

(6) For each fiscal year during the life of the Commission, the Secretary shall detail to the Commission, on a nonreimbursable basis, two employees of the Department of the Interior to enable the Commission to carry out the Commission's duties under section 109.

DUTIES OF OTHER FEDERAL ENTITIES

SEC. 113. Any Federal entity conducting or supporting significant activities directly affecting the corridor shall— 16 USC 461 note.

(1) consult with the Secretary and the Commission with respect to such activities;

(2) cooperate with the Secretary and the Commission in carrying out their duties under this Act and, to the maximum extent practicable, coordinate such activities with the carrying out of such duties; and

(3) to the maximum extent practicable, conduct or support such activities in a manner which the Commission determines will not have an adverse effect on the resources cited in the National Park Service report.

CONVEYANCE OF CANAL TITLE BY UNITED STATES

SEC. 114. (a) CONVEYANCE TO STATE.—(1) Except as provided in subsection (b), the United States shall convey to the State by quitclaim deed any right, title, or interest of the United States to the real property described in the Act entitled "An Act relinquishing to the State of Illinois certain right, title, or interest of the United States of America, and for other purposes", approved July 1, 1947 (61 Stat. 237), comprising approximately two thousand six hundred acres. The instrument of conveyance shall require that, except as provided in paragraph (2) such real property be used and occupied only for highway, park, recreational, or other public purposes, including those provided for under this Act. Such real property may be leased for utility or transmission purposes (or may be transferred or leased for park, recreation, or other public purposes consistent with the plan) if the revenue from any such lease or transfer is used for park and recreational purposes within the corridor. Real property. 16 USC 461 note.

(2) The State, or its successors or assigns, may continue to lease for any purpose any portion of the real property described in subsection (a) which was leased on or before February 9, 1984, so long as the revenue from such lease is used for park or recreational purposes within the corridor. Any private person occupying any portion of the real property described in subsection (a) may continue to occupy such real property with the written permission of the State (or of any successor or assign of the State in the case of any property which has been transferred to a successor or assign).

(3) Except as provided in paragraph (2), if any real property conveyed to the State under this section ceases to be used and occupied as provided in paragraph (1), then any right, title, or interest in the real property not so used and occupied shall revert to the United States. The conveyance by the United States under this subsection shall be subject to the condition that the State of Illinois, its successors, and assigns agree to hold the United States harmless from claims arising from or through the operations of the lands conveyed by the United States due to conditions existing at the time of this conveyance. Claims.

(b) **CONSENT OF SECRETARY OF ARMY.**—The interests in the canal prism and towpath lands (including reserved lands) in township 37 north, range 11 east, section 14; township 35 north, range 10 east, sections 9 and 16; township 35 north, range 10 east, sections 16, 20, and 21; township 34 north, range 9 east, section 31; and township 34 north, range 8 east, sections 22, 23, 25, 26, and 36, necessary for the operation and maintenance of the Illinois Waterway navigation project may be conveyed under subsection (a) only with the concurrence of the Secretary of the Army with such conditions as necessary to protect the navigation project.

**EFFECT ON ENVIRONMENTAL AND OTHER STANDARDS; RESTRICTIONS;
SAVINGS PROVISIONS**

16 USC 461 note.

SEC. 115. (a) EFFECT ON ENVIRONMENTAL AND OTHER STANDARDS.—(1) Nothing in this Act shall be deemed to impose any environmental, occupational, safety, or other rule, regulation, standard, or permit process which is different from those presently applicable, or which would be applicable, had the corridor not been established.

(2) The establishment of the corridor shall not impose any change in Federal environmental quality standards. No portion of the corridor which is subject to part C of title I of the Clean Air Act (42 U.S.C. 7470 et seq.), as amended by the Clean Air Act Amendments of 1977, may be designated as class 1 for purposes of such part C solely by reason of the establishment of the corridor.

Water.

(3) No State or Federal agency shall impose more restrictive water use designations or water quality standards upon uses of, or discharges to, waters of the State or waters of the United States, within or adjacent to the corridor solely by reason of the establishment of the corridor.

(4) Nothing in the establishment of the corridor shall abridge, restrict, or alter any applicable rule, regulation, standard or review procedure for permitting of facilities within or adjacent to the corridor.

(5) Nothing in the establishment of the corridor shall affect the continuing use and operation, as presently located, of all public utilities and common carriers.

(6) Actions taken under this title to achieve the purposes described in section 102(b) shall emphasize voluntary cooperation.

(b) **RESTRICTIONS ON COMMISSION AND SECRETARY.**—Nothing in this title shall be construed to vest in the Commission or the Secretary any authority—

(1) to require the State, any political subdivision of the State, or any private person to participate in any project or program carried out by the Commission or the Secretary under this title;

(2) to intervene as a party in any administrative or judicial proceeding concerning the application or enforcement of any regulatory authority of the State or any political subdivision of the State, including any authority relating to land use regulation, environmental quality, licensing, permitting, easements, private land development, or other occupational or access issues;

(3) to establish or modify any regulatory authority of the State or of any political subdivision of the State, including any authority relating to land use regulation, environmental quality, or pipeline or utility crossings;

(4) to modify any policy of the State or of any political subdivision of the State; or

(5) to establish or modify any authority of the State or of any political subdivision of the State with respect to the acquisition of lands or interests in lands.

(c) SAVINGS PROVISION.—Nothing in this title shall diminish, enlarge, or modify any right of the State or of any political subdivision of the State—

(1) to exercise civil and criminal jurisdiction within the corridor; or

(2) to tax persons, corporations, franchises, or property, including minerals and other interests in or on lands or waters within the corridor.

AUTHORIZATION OF APPROPRIATIONS; ALLOCATION OF AMOUNTS FOR CERTAIN PURPOSES

SEC. 116. (a) AUTHORIZATION OF APPROPRIATIONS.—(1) For each fiscal year which commences after September 30, 1984, there is authorized to be appropriated—

16 USC 461 note.

(A) to the Commission a sum not to exceed \$250,000 to carry out the Commission's duties under this title; and

(B) to the Secretary such sums as may be necessary to carry out the Secretary's duties under this title.

(2) Any sum appropriated under paragraph (1) shall remain available until expended.

(b) ALLOCATION OF AMOUNTS FOR CERTAIN PURPOSES.—Not less than 5 per centum of the aggregate amount available to the Commission from all sources for a fiscal year shall be used for carrying out each of the duties of the Commission specified in subsections (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), (a)(6), (a)(7), (a)(8), and (b) of section 109.

COMPLIANCE WITH BUDGET ACT

SEC. 117. Any new spending authority described in subsection (c)(2)(A) of section 401 of the Congressional Budget Act of 1974 which is provided under this title shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

Effective date.
16 USC 461 note.
2 USC 651.

TITLE II

SEC. 201. (a) The Act of May 17, 1954 entitled "An Act to provide for the construction of the Jefferson National Expansion Memorial at the site of old Saint Louis, Missouri, in general accordance with the plan approved by the United States Territorial Expansion Memorial Commission, and for other purposes" (68 Stat. 98; 16 U.S.C. 450jj), is amended by inserting after section 3 the following new sections:

Jefferson
National
Expansion
Memorial
Amendments
Act of 1984.
Saint Louis, Mo.,
and East Saint
Louis, Ill.

"SEC. 4. (a) The Secretary of the Interior is further authorized to designate for addition to the Jefferson National Expansion Memorial (hereinafter in this Act referred to as the 'Memorial') not more than one hundred acres in the city of East Saint Louis, Illinois, contiguous with the Mississippi River and between the Eads Bridge and the Poplar Street Bridge, as generally depicted on the map entitled 'Boundary Map, Jefferson National Expansion Memorial',

Public
availability.
16 USC 450jj-3.

Gateway Arch.

numbered MWR-366/80,004, and dated February 9, 1984, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. The additional acreage authorized by this section is in recognition of the historical significance of the Memorial site to the westward expansion of the United States and the historical linkage of this site on the Mississippi in both Missouri and Illinois to such expansion, the international recognition of the Gateway Arch, designed by Eero Saarinen, as one of the world's great sculptural and architectural achievements, and the increasing use of the Memorial site by millions of people from all over the United States and the world.

“(b) Within the area designated in accordance with this section, the Secretary of the Interior may acquire lands and interests in lands by donation, purchase with donated or appropriated funds, or exchange, except that lands owned by the State of Illinois or any political subdivision thereof may be acquired only by donation.

16 USC 450jj-4.

“SEC. 5. Where appropriate in the discretion of the Secretary of the Interior, he may transfer by lease or otherwise, to any appropriate person or governmental entity, land owned by the United States (or any interest therein) which has been acquired by the Secretary under section 4. Any such transfer shall be consistent with the management plan for the area and with the requirements of section 5 of the Act of July 15, 1968 (82 Stat. 356; 16 U.S.C. 460l-22) and shall be subject to such conditions and restrictions as the Secretary deems necessary to carry out the purposes of this Act, including terms and conditions which provide for—

16 USC 460l-22.

“(1) the continuation of existing uses of the land which are compatible with the Memorial,

“(2) the protection of the important historical resources of the leased area, and

“(3) the retention by the Secretary of such access and development rights as the Secretary deems necessary to provide for appropriate visitor use and resource management.

In transferring any lands or interest in lands under this section, the Secretary shall take into account the views of the Commission established under section 8.

Post, p. 1470.

16 USC 450jj-5.

Ante, p. 1467.

“SEC. 6. Lands and interests in lands acquired pursuant to section 4 shall, upon acquisition, be a part of the Memorial. The Secretary of the Interior shall administer the Memorial in accordance with this Act and the provisions of law generally applicable to units of the national park system, including the Act entitled ‘An Act to establish a National Park Service, and for other purposes’, approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1-4) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461-467). In the development, management, and operation of that portion of the Memorial which is added to the Memorial under section 4, the Secretary shall, to the maximum extent feasible, utilize the assistance of State and local government agencies and the private sector. For such purposes, the Secretary may, consistent with the management plan for the area, enter into cooperative agreements with the State, with any political subdivision of the State, or with any person. Any such cooperative agreement shall, at a minimum, establish procedures for providing notice to the Secretary of any action proposed by the State, such political subdivision, or such person, which may affect the area.

"Sec. 7. (a) There is hereby established the Jefferson National Expansion Memorial Commission (hereinafter in this Act referred to as the 'Commission').

"(b) The Commission shall be composed of twenty members as follows:

Jefferson
National
Expansion
Memorial
Commission,
establishment.
16 USC 450jj-6.

"(1) The county executive of Saint Louis County, Missouri, ex officio, or a delegate.

"(2) The chairman of the Saint Clair County Board of Supervisors, Illinois, ex officio, or a delegate.

"(3)(A) The executive director of the Bi-State Development Agency, Saint Louis, Missouri, ex officio, or a delegate.

"(B) A member of the Bi-State Development Agency, Saint Louis, Missouri, who is not a resident of the same State as the executive director of such agency, appointed by a majority of the members of such agency, or a delegate.

"(4) The mayor of the city of East Saint Louis, Illinois, ex officio, or a delegate.

"(5) The mayor of Saint Louis, Missouri, ex officio, or a delegate.

"(6) The Governor of the State of Illinois, ex officio, or a delegate.

"(7) The Governor of the State of Missouri, ex officio, or a delegate.

"(8) The Secretary of the Interior, ex officio, or a delegate.

"(9) The Secretary of Housing and Urban Development, ex officio, or a delegate.

"(10) The Secretary of Transportation, ex officio, or a delegate.

"(11) The Secretary of the Treasury, ex officio, or a delegate.

"(12) The Secretary of Commerce, ex officio, or a delegate.

"(13) The Secretary of the Smithsonian Institution, ex officio, or a delegate.

"(14) Three individuals appointed by the Secretary of the Interior from a list of individuals nominated by the mayor of East Saint Louis, Illinois, and the Governor of the State of Illinois.

"(15) Three individuals appointed by the Secretary of the Interior from a list of individuals nominated by the mayor of Saint Louis, Missouri, and the Governor of the State of Missouri.

Individuals nominated for appointment under paragraphs (14) and (15) shall be individuals who have knowledge and experience in one or more of the fields of parks and recreation, environmental protection, historic preservation, cultural affairs, tourism, economic development, city planning and management, finance, or public administration. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

"(c)(1) Except as provided in paragraphs (2) and (3), members of the Commission shall be appointed for terms of three years.

"(2) Of the members of the Commission first appointed under paragraphs (14) and (15) of subsection (c)—

"(A) two shall be appointed for terms of one year;

"(B) two shall be appointed for terms of two years; and

"(C) two shall be appointed for terms of three years;

as designated by the Secretary of the Interior at the time of appointment.

"(3) Any member of the Commission appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member of the Commission may serve after the expiration of his term until his successor has taken office.

"(d) Members of the Commission shall receive no pay on account of their service on the Commission, but while away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

"(e) The chairperson of the Commission shall be elected by the members of the Commission.

"(f) Upon request of the Commission, the head of any Federal agency represented by members on the Commission may detail any of the personnel or such agency, or provide administrative services to the Commission to assist the Commission in carrying out the Commission's duties under section 8.

Infra.

"(g) The Commission may, for the purposes of carrying out the Commission's duties under section 8, seek, accept, and dispose of gifts, bequests, or donations of money, personal property, or services, received from any source.

Termination.

"(h)(1) Except as provided in paragraph (2), the Commission shall terminate on the day occurring ten years after the date of enactment of this section.

Extension.

"(2) The Secretary of the Interior may extend the life of the Commission for a period of not more than five years beginning on the day referred to in paragraph (1) if the Commission determines that such extension is necessary in order for the Commission to carry out this Act.

16 USC 450jj-7.

"Sec. 8. (a) Within two years from the enactment of this section, the Commission shall develop and transmit to the Secretary a development and management plan for the East Saint Louis, Illinois, portion of the Memorial. The plan shall include—

"(1) measures for the preservation of the area's resources;

"(2) indications of types and general intensities of development (including visitor circulation and transportation patterns, systems, and modes) associated with public enjoyment and use of the area, including general locations, timing of implementation, and cost estimates;

"(3) identification of any implementation commitments for visitor carrying capacities for all areas of the area;

"(4) indications of potential modifications to the external boundaries of the area, the reasons therefore, and cost estimates;

"(5) measures and commitments for insuring that the development, management, and operation of the area in the State of Illinois are compatible with the portion of the Memorial in the State of Missouri;

"(6) opportunities and commitments for cooperative activities in the development, management, and operation of the East Saint Louis portion of the Memorial with other Federal, State, and local agencies, and the private sector; and

"(7) effective and appropriate ways to increase local participation in the management of the East Saint Louis portion of the

Memorial to help reduce the day-to-day operational and management responsibilities of the National Park Service and to increase opportunities for local employment.

“(b) The plan shall also identify and include—

“(1) needs, opportunities, and commitments for the aesthetic and economic rehabilitation of the entire East Saint Louis, Illinois, waterfront and adjacent areas, in a manner compatible with and complementary to, the Memorial, including the appropriate commitments and roles of the Federal, State, and local governments and the private sector; and

“(2) cost estimates and recommendations for Federal, State, and local administrative and legislative actions.

In carrying out its duties under this section, the Commission shall take into account Federal, State, and local plans and studies respecting the area, including the study by the National Park Service on the feasibility of a museum of American ethnic culture to be a part of any development plans for the Memorial.

“SEC. 9. (a) Upon completion of the plan, the Commission shall transmit the plan to the secretary for his review and approval of its adequacy and appropriateness. In order to approve the plan, the Secretary must be able to find affirmatively that:

16 USC 450jj-8.

“(1) The plan addresses all elements outlined in section 8 above;

“(2) The plan is consistent with the Saint Louis, Missouri, portion of the Memorial;

“(3) There are binding commitments to fund land acquisition and development, including visitor circulation and transportation systems and modes, in amounts sufficient to completely implement the plan as recommended by the Commission from sources other than funds authorized to be appropriated in this Act; and

“(4) There are binding commitments to fund or provide the equivalent of all costs in excess of \$350,000 per annum for the continued management, operation, and protection of the East Saint Louis, Illinois, portion of the Memorial.

“(b) The Secretary shall transmit in writing a notice of his approval and his certification as to the existence and nature of funding commitments contained in the approved plan to the Committee on Interior and Insular Affairs of the House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate.

“SEC. 10. Pending submission of the Commission's plan, any Federal entity conducting or supporting significant activities directly affecting East Saint Louis, Illinois, generally and the site specifically referred to in section 4 shall—

16 USC 450jj-9.

“(1) consult with the Secretary of the Interior and the Commission with respect to such activities;

“(2) cooperate with the Secretary of the Interior and the Commission in carrying out their duties under this Act, and to the maximum extent practicable, coordinate such activities with the carrying out of such duties; and

“(3) to the maximum extent practicable, conduct or support such activities in a manner which the Secretary determines will not have an adverse effect on the Memorial.”

(b) The Act of May 17, 1954 entitled “An Act to provide for the construction of the Jefferson National Expansion Memorial at the site of old Saint Louis, Missouri, in general accordance with the plan

approved by the United States Territorial Expansion Memorial Commission, and for other purposes" (68 Stat. 98; 16 U.S.C. 450jj) is amended by—

16 USC 450jj
note.

(1) redesignating "SEC. 4." (as so designated prior to the amendments made in subsection (a) of this section) as "SEC. 11. (a)"; and

Appropriation
authorization.

(2) adding at the end thereof the following new subsections:
"(b) For the purposes of the East Saint Louis portion of the Memorial, there is hereby authorized to be appropriated not to exceed \$1,000,000 for land acquisition and not to exceed \$1,250,000 for development, of which not to exceed \$500,000 shall be available only for landscaping and only for expenditure in the ratio of one dollar of Federal funds to one dollar of non-Federal funds: *Provided*, That no funds authorized to be appropriated hereunder may be appropriated prior to the approval by the Secretary of the plan developed by the Commission.

"(c) Funds appropriated under subsection (b) of this section shall remain available until expended.

"(d) Authority to enter into contracts or make payments under this Act shall be effective for any fiscal year only to the extent that appropriations are available for that purpose."

Effective dates.
16 USC 450jj-3
note.

SEC. 202. Any provision of this title (or any amendment made by this title) which, directly or indirectly, authorizes the enactment of new budget authority described in section 402(a) of the Congressional Budget Act of 1974 shall be effective only for fiscal years beginning after September 30, 1983.

16 USC 450jj
note.

SEC. 203. This title may be cited as the "Jefferson National Expansion Memorial Amendments Act of 1984".

Approved August 24, 1984.

LEGISLATIVE HISTORY—S. 746 (H.R. 2014):

HOUSE REPORT No. 98-601 accompanying H.R. 2014 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 98-355 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 130 (1984):

Feb. 27, considered and passed Senate.

Feb. 28, H.R. 2014 considered and passed House; S. 746, amended, passed in lieu.

June 28, Senate concurred in House amendment with an amendment.

June 29, House concurred in Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 35 (1984):

August 24, Presidential statement.

Public Law 98-399
98th Congress

An Act

To establish a commission to assist in the first observance of the Federal legal holiday honoring Martin Luther King, Jr.

Aug. 27, 1984
[H.R. 5890]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds that—

(1) January 20, 1986, marks the first observance of the Federal legal holiday, established by Public Law 98-144, honoring the birthday of Martin Luther King, Jr.;

97 Stat. 917.
5 USC 6103.

(2) such holiday should serve as a time for Americans to reflect on the principles of racial equality and nonviolent social change espoused by Martin Luther King, Jr.; and

(3) it is appropriate for the Federal Government to coordinate efforts with Americans of diverse backgrounds and with private organizations in the first observance of the Federal legal holiday honoring Martin Luther King, Jr.

SEC. 2. There is established a commission to be known as the Martin Luther King, Jr. Federal Holiday Commission (hereinafter in this Act referred to as the "Commission").

Martin Luther
King, Jr.
Federal
Holiday
Commission,
establishment.

SEC. 3. The purposes of the Commission are—

(1) to encourage appropriate ceremonies and activities throughout the United States relating to the first observance of the Federal legal holiday honoring Martin Luther King, Jr., which occurs on January 20, 1986; and

(2) to provide advice and assistance to Federal, State, and local governments and to private organizations with respect to the observance of such holiday.

SEC. 4. (a) The Commission shall be composed of—

(1) four officers from the executive branch, appointed by the President;

(2) four Members of the House of Representatives, appointed by the Speaker of the House of Representatives in consultation with the minority leader of the House of Representatives;

(3) four Senators, appointed by the President pro tempore of the Senate in consultation with the majority and minority leaders of the Senate;

(4) Coretta Scott King and two other members of the family surviving Martin Luther King, Jr., appointed by such family;

(5) two individuals representing the Martin Luther King, Jr. Center for Non-Violent Social Change (a not-for-profit organization incorporated in the State of Georgia), appointed by such organization; and

(6) fourteen individuals other than officers or employees of the United States or Members of Congress, appointed by the members of the Commission under paragraphs (1) through (5) of this subsection from among individuals representing diverse interest groups, including individuals representing labor, business, civil rights, and religious groups, and entertainers.

(b) Not more than half of the members of the Commission appointed under each of paragraphs (2), (3), (5), and (6) of subsection (a) shall be of the same political party.

(c) Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the manner in which the original appointment was made.

(d) Members of the Commission shall serve without pay, but may, subject to section 7, be allowed travel expenses, including per diem in lieu of subsistence, while away from their homes or regular places of business in the performance of services for the Commission.

SEC. 5. (a) The Commission shall first meet within 30 days after the date of the enactment of this Act. At this first meeting the Commission shall elect a chairperson from among its members and shall meet thereafter at the call of the chairperson.

(b) The Commission may encourage the participation of, and accept, use, and dispose of donations of money, property, and personal services from, individuals and public and private organizations to assist the Commission in carrying out its responsibilities under this Act.

5 USC app.

(c) The provisions of the Federal Advisory Committee Act shall not apply to the Commission established under this Act.

SEC. 6. (a) The Commission may appoint a director and a staff of not more than five persons, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Subject to section 7, the Commission shall set the rates of pay for the director and staff, except that the director may not be paid at a rate in excess of the maximum rate of pay payable for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, and no staff member may be paid at a rate in excess of the maximum rate of pay payable for grade GS-13 of such General Schedule.

(b)(1) Upon the request of the Commission, the head of any department or agency of the United States may detail, on a non-reimbursable basis, any of the personnel of such department or agency to the Commission to assist it in carrying out its responsibilities under this Act.

(2) Each head of such department or agency is authorized to cooperate with and assist the Commission in carrying out its responsibilities under this Act.

SEC. 7. All expenditures of the Commission shall be made from donated funds.

SEC. 8. Not later than April 20, 1986, the Commission shall submit a report to the President and the Congress concerning its activities under this Act. Report.

SEC. 9. The Commission shall cease to exist after submitting its report under section 8. Termination.

Approved Aug. 27, 1984.

LEGISLATIVE HISTORY—H.R. 5890:

HOUSE REPORT No. 98-893 (Comm. on Post Office and Civil Service).

CONGRESSIONAL RECORD, Vol. 130 (1984):

July 24, considered and passed House.

Aug. 1, considered and passed Senate, amended.

Aug. 8, House concurred in Senate amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 35 (1984):

Aug. 27, Presidential statement.

Public Law 98-400
98th Congress

An Act

Aug. 27, 1984
[S. 1547]

To amend the conditions of a grant of certain lands to the town of Olathe, Colorado, and for other purposes.

Water.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act to grant certain lands to the town of Olathe, Colorado, for the protection of its water supply", approved March 3, 1919 (40 Stat. 1317), is amended by—

(1) striking out "to have and to hold said lands for the purpose of the protection of the reservoirs and water supply pipelines and waterworks system of said town";

(2) striking out "*And provided further*, That title to the land shall revert to the United States should the same or any part thereof be sold or cease to be used for the purposes herein provided."; and

(3) adding at the end thereof the following: "*And provided further*, That in the event that the lands or any part thereof are sold or otherwise alienated by the town of Olathe on or before January 1, 1994, except as a consequence of a judgment at law or equity to recover sums owed by the town pursuant to a mortgage, sale to trustee, or similar agreement entered into by the town in order to secure funds for public purposes, directly related to repair, maintenance, or modernization of the reservoirs, water supply pipelines, or waterworks system of the town, the proceeds of such sale (excluding the value of any improvements made by the town) or the fair market value of the lands or part thereof (excluding the value of any improvements made by the town) at the time of such sale or alienation, whichever amount is greater, shall be paid to the United States by the town."

Approved August 27, 1984.

LEGISLATIVE HISTORY—S. 1547 (H.R. 1191):

HOUSE REPORT No. 98-88 accompanying H.R. 1191 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 98-486 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:

Vol. 129 (1983): May 17, H.R. 1191 considered and passed House.

Vol. 130 (1984): Aug. 9, considered and passed Senate.

Aug. 10, considered and passed House.

Public Law 98-401
98th Congress

An Act

To require the Secretary of the Interior to convey to the city of Brigham City, Utah, certain land and improvements in Box Elder County, Utah.

Aug. 27, 1984
[S. 2036]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding section 209 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1719), when the Secretary of the Interior ceases to use the remaining Federal property at the Intermountain Indian Boarding School for Indian school purposes he shall publish the legal description of such property in the Federal Register, and shall convey, by quitclaim deed and without consideration, to the city of Brigham City, Utah, all right, title, and interest of the United States in and to such land, including any improvements thereon.

Indians.
Federal
Register,
publication.
25 USC 307 note.

Approved August 27, 1984.

LEGISLATIVE HISTORY—S. 2036:

SENATE REPORT No. 98-554 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 130 (1984):

Aug. 9, considered and passed Senate.
Aug. 10, considered and passed House.

Public Law 98-402
98th Congress

An Act

Aug. 28, 1984
[H.R. 4596]

To amend section 1601(d) of Public Law 96-607 to permit the Secretary of the Interior to acquire title in fee simple to McClintock House at 16 East Williams Street, Waterloo, New York.

16 USC 410*ll*.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1601(c) of Public Law 96-607 (16 U.S.C. 41011(c)) is amended by striking paragraph “(8)” and inserting the following:

“(8) McClintock House and related structures, 14 and 16 East Williams Street, Waterloo; and”.

Historic
preservation.

(b) Section 1601(d) is amended by striking out the word “through” and inserting the word “and” in lieu thereof; and by adding at the end of the subsection the following: “Within two years of the acquisition of the property listed in subsection (c)(8) the Secretary shall have removed all structures from the property that are not relevant to the historic integrity of the McClintock House.”.

Approved August 28, 1984.

LEGISLATIVE HISTORY—H.R. 4596 (S. 2331):

HOUSE REPORT No. 98-722 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 98-558 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 130 (1984):
Apr. 30, May 1, considered and passed House.
Aug. 9, considered and passed Senate.

Public Law 98-403
98th Congress

An Act

To provide continuing authority to the Secretary of Agriculture for recovering costs associated with cotton classing services to producers and to authorize the Secretary of Agriculture to invest funds derived from fees for certain voluntary grading and inspection services.

Aug. 28, 1984
[S. 2085]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, effective for the period beginning October 1, 1984, and ending September 30, 1988, section 3a of the Cotton Statistics and Estimates Act (7 U.S.C. 473a) is amended to read as follows:

“SEC. 3a. Effective for the fiscal years ending September 30, 1985, September 30, 1986, September 30, 1987, and September 30, 1988, the Secretary of Agriculture shall make cotton classification services available to producers of cotton and shall provide for the collection of classification fees from participating producers, or from agents who voluntarily agree to collect and remit the fees on behalf of producers. Such fees, together with the proceeds from the sales of samples submitted under this section, shall cover as nearly as practicable the cost of the services provided under this section, including administrative and supervisory costs: *Provided*, That (1) the uniform per bale classification fee to be collected from producers, or their agents, for such classification service in any year shall not exceed the uniform fee collected in the previous year by more than the percentage increase in the Implicit Price Deflator for Gross National Product as indexed during the most recent twelve-month period for which official statistics are available, and (2) the uniform per bale classification fee shall not be increased for any year if the accumulated reserve exceeds 20 per centum of the cost of the classification program in the previous year. Special classification services provided at the request of the producer shall not be subject to the restrictions specified in clauses (1) and (2) of the preceding sentence. All samples of cotton submitted for classification under this section shall become the property of the United States, and shall be sold: *Provided*, That such cotton samples shall not be subject to the provisions of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.). Any fees collected under this section and under section 3d of this Act, late payment penalties, the proceeds from the sales of samples, and interest earned from the investment of such funds shall be credited to the current appropriation account that incurs the cost of services provided under this section and section 3d and shall remain available without fiscal year limitation to pay the expenses of the Secretary incident to providing such services. Such funds may be invested by the Secretary in insured or fully collateralized, interest-bearing accounts or, at the discretion of the Secretary, by the Secretary of the Treasury in United States Government debt instruments. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section to the extent that financing is not available from fees and the proceeds from the sales of samples.”.

7 USC 473d.

SEC. 2. Section 203(h) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622(h)) is amended by inserting immediately before the first complete sentence the following: "Any fees collected under this subsection, late payment penalties, the proceeds from the sales of samples, and interest earned from the investment of such funds shall be credited to the trust fund account that incurs the cost of the services provided under this subsection and shall remain available without fiscal year limitation to pay the expenses of the Secretary incident to providing such services. Such funds may be invested by the Secretary in insured or fully collateralized, interest-bearing accounts or, at the discretion of the Secretary, by the Secretary of the Treasury in United States Government debt instruments."

Approved August 28, 1984.

LEGISLATIVE HISTORY—S. 2085:

SENATE REPORT No. 98-395 (Comm. on Agriculture, Nutrition, and Forestry).
CONGRESSIONAL RECORD, Vol. 130 (1984):

May 2, considered and passed Senate.
May 21, considered and passed House, amended.
Aug. 10, Senate concurred in House amendments.

Public Law 98-404
98th Congress

An Act

To amend the Reclamation Safety of Dams Act of 1978, and for other purposes.

Aug. 28, 1984
[H R. 1652]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as “The Reclamation Safety of Dams Act Amendments of 1984” and that the Reclamation Safety of Dams Act of 1978 (92 Stat. 2471, 43 U.S.C. 506, et seq.) is amended as follows:

The Reclamation
Safety of Dams
Act
Amendments of
1984.

(1) In subsection 4(b), strike “Costs” and insert the following in lieu thereof: “With respect to the \$100,000,000 authorized to be appropriated in the Reclamation Safety of Dams Act of 1978, costs”.

43 USC 506 note.

43 USC 508.

43 USC 506 note.

(2) After section 4(b), add the following new subsections:

“(c) With respect to the additional \$650,000,000 authorized to be appropriated in The Reclamation Safety of Dams Act Amendments of 1984, costs incurred in the modification of structures under this Act, the cause of which results from new hydrologic or seismic data or changes in state-of-the-art criteria deemed necessary for safety purposes, shall be reimbursed to the extent provided in this subsection.

Supra.

“(1) Fifteen percent of such costs shall be allocated to the authorized purposes of the structure, except that in the case of Jackson Lake Dam, Minidoka Project, Idaho-Wyoming, such costs shall be allocated in accordance with the allocation of operation and maintenance charges.

“(2) Costs allocated to irrigation water service and capable of being repaid by the irrigation water users shall be reimbursed within 50 years of the year in which the work undertaken pursuant to this Act is substantially complete. Costs allocated to irrigation water service which are beyond the water users’ ability to pay shall be reimbursed in accordance with existing law.

43 USC 506 note.

“(3) Costs allocated to recreation or fish and wildlife enhancement shall be reimbursed in accordance with the Federal Water Project Recreation Act (79 Stat. 213), as amended.

16 USC 4601-12
note.

“(4) Costs allocated to the purpose of municipal, industrial, and miscellaneous water service, commercial power, and the portion of recreation and fish and wildlife enhancement costs reimbursable under the Federal Water Project Recreation Act, shall be repaid within 50 years with interest. The interest rate used shall be determined by the Secretary of the Treasury, taking into consideration average market yields on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the applicable reimbursement period during the month preceding the fiscal year in which the costs are incurred. To the extent that more than one interest rate is determined pursuant to the preceding sentence, the Secretary of the Treasury shall establish an interest rate at the weighted average of the rates so determined.

Contracts with
U.S.

43 USC 506 note.

43 USC 390 cc.

43 USC 509.

“(d) The Secretary is authorized to negotiate appropriate contracts with project beneficiaries providing for the return of reimbursable costs under this Act: *Provided, however*, That no contract entered into pursuant to this Act shall be deemed to be a new or amended contract for the purposes of section 203(a) of Public Law 97-293.”.

(3) In the first sentence of section 5 strike the comma and all that follows through “*Provided*, That no funds” and insert in lieu thereof: “and, effective October 1, 1983, not to exceed an additional \$650,000,000 (October 1, 1983, price levels), plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the types of construction involved herein, to carry out the provisions of this Act to remain available until expended if so provided by the appropriations Act: *Provided*, That no funds exceeding \$750,000”.

43 USC 506 note.

(4) After section 11, insert the following new sections 12 and 13:
“SEC. 12. Included within the scope of this Act are Fish Lake, Four Mile, Ochoco, Savage Rapids Diversion and Warm Springs Dams, Oregon; Como Dam, Montana; Little Wood River Dam, Idaho; and related facilities which have been made a part of a Federal reclamation project by previous Acts of Congress. Coolidge Dam, San Carlos Irrigation Project, Arizona, shall also be included within the scope of this Act.

“SEC. 13. The cost of foundation treatment, drainage and instrumentation work planned or underway at Twin Buttes, Texas, and Foss Dam, Oklahoma, shall be nonreimbursable and nonreturnable under Federal reclamation law.”.

Approved August 28, 1984.

LEGISLATIVE HISTORY—H.R. 1652 (S. 672) (S. Res. 234):

HOUSE REPORT No. 98-168 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 98-258 accompanying S. 672 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 130 (1984):

Mar. 20, considered and passed House.

Aug. 9, considered and passed Senate, amended.

Aug. 10, House concurred in Senate amendments.

Public Law 98-405
98th Congress

An Act

To amend the National Trails System Act by adding the California Trail to the study list, and for other purposes.

Aug. 28, 1984
[H.R. 3787]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section 5(c) of the National Trails System Act (16 U.S.C. 1244(c)) is amended by adding at the end thereof the following new paragraph:

97 Stat. 44.

“(30) Pony Express Trail, extending from Saint Joseph, Missouri, through Kansas, Nebraska, Colorado, Wyoming, Utah, Nevada, to Sacramento, California, as indicated on a map labeled ‘Potential Pony Express Trail’, dated October 1983 and the California Trail, extending from the vicinity of Omaha, Nebraska, and Saint Joseph, Missouri, to various points in California, as indicated on a map labeled ‘Potential California Trail’ and dated August 1, 1983. Notwithstanding subsection (b) of this section, the study under this paragraph shall be completed and submitted to the Congress no later than the end of two complete fiscal years beginning after the date of the enactment of this paragraph. Such study shall be separated into two portions, one relating to the Pony Express Trail and one relating to the California Trail.”.

Study
Pony Express
Trail.

SEC. 2. (a) Recognition should be given to the regional significance of the contributions of Daniel Boone in the exploration and settlement of the Nation to assure that a wider segment of the public be afforded the opportunity to share in Boone’s contributions to America’s heritage through establishment of markings of a Daniel Boone Heritage Trail.

Daniel Boone
Heritage Trail.

(b) In order that significant route segments and sites, recognized as associated with Daniel Boone may be distinguished by suitable markers, the Secretary of the Interior is authorized to accept the donations of such suitable markers for placement at appropriate locations on lands administered by the Secretary of the Interior, and with the concurrence of the Secretary of Agriculture and other appropriate heads of Federal agencies, on lands under their jurisdiction. The determination of the placement of markers to commemorate the routes and sites of Daniel Boone shall be made by the Secretary of the Interior in consultation with appropriate private interests and affected local and State governments.

(c) The markers authorized by subsection (b) shall be placed in association with the Daniel Boone Trail identified on maps contained in the study entitled "Final National Trail Study, August, 1983, Daniel Boone" and submitted to the Congress pursuant to the provisions of section 5 of the National Trails Systems Act (16 U.S.C. 1244).

Effective date.

2 USC 652.

SEC. 3. Any provision of this Act or any amendment made by this Act which, directly or indirectly, authorizes the enactment of new budget authority described in section 402(a) of the Congressional Budget Act of 1974 shall be effective only for fiscal years beginning after September 30, 1984.

Approved August 28, 1984.

LEGISLATIVE HISTORY—H.R. 3787:

HOUSE REPORT No. 98-719 (Comm. on Interior and Insular Affairs.)
SENATE REPORT No. 98-557 (Comm. on Energy and Natural Resources.)
CONGRESSIONAL RECORD, Vol. 130 (1984):
Apr. 30, May 1, considered and passed House.
Aug. 9, considered and passed Senate.

Public Law 98-406
96th Congress

An Act

To designate certain national forest lands in the State of Arizona as wilderness, and for other purposes.

Aug. 28, 1984
[H.R. 4707]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Arizona Wilderness Act of 1984".

Arizona
Wilderness
Act of 1984.
National
Wilderness
Preservation
System.
National Forest
System.

TITLE I

SEC. 101. (a) In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131-1136), the following lands in the State of Arizona are hereby designated as wilderness and therefore as components of the National Wilderness Preservation System:

(1) certain lands in the Prescott National Forest, which comprise approximately five thousand four hundred and twenty acres, as generally depicted on a map entitled "Apache Creek Wilderness—Proposed", dated February 1984, and which shall be known as the Apache Creek Wilderness;

16 USC 1132
note.

(2) certain lands in the Prescott National Forest, which comprise approximately fourteen thousand nine hundred and fifty acres, as generally depicted on a map entitled "Cedar Bench Wilderness—Proposed", dated August 1984, and which shall be known as the Cedar Bench Wilderness;

16 USC 1132
note.

(3) certain lands in the Apache-Sitgreaves National Forest, which comprise approximately eleven thousand and eighty acres, as generally depicted on a map entitled "Bear Wallow Wilderness—Proposed", dated March 1984, and which shall be known as the Bear Wallow Wilderness;

16 USC 1132
note.

(4) certain lands in the Prescott National Forest, which comprise approximately twenty-six thousand and thirty acres, as generally depicted on a map entitled "Castle Creek Wilderness—Proposed", dated August 1984, and which shall be known as the Castle Creek Wilderness;

16 USC 1132
note.

(5) certain lands in the Coronado National Forest, which comprise approximately sixty-nine thousand seven hundred acres, as generally depicted on a map entitled "Chiricahua Wilderness—Proposed", dated March 1984, and which are hereby incorporated in and shall be deemed part of the Chiricahua Wilderness, as designated by Public Law 88-577;

16 USC 1131
note.

(6) certain lands in the Coconino National Forest, which comprise approximately eleven thousand five hundred and fifty acres, as generally depicted on a map entitled "Fossil Springs Wilderness—Proposed", dated April 1984, and which shall be known as the Fossil Springs Wilderness;

16 USC 1132
note.

(7) certain lands in the Tonto National Forest, which comprise approximately fifty-three thousand five hundred acres, as generally depicted on a map entitled "Four Peaks Wilderness—Proposed", dated April 1984, and which shall be known as the Four Peaks Wilderness;

16 USC 1132
note.

16 USC 1131
note.
16 USC 1132
note.

16 USC 1132
note.

16 USC 1132
note.

16 USC 1132
note.

16 USC 1131
note.
16 USC 1131
note.

16 USC 1132
note.

16 USC 1132
note.

16 USC 1132
note.

(8) certain lands in the Coronado National Forest, which comprise approximately twenty-three thousand six hundred acres, as generally depicted on a map entitled "Galiuro Wilderness Additions—Proposed", dated April 1984, and which are hereby incorporated in and shall be deemed a part of the Galiuro Wilderness as designated by Public Law 88-577;

(9) certain lands in the Prescott National Forest, which comprise approximately nine thousand eight hundred acres, as generally depicted on a map entitled "Granite Mountain Wilderness—Proposed", dated April 1984, and which shall be known as the Granite Mountain Wilderness;

(10) certain lands in the Tonto National Forest, which comprise approximately thirty-six thousand seven hundred and eighty acres, as generally depicted on a map entitled "Hellsgate Wilderness—Proposed", dated August 1984, and which shall be known as the Hellsgate Wilderness;

(11) certain lands in the Prescott National Forest which comprise approximately seven thousand six hundred acres, as generally depicted on a map entitled "Juniper Mesa Wilderness—Proposed", dated February 1984, and which shall be known as the Juniper Mesa Wilderness;

(12) certain lands in the Kaibab and Coconino National Forests, which comprise approximately six thousand five hundred and ten acres, as generally depicted on a map entitled "Kendrick Mountain Wilderness—Proposed", dated February 1984, and which shall be known as Kendrick Mountain Wilderness;

(13) certain lands in the Tonto National Forest, which comprise approximately forty-six thousand six hundred and seventy acres, as generally depicted on a map entitled "Mazatzal Wilderness Additions—Proposed", dated August 1984, and which are hereby incorporated and shall be deemed a part of the Mazatzal Wilderness as designated by Public Law 88-577: *Provided*, That within the lands added to the Mazatzal Wilderness by this Act, the provisions of the Wilderness Act shall not be construed to prevent the installation and maintenance of hydrologic, meteorologic, or telecommunications facilities, or any combination of the foregoing, or limited motorized access to such facilities when nonmotorized access means are not reasonably available or when time is of the essence, subject to such conditions as the Secretary deems desirable, where such facilities or access are essential to flood warning, flood control, and water reservoir operation purposes;

(14) certain lands in the Coronado National Forest, which comprise approximately twenty thousand one hundred and ninety acres, as generally depicted on a map entitled "Miller Peak Wilderness—Proposed", dated February 1984, and which shall be known as the Miller Peak Wilderness;

(15) certain lands in the Coronado National Forest, which comprise approximately twenty-five thousand two hundred and sixty acres, as generally depicted on a map entitled "Mt. Wrightson Wilderness—Proposed", dated February 1984, and which shall be known as the Mt. Wrightson Wilderness;

(16) certain lands in the Coconino National Forest, which comprise approximately eighteen thousand one hundred and fifty acres, as generally depicted on a map entitled "Munds Mountain Wilderness—Proposed", dated August 1984, and which shall be known as the Munds Mountain Wilderness;

(17) certain lands in the Coronado National Forest, which comprise approximately seven thousand four hundred and twenty acres, as generally depicted on a map entitled "Pajarita Wilderness—Proposed", dated March 1984, and which shall be known as the Pajarita Wilderness;

16 USC 1132
note.

(18) certain lands in the Coconino National Forest, which comprise approximately forty-three thousand nine hundred and fifty acres, as generally depicted on a map entitled "Red Rock-Secret Mountain Wilderness—Proposed", dated April 1984, and which shall be known as the Red Rock-Secret Mountain Wilderness;

16 USC 1132
note.

(19) certain lands in the Coronado National Forest, which comprise approximately thirty-eight thousand five hundred and ninety acres, as generally depicted on a map entitled "Rincon Mountain Wilderness—Proposed", dated February 1984, and which shall be known as the Rincon Mountain Wilderness;

16 USC 1132
note.

(20) certain lands in the Tonto National Forest, which comprise approximately eighteen thousand nine hundred and fifty acres, as generally depicted on a map entitled "Salome Wilderness—Proposed", dated August 1984, and which shall be known as the Salome Wilderness;

16 USC 1132
note.

(21) certain lands in the Tonto National Forest, which comprise approximately thirty-two thousand eight hundred acres, as generally depicted on a map entitled "Salt River Canyon Wilderness—Proposed", dated April 1984, and which shall be known as the Salt River Canyon Wilderness;

16 USC 1132
note.

(22) certain lands in the Coconino National Forest, which comprise approximately eighteen thousand two hundred acres, as generally depicted on a map entitled "Kachina Peaks Wilderness—Proposed", dated August 1984, and which shall be known as the Kachina Peaks Wilderness;

16 USC 1132
note.

(23) certain lands in the Coronado National Forest, which comprise approximately twenty-six thousand seven hundred and eighty acres, as generally depicted on a map entitled "Santa Teresa Wilderness—Proposed", dated February 1984, and which shall be known as the Santa Teresa Wilderness; the governmental agency having jurisdictional authority may authorize limited access to the area, for private and administrative purposes, from U.S. Route 70 along Black Rock Wash to the vicinity of Black Rock;

16 USC 1132
note.

(24) certain lands in the Tonto National Forest, which comprise approximately thirty-five thousand six hundred and forty acres, as generally depicted on a map entitled "Superstition Wilderness Additions—Proposed", dated August 1984, and which are hereby incorporated in and shall be deemed to be a part of the Superstition Wilderness as designated by Public Law 88-577;

16 USC 1131
note.

(25) certain lands in the Coconino National Forest and Prescott National Forest, which comprise approximately eight thousand one hundred and eighty acres, as generally depicted on a map entitled "Sycamore Canyon Wilderness Additions—Proposed", dated April 1984, and which are hereby incorporated in and shall be deemed a part of the Sycamore Canyon Wilderness as designated by Public Law 92-241;

16 USC 1132
note.

(26) certain lands in the Coconino National Forest, which comprise approximately thirteen thousand six hundred acres, as generally depicted on a map entitled "West Clear Creek Wilder-

16 USC 1132
note.

ness—Proposed”, dated April 1984, and which shall be known as the West Clear Creek Wilderness;

16 USC 1132
note.

(27) certain lands in the Coconino National Forest, which comprise approximately six thousand seven hundred acres, as generally depicted on a map entitled “Wet Beaver Wilderness—Proposed”, dated February 1984, and which shall be known as the Wet Beaver Wilderness;

16 USC 1132
note.

(28) certain lands in the Prescott National Forest, which comprise approximately five thousand six hundred acres, as generally depicted on a map entitled “Woodchute Wilderness—Proposed”, dated August 1984, and which shall be known as the Woodchute Wilderness;

16 USC 1132
note.

(29) certain lands in the Coconino National Forest, which compromise approximately ten thousand one hundred and forty acres, as generally depicted on a map entitled “Strawberry Crater Wilderness—Proposed”, dated April 1984, and which shall be known as Strawberry Crater Wilderness;

16 USC 1132
note.

(30) certain lands in the Apache-Sitgreaves National Forest, which comprise approximately five thousand two hundred acres, as generally depicted on a map entitled “Escudilla—Proposed Wilderness”, dated April 1984, and which shall be known as Escudilla Wilderness.

(b) Subject to valid existing rights, the wilderness areas designated under this section shall be administered by the Secretary of Agriculture (hereinafter in this title referred to as the “Secretary”) in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act (or any similar reference) shall be deemed to be a reference to the date of enactment of this Act.

16 USC 1131
note.

(c) As soon as practicable after enactment of this Act, the Secretary shall file a map and a legal description of each wilderness area designated under this section with the Committee on Interior and Insular Affairs of the United States House of Representatives and with the Committee on Energy and Natural Resources of the United States Senate. Such map and description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in such legal description and map may be made. Such map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, United States Department of Agriculture.

Public
availability.

(d) The Congress does not intend that designation of wilderness areas in the State of Arizona lead to the creation of protective perimeters or buffer zones around each wilderness area. The fact that nonwilderness activities or uses can be seen or heard from areas within a wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

Water.
16 USC 1133.
16 USC 1131
note.

(e)(1) As provided in paragraph (6) of section 4(d) of the Wilderness Act, nothing in this Act or in the Wilderness Act shall constitute an express or implied claim or denial on the part of the Federal Government as to exemption from Arizona State water laws.

Fish and fishing.
Wildlife.

(2) As provided in paragraph (7) of section 4(d) of the Wilderness Act, nothing in this Act or in the Wilderness Act shall be construed as affecting the jurisdiction or responsibilities of the State of Arizona with respect to wildlife and fish in the national forests located in that State.

(f)(1) Grazing of livestock in wilderness areas established by this title, where established prior to the date of the enactment of this Act, shall be administered in accordance with section 4(d)(4) of the Wilderness Act and section 108 of Public Law 96-560.

Livestock.

(2) The Secretary is directed to review all policies, practices, and regulations of the Department of Agriculture regarding livestock grazing in national forest wilderness areas in Arizona in order to insure that such policies, practices, and regulations fully conform with and implement the intent of Congress regarding grazing in such areas, as such intent is expressed in this Act.

16 USC 1133.

16 USC 1133
note.

(3) Not later than one year after the date of the enactment of this Act, and at least every five years thereafter, the Secretary of Agriculture shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate a report detailing the progress made by the Forest Service in carrying out the provisions of paragraphs (1) and (2) of this section.

Report.

SEC. 102. (a) In furtherance of the purposes of the Wilderness Act, the Secretary of Agriculture shall review the following as to their suitability or unsuitability for preservation as wilderness and shall submit his recommendations to the President:

(1) certain lands in the Coronado National Forest, which comprise approximately eight hundred fifty acres, as generally depicted on a map entitled "Bunk Robinson Wilderness Study Area Additions—Proposed", dated February 1984, and which are hereby incorporated in the Bunk Robinson Wilderness Study Area as designated by Public Law 96-550;

94 Stat. 3223.

(2) certain lands in the Coronado National Forest, which comprise approximately five thousand and eighty acres, as generally depicted on a map entitled "Whitmire Canyon Study Area Additions—Proposed", dated February 1984, and which are hereby incorporated in the Whitmire Canyon Wilderness Study Area as designated by Public Law 96-550; and

(3) certain lands in the Coronado National Forest, which comprise approximately sixty-two thousand acres, as generally depicted on a map entitled "Mount Graham Wilderness Study Area", dated August 1984, and which shall be known as the Mount Graham Wilderness Study Area.

With respect to the areas named in paragraphs (1) and (2), the President shall submit his recommendations to the United States House of Representatives and the United States Senate no later than January 1, 1986.

President of U.S.

(b) Subject to valid existing rights, the wilderness study areas designated by this section shall, until Congress determines otherwise, be administered by the Secretary so as to maintain their presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System.

SEC. 103. (a) The Congress finds that—

Conservation.

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II);

(2) the Congress has made its own review and examination of national forest system roadless areas in Arizona and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

Congress.

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to national forest system lands in States other than Arizona, such statement shall not be subject to judicial review with respect to national forest system lands in the State of Arizona;

(2) with respect to the national forest system lands in the State of Arizona which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d), except those lands designated for wilderness study upon enactment of this Act, that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time the Secretary of Agriculture finds that conditions in a unit have significantly changed;

(3) areas in the State of Arizona reviewed in such final environmental statement or referred to in subsection (d) and not designated wilderness or wilderness study upon enactment of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976: *Provided*, That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans;

(4) in the event that revised land management plans in the State of Arizona are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law; and

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of national forest system lands in the State of Arizona for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

16 USC 1600
note.
16 USC 1600
note.

16 USC 1604.

16 USC 1600
note.

16 USC 1604.

(d) The provisions of this section shall also apply to national forest system roadless lands in the State of Arizona which are less than five thousand acres in size.

SEC. 104. Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274) is amended by inserting the following after paragraph (50):

“(51) VERDE, ARIZONA.—The segment from the boundary between national forest and private land in sections 26 and 27, township 13 north, range 5 east, Gila Salt River meridian, downstream to the confluence with Red Creek, as generally depicted on a map entitled ‘Verde River—Wild and Scenic River’, dated March 1984, which is on file and available for public inspection in the Office of the Chief, Forest Service, United States Department of Agriculture; to be administered by the Secretary of Agriculture. This designation shall not prevent water users receiving Central Arizona Project water allocations from diverting that water through an exchange agreement with downstream water users in accordance with Arizona water law. After consultation with State and local governments and the interested public and within two years after the date of enactment of this paragraph, the Secretary shall take such action as is required under subsection (b) of this section.”

Water.

SEC. 105. There are added to the Chiricahua National Monument, in the State of Arizona, established by Proclamation Numbered 1692 of April 18, 1924 (43 Stat. 1946) certain lands in the Coronado National Forest which comprise approximately eight hundred and fifty acres as generally depicted on the map entitled “Bonita Creek Watershed”, dated May 1984, retained by the United States Park Service, Washington, D.C. The area added by this paragraph shall be administered by the National Park Service as wilderness.

TITLE II

SEC. 201. The Congress finds that—

(1) the Aravaipa Canyon, situated in the Galiuro Mountains in the Sonoran desert region of southern Arizona, is a primitive place of great natural beauty that, due to the rare presence of a perennial stream, supports an extraordinary abundance and diversity of native plant, fish, and wildlife, making it a resource of national significance; and

(2) the Aravaipa Canyon should, together with certain adjoining public lands, be incorporated within the National Wilderness Preservation System in order to provide for the preservation and protection of this relatively undisturbed but fragile complex of desert, riparian and aquatic ecosystems, and the native plant, fish, and wildlife communities dependent on it, as well as to protect and preserve the area’s great scenic, geologic, and historical values, to a greater degree than would be possible in the absence of wilderness designation.

SEC. 202. In furtherance of the purposes of the Wilderness Act of 1964 (78 Stat. 890, 16 U.S.C. 1131 et seq.) and consistent with the policies and provisions of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743; 43 U.S.C. 1701 et seq.), certain public lands in Graham and Pinal Counties, Arizona, which comprise approximately six thousand six hundred and seventy acres, as generally depicted on a map entitled “Aravaipa Canyon Wilderness—Proposed” and dated May 1980, are hereby designated as the Aravaipa Canyon Wilderness and, therefore, as a component of the National Wilderness Preservation System.

Aravaipa
Canyon
Wilderness.

16 USC 1132
note.

16 USC 1131
note.

SEC. 203. Subject to valid existing rights, the Aravaipa Canyon Wilderness shall be administered by the Secretary of the Interior in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness. For purposes of this title, any references in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act and any reference to the Secretary of Agriculture with regard to administration of such areas shall be deemed to be a reference to the Secretary of the Interior, and any reference to wilderness areas designated by the Wilderness Act or designated national forest wilderness areas shall be deemed to be a reference to the Aravaipa Canyon Wilderness. For purposes of this title, the reference to national forest rules and regulations in the second sentence of section 4(d)(3) of the Wilderness Act shall be deemed to be a reference to rules and regulations applicable to public lands, as defined in section 103(e) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701, 1702).

16 USC 1133.

Public
availability.

SEC. 204. As soon as practicable after this Act takes effect, the Secretary of the Interior shall file a map and a legal description of the Aravaipa Canyon Wilderness with the Committee on Energy and Natural Resources of the United States Senate and with the Committee on Interior and Insular Affairs of the United States House of Representatives, and such map and description shall have the same force and effect as if included in this Act: *Provided*, That correction of clerical and typographical errors in the legal description and map may be made. The map and legal description shall be on file and available for public inspection in the offices of the Bureau of Land Management, Department of the Interior.

SEC. 205. Except as further provided in this section, the Aravaipa Primitive Area designations of January 16, 1969, and April 28, 1971, are hereby revoked.

TITLE III

16 USC 1131
note.

SEC. 301. (a) In furtherance of the purposes of the Wilderness Act, the following lands are hereby designated as wilderness and therefore, as components of the National Wilderness Preservation System—

16 USC 1132
note.

(1) certain lands in the Arizona Strip District of the Bureau of Land Management, Arizona, which comprise approximately six thousand five hundred acres, as generally depicted on a map entitled "Cottonwood Point Wilderness—Proposed", dated May 1983, and which shall be known as the Cottonwood Point Wilderness;

16 USC 1132
note.

(2) certain lands in the Arizona Strip District of the Bureau of Land Management, Arizona, which comprise approximately thirty-six thousand three hundred acres, as generally depicted on a map entitled "Grand Wash Cliffs Wilderness—Proposed", dated May 1983, and which shall be known as the Grand Wash Cliffs Wilderness;

16 USC 1132
note.

(3) certain lands in the Kaibab National Forest and in the Arizona Strip District of the Bureau of Land Management, Arizona, which comprise approximately seventy-seven thousand one hundred acres, as generally depicted on a map entitled "Kanab Creek Wilderness—Proposed", dated May 1983, and which shall be known as the Kanab Creek Wilderness;

- (4) certain lands in the Arizona Strip District of the Bureau of Land Management, Arizona, which comprise approximately fourteen thousand six hundred acres, as generally depicted on a map entitled "Mt. Logan Wilderness—Proposed", dated May 1983, and which shall be known as the Mount Logan Wilderness; 16 USC 1132 note.
- (5) certain lands in the Arizona Strip District of the Bureau of Land Management, Arizona, which comprise approximately seven thousand nine hundred acres, as generally depicted on a map entitled "Mt. Trumbull Wilderness—Proposed", dated May 1983, and which shall be known as the Mount Trumbull Wilderness; 16 USC 1132 note.
- (6) certain lands in the Arizona Strip District of the Bureau of Land Management, Arizona, which comprise approximately eighty-four thousand seven hundred acres, as generally depicted on a map entitled "Paiute Wilderness—Proposed", dated May 1983, and which shall be known as the Paiute Wilderness; 16 USC 1132 note.
- (7) certain lands in the Arizona Strip District, Arizona, and in the Cedar City District, Utah, of the Bureau of Land Management, which comprise approximately one hundred and ten thousand acres, as generally depicted on a map entitled "Paria Canyon-Vermilion Cliffs Wilderness—Proposed", dated May 1983, and which shall be known as the Paria Canyon-Vermilion Cliffs Wilderness; 16 USC 1132 note.
- (8) certain lands in the Kaibab National Forest, Arizona, which comprise approximately forty thousand six hundred acres, as generally depicted on a map entitled "Saddle Mountain Wilderness—Proposed", dated May 1983, and which shall be known as the Saddle Mountain Wilderness; and 16 USC 1132 note.
- (9) certain lands in the Arizona Strip District, Arizona, and in the Cedar City District, Utah, of the Bureau of Land Management which comprise approximately nineteen thousand six hundred acres, as generally depicted on a map entitled "Beaver Dam Mountains Wilderness—Proposed", dated May 1983, and which shall be known as the Beaver Dam Mountains Wilderness. 16 USC 1132 note.
- (b) The previous classifications of the Paiute Primitive Area and the Paria Canyon Primitive Area are hereby abolished.
- SEC. 302. (a) Subject to valid existing rights, each wilderness area designated by this title shall be administered by the appropriate Secretary in accordance with the provisions of the Wilderness Act: *Provided*, That any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act, and any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary who has administrative jurisdiction over the area. 16 USC 1131 note.
- (b) Within the wilderness areas designated by this title, the grazing of livestock, where established prior to the date of enactment of this Act, shall be permitted to continue subject to such reasonable regulations, policies, and practices as the Secretary concerned deems necessary, as long as such regulations, policies, and practices fully conform with and implement the intent of Congress regarding grazing in such areas as such intent is expressed in the Wilderness Act. Livestock.
- SEC. 303. As soon as practicable after enactment of this Act, a map and a legal description on each wilderness area designated by this title shall be filed by the Secretary concerned with the Committee

Public
availability.

on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and each such map and description shall have the same force and effect as if included in this Act: *Provided*, That correction of clerical and typographical errors in each such legal description and map may be made by the Secretary concerned subsequent to such filings. Each such map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture or in the Office of the Director of the Bureau of Land Management, Department of the Interior, as is appropriate.

43 USC 1782.

SEC. 304. The Congress hereby finds and directs that lands in the Arizona Strip District of the Bureau of Land Management, Arizona, and those portions of the Starvation Point Wilderness Study Area (UT-040-057) and Paria Canyon Instant Study Area and contiguous Utah units in the Cedar City District of the Bureau of Land Management, Utah, not designated as wilderness by this Act have been adequately studied for wilderness designation pursuant to section 603 of the Federal Land Policy and Management Act (Public Law 94-579), and are no longer subject to the requirement of section 603(c) of the Federal Land Policy and Management Act pertaining to the management of wilderness study areas in a manner that does not impair the suitability of such areas for preservation as wilderness.

TITLE IV

SEC. 401. If any provision of this Act or the application thereof is held invalid, the remainder of the Act and the application thereof shall not be affected thereby.

Approved August 28, 1984.

LEGISLATIVE HISTORY—H.R. 4707 (S. 2242):

HOUSE REPORT No. 98-643 Part I (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 98-463 accompanying S. 2242 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 130 (1984):

Apr. 2, 3, considered and passed House.

Aug. 9, considered and passed Senate, amended, in lieu of S. 2242.

Aug. 10, House concurred in certain Senate amendment.

Public Law 98-407
98th Congress

An Act

To authorize certain construction at military installations for fiscal year 1985, and for other purposes.

Aug. 28, 1984
[H.R. 5604]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “Military Construction Authorization Act, 1985”.

Military
Construction
Authorization
Act, 1985.

TITLE I—ARMY

AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS

SEC. 101. The Secretary of the Army may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations:

INSIDE THE UNITED STATES

UNITED STATES ARMY FORCES COMMAND

Fort Bragg, North Carolina, \$98,160,000.
Fort Campbell, Kentucky, \$18,840,000.
Fort Carson, Colorado, \$34,300,000.
Fort Devens, Massachusetts, \$4,450,000.
Fort Drum, New York, \$17,740,000.
Fort Hood, Texas, \$70,190,000.
Fort Indiantown Gap, Pennsylvania, \$2,500,000.
Fort Irwin, California, \$19,770,000.
Fort Lewis, Washington, \$344,730,000.
Fort Meade, Maryland, \$5,900,000.
Fort Ord, California, \$14,960,000.
Fort Polk, Louisiana, \$39,250,000.
Fort Richardson, Alaska, \$7,250,000.
Fort Riley, Kansas, \$33,800,000.
Fort Stewart, Georgia, \$66,130,000.
Presidio of San Francisco, California, \$20,980,000.

UNITED STATES ARMY WESTERN COMMAND

Hawaii, Various, \$2,980,000.
Helemano Military Reservation, Hawaii, \$4,650,000.
Schofield Barracks, Hawaii, \$37,070,000.

UNITED STATES ARMY TRAINING AND DOCTRINE COMMAND

Fort Belvoir, Virginia, \$48,400,000.
Fort Benjamin Harrison, Indiana, \$13,400,000.
Fort Benning, Georgia, \$37,650,000.
Fort Bliss, Texas, \$24,550,000.
Fort Dix, New Jersey, \$17,650,000.
Fort Eustis, Virginia, \$3,300,000.

Fort Gordon, Georgia, \$12,200,000.
Fort Jackson, South Carolina, \$35,760,000.
Fort Knox, Kentucky, \$13,600,000.
Fort Leavenworth, Kansas, \$11,000,000.
Fort Lee, Virginia, \$1,150,000.
Fort Leonard Wood, Missouri, \$6,450,000.
Fort McClellan, Alabama, \$6,300,000.
Fort Pickett, Virginia, \$2,400,000.
Fort Rucker, Alabama, \$2,600,000.
Fort Sill, Oklahoma, \$27,400,000.
Fort Story, Virginia, \$6,100,000.

MILITARY DISTRICT OF WASHINGTON

Fort Myer, Virginia, \$700,000.

UNITED STATES ARMY MATERIEL DEVELOPMENT AND READINESS
COMMAND

Aberdeen Proving Ground, Maryland, \$65,400,000.
Anniston Army Depot, Alabama, \$4,500,000.
Corpus Christi Army Depot, Texas, \$2,200,000.
Crane Army Ammunition Activity, Indiana, \$3,600,000.
Fort Monmouth, New Jersey, \$15,650,000.
New Cumberland Army Depot, Pennsylvania, \$7,800,000.
Picatinny Arsenal, New Jersey, \$9,780,000.
Pine Bluff Arsenal, Arkansas, \$2,550,000.
Radford Army Ammunition Plant, Virginia, \$26,000,000.
Red River Army Depot, Texas, \$830,000.
Redstone Arsenal, Alabama, \$1,900,000.
Rock Island Arsenal, Illinois, \$50,900,000.
Seneca Army Depot, New York, \$6,900,000.
Sharpe Army Depot, California, \$49,000,000.
Sierra Army Depot, California, \$4,150,000.
Tobyhanna Army Depot, Pennsylvania, \$810,000.
White Sands Missile Range, New Mexico, \$2,250,000.
Yuma Proving Ground, Arizona, \$1,300,000.

AMMUNITION FACILITIES

Holston Army Ammunition Plant, Tennessee, \$19,840,000.
Indiana Army Ammunition Plant, Indiana, \$1,900,000.
Iowa Army Ammunition Plant, Iowa, \$1,790,000.
Louisiana Army Ammunition Plant, Louisiana, \$1,600,000.
Radford Army Ammunition Plant, Virginia, \$2,940,000.
Scranton Army Ammunition Plant, Pennsylvania, \$2,050,000.

UNITED STATES ARMY COMMUNICATIONS COMMAND

Fort Huachuca, Arizona, \$5,670,000.

UNITED STATES MILITARY ACADEMY

United States Military Academy, New York, \$950,000.

UNITED STATES ARMY HEALTH SERVICES COMMAND

Fitzsimons Army Medical Center, Colorado, \$650,000.
Fort Detrick, Maryland, \$21,500,000.

Tripler Army Medical Center, Hawaii, \$115,000,000.
Walter Reed Army Medical Center, Washington, District of Columbia, \$4,800,000.

MILITARY TRAFFIC MANAGEMENT COMMAND

Bayonne Military Ocean Terminal, New Jersey, \$570,000.
Oakland Army Base, California, \$2,667,000.

UNITED STATES ARMY CORPS OF ENGINEERS

Cold Regions Laboratory, New Hampshire, \$3,600,000.

BALLISTIC MISSILE DEFENSE SYSTEM COMMAND

Various locations, \$12,800,000.

CLASSIFIED PROJECTS

Various locations, \$3,800,000.

OUTSIDE THE UNITED STATES

UNITED STATES ARMY, JAPAN

Japan, \$1,900,000.

EIGHTH UNITED STATES ARMY

Korea, \$115,840,000.

UNITED STATES ARMY, SOUTHERN COMMAND

Honduras, \$4,300,000.

UNITED STATES ARMY, EUROPE

Germany, \$303,650,000.
Greece, \$9,730,000.

UNITED STATES ARMY, WESTERN COMMAND

Johnston Island, \$21,000,000.

UNITED STATES ARMY INTELLIGENCE AND SECURITY COMMAND
OVERSEAS

Korea, \$2,400,000.

FAMILY HOUSING

SEC. 102. (a) The Secretary of the Army may construct or acquire family housing units (including land acquisition) at the following installations in the number of units shown, and in the amount shown, for each installation:

Sierra Army Depot, California, one hundred and twenty-five units, \$660,000.

Sierra Army Depot, California, eighty units, \$5,721,000.

Aberdeen Proving Ground, Maryland, four hundred and thirty-nine units, \$30,792,000.

Fort Hood, Texas, twenty units, \$1,950,000.

Babenhausen, Federal Republic of Germany, one hundred and six units, \$8,856,000.

Mainz, Federal Republic of Germany, one hundred and eighty-six units, \$18,233,000.

(b)(1) Of the family housing units authorized by subsection (a) to be constructed at Fort Hood, Texas—

(A) three of those units shall be constructed for assignment to general officers who hold positions as commanders or who hold special command positions (as designated by the Secretary of Defense) and (notwithstanding section 2826 of title 10, United States Code) each such unit may be constructed with a maximum net floor area of 3,000 square feet; and

(B) seventeen of those units shall be constructed for assignment to colonels who hold positions as commanders and (notwithstanding section 2826 of title 10, United States Code) each such unit may be constructed with a maximum net floor area of 2,100 square feet.

(2) For the purposes of this subsection, the term "net floor area" has the meaning given that term by section 2826(f) of title 10, United States Code.

IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

SEC. 103. (a) Subject to section 2825 of title 10, United States Code, the Secretary of the Army may make expenditures to improve existing military family housing units in an amount not to exceed \$105,876,000, of which \$19,842,000 is available only for energy conservation projects.

(b) The Secretary of the Army may, notwithstanding the maximum amount per unit for an improvement project under section 2825(b) of title 10, United States Code, carry out a project to improve one hundred and eight existing military family housing units at Fort Hamilton, New York, in the amount of \$3,996,000.

DESIGN FOR REPLACEMENT FACILITIES, BROOKE ARMY MEDICAL CENTER, SAN ANTONIO, TEXAS

SEC. 104. (a) Not later than 120 days after the date of the enactment of this Act, the Secretary of the Army shall enter into a contract for the design of replacement facilities for the Brooke Army Medical Center in San Antonio, Texas. The contract shall require that the design for such replacement facilities provide for capacity of not less than 450 beds. The contract shall also require that the design for such replacement facilities be accomplished in a manner that will accommodate future expansion in the event that such expansion becomes necessary as the result of increased peacetime need or to meet mobilization requirements.

(b) At the time the Secretary enters into a contract under subsection (a), the Secretary shall submit a report to Congress stating the initial number of hospital beds with which such replacement facilities should be equipped.

LIMITATION ON FUNDS FOR NEW HOSPITAL CONSTRUCTION, FORT LEWIS, WASHINGTON

SEC. 105. During fiscal year 1985, the Secretary of the Army may obligate funds for the construction of a new hospital at Fort Lewis, Washington, only to accomplish that site preparation construction

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work that may be accomplished independent of the size of the hospital.

TITLE II—NAVY

AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS

SEC. 201. The Secretary of the Navy may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations:

INSIDE THE UNITED STATES

UNITED STATES MARINE CORPS

Marine Corps Logistics Base, Barstow, California, \$5,670,000.
Marine Corps Air Station, Beaufort, South Carolina, \$3,490,000.
Camp H. M. Smith, Oahu, Hawaii, \$1,910,000.
Marine Corps Base, Camp Lejeune, North Carolina, \$36,370,000.
Marine Corps Base, Camp Pendleton, California, \$54,332,000.
Marine Corps Air Station, Cherry Point, North Carolina, \$14,810,000.
Marine Corps Air Station, El Toro, California, \$17,610,000.
Marine Corps Air Station, Kaneohe Bay, Hawaii, \$16,540,000.
Marine Corps Air Station, New River, North Carolina, \$340,000.
Marine Corps Recruit Depot, Parris Island, South Carolina, \$11,220,000.
Marine Corps Development and Education Command, Quantico, Virginia, \$3,710,000.
Marine Corps Recruit Depot, San Diego, California, \$18,570,000.
Marine Corps Air Station, Tustin, California, \$15,050,000.
Marine Corps Air-Ground Combat Center, Twentynine Palms, California, \$7,830,000.
Marine Barracks, Washington, District of Columbia, \$2,540,000.
Marine Corps Air Station, Yuma, Arizona, \$14,090,000.

CHIEF OF NAVAL RESEARCH

Naval Research Laboratory, Washington, District of Columbia, \$31,650,000.

CHIEF OF NAVAL OPERATIONS

Naval Academy, Annapolis, Maryland, \$1,960,000.
Naval Safety Center, Norfolk, Virginia, \$3,640,000.
Naval Regional Data Automation Center, San Diego, California, \$15,700,000.
Personnel Support Activity, Washington, District of Columbia, \$250,000.
Commandant Naval District Washington, District of Columbia, \$16,000,000.

COMMANDER IN CHIEF, ATLANTIC FLEET

Naval Air Station, Brunswick, Maine, \$2,510,000.
Naval Station, Charleston, South Carolina, \$11,930,000.
Naval Air Station, Jacksonville, Florida, \$7,400,000.
Naval Amphibious Base, Little Creek, Virginia, \$27,920,000.
Naval Station, Mayport, Florida, \$9,940,000.
Naval Submarine Base, New London, Connecticut, \$23,000,000.

Atlantic Fleet Headquarters Support Activity, Norfolk, Virginia, \$24,700,000.

Naval Air Station, Norfolk, Virginia, \$3,600,000.

Naval Station, Norfolk, Virginia, \$30,615,000.

Personnel Support Activity, Norfolk, Virginia, \$3,470,000.

Naval Air Station, Oceana, Virginia, \$3,565,000.

COMMANDER IN CHIEF, UNITED STATES PACIFIC FLEET

Naval Facility, Adak, Alaska, \$3,900,000.

Naval Station, Adak, Alaska, \$5,140,000.

Naval Air Station, Alameda, California, \$5,810,000.

Naval Submarine Base, Bangor, Washington, \$440,000.

Naval Air Station, Barbers Point, Hawaii, \$6,630,000.

Naval Amphibious Base, Coronado, California, \$8,740,000.

Naval Air Facility, El Centro, California, \$1,700,000.

Naval Air Station, Fallon, Nevada, \$34,440,000.

Naval Air Station, Lemoore, California, \$580,000.

Naval Station, Long Beach, California, \$990,000.

Shore Intermediate Maintenance Activity, Long Beach, California, \$11,700,000.

Naval Magazine, Lualualei, Hawaii, \$3,130,000.

Naval Station, Mare Island, Vallejo, California, \$7,690,000.

Naval Air Station, Miramar, California, \$3,460,000.

Naval Air Station, Moffett Field, California, \$6,370,000.

Naval Air Station, North Island, California, \$6,380,000.

Commander, Oceanographic System Pacific, Pearl Harbor, Hawaii, \$17,000,000.

Naval Station, Pearl Harbor, Hawaii, \$545,000.

Naval Submarine Base, Pearl Harbor, Hawaii, \$18,815,000.

Naval Station, San Diego, California, \$17,300,000.

Naval Submarine Base, San Diego, California, \$25,900,000.

Naval Air Station, Whidbey Island, Washington, \$27,880,000.

NAVAL EDUCATION AND TRAINING COMMAND

Fleet Ballistic Missile Submarine Training Center, Charleston, South Carolina, \$710,000.

Naval Air Station, Chase Field, Texas, \$3,315,000.

Naval Air Station, Corpus Christi, Texas, \$4,615,000.

Personnel Support Activity, Corpus Christi, Texas, \$710,000.

Naval Training Center, Great Lakes, Illinois, \$11,950,000.

Naval Air Station, Kingsville, Texas, \$1,470,000.

Naval Amphibious School, Little Creek, Virginia, \$725,000.

Fleet Training Center, Mayport, Florida, \$6,510,000.

Naval Air Station, Memphis, Tennessee, \$10,360,000.

Naval Air Station, Meridian, Mississippi, \$2,870,000.

Naval Submarine School, New London, Connecticut, \$11,050,000.

Naval Education and Training Center, Newport, Rhode Island, \$5,360,000.

Fleet Training Center, Norfolk, Virginia, \$4,450,000.

Naval Training Center, Orlando, Florida, \$3,720,000.

Naval Diving and Salvage Training Center, Panama City, Florida, \$1,250,000.

Naval Air Station, Pensacola, Florida, \$1,270,000.

Personnel Support Activity, Pensacola, Florida, \$2,510,000.

Naval Construction Training Center, Port Hueneme, California, \$4,580,000.

Fleet Anti-Submarine Warfare Training Center, Pacific, San Diego, California; \$6,470,000.

Fleet Training Center, San Diego, California, \$5,250,000.

Naval Training Center, San Diego, California, \$8,300,000.

Naval Air Station, Whiting Field, Florida, \$3,950,000.

NAVAL MEDICAL COMMAND

Naval Hospital, Bremerton, Washington, \$6,220,000.

Naval Hospital, Camp Lejeune, North Carolina, \$970,000.

Naval Hospital, Camp Pendleton, California, \$1,410,000.

Naval Hospital, Millington, Tennessee, \$410,000.

Naval Hospital, Oakland, California, \$29,140,000.

Naval Hospital, Orlando, Florida, \$1,760,000.

Naval Hospital, Portsmouth, Virginia, \$410,000.

NAVAL MATERIAL COMMAND

Naval Air Rework Facility, Alameda, California, \$3,820,000.

Naval Supply Center, Bremerton, Washington, \$6,160,000.

Naval Supply Center, Charleston, South Carolina, \$5,630,000.

Charleston Naval Shipyard, Charleston, South Carolina, \$8,200,000.

Naval Weapons Station, Charleston, South Carolina, \$1,630,000.

Naval Air Rework Facility, Cherry Point, North Carolina, \$9,700,000.

Naval Weapons Center, China Lake, California, \$630,000.

Naval Surface Weapons Center, Dahlgren, Virginia, \$4,980,000.

Navy Public Works Center, Great Lakes, Illinois, \$1,850,000.

Naval Construction Battalion Center, Gulfport, Mississippi, \$20,815,000.

Naval Air Rework Facility, Jacksonville, Florida, \$1,410,000.

Supervisor of Shipbuilding, Jacksonville, Florida, \$1,270,000.

Naval Submarine Base, Kings Bay, Georgia, \$209,960,000.

Portsmouth Naval Shipyard, Kittery, Maine, \$11,800,000.

Long Beach Naval Shipyard, Long Beach, California, \$3,010,000.

Navy Ships Parts Control Center, Mechanicsburg, Pennsylvania, \$16,270,000.

Naval Underwater Systems Center, Newport, Rhode Island, \$24,840,000.

Naval Air Rework Facility, Norfolk, Virginia, \$10,000,000.

Naval Supply Center, Norfolk, Virginia, \$1,420,000.

Norfolk Naval Shipyard, Portsmouth, Virginia, \$11,330,000.

Navy Public Works Center, Norfolk, Virginia, \$4,050,000.

Naval Air Rework Facility, North Island, California, \$560,000.

Naval Supply Center, Oakland, California, \$9,510,000.

Naval Training Equipment Center, Orlando, Florida, \$23,500,000.

Naval Air Test Center, Patuxent River, Maryland, \$4,620,000.

Naval Supply Center, Pearl Harbor, Hawaii, \$6,680,000.

Navy Public Works Center, Pearl Harbor, Hawaii, \$5,270,000.

Naval Air Rework Facility, Pensacola, Florida, \$5,190,000.

Navy Public Works Center, Pensacola, Florida, \$7,830,000.

Philadelphia Naval Shipyard, Philadelphia, Pennsylvania, \$16,490,000.

Pacific Missile Test Center, Point Mugu, California, \$21,030,000.

Fleet Combat Direction Systems Support Activity, San Diego, California, \$11,250,000.

Naval Supply Center, San Diego, California, \$4,150,000.

Navy Public Works Center, San Diego, California, \$4,870,000.

Navy Public Works Center, San Francisco, California, \$13,420,000.

Naval Electronic Systems Engineering Activity, St. Inigoes, Maryland, \$2,110,000.

Naval Air Development Center, Warminster, Pennsylvania, \$2,290,000.

Naval Weapons Station, Yorktown, Virginia, \$1,140,000.

NAVAL OCEANOGRAPHY COMMAND

Naval Oceanographic Office, Bay St. Louis, Mississippi, \$1,570,000.

Naval Oceanographic Command, Bay St. Louis, Mississippi, \$375,000.

NAVAL TELECOMMUNICATIONS COMMAND

Naval Communication Area Master Station, Atlantic, Norfolk, Virginia, \$1,160,000.

NAVAL SECURITY GROUP COMMAND

Naval Security Group Activity, Adak, Alaska, \$320,000.

Naval Security Group Activity, Northwest Chesapeake, Virginia, \$2,500,000.

Naval Security Group Activity, Winter Harbor, Maine, \$220,000.

OUTSIDE THE UNITED STATES

MARINE CORPS

Marine Corps Air Station, Iwakuni, Japan, \$6,820,000.

Marine Corps Base, Camp Butler, Okinawa, Japan, \$2,330,000.

COMMANDER IN CHIEF, ATLANTIC FLEET

Naval Station, Guantanamo Bay, Cuba, \$6,480,000.

Naval Station, Keflavik, Iceland, \$33,560,000.

Naval Facility, Keflavik, Iceland, \$2,620,000.

Naval Station, Panama Canal, Panama, \$1,580,000.

Naval Station, Roosevelt Roads, Puerto Rico, \$2,550,000.

Atlantic Fleet Weapons Training Facility, Roosevelt Roads, Puerto Rico, \$600,000.

COMMANDER IN CHIEF, PACIFIC FLEET

Naval Air Station, Cubi Point, Republic of the Philippines, \$24,260,000.

Naval Support Facility, Diego Garcia, Indian Ocean, \$5,930,000.

Naval Air Station, Guam, Mariana Islands, \$300,000.

Naval Ship Repair Facility, Guam, Mariana Islands, \$2,340,000.

Naval Air Facility, Misawa, Japan, \$9,300,000.

Naval Station, Subic Bay, Republic of the Philippines, \$6,520,000.

Naval Ship Repair Facility, Subic Bay, Republic of the Philippines, \$710,000.

Fleet Activities, Yokosuka, Japan, \$990,000.

COMMANDER IN CHIEF, NAVAL FORCES, EUROPE

Fleet Operations Control Center Europe, London, England,
\$2,620,000.

Naval Station, Rota, Spain, \$25,020,000.

Naval Air Station, Sigonella, Italy, \$11,820,000.

NAVAL MATERIAL COMMAND

Navy Public Works Center, Guam, Mariana Islands, \$230,000.

NAVAL MEDICAL COMMAND

Naval Hospital, Rota, Spain, \$18,400,000.

NAVAL TELECOMMUNICATIONS COMMAND

Naval Communication Area Master Station Western Pacific,
Guam, Mariana Islands, \$3,210,000.

Naval Communication Station, San Miguel, Republic of the Phil-
ippines, \$300,000.

Naval Communication Station, Yokosuka, Japan, \$980,000.

NAVAL SECURITY GROUP COMMAND

Naval Security Group Detachment, Diego Garcia, Indian Ocean,
\$380,000.

Naval Security Group Activity, Edzell, Scotland, \$340,000.

Naval Security Group Detachment, Guam, Mariana Islands,
\$320,000.

HOST NATION INFRASTRUCTURE SUPPORT

Various locations, \$2,790,000.

FAMILY HOUSING

SEC. 202. (a) The Secretary of the Navy may construct or acquire family housing units (including land acquisition) at the following installations in the number of units shown, and in the amount shown, for each installation:

Naval Station, Adak, Alaska, four hundred and five units,
\$53,107,000.

Marine Corps Base, Camp Pendleton, California, seven hun-
dred and sixty units, \$41,004,000.

AEGIS Communications Systems Center, Wallops Island, Vir-
ginia, twenty-eight units, \$2,400,000.

Naval Station, Guantanamo Bay, Cuba, one hundred and
twenty-five units, \$12,430,000.

(b) Of the housing units authorized by subsection (a) to be constructed at Guantanamo Bay, Cuba, twenty-five of such units shall be constructed from savings realized from the construction of other family housing units. The provisions of section 803 of the Military Construction Authorization Act, 1984 (Public Law 98-115), shall not apply to the construction of such units, but performance standards for the construction of such units shall be used that permit factory-built housing or manufactured housing to compete with conventional, onsite construction methods.

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IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

SEC. 203. (a) Subject to section 2825 of title 10, United States Code, the Secretary of the Navy may make expenditures to improve existing military family housing units in an amount not to exceed \$9,000,000.

(b) The Secretary of the Navy may, notwithstanding the maximum amount per unit for an improvement project under section 2825(b) of title 10, United States Code, carry out a project to improve two hundred and sixty-eight existing military family housing units at the Naval Air Station, Whidbey Island, Washington, in the amount of \$13,300,000.

DESIGN AND ENGINEERING FOR SANTA MARGARITA WATER PROJECT

SEC. 204. (a) Subject to subsection (b), during fiscal year 1985 the Secretary of the Navy may obligate not more than \$1,500,000 from funds appropriated pursuant to the authorization in section 602(a)(4) for design and engineering for a project for water supply and flood control of the Santa Margarita River, California.

(b) Funds may not be obligated for the purpose described in subsection (a) unless legislation is enacted after the date of the enactment of this Act authorizing the Secretary of the Interior to carry out the Santa Margarita project, California, in accordance with the Federal reclamation laws and the plan set out in the report of the Secretary of the Interior on the project.

TITLE III—AIR FORCE

AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION
PROJECTS

SEC. 301. The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations:

INSIDE THE UNITED STATES

AIR FORCE LOGISTICS COMMAND

Hill Air Force Base, Utah, \$45,733,000.
McClellan Air Force Base, California, \$34,601,000.
Newark Air Force Station, Ohio, \$840,000.
Robins Air Force Base, Georgia, \$27,390,000.
Tinker Air Force Base, Oklahoma, \$26,799,000.
Wright-Patterson Air Force Base, Ohio, \$35,350,000.

AIR FORCE SYSTEMS COMMAND

Arnold Engineering Development Center, Tennessee, \$7,700,000.
Brooks Air Force Base, Texas, \$4,450,000.
Cape Canaveral Air Force Station, Florida, \$2,750,000.
Edwards Air Force Base, California, \$15,800,000.
Eglin Air Force Base, Florida, \$7,180,000.
Various locations, Florida, \$6,300,000.
Goddard Space Flight Center, Maryland, \$3,500,000.
Hanscom Air Force Base, Massachusetts, \$5,200,000.
Patrick Air Force Base, Florida, \$910,000.

Various locations, \$1,200,000.

AIR NATIONAL GUARD

Base 10, classified location, \$2,150,000.
Otis Air National Guard Base, Massachusetts, \$810,000.

AIR TRAINING COMMAND

Chanute Air Force Base, Illinois, \$10,150,000.
Columbus Air Force Base, Mississippi, \$5,000,000.
Goodfellow Air Force Base, Texas, \$15,200,000.
Keesler Air Force Base, Mississippi, \$16,555,000.
Lackland Air Force Base, Texas, \$9,290,000.
Laughlin Air Force Base, Texas, \$6,900,000.
Lowry Air Force Base, Colorado, \$1,320,000.
Mather Air Force Base, California, \$9,300,000.
Randolph Air Force Base, Texas, \$9,740,000.
Reese Air Force Base, Texas, \$4,900,000.
Sheppard Air Force Base, Texas, \$6,300,000.
Williams Air Force Base, Arizona, \$2,500,000.

AIR UNIVERSITY

Gunter Air Force Station, Alabama, \$9,500,000.
Maxwell Air Force Base, Alabama, \$2,280,000.

ALASKAN AIR COMMAND

Burnt Mountain Air Force Station, Alaska, \$1,400,000.
Eielson Air Force Base, Alaska, \$24,450,000.
Elmendorf Air Force Base, Alaska, \$11,313,000.
Galena Airport, Alaska, \$11,800,000.

MILITARY AIRLIFT COMMAND

Charleston Air Force Base, South Carolina, \$15,540,000.
Eglin Auxiliary Field 9, Florida, \$7,830,000.
Kirtland Air Force Base, New Mexico, \$1,500,000.
Little Rock Air Force Base, Arkansas, \$1,590,000.
McChord Air Force Base, Washington, \$3,065,000.
McGuire Air Force Base, New Jersey, \$440,000.
Norton Air Force Base, California, \$6,530,000.
Pope Air Force Base, North Carolina, \$710,000.
Scott Air Force Base, Illinois, \$19,400,000.
Travis Air Force Base, California, \$204,720,000.

NATIONAL MILITARY COMMAND CENTER

Pentagon, Virginia, \$4,750,000.

PACIFIC AIR FORCES

Hickam Air Force Base, Hawaii, \$3,800,000.

SPACE COMMAND

Falcon Air Force Station, Colorado, \$3,000,000.
Peterson Air Force Base, Colorado, \$25,000,000.

SPECIAL PROJECT

Various locations, \$53,700,000.

STRATEGIC AIR COMMAND

Barksdale Air Force Base, Louisiana, \$25,995,000.
Beale Air Force Base, California, \$2,240,000.
Blytheville Air Force Base, Arkansas, \$1,500,000.
Carswell Air Force Base, Texas, \$24,050,000.
Castle Air Force Base, California, \$4,100,000.
Conrad Air Station, Montana, \$4,260,000.
Dickinson Air Station, North Dakota, \$3,710,000.
Dyess Air Force Base, Texas, \$54,260,000.
Ellsworth Air Force Base, South Dakota, \$55,840,000.
F. E. Warren Air Force Base, Wyoming, \$49,220,000.
Fairchild Air Force Base, Washington, \$16,400,000.
Grand Forks Air Force Base, North Dakota, \$2,300,000.
Griffiss Air Force Base, New York, \$4,150,000.
Grissom Air Force Base, Indiana, \$6,820,000.
K. I. Sawyer Air Force Base, Michigan, \$16,850,000.
Loring Air Force Base, Maine, \$31,370,000.
Malmstrom Air Force Base, Montana, \$1,500,000.
March Air Force Base, California, \$9,150,000.
Minot Air Force Base, North Dakota, \$33,800,000.
Offutt Air Force Base, Nebraska, \$51,100,000.
Pease Air Force Base, New Hampshire, \$5,950,000.
Plattsburgh Air Force Base, New York, \$3,650,000.
Vandenberg Air Force Base, California, \$33,910,000.
Whiteman Air Force Base, Missouri, \$4,320,000.
Wurtsmith Air Force Base, Michigan, \$2,925,000.

TACTICAL AIR COMMAND

Bergstrom Air Force Base, Texas, \$9,800,000.
Cannon Air Force Base, New Mexico, \$2,800,000.
Davis-Monthan Air Force Base, Arizona, \$12,400,000.
England Air Force Base, Louisiana, \$2,950,000.
George Air Force Base, California, \$17,450,000.
Holloman Air Force Base, New Mexico, \$11,610,000.
Homestead Air Force Base, Florida, \$1,050,000.
Langley Air Force Base, Virginia, \$28,530,000.
Luke Air Force Base, Arizona, \$13,660,000.
MacDill Air Force Base, Florida, \$4,610,000.
Moody Air Force Base, Georgia, \$2,030,000.
Mountain Home Air Force Base, Idaho, \$1,490,000.
Myrtle Beach Air Force Base, South Carolina, \$2,795,000.
Nellis Air Force Base, Nevada, \$5,090,000.
Seymour-Johnson Air Force Base, North Carolina, \$20,490,000.
Shaw Air Force Base, South Carolina, \$4,970,000.
Tyndall Air Force Base, Florida, \$4,330,000.

UNITED STATES AIR FORCE ACADEMY

United States Air Force Academy, Colorado, \$23,460,000.

OUTSIDE THE UNITED STATES

MILITARY AIRLIFT COMMAND

Lajes Field, Portugal, \$4,550,000.
Sidi Slimane, Morocco, \$2,050,000.
Rhein-Main Air Base, Germany, \$2,940,000.

PACIFIC AIR FORCES

Kadena Air Base, Japan, \$19,750,000.
Misawa Air Base, Japan, \$20,000,000.
Yokota Air Base, Japan, \$1,000,000.
Kimhae Air Base, Korea, \$253,000.
Kunsan Air Base, Korea, \$11,600,000.
Kwang-Ju Air Base, Korea, \$4,460,000.
Osan Air Base, Korea, \$30,490,000.
Sachon Air Base, Korea, \$1,100,000.
Suwon Air Base, Korea, \$3,990,000.
Taegu Air Base, Korea, \$4,950,000.
Diego Garcia Air Base, Indian Ocean, \$16,100,000.
Clark Air Base, Republic of the Philippines, \$42,125,000.
Base 11, classified location, \$6,100,000.
Base 14, classified location, \$1,700,000.
Wake Island Airfield, Wake Island, \$1,235,000.

SPACE COMMAND

Thule Air Base, Greenland, \$25,000,000.

STRATEGIC AIR COMMAND

Andersen Air Force Base, Guam, \$13,342,000.

TACTICAL AIR COMMAND

Howard Air Force Base, Panama, \$360,000.
Oman, various locations, \$26,900,000.

UNITED STATES AIR FORCES IN EUROPE

Camp New Amsterdam, The Netherlands, \$4,510,000.
Woensdrecht Air Base, The Netherlands, \$2,650,000.
Alzey Radar Site, Germany, \$3,150,000.
Bitburg Air Base, Germany, \$4,350,000.
Classified location, Germany, \$600,000.
Various locations, Germany, \$14,600,000.
Ramstein Air Base, Germany, \$8,650,000.
Spangdahlem Air Base, Germany, \$420,000.
Wenigerath Air Base, Germany, \$2,475,000.
Wiesbaden Air Base, Germany, \$650,000.
Zweibrucken Air Base, Germany, \$3,785,000.
Aviano Air Base, Italy, \$1,600,000.
Comiso Air Station, Italy, \$2,365,000.
Florennes, Belgium, \$1,290,000.
San Vito Air Station, Italy, \$2,250,000.
Torrejon Air Base, Spain, \$9,750,000.
Zaragoza Air Base, Spain, \$1,100,000.
Ankara Air Station, Turkey, \$1,100,000.

Incirlik Air Base, Turkey, \$2,600,000.
RAF Alconbury, United Kingdom, \$5,395,000.
RAF Chicksands, United Kingdom, \$3,550,000.
RAF Greenham Common, United Kingdom, \$12,000,000.
RAF Lakenheath, United Kingdom, \$2,100,000.
RAF Mildenhall, United Kingdom, \$4,900,000.
RAF Upper Heyford, United Kingdom, \$5,210,000.
RAF Welford, United Kingdom, \$740,000.
RAF Woodbridge, United Kingdom, \$2,050,000.
RAF Molesworth, United Kingdom, \$15,004,000.
Base 13, classified location, \$2,050,000.
Base 19, classified location, \$2,850,000.
Classified locations, \$2,100,000.
Various locations, Europe, \$16,400,000.

FAMILY HOUSING

SEC. 302. The Secretary of the Air Force may construct or acquire family housing units (including land acquisition) at the following installations in the number of units shown, and in the amount shown, for each installation:

Fort MacArthur, California, one hundred and forty units, \$15,100,000.

Hanscom Air Force Base, Massachusetts, Trailer Park Expansion, \$500,000.

Conrad Air Force Station, Montana, forty units, \$3,705,000.

F. E. Warren Air Force Base, Wyoming, two hundred and sixty-five units, \$17,343,000.

Comiso, Italy, five hundred and seventy-six units, \$50,070,000.

Osan Air Base, Korea, Utilities Expansion, \$2,700,000.

RAF Greenham Common, United Kingdom, two hundred and fifty units, \$22,441,000.

RAF Alconbury, United Kingdom, three hundred units, \$27,410,000.

RAF Bentwaters, United Kingdom, two hundred units, \$20,163,000.

Classified location, Federal Republic of Germany, one hundred and eighty units, \$17,386,000.

IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

SEC. 303. (a) Subject to section 2825 of title 10, United States Code, the Secretary of the Air Force may make expenditures to improve existing military family housing units in an amount not to exceed \$62,173,000, of which \$23,751,000 is available only for energy conservation projects.

(b) The Secretary of the Air Force may, notwithstanding the maximum amount per unit for an improvement project under section 2825(b) of title 10, United States Code, carry out projects to improve existing military family housing units at the following installations in the number of units shown, and in the amount shown, for each installation:

Bergstrom Air Force Base, Texas, one hundred and fifty-six units, \$4,642,000.

Moody Air Force Base, Georgia, one hundred and six units, \$2,772,000.

Scott Air Force Base, Illinois, two hundred and fifty units,
\$8,820,000.

TITLE IV—DEFENSE AGENCIES

AUTHORIZED CONSTRUCTION PROJECTS AND LAND ACQUISITION FOR THE DEFENSE AGENCIES

SEC. 401. The Secretary of Defense may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations:

INSIDE THE UNITED STATES

DEFENSE LOGISTICS AGENCY

Defense Fuel Support Point, Adak, Alaska, \$6,730,000.
Defense Fuel Support Point, Whittier, Alaska, \$12,170,000.
Defense Property Disposal Office, Fairbanks, Alaska, \$1,800,000.
Defense Property Disposal Office, Robins Air Force Base, Georgia, \$2,500,000.
Defense Property Disposal Office, Pearl Harbor Naval Shipyard, Hawaii, \$1,950,000.
Defense Fuel Support Point, Grand Forks, North Dakota, \$475,000.
Defense Fuel Support Point, Cincinnati, Ohio, \$2,600,000.
Defense Depot, Mechanicsburg, Pennsylvania, \$18,000,000.
Defense Fuel Support Point, Mukilteo, Washington, \$500,000.

DEFENSE MAPPING AGENCY

Hydrographic/Topographic Center, Brookmont, Maryland, \$20,100,000.

NATIONAL SECURITY AGENCY

Fort Meade, Maryland, \$16,920,000.
Rosman, North Carolina, \$500,000.
Classified location, \$500,000.

OFFICE OF THE SECRETARY OF DEFENSE

Presidio of Monterey, California, \$22,475,000.
White Sands Missile Range, New Mexico, \$9,000,000.
Classified activity, Fort Belvoir, Virginia, \$28,400,000.
Classified location, \$5,900,000.

DEFENSE INVESTIGATIVE SERVICE

Fort Holabird, Maryland, \$220,000.

DEFENSE NUCLEAR AGENCY

Fort McClellan, Alabama, \$1,000,000.

DEPARTMENT OF DEFENSE DEPENDENTS SCHOOLS

Maxwell Air Force Base, Alabama, \$1,700,000.
Fort Benning, Georgia, \$5,600,000.
Fort Campbell, Kentucky, \$7,500,000.

Fort Knox, Kentucky, \$21,961,000.
United States Military Academy, West Point, New York,
\$3,650,000.
Fort Bragg, North Carolina, \$5,600,000.
Fort Jackson, South Carolina, \$7,372,000.

OUTSIDE THE UNITED STATES

DEFENSE LOGISTICS AGENCY

Defense Fuel Support Point, Pohang, Korea, \$15,800,000.
Defense Fuel Support Point, Roosevelt Roads, Puerto Rico,
\$10,675,000.

OFFICE OF THE SECRETARY OF DEFENSE

Classified location, \$12,900,000.

NATIONAL SECURITY AGENCY

Classified locations, \$5,200,000.

DEPARTMENT OF DEFENSE DEPENDENTS SCHOOLS

Amberg, Germany, \$1,610,000.
Bad Kreuznach, Germany, \$3,170,000.
Bad Nauheim, Germany, \$1,040,000.
Bindlach, Germany, \$1,510,000.
Crailsheim, Germany, \$1,430,000.
Frankfurt, Germany, \$10,020,000.
Goeppingen, Germany, \$1,790,000.
Hahn Air Base, Germany, \$2,450,000.
Katterbach, Germany, \$3,260,000.
Ludwigsburg, Germany, \$1,830,000.
Mannheim, Germany, \$3,260,000.
Neubruke, Germany, \$2,330,000.
Osterholz-Scharmbeck, Germany, \$820,000.
Rhein-Main Air Base, Germany, \$1,830,000.
Ulm, Germany, \$2,560,000.
Wiesbaden, Germany, \$720,000.
Wertheim, Germany, \$1,800,000.
Worms, Germany, \$1,930,000.
Wuerzburg, Germany, \$2,297,000.
Naval Station, Keflavik, Iceland, \$2,890,000.
Comiso, Italy, \$11,290,000.
Camp Kinser, Japan, \$5,410,000.
Camp McTureous, Japan, \$5,220,000.
Zukeran, Japan, \$2,250,000.
Seoul, Korea, \$1,130,000.
Brunssum, Netherlands, \$2,440,000.
Subic Bay, Republic of the Philippines, \$2,950,000.
Clark Air Base, Republic of the Philippines, \$4,970,000.
RAF Chicksands, United Kingdom, \$810,000.
RAF Greenham Common, United Kingdom, \$10,410,000.
RAF High Wycombe, United Kingdom, \$5,270,000.
RAF Woodbridge, United Kingdom, \$1,380,000.

FAMILY HOUSING

SEC. 402. The Secretary of Defense may construct or acquire six family housing units (including land acquisition) at classified locations in the total amount of \$693,000.

IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

SEC. 403. Subject to section 2825 of title 10, United States Code, the Secretary of Defense may make expenditures to improve existing military family housing units in an amount not to exceed \$107,000.

DEFICIENCY AUTHORIZATION FOR EXISTING APPROPRIATIONS

SEC. 404. Section 604(a) of the Military Construction Authorization Act, 1984 (Public Law 98-115; 97 Stat. 779), is amended by striking out “\$306,386,000”, “\$90,572,000”, and “\$143,070,000” and inserting in lieu thereof “\$334,646,000”, “\$105,572,000”, and “\$156,330,000”, respectively.

TITLE V—NORTH ATLANTIC TREATY ORGANIZATION
INFRASTRUCTURE

AUTHORITY OF THE SECRETARY OF DEFENSE TO MAKE CONTRIBUTIONS

SEC. 501. The Secretary of Defense may make contributions for the North Atlantic Treaty Organization infrastructure program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the amount authorized to be appropriated in section 605.

TITLE VI—AUTHORIZATION OF APPROPRIATIONS AND
RECURRING ADMINISTRATIVE PROVISIONS

AUTHORIZATION OF APPROPRIATIONS, ARMY

SEC. 601. (a) Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1984, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of \$3,140,884,000 as follows:

(1) For projects authorized by section 101 that are to be carried out inside the United States, \$1,076,307,000.

(2) For projects authorized by section 101 that are to be carried out outside the United States, \$428,820,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, \$33,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, \$170,000,000. 97 Stat. 785.

(5) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, \$166,003,000; and

(B) for support of military family housing, \$1,266,754,000, of which not more than \$129,000 may be obligated or expended for the leasing of military family housing units in the United States, the Commonwealth of Puerto Rico, and

Guam, and not more than \$107,378,000 may be obligated or expended for the leasing of military family housing units in foreign countries.

(b) Funds appropriated to the Department of Defense for fiscal years before fiscal year 1985 for military construction functions of the Army that remain available for obligation are hereby authorized to be made available, to the extent provided in appropriation Acts (1) for military construction projects authorized in section 101 in the amount of \$198,800,000, and (2) for military family housing projects authorized in section 102 in the amount of \$20,000,000.

Post, p. 1521.

(c) Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variations authorized by law, the total cost of all projects carried out under section 101 may not exceed the sum of the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a) and the amount specified in subsection (b).

AUTHORIZATION OF APPROPRIATIONS, NAVY

SEC. 602. (a) Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1984, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of \$2,288,803,000 as follows:

(1) For projects authorized by section 201 that are to be carried out inside the United States, \$1,223,017,000.

(2) For projects authorized by section 201 that are to be carried out outside the United States, \$173,300,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, \$19,000,000.

97 Stat. 785.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, \$150,000,000.

(5) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, \$4,000,000.

(6) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, \$126,500,000; and

(B) for support of military family housing, \$592,986,000, of which not more than \$28,000 may be obligated or expended for the leasing of military family housing units in the United States, the Commonwealth of Puerto Rico, and Guam, and not more than \$20,052,000 may be obligated or expended for the leasing of military family housing units in foreign countries.

(b) Funds appropriated to the Department of Defense for fiscal years before fiscal year 1985 for military construction functions of the Navy that remain available for obligation are hereby authorized to be made available, to the extent provided in appropriation Acts, for military construction projects authorized in section 201 in the amount of \$80,000,000.

Post, p. 1521.

(c) Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variations authorized by law, the total cost of all projects carried out under section 201 may not exceed the sum of the total amount authorized to be

appropriated under paragraphs (1) and (2) of subsection (a) and the amount specified in subsection (b).

AUTHORIZATION OF APPROPRIATIONS, AIR FORCE

SEC. 603. (a) Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1984, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of \$2,791,063,000 as follows:

(1) For projects authorized by section 301 that are to be carried out inside the United States, \$1,241,351,000.

(2) For projects authorized by section 301 that are to be carried out outside the United States, \$347,239,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, \$21,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, \$154,000,000.

97 Stat. 785.

(5) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, \$21,750,000.

(6) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, \$244,991,000; and

(B) for support of military family housing, \$760,732,000, of which not more than \$53,339,000 may be obligated or expended for the leasing of military family housing units in foreign countries.

(b) Funds appropriated to the Department of Defense for fiscal years before fiscal year 1985 for military construction functions of the Air Force that remain available for obligation are hereby authorized to be made available, to the extent provided in appropriation Acts, for military construction projects authorized in section 301 in the amount of \$150,670,000.

(c) Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variations authorized by law, the total cost of all projects carried out under section 301 may not exceed the sum of the total amount authorized to be appropriated under subsections (1) and (2) of subsection (a) and the amount specified in subsection (b).

Post, p. 1521.

AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES

SEC. 604. (a) Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1984, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments), in the total amount of \$357,075,000 as follows:

(1) For projects authorized by section 401 that are to be carried out inside the United States, \$171,823,000.

(2) For projects authorized by section 401 that are to be carried out outside the United States, \$127,452,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, \$3,000,000.

(4) For construction projects under the contingency construction authority of the Secretary of Defense under section 2804 of title 10, United States Code, \$5,000,000.

97 Stat. 785.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, \$30,000,000.

(6) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, \$800,000; and

(B) for support of military family housing, \$19,000,000, of which not more than \$15,773,000 may be obligated or expended for the leasing of military family housing units in foreign countries.

(b) Funds appropriated to the Department of Defense for fiscal years before fiscal year 1985 for military construction functions of the Defense Agencies that remain available for obligation are hereby authorized to be made available, to the extent provided in appropriation Acts, for military construction projects authorized in section 401 in the amount of \$52,500,000.

Post, p. 1521.

(c) Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variations authorized by law, the total cost of all projects carried out under section 401 may not exceed the sum of the total amount authorized to be appropriated under subsections (1) and (2) of subsection (a) and the amount specified in subsection (b).

AUTHORIZATION OF APPROPRIATIONS, NATO

SEC. 605. Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1984, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of construction projects for the North Atlantic Treaty Organization Infrastructure program, as authorized by section 501, \$131,700,000.

ACTIVITIES INCLUDED WITHIN AUTHORIZATIONS FOR MILITARY FAMILY HOUSING

SEC. 606. (a) Amounts authorized under sections 601 through 604 for construction and acquisition of military family housing and facilities include amounts for minor construction, improvements to existing military family housing units and facilities, relocation of military family housing units under section 2827 of title 10, United States Code, and architectural and engineering services and construction design.

(b) Amounts authorized under sections 601 through 604 for support of military family housing include amounts for operating expenses, leasing expenses, maintenance of real property expenses, payments of principal and interest on mortgage debts incurred, and payments of mortgage insurance premiums authorized under section 222 of the National Housing Act (12 U.S.C. 1715m).

EXPIRATION OF AUTHORIZATIONS; EXTENSION OF CERTAIN PREVIOUS AUTHORIZATIONS

SEC. 607. (a)(1) Except as provided in paragraph (2), all authorizations contained in titles I, II, III, IV, and V for military construction projects, land acquisition, family housing projects, and contributions

to the NATO Infrastructure program (and authorizations of appropriations therefor contained in sections 601 through 605) shall expire on October 1, 1986, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1987, whichever is later.

(2) The provisions of paragraph (1) do not apply to authorizations for military construction projects, land acquisition, family housing projects, and contributions to the NATO Infrastructure program (and authorizations of appropriations therefor), for which appropriated funds have been obligated before October 1, 1986, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1987, whichever is later, for construction contracts, land acquisition, family housing projects, or contributions to the NATO Infrastructure program.

(b) Notwithstanding the provisions of section 606(a) of the Military Construction Authorization Act, 1983 (Public Law 97-321; 96 Stat. 1567), authorizations for the following projects authorized in sections 101, 201, and 301 of that Act shall remain in effect until October 1, 1985, or the date of enactment of the Military Construction Authorization Act for fiscal year 1986, whichever is later:

(1) Consolidated heating facility in the amount of \$1,300,000 at Giessen, Germany.

(2) Barracks in the amount of \$9,300,000 at Vilseck, Germany.

(3) Battalion headquarters and classroom in the amount of \$3,000,000 at Vilseck, Germany.

(4) Dining facility in the amount of \$3,600,000 at Vilseck, Germany.

(5) Barracks in the amount of \$10,600,000 at Vilseck, Germany.

(6) Standby generator plant in the amount of \$4,500,000 at the Naval Communications Area Master Station Eastern Pacific, Honolulu, Hawaii.

(7) Rapid Deployment Force facilities in the amount of \$55,000,000 at Ras Banas, Egypt.

(8) Ammunition Wharf in the amount of \$24,000,000 at the Naval Magazine, Guam, Mariana Islands.

ESTABLISHMENT OF CERTAIN AMOUNTS REQUIRED TO BE SPECIFIED BY
LAW

SEC. 608. For projects or contracts initiated during the period beginning on the date of the enactment of this Act or October 1, 1984, whichever is later, and ending on the date of the enactment of the Military Construction Authorization Act for fiscal year 1986 or October 1, 1985, whichever is later, the following amounts apply:

(1) The maximum amount for an unspecified minor military construction project under section 2805 of title 10, United States Code, is \$1,000,000.

(2) The amount of a contract for architectural and engineering services or construction design that makes such a contract subject to the reporting requirement under section 2807 of title 10, United States Code, is \$300,000.

(3) The maximum amount per unit for an improvement project for family housing units under section 2825 of title 10, United States Code, is \$30,000.

97 Stat. 785.

(4) The maximum annual rental for a family housing unit leased in the United States, Puerto Rico, or Guam under section 2828(b) of title 10, United States Code, is \$6,000.

(5)(A) The maximum annual rental for a family housing unit leased in a foreign country under section 2828(c) of title 10, United States Code, is \$16,800.

(B) The maximum number of family housing units that may be leased at any one time in foreign countries under section 2828(c) of title 10, United States Code, is 30,000.

(6) The maximum rental per year for family housing facilities, or for real property related to family housing facilities, leased in a foreign country under section 2828(f) of title 10, United States Code, is \$250,000.

EFFECTIVE DATE FOR PROJECT AUTHORIZATIONS

SEC. 609. Titles I, II, III, IV, and V of this Act (other than section 104) take effect on October 1, 1984.

SUPPLEMENTAL AUTHORIZATION FOR FISCAL YEAR 1984

SEC. 610. (a) In addition to the military construction projects authorized by section 201 of the Military Construction Authorization Act, 1984 (Public Law 98-115; 97 Stat. 762), the Secretary of the Navy may carry out a military construction project outside the United States at the Naval Station, Keflavik, Iceland, in the amount of \$30,000,000.

(b) The project authorized in subsection (a) is subject to the authorizations and limitations applicable to projects authorized in the Military Construction Authorization Act, 1984 (Public Law 98-115; 97 Stat. 757), in the same manner as if such project had been authorized in that Act. The limit prescribed by section 602(b) of that Act on the total cost of all projects carried out under section 201 of that Act is hereby increased by the additional amount authorized to be appropriated by subsection (c).

(c) There is hereby authorized to be appropriated for fiscal year 1984 for the Department of the Navy for the military construction project authorized by subsection (a), in addition to the amounts authorized to be appropriated by section 602(a)(2) of the Military Construction Authorization Act, 1984 (Public Law 98-115; 97 Stat. 778), the amount of \$30,000,000.

97 Stat. 778.

97 Stat. 762.

TITLE VII—GUARD AND RESERVE FORCES FACILITIES

AUTHORIZATION FOR FACILITIES

SEC. 701. There are authorized to be appropriated for fiscal years beginning after September 30, 1984, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 133 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States \$101,683,000, and

(B) for the Army Reserve, \$71,700,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserves, \$62,000,000.

10 USC 2231 *et seq.*

- (3) For the Department of the Air Force—
 (A) for the Air National Guard of the United States
 \$121,200,000, and
 (B) for the Air Force Reserve, \$67,800,000.

**MODIFICATION OF GUARD AND RESERVE MINOR CONSTRUCTION
AUTHORITY**

SEC. 702. Effective on October 1, 1984, section 2233a(b) of title 10, United States Code, is amended by striking out “\$50,000” and inserting in lieu thereof “\$100,000”.

Effective date.

**FEDERAL CONTRIBUTION FOR CONSTRUCTION TO UPGRADE CRITICAL
PORTIONS OF ARMORIES**

SEC. 703. (a) Section 2233(a)(6) of title 10, United States Code, is amended—

(1) by striking out “arms storage rooms” and inserting in lieu thereof “critical portions of facilities”; and

(2) by striking out “standards related to the safekeeping of arms” and inserting in lieu thereof “construction criteria or standards related to the execution of the Federal military mission assigned to the unit using the facility”.

(b) The amendments made by subsection (a) shall take effect on October 1, 1984.

Effective date.
10 USC 2233
note.

**RESTRICTION ON USE OF LANDS AT CAMP SHELBY, HATTIESBURG,
MISSISSIPPI**

SEC. 704. (a) Except as provided in subsection (b), the land comprising Camp Shelby, Hattiesburg, Mississippi (including any land acquired by the Secretary of the Army on or after the date of the enactment of this Act and made a part of Camp Shelby) may not be used for any purpose other than the military training of members of the Armed Forces to enhance the ability of such members to perform successfully mission assignments in a conventional warfare environment.

(b) Subject to such regulations as the Adjutant General of the State of Mississippi may prescribe, the lands referred to in subsection (a) may be used for hunting, agricultural, or forestry purposes or for any other civil purpose for which such lands were permitted to be used on or before the date of the enactment of this Act.

TITLE VIII—GENERAL PROVISIONS

PART A—MILITARY CONSTRUCTION PROGRAM REVISIONS

LIABILITY OF OCCUPANTS OF MILITARY HOUSING

SEC. 801. (a)(1) Section 2775 of title 10, United States Code, is amended to read as follows:

“§2775. Liability of members for damage to housing and related equipment and furnishings

“(a) A member of the armed forces shall be liable to the United States for damage to any family housing unit or unaccompanied personnel housing unit, or damage to or loss of any equipment or furnishings of any family housing unit or unaccompanied personnel

housing unit, assigned to or provided such member if it is determined, under regulations prescribed by the Secretary of Defense, that the damage or loss was caused by the abuse or negligence of the member (or a dependent of the member) or of a guest of the member (or a dependent of the member).

“(b) The Secretary of Defense may establish limitations on liability under this section, including different limitations based upon the degree of abuse or negligence involved, and may compromise or waive a claim of the United States under this section.

“(c)(1) The Secretary concerned may deduct from a member's pay an amount sufficient to pay for the cost of any repair or replacement made necessary as the result of any abuse or negligence referred to in subsection (a) for which the member is liable. Regulations implementing this section may also provide for the collection of amounts owed under this section by any other authorized means.

“(2) The final determination of an amount to be deducted from the pay of an officer of an armed force in accordance with regulations prescribed under this section shall be deemed to be a special order authorizing such deduction for the purposes of section 1007 of title 37.

“(d) Amounts received under this section shall be credited to the family housing operations and maintenance account, in the case of damage to a family housing unit (or the equipment or furnishings of a family housing unit), or to the operations and maintenance account, in the case of damage to an unaccompanied personnel housing unit (or the equipment or furnishings of an unaccompanied personnel housing unit), of the military department or defense agency concerned. Amounts so credited shall be available for use for the same purposes and under the same circumstances as other funds in those accounts.

Regulations.

“(e) The Secretary of Defense shall prescribe regulations to carry out the provisions of this section, including (1) regulations for determining the cost of repairs and replacements made necessary as the result of abuse or negligence referred to in subsection (a), and (2) regulations providing for limitations of liability, the compromise or waiver of claims, and the collection of amounts owed under this section.”

(2) The item relating to section 2775 in the table of sections at the beginning of chapter 165 of such title is amended to read as follows:

“2775. Liability of members for damage to housing and related equipment and furnishings.”

(b)(1) Regulations shall be prescribed under subsection (e) of section 2775 of title 10, United States Code, as amended by subsection (a), not later than 180 days after the date of the enactment of this Act. That section shall apply with respect to the liability of a member under such section for damage or loss to an unaccompanied personnel housing unit (or the equipment or furnishings of an unaccompanied personnel housing unit) or for damage or loss caused by a guest of the member or of a dependent of the member to a family housing unit (or the equipment or furnishings of a family housing unit) only in the case of damage or loss caused on or after the date that such regulations take effect.

(2) The authority of the Secretary of Defense under subsection (b) of such section is applicable to any claim of the United States under such section, whether such claim arose before, on, or after the date of the enactment of this Act.

Effective date.
10 USC 2775
note.
Ante, p 1517.

COST VARIATIONS FOR ACQUISITION OF REAL PROPERTY BY
CONDEMNATION

SEC. 802. Section 2676 of title 10, United States Code, is amended—

(1) by inserting “or, in the case of land to be acquired by condemnation, the amount to be deposited with the court as just compensation for the land” in subsection (c)(2) after “upon the agreed price for the land”;

(2) by inserting “or, in the case of land to be acquired by condemnation, the amount to be deposited with the court as just compensation for the land,” in subsection (c)(2)(B) after “the agreed price for the land,”; and

(3) by adding at the end thereof the following new subsection:

“(e) The Secretary concerned shall promptly pay any deficiency judgment against the United States awarded by a court in an action for condemnation of any interest in land or resulting from a final settlement of an action for condemnation of any interest in land. Payments under this subsection may be made from funds available to the Secretary concerned for military construction projects and without regard to the limitations of subsections (c) and (d).”.

MAXIMUM AMOUNT FOR ACQUISITION OF OPTIONS ON REAL PROPERTY

SEC. 803. Section 2677(b) of title 10, United States Code, is amended by striking out “5 percent” and inserting in lieu thereof “12 percent”.

AUTHORITY TO RESTORE LAND OF OTHER AGENCIES USED TEMPORARILY
BY DEPARTMENT OF DEFENSE

SEC. 804. (a) Chapter 159 of title 10, United States Code, is amended by adding at the end thereof the following new section:

“§2691. Restoration of land used of permit or lease from other agencies

10 USC 2691.

“(a) The Secretary of the military department concerned may remove improvements and take any other action necessary in the judgment of the Secretary to restore land used by that military department by permit or lease from another military department or Federal agency if the restoration is required by the permit or lease making that land available to the military department. The Secretary concerned may carry out this section using funds available for operations and maintenance or for military construction.

“(b) Unless otherwise prohibited by law or the terms of the permit or lease, before restoration of any land under subsection (a) is begun, the Secretary concerned shall determine, under the provisions of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.), whether another military department or Federal agency has a use for the land in its existing, improved state. During the period required to make such a determination, the Secretary may provide for maintenance and repair of improvements on the land to the standards established for excess property by the Administrator of General Services.”.

(b) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

“2691. Restoration of land used by permit or lease from other agencies.”.

STORAGE AND DISPOSAL OF NONDEFENSE TOXIC AND HAZARDOUS
MATERIALS

SEC. 805. (a) Chapter 159 of title 10, United States Code, is amended by adding after section 2691 (as added by section 804) the following new section:

10 USC 2692.

“§ 2692. Storage and disposal of nondefense toxic and hazardous materials

“(a)(1) Except as otherwise provided in this section, the Secretary of Defense may not permit the use of an installation of the Department of Defense for the storage or disposal of any material that is a toxic or hazardous material and that is not owned by the Department of Defense.

Regulations.

“(2) The Secretary of Defense shall define by regulation what materials are hazardous or toxic materials for the purposes of this section, including specification of the quantity of a material that serves to make it hazardous or toxic for the purposes of this section. The definition shall include materials referred to in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(14)) and materials designated under section 102 of that Act (42 U.S.C. 9602) and shall include materials that are of an explosive, flammable, or pyrotechnic nature.

“(b) Subsection (a) does not apply to—

“(1) the storage of strategic and critical materials in the National Defense Stockpile under an agreement for such storage with the Administrator of General Services;

“(2) the temporary storage or disposal of explosives in order to protect the public or to assist agencies responsible for Federal law enforcement in storing or disposing of explosives when no alternative solution is available, if such storage or disposal is made in accordance with an agreement between the Secretary of Defense and the head of the Federal agency concerned;

“(3) the temporary storage or disposal of explosives in order to provide emergency lifesaving assistance to civil authorities;

“(4) the disposal of excess explosives produced under a Department of Defense contract, if the head of the military department concerned determines, in each case, that an alternative feasible means of disposal is not available to the contractor, taking into consideration public safety, available resources of the contractor, and national defense production requirements;

“(5) the temporary storage of nuclear materials or non-nuclear classified materials in accordance with an agreement with the Secretary of Energy;

“(6) the storage of materials that constitute military resources intended to be used during peacetime civil emergencies in accordance with applicable Department of Defense regulations; and

“(7) the temporary storage of materials of other Federal agencies in order to provide assistance and refuge for commercial carriers of such material during a transportation emergency.

“(c) The Secretary of Defense may grant exceptions to subsection (a) when essential to protect the health and safety of the public from imminent danger if the Secretary otherwise determines the excep-

tion is essential and if the storage or disposal authorized does not compete with private enterprise.

“(d)(1) The Secretary may assess a charge for any storage or disposal provided under this section. Any such charge shall be on a reimbursable cost basis.

“(2) In the case of storage under this section authorized because of an imminent danger, the storage provided shall be temporary and shall cease once the imminent danger no longer exists. In all other cases of storage or disposal authorized under this section, the storage or disposal authorized shall be terminated as determined by the Secretary.”

(b) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2691 (as added by section 804) the following new item:

“2692. Storage and disposal of nondefense toxic and hazardous materials.”

LEASING AND RENTAL GUARANTEE PROGRAM EXTENSION

SEC. 806. (a) Section 2828(g) of title 10, United States Code, is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph (8):

97 Stat. 782.

“(8) In addition to the contracts authorized by paragraph (7), the Secretary of the Army may enter into one contract under this subsection for not more than 600 family housing units at one location if the contract is necessary in order to provide sufficient family housing to accommodate a major restationing action by the Army. The Secretary of the Army may not enter into a contract under this paragraph and an agreement under section 802(g) of the Military Construction Authorization Act, 1984 (Public Law 98-115; 97 Stat. 783).”

Infra.

(b) Section 802 of the Military Construction Authorization Act, 1984 (Public Law 98-115; 97 Stat. 783), is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection (g):

10 USC 2821
note.

“(g) In addition to the agreements authorized by subsection (f), the Secretary of the Army may enter into one agreement under this section for not more than 600 family housing units at one location if the agreement is necessary in order to provide sufficient family housing to accommodate a major restationing action by the Army. The Secretary of the Army may not enter into an agreement under this subsection and a contract under section 2828(g)(8) of title 10, United States Code.”

Supra.

(c) The amendments made by this section shall take effect on October 1, 1984.

Effective date.
10 USC 2828
note.

AUTHORIZED COST VARIATIONS

SEC. 807. Section 2853(e) of title 10, United States Code, is amended by inserting “is more than the amount specified by law as the maximum amount for a minor military construction project and” after “under the contract” in the second sentence.

CONTRACTS FOR ARCHITECT AND ENGINEER SERVICES

SEC. 808. (a) Section 2855 of title 10, United States Code, is amended—

(1) by inserting “(a)” before “Contracts” at the beginning of such section; and

(2) by adding at the end thereof the following new subsection:
 “(b)(1) In the case of a contract referred to in subsection (a)—

“(A) if the Secretary concerned estimates that the initial award of the contract will be in an amount greater than or equal to the threshold amount determined under paragraph (2), the contract may not be set aside exclusively for award to small business concerns; and

“(B) if the Secretary concerned estimates that the initial award of the contract will be in an amount less than the threshold amount determined under paragraph (2), the contract shall be awarded in accordance with the set aside provisions of the Small Business Act (15 U.S.C. 631 et seq.).

“(2) The initial threshold amount under paragraph (1) is \$85,000. The Secretary of Defense may revise that amount in order to ensure that small business concerns receive a reasonable share of contracts referred to in subsection (a).

“(3) This subsection does not restrict the award of contracts to small business concerns under section 8(a) of the Small Business Act (15 U.S.C. 637(a)).”

Effective date.
 10 USC 2855
 note.

(b) Subsection (b) of section 2855 of title 10, United States Code, as added by subsection (a), shall apply with respect to contracts awarded after September 30, 1984, except that the authority of the Secretary of Defense under paragraph (2) of that subsection shall apply only with respect to contracts awarded after September 30, 1985.

ADMINISTRATION OF FOREST PRODUCTS PROGRAM

SEC. 809. (a) Section 2665 of title 10, United States Code, is amended—

(1) in subsection (b), by striking out “logs wholly or partly manufactured by, or otherwise procured for, the Army, Navy, or Air Force, or” and inserting in lieu thereof “forest products produced on land owned or leased by a military department or the”;

(2) in subsection (d), by striking out “lumber and timber products” and inserting in lieu thereof “forest products”;

(3) in subsection (e)(1)—

(A) by striking out “timber and timber products” each place it appears and inserting in lieu thereof “forest products”; and

(B) by striking out “25 percent” and inserting in lieu thereof “40 percent”; and

(4) by adding at the end thereof the following new subsection:

“(f)(1) There is in the Treasury a reserve account administered by the Secretary of Defense for the purposes of this section. Balances in the account may be used for expenses of the military departments—

“(A) for improvements of forest lands;

“(B) for unanticipated contingencies in the administration of forest lands and the production of forest products for which other sources of funds are not available in a timely manner; and

“(C) for expenses to enable operations of forest lands and the production of forest products to continue from the end of one fiscal year through the beginning of the next fiscal year without disruption.

“(2) Subject to paragraph (3), there shall be deposited into the reserve account not later than December 31 of each year, for credit

to the preceding fiscal year, an amount equal to one-half of the amount (if any) remaining of the total amount received by the United States during that fiscal year as proceeds from the sale of forest products after (A) the reimbursement of appropriations of the Department of Defense under subsection (d) for expenses of production of forest products during that fiscal year, and (B) the payment to States under subsection (e) for that fiscal year.

“(3) The balance in the reserve account may not exceed \$4,000,000. If a deposit under paragraph (2) would cause the balance in the account to exceed that amount, the deposit shall be made only to the extent the amount of the deposit would not cause the balance in the account to exceed \$4,000,000.”

(b)(1) Except as provided in paragraph (2), the amendments made by subsection (a) shall take effect on October 1, 1984.

(2) The amendment made by subsection (a)(2)(B) shall apply with respect to payments to States for fiscal years beginning after September 30, 1984.

Effective date.
10 USC 2665
note.

SALE OF ELECTRICITY FROM ALTERNATE ENERGY AND COGENERATION PRODUCTION FACILITIES

SEC. 810. (a) Chapter 147 of title 10, United States Code, is amended by adding at the end thereof the following new section:

“§2483. Sale of electricity from alternate energy and cogeneration production facilities

10 USC 2483.

“(a) The Secretary of a military department may sell, contract to sell, or authorize the sale by a contractor to a public or private utility company of electrical energy generated from alternate energy or cogeneration type production facilities which are under the jurisdiction (or produced on land which is under the jurisdiction) of the Secretary concerned. The sale of such energy shall be made under such regulations, for such periods, and at such prices as the Secretary concerned prescribes consistent with the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.).

“(b) Proceeds from sales under subsection (a) shall be credited to the appropriation account currently available to the military department concerned for the supply of electrical energy.”

(b) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

“2483. Sale of electricity from alternate energy and cogeneration production facilities.”

INSTALLATION OF TELEPHONE WIRING

SEC. 811. (a) Section 1348 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

“(d) Under regulations prescribed by the Secretary of Defense, funds appropriated to the Department of Defense are available to install, repair, and maintain telephone wiring in residences owned or leased by the United States Government and, if necessary for national defense purposes, in other private residences.”

Regulations.

(b) The amendment made by subsection (a) shall be effective as of January 1, 1984. Funds appropriated to the Department of Defense may be used to reimburse persons for expenditures made after December 31, 1983, for the installation, repair, and maintenance of

Effective dates.
31 USC 1348
note.

telephone wiring in any Government-owned or leased housing unit before the date of the enactment of this Act.

FAMILY HOUSING CONSTRUCTED OVERSEAS

10 USC 2821
note.

SEC. 812. Section 803(a) of the Military Construction Authorization Act, 1984 (Public Law 98-115; 97 Stat. 784) is amended—

(1) by inserting “(1)” after “shall require”, and

(2) by striking out the period at the end and inserting in lieu thereof a comma and the following: “or (2) in the case of concrete housing, the use of housing (A) that is produced in a plant that was fabricated in the United States by a United States company, and (B) for which the materials, fixtures, and equipment used in the construction of such housing (other than cement, sand, and aggregates) are manufactured in the United States.”.

PART B—MISCELLANEOUS PROVISIONS

TEST OF INNOVATIVE CONSTRUCTION CONTRACTING METHODS

Ante, p. 1521.

SEC. 821. The Secretary of the Air Force, with the approval of the Secretary of Defense, may enter into construction contracts for military construction projects using either turnkey competitive negotiation methods or construction management techniques at one installation of the Secretary's choice. Contracts for architectural and engineering services and for construction awarded under this section shall be subject to section 2855 of title 10, United States Code.

REPEAL OF LIMITS ON PROJECTS IN SUPPORT OF THE MASTER RESTITUTIONING PLAN

SEC. 822. Section 107 of the Military Construction Authorization Act, 1983 (Public Law 97-321; 96 Stat. 1552), is repealed.

STUDY OF SECTION 6 SCHOOLS

20 USC 241.

Report.

SEC. 823. The Comptroller General of the United States shall conduct a study to determine the most suitable means to pay for the construction and operation of Department of Defense dependent schools established under section 6 of Public Law 874 of the Eighty-first Congress. The study shall consider the effect that transferring responsibility for funding and operating those schools from the Department of Defense to local school districts would have on funding for the impact aid program of the Department of Education and the effect that such transfer would have on local school districts. Not later than May 1, 1984, the Comptroller General shall submit to the appropriate committees of Congress a report on the results of the study.

TECHNICAL AMENDMENT

97 Stat. 786, 789.

SEC. 824. Section 807(b) of the Military Construction Authorization Act, 1984 (Public Law 98-115; 97 Stat. 788), is amended by striking out “section 2809” and inserting in lieu thereof “section 2667a”. The amendment made by this section shall apply as if included in the enactment of the Military Construction Authorization Act, 1984.

PART C—REAL PROPERTY TRANSACTIONS

LAND EXCHANGE, FALCON AIR FORCE STATION, COLORADO

SEC. 831. (a)(1) The Secretary of the Air Force is authorized to acquire from the State of Colorado easements restricting the use of, and giving the United States rights-of-way over, certain parcels of land owned by the State of Colorado adjacent to the Consolidated Space Operations Center, Falcon Air Force Station, Colorado.

“(2) As consideration for the interests in land acquired under paragraph (1), the United States shall convey to the State of Colorado Board of Land Commissioners all right, title, and interest of the United States in and to suitable Federal lands in Colorado.

(b) The Secretary shall adjust the amount of land conveyed and the nature of the interests acquired under subsection (a) so that the fair market value (as determined by the Secretary) of the interests in land acquired under subsection (a)(1) is not less than the fair market value (as determined by the Secretary) of the land conveyed under subsection (a)(2).

(c) The transaction authorized by subsection (a) may not be carried out until the Secretary has reported to the Committees on Armed Services of the Senate and House of Representatives on the details of the transaction, including specification of the lands to be conveyed by the United States under subsection (a)(2), and a period of 21 days has passed from the date of the receipt of the report by those committees.

Report.

(d) The exact acreages of the lands to be acquired and conveyed under this section shall be determined by surveys which are satisfactory to the Secretary. The cost of any such survey shall be borne by the United States.

(e) The Secretary may require such additional terms and conditions in connection with the transaction authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

REPLACEMENT OF WAREHOUSE FACILITIES, CAMP PENDLETON MARINE CORPS BASE, CALIFORNIA

SEC. 832. In consideration for granting continued use through December 31, 2006, of approximately 84 acres of land and 164,000 square feet of warehouse space at the Marine Corps Base, Camp Pendleton, California, to the Southern California Edison Company in support of the San Onofre Nuclear Generating Station, the Secretary of the Navy is authorized to accept—

(1) replacement warehouse facilities, satisfactory to the Secretary, to be constructed at no cost to the United States on the Marine Corps Base, Camp Pendleton; and

(2) payment of the fair market rental value, as determined by the Secretary, for use of the 84 acres of land.

DISPOSITION OF SUBSTANDARD HOUSING AT CAMP PENDLETON, CALIFORNIA; CONSTRUCTION OF EQUIVALENT VALUE OF NEW FAMILY HOUSING

SEC. 833. (a) The Secretary of the Navy is authorized to convey all right, title, and interest of the United States in and to the parcel of land, consisting of 56 acres, more or less (together with the improvements thereon), in Oceanside California owned by the United States

and under the jurisdiction of the Secretary known as the Sterling Homes Project. The conveyance shall be for cash or under an exchange as described in subsection (c)(2). If the conveyance is for cash, the sale of the property shall be conducted in accordance with competitive bidding procedures.

(b)(1) The Secretary is authorized to construct family housing units at Camp Pendleton, California, in addition to the family housing authorized for Camp Pendleton by section 202.

(2) The number of housing units authorized to be constructed under this subsection is the number of units that may be constructed by the contractor within—

(A) the amount received as proceeds from the conveyance under subsection (a), if the property referred to in that subsection is sold for cash; or

(B) an amount equal to the fair market value, as determined by the Secretary, of the property conveyed under that subsection, if the property is conveyed under an exchange described in subsection (c)(2).

(c) If the conveyance under subsection (a) is for cash, the Secretary shall retain the proceeds of the sale and shall use the proceeds for the construction authorized by subsection (b). In such case, the Secretary may not enter into a contract for that construction in an amount in excess of the amount received as proceeds from the sale or in advance of the receipt of such proceeds.

(2) In lieu of a sale for cash under subsection (a), the Secretary may exchange the property referred to in that subsection for the construction of the housing units authorized by subsection (b).

(d) The exact acreage and legal description of the property to be conveyed by the Secretary under this section shall be in accordance with surveys that are satisfactory to the Secretary. The cost of any such survey shall be borne by the buyer.

(e) The Secretary may require such additional terms and conditions in connection with the conveyance and construction authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

LAND CONVEYANCE, LOMPOC, CALIFORNIA

SEC. 834. (a) Subject to subsection (b), the Secretary of the Army (hereinafter in this section referred to as the "Secretary") is authorized to convey, without monetary consideration, to the city of Lompoc, California (hereinafter in this section referred to as the "City"), all right, title, and interest of the United States in and to the real property described in subsection (c).

(b)(1) The conveyance authorized by subsection (a) shall be subject to the condition that the real property conveyed shall be used by the City—

(A) for the Lompoc, California, Western Spaceport Museum and Science Center as a permanent site for a space science museum;

(B) for educational and recreational purposes related to the purpose described in subparagraph (A); or

(C) for the purposes described in subparagraphs (A) and (B).

(2) If the property conveyed pursuant to subsection (a) is not used for one or more of the purposes described in paragraph (1), all right, title, and interest in and to such property shall revert to the United States, which shall have the right of immediate entry thereon.

(3) The Secretary may require such other terms and conditions with respect to the conveyance as the Secretary considers appropriate to protect the interests of the United States.

(c) The real property referred to in subsection (a) is a tract of land containing 148.84 acres, more or less, located within the City and bounded on the north by Santa Barbara County Highway S-20, on the east by California State Highway Numbered 1, and on the south and west by property controlled by the Department of the Army.

(d) The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by surveys that are satisfactory to the Secretary. The cost of any such survey shall be borne by the City.

LAND CONVEYANCE, RIVERSIDE COUNTY, CALIFORNIA

SEC. 835. (a) Subject to subsection (b), the Secretary of the Air Force (hereinafter in this section referred to as the "Secretary") is authorized to convey to the Village West Foundation, Incorporated (hereinafter in this section referred to as the "Foundation"), of San Bernardino, California, all right, title, and interest of the United States in and to the land described in subsection (c).

(b) In consideration for the conveyance by the Secretary under subsection (a), the Foundation shall pay to the United States an amount of money equal to the fair market value (as determined by the Secretary) of the land authorized to be conveyed under subsection (b).

(c) The land referred to in subsection (a) is a portion of March Air Force Base, California, composed of one parcel containing approximately 150 acres. The tract of land is on west March Air Force Base bounded on the east by Clark Street, on the west by Allen Street, on the south by 5th Street, and the north is an extension of 11th Street between Allen and Clark Streets.

(d) A conveyance by the Secretary under subsection (a) shall provide that—

(1) if the land conveyed is not used as a permanent location for facilities of the Foundation before the end of the 10-year period beginning on the date on which the land is conveyed—

(A) title to the land shall revert to the United States; and

(B) upon such reversion, the Secretary shall pay to the Foundation, from amounts available for that purpose, an amount equal to 50 percent of the fair market value of the land reverting to the United States, determined as of the date on which the land was conveyed to the Foundation by the Secretary;

(2) if all or any portion of the land conveyed ceases to be used for Foundation purposes during the 40-year period beginning on the date on which the 10-year period stated in paragraph (1) ends, title to all of such land which has ceased to be used for Foundation purposes shall revert to the United States;

(3) during the 50-year period beginning on the date of the conveyance, a construction project may be begun on such land only after the plans for such construction are approved by the Secretary; and

(4) during the 50-year period beginning on the date of the conveyance, the Foundation may not sell, lease, or otherwise dispose of the land conveyed.

(e) Notwithstanding section 2733 of title 10, United States Code, sections 1346 and 2672 of title 28, United States Code, and section 715 of title 32, United States Code, or any other provision of law enacted before, on, or after the date of the enactment of this Act (except a law that specifically refers to the Foundation or to this section), the United States shall not be liable to the Foundation for any damage to, or diminution in value of, any land conveyed under this section (or any improvement on such land) if such damage or diminution in value is caused by an activity of the United States at March Air Force Base, California.

(f) The transaction authorized by this section shall be made subject to such additional terms and conditions as the Secretary considers appropriate to carry out the provisions of this section and to protect the interests of the United States.

(g) The exact acreage and legal description of any land conveyed under this section shall be determined by surveys which are satisfactory to the Secretary. The cost of any such survey shall be borne by the Foundation.

RELEASE OF LEASEHOLD INTEREST, SAN DIEGO UNIFIED PORT DISTRICT,
CALIFORNIA

SEC. 836. (a) Subject to subsection (b), the Secretary of the Navy (hereinafter in this section referred to as the "Secretary") is authorized to convey to the San Diego Unified Port District, California (hereinafter in this section referred to as the "Port") all right, title, and interest of the United States in and to Lease NOy(R)-44755 entered into by the United States with the Port, comprising approximately 3.35 acres of land with Navy-owned improvements known as the San Diego Branch, Western Division, Naval Facilities Engineering Command. Such conveyance may not be made until a replacement facility for the San Diego Branch is available in accordance with subsection (b).

(b) In consideration for the conveyance authorized by subsection (a), the Port shall—

(1) construct, at no expense to the United States, a suitable replacement facility for the San Diego Branch at a suitable Navy-owned site, as determined by the Secretary;

(2) pay to the Secretary the cost of removing any existing improvements on the replacement site;

(3) pay to the Secretary the cost of relocating the San Diego Branch and its tenants; and

(4) convey to the United States unencumbered title to the replacement facility.

(c) The Secretary is authorized to receive, obligate, and disburse any funds received under subsection (b) (2) and (3) to facilitate the relocation.

(d) If the fair market value of the interest conveyed under subsection (a) exceeds the sum of the fair market value of the replacement facility and the amounts paid under subsection (b), as determined by the Secretary, the Port shall pay the difference to the United States.

(e) The Secretary may require such additional terms and conditions as the Secretary considers necessary or appropriate to protect the interest of the United States.

LAND EXCHANGE, SAN DIEGO, CALIFORNIA

SEC. 837. (a) Subject to subsection (b), the Secretary of the Navy (hereinafter in this section referred to as the "Secretary") is authorized (1) to convey to the City of San Diego (hereinafter in this section referred to as the "City") all right, title, and interest of the United States in and to approximately 120 acres of land lying southerly of proposed highway S-52 and east of Second San Diego Aqueduct, and (2) to convey to the City or the San Diego Energy Recovery Project, a joint powers agency of the City and County of San Diego (hereinafter in this section referred to as "SANDER"), approximately 45 acres of land lying easterly of Convoy Street and southerly of proposed highway S-52 and comprising a portion of the Naval Air Station, Miramar, San Diego, California.

(b) In consideration for the conveyances authorized by subsection (a), the City shall convey to the United States appropriate interests (as determined by the Secretary) in and to approximately 280 acres of land abutting the boundaries of the Naval Air Station, Miramar, of which approximately 120 acres are adjacent to and easterly of highway I-805 in the vicinity of Miramar Road and 160 acres are adjacent to and northerly of proposed highway S-52, east of Second San Diego Aqueduct.

(c) If the fair market value of the land conveyed by the Secretary under subsection (a) exceeds the fair market value of the lands conveyed by the City under subsection (b), the Secretary may accept such other lands as the Secretary has been previously authorized to acquire by exchange in partial or full consideration for the remaining value. The total value of the consideration to the United States shall be at least equal to the fair market value of the lands conveyed under subsection (a), as determined by the Secretary. The City or SANDER or the City and SANDER shall pay any difference to the United States.

(d) The exact acreages and legal descriptions of any real property to be conveyed or acquired under this section shall be determined by surveys that are satisfactory to the Secretary. The cost of such surveys shall be borne by the City or SANDER or by the City and SANDER.

(e) The Secretary may require such additional terms and conditions under this section as the Secretary considers appropriate to protect the interests of the United States.

LAND CONVEYANCE, TUSTIN, CALIFORNIA

SEC. 838. (a)(1) Subject to subsections (b) and (c), the Secretary of the Navy (hereinafter in this section referred to as the "Secretary") is authorized to convey to the Irvine Company, a Michigan corporation, or to either or both of the cities of Tustin and Irvine, municipal corporations of the State of California, the interest of the United States described in paragraph (2) in a tract of approximately 15 acres of land located on the Marine Corps Air Station (Helicopter), Tustin, California (hereinafter in this section referred to as the "Air Facility"), for the development and extension of a public thoroughfare through the Air Facility from Barranca Parkway on the south of the Air Facility to Irvine Center Drive on the north of the Air Facility.

(2) The interest of the United States that may be conveyed under this subsection is (A) a public right-of-way easement in perpetuity

over, across, and under the land described in paragraph (1) for roadway purposes, installation and maintenance of such underground utilities as are customarily located in rights-of-way, and related purposes, or (B) all right, title, and interest of the United States in such land.

(b) The conveyance authorized by subsection (a) may not be made unless—

(1) the Irvine Company conveys to the United States, for a term not to exceed the period of the use of the Air Facility as an active military air station—

(A) interests or rights acceptable to the Secretary within or over certain land commonly known as the "Browning Corridor" and certain other undeveloped land traversed by military aircraft and used by the Air Facility as its Ground Control Approach; or

(B) if the Irvine Company and the Secretary are unable to agree to interests or rights acceptable to the Secretary with respect to the land described in clause (A) that are at least equivalent in value (as determined by the Secretary) to the value of the interest of the United States to be conveyed under subsection (a)—

(i) interests or rights acceptable to the Secretary in a tract of approximately 39 acres of land (or a portion thereof that is acceptable to the Secretary) in the vicinity of the northwest portion of the intersection of Baranca Parkway and Peters Canyon Wash; or

(ii) a combination of interests or rights acceptable to the Secretary within or over the land described in clause (A) and in the land described in subclause (i); and

(2) the Irvine Company or the cities of Tustin and Irvine pay to the United States all costs of the United States related to replacing, in a manner satisfactory to the Secretary, the helicopter heavy-lift training facility displaced by reason of the conveyance under subsection (a) and any other improvement displaced by reason of that conveyance.

(c) The value of the interests or rights in real property conveyed to the United States under subsection (b)(1) must be at least equivalent in value (as determined by the Secretary) to the value of the interest of the United States to be conveyed under subsection (a).

(d) If the conveyance under subsection (b)(1) is to include a conveyance to the United States of interests or rights described in subsection (b)(1)(A), then before the conveyance authorized by subsection (a) is made, the Secretary and the cities of Tustin and Irvine shall enter into written agreements, satisfactory to the Secretary, under which the cities—

(1) agree that in exercising land use planning and zoning authority, the cities shall consider limiting the extent and location of residential development of the lands commonly known as the "Browning Corridor" as appropriate to air operations in that corridor; and

(2) provide a process for the United States to participate in the initial and continued planning of land uses within the Browning Corridor.

(e) The exact acreages and legal descriptions of the interests in land to be conveyed under subsections (a) and (b) shall be determined by surveys that are satisfactory to the Secretary. The Irvine

Company or the cities of Tustin and Irvine shall pay all survey and title evidence costs involved in those conveyances.

(f) The Secretary may require such additional terms and conditions in connection with the transaction authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

LAND CONVEYANCE, ANNAPOLIS, MARYLAND

SEC. 839. (a) Subject to subsections (b) and (d), the Secretary of the Navy (hereinafter in this section referred to as the "Secretary") is authorized to convey to the Naval Academy Athletic Association, a nonprofit organization located in the State of Maryland (hereinafter in this section referred to as the "Association"), all right, title, and interest of the United States in and to approximately 4.3 acres of unimproved land comprising a portion of the United States Naval Academy, Annapolis, Maryland.

(b) In consideration for the conveyance under subsection (a), the Association shall pay to the United States an amount equal to the appraised fair market value of the property to be conveyed (as determined by the Secretary).

(c) The unimproved land to be conveyed under subsection (a) is land that was conveyed by the Association to the United States in 1965. The exact acreage and legal description of the land to be conveyed shall be determined by surveys that are satisfactory to the Secretary. The cost of any such survey shall be borne by the Association.

(d) Before making the conveyance under subsection (a), the Secretary shall enter into an agreement with the Association which provides that the Association, after such conveyance, will expeditiously develop the property conveyed and will use the property for purposes consistent with and in support of activities of the United States Naval Academy. The terms of the conveyance under subsection (a) shall require that if the Association fails to comply with the terms of such agreement, all right, title, and interest of the Association in and to the land conveyed (including the improvements on the land) shall revert at no cost to the United States, which shall have the right of immediate entry thereon.

(e) The Secretary may require such additional terms and conditions under this section as the Secretary considers appropriate to protect the interests of the United States.

FISH HATCHERY, FORT LEWIS, WASHINGTON

SEC. 840. (a)(1) The Secretary of the Army shall issue a permit to the Secretary of the Interior for use of the land described in paragraph (2) as a site for a fish hatchery or shall otherwise make such land available for such use by an entity designated by the Secretary of the Army (with the concurrence of the Secretary of the Interior).

(2) The land referred to in paragraph (1) is a portion of Fort Lewis, Washington, adjacent to Clear Creek, Washington, consisting of 135 acres, more or less, that was identified as suitable as a site for a fish hatchery in a feasibility report concerning the location of a fish hatchery at Fort Lewis issued in May 1982 under contract number 14-16-0001-81086 of the Fish and Wildlife Service of the Department of the Interior, dated July 20, 1981.

(b) Land for which a permit is issued (or which is otherwise made available) under subsection (a) may be used by the party to which the permit is issued (or to which the land is made available) only for a fish hatchery and related purposes. The Secretary of the Army may not incur any cost in connection with such use.

(c) The Secretary of the Army may require such additional terms and conditions with respect to this section as the Secretary considers appropriate.

Approved August 28, 1984.

LEGISLATIVE HISTORY—H.R. 5604 (H.Res. 529) (S. 2723):

HOUSE REPORTS: No. 98-765 (Comm. on Armed Services) and No. 98-962 (Comm. of Conference).

SENATE REPORT No. 98-500 accompanying S. 2723 (Comm. on Armed Services).
CONGRESSIONAL RECORD, Vol. 130 (1984):

June 22, considered and passed House.

June 26, considered and passed Senate, amended.

Aug. 8, House agreed to conference report.

Aug. 9, Senate agreed to conference report.

Public Law 98-408
98th Congress

An Act

To convey certain lands to the Zuni Indian Tribe for religious purposes.

Aug. 28, 1984
[S 2201]

Arizona

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purpose of securing the following described lands located in the State of Arizona, upon which the Zuni Indians depend and which the Zuni Indians have used since time immemorial for sustenance and the performance of certain religious ceremonies, the following are hereby declared to be part of the Zuni Indian Reservation:

Beginning at the northeast corner of section 26, township 15 north, range 26 east, Gila and Salt River meridian; thence west to the northwest corner of section 28, township 15 north, range 26 east; thence south to the southwest corner of section 16, township 14 north, range 26 east; thence east to the southeast corner of section 14, township 14 north, range 26 east; thence north to the point of beginning.

Also all of sections 26 and 27, township 14 north, range 26 east, Gila and Salt River meridian.

SEC. 2. All lands described in the first section of this Act which are presently owned by the United States are hereby declared to be held in trust for the Zuni Indian Tribe subject to any existing leasehold interests. The Secretary of the Interior is authorized and directed to acquire through exchange those lands described in such section which are owned by the State of Arizona, and shall exchange lands under the jurisdiction of the Bureau of Land Management within the State of Arizona for said State lands. Such lands will be transferred without cost to the Zuni Indian Tribe and title thereto shall be taken by the United States in trust for the benefit of said tribe.

SEC. 3. The Secretary of the Interior or the Zuni Indian Tribe is authorized to acquire through purchase or exchange the remaining private lands and leasehold interests described within the first section of this Act which are not presently owned by the United States or the State of Arizona, and when acquired, title to such lands shall be held by the United States in trust for the Zuni Indian Tribe.

SEC. 4. The Secretary of the Interior is directed to immediately acquire by voluntary agreement the permanent right of ingress and egress to all lands described in the first section of this Act for the limited purpose of allowing the Zuni Indians to continue to use said lands for traditional religious pilgrimages and ceremonials.

SEC. 5. (a) The Secretary of the Interior shall make available for sale to Apache County, Arizona, land which—

(1) is under the jurisdiction of the Bureau of Land Management on the date of enactment of this Act,

(2) is located within the boundaries of Apache County, Arizona, and

(3) consists of a number of acres equal to the number of acres of land that—

(A) are acquired in fee under section 3 by the Secretary of the Interior or the Zuni Indian Tribe, and

(B) are subject to taxation by Apache County, Arizona, on the date of enactment of this Act.

Federal
Register,
publication.

(b)(1) The Secretary of the Interior shall designate the land which is available for sale under subsection (a) by no later than the date which is two years after the date of enactment of this Act. The Secretary of the Interior shall publish in the Federal Register a description of any land so designated.

25 USC 640d—
640d-28.

(2) The designation of land under paragraph (1) shall be subject to any land transfer which is required in order to carry out any relocation pursuant to Public Law 93-531.

(3) Land which is designated by the Secretary of the Interior under paragraph (1) shall be available for sale under subsection (a) during the period which begins on the date which such designation is made and ends on the date which is four years after the date of enactment of this Act.

(c)(1) If Apache County, Arizona, agrees to use any portion of the land purchased under subsection (a) only for public purposes, the price at which such portion of the land shall be sold to Apache County under subsection (a) shall be equal to the lesser of—

43 USC 1701
note

(A) the price at which Apache County could acquire such land under the Federal Land Policy Management Act of 1976, or

43 USC 869—
869-4.

(B) the price at which Apache County could acquire such land under the Act of June 14, 1926 (44 Stat. 741; chapter 578).

(2) If Apache County, Arizona, does not agree to use a portion of the land purchase by such county under subsection (a) only for public purposes, the price at which such portion of land shall be sold under subsection (a) shall be fair market value of such portion of land determined with regard to the current use of such portion of land on the day preceding the date of such sale.

(d) The provisions of this section shall not delay the transfer of any land under this Act for the benefit of the Zuni Indian Tribe.

SEC. 6. The value of the interest in land conveyed or any funds expended pursuant to this Act or any other sums expended or services rendered gratuitously or otherwise by the United States for the benefit of the Zuni Indian Tribe or its members from 1846 to the present shall not be offset against any award of judgment against the United States which may be rendered in favor of the Zuni Indian Tribe in Docket Numbers 161-79L and 327-81L presently pending before the United States Court of Claims. The Zuni Indian Tribe may encumber its interest in said dockets in order to acquire the lands described in section 3.

26 USC 1.

SEC. 7. For the purpose of subtitle A of the Internal Revenue Code of 1954, any transfer of private lands or leasehold interests to which section 3 applies shall be deemed to be an involuntary conversion within the meaning of section 1033 of such Code.

26 USC 1033.

SEC. 8. Payment being made to any State or local government pursuant to the provisions of section 1601 of title 31, United States

31 USC 6902

Code, on any lands transferred pursuant to section 2 hereof shall continue to be paid as if such transfer had not occurred.

Approved August 28, 1984.

LEGISLATIVE HISTORY—S. 2201:

SENATE REPORT No. 98-441 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 130 (1984):

July 31, considered and passed Senate.

Aug. 8, considered and passed House, amended.

Aug. 10, Senate concurred in House amendments.

Public Law 98-409
98th Congress

An Act

Aug. 29, 1984
[H.R. 4214]

To establish a State Mining and Mineral Resources Research Institute program, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

AUTHORIZATION OF STATE ALLOTMENTS TO INSTITUTES

Schools and
colleges.
30 USC 1221.

SECTION 1. (a)(1) There are authorized to be appropriated to the Secretary of the Interior (hereafter in this Act referred to as the "Secretary") funds adequate to provide for each participating State \$300,000 for the fiscal year ending September 30, 1985, and \$400,000 to each participating State for each fiscal year thereafter for a total of five years, to assist the States in carrying on the work of a competent and qualified mining and mineral resources research institute or center (hereafter in this Act referred to as the "institute") at one public college or university in the State which meets the eligibility criteria established in section 10.

Grants.

(2)(A) Funds appropriated under this section shall be made available for grants to be matched on a basis of no less than one and one-half non-Federal dollars for each Federal dollar during the fiscal years ending September 30, 1985, and September 30, 1986, and no less than two non-Federal dollars for each Federal dollar during the fiscal years ending September 30, 1987, September 30, 1988, and September 30, 1989.

(B) If there is more than one such eligible college or university in a State, funds appropriated under this Act shall, in the absence of a designation to the contrary by act of the legislature of the State, be granted to one such college or university designated by the Governor of the State.

(C) Where a State does not have a public college or university eligible under section 10, the Committee on Mining and Mineral Resources Research established in section 9 (hereafter in this Act referred to as the "Committee") may allocate the State's allotment to one private college or university which it determines to be eligible under such section.

(b) It shall be the duty of each institute to plan and conduct, or arrange for a component or components of the college or university with which it is affiliated to conduct research, investigations, demonstrations, and experiments of either, or both, a basic or practical nature in relation to mining and mineral resources, and to provide for the training of mineral engineers and scientists through such research, investigations, demonstrations, and experiments. The subject of such research, investigation, demonstration, experiment, and training may include exploration; extraction; processing; development; production of mineral resources; mining and mineral technology; supply and demand for minerals; conservation and best use of available supplies of minerals; the economic, legal, social, engineering, recreational, biological, geographic, ecological, and other as-

pects of mining, mineral resources, and mineral reclamation. Such research, investigation, demonstration, experiment, and training shall consider the interrelationship with the natural environment, the varying conditions and needs of the respective States, and mining and mineral resources research projects being conducted by agencies of the Federal and State governments and other institutes.

RESEARCH FUNDS TO INSTITUTES

SEC. 2. (a) There is authorized to be appropriated to the Secretary \$10,000,000 for the fiscal year ending September 30, 1985. This amount shall be increased by \$1,000,000 for each fiscal year thereafter for four additional years, which shall remain available until expended. Such funds when appropriated shall be made available to institutes to meet the necessary expenses for purposes of—

Appropriation
authorization.
30 USC 1222.

(1) specific mineral research and demonstration projects of broad application, which could not otherwise be undertaken, including the expenses of planning and coordinating regional mining and mineral resources research projects by two or more institutes; and

(2) research into any aspects of mining and mineral resources problems related to the mission of the Department of the Interior, which are deemed by the Committee to be desirable and are not otherwise being studied.

(b) Each application for funds under subsection (a) of this section shall state, among other things, the nature of the project to be undertaken; the period during which it will be pursued; the qualifications of the personnel who will direct and conduct it; the estimated costs; the importance of the project to the Nation, region, or State concerned; its relation to other known research projects theretofore pursued or being pursued; the extent to which the proposed project will provide opportunity for the training of mining and mineral engineers and scientists; and the extent of participation by nongovernmental sources in the project.

(c) The Committee shall review all such funding applications and recommend to the Secretary the use of the institutes, insofar as practicable, to perform special research. Recommendations shall be made without regard to the race, religion, or sex of the personnel who will conduct and direct the research, and on the basis of the facilities available in relation to the particular needs of the research project; special geographic, geologic, or climatic conditions within the immediate vicinity of the institute; any other special requirements of the research project; and the extent to which such project will provide an opportunity for training individuals as mineral engineers and scientists. The Committee shall recommend to the Secretary the designation and utilization of such portions of the funds authorized to be appropriated by this section as it deems appropriate for the purpose of providing scholarships, graduate fellowships, and postdoctoral fellowships.

(d) No funds shall be made available under subsection (a) of this section except for a project approved by the Secretary and all funds shall be made available upon the basis of merit of the project, the need for the knowledge which it is expected to produce when completed, and the opportunity it provides for the training of individuals as mineral engineers and scientists.

Prohibitions.

(e) No funds made available under this section shall be applied to the acquisition by purchase or lease of any land or interests therein,

Prohibitions.

or the rental, purchase, construction, preservation, or repair of any building.

FUNDING CRITERIA

30 USC 1223.

SEC. 3. (a) Funds available to institutes under sections 1 and 2 of this Act shall be paid at such times and in such amounts during each fiscal year as determined by the Secretary, and upon vouchers approved by him. Each institute shall—

(1) set forth its plan to provide for the training of individuals as mineral engineers and scientists under a curriculum appropriate to the field of mineral resources and mineral engineering and related fields;

(2) set forth policies and procedures which assure that Federal funds made available under this Act for any fiscal year will supplement and, to the extent practicable, increase the level of funds that would, in the absence of such Federal funds, be made available for purposes of this Act, and in no case supplant such funds; and

Report.

(3) have an officer appointed by its governing authority who shall receive and account for all funds paid under the provisions of this Act and shall make an annual report to the Secretary on or before the first day of September of each year, on work accomplished and the status of projects underway, together with a detailed statement of the amounts received under any provisions of this Act during the preceding fiscal year, and of its disbursements on schedules prescribed by the Secretary.

If any of the funds received by the authorized receiving officer of any institute under the provisions of this Act shall by any action or contingency be found by the Secretary to have been improperly diminished, lost, or misapplied, such funds shall be replaced by the State concerned and until so replaced no subsequent appropriation shall be allotted or paid to any institute of such State.

(b) The institutes are authorized and encouraged to plan and conduct programs under this Act in cooperation with each other and with such other agencies and individuals as may contribute to the solution of the mining and mineral resources problems involved. Moneys appropriated pursuant to this Act shall be available for paying the necessary expenses of planning, coordinating, and conducting such cooperative research.

DUTIES OF THE SECRETARY

Regulations.
30 USC 1224.

SEC. 4. (a) The Secretary shall administer this Act and, after full consultation with other interested Federal agencies, shall prescribe such rules and regulations as may be necessary to carry out its provisions. The Secretary shall furnish such advice and assistance as will best promote the purposes of this Act, shall participate in coordinating research initiated under this Act by the institutes, shall indicate to them such lines of inquiry that seem most important, and shall encourage and assist in the establishment and maintenance of cooperation by and between the institutes and between them and other research organizations, the United States Department of the Interior, and other Federal establishments.

(b) On or before the first day of July in each year beginning after the date of enactment of this Act, the Secretary shall ascertain

whether the requirements of section 3(a) have been met as to each institute and State.

(c) The Secretary shall make an annual report to the Congress of the receipts, expenditures, and work of the institutes in all States under the provisions of this Act. The Secretary's report shall indicate whether any portion of an appropriation available for allotment to any State has been withheld and, if so, the reason therefor.

Report.

AUTONOMY

SEC. 5. Nothing in this Act shall be construed to impair or modify the legal relationship existing between any of the colleges or universities under whose direction an institute is established and the government of the State in which it is located, and nothing in this Act shall in any way be construed to authorize Federal control or direction of education at any college or university.

30 USC 1225

MISCELLANEOUS PROVISIONS

SEC. 6. (a) The Secretary shall obtain the continuing advice and cooperation of all agencies of the Federal Government concerned with mining and mineral resources, of State and local governments, and of private institutions and individuals to assure that the programs authorized by this Act will supplement and not be redundant with respect to established mining and minerals research programs, and to stimulate research in otherwise neglected areas, and to contribute to a comprehensive nationwide program of mining and minerals research, with due regard for the protection and conservation of the environment. The Secretary shall make generally available information and reports on projects completed, in progress, or planned under the provisions of this Act, in addition to any direct publication of information by the institutes themselves.

30 USC 1226.

Public
availability.

(b) Nothing in this Act is intended to give or shall be construed as giving the Secretary any authority over mining and mineral resources research conducted by any agency of the Federal Government, or as repealing or diminishing existing authorities or responsibilities of any agency of the Federal Government to plan and conduct, contract for, or assist in research in its area of responsibility and concern with regard to mining and mineral resources.

Prohibitions.

(c) No research, demonstration, or experiment shall be carried out under this Act by an institute financed by grants under this Act, unless all uses, products, processes, patents, and other developments resulting therefrom, with such exception or limitation, if any, as the Secretary may find necessary in the public interest, are made available promptly to the general public. Patentable inventions shall be governed by the provisions of Public Law 96-517. Nothing contained in this section shall deprive the owner of any background patent relating to any such activities of any rights which that owner may have under that patent.

Prohibitions.
Public
availability
Patents

94 Stat 3015.

(d) There are authorized to be appropriated after September 30, 1984, such sums as are necessary for the printing and publishing of the results of activities carried out by institutes under this Act and for administrative planning and direction, but such appropriations shall not exceed \$1,000,000 in any single fiscal year.

Appropriation
authorization

CENTER FOR CATALOGING

Public
information
30 USC 1227.

SEC. 7. The Secretary shall establish a center for cataloging current and projected scientific research in all fields of mining and mineral resources. Each Federal agency doing mining and mineral resources research shall cooperate by providing the cataloging center with information on work underway or scheduled by it. The cataloging center shall classify and maintain for public use a catalog of mining and mineral resources research and investigation projects in progress or scheduled by all Federal agencies and by such non-Federal agencies of government, colleges, universities, private institutions, firms, and individuals as may make such information available.

INTERAGENCY COOPERATION

President of
U.S.
30 USC 1228.

SEC. 8. The President shall, by such means as he deems appropriate, clarify agency responsibility for Federal mining and mineral resources research and provide for interagency coordination of such research, including the research authorized by this Act. Such coordination shall include—

- (1) continuing review of the adequacy of the Government-wide program in mining and mineral resources research;
- (2) identification and elimination of duplication and overlap between agency programs;
- (3) identification of technical needs in various mining and mineral resources research categories;
- (4) recommendations with respect to allocation of technical effort among Federal agencies;
- (5) review of technical manpower needs, and findings concerning management policies to improve the quality of the Government-wide research effort; and
- (6) actions to facilitate interagency communication at management levels.

COMMITTEE

Establishment.
30 USC 1229.

SEC. 9. (a) The Secretary shall appoint a Committee on Mining and Mineral Resources Research composed of—

- (1) the Assistant Secretary of the Interior responsible for minerals and mining research, or his delegate;
- (2) the Director, Bureau of Mines, or his delegate;
- (3) the Director, United States Geological Survey, or his delegate;
- (4) the Director of the National Science Foundation, or his delegate;
- (5) the President, National Academy of Sciences, or his delegate;
- (6) the President, National Academy of Engineering, or his delegate; and
- (7) not more than six other persons who are knowledgeable in the fields of mining and mineral resources research, including two university administrators involved in the conduct of programs authorized by section 301 of the Surface Mining Control and Reclamation Act of 1977, two representatives from the mining industry, a working miner, and a representative from the conservation community. In making these six appointments, the Secretary shall consult with interested groups.

30 USC 1221

(b) The Committee shall consult with, and make recommendations to, the Secretary on all matters relating to mining and mineral resources research and the determinations that are required to be made under this Act. The Secretary shall consult with, and consider recommendations of, such Committee in such matters.

(c) Committee members, other than officers or employees of Federal, State, or local governments, shall be, for each day (including traveltime) during which they are performing Committee business, paid at a rate fixed by the Secretary but not excess of the daily equivalent of the maximum rate of pay for grade GS-18 of the General Schedule under section 5332 of title 5 of the United States Code, and shall be fully reimbursed for travel, subsistence, and related expenses.

(d) The Committee shall be jointly chaired by the Assistant Secretary of the Interior responsible for minerals and mining and a person to be elected by the Committee from among the members referred to in paragraphs (5), (6), and (7) of subsection (a) of this section.

(e) The Committee shall develop a national plan for research in mining and mineral resources, considering ongoing efforts in the universities, the Federal Government, and the private sector, and shall formulate and recommend a program to implement the plan utilizing resources provided for under this Act. The Committee shall submit such plan to the Secretary, the President, and the Congress on or before March 1, 1986, and shall update the plan annually thereafter. Plan.

(f) Section 10 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Committee.

ELIGIBILITY CRITERIA

SEC. 10. (a) The Committee shall determine the eligibility of a college or university to participate as a mining and mineral resources research institute under this Act using criteria which include— 30 USC 1230.

(1) the presence of a substantial program of graduate instruction and research in mining or mineral extraction or closely related fields which has a demonstrated history of achievement;

(2) evidence of institutional commitment for the purposes of this Act;

(3) evidence that such institution has or can obtain significant industrial cooperation in activities within the scope of this Act; and

(4) the presence of an engineering program in mining or minerals extraction that is accredited by the Accreditation Board for Engineering and Technology, or evidence of equivalent institutional capability as determined by the Committee.

(b) Notwithstanding the provisions of subsection (a), those colleges or universities which, on the date of enactment of this Act, have a mining or mineral resources research institute program which has been found to be eligible pursuant to title III of the Surface Mining Control and Reclamation Act of 1977 (91 Stat. 445) shall continue to be eligible pursuant to this Act for a period of four fiscal years beginning October 1, 1984.

30 USC 1221.

Approved August 29, 1984.

LEGISLATIVE HISTORY—H.R. 4214:

HOUSE REPORT No. 98-653 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 98-437 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 130 (1984):

Apr. 9, considered and passed House.

Aug. 9, considered and passed Senate, amended.

Aug. 10, House concurred in certain Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 35 (1984):

Aug. 29, Presidential statement.

Public Law 98-410
98th Congress

Joint Resolution

Recognizing the important contributions of the arts to a complete education.

Aug. 29, 1984

[H.J. Res. 452]

Whereas historically the arts have provided societies with a truly human means of expression that goes well beyond ordinary language;

Whereas the arts serve as a powerful expression of thoughts and feelings, as a means to challenge and extend the human experience, and as a distinctive way of understanding human beings and nature;

Whereas few areas of life are as important to a free, democratic society as education;

Whereas a country in which pluralism and individual expression are an essential part of its character must rely on a high level of shared education to foster a common culture;

Whereas public discussion following recent studies of education in America indicates an increasing desire to strengthen our Nation's schools;

Whereas the arts provide an important aspect of a complete education and have been included as one of the six basic academic subjects by the college board;

Whereas practice and preparation in the arts can develop discipline, concentration, and self-confidence;

Whereas participation in the arts helps to develop the higher levels of skill, literacy, and training essential to enable individuals to participate fully in our national life;

Whereas exposure to the arts is an integral part of the understanding and appreciation of the diverse cultures of the world;

Whereas the arts serve to preserve our uniquely American culture and provide a particularly effective means to present it to other nations; and

Whereas the arts enrich our lives by offering fulfillment through self-expression and aesthetic appreciation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That we recognize the important contribution of the arts to a complete education and urge all citizens to support efforts which strengthen artistic training and appreciation within our Nation's schools.

Approved August 29, 1984.

LEGISLATIVE HISTORY—H.J. Res. 452:

HOUSE REPORT No. 98-844 (Comm. on Education and Labor).

CONGRESSIONAL RECORD, Vol. 130 (1984):

June 18, considered and passed House.

Aug. 10, considered and passed Senate.

Public Law 98-411
98th Congress

An Act

Making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1985, and for other purposes.

Aug. 30, 1984
[H R. 5712]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1985, and for other purposes, namely:

Departments of
Commerce,
Justice, and
State, the
Judiciary, and
Related
Agencies
Appropriation
Act, 1985.
Department of
Commerce and
Related
Agencies
Appropriation
Act, 1985.

TITLE I—DEPARTMENT OF COMMERCE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the general administration of the Department of Commerce, including not to exceed \$2,000 for official entertainment, \$35,990,000.

SPECIAL FOREIGN CURRENCY PROGRAM

For payments in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States, for necessary expenses for the promotion of foreign commerce and for scientific and technological research and development, as authorized by law, \$500,000, to remain available until expended: *Provided*, That this appropriation shall be available, in addition to other appropriations to the Department of Commerce, for payments in the foregoing currencies.

BUREAU OF THE CENSUS

SALARIES AND EXPENSES

For expenses necessary for collecting, compiling, analyzing, preparing, and publishing statistics, provided for by law, \$85,500,000.

PERIODIC CENSUSES AND PROGRAMS

For expenses necessary to collect and publish statistics for periodic censuses and programs provided for by law, \$81,000,000, to remain available until expended.

ECONOMIC AND STATISTICAL ANALYSIS

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, of economic and statistical analysis programs, \$31,085,000.

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

42 USC 3121
note.
84 Stat. 375.

For economic development assistance as provided by the Public Works and Economic Development Act of 1965, as amended, and Public Law 91-304, and such laws that were in effect immediately before September 30, 1982, \$200,000,000: *Provided*, That during fiscal year 1985 total commitments to guarantee loans shall not exceed \$150,000,000 of contingent liability for loan principal.

SALARIES AND EXPENSES

42 USC 6701
19 USC 2251.
42 USC 5184
note.

For necessary expenses of administering the economic development assistance programs as provided for by law, \$28,500,000: *Provided*, That these funds may be used to monitor projects approved pursuant to title I of the Public Works Employment Act of 1976, as amended, title II of the Trade Act of 1974, as amended, and the Community Emergency Drought Relief Act of 1977. Notwithstanding any other provision of this Act or any other law, funds appropriated in this paragraph shall be used to fill and maintain forty-nine permanent positions designated as Economic Development Representatives out of the total number of permanent positions funded in the Salaries and Expenses account of the Economic Development Administration for fiscal year 1985.

INTERNATIONAL TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

50 USC app 2401
note.

For necessary expenses for international trade activities of the Department of Commerce, including trade promotional activities abroad without regard to the provisions of law set forth in 44 U.S.C. 3702 and 3703; full medical coverage for dependent members of immediate families of employees stationed overseas; employment of Americans and aliens by contract for services abroad; rental of space abroad for periods not exceeding five years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed \$165,200 for official representation expenses abroad; awards of compensation to informers under the Export Administration Act of 1979, and as authorized by 22 U.S.C. 401(b); purchase of passenger motor vehicles for official use abroad; \$192,418,000, to remain available until expended, of which not to exceed \$1,700,000 is for Executive direction, Administration: *Provided*, That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities. During fiscal year 1985 and within the resources and authority available, gross

obligations for the principal amount of direct loans shall not exceed \$6,500,000. During fiscal year 1985, total commitments to guarantee loans shall not exceed \$15,000,000 of contingent liability for loan principal.

MINORITY BUSINESS DEVELOPMENT AGENCY

MINORITY BUSINESS DEVELOPMENT

For necessary expenses of the Department of Commerce in fostering, promoting, and developing minority business enterprise, including expenses of grants, contracts, and other agreements with public or private organizations, \$49,885,000, of which \$36,000,000 shall remain available until expended: *Provided*, That not to exceed \$13,885,000 shall be available for program management: *Provided further*, That the Minority Business Development Agency shall maintain a permanent position and full-time office in the city of Pittsburgh, Pennsylvania: *Provided further*, That none of the funds appropriated in this paragraph or in this title for the Department of Commerce shall be available to reimburse the fund established by 15 U.S.C. 1521 on account of the performance of a program, project, or activity, nor shall such fund be available for the performance of a program, project, or activity, which had not been performed as a central service pursuant to 15 U.S.C. 1521 before July 1, 1982, unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such action in accordance with the Committees' reprogramming procedures.

UNITED STATES TRAVEL AND TOURISM ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the United States Travel and Tourism Administration, including travel and tourism promotional activities abroad without regard to the provisions of law set forth in 44 U.S.C. 3702 and 3703; and including employment of aliens by contract for services abroad; rental of space abroad for periods not exceeding five years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; advance of funds under contracts abroad; payment of tort claims in the manner authorized in the first paragraph of 28 U.S.C. 2672, when such claims arise in foreign countries; and not to exceed \$8,000 for representation expenses abroad; \$12,000,000: *Provided*, That not later than January 1, 1985, the Secretary of Commerce shall establish offices of the United States Travel and Tourism Administration in Italy, the Netherlands, and Australia, and that such offices be in addition to rather than in lieu of any offices of the United States Travel and Tourism Administration that existed in foreign nations on April 1, 1984.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of activities authorized by law for the National Oceanic and Atmospheric Administration, including acqui-

- 33 USC 851. sition, maintenance, operation, and hire of aircraft; 399 commissioned officers on the active list; construction of facilities, including initial equipment; alteration, modernization, and relocation of facilities; and acquisition of land for facilities; \$1,113,066,000, to remain available until expended, of which \$2,000,000 shall be available for emergency beach rehabilitation in the State of New Jersey, notwithstanding any other provision of this paragraph; and in addition, \$27,000,000 shall be derived from the Airport and Airways Trust Fund; and in addition, \$25,900,000 shall be derived by transfer from the Fund entitled "Promote and develop fishery products and research pertaining to American Fisheries"; and in addition, \$9,300,000 shall be derived by transfer from the Fund entitled "Coastal Energy Impact Fund": *Provided*, That unobligated balances in the account "Coastal Zone Management" are merged with this account on October 1, 1984: *Provided further*, That grants to States pursuant to section 306 and section 306(a) of the Coastal Zone Management Act, as amended, shall not exceed \$2,000,000 and shall not be less than \$450,000: *Provided further*, That upon reimbursement by the Secretary of the Navy for the cost of the NOAA-D spacecraft, and upon a determination by the Secretary of Commerce that the NOAA-D spacecraft is not needed to replace a NOAA polar orbiting satellite, the Secretary of Commerce shall make the spacecraft available for the Navy Remote Ocean Sensing System, and the Secretary of the Navy shall provide the Secretary of Commerce with access to the civil data produced by the system: *Provided further*, That of the funds appropriated in this paragraph, necessary funds shall be used to fill and maintain a staff of three persons, as National Oceanic and Atmospheric Administration personnel, to work on contracts and purchase orders at the National Data Buoy Center in Bay St. Louis, Mississippi, and report to the Director of the National Data Buoy Center in the same manner and extent that such procurement functions were performed at Bay St. Louis prior to June 26, 1983, except that they may provide procurement assistance to other Department of Commerce activities pursuant to ordinary interagency agreements. Where practicable, these positions shall be filled by the employees who performed such functions prior to June 26, 1983.
- 16 USC 1455.

FISHERMEN'S CONTINGENCY FUND

- 43 USC 1841 For carrying out the provisions of title IV of Public Law 95-372, not to exceed \$250,000, to be derived from receipts collected pursuant to that Act, to remain available until expended.

FOREIGN FISHING OBSERVER FUND

- 16 USC 971 note.
94 Stat. 1069.
16 USC 1801
note.
16 USC 1801
note. For expenses necessary to carry out the provisions of the Atlantic Tunas Convention Act of 1975, as amended (Public Law 96-339), the Magnuson Fishery Conservation and Management Act of 1976, as amended (Public Law 94-265), and the American Fisheries Promotion Act (Public Law 96-561), there are appropriated from the fees imposed under the foreign fishery observer program authorized by these Acts, not to exceed \$4,500,000, to remain available until expended.

FISHERMEN'S GUARANTY FUND

For expenses necessary to carry out the provisions of the Fishermen's Protective Act of 1967, as amended, \$1,800,000, to be derived from the receipts collected pursuant to that Act, to remain available until expended.

22 USC 1971
note.

FISHERIES LOAN FUND

For expenses necessary to carry out the provisions of section 221 of the American Fisheries Promotion Act of December 22, 1980 (Public Law 96-561), there are appropriated to the Fisheries Loan Fund, \$2,500,000 from receipts collected pursuant to that Act: *Provided*, That during fiscal year 1985 not to exceed \$300,000 of the Fisheries Loan Fund shall be available for administrative expenses.

16 USC 742c
note.

PATENT AND TRADEMARK OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Patent and Trademark Office, including defense of suits instituted against the Commissioner of Patents and Trademarks, \$101,631,000, and, in addition, such fees as shall be collected pursuant to 15 U.S.C. 1113 and 35 U.S.C. 41 and 376, to remain available until expended.

NATIONAL BUREAU OF STANDARDS

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For necessary expenses of the National Bureau of Standards, \$123,985,000, to remain available until expended, of which \$500,000 shall be made available to establish a regional radiation calibration center at the University of Arkansas, and of which not to exceed \$5,229,000 may be transferred to the "Working Capital Fund".

NATIONAL TELECOMMUNICATIONS AND INFORMATION
ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses, as provided for by law, of the National Telecommunications and Information Administration, \$13,694,000, of which \$700,000 shall remain available until expended.

PUBLIC TELECOMMUNICATIONS FACILITIES, PLANNING AND
CONSTRUCTION

For grants authorized by section 392 of the Communications Act of 1934, as amended, \$24,000,000, to remain available until expended: *Provided*, That not to exceed \$1,200,000 shall be available for program management as authorized by section 391 of the Communications Act of 1934, as amended.

47 USC 392

47 USC 391.

GENERAL PROVISIONS—DEPARTMENT OF COMMERCE

SEC. 101. During the current fiscal year, applicable appropriations and funds available to the Department of Commerce shall be available for the activities specified in the Act of October 26, 1949 (15 U.S.C. 1514), to the extent and in the manner prescribed by said Act.

Sec. 102. During the current fiscal year, appropriations to the Department of Commerce which are available for salaries and expenses shall be available for hire of passenger motor vehicles; services as authorized by 5 U.S.C. 3109; and uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902).

42 USC 3121
note
19 USC 2344.

Sec. 103. No funds in this title shall be used to sell to private interests, except with the consent of the borrower, or contract with private interests to sell or administer, any loans made under the Public Works and Economic Development Act of 1965 or any loans made under section 254 of the Trade Act of 1974.

Sec. 104. No funds in this Act, or any other Act, may be used within two years after the date of enactment of this Act, to transfer title to the parcel of real property located on McKown Point, West Boothbay Harbor, Maine (General Services Administration control number 1314-30174-23), unless such transfer is to the State of Maine, and contains conditions and use restrictions similar to those in the transfer of the adjacent parcel of real property on September 26, 1978 (General Services Administration control number 1314-30174-23-015-0800): *Provided*, That the title of the property will revert back to the Federal Government if the property ceases to be used for public purposes.

RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

OPERATING-DIFFERENTIAL SUBSIDIES (LIQUIDATION OF CONTRACT AUTHORITY)

46 USC 1101 *et seq.*

For the payment of obligations incurred for operating-differential subsidies as authorized by the Merchant Marine Act, 1936, as amended, \$377,750,000, to remain available until expended.

RESEARCH AND DEVELOPMENT

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for research and development activities, as authorized by law, \$2,900,000, to remain available until expended, and in addition, \$7,000,000, to remain available until expended, which shall be derived by transfer from the unobligated balances of the Ship Construction account.

OPERATIONS AND TRAINING

For necessary expenses of operations and training activities authorized by law, \$77,467,000, to remain available until expended: *Provided*, That reimbursements may be made to this appropriation from receipts to the "Federal ship financing fund" for administrative expenses in support of that program.

GENERAL PROVISIONS—MARITIME ADMINISTRATION

Notwithstanding any other provision of this Act, the Maritime Administration is authorized to furnish utilities and services and make necessary repairs in connection with any lease, contract, or

occupancy involving Government property under control of the Maritime Administration and payments received by the Maritime Administration for utilities, services, and repairs so furnished or made shall be credited to the appropriation charged with the cost thereof: *Provided*, That rental payments under any such lease, contract, or occupancy on account of items other than such utilities, services, or repairs shall be covered into the Treasury as miscellaneous receipts.

No obligations shall be incurred during the current fiscal year from the construction fund established by the Merchant Marine Act, 1936, or otherwise, in excess of the appropriations and limitations contained in this Act, or in any prior appropriation Act and all receipts which otherwise would be deposited to the credit of said fund shall be covered into the Treasury as miscellaneous receipts.

None of the funds provided in this Act for the Maritime Administration shall be used for enforcement of any rule with respect to the repayment of construction differential subsidy for permanent release of vessels from the restrictions in section 506 of the Merchant Marine Act, 1936, as amended, until May 15, 1985.

46 USC 1101 *et seq.*

Vessels

46 USC 1156.

FEDERAL COMMUNICATIONS COMMISSION

SALARIES AND EXPENSES

For necessary expenses for the Federal Communications Commission, as authorized by law, including uniforms and allowances therefor, as authorized by law (5 U.S.C. 5901-02); not to exceed \$200,000 for land and structures; not to exceed \$200,000 for improvement and care of grounds and repair to buildings; not to exceed \$3,000 for official reception and representation expenses; purchase (not to exceed twelve) and hire of motor vehicles; special counsel fees; and services as authorized by 5 U.S.C. 3109; \$93,611,000. Not to exceed \$300,000 of the foregoing amount shall remain available until September 30, 1986, for research and policy studies.

FEDERAL MARITIME COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Maritime Commission, including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-02; \$12,292,000: *Provided*, That not to exceed \$1,500 shall be available for official reception and representation expenses.

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Trade Commission, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and not to exceed \$2,000 for official reception and representation expenses; the sum of \$64,311,000: *Provided*, That the funds appropriated in this paragraph are subject to the limitations and provisions of sections 10(a) and 10(c) (notwithstanding section 10(e)), 11(b), 18, and 20 of the Federal Trade Commission Improvements Act of 1980 (Public Law 96-252; 94 Stat. 374).

15 USC 57a, 57a note, 57c note.

INTERNATIONAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the International Trade Commission, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, and not to exceed \$2,500 for official reception and representation expenses, \$24,830,000.

MARINE MAMMAL COMMISSION

SALARIES AND EXPENSES

16 USC 1401. For necessary expenses of the Marine Mammal Commission as authorized by title II of Public Law 92-522, as amended, \$929,000.

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

SALARIES AND EXPENSES

For expenses necessary for the Office of the United States Trade Representative, including the hire of passenger motor vehicles and the employment of experts and consultants as authorized by 5 U.S.C. 3109, \$13,582,000: *Provided*, That not to exceed \$68,000 shall be available for official reception and representation expenses.

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

For necessary expenses for the Securities and Exchange Commission, including services as authorized by 5 U.S.C. 3109, and not to exceed \$2,000 for official reception and representation expenses, \$105,337,000.

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

15 USC 631 note. For necessary expenses, not otherwise provided for, of the Small Business Administration, including hire of passenger motor vehicles and not to exceed \$2,500 for official reception and representation expenses, \$205,340,000: *Provided*, That none of these funds shall be available after January 1, 1985 for establishing a comprehensive statistical data base on the small business sector in the United States economy and for other research on small business issues unless a computerized listing of small businesses in the United States is made available upon request to the Small Business Development Centers established under the authority of the Small Business Act, as amended; and for grants for Small Business Development Centers as authorized by section 21(a) of the Small Business Act, as amended, \$28,500,000. In addition, \$70,000,000 for disaster loan making activities, including loan servicing, shall be transferred to this appropriation from the "Disaster loan fund".

15 USC 648

WHITE HOUSE CONFERENCE ON SMALL BUSINESS

For necessary expenses of the White House Conference on Small Business as authorized by Public Law 98-276, \$2,000,000, to remain available until expended: *Provided*, That none of these funds shall be available for obligation until December 1, 1984. *Ante*, p. 169.

REVOLVING FUNDS

The Small Business Administration is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to its revolving funds, and in accord with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for the "Disaster loan fund", the "Business loan and investment fund", the "Lease guarantees revolving fund", the "Pollution control equipment contract guarantees revolving fund", and the "Surety bond guarantees revolving fund". 31 USC 9104

BUSINESS LOAN AND INVESTMENT FUND

For additional capital for the "Business loan and investment fund", \$269,000,000, to remain available without fiscal year limitation; and for additional capital for new direct loan obligations to be incurred by the "Business loan and investment fund", \$215,000,000, to remain available without fiscal year limitation.

SURETY BOND GUARANTEES REVOLVING FUND

For additional capital for the "Surety bond guarantees revolving fund", authorized by the Small Business Investment Act, as amended, \$8,910,000 to remain available without fiscal year limitation. 15 USC 661 note.

This title may be cited as the "Department of Commerce and Related Agencies Appropriation Act, 1985".

TITLE II—DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the administration of the Department of Justice, \$71,150,000.

WORKING CAPITAL FUND

For additional capital, \$3,000,000 to remain available until expended.

UNITED STATES PAROLE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the United States Parole Commission, as authorized by law, \$8,913,000.

Department of
Justice and
Related
Agencies
Appropriation
Act, 1985.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For expenses necessary for the legal activities of the Department of Justice, not otherwise provided for, including not to exceed \$20,000 for expenses of collecting evidence, to be expended under the direction of the Attorney General and accounted for solely on his certificate; and rent of private or Government-owned space in the District of Columbia; \$194,163,000, of which not to exceed \$6,000,000 for litigation support contracts shall remain available until September 30, 1986; and of which \$3,079,000 shall be for the Office of Special Investigations.

SALARIES AND EXPENSES, ANTITRUST DIVISION

For expenses necessary for the enforcement of antitrust and kindred laws, \$43,519,000.

SALARIES AND EXPENSES, FOREIGN CLAIMS SETTLEMENT COMMISSION

For expenses necessary to carry out the activities of the Foreign Claims Settlement Commission, including services as authorized by 5 U.S.C. 3109; allowances and benefits similar to those allowed under the Foreign Service Act of 1980 as determined by the Commission; expenses of packing, shipping, and storing personal effects of personnel assigned abroad; rental or lease, for such periods as may be necessary, of office space and living quarters of personnel assigned abroad; maintenance, improvement, and repair of properties rented or leased abroad, and furnishing fuel, water, and utilities for such properties; insurance on official motor vehicles abroad; advances of funds abroad; advances or reimbursements to other Government agencies for use of their facilities and services in carrying out the functions of the Commission; hire of motor vehicles for field use only; and employment of aliens; \$929,000.

22 USC 3901
note.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS AND MARSHALS

For necessary expenses of the offices of the United States attorneys, marshals, and bankruptcy trustees; and marshals; including acquisition, lease, maintenance, and operation of aircraft, \$431,114,000.

SUPPORT OF UNITED STATES PRISONERS

For support of United States prisoners in non-Federal institutions, \$53,240,000; and in addition, \$10,000,000 shall be available under the Cooperative Agreement Program for the purpose of renovating, constructing, and equipping State and local jail facilities that confine Federal prisoners: *Provided*, That amounts made available for constructing any local jail facility shall not exceed the cost of constructing space for the average Federal prisoner population for that facility as projected by the Attorney General: *Provided further*, That following agreement on or completion of any federally assisted jail construction, the availability of such space shall be assured and the per diem rate charged for housing Federal prisoners at that facility shall not exceed direct operating costs for the period of time specified in the cooperative agreement.

FEES AND EXPENSES OF WITNESSES

For expenses, mileage, compensation, and per diems of witnesses and for per diems in lieu of subsistence, as authorized by law, including advances; for use of facilities required as command posts in the protection of witnesses, and for official phone calls made from command posts; \$40,600,000, of which not to exceed \$500,000 may be made available for planning, construction, renovation, maintenance, remodeling, and repair of buildings and the purchase of equipment incident thereto for protected witness safesites.

SALARIES AND EXPENSES, COMMUNITY RELATIONS SERVICE

For necessary expenses of the Community Relations Service, established by title X of the Civil Rights Act of 1964, \$33,000,000 of which \$26,550,000 shall remain available until expended to make payments in advance for grants, contracts and reimbursable agreements and other expenses necessary under section 501(c), the Refugee Education Assistance Act of 1980, Public Law 96-422, for the processing, care, maintenance, security, transportation and reception and placement in the United States of Cuban and Haitian entrants: *Provided*, That notwithstanding section 501(e)(2)(B) of the Refugee Education Assistance Act of 1980 (Public Law 96-422; 94 Stat. 1810), funds may be expended for assistance with respect to Cuban and Haitian entrants as authorized under section 501(c) of such Act.

Cuban and
Haitian
refugees.
42 USC 2000g.

8 USC 1522 note.

8 USC 1522 note.

INTERAGENCY LAW ENFORCEMENT

ORGANIZED CRIME DRUG ENFORCEMENT

For expenses necessary for the Presidential Commission on Organized Crime, \$1,500,000.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For expenses necessary for detection, investigation, and prosecution of crimes against the United States; including purchase for police-type use of, not to exceed one thousand seven hundred passenger motor vehicles of which one thousand five hundred fifty will be for replacement only, without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and not to exceed \$70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; \$1,147,123,000, of which not to exceed \$23,000,000 for automated data processing and telecommunications and \$1,000,000 for undercover operations shall remain available until September 30, 1986; and of which \$10,000,000 for research related to investigative activities shall remain available until expended: *Provided*, That notwithstanding the provisions of title 31 U.S.C. 3302, the Director of the Federal Bureau of Investigation may establish and collect fees to process fingerprint identification records for noncriminal employment and licensing purposes, and credit not more than \$13,500,000 of such fees to this appropriation to be used for salaries and other

expenses incurred in providing these services: *Provided further*, That \$12,782,000 shall remain available until expended for constructing and equipping new facilities at the FBI Academy, Quantico, Virginia: *Provided further*, That not to exceed \$45,000 shall be available for official reception and representation expenses.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Drug Enforcement Administration, including not to exceed \$70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; purchase of not to exceed five hundred seventeen passenger motor vehicles of which four hundred eighty-nine are for replacement only for police-type use without regard to the general purchase price limitation for the current fiscal year; and acquisition, lease, maintenance, and operation of aircraft; \$329,988,000, of which not to exceed \$1,200,000 for research shall remain available until expended and \$1,700,000 for purchase of evidence and payments for information shall remain available until September 30, 1986.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, including not to exceed \$50,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and accounted for solely on his certificate; purchase for police-type use (not to exceed six hundred eight, of which four hundred sixteen shall be for replacement only) and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and research related to immigration enforcement; \$576,417,000, of which not to exceed \$400,000 for research shall remain available until expended: *Provided*, That none of the funds available to the Immigration and Naturalization Service shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of \$20,000 except in such instances when the Commissioner makes a determination that this restriction is impossible to implement.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary for the administration, operation, and maintenance of Federal penal and correctional institutions, including purchase (not to exceed forty of which thirty are for replacement only) and hire of law enforcement and passenger motor vehicles; \$503,450,000; and in addition, \$4,450,000 shall be derived by transfer from the unobligated balances of the "Buildings and facilities" account: *Provided*, That there may be transferred to the Health

Resources and Services Administration such amounts as may be necessary, in the discretion of the Attorney General, for direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions.

NATIONAL INSTITUTE OF CORRECTIONS

For carrying out the provisions of sections 4351-4353 of title 18, United States Code, which established a National Institute of Corrections, \$14,000,000, to remain available until expended.

BUILDINGS AND FACILITIES

For planning, acquisition of sites and construction of new facilities; purchase and acquisition of facilities and remodeling and equipping of such facilities for penal and correctional use, including all necessary expenses incident thereto, by contract or force account; and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account, \$86,056,000, to remain available until expended: *Provided*, That labor of United States prisoners may be used for work performed under this appropriation.

FEDERAL PRISON INDUSTRIES, INCORPORATED

The Federal Prison Industries, Incorporated, is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available, and in accord with the law, and to make such contracts and commitments, without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation, including purchase of not to exceed five (for replacement only) and hire of passenger motor vehicles, except as hereinafter provided.

31 USC 9104.

LIMITATION ON ADMINISTRATIVE AND VOCATIONAL EXPENSES, FEDERAL PRISON INDUSTRIES, INCORPORATED

Not to exceed \$2,044,000 of the funds of the corporation shall be available for its administrative expenses, and not to exceed \$6,920,000 for the expenses of vocational training of prisoners, both amounts to be computed on an accrual basis and to be determined in accordance with the corporation's prescribed accounting system in effect on July 1, 1946, and shall be exclusive of depreciation, payment of claims, expenditures which the said accounting system requires to be capitalized or charged to cost of commodities acquired or produced, including selling and shipping expenses, and expenses in connection with acquisition, construction, operation, maintenance, improvement, protection, or disposition of facilities and other property belonging to the corporation or in which it has an interest.

OFFICE OF JUSTICE ASSISTANCE

JUSTICE ASSISTANCE

(INCLUDING TRANSFER OF FUNDS)

For grants, contracts, cooperative agreements, and other assistance authorized by the Justice Assistance Act of 1984, as amended, including salaries and expenses in connection therewith, \$70,311,000, to remain available until expended: *Provided*, That \$5,500,000 of this amount shall be for a criminal justice assistance program, to be available only upon enactment of authorizing legislation: *Provided further*, That \$4,000,000 of this amount shall be available to carry out a missing children's assistance program to be available only upon enactment into law of authorizing legislation; and for grants, contracts, cooperative agreements, and other assistance authorized by title II of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, including salaries and expenses in connection therewith, \$70,240,000, to remain available until expended. In addition, \$5,000,000 for the purpose of making grants to States for their expenses by reason of Mariel-Cubans having to be incarcerated in State facilities for terms requiring incarceration for the full period October 1, 1984 through September 30, 1985 following their conviction of a felony committed after having been paroled into the United States by the Attorney General: *Provided*, That within thirty days of enactment of this Act the Attorney General shall announce in the Federal Register that this appropriation will be made available to the States whose Governors certify by February 1, 1985 a listing of names of such Mariel-Cubans incarcerated in their respective facilities: *Provided further*, That the Attorney General, not later than April 1, 1985, will complete his review of the certified listings of such incarcerated Mariel-Cubans, and make grants to the States on the basis that the certified number of such incarcerated persons in a State bears to the total certified number of such incarcerated persons: *Provided further*, That the amount of reimbursements per prisoner per annum shall not exceed \$12,000. The obligated and unobligated balances of funds previously appropriated to the Office of Justice Assistance, Research, and Statistics, Law Enforcement Assistance and Research and Statistics appropriations shall be merged with this appropriation.

42 USC 5611.

Mariel-Cubans.
Federal
Register,
publication.

GENERAL PROVISIONS—DEPARTMENT OF JUSTICE

SEC. 201. A total of not to exceed \$75,000 from funds appropriated to the Department of Justice in this title shall be available for official reception and representation expenses in accordance with distributions, procedures, and regulations established by the Attorney General.

23 USC 114 note.

SEC. 202. Notwithstanding any other provision of law or this Act, materials produced by convict labor may be used in the construction of any highways or portion of highways located on Federal-aid systems, as described in section 103 of title 23, United States Code.

93 Stat. 1040.

SEC. 203. (a) Subject to subsection (b) of this section, authorities contained in Public Law 96-132, "The Department of Justice Appropriation Authorization Act, Fiscal Year 1980", shall remain in effect until the termination date of this Act or until the effective date of a

Department of Justice Appropriation Authorization Act, whichever is earlier.

(b)(1) With respect to any undercover investigative operation of the Federal Bureau of Investigation or the Drug Enforcement Administration which is necessary for the detection and prosecution of crimes against the United States or for the collection of foreign intelligence or counterintelligence—

(A) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration, for fiscal year 1985, may be used for purchasing property, buildings, and other facilities, and for leasing space, within the United States, the District of Columbia, and the territories and possessions of the United States, without regard to section 1341 of title 31 of the United States Code, section 3732(a) of the Revised Statutes (41 U.S.C. 11(a)), section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255), the third undesignated paragraph under the heading "Miscellaneous" of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), section 3324 of title 31 of the United States Code, section 3741 of the Revised Statutes (41 U.S.C. 22), and subsections (a) and (c) of section 304 of the Federal Property and Administrative Service Act of 1949 (63 Stat. 395; 41 U.S.C. 254 (a) and (c)),

(B) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration, for fiscal year 1985, may be used to establish or to acquire proprietary corporations or business entities as part of an undercover investigative operation, and to operate such corporations or business entities on a commercial basis, without regard to section 9102 of title 31 of the United States Code,

(C) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration, for fiscal year 1985, and the proceeds from such undercover operation, may be deposited in banks or other financial institutions, without regard to section 648 of title 18 of the United States Code and section 3302 of title 31 of the United States Code, and

(D) proceeds from such undercover operation may be used to offset necessary and reasonable expenses incurred in such operation, without regard to section 3302 of title 31 of the United States Code,

only, in operations designed to detect and prosecute crimes against the United States, upon the written certification of the Director of the Federal Bureau of Investigation (or, if designated by the Director, a member of the Undercover Operations Review Committee established by the Attorney General in the Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations, as in effect on July 1, 1983) or the Administrator of the Drug Enforcement Administration, as the case may be, and the Attorney General (or, with respect to Federal Bureau of Investigation undercover operations, if designated by the Attorney General, a member of such Review Committee), that any action authorized by subparagraph (A), (B), (C), or (D) is necessary for the conduct of such undercover operation. If the undercover operation is designed to collect foreign intelligence or counterintelligence, the certification that any action authorized by subparagraph (A), (B), (C), or (D) is necessary for the conduct of such undercover operation shall be by the Director of the Federal Bureau of Investigation (or, if designated

by the Director, the Assistant Director, Intelligence Division) and the Attorney General (or, if designated by the Attorney General, the Counsel for Intelligence Policy). Such certification shall continue in effect for the duration of such undercover operation, without regard to fiscal years.

(2) As soon as the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under subparagraphs (C) and (D) of subsection (a) are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited in the Treasury of the United States as miscellaneous receipts.

Report.

(3) If a corporation or business entity established or acquired as part of an undercover operation under subparagraph (B) of paragraph (1) with a net value of over \$50,000 is to be liquidated, sold, or otherwise disposed of, the Federal Bureau of Investigation or the Drug Enforcement Administration, as much in advance as the Director or the Administrator, or the designee of the Director or the Administrator, determines is practicable, shall report the circumstances to the Attorney General and the Comptroller General. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

Audit
Report.
28 USC 533 note.

(4)(A) The Federal Bureau of Investigation or the Drug Enforcement Administration, as the case may be, shall conduct a detailed financial audit of each undercover investigative operation which is closed in fiscal year 1985,

(i) submit the results of such audit in writing to the Attorney General, and

(ii) not later than 180 days after such undercover operation is closed, submit a report to the Congress concerning such audit.

(B) The Federal Bureau of Investigation and the Drug Enforcement Administration shall each also submit a report annually to the Congress specifying as to their respective undercover investigative operations—

(i) the number, by programs, of undercover investigative operations pending as of the end of the one-year period for which such report is submitted,

(ii) the number, by programs, of undercover investigative operations commenced in the one-year period preceding the period for which such report is submitted, and

(iii) the number, by programs, of undercover investigative operations closed in the one-year period preceding the period for which such report is submitted and, with respect to each such closed undercover operation, the results obtained. With respect to each such closed undercover operation which involves any of the sensitive circumstances specified in the Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations, such report shall contain a detailed description of the operation and related matters, including information pertaining to—

(I) the results,

(II) any civil claims, and

(III) identification of such sensitive circumstances involved, that arose at any time during the course of such undercover operation.

28 USC 533 note.

(5) For purposes of paragraph (4)—

(A) the term “closed” refers to the earliest point in time at which—

(I) all criminal proceedings (other than appeals) are concluded, or

(II) covert activities are concluded, whichever occurs later,

(B) the term “employees” means employees, as defined in section 2105 of title 5 of the United States Code, of the Federal Bureau of Investigation, and

(C) the terms “undercover investigative operation” and “undercover operation” mean any undercover investigative operation of the Federal Bureau of Investigation or the Drug Enforcement Administration (other than a foreign counterintelligence undercover investigative operation)—

(i) in which—

(I) the gross receipts (excluding interest earned) exceed \$50,000, or

(II) expenditures (other than expenditures for salaries of employees) exceed \$150,000, and

(ii) which is exempt from section 3302 or 9102 of title 31 of the United States Code,

except that clauses (i) and (ii) shall not apply with respect to the report required under subparagraph (B) of such paragraph.

SEC. 204. (a)(1) Section 1201 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796) is amended by adding at the end thereof the following new subsection:

“(g) The authority to make payments under this section shall be effective only to the extent provided for in advance by appropriation Acts.”.

(2) Section 1202 of such Act (42 U.S.C. 3796a) is amended—

(A) by striking out “or” at the end of clause (2);

(B) by striking out the period at the end of clause (3) and inserting in lieu thereof “; and”; and

(C) by adding at the end thereof the following:

“(4) to any person employed in a capacity other than a civilian capacity.”.

(3) Section 1203 of such Act is amended—

42 USC 3796b.

(A) by striking out clause (3) and inserting in lieu thereof the following:

“(3) ‘firefighter’—

“(A) means a person whose duties include performing work directly connected with the control and extinguishment of fires and who, at the time the personal injury referred to in section 1201 is sustained, is engaged in such work or in another emergency operation; and

42 USC 3796.

“(B) includes a person serving as an officially recognized or designated member of a legally organized volunteer fire department;”;

(B) by striking out clause (5) and inserting in lieu thereof the following:

“(5) ‘law enforcement officer’ means a person—

“(A) the duties of whose position include performing work directly connected with—

“(i) the control of crime or juvenile delinquency;

“(ii) the enforcement of the criminal laws; or

“(iii) the protection of Federal officials, public buildings or property, or foreign diplomatic missions; and

42 USC 3796.

“(B) who, at the time the personal injury referred to in section 1201 is sustained, is—

“(i) engaged in the detection of crime;

“(ii) engaged in the apprehension of an alleged criminal offender;

“(iii) engaged in the keeping in physical custody of an alleged or convicted criminal offender; or

“(iv) assaulted or subjected to the conduct of criminal activity in the line of duty, and

includes police, correction, probation, parole, and judicial officers;”;

(C) in clause (6) by inserting “the United States,” after “means”; and

(D) in clause (7), by striking out “fireman” and inserting in lieu thereof “firefighter”.

Effective date.
42 USC 3796
note.

(b) The amendments made by subsection (a) shall take effect with respect to injuries sustained on or after October 1, 1984.

RELATED AGENCIES

COMMISSION ON CIVIL RIGHTS

SALARIES AND EXPENSES

97 Stat. 1304

97 Stat. 1305.

For expenses necessary for the Commission on Civil Rights, including hire of passenger motor vehicles, \$12,747,000, of which: \$2,299,000 is for reports, studies, and program monitoring as authorized by section 5(a)(1) and section 5(a)(5) of Public Law 98-183; \$1,642,000 is for hearings, legal analysis and legal services as authorized by section 6(f) and section 5(a)(1), section 5(a)(2) and section 5(a)(5) of Public Law 98-183; \$4,999,000 is for field operations as authorized by section 5(a)(1) and section 5(a)(5) of Public Law 98-183; \$831,000 is for publications preparation and dissemination as authorized by section 5(a)(4) of Public Law 98-183; \$1,217,000 is for Federal evaluation as authorized by section 5(a)(3) and section 5(a)(5) of Public Law 98-183; \$1,231,000 is for liaison and information dissemination as authorized by section 5(a)(4) of Public Law 98-183; and \$528,000 is for a clearinghouse library as authorized by section 5(a)(4) of Public Law 98-183.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SALARIES AND EXPENSES

42 USC 2000e

42 USC 2000e.

29 USC 625, 633.

For necessary expenses for the Equal Employment Opportunity Commission as authorized by title VII of the Civil Rights Act of 1964, as amended (29 U.S.C. 206(d) and 621-634), including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; not to exceed \$19,500,000 for payments to State and local enforcement agencies for services to the Commission pursuant to title VII of the Civil Rights Act, as amended, and sections 6 and 14 of the Age Discrimination in Employment Act; not to exceed \$400,000 for the Office of the Chairman; not to exceed \$904,000 for the Offices of the Commissioners; not to exceed \$269,000 for the Office of Congressional Affairs; not to exceed \$839,000 for the Office of Public Affairs; and not to exceed \$563,000 for the Office of Special Projects; \$160,755,000.

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

For payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, as amended, \$305,000,000: *Provided*, That the funds appropriated in this paragraph shall be expended in accordance with the provisions under the heading "Legal Services Corporation, Payment to the Legal Services Corporation" contained in Public Law 98-166 except that "fiscal year 1984", wherever it appears in such provisions, shall be construed as "fiscal year 1985"; "fiscal year 1983", wherever it appears in such provisions, shall be construed as "fiscal year 1984"; "January 1, 1984" shall be construed as "January 1, 1985"; "\$6.50" shall be construed as "\$7.61"; and "\$13" shall be construed as "\$13.57"; and shall not be denied to any grantee or contractor which received funding from the Corporation in fiscal year 1984 as a result of activities which have been found by an independent hearing officer appointed by the President of the Corporation not to constitute grounds for a denial of refunding: *Provided further*, That notwithstanding the previous provisions of this paragraph, \$2,000,000 shall be available to increase quality legal services to the elderly by: (1) developing classroom and bar association source materials on law affecting the elderly for use by law schools, the private bar, legal services grantees, and in continuing education seminars; (2) developing plans to encourage the private bar to do more to provide better pro bono services for elderly and higher quality paid services; (3) developing a clinical program to supplement local Legal Services Corporation grantees; and (4) disseminating the results to other law schools, legal aid societies and other interested parties; such pilot programs shall be distributed, if applicants are available, to varying size and geographically located schools; at least 50 per centum of the funds required shall come from non-Federal sources and federally funded assets and projects will not be included in in-kind services; no grant shall exceed \$200,000; the application and award procedure shall not require a detailed plan or extensive paperwork so long as the recipient signs a guarantee that more than 50 per centum of the funds required shall come from non-Federal sources and that federally funded assets and projects will not be included in in-kind services; the awards shall be made by July 1, 1985 and the projects shall each be completed by July 1, 1987; grantees shall not copyright the material developed and shall not charge other than private groups or individuals for such material and such charge shall be not more than approximately their net cost of production: *Provided further*, That notwithstanding the preceding provisos, no more than \$1,158,000 shall be expended for the budget category entitled "Program Improvement and Training", no more than \$1,829,000 shall be expended for the budget category entitled "Delivery Research and Experimentation", and no more than \$11,283,000 shall be expended for the budget category entitled "Support for the Provision of Legal Assistance": *Provided further*, That none of the funds appropriated in this Act for the Corporation shall be used, directly or indirectly, by the Corporation to promulgate new regulations or to enforce, implement, or operate in accordance with regulations effective after April 27, 1984 unless the Appropriations Committees of both Houses of Congress have been notified fifteen days prior to such use of funds as provided for in section 509 of this Act.

42 USC 2701
note.

97 Stat 1071.

Aged persons.

Post, p. 1574.

This title may be cited as the "Department of Justice and Related Agencies Appropriation Act, 1985".

Department of
State and
Related
Agencies
Appropriation
Act, 1985.

TITLE III—DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

SALARIES AND EXPENSES

For necessary expenses of the Department of State and the Foreign Service, not otherwise provided for, including obligations of the United States abroad pursuant to treaties, international agreements, and binational contracts (including obligations assumed in Germany on or after June 5, 1945), expenses authorized by section 9 of the Act of August 31, 1964, as amended (31 U.S.C. 3721), and section 2 of the State Department Basic Authorities Act of 1956, as amended (22 U.S.C. 2669); telecommunications; expenses necessary to provide maximum physical security in Government-owned and leased properties and vehicles abroad; permanent representation to certain international organizations in which the United States participates pursuant to treaties, conventions, or specific Acts of Congress; expenses of the United States-Japan Advisory Commission; acquisition by exchange or purchase of vehicles as authorized by law, except that special requirement vehicles may be purchased without regard to any price limitation otherwise established by law; the provisions of 22 U.S.C. 2696(b)(3) are hereby waived for \$5,000,000 in gains realized in this appropriation account because of fluctuation in foreign currency exchange rates or changes in overseas wages and prices; \$1,264,901,000, of which \$26,459,000 shall remain available until September 30, 1986.

REOPENING CONSULATES

For necessary expenses of the Department of State and the Foreign Service for reopening and operating certain United States consulates as specified in section 103 of the Department of State Authorization Act, fiscal years 1982 and 1983, \$1,929,000.

96 Stat 273.

REPRESENTATION ALLOWANCES

For representation allowances as authorized by section 905 of the Foreign Service Act of 1980, as amended (22 U.S.C. 4085), and for representation by United States missions to the United Nations and the Organization of American States, \$4,500,000.

PROTECTION OF FOREIGN MISSIONS AND OFFICIALS

For expenses, not otherwise provided, to enable the Secretary of State to provide for extraordinary protective services in accordance with the provisions of section 605 of Public Law 98-164, \$2,500,000, and to provide for the protection of foreign missions in accordance with the provisions of 3 U.S.C. 208, \$7,000,000.

97 Stat 1044

ACQUISITION, OPERATION, AND MAINTENANCE OF BUILDINGS ABROAD

For necessary expenses for carrying out the Foreign Service Buildings Act of 1926, as amended (22 U.S.C. 292-300), \$211,000,000, to remain available until expended.

ACQUISITION, OPERATION, AND MAINTENANCE OF BUILDINGS ABROAD
(SPECIAL FOREIGN CURRENCY PROGRAM)

For payments in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States for the purposes authorized by section 4 of the Foreign Service Buildings Act of 1926, as amended (22 U.S.C. 295), \$19,353,000, to remain available until expended.

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

For expenses necessary to enable the Secretary of State to meet unforeseen emergencies arising in the Diplomatic and Consular Service, to be expended pursuant to the requirement of 31 U.S.C. 3526(e), \$4,000,000.

PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN

For necessary expenses to carry out the Taiwan Relations Act, Public Law 96-8 (93 Stat. 14), \$9,800,000. 22 USC 3301 note.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the Foreign Service Retirement and Disability Fund, as authorized by law, \$106,738,000.

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties, conventions, or specific Acts of Congress, \$501,667,200: *Provided*, That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by such organization for loans incurred on or after October 1, 1984, through external borrowings. 22 USC 269a note.

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For payments, not otherwise provided for, by the United States for expenses of the United Nations peacekeeping forces, \$47,400,000.

INTERNATIONAL CONFERENCES AND CONTINGENCIES

For necessary expenses authorized by section 5 of the State Department Basic Authorities Act of 1956, contributions for the United States share of general expenses of international organizations and representation to such organizations, and personal services without regard to civil service and classification laws, \$10,000,000 to remain available until expended, of which not to exceed \$207,000 may be expended for representation as authorized by law. 22 USC 2672

INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for, to meet obligations of the United States arising under treaties, conventions, or specific Acts of Congress, as follows:

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

22 USC 269a
note.

For necessary expenses for the United States Section of the United States and Mexico International Boundary and Water Commission, and to comply with laws applicable to the United States Section; and leasing of private property to remove therefrom sand, gravel, stone, and other materials, without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5); as follows:

SALARIES AND EXPENSES

For salaries and expenses, not otherwise provided for, including preliminary surveys, \$12,000,000: *Provided*, That expenditures for the Rio Grande bank protection project shall be subject to the provisions and conditions contained in the appropriation for said project as provided by the Act approved April 25, 1945 (59 Stat. 89): *Provided further*, That the Anzalduas diversion dam shall not be operated for irrigation or water supply purposes in the United States unless suitable arrangements have been made with the prospective water users for repayment to the Government of such portions of the cost of said dam as shall have been allocated to such purposes by the Secretary of State: *Provided further*, That not to exceed \$1,800,000 of the amount appropriated in this paragraph shall be available for reimbursement of the city of San Diego, in the State of California, for expenses incurred in treating domestic sewage received from the city of Tijuana, in the State of Baja California, Mexico.

CONSTRUCTION

For detailed plan preparation and construction of authorized projects, to remain available until expended, \$2,400,000.

AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for, \$3,685,000; for the International Joint Commission, including salaries and expenses of the Commissioners on the part of the United States who shall serve at the pleasure of the President; salaries of employees appointed by the Commissioners on the part of the United States with the approval solely of the Secretary of State; travel expenses and compensation of witnesses; not to exceed \$3,000 for representation; and the International Boundary Commission, for necessary expenses, not otherwise provided for, including expenses required by awards to the Alaskan Boundary Tribunal and existing treaties between the United States and Canada or Great Britain.

INTERNATIONAL FISHERIES COMMISSIONS

For necessary expenses for international fisheries commissions, not otherwise provided for, \$9,100,000: *Provided*, That the United

States share of such expenses may be advanced to the respective commissions.

OTHER

PAYMENT TO THE ASIA FOUNDATION

For a grant to the Asia Foundation, \$9,600,000, to remain available until expended.

SOVIET-EAST EUROPEAN RESEARCH AND TRAINING

For expenses not otherwise provided to enable the Secretary of State to reimburse private firms and American institutions of higher education for research contracts and graduate training for development and maintenance of knowledge about the Soviet Union and Eastern European countries, \$4,800,000.

CONTRIBUTION TO UNITED STATES-INDIA FUND FOR CULTURAL, EDUCATIONAL, AND SCIENTIFIC COOPERATION

There is hereby provided to the President \$110,000,000 worth of Indian rupees, which are owned by the United States in India or owed to the United States by the Government of India, for investment by the Treasury to generate earnings which shall be available to the United States-India Fund for Cultural, Educational, and Scientific Cooperation as authorized by title IX of Public Law 98-164.

97 Stat. 1051.
22 USC 290j
note.

GENERAL PROVISIONS—DEPARTMENT OF STATE

SEC. 301. None of the funds appropriated in this title shall be used (1) to pay the United States contribution to any international organization which engages in the direct or indirect promotion of the principle or doctrine of one world government or one world citizenship; (2) for the promotion, direct or indirect, of the principle or doctrine of one world government or one world citizenship.

SEC. 302. Funds appropriated under this title shall be available for expenses of international arbitrations and other proceedings for the international resolution of disputes arising under treaties or other international agreements, including international air transport agreements, and arbitrations arising under contracts authorized by law for the performance of services or acquisition of property abroad.

SEC. 303. Funds appropriated under this title shall be available, except as otherwise provided, for salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980 (94 Stat. 2071); allowances and differentials as authorized by subchapter III of chapter 59 of 5 U.S.C.; services as authorized by 5 U.S.C. 3109; expenses as authorized by section 2 (a), (c), and (e) of the State Department Basic Authorities Act of 1956; and hire of passenger or freight transportation.

22 USC 3901
note.
5 USC 5921.
22 USC 2669

RELATED AGENCIES

ARMS CONTROL AND DISARMAMENT AGENCY

ARMS CONTROL AND DISARMAMENT ACTIVITIES

For necessary expenses, not otherwise provided for, for arms control and disarmament activities, including not to exceed \$28,000 for official reception and representation expenses, authorized by the Act of September 26, 1961, as amended (22 U.S.C. 2551 et seq.), \$19,468,000.

BOARD FOR INTERNATIONAL BROADCASTING

GRANTS AND EXPENSES

22 USC 2873
note.

For expenses of the Board for International Broadcasting, including grants to RFE/RL, Inc., \$97,498,000, of which not to exceed \$52,000 may be made available for official reception and representation expenses: *Provided*, That not to exceed \$15,000 shall be available for engineering consultant fees, and no such fees shall be paid after January 1, 1985 at any time the Board's Director of Engineering position is vacant.

COMMISSION ON SECURITY AND COOPERATION IN EUROPE

SALARIES AND EXPENSES

22 USC 3007.

For expenses necessary for the Commission on Security and Cooperation in Europe, as authorized by Public Law 94-304, \$550,000 to remain available until expended: *Provided*, That not to exceed \$6,000 of such amount shall be available for official reception and representation expenses

JAPAN-UNITED STATES FRIENDSHIP COMMISSION

JAPAN-UNITED STATES FRIENDSHIP TRUST FUND

22 USC 2901
note.

For expenses of the Japan-United States Friendship Commission as authorized by Public Law 94-118, as amended, from the interest earned on the Japan-United States Friendship Trust Fund, \$1,600,000, to remain available until expended; and an amount of Japanese currency not to exceed the equivalent of \$1,200,000 based on exchange rates at the time of payment of such amounts, to remain available until expended: *Provided*, That not to exceed a total of \$2,500 of such amounts shall be available for official reception and representation expenses.

UNITED STATES INFORMATION AGENCY

SALARIES AND EXPENSES

3 CFR 1977
comp., p. 200.

For expenses, not otherwise provided for, necessary to enable the United States Information Agency, as authorized by Reorganization Plan No. 2 of 1977, the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2451 et seq.), and the United States Information and Educational Exchange Act, as amended (22 U.S.C. 1431 et seq.), to carry out international communication, educational and cultural activities, including employment, without regard to

civil service and classification laws, of persons on a temporary basis (not to exceed \$270,000, of which \$250,000 is to facilitate United States participation in international expositions abroad); expenses authorized by the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.), living quarters as authorized by 5 U.S.C. 5912, and allowances as authorized by 5 U.S.C. 5921-5928; and entertainment, including official receptions, within the United States, not to exceed \$20,000; \$545,856,000: *Provided*, That not to exceed \$7,303,000 of the amounts allocated by the United States Information Agency to carry out section 102(a)(3) of the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2452(a)(3)), shall remain available until expended: *Provided further*, That not to exceed \$18,500,000 of the foregoing appropriation shall be available for grants to the National Endowment for Democracy as authorized by the National Endowment for Democracy Act: *Provided further*, That not to exceed \$674,000 of the foregoing appropriation may be used for representation abroad: *Provided further*, That receipts not to exceed \$500,000 may be credited to this appropriation from fees or other payments received from or in connection with English-teaching programs as authorized by section 810 of Public Law 80-402, as amended.

22 USC 1475e.

SALARIES AND EXPENSES (SPECIAL FOREIGN CURRENCY PROGRAM)

For payments in foreign currencies which the Department of the Treasury determines to be excess to the normal requirements of the United States, for necessary expenses of the United States Information Agency, as authorized by law, \$8,000,000, to remain available until expended.

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

For expenses of Fulbright, International Visitor, Humphrey Fellowship and Congress-Bundestag Exchange Programs, as authorized by Reorganization Plan No. 2 of 1977 and the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2451 et seq.), \$121,352,000. For the Private Sector Exchange Programs, \$8,648,000, of which \$1,500,000, to remain available until expended, is for the Eisenhower Exchange Fellowship Program.

3 CFR 1977
comp., p. 200.

ACQUISITION AND CONSTRUCTION OF RADIO FACILITIES

For an additional amount for the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio transmission and reception, \$85,000,000, to remain available until expended.

RADIO BROADCASTING TO CUBA

For an additional amount, necessary to enable the United States Information Agency to carry out the Radio Broadcasting to Cuba Act (providing for the Radio Marti program or Cuba Service of the Voice of America), including the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio transmission and reception, \$8,500,000, to remain available until expended.

CENTER FOR CULTURAL AND TECHNICAL INTERCHANGE BETWEEN EAST
AND WEST

22 USC 2054
note.

68 Stat. 954.

To enable the Director of the United States Information Agency to provide for carrying out the provisions of the Center for Cultural and Technical Interchange Between East and West Act of 1960, by grant to any appropriate recipient in the State of Hawaii, \$19,000,000: *Provided*, That none of the funds appropriated herein shall be used to pay any salary, or to enter into any contract providing the payment thereof, in excess of the highest rate authorized in the General Schedule of the Classification Act of 1949, as amended.

ADMINISTRATIVE PROVISION

None of the funds provided in this Act for the United States Information Agency shall be awarded to the National Democratic Institute for International Affairs, the National Republican Institute for International Affairs, or any other organization connected in any manner with any political party operating in the United States.

This title may be cited as the "Department of State and Related Agencies Appropriation Act, 1985".

Judiciary
Appropriation
Act, 1985.

TITLE IV—THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

SALARIES AND EXPENSES

For expenses necessary for the operation of the Supreme Court, as required by law, excluding care of the building and grounds, including purchase, or hire, driving, maintenance and operation of an automobile for the Chief Justice, hire of passenger motor vehicles; not to exceed \$10,000 for official reception and representation expenses; and for miscellaneous expenses, to be expended as the Chief Justice may approve; \$14,143,000.

CARE OF THE BUILDING AND GROUNDS

For such expenditures as may be necessary to enable the Architect of the Capitol to carry out the duties imposed upon him by the Act approved May 7, 1934 (40 U.S.C. 13a-13b), including improvements, maintenance, repairs, equipment, supplies, materials, and appurtenances; special clothing for workmen; and personal and other services (including temporary labor without regard to the Classification and Retirement Acts, as amended), and for snow removal by hire of men and equipment or under contract without compliance with section 3709 of the Revised Statutes, as amended (41 U.S.C. 5); \$2,242,000, of which \$275,000 shall remain available until expended.

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

SALARIES AND EXPENSES

For salaries of the chief judge, judges, and other officers and employees, and for all necessary expenses of the court, \$5,150,000.

UNITED STATES COURT OF INTERNATIONAL TRADE

SALARIES AND EXPENSES

For salaries of the chief judge and eight judges; salaries of the officers and employees of the court; services as authorized by 5 U.S.C. 3109; and necessary expenses of the court, including exchange of books and traveling expenses, as may be approved by the court; \$6,070,000: *Provided*, That travel expenses of judges of the Court of International Trade shall be paid upon written certificate of the judge.

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES OF JUDGES

For salaries of circuit judges; district judges (including judges of the district courts of the Virgin Islands, Guam, and the Northern Mariana Islands); judges of the United States Claims Court; and justices and judges retired or resigned under title 28, United States Code, sections 371, 372, and 373; \$74,540,000.

SALARIES OF SUPPORTING PERSONNEL

For the salaries of secretaries and law clerks to circuit and district judges, magistrates and staff, circuit executives, clerks of court, probation officers, pretrial service officers, staff attorneys, librarians, the supporting personnel of the United States Claims Court, and all other officers and employees of the Federal Judiciary, not otherwise specifically provided for, \$370,228,000: *Provided*, That the secretaries and law clerks to circuit and district judges shall be appointed in such number and at such rates of compensation as may be determined by the Judicial Conference of the United States: *Provided further*, That the number of staff attorneys to be appointed in each of the courts of appeals shall not exceed the ratio of one attorney for each authorized judgeship.

28 USC 604 note.

DEFENDER SERVICES

For the operation of Federal Public Defender and Community Defender organizations, the compensation and reimbursement of expenses of attorneys appointed to represent persons under the Criminal Justice Act of 1964, as amended, and the compensation of attorneys appointed to represent jurors in civil actions for the protection of their employment, as authorized by law; \$42,000,000, to remain available until expended.

18 USC 3006A note.

FEES OF JURORS AND COMMISSIONERS

For fees and expenses and refreshments of jurors; compensation of jury commissioners; and compensation of commissioners appointed in condemnation cases pursuant to Rule 71A(h) of the Federal Rules of Civil Procedure; \$42,000,000, to remain available until expended: *Provided*, That the compensation of land commissioners shall not exceed the daily equivalent of the highest rate payable under section 5332 of title 5, United States Code.

28 USC app.

EXPENSES OF OPERATION AND MAINTENANCE OF THE COURTS

For necessary operation and maintenance expenses, not otherwise provided for, incurred by the Judiciary, including the purchase of firearms and ammunition, \$101,500,000, of which \$5,500,000 shall be available for contractual services and expenses relating to the supervision of drug dependent offenders.

BANKRUPTCY COURTS, SALARIES AND EXPENSES

For salaries and expenses of the judges and other officers and employees of the Bankruptcy Courts of the United States, not otherwise provided for, \$116,950,000.

SPACE AND FACILITIES

For rental of space, alterations, and related services and facilities for the United States Courts of Appeals, District Courts, Bankruptcy Courts, and Claims Court, \$140,000,000.

COURT SECURITY

For necessary expenses, not otherwise provided for, incident to the procurement, installation, and maintenance of security equipment and protective services for the United States Courts in courtrooms and adjacent areas, including building ingress-egress control, inspection of packages, directed security patrols, and other similar activities; \$25,500,000, to be expended directly or transferred to the United States Marshals Service which shall be responsible for administering elements of the Judicial Security Program consistent with standards or guidelines agreed to by the Director of the Administrative Office of the United States Courts and the Attorney General.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS**SALARIES AND EXPENSES**

For necessary expenses of the Administrative Office of the United States Courts, including travel, advertising, hire of a passenger motor vehicle, and rent in the District of Columbia and elsewhere, \$28,250,000, of which an amount not to exceed \$5,000 is authorized for official reception and representation expenses.

FEDERAL JUDICIAL CENTER**SALARIES AND EXPENSES**

28 USC 620-628. For necessary expenses of the Federal Judicial Center, as authorized by Public Law 90-219, \$9,330,000.

GENERAL PROVISIONS—THE JUDICIARY

SEC. 401. Appropriations and authorizations made in this title which are available for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

SEC. 402. Appropriations made in this title shall be available for salaries and expenses of the Temporary Emergency Court of Appeals authorized by Public Law 92-210.

85 Stat. 743.

SEC. 403. The position of trustee coordinator in the Bankruptcy Courts of the United States shall not be limited to persons with formal legal training.

SEC. 404. Notwithstanding any other provision of law, the Administrative Office of the United States Courts, or any other agency or instrumentality of the United States, is prohibited from restricting solely to staff of the Clerks of the United States Bankruptcy Courts the issuance of notices to creditors and other interested parties. The Administrative Office shall permit and encourage the preparation and mailing of such notices to be performed by or at the expense of the debtors, trustees or such other interested parties as the Court may direct and approve. The Administrator of the United States Courts shall make appropriate provisions for the use of and accounting for any postage required pursuant to such directives. The provisions of this paragraph shall terminate on October 1, 1985.

Termination date.

This title may be cited as the "Judiciary Appropriation Act, 1985".

TITLE V—GENERAL PROVISIONS

SEC. 501. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 502. No part of any appropriation contained in this Act shall be used to administer any program (except the United States-India Fund for Cultural, Educational, and Scientific Cooperation under title IX of Public Law 98-164) which is funded in whole or in part from foreign currencies or credits for which a specific dollar appropriation therefor has not been made.

Foreign currencies.

97 Stat. 1051.
22 USC 290j note.

SEC. 503. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 504. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

Contracts with U.S.

SEC. 505. None of the funds appropriated or otherwise made available by this Act shall be available to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

SEC. 506. No funds appropriated under this Act may be used for any action by the Attorney General or by the Secretary of State which is not in compliance with the provisions of the Refugee Act of 1980.

8 USC 1101 note.
Provisions held invalid.

SEC. 507. If any provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

SEC. 508. None of the funds in this Act shall be available for payment of that portion of Standard Level User Charges (SLUC) for space owned by the Government of the United States that is in

Standard Level User Charges (SLUC).

excess of a 7 per centum rate increase over such charges in fiscal year 1984.

SEC. 509. (a) None of the funds provided under this Act shall be available for obligation or expenditure through a reprogramming of funds which: (1) creates new programs; (2) eliminates a program, project, or activity; (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (4) relocates an office or employees; (5) reorganizes offices, programs, or activities; or (6) contracts out any functions or activities presently performed by Federal employees; unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

(b) None of the funds provided under this Act shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of \$250,000 or 10 per centum, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 per centum funding for any existing program, project, or activity, or numbers of personnel by 10 per centum as approved by Congress; or (3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress, unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

Antitrust
actions.

SEC. 510. None of the funds appropriated or otherwise made available by this Act to the Federal Trade Commission, unless specifically authorized by law hereafter, may be obligated or expended to issue, implement, administer, conduct or enforce any antitrust action against a municipality or other unit of local government, except that this limitation shall not apply to private antitrust actions.

Reductions.

SEC. 511. The amount appropriated in this Act for each appropriation account listed in this section is reduced as follows: "Salaries and Expenses, Antitrust Division", \$1,000,000; "International Conferences and Contingencies", \$400,000; and "International Boundary and Water Commission, United States and Mexico, Salaries and Expenses", \$400,000.

97 Stat. 752.
22 USC 1465e

SEC. 512. Section 7(b) of the Radio Broadcasting to Cuba Act is amended in the second sentence by striking out "(replaced less" and inserting in lieu thereof "replaced (less)".

Agriculture and
agricultural
commodities.
Guatemalan
refugees.
Mexico.

SEC. 513. It is the sense of the Congress, that in cooperation with the Government of Mexico, the newly enacted authority under section 416 of the Agricultural Act dealing with United States surplus wheat and dairy products shall be used on an expedited basis to make these commodities available to help feed the Guatemalan refugees in Mexico.

SEC. 514. None of the funds appropriated or made available by this Act may be used to enforce or give effect to any restriction on the export of unprocessed western red cedar harvested from State lands pursuant to a harvesting contract entered into prior to October 1, 1979.

Forests and
forest products.
50 USC app. 2406
note.

This Act may be cited as the “Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1985”.

Approved August 30, 1984.

LEGISLATIVE HISTORY: H.R. 5712:

HOUSE REPORTS: No. 98-802 (Comm. on Appropriations) and No. 98-952 (Comm. of Conference).

SENATE REPORT No. 98-514 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 130 (1984):

May 31, considered and passed House.

June 28, considered and passed Senate, amended.

Aug. 8, House agreed to conference report, receded and concurred in certain Senate amendments and in others with amendments.

Aug 9, Senate agreed to conference report, receded and concurred in House amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol 20, No. 35 (1984):

Aug. 30, Presidential statement.

Public Law 98-412
98th Congress

Joint Resolution

Aug. 30, 1984
[H.J. Res. 600]

To amend the Agriculture and Food Act of 1981 to provide for the establishment of a commission to study and make recommendations concerning agriculture-related trade and export policies, programs, and practices of the United States.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That title XII of the Agriculture and Food Act of 1981 is amended by inserting after subtitle B a new subtitle C as follows:

Agricultural
Trade and
Export Policy
Commission Act.

“SUBTITLE C—AGRICULTURAL TRADE AND EXPORT POLICY
COMMISSION ACT

“SHORT TITLE

7 USC 1691 note.

“SEC. 1217. This subtitle may be cited as the ‘Agricultural Trade and Export Policy Commission Act’.

“FINDINGS AND DECLARATION OF POLICY

7 USC 1691 note.

“SEC. 1218. (a) Congress finds that—

“(1) the economic well-being of the Nation’s agricultural industry is directly related to its ability to compete in international markets; and

“(2) a thorough examination of agriculture-related trade and export policies, programs, and practices of the United States is needed to ensure that such policies, programs, and practices increase the competitiveness of United States agricultural commodities and products in international markets.

“(b) It is hereby declared to be the policy of Congress to expand international trade in United States agricultural commodities and products and to develop, maintain, and expand markets for United States agricultural exports.

“ESTABLISHMENT

National
Commission on
Agricultural
Trade and
Export Policy,
establishment.
7 USC 1291 note.
President of U.S.

“SEC. 1219. (a) There is established a National Commission on Agricultural Trade and Export Policy to conduct a study of the agriculture-related trade and export policies, programs, and practices of the United States.

“(b) In addition to the ex officio congressional members specified in subsection (c) of this section, the Commission shall be composed of twenty-three members appointed or designated by the President and selected as follows:

“(1) The President shall select three members from among officers or employees of the Executive branch who shall serve in an ex officio capacity without voting rights; and

“(2) The President pro tempore of the Senate and the Speaker of the House of Representatives shall each select ten members from among private citizens of the United States to represent industries that are directly affected by agriculture-related trade

and export policies, programs, and practices of the United States, including, but not limited to, the following:

“(A) producers of major agricultural commodities in the United States;

“(B) processors or refiners of United States agricultural commodities;

“(C) exporters, transporters, or shippers of United States agricultural commodities and products to foreign countries;

“(D) suppliers of production equipment or materials to United States farmers;

“(E) providers of financing or credit for domestic and export agricultural purposes; and

“(F) organizations representing general farm and rural interests in the United States.

“(c) The chairmen and ranking minority members of the House Committee on Agriculture, the Senate Committee on Agriculture, Nutrition, and Forestry, the House Committee on Foreign Affairs, the Senate Committee on Foreign Relations, the House Committee on Ways and Means, and the Senate Committee on Finance shall serve as ex officio members of the Commission and shall have the same voting rights as the members of the Commission selected and appointed under the provisions of subsection (b)(2) of this section. The chairmen and ranking minority members may designate other members of their respective committees to serve in their stead as members of the Commission.

“(d) A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

“(e) The Commission shall elect a chairman from among the members of the Commission who are selected and appointed under the provisions of subsection (b)(2) of this section.

“(f) The Commission shall meet at the call of the chairman or a majority of the Commission.

“CONDUCT OF STUDY

“SEC. 1220. The Commission shall study the agriculture-related trade and export policies, programs, and practices of the United States and the international and domestic factors affecting such policies, programs, and practices, including the intergovernmental activities of the United States that affect the formulation of policies. In conducting the study, the Commission shall consider, among other things, the following:

7 USC 1691 note.

“(1) the effectiveness of existing agricultural export assistance programs, and the manner in which they can be improved;

“(2) new export assistance programs that should be considered, and the conditions under which they can be implemented;

“(3) practices of foreign countries that impede the export of United States agricultural commodities and products, and appropriate responses for the United States;

“(4) the effectiveness of the trade agreements program of the United States with respect to agriculture-related trade and exports, and the manner in which it can be improved;

“(5) international economic trends that affect agricultural exports, and the manner in which the United States can best adjust its policies, programs, and practices to meet changing economic conditions;

“(6) potential areas of conflict and compatibility between international agricultural trade and foreign food assistance programs, and the manner in which any conflict can be resolved; and

“(7) the relationship between international agricultural trade and foreign economic development and food programs, and the manner in which they can be made more compatible.

“RECOMMENDATIONS AND REPORTS

7 USC 1691 note.

“SEC. 1221. (a) On the basis of its study, the Commission shall make findings and develop recommendations for consideration by the President and Congress with respect to the agriculture-related trade and export policies, programs, and practices of the United States, and the manner in which such policies, programs, and practices can be improved to better develop, maintain, and expand markets for United States agricultural exports.

“(b) The Commission shall submit to the President and Congress—

“(1) a report containing its initial findings and recommendations by March 31, 1985,

“(2) such additional interim reports on its work as may be requested by the chairman of any of the Committees set forth in section 1219(c) of this subtitle, and

“(3) a report containing the final results of its study and its recommendations therefrom by July 1, 1986.

“ADMINISTRATION

7 USC 1691 note.

“SEC. 1222. (a) The heads of Executive agencies, the General Accounting Office, the International Trade Commission, and the Congressional Budget Office shall, to the extent permitted by law, provide the Commission such information as it may require in carrying out its duties and functions.

“(b) Members of the Commission shall serve without any additional compensation for work on the Commission. However, members appointed from among private citizens of the United States may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the government service under sections 5701 through 5707 of title 5, United States Code.

“(c) To the extent there are sufficient funds available to the Commission in advance under section 1223 of this subtitle, and subject to such rules as may be adopted by the Commission, the chairman, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, shall have the power to—

“(1) appoint and fix the compensation of a director; and

“(2) appoint and fix the compensation of such additional staff personnel as the Commission determines necessary to carry out its duties and functions.

“(d) Upon request of the Commission, the Secretary of Agriculture shall furnish the Commission with such personnel and support services as are necessary to assist the Commission in carrying out its duties and functions.

5 USC 5101 *et seq.*, 5331.

“(e) Upon request of the Commission, the heads of other Executive agencies and the General Accounting Office are each authorized to furnish the Commission with such personnel and support services as the head of the agency or office and the chairman of the Commission agree are necessary to assist the Commission in carrying out its duties and functions.

“(f) The Commission shall not be required to pay or reimburse any agency or office for personnel and support services provided under this section.

“(g) In accordance with section 12 of the Federal Advisory Committee Act, the Secretary of Agriculture shall maintain such financial records as will fully disclose the disposition of any funds that may be at the disposal of the Commission and the nature and extent of its activities, and the Comptroller General of the United States, or any of the Comptroller General’s authorized representatives, shall have access to such records for the purpose of audit and examination. 5 USC app.

“(h) The Commission shall be exempt from section 7(d), section 10(e), section 10(f), and section 14 of the Federal Advisory Committee Act. 5 USC app.

“(i) The Commission shall be exempt from the requirements of sections 4301 through 4305 of title 5, United States Code.

“PUBLIC SUPPORT

“SEC. 1223. (a) Following the appointment or designation of the members of the Commission, notwithstanding the provisions of section 1342 of title 31, United States Code, the Secretary of Agriculture may receive, from persons, corporations, foundations, and all other groups and entities within the United States, contributions of money and services to assist the Commission in carrying out its duties and functions. Any money contributed under this section shall be available to the Commission for the payment of salaries, travel expenses, per diem, and other expenses incurred by the Commission under this subtitle. In no event may the contributions from any one person, corporation, foundation, or other group or entity exceed 5 per centum of the Commission’s total budget. 7 USC 1691 note.

“(b) If the contributions provided under subsection (a) are insufficient for payment of Commission salaries, travel expenses, per diem, and other expenses incurred by the Commission under this subtitle, the Secretary of Agriculture is authorized to use the funds of the Commodity Credit Corporation for such purposes in an amount not to exceed a total of \$1,000,000.

Public
availability

“(c) The Secretary of Agriculture shall keep, and shall make available for public inspection during normal business hours, records that fully disclose a complete list of every person, group, and entity making a contribution under this section, the address of the contributor, the amount and type of each such contribution, and the date the contribution was made.

“(d) Any amount of money available to the Commission under this section that remains unobligated upon termination of the Commission shall be deposited in the Treasury as miscellaneous receipts.

“TERMINATION

7 USC 1691 note.

“Sec. 1224. The Commission shall terminate sixty days after the transmission of its final report to the President and Congress.”.

Approved August 30, 1984.

LEGISLATIVE HISTORY—H.J. Res. 600 (H. Con. Res. 349):

HOUSE REPORT No. 98-956, Pt. 1 (Comm. on Agriculture).

CONGRESSIONAL RECORD, Vol. 130 (1984):

Aug. 6, considered and passed House.

Aug. 10, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 35 (1984):

Aug. 30, Presidential statement.

Public Law 98-413
98th Congress

Joint Resolution

Designating the week beginning September 23, 1984, as "National Adult Day Care Center Week".

Sept. 21, 1984
[H.J. Res. 505]

Whereas there are nearly eight hundred adult day care centers nationwide providing a safe and positive environment to partially disabled adults and senior citizens in need of daytime assistance and supervision;

Whereas adult day care centers provide necessary health maintenance functions and medical care, including medication monitoring, therapies, and health education, and are operated by professional staffs who identify the need for additional health services and make appropriate referrals;

Whereas adult day care centers provide opportunities for social interaction to otherwise isolated individuals and assist them in attaining and maintaining a maximum level of independence; and

Whereas these centers offer relief to families who otherwise must care for disabled elderly persons on a twenty-four-hour-per-day basis: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning September 23, 1984, is designated "National Adult Day Care Center Week". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate ceremonies and activities.

Approved September 21, 1984.

LEGISLATIVE HISTORY—H.J. Res. 505:

CONGRESSIONAL RECORD, Vol. 130 (1984):

Aug. 8, considered and passed House.

Sept. 17, considered and passed Senate.

Public Law 98-414
98th Congress

Joint Resolution

Sept. 24, 1984
[H.J. Res. 545]

Designating the week of September 16 through 22, 1984 as "Emergency Medicine Week".

Whereas emergency medical personnel throughout our Nation are specialists trained to handle life- or limb-threatening illnesses and injuries requiring immediate attention, and must be available 24 hours every day of the week to all patients who need medical aid; Whereas the emergency medical services system in the United States provides emergency health care to millions of citizens annually;

Whereas vast improvements in emergency medicine have been made in the past fifteen years, and emergency department personnel have completed extensive training and continuing education to keep up with these improvements;

Whereas the efforts of these trained men and women have saved thousands of lives; and

Whereas the observance of "Emergency Medicine Week" will educate our citizens about emergency medicine: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of September 16 through 22, 1984 is designated "Emergency Medicine Week". The President is requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate ceremonies and activities.

Approved September 24, 1984.

LEGISLATIVE HISTORY—H.J. Res. 545:

CONGRESSIONAL RECORD, Vol. 130 (1984):
Sept. 12, considered and passed House.
Sept. 20, considered and passed Senate.

Public Law 98-415
98th Congress

Joint Resolution

To designate September 21, 1984, as "World War I Aces and Aviators Day".

Sept. 24, 1984
[S.J. Res. 333]

Whereas World War I, the "war to end all wars" began seventy years ago;

Whereas that war spawned a new breed of warrior, the aviator, who engaged in single combat high above the conflict on the ground; Whereas these truly remarkable men defended the skies of Europe with valor and distinction;

Whereas some of these aviators achieved the title "Ace" by gaining at least five confirmed victories over opponents in the air;

Whereas there are only about sixty known surviving Aces of World War I, who meet periodically to share memories of a conflict familiar to many Americans only through recorded history;

Whereas all Americans should express their gratitude and respect for these gallant air warriors for their extraordinary feats in defense of liberty: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That September 21, 1984, is designated as "World War I Aces and Aviators Day" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate programs and activities.

Approved September 24, 1984.

LEGISLATIVE HISTORY—S.J. Res. 333:

CONGRESSIONAL RECORD, Vol. 130 (1984):

Aug. 10, considered and passed Senate.

Sept. 20, considered and passed House.

Public Law 98-416
98th Congress

Joint Resolution

Sept. 24, 1984
[S.J. Res. 340]

To designate the week of September 23, 1984 as "National Historically Black Colleges Week".

Whereas there are one hundred and three historically black colleges and universities in the United States;

Whereas they are providing the quality education so essential to full participation in our complex, highly technological society;

Whereas black colleges and universities have a rich heritage and have played a prominent role in American history;

Whereas these institutions have allowed many underprivileged students to attain their full potential through higher education; and

Whereas the achievements and goals of these historically black colleges are deserving of national recognition: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of September 23, 1984, is designated as "National Historically Black Colleges Week" and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States and interested groups to observe that week by engaging in appropriate ceremonies, activities, and programs, thereby showing their support of historically black colleges and universities in the United States.

Approved September 24, 1984.

LEGISLATIVE HISTORY—S.J. Res. 340:

CONGRESSIONAL RECORD, Vol. 130 (1984):

Aug. 10, considered and passed Senate.

Sept. 20, considered and passed House.

Public Law 98-417
98th Congress

An Act

To amend the Federal Food, Drug, and Cosmetic Act to revise the procedures for new drug applications, to amend title 35, United States Code, to authorize the extension of the patents for certain regulated products, and for other purposes.

Sept. 24, 1984
[S. 1538]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “Drug Price Competition and Patent Term Restoration Act of 1984”.

Drug Price
Competition and
Patent Term
Restoration Act
of 1984.
21 USC 301 note.

TITLE I—ABBREVIATED NEW DRUG APPLICATIONS

SEC. 101. Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) is amended by redesignating subsection (j) as subsection (k) and inserting after subsection (i) the following:

“(j)(1) Any person may file with the Secretary an abbreviated application for the approval of a new drug.

“(2)(A) An abbreviated application for a new drug shall contain—

Labeling.

“(i) information to show that the conditions of use prescribed, recommended, or suggested in the labeling proposed for the new drug have been previously approved for a drug listed under paragraph (6) (hereinafter in this subsection referred to as a ‘listed drug’);

“(ii)(I) if the listed drug referred to in clause (i) has only one active ingredient, information to show that the active ingredient of the new drug is the same as that of the listed drug;

“(II) if the listed drug referred to in clause (i) has more than one active ingredient, information to show that the active ingredients of the new drug are the same as those of the listed drug, or

“(III) if the listed drug referred to in clause (i) has more than one active ingredient and if one of the active ingredients of the new drug is different and the application is filed pursuant to the approval of a petition filed under subparagraph (C), information to show that the other active ingredients of the new drug are the same as the active ingredients of the listed drug, information to show that the different active ingredient is an active ingredient of a listed drug or of a drug which does not meet the requirements of section 201(p), and such other information respecting the different active ingredient with respect to which the petition was filed as the Secretary may require;

21 USC 321.

“(iii) information to show that the route of administration, the dosage form, and the strength of the new drug are the same as those of the listed drug referred to in clause (i) or, if the route of administration, the dosage form, or the strength of the new drug is different and the application is filed pursuant to the approval of a petition filed under subparagraph (C), such information respecting the route of administration, dosage form, or strength with respect to which the petition was filed as the Secretary may require;

“(iv) information to show that the new drug is bioequivalent to the listed drug referred to in clause (i), except that if the application is filed pursuant to the approval of a petition filed under subparagraph (C), information to show that the active ingredients of the new drug are of the same pharmacological or therapeutic class as those of the listed drug referred to in clause (i) and the new drug can be expected to have the same therapeutic effect as the listed drug when administered to patients for a condition of use referred to in clause (i);

“(v) information to show that the labeling proposed for the new drug is the same as the labeling approved for the listed drug referred to in clause (i) except for changes required because of differences approved under a petition filed under subparagraph (C) or because the new drug and the listed drug are produced or distributed by different manufacturers;

“(vi) the items specified in clauses (B) through (F) of subsection (b)(1);

Claims.

“(vii) a certification, in the opinion of the applicant and to the best of his knowledge, with respect to each patent which claims the listed drug referred to in clause (i) or which claims a use for such listed drug for which the applicant is seeking approval under this subsection and for which information is required to be filed under subsection (b) or (c)—

“(I) that such patent information has not been filed,

“(II) that such patent has expired,

“(III) of the date on which such patent will expire, or

“(IV) that such patent is invalid or will not be infringed

by the manufacture, use, or sale of the new drug for which the application is submitted; and

“(viii) if with respect to the listed drug referred to in clause (i) information was filed under subsection (b) or (c) for a method of use patent which does not claim a use for which the applicant is seeking approval under this subsection, a statement that the method of use patent does not claim such a use.

Prohibition.

The Secretary may not require that an abbreviated application contain information in addition to that required by clauses (i) through (viii).

“(B)(i) An applicant who makes a certification described in subparagraph (A)(vii)(IV) shall include in the application a statement that the applicant will give the notice required by clause (ii) to—

“(I) each owner of the patent which is the subject of the certification or the representative of such owner designated to receive such notice, and

Claims.

“(II) the holder of the approved application under subsection (b) for the drug which is claimed by the patent or a use of which is claimed by the patent or the representative of such holder designated to receive such notice.

Marketing.

“(ii) The notice referred to in clause (i) shall state that an application, which contains data from bioavailability or bioequivalence studies, has been submitted under this subsection for the drug with respect to which the certification is made to obtain approval to engage in the commercial manufacture, use, or sale of such drug before the expiration of the patent referred to in the certification. Such notice shall include a detailed statement of the factual and legal basis of the applicant's opinion that the patent is not valid or will not be infringed.

“(iii) If an application is amended to include a certification described in subparagraph (A)(vii)(IV), the notice required by clause (ii) shall be given when the amended application is submitted.

“(C) If a person wants to submit an abbreviated application for a new drug which has a different active ingredient or whose route of administration, dosage form, or strength differ from that of a listed drug, such person shall submit a petition to the Secretary seeking permission to file such an application. The Secretary shall approve or disapprove a petition submitted under this subparagraph within ninety days of the date the petition is submitted. The Secretary shall approve such a petition unless the Secretary finds—

“(i) that investigations must be conducted to show the safety and effectiveness of the drug or of any of its active ingredients, the route of administration, the dosage form, or strength which differ from the listed drug; or

“(ii) that any drug with a different active ingredient may not be adequately evaluated for approval as safe and effective on the basis of the information required to be submitted in an abbreviated application.

“(3) Subject to paragraph (4), the Secretary shall approve an application for a drug unless the Secretary finds—

“(A) the methods used in, or the facilities and controls used for, the manufacture, processing, and packing of the drug are inadequate to assure and preserve its identity, strength, quality, and purity;

“(B) information submitted with the application is insufficient to show that each of the proposed conditions of use have been previously approved for the listed drug referred to in the application;

“(C)(i) if the listed drug has only one active ingredient, information submitted with the application is insufficient to show that the active ingredient is the same as that of the listed drug;

“(ii) if the listed drug has more than one active ingredient, information submitted with the application is insufficient to show that the active ingredients are the same as the active ingredients of the listed drug, or

“(iii) if the listed drug has more than one active ingredient and if the application is for a drug which has an active ingredient different from the listed drug, information submitted with the application is insufficient to show—

“(I) that the other active ingredients are the same as the active ingredients of the listed drug, or

“(II) that the different active ingredient is an active ingredient of a listed drug or a drug which does not meet the requirements of section 201(p),

or no petition to file an application for the drug with the different ingredient was approved under paragraph (2)(C);

“(D)(i) if the application is for a drug whose route of administration, dosage form, or strength of the drug is the same as the route of administration, dosage form, or strength of the listed drug referred to in the application, information submitted in the application is insufficient to show that the route of administration, dosage form, or strength is the same as that of the listed drug, or

“(ii) if the application is for a drug whose route of administration, dosage form, or strength of the drug is different from that of the listed drug referred to in the application, no petition to

file an application for the drug with the different route of administration, dosage form, or strength was approved under paragraph (2)(C);

“(E) if the application was filed pursuant to the approval of a petition under paragraph (2)(C), the application did not contain the information required by the Secretary respecting the active ingredient, route of administration, dosage form, or strength which is not the same;

“(F) information submitted in the application is insufficient to show that the drug is bioequivalent to the listed drug referred to in the application or, if the application was filed pursuant to a petition approved under paragraph (2)(C), information submitted in the application is insufficient to show that the active ingredients of the new drug are of the same pharmacological or therapeutic class as those of the listed drug referred to in paragraph (2)(A)(i) and that the new drug can be expected to have the same therapeutic effect as the listed drug when administered to patients for a condition of use referred to in such paragraph;

Labeling.

“(G) information submitted in the application is insufficient to show that the labeling proposed for the drug is the same as the labeling approved for the listed drug referred to in the application except for changes required because of differences approved under a petition filed under paragraph (2)(C) or because the drug and the listed drug are produced or distributed by different manufacturers;

“(H) information submitted in the application or any other information available to the Secretary shows that (i) the inactive ingredients of the drug are unsafe for use under the conditions prescribed, recommended, or suggested in the labeling proposed for the drug, or (ii) the composition of the drug is unsafe under such conditions because of the type or quantity of inactive ingredients included or the manner in which the inactive ingredients are included;

“(I) the approval under subsection (c) of the listed drug referred to in the application under this subsection has been withdrawn or suspended for grounds described in the first sentence of subsection (e), the Secretary has published a notice of opportunity for hearing to withdraw approval of the listed drug under subsection (c) for grounds described in the first sentence of subsection (e), the approval under this subsection of the listed drug referred to in the application under this subsection has been withdrawn or suspended under paragraph (5), or the Secretary has determined that the listed drug has been withdrawn from sale for safety or effectiveness reasons;

“(J) the application does not meet any other requirement of paragraph (2)(A); or

“(K) the application contains an untrue statement of material fact.

“(4)(A) Within one hundred and eighty days of the initial receipt of an application under paragraph (2) or within such additional period as may be agreed upon by the Secretary and the applicant, the Secretary shall approve or disapprove the application.

Effective dates.

“(B) The approval of an application submitted under paragraph (2) shall be made effective on the last applicable date determined under the following:

“(i) If the applicant only made a certification described in subclause (I) or (II) of paragraph (2)(A)(vii) or in both such subclauses, the approval may be made effective immediately.

“(ii) If the applicant made a certification described in subclause (III) of paragraph (2)(A)(vii), the approval may be made effective on the date certified under subclause (III).

“(iii) If the applicant made a certification described in subclause (IV) of paragraph (2)(A)(vii), the approval shall be made effective immediately unless an action is brought for infringement of a patent which is the subject of the certification before the expiration of forty-five days from the date the notice provided under paragraph (2)(B)(i) is received. If such an action is brought before the expiration of such days, the approval shall be made effective upon the expiration of the thirty-month period beginning on the date of the receipt of the notice provided under paragraph (2)(B)(i) or such shorter or longer period as the court may order because either party to the action failed to reasonably cooperate in expediting the action, except that—

“(I) if before the expiration of such period the court decides that such patent is invalid or not infringed, the approval shall be made effective on the date of the court decision,

“(II) if before the expiration of such period the court decides that such patent has been infringed, the approval shall be made effective on such date as the court orders under section 271(e)(4)(A) of title 35, United States Code, or

“(III) if before the expiration of such period the court grants a preliminary injunction prohibiting the applicant from engaging in the commercial manufacture or sale of the drug until the court decides the issues of patent validity and infringement and if the court decides that such patent is invalid or not infringed, the approval shall be made effective on the date of such court decision.

In such an action, each of the parties shall reasonably cooperate in expediting the action. Until the expiration of forty-five days from the date the notice made under paragraph (2)(B)(i) is received, no action may be brought under section 2201 of title 28, United States Code, for a declaratory judgment with respect to the patent. Any action brought under section 2201 shall be brought in the judicial district where the defendant has its principal place of business or a regular and established place of business.

“(iv) If the application contains a certification described in subclause (IV) of paragraph (2)(A)(vii) and is for a drug for which a previous application has been submitted under this subsection continuing such a certification, the application shall be made effective not earlier than one hundred and eighty days after—

“(I) the date the Secretary receives notice from the applicant under the previous application of the first commercial marketing of the drug under the previous application, or

“(II) the date of a decision of a court in an action described in clause (iii) holding the patent which is the subject of the certification to be invalid or not infringed,

whichever is earlier.

“(C) If the Secretary decides to disapprove an application, the Secretary shall give the applicant notice of an opportunity for a

Claims.

Post, p. 1608.

Post, p. 1597.

Hearing
opportunity.

hearing before the Secretary on the question of whether such application is approvable. If the applicant elects to accept the opportunity for hearing by written request within thirty days after such notice, such hearing shall commence not more than ninety days after the expiration of such thirty days unless the Secretary and the applicant otherwise agree. Any such hearing shall thereafter be conducted on an expedited basis and the Secretary's order thereon shall be issued within ninety days after the date fixed by the Secretary for filing final briefs.

Prohibitions.

“(D)(i) If an application (other than an abbreviated new drug application) submitted under subsection (b) for a drug, no active ingredient (including any ester or salt of the active ingredient) of which has been approved in any other application under subsection (b), was approved during the period beginning January 1, 1982, and ending on the date of the enactment of this subsection, the Secretary may not make the approval of an application submitted under this subsection which refers to the drug for which the subsection (b) application was submitted effective before the expiration of ten years from the date of the approval of the application under subsection (b).

“(ii) If an application submitted under subsection (b) for a drug, no active ingredient (including any ester or salt of the active ingredient) of which has been approved in any other application under subsection (b), is approved after the date of the enactment of this subsection, no application may be submitted under this subsection which refers to the drug for which the subsection (b) application was submitted before the expiration of five years from the date of the approval of the application under subsection (b), except that such an application may be submitted under this subsection after the expiration of four years from the date of the approval of the subsection (b) application if it contains a certification of patent invalidity or noninfringement described in subclause (IV) of paragraph (2)(A)(vii). The approval of such an application shall be made effective in accordance with subparagraph (B) except that, if an action for patent infringement is commenced during the one-year period beginning forty-eight months after the date of the approval of the subsection (b) application, the thirty-month period referred to in subparagraph (B)(iii) shall be extended by such amount of time (if any) which is required for seven and one-half years to have elapsed from the date of approval of the subsection (b) application.

Claims.

“(iii) If an application submitted under subsection (b) for a drug, which includes an active ingredient (including any ester or salt of the active ingredient) that has been approved in another application approved under subsection (b), is approved after the date of enactment of this subsection and if such application contains reports of new clinical investigations (other than bioavailability studies) essential to the approval of the application and conducted or sponsored by the applicant, the Secretary may not make the approval of an application submitted under this subsection for the conditions of approval of such drug in the subsection (b) application effective before the expiration of three years from the date of the approval of the application under subsection (b) for such drug.

“(iv) If a supplement to an application approved under subsection (b) is approved after the date of enactment of this subsection and the supplement contains reports of new clinical investigations (other than bioavailability studies) essential to the approval of the supplement and conducted or sponsored by the person submitting the

supplement, the Secretary may not make the approval of an application submitted under this subsection for a change approved in the supplement effective before the expiration of three years from the date of the approval of the supplement under subsection (b).

“(v) If an application (or supplement to an application) submitted under subsection (b) for a drug, which includes an active ingredient (including any ester or salt of the active ingredient) that has been approved in another application under subsection (b), was approved during the period beginning January 1, 1982, and ending on the date of the enactment of this subsection, the Secretary may not make the approval of an application submitted under this subsection which refers to the drug for which the subsection (b) application was submitted or which refers to a change approved in a supplement to the subsection (b) application effective before the expiration of two years from the date of enactment of this subsection.

“(5) If a drug approved under this subsection refers in its approved application to a drug the approval of which was withdrawn or suspended for grounds described in the first sentence of subsection (e) or was withdrawn or suspended under this paragraph or which, as determined by the Secretary, has been withdrawn from sale for safety or effectiveness reasons, the approval of the drug under this subsection shall be withdrawn or suspended—

“(A) for the same period as the withdrawal or suspension under subsection (e) or this paragraph, or

“(B) if the listed drug has been withdrawn from sale, for the period of withdrawal from sale or, if earlier, the period ending on the date the Secretary determines that the withdrawal from sale is not for safety or effectiveness reasons.

“(6)(A)(i) Within sixty days of the date of the enactment of this subsection, the Secretary shall publish and make available to the public—

Approved-drug
list.
Public
availability.

“(I) a list in alphabetical order of the official and proprietary name of each drug which has been approved for safety and effectiveness under subsection (c) before the date of the enactment of this subsection;

“(II) the date of approval if the drug is approved after 1981 and the number of the application which was approved; and

“(III) whether in vitro or in vivo bioequivalence studies, or both such studies, are required for applications filed under this subsection which will refer to the drug published.

“(ii) Every thirty days after the publication of the first list under clause (i) the Secretary shall revise the list to include each drug which has been approved for safety and effectiveness under subsection (c) or approved under this subsection during the thirty-day period.

“(iii) When patent information submitted under subsection (b) or (c) respecting a drug included on the list is to be published by the Secretary the Secretary shall, in revisions made under clause (ii), include such information for such drug.

“(B) A drug approved for safety and effectiveness under subsection (c) or approved under this subsection shall, for purposes of this subsection, be considered to have been published under subparagraph (A) on the date of its approval or the date of enactment, whichever is later.

“(C) If the approval of a drug was withdrawn or suspended for grounds described in the first sentence of subsection (e) or was withdrawn or suspended under paragraph (5) or if the Secretary

determines that a drug has been withdrawn from sale for safety or effectiveness reasons, it may not be published in the list under subparagraph (A) or, if the withdrawal or suspension occurred after its publication in such list, it shall be immediately removed from such list—

“(i) for the same period as the withdrawal or suspension under subsection (e) or paragraph (5), or

“(ii) if the listed drug has been withdrawn from sale, for the period of withdrawal from sale or, if earlier, the period ending on the date the Secretary determines that the withdrawal from sale is not for safety or effectiveness reasons.

Federal
Register,
publication.

A notice of the removal shall be published in the Federal Register.

“(7) For purposes of this subsection:

“(A) The term ‘bioavailability’ means the rate and extent to which the active ingredient or therapeutic ingredient is absorbed from a drug and becomes available at the site of drug action.

“(B) A drug shall be considered to be bioequivalent to a listed drug if—

“(i) the rate and extent of absorption of the drug do not show a significant difference from the rate and extent of absorption of the listed drug when administered at the same molar dose of the therapeutic ingredient under similar experimental conditions in either a single dose or multiple doses; or

“(ii) the extent of absorption of the drug does not show a significant difference from the extent of absorption of the listed drug when administered at the same molar dose of the therapeutic ingredient under similar experimental conditions in either a single dose or multiple doses and the difference from the listed drug in the rate of absorption of the drug is intentional, is reflected in its proposed labeling, is not essential to the attainment of effective body drug concentrations on chronic use, and is considered medically insignificant for the drug.”.

Claims.
21 USC 355.

SEC. 102. (a)(1) Section 505(b) of such Act if amended by adding at the end the following: “The applicant shall file with the application the patent number and the expiration date of any patent which claims the drug for which the applicant submitted the application or which claims a method of using such drug and with respect to which a claim of patent infringement could reasonably be asserted if a person not licensed by the owner engaged in the manufacture, use, or sale of the drug. If an application is filed under this subsection for a drug and a patent which claims such drug or a method of using such drug is issued after the filing date but before approval of the application, the applicant shall amend the application to include the information required by the preceding sentence. Upon approval of the application, the Secretary shall publish information submitted under the two preceding sentences.”.

Public
information.

(2) Section 505(c) of such Act is amended by inserting “(1)” after “(c)”, by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and by adding at the end the following:

Claims.

“(2) If the patent information described in subsection (b) could not be filed with the submission of an application under subsection (b) because the application was filed before the patent information was required under subsection (b) or a patent was issued after the application was approved under such subsection, the holder of an

approved application shall file with the Secretary the patent number and the expiration date of any patent which claims the drug for which the application was submitted or which claims a method of using such drug and with respect to which a claim of patent infringement could reasonably be asserted if a person not licensed by the owner engaged in the manufacture, use, or sale of the drug. If the holder of an approved application could not file patent information under subsection (b) because it was not required at the time the application was approved, the holder shall file such information under this subsection not later than thirty days after the date of the enactment of this sentence, and if the holder of an approved application could not file patent information under subsection (b) because no patent had been issued when an application was filed or approved, the holder shall file such information under this subsection not later than thirty days after the date the patent involved is issued. Upon the submission of patent information under this subsection, the Secretary shall publish it."

Public
information.
21 USC 355.

(3)(A) The first sentence of section 505(d) of such Act is amended by redesignating clause (6) as clause (7) and inserting after clause (5) the following: "(6) the application failed to contain the patent information prescribed by subsection (b); or".

(B) The first sentence of section 505(e) of such Act is amended by redesignating clause (4) as clause (5) and inserting after clause (3) the following: "(4) the patent information prescribed by subsection (c) was not filed within thirty days after the receipt of written notice from the Secretary specifying the failure to file such information; or".

(b)(1) Section 505(a) of such Act is amended by inserting "or (j)" after "subsection (b)".

(2) Section 505(c) of such Act is amended by striking out "this subsection" and inserting in lieu thereof "subsection (b)".

Ante, p. 1592.

(3) The second sentence of section 505(e) of such Act is amended by inserting "submitted under subsection (b) or (j)" after "an application".

(4) The second sentence of section 505(e) is amended by striking out "(j)" each place it occurs in clause (1) and inserting in lieu thereof "(k)".

Supra.

(5) Section 505(k)(1) of such Act (as so redesignated) is amended by striking out "pursuant to this section" and inserting in lieu thereof "under subsection (b) or (j)".

Ante, p. 1585.

(6) Subsections (a) and (b) of section 527 of such Act are each amended by striking out "505(b)" each place it occurs and inserting in lieu thereof "505".

21 USC 360cc

SEC. 103. (a) Section 505(b) of such Act is amended by inserting "(1)" after "(b)", by redesignating clauses (1) through (6) as clauses (A) through (F), respectively, and by adding at the end the following:

Ante, p. 1592.

"(2) An application submitted under paragraph (1) for a drug for which the investigations described in clause (A) of such paragraph and relied upon by the applicant for approval of the application were not conducted by or for the applicant and for which the applicant has not obtained a right of reference or use from the person by or for whom the investigations were conducted shall also include—

Claims.

"(A) a certification, in the opinion of the applicant and to the best of his knowledge, with respect to each patent which claims the drug for which such investigations were conducted or which claims a use for such drug for which the applicant is seeking

approval under this subsection and for which information is required to be filed under paragraph (1) or subsection (c)—

“(i) that such patent information has not been filed,

“(ii) that such patent has expired,

“(iii) of the date on which such patent will expire, or

“(iv) that such patent is invalid or will not be infringed by the manufacture, use, or sale of the new drug for which the application is submitted; and

“(B) if with respect to the drug for which investigations described in paragraph (1)(A) were conducted information was filed under paragraph (1) or subsection (c) for a method of use patent which does not claim a use for which the applicant is seeking approval under this subsection, a statement that the method of use patent does not claim such a use.

“(3)(A) An applicant who makes a certification described in paragraph (2)(A)(iv) shall include in the application a statement that the applicant will give the notice required by subparagraph (B) to—

“(i) each owner of the patent which is the subject of the certification or the representative of such owner designated to receive such notice, and

Claims.

“(ii) the holder of the approved application under subsection (b) for the drug which is claimed by the patent or a use of which is claimed by the patent or the representative of such holder designated to receive such notice.

Marketing.

“(B) The notice referred to in subparagraph (A) shall state that an application has been submitted under this subsection for the drug with respect to which the certification is made to obtain approval to engage in the commercial manufacture, use, or sale of the drug before the expiration of the patent referred to in the certification. Such notice shall include a detailed statement of the factual and legal basis of the applicant's opinion that the patent is not valid or will not be infringed.

“(C) If an application is amended to include a certification described in paragraph (2)(A)(iv), the notice required by subparagraph (B) shall be given when the amended application is submitted.”.

Ante, p. 1592.

(b) Section 505(c) of such Act (as amended by section 102(a)(2)) is amended by adding at the end the following:

Effective dates.

“(3) The approval of an application filed under subsection (b) which contains a certification required by paragraph (2) of such subsection shall be made effective on the last applicable date determined under the following:

“(A) If the applicant only made a certification described in clause (i) or (ii) of subsection (b)(2)(A) or in both such clauses, the approval may be made effective immediately.

“(B) If the applicant made a certification described in clause (iii) of subsection (b)(2)(A), the approval may be made effective on the date certified under clause (iii).

Claims.

“(C) If the applicant made a certification described in clause (iv) of subsection (b)(2)(A), the approval shall be made effective immediately unless an action is brought for infringement of a patent which is the subject of the certification before the expiration of forty-five days from the date the notice provided under paragraph (3)(B) is received. If such an action is brought before the expiration of such days, the approval may be made effective upon the expiration of the thirty-month period beginning on the date of the receipt of the notice provided under paragraph (3)(B) or such shorter or longer period as the court may order because

either party to the action failed to reasonably cooperate in expediting the action, except that—

“(i) if before the expiration of such period the court decides that such patent is invalid or not infringed, the approval may be made effective on the date of the court decision,

“(ii) if before the expiration of such period the court decides that such patent has been infringed, the approval may be made effective on such date as the court orders under section 271(e)(4)(A) of title 35, United States Code, or

Post, p. 1603.

“(iii) if before the expiration of such period the court grants a preliminary injunction prohibiting the applicant from engaging in the commercial manufacture or sale of the drug until the court decides the issues of patent validity and infringement and if the court decides that such patent is invalid or not infringed, the approval shall be made effective on the date of such court decision.

In such an action, each of the parties shall reasonably cooperate in expediting the action. Until the expiration of forty-five days from the date the notice made under paragraph (3)(B) is received, no action may be brought under section 2201 of title 28, United States Code, for a declaratory judgment with respect to the patent. Any action brought under such section 2201 shall be brought in the judicial district where the defendant has its principal place of business or a regular and established place of business.

Post, p. 1597.

“(D)(i) If an application (other than an abbreviated new drug application) submitted under subsection (b) for a drug, no active ingredient (including any ester or salt of the active ingredient) of which has been approved in any other application under subsection (b), was approved during the period beginning January 1, 1982, and ending on the date of the enactment of this subsection, the Secretary may not make the approval of another application for a drug for which the investigations described in clause (A) of subsection (b)(1) and relied upon by the applicant for approval of the application were not conducted by or for the applicant and for which the applicant has not obtained a right of reference or use from the person by or for whom the investigations were conducted effective before the expiration of ten years from the date of the approval of the application previously approved under subsection (b).

Prohibitions.

“(ii) If an application submitted under subsection (b) for a drug, no active ingredient (including any ester or salt of the active ingredient) of which has been approved in any other application under subsection (b), is approved after the date of the enactment of this clause, no application which refers to the drug for which the subsection (b) application was submitted and for which the investigations described in clause (A) of subsection (b)(1) and relied upon by the applicant for approval of the application were not conducted by or for the applicant and for which the applicant has not obtained a right of reference or use from the person by or for whom the investigations were conducted may be submitted under subsection (b) before the expiration of five years from the date of the approval of the application under subsection (b), except that such an application may be submitted under subsection (b) after the expiration of four years from the date of the approval of the subsection (b)

Claims.

application if it contains a certification of patent invalidity or noninfringement described in clause (iv) of subsection (b)(2)(A). The approval of such an application shall be made effective in accordance with this paragraph except that, if an action for patent infringement is commenced during the one-year period beginning forty-eight months after the date of the approval of the subsection (b) application, the thirty-month period referred to in subparagraph (C) shall be extended by such amount of time (if any) which is required for seven and one-half years to have elapsed from the date of approval of the subsection (b) application.

“(iii) If an application submitted under subsection (b) for a drug, which includes an active ingredient (including any ester or salt of the active ingredient) that has been approved in another application approved under subsection (b), is approved after the date of the enactment of this clause and if such application contains reports of new clinical investigations (other than bioavailability studies) essential to the approval of the application and conducted or sponsored by the applicant, the Secretary may not make the approval of an application submitted under subsection (b) for the conditions of approval of such drug in the approved subsection (b) application effective before the expiration of three years from the date of the approval of the application under subsection (b) if the investigations described in clause (A) of subsection (b)(1) and relied upon by the applicant for approval of the application were not conducted by or for the applicant and if the applicant has not obtained a right of reference or use from the person by or for whom the investigations were conducted.

“(iv) If a supplement to an application approved under subsection (b) is approved after the date of enactment of this clause and the supplement contains reports of new clinical investigations (other than bioavailability studies) essential to the approval of the supplement and conducted or sponsored by the person submitting the supplement, the Secretary may not make the approval of an application submitted under subsection (b) for a change approved in the supplement effective before the expiration of three years from the date of the approval of the supplement under subsection (b) if the investigations described in clause (A) of subsection (b)(1) and relied upon by the applicant for approval of the application were not conducted by or for the applicant and if the applicant has not obtained a right of reference or use from the person by or for whom the investigations were conducted.

“(v) If an application (or supplement to an application) submitted under subsection (b) for a drug, which includes an active ingredient (including any ester or salt of the active ingredient) that has been approved in another application under subsection (b), was approved during the period beginning January 1, 1982, and ending on the date of the enactment of this clause, the Secretary may not make the approval of an application submitted under this subsection and for which the investigations described in clause (A) of subsection (b)(1) and relied upon by the applicant for approval of the application were not conducted by or for the applicant and for which the applicant has not obtained a right of reference or use from the person by or for whom the investigations were conducted and which refers to the

drug for which the subsection (b) application was submitted effective before the expiration of two years from the date of enactment of this clause.”.

SEC. 104. Section 505 of such Act is amended by adding at the end the following:

Ante, p. 1585.

“(1) Safety and effectiveness data and information which has been submitted in an application under subsection (b) for a drug and which has not previously been disclosed to the public shall be made available to the public, upon request, unless extraordinary circumstances are shown—

Public availability.

“(1) if no work is being or will be undertaken to have the application approved,

“(2) if the Secretary has determined that the application is not approvable and all legal appeals have been exhausted,

“(3) if approval of the application under subsection (c) is withdrawn and all legal appeals have been exhausted,

“(4) if the Secretary has determined that such drug is not a new drug, or

“(5) upon the effective date of the approval of the first application under subsection (j) which refers to such drug or upon the date upon which the approval of an application under subsection (j) which refers to such drug could be made effective if such an application had been submitted.

“(m) For purposes of this section, the term ‘patent’ means a patent issued by the Patent and Trademark Office of the Department of Commerce.”.

SEC. 105. (a) The Secretary of Health and Human Services shall promulgate, in accordance with the notice and comment requirements of section 553 of title 5, United States Code, such regulations as may be necessary for the administration of section 505 of the Federal Food, Drug, and Cosmetic Act, as amended by sections 101, 102, and 103 of this Act, within one year of the date of enactment of this Act.

Regulations.
21 USC 355 note.

(b) During the period beginning sixty days after the date of the enactment of this Act and ending on the date regulations promulgated under subsection (a) take effect, abbreviated new drug applications may be submitted in accordance with the provisions of section 314.2 of title 21 of the Code of Federal Regulations and shall be considered as suitable for any drug which has been approved for safety and effectiveness under section 505(c) of the Federal Food, Drug, and Cosmetic Act before the date of the enactment of this Act. If any such provision is inconsistent with the requirements of section 505(j) of the Federal Food, Drug, and Cosmetic Act, the Secretary shall consider the application under the applicable requirements of such section. The Secretary of Health and Human Services may not approve such an abbreviated new drug application which is filed for a drug which is described in sections 505(c)(3)(D) and 505(j)(4)(D) of the Federal Food, Drug, and Cosmetic Act except in accordance with such section.

Ante, pp.
1592–1594.

Ante, p. 1592.

Ante, p. 1594.

SEC. 106. Section 2201 of title 28, United States Code, is amended by inserting “(a)” before “In a case” and by adding at the end the following:

“(b) For limitations on actions brought with respect to drug patents see section 505 of the Federal Food, Drug, and Cosmetic Act.”.

Ante, p. 1585.

TITLE II—PATENT EXTENSION

SEC. 201. (a) Title 35 of the United States Code is amended by adding the following new section immediately after section 155A:

35 USC 156.

“§ 156. Extension of patent term

Claims.

“(a) The term of a patent which claims a product, a method of using a product, or a method of manufacturing a product shall be extended in accordance with this section from the original expiration date of the patent if—

“(1) the term of the patent has not expired before an application is submitted under subsection (d) for its extension;

“(2) the term of the patent has never been extended;

“(3) an application for extension is submitted by the owner of record of the patent or its agent and in accordance with the requirements of subsection (d);

“(4) the product has been subject to a regulatory review period before its commercial marketing or use;

Marketing.

“(5)(A) except as provided in subparagraph (B), the permission for the commercial marketing or use of the product after such regulatory review period is the first permitted commercial marketing or use of the product under the provision of law under which such regulatory review period occurred; or

“(B) in the case of a patent which claims a method of manufacturing the product which primarily uses recombinant DNA technology in the manufacture of the product, the permission for the commercial marketing or use of the product after such regulatory review period is the first permitted commercial marketing or use of a product manufactured under the process claimed in the patent.

The product referred to in paragraphs (4) and (5) is hereinafter in this section referred to as the ‘approved product’.

Claims.

“(b) The rights derived from any patent the term of which is extended under this section shall during the period during which the patent is extended—

“(1) in the case of a patent which claims a product, be limited to any use approved for the approved product before the expiration of the term of the patent under the provision of law under which the applicable regulatory review occurred;

“(2) in the case of a patent which claims a method of using a product, be limited to any use claimed by the patent and approved for the approved product before the expiration of the term of the patent under the provision of law under which the applicable regulatory review occurred; and

“(3) in the case of a patent which claims a method of manufacturing a product, be limited to the method of manufacturing as used to make the approved product.

“(c) The term of a patent eligible for extension under subsection (a) shall be extended by the time equal to the regulatory review period for the approved product which period occurs after the date the patent is issued, except that—

“(1) each period of the regulatory review period shall be reduced by any period determined under subsection (d)(2)(B) during which the applicant for the patent extension did not act with due diligence during such period of the regulatory review period;

“(2) after any reduction required by paragraph (1), the period of extension shall include only one-half of the time remaining in the periods described in paragraphs (1)(B)(i), (2)(B)(i), and (3)(B)(i) of subsection (g);

“(3) if the period remaining in the term of a patent after the date of the approval of the approved product under the provision of law under which such regulatory review occurred when added to the regulatory review period as revised under paragraphs (1) and (2) exceeds fourteen years, the period of extension shall be reduced so that the total of both such periods does not exceed fourteen years; and

“(4) in no event shall more than one patent be extended for the same regulatory review period for any product.

Prohibition.

“(d)(1) To obtain an extension of the term of a patent under this section, the owner of record of the patent or its agent shall submit an application to the Commissioner. Such an application may only be submitted within the sixty-day period beginning on the date the product received permission under the provision of law under which the applicable regulatory review period occurred for commercial marketing or use. The application shall contain—

“(A) the identity of the approved product and the Federal statute under which regulatory review occurred;

“(B) the identity of the patent for which an extension is being sought and the identity of each claim of such patent which claims the approved product or a method of using or manufacturing the approved product;

“(C) information to enable the Commissioner to determine under subsections (a) and (b) the eligibility of a patent for extension and the rights that will be derived from the extension and information to enable the Commissioner and the Secretary of Health and Human Services to determine the period of the extension under subsection (g);

“(D) a brief description of the activities undertaken by the applicant during the applicable regulatory review period with respect to the approved product and the significant dates applicable to such activities; and

“(E) such patent or other information as the Commissioner may require.

“(2)(A) Within sixty days of the submittal of an application for extension of the term of a patent under paragraph (1), the Commissioner shall notify the Secretary of Health and Human Services if the patent claims any human drug product, a medical device, or a food additive or color additive or a method of using or manufacturing such a product, device, or additive and if the product, device, and additive are subject to the Federal Food, Drug, and Cosmetic Act, of the extension application and shall submit to the Secretary a copy of the application. Not later than thirty days after the receipt of an application from the Commissioner, the Secretary shall review the dates contained in the application pursuant to paragraph (1)(C) and determine the applicable regulatory review period, shall notify the Commissioner of the determination, and shall publish in the Federal Register a notice of such determination.

21 USC 301.

Federal Register, publication.

“(B)(i) If a petition is submitted to the Secretary under subparagraph (A), not later than one hundred and eighty days after the publication of the determination under subparagraph (A), upon which it may reasonably be determined that the applicant did not act with due diligence during the applicable regulatory review

Regulations.

- period, the Secretary shall, in accordance with regulations promulgated by the Secretary determine if the applicant acted with due diligence during the applicable regulatory review period. The Secretary shall make such determination not later than ninety days after the receipt of such a petition. The Secretary may not delegate the authority to make the determination prescribed by this subparagraph to an office below the Office of the Commissioner of Food and Drugs.
- Prohibition.
- Federal Register, publication.
- Hearing.
- “(ii) The Secretary shall notify the Commissioner of the determination and shall publish in the Federal Register a notice of such determination together with the factual and legal basis for such determination. Any interested person may request, within the sixty-day period beginning on the publication of a determination, the Secretary to hold an informal hearing on the determination. If such a request is made within such period, the Secretary shall hold such hearing not later than thirty days after the date of the request, or at the request of the person making the request, not later than sixty days after such date. The Secretary shall provide notice of the hearing to the owner of the patent involved and to any interested person and provide the owner and any interested person an opportunity to participate in the hearing. Within thirty days after the completion of the hearing, the Secretary shall affirm or revise the determination which was the subject of the hearing and notify the Commissioner of any revision of the determination and shall publish any such revision in the Federal Register.
- Federal Register, publication.
- “(3) For the purposes of paragraph (2)(B), the term ‘due diligence’ means that degree of attention, continuous directed effort, and timeliness as may reasonably be expected from, and are ordinarily exercised by, a person during a regulatory review period.
- “(4) An application for the extension of the term of a patent is subject to the disclosure requirements prescribed by the Commissioner.
- “(e)(1) A determination that a patent is eligible for extension may be made by the Commissioner solely on the basis of the representations contained in the application for the extension. If the Commissioner determines that a patent is eligible for extension under subsection (a) and that the requirements of subsection (d) have been complied with, the Commissioner shall issue to the applicant for the extension of the term of the patent a certificate of extension, under seal, for the period prescribed by subsection (c). Such certificate shall be recorded in the official file of the patent and shall be considered as part of the original patent.
- Records.
- “(2) If the term of a patent for which an application has been submitted under subsection (d) would expire before a certificate of extension is issued or denied under paragraph (1) respecting the application, the Commissioner shall extend, until such determination is made, the term of the patent for periods of up to one year if he determines that the patent is eligible for extension.
- “(f) For purposes of this section:
- “(1) The term ‘product’ means:
- “(A) A human drug product.
- “(B) Any medical device, food additive, or color additive subject to regulation under the Federal Food, Drug, and Cosmetic Act.
- “(2) The term ‘human drug product’ means the active ingredient of a new drug, antibiotic drug, or human biological product (as those terms are used in the Federal Food, Drug, and
- 21 USC 301.

Cosmetic Act and the Public Health Service Act) including any salt or ester of the active ingredient, as a single entity or in combination with another active ingredient.

21 USC 301; 42 USC 201 note.

“(3) The term ‘major health or environmental effects test’ means a test which is reasonably related to the evaluation of the health or environmental effects of a product, which requires at least six months to conduct, and the data from which is submitted to receive permission for commercial marketing or use. Periods of analysis or evaluation of test results are not to be included in determining if the conduct of a test required at least six months.

“(4)(A) Any reference to section 351 is a reference to section 351 of the Public Health Service Act.

42 USC 262.

“(B) Any reference to section 503, 505, 507, or 515 is a reference to section 503, 505, 507, or 515 of the Federal Food, Drug, and Cosmetic Act.

21 USC 353, 355, 357, 360e.

“(5) The term ‘informal hearing’ has the meaning prescribed for such term by section 201(y) of the Federal Food, Drug, and Cosmetic Act.

21 USC 321.

“(6) The term ‘patent’ means a patent issued by the United States Patent and Trademark Office.

“(g) For purposes of this section, the term ‘regulatory review period’ has the following meanings:

“(1)(A) In the case of a product which is a human drug product, the term means the period described in subparagraph (B) to which the limitation described in paragraph (4) applies.

“(B) The regulatory review period for a human drug product is the sum of—

“(i) the period beginning on the date an exemption under subsection (i) of section 505 or subsection (d) of section 507 became effective for the approved human drug product and ending on the date an application was initially submitted for such drug product under section 351, 505, or 507, and

21 USC 355, 357.

“(ii) the period beginning on the date the application was initially submitted for the approved human drug product under section 351, subsection (b) of section 505, or section 507 and ending on the date such application was approved under such section.

Ante, pp. 1592, 1593.

“(2)(A) In the case of a product which is a food additive or color additive, the term means the period described in subparagraph (B) to which the limitation described in paragraph (4) applies.

“(B) The regulatory review period for a food or color additive is the sum of—

“(i) the period beginning on the date a major health or environmental effects test on the additive was initiated and ending on the date a petition was initially submitted with respect to the product under the Federal Food, Drug, and Cosmetic Act requesting the issuance of a regulation for use of the product, and

“(ii) the period beginning on the date a petition was initially submitted with respect to the product under the Federal Food, Drug, and Cosmetic Act requesting the issuance of a regulation for use of the product, and ending on the date such regulation became effective or, if objections were filed to such regulation, ending on the date such objections were resolved and commercial marketing was

permitted or, if commercial marketing was permitted and later revoked pending further proceedings as a result of such objections, ending on the date such proceedings were finally resolved and commercial marketing was permitted.

“(3)(A) In the case of a product which is a medical device, the term means the period described in subparagraph (B) to which the limitation described in paragraph (4) applies.

“(B) The regulatory review period for a medical device is the sum of—

“(i) the period beginning on the date a clinical investigation on humans involving the device was begun and ending on the date an application was initially submitted with respect to the device under section 515, and

21 USC 360e.

“(ii) the period beginning on the date an application was initially submitted with respect to the device under section 515 and ending on the date such application was approved under such Act or the period beginning on the date a notice of completion of a product development protocol was initially submitted under section 515(f)(5) and ending on the date the protocol was declared completed under section 515(f)(6).

“(4) A period determined under any of the preceding paragraphs is subject to the following limitations:

“(A) If the patent involved was issued after the date of the enactment of this section, the period of extension determined on the basis of the regulatory review period determined under any such paragraph may not exceed five years.

“(B) If the patent involved was issued before the date of the enactment of this section and—

“(i) no request for an exemption described in paragraph (1)(B) was submitted,

“(ii) no major health or environmental effects test described in paragraph (2) was initiated and no petition for a regulation or application for registration described in such paragraph was submitted, or

“(iii) no clinical investigation described in paragraph (3) was begun or product development protocol described in such paragraph was submitted,

before such date for the approved product the period of extension determined on the basis of the regulatory review period determined under any such paragraph may not exceed five years.

“(C) If the patent involved was issued before the date of the enactment of this section and if an action described in subparagraph (B) was taken before the date of the enactment of this section with respect to the approved product and the commercial marketing or use of the product has not been approved before such date, the period of extension determined on the basis of the regulatory review period determined under such paragraph may not exceed two years.

Fees.

“(h) The Commissioner may establish such fees as the Commissioner determines appropriate to cover the costs to the Office of receiving and acting upon applications under this section.”

(b) The analysis for chapter 14 of title 35 of the United States Code is amended by adding at the end thereof the following:

"156. Extension of patent term."

SEC. 202. Section 271 of title 35, United States Code, is amended by adding at the end the following:

Marketing.

"(e)(1) It shall not be an act of infringement to make, use, or sell a patented invention (other than a new animal drug or veterinary biological product (as those terms are used in the Federal Food, Drug, and Cosmetic Act and the Act of March 4, 1913)) solely for uses reasonably related to the development and submission of information under a Federal law which regulates the manufacture, use, or sale of drugs.

21 USC 301, 151 note.

"(2) It shall be an act of infringement to submit an application under section 505(j) of the Federal Food, Drug, and Cosmetic Act or described in section 505(b)(2) of such Act for a drug claimed in a patent or the use of which is claimed in a patent, if the purpose of such submission is to obtain approval under such Act to engage in the commercial manufacture, use, or sale of a drug claimed in a patent or the use of which is claimed in a patent before the expiration of such patent.

Ante, p. 1585.

Ante, p. 1593.

"(3) In any action for patent infringement brought under this section, no injunctive or other relief may be granted which would prohibit the making, using, or selling of a patented invention under paragraph (1).

"(4) For an act of infringement described in paragraph (2)—

"(A) the court shall order the effective date of any approval of the drug involved in the infringement to be a date which is not earlier than the date of the expiration of the patent which has been infringed,

"(B) injunctive relief may be granted against an infringer to prevent the commercial manufacture, use, or sale of an approved drug, and

"(C) damages or other monetary relief may be awarded against an infringer only if there has been commercial manufacture, use, or sale of an approved drug.

The remedies prescribed by subparagraphs (A), (B), and (C) are the only remedies which may be granted by a court for an act of infringement described in paragraph (2), except that a court may award attorney fees under section 285."

35 USC 285.

SEC. 203. Section 282 of title 35, United States Code, is amended by adding at the end the following: "Invalidity of the extension of a patent term or any portion thereof under section 156 of this title because of the material failure—

Ante, p. 1598.

"(1) by the applicant for the extension, or

"(2) by the Commissioner,

to comply with the requirements of such section shall be a defense in any action involving the infringement of a patent during the period of the extension of its term and shall be pleaded. A due diligence determination under section 156(d)(2) is not subject to review in such an action."

TITLE III—AMENDMENTS TO THE TEXTILE FIBER PRODUCTS IDENTIFICATION ACT AND THE WOOL PRODUCTS LABELING ACT OF 1939

Labeling.
Hosiery.

SEC. 301. Subsection (b) of section 4 of the Textile Fiber Products Identification Act (15 U.S.C. 70b) is amended by adding at the end thereof the following new paragraph:

“(5) If it is a textile fiber product processed or manufactured in the United States, it be so identified.”.

SEC. 302. Subsection (e) of section 4 of the Textile Fiber Products Identification Act (15 U.S.C. 70b) is amended to read as follows:

“(e) For purposes of this Act, in addition to the textile fiber products contained therein, a package of textile fiber products intended for sale to the ultimate consumer shall be misbranded unless such package has affixed to it a stamp, tag, label, or other means of identification bearing the information required by subsection (b), with respect to such contained textile fiber products, or is transparent to the extent it allows for the clear reading of the stamp, tag, label, or other means of identification on the textile fiber product, or in the case of hosiery items, this section shall not be construed as requiring the affixing of a stamp, tag, label, or other means of identification to each hosiery product contained in a package if (1) such hosiery products are intended for sale to the ultimate consumer in such package, (2) such package has affixed to it a stamp, tag, label, or other means of identification bearing, with respect to the hosiery products contained therein, the information required by subsection (b), and (3) the information on the stamp, tag, label, or other means of identification affixed to such package is equally applicable with respect to each textile fiber product contained therein.”.

SEC. 303. Section 4 of the Textile Fiber Products Identification Act (15 U.S.C. 70b) is amended by adding at the end thereof the following new subsections:

“(i) For the purposes of this Act, a textile fiber product shall be considered to be falsely or deceptively advertised in any mail order catalog or mail order promotional material which is used in the direct sale or direct offering for sale of such textile fiber product, unless such textile fiber product description states in a clear and conspicuous manner that such textile fiber product is processed or manufactured in the United States of America, or imported, or both.

“(j) For purposes of this Act, any textile fiber product shall be misbranded if a stamp, tag, label, or other identification conforming to the requirements of this section is not on or affixed to the inside center of the neck midway between the shoulder seams or, if such product does not contain a neck, in the most conspicuous place on the inner side of such product, unless it is on or affixed on the outer side of such product, or in the case of hosiery items on the outer side of such product or package.”.

SEC. 304. Paragraph (2) of section 4(a) of the Wool Products Labeling Act of 1939 (15 U.S.C. 68b(a)(2)) is amended by adding at the end thereof the following new subparagraph:

“(D) the name of the country where processed or manufactured.”.

SEC. 305. Section 4 of the Wool Products Labeling Act of 1939 (15 U.S.C. 68b) is amended by adding at the end thereof the following new subsections:

“(e) For the purposes of this Act, a wool product shall be considered to be falsely or deceptively advertised in any mail order promotional material which is used in the direct sale or direct offering for sale of such wool product, unless such wool product description states in a clear and conspicuous manner that such wool product is processed or manufactured in the United States of America, or imported, or both.

“(f) For purposes of this Act, any wool product shall be misbranded if a stamp, tag, label, or other identification conforming to the requirements of this section is not on or affixed to the inside center of the neck midway between the shoulder seams or, if such product does not contain a neck, in the most conspicuous place on the inner side of such product, unless it is on or affixed on the outer side of such product or in the case of hosiery items, on the outer side of such product or package.”.

SEC. 306. Section 5 of the Wool Products Labeling Act of 1939 (15 U.S.C. 68c) is amended—

(1) by striking out “Any person” in the first paragraph and inserting in lieu thereof “(a) Any person”,

(2) by striking out “Any person” in the second paragraph and inserting in lieu thereof “(b) Any person”, and

(3) by inserting after subsection (b) (as designated by this section) the following new subsection:

“(c) For the purposes of subsections (a) and (b) of this section, any package of wool products intended for sale to the ultimate consumer shall also be considered a wool product and shall have affixed to it a stamp, tag, label, or other means of identification bearing the information required by section 4, with respect to the wool products contained therein, unless such package of wool products is transparent to the extent that it allows for the clear reading of the stamp, tag, label, or other means of identification affixed to the wool product, or in the case of hosiery items this section shall not be construed as requiring the affixing of a stamp, tag, label, or other means of identification to each hosiery product contained in a package if (1) such hosiery products are intended for sale to the ultimate consumer in such package, (2) such package has affixed to it a stamp, tag, label, or other means of identification bearing, with respect to the hosiery products contained therein, the information required by subsection (4), and (3) the information on the stamp, tag, label, or other means of identification affixed to such package is equally applicable with respect to each hosiery product contained therein.”.

SEC. 307. The amendments made by this title shall be effective ninety days after the date of enactment of this Act.

Effective date.
15 USC 68b note.

Approved September 24, 1984.

LEGISLATIVE HISTORY—S. 1538 (H.R. 3605):

HOUSE REPORT No. 98-857 accompanying H.R. 3605, Pt. 1 (Comm. on Energy and Commerce) and Pt. 2 (Comm. on the Judiciary).

SENATE REPORT No. 98-547 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 130 (1984):

June 29, considered and passed Senate.

Sept. 6, considered and passed House, amended, in lieu of H.R. 3605.

Sept. 12, Senate concurred in House amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 39 (1984):

Sept. 24, Presidential statement.

Public Law 98-418
98th Congress

Joint Resolution

Sept. 25, 1984
[S.J. Res. 275]

To designate the month of October 1984 as "National Spina Bifida Month".

Whereas spina bifida is a birth defect in the spinal column which occurs in one of every one thousand births in the United States; Whereas spina bifida is the most commoncrippler of newborns, resulting when one or more bones in the back (vertebrae) fail to close completely during prenatal development;

Whereas while the cause of spina bifida is not known, it appears to be the result of multiple environmental and genetic factors;

Whereas although most of the March of Dimes and Easter Seal poster children have spina bifida, many people have not heard of the defect;

Whereas only a few cities in the United States have proper care centers and specialized professionals that can provide the most effective, aggressive treatment for children and adults with spina bifida; and

Whereas an increase in the national awareness of the problem of spina bifida may stimulate the interest and concern of the American people, which may lead, in turn, to increased research and eventually to the discovery of a cure for spina bifida: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of October 1984 is designated "National Spina Bifida Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that month with appropriate ceremonies and activities.

Approved September 25, 1984.

LEGISLATIVE HISTORY—S.J. Res. 275:

CONGRESSIONAL RECORD, Vol. 130 (1984):

Aug. 10, considered and passed Senate.

Sept. 12, considered and passed House.

Public Law 98-419
98th Congress

An Act

To amend the Deepwater Port Act of 1974, and for other purposes.

Sept. 25, 1984
[S. 1546]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Deepwater Port Act Amendments of 1984".

Deepwater
Port Act
Amendments
of 1984.
Vessels.

33 USC 1501
note.

AMENDMENT, TRANSFER, OR RENEWAL OF LICENSE

SEC. 2. (a) Section 3(4) of the Deepwater Port Act of 1974 (33 U.S.C. 1502(4)) is amended to read:

"(4) 'application' means an application submitted under this Act for a license for the ownership, construction, and operation of a deepwater port;".

(b) Section 4(b) of the Deepwater Port Act of 1974 (33 U.S.C. 1503(b)) is amended to read:

"(b) The Secretary may—

"(1) on application, issue a license for the ownership, construction, and operation of a deepwater port; and

"(2) on petition of the licensee, amend, transfer, or reinstate a license issued under this Act.".

(c) Section 4(f) of the Deepwater Port Act of 1974 (33 U.S.C. 1503(f)) is amended to read:

"(f) The Secretary may amend, transfer, or reinstate a license issued under this Act if the amendment, transfer, or reinstatement is consistent with the findings made at the time the license was issued."

(d) Section 4(h) of the Deepwater Port Act of 1974 (33 U.S.C. 1503(h)) is amended to read:

"(h) A license issued under this Act remains in effect unless suspended or revoked by the Secretary or until surrendered by the licensee."

(e) Section 4(e)(1) of the Deepwater Port Act of 1974 (33 U.S.C. 1503(e)(1)) is amended by inserting at the end thereof: "On petition of a licensee, the Secretary shall review any condition of a license issued under this Act to determine if that condition is uniform, insofar as practicable, with the conditions of other licenses issued under this Act, reasonable, and necessary to meet the objectives of this Act. The Secretary shall amend or rescind any condition that is no longer necessary or otherwise required by any Federal department or agency under this Act."

(f) The first sentence of section 5(g) of the Deepwater Port Act of 1974 (33 U.S.C. 1504(g)) is amended by striking "issued, transferred, or renewed" and inserting "issued".

(g) The first sentence of section 7(a) of the Deepwater Port Act of 1974 (33 U.S.C. 1506(a)) is amended by striking "issue, transfer, or renew" and inserting "issue".

(h) Section 7(b)(1) of the Deepwater Port Act of 1974 (33 U.S.C. 1506(b)(1)) is amended:

(1) by striking the first sentence and inserting: "The Secretary shall transmit promptly to the Attorney General and the Federal Trade Commission a complete copy of each application for issuance of a license or a petition for the amendment, transfer, or reinstatement of a license that is received."; and

(2) in the second sentence, by inserting immediately after the word "hearing" the phrase "on license application".

ECONOMIC DEREGULATION

SEC. 3. (a) Section 8 of the Deepwater Port Act of 1974 (33 U.S.C. 1507) is amended to read:

49 USC 10101.

Petroleum and
petroleum
products.

"SEC. 8. (a) A deepwater port and a storage facility serviced directly by that deepwater port shall operate as a common carrier under applicable provisions of part I of the Interstate Commerce Act and subtitle IV of title 49, United States Code, except as provided by subsection (b) of this section.

"(b) A licensee under this Act shall accept, transport, or convey without discrimination all oil delivered to the deepwater port with respect to which its license is issued. However, a licensee is not subject to common carrier regulations under subsection (a) of this section when that licensee—

"(1) is subject to effective competition for the transportation of oil from alternative transportation systems; and

"(2) sets its rates, fees, charges, and conditions of service on the basis of competition, giving consideration to other relevant business factors such as the market value of services provided, licensee's cost of operation, and the licensee's investment in the deepwater port and a storage facility, and components thereof, serviced directly by that deepwater port.

Law
enforcement.

"(c) When the Secretary has reason to believe that a licensee is not in compliance with this section, the Secretary shall commence an appropriate proceeding before the Federal Energy Regulatory Commission or request the Attorney General to take appropriate steps to enforce compliance with this section and, when appropriate, to secure the imposition of appropriate sanctions. In addition, the Secretary may suspend or revoke the license of a licensee not complying with its obligations under this section."

SUSPENSION OF FEE COLLECTION AND SUBROGATION

Claims.

SEC. 4. (a) Section 18 of the Deepwater Port Act of 1974 (33 U.S.C. 1517) is amended as follows:

(1) In the first sentence of subsection (d), following the words "deepwater port" the first time they appear, insert "while located in the safety zone".

Effective dates.

Ante, p. 1607.

(2) In subsection (f)(3), strike the third and fourth sentences and insert: "These collections shall cease after the date of enactment of the Deepwater Port Act Amendments of 1984, unless there are adjudicated claims against the Fund to be satisfied. The Secretary may order the collection of the fee to be resumed when the unobligated balance of the Fund as reduced by the unliquidated debts to the United States Treasury is less than \$4,000,000. Any collection of fees ordered by the Secretary under the preceding sentence shall cease whenever the unobligated balance of the Fund as reduced by the unliquidated debts to the United States Treasury exceeds \$4,000,000. The Fund

may borrow from the United States Treasury at an interest rate to be determined by the Secretary of the Treasury amounts sufficient to maintain the available balance in the Fund at \$4,000,000, but only to such extent and in such amounts as are provided in advance in appropriation Acts. Such amounts shall remain available until expended.”.

(3) In the eighth sentence of subsection (f)(3), as amended by this subsection, after the word “than”, insert “the amount the Secretary determines is needed to draw upon under subsection (c)(3) of this section or”.

(4) In the tenth sentence of subsection (f)(3), as amended by this subsection, after the word “needed”, insert “to draw upon under subsection (c)(3) of this section or”.

(5) In subsection (h)(2), insert at the end thereof: “In that event, the owner and operator of the vessel are jointly and severally liable for cleanup costs and damages resulting from that discharge in the same manner and to the same extent as under subsection (d) of this section. .

(6) In subsection (h)(3), insert at the end thereof: “When the Fund under this subsection is subrogated to the right of any person entitled to recovery against the owner or operator of a vessel, that owner and operator are jointly and severally liable for cleanup costs and damages resulting from that discharge in the same manner and to the same extent as under subsection (d) of this section.”.

RELATIONSHIP TO OTHER LAWS

SEC. 5. (a) Section 19(a) of the Deepwater Port Act of 1974 (33 U.S.C. 1518(a)) is amended by adding at the end thereof: Vessels.

“(3) The Secretary of State shall notify the government of each foreign state having vessels registered under its authority or flying its flag which may call at or otherwise utilize a deepwater port but which do not currently have an agreement in effect as provided in subsection (c)(2)(A)(i) of this section that the United States intends to exercise jurisdiction over vessels calling at or otherwise utilizing a deepwater port and the persons on board such vessels. The Secretary of State shall notify the government of each such state that, absent its objection, its vessels will be subject to the jurisdiction of the United States whenever they—

“(A) are calling at or otherwise utilizing a deepwater port; and

“(B) are within the safety zone of such a deepwater port and are engaged in activities connected, associated, or potentially interfering with the use and operation of the deepwater port. The Secretary of State shall promptly inform licensees of deepwater ports of all objections received from governments of foreign states in response to notifications made under this paragraph.”.

(b) Section 19(c) of the Deepwater Port Act of 1974 (33 U.S.C. 1518(c)) is amended to read:

“(c)(1) The jurisdiction of the United States shall apply to vessels of the United States and persons on board such vessels. The jurisdiction of the United States shall also apply to vessels, and persons on board such vessels, registered in or flying the flags of foreign states, whenever such vessels are—

“(A) calling at or otherwise utilizing a deepwater port; and

Prohibition.

“(B) are within the safety zone of such a deepwater port, and are engaged in activities connected, associated, or potentially interfering with the use and operation of the deepwater port. The jurisdiction of the United States under this paragraph shall not, however, apply to vessels registered in or flying the flag of any foreign state that has objected to the application of such jurisdiction.”

“(2) Except in a situation involving force majeure, a licensee shall not permit a vessel registered in or flying the flag of a foreign state to call at or otherwise utilize a deepwater port licensed under this Act unless—

“(A)(i) the foreign state involved, by specific agreement with the United States, has agreed to recognize the jurisdiction of the United States over the vessels registered in or flying the flag of that state and persons on board such vessels in accordance with the provisions of paragraph (1) of this subsection, while the vessel is located within the safety zone, or

“(ii) the foreign state has not objected to the application of the jurisdiction of the United States to any vessel, or persons on board such vessel, while the vessel is located within the safety zone; and

“(B) the vessel owner or operator has designated an agent in the United States for receipt of service of process in the event of any claim or legal proceeding resulting from activities of the vessel or its personnel while located within such a safety zone.

“(3) For purposes of paragraph (2)(A)(ii) of this subsection, a licensee shall not be obliged to prohibit a call at or use of a deepwater port by a vessel registered in or flying the flag of an objecting state unless the licensee has been informed by the Secretary of State as required by subsection (a)(3) of this section.”.

Effective date.
33 USC 1518
note.

Ante, p. 1609.

(c) The amendment made by subsection (b) of this section shall be effective on the ninetieth day following the date of enactment of this Act. The Secretary of State shall make the first series of notifications referred to in section 19(a)(3) of the Deepwater Port Act of 1974, as added by subsection (a) of this section, prior to the thirtieth day following the date of enactment of this Act.

Approved September 25, 1984.

LEGISLATIVE HISTORY—S. 1546 (H.R. 2353):

SENATE REPORT No. 98-314 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 130 (1984):
Mar. 30, considered and passed Senate.
Aug. 9, considered and passed House.

Public Law 98-420
98th Congress

An Act

Granting the consent of Congress to an amendment to the Wheeling Creek Watershed Protection and Flood Prevention District Compact entered into by the States of West Virginia and Pennsylvania.

Sept. 25, 1984
[H.R. 5177]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress is given to an amendment to the Wheeling Creek Watershed Protection and Flood Prevention District Compact entered into by the States of West Virginia and Pennsylvania and consented to by Congress by the Act of December 8, 1967 (81 Stat. 553), which amendment adds at the end of article VI of such compact the following:

81 Stat. 555.

“(i) The commission, subject to the conditions herein, may sell, exchange or lease property, real or personal, or any interest therein.

Real property.
Personal
property.

“When the property, or any interest or right therein, is being held for future use, it may be leased. When the real property, or any part thereof, or any interest or right therein, is deemed by the commission not necessary, or desirable for present or presently foreseeable future use, it may be exchanged for other property, or any interest or right therein, deemed by the commission to be necessary or desirable for present or presently foreseeable future use, or may be sold. In addition the commission may exchange real property, or any part thereof, or any interest or right therein, even though it may be desirable or necessary for present or presently foreseeable future use, if the exchange is made for other real property, or any interest or right therein, in close proximity thereto which the commission deems of equal or superior value for presently foreseeable future use. In making exchanges the commission may make allowances for differences in values of the properties being exchanged and may move or pay the cost of moving buildings, structures, or appurtenances in connection with the exchange.

“Every such sale of real property, or any interest or right therein or structure thereon, shall be at public auction in the county in which the real property, or the greater part thereof in value, is located, and the commission shall advertise, by publication or otherwise, the time, place and terms of such sale at least twenty days prior thereto. The property shall be sold in the manner which will bring the highest and best price therefor. The commission may reject any and all bids received at the sale. The commission shall keep a record, open to public inspection, indicating the manner in which such real property or any interest or right therein or structure thereon, was publicly advertised for sale, the highest bid received therefor and from whom the person to whom sold, and payment received therefor. Such record shall be kept for a period of five years and may thereafter be destroyed.

Public auction.

“The commission may insert in a deed or conveyance, whether it involves an exchange, lease or sale, such conditions as are in the public interest.

Public
availability.

Funds.

“All moneys received from the exchange, sale or lease of real or personal property, or any right or interest therein, shall be paid into the commission’s treasury and used for the purpose for which the commission was created.

“If the commission has heretofore sold and conveyed away or leased any such property, such transaction and the documents of lease or transfer therefor are hereby approved and confirmed and shall be as effective as if the authority to lease or convey the said property had been given in this statute as originally enacted.”.

Approved September 25, 1984.

LEGISLATIVE HISTORY—H.R. 5177:

HOUSE REPORT No. 98-821 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 130 (1984):
June 18, considered and passed House.
Sept. 10, considered and passed Senate.

Public Law 98-421
98th Congress

An Act

To provide for a plan to reimburse the Okefenoke Rural Electric Membership Corporation for the costs incurred in installing electrical service to the Cumberland Island National Seashore.

Sept. 25, 1984
[S. 806]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) notwithstanding any other provision of law, the Secretary of the Interior shall reimburse the Okefenoke Rural Electric Membership Corporation for the cost incurred by such corporation in installing transmission lines, transformers, and electric meters which serve the administrative needs of the Federal Government within Cumberland Island National Seashore in the State of Georgia. No such payment shall be made unless—

(1) the Corporation has entered into a written agreement with the Secretary which provides for—

(A) the continued adequate provision of electrical service by the Corporation at reasonable rates to satisfy the administrative needs of the seashore, as determined by the Secretary, and

(B) the prompt repayment of the Secretary of any amounts paid by the Secretary under this Act, plus interest, in the event of the Corporation's future failure to provide electrical service under terms provided pursuant to paragraph (A); and

(2) the Secretary has performed an audit of the Corporation's records to determine the amount appropriately due the Corporation under the terms of this Act, which amount so determined by the Secretary shall constitute the maximum amount to be paid.

The amount so determined by the Secretary shall be reduced by an amount equal to the sum of all reimbursement for such facilities

paid to the Corporation by any governmental or nongovernmental source before the date on which payment is made by the Secretary under this Act.

Appropriation
authorization.

(b) There is authorized to be appropriated to carry out the provisions of subsection (a) not more than \$338,000.

Approved September 25, 1984.

LEGISLATIVE HISTORY—S. 806:

SENATE REPORT No. 98-556 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 130 (1984):

Aug. 9, considered and passed Senate.

Sept. 6, considered and passed House.

Public Law 98-422
98th Congress

Joint Resolution

Redesignating the Saint Croix Island National Monument in the State of Maine as the "Saint Croix Island International Historic Site".

Sept 25, 1984
[S.J. Res. 25]

Whereas in the summer of 1604, a small French expedition led by Sieur de Monts established the first European settlement in the northern half of North America on what is now Saint Croix Island, on the Saint Croix River, in the State of Maine;

Whereas pursuant to the Act entitled "An Act to authorize the establishment of the Saint Croix Island National Monument in the State of Maine" (approved June 8, 1949), portions of Saint Croix Island of national historical importance were established as the Saint Croix Island National Monument, a unit of the National Park System;

16 USC 450hh-
450hh-2.

Whereas the historic settlement on Saint Croix Island marked the beginning of European colonization of Canada, from which the French embarked to establish the settlement which became Quebec; and

Whereas Saint Croix Island is important to the history of the people of Canada as well as that of the people of the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) in recognition of its historic significance to the United States and Canada, the Saint Croix Island National Monument in the State of Maine is hereby redesignated as the "Saint Croix Island International Historic Site".

16 USC 450hh-1
note.

(b) Any reference in a law, map, regulation, document, record, or other paper of the United States to such monument shall be deemed to be a reference to the "Saint Croix Island International Historic Site".

(c) Nothing in this joint resolution shall affect the status of the "Saint Croix Island International Historic Site" as a national monument and a unit of the National Park System.

Approved September 25, 1984.

LEGISLATIVE HISTORY—S.J. Res. 25:

HOUSE REPORT No. 98-720 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 98-8 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD:

Vol. 129 (1983): Mar. 2, considered and passed Senate.

Vol. 130 (1984): Apr. 30, considered and passed House, amended.

Aug. 9, Senate concurred in House amendment with an amendment.

Sept. 6, House concurred in Senate amendment.

Public Law 98-423
98th Congress

Joint Resolution

To provide for the designation of the month of November 1984, as "National Hospice Month".

Sept. 25, 1984
[S.J. Res. 334]

Whereas hospice care has been demonstrated to be a humanitarian way for terminally ill patients to approach the end of their lives in relative comfort with appropriate, competent, and compassionate care in an environment of personal individuality and dignity; Whereas hospice advocates care of the patient and family by attending to their physical, emotional, and spiritual needs and specifically, the pain and grief they experience; Whereas hospice care is provided by an interdisciplinary team of physicians, nurses, social workers, pharmacists, psychological and spiritual counselors, and other community volunteers trained in the hospice concept of care; Whereas hospice care is rapidly becoming a full partner in the Nation's health care system; Whereas the recent enactment of the medicare hospice benefit makes it possible for many more elderly Americans to have the opportunity to elect to receive hospice care; and Whereas there remains a great need to increase public awareness of the benefits of hospice care: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of November 1984, is designated as "National Hospice Month", and the President is authorized and requested to issue a proclamation calling upon all Government agencies, the medical community, appropriate private organizations, and the people of the United States to observe the month with appropriate forums, programs, and activities designed to encourage national recognition of and support for hospice care as a humane response to the needs of the terminally ill and as a viable component of the health care system in this country.

Approved September 25, 1984.

LEGISLATIVE HISTORY—S.J. Res. 334:

CONGRESSIONAL RECORD, Vol. 130 (1984):
Aug. 10, considered and passed Senate.
Sept. 12, considered and passed House.

Public Law 98-424
98th Congress

Joint Resolution

Sept. 25, 1984
[S.J. Res. 335]

To designate the week beginning on May 19, 1985, as "National Tourism Week".

Whereas tourism is vital to the United States, contributing to economic prosperity, employment, and international balance of payments;

Whereas travelers from the United States and other countries spent \$255,000,000,000 in the United States during 1982, directly producing four million five hundred thousand jobs, \$41,000,000,000 in wages and salaries, and over \$20,000,000,000 in Federal, State, and local tax revenues;

Whereas, if viewed as a single retail industry, the travel and tourism sector of the economy constituted the second largest retail industry in the United States in 1982, as measured by business receipts;

Whereas tourism contributes substantially to personal growth, education, and intercultural appreciation of geography, history, and people of the United States;

Whereas tourism enhances international understanding and good will; and

Whereas, as people throughout the world become more aware of the outstanding cultural and recreational resources available across the United States, travel and tourism will become an increasingly important aspect of the daily lives of the people of the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning on May 19, 1985, hereby is designated as "National Tourism Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved September 25, 1984.

LEGISLATIVE HISTORY—S.J. Res. 335:

CONGRESSIONAL RECORD, Vol. 130 (1984):

Aug. 10, considered and passed Senate.

Sept. 12, considered and passed House.

Public Law 98-425
98th Congress

An Act

Entitled the "California Wilderness Act of 1984".

Sept. 28, 1984
[H.R. 1437]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this title may be cited as the "California Wilderness Act of 1984".

TITLE I

DESIGNATION OF WILDERNESS

SEC. 101. (a) In furtherance of the purposes of the Wilderness Act, the following lands, as generally depicted on maps, appropriately referenced, dated July 1980 (except as otherwise dated) are hereby designated as wilderness, and therefore, as components of the National Wilderness Preservation System—

(1) certain lands in the Lassen National Forest, California, which comprise approximately one thousand eight hundred acres, as generally depicted on a map entitled "Caribou Wilderness Additions—Proposed", and which are hereby incorporated in, and which shall be deemed to be a part of the Caribou Wilderness as designated by Public Law 88-577;

(2) certain lands in the Stanislaus and Toiyabe National Forests, California, which comprise approximately one hundred sixty thousand acres, as generally depicted on a map entitled "Carson-Iceberg Wilderness—Proposed", dated July 1984, and which shall be known as the Carson-Iceberg Wilderness: *Provided, however,* That the designation of the Carson-Iceberg Wilderness shall not preclude continued motorized access to those previously existing facilities which are directly related to permitted livestock grazing activities in the Wolf Creek Drainage on the Toiyabe National Forest in the same manner and degree in which such access was occurring as of the date of enactment of this title;

(3) certain lands in the Shasta-Trinity National Forest, California, which comprise approximately seven thousand three hundred acres, as generally depicted on a map entitled "Castle Crags Wilderness—Proposed", and which shall be known as the Castle Crags Wilderness;

(4) certain lands in the Shasta-Trinity National Forest, California, which comprise approximately eight thousand two hundred acres, as generally depicted on a map entitled "Chanchelulla Wilderness—Proposed", and which shall be known as the Chanchelulla Wilderness;

(5) certain lands in the Angeles National Forest, California, which comprise approximately four thousand four hundred acres, as generally depicted on a map entitled "Cucamonga Wilderness Additions—Proposed", dated July 1984, and which are hereby incorporated in, and which shall be deemed to be a

California
Wilderness Act
of 1984.
National
Wilderness
Preservation
System.
National Forest
System.
National parks,
monuments, etc.
16 USC 1131
note.

16 USC 1131
note.
16 USC 1132
note.

16 USC 1132
note.

16 USC 1132
note.

16 USC 1131
note.
16 USC 1132
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16 USC 1132
note.

16 USC 1132
note.

16 USC 1131
note.

16 USC 1132
note.
16 USC 1132
note.

16 USC 1132
note.

part of the Cucamonga Wilderness as designated by Public Law 88-577;

(6) certain lands in the Los Padres National Forest, which comprise approximately sixty-four thousand seven hundred acres, as generally depicted on a map entitled "Dick Smith Wilderness—Proposed", dated July 1984, and which shall be known as Dick Smith Wilderness: *Provided*, That the Act of March 21, 1968 (82 Stat. 51), which established the San Rafael Wilderness is hereby amended to transfer four hundred and thirty acres of the San Rafael Wilderness to the Dick Smith Wilderness and establish a line one hundred feet north of the centerline of the Buckhorn Fire Road as the southeasterly boundary of the San Rafael Wilderness, as depicted on a map entitled "Dick Smith Wilderness—Proposed", and wherever said Buckhorn Fire Road passes between the San Rafael and Dick Smith Wildernesses and elsewhere at the discretion of the Forest Service, it shall be closed to all motorized vehicles except those used by the Forest Service for administrative purposes;

(7) certain lands in the Sierra National Forest, California, which comprise approximately thirty thousand acres, as generally depicted on a map entitled "Dinkey Lakes Wilderness—Proposed", and which shall be known as the "Dinkey Lakes Wilderness": *Provided*, That within the Dinkey Lakes Wilderness the Secretary of Agriculture shall permit nonmotorized dispersed recreation to continue at a level not less than the level of use which occurred during calendar year 1979;

(8) certain lands in the Sequoia National Forest, California, which comprise approximately thirty-two thousand acres, as generally depicted on a map entitled "Domeland Wilderness Additions—Proposed", dated March 1983, and which are hereby incorporated in, and which shall be deemed to be a part of the Domeland Wilderness as designated by Public Law 88-577;

(9) certain lands in the Stanislaus National Forest, California, which comprise approximately six thousand one hundred acres, as generally depicted on a map entitled "Emigrant Wilderness Additions—Proposed", and which are hereby incorporated in, and which shall be deemed to be a part of the Emigrant Wilderness as designated by Public Law 93-632;

(10) certain lands in the Tahoe National Forest, California, which comprise approximately twenty-five thousand acres, as generally depicted on a map entitled "Granite Chief Wilderness—Proposed", dated July 1984, and which shall be known as the Granite Chief Wilderness;

(11) certain lands in the Cleveland National Forest, California, which comprise approximately eight thousand acres, as generally depicted on a map entitled "Hauser Wilderness—Proposed", and which shall be known as the Hauser Wilderness;

(12) certain lands in and adjacent to the Lassen National Forest, California, which comprise approximately forty-one thousand eight hundred forty acres as shown on a map entitled "Ishi Wilderness—Proposed", and which shall be known as the Ishi Wilderness;

(13) certain lands in the Sierra National Forest, California, which comprise approximately eighty-one thousand acres, as generally depicted on a map entitled "John Muir Wilderness Additions, Sierra National Forest—Proposed", dated February 1983, and which are hereby incorporated in, and which shall be

deemed to be a part of the John Muir Wilderness as designated by Public Law 88-577: *Provided*, That the Secretary of Agriculture is authorized to modify the boundaries of the John Muir Wilderness Additions and the Dinkey Lakes Wilderness as designated by this Act in the event he determines that portions of the existing primitive road between the two wilderness areas should be relocated for environmental protection or other reasons. Any relocated wilderness boundary shall be placed no more than three hundred feet from the centerline of any new primitive roadway and shall become effective upon publication of a notice of such relocation in the Federal Register;

16 USC 1131
note.

Federal
Register,
publication.

(14) certain lands in the Klamath National Forest, California, which comprise approximately twenty-eight thousand acres, as generally depicted on a map entitled "Marble Mountain Wilderness Additions—Proposed", dated July 1984, and which are hereby incorporated in, and shall be deemed to be a part of the Marble Mountain Wilderness as designated by Public Law 88-577;

(15) certain lands in the Sierra and Inyo National Forests, California, which comprise approximately nine thousand acres, as generally depicted on a map entitled "Minarets Wilderness Additions—Proposed", and which are hereby incorporated in, and which shall be deemed to be a part of the Minarets Wilderness as designated by Public Law 88-577: *Provided*, That the existing Minarets Wilderness and additions thereto designated by this title henceforth shall be known as the Ansel Adams Wilderness;

16 USC 1132
note.

(16) certain lands in the Eldorado, Stanislaus, and Toiyabe National Forests, California, which comprise approximately fifty-five thousand acres, as generally depicted on a map entitled "Mokelumne Wilderness Additions—Proposed", dated July 1984, and which are hereby incorporated in, and which shall be deemed to be a part of the Mokelumne Wilderness as designated by Public Law 88-577;

(17) certain lands in the Sierra and Sequoia National Forests, California, which comprise approximately forty-five thousand acres, as generally depicted on a map entitled "Monarch Wilderness—Proposed", dated July 1984, and which shall be known as the Monarch Wilderness;

16 USC 1132
note.

(18) certain lands in the Shasta-Trinity National Forest, California, which comprise approximately thirty-seven thousand acres, as generally depicted on a map entitled "Mt. Shasta Wilderness—Proposed", dated July 1984, and which shall be known as Mt. Shasta Wilderness;

16 USC 1132
note.

(19) certain lands in the Six Rivers National Forest, California, which comprise approximately eight thousand one hundred acres, as generally depicted on a map entitled "North Fork Wilderness—Proposed", and which shall be known as the North Fork Wilderness;

16 USC 1132
note.

(20) certain lands in the Cleveland National Forest, California, which comprise approximately thirteen thousand one hundred acres, as generally depicted on a map entitled "Pine Creek Wilderness—Proposed", and which shall be known as the Pine Creek Wilderness;

16 USC 1132
note.

(21) certain lands in the Rogue River National Forest, California, and Oregon, which comprise approximately sixteen thousand five hundred acres, as generally depicted on a map entitled

Ante, p. 272.
16 USC 1132
note.

16 USC 1131
note.

Federal
Register,
publication.

16 USC 1132
note.

"Red Buttes Wilderness Additions—Proposed", dated July 1984, and which are hereby incorporated in, and which shall be deemed to be a part of the Red Buttes Wilderness as designated by Public Law 98-328;

(22) certain lands in the Klamath National Forest, California, which comprise approximately twelve thousand acres, as generally depicted on a map entitled "Russian Wilderness—Proposed", and which shall be known as the Russian Wilderness;

(23) certain lands in the San Bernardino National Forest, California, which comprise approximately twenty-one thousand five hundred acres, as generally depicted on a map entitled "San Gorgonio Wilderness Additions—Proposed", and which are hereby incorporated in, and which shall be deemed to be a part of the San Gorgonio Wilderness as designated by Public Law 88-577;

(24) certain lands in the San Bernardino National Forest, California, which comprise approximately ten thousand nine hundred acres, as generally depicted on a map entitled "San Jacinto Wilderness Additions—Proposed", and which are hereby incorporated in, and which shall be deemed to be a part of the San Jacinto Wilderness as designated by Public Law 88-577: *Provided, however*, That the Secretary of Agriculture may pursuant to an application filed within 10 years of the date of enactment of this title, grant a right-of-way for, and authorize construction of, a transmission line or lines within the area depicted as "potential powerline corridor" on the map entitled "San Jacinto Wilderness Additions—Proposed": *Provided further*, That if a power transmission line is constructed within such corridor, the corridor shall cease to be a part of the San Jacinto Wilderness and the Secretary of Agriculture shall publish notice thereof in the Federal Register;

(25) certain lands in the Sierra and Inyo National Forests and the Devils Postpile National Monument, California, which comprise approximately one hundred and ten thousand acres, as generally depicted on a map entitled "San Joaquin Wilderness—Proposed", and which shall comprise a portion of the Ansel Adams Wilderness established pursuant to subparagraph (a)(15) of this section: *Provided, however*, That nothing in this title shall be construed to prejudice, alter, or affect in any way, any rights or claims of right to the diversion and use of waters from the North Fork of the San Joaquin River, or in any way to interfere with the construction, maintenance, repair, or operation of a hydroelectric project similar in scope to the Jackass-Chiquito hydroelectric power project (or the Granite Creek-Jackass alternative project) as initially proposed by the Upper San Joaquin River Water and Power Authority: *Provided further*, That the designation of the San Joaquin Wilderness shall not preclude continued motorized access to those previously existing facilities which are directly related to permitted livestock grazing activities nor operation and maintenance of the existing cabin located in the vicinity of the Heitz Meadow Guard Station within the Ansel Adams Wilderness, in the same manner and degree in which such access and operation and maintenance of such cabin were occurring as of the date of enactment of this title;

(26) certain lands in the Cleveland National Forest, California, which comprise approximately thirty-nine thousand five

hundred and forty acres, as generally depicted on a map entitled "San Mateo Canyon Wilderness—Proposed", and which shall be known as the San Mateo Canyon Wilderness;

(27) certain lands in the Los Padres National Forest, California, which comprise approximately two thousand acres, as generally depicted on a map entitled "San Rafael Wilderness Additions—Proposed", and which are hereby incorporated in, and which shall be deemed to be a part of the San Rafael Wilderness as designated by Public Law 90-271;

16 USC 1132
note.
16 USC 1132
note.

(28) certain lands in the San Bernardino National Forest, California, which comprise approximately twenty thousand one hundred and sixty acres, as generally depicted on a map entitled "Santa Rosa Wilderness—Proposed", and which shall be known as the Santa Rosa Wilderness;

(29) certain lands in the Angeles and San Bernardino National Forests, California, which comprise approximately forty-three thousand six hundred acres, as generally depicted on a map entitled "Sheep Mountain Wilderness—Proposed", dated July 1984, and which shall be known as Sheep Mountain Wilderness;

16 USC 1132
note.

(30) certain lands in the Six Rivers, Klamath, and Siskiyou National Forests, California, which comprise approximately one hundred fifty-three thousand acres, as generally depicted on a map entitled "Siskiyou Wilderness—Proposed", dated July 1984, and which shall be known as the Siskiyou Wilderness;

16 USC 1132
note.

(31) certain lands in the Mendocino National Forest, California, which comprise approximately thirty-seven thousand acres, as generally depicted on a map entitled "Snow Mountain Wilderness—Proposed", and which shall be known as Snow Mountain Wilderness;

16 USC 1132
note.

(32) certain lands in the Sequoia and Inyo National Forests, California, which comprise approximately sixty-three thousand acres, as generally depicted on a map entitled "South Sierra Wilderness—Proposed", dated July 1984, and which shall be known as the South Sierra Wilderness;

16 USC 1132
note.

(33) certain lands in the Modoc National Forest, California, which comprise approximately one thousand nine hundred and forty acres, as generally depicted on a map entitled "South Warner Wilderness Additions—Proposed", and which are hereby incorporated in, and which shall be deemed to be a part of the South Warner Wilderness as designated by Public Law 88-577;

16 USC 1131
note.
16 USC 1132
note.

(34) certain lands in and adjacent to the Klamath, Shasta-Trinity and Six Rivers National Forests, California, which comprise approximately five hundred thousand acres, as generally depicted on a map entitled "Trinity Alps Wilderness—Proposed", dated July 1984, and which shall be known as the Trinity Alps Wilderness;

(35) certain lands in the Los Padres National Forest, California, which comprise approximately two thousand seven hundred and fifty acres, as generally depicted on a map entitled "Ventana Wilderness Additions—Proposed", and which are hereby incorporated in, and shall be deemed to be a part of the Ventana Wilderness as designated by Public Laws 91-58 and 95-237;

16 USC 1132
note.

(36) certain lands in and adjacent to the Six Rivers and Mendocino National Forests, California, which comprise ap-

16 USC 1131
note.
16 USC 1132
note.

16 USC 1132
note.

16 USC 1132
note.

proximately forty-two thousand acres, as generally depicted on a map entitled "Yolla-Bolly Middle Eel Additions—Proposed", dated July 1984, and which are hereby incorporated in, and which shall be deemed to be a part of the Yolla-Bolly Middle Eel Wilderness as designated by Public Law 88-577;

(37) certain lands in the Plumas National Forest, California, which comprise approximately twenty-one thousand acres, as generally depicted on a map entitled "Bucks Lake Wilderness—Proposed", dated March 1983, and which shall be known as the Bucks Lake Wilderness;

(38) certain lands in and adjacent to the Los Padres National Forest, California, which comprise approximately twenty thousand acres, as generally depicted on a map entitled "Machesna Mountain Wilderness—Proposed", dated March 1983, and which shall be known as the Machesna Mountain Wilderness; and

(39) certain lands in the Sequoia National Forest, which comprise approximately ten thousand five hundred acres, as generally depicted on a map entitled "Jennie Lakes Wilderness—Proposed", dated March 1983, and which shall be known as the Jennie Lakes Wilderness.

(b) The previous classifications of the High Sierra Primitive Area, Emigrant Basin Primitive Area, and the Salmon-Trinity Alps Primitive Area are hereby abolished.

DESIGNATION OF PLANNING AREAS

16 USC 1131
note.
Report.
President of U.S.

SEC. 102. (a) In furtherance of the purposes of the Wilderness Act, the following lands shall be reviewed by the Secretary of Agriculture as to their suitability for preservation as wilderness. The Secretary shall submit his report and findings to the President, and the President shall submit his recommendations to the United States House of Representatives and the United States Senate no later than three years from the date of enactment of this title:

(1) certain lands in the Stanislaus and Toiyabe National Forests, California, which comprise approximately thirty thousand acres, as generally depicted on a map entitled "Carson-Iceberg Planning Area", dated July 1984, and which shall be known as the Carson-Iceberg Planning Area;

(2) certain lands in the Toiyabe National Forest, California, which comprise approximately forty-nine thousand two hundred acres as generally depicted on a map entitled "Hoover Wilderness Additions Planning Area", dated July 1984, and which shall be known as the Hoover Wilderness Additions Planning Area; and

(3) certain lands in the San Bernardino National Forest, California, which comprise approximately seventeen thousand acres, as generally depicted on a map entitled "Pyramid Peak Planning Area", dated July 1984, and which shall be known as the Pyramid Peak Planning Area.

(b) Subject to valid existing rights, the planning areas designated by this section shall for a period of four years from the date of enactment of this title, be administered by the Secretary of Agriculture so as to maintain their presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System.

ADMINISTRATION OF WILDERNESS AREAS

SEC. 103. (a) Subject to valid existing rights, each wilderness area designated by this title shall be administered by the Secretary concerned in accordance with the provisions of the Wilderness Act: *Provided*, That any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this title.

16 USC 1131
note.

(b) Within the National Forest wilderness areas designated by this title—

(1) as provided in subsection 4(d)(4)(2) of the Wilderness Act, the grazing of livestock, where established prior to the date of enactment of this title, shall be permitted to continue subject to such reasonable regulations, policies and practices as the Secretary deems necessary, as long as such regulations, policies and practices fully conform with and implement the intent of Congress regarding grazing in such areas as such intent is expressed in the Wilderness Act and this title;

16 USC 1133.

(2) as provided in subsection 4(d)(1) of the Wilderness Act, the Secretary concerned may take such measures as are necessary in the control of fire, insects, and diseases, subject to such conditions as he deems desirable; and

(3) as provided in section 4(b) of the Wilderness Act, the Secretary concerned shall administer such areas so as to preserve their wilderness character and to devote them to the public purposes of recreational, scenic, scientific, educational, conservation, and historical use.

(c) Within sixty days of the date of enactment of this title, the Secretary of Agriculture shall enter into negotiations to acquire by exchange all or part of any privately owned lands within the national forest wilderness areas designated by this title. Such exchange shall to the maximum extent practicable be completed within three years after the date of enactment of this title. The Secretary is authorized to acquire such lands by means other than exchange, beginning three years after the date of enactment of this title. Acquisition shall be only with the concurrence of the owner. Values shall be determined without reference to any restrictions on access or use which arise out of designation as a wilderness area.

FILING OF MAPS AND DESCRIPTIONS

SEC. 104. As soon as practicable after enactment of this title, a map and a legal description on each wilderness area shall be filed with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and each such map and description shall have the same force and effect as if included in this title: *Provided*, That correction of clerical and typographical errors in each such legal description and map may be made. Each such map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

Public
availability.

ADDITIONS TO NATIONAL PARK SYSTEM

SEC. 105. (a) The following lands are hereby added to the National Park System:

16 USC 80 note.

(1) certain lands in the Sequoia National Forest, California, which comprise approximately one thousand five hundred acres, as generally depicted on a map entitled "Jennie Lakes Additions, Kings Canyon National Park—Proposed", dated March 1983, and which are hereby incorporated in, and which shall be deemed to be a part of Kings Canyon National Park; and

16 USC 46 note

(2) certain lands which comprise approximately one hundred eighty-five acres, as generally depicted on a map entitled "McCauley Ranch Addition, Yosemite National Park", dated December 1982 and numbered 80,021, and which are hereby incorporated in, and which shall be deemed to be a part of Yosemite National Park.

(b) Upon enactment of this title, the Secretary of Agriculture shall transfer the lands described in subsection (a) of this section, without consideration, to the administrative jurisdiction of the Secretary of the Interior for administration as part of the National Park System. The boundaries of the national forests and national parks shall be adjusted accordingly. The areas added to the National Park System by this section shall be administered in accordance with the provisions of law generally applicable to units of the National Park System.

Report.

(c) The Secretary of the Interior shall study the lands added to the National Park System by subsection (a) of this section for possible designation as national park wilderness, and shall report to the Congress his recommendations as to the suitability or nonsuitability of the designation of such lands as wilderness by not later than three years after the effective date of this title.

16 USC 46 note.

(d) The Secretary of Agriculture is authorized and directed to transfer to the jurisdiction of the Secretary of the Interior for administration as a part of Yosemite National Park, two hundred and fifty-three acres of the Stanislaus National Forest at Crocker Ridge, identified as all that land lying easterly of a line beginning at the existing park boundary and running three hundred feet west of and parallel to the center line of the park road designated as State Highway 120, also known as the New Big Oak Flat Road, within section 34, township 1 south, range 19 east, and within sections 4, 9, and 10, township 2 south, range 19 east, Mount Diablo base and meridian. The boundary of Yosemite National Park and the Stanislaus National Forest shall be adjusted accordingly.

(e) The Secretary of the Interior is authorized and directed to transfer to the jurisdiction of the Secretary of Agriculture one hundred and sixty acres within the boundary of the Sierra National Forest identified as the northwest quarter of section 16, township 5 south, range 22 east, Mount Diablo base meridian, subject to the right of the Secretary of the Interior to the use of the water thereon for park purposes, including the right of access to facilities necessary for the transportation of water to the park.

NATIONAL PARK WILDERNESS

SEC. 106. The following lands are hereby designated as wilderness in accordance with section 3(c) of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1132(c)) and shall be administered by the Secretary of the Interior in accordance with the applicable provisions of the Wilderness Act.

(1) Yosemite National Park Wilderness, comprising approximately six hundred and seventy-seven thousand six hundred acres, and potential wilderness additions comprising approximately three thousand five hundred and fifty acres, as generally depicted on a map entitled "Wilderness Plan, Yosemite National Park, California", numbered 104-20, 003-E dated July 1980, and shall be known as the Yosemite Wilderness;

16 USC 1132
note.

(2) Sequoia and Kings Canyon National Parks Wilderness, comprising approximately seven hundred and thirty-six thousand nine hundred and eighty acres; and potential wilderness additions comprising approximately one hundred acres, as generally depicted on a map entitled "Wilderness Plan—Sequoia-Kings Canyon National Parks—California", numbered 102-20, 003-E and dated July 1980, and shall be known as the Sequoia-Kings Canyon Wilderness.

16 USC 1132
note.

MAP AND DESCRIPTION

SEC. 107. A map and description of the boundaries of the areas designated in section 106 of this title shall be on file and available for public inspection in the Office of the Director of the National Park Service, Department of the Interior, and in the Office of the Superintendent of each area designated in section 106. As soon as practicable after this title takes effect, maps of the wilderness areas and descriptions of their boundaries shall be filed with the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, and such maps and description shall have the same force and effect as if included in this title: *Provided*, That correction of clerical and typographical errors in such maps and descriptions may be made.

Public
availability.

CESSATION OF CERTAIN USES

SEC. 108. Any lands (in section 106 of this title) which represent potential wilderness additions upon publication in the Federal Register of a notice by the Secretary of the Interior that all uses thereon prohibited by the Wilderness Act have ceased, shall thereby be designated wilderness. Lands designated as potential wilderness additions shall be managed by the Secretary insofar as practicable as wilderness until such time as said lands are designated as wilderness.

Federal
Register,
publication.

ADMINISTRATION

SEC. 109. The areas designated by section 106 of this title as wilderness shall be administered by the Secretary of the Interior in accordance with the applicable provisions of the Wilderness Act governing areas designated by that title as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this title, and where appropriate, any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary of the Interior.

16 USC 1131
note.

SEC. 110. Notwithstanding any existing or future administrative designation or recommendation, mineral prospecting, exploration, development, or mining of cobalt and associated minerals undertaken under the United States mining laws within the North Fork

Smith roadless area (RARE II, 5-707, Six Rivers National Forest, California) shall be subject to only such Federal laws and regulations as are generally applicable to national forest lands designated as nonwilderness.

WILDERNESS REVIEW CONCERNS

Conservation.

SEC. 111. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and
(2) the Congress had made its own review and examination of national forest roadless areas in California and the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to national forest lands in States other than California, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of California;

(2) upon enactment of this title, the injunction issued by the United States District Court for the Eastern District of California in the State of California versus Bergland (483 F. Supp. 465 (1980)) shall no longer be in force;

(3) with respect to the National Forest System lands in the State of California which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II), and those lands referred to in subsection (d), except those lands remaining in further planning as referred to in subsection (e), or designated as planning areas upon enactment of this title, that review and evaluation shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless prior to such time the Secretary of Agriculture finds that conditions in a unit have significantly changed;

(4) areas in the State of California reviewed in such final environmental statement or referenced in subsection (d) and not designated as wilderness or planning areas by this title or remaining in further planning as referenced in subsection (e) upon enactment of this title shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976: *Provided*, That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the land management plans;

16 USC 1600
note.

16 USC 1604.

(5) in the event that revised land management plans in the State of California are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law; and

16 USC 1604.

(6) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of National Forest System lands in the State of California for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

16 USC 1600
note

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

(d) The provisions of this section shall also apply to—

(1) those National Forest System roadless lands in the State of California: in the Plumas and Tahoe National Forests which were evaluated in the Mohawk Unit Plan; in the Six Rivers National Forest which were evaluated in the Blue Creek Unit Plan not designated as Wilderness by this title and the Fox Unit Plan; in the Klamath National Forest which were evaluated in the King Unit Plan; in the Angeles National Forest which were evaluated in the San Gabriel Unit Plan; in the Modoc and Shasta-Trinity and Klamath National Forests in the Medicine Lake Unit Plan; in the Cleveland National Forest which were evaluated in the Palomar Mountain Unit Plan and Trabuco Unit Plan; in the Los Padres National Forest which were evaluated in the Big Sur Unit Plan; in the Tahoe National Forest which were evaluated in the Truckee-Little Truckee Unit Plan; and those portions of the Carson-Iceberg roadless area not designated as wilderness or planning areas or remaining in further planning as referenced in subsection (e);

(2) National Forest System roadless lands in the State of California which are less than five thousand acres in size; and

(3) National Forest System roadless areas or portions thereof in the State of California as identified in Executive Document Numbered 1504 Ninety-sixth Congress (House Document Numbered 96-119) and identified by name and number at the end of this subparagraph, which are not designated as wilderness by this title:

National Forest	Area name	Area I.D.
Eldorado	Pyramid	05023
Eldorado	Rubicon	05026
Eldorado	Dardanelles	05982
Eldorado	Tragedy-Elephants Back	05984
Eldorado	Raymond Peak	05985
Klamath	Orleans Mountain	B5079
Klamath	Condrey Mountain	05704

TITLE II

DESIGNATION WILD AND SCENIC RIVER

Ante, p 1491.
16 USC 1274.

SEC. 201. Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1271-1287) as amended is further amended by inserting the following new paragraph:

"(52) TUOLUMNE, CALIFORNIA.—The main river from its sources on Mount Dana and Mount Lyell in Yosemite National Park to Don Pedro Reservoir consisting of approximately 83 miles as generally depicted on the proposed boundary map entitled 'Alternative A' contained in the Draft Tuolumne Wild and Scenic River Study and Environmental Impact Statement published by the United States Department of the Interior and Department of Agriculture in May 1979; to be administered by the Secretary of the Interior and the Secretary of Agriculture. After consultation with State and local governments and the interested public and within two years from the date of enactment of this paragraph, the Secretary shall take such action as is required under subsection (b) of this section. Nothing in this Act shall preclude the licensing, development, operation, or maintenance of water resources facilities on those portions of the North Fork, Middle Fork or South Fork of the Tuolumne or Clavey Rivers that are outside the boundary of the wild and scenic river area as designated in this section. Nothing in this section is intended or shall be construed to affect any rights, obligations, privileges, or benefits granted under any prior authority of law including chapter 4 of the Act of December 19, 1913, commonly referred to as the Raker Act (38 Stat. 242) and including any agreement or administrative ruling entered into or made effective before the enactment of this paragraph. For fiscal years commencing after September 30, 1985, there are authorized to be appropriated such sums as may be necessary to implement the provisions of this subsection."

Appropriation
authorization.

TITLE III

ESTABLISHMENT OF NATIONAL FOREST SCENIC AREA

16 USC 543

Public
availability

Federal
Register,
publication.

SEC. 301. The area in the Mono Basin within and adjacent to the Inyo National Forest in the State of California, as generally depicted on a map entitled "Mono Basin National Forest Scenic Area" dated June 1983, and numbered 1983-3, is hereby designated as the Mono Basin National Forest Scenic Area (hereafter in this title referred to as the "Scenic Area"). Such map shall be on file and available for public inspection in the office of the Forest Supervisor, Inyo National Forest and in the office of the Chief of the Forest Service, Department of Agriculture. The Secretary of Agriculture (hereinafter in this title referred to as the "Secretary") may make minor revisions in the boundary of the Scenic Area after publication of notice to that effect in the Federal Register and submission of notice thereof to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. Such notice shall be published and submitted at least sixty days before the revision is made.

EXTENSION OF NATIONAL FOREST BOUNDARY

SEC. 302. (a) The exterior boundary of the Inyo National Forest is hereby extended to include the area within the boundary of the Scenic Area. Any lands and interests therein acquired pursuant to section 303 shall become part of the National Forest System.

16 USC 543a.

(b) For the purposes of section 7(a)(1) of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897; 16 U.S.C. 4601-4 through 4601-11), the boundary of the Inyo National Forest, as modified by this section, shall be treated as if it were the boundary of that forest on January 1, 1964.

16 USC 4601-9.
16 USC 4601-4-
4601-11.

ACQUISITION

SEC. 303. (a) The Secretary is authorized to acquire all lands and interests therein within the boundary of the Scenic Area by donation, exchange in accordance with this title or other provisions of law, or purchase with donated or appropriated funds, except that—

16 USC 543b.

(1) any lands or interests therein within the boundary of the Scenic Area which are owned by the State of California or any political subdivision thereof (including the city of Los Angeles) may be acquired only by donation or exchange; and

(2) lands or interests therein within the boundary of the Scenic Area which are not owned by the State of California or any political subdivision thereof (including the city of Los Angeles) may be acquired only with the consent of the owner thereof unless the Secretary determines, after written notice to the owner and after opportunity for comment, that the property is being developed, or proposed to be developed, in a manner which is detrimental to the integrity of the Scenic Area or which is otherwise incompatible with the purposes of this title.

(b)(1) Not later than six months after the date of enactment of this title, the Secretary shall publish specific guidelines under which determinations shall be made under paragraph (2) of subsection (a). No use which existed prior to June 1, 1984, within the area included in the Scenic Area shall be treated under such guidelines as a detrimental or incompatible use within the meaning of such paragraph (2).

(2) For purposes of subsection (a)(2), any development or proposed development of private property within the boundary of the Scenic Area that is significantly different from, or a significant expansion of, development existing as of June 1, 1984, shall be considered by the Secretary as detrimental to the integrity of the Scenic Area. No reconstruction or expansion of a private or commercial building, including—

(A) reconstruction of an existing building,

(B) construction of attached structural additions, not to exceed 100 per centum of the square footage of the original building, and

(C) construction of reasonable support development such as roads, parking, water and sewage systems shall be treated as detrimental to the integrity of the Scenic Area or as an incompatible development within the meaning of paragraph (2) of subsection (a).

(c) Notwithstanding any other provision of law, the Secretary shall only be required to prepare an environmental assessment of

Conservation.

any exchange of mineral or geothermal interest authorized by this title.

ADMINISTRATION

16 USC 543c.

SEC. 304. (a)(1) Except as otherwise provided in this title, the Secretary, acting through the Chief of the Forest Service, shall administer the Scenic Area as a separate unit within the boundary of the Inyo National Forest in accordance with the laws, rules, and regulations applicable to the National Forest System. All Bureau of Land Management administered lands that fall within the boundaries of the Scenic Area are hereby added to the Inyo National Forest and shall be administered in accordance with the laws, rules, and regulations applicable to the National Forest System.

(2) In addition, the following parcels administered by the Bureau of Land Management are hereby added to the Inyo National Forest and shall be administered in accordance with the laws, rules, and regulations applicable to the National Forest System:

township 1 south; range 26 east; Mount Diablo Meridian:
east half of southwest quarter and south half of southeast quarter of section 10; and

township 1 north; range 26 east; Mount Diablo Meridian:
southwest quarter of northeast quarter and west half of southeast quarter of section 9;

southwest quarter of southwest quarter of section 15;
southwest quarter of northwest quarter and northwest quarter of southwest quarter of section 25;

north half of southeast quarter of section 26, west half of northwest quarter and northwest quarter of southwest quarter of section 27;

township 1 north; range 27 east; Mount Diablo Meridian:
east half of southeast quarter of section 34;

southwest quarter of northwest quarter of section 35; and
west half of section 30 as intersected by Scenic Area

Boundary.

(b)(1) In a manner consistent with the protection of the water rights of the State of California or any political subdivision thereof (including the city of Los Angeles) or of any person to the extent that such water rights have been granted or modified under the laws of the State of California, the Secretary shall manage the Scenic Area to protect its geologic, ecologic, and cultural resources. The Secretary shall provide for recreational use of the Scenic Area and shall provide recreational and interpretive facilities (including trails and campgrounds) for the use of the public which are compatible with the provisions of this title, and may assist adjacent affected local governmental agencies in the development of related interpretive programs. The Secretary shall permit the full use of the Scenic Area for scientific study and research in accordance with such rules and regulations as he may prescribe.

(2) Except as specifically provided in this subsection, no commercial timber harvesting shall be permitted in the Scenic Area, but the Secretary shall permit the utilization of wood material such as firewood, posts, poles, and Christmas trees by individuals for their domestic purposes under such regulations as he may prescribe to protect the natural and cultural resources of the Scenic Area. The Secretary may take action including the use of commercial timber harvest to the minimum extent necessary to control fires, insects and diseases that might—

- (A) endanger irreplaceable features within the Scenic Area, or
 - (B) cause substantial damage to significant resources adjacent to the Scenic Area.
 - (c) The Secretary shall permit those persons holding currently valid grazing permits within the boundary of the Scenic Area to continue to exercise such permits consistent with other applicable law.
 - (d) The Secretary may enter into cooperative agreements with the State of California and any political subdivision thereof (including the city of Los Angeles) for purposes of protecting Scenic Area resources and administering areas owned by the State or by any such political subdivision which are within the Scenic Area.
 - (e) Within three years after the date of enactment of this title, the Secretary shall submit to the committees referred to in section 301, a detailed and comprehensive management plan for the Scenic Area which is consistent with the protection of water rights as provided in subsection (b)(1). The plan shall include but not be limited to—
 - (1) an inventory of natural (including geologic) and cultural resources;
 - (2) general development plans for public use facilities, including cost estimates; and
 - (3) measures for the preservation of the natural and cultural resources of the Scenic Area in accordance with subsections (a) and (b) of this section.
- Such plan shall provide for hunting and fishing (including commercial brine shrimp operations authorized under State law) within the Scenic Area in accordance with applicable Federal and State law, except to the extent otherwise necessary for reasons of public health and safety, the protection of resources, scientific research activities, or public use and enjoyment.
- (f) The Secretary is authorized to construct a visitor center in the Scenic Area for the purpose of providing information through appropriate displays, printed material, and other interpretive programs, about the natural and cultural resources of the Scenic Area.
- (g)(1) Subject to valid existing rights, federally owned lands and interests therein within the Scenic Area are withdrawn from entry or appropriation under the mining laws of the United States, from the operation of the mineral leasing laws of the United States, from operation of the Geothermal Steam Act of 1970, and from disposition under the public land laws.
- (2) Subject to valid existing rights, all mining claims located within the Scenic Area shall be subject to such reasonable regulations as the Secretary may prescribe to assure that mining will, to the maximum extent practicable, be consistent with protection of the scenic, scientific, cultural, and other resources of the area, and any patent which may be issued after the date of enactment of this title shall convey title only to the minerals together with the right to use the surface of lands for mining purposes subject to such reasonable regulations.
- (h) Nothing in this title shall be construed to reserve any water for purposes of the Scenic Area or to affirm, deny, or otherwise affect the present (or prospective) water rights of any person or of the State of California or of any political subdivision thereof (including the city of Los Angeles), nor shall any provision of this title be construed to cause, authorize, or allow any interference with or infringement of such water rights so long as, and to the extent that,

30 USC 1001
note.

Repeal.

those rights remain valid and enforceable under the laws of the State of California.

(i)(1) The Act entitled "An Act authorizing and directing the Secretary of the Interior to sell to the city of Los Angeles, California, certain public lands in California; and granting rights-of-way over public lands and reserved lands to the city of Los Angeles in Mono County in the State of California", approved June 23, 1936 (49 Stat. 1892), is hereby repealed.

(2) The Secretary and the Secretary of the Interior shall grant and convey rights-of-way easements, at no cost, to the city of Los Angeles for those rights-of-way on public lands and national forest lands in Mono County, California, as described and set forth in maps and accompanying descriptions which were—

(A) filed by the city of Los Angeles with the Secretary of the Interior on October 24, 1944, and

(B) accepted as proof of construction on behalf of the United States by the Commissioner of the General Land Office on January 4, 1945.

Such easement conveyances shall provide for the right of the city to continue its present operations and to maintain, reconstruct, and replace all existing water and power facilities located within the bounds of the area described in the maps and descriptions referred to in the preceding sentence. The United States shall reserve in the conveyance easements all rights to use and permit the use by others of the lands so conveyed to the extent that such use does not unreasonably interfere with the rights granted herein to the city of Los Angeles.

(3) The grant in paragraph (2) of this subsection shall become effective upon relinquishment in writing by the city of Los Angeles of its applications dated October 20, 1944, and January 17, 1945, to purchase twenty-three thousand eight hundred and fifty acres of Federal land.

(4) The easements granted under paragraph (2) of this subsection shall provide that whenever the city of Los Angeles ceases to use the land or any part thereof subject to such easements for the purposes for which it is currently being used, as of the date of enactment of this title, all interests in such land or part thereof shall revert to the United States.

(j) Existing community recreational uses, as of the date of enactment of this title, shall be permitted at the levels and locations customarily exercised.

STUDIES

16 USC 543d.

SEC. 305. The Secretary shall take such steps as may be necessary to, within one hundred and eighty days of the date of enactment of this title, enter into a contract with the National Academy of Sciences for the purpose of conducting a scientific study of the ecology of the Scenic Area. The study shall provide for consultation with knowledgeable local, State, Federal, and private persons and organizations and shall provide findings and recommendations to the Congress. Such study shall be conducted in accordance with the best scientific methodology (as set forth by the National Academy of Sciences) and shall be transmitted by the National Academy of Sciences to the Committee on Energy and Natural Resources of the United States Senate, to the Committee on Interior and Insular Affairs of the United States House of Representatives, and to the Chief of the Forest Service not later than January 1, 1987. Progress

reports regarding the study shall be transmitted to the above committees on January 1, 1985, and January 1 of each year thereafter.

ADVISORY BOARD

SEC. 306. (a) There is hereby established the Scenic Area Advisory Board (hereinafter referred to as the "Board"). The Secretary shall consult with and seek the advice and recommendations of the Board with respect to—

Establishment.
16 USC 543e.

- (1) the administration of the Scenic Area with respect to policies, programs, and activities in accordance with this title;
- (2) the preparation and implementation of the comprehensive management plan; and
- (3) the location of the visitor center authorized by section 304(f).

(b) The Board shall be composed of nine members, who shall be selected as follows:

- (1) five members appointed by the Mono County Board of Supervisors;
- (2) two members appointed by the Governor of California (one of whom shall be an employee of the California Division of Parks and Recreation);
- (3) one member appointed by the mayor of the city of Los Angeles; and
- (4) one member appointed by the Secretary (who shall be an employee of the Forest Service).

(c) Each member of the Board shall be appointed to serve for a term of three years except that the initial appointments shall be for terms as follows:

- (1) of those members appointed by the Mono County Board of Supervisors one shall be appointed to serve for a term of one year, two shall be for a term of two years, and two shall be for a term of three years;
- (2) of those members appointed by the Governor of California one shall be appointed to serve for a term of one year and one shall be appointed to serve for a term of three years;
- (3) the member appointed by the mayor of the city of Los Angeles shall be appointed to serve for a term of two years; and
- (4) the member appointed by the Secretary shall be appointed to serve for a term of three years.

(d) The members of the Board shall be appointed within ninety days of the date of enactment of this title. The members of the Board shall, at their first meeting, elect a Chairman.

(e) The Secretary, or a designee, shall from time to time, but at least annually, meet and consult with the Board on matters relating to the administration of the scenic area.

(f) Members of the Board shall serve without compensation as such, but the Secretary is authorized to pay, upon vouchers signed by the Chairman, the expenses reasonably incurred by the Board and its members in carrying out their duties under this title.

(g) Any vacancy in the Board shall be filled in the same manner in which the original appointment was made.

(h) A majority of those members appointed shall constitute a quorum for the conduct of all business of the Board.

(i) The Board shall terminate ten years from the date of its first meeting.

Termination.

TRADITIONAL NATIVE AMERICAN USES

16 USC 543f.

42 USC 1996 and
note.

SEC. 307. In recognition of the past use of the Scenic Area by Indian people for traditional cultural and religious purposes, the Secretary shall insure nonexclusive access to Scenic Area lands by Indian people for such traditional cultural and religious purposes, including the harvest of the brine fly larvae. Such direction shall be consistent with the purpose and intent of the American Indian Religious Freedom Act of August 11, 1978 (92 Stat. 469). As a part of the plan prepared pursuant to section 304(c) of this title, the Secretary shall, in consultation with appropriate Indian tribes, define the past cultural and religious uses of the Scenic Area by Indians.

AUTHORIZATION OF APPROPRIATIONS

16 USC 543g.

SEC. 308. In addition to other amounts available for such purposes, effective October 1, 1985, there are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this title.

COMPLIANCE WITH BUDGET ACT

16 USC 543h.
2 USC 651.

SEC. 309. Any new spending authority described in subsection (c)(2) (A) or (B) of section 401 of the Congressional Budget Act of 1974 which is provided under this title shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

Approved September 28, 1984.

LEGISLATIVE HISTORY—H.R. 1437:

HOUSE REPORT No. 98-40 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 98-582 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 129 (1983): Apr. 12, considered and passed House.
Vol. 130 (1984): Aug. 9, considered and passed Senate, amended.
Sept. 12, House agreed to Senate amendment.

Public Law 98-426
98th Congress

An Act

Entitled the "Longshore and Harbor Workers' Compensation Act Amendments of 1984".

Sept. 28, 1984
[S. 38]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Longshore and Harbor Workers' Compensation Act Amendments of 1984".

Longshore and
Harbor Workers'
Compensation
Act
Amendments of
1984.
33 USC 901 note.

(b) Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Longshoremen's and Harbor Workers' Compensation Act.

33 USC 901.

DEFINITIONS

SEC. 2. (a) Section 2(3) is amended to read as follows:

33 USC 902.

"(3) The term 'employee' means any person engaged in maritime employment, including any longshoreman or other person engaged in longshoring operations, and any harbor-worker including a ship repairman, shipbuilder, and ship-breaker, but such term does not include—

"(A) individuals employed exclusively to perform office clerical, secretarial, security, or data processing work;

"(B) individuals employed by a club, camp, recreational operation, restaurant, museum, or retail outlet;

"(C) individuals employed by a marina and who are not engaged in construction, replacement, or expansion of such marina (except for routine maintenance);

"(D) individuals who (i) are employed by suppliers, transporters, or vendors, (ii) are temporarily doing business on the premises of an employer described in paragraph (4), and (iii) are not engaged in work normally performed by employees of that employer under this Act;

"(E) aquaculture workers;

"(F) individuals employed to build, repair, or dismantle any recreational vessel under sixty-five feet in length;

"(G) a master or member of a crew of any vessel; or

"(H) any person engaged by a master to load or unload or repair any small vessel under eighteen tons net;

if individuals described in clauses (A) through (F) are subject to coverage under a State workers' compensation law."

(b) Section 2(10) is amended by inserting before the period at the end thereof the following: "; but such term shall mean permanent impairment, determined (to the extent covered thereby) under the guides to the evaluation of permanent impairment promulgated and modified from time to time by the American Medical Association, in the case of an individual whose claim is described in section 10(d)(2)".

Post, p. 1647.

(c) Section 2(13) is amended to read as follows:

26 USC 3101.

“(13) The term ‘wages’ means the money rate at which the service rendered by an employee is compensated by an employer under the contract of hiring in force at the time of the injury, including the reasonable value of any advantage which is received from the employer and included for purposes of any withholding of tax under subtitle C of the Internal Revenue Code of 1954 (relating to employment taxes). The term wages does not include fringe benefits, including (but not limited to) employer payments for or contributions to a retirement, pension, health and welfare, life insurance, training, social security or other employee or dependent benefit plan for the employee’s or dependent’s benefit, or any other employee’s dependent entitlement.”.

COVERAGE

33 USC 903.

SEC. 3. (a) Section 3 is amended to read as follows:

“COVERAGE

“SEC. 3. (a) Except as otherwise provided in this section, compensation shall be payable under this Act in respect of disability or death of an employee, but only if the disability or death results from an injury occurring upon the navigable waters of the United States (including any adjoining pier, wharf, dry dock, terminal, building way, marine railway, or other adjoining area customarily used by an employer in loading, unloading, repairing, dismantling, or building a vessel).

“(b) No compensation shall be payable in respect of the disability or death of an officer or employee of the United States, or any agency thereof, or of any State or foreign government, or any subdivision thereof.

“(c) No compensation shall be payable if the injury was occasioned solely by the intoxication of the employee or by the willful intention of the employee to injure or kill himself or another.

“(d)(1) No compensation shall be payable to an employee employed at a facility of an employer if, as certified by the Secretary, the facility is engaged in the business of building, repairing, or dismantling exclusively small vessels (as defined in paragraph (3) of this subsection), unless the injury occurs while upon the navigable waters of the United States or while upon any adjoining pier, wharf, dock, facility over land for launching vessels, or facility over land for hauling, lifting, or drydocking vessels.

“(2) Notwithstanding paragraph (1), compensation shall be payable to an employee—

“(A) who is employed at a facility which is used in the business of building, repairing, or dismantling small vessels if such facility receives Federal maritime subsidies; or

“(B) if the employee is not subject to coverage under a State workers’ compensation law.

“(3) For purposes of this subsection, a small vessel means—

“(A) a commercial barge which is under 900 lightship displacement tons; or

“(B) a commercial tugboat, towboat, crew boat, supply boat, fishing vessel, or other work vessel which is under 1,600 tons gross.”.

(b) Section 3 is further amended by adding at the end thereof the following:

“(e) Notwithstanding any other provision of law, any amounts paid to an employee for the same injury, disability, or death for which benefits are claimed under this Act pursuant to any other workers’ compensation law or section 20 of the Act of March 4, 1915 (38 Stat. 1185, chapter 153; 46 U.S.C. 688) (relating to recovery for injury to or death of seamen) shall be credited against any liability imposed by this Act.”.

LIABILITY FOR COMPENSATION

SEC. 4. (a) Section 4(a) is amended to read as follows:

33 USC 904.

“SEC. 4. (a) Every employer shall be liable for and shall secure the payment to his employees of the compensation payable under sections 7, 8, and 9. In the case of an employer who is a subcontractor, only if such subcontractor fails to secure the payment of compensation shall the contractor be liable for and be required to secure the payment of compensation. A subcontractor shall not be deemed to have failed to secure the payment of compensation if the contractor has provided insurance for such compensation for the benefit of the subcontractor.”.

33 USC 907-909.

(b) Section 5(a) is amended by adding at the end thereof the following new sentence: “For purposes of this subsection, a contractor shall be deemed the employer of a subcontractor’s employees only if the subcontractor fails to secure the payment of compensation as required by section 4.”.

33 USC 905.

THIRD PARTY LIABILITY

SEC. 5. (a)(1) The third sentence of section 5(b) is amended to read as follows: “If such person was employed to provide shipbuilding, repairing, or breaking services and such person’s employer was the owner, owner pro hac vice, agent, operator, or charterer of the vessel, no such action shall be permitted, in whole or in part or directly or indirectly, against the injured person’s employer (in any capacity, including as the vessel’s owner, owner pro hac vice, agent, operator, or charterer) or against the employees of the employer.”.

33 USC 905.

(2) Section 2(21) is amended by striking out “The” and inserting in lieu thereof “Unless the context requires otherwise, the”.

33 USC 902

(b) Section 5 is amended by adding at the end thereof the following new subsection:

Supra.

“(c) In the event that the negligence of a vessel causes injury to a person entitled to receive benefits under this Act by virtue of section 4 of the Outer Continental Shelf Lands Act (43 U.S.C. 1333), then such person, or anyone otherwise entitled to recover damages by reason thereof, may bring an action against such vessel in accordance with the provisions of subsection (b) of this section. Nothing contained in subsection (b) of this section shall preclude the enforcement according to its terms of any reciprocal indemnity provision whereby the employer of a person entitled to receive benefits under this Act by virtue of section 4 of the Outer Continental Shelf Lands Act (43 U.S.C. 1333) and the vessel agree to defend and indemnify the other for cost of defense and loss or liability for damages arising out of or resulting from death or bodily injury to their employees.”.

COMPENSATION

SEC. 6. (a) Section 6(b)(1) is amended to read as follows:

33 USC 906.

“(b)(1) Compensation for disability or death (other than compensation for death required by this Act to be paid in a lump sum) shall not exceed an amount equal to 200 per centum of the applicable national average weekly wage, as determined by the Secretary under paragraph (3).”

33 USC 906.

(b) Section 6 is amended—

(1) by striking out subsection (c) and redesignating subsection (d) as subsection (c); and

(2) by striking out “under this subsection” in subsection (c) (as redesignated) and inserting in lieu thereof “under subsection (b)(3)”.

MEDICAL SERVICES AND SUPPLIES

33 USC 907.

SEC. 7. (a) The third sentence of section 7(b) is amended by inserting before the period the following: “or where the charges exceed those prevailing within the community for the same or similar services or exceed the provider’s customary charges”.

(b) Section 7(c) is amended to read as follows:

“(c)(1)(A) The Secretary shall annually prepare a list of physicians and health care providers in each compensation district who are not authorized to render medical care or provide medical services under this Act. The names of physicians and health care providers contained on the list required under this subparagraph shall be made available to employees and employers in each compensation district through posting and in such other forms as the Secretary may prescribe.

“(B) Physicians and health care providers shall be included on the list of those not authorized to provide medical care and medical services pursuant to subparagraph (A) when the Secretary determines under this section, in accordance with the procedures provided in subsection (j), that such physician or health care provider—

“(i) has knowingly and willfully made, or caused to be made, any false statement or misrepresentation of a material fact for use in a claim for compensation or claim for reimbursement of medical expenses under this Act;

“(ii) has knowingly and willfully submitted, or caused to be submitted, a bill or request for payment under this Act containing a charge which the Secretary finds to be substantially in excess of the charge for the service, appliance, or supply prevailing within the community or in excess of the provider’s customary charges, unless the Secretary finds there is good cause for the bill or request containing the charge;

“(iii) has knowingly and willfully furnished a service, appliance, or supply which is determined by the Secretary to be substantially in excess of the need of the recipient thereof or to be of a quality which substantially fails to meet professionally recognized standards;

“(iv) has been convicted under any criminal statute (without regard to pending appeal thereof) for fraudulent activities in connection with any Federal or State program for which payments are made to physicians or providers of similar services, appliances, or supplies; or

“(v) has otherwise been excluded from participation in such program.

“(C) Medical services provided by physicians or health care providers who are named on the list published by the Secretary pursuant to subparagraph (A) of this section shall not be reimbursable under

this Act; except that the Secretary shall direct the reimbursement of medical claims for services rendered by such physicians or health care providers in cases where the services were rendered in an emergency.

“(D) A determination under subparagraph (B) shall remain in effect for a period of not less than three years and until the Secretary finds and gives notice to the public that there is reasonable assurance that the basis for the determination will not reoccur.

Public
information.

“(E) A provider of a service, appliance, or supply shall provide to the Secretary such information and certification as the Secretary may require to assure that this subsection is enforced.

“(2) Whenever the employer or carrier acquires knowledge of the employee's injury, through written notice or otherwise as prescribed by the Act, the employer or carrier shall forthwith authorize medical treatment and care from a physician selected by an employee pursuant to subsection (b). An employee may not select a physician who is on the list required by paragraph (1) of this subsection. An employee may not change physicians after his initial choice unless the employer, carrier, or deputy commissioner has given prior consent for such change. Such consent shall be given in cases where an employee's initial choice was not of a specialist whose services are necessary for and appropriate to the proper care and treatment of the compensable injury or disease. In all other cases, consent may be given upon a showing of good cause for change.”.

(c) Section 7(d) is amended to read as follows:

33 USC 907.

“(d)(1) An employee shall not be entitled to recover any amount expended by him for medical or other treatment or services unless—

“(A) the employer shall have refused or neglected a request to furnish such services and the employee has complied with subsections (b) and (c) and the applicable regulations; or

“(B) the nature of the injury required such treatment and services and the employer or his superintendent or foreman having knowledge of such injury shall have neglected to provide or authorize same.

“(2) No claim for medical or surgical treatment shall be valid and enforceable against such employer unless, within ten days following the first treatment, the physician giving such treatment furnishes to the employer and the deputy commissioner a report of such injury or treatment, on a form prescribed by the Secretary. The Secretary may excuse the failure to furnish such report within the ten-day period whenever he finds it to be in the interest of justice to do so.

Report.

“(3) The Secretary may, upon application by a party in interest, make an award for the reasonable value of such medical or surgical treatment so obtained by the employee.

“(4) If at any time the employee unreasonably refuses to submit to medical or surgical treatment, or to an examination by a physician selected by the employer, the Secretary or administrative law judge may, by order, suspend the payment of further compensation during such time as such refusal continues, and no compensation shall be paid at any time during the period of such suspension, unless the circumstances justified the refusal.”.

(d) Section 7 is amended by adding at the end thereof the following new subsection:

“(j)(1) The Secretary shall have the authority to make rules and regulations and to establish procedures, not inconsistent with the provisions of this Act, which are necessary or appropriate to carry out the provisions of subsection (c), including the nature and extent

of the proof and evidence necessary for actions under this section and the methods of taking and furnishing such proof and evidence.

"(2) Any decision to take action with respect to a physician or health care provider under this section shall be based on specific findings of fact by the Secretary. The Secretary shall provide notice of these findings and an opportunity for a hearing pursuant to section 556 of title 5, United States Code, for a provider who would be affected by a decision under this section. A request for a hearing must be filed with the Secretary within thirty days after notice of the findings is received by the provider making such request. If a hearing is held, the Secretary shall, on the basis of evidence adduced at the hearing, affirm, modify, or reverse the findings of fact and proposed action under this section.

"(3) For the purpose of any hearing, investigation, or other proceeding authorized or directed under this section, the provisions of section 9 and 10 (relating to the attendance of witnesses and the production of books, papers, and documents) of the Federal Trade Commission Act (15 U.S.C. 49, 50) shall apply to the jurisdiction, powers, and duties of the Secretary or any officer designated by him.

"(4) Any physician or health care provider, after any final decision of the Secretary made after a hearing to which he was a party, irrespective of the amount in controversy, may obtain a review of such decision by a civil action commenced within sixty days after the mailing to him of notice of such decision, but the pendency of such review shall not operate as a stay upon the effect of such decision. Such action shall be brought in the court of appeals of the United States for the judicial circuit in which the plaintiff resides or has his principal place of business, or the Court of Appeals for the District of Columbia. As part of his answer, the Secretary shall file a certified copy of the transcript of the record of the hearing, including all evidence submitted in connection therewith. The findings of fact of the Secretary, if based on substantial evidence in the record as a whole, shall be conclusive."

Ante, p. 1643.

(e) Section 7 is further amended by adding at the end thereof the following new subsection:

"(k)(1) Nothing in this Act prevents an employee whose injury or disability has been established under this Act from relying in good faith on treatment by prayer or spiritual means alone, in accordance with the tenets and practice of a recognized church or religious denomination, by an accredited practitioner of such recognized church or religious denomination, and on nursing services rendered in accordance with such tenets and practice, without suffering loss or diminution of the compensation or benefits under this Act. Nothing in this subsection shall be construed to except an employee from all physical examinations required by this Act.

"(2) If an employee refuses to submit to medical or surgical services solely because, in adherence to the tenets and practice of a recognized church or religious denomination, the employee relies upon prayer or spiritual means alone for healing, such employee shall not be considered to have unreasonably refused medical or surgical treatment under subsection (d)."

COMPENSATION FOR DISABILITY

Claims.
33 USC 908.

SEC. 8. (a) Section 8(c)(13) is amended to read as follows:

"(13) Loss of hearing:

“(A) Compensation for loss of hearing in one ear, fifty-two weeks.

“(B) Compensation for loss of hearing in both ears, two-hundred weeks.

“(C) An audiogram shall be presumptive evidence of the amount of hearing loss sustained as of the date thereof, only if (i) such audiogram was administered by a licensed or certified audiologist or a physician who is certified in otolaryngology, (ii) such audiogram, with the report thereon, was provided to the employee at the time it was administered, and (iii) no contrary audiogram made at that time is produced.

“(D) The time for filing a notice of injury, under section 12 of this Act, or a claim for compensation, under section 13 of this Act, shall not begin to run in connection with any claim for loss of hearing under this section, until the employee has received an audiogram, with the accompanying report thereon, which indicates that the employee has suffered a loss of hearing.

“(E) Determinations of loss of hearing shall be made in accordance with the guides for the evaluation of permanent impairment as promulgated and modified from time to time by the American Medical Association.”.

(b) Section 8(c)(20) is amended by striking out “\$3,500” and inserting in lieu thereof “\$7,500”.

(c)(1) Section 8(c)(21) is amended to read as follows:

“(21) Other cases: In all other cases in the class of disability, the compensation shall be 66⅔ per centum of the difference between the average weekly wages of the employee and the employee’s wage-earning capacity thereafter in the same employment or otherwise, payable during the continuance of partial disability.”.

(2) Section 8(c) is further amended by adding at the end thereof the following new paragraph:

“(23) Notwithstanding paragraphs (1) through (22), with respect to a claim for permanent partial disability for which the average weekly wages are determined under section 10(d)(2), the compensation shall be 66⅔ per centum of such average weekly wages multiplied by the percentage of permanent impairment, as determined under the guides referred to in section 2(10), payable during the continuance of such impairment.”.

(d) Section 8(d) is amended by striking out paragraph (3) and redesignating paragraph (4) as paragraph (3).

(e) Section 8(f) is amended—

(1) by inserting before the period at the end of the second and fourth sentences of paragraph (1) the following: “, except that, in the case of an injury falling within the provisions of section 8(c)(13), the employer shall provide compensation for the lesser of such periods”;

(2) by inserting “(A)” after “(2)” in paragraph (2);

(3) by inserting before the period at the end of such paragraph the following: “, except that the special fund shall not assume responsibility with respect to such benefits (and such payments shall not be subject to cessation) in the case of any employer who fails to comply with section 32(a)”;

(4) by adding at the end of paragraph (2) the following new subparagraph:

“(B) After cessation of payments for the period of weeks provided for in this subsection, the employer or carrier responsible for payment of compensation shall remain a party to the claim, retain

Post, p. 1648.
33 USC 913.

33 USC 908.

Post, p. 1647.

Ante, p. 1639.

33 USC 932.

access to all records relating to the claim, and in all other respects retain all rights granted under this Act prior to cessation of such payments.”; and

(5) by adding at the end thereof the following new paragraph:

Ante, p. 1639.

33 USC 944.

“(3) Any request, filed after the date of enactment of the Longshore and Harbor Workers’ Compensation Amendments of 1984, for apportionment of liability to the special fund established under section 44 of this Act for the payment of compensation benefits, and a statement of the grounds therefore, shall be presented to the deputy commissioner prior to the consideration of the claim by the deputy commissioner. Failure to present such request prior to such consideration shall be an absolute defense to the special fund’s liability for the payment of any benefits in connection with such claim, unless the employer could not have reasonably anticipated the liability of the special fund prior to the issuance of a compensation order.”.

33 USC 908.

(f) Subsection (i) of section 8 is amended to read as follows:

“(i)(1) Whenever the parties to any claim for compensation under this Act, including survivors benefits, agree to a settlement, the deputy commissioner or administrative law judge shall approve the settlement within thirty days unless it is found to be inadequate or procured by duress. Such settlement may include future medical benefits if the parties so agree. No liability of any employer, carrier, or both for medical, disability, or death benefits shall be discharged unless the application for settlement is approved by the deputy commissioner or administrative law judge. If the parties to the settlement are represented by counsel, then agreements shall be deemed approved unless specifically disapproved within thirty days after submission for approval.

“(2) If the deputy commissioner disapproves an application for settlement under paragraph (1), the deputy commissioner shall issue a written statement within thirty days containing the reasons for disapproval. Any party to the settlement may request a hearing before an administrative law judge in the manner prescribed by this Act. Following such hearing, the administrative law judge shall enter an order approving or rejecting the settlement.

“(3) A settlement approved under this section shall discharge the liability of the employer or carrier, or both. Settlements may be agreed upon at any stage of the proceeding including after entry of a final compensation order.”.

(g) Such subsection (i) is further amended by adding at the end thereof the following new paragraph:

“(4) The special fund shall not be liable for reimbursement of any sums paid or payable to an employee or any beneficiary under such settlement, or otherwise voluntarily paid prior to such settlement by the employer or carrier, or both.”.

(h) Section 8 is amended by adding at the end thereof the following new subsection:

“(j)(1) The employer may inform a disabled employee of his obligation to report to the employer not less than semiannually any earnings from employment or self-employment, on such forms as the Secretary shall specify in regulations.

“(2) An employee who—

“(A) fails to report the employee’s earnings under paragraph

(1) when requested, or

“(B) knowingly and willfully omits or understates any part of such earnings,

and who is determined by the deputy commissioner to have violated clause (A) or (B) of this paragraph, forfeits his right to compensation with respect to any period during which the employee was required to file such report.

“(3) Compensation forfeited under this subsection, if already paid, shall be recovered by a deduction from the compensation payable to the employee in any amount and on such schedule as determined by the deputy commissioner.”.

COMPENSATION FOR DEATH

SEC. 9. (a) The matter preceding subsection (a) of section 9 is amended to read as follows: 33 USC 909.

“SEC. 9. If the injury causes death, the compensation therefore shall be known as a death benefit and shall be payable in the amount and to or for the benefit of the persons following:”

(b) Section 9(a) is amended by striking out “\$1,000” and inserting in lieu thereof “\$3,000”.

(c) Section 9(e) is amended to read as follows:

“(e) In computing death benefits, the average weekly wages of the deceased shall not be less than the national average weekly wage as prescribed in section 6(b), but—

33 USC 906.

“(1) the total weekly benefits shall not exceed the lesser of the average weekly wages of the deceased or the benefit which the deceased employee would have been eligible to receive under section 6(b)(1); and

Ante, p. 1641.

“(2) in the case of a claim based on death due to an occupational disease for which the time of injury (as determined under section 10(i)) occurs after the employee has retired, the total weekly benefits shall not exceed one fifty-second part of the employee’s average annual earnings during the 52-week period preceding retirement.”.

Infra.

DETERMINATION OF PAY

SEC. 10. (a)(1) Section 10(d) is amended by inserting “(1)” after “(d)” and by adding at the end thereof the following: 33 USC 910

“(2) Notwithstanding paragraph (1), with respect to any claim based on a death or disability due to an occupational disease for which the time of injury (as determined under subsection (i)) occurs—

“(A) within the first year after the employee has retired, the average weekly wages shall be one fifty-second part of his average annual earnings during the 52-week period preceding retirement; or

“(B) more than one year after the employee has retired, the average weekly wage shall be deemed to be the national average weekly wage (as determined by the Secretary pursuant to section 6(b)) applicable at the time of the injury.”.

33 USC 906

(2) Section 10 is further amended by adding at the end thereof the following new subsection:

“(i) For purposes of this section with respect to a claim for compensation for death or disability due to an occupational disease which does not immediately result in death or disability, the time of injury shall be deemed to be the date on which the employee or claimant becomes aware, or in the exercise of reasonable diligence or by reason of medical advice should have been aware, of the

relationship between the employment, the disease, and the death or disability.”.

33 USC 910.

Effective date.

(b) Section 10(f) is amended to read as follows:

“(f) Effective October 1 of each year, the compensation or death benefits payable for permanent total disability or death arising out of injuries subject to this Act shall be increased by the lesser of—

33 USC 906.

“(1) a percentage equal to the percentage (if any) by which the applicable national weekly wage for the period beginning on such October 1, as determined under section 6(b), exceeds the applicable national average weekly wage, as so determined, for the period beginning with the preceding October 1; or

“(2) 5 per centum.”.

NOTICE OF INJURY OR DEATH

33 USC 912.

SEC. 11. (a) Section 12(a) is amended to read as follows:

“SEC. 12. (a) Notice of an injury or death in respect of which compensation is payable under this Act shall be given within thirty days after the date of such injury or death, or thirty days after the employee or beneficiary is aware, or in the exercise of reasonable diligence or by reason of medical advice should have been aware, of a relationship between the injury or death and the employment, except that in the case of an occupational disease which does not immediately result in a disability or death, such notice shall be given within one year after the employee or claimant becomes aware, or in the exercise of reasonable diligence or by reason of medical advice should have been aware, of the relationship between the employment, the disease, and the death or disability. Notice shall be given (1) to the deputy commissioner in the compensation district in which the injury or death occurred, and (2) to the employer.”.

(b) Section 12(c) is amended by adding at the end thereof the following: “Each employer shall designate those agents or other responsible officials to receive such notice, except that the employer shall designate as its representatives individuals among first line supervisors, local plant management, and personnel office officials. Such designations shall be made in accordance with regulations prescribed by the Secretary and the employer shall notify his employees and the Secretary of such designation in a manner prescribed by the Secretary in regulations.”.

(c) Section 12(d) is amended—

(1) by striking out “(or his agent in charge of the business in the place where the injury occurred)” and inserting in lieu thereof the following: “(or his agent or agents or other responsible official or officials designated by the employer pursuant to subsection (c))”;

(2) by striking out “injury or death and” and inserting in lieu thereof “injury or death, (2)”;

(3) by striking out “or (2)” and inserting in lieu thereof “or (3)”;

(4) by inserting after “the ground that” in the clause redesignated as clause (3) (by paragraph (3) of this subsection) the following: “(i) notice, while not given to a responsible official designated by the employer pursuant to subsection (c) of this section, was given to an official of the employer or the employer’s insurance carrier, and that the employer or carrier was not prejudiced due to the failure to provide notice to a responsible

official designated by the employer pursuant to subsection (c), or (ii)".

TIME FOR FILING CLAIM BASED ON OCCUPATIONAL DISEASE

SEC. 12. Section 13(b) is amended by inserting "(1)" after "(b)" and adding at the end thereof the following: 33 USC 913.

"(2) Notwithstanding the provisions of subsection (a), a claim for compensation for death or disability due to an occupational disease which does not immediately result in such death or disability shall be timely if filed within two years after the employee or claimant becomes aware, or in the exercise of reasonable diligence or by reason of medical advice should have been aware, of the relationship between the employment, the disease, and the death or disability, or within one year of the date of the last payment of compensation, whichever is later."

PAYMENT OF COMPENSATION

SEC. 13. (a) Section 14(b) is amended by striking out "employer" and inserting in lieu thereof "employer has been notified pursuant to section 12, or the employer". 33 USC 914

(b) Section 14 is amended by striking out subsection (j) and by redesignating subsections (k) and (l) as subsections (j) and (k), respectively.

LIENS ON COMPENSATION

SEC. 14. Section 17 is amended—

33 USC 917.

(1) by striking out "(b)";

(2) by striking out "entitled to compensation under this Act" and inserting in lieu thereof "covered under this Act"; and

(3) by striking out "this Act, the Secretary may authorize" and inserting in lieu thereof "this Act or under a settlement, the Secretary shall authorize".

REVIEW OF COMPENSATION ORDER

SEC. 15. Section 21(b) is amended—

33 USC 921.

(1) by striking out "three" in paragraph (1) and inserting in lieu thereof "five";

(2) by adding the following sentence at the end of paragraph (1): "The Chairman shall have the authority, as delegated by the Secretary, to exercise all administrative functions necessary to operate the Board.";

(3) by striking out "two" each place it appears in paragraph (2) and inserting in lieu thereof "three"; and

(4) by adding the following new paragraph at the end thereof:

"(5) Notwithstanding paragraphs (1) through (4), upon application of the Chairman of the Board, the Secretary may designate up to four Department of Labor administrative law judges to serve on the Board temporarily, for not more than one year. The Board is authorized to delegate to panels of three members any or all of the powers which the Board may exercise. Each such panel shall have no more than one temporary member. Two members shall constitute a quorum of a panel. Official adjudicative action may be taken only on the affirmative vote of at least two members of a panel. Any party aggrieved by a decision of a panel of the Board may, within thirty days after the date of entry of the decision, petition the entire

permanent Board for review of the panel's decision. Upon affirmative vote of the majority of the permanent members of the Board, the petition shall be granted. The Board shall amend its Rules of Practice to conform with this paragraph. Temporary members, while serving as members of the Board, shall be compensated at the same rate of compensation as regular members."

MODIFICATIONS OF AWARDS

33 USC 922.

SEC. 16. Section 22 is amended—

(1) by inserting "(including an employer or carrier which has been granted relief under section 8(f))" after "party in interest";

(2) by inserting "(including a case under which payments are made pursuant to section 44(i))" after "review a compensation case"; and

(3) by adding at the end thereof the following new sentence: "This section does not authorize the modification of settlements."

FEEs FOR SERVICES

33 USC 928.
Penalties.

SEC. 17. Section 28(e) is amended to read as follows:

"(e) A person who receives a fee, gratuity, or other consideration on account of services rendered as a representative of a claimant, unless the consideration is approved by the deputy commissioner, administrative law judge, Board, or court, or who makes it a business to solicit employment for a lawyer, or for himself, with respect to a claim or award for compensation under this Act, shall, upon conviction thereof, for each offense be punished by a fine of not more than \$1,000 or be imprisoned for not more than one year, or both."

REPORTS

33 USC 930.

SEC. 18. (a) Section 30(a) is amended—

(1) by inserting after "injury" the first place it appears a comma and the following: "which causes loss of one or more shifts of work,"; and

(2) by adding at the end thereof the following new sentence: "Notwithstanding the requirements of this subsection, each employer shall keep a record of each and every injury regardless of whether such injury results in the loss of one or more shifts of work."

Penalty.

(b) Section 30(e) is amended to read as follows:

"(e) Any employer, insurance carrier, or self-insured employer who knowingly and willfully fails or refuses to send any report required by this section or knowingly or willfully makes a false statement or misrepresentation in any such report shall be subject to a civil penalty not to exceed \$10,000 for each such failure, refusal, false statement, or misrepresentation."

PENALTY FOR MISREPRESENTATION—PROSECUTION OF CLAIMS

33 USC 931.

SEC. 19. Section 31 is amended to read as follows:

"PENALTY FOR MISREPRESENTATION—PROSECUTION OF CLAIMS

"SEC. 31. (a)(1) Any claimant or representative of a claimant who knowingly and willfully makes a false statement or representation for the purpose of obtaining a benefit or payment under this Act

shall be guilty of a felony, and on conviction thereof shall be punished by a fine not to exceed \$10,000, by imprisonment not to exceed five years, or by both.

“(2) The United States attorney for the district in which the injury is alleged to have occurred shall make every reasonable effort to promptly investigate each complaint made under this subsection.

“(b)(1) No representation fee of a claimant’s representative shall be approved by the deputy commissioner, an administrative law judge, the Board, or a court pursuant to section 28 of this Act, if the claimant’s representative is on the list of individuals who are disqualified from representing claimants under this Act maintained by the Secretary pursuant to paragraph (2) of this subsection.

33 USC 928.

“(2)(A) The Secretary shall annually prepare a list of those individuals in each compensation district who have represented claimants for a fee in cases under this Act and who are not authorized to represent claimants. The names of individuals contained on the list required under this subparagraph shall be made available to employees and employers in each compensation district through posting and in such other forms as the Secretary may prescribe.

“(B) Individuals shall be included on the list of those not authorized to represent claimants under this Act if the Secretary determines under this section, in accordance with the procedure provided in subsection (j) of section 7 of this Act, that such individual—

Post, p. 1643.

“(i) has been convicted (without regard to pending appeal) of any crime in connection with the representation of a claimant under this Act or any workers’ compensation statute;

“(ii) has engaged in fraud in connection with the presentation of a claim under this or any workers’ compensation statute, including, but not limited to, knowingly making false representations, concealing or attempting to conceal material facts with respect to a claim, or soliciting or otherwise procuring false testimony;

“(iii) has been prohibited from representing claimants before any other workers’ compensation agency for reasons of professional misconduct which are similar in nature to those which would be grounds for disqualification under this paragraph; or

“(iv) has accepted fees for representing claimants under this Act which were not approved, or which were in excess of the amount approved pursuant to section 28.

33 USC 928.

“(C) Notwithstanding subparagraph (B), no individual who is on the list required to be maintained by the Secretary pursuant to this section shall be prohibited from presenting his or her own claim or from representing without fee, a claimant who is a spouse, mother, father, sister, brother, or child of such individual.

“(D) A determination under subparagraph (A) shall remain in effect for a period of not less than three years and until the Secretary finds and gives notice to the public that there is reasonable assurance that the basis for the determination will not reoccur.

“(3) No employee shall be liable to pay a representation fee to any representative whose fee has been disallowed by reason of the operation of this paragraph.

“(4) The Secretary shall issue such rules and regulations as are necessary to carry out this section.

Regulations.

“(c) A person including, but not limited to, an employer, his duly authorized agent, or an employee of an insurance carrier who knowingly and willfully makes a false statement or representation for the purpose of reducing, denying, or terminating benefits to an

- 33 USC 909. injured employee, or his dependents pursuant to section 9 if the injury results in death, shall be punished by a fine not to exceed \$10,000, by imprisonment not to exceed five years, or by both.”.

SECURITY FOR COMPENSATION

- 33 USC 932. SEC. 20. Section 32(a)(2) is amended by inserting “based on the employer’s financial condition, the employer’s previous record of payments, and other relevant factors,” after “in an amount determined by the commission,”.

COMPENSATION FOR INJURIES WHERE THIRD PERSONS ARE LIABLE

- 33 USC 933. SEC. 21. (a) Section 33(b) is amended to read as follows:
- “(b) Acceptance of compensation under an award in a compensation order filed by the deputy commissioner, an administrative law judge, or the Board shall operate as an assignment to the employer of all rights of the person entitled to compensation to recover damages against such third person unless such person shall commence an action against such third person within six months after such acceptance. If the employer fails to commence an action against such third person within ninety days after the cause of action is assigned under this section, the right to bring such action shall revert to the person entitled to compensation. For the purpose of this subsection, the term ‘award’ with respect to a compensation order means a formal order issued by the deputy commissioner, an administrative law judge, or Board.”.
- (b) Section 33(e)(2) is amended by striking out “, less one-fifth of such excess which shall belong to the employer”.
- (c) Section 33(f) is amended—
- (1) by inserting “net” before “amount recovered”; and
 - (2) by adding at the end thereof the following: “Such net amount shall be equal to the actual amount recovered less the expenses reasonably incurred by such person in respect to such proceedings (including reasonable attorneys’ fees).”.
- (d) Section 33(g) is amended to read as follows:
- “(g)(1) If the person entitled to compensation (or the person’s representative) enters into a settlement with a third person referred to in subsection (a) for an amount less than the compensation to which the person (or the person’s representative) would be entitled under this Act, the employer shall be liable for compensation as determined under subsection (f) only if written approval of the settlement is obtained from the employer and the employer’s carrier, before the settlement is executed, and by the person entitled to compensation (or the person’s representative). The approval shall be made on a form provided by the Secretary and shall be filed in the office of the deputy commissioner within thirty days after the settlement is entered into.
- “(2) If no written approval of the settlement is obtained and filed as required by paragraph (1), or if the employee fails to notify the employer of any settlement obtained from or judgment rendered against a third person, all rights to compensation and medical benefits under this Act shall be terminated, regardless of whether the employer or the employer’s insurer has made payments or acknowledged entitlement to benefits under this Act.
- “(3) Any payments by the special fund established under section 44 shall be a lien upon the proceeds of any settlement obtained from
- 33 USC 944.

or judgment rendered against a third person referred to under subsection (a). Notwithstanding any other provision of law, such lien shall be enforceable against such proceeds, regardless of whether the Secretary on behalf of the special fund has agreed to or has received actual notice of the settlement or judgment.

“(4) Any payments by a trust fund described in section 17 shall be a lien upon the proceeds of any settlement obtained from or judgment recorded against a third person referred to under subsection (a). Such lien shall have priority over a lien under paragraph (3) of this subsection.”.

33 USC 917.

PENALTY FOR FAILURE TO SECURE PAYMENT

SEC. 22. Section 38 is amended by striking out “\$1,000” each place it appears in subsections (a) and (b) and inserting in lieu thereof “\$10,000”.

33 USC 938.

ANNUAL REPORT

SEC. 23. The Act is amended by inserting the following new section after section 41:

“ANNUAL REPORT

“SEC. 42. The Secretary shall make to Congress at the beginning of each regular session, commencing at the beginning of the second regular session after the enactment of the Longshore and Harbor Workers’ Compensation Act Amendments of 1984, a report of the administration of this Act for the preceding fiscal year, including a detailed statement of receipts of and expenditures from the fund established in section 44, together with such recommendations as the Secretary deems advisable.”.

33 USC 942.

Ante, p. 1639

33 USC 944.

SPECIAL FUND

SEC. 24. (a) Section 44(c)(2) is amended to read as follows:

33 USC 944.

“(2) At the beginning of each calendar year the Secretary shall estimate the probable expenses of the fund during that calendar year and the amount of payments required (and the schedule therefor) to maintain adequate reserves in the fund. Each carrier and self-insurer shall make payments into the fund on a prorated assessment by the Secretary determined by—

“(A) computing the ratio (expressed as a percent) of (i) the carrier’s or self-insured’s workers’ compensation payments under this Act during the preceding calendar year, to (ii) the total of such payments by all carriers and self-insureds under this Act during such year;

“(B) computing the ratio (expressed as a percent) of (i) the payments under section 8(f) of this Act during the preceding calendar year which are attributable to the carrier or self-insured, to (ii) the total of such payments during such year attributable to all carriers and self-insureds;

Ante, p. 1645.

“(C) dividing the sum of the percentages computed under subparagraphs (A) and (B) for the carrier or self-insured by two; and

“(D) multiplying the percent computed under subparagraph (C) by such probable expenses of the fund (as determined under the first sentence of this paragraph).”.

33 USC 944.

(b) Section 44 is further amended by striking out subsection (e) and by redesignating subsections (f) through (k) as subsections (e) through (j), respectively.

(c) Section 44(h) (as redesignated pursuant to subsection (b)) is amended by inserting "and unpaid assessments" after "civil penalties".

(d) Section 44(i) (as redesignated pursuant to subsection (b)) is amended—

(1) in paragraph (1), by striking out "and 11", by inserting "certain" before "initial", and by striking out "which occurred prior to the effective date of this subsection"; and

(2) in paragraph (4), by inserting "(e)" after "section 7".

(e) Section 44(j) (as redesignated pursuant to subsection (b)) is amended to read as follows:

"(j) The fund shall be audited annually and the results of such audit shall be included in the annual report required by section 42."

Audit.

Ante, p. 1653.

REPEALS

33 USC 945-947.

SEC. 25. Sections 45, 46, and 47 are repealed.

DISCRIMINATION AGAINST EMPLOYEES WHO BRING PROCEEDINGS

33 USC 948a.

SEC. 26. (a) Section 49 is amended by inserting after the first sentence the following new sentence: "The discharge or refusal to employ a person who has been adjudicated to have filed a fraudulent claim for compensation is not a violation of this section."

(b) The second sentence of section 49 is amended—

(1) by striking out "\$100" and inserting in lieu thereof "\$1,000"; and

(2) by striking out "\$1,000" and inserting in lieu thereof "\$5,000".

CONFORMING AMENDMENTS

33 USC 901.

SEC. 27. (a) The Longshoremen's and Harbor Workers' Compensation Act is further amended—

33 USC 902.

(1) striking out paragraph (6) of section 2 and inserting in lieu thereof the following:

"(6) The term 'Secretary' means the Secretary of Labor.";

33 USC 901 *et seq.*

(2) by striking out "commission" each place it appears and inserting in lieu thereof "Secretary"; and

(3) by striking out "commission's" and inserting in lieu thereof "Secretary's".

33 USC 918.

(b) Section 18(b) is amended by striking out ", including the right of lien and priority provided for by section 17 of this Act,".

33 USC 939.

(c) Section 39(a) is amended by striking out "United States Employees' Compensation Commission" and inserting in lieu thereof "Secretary".

33 USC 901.

(d)(1) Section 1 is amended by striking out "Longshoremen's" and inserting in lieu thereof "Longshore".

33 USC 901 note.

(2) Reference in any other statute, regulation, order, or other document to the Longshoremen's and Harbor Workers' Compensation Act shall be deemed to refer to the Longshore and Harbor Workers' Compensation Act.

EFFECTIVE DATE

SEC. 28. (a) Except as otherwise provided in this section, the amendments made by this Act shall be effective on the date of enactment of this Act and shall apply both with respect to claims filed after such date and to claims pending on such date.

33 USC 901 note.

(b) The amendments made by sections 7(a), 7(e), 8(f), 11(b), 11(c), and 13 shall be effective 90 days after the date of enactment of this Act and shall apply both with respect to claims filed after such 90th day and to claims pending on such 90th day.

(c) The amendments made by sections 2(a), 3(a), 5, and 8(b) shall apply with respect to any injury after the date of enactment of this Act.

(d) The amendments made by sections 6(a), 8(d), and 9 shall apply with respect to any death after the date of enactment of this Act.

(e)(1) The amendments made by sections 2(c), 8(c)(1), 8(e)(4), 8(e)(5), 8(g), 10(b), 15 through 20, and 22 through 27 shall be effective on the date of enactment of this Act.

(2) The amendments made by sections 7(b), 7(c), 7(d), and 8(h) shall be effective 90 days after the date of enactment of this Act.

(f) The amendments made by section 6(b) shall apply with respect to any injury, disability, or death after the date of enactment of this Act.

(g) For the purpose of this section—

(1) in the case of an occupational disease which does not immediately result in a disability or death, an injury shall be deemed to arise on the date on which the employee or claimant becomes aware, or in the exercise of reasonable diligence or by reason of medical advice should have been aware, of the disease; and

(2) the term “disability” has the meaning given such term by section 2(10) of the Act as amended by this Act.

Ante, p. 1639.

(h)(1) The amendments made by section 7 of this Act shall not apply to claims filed under the Black Lung Benefits Act (30 U.S.C. 901 et seq.).

33 USC 907 note.

(2) Section 422(a) of the Black Lung Benefits Act is amended by striking out “During” and inserting in lieu thereof “Subject to section 28(h)(1) of the Longshore and Harbor Workers’ Compensation Act Amendments of 1984, during”.

30 USC 932.

Approved September 28, 1984.

LEGISLATIVE HISTORY—S. 38:

HOUSE REPORTS: No. 98-570 and Part 2 (Comm. on Education and Labor) and No. 98-1027 (Comm. of Conference).

SENATE REPORT No. 98-81 (Comm. on Labor and Human Resources).

CONGRESSIONAL RECORD:

Vol. 129 (1983): June 16, considered and passed Senate.

Vol. 130 (1984): Apr. 9, 10, considered and passed House, amended.

Sept. 18, House agreed to conference report.

Sept. 20, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 39 (1984):

Sept. 28, Presidential statement.

Public Law 98-427
98th Congress

An Act

Sept. 28, 1984
[S. 2418]

To authorize and direct the Librarian of Congress, subject to the supervision and authority of a Federal, civilian, or military agency, to proceed with the construction of the Library of Congress Mass Book Deacidification Facility, and for other purposes.

Public buildings
and grounds.
2 USC 176 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Librarian of Congress is authorized and directed, subject to the supervision and construction authority of a Federal civilian or military agency, to construct the Library of Congress Mass Book Deacidification Facility in accordance with the general design developed by the Library of Congress and reviewed by the Architect of the Capitol, as set forth in the document entitled "Library of Congress Mass Book Deacidification Facility, Engineering, Design, and Cost Estimate and Drawings", dated December 1983. Such facility shall be constructed on Federal property within seventy-five miles of the United States Capitol Building.

2 USC 176.

SEC. 2. Notwithstanding any other provision of law, the Librarian of Congress shall equip, furnish, operate, and maintain the Library of Congress Mass Book Deacidification Facility.

Appropriation
authorization.
2 USC 176 note.

SEC. 3. There are authorized to be appropriated for fiscal years beginning after September 30, 1983, sums not to exceed \$11,500,000 to carry out the provisions of this Act.

Approved September 28, 1984.

LEGISLATIVE HISTORY—S. 2418 (H.R. 5607):

HOUSE REPORT No. 98-938 accompanying H.R. 5607 (Comm. on Public Works and Transportation).

SENATE REPORT No. 98-429 (Comm. on Rules and Administration).

CONGRESSIONAL RECORD, Vol. 130 (1984):

May 18, considered and passed Senate.

Sept. 11, H.R. 5607 considered and passed House; S. 2418, amended, passed in lieu.

Sept. 17, Senate concurred in House amendment.

Public Law 98-428
98th Congress

An Act

To designate certain national forest system lands in the State of Utah for inclusion in the National Wilderness Preservation System to release other forest lands for multiple use management, and for other purposes.

Sept 28, 1984
[S. 2155]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Utah Wilderness Act of 1984".

Utah Wilderness
Act of 1984
National
Wilderness
Preservation
System
National Forest
System.

TITLE I—FINDINGS, PURPOSES, AND WILDERNESS
DESIGNATION

SEC. 101. (a) The Congress finds that—

(1) many areas of undeveloped national forest system lands in the State of Utah possess outstanding natural characteristics which give them high values as wilderness and will, if properly preserved, contribute as an enduring resource of wilderness for the benefit of the American people;

(2) review and evaluation of roadless and undeveloped lands in the national forest system in Utah have identified those areas which, on the basis of their landform, ecosystem, associated wildlife, and location, will help to fulfill the national forest system's share of a quality National Wilderness Preservation System; and

(3) review and evaluation of roadless and undeveloped lands in the national forest system in Utah have also identified those areas which do not possess outstanding wilderness attributes or which possess outstanding energy, mineral, timber, grazing, dispersed recreation, or other values and which should not be designated as components of the National Wilderness Preservation System but should be available for nonwilderness multiple uses under the land management planning process, other applicable laws and the provisions of this Act.

(b) The purposes of this Act are to—

(1) designate certain national forest system lands in Utah as components of the National Wilderness Preservation System in order to preserve the wilderness character of the land and to protect watersheds and wildlife habitat, preserve scenic and historic resources, and promote scientific research, primitive recreation, solitude, physical and mental challenge, and inspiration for the benefit of all of the American people; and

(2) insure that certain other national forest system lands in the State of Utah be available for nonwilderness multiple uses.

SEC. 102. (a) In furtherance of the purpose of the Wilderness Act (78 Stat. 890), the following national forest system lands in the State of Utah are hereby designated as wilderness, and, therefore, as components of the National Wilderness Preservation System:

16 USC 1131
note

(1) certain lands in the Wasatch-Cache National Forest which comprise approximately forty-four thousand three hundred and fifty acres, as generally depicted on a map entitled, "Mt. Naomi

16 USC 1132
note

Wilderness—Proposed”, dated June 1984, and which shall be known as the Mount Naomi Wilderness;

16 USC 1132
note.

(2) certain lands in the Wasatch-Cache National Forest which comprise approximately twenty-three thousand eight hundred and fifty acres as generally depicted on a map entitled “Wellsville Mountain Wilderness—Proposed”, dated November 1983, and which shall be known as the Wellsville Mountain Wilderness;

16 USC 1132
note

(3) certain lands in the Wasatch-Cache National Forest which comprise approximately sixteen thousand acres as generally depicted on a map entitled “Mt. Olympus Wilderness—Proposed”, dated August 1984, and which shall be known as the Mount Olympus Wilderness;

16 USC 1132
note

(4) certain lands in the Wasatch-Cache National Forest which comprise approximately thirteen thousand one hundred acres as generally depicted on a map entitled “Twin Peaks Wilderness—Proposed”, dated June 1984, and which shall be known as the Twin Peaks Wilderness;

16 USC 1132
note.

(5) certain lands in the Wasatch-Cache and Ashley National Forests which comprise approximately four hundred and sixty thousand acres as generally depicted on a map entitled “High Uintas Wilderness—Proposed”, dated June 1984, and which shall be known as the High Uintas Wilderness;

16 USC 1132
note

(6) certain lands in the Uinta National Forest which comprise approximately ten thousand seven hundred and fifty acres as generally depicted on a map entitled “Mt. Timpanogos Wilderness—Proposed”, dated November 1983, and which shall be known as the Mount Timpanogos Wilderness;

16 USC 1132
note

(7) certain lands in the Uinta National Forest which comprise approximately twenty-eight thousand acres as generally depicted on a map entitled “Mt. Nebo Wilderness—Proposed”, dated June 1984, and which shall be known as the Mount Nebo Wilderness;

16 USC 1132
note.

(8) certain lands in the Manti-LaSal National Forest which comprise approximately forty-five thousand acres as generally depicted on a map entitled “Dark Canyon Wilderness—Proposed”, dated November 1983, and which shall be known as the Dark Canyon Wilderness;

16 USC 1132
note

(9) certain lands in the Dixie National Forest which comprise approximately seven thousand acres as generally depicted on a map entitled “Ashdown Gorge Wilderness—Proposed”, dated November 1983, and which shall be known as the Ashdown Gorge Wilderness;

16 USC 1132
note

(10) certain lands in the Dixie National Forest which comprise approximately twenty-six thousand acres as generally depicted on a map entitled “Box-Death Hollow Wilderness—Proposed”, dated June 1984, and which shall be known as the Box-Death Hollow Wilderness;

16 USC 1132
note.

(11) certain lands in the Dixie National Forest which comprise approximately fifty thousand acres as generally depicted on a map entitled “Pine Valley Mountain Wilderness—Proposed”, dated June 1984, and which shall be known as the Pine Valley Mountain Wilderness; and

16 USC 1132
note

(12) certain lands in the Wasatch National Forest which comprise approximately twenty-five thousand five hundred acres as generally depicted on a map entitled “Deseret Peak

Wilderness—Proposed”, dated June 1984, and which shall be known as the Deseret Peak Wilderness.

(b) The previous classifications are hereby abolished: the Mount Timpanogos Scenic Area and the High Uintas Primitive Area.

SEC. 103. (a) As soon as practicable after the enactment of this Act, the Secretary of Agriculture shall file the maps referred to in this Act and a legal description of each wilderness area designated by this Act with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and each such map and legal description shall have the same force and effect as if included in this Act: *Provided, however*, That correction of clerical and typographical errors in such legal descriptions and maps may be made. Each such map and legal description shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

Public
availability.

(b) Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act of 1964 (78 Stat. 892) governing areas designated by that Act as wilderness areas, except that, with respect to any area designated in this Act, any reference in such provisions to the effective date of the Wilderness Act of 1964 shall be deemed to be a reference to the effective date of this Act.

16 USC 1131
note.

TITLE II—RELEASE OF LANDS FOR NONWILDERNESS USES

SEC. 201. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II);

(2) the Congress has made its own review and examination of national forest system roadless areas in Utah and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

Conservation

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to national forest lands in States other than Utah, such statement shall not be subject to judicial review with respect to national forest system lands in the State of Utah;

(2) with respect to the national forest system lands in the State of Utah which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d), that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless,

16 USC 1600
note.

prior to such time the Secretary finds that conditions in a unit have significantly changed;

16 USC 1604

(3) areas in the State of Utah reviewed in such final environmental statement or referenced in subsection (d) and not designated wilderness upon enactment of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976: *Provided*, That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plan;

16 USC 1600
note

(4) in the event that revised land management plans in the State of Utah are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law; and

(5) unless expressly authorized by Congress, Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of national forest system lands in the State of Utah for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

16 USC 1604

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

(d) The provisions of this section shall also apply to—

(1) those national forest system roadless areas in the State of Utah which were evaluated in any unit plan or which are being managed pursuant to a multiple use plan; and

(2) national forest system roadless lands in the State of Utah which are less than five thousand acres in size.

TITLE III—MISCELLANEOUS PROVISIONS

GRAZING IN WILDERNESS AREAS

Livestock

SEC. 301. (a) Grazing of livestock in wilderness areas established by this Act, where established prior to the date of the enactment of this Act, shall be administered in accordance with section 4(d)(4) of the Wilderness Act and section 108 of Public Law 96-560.

16 USC 1133 and
note.

(b) The Secretary is directed to review all policies, practices, and regulations of the Department of Agriculture regarding livestock grazing in national forest system wilderness areas in Utah in order to insure that such policies, practices, and regulations fully conform with and implement the intent of Congress regarding grazing in such areas, as such intent is expressed in this Act.

(c) Not later than one year after the date of the enactment of this Act, and at least every five years thereafter, the Secretary of Agriculture shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate a report detailing the progress made by the Forest Service in carrying out the provisions of paragraphs (a) and (b) of this section.

Report.

STATE WATER ALLOCATION AUTHORITY

SEC. 302. (a) As provided in section 4(d)(7) of the Wilderness Act of 1964, nothing in this Act shall constitute an express or implied claim or denial on the part of the Federal Government as to the exemption from Utah water laws.

16 USC 1133

(b) Within the Mount Naomi, Wellsville Mountain, Mount Olympus, Twin Peaks, High Uintas, Mount Nebo, Pine Valley Mountain, Deseret Peak, Mount Timpanogos, and Ashdown Gorge Wilderness areas as designated by this Act, the Forest Service is directed to utilize whatever sanitary facilities are necessary, including but not limited to vault toilets which may require service by helicopter, to insure the continued health and safety of the communities serviced by the watersheds in such wilderness areas in the State of Utah; furthermore, nothing in this Act shall be construed to limit motorized access and road maintenance by local municipalities for those minimum maintenance activities necessary to guarantee the continued viability of whatsoever watershed facilities currently exist or which may be necessary in the future to prevent the degradation of the water supply in such wilderness areas within the State of Utah, subject to such reasonable regulations as are deemed necessary by the Secretary of Agriculture.

(c) As provided in section 4(d)(8) of the Wilderness Act of 1964, nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State of Utah with respect to wildlife and fish in the national forests in Utah.

PROHIBITION ON BUFFER ZONES

SEC. 303. Congress does not intend that designation of wilderness areas in the State of Utah lead to the creation of protective perimeters or buffer zones around any wilderness area. The fact that nonwilderness activities or uses can be seen or heard from areas within the wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

MINERAL RESOURCES

SEC. 304. In furtherance of section 4(d)(2) of the Wilderness Act and the policies of the National Materials and Minerals Policy, Research and Development Act (94 Stat. 2305), the Secretary of the Interior shall continue to make assessments of the mineral potential of national forest wilderness areas in the State of Utah, on a recurring basis, consistent with the concept of wilderness preservation, in order to expand the data base with respect to the mineral potential of such lands.

30 USC 1601
note.

SEC. 305. Within the Mount Naomi, Wellsville Mountain, Mount Olympus, Mount Nebo, Twin Peaks, High Uintas, Pine Valley Mountain, Mount Timpanogos, and Deseret Peak Wilderness areas as

designated by this Act the provisions of the Wilderness Act shall not be construed to prevent the installation and maintenance of hydrologic, meteorologic, climatological, or telecommunications facilities, or any combination of the foregoing, or limited motorized access to such facilities when nonmotorized access means are not reasonably available or when time is of the essence, subject to such conditions as the Secretary of Agriculture and the Secretary of the Interior deem desirable, where such facilities or access are essential to flood warning, flood control, and water reservoir operation purposes.

SEC. 306. (a) Certain lands adjacent to the Box-Death Hollow Wilderness as designated in section 102 of this Act, and generally depicted as the "Antone Bench Area" and Areas 2, 3, 4, and 5 on a map entitled "Box-Death Hollow Wilderness—Proposed", dated June 1984, shall, subject to valid existing rights and until Congress determines otherwise, be managed in accordance with the following provisions:

(1) all lands within the Areas are hereby withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral and geothermal leasing and all amendments thereto, except that the Secretary of the Interior is hereby authorized to issue competitive leases for carbon dioxide within the Areas for a period of five years from the date of enactment of this Act;

(2) a lease issued for carbon dioxide in the Area shall be for a period of ten years and for so long thereafter as carbon dioxide is produced annually in commercial quantities from that lease: *Provided*, That an area covered by a lease shall be withdrawn from further carbon dioxide leasing or lease extension in the event production in commercial quantities from the lease is not occurring within ten years of the date of issuance of the lease; and

(3) exploration in the Antone Bench area shall be permitted only by helicopter or other methods which do not involve road construction or other significant surface disturbance.

(b) In the event development of a lease within the Antone Bench area is proposed, the following provisions shall apply:

(1) road construction shall be limited to the minimum standards necessary for proper development of the carbon dioxide resource consistent with safety requirements;

(2) roads, pipelines, electric lines, buildings, compressor stations and other facilities shall, to the maximum extent practicable consistent with economic extraction of the carbon dioxide resource, be camouflaged, constructed and located in a manner that will minimize visual, noise or other intrusions in the area and in the surrounding wilderness area;

(3) fill material, gravel and other material used for road and facility construction shall be obtained from outside the wilderness area;

(4) road or facility construction shall be limited, to the maximum extent practicable, to seasons or periods where there will be minimum impacts on recreation or wildlife uses;

(5) roads shall be used only in conjunction with carbon dioxide development operations and shall be closed to all other vehicular use, but shall be open for foot or horse travel;

(6) all roads or other facilities within the area shall, when no longer needed for carbon dioxide production, be removed and reclaimed to a condition of being substantially unnoticeable;

(7) all waste, debris or other by-products associated with road construction, carbon dioxide production, or other development activities shall be disposed of outside the Antone Bench area and the Box-Death Hollow Wilderness; and

(8) consistent with State and Federal law no activities shall be allowed within the area which could significantly impair water quality or quantity in the Box-Death Hollow Wilderness and adjacent wilderness or wilderness study areas.

Approved September 28, 1984.

LEGISLATIVE HISTORY—S. 2155:

HOUSE REPORT No. 98-1019, Pt. 1 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 98-581 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 130 (1984):

Aug. 9, considered and passed Senate.

Sept. 17, considered and passed House.

Public Law 98-429
98th Congress

Joint Resolution

Sept 28, 1984
[S.J. Res. 336]

To proclaim October 23, 1984, as "A Time of Remembrance" for all victims of terrorism throughout the world.

Whereas the problem of terrorism has become an international concern that knows no boundaries—religious, racial, political, or national;

Whereas thousands of men, women, and children have died at the hands of terrorists in nations around the world, and today terrorism continues to claim the lives of many peace-loving individuals;

Whereas October 23, 1983, is the date on which the largest number of Americans were killed in a single act of terrorism—the bombing of the United States compound in Beirut, Lebanon, in which two hundred and forty-one United States servicemen lost their lives;

Whereas many of these victims died defending ideals of peace and freedom; and

Whereas it is appropriate to honor all victims of terrorism, and in America to console the families of victims, and to cherish the freedom that their sacrifices make possible for all Americans:
Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 23, 1984, be proclaimed as "A Time of Remembrance", to urge all Americans to take time to reflect on the sacrifices that have been made in the pursuit of peace and freedom, and to promote active participation by the American people through the wearing of a purple ribbon, a symbol of patriotism, dignity, loyalty, and martyrdom. The President is authorized and requested to issue a proclamation calling upon the departments and agencies of the United States and interested organizations, groups, and individuals to fly United States flags at half staff throughout the world in the hope that the desire for peace and freedom take firm root in every person and every nation.

Approved September 28, 1984.

LEGISLATIVE HISTORY—S.J. Res. 336:

CONGRESSIONAL RECORD, Vol. 130 (1984):

Aug. 10, considered and passed Senate.

Sept. 12, considered and passed House.

Public Law 98-430
98th Congress

An Act

To designate components of the National Wilderness Preservation System in the State of Florida.

Sept. 28, 1984
[H.R. 9]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Florida Wilderness Act of 1983".

Florida
Wilderness Act
of 1983.
National
Wilderness
Preservation
System.
National Forest
System.

WILDERNESS DESIGNATION

SECTION 1. In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.) the following lands are hereby designated as wilderness, and therefore, as components of the National Wilderness Preservation System—

(1) certain lands in the Apalachicola National Forest, Florida, which comprise approximately one thousand one hundred and seventy acres, are generally depicted on a map entitled "Bradwell Bay Wilderness Addition—Proposed", dated February 1980, and which are hereby incorporated in and shall be deemed a part of, the Bradwell Bay Wilderness as designated by Public Law 93-622;

88 Stat. 2096.
16 USC 1132
note.

(2) certain lands in the Apalachicola National Forest, Florida, which comprise approximately seven thousand eight hundred acres, are generally depicted on a map entitled "Mud Swamp/New River Wilderness—Proposed", dated February 1980, and shall be known as the Mud Swamp/New River Wilderness;

(3) certain lands in the Osceola National Forest, Florida, which comprise approximately thirteen thousand six hundred acres, as generally depicted on a map entitled "Big Gum Swamp Wilderness—Proposed", dated March 1980, and shall be known as the Big Gum Swamp Wilderness;

16 USC 1132
note.

(4) certain lands in the Ocala National Forest, Florida, which comprise approximately seven thousand seven hundred acres, as generally depicted on a map entitled "Alexander Springs & Billies Bay Wilderness—Proposed", dated March 1980, and shall be known as the Alexander Springs Wilderness: *Provided, however,* That the Secretary of Agriculture shall not prohibit existing motorboat use on Alexander Springs Creek;

16 USC 1132
note.

(5) certain lands in the Ocala National Forest, Florida, which comprise approximately thirteen thousand two hundred and sixty acres, as generally depicted on a map entitled "Juniper Prairie Wilderness—Proposed", dated November 1981, and shall be known as the Juniper Prairie Wilderness;

16 USC 1132
note.

(6) certain lands in the Ocala National Forest, Florida, which comprise approximately two thousand five hundred acres, as generally depicted on a map entitled "Little Lake George Wilderness—Proposed", dated March 1980, and shall be known as the Little Lake George Wilderness; and

16 USC 1132
note.

(7) certain lands in the Ocala National Forest, Florida, which comprise approximately three thousand one hundred and

16 USC 1132
note.

twenty acres, as generally depicted on a map entitled "Alexander Springs and Billies Bay Wilderness—Proposed", dated March 1980, and shall be known as the Billies Bay Wilderness.

WILDERNESS STUDY AREAS

16 USC 1131
note.
Report.
President of U.S.

SEC. 2. (a) In furtherance of the purposes of the Wilderness Act, the following lands shall be reviewed by the Secretary of Agriculture as to their suitability for preservation as wilderness. The Secretary shall submit his report and findings to the President, and the President shall submit his recommendation to the Congress of the United States no later than three years from the date of enactment of this Act:

(1) certain lands in Apalachicola National Forest, Florida, which comprise approximately six thousand five hundred acres, as generally depicted on a map entitled "Clear Lake Wilderness Study Area", dated April 1984, and shall be known as the Clear Lake Wilderness Study Area; and

(2) certain lands in the Osceola National Forest, Florida, which comprise approximately four thousand four hundred acres, as generally depicted on a map entitled "Natural Area Wilderness Study Area", dated April 1984, and shall be known as the Natural Area Wilderness Study Area.

(b) Subject to valid existing rights, the wilderness study areas designated by this section shall, until Congress determines otherwise, be administered by the Secretary of Agriculture so as to maintain their presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System.

MAPS AND DESCRIPTIONS

SEC. 3. As soon as practicable after the provisions of section 1 of this Act take effect, the Secretary of Agriculture shall file maps and legal descriptions of each wilderness area designated by such section with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, and each such map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal descriptions and maps may be made. Each such map and legal description shall be on file and available for public inspection in the office of the Chief, United States Forest Service, Department of Agriculture.

Public
availability.

ADMINISTRATION OF WILDERNESS

SEC. 4. Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness: *Provided,* That any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of the relevant provisions of this Act.

16 USC 1131
note.

OSCEOLA NATIONAL FOREST

Phosphate.

SEC. 5. (1) The Department of the Interior shall not issue phosphate leases in the Osceola National Forest, Florida, unless and

until the President transmits a recommendation to the Congress that phosphate leasing be permitted in a specified area in the Osceola National Forest. Notice of such transmittal shall be published in the Federal Register. No recommendation of the President under this section may be transmitted to the Congress before ninety days after publication in the Federal Register of notice of his intention to submit such recommendation.

Federal
Register,
publication.
Prohibition.

(2) FINDINGS.—A recommendation may be transmitted to the Congress under paragraph (1) if the President finds that, based on the information available to him—

(i) there is a clear and present national need for the phosphate resulting from a domestic shortage of phosphate reserves, and

(ii) such national need outweighs the overall public values of the public lands involved, including the wilderness area designated in section 1(3) of this Act and any adverse environmental impacts which are likely to result from the activity.

(3) REPORT.—Together with his recommendation, the President shall submit to the Congress—

President of U.S.

(i) a report setting forth in detail the relevant factual background and the reasons for his findings and recommendation;

(ii) a statement of the conditions and stipulations which would govern the activity; and

(iii) in any case in which an environmental impact statement is required under the National Environmental Policy Act of 1969, a statement which complies with the requirements of section 102(2)(C) of such Act. In the case of any recommendation for which an environmental impact statement is not required under section 102(2)(C) of the National Environmental Policy Act of 1969, the President may, if he deems it desirable, include such a statement in his transmittal to the Congress.

42 USC 4321
note.
42 USC 4332.

(4) APPROVAL.—Any recommendation under this section shall take effect only upon enactment of a joint resolution of Congress approving such a recommendation.

Effective date.

WILDERNESS REVIEW CONCERNS

SEC. 6. (a) The Congress finds that—

Conservation.

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II);

(2) the Congress has made its own review and examination of National Forest System roadless areas in Florida and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

Congress.

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to National Forest System lands in States other than Florida, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Florida;

(2) with respect to the National Forest System lands in the State of Florida which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d), except those lands remaining in wilderness study upon enactment of

16 USC 1600
note.
16 USC 1600
note.

this Act, that review and evaluation of reference shall be deemed for the purpose of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time the Secretary finds that conditions in a unit have significantly changed;

16 USC 1604.

(3) areas in the State of Florida reviewed in such final environmental statement or referenced in subsection (d) and not designated wilderness or wilderness study upon enactment of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976: *Provided*, That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans;

16 USC 1600
note.
16 USC 1600
note.

(4) in the event that revised land management plans in the State of Florida are implemented pursuant to section 6 of the Forest and Rangeland Renewable Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law; and

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless areas review and evaluation of National Forest System lands in the State of Florida for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

16 USC 1604.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

(d) The provisions of this section shall also apply to National Forest System roadless lands in the State of Florida which are less than five thousand acres in size.

SEVERABILITY

SEC. 7. If any provision of this Act or the application thereof is held invalid, the remainder of the Act and the application thereof shall not be affected thereby. Provisions held invalid.

Approved September 28, 1984.

LEGISLATIVE HISTORY—H.R. 9:

HOUSE REPORTS: No. 98-102, Pt. 1 (Comm. on Interior and Insular Affairs) and Pt. 2 (Comm. on Agriculture).

SENATE REPORT No. 98-580 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD:

Vol. 129 (1983): June 6, considered and passed House.

Vol. 130 (1984): Aug. 9, considered and passed Senate, amended.

Aug. 12, House concurred in Senate amendments.

Public Law 98-431
98th Congress

Joint Resolution

Sept. 28, 1984
[H.J. Res. 453]

Designating the week of September 30 through October 6, 1984, as "National High-Tech Week".

Whereas the economy of this Nation is closely tied to technological advances;

Whereas the United States has long been a leader in high technology development;

Whereas it is of the highest national interest to focus our collective abilities to maintain this leadership;

Whereas the national commitment to high technology development has been called into doubt;

Whereas the youth of the Nation need to have educational opportunities to grow and develop in a high technology environment; and

Whereas our youth should have a national focus on their high technology future: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of September 30 through October 6, 1984, is designated as "National High-Tech Week". The President is requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities, including programs aimed at educating the Nation's youth about high technology.

Approved September 28, 1984.

LEGISLATIVE HISTORY—H.J. Res. 453 (S.J. Res. 316):

CONGRESSIONAL RECORD, Vol. 130 (1984):

Aug. 1, considered and passed House.

Aug. 10, S.J. Res. 316 considered and passed Senate.

Sept. 17, considered and passed Senate.

Public Law 98-432
98th Congress

An Act

Entitled the "Shoalwater Bay Indian Tribe—Dexter-by-the-Sea Claim Settlement Act".

Sept. 28, 1984

[S. 1735]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Shoalwater Bay Indian Tribe—Dexter-by-the-Sea Claim Settlement Act".

Shoalwater Bay
Indian Tribe—
Dexter-by-the-
Sea Claim
Settlement Act.
Tokeland, Wash
Private lands.
Patent.

CONGRESSIONAL FINDINGS

SEC. 2. The Congress finds that—

(1) there is pending before the United States District Court for the Western District of Washington at Tacoma a civil action numbered C83-167T entitled the "Shoalwater Bay Indian Tribe, a federally recognized Indian tribe against Joe Amador and Jean Amador, et al.", which involves claims to certain privately held lands within the Shoalwater Bay Indian Reservation in Tokeland, Washington, known as Dexter-by-the-Sea and First Addition Dexter-by-the-Sea;

(2) the owners of such lands derive their title from a patent issued by the United States Government to George N. Brown on August 1, 1872, certificate numbered 3763;

(3) the Shoalwater Bay Indian Reservation was established by Executive order of President Andrew Johnson on September 22, 1866, and is alleged to include the lands claimed by the Shoalwater Bay Indian Tribe in such civil action;

(4) in its patent to George N. Brown in 1872, the United States failed to exempt the lands claimed by the Shoalwater Bay Indian Tribe in such civil action from the Shoalwater Bay Indian Reservation established in 1866;

(5) since 1872, such lands have been the subject of disputes claiming dual chains of title in the United States as trustee for the Shoalwater Bay Indian Tribe and the patentee, George N. Brown and his successors in title, the defendants in the civil action;

(6) the pendency of the civil action has placed a cloud on the titles held by residents of Dexter-by-the-Sea and First Addition Dexter-by-the-Sea rendering their property essentially unmarketable; and

(7) a legislative resolution of such civil action is appropriate because the United States Government is responsible for the failure to except the land now known as Dexter-by-the-Sea and First Addition Dexter-by-the-Sea from the patent to George N. Brown in 1872.

SEC. 3. Upon receipt of the funds to be paid from the Treasury of the United States under section 4 of this Act:

(a) All rights, title, and interests of the Shoalwater Bay Indian Tribe, in, and claims to, the lands which are located within the State of Washington in the westerly portion of Government lot

1 in section 11, township 14N, range 11W, W.N., that are the subject of the civil action referred to in section 2(1) of this Act and are known as Dexter-by-the-Sea Subdivision and First Addition to Dexter-by-the-Sea Subdivision, shall be extinguished.

(b) The lands described in subsection (a) shall not be considered to be within the exterior boundaries of the Shoalwater Bay Indian Reservation. Except to the extent provided in the preceding sentence, the exterior boundaries of such reservation shall not be affected by the provisions of this Act.

(c) The validity of the patent issued by the United States on August 1, 1872, to George N. Brown, certificate numbered 3763, shall be ratified.

SEC. 4. (a)(1) If the requirements of subsection (b) of this section are met, the Secretary of the Treasury is authorized and directed in fiscal year 1985 to pay, out of funds in the Treasury of the United States not otherwise appropriated, \$1,115,000 directly to the Shoalwater Bay Indian Tribe.

(2) The funds described in paragraph (1) shall be paid by the Secretary of the Treasury in full settlement of all claims of the Shoalwater Bay Indian Tribe, and of any other party to such civil action described in section 2(1), which arise by reason of the issuance of the patent described in section 3(c).

(b) The requirements of this subsection are met if—

(1) the governing body of the Shoalwater Bay Indian Tribe adopts a resolution which—

(A) authorizes the execution by an officer or official of such tribe of documents as the Secretary of the Interior determines to be necessary to settle the claims described in subsection (a)(2),

(B) waives all rights and claims of such tribe against the United States, and against any other person, which arise by reason of the issuance of the patent described in section 3(c), and

(C) is approved by the Secretary of the Interior, and

(2) a final order is entered in the civil action described in section 2(1) which dismisses with prejudice all claims, cross-claims, counterclaims, third-party claims, and all other claims arising out of such civil action.

Prohibition.

(c) None of the funds paid to the Shoalwater Bay Indian Tribe under subsection (a)(1) shall be used to make any per capita distribution to members of such tribe.

SEC. 5. (a) The Shoalwater Bay Indian Tribe is authorized to utilize the funds paid to the tribe under provisions of this Act for any purpose authorized by ordinance or resolution of the tribe, including investment for economic development purposes.

Audit.
Public
availability.

(b) The tribe shall maintain a segregated accounting system for all principal and income from such funds and shall cause an annual audit to be conducted by an independent certified public accountant. The results of such audit shall be made available for inspection by any enrolled member of the tribe and shall be made available to the Secretary of the Interior.

Funds.

(c) Except as otherwise provided in this section, funds held and administered by the Shoalwater Bay Indian Tribe which are the subject of this Act, and income derived therefrom, shall be treated in the same fashion as if held in trust by the Secretary of the Interior: *Provided*, That nothing in this Act shall be construed as requiring

that the Secretary of the Interior give any prior approval to investment or expenditure of these funds.

(d) Upon payment of the funds to the Shoalwater Bay Indian Tribe, the Secretary of the Interior shall have no trust responsibility for the investment, supervision, administration, or expenditure of such funds. Funds.

(e) None of the funds or income therefrom distributed under this Act shall be subject to Federal or State income taxes or be considered as income or resources in determining eligibility for or the amount of assistance under the Social Security Act or any other federally assisted program. Taxes.
42 USC 1305

Approved September 28, 1984.

LEGISLATIVE HISTORY—S. 1735 (H.R. 5714):

HOUSE REPORT No. 98-990 accompanying H.R. 5714 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 98-439 (Comm. on Indian Affairs).

CONGRESSIONAL RECORD, Vol. 130 (1984):

May 24, considered and passed Senate.

Sept. 11, H.R. 5714 considered and passed House; S. 1735 considered and passed House.

Public Law 98-433
98th Congress

Joint Resolution

Sept. 28, 1984
[H.J. Res. 153]

To designate the week beginning October 7, 1984, as "National Children's Week".

Whereas there are approximately sixty-five million children in the Nation;

Whereas the children of the Nation are its most precious resource and its greatest hope for the future; and

Whereas a week designated for the purpose of focusing on the needs of children and the community services available to them will be beneficial both to children and to the future of the Nation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning October 7, 1984, hereby is designated "National Children's Week", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved September 28, 1984.

LEGISLATIVE HISTORY—H.J. Res. 153 (S.J. Res. 325):

CONGRESSIONAL RECORD, Vol. 130 (1984):

June 6, considered and passed House.

Aug. 10, S.J. Res. 325 considered and passed Senate.

Sept. 17, considered and passed Senate.

Public Law 98-434
98th Congress

An Act

To authorize and direct the Secretary of the Interior to engage in a special study of the potential for groundwater recharge in the High Plains States, and for other purposes.

Sept. 28, 1984
[H.R. 71]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "High Plains States Groundwater Demonstration Program Act of 1983".

SEC. 2. The Secretary of the Interior (hereinafter referred to as the "Secretary"), acting through the Bureau of Reclamation (hereinafter referred to as the "Bureau"), shall, in two phases, conduct an investigation of and establish demonstration projects for groundwater recharge of aquifers in the States of Colorado, Kansas, Nebraska, New Mexico, Oklahoma, South Dakota, Texas, and Wyoming (such States to be hereinafter referred to as the "High Plains States") and in the other States referred to in section 1 of the Reclamation Act of 1902 (hereinafter referred to as "other Reclamation Act States"), as provided by this Act: *Provided*, That funds made available pursuant to this Act shall not be used for the study or construction of groundwater recharge demonstration projects in the High Plains States and other Reclamation Act States which would utilize water originating in the drainage basin of the Great Lakes. The Bureau shall consult with the United States Geological Survey and other appropriate agencies and departments of the United States and of the High Plains States and other Reclamation Act States in order to carry out this Act.

SEC. 3. (a) During phase I, the Bureau, in consultation with the High Plains States and other Reclamation Act States and other appropriate departments and agencies of the United States, including the United States Geological Survey, shall develop a detailed plan of demonstration projects the purpose of which is to determine whether various recharge technologies may be applied to diverse geologic and hydrologic conditions represented in the High Plains States and other Reclamation Act States. In the preparation and development of such plan, the Bureau shall make maximum use of data, planning studies and other technical resources and assistance available from State and local entities: *Provided*, That contributions of such technical resources and assistance may be counted as part of the inkind services or other State contribution, but shall otherwise be provided without compensation to the State or local entity. This plan shall contain the selection of not less than a total of twelve demonstration project sites in High Plains States and not less than a total of nine demonstration project sites in other Reclamation Act States. Demonstration project sites shall be confined to areas having a declining water table, an available surface water supply, and a high probability of physical, chemical, and economic feasibility for recharge of the groundwater reservoir. The plan shall provide for demonstration of the application of recharge technology and the selection of water sources, determination of necessary physical

High Plains
States
Groundwater
Demonstration
Program Act of
1983.
43 USC 390g
note.
43 USC 390g.

43 USC 391.
Prohibition.

43 USC 390g-1.

works and the operation of water replacement systems, formulation of a monitoring program, identification of any economic, legal, intergovernmental, and environmental issues and projection of planning problems associated with such systems, and recommendation of legislative and administrative actions as may be necessary to carry out phase II.

(b) During phase I the Bureau is authorized and directed to recommend demonstration projects to be designed, constructed, and operated during phase II.

(c) Within six months, after the enactment of an appropriation Act to carry out phase I, the Secretary shall make a preliminary selection of projects to receive further planning and development and shall initiate such further planning and development for those selected projects.

Report.

(d) Within twenty-four months after the date of enactment of an appropriation Act to carry out phase I, the Secretary shall transmit a report to Congress containing the recommendations made pursuant to subsection (b) and a detailed statement of his findings and conclusions.

43 USC 390g-2.

SEC. 4. (a) During phase II, and subject to State water laws and interstate water compacts, the Bureau is authorized and directed to design, construct, and operate demonstration projects in the High Plains States and other Reclamation Act States to recharge groundwater systems as recommended in the report referred to in section 4(c).

Contracts with U.S.

(b) During phase II the Secretary, acting through the Bureau, shall contract with the various High Plains States and other Reclamation Act States to conduct a study to identify and evaluate alternative means by which the costs of groundwater recharge projects could be allocated among the beneficiaries of the projects within the respective States and identify and evaluate the economic feasibility of and the legal authority for utilizing groundwater recharge in water resource development projects.

Reports.

(c)(1) Within twelve months after the initiation of phase II, and at annual intervals thereafter, the Secretary shall submit interim reports to Congress. Each report shall contain a detailed statement of his findings and progress respecting the design, construction, and operation of the demonstration projects referred to in subsection (a) and the study referred to in subsection (b).

(2) Within five years after the initiation of phase II, the Secretary shall submit a final report to Congress. The final report shall contain—

(A) a detailed evaluation of the demonstration projects referred to in subsection (a);

(B) the results of the studies referred to in subsection (b);

(C) specific recommendations regarding the location, scope, and feasibility of operational groundwater recharge projects to be constructed and maintained by the Bureau; and

(D) an evaluation of the feasibility of integrating these groundwater recharge projects into existing reclamation projects.

43 USC 390g-3.

SEC. 5. The Secretary, acting through the Bureau, and the Administrator of the Environmental Protection Agency (hereinafter referred to as the "Administrator") shall enter into a memorandum-of-understanding to provide for an evaluation of the impacts to surface water and groundwater quality resulting from the groundwater recharge demonstration projects constructed pursuant to this

Act. The Administrator shall consult with the United States Geological Survey and shall make maximum use of data, studies, and other technical resources and assistance available from State and local entities in conducting the evaluation. The evaluation of water quality impacts shall be completed so as to be included in the Secretary's final report to the Congress referred to in section 4(c)(2) of this Act.

SEC. 6. There is authorized to be appropriated \$500,000 for fiscal years beginning after September 30, 1983, to carry out phase I. Amounts shall be made available pursuant to the authorization contained in this section in a single sum for all demonstration project sites, and it shall be within the discretion of the Secretary to apportion such sum among such sites.

Appropriation
authorization.
43 USC 390g-4.

SEC. 7. There is authorized to be appropriated for fiscal years beginning after September 30, 1983, \$20,000,000 (October 1983 price levels) to carry out phase II. Amounts shall be made available pursuant to the authorization contained in this section in sums for individual projects based on findings of feasibility by the Secretary.

Appropriation
authorization.
43 USC 390g-5.

SEC. 8. The funds authorized to be appropriated pursuant to section 7 of this Act shall match on a four-to-one basis funds made available by the States, their political subdivisions, or other non-Federal entities to meet the cost of phase II: *Provided*, That, in-kind services or other contributions by the States, their political subdivisions, or other non-Federal entities shall be considered in the determination of the matching non-Federal share. The Secretary is authorized to enter into memoranda of agreement with any appropriate agencies or departments of the High Plains States and other Reclamation Act States to share the costs of phase II.

Matching funds.
43 USC 390g-6.

SEC. 9. Any new spending authority described in subsection (c)(2) (A) or (B) of section 401 of the Congressional Budget Act of 1974 which is provided under this Act (or under any amendment made by this Act) shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

43 USC 390g-7.
2 USC 651.

SEC. 10. No funds authorized to be appropriated by this Act shall be used for any activities associated with:

Arkansas.
Water.
43 USC 390g-8.

- (1) the interstate transfer of water from the State of Arkansas; or
- (2) the study or demonstration of the potential for the interstate transfer of water from the State of Arkansas.

Approved September 28, 1984.

LEGISLATIVE HISTORY—H.R. 71:

HOUSE REPORT No. 98-167 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 98-372 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD:

Vol. 129 (1983): June 20, considered and passed House.

Vol. 130 (1984): Aug. 10, considered and passed Senate, amended.

Sept. 14, House concurred in Senate amendments.

Public Law 98-435
98th Congress

An Act

Sept. 28, 1984
[H.R. 1250]

To improve access for handicapped and elderly individuals to registration facilities and polling places for Federal elections.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Voting
Accessibility for
the Elderly and
Handicapped
Act.
42 USC 1973ee
note.

SHORT TITLE

SECTION 1. This Act may be cited as the "Voting Accessibility for the Elderly and Handicapped Act".

PURPOSE

42 USC 1973ee.

SEC. 2. It is the intention of Congress in enacting this Act to promote the fundamental right to vote by improving access for handicapped and elderly individuals to registration facilities and polling places for Federal elections.

SELECTION OF POLLING FACILITIES

42 USC
1973ee-1.

SEC. 3. (a) Within each State, except as provided in subsection (b), each political subdivision responsible for conducting elections shall assure that all polling places for Federal elections are accessible to handicapped and elderly voters.

(b) Subsection (a) shall not apply to a polling place—

(1) in the case of an emergency, as determined by the chief election officer of the State; or

(2) if the chief election officer of the State—

(A) determines that all potential polling places have been surveyed and no such accessible place is available, nor is the political subdivision able to make one temporarily accessible, in the area involved; and

(B) assures that any handicapped or elderly voter assigned to an inaccessible polling place, upon advance request of such voter (pursuant to procedures established by the chief election officer of the State)—

(i) will be assigned to an accessible polling place, or

(ii) will be provided with an alternative means for casting a ballot on the day of the election.

Report.

(c)(1) Not later than December 31 of each even-numbered year, the chief election officer of each State shall report to the Federal Election Commission, in a manner to be determined by the Commission, the number of accessible and inaccessible polling places in such State on the date of the preceding general Federal election, and the reasons for any instance of inaccessibility.

(2) Not later than April 30 of each odd-numbered year, the Federal Election Commission shall compile the information reported under paragraph (1) and shall transmit that information to the Congress.

Effective date.

(3) The provisions of this subsection shall only be effective for a period of 10 years beginning on the date of enactment of this Act.

SELECTION OF REGISTRATION FACILITIES

SEC. 4. (a) Each State or political subdivision responsible for registration for Federal elections shall provide a reasonable number of accessible permanent registration facilities. 42 USC 1973ee-2.

(b) Subsection (a) does not apply to any State that has in effect a system that provides an opportunity for each potential voter to register by mail or at the residence of such voter.

REGISTRATION AND VOTING AIDS

SEC. 5. (a) Each State shall make available registration and voting aids for Federal elections for handicapped and elderly individuals, including— 42 USC 1973ee-3.

(1) instructions, printed in large type, conspicuously displayed at each permanent registration facility and each polling place; and

(2) information by telecommunications devices for the deaf.

(b) No notarization or medical certification shall be required of a handicapped voter with respect to an absentee ballot or an application for such ballot, except that medical certification may be required when the certification establishes eligibility, under State law— Absentee ballot.

(1) to automatically receive an application or a ballot on a continuing basis; or

(2) to apply for an absentee ballot after the deadline has passed.

(c) The chief election officer of each State shall provide public notice, calculated to reach elderly and handicapped voters, of the availability of aids under this section, assistance under section 208 of the Voting Rights Act of 1965 (42 U.S.C. 1973aa-6), and the procedures for voting by absentee ballot, not later than general public notice of registration and voting is provided. Public information.

ENFORCEMENT

SEC. 6. (a) If a State or political subdivision does not comply with this Act, the United States Attorney General or a person who is personally aggrieved by the noncompliance may bring an action for declaratory or injunctive relief in the appropriate district court. 42 USC 1973ee-4.

(b) An action may be brought under this section only if the plaintiff notifies the chief election officer of the State of the noncompliance and a period of 45 days has elapsed since the date of notification.

(c) Notwithstanding any other provision of law, no award of attorney fees may be made with respect to an action under this section, except in any action brought to enforce the original judgment of the court.

RELATIONSHIP TO VOTING RIGHTS ACT OF 1965

SEC. 7. This Act shall not be construed to impair any right guaranteed by the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.). 42 USC 1973ee-5.

DEFINITIONS

SEC. 8. As used in this Act, the term— 42 USC 1973ee-6.

(1) “accessible” means accessible to handicapped and elderly individuals for the purpose of voting or registration, as determined under guidelines established by the chief election officer of the State involved;

(2) “elderly” means 65 years of age or older;

(3) “Federal election” means a general, special, primary, or runoff election for the office of President or Vice President, or of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress;

(4) “handicapped” means having a temporary or permanent physical disability; and

(5) “State” means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

EFFECTIVE DATE

42 USC 1973ee
note.

SEC. 9. This Act shall apply with respect to elections taking place after December 31, 1985.

Approved September 28, 1984.

LEGISLATIVE HISTORY—H.R. 1250:

HOUSE REPORT No. 98-852 (Comm. on House Administration).

SENATE REPORT No. 98-590 (Comm. on Rules and Administration).

CONGRESSIONAL RECORD, Vol. 130 (1984):

June 25, considered and passed House.

Aug. 10, considered and passed Senate, amended.

Sept. 12, House concurred in Senate amendments.

Public Law 98-436
98th Congress

Joint Resolution

To designate the month of October 1984 as "National Quality Month".

Sept. 28, 1984
[S.J. Res. 304]

Whereas the United States has been preeminent in quality technology development since the Industrial Revolution;
Whereas the performance and spirit that typified early American craftsmen was based on individual interest in quality of goods and service;
Whereas the pride of workmanship that once prevailed must be reinforced through a renewed commitment to quality and knowledge of quality technology in more complex contemporary industrial, commercial, and governmental organizations;
Whereas American goods and services represent the highest standards of excellence in quality;
Whereas the strength of the Nation relies on the ability of industry to produce quality goods and services;
Whereas the United States must produce high quality goods and services to maintain a position of leadership in the world marketplace;
Whereas the commitment to quality involves recognition and implementation of a consistent quality policy, the use of quality technology, and utilization of talents throughout an organization toward quality improvement;
Whereas the emphasis on quality in manufacturing and service will increase productivity through emphasis on defect prevention, waste reduction, and improved reliability of products and services;
Whereas the White House Conference on Productivity Report of the Preparatory Conference on Private Sector Initiatives recommended that a quality awareness campaign be implemented at the national level and within the private sector to demonstrate that rapid improvement in quality and productivity is essential to the survival of the national economy;
Whereas the American Society for Quality Control has been a leader in the development, promotion and application of quality and quality related technology since 1946;
Whereas the American Society for Quality Control is engaged in a campaign to convince officials in government and industry that increased productivity, reduced costs, and consumer satisfaction will result from commitment to improved quality standards;

Whereas the American Society for Quality Control will sponsor activities to observe National Quality Week; and

Whereas the theme of National Quality Week will be "Quality First" to emphasize that quality is an integral part of the processes that produce goods and services: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of October 1984, is designated as "National Quality Month" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate programs and activities.

Approved September 28, 1984.

LEGISLATIVE HISTORY—S.J. Res. 304:

CONGRESSIONAL RECORD, Vol. 130 (1984):

Sept. 17, considered and passed Senate.

Sept. 20, considered and passed House.

Public Law 98-437
98th Congress

Joint Resolution

To designate the month of October 1984 as "National Down's Syndrome Month".

Sept. 28, 1984
[S.J. Res. 254]

Whereas the past decade has brought a greater and more enlightened attitude in the care and training of the developmentally disabled;

Whereas one such condition which has undergone considerable reevaluation is that of Down's syndrome—a problem which, just a short time ago, was often stigmatized as a mentally retarded condition which relegated its victims to lives of passivity in institutions and back rooms;

Whereas, through the efforts of concerned physicians, teachers and parent groups such as the National Down's Syndrome Congress, programs are being put in place to educate new parents of babies with Down's syndrome; to develop special education classes within mainstreamed programs in schools; the provision for vocational training in preparation for competitive employment in the work force and to prepare young adults with Down's syndrome for independent living in the community;

Whereas the cost of such services designed to help individuals with Down's syndrome move into their rightful place in our society is but a tiny fraction of the cost of institutionalization;

Whereas along with this improvement in educational opportunities for those with Down's syndrome is the advancement in medical science which is adding to a more brightened outlook for individuals born with this chromosomal configuration; and

Whereas public awareness and acceptance of the capabilities of children with Down's syndrome can greatly facilitate their being mainstreamed in our society: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1984 is designated "National Down's Syndrome Month" and that the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the designated month with appropriate programs, ceremonies and activities.

Approved September 28, 1984.

LEGISLATIVE HISTORY—S.J. Res. 254:

CONGRESSIONAL RECORD, Vol. 130 (1984):
May 22, considered and passed Senate.
Sept. 12, considered and passed House.

Public Law 98-438
98th Congress

Joint Resolution

Designating the week beginning November 11, 1984, as "National Women Veterans Recognition Week".

Sept. 28, 1984
[S.J. Res. 227]

Whereas there are more than one million one hundred thousand women veterans in this country, representing 4.1 per centum of the total veteran population;

Whereas the number and proportion of women veterans will continue to grow as the number and proportion of women serving in the Armed Forces continue to increase;

Whereas women veterans through honorable military service often involving hardship and danger have contributed greatly to our national security;

Whereas the contributions and sacrifices of women veterans on behalf of this Nation have not been adequately recognized;

Whereas this lack of recognition has denied women veterans the public appreciation and praise they deserve;

Whereas the special needs of women veterans, especially in the area of health care, have often been overlooked or inadequately addressed by the Federal Government;

Whereas this lack of attention to the special needs of women veterans has discouraged or prevented women veterans from taking full advantage of the benefits and services to which they are entitled as veterans of the United States Armed Forces; and

Whereas recognition of women veterans by the Congress and the President through enactment of legislation declaring the week beginning on November 11, 1984, as "National Women Veterans Recognition Week" would serve to create greater public awareness and recognition of the contributions of women veterans, to express the Nation's appreciation for their service, and to inspire more responsive care and services for women veterans: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning on November 11, 1984, is designated "National Women Veterans Recognition Week". The President is requested to issue a proclamation calling upon all citizens, community leaders, interested organizations, and government officials to observe that week with appropriate programs, ceremonies, and activities.

Approved September 28, 1984.

LEGISLATIVE HISTORY—S.J. Res. 227:

CONGRESSIONAL RECORD, Vol. 130 (1984):

Apr. 25, considered and passed Senate.

Sept. 12, considered and passed House.

Public Law 98-439
98th Congress

An Act

To authorize a land conveyance from the Department of Agriculture to Payson,
Arizona.

Sept. 28, 1984

[S. 598]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law, the Secretary of Agriculture is authorized to transfer, without consideration, to the town of Payson, Arizona, the following described parcel:

A parcel of land entirely within the south half of the southeast quarter of the southeast quarter of the southeast quarter, of section 5, township 10 north, range 10 east, Gila and Salt River base and meridian, Payson, Gila County, Arizona, more particularly described as follows: commencing at the common corner of sections 4, 5, 8, and 9, township 10 north, range 10 east, Gila and Salt River base and meridian;

thence north 89 degrees 56 minutes west, along the south line of section 5, a distance of 164.47 feet to the true point of beginning;

thence continuing north 89 degrees 56 minutes west, along the south line of section 5, a distance of 337.13 feet;

thence north 13 degrees 33 minutes 08 seconds east, a distance of 223.16 feet, to a point on the south right-of-way line of West Main Street;

thence south 74 degrees 10 minutes 23 seconds east, along the south right-of-way line of West Main Street, a distance of 145.02 feet;

thence south 43 degrees 09 minutes east, along the south right-of-way line of West Main Street, a distance of 243.72 feet;

thence north 89 degrees 56 minutes west, along the south right-of-way line of West Main Street, a distance of 21.36 feet, to the true point of beginning.

The above described parcel of land contains 1.10 acres, more or less.

Historic
preservation.

SEC. 2. (a) The property described in the first section shall be used for the preservation and display of articles of historical significance. If the property is not used for historical purposes, title to such property shall revert to the United States.

(b) Subject to the use restrictions provided in subsection (a), the town of Payson, Arizona, may provide for the administration of the property by the Northern Gila County Historical Society.

Approved September 28, 1984.

LEGISLATIVE HISTORY—S. 598:

SENATE REPORT No. 98-555 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 130 (1984):
Aug. 9, considered and passed Senate.
Sept. 17, considered and passed House.

Public Law 98-440
98th Congress

An Act

To amend the Securities Exchange Act of 1934 with respect to the treatment of mortgage backed securities, to increase the authority of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, and for other purposes.

Oct 3, 1984
[S 2040]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Secondary Mortgage Market Enhancement Act of 1984".

TITLE I—SECURITIES LAWS AMENDMENTS

MORTGAGE RELATED SECURITY

SEC. 101. Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended by adding the following new paragraph at the end thereof:

"(41) The term 'mortgage related security' means a security that is rated in one of the two highest rating categories by at least one nationally recognized statistical rating organization, and either:

"(A) represents ownership of one or more promissory notes or certificates of interest or participation in such notes (including any rights designed to assure servicing of, or the receipt or timeliness of receipt by the holders of such notes, certificates, or participations of amounts payable under, such notes, certificates, or participations), which notes:

"(i) are directly secured by a first lien on a single parcel of real estate, including stock allocated to a dwelling unit in a residential cooperative housing corporation, upon which is located a dwelling or mixed residential and commercial structure, or on a residential manufactured home as defined in section 603(6) of the National Manufactured Housing Construction and Safety Standards Act of 1974, whether such manufactured home is considered real or personal property under the laws of the State in which it is to be located; and

"(ii) were originated by a savings and loan association, savings bank, commercial bank, credit union, insurance company, or similar institution which is supervised and examined by a Federal or State authority, or by a mortgagee approved by the Secretary of Housing and Urban Development pursuant to sections 203 and 211 of the National Housing Act, or, where such notes involve a lien on the manufactured home, by any such institution or by any financial institution approved for insurance by the Secretary of Housing and

Secondary
Mortgage
Market
Enhancement
Act of 1984.
12 USC 1701
note.
Banks and
banking.
Real property.
Personal
property.

42 USC 5402

12 USC 1709,
1715b.

12 USC 1703.

Urban Development pursuant to section 2 of the National Housing Act; or

“(B) is secured by one or more promissory notes or certificates of interest or participations in such notes (with or without recourse to the issuer thereof) and, by its terms, provides for payments of principal in relation to payments, or reasonable projections of payments, on notes meeting the requirements of subparagraphs (A) (i) and (ii) or certificates of interest or participations in promissory notes meeting such requirements.

For the purpose of this paragraph, the term ‘promissory note’, when used in connection with a manufactured home, shall also include a loan, advance, or credit sale as evidence by a retail installment sales contract or other instrument.”.

APPLICABILITY OF MARGIN REQUIREMENTS

SEC. 102. Section 7 of the Securities Exchange Act of 1934 (15 U.S.C. 78g) is amended by adding the following new subsection at the end thereof:

Credit.
Prohibition.

“(g) Subject to such rules and regulations as the Board of Governors of the Federal Reserve System may adopt in the public interest and for the protection of investors, no member of a national securities exchange or broker or dealer shall be deemed to have extended or maintained credit or arranged for the extension or maintenance of credit for the purpose of purchasing a security, within the meaning of this section, by reason of a bona fide agreement for delayed delivery of a mortgage related security against full payment of the purchase price thereof upon such delivery within one hundred and eighty days after the purchase, or within such shorter period as the Board of Governors of the Federal Reserve System may prescribe by rule or regulation.”.

BORROWING IN THE COURSE OF BUSINESS

Prohibition

SEC. 103. Section 8(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78h(a)) is amended by adding the following new sentence at the end thereof: “Subject to such rules and regulations as the Board of Governors of the Federal Reserve System may adopt in the public interest and for the protection of investors, no person shall be deemed to have borrowed within the ordinary course of business, within the meaning of this subsection, by reason of a bona fide agreement for delayed delivery of a mortgage related security against full payment of the purchase price thereof upon such delivery within one hundred and eighty days after the purchase, or within such shorter period as the Board of Governors of the Federal Reserve System may prescribe by rule or regulation.”.

MORTGAGE RELATED SECURITIES AS COLLATERAL

SEC. 104. Section 11(d)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78k(d)(1)) is amended by—

- (1) inserting “(i)” between “of” and “any”; and
- (2) inserting the following immediately after “thirty-five days after such purchase”: “or (ii) any mortgage related security against full payment of the entire purchase price thereof upon such delivery within one hundred and eighty days after such

purchase, or within such shorter period as the Commission may prescribe by rule or regulation”.

INVESTMENT BY DEPOSITORY INSTITUTIONS

SEC. 105. (a) Section 5(c)(1) of the Home Owner's Loan Act of 1933 (12 U.S.C. 1464(c)(1)) is amended by adding at the end thereof the following:

“(S) MORTGAGE BACKED SECURITIES.—Investments in securities that—

“(i) are offered and sold pursuant to section 4(5) of the Securities Act of 1933 (15 U.S.C. 77d(5)); or

“(ii) are mortgage related securities (as that term is defined in section 3(a)(41) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(41))), subject to such regulations as the Board may prescribe, including regulations prescribing minimum size of the issue (at the time of initial distribution) or minimum aggregate sales prices, or both.”.

Ante, p 1689.

(b) Section 107 of the Federal Credit Union Act (12 U.S.C. 1757) is amended—

(1) by redesignating paragraph (15) as paragraph (16); and
(2) by inserting after paragraph (14) the following:

“(15) to invest in securities that—

“(A) are offered and sold pursuant to section 4(5) of the Securities Act of 1933 (15 U.S.C. 77d(5)); or

“(B) are mortgage related securities (as that term is defined in section 3(a)(41) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(41))), subject to such regulations as the Board may prescribe, including regulations prescribing minimum size of the issue (at the time of initial distribution) or minimum aggregate sales prices, or both;”.

(c) Section 5136 of the Revised Statutes (12 U.S.C. 24) is amended by adding at the end of paragraph Seventh the following: “The limitations and restrictions contained in this paragraph as to an association purchasing for its own account investment securities shall not apply to securities that (A) are offered and sold pursuant to section 4(5) of the Securities Act of 1933 (15 U.S.C. 77d(5)); or (B) are mortgage related securities (as that term is defined in section 3(a)(41) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(41))), subject to such regulations as the Comptroller of the Currency may prescribe, including regulations prescribing minimum size of the issue (at the time of initial distribution) or minimum aggregate sales prices, or both.”.

PREEMPTION OF STATE LAW

SEC. 106. (a)(1) Any person, trust, corporation, partnership, association, business trust, or business entity created pursuant to or existing under the laws of the United States or any State shall be authorized to purchase, hold, and invest in securities that are—

15 USC 77r-1.

(A) offered and sold pursuant to section 4(5) of the Securities Act of 1933,

(B) mortgage related securities (as that term is defined in section 3(a)(41) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(41))), or

(C) securities issued or guaranteed by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association,

to the same extent that such person, trust, corporation, partnership, association, business trust, or business entity is authorized under any applicable law to purchase, hold or invest in obligations issued by or guaranteed as to principal and interest by the United States or any agency or instrumentality thereof.

(2) Where State law limits the purchase, holding, or investment in obligations issued by the United States by such a person, trust, corporation, partnership, association, business trust, or business entity, such securities that are—

15 USC 77d. (A) offered and sold pursuant to section 4(5) of the Securities Act of 1933,

Ante, p. 1689. (B) mortgage related securities (as that term is defined in section 3(a)(41) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(41))), or

(C) securities issued or guaranteed by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association,

shall be considered to be obligations issued by the United States for purposes of the limitation.

Prohibitions. (b) The provisions of subsection (a) shall not apply with respect to a particular person, trust, corporation, partnership, association, business trust, or business entity or class thereof in any State that, prior to the expiration of seven years after the date of the enactment of this Act, enacts a statute that specifically refers to this section and either prohibits or provides for a more limited authority to purchase, hold, or invest in such securities by any person, trust, corporation, partnership, association, business trust, or business entity or class thereof than is provided in subsection (a). The enactment by any State of any statute of the type described in the preceding sentence shall not affect the validity of any contractual commitment to purchase, hold, or invest that was made prior thereto and shall not require the sale or other disposition of any securities acquired prior thereto.

Exemption. (c) Any securities that are offered and sold pursuant to section 4(5) of the Securities Act of 1933 or that are mortgage related securities (as that term is defined in section 3(a)(41) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(41))) shall be exempt from any law of any State with respect to or requiring registration or qualification of securities or real estate to the same extent as any obligation issued by or guaranteed as to principal and interest by the United States or any agency or instrumentality thereof. Any State may, prior to the expiration of seven years after the date of the enactment of this Act, enact a statute that specifically refers to this section and requires registration or qualification of any such security on terms that differ from those applicable to any obligation issued by the United States.

TITLE II—SECONDARY MORTGAGE MARKET PROGRAMS

LIMITATIONS ON PARTICIPATION AGREEMENTS

12 USC 1717. SEC. 201. (a) The sixth sentence of section 302(b)(2) of the Federal National Mortgage Association Charter Act is amended to read as follows: "The corporation shall establish limitations governing the maximum original principal obligation of conventional mortgages

that are purchased by it; in any case in which the corporation purchases a participation interest in such a mortgage, the limitation shall be calculated with respect to the total original principal obligation of the mortgage and not merely with respect to the interest purchased by the corporation.”.

(b) The fifth sentence of section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act is amended to read as follows: “The Corporation shall establish limitations governing the maximum original principal obligation of conventional mortgages that are purchased by it; in any case in which the Corporation purchases a participation interest in such a mortgage, the limitation shall be calculated with respect to the total original principal obligation of the mortgage and not merely with respect to the interest purchased by the Corporation.”.

12 USC 1454.

AUTHORITY OF FEDERAL HOME LOAN MORTGAGE CORPORATION TO
PURCHASE LOANS ON MANUFACTURED HOMES

SEC. 202. (a) Section 302(d) of the Federal Home Loan Mortgage Corporation Act is amended by inserting after “located” the following: “or a manufactured home that is personal property under the laws of the State in which the manufactured home is located”.

12 USC 1451.

(b) Section 302(h) of the Federal Home Loan Mortgage Corporation Act is amended by adding at the end thereof the following new sentence: “The term ‘residential mortgage’ also includes a loan or advance of credit secured by a mortgage or other lien on a manufactured home that is the principal residence of the borrower, without regard to whether the security property is real, personal, or mixed.”.

(c) Section 302 of the Federal Home Loan Mortgage Corporation Act is amended by adding at the end thereof the following new subsection:

“(1) The term ‘mortgage insurance program’ includes, in the case of a residential mortgage secured by a manufactured home, any manufactured home lending program under title I of the National Housing Act.”.

12 USC 1702.

PURCHASE OF SECOND MORTGAGES

SEC. 203. (a) Section 302(b) of the Federal National Mortgage Association Charter Act is amended by adding at the end thereof the following new paragraph:

Loans.
12 USC 1717.

“(5)(A) The corporation is authorized to purchase, service, sell, lend on the security of, and otherwise deal in (i) until October 1, 1987, conventional mortgages that are secured by a subordinate lien against a one- to four-family residence that is the principal residence of the mortgagor; and (ii) until October 1, 1985, conventional mortgages that are secured by a subordinate lien against a property comprising five or more family dwelling units. If the corporation, pursuant to paragraphs (1) through (4), shall have purchased, serviced, sold, or otherwise dealt with any other outstanding mortgage secured by the same residence, the aggregate original amount of such other mortgage and the mortgage authorized to be purchased, serviced, sold, or otherwise dealt with under this paragraph shall not exceed the applicable limitation determined under paragraph (2).

Expiration
dates.

“(B) The corporation shall establish limitations governing the maximum original principal obligation of conventional mortgages

described in subparagraph (A). In any case in which the corporation purchases a participation interest in such a mortgage, the limitation shall be calculated with respect to the total original principal obligation of such mortgage described in subparagraph (A) and not merely with respect to the interest purchased by the corporation. Such limitations shall not exceed (i) with respect to mortgages described in subparagraph (A)(i), 50 per centum of the single-family residence mortgage limitation determined under paragraph (2); and (ii) with respect to mortgages described in subparagraph (A)(ii), the applicable limitation determined under paragraph (2).

Prohibitions.

“(C) No subordinate mortgage against a one- to four-family residence shall be purchased by the corporation if the total outstanding indebtedness secured by the property as a result of such mortgage exceeds 80 per centum of the value of such property unless (i) that portion of such total outstanding indebtedness that exceeds such 80 per centum is guaranteed or insured by a qualified insurer as determined by the corporation; (ii) the seller retains a participation of not less than 10 per centum in the mortgage; or (iii) for such period and under such circumstances as the corporation may require, the seller agrees to repurchase or replace the mortgage upon demand of the corporation in the event that the mortgage is in default. The corporation shall not issue a commitment to purchase a subordinate mortgage prior to the date the mortgage is originated, if such mortgage is eligible for purchase under the preceding sentence only by reason of compliance with the requirements of clause (ii) of such sentence.”.

12 USC 1451.

(b)(1) Section 302(h) of the Federal Home Loan Mortgage Corporation Act is amended—

(A) in the first sentence, by striking out “first”; and

(B) by striking out “The maximum principal obligation” and all that follows through “associations,” and inserting in lieu thereof the following: “Such term shall also include other secured loans that are secured by a subordinate lien against a property as to which the Corporation may purchase a residential mortgage as defined under the first sentence of this subsection.”.

Expiration
dates.

12 USC 1454.

(2) Section 305(a) of such Act is amended by adding at the end thereof the following new paragraph:

“(4)(A) The Corporation is authorized to purchase, service, sell, lend on the security of, and otherwise deal in (i) until October 1, 1987, residential mortgages that are secured by a subordinate lien against a one- to four-family residence that is the principal residence of the mortgagor; and (ii) until October 1, 1985, residential mortgages that are secured by a subordinate lien against a property comprising five or more family dwelling units. If the Corporation shall have purchased, serviced, sold, or otherwise dealt with any other outstanding mortgage secured by the same residence, the aggregate original amount of such other mortgage and the mortgage authorized to be purchased, serviced, sold, or otherwise dealt with under this paragraph shall not exceed the applicable limitation determined under paragraph (2).

“(B) The Corporation shall establish limitations governing the maximum original principal obligation of such mortgages. In any case in which the Corporation purchases a participation interest in such a mortgage, the limitation shall be calculated with respect to the total original principal obligation of such mortgage secured by a subordinate lien and not merely with respect to the interest pur-

chased by the Corporation. Such limitations shall not exceed (i) with respect to mortgages described in subparagraph (A)(i), 50 per centum of the single-family residence mortgage limitation determined under paragraph (2); and (ii) with respect to mortgages described in subparagraph (A)(ii), the applicable limitation determined under paragraph (2).

“(C) No subordinate mortgage against a one- to four-family residence shall be purchased by the Corporation if the total outstanding indebtedness secured by the property as a result of such mortgage exceeds 80 per centum of the value of such property unless (i) that portion of such total outstanding indebtedness that exceeds such 80 per centum is guaranteed or insured by a qualified insurer as determined by the Corporation; (ii) the seller retains a participation of not less than 10 per centum in the mortgage; or (iii) for such period and under such circumstances as the Corporation may require, the seller agrees to repurchase or replace the mortgage upon demand of the Corporation in the event that the mortgage is in default. The Corporation shall not issue a commitment to purchase a subordinate mortgage prior to the date the mortgage is originated, if such mortgage is eligible for purchase under the preceding sentence only by reason of compliance with the requirements of clause (iii) of such sentence.”.

Prohibitions.

AUTHORITY OF FEDERAL HOME LOAN MORTGAGE CORPORATION TO PURCHASE STATE AGENCY INSURED MORTGAGE LOANS

SEC. 204. Section 302(i) of the Federal Home Loan Mortgage Corporation Act is amended by striking out “a State or any agency or instrumentality of either” and inserting in lieu thereof “any of its agencies or instrumentalities”.

12 USC 1451.

MULTIFAMILY MORTGAGE LOAN-TO-VALUE RATIO

SEC. 205. (a) The second sentence of section 302(b)(2) of the Federal National Mortgage Association Charter Act is amended by inserting after “mortgage” the first place it appears the following: “secured by a property comprising one- to four-family dwelling units”.

12 USC 1717.

(b) The first sentence of section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act is amended by inserting after “mortgages” the first place it appears the following: “secured by a property comprising one- to four-family dwelling units”.

12 USC 1454.

LIMITATIONS ON PURCHASE OF CONVENTIONAL MORTGAGES ON MULTIFAMILY PROPERTIES

SEC. 206. (a) Section 302(b)(2) of the Federal National Mortgage Association Charter Act is amended by striking out the penultimate sentence and inserting in lieu thereof the following: “With respect to mortgages secured by property comprising five or more family dwelling units, such limitations shall not exceed 125 per centum of the dollar amounts set forth in section 207(c)(3) of this Act, except that such limitations may be increased by the corporation (taking into account construction costs) to not to exceed 240 per centum of such dollar amounts in any geographical area for which the Secretary of Housing and Urban Development determines under such section that cost levels require any increase in the dollar amount limitations under such section.”.

Ante, p 1692.

12 USC 1713.

- 12 USC 1454. (b) Section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act is amended by striking out the penultimate sentence and inserting in lieu thereof the following: "With respect to mortgages secured by property comprising five or more family dwelling units, such limitations shall not exceed 125 per centum of the dollar amounts set forth in section 207(c)(3) of the National Housing Act, except that such limitations may be increased by the Corporation (taking into account construction costs) to not to exceed 240 per centum of such dollar amounts in any geographical area for which the Secretary of Housing and Urban Development determines under such section that cost levels require any increase in the dollar amount limitations under such section."
- 12 USC 1713

BOARD OF DIRECTORS OF FEDERAL NATIONAL MORTGAGE ASSOCIATION

- President of U.S.
12 USC 1723. SEC. 207. The first sentence of section 308(b) of the Federal National Mortgage Association Charter Act is amended to read as follows: "The Federal National Mortgage Association shall have a board of directors, which shall consist of eighteen persons, five of whom shall be appointed annually by the President of the United States, and the remainder of whom shall be elected annually by the common stockholders."

ANNUAL REPORT OF SECRETARY OF HOUSING AND URBAN DEVELOPMENT ON ACTIVITIES OF FEDERAL NATIONAL MORTGAGE ASSOCIATION

- 12 USC 1723a. SEC. 208. Section 309(h) of the Federal National Mortgage Association Charter Act is amended by striking out the last two sentences and inserting in lieu thereof the following: "Pursuant to the authority provided in this subsection, the Secretary shall, not later than June 30 of each year, report to the Congress on the activities of the corporation under this title."

PERIOD FOR APPROVAL OF ACTIONS OF FEDERAL NATIONAL MORTGAGE ASSOCIATION

- 12 USC 1723a. SEC. 209. Section 309 of the Federal National Mortgage Association Charter Act is amended by adding at the end thereof the following new subsection:
- Report. "(i) If the Federal National Mortgage Association submits to the Secretary of Housing and Urban Development, after the date of the enactment of the Secondary Mortgage Market Enhancement Act of 1984, a request for approval or other action under this title, the Secretary shall, not later than the expiration of the forty-five-day period following the submission of such request, approve such request or transmit to the Congress a report explaining why such request has not been approved. Such period may be extended for an additional fifteen-day period if the Secretary requests additional information from the corporation. If the Secretary fails to transmit such report to the Congress within such forty-five-day period or sixty-day period, as the case may be, the corporation may proceed as if such request had been approved."
- Ante*, p. 1689.
- Extension.

FEDERAL HOME LOAN MORTGAGE CORPORATION GUARANTEE OF
MORTGAGE-BACKED SECURITIES ISSUED BY OTHERS

SEC. 210. Section 306 of the Federal Home Loan Mortgage Corporation Act is amended by adding at the end thereof the following new subsection:

97 Stat. 198.
12 USC 1455.
Prohibition.

“(h) The Corporation may not guarantee mortgage-backed securities or mortgage related payment securities backed by mortgages not purchased by the Corporation.”.

PREFERRED STOCK OF FEDERAL HOME LOAN MORTGAGE CORPORATION

SEC. 211. Section 306(f) of the Federal Home Loan Mortgage Corporation Act is amended—

12 USC 1455.

(1) by inserting before the period at the end of the last sentence the following: “, and shall not be entitled to vote with respect to the election of any member of the Board of Directors”; and

(2) by adding at the end thereof the following new sentence: “Such preferred stock, or any class thereof, may have such terms as would be required for listing of preferred stock on the New York Stock Exchange, except that this sentence does not apply to any preferred stock, or class thereof, the initial sale of which is made directly or indirectly by the Corporation exclusively to any Federal Home Loan Bank or Banks.”.

STUDY OF PREPAYMENT PENALTIES AND THE SECONDARY MORTGAGE
MARKET

SEC. 212. Not later than one hundred and eighty days after the date of the enactment of this Act, the Secretary of Housing and Urban Development, following consultation with the Board of Directors of the Federal National Mortgage Association, the Board of Directors of the Federal Home Loan Mortgage Corporation, the President of the Government National Mortgage Association, the Board of Governors of the Federal Reserve System, the Federal Home Loan Bank Board, the Comptroller of the Currency, and the National Credit Union Administration Board, shall submit to the Congress a report regarding mortgage prepayment penalties and their impact on secondary mortgage market activities. Such report shall include—

Report.

(1) a review of State laws and regulations regarding prepayment penalties;

(2) an evaluation of the impact of prepayment penalties on the ability to attract investors to the secondary mortgage market;

(3) an analysis of existing authority for lenders to offer mortgage instruments containing prepayment penalties; and

(4) a proposal for federally standardized mortgage instruments that would contain prepayment penalties in combination with features that would be attractive to prospective purchasers of homes, including below-market interest rates and prohibitions on nonrisk related settlement charges normally incurred by homeowners upon refinancing.

AUTHORITY OF SECRETARY OF HOUSING AND URBAN DEVELOPMENT
REGARDING FEDERAL NATIONAL MORTGAGE ASSOCIATION OBLIGATIONS

Ante, p 1696 SEC. 213. (a) The second sentence of section 309(h) of the Federal National Mortgage Association Charter Act is amended by inserting "before October 1, 1985," after "corporation".

12 USC 1723c. (b) The last sentence of section 311 of the Federal National Mortgage Association Charter Act is amended by inserting after "issuances" the following: "by the Association and all issuances of stock, and debt obligations convertible into stock, by the corporation".

Approved October 3, 1984.

LEGISLATIVE HISTORY—S. 2040 (H.R. 4557):

HOUSE REPORT No. 98-994, Pt. 1, accompanying H.R. 4557 (Comm. on Energy and Commerce).

SENATE REPORT No. 98-293 (Comm. on Banking, Housing, and Urban Affairs).

CONGRESSIONAL RECORD:

Vol. 129 (1983): Nov. 17, considered and passed Senate.

Vol. 130 (1984): Feb. 9, earlier passage vitiated; considered and passed Senate.

Sept. 11, considered and passed House, amended.

Sept. 26, Senate concurred in House amendment.

Public Law 98-441
98th Congress

Joint Resolution

Making continuing appropriations for the fiscal year 1985, and for other purposes.

Oct. 3, 1984
[H.J. Res. 653]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1985, and for other purposes, namely:

SEC. 101. (a) Such amounts as may be necessary for continuing projects and activities which were conducted in the fiscal year 1984, and for which provision was made in the following appropriation Acts, at the rate for operations, under the terms and conditions, and to the extent and in the manner provided for in the fiscal year 1984 unless otherwise provided for in this joint resolution:

Agriculture, Rural Development, and Related Agencies Appropriation Act, 1984;

Department of Defense Appropriation Act, 1984;

District of Columbia Appropriation Act, 1984;

Foreign Assistance and Related Programs Appropriation Act, 1984;

Department of the Interior and Related Agencies Appropriation Act, 1984;

Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1984;

Military Construction Appropriation Act, 1984;

Department of Transportation and Related Agencies Appropriation Act, 1984; and

Treasury, Postal Service and General Government Appropriation Act, 1984.

(b) Such amounts as may be necessary for continuing the following activities, not otherwise provided for in this joint resolution, which were conducted in the fiscal year 1984, under the terms and conditions provided in applicable appropriation Acts for the fiscal year 1984, at the current rate:

Health planning activities authorized by title XV of the Public Health Service Act;

42 USC 300k-1.

National Research Service Awards authorized by section 472(d) of the Public Health Service Act;

42 USC 289l-1.

National Arthritis Advisory Board, National Diabetes Advisory Board, and National Digestive Diseases Advisory Board authorized by section 437 of the Public Health Service Act;

42 USC 289c-4.

Medical Library Assistance programs authorized by title III of the Public Health Service Act;

42 USC 241.

Refugee and entrant assistance activities under the provisions of title IV of the Immigration and Nationality Act, title IV and part B of title III of the Refugee Act of 1980, and sections 501 (a)

8 USC 1521.

94 Stat. 117, 110.

8 USC 1522 note.

and (b) of the Refugee Education Assistance Act of 1980: *Provided*, That such funds may be expended for individuals who would meet the definition of "Cuban and Haitian entrant" under section 501(e) of the Refugee Education Assistance Act of 1980 but for the application of paragraph (2)(B) thereof;

42 USC 5101 note.

42 USC 4951 note.

97 Stat. 973.

Child abuse prevention and treatment and adoption opportunities activities authorized by the Child Abuse Prevention and Treatment Act;

Activities under the Domestic Volunteer Service Act of 1973, as amended; and

Emergency immigrant education activities authorized by section 101(g) of Public Law 98-151.

Sec. 102. Appropriations and funds made available and authority granted pursuant to this joint resolution shall be available from October 1, 1984, and shall remain available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) enactment of the applicable appropriation Act by both Houses without any provision for such project or activity, or (c) October 3, 1984, whichever first occurs.

Sec. 103. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any project or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

Sec. 104. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

31 USC 1511.

Sec. 105. Any appropriation for the fiscal year 1985 required to be apportioned pursuant to subchapter II of chapter 15 of title 31, United States Code, may be apportioned on a basis indicating the need (to the extent any such increases cannot be absorbed within available appropriations) for a supplemental or deficiency estimate of appropriation to the extent necessary to permit payment of such pay increases as may be granted pursuant to law to civilian officers and employees and to active and retired military personnel. Each such appropriation shall otherwise be subject to the requirements of subchapter II of chapter 15 of title 31, United States Code.

Sec. 106. (a) No appropriation or funds made available or authority granted to the Department of Defense pursuant to this joint resolution shall be used for new production of items not funded for production in fiscal year 1984 or prior years, for the increase in production rates above those sustained with fiscal year 1984 funds or to initiate, resume or continue any project, activity, operation or organization which are defined as any project, subproject, activity, budget activity, program element, and subprogram within a program element and for investment items are further defined as a P-1 line item in a budget activity within an appropriation account and an R-1 line item which includes a program element and subprogram element within an appropriation account, for which appropriations, funds, or other authority were not available during the fiscal year 1984.

(b) No appropriation or funds made available or authority granted to the Department of Defense pursuant to this joint resolution shall be used to initiate multiyear procurements utilizing advance procurement funding for economic order quantity procurement.

Nicaragua.

(c) No appropriations or funds made available pursuant to this joint resolution to the Central Intelligence Agency, the Department

of Defense, or any other agency or entity of the United States involved in intelligence activities may be obligated or expended for the purpose or which would have the effect of supporting, directly or indirectly, military or paramilitary operations in Nicaragua by any nation, group, organization, movement or individual.

(d) The appropriations or funds made available or authority granted to the Department of Defense pursuant to this joint resolution for procurement of MX missiles shall be in accordance with and subject to all the limitations, restrictions, and conditions set forth in section 110 of the Department of Defense Authorization Act, 1985, as enacted by the Congress and shall be subject to the provision that no funds may be obligated for the procurement of additional operational MX missiles (excluding funds necessary for spare parts, advance procurement of parts and materials, maintenance of the contractor base and procurement related to the deployment of MX missiles funded in fiscal year 1984) until Congress enacts additional appropriation legislation after March 1, 1985 providing for the obligation of such funds.

MX missiles.

(e) The appropriations or funds made available or authority granted to the Department of Defense pursuant to this joint resolution for testing of the Space Defense System (antisatellite weapon) shall be in accordance with and subject to all the limitations, restrictions and conditions set forth in section 205 of the Department of Defense Authorization Act, 1985 as enacted by the Congress.

Antisatellite weapon.

Approved October 3, 1984.

LEGISLATIVE HISTORY—H.J. Res. 653:

CONGRESSIONAL RECORD, Vol. 130 (1984):

Oct. 1, considered and passed House and Senate.

Public Law 98-442
98th Congress

Joint Resolution

Oct. 3, 1984
[H.J. Res. 392]

To designate December 7, 1984 as "National Pearl Harbor Remembrance Day" on the occasion of the anniversary of the attack on Pearl Harbor.

Whereas on the morning of December 7, 1941, the Imperial Japanese Navy launched an unprovoked surprise attack upon units of the Armed Forces of the United States stationed at Pearl Harbor, Hawaii;

Whereas over two thousand four hundred citizens of the United States were killed in action and almost one thousand two hundred were wounded in this attack;

Whereas President Franklin Delano Roosevelt referred to the date of the attack as "a day that will live in infamy";

Whereas the attack on Pearl Harbor marked the entry of this Nation into World War II;

Whereas the people of the United States owe a tremendous debt of gratitude to all members of our Armed Forces who served at Pearl Harbor, in the Pacific Theater of World War II, and in all other theaters of action of that war; and

Whereas the veterans of World War II and all other people of the United States will commemorate December 7, 1984 in remembrance of this tragic attack on Pearl Harbor: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That December 7, 1984, the anniversary of the attack on Pearl Harbor, is designated as "National Pearl Harbor Remembrance Day" and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States—

(1) to observe this solemn occasion with appropriate ceremonies and activities; and

(2) to pledge eternal vigilance and strong resolve to defend this Nation and its allies from all future aggression.

Approved October 3, 1984.

LEGISLATIVE HISTORY—H.J. Res. 392:

CONGRESSIONAL RECORD, Vol. 130 (1984):
Sept. 12, considered and passed House.
Sept. 21, considered and passed Senate.

Public Law 98-443
98th Congress

An Act

To amend the Federal Aviation Act of 1958 to terminate certain functions of the Civil Aeronautics Board, to transfer certain functions of the Board to the Secretary of Transportation, and for other purposes.

Oct. 4, 1984
[H.R. 5297]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Civil Aeronautics Board Sunset Act of 1984".

Civil
Aeronautics
Board Sunset
Act of 1984.

49 USC app. 1301
note.

AMENDMENT OF FEDERAL AVIATION ACT OF 1958

SEC. 2. Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Aviation Act of 1958 (49 U.S.C. 1301 et seq.).

49 USC app. 1301
note.

TERMINATION AND TRANSFER OF FUNCTIONS UNDER THE FEDERAL
AVIATION ACT OF 1958

SEC. 3. (a) Section 1601(b)(1)(C) is amended by striking out "Justice" and inserting in lieu thereof "Transportation".

49 USC app.
1551.

(b) Section 1601(a)(3) is amended by inserting after "Act" the following: "(other than section 204)".

(c) Section 1601(a) is amended by adding at the end thereof the following:

Effective dates.

"(4) The following provisions of this Act (to the extent such provisions relate to interstate and overseas air transportation) and the authority of the Board with respect to such provisions (to the same extent) shall cease to be in effect on January 1, 1985:

"(A) Sections 401 (l) and (m) and 405 (b), (c), and (d) of this Act (except insofar as such sections apply to the transportation of mail between two points both of which are within the State of Alaska).

49 USC app.
1371, 1375.

"(B) Section 403 of this Act.

49 USC app.
1373.

"(C) Section 404 of this Act (except insofar as such section requires air carriers to provide safe and adequate service).

49 USC app.
1374.

"(5) The following provisions of this Act and the authority of the Board with respect to such provisions shall cease to be in effect on January 1, 1985:

"(A) Sections 407 (b) and (c) of this Act.

49 USC app.
1377.

"(B) Section 410 of this Act.

49 USC app.
1380.

"(C) Section 417 of this Act.

49 USC app.
1387.

"(D) Sections 1002 (d), (e), (g), (h), and (i) of this Act (except insofar as any of such sections relate to foreign air transportation).

49 USC app.
1482.

- 49 USC app. 1382.
49 USC app. 1384.
49 USC app. 1378, 1379, 1384.
Alaska, mail transportation.
49 USC app. 1371, 1375.
Alaska, mail transportation.
49 USC app. 1551.
Effective date.
Alaska, mail transportation.
Effective date.
- “(6) Sections 412 (a) and (b) of this Act (to the extent such sections relate to interstate and overseas air transportation) and section 414 of this Act (to the extent such section relates to orders made under sections 412 (a) and (b) with respect to interstate and overseas air transportation) and the authority of the Secretary of Transportation under such sections (to the same extent) shall cease to be in effect on January 1, 1989.
- “(7) Sections 408 and 409 of this Act and section 414 of this Act (relating to such sections 408 and 409) and the authority of the Secretary of Transportation under such sections (to the same extent) shall cease to be in effect on January 1, 1989.
- “(8) Sections 401 (l) and (m) and 405 (b), (c), and (d) of this Act (to the extent such sections apply to the transportation of mail between two points both of which are within the State of Alaska) shall cease to be in effect on January 1, 1989.”.
- (d) Section 1601(b)(1)(D) is amended by inserting after “transportation” the following: “(other than for the carriage of mails between any two points both of which are within the State of Alaska)”.
- (e) Section 1601(b)(1) is amended by adding at the end thereof the following:
- “(E) All authority of the Board under this Act which is not terminated under subsection (a) of this section on or before January 1, 1985, and is not otherwise transferred under this subsection is transferred to the Department of Transportation.”.
- (f) Section 1601(b) is amended by adding at the end thereof the following:
- “(3) The authority of the Secretary of Transportation under this Act with respect to the determination of the rates for the carriage of mails between any two points both of which are within the State of Alaska is transferred to the Postal Service and such authority shall be exercised through negotiations or competitive bidding. The transfer of authority under this paragraph shall take effect on January 1, 1989.”.

TRANSFERS OF FUNCTIONS UNDER OTHER LAWS

- 49 USC app. 1553.
49 USC app. 1159b.
49 USC app. 1151 note.
15 USC 1692l.
Alaska, mail transportation.
- SEC. 4. (a) There are hereby transferred to and vested in the Secretary of Transportation all functions, powers, and duties of the Civil Aeronautics Board under the following provisions of law:
- (1) The International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 1159b).
- (2) The International Aviation Facilities Act (49 U.S.C. 1151-1160).
- (3) The Animal Welfare Act (7 U.S.C. 2131 et seq.).
- (4) Section 11 of the Clayton Act (15 U.S.C. 21).
- (5) Sections 108(a)(4), 621(b)(5), 704(a)(5), and 814(b)(5) of the Consumer Credit Protection Act (15 U.S.C. 1607(a)(4), 1681s(b)(5), 1691c(a)(5), and 1692l(b)(5)).
- (6) Section 382 of the Energy Policy and Conservation Act (89 Stat. 939, 42 U.S.C. 6362).
- (7) Section 401 of the Federal Election Campaign Act of 1971 (2 U.S.C. 451).
- (8) Section 5402 of title 39, United States Code (to the extent such section relates to foreign air transportation and to air transportation between any two points both of which are within the State of Alaska).
- (9) Sections 4746 and 9746 of title 10, United States Code.

(10) Section 3 of the Act entitled "An Act to encourage travel in the United States, and for other purposes" (16 U.S.C. 18b).

(b) The transfer of any authority under subsection (a) of this section shall take effect on January 1, 1985.

Effective date.

(c) The authority of the Secretary of Transportation under section 5402 of title 39, United States Code, with respect to air transportation between any two points both of which are within the State of Alaska shall cease to be in effect on January 1, 1989.

Alaska, mail
transportation.
Effective date.

COLLECTION OF DATA

SEC. 5. (a) Section 329(b)(1) of title 49, United States Code, is amended to read as follows:

"(1) collect and disseminate information on civil aeronautics (other than that collected and disseminated by the National Transportation Safety Board under title VII of the Federal Aviation Act of 1958 (49 U.S.C. 1441 et seq.)) including, at a minimum, information on (A) the origin and destination of passengers in interstate and overseas air transportation (as those terms are used in such Act), and (B) the number of passengers traveling by air between any two points in interstate and overseas air transportation; except that in no case shall the Secretary require an air carrier to provide information on the number of passengers or the amount of cargo on a specific flight if the flight and the flight number under which such flight operates are used solely for interstate or overseas air transportation and are not used for providing essential air transportation under section 419 of the Federal Aviation Act of 1958;"

49 USC app. 1441

(b) The amendment made by this section shall take effect on January 1, 1985.

Effective date.
49 USC 329 note

REPORTS

SEC. 6. (a) The Secretary of Transportation shall submit a report to the appropriate committees of Congress not later than July 1, 1987, listing (1) transactions submitted to the Secretary for approval under section 408 of the Federal Aviation Act of 1958, (2) interlocking relations submitted to the Secretary for approval under section 409 of such Act, and (3) the types of agreements filed with the Secretary of Transportation under section 412 of such Act, and, with respect to such transactions, interlocking relationships, and agreements, those that have been exempted from the operation of the antitrust laws under section 414 of such Act. The Secretary shall recommend whether the authority under such sections 408, 409, 412, and 414 should be retained or repealed with respect to interstate and overseas air transportation and with respect to foreign air transportation.

49 USC app. 1551
note.

49 USC app.
1378.

49 USC app.
1379.

49 USC app.
1382.

49 USC app.
1384.

(b) The Secretary of Transportation and the Postmaster General shall each submit a report to the appropriate committees of Congress not later than July 1, 1987, describing how the Secretary and the Postmaster General have administered their respective authorities to establish rates for the air transportation of mail and setting forth the recommendations of the Secretary and the Postmaster General as to whether the authority to establish rates for the transportation of mail between points within the State of Alaska should continue to be carried out by the Secretary by regulatory ratemaking or by the Postal Service through negotiations or competitive bidding.

INCORPORATION BY REFERENCE

49 USC app.
1381.

SEC. 7. (a) Section 411 of the Federal Aviation Act of 1958 is amended by inserting "(a)" after "Sec. 411." and by adding at the end thereof the following new subsection:

"INCORPORATION BY REFERENCE

"(b) Any air carrier may incorporate by reference in any ticket or other written instrument any of the terms of the contract of carriage in interstate and overseas air transportation, to the extent such incorporation by reference is in accordance with regulations issued by the Board."

(b) Section 411 of the Federal Aviation Act of 1958 is amended by inserting before subsection (a) (as designated by subsection (a) of this section) the following subsection heading:

"INVESTIGATIONS".

(c) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the center heading

"TITLE IV—AIR CARRIER ECONOMIC REGULATION"

is amended by striking out

"Sec. 411. Methods of competition."

and inserting in lieu thereof

"Sec. 411. Methods of competition.

"(a) Investigations.

"(b) Incorporation by reference."

REFERENCES TO CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY

49 USC app 1371
note.

SEC. 8. Any reference in any law to a certificate of public convenience and necessity, or to a certificate of convenience and necessity, issued by the Civil Aeronautics Board shall be deemed to refer to a certificate issued under section 401 or 418 of the Federal Aviation Act of 1958.

49 USC app.
1371, 1388.

MISCELLANEOUS AMENDMENTS

49 USC app.
1301

SEC. 9. (a)(1) Section 101(11) is amended to read as follows:

"(11) 'All-cargo air service' means the carriage by aircraft in interstate or overseas air transportation of only property or mail, or both."

49 USC app.
1388.

(2) Section 418(b)(3) is repealed.

49 USC app.
1537.

(b) Section 1307(a) is amended by striking out ", after consultation with the Civil Aeronautics Board,".

49 USC app.
1159a.

(c) Section 11 of the International Aviation Facilities Act (49 U.S.C. 1159a) is amended in the second sentence by striking out "and the Civil Aeronautics Board" and by striking out "in collaboration with the Civil Aeronautics Board" and inserting in lieu thereof "in collaboration with the Secretary of Transportation".

49 USC app.
1159b.

(d) Section 2 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 1159b) is amended by—

(1) striking out "the Civil Aeronautics Board," in subsection (a);

(2) striking out “Civil Aeronautics Board” and “Board” each time they appear in subsection (b) and the first sentence of subsection (d) and inserting in lieu thereof “Secretary of Transportation” and “Secretary”, respectively;

(3) striking out “and the Department of Transportation” in subsection (b)(2); and

(4) striking out the last sentence in subsection (d) and inserting in lieu thereof the following: “The Secretaries of State and Treasury shall furnish to the Secretary of Transportation such information as may be necessary to prepare the report required by this subsection.”

(e) Section 5314 of title 5, United States Code, is amended by striking out “Chairman, Civil Aeronautics Board.”. Section 5315 of title 5, United States Code, is amended by striking out “Members, Civil Aeronautics Board.”.

(f) Section 3726(b)(1) of title 31, United States Code, is amended by striking out “Civil Aeronautics Board” and inserting in lieu thereof “Secretary of Transportation with respect to foreign air transportation (as defined in the Federal Aviation Act of 1958)”.

(g)(1) Sections 3401 (b) and (c) of title 39, United States Code, are each amended by striking out “Civil Aeronautics Board” and inserting in lieu thereof “Secretary of Transportation”.

(2) Section 5005(b)(3) of title 39, United States Code, is amended by striking out “Civil Aeronautics Board” and inserting in lieu thereof “Secretary of Transportation if for the carriage of mail in foreign air transportation (as defined in section 101 of the Federal Aviation Act of 1958)”.

(3) Section 5401(b) of title 39, United States Code, is amended by striking out “Civil Aeronautics Board” and inserting in lieu thereof “Secretary of Transportation”.

(4) Section 5402 of title 39, United States Code, is amended—

(A) by striking out “Civil Aeronautics Board” each place it appears and inserting in lieu thereof “Secretary of Transportation”;

(B) in the first sentence of subsection (a), by inserting “in foreign air transportation” after “points”;

(C) in the second sentence of subsection (a), by striking out “10 percent of the domestic mail transported under any such contract or”;

(D) in the first sentence of subsection (b), by inserting “in foreign air transportation” after “points”;

(E) in the first sentence of subsection (c), by inserting “in foreign air transportation” after “points”; and

(F) by adding at the end thereof the following new subsections:

“(d) The Postal Service may contract with any air carrier for the transportation of mail by aircraft in interstate and overseas air transportation either through negotiations or competitive bidding.

“(e) For purposes of this section, the terms ‘air carrier’, ‘interstate air transportation’, ‘overseas air transportation’, and ‘foreign air transportation’ have the meanings given such terms in section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301).

“(f) During the period beginning January 1, 1985, and ending January 1, 1989, the authority of the Secretary of Transportation and the Postal Service under subsections (a), (b), and (c) of this section shall also apply, and the authority of the Postal Service under subsection (d) shall not apply, to the transportation of mail by

49 USC app. 1301
note.

49 USC app.
1301.

Effective date.

aircraft between any two points both of which are within the State of Alaska and between which the air carrier is authorized by the Secretary to engage in the transportation of mail.”.

(h) Section 3502(10) of title 44, United States Code, is amended by striking out “the Civil Aeronautics Board,”.

(i) Section 15(a) of the Animal Welfare Act (7 U.S.C. 2145(a)) is amended by striking out “the Civil Aeronautics Board” and inserting in lieu thereof “the Secretary of Transportation”.

(j) Section 203(j) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622(j)) is amended by striking out “the Civil Aeronautics Board”.

(k) Sections 4746 and 9746 of title 10, United States Code, are each amended by striking out “Civil Aeronautics Board” and inserting in lieu thereof “Secretary of Transportation”.

(l) Section 7 of the Clayton Act (15 U.S.C. 18) is amended in the final paragraph by striking out “Civil Aeronautics Board” and inserting in lieu thereof “Secretary of Transportation” and by striking out “Commission, Secretary, or Board” and inserting in lieu thereof “Commission or Secretary”.

(m) Section 11 of the Clayton Act (15 U.S.C. 21) is amended—

(1) in subsection (a), by striking out “Civil Aeronautics Board” and inserting in lieu thereof “Secretary of Transportation” and by striking out “Civil Aeronautics Act of 1938” and inserting in lieu thereof “Federal Aviation Act of 1958”;

(2) in subsection (b), by striking out “Commission or Board” each place it appears and inserting in lieu thereof “Commission, Board, or Secretary”; and

(3) by striking out “commission or board” each place it appears in such section and inserting in lieu thereof “commission, board, or Secretary”.

(n) The Consumer Credit Protection Act (15 U.S.C. 1601 et seq.) is amended by striking out “Civil Aeronautics Board” and inserting in lieu thereof “Secretary of Transportation” each place it appears in section 108(a)(4) (15 U.S.C. 1607(a)(4)), section 621(b)(5) (15 U.S.C. 1681s(b)(5)), section 704(a)(5) (15 U.S.C. 1691c(a)(5)), and section 814(b)(5) (15 U.S.C. 1692l(b)(5)).

(o) Section 3 of the Act entitled “An Act to encourage travel in the United States, and for other purposes” (16 U.S.C. 18b; 54 Stat. 773), is amended by striking out “the Civil Aeronautics Authority,”.

26 USC 47.

(p) Section 47(a)(7)(C) of the Internal Revenue Code of 1954 is amended by striking out “Civil Aeronautics Board” and inserting in lieu thereof “Secretary of Transportation”.

26 USC 7701.

(q) Section 7701(a)(33)(E) of the Internal Revenue Code of 1954 is amended by striking out “Civil Aeronautics Board” and inserting in lieu thereof “Secretary of Transportation”.

49 USC app.
1389.

(r) Section 419(c)(1) is amended by striking out “416(b)(3)” and inserting in lieu thereof “416(b)(4)”.

49 USC app.
1382.

(s) Section 412(c)(2) is amended by striking out “subsection (c) of this section” and inserting in lieu thereof “subsection (a) of this section”.

49 USC app.
1377.

(t) Section 407(e) is amended by striking out the first sentence and inserting in lieu thereof the following: “The Board shall have access to all lands, buildings, and equipment of any air carrier or foreign air carrier when necessary for a determination under section 401, 402, 418, or 419 of this title that such carrier is fit, willing, and able. The Board shall at all times have access to all accounts, records, and memorandums, including all documents, papers, and correspond-

49 USC app.
1371, 1372, 1388,
1389.

ence, now or hereafter existing, and kept or required to be kept by air carriers, foreign air carriers, or ticket agents. The Board may employ special agents or auditors, who shall have authority under the orders of the Board to inspect and examine lands, buildings, equipment, accounts, records, and memorandums to which the Board has access under this subsection.”.

(u) Section 105(a)(1) is amended by striking out “interstate air transportation” and inserting in lieu thereof “air transportation”.

(v) The amendments made by this section shall take effect on January 1, 1985.

49 USC app.
1305.

Effective date.
5 USC 5314 note.

TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL

SEC. 10. (a) The personnel (including members of the Senior Executive Service) employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to or to be made available in connection with, any function transferred by section 1601(b) of the Federal Aviation Act of 1958 or section 4 of this Act, subject to section 1531 of title 31, United States Code, shall be transferred to the head of the agency to which such function is transferred for appropriate allocation. Personnel employed in connection with functions so transferred, or transferred in accordance with any other lawful authority, shall be transferred in accordance with any applicable laws and regulations relating to transfer of functions. Unexpended funds transferred pursuant to this subsection shall only be used for the purpose for which the funds were originally authorized and appropriated.

49 USC app.
1554.

49 USC app.
1551.

(b) In order to facilitate the transfers made by section 1601(b) of the Federal Aviation Act of 1958 and section 4 of this Act, the Director of the Office of Management and Budget is authorized and directed, in consultation with the Civil Aeronautics Board and the heads of the agencies to which functions are so transferred, to make such determinations as may be necessary with regard to the functions so transferred, and to make such additional incidental dispositions of personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with, such functions, as may be necessary to resolve disputes between the Civil Aeronautics Board and the agencies to which functions are transferred by section 1601(b) of the Federal Aviation Act of 1958 and section 4 of this Act.

(c) The Chairman of the Civil Aeronautics Board and the Secretary of Transportation shall, beginning as soon as practicable after the date of enactment of this Act, jointly plan for the orderly transfer of functions and personnel pursuant to section 1601(b) of the Federal Aviation Act of 1958 and section 4 of this Act.

EFFECT ON PERSONNEL

SEC. 11. (a) Employees covered by the merit pay system under chapter 54 of title 5, United States Code, who are transferred under section 10 of this Act to another agency shall have their rate of basic pay adjusted in accordance with section 5402 of such title. With respect to the evaluation period during which such an employee is transferred, merit pay determinations for that employee shall be

49 USC app.
1555.
5 USC 5401 *et*
seq.
5 USC 5402.

5 USC 5402. based on the factors in section 5402(b)(2) of such title as appraised in performance appraisals administered by the Civil Aeronautics Board in accordance with chapter 43 of title 5, United States Code, in addition to those administered by the agency to which the employee is transferred.

5 USC 4301 *et seq.*

49 USC app. 1551.

(b) With the consent of the Civil Aeronautics Board, the head of each agency to which functions are transferred by section 1601(b) of the Federal Aviation Act of 1958 or section 4 of this Act is authorized to use the services of such officers, employees, and other personnel of the Board for such period of time as may reasonably be needed to facilitate the orderly transfer of such functions.

SAVINGS PROVISIONS

49 USC app. 1556.

SEC. 12. (a) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, any agency or official thereof, or by a court of competent jurisdiction, in the performance of any function which is transferred by section 1601(b) of the Federal Aviation Act of 1958 or section 4 of this Act from the Civil Aeronautics Board to another agency, and

(2) which are in effect on December 31, 1984, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the head of the agency to which such function is transferred, or other authorized officials, a court of competent jurisdiction, or by operation of law.

(b) The transfers of functions made by section 1601(b) of the Federal Aviation Act of 1958 and section 4 of this Act shall not affect any proceedings or any application for any license, permit, certificate, or financial assistance pending at the time such transfers take effect before the Civil Aeronautics Board; but such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if such sections 1601(b) and 4 had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if such sections 1601(b) and 4 had not been enacted.

(c) Except as provided in subsection (e)—

(1) the transfer of any function under section 1601(b) of the Federal Aviation Act of 1958 or section 4 of this Act shall not affect any suit relating to such function which is commenced prior to the date the transfer takes effect, and

(2) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if section 1601(b) of the Federal Aviation Act of 1958 and section 4 of this Act had not been enacted.

(d) No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of the Civil Aeronautics Board shall abate by reason of the transfer of any function

under section 1601(b) of the Federal Aviation Act of 1958 or section 4 of this Act. No cause of action by or against the Civil Aeronautics Board, or by or against any officer thereof in his official capacity shall abate by reason of the transfer of any function under section 1601(b) of the Federal Aviation Act of 1958 or section 4 of this Act.

49 USC app.
1551.

(e) If, before January 1, 1985, the Civil Aeronautics Board, or officer thereof in his official capacity, is a party to a suit relating to a function transferred by section 1601(b) of the Federal Aviation Act of 1958 or section 4 of this Act, then such suit shall be continued with the head of the Federal agency to which the function is transferred.

(f) With respect to any function transferred to another agency by section 1601(b) of the Federal Aviation Act of 1958 or by section 4 of this Act and exercised after the effective date of such transfer, reference in any Federal law (other than title XVI of the Federal Aviation Act of 1958) to the Civil Aeronautics Board or the Board (insofar as such term refers to the Civil Aeronautics Board), or to any officer or office of the Civil Aeronautics Board, shall be deemed to refer to that agency, or other official or component of the agency, in which such function vests.

49 USC app.
1551.

(g) In the exercise of any function transferred under section 1601(b) of the Federal Aviation Act of 1958 or section 4 of this Act, the head of the agency to which such function is transferred shall have the same authority as that vested in the Civil Aeronautics Board with respect to such function, immediately preceding its transfer, and actions of the head of such agency in exercising such function shall have the same force and effect as when exercised by the Civil Aeronautics Board.

(h) In exercising any function transferred by section 1601(b) of the Federal Aviation Act of 1958 or section 4 of this Act, the head of the agency to which such function is transferred shall give full consideration to the need for operational continuity of the function transferred.

DEFINITIONS

SEC. 13. For purposes of this Act—

- (1) the term “agency” has the same meaning such term has in section 551(1) of title 5, United States Code; and
- (2) the term “function” means a function, power, or duty.

49 USC app.
1557.

ACCESS FOR HANDICAPPED PERSONS

SEC. 14. Section 104 is amended by adding at the end thereof the following new sentence: “In the furtherance of such right, the Board or the Secretary, as the case may be, shall consult with the Architectural and Transportation Barriers Compliance Board established under section 502 of the Rehabilitation Act of 1973, prior to issuing or amending any order, rule, regulation, or procedure that will have a significant impact on the accessibility of commercial airports or commercial air transportation for handicapped persons.”.

49 USC app.
1304.

29 USC 792.

STUDY OF TRANSPORTATION TO AND FROM WASHINGTON DULLES AIRPORT

SEC. 15. (a) The Secretary of Transportation shall study the feasibility of constructing a rail rapid transit line between the West Falls Church, Virginia, station of the Washington, District of Columbia

49 USC app 2423
note.

metrorail system and Dulles International Airport in Virginia. The study shall include, but need not be limited to, a study of the feasibility of heavy rail, light rail, monorail, magnetic levitation systems, and any other appropriate transportation systems. The Secretary shall study the feasibility of each such system with and without intermediate stops.

(b) The Secretary shall complete the study required by subsection (a) and transmit the results thereof to Congress not later than one year after the date of enactment of this Act.

AIR SERVICE IN THE STATE OF ALASKA

49 USC app. 1389
note.

SEC. 16. (a)(1) Notwithstanding any other provision of law, with respect to air transportation to each of the points in Alaska listed in paragraph (4), essential air transportation for purposes of section 419 of the Federal Aviation Act of 1958 shall neither be specified at a level of service nor operated with aircraft of lesser seating and cargo capacity than provided for in CAB Order 80-1-167 and its Appendices unless otherwise specified under an agreement between the Department of Transportation and the State of Alaska, after consultation with the community affected. This paragraph shall cease to be in effect on January 1, 1987.

49 USC app.
1389.

Effective date.

(2) Notwithstanding any other provision of law, the total amount of compensation which may be paid under section 419 of the Federal Aviation Act of 1958 with respect to the points in Alaska listed in paragraph (4) shall not exceed \$3,572,778 for each of the fiscal years 1985 and 1986 and shall not exceed \$893,195 for service provided during the period beginning October 1, 1986, and ending at the close of December 31, 1986.

Report.

(3) The Secretary of Transportation shall study the feasibility of providing essential air transportation to each of the points in Alaska listed in paragraph (4) with aircraft having a smaller capacity than that required by paragraph (1), the level of compensation which would be required under section 419 of the Federal Aviation Act of 1958 for such transportation, and the impact of using such aircraft on the air transportation system in Alaska. The Secretary shall complete such study and submit a report of the results of such study to Congress not later than January 1, 1986.

(4) The points in Alaska referred to in paragraphs (1), (2), and (3) are Cordova, Yakutat, Gustavus, Petersburg, and Wrangell.

(b) Notwithstanding any other provision of law, no part of the order of the Civil Aeronautics Board in CAB docket number 38961 (CAB Order 84-6-77) shall enter into effect until after December 31, 1984.

Effective date.

Approved October 4, 1984.

LEGISLATIVE HISTORY—H.R. 5297:

HOUSE REPORTS: No. 98-793 (Comm. on Public Works and Transportation) and No. 98-1025 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 130 (1984):

June 5, considered and passed House.

Aug. 8, considered and passed Senate, amended.

Sept. 19, House agreed to conference report.

Sept. 20, Senate agreed to conference report.

Public Law 98-444
98th Congress

An Act

Oct. 4, 1984
[S. 2732]

To amend the Wild and Scenic Rivers Act to permit the control of the lamprey eel in the Pere Marquette River and to designate a portion of the Au Sable River, Michigan, as a component of the National Wild and Scenic Rivers System.

16 USC 1274.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3(a)(16) of the Wild and Scenic Rivers Act is amended by adding the following sentence at the end thereof: "Notwithstanding any other provision of this Act, the installation and operation of facilities or other activities within or outside the boundaries of the Pere Marquette Wild and Scenic River for the control of the lamprey eel shall be permitted subject to such restrictions and conditions as the Secretary of Agriculture may prescribe for the protection of water quality and other values of the river, including the wild and scenic characteristics of the river."

16 USC 1274.

SEC. 2. Section 3(a) of the Wild and Scenic Rivers Act is amended by adding at the end thereof the following:

Public
availability.

"(51) AU SABLE, MICHIGAN.—The segment of the main stem from the project boundary of the Mio Pond project downstream to the project boundary at Alcona Pond project as generally depicted on a map entitled 'Au Sable River' which is on file and available for public inspection in the Office of the Chief, Forest Service, United States Department of Agriculture; to be administered by the Secretary of Agriculture."

Approved October 4, 1984.

LEGISLATIVE HISTORY—S. 2732 (H.R. 3472):

HOUSE REPORT No. 98-717 accompanying H.R. 3472 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 98-574 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 130 (1984):

Apr. 30, May 1, H.R. 3472 considered and passed House.

Aug. 9, considered and passed Senate.

Sept. 24, considered and passed House.

Public Law 98-445
98th Congress

An Act

To implement the Eastern Pacific Ocean Tuna Fishing Agreement, signed in San Jose, Costa Rica, March 15, 1983.

Oct. 4, 1984

[H.R. 5147]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Eastern Pacific Tuna Licensing Act of 1984".

Eastern Pacific
Tuna Licensing
Act of 1984.
16 USC 972 note.
16 USC 972.

SEC. 2. DEFINITIONS.

As used in this Act—

(1) The term "Agreement" means the Eastern Pacific Ocean Tuna Fishing Agreement, signed in San Jose, Costa Rica, March 15, 1983.

(2) The term "Agreement Area" means the area within a perimeter determined as follows: From the point on the mainland where the parallel of 40 degrees north latitude intersects the coast westward along the parallel of 40 degrees north latitude to 40 degrees north latitude by 125 degrees west longitude, thence southerly along the meridian of 125 degrees west longitude to 20 degrees north latitude by 125 degrees west longitude, thence easterly along the parallel of 20 degrees north latitude to 20 degrees north latitude by 120 degrees west longitude, thence southerly along the meridian of 120 degrees west longitude to 5 degrees north latitude by 120 degrees west longitude, thence easterly along the parallel of 5 degrees north latitude to 5 degrees north latitude by 110 degrees west longitude, thence southerly along the meridian of 110 degrees west longitude to 10 degrees south latitude by 110 degrees west longitude, thence easterly along the parallel of 10 degrees south latitude to 10 degrees south latitude by 90 degrees west longitude, thence southerly along the meridian of 90 degrees west longitude to 30 degrees south latitude by 90 degrees west longitude, thence easterly along the parallel of 30 degrees south latitude to the point on the mainland where the parallel intersects the coast; but the Agreement Area does not include the zones within twelve nautical miles of the baseline from which the breadth of territorial sea is measured and the zones within two hundred nautical miles of the baselines of Coastal States not signatories to the Agreement, measured from the same baseline.

(3) The term "designated species of tuna" means yellowfin tuna, *Thunnus albacares* (Bonnaterre, 1788); bigeye tuna, *Thunnus obesus* (Lowe, 1839); albacore tuna, *Thunnus alalunga* (Bonnaterre, 1788); northern bluefin tuna, *Thunnus thynnus* (Linnaeus, 1758); southern bluefin tuna, *Thunnus maccoyii* (Castelnau, 1872); skipjack tuna, *Katsuwonus pelamis* (Linnaeus 1578); black skipjack, *Euthynnus Lineatus* (Kishinouye 1920); kawakawa, *Euthynnus affinis* (Cantor, 1849); bullet tuna, *Auxis rochei* (Risso, 1810), frigate tuna, *Ausix thazard* (Lacepede, 1800); eastern Pacific bonito, *Sarda chiliensis* (Cuvier in Cuvier

and Valenciennes, 1831); and Indo-Pacific bonito, *Sarda orientalis* (Temminck and Schlegel, 1844).

(4) The term "Council" means the body consisting of the representatives from each Contracting Party to the Agreement which is a Coastal State of the eastern Pacific Ocean or a member of the Inter-American Tropical Tuna Commission at the time of entry into force of the Agreement.

16 USC 972a.

SEC. 3. UNITED STATES REPRESENTATION ON THE COUNCIL.

(a) The Secretary of State—

(1) shall appoint a United States representative to the Council; and

(2) may appoint not more than three alternate United States representatives to the Council.

Government
organization and
employees.

(b) An individual is not eligible for appointment as, or to serve as, the United States representative under subsection (a)(1) unless the individual is an officer or employee of the United States Government.

(c) An individual is not entitled to compensation for serving as the United States representative or an alternate United States representative.

(d) While away from home or a regular place of business in the performance of service as the United States representative or an alternate United States representative, an individual is entitled to travel expenses, including per diem in lieu of subsistence, in the same manner as individuals employed intermittently in Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

16 USC 972b.

SEC. 4. SECRETARY OF STATE TO ACT FOR THE UNITED STATES.

The Secretary of State shall receive, on behalf of the United States Government, reports, requests, recommendations and other communications of the Council, and, in consultation with the Secretary of Commerce, shall act directly thereon or by reference to the appropriate authorities.

16 USC 972c.

SEC. 5. APPLICATION TO OTHER LAWS.

Ante, p. 444.
22 USC 1974.

(a) Notwithstanding section 4 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1874), such Act applies with respect to a seizure by a Contracting Party to the Agreement of a vessel of the United States within the Agreement Area for violation of the Agreement if the Secretary of State determines that the violation is not of such seriousness as to diminish the effectiveness of the Agreement.

(b) The seizure by a Contracting Party to the Agreement of a vessel of the United States shall not be considered to be a seizure described in section 205(a)(4)(C) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1825(a)(4)(C)) if the seizure is consistent with the Agreement.

16 USC 972d.

SEC. 6. DISPOSITION OF FEES.

All fees accruing to the United States under Article III of the Agreement shall be deposited into the Treasury of the United States.

16 USC 972e.

SEC. 7. REGULATIONS.

The Secretary of Commerce, in cooperation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall issue such regulations as may be necessary to

carry out the purposes and objectives of the Agreement and this Act. Regulations may be made applicable as necessary to all persons and vessels subject to the jurisdiction of the United States, wherever located. Regulations concerning the conservation of a designated species of tuna may be issued only to implement conservation recommendations made by the Council under Article 3(D) of the Agreement.

SEC. 8. PROHIBITED ACTS.

16 USC 972f.

(a) It is unlawful for any person subject to the jurisdiction of the United States—

(1) to engage in fishing for a designated species of tuna within the Agreement Area unless issued a license under the Agreement authorizing such fishing;

(2) to engage in fishing for a designated species of tuna within the Agreement area in contravention of regulations promulgated by the Secretary of Commerce under the Agreement;

(3) knowingly to ship, transport, purchase, sell, offer for sale, export, or have in custody, possession, or control any designated species of tuna taken or retained in violation of regulations issued under section 7;

(4) to fail to make, keep, or furnish any catch return, statistical record, or other report required by regulations issued under section 7;

(5) being a person in charge of a vessel of the United States, to fail to stop upon being hailed by an authorized official of the United States, or to refuse to permit officials of the United States to board the vessel or inspect its catch, equipment, books, documents, records, or other articles, or to question individuals on board; or

(6) to import from any country, in violation of any regulation issued under section 7, any designated species of tuna.

(b) Any person who is convicted of violating—

(1) subsection (a)(1), (a)(2), or (a)(3) shall be fined or assessed a civil penalty not more than \$25,000, and for a subsequent violation shall be fined or assessed a civil penalty not more than \$50,000;

(2) subsection (a)(4) or (a)(5) shall be fined or assessed a civil penalty not more than \$5,000, and for a subsequent violation shall be fined or assessed a civil penalty not more than \$5,000; or

(3) subsection (a)(6) shall be fined or assessed a civil penalty not more than \$100,000.

(c) All designated species of tuna taken or retained in violation of subsection (a) (1), (2), (3), or (6), or the monetary value thereof, is subject to forfeiture.

(d) All provisions of law relating to the seizure, judicial forfeiture, and condemnation of a cargo for violation of the customs laws, the disposition of such cargo or the proceeds from the sale thereof, and the remission or mitigation of such forfeitures shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under this Act, insofar as such provisions of law are applicable and not inconsistent with the provisions of this Act.

SEC. 9. ENFORCEMENT.

(a) The judges of the United States district courts and United States magistrates may, within their respective jurisdictions, upon

Courts, U.S.
16 USC 972g.

proper oath or affirmation showing probable cause, issue such warrants or other process as may be required for enforcement of this Act and the regulations issued under section 7.

(b) The enforcement of this Act and the regulations issued under section 7 shall be the joint responsibility of the department in which the Coast Guard is operating, the Department of Commerce, and the United States Customs Service. In addition, the Secretary of Commerce may designate officers and employees of the States of the United States, of the Commonwealth of Puerto Rico, and of American Samoa to carry out enforcement activities under this section. When so designated, such officers and employees may function as Federal law enforcement agents for these purposes.

(c) An individual authorized to carry out enforcement activities under this section has power to execute any warrant or process issued by any officer or court of competent jurisdiction for the enforcement of this Act.

(d) An individual so authorized to carry out enforcement activities under this section has power—

(1) with or without a warrant or other process, to arrest any person subject to the jurisdiction of the United States at any place within the jurisdiction of the United States committing in his presence or view a violation of this Act or the regulations issued under section 7;

(2) with or without a warrant or other process, to search any vessel subject to the jurisdiction of the United States, and, if, as a result of the search he has reasonable cause to believe that such vessel or any individual on board is engaging in operations in violation of this Act or any regulation issued thereunder to arrest such person.

(e) An individual authorized to enforce this Act may seize, whenever or wherever lawfully found, all species of designated tuna taken or retained in violation of this Act or the regulations issued under section 7. Any species so seized may be disposed of pursuant to the order of a court of competent jurisdiction, under subsection (f) of this section or, if perishable, in a manner prescribed by regulations of the Secretary of Commerce.

(f) Notwithstanding the provisions of section 2464 of title 28, United States Code, when a warrant of arrest or other process in rem is issued in any cause under this section, the marshal or other officer shall stay the execution of such process, or discharge any species of designated tuna seized if the process has been levied, on receiving from the claimant of the species a bond or stipulation for the value of the property with sufficient surety to be approved by a judge of the district court having jurisdiction of the offense, conditioned to deliver the species seized, if condemned, without impairment in value or, in the discretion of the court, to pay its equivalent value in money or otherwise to answer the decree of the court in such cause. Such bond or stipulation shall be returned to the court and judgment thereon against both the principal and sureties may be recovered in event of any breach of the conditions thereof as determined by the court. In the discretion of the accused, and

subject to the direction of the court, the species may be sold for not less than its reasonable market value and the proceeds of such sale placed in the registry of the court pending judgment in the case.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

16 USC 972h.

There are authorized to be appropriated for fiscal years after fiscal year 1984 such sums as may be necessary to carry out this Act.

Approved October 4, 1984.

LEGISLATIVE HISTORY—H.R. 5147:

HOUSE REPORT No. 98-721 (Comm. on Merchant Marine and Fisheries).

SENATE REPORT No. 98-559 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 130 (1984):

Apr. 30, May 1, considered and passed House.

Sept. 21, considered and passed Senate.

Public Law 98-446
98th Congress

Joint Resolution

Oct. 4, 1984
[H.J. Res. 554]

To designate the week of November 11, 1984, through November 17, 1984, as "Women in Agriculture Week".

Whereas farmwomen contribute substantially to the stabilization of family farms in the United States;

Whereas more than one million women are engaged, either solely or jointly, in the operation of farms in the United States;

Whereas farmwomen are involved in all aspects of farming operations either as accountants, machine operators, veterinarians, crop specialists, businesswomen, mothers, or other occupations;

Whereas farmwomen also make significant contributions to agriculture, the leading employer in the United States, by virtue of their motivation and pride;

Whereas farmwomen are committed to the preservation of their families and farming operations and to the prosperity of our Nation's agricultural economy; and

Whereas the appropriate recognition of the contributions made by our Nation's farmwomen is long overdue: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of November 11, 1984, through November 17, 1984, is designated as "Women in Agriculture Week" and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate programs, ceremonies, and activities.

Approved October 4, 1984.

LEGISLATIVE HISTORY—H.J. Res. 554:

CONGRESSIONAL RECORD, Vol. 130 (1984):

Aug. 8, considered and passed House.

Sept. 21, considered and passed Senate.

Public Law 98-447
98th Congress

Joint Resolution

Regarding the implementation of the policy of the United States Government in opposition to the practice of torture by any foreign government.

Oct. 4, 1984
[H J. Res. 605]

Whereas international human rights organizations have investigated and reported on the use of torture in many countries throughout the world;

Whereas the Department of State in its annual country reports on human rights practices has reported that torture is all too frequent in many countries of the world;

Whereas torture knows no ideological boundaries and is practiced in countries in every region of the world;

Whereas torture is absolutely prohibited by international legal standards;

Whereas in those countries where torture is practiced systematically, it is possible to identify laws, institutions, and other forms of political organization that contribute to the practice and allow its continuation;

Whereas legal, medical, religious, and other groups seeking to combat torture emphasize that access to detainees, the civil and criminal prosecution of torturers, and the rehabilitation of victims of torture are critical steps in reducing the practice and effects of torture;

Whereas the United States Government has supported the work of the United Nations Commission on Human Rights in developing the draft Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment which is intended to reduce the practice of torture and lead to its eventual abolition, and the United States Government is supportive of the United Nations Voluntary Fund for Victims of Torture; and

Whereas the good will of the peoples of the world toward the United States can be increased when the United States distances itself from the practice of torture by governments friendly to the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress reaffirms that it is the continuing policy of the United States Government to oppose the practice of torture by foreign governments through public and private diplomacy and, when necessary and appropriate, through the enactment and vigorous implementation of laws intended to reinforce United States policies with respect to torture. The United States Government opposes acts of torture wherever they occur, without regard to ideological or regional considerations, and will make every effort to work cooperatively with other governments and with nongovernmental organizations to combat the practice of torture worldwide.

SEC. 2. (a) The President is requested—

Human rights.
Law
enforcement.
22 USC 2656
note.

22 USC 2656
note.

(1) to instruct the Permanent Representative of the United States to the United Nations to continue to raise the issue of torture practiced by governments; and

(2) to continue to involve the United States Government in the formulation of international standards and effective implementing mechanisms, particularly the draft Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

(b) In order to implement the policy expressed in the first section of this resolution, the Secretary of State is requested to issue formal instructions to each United States chief of mission regarding United States policy with respect to torture, including—

(1) instructions—

(A) to examine allegations of the practice of torture, particularly allegations concerning the existence of secret detention, extended incommunicado detention, and restrictions on access by family members, lawyers, and independent medical personnel to detainees; and

(B) to forward such information as may be gathered, including information regarding any efforts made by the host government to reduce and eliminate the practice of torture, to the Assistant Secretary of State for Human Rights and Humanitarian Affairs for analysis in preparing the Department's annual country reports on human rights practices;

(2) in the case of a chief of mission assigned to a country where torture is regularly practiced, instructions to report on a periodic basis as circumstances require to the Assistant Secretary of State for Human Rights and Humanitarian Affairs regarding efforts made by the respective United States diplomatic mission to implement United States policy with respect to combating torture;

(3) instructions to meet with indigenous human rights monitoring groups knowledgeable about the practice of torture for the purpose of gathering information about such practice; and

(4) instructions to express concern in individual cases of torture brought to the attention of a United States diplomatic mission including, whenever feasible, sending United States observers to trials when there is reason to believe that torture has been used against the accused.

(c) The Secretary of Commerce should continue to enforce vigorously the current restrictions on the export of crime control equipment pursuant to the Export Administration Act of 1979.

Exports.

50 USC app.
2401 note.

(d) The heads of the appropriate departments of the United States Government that furnish military and law enforcement training to foreign personnel, particularly personnel from countries where the practice of torture has been a documented concern, shall include in such training, when relevant, instruction regarding international human rights standards and the policy of the United States with respect to torture.

Approved October 4, 1984.

LEGISLATIVE HISTORY—H.J. Res. 605 (S.J. Res. 320):

CONGRESSIONAL RECORD, Vol. 130 (1984):
Sept. 11, considered and passed House.
Sept. 21, considered and passed Senate.

Public Law 98-448
98th Congress

Joint Resolution

Oct. 4, 1984
[H.J. Res. 606]

To designate the week of October 14, 1984, through October 21, 1984, as "National Housing Week".

Whereas the opportunity to own a home and live in decent housing is the foundation for family life and a source of national economic, social, and political strength;

Whereas the housing industry has led the Nation to economic recovery following every recession since World War II by creating millions of productive jobs for the unemployed, generating billions of dollars worth of tax revenue, and creating demand for goods and services;

Whereas the housing industry in 1983, although accounting for only 3.4 percent of the real gross national product, was responsible for 30 percent of the total economic growth, a \$15,000,000,000 real increase in gross national product during the year;

Whereas a sustained and strong housing recovery is essential for a long-term economic recovery;

Whereas it is appropriate to reaffirm the national historic commitment to housing and homeownership and to recognize the economic opportunities created by the present housing recovery; and

Whereas the housing industry epitomizes the principle of free enterprise in the economic system of the Nation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 14, 1984, through October 21, 1984, is designated as "National Housing Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate activities.

Approved October 4, 1984.

LEGISLATIVE HISTORY—H.J. Res. 606 (S.J. Res. 321):

CONGRESSIONAL RECORD, Vol. 130 (1984):

Aug. 8, considered and passed House.

Sept. 17, S.J. Res. 321 considered and passed Senate.

Sept. 28, considered and passed Senate.

Public Law 98-449
98th Congress

An Act

To reauthorize and amend the Indian Financing Act.

Oct. 4, 1984

[S. 2614]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “Indian Financing Act Amendments of 1984”.

SEC. 2. Section 101 of the Indian Financing Act of 1974 (25 U.S.C. 1461) is amended by striking out “which are not members of or eligible for membership in an organization which is making loans to its members”.

SEC. 3. Section 105 of the Indian Financing Act of 1974 (25 U.S.C. 1465) is amended by striking out “United States: *Provided*, That proceedings pursuant to this sentence shall be effective only after following the procedure prescribed by the Act of July 1, 1932 (47 Stat. 564; 25 U.S.C. 386a)” and inserting in lieu thereof “United States”.

SEC. 4. Section 201 of the Indian Financing Act of 1974 (25 U.S.C. 1481) is amended by striking out “who are not members of or eligible for membership in an organization which is making loans to its members”.

SEC. 5. Section 204 of the Indian Financing Act of 1974 (25 U.S.C. 1484) is amended—

(1) by striking out “\$100,000” in the fourth sentence and inserting in lieu thereof “\$350,000”,

(2) by inserting the following sentence after the first sentence: “The Secretary shall review each loan application individually and independently from the lender.”.

SEC. 6. Section 211 of the Indian Financing Act of 1974 (25 U.S.C. 1491) is amended by striking out “section: *Provided*, That proceedings pursuant to this sentence shall be effective only after following the procedure prescribed by the Act of July 1, 1932 (47 Stat. 564; 25 U.S.C. 386a)” and inserting in lieu thereof “section”.

SEC. 7. Section 217 of the Indian Financing Act of 1974 (25 U.S.C. 1497) is amended by adding at the end thereof the following new subsection:

“(e) There are authorized to be appropriated for each fiscal year beginning in fiscal year 1985 such sums as may be necessary to fulfill obligations with respect to losses on loans guaranteed or insured under this title. All collections shall remain until expended.”.

SEC. 8. Section 302 of the Indian Financing Act of 1974 (25 U.S.C. 1512) is amended to read as follows:

“There are authorized to be appropriated for fiscal year 1985, and for each fiscal year thereafter, an amount which does not exceed \$5,500,000 for purposes of making interest payments authorized under this title. Sums appropriated under this section, shall remain available until expended.”.

SEC. 9. Section 402(a) of the Indian Financing Act of 1974 (25 U.S.C. 1522) is amended to read as follows:

Indian
Financing
Act
Amendments of
1984.
25 USC 1451
note.

Appropriation
authorization.

Appropriation
authorization.

Appropriation authorization.

Securities.
25 USC 47a.

25 USC 1461,
1481.
25 USC 1521.

25 USC 1542.

25 USC 1512.
Appropriation authorization.

"No grant in excess of \$100,000 in the case of an Indian and \$250,000 in the case of an Indian tribe, or such lower amount as the Secretary may determine to be appropriate, may be made under this title."

SEC. 10. Section 403 of the Indian Financing Act of 1974 (25 U.S.C. 1523) is amended to read as follows:

"There are authorized to be appropriated not to exceed the sum of \$10,000,000 per year for fiscal year 1986 and each fiscal year thereafter for the purposes of this title."

SEC. 11. The Secretary, in his discretion, may require security other than bonds required by the Miller Act (40 U.S.C. 270a) when entering into a contract with an Indian-owned economic enterprise pursuant to the provisions of the Act of June 25, 1910 (25 U.S.C. 47), for the construction, alteration, or repair of any public work of the United States: *Provided*, That, the alternative form of security provides the United States with adequate security for performance and payment.

SEC. 12. Section 501 of the Indian Financing Act of 1974 (25 U.S.C. 1541) is amended to read as follows:

"Prior to and concurrent with the making or guaranteeing of any loan under subchapters I and II of this chapter and with the making of a grant under subchapter IV of this chapter, the purpose of which is to fund the development of an economic enterprise, the Secretary shall insure that the loan or grant applicant shall be provided competent management and technical assistance for preparation of the application and/or administration of funds granted consistent with the nature of the enterprise proposed to be or in fact funded."

SEC. 13. Section 503 of the Indian Financing Act of 1974 (25 U.S.C. 1543) is amended to read as follows:

"For the purpose of entering into contracts pursuant to section 502 of this title in fiscal year 1985, the Secretary is authorized to use not to exceed 6 percent of any funds appropriated for any fiscal year pursuant to section 302 of this Act. For fiscal year 1986 and for each fiscal year thereafter, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title."

Approved October 4, 1984.

LEGISLATIVE HISTORY—S. 2614 (H.R. 5519):

HOUSE REPORT No. 98-991 accompanying H.R. 5519 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 98-459 (Select Comm. on Indian Affairs).

CONGRESSIONAL RECORD, Vol. 130 (1984):

June 8, considered and passed Senate.

Sept. 11, H.R. 5519 considered and passed House; S. 2614, amended, passed in lieu.

Sept. 21, Senate concurred in House amendments with an amendment.

Sept. 24, House concurred in Senate amendment.

Public Law 98-450
98th Congress

An Act

To amend title 17 of the United States Code with respect to rental, lease, or lending of sound recordings.

Oct. 4, 1984

[S 32]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Record Rental
Amendment of
1984.
Copyrights.

SHORT TITLE

SECTION 1. This Act may be cited as the "Record Rental Amendment of 1984".

17 USC 101 note.

CONDITIONS ON RENTALS

SEC. 2. Section 109 of title 17, United States Code, is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following:

"(b)(1) Notwithstanding the provisions of subsection (a), unless authorized by the owners of copyright in the sound recording and in the musical works embodied therein, the owner of a particular phonorecord may not, for purposes of direct or indirect commercial advantage, dispose of, or authorize the disposal of, the possession of that phonorecord by rental, lease, or lending, or by any other act or practice in the nature of rental, lease, or lending. Nothing in the preceding sentence shall apply to the rental, lease, or lending of a phonorecord for nonprofit purposes by a nonprofit library or nonprofit educational institution.

"(2) Nothing in this subsection shall affect any provision of the antitrust laws. For purposes of the preceding sentence, 'antitrust laws' has the meaning given that term in the first section of the Clayton Act and includes section 5 of the Federal Trade Commission Act to the extent that section relates to unfair methods of competition.

15 USC 12.

15 USC 45.

"(3) Any person who distributes a phonorecord in violation of clause (1) is an infringer of copyright under section 501 of this title and is subject to the remedies set forth in sections 502, 503, 504, 505, and 509. Such violation shall not be a criminal offense under section 506 or cause such person to be subject to the criminal penalties set forth in section 2319 of title 18."

18 USC 2319.

COMPULSORY LICENSES; ROYALTIES

SEC. 3. Section 115(c) of title 17, United States Code, is amended by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively, and by adding after paragraph (2) the following new paragraph:

"(3) A compulsory license under this section includes the right of the maker of a phonorecord of a nondramatic musical work under subsection (a)(1) to distribute or authorize distribution of such phonorecord by rental, lease, or lending (or by acts or practices in

17 USC 801 *et*
seq.

the nature of rental, lease, or lending). In addition to any royalty payable under clause (2) and chapter 8 of this title, a royalty shall be payable by the compulsory licensee for every act of distribution of a phonorecord by or in the nature of rental, lease, or lending, by or under the authority of the compulsory licensee. With respect to each nondramatic musical work embodied in the phonorecord, the royalty shall be a proportion of the revenue received by the compulsory licensee from every such act of distribution of the phonorecord under this clause equal to the proportion of the revenue received by the compulsory licensee from distribution of the phonorecord under clause (2) that is payable by a compulsory licensee under that clause and under chapter 8. The Register of Copyrights shall issue regulations to carry out the purpose of this clause.”.

Regulations.

EFFECTIVE DATE

17 USC 109 note.

SEC. 4. (a) The amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) The provisions of section 109(b) of title 17, United States Code, as added by section 2 of this Act, shall not affect the right of an owner of a particular phonorecord of a sound recording, who acquired such ownership before the date of the enactment of this Act, to dispose of the possession of that particular phonorecord on or after such date of enactment in any manner permitted by section 109 of title 17, United States Code, as in effect on the day before the date of the enactment of this Act.

(c) The amendments made by this Act shall not apply to rentals, leaseings, lendings (or acts or practices in the nature of rentals, leaseings, or lendings) occurring after the date which is five years after the date of the enactment of this Act.

Approved October 4, 1984.

LEGISLATIVE HISTORY—S. 32 (H.R. 5938):

HOUSE REPORT No. 98-987 accompanying H.R. 5938 (Comm. on the Judiciary).

SENATE REPORT No. 98-162 (Comm. on the Judiciary).

CONGRESSIONAL RECORD:

Vol. 129 (1983): June 28, considered and passed Senate.

Vol. 130 (1984): Sept. 11, H.R. 5938 considered and passed House; S. 32, amended, passed in lieu.

Sept. 21, Senate concurred in House amendment.

Public Law 98-451
98th Congress

An Act

To allow variable interest rates for Indian funds held in trust by the United States.

Oct. 4, 1984

[S. 2000]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first section of the Act of February 12, 1929 (25 U.S.C. 161a) is amended to read as follows: "That all funds held in trust by the United States and carried in principal accounts on the books of the United States Treasury to the credit of Indian tribes shall be invested by the Secretary of the Treasury, at the request of the Secretary of the Interior, in public debt securities with maturities suitable to the needs of the fund involved, as determined by the Secretary of the Interior, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities."

Securities.

Approved October 4, 1984.

LEGISLATIVE HISTORY—S. 2000:

HOUSE REPORT No. 98-988 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 98-410 (Select Comm. on Indian Affairs).

CONGRESSIONAL RECORD, Vol. 130 (1984):

May 23, considered and passed Senate.

Sept. 17, considered and passed House, amended.

Sept. 21, Senate concurred in House amendment.

Public Law 98-452
98th Congress

An Act

Oct. 4, 1984

[S. 1770]

To extend the lease terms of Federal oil and gas lease numbered U-39711.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any decision to the contrary heretofore made by the Secretary of the Interior of the United States or his authorized agents or representatives, United States oil and gas lease numbered U-39711 shall be held not to have terminated by operation of law or otherwise on January 30, 1980, but shall be deemed to be in full force and effect as having been capable of producing oil or gas prior to the expiration date of the lease and the term of said lease shall be extended from that date forward for so long after the date of enactment of this Act as oil or gas is produced in paying quantities. The lessee shall be granted six months to install production equipment and facilities on said lease: *Provided*, That within thirty days after the receipt of written notice from the Secretary of the Interior the lessee shall tender payment of back rentals at the rate of not less than \$5 per acre per year. Notice shall be given by the Secretary within thirty days after the effective date of this Act. The Secretary shall include in the reinstated lease a future rental requirement of not less than \$5 per acre per year and a future royalty rate requirement of not less than 16 $\frac{2}{3}$ per centum: *Provided, however*, That except as specifically modified herein as to such lease, all other provisions of the Mineral Lands Leasing Act of 1920, as amended, shall be applicable as to such lease.

30 USC 181 note.

Approved October 4, 1984.

LEGISLATIVE HISTORY—S. 1770:

SENATE REPORT No. 98-540 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 130 (1984):

Aug. 9, considered and passed Senate.

Sept. 24, considered and passed House.

Public Law 98-453
98th Congress

Joint Resolution

Making further continuing appropriations for fiscal year 1985.

Oct. 5, 1984
[H.J. Res. 656]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That section 102(c) of the joint resolution enacted by Congress on October 1, 1984 (H.J. Res. 653), is hereby amended by striking out "October 3, 1984" and inserting in lieu thereof "six o'clock post meridiem, eastern daylight time, October 5, 1984".

Ante, p. 1700.

Approved October 5, 1984.

LEGISLATIVE HISTORY—H.J. Res. 656:

CONGRESSIONAL RECORD, Vol. 130 (1984):

Oct. 4, considered and passed House and Senate.

Public Law 98-454
98th Congress

An Act

Oct. 5, 1984
[H.R. 5561]

To enhance the economic development of Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

Appropriation
authorization.

SEC. 101. From the sums authorized to be appropriated to the Secretary of the Interior for technical assistance to the territories there may be appropriated not to exceed \$2,000,000 for each of fiscal years 1985, 1986, and 1987 for technical assistance (including but not limited to management, marketing, and finance) in developing private enterprises in Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands.

Report.

SEC. 102. The Secretary of the Interior is authorized and directed to report to the Committee on Interior and Insular Affairs of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate not later than January 1 of fiscal years 1985, 1986, and 1987 on the executive branch's efforts regarding and recommendations for developing private enterprises in Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands.

TITLE II

SEC. 201. (a) Subsection (b) of section 8 of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1574) is amended—

(1) by striking out "shall be sold at public sale and" in the fourth sentence of paragraph (i), and

Taxes.

(2) by adding at the end thereof the following new paragraph:

"(iii)(A) The legislature of the government of the Virgin Islands may cause to be issued after September 30, 1984, industrial development bonds (within the meaning of section 103(b)(2) of the Internal Revenue Code of 1954).

26 USC 103.

"(B) Except as provided in subparagraph (C), any obligation issued under subparagraph (A) and the income from such obligation shall be exempt from all State and local taxation in effect on or after October 1, 1984.

Prohibition.

"(C) Any obligation issued under subparagraph (A) shall not be exempt from State or local gift, estate, inheritance, legacy, succession, or other wealth transfer taxes.

"(D) For purposes of this paragraph—

"(I) The term 'State' includes the District of Columbia.

"(II) The taxes imposed by counties, municipalities, or any territory, dependency, or possession of the United States shall be treated as local taxes.

“(E) For exclusion of interest for purposes of Federal income taxation, see section 103 of the Internal Revenue Code of 1954.”

26 USC 103.
48 USC 1670.

SEC. 202. (a) The legislature of the government of American Samoa may cause to be issued after September 20, 1984, industrial development bonds (within the meaning of section 103(b)(2) of the Internal Revenue Code of 1954).

(b)(1) Except as provided in paragraph (2), any obligation shall be exempt from all State and local taxation in effect on or after October 1, 1984.

Taxes.

(2) Any obligation issued under subsection (a) shall not be exempt from State or local gift, estate, inheritance, legacy, succession, or other wealth transfer taxes.

Prohibition.

(3) For purposes of this subsection—

(A) The term “State” includes the District of Columbia.

(B) The taxes imposed by counties, municipalities, or any territory, dependency, or possession of the United States shall be treated as local taxes.

(c) For exclusion of interest for purposes of Federal income taxation, see section 103 of the Internal Revenue Code of 1954.

SEC. 203. Section 11 of the Organic Act of Guam (64 Stat. 387, 48 U.S.C. 1423a), as amended, is amended by inserting, immediately before the sentence that begins with the words “Should the Guam Power Authority fail to pay”, the following language: “At the request of the Board of Directors of the Guam Power Authority for a second refinancing agreement and conditioned on the approval of the Government of Guam pursuant to the law of Guam, and conditioned on the establishment of an independent rate-making authority by the Government of Guam, the Secretary may guarantee for purchase by the Federal Financing Bank, on or before December 31, 1984, according to an agreement that shall provide for—

“(a) substantially equal semiannual installments of principal and interest;

“(b) maturity of obligations no later than December 31, 2004;

“(c) authority for the Secretary, should there be a violation of a provision of this legislation, or covenants or stipulations contained in the refinancing document and after giving sixty days notice of such violation to the Guam Power Authority and the Governor of Guam, to dismiss members of the Board of Directors or the general manager of the Guam Power Authority, and (1) appoint in their place members or a general manager who shall serve at the pleasure of the Secretary, or (2) contract for the management of the Guam Power Authority; and

“(d) an annual simple interest rate of seven per centum; and the Federal Financing Bank shall purchase such Guam Power Authority obligations if such Guam Power Authority obligations are issued to refinance the principal amount scheduled to mature on December 31, 1990. Should such second refinancing occur, (1) the independent rate-making authority to be established by the Government of Guam, or in its absence, the Board of Directors of the Guam Power Authority, shall establish rates sufficient to satisfy all financial obligations and future capital investment needs of the Guam Power Authority that shall be consistent with generally accepted rate-making practices of public utilities, and (2) the Government of Guam shall not modify the requirements of such refinancing agreement without

Appropriation
authorizations.

agreement of the Secretary. There are authorized to be appropriated to the Secretary of the Interior for payment to the Federal Financing Bank such sums as are necessary to pay (1) the repurchase payment required under the fifth paragraph of the December 31, 1980, note from the Guam Power Authority to the Federal Financing Bank and any subsequent repurchase payments required under the second refinancing agreement, and (2) the interest rate differential between the seven per centum to be paid by the Guam Power Authority and the second refinancing agreement and the interest rate that would otherwise be determined in accordance with the above cited section 6 of the Federal Financing Bank Act."

12 USC 2285.

26 USC 103A
note.

26 USC 103A.

SEC. 204. (a) The Governor of any possession of the United States may for calendar years 1984 and 1985 proclaim a formula (different from that provided by section 103A(g) of the Internal Revenue Code of 1954) for allocating the State ceiling under such section among the governmental units in such possession having authority to issue qualified mortgage bonds (as defined in section 103A(c) of such Code).

(b) The authority provided by subsection (a) shall not apply after the effective date of any legislation with respect to the allocation of the State ceiling enacted by the legislature of the possession after the date of the enactment of this Act.

TITLE III

SEC. 301. Title 46, United States Code, is amended—

97 Stat. 501.

(a) in section 2101 add a new paragraph (3a) to read as follows:
“(3a) ‘citizen of the United States’ means a national of the United States as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)) or an individual citizen of the Trust Territory of the Pacific Islands who is exclusively domiciled in the Northern Mariana Islands within the meaning of section 1005(e) of the Covenant to establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (48 U.S.C. 1681 note).”;

Fish and fishing.

Vessels.

97 Stat. 586.

(b) in section 12106 add the following at the end:
“(c) A coastwise license to engage in the coastwise trade of fisheries products between places in Guam, American Samoa, and the Northern Mariana Islands may be issued for a vessel that—

“(1) is less than two hundred gross tons;

“(2) was not built in the United States;

“(3) is eligible for documentation; and

“(4) otherwise qualifies under the laws of the United States to be employed in the coastwise trade.”; and

Fish and fishing.

Vessels.

97 Stat. 587.

(c) in section 12108 add the following at the end:
“(c) A fishery license to engage in fishing in the territorial sea and fishery conservation zone adjacent to Guam, American Samoa, and the Northern Mariana Islands may be issued to a vessel that—

“(1) is less than two hundred gross tons;

“(2) was not built in the United States;

“(3) is eligible for documentation; and

“(4) otherwise qualifies under the laws of the United States to be employed in the fisheries.”.

Vessels.

46 USC app.

808a.

46 USC 12101

et seq.

SEC. 302. A vessel that is or was last documented under chapter 121 of title 46, United States Code, may be sold, chartered, leased, mortgaged, or transferred by any other means to a citizen of the

United States (as defined in section 2101 of that title) without the approval of the Secretary of Transportation under section 9 of the Shipping Act, 1916 (46 App. U.S.C. 808).

SEC. 303. The weight limitations contained in subsections (b) and (c) of section 301 above shall not apply to the Northern Mariana Islands until the termination of the Trusteeship Agreement for the Trust Territory of the Pacific Islands (61 Stat. 3301).

97 Stat. 501.

46 USC 808.
46 USC 12106
note.
Ante, p. 1734.

TITLE IV

SEC. 401. To further the rehabilitation, upgrading, and construction of public facilities in the territories of the United States—

(a) Section 1(a)(1) of the Act of August 18, 1978 (92 Stat. 487), as amended, is further amended by adding “effective October 1, 1985, \$16,300,000,” before the words “such sums”.

Effective date.

(b)(1) There are authorized to be appropriated \$600,000 in fiscal year 1985 (to remain available until expended) to the Secretary of the Interior who, in consultation with and with the assistance of the Secretary of Transportation, shall use said funds exclusively for planning improvements for the Alexander Hamilton Airport in St. Croix, Virgin Islands.

Appropriation
authorization.

(2) Section 303 of the Act of October 19, 1982 (96 Stat. 1705), as amended, is further amended by inserting after “water and power” the words “and improvements for the Alexander Hamilton Airport in St. Croix, Virgin Islands”.

(c) The Secretary of the Interior is authorized and directed, in consultation with and with the assistance of the Secretary of Housing and Urban Development, to study the desirability and feasibility of initiating a program for the development of housing in American Samoa and including the territory in existing Federal housing programs and to submit such recommendations (such recommendations to include, but are not limited to, any changes or modifications which would be necessary to such existing Federal housing programs to adapt them to the culture and traditions of American Samoa) as he may deem appropriate to the Committee on Interior and Insular Affairs of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate of the United States within one year of the date of enactment of this Act.

Housing.

(d) There are authorized to be appropriated \$15,000,000 in fiscal year 1986 (to remain available until expended) to the Secretary of the Interior for grants to the government of Northern Mariana Islands for improvements in the production and distribution of water.

Appropriation
authorization.

TITLE V

SEC. 501. There is hereby conveyed, without consideration, to the Frederick Lutheran Church of Charlotte Amalie, St. Thomas, Virgin Islands, all of the right, title, and interest of the United States in and to parcel numbered 9F, Estate Hospital Ground, Numbered 9 New Quarter, St. Thomas, Virgin Islands (known as Ebenezer Home), and improvements thereof.

Gifts and
property.

SEC. 502. Section 11 of the Revised Organic Act of the Virgin Islands, as amended, is further amended by striking the words “St. Croix, free of rent” and inserting in lieu thereof “Saint Croix, which house, together with land appurtenant thereto is also transferred to the government of the Virgin Islands”.

Gifts and
property.
48 USC 1591.

Energy.
Loans.

SEC. 503. The Department of the Army may remove from American Samoa any of the 4500 kilowatt power plants sent to American Samoa pursuant to the 1974 loan agreement between the Department of the Army and the Department of the Interior, and all charges that may accrue or may have accrued under such agreement shall be excused.

94 Stat. 1782.

Study.

SEC. 504. Section 818(b)(2) of the Military Construction Authorization Act, 1981 (Public Law 96-418) is amended by adding at the end thereof the following: "Reasonable development costs shall be a fixed standard percentage of such monetary consideration received by the Government of Guam. The fixed standard percentage shall be determined by a study, conducted by the Secretary, typical development costs required to convert comparable lands to finished developed sites, except that such percentage shall not exceed 30 percent."

TITLE VI

SEC. 601. To rationalize the application of certain statutes so that the development of the territories of the United States is facilitated—

16 USC 2512.

(a) section 1013 of the Act of November 10, 1978 (92 Stat. 3467) is amended by deleting "subsection" and inserting in lieu thereof "section";

48 USC 1469a.

(b) section 501(d) of the Act entitled "An Act to authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes" (91 Stat. 1159), as amended, is further amended by deleting "Samoa" where it appears and inserting in lieu thereof "Samoa, Guam, the Virgin Islands,";

42 USC 5318.

(c) section 119(n)(1) of the Act of August 22, 1974 (88 Stat. 633), as amended, is further amended by deleting "Guam" and inserting in lieu thereof "Guam, American Samoa, the Northern Mariana Islands";

16 USC 590q.

(d) section 17(a) of the Act of April 27, 1935 (49 Stat. 163), as amended, is further amended by deleting "Puerto Rico, and the Virgin Islands" and "Puerto Rico and the Virgin Islands" and inserting in lieu thereof "Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, and the Virgin Islands";

42 USC 6371,
6371g.

(e) the Act of December 22, 1975 (89 Stat. 871), as amended, is amended by deleting "Samoa" in sections 391(a) and 398(b) and inserting in lieu thereof "Samoa, the Northern Mariana Islands";

(f) section 3(4) of the Energy Policy and Conservation Act (42 U.S.C. 6202(4)), is amended to read as follows:

"(4) The term 'State' means a State, the District of Columbia, Puerto Rico, the Trust Territory of the Pacific Islands, or any territory or possession of the United States."

(g) section 513(2) of the National Energy Extension Service Act (42 U.S.C. 7011(2)), is amended to read as follows:

"(2) 'State' means a State, the District of Columbia, Puerto Rico, the Trust Territory of the Pacific Islands, or any territory or possession of the United States."; and

(h) amend the first sentence of section 30 of the Organic Act of Guam (64 Stat. 392, as amended 48 U.S.C. 1421h) by adding after the words "inhabitants of Guam" the following: "(including, but not limited to, compensation paid to members of the Armed Forces and pensions paid to retired civilians and military em-

ployees of the United States, or their survivors, who are residents of, or who are domiciled in, Guam)".

SEC. 602. Section 212 of the Immigration and Nationality Act (8 U.S.C. 1182) is amended by adding at the end the following new subsection:

"(l) The requirement of paragraph (26)(B) of subsection (a) may be waived by the Attorney General, the Secretary of State, and the Secretary of the Interior, acting jointly, in the case of an alien applying for admission as a nonimmigrant visitor for business or pleasure and solely for entry into and stay on Guam for a period not to exceed fifteen days, if the Attorney General, the Secretary of State, and the Secretary of the Interior jointly determined that—

Aliens.

"(1) Guam has developed an adequate arrival and departure control system, and

"(2) such a waiver does not represent a threat to the welfare, safety, or security of the United States."

Defense and national security.

(b) Section 214(a) of such Act (8 U.S.C. 1184(a)) is amended by adding at the end the following new sentence: "No alien admitted to Guam without a visa pursuant to section 212(l) may be authorized to enter or stay in the United States other than in Guam or to remain in Guam for a period exceeding fifteen days from date of admission to Guam."

Supra.

TITLE VII

VIRGIN ISLANDS

SEC. 701. In section 3 of the Revised Organic Act of the Virgin Islands, as amended (68 Stat. 4981; 48 U.S.C. 1561), the proviso in the next to the last paragraph is amended to read as follows: "*Provided*, That all offenses against the laws of the United States and the laws of the Virgin Islands which are prosecuted in the district court pursuant to sections 22 (a) and (c) of this Act may be had by indictment by grand jury or by information, and that all offenses against the laws of the Virgin Islands which are prosecuted in the district court pursuant to section 22(b) of this Act or in the courts established by local law shall continue to be prosecuted by information, except such as may be required by local law to be prosecuted by indictment by grand jury."

Law enforcement.
68 Stat. 497.

Post, p. 1738.
48 USC 1612.

Post, p. 1738.

SEC. 702. Section 21 of the Revised Organic Act of the Virgin Islands (68 Stat. 506; 48 U.S.C. 1611) is amended to read as follows:

Courts, U.S.

"SEC. 21. (a) The judicial power of the Virgin Islands shall be vested in a court of record designated the 'District Court of the Virgin Islands' established by Congress, and in such appellate court and lower local courts as may have been or may hereafter be established by local law.

"(b) The legislature of the Virgin Islands may vest in the courts of the Virgin Islands established by local law jurisdiction over all causes in the Virgin Islands over which any court established by the Constitution and laws of the United States does not have exclusive jurisdiction. Such jurisdiction shall be subject to the concurrent jurisdiction conferred on the District Court of the Virgin Islands by section 22 (a) and (c) of this Act.

"(c) The rules governing the practice and procedure of the courts established by local law and those prescribing the qualifications and duties of the judges and officers thereof, oaths and bonds, and the times and places of holding court shall be governed by local law or the rules promulgated by those courts."

Courts, U.S.
Crimes and
misdemeanors.
Law
enforcement.

Taxes.

26 USC 7201 *et*
seq.

Post, p. 1741.

48 USC 1612
note.

SEC. 703. (a) Section 22 of the Revised Organic Act of the Virgin Islands (68 Stat. 506; 48 U.S.C. 1612) is amended to read as follows:

"Sec. 22. (a) The District Court of the Virgin Islands shall have the jurisdiction of a District Court of the United States, including, but not limited to, the diversity jurisdiction provided for in section 1332 of title 28, United States Code, and that of a bankruptcy court of the United States. The District Court of the Virgin Islands shall have exclusive jurisdiction over all criminal and civil proceedings in the Virgin Islands with respect to the income tax laws applicable to the Virgin Islands, regardless of the degree of the offense or of the amount involved, except the ancillary laws relating to the income tax enacted by the legislature of the Virgin Islands. Any act or failure to act with respect to the income tax laws applicable to the Virgin Islands which would constitute a criminal offense described in chapter 75 of subtitle F of the Internal Revenue Code of 1954 shall constitute an offense against the government of the Virgin Islands and may be prosecuted in the name of the government of the Virgin Islands by the appropriate officers thereof in the District Court of the Virgin Islands without the request or the consent of the United States attorney for the Virgin Islands, notwithstanding the provisions of section 27 of this Act.

"(b) In addition to the jurisdiction described in subsection (a) the District Court of the Virgin Islands shall have general original jurisdiction in all causes in the Virgin Islands the jurisdiction over which is not then vested by local law in the local courts of the Virgin Islands: *Provided*, That the jurisdiction of the District Court of the Virgin Islands under this subsection shall not extend to civil actions wherein the matter in controversy does not exceed the sum or value of \$500, exclusive of interest and costs; to criminal cases wherein the maximum punishment which may be imposed does not exceed a fine of \$100 or imprisonment for six months, or both; and to violations of local police and executive regulations. The courts established by local law shall have jurisdiction over the civil actions, criminal cases, and violations set forth in the preceding proviso. In causes brought in the district court solely on the basis of this subsection, the district court shall be considered a court established by local law for the purposes of determining the availability of indictment by grand jury or trial by jury.

"(c) The District Court of the Virgin Islands shall have concurrent jurisdiction with the courts of the Virgin Islands established by local law over those offenses against the criminal laws of the Virgin Islands, whether felonies or misdemeanors or both, which are of the same or similar character or part of, or based on, the same act or transaction or two or more acts or transactions connected together or constituting part of a common scheme or plan, if such act or transaction or acts or transactions also constitutes or constitute an offense or offenses against one or more of the statutes over which the District Court of the Virgin Islands has jurisdiction pursuant to subsections (a) and (b) of this section."

(b) The provisions of this section shall not result in the loss of jurisdiction of the District Court of the Virgin Islands over any complaint or proceeding pending in it on the day preceding the effective date of this amendatory Act and such complaint and proceeding may be pursued to final determination in the District Court of the Virgin Islands, the United States Court of Appeals for the Third Circuit, and the Supreme Court, notwithstanding the provisions of this amendatory Act.

SEC. 704. Section 23 of the Revised Organic Act of the Virgin Islands (68 Stat. 506; 48 U.S.C. 1613) is amended to read as follows:

Courts, U.S.

"SEC. 23. The relations between the courts established by the Constitution or laws of the United States and the courts established by local law with respect to appeals, certiorari, removal of causes, the issuance of writs of habeas corpus, and other matters or proceedings shall be governed by the laws of the United States pertaining to the relations between the courts of the United States, including the Supreme Court of the United States, and the courts of the several States in such matters and proceedings: *Provided*, That for the first fifteen years following the establishment of the appellate court authorized by section 21(a) of this Act, the United States Court of Appeals for the Third Circuit shall have jurisdiction to review by writ of certiorari all final decisions of the highest court of the Virgin Islands from which a decision could be had. The Judicial Council of the Third Circuit shall submit reports to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives at intervals of five years following the establishment of such appellate court as to whether it has developed sufficient institutional traditions to justify direct review by the Supreme Court of the United States from all such final decisions. The United States Court of Appeals for the Third Circuit shall have jurisdiction to promulgate rules necessary to carry out the provisions of this section."

Ante, p. 1737.

Reports.

SEC. 705. The Revised Organic Act of the Virgin Islands is amended by adding to it a new section 23A:

Courts, U.S.

"SEC. 23A. (a) Prior to the establishment of the appellate court authorized by section 21(a) of this Act, the District Court of the Virgin Islands shall have such appellate jurisdiction over the courts of the Virgin Islands established by local law to the extent now or hereafter prescribed by local law: *Provided*, That the legislature may not preclude the review of any judgment or order which involves the Constitution, treaties, or laws of the United States, including this Act, or any authority exercised thereunder by an officer or agency of the Government of the United States, or the conformity of any law enacted by the legislature of the Virgin Islands or of any order or regulation issued or action taken by the executive branch of the government of the Virgin Islands with the Constitution, treaties, or laws of the United States, including this Act, or any authority exercised thereunder by an officer or agency of the United States.

48 USC 1613a.

"(b) Appeals to the District Court of the Virgin Islands shall be heard and determined by an appellate division of the court consisting of three judges, of whom two shall constitute a quorum. The chief judge of the district court shall be the presiding judge of the appellate division and shall preside therein unless disqualified or otherwise unable to act. The other judges who are to sit in the appellate division at any session shall be designated by the presiding judge from among the judges who are serving on, or are assigned to, the district court from time to time pursuant to section 24(a) of this Act: *Provided*, That no more than one of them may be a judge of a court established by local law. The concurrence of two judges shall be necessary to any decision by the appellate division of the district court on the merits of an appeal, but the presiding judge alone may make any appropriate orders with respect to an appeal prior to the hearing and determination thereof on the merits and may dismiss an appeal for want of jurisdiction or failure to take or prosecute it in

Post, p. 1740.

accordance with the applicable law or rules of procedure. Appeals pending in the district court on the effective date of this Act shall be heard and determined by a single judge.

“(c) The United States Court of Appeals for the Third Circuit shall have jurisdiction of appeals from all final decisions of the district court on appeal from the courts established by local law. The United States Court of Appeals for the Third Circuit shall have jurisdiction to promulgate rules necessary to carry out the provisions of this subsection.

“(d) Upon the establishment of the appellate court provided for in section 21(a) of this Act all appeals from the decisions of the courts of the Virgin Islands established by local law not previously taken must be taken to that appellate court. The establishment of the appellate court shall not result in the loss of jurisdiction of the district court over any appeal then pending in it. The rulings of the district court on such appeals may be reviewed in the United States Court of Appeals for the Third Circuit and in the Supreme Court notwithstanding the establishment of the appellate court.”

SEC. 706. (a) Section 24(a) of the Revised Organic Act of the Virgin Islands (68 Stat. 506; 48 U.S.C. 1614(a)) is amended to read as follows:

“(a) The President shall, by and with the advice and consent of the Senate, appoint two judges for the District Court of the Virgin Islands, who shall hold office for terms of ten years and until their successors are chosen and qualified, unless sooner removed by the President for cause. The judge of the district court who is senior in continuous service and who otherwise qualifies under section 136(a) of title 28, United States Code, shall be the chief judge of the court. The salary of a judge of the district court shall be at the rate prescribed for judges of the United States district courts. Whenever it is made to appear that such an assignment is necessary for the proper dispatch of the business of the district court, the chief judge of the Third Judicial Circuit of the United States may assign a judge of a court of record of the Virgin Islands established by local law, or a circuit or district judge of the Third Judicial Circuit, or a recalled senior judge of the District Court of the Virgin Islands, or the Chief Justice of the United States may assign any other United States circuit or district judge with the consent of the judge so assigned and of the chief judge of his circuit, to serve temporarily as a judge of the District Court of the Virgin Islands. The compensation of the judges of the district court and the administrative expenses of the court shall be paid from appropriations made for the judiciary of the United States.”

(b) Section 24(b) of the Revised Organic Act of the Virgin Islands (68 Stat. 506; 48 U.S.C. 1614(b)) is amended to read as follows:

“(b) Where appropriate, the provisions of part II of title 18 and of title 28, United States Code, and, notwithstanding the provisions of rule 7(a) and of rule 54(a) of the Federal Rules of Criminal Procedure relating to the requirement of indictment and to the prosecution of criminal offenses in the Virgin Islands by information, respectively, the rules of practice heretofore or hereafter promulgated and made effective by the Congress or the Supreme Court of the United States pursuant to titles 11, 18, and 28, United States Code, shall apply to the district court and appeals therefrom: *Provided*, That the terms ‘Attorney for the government’ and ‘United States attorney’ as used in the Federal Rules of Criminal Procedure, shall, when applicable to causes arising under the income tax laws applicable to the Virgin Islands, mean the Attorney General of the Virgin Islands or such

Ante, p. 1737.

Courts, U.S.

President of U.S.
Appointments.

Crimes and
misdemeanors.

18 USC 3001.

28 USC 501.

18 USC app.

18 USC app.

other person or persons as may be authorized by the laws of the Virgin Islands to act therein: *Provided further*, That in the district court all criminal prosecutions under the laws of the United States, under local law under section 22(c) of this Act, and under the income tax laws applicable to the Virgin Islands may be had by indictment by grand jury or by information: *Provided further*, That an offense which has been investigated by or presented to a grand jury may be prosecuted by information only by leave of court or with the consent of the defendant. All criminal prosecutions arising under local law which are tried in the district court pursuant to section 22(b) of this Act shall continue to be had by information, except such as may be required by the local law to be prosecuted by indictment by grand jury.”.

Ante, p. 1738.

(c) The provisions of subsection (a) of this section regarding the determination and qualifications of the chief judge of the District Court of the Virgin Islands shall not apply to a person serving as chief judge of said court on the effective date of this Act.

Prohibition.
48 USC 1614
note.

SEC. 707. Section 25 of the Revised Organic Act of the Virgin Islands (68 Stat. 507; 48 U.S.C. 1615) is amended to read as follows:

Courts, U.S.

“SEC. 25. The Virgin Islands consists of two judicial divisions; the Division of Saint Croix, comprising the island of Saint Croix and adjacent islands and cays, and the Division of Saint Thomas and Saint John, comprising the islands of Saint Thomas and Saint John and adjacent islands and cays. Court for the Division of Saint Croix shall be held in Christiansted, and for the Division of Saint Thomas and Saint John at Charlotte Amalie.”.

SEC. 708. Section 27 of the Revised Organic Act of the Virgin Islands (68 Stat. 507; 48 U.S.C. 1617) is amended by substituting the words “courts established by local law” for “inferior courts of the Virgin Islands” wherever they appear, and by deleting the last two sentences.

SEC. 709. The Act of May 20, 1932 (47 Stat. 160, 48 U.S.C. 1400) is repealed.

Repeal.

TITLE VIII

GUAM

SEC. 801. Section 22 of the Organic Act of Guam (64 Stat. 389; 48 U.S.C. 1424), as amended, is amended to read as follows:

Courts, U.S.

“SEC. 22. (a) The judicial authority of Guam shall be vested in a court of record established by Congress, designated the ‘District Court of Guam,’ and such local court or courts as may have been or shall hereafter be established by the laws of Guam in conformity with section 22A of this Act.

Post, p. 1742.

“(b) The District Court of Guam shall have the jurisdiction of a district court of the United States, including, but not limited to, the diversity jurisdiction provided for in section 1332 of title 28, United States Code, and that of a bankruptcy court of the United States.

“(c) In addition to the jurisdiction described in subsection (b), the District Court of Guam shall have original jurisdiction in all other causes in Guam, jurisdiction over which is not then vested by the legislature in another court or other courts established by it. In causes brought in the district court solely on the basis of this subsection, the district court shall be considered a court established by the laws of Guam for the purpose of determining the requirements of indictment by grand jury or trial by jury.

48 USC 1424-1. "SEC. 22A. (a) The local courts of Guam shall consist of such trial court or courts as may have been or may hereafter be established by the laws of Guam. On or after the effective date of this Act, the legislature of Guam may in its discretion establish an appellate court.

Ante, p. 1741. "(b) The legislature may vest in the local courts jurisdiction over all causes in Guam over which any court established by the Constitution and laws of the United States does not have exclusive jurisdiction. Such jurisdiction shall be subject to the exclusive or concurrent jurisdiction conferred on the District Court of Guam by section 22(b) of this Act.

"(c) The practice and procedure in the local courts and the qualifications and duties of the judges thereof shall be governed by the laws of Guam and the rules of those courts.

48 USC 1424-2. "SEC. 22B. The relations between the courts established by the Constitution or laws of the United States and the local courts of Guam with respect to appeals, certiorari, removal of causes, the issuance of writs of habeas corpus, and other matters or proceedings shall be governed by the laws of the United States pertaining to the relations between the courts of the United States, including the Supreme Court of the United States, and the courts of the several States in such matters and proceedings: *Provided*, That for the first fifteen years following the establishment of the appellate court authorized by section 22A(a) of this Act, the United States Court of Appeals for the Ninth Circuit shall have jurisdiction to review by writ of certiorari all final decisions of the highest court of Guam from which a decision could be had. The Judicial Council of the Ninth Circuit shall submit reports to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives at intervals of five years following the establishment of such appellate court as to whether it has developed sufficient institutional traditions to justify direct review by the Supreme Court of the United States from all such final decisions. The United States Court of Appeals for the Ninth Circuit shall have jurisdiction to promulgate rules necessary to carry out the provisions of this subsection.

Supra.

Reports.

48 USC 1424-3. "SEC. 22C. (a) Prior to the establishment of the appellate court authorized by section 22A(a) of this Act, the District Court of Guam shall have such appellate jurisdiction over the local courts of Guam as the legislature may determine: *Provided*, That the legislature may not preclude the review of any judgment or order which involves the Constitution, treaties, or laws of the United States, including this Act, or any authority exercised thereunder by an officer or agency of the Government of the United States, or the conformity of any law enacted by the legislature of Guam or of any orders or regulations issued or actions taken by the executive branch of the government of Guam with the Constitution, treaties, or laws of the United States, including this Act, or any authority exercised thereunder by an officer or agency of the United States.

"(b) Appeals to the District Court of Guam shall be heard and determined by an appellate division of the court consisting of three judges, of whom two shall constitute a quorum. The district judge shall be the presiding judge of the appellate division and shall preside therein unless disqualified or otherwise unable to act. The other judges who are to sit in the appellate division of any session shall be designated by the presiding judge from among the judges who are serving on, or are assigned to, the district court from time

to time pursuant to section 24 of this Act: *Provided*, That no more than one of them may be a judge of a court of record of Guam. The concurrence of two judges shall be necessary to any decision of the appellate division of the district court on the merits of an appeal, but the presiding judge alone may make any appropriate orders with respect to an appeal prior to the hearing and determination thereof on the merits and may dismiss an appeal for want of jurisdiction or failure to take or prosecute it in accordance with the applicable law or rules of procedure.

Infra.

"(c) The United States Court of Appeals for the Ninth Circuit shall have jurisdiction of appeals from all final decisions of the appellate division of the district court. The United States Court of Appeals for the Ninth Circuit shall have jurisdiction to promulgate rules necessary to carry out the provisions of this subsection.

"(d) Upon the establishment of the appellate court provided for in section 22A(a) of this Act all appeals from the decisions of the local courts not previously taken must be taken to the appellate court. The establishment of that appellate court shall not result in the loss of jurisdiction of the appellate division of the district court over any appeal then pending in it. The rulings of the appellate division of the district court on such appeals may be reviewed in the United States Court of Appeals for the Ninth Circuit and in the Supreme Court notwithstanding the establishment of the appellate court.

Ante, p. 1742.

"SEC. 22D. Where appropriate, the provisions of part II of title 18 and of title 28, United States Code, and notwithstanding the provision in rule 54(a) Federal Rules of Criminal Procedure relating to the prosecution of criminal offenses on Guam by information, the rules of practice and procedure heretofore or hereafter promulgated and made effective by the Congress or the Supreme Court of the United States pursuant to titles 11, 18, and 28, United States Code, shall apply to the District Court of Guam and appeals therefrom; except that the terms, 'Attorney for the government' and 'United States attorney', as used in the Federal Rules of Criminal Procedure, shall, when applicable to cases arising under the laws of Guam, including the Guam Territorial income tax, mean the Attorney General of Guam or such other person or persons as may be authorized by the laws of Guam to act therein."

Crimes and misdemeanors.
48 USC 1424-4.
18 USC 3001.
28 USC 501.
18 USC app.

18 USC app.

SEC. 802. Section 24 of the Organic Act of Guam, as amended (64 Stat. 390; 48 U.S.C. 1424b), is amended, by:

(a) substituting in the first paragraph of subsection (a) the words "for the term of ten years" for "for a term of eight years";

(b) substituting in the second paragraph of subsection (a) the words "a local court of record" for "the Island Court of Guam";

(c) inserting in the second paragraph of subsection (a) between the words "ninth circuit" and "or" the words "or a recalled senior judge of the District Court of Guam or of the District Court for the Northern Mariana Islands";

(d) substituting in subsection (b) the numbers "35" and "37" for "31" and "33", respectively; and

(e) deleting subsection (c).

SEC. 803. Section 1 of the Act of August 27, 1954 (68 Stat. 882), is amended by repealing that portion which reads: "that no provisions of any such rules which authorize or require trial by jury or the prosecution of offenses by indictment by a grand jury instead of by information shall be applicable to the District Court of Guam unless

Law enforcement.
48 USC 1424.

and until made so applicable by laws enacted by the Legislature of Guam, and except further”.

TITLE IX

NORTHERN MARIANA ISLANDS

SEC. 901. Section 1 of the Act of November 8, 1977 (91 Stat. 1265, 48 U.S.C. 1694) is amended by—

(a) substituting in subsection (b)(1) the words “for a term of ten years” for “for a term of eight years”;

(b) inserting in subsection (b)(2) between the words “President” and “or”, the words “or a recalled senior judge of the District Court of Guam or of the District Court of the Northern Mariana Islands”; and

(c) substituting the following for subsection (c): “Where appropriate, and except as otherwise provided in articles IV and V of the Covenant approved by the Act of March 24, 1976 (90 Stat. 263), the provisions of part II of title 18 and of titles 28, United States Code, the rules of practice and procedure heretofore or hereafter promulgated and made effective by the Congress or the Supreme Court of the United States pursuant to titles 11, 18, and 28, United States Code, shall apply to the District Court for the Northern Mariana Islands and appeals therefrom; except that the terms ‘Attorney for the government’ and ‘United States attorney’, as used in the Federal Rules of Criminal Procedure, shall, when applicable to cases arising under the laws of the Northern Mariana Islands, include the Attorney General of the Northern Mariana Islands or such other person or persons as may be authorized by the laws of the Northern Mariana Islands to act therein.”

Crimes and
misdemeanors.
Courts, U.S.

48 USC 1681
note.
18 USC 3001; 28
USC 501.

Courts, U.S.

SEC. 902. Section 2(a) of the Act of November 8, 1977 (91 Stat. 1266; 48 U.S.C. 1694a(a)), is amended to read as follows:

“(a) The District Court for the Northern Mariana Islands shall have the jurisdiction of a District Court of the United States, including, but not limited to, the diversity jurisdiction provided for in section 1332 of title 28, United States Code, and that of a bankruptcy court of the United States.”

Courts, U.S.

SEC. 903. Section 3 of the Act of November 8, 1977 (91 Stat. 1266; 48 U.S.C. 1694b) is amended to read as follows:

“SEC. 3. (a) Prior to the establishment of an appellate court for the Northern Mariana Islands the district court shall have such appellate jurisdiction over the courts established by the Constitution or laws of the Northern Mariana Islands as the Constitution and laws of the Northern Mariana Islands provide, except that such Constitution and laws may not preclude the review of any judgment or order which involves the Constitution, treaties, or laws of the United States, including the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (90 Stat. 263) (hereinafter referred to as ‘Covenant’), or any authority exercised thereunder by an officer or agency of the Government of the United States, or the conformity of any law enacted by the legislature of the Northern Mariana Islands or of any orders or regulations issued or actions taken by the executive branch of the government of the Northern Mariana Islands with the Constitution, treaties, or laws of the United States, including the

Supra.

Covenant or with any authority exercised thereunder by an officer or agency of the United States.

“(b) Appeals to the district court shall be heard and determined by an appellate division of the court consisting of three judges, of whom two shall constitute a quorum. The judge appointed for the court by the President shall be the presiding judge of the appellate division and shall preside therein unless disqualified or otherwise unable to act. The other judges who are to sit in the appellate division at any session shall be designated by the presiding judge from among the judges assigned to the court from time to time pursuant to section 1(b)(2) of this Act: *Provided*, That no more than one of them may be a judge of a court of record of the Northern Mariana Islands. The concurrence of two judges shall be necessary to any decision by the appellate division of the district court on the merits of an appeal but the presiding judge alone may make any appropriate orders with respect to an appeal prior to the hearing and determination thereof on the merits and may dismiss an appeal for want of jurisdiction or failure to take or prosecute it in accordance with the applicable law or rules of procedure.

48 USC 1694.

“(c) The United States Court of Appeals for the Ninth Circuit shall have jurisdiction of appeals from all final decisions of the appellate division of the district court. The United States Court of Appeals for the Ninth Circuit shall have jurisdiction to promulgate rules necessary to carry out the provisions of this subsection.”.

SEC. 904. Section 4 of the Act of November 8, 1977 (91 Stat. 1266; 48 U.S.C. 1694c) is amended by inserting the words, “including the Supreme Court of the United States,” between the words “courts of the United States” and “and”.

TITLE X

GENERAL PROVISIONS

SEC. 1001. Sections 335, 336 and 402(e) of the Act of November 6, 1978 (92 Stat. 2680, 2682) are repealed.

SEC. 1002. (a) Any judge or former judge who is receiving, or will upon attaining the age of sixty-five years be entitled to receive, payments pursuant to section 373 of title 28, United States Code may elect to become a senior judge of the court on which he served while on active duty.

(b) The chief judge of a judicial circuit may recall any such senior judge of his circuit, with the judge's consent, to perform in the District Court of Guam, the District Court of the Virgin Islands, or the District Court for the Northern Mariana Islands such judicial duties and for such periods of time as the chief judge may specify.

(c) Any act or failure to act by a senior judge performing judicial duties pursuant to this section shall have the same force and effect as if it were the act or failure to act of a judge on active duty; but such senior judge shall not be counted as a judge of the court on which he is serving for purposes of the number of judgeships authorized for that court.

(d) Any senior judge shall be paid, while performing duties pursuant to this section, the same compensation (in lieu of payments pursuant to section 373 of title 28, United States Code) and the same allowances for travel and other expenses as a judge in active service.

(e) Senior judges under subsection (a) of this section shall at all times be governed by the code of judicial conduct for the United

Repeals.
48 USC 1424,
1612, 1615; 11
USC prec.
101 note.
Courts, U.S.
28 USC 373 note

States judges, approved by the Judicial Conference of the United States.

Law
enforcement.

(f) Any person who has elected to be a senior judge under subsection (a) of this section and who thereafter—

(1) accepts civil office or employment under the Government of the United States (other than the performance of judicial duties pursuant to subsection (b) of this section);

(2) engages in the practice of law; or

(3) materially violated the code of judicial conduct for the United States judges, shall cease to be a senior judge and to be eligible for recall pursuant to subsection (b) of this section.

Law
enforcement.
48 USC 1493.

SEC. 1003. The prosecution in a territory or Commonwealth is authorized—unless precluded by local law—to seek review or other suitable relief in the appropriate local or Federal appellate court, or, where applicable, in the Supreme Court of the United States from—

(a) a decision, judgment, or order of a trial court dismissing an indictment or information as to any one or more counts, except that no review shall lie where the constitutional prohibition against double jeopardy would further prosecution;

(b) a decision or order of a trial court suppressing or excluding evidence or requiring the return of seized property in a criminal proceeding, not made after the defendant has been put in jeopardy and before the verdict or finding on an indictment or information, if the prosecution certifies to the trial court that the appeal is not taken for purpose of delay and that the evidence is a substantial proof of a fact material in the proceeding; and

(c) an adverse decision, judgment, or order of an appellate court.

Courts, U.S.
48 USC 1424b
note.
Ante, pp. 1740,
1743, 1744.

SEC. 1004. The provisions of sections 706(a), 802(a), and 901(a) of this Act extending the terms of district court judges of the Virgin Islands, Guam, and the Northern Mariana Islands, respectively, from eight to ten years shall be applicable to the judges of those courts holding office on the effective date of this Act.

Effective date.
48 USC 1424
note.

SEC. 1005. Titles VII, VIII, IX, and X of this Act shall become effective on the ninetieth day following their enactment.

Approved October 5, 1984.

LEGISLATIVE HISTORY—H.R. 5561:

HOUSE REPORT No. 98-784 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 130 (1984):

June 28, considered and passed House.

Aug. 10, considered and passed Senate, amended.

Sept. 14, House concurred in Senate amendment with amendments.

Sept. 21, Senate concurred in House amendments.

Public Law 98-455
98th Congress

Joint Resolution

Making further continuing appropriations for fiscal year 1985.

Oct. 6, 1984

H.J. Res. 659

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the joint resolution enacted by Congress on October 4, 1984 (H.J. Res. 656), is hereby amended by striking out “six o’clock post meridiem, eastern daylight time, October 5, 1984” and inserting in lieu thereof “October 9, 1984”.

Ante, p 1731.

Approved October 6, 1984.

LEGISLATIVE HISTORY—H.J. Res. 659:

CONGRESSIONAL RECORD, Vol. 130 (1984):

Oct. 5, considered and passed House and Senate.

Public Law 98-456
98th Congress

Joint Resolution

Oct. 9, 1984
[H.J. Res. 649]

Changing the date for the counting of the electoral votes in 1985.

Whereas section 15 of title 3, United States Code, provides that the procedure for counting electoral votes set forth in such section is to take place on the sixth day of January; and
Whereas January 6, 1985, is a Sunday: Now, therefore, be it

15 USC 15 note.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in carrying out the procedure set forth in section 15 of title 3, United States Code, for 1985, “the seventh day of January” shall be substituted for “the sixth day of January” in the first sentence of such section.

Approved October 9, 1984.

LEGISLATIVE HISTORY—H.J. Res. 649:

CONGRESSIONAL RECORD, Vol. 130 (1984):
Sept. 19, considered and passed House.
Sept. 25, considered and passed Senate.

Public Law 98-457
98th Congress

An Act

To extend and improve provisions of laws relating to child abuse and neglect and adoption, and for other purposes.

Oct. 9, 1984

[H. R. 1904]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Child Abuse Amendments of 1984".

Child Abuse
Amendments of
1984.
42 USC 5101
note.

TITLE I—AMENDMENTS TO CHILD ABUSE PREVENTION
AND TREATMENT ACT

PART A—PROGRAM IMPROVEMENTS

THE NATIONAL CENTER ON CHILD ABUSE AND NEGLECT

SEC. 101. (a) Section 2(a) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101(a)) (hereinafter in this title referred to as "the Act") is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

(b) Clauses (6) and (7) of section 2(b) of the Act are amended to read as follows:

"(6) study and investigate the national incidence of child abuse and neglect and make findings about any relationship between nonpayment of child support and between various other factors and child abuse and neglect, and the extent to which incidents of child abuse and neglect are increasing in number and severity, and, within two years after the date of the enactment of the Child Abuse Amendments of 1984, submit such findings to the appropriate Committees of the Congress together with such recommendations for administrative and legislative changes as are appropriate; and

Study.

"(7) in consultation with the Advisory Board on Child Abuse and Neglect, annually prepare reports on efforts during the preceding two-year period to bring about coordination of the goals, objectives, and activities of agencies and organizations which have responsibilities for programs and activities related to child abuse and neglect, and, not later than March 1, 1985, and March 1 of each second year thereafter, submit such a report to the appropriate Committees of the Congress."

Reports.

(c) Section 2(c) of the Act is amended by striking out "The Secretary may carry out his functions under subsection (b) of this section" and inserting in lieu thereof "The functions of the Secretary under subsection (b) of this section may be carried out".

(d) Section 2 of the Act is further amended by inserting after subsection (d) the following new subsection:

"(e) No funds appropriated under this Act for any grant or contract may be used for any purpose other than that for which such funds were specifically authorized."

DEFINITIONS

Post, p. 1752.

SEC. 102. Section 3 of the Act is amended—

(1) by inserting “(including any employee of a residential facility or any staff person providing out-of-home care)” after “by a person”;

(2) by striking out the period at the end thereof and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new clause:

“(2)(A) the term ‘sexual abuse’ includes—

“(i) the employment, use, persuasion, inducement, enticement, or coercion of any child to engage in, or having a child assist any other person to engage in, any sexually explicit conduct (or any simulation of such conduct) for the purpose of producing any visual depiction of such conduct, or

“(ii) the rape, molestation, prostitution, or other such form of sexual exploitation of children, or incest with children,

under circumstances which indicate that the child’s health or welfare is harmed or threatened thereby, as determined in accordance with regulations prescribed by the Secretary; and

“(B) for the purpose of this clause, the term ‘child’ or ‘children’ means any individual who has not or individuals who have not attained the age of eighteen.”.

DEMONSTRATION OR SERVICE PROGRAMS AND PROJECTS

Grants.
42 USC 5103.

SEC. 103. (a) Section 4(b)(2)(E) of the Act is amended by striking out “his” and inserting in lieu thereof “and the child’s”.

Waiver.

(b) Section 4(b)(3) of the Act is amended to read as follows:

Ante, p. 1749.

“(3)(A) Subject to subparagraph (B) of this paragraph, any State which on the date of enactment of the Child Abuse Amendments of 1984 does not qualify for assistance under this subsection may be granted a waiver of any requirement under paragraph (2) of this subsection—

“(i) for a period of not more than one year, if the Secretary makes a finding that such State is making a good-faith effort to comply with any such requirement, and for a second one-year period if the Secretary makes a finding that such State is making substantial progress to achieve such compliance; or

“(ii) for a nonrenewable period of not more than two years in the case of a State the legislature of which meets only biennially, if the Secretary makes a finding that such State is making a good-faith effort to comply with any such requirement.

Post, p. 1752.

“(B) No waiver under subparagraph (A) may apply to any requirement under paragraph (2)(K) of this subsection.”.

(c) Section 4 of the Act is further amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following new subsection:

“(e) The Secretary, in consultation with the Advisory Board on Child Abuse and Neglect, shall ensure that a proportionate share of assistance under this Act is available for activities related to the prevention of child abuse and neglect.”.

AUTHORIZATION OF APPROPRIATIONS

SEC. 104. (a) Section 5(a) of the Act is amended—

42 USC 5104.

(1) by striking out “(a)” after “SEC. 5.”;

(2) by inserting after the first sentence the following new sentence: “There are hereby further authorized to be appropriated for the purposes of this Act \$33,500,000 for fiscal year 1984, \$40,000,000 for fiscal year 1985, \$41,500,000 for fiscal year 1986, and \$43,100,000 for fiscal year 1987.”; and

(3) in the second sentence by striking out “this section” and all that follows through the end of such subsection, and inserting in lieu thereof “this section except as provided in the succeeding sentence, (A) not less than \$9,000,000 shall be available in each fiscal year to carry out section 4(b) of this Act (relating to State grants), (B) not less than \$11,000,000 shall be available in each fiscal year to carry out sections 4(a) (relating to demonstration or service projects), 2(b)(1) and 2(b)(3) (relating to information dissemination), 2(b)(5) (relating to research), and 4(c)(2) (relating to training, technical assistance, and information dissemination) of this Act, giving special consideration to continued funding of child abuse and neglect programs or projects (previously funded by the Department of Health and Human Services) of national or regional scope and demonstrated effectiveness, (C) \$5,000,000 shall be available in each such year for grants and contracts under section 4(a) for identification, treatment, and prevention of sexual abuse, and (D) \$5,000,000 shall be available in each such year for the purpose of making additional grants to the States to carry out the provisions of section 4(c)(1) of this Act. With respect to any fiscal year in which the total amount appropriated under this section is less than \$30,000,000, funds shall first be available as provided in clauses (A) and (B) in the preceding sentence and of the remainder one-half shall be available as provided for in clause (C) and one-half as provided for in clause (D) in the preceding sentence.”.

42 USC 5103.

42 USC 5101.

Post, p 1753.

(b) Section 5(b) of the Act is repealed.

42 USC 5104.

ADVISORY BOARD ON CHILD ABUSE AND NEGLECT

SEC. 105. (a) The first sentence of section 6(a) of the Act is amended by striking out “including” and all that follows thereafter through “Administration.”.

42 USC 5105.

(b) Section 6(a) of the Act is further amended by inserting at the end thereof the following sentence: “The Advisory Board may be available, at the Secretary’s request, to assist the Secretary in coordinating adoption-related activities of the Federal Government.”.

(c)(1) Section 6(b) of the Act is repealed.

(2) Subsection (c) of section 6 of the Act is redesignated as subsection (b).

COORDINATION

SEC. 106. Section 7 of the Act is amended by striking out “between” and inserting in lieu thereof “among”.

42 USC 5106.

PART B—SERVICES AND TREATMENT FOR DISABLED INFANTS

NEW DEFINITION

42 USC 5102.

SEC. 121. Section 3 of the Act is further amended—

(1) by striking out “this Act the term ‘child abuse and neglect’” and inserting in lieu thereof the following: “This Act—

“(1) the term ‘child abuse and neglect’”;

(2) by striking out the period at the end thereof and inserting in lieu thereof a semicolon and the word “and”; and

(3) by adding after clause (2) (as added by section 102(3) of this Act) the following new clause:

“(3) the term ‘withholding of medically indicated treatment’ means the failure to respond to the infant’s life-threatening conditions by providing treatment (including appropriate nutrition, hydration, and medication) which, in the treating physician’s or physicians’ reasonable medical judgment, will be most likely to be effective in ameliorating or correcting all such conditions, except that the term does not include the failure to provide treatment (other than appropriate nutrition, hydration, or medication) to an infant when, in the treating physician’s or physicians’ reasonable medical judgment, (A) the infant is chronically and irreversibly comatose; (B) the provision of such treatment would (i) merely prolong dying, (ii) not be effective in ameliorating or correcting all of the infant’s life-threatening conditions, or (iii) otherwise be futile in terms of the survival of the infant; or (C) the provision of such treatment would be virtually futile in terms of the survival of the infant and the treatment itself under such circumstances would be inhumane.”.

NEW BASIC STATE GRANT REQUIREMENT

SEC. 122. Section 4(b)(2) of the Act (42 U.S.C. 5103(b)(2)) is amended—

(1) by striking out “and” at the end of clause (I);

(2) by striking out the period at the end of clause (J) and inserting in lieu thereof a semicolon and the word “and”; and

(3) by inserting after clause (J) the following new clause:

Ante, p. 1749.

“(K) within one year after the date of the enactment of the Child Abuse Amendments of 1984, have in place for the purpose of responding to the reporting of medical neglect (including instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions), procedures or programs, or both (within the State child protective services system), to provide for (i) coordination and consultation with individuals designated by and within appropriate health-care facilities, (ii) prompt notification by individuals designated by and within appropriate health-care facilities of cases of suspected medical neglect (including instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions), and (iii) authority, under State law, for the State child protective service system to pursue any legal remedies, including the authority to initiate legal proceedings in a court of competent jurisdiction, as may be necessary to

prevent the withholding of medically indicated treatment from disabled infants with life-threatening conditions.”.

ADDITIONAL STATE GRANTS AND ASSISTANCE FOR TRAINING, TECHNICAL ASSISTANCE, AND CLEARINGHOUSE ACTIVITIES

SEC. 123. (a) Section 4 of the Act is further amended by—

42 USC 5103.

(1) redesignating subsection (c) as subsection (d), subsection (d) as subsection (e), and subsection (e) as subsection (f); and

(2) inserting after subsection (b) the following new subsection:

“(c)(1) The Secretary is authorized to make additional grants to the States for the purpose of developing, establishing, and operating or implementing—

Public information.

“(A) the procedures or programs required under clause (K) of subsection (b)(2) of this section;

Ante, p. 1752.

“(B) information and education programs or training programs for the purpose of improving the provision of services to disabled infants with life-threatening conditions for (i) professional and paraprofessional personnel concerned with the welfare of disabled infants with life-threatening conditions, including personnel employed in child protective services programs and health-care facilities, and (ii) the parents of such infants; and

“(C) programs to help in obtaining or coordinating necessary services, including existing social and health services and financial assistance for families with disabled infants with life-threatening conditions, and those services necessary to facilitate adoptive placement of such infants who have been relinquished for adoption.

“(2)(A) The Secretary shall provide, directly or through grants or contracts with public or private nonprofit organizations, for (i) training and technical assistance programs to assist States in developing, establishing, and operating or implementing programs and procedures meeting the requirements of clause (K) of subsection (b)(2) of this section; and (ii) the establishment and operation of national and regional information and resource clearinghouses for the purpose of providing the most current and complete information regarding medical treatment procedures and resources and community resources for the provision of services and treatment for disabled infants with life-threatening conditions (including compiling, maintaining, updating, and disseminating regional directories of community services and resources (including the names and phone numbers of State and local medical organizations) to assist parents, families, and physicians and seeking to coordinate the availability of appropriate regional education resources for health-care personnel).

Contracts with U.S.

“(B) Not more than \$1,000,000 of the funds appropriated for any fiscal year under section 5 of this Act may be used to carry out this paragraph.

42 USC 5104.

“(C) Not later than 210 days after the date of the enactment of the Child Abuse Amendments of 1984, the Secretary shall have the capability of providing and begin to provide the training and technical assistance described in subparagraph (A) of this paragraph.”.

Ante, p. 1749.

(b) Section 4 of the Act is further amended by adding after paragraph (3) the following new paragraph:

42 USC 5103.

“(4) Programs or projects related to child abuse and neglect assisted under part B of title IV of the Social Security Act shall

42 USC 620.

comply with the requirements set forth in clauses (B), (C), (E), (F), and (K) of paragraph (2).”.

REGULATIONS AND GUIDELINES

42 USC 5103
note.

SEC. 124. (a)(1) Not later than 60 days after the date of the enactment of this Act, the Secretary of Health and Human Services (hereinafter in this part referred to as the “Secretary”) shall publish proposed regulations to implement the requirements of section 4(b)(2)(K) of the Act (as added by section 122(3) of this Act).

Ante, p. 1752.

(2) Not later than 180 days after the date of the enactment of this Act and after completion of a process of not less than 60 days for notice and opportunity for public comment, the Secretary shall publish final regulations under this subsection.

Ante, p. 1752.

(b)(1) Not later than 60 days after the date of the enactment of this Act, the Secretary shall publish interim model guidelines to encourage the establishment within health-care facilities of committees which would serve the purposes of educating hospital personnel and families of disabled infants with life-threatening conditions, recommending institutional policies and guidelines concerning the withholding of medically indicated treatment (as that term is defined in clause (3) of section 3 of the Act (as added by section 121(3) of this Act)) from such infants, and offering counsel and review in cases involving disabled infants with life-threatening conditions.

(2) Not later than 180 days after the date of the enactment of this Act and after completion of a period of not less than 60 days for notice and opportunity for public comment, the Secretary shall publish the model guidelines.

REPORT ON FINANCIAL RESOURCES

Study.

42 USC 1305.

SEC. 125. The Secretary shall conduct a study to determine the most effective means of providing Federal financial support, other than the use of funds provided through the Social Security Act, for the provision of medical treatment, general care, and appropriate social services for disabled infants with life-threatening conditions. Not later than 270 days after the date of the enactment of this Act, the Secretary shall report the results of the study to the appropriate Committees of the Congress and shall include in the report such recommendations for legislation to provide such financial support as the Secretary considers appropriate.

IMPLEMENTATION REPORT

42 USC 5103
note.

SEC. 126. Not later than October 1, 1987, the Secretary shall submit to the appropriate Committees of the Congress a detailed report on the implementation and the effects of the provisions of this part and the amendments made by it.

STATUTORY CONSTRUCTION

42 USC 5101
note.

29 USC 794.

SEC. 127. (a) No provision of this Act or any amendment made by this Act is intended to affect any right or protection under section 504 of the Rehabilitation Act of 1973.

(b) No provision of this Act or any amendment made by this Act may be so construed as to authorize the Secretary or any other governmental entity to establish standards prescribing specific med-

ical treatments for specific conditions, except to the extent that such standards are authorized by other laws.

(c) If the provisions of any part of this Act or any amendment made by this Act or the application thereof to any person or circumstances be held invalid, the provisions of the other parts and their application to other persons or circumstances shall not be affected thereby.

Provisions held invalid.

EFFECTIVE DATES

SEC. 128. (a) Except as provided in subsection (b), the provisions of this part or any amendment made by this part shall be effective on the date of the enactment of this Act.

42 USC 5102 note.

(b)(1) Except as provided in paragraph (2), the amendments made by sections 122 and 123(b) of this Act shall become effective one year after the date of such enactment.

(2) In the event that, prior to such effective date, funds have not been appropriated pursuant to section 5 of the Act (as amended by section 104 of this Act) for the purpose of grants under section 4(c)(1) of the Act (as added by section 123(a) of this Act), any State which has not met any requirement of section 4(b)(2)(K) of the Act (as added by section 122(3) of this Act) may be granted a waiver of such requirements for a period of not more than one year, if the Secretary finds that such State is making a good-faith effort to comply with such requirements.

Waiver.

Ante, p. 1753.

Ante, p. 1752.

TITLE II—AMENDMENTS TO THE CHILD ABUSE PREVENTION AND TREATMENT AND ADOPTION REFORM ACT OF 1978

FINDINGS AND DECLARATION OF PURPOSE

SEC. 201. (a) The first sentence of section 201 of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (42 U.S.C. 5111) (hereinafter in this title referred to as "the Act") is amended—

(1) by inserting "the welfare of thousands of children in institutions and foster homes and disabled infants with life-threatening conditions may be in serious jeopardy and that some such children are in need of placement in permanent, adoptive homes; that" after "finds that"; and

(2) by inserting "have medically indicated treatment withheld from them, nor" after "should not".

(b) The second sentence of section 201 of the Act is amended—

(1) by inserting a comma and "including disabled infants with life-threatening conditions," after "special needs"; and

(2) by amending clause (2) to read as follows:

"(2) providing a mechanism for the Department of Health and Human Services to—

"(A) promote quality standards for adoption services, pre-placement, post-placement, and post-legal adoption counseling, and standards to protect the rights of children in need of adoption;

"(B) coordinate with other Federal departments and agencies, including the Bureau of the Census, to provide for a national adoption and foster care information data-gathering and analysis system; and

“(C) maintain a national adoption exchange to bring together children who would benefit by adoption and qualified prospective adoptive parents who are seeking such children.”

MODEL ADOPTION LEGISLATION AND PROCEDURES

42 USC 5112.

SEC. 202. (a) Section 202(a) of the Act is amended by striking out “Health, Education, and Welfare” and inserting in lieu thereof “Health and Human Services”.

(b) Section 202(c) of the Act is amended by inserting at the end thereof the following new sentence: “The Secretary shall coordinate efforts to improve State legislation with national, State, and local child and family services organizations, including organizations representative of minorities and adoptive families.”

(c) Section 202 of the Act is further amended by inserting at the end thereof the following new subsection:

“(d) The Secretary shall review all model adoption legislation and procedures published under this section and propose such changes as are considered appropriate to facilitate adoption opportunities for disabled infants with life-threatening conditions.”

INFORMATION AND SERVICES

42 USC 5113.

SEC. 203. (a) Section 203(a) of the Act is amended by striking out “Health, Education, and Welfare” and inserting in lieu thereof “Health and Human Services”.

(b)(1) Section 203(a) of the Act is further amended by inserting before the period at the end thereof a comma and “including services to facilitate the adoption of children with special needs and particularly of disabled infants with life-threatening conditions and services to couples considering adoption of children with special needs”.

(c)(1) Section 203(b) of the Act is amended by striking out in the matter preceding clause (1) “subsection (a) of this section” and inserting in lieu thereof “this title”.

(2) Section 203(b)(1) of the Act is amended to read as follows:

“(1) provide (after consultation with other appropriate Federal departments and agencies, including the Bureau of the Census and appropriate State and local agencies) for the establishment and operation of a Federal adoption and foster care data-gathering and analysis system;”

(3) Section 203(b) of the Act is further amended—

(A) by striking out “parent groups” in clause (4) and inserting in lieu thereof “adoptive family groups and minority groups”;

(B) by striking out “and” at the end of clause (4);

(C) by redesignating clause (5) as clause (7) and by inserting immediately after clause (4) the following new clauses:

“(5) encourage involvement of corporations and small businesses in supporting adoption as a positive family-strengthening option, including the establishment of adoption benefit programs for employees who adopt children;

“(6) continue to study the nature, scope, and effects of the placement of children in adoptive homes (not including the homes of stepparents or relatives of the child in question) by persons or agencies which are not licensed by or subject to regulation by any governmental entity; and”;

(D) by striking out “Health, Education, and Welfare” and inserting in lieu thereof “Health and Human Services” in clause (7) (as redesignated by clause (C) of this paragraph).

AUTHORIZATION OF APPROPRIATIONS

SEC. 204. Section 205 of the Act is amended by striking out “and” after “1978,” and by inserting a comma and “and \$5,000,000 for each of the fiscal years 1984, 1985, 1986, and 1987,” after “fiscal years”. 42 USC 5115.

TITLE III—FAMILY VIOLENCE PREVENTION AND SERVICES

Family Violence
Prevention and
Services Act.

SHORT TITLE

SEC. 301. This title may be cited as the “Family Violence Prevention and Services Act”. 42 USC 10401 note.

DECLARATION OF PURPOSE

SEC. 302. It is the purpose of this title to— 42 USC 10401.

(1) demonstrate the effectiveness of assisting States in efforts to prevent family violence and to provide immediate shelter and related assistance for victims of family violence and their dependents; and

(2) provide for technical assistance and training relating to family violence programs to States, local public agencies (including law enforcement agencies), nonprofit private organizations, and other persons seeking such assistance.

STATE DEMONSTRATION GRANTS AUTHORIZED

SEC. 303. (a)(1) In order to assist in supporting the establishment, maintenance, and expansion of programs and projects to prevent incidents of family violence and to provide immediate shelter and related assistance for victims of family violence and their dependents, the Secretary is authorized, in accordance with the provisions of this title, to make demonstration grants to States. 42 USC 10402.

(2) No demonstration grant may be made under this subsection unless the chief executive officer of the State seeking such grant submits an application to the Secretary at such time and in such manner as the Secretary may reasonably require. Each such application shall—

(A) provide that funds provided under this subsection will be distributed in demonstration grants to local public agencies and nonprofit private organizations (including religious and charitable organizations, and voluntary associations) for programs and projects within such State to prevent incidents of family violence and to provide immediate shelter and related assistance for victims of family violence and their dependents in order to prevent future violent incidents;

(B) provide, with respect to funds provided to a State under this subsection for any fiscal year, that—

(i) not more than 5 percent of such funds will be used for State administrative costs; and

(ii) in the distribution of funds by the State under this subsection, the State will give special emphasis to the support of community-based projects of demonstrated effectiveness carried out by nonprofit private organizations, par-

ticularly those projects the primary purpose of which is to operate shelters for victims of family violence and their dependents, and those which provide counseling, alcohol and drug abuse treatment, and self-help services to abusers and victims;

(C) set forth procedures designed to involve knowledgeable individuals and interested organizations and assure an equitable distribution of grants and grant funds within the State and between urban and rural areas within such State;

(D) specify the State agency to be designated as responsible for the administration of programs and activities relating to family violence which are carried out by the State under this title and for coordination of related programs within the State;

(E) provide assurances that procedures will be developed to assure the confidentiality of records pertaining to any individual provided family violence prevention or treatment services by any program assisted under this title and provide assurances that the address or location of any shelter-facility assisted under this title will, except with written authorization of the person or persons responsible for the operation of such shelter, not be made public;

(F) provide assurances that, within one year after receipt of funds under this subsection, the State will, provide assurances to the Secretary that the State has or has under consideration a procedure for the eviction of an abusing spouse from a shared residence; and

(G) meet such requirements as the Secretary reasonably determines are necessary to carry out the purposes and provisions of this title.

(3) The Secretary shall approve any application that meets the requirements of this subsection, and the Secretary shall not disapprove any such application except after reasonable notice of the Secretary's intention to disapprove and after opportunity for correction of any deficiencies.

Indians.

(b)(1) The Secretary is authorized to make demonstration grants to Indian tribes and tribal organizations for projects designed to prevent family violence and to provide immediate shelter and related assistance for victims of family violence and their dependents.

(2) No demonstration grant may be made under this subsection unless an application is made to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary deems essential to carry out the purposes and provisions of this title. Such application shall comply, as applicable, with the provisions of clauses (C) (with respect only to involving knowledgeable individuals and organizations), (D), and (E) of subsection (a)(2).

(c) No demonstration grant may be made under this section in any fiscal year to any single entity (other than to a State) for an amount in excess of \$50,000, and the total amount of such grants to any such single entity may not exceed \$150,000. A single entity may not be awarded demonstration grants under this section for a total period in excess of three fiscal years.

(d) No funds provided through demonstration grants made under this section may be used as direct payment to any victim of family violence or to any dependent of such victim.

(e) No income eligibility standard may be imposed upon individuals with respect to eligibility for assistance or services supported with funds appropriated to carry out this title.

(f) No demonstration grant may be made under this section to any entity other than a State unless the entity provides for the following local share as a proportion of the total amount of funds provided under this title to the project involved: 35 percent in the first year such project receives a grant under this title, 55 percent in the second such year, and 65 percent in the third such year. Except in the case of a public entity, not less than 50 percent of the local share of such agency or organization shall be raised from private sources. The local share required under this subsection may be in cash or in-kind. The local share may not include any Federal funds provided under any authority other than this title.

(g) The Secretary shall assure that not less than 60 percent of the funds distributed under subsection (a) or (b) shall be distributed to entities for the purpose of providing immediate shelter and related assistance to victims of family violence and their dependents.

ALLOTMENT OF FUNDS

SEC. 304. (a) From the sums appropriated under section 310 for grants to States for any fiscal year, each State shall be allotted for payment in a grant authorized under section 303(a) an amount which bears the same ratio to such sums as the population of such State bears to the population of all States, except that—

42 USC 10403.

(1) each State shall be allotted not less than whichever is the greater of the following amounts: one-half of 1 percent of the amounts available for grants under section 303(a) for the fiscal year for which the allotment is made, or \$50,000; and

(2) Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands shall each be allotted not less than one-eighth of 1 percent of the amounts available for grants under section 303(a) for the fiscal year for which the allotment is made.

For the purpose of the exception contained in clause (1) of the preceding sentence only, the term "State" does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(b) For the purpose of this section, the population of each State, and the total population of all the States, shall be determined by the Secretary on the basis of the most recent census data available to the Secretary, and the Secretary shall use for such purpose, if available, the annual interim current census data produced by the Secretary of Commerce pursuant to section 181 of title 13, United States Code.

(c) If the sums appropriated under section 310 for any fiscal year for grants to States authorized under section 303(a) are not sufficient to pay in full the total amounts which all States are entitled to receive under such section for such fiscal year, then the maximum amounts which all States are entitled to receive under such section for such fiscal year shall be ratably reduced. In the event that additional funds become available for making such grants for any fiscal year during which the preceding sentence is applicable, such reduced amounts shall be increased on the same basis as they were reduced.

(d)(1) If, at the end of the sixth month of any fiscal year for which sums are appropriated under section 310, the amount allotted to a State has not been made available to such State in grants under section 303(a) because of the failure of such State to meet the

requirements for a grant, then the Secretary shall reallocate such amount to States which meet such requirements.

(2) Funds made available by the Secretary through reallocation under paragraph (1) shall remain available for expenditure until the end of the fiscal year following the fiscal year in which such funds become available for reallocation.

SECRETARIAL RESPONSIBILITIES

42 USC 10404.

SEC. 305. (a) The Secretary shall appoint an employee of the Department of Health and Human Services to carry out the provisions of this title. The individual appointed under this subsection shall, prior to such appointment, have had expertise in the field of family violence prevention and services.

(b) The Secretary shall—

(1) coordinate all programs within the Department of Health and Human Services, and seek to coordinate all other Federal programs, which involve the prevention of incidents of family violence and the provision of assistance for victims and potential victims of family violence and their dependents, and ensure that such activities as they relate to elderly persons are coordinated with the Administration on Aging and the National Institute on Aging within the Department of Health and Human Services;

(2)(A) provide for research into the causes of family violence, and into the prevention, identification, and treatment thereof (such as research into (i) the effectiveness of reducing repeated incidents of family violence through a variety of sentencing alternatives, such as incarceration, fines, and counseling programs, individually or in combination, and through the use of civil protection orders removing the abuser from the family household, and (ii) the necessity and impact of a mandatory reporting requirement relating to incidents of family violence, particularly abuse of elderly persons), and (B) make a complete study and investigation (in consultation with the National Institute on Aging) of the national incidence of abuse, neglect, and exploitation of elderly persons, including a determination of the extent to which incidents of such abuse, neglect, and exploitation are increasing in number or severity; and

(3) provide for the training of personnel and provide technical assistance in the conduct of programs for the prevention and treatment of family violence.

Study.

EVALUATION

Report.
42 USC 10405.

SEC. 306. Not later than two years after the date on which funds are obligated under section 303(a) for the first time after the date of the enactment of this title, the Secretary shall review, evaluate, and report to the appropriate Committees of the Congress, as to the effectiveness of the programs administered and operated pursuant to this title, particularly in relation to repeated incidents of family violence. Such report shall also include a summary of the assurances provided to the Secretary under section 303(a)(2)(F).

DISCRIMINATION PROHIBITED

SEC. 307. (a)(1) For the purpose of applying the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975, on the basis of handicap under section 504 of the Rehabilitation Act of 1973, on the basis of sex under title IX of the Education Amendments of 1972, or on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964, programs and activities funded in whole or in part with funds made available under this part are considered to be programs and activities receiving Federal financial assistance.

42 USC 10406.

42 USC 6101
note.
29 USC 794.
20 USC 1681.
42 USC 2000d.

(2) No person shall on the ground of sex or religion be excluded from participation in, be denied the benefits of, or be subject to discrimination under, any program or activity funded in whole or in part with funds made available under this title. Nothing in this title shall require any such program or activity to include any individual in any program or activity without taking into consideration that individual's sex in those certain instances where sex is a bona fide occupational qualification or programmatic factor reasonably necessary to the normal operation of that particular program or activity. The Secretary shall enforce the provisions of the preceding sentence in accordance with section 602 of the Civil Rights Act of 1964. Section 603 of such Act shall apply with respect to any action taken by the Secretary to enforce such sentence. This paragraph shall not be construed as affecting any other legal remedy.

42 USC 2000d-1
42 USC 2000d-2

(b) Whenever the Secretary finds that a State or other entity that has received financial assistance under this title has failed to comply with a provision of law referred to in subsection (a)(1), with subsection (a)(2), or with an applicable regulation (including one prescribed to carry out subsection (a)(2)), the Secretary shall notify the chief executive officer of the State and shall request such officer to secure compliance. If, within a reasonable period of time, not to exceed sixty days, the chief executive officer fails or refuses to secure compliance, the Secretary may—

(1) refer the matter to the Attorney General of the United States with a recommendation that an appropriate civil action be instituted,

(2) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, sections 504 and 505 of the Rehabilitation Act of 1973, or title IX of the Education Amendments of 1972, as may be applicable, or

42 USC 2000d.
42 USC 6101
note.

(3) take such other action as may be provided by law.

29 USC 794,
794a.
20 USC 1681.
Courts, U.S.

(c) When a matter is referred to the Attorney General pursuant to subsection (b)(1), or whenever the Attorney General has reason to believe that a State or an entity is engaged in a pattern or practice in violation of a provision of law referred to in subsection (a)(1) or in violation of subsection (a)(2), the Attorney General may bring a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.

NATIONAL CLEARINGHOUSE ON FAMILY VIOLENCE PREVENTION

SEC. 308. (a) The Secretary shall operate a national information and research clearinghouse on the prevention of family violence (including the abuse of elderly persons) in order to—

Public
information.
42 USC 10407.

(1) collect, prepare, analyze, and disseminate information and statistics and analyses thereof relating to the incidence and

prevention of family violence (particularly the prevention of repeated incidents of violence) and the provision of immediate shelter and related assistance to victims of family violence and their dependents; and

(2) provide information about alternative sources of assistance available with respect to the prevention of incidents of family violence and the provision of immediate shelter and related assistance to victims of family violence and their dependents.

(b) The Secretary shall ensure that the activities of the national information and research clearinghouse operated under subsection (a) are coordinated with the information clearinghouse maintained by the National Center on Child Abuse and Neglect under section 2 of the Child Abuse Prevention and Treatment Act.

42 USC 5101.

DEFINITIONS

42 USC 10408.

SEC. 309. As used in this title:

(1) The term "family violence" means any act or threatened act of violence, including any forceful detention of an individual, which—

(A) results or threatens to result in physical injury; and

(B) is committed by a person against another individual (including an elderly person) to whom such person is or was related by blood or marriage or otherwise legally related or with whom such person is or was lawfully residing.

(2) The terms "Indian tribe" and "tribal organization" have the same meanings given such terms in subsections (b) and (c), respectively, of section 4 of the Indian Self-Determination and Education Assistance Act.

25 USC 450b.

(3) The terms "Secretary" means the Secretary of Health and Human Services.

(4) The terms "shelter" means the provision of temporary refuge and related assistance in compliance with applicable State law and regulation governing the provision, on a regular basis, of shelter, safe homes, meals, and related assistance to victims of family violence and their dependents.

(5) The term "related assistance"—

(A) includes counseling and self-help services to abusers, victims, and dependents in family violence situations (which shall include counseling of all family members to the extent feasible) and referrals for appropriate health-care services (including alcohol and drug abuse treatment), and

(B) may include food, clothing, child care, transportation, and emergency services (but not reimbursement for any health-care services) for victims of family violence and their dependents.

(6) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and, except as otherwise provided, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

AUTHORIZATION OF APPROPRIATIONS

SEC. 310. (a) There are authorized to be appropriated to carry out the provisions of this title \$11,000,000 for fiscal year 1985 and \$26,000,000 for each of the fiscal years 1986 and 1987. 42 USC 10409.

(b) Of the sums appropriated under subsection (a) for any fiscal year, not less than 85 percent shall be used by the Secretary for making grants under section 303.

LAW ENFORCEMENT TRAINING AND TECHNICAL ASSISTANCE GRANTS
AND CONTRACTS

SEC. 311. (a) From the amount appropriated pursuant to section 310 for any fiscal year, the Secretary shall make grants and enter into contracts for the purpose of providing regionally-based training and technical assistance to provide the personnel of local and State law enforcement agencies with means for responding to incidents of family violence. 42 USC 10410.

(b) Grants and contracts under this section shall be awarded competitively on the basis of an application containing such information and assurances as the Secretary may require by regulation. In selecting grant and contract recipients, the Secretary shall select recipients who have demonstrated their effectiveness in preparing the personnel of local and State law enforcement agencies for the handling of incidents of family violence and shall give priority to those applications which propose projects or programs which will develop, demonstrate, or disseminate information with respect to improved techniques for responding to incidents of family violence by law enforcement officers.

(c) The Secretary shall delegate to the Attorney General of the United States the Secretary's responsibilities for carrying out this section and shall transfer to the Attorney General from funds appropriated under section 310 not in excess of \$2,000,000 for each fiscal year to be used for the purpose of making grants under this section.

ADMINISTRATION AND STATUTORY CONSTRUCTION

SEC. 312. (a) In order to carry out the provisions of this title, the Secretary is authorized to— 42 USC 10411.

(1) appoint and fix the compensation of such personnel as are necessary;

(2) procure, to the extent authorized by section 3109 of title 5, United States Code, such temporary and intermittent services of experts and consultants as are necessary;

(3) make grants to public and nonprofit private entities or enter into contracts with public or private entities; and

(4) prescribe such regulations as are reasonably necessary in order to carry out the purposes and the personnel of local and State law enforcement agencies with means for responding to incidents of family violence.

Grants.
Contracts with
U.S.
Regulations.

(b) Grants and contracts under this section shall be awarded competitively on the basis of an application containing such information and assurances as the Secretary may require by regulation. In selecting grant and contract recipients, the Secretary shall select recipients who have demonstrated their effectiveness in preparing the personnel of local and State law enforcement agencies for the handling of incidents of family violence and shall give priority to

Grants.
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those applications which propose projects or programs which will develop, demonstrate, or disseminate information with respect to improved techniques for responding to incidents of family violence by law enforcement officers.

(c) The Secretary shall delegate to the Attorney General of the United States the Secretary's responsibilities for carrying out this section and shall transfer to the Attorney General from funds appropriated under section 310 not in excess of \$2,000,000 for each fiscal year to be used for the purpose of making grants under this section.

ADMINISTRATION AND STATUTORY CONSTRUCTION

42 USC 10412.

SEC. 312. (a) In order to carry out the provisions of this title, the Secretary is authorized to—

(1) appoint and fix the compensation of such personnel as are necessary;

(2) procure, to the extent authorized by section 3109 of title 5, United States Code, such temporary and intermittent services of experts and consultants as are necessary;

(3) make grants to public and nonprofit private entities or enter into contracts with public or private entities; and

(4) prescribe such regulations as are reasonably necessary in order to carry out the purposes and provisions of this title.

(b) Nothing in this title shall be construed to supersede the application of State or local requirements for the reporting of incidents of suspected child abuse to the appropriate State authorities.

Grants.
Contracts with
U.S.
Regulations.

Approved October 9, 1984.

LEGISLATIVE HISTORY—H.R. 1904 (S. 1003):

HOUSE REPORTS: No. 98-159 (Comm. on Education and Labor) and No. 98-1038 (Comm. on Conference).

SENATE REPORT No. 98-246 accompanying S. 1003 (Comm. on Labor and Human Resources).

CONGRESSIONAL RECORD, Vol. 130 (1984):

Feb. 2, considered and passed House.

July 26, considered and passed Senate, amended, in lieu of S. 1003.

Sept. 26, House agreed to conference report.

Sept. 28, Senate agreed to conference report.

Public Law 98-458
98th Congress

Joint Resolution

Designating the week beginning on October 7, 1984, as "Mental Illness Awareness Week"

Oct 9, 1984
[S.J. Res. 322]

Whereas mental illness is a problem of grave concern and consequence in American society, though one widely but unnecessarily feared and misunderstood;

Whereas thirty-one to forty-one million Americans annually suffer from clearly diagnosable mental disorders involving significant disability with respect to employment, attendance at school, or independent living;

Whereas mental illness in at least twelve million children interferes with vital developmental and maturational processes;

Whereas our growing population of the elderly is particularly vulnerable to mental illness;

Whereas mental illness costs our Nation \$65,000,000,000 annually, including lost productivity;

Whereas mental illness is increasingly a treatable disability with excellent prospects for amelioration and recovery when properly recognized;

Whereas in recent years there have been unprecedented major research developments bringing new methods and technology to the sophisticated and objective study of the functioning of the brain and its linkages to both normal and abnormal behavior;

Whereas research in recent decades has led to a wide array of new and more effective modalities of treatment (pharmacological, behavioral, psychosocial) for some of the most incapacitating forms of mental illness (including schizophrenia, major affective disorders, phobias, and panic disorders);

Whereas appropriate treatment of mental illness has been demonstrated to be cost-effective in terms of restored productivity, reduced utilization of other health services, and lessened social dependence; and

Whereas recent and unparalleled growth in scientific knowledge about mental illness has generated the current emergence of a new threshold of opportunity for future research advances and fruitful application to specific clinical problems: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning on October 7, 1984, is hereby designated as "Mental Illness Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved October 9, 1984.

LEGISLATIVE HISTORY—S.J. Res. 322:

CONGRESSIONAL RECORD, Vol. 130 (1984):

Aug. 10, considered and passed Senate.

Oct. 2, considered and passed House.

Public Law 98-459
98th Congress

An Act

To extend the authorization of appropriations for, and to revise the Older Americans Act of 1965.

Oct. 9, 1984
[S. 2603]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the “Older Americans Act Amendments of 1984”.

Older
Americans Act
Amendments of
1984.

42 USC 3001
note.

TITLE I—OBJECTIVES AND DEFINITIONS

AMENDMENT TO HEADING

SEC. 101. The heading for title I of the Older Americans Act of 1965 (hereafter in this Act referred to as “the Act”) (42 U.S.C. 3001 et seq.) is amended by striking out the colon and inserting in lieu thereof a semicolon.

COMMUNITY-BASED, LONG-TERM CARE SERVICES

SEC. 102. (a) Section 101(4) of the Act (42 U.S.C. 3001(4)) is amended by inserting before the period the following: “, and a comprehensive array of community-based, long-term care services adequate to appropriately sustain older people in their communities and in their homes”.

(b) Section 101(8) of the Act (42 U.S.C. 3001(8)) is amended by inserting before the period a comma and “with emphasis on maintaining a continuum of care for the vulnerable elderly”.

(c) Section 101(10) of the Act (42 U.S.C. 3001(10)) is amended by inserting before the period the following: “and full participation in the planning and operation of community-based services and programs provided for their benefit”.

TITLE II—AMENDMENTS REGARDING THE
ADMINISTRATION ON AGING

ADMINISTRATION ON AGING

SEC. 201. Section 201(a) of the Act (42 U.S.C. 3011(a)) is amended—

- (1) by striking out “principal” in the second sentence,
- (2) by striking out “his functions” in the second sentence and inserting in lieu thereof “the functions of the Administration”,
- (3) by inserting after the second sentence the following: “There shall be a direct reporting relationship between the Commissioner and the Office of the Secretary.”, and
- (4) by inserting “or require” after “approve” in the last sentence.

FUNCTIONS OF ADMINISTRATION ON AGING

SEC. 202. (a) Section 202(a) of the Act (42 U.S.C. 3012(a)) is amended—

(1) in clause (5) by striking out “of and carry out” and inserting in lieu thereof “and implementation of”,

(2) in clause (9) by inserting after the word “aging” a comma and “including existing legislative protections with particular emphasis on the application of the Age Discrimination in Employment Act of 1967”,

(3) in clause (16) by striking out “and” the last time it appears,

(4) in clause (17) by striking out the period and inserting in lieu thereof “; and”, and

(5) by adding at the end thereof the following new clause:

“(18) consult with national organizations representing minority individuals to develop and disseminate training packages and to provide technical assistance efforts designed to assist State and area agencies in providing services to older individuals with the greatest economic or social needs.”

(b) Section 202(b)(1) of the Act (42 U.S.C. 3012(b)(1)) is amended by inserting before the semicolon “and with utilization and quality control peer review organizations under title XI of the Social Security Act”.

42 USC 1301.

(c) Section 202(c) of the Act (42 U.S.C. 3012(c)) is amended by striking out “his duties and functions” and inserting in lieu thereof “the duties and functions of the Administration”.

FEDERAL AGENCY CONSULTATION

SEC. 203. (a) Section 203(b)(1) of the Act (42 U.S.C. 3013(b)(1)) is amended to read as follows:

29 USC 1501
note.

“(1) the Job Training Partnership Act,”

(b) Section 203(b)(3) of the Act (42 U.S.C. 3013(b)(3)) is amended by striking out “XVIII, XIX, and XX” and inserting in lieu thereof “XVI, XVIII, XIX, and XX”.

(c) Section 203(b)(8) of the Act (42 U.S.C. 3013(b)(8)) is amended—

(1) by striking out “the community schools program under the Elementary and Secondary Education Act of 1965,” and

(2) by striking out “1965, and” and inserting in lieu thereof “1965 and”.

(d) Section 203(b)(9) of the Act (42 U.S.C. 3013(b)(9)) is amended by striking out “5,”.

(e) Section 203(b) of the Act (42 U.S.C. 3013(b)) is amended—

(1) by striking out “and” at the end of clause (8);

(2) by striking out the period at the end of clause (9) and inserting in lieu thereof a comma; and

(3) by adding at the end thereof the following:

42 USC 201 note.

“(10) the Public Health Service Act,

42 USC 8621
note.

“(11) the Low-Income Home Energy Assistance Act of 1981,

42 USC 6861.

“(12) part A of the Energy Conservation in Existing Buildings Act of 1976, relating to weatherization assistance for low income persons,

42 USC 9901
note.

“(13) the Community Services Block Grant Act, and

“(14) demographic statistics and analysis programs conducted by the Bureau of the Census under title 13, United States Code.”.

FEDERAL COUNCIL ON THE AGING

SEC. 204. (a) Section 204(a) of the Act (42 U.S.C. 3015(a)) is amended to read as follows:

“(a)(1) There is established a Federal Council on the Aging to be composed of 15 members. Members shall serve for terms of three years without regard to the provisions of title 5, United States Code. Members shall be appointed by each appointing authority so as to be representative of rural and urban older individuals, national organizations with an interest in aging, business, labor, minorities, and the general public. At least two of the members appointed by each appointing authority shall be older individuals. No full-time officer or employee of the Federal Government may be appointed as a member of the Council.

Establishment.

“(2) Members appointed to the Federal Council on the Aging established by this section prior to the date of enactment of the Older Americans Act Amendments of 1984 who are serving on such date, shall continue to serve on the Federal Council established by paragraph (1) of this subsection until members are appointed in accordance with subsection (b)(1).”

Ante, p. 1767.

(b) Section 204(b)(1) of the Act (42 U.S.C. 3015(b)(1)) is amended to read as follows:

“(1)(A) The members appointed in 1985 shall be referred to as class 1 members; the members appointed in 1986 shall be referred to as class 2 members; and the members appointed in 1987 shall be referred to as class 3 members.

“(B)(i) Members of each class shall be appointed in the manner prescribed by this subparagraph.

“(ii) Of the members of class 1, two shall be appointed by the President, two by the President pro tempore of the Senate upon the recommendation of the Majority Leader and the Minority Leader, and one by the Speaker of the House of Representatives upon the recommendation of the Majority Leader and the Minority Leader.

“(iii) Of the members of class 2, two shall be appointed by the President, one by the President pro tempore of the Senate upon the recommendation of the Majority Leader and the Minority Leader, and two by the Speaker of the House of Representatives upon the recommendation of the Majority Leader and the Minority Leader.

“(iv) Of the members of class 3, one shall be appointed by the President, two by the President pro tempore of the Senate upon the recommendation of the Majority Leader and the Minority Leader, and two by the Speaker of the House of Representatives upon the recommendation of the Majority Leader and the Minority Leader.”

(c)(1) Section 204(b)(2) of the Act (42 U.S.C. 3015(b)(2)) is amended by striking out “his” and inserting in lieu thereof “such member’s”.

(2) Section 204(c) of the Act (42 U.S.C. 3015(c)) is amended by striking out “Chairman” each place it appears and inserting in lieu thereof “Chairperson”.

(3) Section 204(d) of the Act (42 U.S.C. 3015(d)) is amended by striking out clause (2) and by redesignating clauses (3), (4), (5), and (6) as clauses (2), (3), (4), and (5), respectively.

(4) Section 204(e) of the Act (42 U.S.C. 3015(e)) is amended by striking out “Chairman” and inserting in lieu thereof “Chairperson”.

(d) Section 204(g) of the Act (42 U.S.C. 3015(g)) is amended—

(1) by striking out “\$200,000” and all that follows through “1983, and”, and

(2) by inserting before the period at the end thereof the following: "and \$200,000 for each of the fiscal years 1985, 1986, and 1987".

ISSUANCE OF REGULATIONS

SEC. 205. (a) Section 205(b) of the Act (42 U.S.C. 3016(b)) is amended by striking out "his functions" and inserting in lieu thereof "the functions of the Administration".

(b) Section 205 of the Act (42 U.S.C. 3016) is amended—

(1) by redesignating subsection (c) as subsection (d), and

(2) by inserting after subsection (b) the following new subsection:

"(c) Not later than 120 days after the date of the enactment of the Older Americans Act Amendments of 1984, the Secretary shall issue and publish in the Federal Register proposed regulations for the administration of this Act. After allowing a reasonable period for public comment on such proposed rules and not later than 90 days after such publication, the Secretary shall issue, in final form, regulations for the administration of this Act."

Federal
Register,
publication.
Ante, p. 1767.

EVALUATION

Prohibition.

SEC. 206. (a) The first sentence of section 206(b) of the Act (42 U.S.C. 3017(b)) is amended to read as follows: "The Secretary may not make grants or contracts under title IV of this Act until the Secretary develops and publishes general standards to be used by the Secretary in evaluating the programs and projects assisted under such title."

42 USC 3161.

Minorities.

(b) Section 206(c) of the Act (42 U.S.C. 3017(c)) is amended by adding at the end thereof the following: "In carrying out such evaluations, the Secretary shall consult with organizations concerned with older individuals, including those representing minority individuals."

(c) Section 206(d) of the Act (42 U.S.C. 3017(d)) is amended—

(1) by inserting after "effectiveness" a comma and the following: "including, as appropriate, health and nutrition education demonstration projects conducted under section 307(f)", and

(2) by inserting after "Congress" a comma and the following: "be disseminated to Federal, State, and local agencies and private organizations with an interest in aging."

(d) The first sentence of section 206(g) of the Act (42 U.S.C. 3017(g)) is amended—

(1) by striking "1 per centum" and inserting in lieu thereof "one-tenth of 1 percent",

(2) by inserting after "Act" the following: "for each fiscal year", and

(3) by striking out "\$1,000,000 whichever is greater" and inserting in lieu thereof "\$300,000 whichever is lower".

REPORTS

SEC. 207. (a) Section 207 of the Act (42 U.S.C. 3018) is amended by striking out "for transmittal" and inserting in lieu thereof "and".

(b) Section 207 of the Act is amended by inserting "(a)" after the section designation, and adding at the end thereof the following new subsection:

“(b) Not later than 2 years after enactment of the Older Americans Act Amendments of 1984, the Commissioner shall prepare and submit a report to the Congress on the extent to which the need for services for the prevention of the abuse of individuals is unmet, based on information gathered pursuant to section 306(a)(6)(J).”

Ante, p. 1767.

Post, p. 1774.

REDUCTION OF PAPERWORK

SEC. 208. Section 211 of the Act (42 U.S.C. 3020b) is amended by inserting before the period at the end thereof the following: “and, in gathering such information, shall make use of uniform service definitions to the extent that such definitions are available”.

TITLE III—GRANTS FOR PROGRAMS ON AGING

GENERAL PROVISIONS

SEC. 301. The matter preceding clause (1) of section 301(a) of the Act (42 U.S.C. 3021(a)) is amended—

- (1) by striking out “local agencies” and inserting in lieu thereof “area agencies” each time it appears,
- (2) by inserting after “development” the following: “and implementation”,
- (3) by adding after “providers” a comma and “including voluntary organizations”, and
- (4) by striking “for the provision of” after the word “planning”.

DEFINITIONS

SEC. 302. Section 302 of the Act (42 U.S.C. 3022) is amended—

- (1) in paragraph (2)(B)—
 - (A) by inserting after “employs” a comma and the following: “where feasible”, and
 - (B) by inserting after “staff” the following: “to assess the needs and capacities of older individuals”,
- (2) in paragraph (4) by striking out “legal services” and inserting in lieu thereof “legal assistance”,
- (3) in paragraph (6) by striking out “and the Northern Mariana Islands” and inserting in lieu thereof “, and the Commonwealth of the Northern Mariana Islands”, and
- (4) by adding at the end thereof the following new paragraphs:
 - “(10) The term ‘older individual’ means any individual who is 60 years of age or older.
 - “(11) The term ‘multipurpose senior center’ means a community facility for the organization and provision of a broad spectrum of services, which shall include, but not be limited to, provision of health, social, nutritional, and educational services and the provision of facilities for recreational activities for older individuals.
 - “(12) The term ‘focal point’ means a facility established to encourage the maximum collocation and coordination of services for older individuals.”.

AUTHORIZATION OF APPROPRIATIONS

SEC. 303. (a) Section 303(a) of the Act (42 U.S.C. 3023(a)) is amended—

- (1) by striking out "\$300,000,000" and all that follows through "1983, and", and
- (2) by inserting after "1984," the following: "\$325,700,000 for fiscal year 1985, \$343,600,000 for fiscal year 1986, and \$361,500,000 for fiscal year 1987,".
- (b) Section 303(b) of the Act (42 U.S.C. 3023(b)) is amended—
 - (1) in paragraph (1)—
 - (A) by striking out "\$350,000,000" and all that follows through "1983, and", and
 - (B) by inserting after "1984," the following: "\$360,800,000 for fiscal year 1985, \$376,500,000 for fiscal year 1986, and \$395,000,000 for fiscal year 1987," and
 - (2) in paragraph (2)—
 - (A) by striking out "\$80,000,000" and all that follows through "1983, and", and
 - (B) by inserting after "1984," the following: "\$69,100,000 for fiscal year 1985, \$72,000,000 for fiscal year 1986, and \$75,600,000 for fiscal year 1987,".
- (c) Section 303(c)(2) of the Act is amended by striking out "legal services" and inserting in lieu thereof "legal assistance".

TECHNICAL AMENDMENTS

- SEC. 304. (a) Section 304(a) of the Act (42 U.S.C. 3024(a)) is amended—
- (1) by striking out "From" in paragraph (1) and by inserting in lieu thereof "Subject to paragraph (2), from",
 - (2) by striking out "under parts B and C" in paragraph (1) and inserting in lieu thereof "under section 303",
 - (3) in paragraph (1) by striking out "Northern Mariana Islands" each place it appears and inserting in lieu thereof "Commonwealth of the Northern Mariana Islands",
 - (4) by striking out "(C)" and inserting in lieu thereof "and (C)",
 - (5) by striking out "; and (D) no State shall be allotted an amount less than the State received for fiscal year 1978" in paragraph (1),
 - (6) in paragraph (2) by striking out "him" and inserting in lieu thereof "the Commissioner",
 - (7) by redesignating paragraph (2) as paragraph (3), and
 - (8) by inserting after paragraph (1) the following:

"(2) No State shall be allotted less than the total amount allotted to the State under paragraph (1) of this subsection and section 308 for fiscal year 1984."
 - (b) Section 304(b) of the Act (42 U.S.C. 3024(b)) is amended by striking out "he" each place it appears and inserting in lieu thereof "the Commissioner".
 - (c) Section 304(c) of the Act (42 U.S.C. 3024(c)) is amended—
 - (1) by striking out "subsection (d)(1)(B)", and inserting in lieu thereof "subsection (d)(1)(D)", and
 - (2) by striking out "for in-kind resources" and inserting in lieu thereof "or in-kind resources".
 - (d) Section 304(d)(1) of the Act (42 U.S.C. 3024(d)(1)) is amended—
 - (1) by inserting in the matter preceding clause (A) after "allotment" a comma and the following: "after the application of section 308(b)",
 - (2) by striking out "and" at the end of clause (B),

(3) by redesignating clause (C) as clause (D), and

(4) by inserting after clause (B), the following new clause: Health.

“(C) after September 30, 1986, such amount as the State agency determines to be adequate, but not more than 1 percent, for conducting effective demonstration projects in health and nutrition education under section 307(f) shall be available for conducting such projects; and”.

Post, p. 1777.

ORGANIZATION

SEC. 305. (a)(1) Section 305(a)(1)(E) of the Act (42 U.S.C. 3025(a)(1)(E)) is amended by striking out “(b)(5)” and inserting in lieu thereof “(b)(5)(A)”.

(2) Section 305(a)(2)(E) of the Act (42 U.S.C. 3025(a)(2)(E)) is amended by inserting “, with particular attention to low-income minority individuals,” after “social needs”.

(b)(1) Section 305(b)(3) of the Act (42 U.S.C. 3025(b)(3)) is amended by striking out “he” and inserting in lieu thereof “the Commissioner”.

(2) Section 305(b)(5) of the Act (42 U.S.C. 3025(b)(5)) is amended by inserting “(A)” after the paragraph designation, and by adding at the end thereof the following new subparagraph:

“(B) Whenever a State agency designates a new area agency on aging after the date of enactment of the Older Americans Act Amendments of 1984, the State agency shall give the right to first refusal to a unit of general purpose local government if (i) such unit can meet the requirements of subsection (c), and (ii) the boundaries of such a unit and the boundaries of the area are reasonably contiguous.”.

State and local governments.

Ante, p. 1767.

(c) Section 305 of the Act (42 U.S.C. 3025) is amended by adding at the end thereof the following new subsection:

“(d)(1) The publication for review and comment required by clause (2)(C) of subsection (a) shall include— Funds.

“(A) a descriptive statement of the formula’s assumptions and goals, and the application of the definitions of greatest economic or social need,

“(B) a numerical statement of the actual funding formula to be used,

“(C) a listing of the population, economic, and social data to be used for each planning and service area in the State, and

“(D) a demonstration of the allocation of funds, pursuant to the funding formula, to each planning and service area in the State.

“(2) For purposes of clause (2)(E) of subsection (a) and paragraph (1) of this subsection, the term ‘greatest economic need’ means the need resulting from an income level at or below the poverty threshold established by the Bureau of the Census, and the term ‘greatest social need’ means the need caused by noneconomic factors which include physical and mental disabilities, language barriers, and cultural or social isolation including that caused by racial or ethnic status which restricts an individual’s ability to perform normal daily tasks or which threatens his or her capacity to live independently.”.

Disadvantaged persons.
Handicapped persons.

AREA PLANS

SEC. 306. (a) Section 306(a) of the Act (42 U.S.C. 3026(a)) is amended—

(1) in clause (1) by inserting after “area”, the third time it appears, “and the efforts of voluntary organizations in the community”,

(2) in clause (2)—

(A) by inserting “each of the following categories of services” after “the delivery of” in the matter preceding subclause (A),

(B) by striking out “and” the last time it appears in the parenthetical phrase in subclause (B), and by inserting after “maintenance” a comma and the following: “and supportive services for families of elderly victims of Alzheimer’s disease and other neurological and organic brain disorders of the Alzheimer’s type”,

(C) by amending subclause (C) to read as follows:

“(C) legal assistance;”, and

(D) by striking out “and that some funds” and all that follows through “services”, and inserting in lieu thereof “and specify annually in such plan, as submitted or as amended, in detail the amount of funds expended for each such category during the fiscal year most recently concluded”,

(3) in clause (3) by striking out “to encourage the maximum collocation and coordination of services for older individuals, and give” and inserting in lieu thereof a comma and the following: “giving”,

(4) in clause (5)(A) by inserting “, with particular attention to low-income minority individuals,” after “social needs”, and

(5) in clause (6)—

(A) by striking out subclause (F),

(B) in subclause (G) by inserting “(including minority individuals)” after “individuals” the first place it appears,

(C) in subclause (I) by striking out the period at the end thereof and inserting in lieu thereof a semicolon,

(D) by redesignating subclauses (G), (H), and (I) as subclauses (F), (G), and (H), respectively, and

(E) by adding at the end thereof the following:

Health.

“(I) conduct efforts to facilitate the coordination of community-based, long-term care services designed to retain individuals in their homes, thereby deferring unnecessary, costly institutionalization, and designed to emphasize the development of client-centered case management systems as a component of such services;

“(J) identify the public and private nonprofit entities involved in the prevention, identification, and treatment of the abuse, neglect, and exploitation of older individuals, and based on such identification, determine the extent to which the need for appropriate services for such individuals is unmet; and

“(K) facilitate the involvement of long-term care providers in the coordination of community-based long-term care services and work to ensure community awareness of and involvement in addressing the needs of residents of long-term care facilities.

For purposes of clause (5)(A), the term 'greatest economic need' means the need resulting from an income level at or below the poverty threshold established by the Bureau of the Census and the term 'greatest social need' means the need caused by noneconomic factors which include physical and mental disabilities, language barriers, cultural or social isolation including that caused by racial or ethnic status which restricts an individual's ability to perform normal daily tasks or which threaten his or her capacity to live independently."

Handicapped
persons.
Disadvantaged
persons.

(b) Section 306(b) of the Act (42 U.S.C. 3026(b)) is amended—

(1) by inserting "(1)" after the subsection designation, and

(2) by adding at the end thereof the following new paragraph:

"(2)(A) Before an area agency on aging requests a waiver under paragraph (1) of this subsection, the area agency on aging shall conduct a timely public hearing in accordance with the provisions of this paragraph. The area agency on aging requesting a waiver shall notify all interested parties in the area of the public hearing and furnish the interested parties with an opportunity to testify.

"(B) The area agency on aging shall prepare a record of the public hearing conducted pursuant to subparagraph (A) and shall furnish the record of the public hearing with the request for a waiver made to the State under paragraph (1)."

Public
availability.

STATE PLANS

SEC. 307. (a) Section 307(a) of the Act (42 U.S.C. 3027(a)) is amended—

(1) in clause (3)(A) by striking out "legal services" and inserting in lieu thereof "legal assistance",

(2) in clause (10)—

(A) by striking out ", including nutrition services," and inserting in lieu thereof "or nutrition services," and

(B) by inserting before the semicolon a comma and "or where such services are directly related to such State or area agency on aging's administrative functions, or where such services of comparable quality can be provided more economically by such State or area agency on aging",

(3) in clause (12)—

(A) by striking out "which is not" the first place it appears in subclause (A) and inserting in lieu thereof ", other than an agency or organization which is",

(B) by striking out "not" the second place it appears in subclause (A),

(C) by striking out "will—" in subclause (A) and inserting in lieu thereof "provides an individual who will, on a full-time basis—",

(D) by inserting "staff and" after "training" in subclause (A)(iv),

(E) in subclause (C) by striking out "and" at the end thereof,

(F) in subclause (D)(ii) by inserting "and" after the semicolon at the end thereof, and

(G) by adding at the end thereof the following new subclause:

"(E) in planning and operating the ombudsman program, consider the views of area agencies on aging, older individuals, and provider agencies,"

(4) in clause (13)—

(A) by striking out “subparagraph (H)” in subclause (B) and inserting in lieu thereof “subclause (H)”,

(B) by striking out “charge participating individuals” in subclause (C)(i), and inserting in lieu thereof “solicit voluntary contributions”, and

(C) by striking out “charges” in subclause (C)(ii) and inserting in lieu thereof “voluntary contributions”,

(5) in clause (15) by striking out “legal services” each place it appears and inserting in lieu thereof “legal assistance”,

(6) by amending clause (15)(B) to read as follows:

“(B) the plan contains assurances that no legal assistance will be furnished unless the grantee administers a program designed to provide legal assistance to older individuals with social or economic need and has agreed, if the grantee is not a Legal Services Corporation project grantee, to coordinate its services with existing Legal Services Corporation projects in the planning and service area in order to concentrate the use of funds provided under this title on individuals with the greatest such need; and the area agency makes a finding, after assessment, pursuant to standards for service promulgated by the Commissioner, that any grantee selected is the entity best able to provide the particular services,”

(7) in clause (17)(B)(ii) by striking out the period at the end of such section and inserting in lieu thereof a semicolon and “and”,

(8) in clause (18) by striking out “Northern Mariana Islands” and inserting in lieu thereof “Commonwealth of the Northern Mariana Islands”,

(9) by redesignating clauses (16), (17), and (18) as clauses (19), (20), and (21), respectively, and

(10) by inserting after clause (15) the following new clauses:

“(16) provide that whenever the State desires to provide for services for the prevention of abuse of older individuals—

“(A) the plan contains assurances that any area agency on aging carrying out such services will conduct a program consistent with relevant State law and coordinated with existing State adult protective service activities for—

“(i) public education to identify and prevent abuse of older individuals;

“(ii) receipt of reports of abuse of older individuals;

“(iii) active participation of older individuals participating in programs under this Act through outreach, conferences, and referral of such individuals to other social service agencies or sources of assistance where appropriate and consented to by the parties to be referred; and

“(iv) referral of complaints to law enforcement or public protective service agencies where appropriate;

“(B) the State will not permit involuntary or coerced participation in the program of services described in this clause by alleged victims, abusers, or their households; and

“(C) all information gathered in the course of receiving reports and making referrals shall remain confidential unless all parties to the complaint consent in writing to the release of such information, except that such information

Disadvantaged
persons.

Confidentiality.

may be released to a law enforcement or public protective service agency;

“(17) provide assurances that each State will provide inservice training opportunities for personnel of agencies and programs funded under this Act;

“(18) provide assurances that each State will assign personnel to provide State leadership in developing legal assistance programs for older individuals throughout the State;”.

(b) Section 307(b)(1) of the Act (42 U.S.C. 3027(b)(1)) is amended by striking out “he” and inserting in lieu thereof “the Commissioner”.

(c) Section 307(d) of the Act (42 U.S.C. 3027(d)) is amended—

(1) by striking out “his” and inserting in lieu thereof “the Commissioner’s”;

(2) by striking out “he” each place it appears and inserting in lieu thereof “the Commissioner”, and

(3) by striking out “section 307” and inserting in lieu thereof “this section”.

(d) Section 307(e) of the Act (42 U.S.C. 3027(e)) is amended—

(1) in paragraph (1)—

(A) by striking out “him” and inserting in lieu thereof “the Commissioner”, and

(B) by striking out “he based his action” and inserting in lieu thereof “the Commissioner’s action is based”, and

(2) in the first sentence of paragraph (2) by striking out “his” and inserting in lieu thereof “the Commissioner’s”.

(e) Section 307 of the Act (42 U.S.C. 3027) is amended by adding at the end thereof the following new subsection:

“(f)(1) From amounts made available under section 304(d)(1)(C) after September 30, 1986, each State shall provide for the establishment of at least one demonstration project for health and nutrition education to be conducted by one or more area agencies on aging within the State based on the information and materials disseminated under section 704(d)(2).

Health.

Ante, p. 1772.

“(2) Each such project shall—

Post, p. 1791.

“(A) be administered by the area agency for the purpose of improving the health and nutrition of older individuals served by the agency;

“(B) be established and administered in consultation with an appropriate gerontology center;

“(C) be designed to improve the health and nutrition of older individuals through increasing their physical fitness activities and improving the nutritional value of meals in their own daily living habits;

“(D) if appropriate, be conducted in conjunction with schools of public health, schools of medicine, public health and social service agencies, private voluntary organizations, or other entities concerned with the health and well-being of older individuals; and

“(E) be evaluated and the evaluation shall be submitted prior to October 1, 1987, together with such interim reports as the Commissioner may reasonably require.”.

Reports.

ADMINISTRATION OF STATE PLANS

SEC. 308. (a) Section 308(a) of the Act (42 U.S.C. 3028(a)) is amended—

42 USC 3023.

(1) in paragraph (1) by striking out "Amounts appropriated under section 303" and inserting in lieu thereof "Amounts available to States under subsection (b)(1)", and

(2) in paragraph (2) by striking out "received by a State under this section" and inserting in lieu thereof "available to a State under subsection (b)(1)".

(b) Section 308(b) of the Act (42 U.S.C. 3028(b)) is amended—

(1) in the first sentence of paragraph (2)(A) by striking out "Any" and inserting in lieu thereof "If the aggregate amount appropriated under section 303 for a fiscal year does not exceed \$800,000,000, then any",

(2) in paragraph (5) by striking out "he" and inserting in lieu thereof "the Commissioner",

(3) in paragraph (6)—

(A) by inserting "(A)" after "(6)",

(B) by inserting "and except as provided in subparagraph (B)" after "provisions of this title"; and

(C) by adding at the end thereof the following new subparagraph:

"(B) Of the funds received under section 303, a State may elect to transfer under subparagraph (A)—

"(i) not more than 27 percent of the funds appropriated for fiscal year 1985;

"(ii) not more than 29 percent of the funds appropriated for fiscal year 1986; and

"(iii) not more than 30 percent of the funds appropriated for fiscal year 1987."

(4) by striking out paragraphs (3) and (4),

(5) by redesignating paragraphs (2), (5), and (6) as paragraphs (3), (4), and (5), respectively, and

(6) by striking out paragraph (1) and inserting in lieu thereof the following new paragraphs:

"(1)(A) If for any fiscal year the aggregate amount appropriated under section 303 does not exceed \$800,000,000, then—

"(i) except as provided in clause (ii), the greater of 5 percent of the allotment to a State under section 304(a)(1) or \$300,000; and

"(ii) in the case of Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands, the greater of 5 percent of such allotment or \$75,000;

shall be available to such State to carry out the purposes of this section.

"(2)(A) If for any fiscal year the aggregate amount appropriated under section 303 exceeds \$800,000,000, then—

"(i) except as provided in clause (ii), the greater of 5 percent of the allotment to a State under section 304(a)(1) or \$500,000; and

"(ii) in the case of Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands, the greater of 5 percent of such allotment or \$100,000;

shall be available to such State to carry out the purposes of this section."

Guam.
American
Samoa.
Virgin
Islands.
Trust
Territory
of the
Pacific
Islands.
Northern
Mariana
Islands.

TECHNICAL AMENDMENT

SEC. 309. (a) Section 309(a) of the Act (42 U.S.C. 3029(a)) is amended by striking out "he" and inserting in lieu thereof "the Commissioner".

(b) Section 309(b)(2) of the Act (42 U.S.C. 3029(b)(2)) is amended by striking out "section 304(d)(1)(B)" and inserting in lieu thereof "section 304(d)(1)(D)".

Ante, p. 1772.

SURPLUS COMMODITIES; AUTHORIZATION OF APPROPRIATIONS

SEC. 310. (a) Section 311(a)(4) of the Act (42 U.S.C. 3030a(a)(4)) is amended—

(1) by striking out "subsection (d)" and inserting in lieu thereof "subsection (c)", and

(2) by inserting "for All Urban Consumers" after "Consumer Price Index".

(b)(1) Section 311 of the Act (42 U.S.C. 3030a) is amended by redesignating subsection (d)(1) as subsection (c)(1).

(2) Section 311(c)(1) of the Act (42 U.S.C. 3030a(c)(1)), as so redesignated, is amended—

(A) by striking out "\$93,200,000" and all that follows through "1983, and",

(B) by inserting "\$120,800,000 for fiscal year 1985, \$125,900,000 for fiscal year 1986, and \$132,000,000 for fiscal year 1987," after "1984," and

(C) by striking out "1981" and inserting in lieu thereof "1983".

(3) Section 311(c)(1) of the Act (42 U.S.C. 3030a(c)(1)), as so redesignated, is amended by inserting "(A)" after "(1)" and by adding at the end thereof the following new subparagraph:

"(B) Effective on the first day of the first month beginning after the date of enactment of the Older Americans Act Amendments of 1984, no State may receive reimbursement under the provisions of this section unless the State submits final reimbursement claims for meals within 90 days after the last day of the quarter for which the reimbursement is claimed."

Effective date.
Claims.

Ante, p. 1767.

(4) Section 311(c)(2) of the Act (42 U.S.C. 3030a(c)(2)), as so redesignated, is amended by striking out "appropriation" and inserting in lieu thereof "appropriations".

AUDIT

SEC. 311. (a) Section 313 of the Act (42 U.S.C. 3030c) is amended by inserting "(a)" after the section designation and by adding at the end thereof the following new subsection:

"(b) State agencies and area agencies on aging shall not request information or data from providers which is not pertinent to services furnished pursuant to this Act or a payment made for such services."

SUPPORTIVE SERVICES

SEC. 312. (a) Section 321(a) of the Act (42 U.S.C. 3030d(a)) is amended—

(1) by striking out clause (5) and inserting in lieu thereof the following:

"(5) services designed to assist older individuals in avoiding institutionalization and to assist individuals in long-term care institutions who are able to return to their communities,

including client assessment through case management and integration and coordination of community services such as preinstitution evaluation and screening and home health services, homemaker services, shopping services, escort services, reader services, and letter writing services, through resource development and management to assist such individuals to live independently in a home environment;”,

(2) in clause (6)—

(A) by striking out “legal services” and inserting in lieu thereof “legal assistance”, and

(B) by striking out “and financial counseling” and inserting in lieu thereof “, financial counseling, and counseling regarding appropriate health and life insurance coverage”,

(3) in clause (8) by striking out “illness” and inserting in lieu thereof “illnesses”,

(4) in clause (14) by striking out “or” at the end thereof,

(5) by redesignating clause (15) as clause (19), and

(6) by inserting after clause (14) the following new clauses:

“(15) services for the prevention of abuse of older individuals in accordance with clause (16) of section 307(a);

“(16) inservice training and State leadership for legal assistance activities;

Health.

“(17) health and nutrition education services;

“(18) services designed to enable mentally impaired older individuals to attain and maintain emotional well-being and independent living through a coordinated system of support services; or”.

(b) Section 321(b) of the Act (42 U.S.C. 3030d(b)) is amended—

(1) in paragraph (1) by striking out all that follows “centers” and inserting in lieu thereof a period, and

(2) in paragraph (2)—

(A) by striking out “used,” and inserting in lieu thereof “used”, and

(B) by striking out “centers, to meet” and inserting in lieu thereof “centers and meeting”.

TITLE IV—TRAINING, RESEARCH, AND DISCRETIONARY PROGRAMS RELATED TO AGING

GENERAL PURPOSE AND ADMINISTRATION

SEC. 401. Title IV of the Act (42 U.S.C. 3031-3037a) is amended by inserting after the title designation the following new section:

“STATEMENT OF PURPOSE

42 USC 3030aa.

“SEC. 401. It is the purpose of this title to expand the Nation’s knowledge and understanding of aging and the aging process, to design and test innovative ideas in programs and services for older individuals, and to help meet the needs for trained personnel in the field of aging through—

“(1) placing a priority on the education and training of personnel to work with and on behalf of older individuals;

“(2) research and development of effective practices in the field of aging;

“(3) demonstration projects directly related to the field of aging; and

“(4) dissemination of information on aging and the aging process acquired through such programs to public and private organizations or programs for older individuals.

“ADMINISTRATION

“SEC. 402. (a) In order to carry out the provisions of this title effectively, the Commissioner shall administer this title through the Administration on Aging.

42 USC 3030bb.

“(b) In carrying out the provisions of this title, the Commissioner may request the technical assistance and cooperation of the Department of Education, the National Institutes of Health, and such other agencies and departments of the Federal Government as may be appropriate.”.

EDUCATION AND TRAINING

SEC. 402. Title IV of the Act (42 U.S.C. 3031-3037a) is amended by inserting after the heading for part A the following new section:

“PURPOSE

“SEC. 410. The purpose of this part is to improve the quality of service and to help meet critical shortages of adequately trained personnel for programs in the field of aging by—

42 USC 3030jj.

“(1) identifying both short- and long-range manpower needs in the field of aging;

“(2) providing a broad range of educational and training opportunities to meet those needs;

“(3) attracting a greater number of qualified personnel into the field of aging;

“(4) helping to upgrade personnel training programs to make them more responsive to the need in the field of aging; and

“(5) establishing and supporting multidisciplinary centers of gerontology and providing special emphasis that will improve, enhance, and expand existing training programs.”.

AUTHORITY FOR GRANTS AND CONTRACTS

SEC. 403. Section 411 of the Act (42 U.S.C. 3031) is amended to read as follows:

“GRANTS AND CONTRACTS

“SEC. 411. (a) The Commissioner shall make grants and enter into contracts to achieve the purpose of this part. The purposes for which such grants and contracts shall be made include the following:

Education.

“(1) To provide comprehensive and coordinated nondegree education, training programs, and curricula at institutions of higher education and at other research, training, or educational organizations, for practitioners in the fields of nutrition, health care, supportive services, housing, and long-term care, including the expansion and enhancement of existing inservice education and training programs.

“(2) To provide inservice training opportunities to the personnel of State offices, area agencies, senior centers, and nutrition programs to strengthen their capacity to remain responsive to the needs of older individuals.

“(3) To provide courses on aging and the dissemination of information about aging to the public through institutions of

higher education and other public and nonprofit private organizations and agencies.

“(b) To achieve the purpose of this title, the Administration on Aging shall conduct both—

“(1) long-term educational activities to prepare personnel for careers in the field of aging; and

“(2) short-term inservice training and continuing education activities for State and area agency personnel, and other personnel, in the field of aging or preparing to enter the field of aging.

“(c) In making grants and contracts under this part, the Commissioner shall give special consideration to the recruitment and training of personnel, volunteers, and those individuals preparing for employment in that part of the field of aging which relates to providing custodial and skilled care for older individuals who suffer from Alzheimer’s disease and other neurological and organic brain disorders of the Alzheimer’s type and providing family respite services with respect to such individuals.

Audit.

“(d) In making grants or contracts under this part, the Commissioner shall ensure that all projects and activities related to personnel training shall include specific data on the number of individuals to be trained and the number of older individuals to be served through such training activities by public and nonprofit agencies, State and area agencies on aging, institutions of higher education, and other organizations.”.

MULTIDISCIPLINARY CENTERS OF GERONTOLOGY

SEC. 404. Section 412 of the Act (42 U.S.C. 3032) is amended—

(1) by inserting “(a)” after “SEC. 412.”,

(2) in subsection (a), as so redesignated—

(A) by inserting “(including emphasis on nutrition, employment, health, income maintenance and supportive services)” before the period at the end thereof, and

(B) by adding at the end thereof the following:

Study.

“Such centers shall conduct research and policy analysis and function as a technical resource for the Commissioner, policymakers, service providers, and the Congress. Multidisciplinary centers of gerontology shall—

“(1) recruit and train personnel;

“(2) conduct basic and applied research directed toward the development of information related to aging;

“(3) stimulate the incorporation of information on aging into the teaching of biological, behavioral, and social sciences at colleges and universities;

“(4) help to develop training programs in the field of aging at schools of public health, education, and other appropriate schools within colleges and universities;

“(5) serve as a repository of information and knowledge on aging; and

“(6) provide consultation and information to public and voluntary organizations, including State and area agencies, which serve the needs of older individuals in planning and developing services provided under other provisions of this Act.”, and

(3) by adding at the end thereof the following new subsection:

Audit.

“(b) Centers supported under this section shall provide data to the Commissioner on the projects and activities for which funds are

provided under this title. Such data shall include the number of personnel trained, the number of older individuals served, the number of schools assisted, and other information that will facilitate achieving the purposes of this Act.”.

PURPOSE OF PART B

SEC. 405. Title IV of the Act (42 U.S.C. 3031-3037a) is amended by inserting after the heading for part B the following new section:

“PURPOSE

“SEC. 420. The purpose of this part is to improve the quality and efficiency of programs serving older individuals through research and development projects, and demonstration projects, designed to—

42 USC 3034.

“(1) develop and synthesize knowledge about aging from multidisciplinary perspectives;

“(2) establish an information base of data and practical experience;

“(3) examine effective models of planning and practice that will improve or enhance services provided under other provisions of this Act;

“(4) evaluate the efficacy, quality, efficiency, and accessibility of programs and services for older individuals; and

“(5) develop, implement, and evaluate innovative planning and practice strategies to address the needs, concerns, and capabilities of older individuals.”.

RESEARCH AND DEVELOPMENT PROJECTS

SEC. 406. Section 421 of the Act (42 U.S.C. 3035) is amended—

(1) by inserting “(a)” after “SEC. 421.”,

(2) by adding at the end of subsection (a), as so redesignated, the following: “Appropriate provisions for the dissemination of resulting information shall be a requirement for all grants made under this section.”, and

(3) by adding at the end thereof the following new subsections:

“(b) Each research and development activity proposal for which funds are requested under subsection (a) shall include a concise policy or practical application statement.

“(c)(1) The Commissioner shall select, to the extent practicable, for assistance under subsection (a) research activities which will, not later than three years after the date of the enactment of the Older Americans Act Amendments of 1984, collectively—

Ante, p. 1767.

“(A) contribute to the establishment and maintenance of a demographic data base which contains information on the population of older individuals generally and older individuals categorized by age, sex, race, geographical location, and such other factors as the Commissioner deems useful for the purpose of formulating public policy;

“(B) identify the future needs of older individuals;

“(C) identify the kinds and comprehensiveness of programs required to satisfy such needs; and

“(D) identify the kinds and number of personnel required to carry out such programs.

“(2) The Commissioner shall select, to the extent practicable, for assistance under subsection (a) demonstration projects which test

research results and implement innovative ways of satisfying the needs of, and delivering services to, older individuals.”.

DEMONSTRATION PROJECTS

SEC. 407. (a) Section 422(a) of the Act (42 U.S.C. 3035a(a)) is amended by striking out “elderly Such” and inserting in lieu thereof “elderly. Such”.

(b) Section 422(b) of the Act (42 U.S.C. 3035a(b)) is amended—

(1) by redesignating clauses (1), (2), (3), (4), (5), (6), and (7) as clauses (2), (3), (4), (5), (6), (7), and (8), respectively;

(2) by inserting before clause (2) (as redesignated by this subsection) the following new clause:

(1) meet the supportive services needs of elderly victims of Alzheimers’ disease and other neurological and organic brain disorders of the Alzheimers’ type and their families, including—

“(A) home health care for such victims;

“(B) adult day health care for such victims; and

“(C) homemaker aides, transportation, and in-home respite care for the families, particularly spouses, of such victims;”;

(3) in clause (2)(D)(i) (as redesignated by this subsection) by striking out “clause (C)” and inserting in lieu thereof “subclause (C)”.

(c) Section 422 of the Act (42 U.S.C. 3035a) is amended by adding at the end thereof the following new subsection:

“(d)(1) Whenever appropriate, grants made and contracts entered into under this section shall be developed in consultation with an appropriate gerontology center.

“(2) Grants made and contracts entered into under this section shall include provisions for the appropriate dissemination of project results.”.

Health.
Handicapped
persons.

Grants.
Contracts with
U.S.

LONG-TERM CARE SPECIAL PROJECTS

SEC. 408. Section 423(b)(3) of the Act (42 U.S.C. 3035b(b)(3)) is amended by inserting “(A)” after the paragraph designation and by adding at the end thereof the following subparagraph:

“(B) Grants made and contracts entered into under this section shall include provisions for the appropriate dissemination of information regarding the development of such services.”.

Grants.
Contracts with
U.S.

DEMONSTRATION PROJECTS ON LEGAL ASSISTANCE

SEC. 409. Section 424 of the Act (42 U.S.C. 3035c) is amended to read as follows:

“SPECIAL DEMONSTRATION AND SUPPORT PROJECTS FOR LEGAL ASSISTANCE FOR OLDER INDIVIDUALS

“SEC. 424. (a) The Commissioner shall make grants and enter into contracts, in order to—

“(1) provide a national legal assistance support system (operated by one or more grantees or contractors) of activities to State and area agencies on aging for providing, developing, or supporting legal assistance for older individuals, including—

“(A) case consultations;

“(B) training;

Grants.
Contracts with
U.S.

“(C) provision of substantive legal advice and assistance; and

“(D) assistance in the design, implementation, and administration of legal assistance delivery systems to local providers of legal assistance for older individuals; and

“(2) support demonstration projects to expand or improve the delivery of legal assistance to older individuals with social or economic needs.

“(b) Any grants or contracts made under subsection (a)(2) shall contain assurances that the requirements of section 307(a)(15) are met.

Ante, p. 1775.

“(c) To carry out subsection (a)(1), the Commissioner shall make grants to or enter into contracts with national nonprofit legal assistance organizations experienced in providing support, on a nationwide basis, to local legal assistance providers.”.

TECHNICAL AMENDMENTS

SEC. 410. (a) Section 425 of the Act (42 U.S.C. 3035d) is amended by inserting “(a)” after “SEC. 425.”

(b) Section 426 of the Act (42 U.S.C. 3035e) is amended by inserting “is” after “business concern”.

AUTHORIZATION OF APPROPRIATIONS

SEC. 411. (a) Section 431(a) of the Act (42 U.S.C. 3037(a)) is amended—

(1) by striking out “\$23,200,000” and all that follows through “1983, and”, and

(2) inserting “, \$28,200,000 for fiscal year 1985, \$29,800,000 for fiscal year 1986, and \$31,400,000 for fiscal year 1987” before the period at the end thereof.

(b) Section 431(b) of the Act (42 U.S.C. 3037(b)) is amended—

(1) in clause (1) by striking out “or” at the end thereof,

(2) in clause (2) by striking out the period and inserting in lieu thereof “; or”, and

(3) by adding at the end thereof the following new clause:

Grants.

“(3) may be combined with funds appropriated under any other Act if the purpose of combining funds is to make a single discretionary grant or a single discretionary payment, unless such funds appropriated under this title are separately identified in such grant or payment and are used for the purposes of this title.”.

TECHNICAL AMENDMENT

SEC. 412. Section 432(a) of the Act (42 U.S.C. 3037a(a)) is amended by striking out “he” and inserting in lieu thereof “the Commissioner”.

RESPONSIBILITIES OF COMMISSIONER

SEC. 413. The Act (42 U.S.C. 3001 et seq.) is amended by inserting after section 432 the following new section:

“RESPONSIBILITIES OF COMMISSIONER

“SEC. 433. (a) The Commissioner shall be responsible for the administration, implementation, and making of grants and con-

Grants.
Contracts with
U.S.
Prohibition.
42 USC 3037b.

Report.
Public
availability.
Ante, p. 1770.

tracts under this title and shall not delegate authority under this title to any other individual, agency, or organization.

“(b) The Commissioner shall prepare and publish annually as part of the report provided for in section 207 a detailed description of all grants, contracts, and activities for which funds are paid under this title. Such report shall include the name of the recipient of each such grant or contract, the amount of funds provided for such grant or contract, and a justification of how the funded activity or project will achieve the purpose of this title.”.

TITLE V—COMMUNITY SERVICE EMPLOYMENT

OLDER AMERICAN COMMUNITY SERVICE EMPLOYMENT PROGRAM

SEC. 501. (a) Section 502(b)(1) of the Act (42 U.S.C. 3056(b)(1)) is amended—

(1) in the third sentence by striking out “he” and inserting in lieu thereof “the Secretary”,

(2) in subparagraph (J) by striking out “he” and inserting in lieu thereof “the participant”,

(3) in subparagraph (M) by striking out “and” at the end thereof,

(4) in subparagraph (N) by striking out the period at the end thereof and inserting in lieu thereof “; and”, and

(5) by inserting after subparagraph (N) the following new subparagraph:

“(O) will post in such project workplace a notice, and will make available to each person associated with such project a written explanation, clarifying the law with respect to allowable and unallowable political activities under chapter 15 of title 5, United States Code, applicable to the project and to each category of individuals associated with such project and containing the address and telephone number of the Inspector General of the Department of Labor, to whom questions regarding the application of such chapter may be addressed.”.

(b) Section 502(c) of the Act (42 U.S.C. 3056(c)) is amended by adding at the end thereof the following new paragraph:

“(3) Of the amount for any project to be paid by the Secretary under this subsection, not more than—

“(A) 13.5 percent for fiscal year 1986, and

“(B) 12 percent for fiscal year 1987, and thereafter,

shall be available for paying the costs of administration for such project, except that whenever the Secretary determines that it is necessary to carry out the project assisted under this title, based upon information submitted by the public or private nonprofit agency or organization with which the Secretary has an agreement under subsection (b), the Secretary may increase the amount available for paying the cost of administration to an amount not more than 15 percent of the cost of such project.”.

ADMINISTRATION

SEC. 502. Section 503(b) of the Act (42 U.S.C. 3056a(b)) is amended to read as follows:

“(b) If the Secretary determines that to do so would increase job opportunities available to individuals under this title, the Secretary is authorized to coordinate the program assisted under this title

Public
availability.

5 USC 1501 *et*
seq.

with programs authorized under the Job Training Partnership Act, the Community Services Block Grant Act, and the Vocational Education Act of 1984. Appropriations under this Act may not be used to carry out any program under the Job Training Partnership Act, the Community Services Block Grant Act, or the Vocational Education Act of 1984.”.

29 USC 1501
note.
42 USC 9901
note.
Prohibition.

EQUITABLE DISTRIBUTION OF ASSISTANCE

SEC. 503. (a) Section 506(a)(3) of the Act (42 U.S.C. 3056d(a)(3)) is amended by inserting “the” after “shall allot to”.

(b) Section 506 of the Act (42 U.S.C. 3056d) is amended by adding at the end thereof the following new subsection:

“(d) The Secretary shall require the State agency for each State receiving funds under this title to report at the beginning of each fiscal year on such State’s compliance with subsection (c). Such report shall include the names and geographic location of all projects assisted under this title and carried out in the State and the amount allotted to each such project.”.

Report.
State and local
governments.

(c) Section 507(2) of the Act (42 U.S.C. 3056e(2)) is amended by striking out “over” each place it appears and inserting in lieu thereof “older”.

AUTHORIZATION OF APPROPRIATIONS

SEC. 504. Section 508(a) of the Act (42 U.S.C. 3056f(a)) is amended—

(1) in paragraph (1) by striking out “\$277,100,000” and all that follows through “1984”, and inserting in lieu thereof “\$319,450,000 for fiscal year 1984, \$335,000,000 for fiscal year 1985, \$351,400,000 for fiscal year 1986, and \$368,300,000 for fiscal year 1987”;

(2) in paragraph (2) by striking out “54,200” and inserting in lieu thereof “62,500”, and

(3) in the last sentence by striking out “paragraph (2)” and inserting in lieu thereof “clause (2)”.

STUDY OF OLDER AMERICAN COMMUNITY SERVICE PROGRAMS

SEC. 505. The Secretary of Labor shall conduct a study to identify additional mechanisms, supplementing the existing program under the Act, to increase community service employment opportunities for eligible individuals. Not later than 1 year after the date of the enactment of this Act, the Secretary of Labor shall submit to the Congress a report describing the results of such study and proposing draft legislation which, if enacted by the Congress, would increase such employment opportunities.

42 USC 3056
note.

Report.
Employment
and
unemployment.

TITLE VI—GRANTS FOR INDIAN TRIBES

ELIGIBILITY

SEC. 601. Section 602(a)(1) of the Act (42 U.S.C. 3057a(a)(1)) is amended by striking out “75” and inserting in lieu thereof “60”.

TECHNICAL AMENDMENTS

SEC. 602. (a) Section 604(a)(8) of the Act (42 U.S.C. 3057c(a)(8)) is amended by striking out "paragraph" and inserting in lieu thereof "clause".

(b) Section 604(d) of the Act (42 U.S.C. 3057c(d)) is amended—

(1) by striking out "he" each place it appears and inserting in lieu thereof "the Commissioner",

(2) in paragraph (1) by striking out "his", and

(3) in paragraph (2) by striking out "his" and inserting in lieu thereof "such".

AUTHORIZATION OF APPROPRIATIONS

SEC. 603. (a) Section 608(a) of the Act (42 U.S.C. 3057g(a)) is amended—

(1) by striking out "\$6,500,000" and all that follows through "1983, and", and

(2) by inserting after "1984" the following: ", \$7,900,000 for fiscal year 1985, \$8,300,000 for fiscal year 1986, and \$8,600,000 for fiscal year 1987".

(b) Section 608 of the Act (42 U.S.C. 3057g) is amended by striking out subsection (c).

TITLE VII—PERSONAL HEALTH EDUCATION AND TRAINING PROGRAMS FOR OLDER INDIVIDUALS

PERSONAL HEALTH EDUCATION AND TRAINING PROGRAMS

SEC. 701. The Act (42 U.S.C. 3001 et seq.) is amended by adding at the end a new title as follows:

Older Americans
Personal Health
Education and
Training Act.

"TITLE VII—OLDER AMERICANS PERSONAL HEALTH EDUCATION AND TRAINING PROGRAM

"SHORT TITLE

42 USC 3058
note.

"SEC. 701. This title may be cited as the 'Older Americans Personal Health Education and Training Act'.

"FINDINGS

42 USC 3058.

"SEC. 702. The Congress hereby finds that—

"(1) individuals 60 years of age or older constitute the fastest growing segment of the Nation's population;

"(2) the process of aging, as well as the changes in lifestyle which accompany it, such as retirement, the end of parenting roles, and relocation, seem to increase and exacerbate health problems faced by older individuals (such health problems include physical, mental, and emotional health problems);

"(3) many of the health problems faced by individuals 60 years of age or older, such as arteriosclerosis, arthritis, adult-onset diabetes, hypothermia, heat stress, Alzheimer's disease, circulatory problems, hypertension, diminished hearing and eyesight, reduced strength, social isolation, and bone fragility are particularly common to the older American population;

"(4) although older individuals make up only 11 percent of our population, they consume 29 percent of the total health care

expenditures and 50.5 percent of Federal health care (non-military) expenditures, and as our population ages the percentage of Federal health care dollars absorbed by older individuals will inevitably increase;

"(5) older individuals consume more prescription and over-the-counter drugs than any other age group and are therefore more likely to be exposed to two or more active drugs which negatively interact;

"(6) many of the health problems faced by older individuals and the fear of those health problems can be ameliorated and in some cases prevented if proper health education and training is available;

"(7) health education and training focused specifically on the needs of older individuals can play an important role in health promotion and illness prevention and simultaneously help reduce medical costs for both individuals and the Government;

"(8) the educational institutions of public health, the medical sciences, psychology, pharmacology, nursing, social work, health education, nutrition, and gerontology have much to offer in the design and implementation of health education and training services for older individuals; and

"(9) the existing 3,300 multipurpose senior centers established under this Act which already serve over 9,000,000 older individuals each year, are appropriate points of contact from which health education and training can be provided, but there is currently no uniform, standardized program consistently in place across the Nation.

"PURPOSES

"SEC. 703. The purposes of this title are to provide the necessary resources, leadership, and coordination (1) to design a uniform, standardized program of health education and training for older individuals; (2) to directly involve graduate educational institutions of public health in the design of such program; (3) to directly involve the graduate educational institutions of public health, the medical sciences, psychology, pharmacology, nursing, social work, health education, nutrition, and gerontology in the implementation of such program; (4) to implement such program in multipurpose senior centers established under this Act; and (5) to evaluate such program.

42 USC 3058a.

"OLDER AMERICANS PERSONAL HEALTH EDUCATION AND TRAINING PROGRAM

"SEC. 704. (a) In order to foster and promote the design and implementation of a health education and training program for individuals who are 60 years of age or older, the Secretary of Health and Human Services (hereinafter in this title referred to as the 'Secretary') shall establish an older individuals personal health education and training program within the Administration on Aging.

"(b)(1) In order to carry out the provisions of this title, the Secretary, through the Administration on Aging, shall make grants and enter into contracts with public or private institutions of higher education having graduate programs with capability in public health, the medical sciences, psychology, pharmacology, nursing, social work, health education, nutrition, or gerontology in order to

Grants.
Contracts with
U.S.
42 USC 3058b.

Prohibition.

achieve the purposes of this title. No payment shall be made by the Secretary toward the cost of any such project established or administered by any such institution unless the Secretary determines that such project—

“(A) will provide for the design and implementation of a local or statewide demonstration health education and training program which is amenable to replication in multipurpose senior centers, as well as other sites convenient to older individuals;

Ante, p. 1780.

“(B) will provide for consultation with and utilization of multipurpose senior centers established under section 321(b)(1) with regard to the provision of services to meet the specific needs of older individuals;

“(C) will be generally applicable to the health needs of all individuals 60 years of age or older;

“(D) will provide for the development of components appropriate for uniform, standardized use relating to specific problems encountered by older individuals, such as diet, mental health, physical fitness, hypertension, retirement, health insurance, hypothermia, and legal advice concerning rights to live and to receive medical treatment;

“(E) will provide health education in the safe and effective use of prescription and nonprescription medicines;

“(F) will address the motivation of older individuals including consideration of the elements of self-responsibility, physical fitness, stress management, nutrition, and environmental awareness; and the benefits older individuals can derive from behavioral and lifestyle modifications within their individual control;

“(G) will provide for peer contact and interaction among participating older individuals;

“(H) will provide for the training and utilization of graduate students (including the consideration of the granting of course credit to such students) and faculty in the fields of public health, the medical sciences, psychology, pharmacology, nursing, social work, health education, nutrition, and gerontology;

“(I) will provide for the training and utilization of older individuals participating in such projects as volunteers;

“(J) will ensure that participating older individuals are made aware of the health services available to them in their communities;

“(K) will be designed in consultation with persons specifically competent in the field of public health;

Ante, p. 1777.

“(L) with regard to the provision of services, will be designed in consultation with each area agency on aging located in the geographic area to be served by such project with specific attention to State and area agency replication under section 307(f);

“(M) will demonstrate the ability of those who carry out such project to generate multidisciplinary working relationships with other groups in relevant fields, including the medical sciences, mental health, pharmacology, nursing, social work, health education, nutrition, and gerontology;

42 USC 3025.

“(N) will provide for coordination with the State agency designated under section 305(a)(1) and State health officials in the State in which such project is carried out; and

“(O) will implement health education and training activity in at least 10 separate sites.

“(2) The Secretary shall establish, issue, and amend such regulations as may be necessary to effectively carry out this title. Regulations.

“(c)(1) The Secretary shall pay not to exceed 90 percent of the cost of any project which is the subject of a contract entered into under subsection (b).

“(2) The remaining cost of such project shall be provided from non-Federal sources, in cash or in-kind. In determining the amount of the non-Federal share, the Secretary is authorized to attribute fair-market value to services and facilities contributed from non-Federal sources.

“(3) In considering grant or contract applications under this title, the Secretary shall—

“(A) give priority to grants and contracts smaller than \$150,000; and

“(B) to the extent practicable, ensure an equitable geographic distribution in the awarding of such grants or contracts, including an appropriate consideration of both urban and rural needs.

“(d)(1) The Secretary shall prepare and submit to the Congress, not later than October 1, 1985, an interim report describing the projects approved under subsection (b) and a design for the evaluation of such projects. Report.

“(2) Not later than October 1, 1986, the Secretary shall prepare and disseminate, through the Commissioner, to State agencies on aging information and materials relating to projects conducted under this title, including uniform, standardized components of a program of health and nutrition education.

“(3) The Secretary shall prepare and submit to the President and the Congress a final report on the projects approved under subsection (b) not later than February 1, 1987, along with such findings and recommendations as the Secretary deems appropriate. Report.

“ADMINISTRATION

“SEC. 705. (a) In carrying out this title, the Secretary is authorized to use, with their consent, the services, equipment, personnel, and facilities of Federal and other agencies with or without reimbursement, and to cooperate on a similar basis with other public and private agencies and instrumentalities in the use of services, equipment, and facilities. 42 USC 3058c.

“(b) Payments under this title may be made in advance or by way of reimbursement, and in such installments as the Secretary may determine.

“(c) Except as provided in section 704(d), the Secretary shall not delegate any function of the Secretary under this title to any other department or agency of the United States. Prohibition. Ante, p. 1790.

“AUTHORIZATION OF APPROPRIATIONS

“SEC. 706. (a) There are authorized to be appropriated to carry out this title \$8,550,000 for fiscal year 1985 and such sums as may be necessary for fiscal years 1986 and 1987. 42 USC 3058d.

“(b) Amounts appropriated under this section for any fiscal year shall remain available for obligation until expended.”.

TITLE VIII—AMENDMENTS TO OTHER LAWS; EFFECTIVE DATES

RELATED AND CONFORMING AMENDMENTS

SEC. 801. (a) Section 14(c) of the National School Lunch Act (42 U.S.C. 1762a(c)) is amended by striking out “section 311(c)(1) of such Act (42 U.S.C. 3030(c)(1))” and inserting in lieu thereof “section 311(b)(1) of such Act (42 U.S.C. 3030(b)(1))”.

(b) Section 501(b) of the Comprehensive Older Americans Act Amendments of 1978 (42 U.S.C. 3045 note) is amended by inserting after the first sentence the following: “Such process shall include evaluation of each bidder’s experience in providing services to older individuals.”.

AMENDMENTS TO THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967

Corporations.
Employment
and
unemployment.
29 USC 630.

SEC. 802. (a) Section 11(f) of the Age Discrimination in Employment Act of 1967 is amended by adding at the end thereof the following new sentence: “The term ‘employee’ includes any individual who is a citizen of the United States employed by an employer in a workplace in a foreign country.”.

29 USC 623.

(b)(1) Section 4(f)(1) of the Age Discrimination in Employment Act of 1967 is amended by inserting before the semicolon a comma and the following: “or where such practices involve an employee in a workplace in a foreign country, and compliance with such subsections would cause such employer, or a corporation controlled by such employer, to violate the laws of the country in which such workplace is located”.

(2) Section 4 of the Age Discrimination in Employment Act of 1967 is amended by adding at the end thereof the following new subsection:

“(g)(1) If an employer controls a corporation whose place of incorporation is in a foreign country, any practice by such corporation prohibited under this section shall be presumed to be such practice by such employer.

“(2) The prohibitions of this section shall not apply where the employer is a foreign person not controlled by an American employer.

“(3) For the purpose of this subsection the determination of whether an employer controls a corporation shall be based upon the—

“(A) interrelation of operations,

“(B) common management,

“(C) centralized control of labor relations, and

“(D) common ownership or financial control,

of the employer and the corporation.”.

29 USC 631.

(c)(1) Section 12(c)(1) of the Age Discrimination in Employment Act of 1967 is amended by striking out “\$27,000” and inserting in lieu thereof “\$44,000”.

Retirement.
29 USC 631 note.

(2) The amendment made by paragraph (1) of this subsection shall not apply with respect to any individual who retires, or is compelled to retire, before the date of the enactment of this Act.

EFFECTIVE DATES

SEC. 803. (a) Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act. 42 USC 3001 note.

(b)(1) The amendment made by section 206(a) shall take effect 60 days after the date of the enactment of this Act. *Ante*, p. 1770.

(2) The amendment made by section 206(d) shall take effect on the first day of the first fiscal year beginning after the date of the enactment of this Act.

(3) The amendment made by section 411(b) shall not apply with respect to any grant or payment made before the date of the enactment of this Act. *Ante*, p. 1781.

(4) The amendment made by section 701 shall take effect on October 1, 1984. *Ante*, p. 1788.

Approved October 9, 1984.

LEGISLATIVE HISTORY—S. 2603 (H.R. 4785):

HOUSE REPORTS: No. 98-737 accompanying H.R. 4785 (Comm. on Education and Labor) and No. 98-1037 (Comm. of Conference).

SENATE REPORT No. 98-467 (Comm. on Labor and Human Resources).

CONGRESSIONAL RECORD, Vol. 130 (1984):

May 24, considered and passed Senate.

Aug. 6, 8, H.R. 4785 considered and passed House; S. 2603 amended, passed in lieu.

Sept. 26, Senate and House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 41 (1984):

Oct. 9, Presidential statement.

Public Law 98-460
98th Congress

An Act

Oct. 9, 1984

[H.R. 3755]

To amend titles II and XVI of the Social Security Act to provide for reform in the disability determination process.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Social Security
Disability
Benefits
Reform Act of
1984.
42 USC 1305
note.

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "Social Security Disability Benefits Reform Act of 1984".

TABLE OF CONTENTS

- Sec. 1. Short title and table of contents.
- Sec. 2. Standard of review for termination of disability benefits and periods of disability.
- Sec. 3. Evaluation of pain.
- Sec. 4. Multiple impairments.
- Sec. 5. Moratorium on mental impairment reviews.
- Sec. 6. Notice of reconsideration; prereview notice; demonstration projects.
- Sec. 7. Continuation of benefits during appeal.
- Sec. 8. Qualifications of medical professionals evaluating mental impairments.
- Sec. 9. Consultative examinations; medical evidence.
- Sec. 10. Uniform standards.
- Sec. 11. Payment of costs of rehabilitation services.
- Sec. 12. Advisory council study.
- Sec. 13. Qualifying experience for appointment of certain staff attorneys to administrative law judge positions.
- Sec. 14. Supplemental security income benefits for individuals who perform substantial gainful activity despite severe medical impairment.
- Sec. 15. Frequency of continuing eligibility reviews.
- Sec. 16. Determination and monitoring of need for representative payee.
- Sec. 17. Measures to improve compliance with Federal law.
- Sec. 18. Separability.

STANDARD OF REVIEW FOR TERMINATION OF DISABILITY BENEFITS AND PERIODS OF DISABILITY

SEC. 2. (a) Section 223(f) of the Social Security Act is amended to read as follows:

"Standard of Review for Termination of Disability Benefits

"(f) A recipient of benefits under this title or title XVIII based on the disability of any individual may be determined not to be entitled to such benefits on the basis of a finding that the physical or mental impairment on the basis of which such benefits are provided has ceased, does not exist, or is not disabling only if such finding is supported by—

"(1) substantial evidence which demonstrates that—

"(A) there has been any medical improvement in the individual's impairment or combination of impairments (other than medical improvement which is not related to the individual's ability to work), and

97 Stat. 134.
42 USC 423.

42 USC 1395.

“(B)(i) the individual is now able to engage in substantial gainful activity, or

“(ii) if the individual is a widow or surviving divorced wife under section 202(e) or a widower or surviving divorced husband under section 202(f), the severity of his or her impairment or impairments is no longer deemed, under regulations prescribed by the Secretary, sufficient to preclude the individual from engaging in gainful activity; or
“(2) substantial evidence which—

“(A) consists of new medical evidence and (in a case to which clause (ii)(II) does not apply) a new assessment of the individual’s residual functional capacity, and demonstrates that—

“(i) although the individual has not improved medically, he or she is nonetheless a beneficiary of advances in medical or vocational therapy or technology (related to the individual’s ability to work), and

“(ii)(I) the individual is now able to engage in substantial gainful activity, or

“(II) if the individual is a widow or surviving divorced wife under section 202(e) or a widower or surviving divorced husband under section 202(f), the severity of his or her impairment or impairments is no longer deemed under regulations prescribed by the Secretary sufficient to preclude the individual from engaging in gainful activity, or

“(B) demonstrates that—

“(i) although the individual has not improved medically, he or she has undergone vocational therapy (related to the individual’s ability to work), and

“(ii) the requirements of subclause (I) or (II) of subparagraph (A)(ii) are met; or

“(3) substantial evidence which demonstrates that, as determined on the basis of new or improved diagnostic techniques or evaluations, the individual’s impairment or combination of impairments is not as disabling as it was considered to be at the time of the most recent prior decision that he or she was under a disability or continued to be under a disability, and that therefore—

“(A) the individual is able to engage in substantial gainful activity, or

“(B) if the individual is a widow or surviving divorced wife under section 202(e) or a widower or surviving divorced husband under section 202(f), the severity of his or her impairment or impairments is not deemed under regulations prescribed by the Secretary sufficient to preclude the individual from engaging in gainful activity; or

“(4) substantial evidence (which may be evidence on the record at the time any prior determination of the entitlement to benefits based on disability was made, or newly obtained evidence which relates to that determination) which demonstrates that a prior determination was in error.

Nothing in this subsection shall be construed to require a determination that a recipient of benefits under this title or title XVIII based on an individual’s disability is entitled to such benefits if the prior determination was fraudulently obtained or if the individual is engaged in substantial gainful activity (or gainful activity in the

42 USC 402.

42 USC 1395.

case of a widow, surviving divorced wife, widower, or surviving divorced husband), cannot be located, or fails, without good cause, to cooperate in a review of the entitlement to such benefits or to follow prescribed treatment which would be expected to restore his or her ability to engage in substantial gainful activity (or gainful activity in the case of a widow, surviving divorced wife, widower, or surviving divorced husband). Any determination under this section shall be made on the basis of all the evidence available in the individual's case file, including new evidence concerning the individual's prior or current condition which is presented by the individual or secured by the Secretary. Any determination made under this section shall be made on the basis of the weight of the evidence and on a neutral basis with regard to the individual's condition, without any initial inference as to the presence or absence of disability being drawn from the fact that the individual has previously been determined to be disabled. For purposes of this subsection, a benefit under this title is based on an individual's disability if it is a disability insurance benefit, a child's, widow's, or widower's insurance benefit based on disability, or a mother's or father's insurance benefit based on the disability of the mother's or father's child who has attained age 16."

42 USC 416.
Ante, p. 1794.

42 USC 1395.

(b) Section 216(i)(2)(D) of such Act is amended by adding at the end thereof the following: "The provisions set forth in section 223(f) with respect to determinations of whether entitlement to benefits under this title or title XVIII based on the disability of any individual is terminated (on the basis of a finding that the physical or mental impairment on the basis of which such benefits are provided has ceased, does not exist, or is not disabling) shall apply in the same manner and to the same extent with respect to determinations of whether a period of disability has ended (on the basis of a finding that the physical or mental impairment on the basis of which the finding of disability was made has ceased, does not exist, or is not disabling)."

42 USC 1382c.

(c) Section 1614(a) of such Act is amended by adding at the end thereof the following new paragraph:

"(5) A recipient of benefits based on disability under this title may be determined not to be entitled to such benefits on the basis of a finding that the physical or mental impairment on the basis of which such benefits are provided has ceased, does not exist, or is not disabling only if such finding is supported by—

"(A) substantial evidence which demonstrates that—

"(i) there has been any medical improvement in the individual's impairment or combination of impairments (other than medical improvement which is not related to the individual's ability to work), and

"(ii) the individual is now able to engage in substantial gainful activity; or

42 USC 1382h.

"(B) substantial evidence (except in the case of an individual eligible to receive benefits under section 1619) which—

"(i) consists of new medical evidence and a new assessment of the individual's residual functional capacity, and demonstrates that—

"(I) although the individual has not improved medically, he or she is nonetheless a beneficiary of advances in medical or vocational therapy or technology (related to the individual's ability to work), and

"(II) the individual is now able to engage in substantial gainful activity, or

“(ii) demonstrates that—

“(I) although the individual has not improved medically, he or she has undergone vocational therapy (related to the individual’s ability to work), and

“(II) the individual is now able to engage in substantial gainful activity; or

“(C) substantial evidence which demonstrates that, as determined on the basis of new or improved diagnostic techniques or evaluations, the individual’s impairment or combination of impairments is not as disabling as it was considered to be at the time of the most recent prior decision that he or she was under a disability or continued to be under a disability, and that therefore the individual is able to engage in substantial gainful activity; or

“(D) substantial evidence (which may be evidence on the record at the time any prior determination of the entitlement to benefits based on disability was made, or newly obtained evidence which relates to that determination) which demonstrates that a prior determination was in error.

Nothing in this paragraph shall be construed to require a determination that an individual receiving benefits based on disability under this title is entitled to such benefits if the prior determination was fraudulently obtained or if the individual is engaged in substantial gainful activity, cannot be located, or fails, without good cause, to cooperate in a review of his or her entitlement or to follow prescribed treatment which would be expected to restore his or her ability to engage in substantial gainful activity. Any determination under this paragraph shall be made on the basis of all the evidence available in the individual’s case file, including new evidence concerning the individual’s prior or current condition which is presented by the individual or secured by the Secretary. Any determination made under this paragraph shall be made on the basis of the weight of the evidence and on a neutral basis with regard to the individual’s condition, without any initial inference as to the presence or absence of disability being drawn from the fact that the individual has previously been determined to be disabled.”

(d)(1) The amendments made by this section shall apply only as provided in this subsection.

Effective date.
42 USC 423 note

(2) The amendments made by this section shall apply to—

(A) determinations made by the Secretary on or after the date of the enactment of this Act;

(B) determinations with respect to which a final decision of the Secretary has not yet been made as of the date of the enactment of this Act and with respect to which a request for administrative review is made in conformity with the time limits, exhaustion requirements, and other provisions of section 205 of the Social Security Act and regulations of the Secretary;

42 USC 405.

(C) determinations with respect to which a request for judicial review was pending on September 19, 1984, and which involve an individual litigant or a member of a class in a class action who is identified by name in such pending action on such date; and

(D) determinations with respect to which a timely request for judicial review is or has been made by an individual litigant of a final decision of the Secretary made within 60 days prior to the date of the enactment of this Act.

In the case of determinations described in subparagraphs (C) and (D) in actions relating to medical improvement, the court shall remand such cases to the Secretary for review in accordance with the provisions of the Social Security Act as amended by this section.

(3) In the case of a recipient of benefits under title II, XVI, or XVIII of the Social Security Act—

(A) who has been determined not to be entitled to such benefits on the basis of a finding that the physical or mental impairment on the basis of which such benefits were provided has ceased, does not exist, or is not disabling, and

(B) who was a member of a class certified on or before September 19, 1984, in a class action relating to medical improvement pending on September 19, 1984, but was not identified by name as a member of the class on such date,

the court shall remand such case to the Secretary. The Secretary shall notify such individual by certified mail that he may request a review of the determination described in subparagraph (A) based on the provisions of this section and the provisions of the Social Security Act as amended by this section. Such notification shall specify that the individual must request such review within 120 days after the date on which such notification is received. If such request is made in a timely manner, the Secretary shall make a review of the determination described in subparagraph (A) in accordance with the provisions of this section and the provisions of the Social Security Act as amended by this section. The amendments made by this section shall apply with respect to such review, and the determination described in subparagraph (A) (and any redetermination resulting from such review) shall be subject to further administrative and judicial review, only if such request is made in a timely manner.

(4) The decision by the Secretary on a case remanded by a court pursuant to this subsection shall be regarded as a new decision on the individual's claim for benefits, which supersedes the final decision of the Secretary. The new decision shall be subject to further administrative review and to judicial review only in conformity with the time limits, exhaustion requirements, and other provisions of section 205 of the Social Security Act and regulations issued by the Secretary in conformity with such section.

(5) No class in a class action relating to medical improvement may be certified after September 19, 1984, if the class action seeks judicial review of a decision terminating entitlement (or a period of disability) made by the Secretary of Health and Human Services prior to September 19, 1984.

(6) For purposes of this subsection, the term "action relating to medical improvement" means an action raising the issue of whether an individual who has had his entitlement to benefits under title II, XVI, or XVIII of the Social Security Act based on disability terminated (or period of disability ended) should not have had such entitlement terminated (or period of disability ended) without consideration of whether there has been medical improvement in the condition of such individual (or another individual on whose disability such entitlement is based) since the time of a prior determination that the individual was under a disability.

(e) Any individual whose case is remanded to the Secretary pursuant to subsection (d) or whose request for a review is made in a timely manner pursuant to subsection (d), may elect, in accordance with section 223(g) or 1631(a)(7) of the Social Security Act, to have payments made beginning with the month in which he makes such

42 USC 401,
1381, 1395.

42 USC 1305.

42 USC 405.

42 USC 423 note.

42 USC 423.
Post, p. 1803.

election, and ending as under such section 223(g) or 1631(a)(7). Notwithstanding such section 223(g) or 1631(a)(7), such payments (if elected)—

42 USC 423.
Post, p. 1803.

(1) shall be made at least until an initial redetermination is made by the Secretary; and

(2) shall begin with the payment for the month in which such individual makes such election.

(f) In the case of any individual who is found to be under a disability after a review required under this section, such individual shall be entitled to retroactive benefits beginning with benefits payable for the first month to which the most recent termination of benefits applied.

42 USC 423 note.

(g) The Secretary of Health and Human Services shall prescribe regulations necessary to implement the amendments made by this section not later than 180 days after the date of the enactment of this Act.

Regulations.
42 USC 423 note.

EVALUATION OF PAIN

SEC. 3. (a)(1) Section 223(d)(5) of the Social Security Act is amended by inserting after the first sentence the following new sentences: "An individual's statement as to pain or other symptoms shall not alone be conclusive evidence of disability as defined in this section; there must be medical signs and findings, established by medically acceptable clinical or laboratory diagnostic techniques, which show the existence of a medical impairment that results from anatomical, physiological, or psychological abnormalities which could reasonably be expected to produce the pain or other symptoms alleged and which, when considered with all evidence required to be furnished under this paragraph (including statements of the individual or his physician as to the intensity and persistence of such pain or other symptoms which may reasonably be accepted as consistent with the medical signs and findings), would lead to a conclusion that the individual is under a disability. Objective medical evidence of pain or other symptoms established by medically acceptable clinical or laboratory techniques (for example, deteriorating nerve or muscle tissue) must be considered in reaching a conclusion as to whether the individual is under a disability."

42 USC 423.

(2) Section 1614(a)(3)(H) of such Act (as added by section 8 of this Act) is amended by striking out "section 221(h)" and inserting in lieu thereof "sections 221(h) and 223(d)(5)".

Post, p. 1804.

(3) The amendments made by paragraphs (1) and (2) shall apply to determinations made prior to January 1, 1987.

Effective date.
42 USC 423 note.

(b)(1) The Secretary of Health and Human Services shall appoint a Commission on the Evaluation of Pain (hereafter in this section referred to as the "Commission") to conduct a study concerning the evaluation of pain in determining under titles II and XVI of the Social Security Act whether an individual is under a disability. Such study shall be conducted in consultation with the National Academy of Sciences.

Commission on the Evaluation of Pain.
42 USC 423 note.

(2) The Commission shall consist of at least twelve experts, including a significant representation from the field of medicine who are involved in the study of pain, and representation from the fields of law, administration of disability insurance programs, and other appropriate fields of expertise.

42 USC 401,
1381.

(3) The Commission shall be appointed by the Secretary of Health and Human Services (without regard to the requirements of the Federal Advisory Committee Act) within 60 days after the date of

5 USC app.

the enactment of this Act. The Secretary shall from time to time appoint one of the members to serve as Chairman. The Commission shall meet as often as the Secretary deems necessary.

(4) Members of the Commission shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Members who are not employees of the United States, while attending meetings of the Commission or otherwise serving on the business of the Commission, shall be paid at a rate equal to the per diem equivalent of the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day, including traveltime, during which they are engaged in the actual performance of duties vested in the Commission. While engaged in the performance of such duties away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(5) The Commission may engage such technical assistance from individuals skilled in medical and other aspects of pain as may be necessary to carry out its functions. The Secretary shall make available to the Commission such secretarial, clerical, and other assistance and any pertinent data prepared by the Department of Health and Human Services as the Commission may require to carry out its functions.

(6) The Secretary shall submit the results of the study under paragraph (1), together with any recommendations, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than December 31, 1985. The Commission shall terminate at the time such results are submitted.

Termination
date.

MULTIPLE IMPAIRMENTS

42 USC 423.

SEC. 4. (a)(1) Section 223(d)(2) of the Social Security Act is amended by adding at the end thereof the following new subparagraph:

“(C) In determining whether an individual’s physical or mental impairment or impairments are of a sufficient medical severity that such impairment or impairments could be the basis of eligibility under this section, the Secretary shall consider the combined effect of all of the individual’s impairments without regard to whether any such impairment, if considered separately, would be of such severity. If the Secretary does find a medically severe combination of impairments, the combined impact of the impairments shall be considered throughout the disability determination process.”

42 USC 416.

(2) The third sentence of section 216(i)(1) of such Act is amended by inserting “(2)(C),” after “(2)(A),”.

42 USC 1382c.

(b) Section 1614(a)(3) of such Act is amended by adding at the end thereof the following new subparagraph:

“(G) In determining whether an individual’s physical or mental impairment or impairments are of a sufficient medical severity that such impairment or impairments could be the basis of eligibility under this section, the Secretary shall consider the combined effect of all of the individual’s impairments without regard to whether any such impairment, if considered separately, would be of such severity. If the Secretary does find a medically severe combination of impairments, the combined impact of the impairments shall be considered throughout the disability determination process.”

(c) The amendments made by this section shall apply with respect to determinations made on or after the first day of the first month beginning after 30 days after the date of the enactment of this Act.

Effective date.
42 USC 423 note.

MORATORIUM ON MENTAL IMPAIRMENT REVIEWS

SEC. 5. (a) The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall revise the criteria embodied under the category "Mental Disorders" in the "Listing of Impairments" in effect on the date of the enactment of this Act under appendix 1 to subpart P of part 404 of title 20 of the Code of Federal Regulations. The revised criteria and listings, alone and in combination with assessments of the residual functional capacity of the individuals involved, shall be designed to realistically evaluate the ability of a mentally impaired individual to engage in substantial gainful activity in a competitive workplace environment. Regulations establishing such revised criteria and listings shall be published no later than 120 days after the date of the enactment of this Act.

42 USC 421 note.

Regulations.

(b)(1) Until such time as revised criteria have been established by regulation in accordance with subsection (a), no continuing eligibility review shall be carried out under section 221(i) of the Social Security Act, or under the corresponding requirements established for disability determinations and reviews under title XVI of such Act, with respect to any individual previously determined to be under a disability by reason of a mental impairment, if—

42 USC 421.

42 USC 1381.

(A) no initial decision on such review has been rendered with respect to such individual prior to the date of the enactment of this Act, or

(B) an initial decision on such review was rendered with respect to such individual prior to the date of the enactment of this Act but a timely appeal from such decision was filed or was pending on or after June 7, 1983.

For purposes of this paragraph and subsection (c)(1) the term "continuing eligibility review", when used to refer to a review of a previous determination of disability, includes any reconsideration of or hearing on the initial decision rendered in such review as well as such initial decision itself, and any review by the Appeals Council of the hearing decision.

(2) Paragraph (1) shall not apply in any case where the Secretary determines that fraud was involved in the prior determination, or where an individual (other than an individual eligible to receive benefits under section 1619 of the Social Security Act) is determined by the Secretary to be engaged in substantial gainful activity (or gainful activity, in the case of a widow, surviving divorced wife, widower, or surviving divorced husband for purposes of section 202 (e) and (f) of such Act).

42 USC 1382h.

42 USC 402.

(c)(1) Any initial determination that an individual is not under a disability by reason of a mental impairment and any determination that an individual is not under a disability by reason of a mental impairment in a reconsideration of or hearing on an initial disability determination, made or held under title II or XVI of the Social Security Act after the date of the enactment of this Act and prior to the date on which revised criteria are established by regulation in accordance with subsection (a), and any determination that an individual is not under a disability by reason of a mental impairment made under or in accordance with title II or XVI of such Act

42 USC 401,
1381.

in a reconsideration of, hearing on, review by the Appeals Council of, or judicial review of a decision rendered in any continuing eligibility review to which subsection (b)(1) applies, shall be redetermined by the Secretary as soon as feasible after the date on which such criteria are so established, applying such revised criteria.

(2) In the case of a redetermination under paragraph (1) of a prior action which found that an individual was not under a disability, if such individual is found on redetermination to be under a disability, such redetermination shall be applied as though it had been made at the time of such prior action.

Claims.

(3) Any individual with a mental impairment who was found to be not disabled pursuant to an initial disability determination or a continuing eligibility review between March 1, 1981, and the date of the enactment of this Act, and who reapplies for benefits under title II or XVI of the Social Security Act, may be determined to be under a disability during the period considered in the most recent prior determination. Any reapplication under this paragraph must be filed within one year after the date of the enactment of this Act, and benefits payable as a result of the preceding sentence shall be paid only on the basis of the reapplication.

42 USC 401,
1381.

NOTICE OF RECONSIDERATION; PREREVIEW NOTICE; DEMONSTRATION PROJECTS

42 USC 421.

SEC. 6. (a) Section 221(i) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

“(4) In any case in which the Secretary initiates a review under this subsection of the case of an individual who has been determined to be under a disability, the Secretary shall notify such individual of the nature of the review to be carried out, the possibility that such review could result in the termination of benefits, and the right of the individual to provide medical evidence with respect to such review.”

42 USC 1383b.

(b) Section 1633 of such Act is amended by adding at the end thereof the following new subsection:

“(c) In any case in which the Secretary initiates a review under this title, similar to the continuing disability reviews authorized for purposes of title II under section 221(i), the Secretary shall notify the individual whose case is to be reviewed in the same manner as required under section 221(i)(4).”

42 USC 401.

Supra.

42 USC 421 note.

(c) The Secretary shall institute a system of notification required by the amendments made by subsections (a) and (b) as soon as is practicable after the date of the enactment of this Act.

42 USC 421 note.

(d) The Secretary of Health and Human Services shall, as soon as practicable after the date of the enactment of this Act, implement demonstration projects in which the opportunity for a personal appearance prior to a determination of ineligibility for persons reviewed under section 221(i) of the Social Security Act is substituted for the face to face evidentiary hearing required by section 205(b)(2) of such Act. Such demonstration projects shall be conducted in not fewer than five States, and shall also include disability determinations with respect to individuals reviewed under title XVI of such Act. The Secretary shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate concerning such demonstration projects, together with any recommendations, not later than December 31, 1986.

42 USC 405.

42 USC 1381.
Report.

(e) The Secretary of Health and Human Services shall, as soon as practicable after the date of the enactment of this Act, implement demonstration projects in which the opportunity for a personal appearance is provided the applicant prior to initial disability determinations under subsections (a), (c), and (g) of section 221 of the Social Security Act, and prior to initial disability determinations on applications for benefits under title XVI of such Act. Such demonstration projects shall be conducted in not fewer than five States. The Secretary shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate concerning such demonstration projects, together with any recommendations, not later than December 31, 1986.

42 USC 421 note.

42 USC 421.

42 USC 1381.

Report.

CONTINUATION OF BENEFITS DURING APPEAL

SEC. 7. (a)(1) Section 223(g)(1) of the Social Security Act is amended—

42 USC 423.

(A) in the matter following subparagraph (C), by striking out “and the payment of any other benefits under this Act based on such individual’s wages and self-employment income (including benefits under title XVIII),” and inserting in lieu thereof “, the payment of any other benefits under this title based on such individual’s wages and self-employment income, the payment of mother’s or father’s insurance benefits to such individual’s mother or father based on the disability of such individual as a child who has attained age 16, and the payment of benefits under title XVIII based on such individual’s disability,”; and

42 USC 1395.

(B) in clause (iii) by striking out “June 1984” and inserting in lieu thereof “June 1988”.

(2) Section 223(g)(3)(B) of such Act is amended by striking out “December 7, 1983” and inserting in lieu thereof “January 1, 1988”.

97 Stat. 803.

42 USC 423.

(b) Section 1631(a) of such Act is amended by adding at the end thereof the following new paragraph:

42 USC 1383.

“(7)(A) In any case where—

“(i) an individual is a recipient of benefits based on disability or blindness under this title,

“(ii) the physical or mental impairment on the basis of which such benefits are payable is found to have ceased, not to have existed, or to no longer be disabling, and as a consequence such individual is determined not to be entitled to such benefits, and

“(iii) a timely request for review or for a hearing is pending with respect to the determination that he is not so entitled, such individual may elect (in such manner and form and within such time as the Secretary shall by regulations prescribe) to have the payment of such benefits continued for an additional period beginning with the first month beginning after the date of the enactment of this paragraph for which (under such determination) such benefits are no longer otherwise payable, and ending with the earlier of (I) the month preceding the month in which a decision is made after such a hearing, or (II) the month preceding the month in which no such request for review or a hearing is pending.

“(B)(i) If an individual elects to have the payment of his benefits continued for an additional period under subparagraph (A), and the final decision of the Secretary affirms the determination that he is not entitled to such benefits, any benefits paid under this title pursuant to such election (for months in such additional period)

shall be considered overpayments for all purposes of this title, except as otherwise provided in clause (ii).

"(ii) If the Secretary determines that the individual's appeal of his termination of benefits was made in good faith, all of the benefits paid pursuant to such individual's election under subparagraph (A) shall be subject to waiver consideration under the provisions of subsection (b)(1).

"(C) The provisions of subparagraphs (A) and (B) shall apply with respect to determinations (that individuals are not entitled to benefits) which are made on or after the date of the enactment of this paragraph, or prior to such date but only on the basis of a timely request for review or for a hearing."

Study.

42 USC 423 note.

42 USC 423.

(c)(1) The Secretary of Health and Human Services shall, as soon as practicable after the date of the enactment of this Act, conduct a study concerning the effect which the enactment and continued operation of section 223(g) of the Social Security Act is having on expenditures from the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, the Federal Hospital Insurance Trust Fund, and the Federal Supplementary Medical Insurance Trust Fund, and the rate of appeals to administrative law judges of unfavorable determinations relating to disability or periods of disability.

(2) The Secretary shall submit the results of the study under paragraph (1), together with any recommendations, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than July 1, 1986.

QUALIFICATIONS OF MEDICAL PROFESSIONALS EVALUATING MENTAL IMPAIRMENTS

42 USC 421.

SEC. 8. (a) Section 221 of the Social Security Act is amended by inserting after subsection (g) the following new subsection:

"(h) An initial determination under subsection (a), (c), (g), or (i) that an individual is not under a disability, in any case where there is evidence which indicates the existence of a mental impairment, shall be made only if the Secretary has made every reasonable effort to ensure that a qualified psychiatrist or psychologist has completed the medical portion of the case review and any applicable residual functional capacity assessment."

Ante, p. 1800.

(b) Section 1614(a)(3) of such Act (as amended by section 4 of this Act) is further amended by adding at the end thereof the following new subparagraph:

Supra.

42 USC 401.

Effective date.

42 USC 421 note.

"(H) In making determinations with respect to disability under this title, the provisions of section 221(h) shall apply in the same manner as they apply to determinations of disability under title II."

(c) The amendments made by this section shall apply to determinations made after 60 days after the date of the enactment of this Act.

CONSULTATIVE EXAMINATIONS; MEDICAL EVIDENCE

42 USC 421.

SEC. 9. (a)(1) Section 221 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(j) The Secretary shall prescribe regulations which set forth, in detail—

"(1) the standards to be utilized by State disability determination services and Federal personnel in determining when a

consultative examination should be obtained in connection with disability determinations;

“(2) standards for the type of referral to be made; and

“(3) procedures by which the Secretary will monitor both the referral processes used and the product of professionals to whom cases are referred.

Nothing in this subsection shall be construed to preclude the issuance, in accordance with section 553(b)(A) of title 5, United States Code, of interpretive rules, general statements of policy, and rules of agency organization relating to consultative examinations if such rules and statements are consistent with such regulations.”.

(2) The Secretary of Health and Human Services shall prescribe regulations required under section 221(j) of the Social Security Act not later than 180 days after the date of the enactment of this Act.

Regulations.
42 USC 421 note.
Ante, p. 1804.

(b)(1) Section 223(d)(5) of the Social Security Act is amended by inserting “(A)” after “(5)” and by adding at the end thereof the following new subparagraph:

42 USC 423.

“(B) In making any determination with respect to whether an individual is under a disability or continues to be under a disability, the Secretary shall consider all evidence available in such individual’s case record, and shall develop a complete medical history of at least the preceding twelve months for any case in which a determination is made that the individual is not under a disability. In making any determination the Secretary shall make every reasonable effort to obtain from the individual’s treating physician (or other treating health care provider) all medical evidence, including diagnostic tests, necessary in order to properly make such determination, prior to evaluating medical evidence obtained from any other source on a consultative basis.”.

(2) The amendments made by this subsection shall apply to determinations made on or after the date of the enactment of this Act.

Effective date.
42 USC 423 note.

UNIFORM STANDARDS

SEC. 10. (a) Section 221 of the Social Security Act (as amended by section 9 of this Act) is further amended by adding at the end thereof the following new subsection:

42 USC 421.

“(k)(1) The Secretary shall establish by regulation uniform standards which shall be applied at all levels of determination, review, and adjudication in determining whether individuals are under disabilities as defined in section 216(i) or 223(d).

42 USC 416, 423.

“(2) Regulations promulgated under paragraph (1) shall be subject to the rulemaking procedures established under section 553 of title 5, United States Code.”.

(b) Section 1614(a)(3)(H) of such Act (as added by section 8 of this Act and amended by section 3 of this Act) is further amended by striking out “sections 221(h) and 223(d)(5)” and inserting in lieu thereof “sections 221(h), 221(k), and 223(d)(5)”.

Ante, p. 1804.

PAYMENT OF COSTS OF REHABILITATION SERVICES

SEC. 11. (a)(1) The first sentence of section 222(d)(1) of the Social Security Act is amended—

42 USC 422.

(A) by striking out “into substantial gainful activity”; and

(B) by striking out “which result in their performance of substantial gainful activity which lasts for a continuous period of nine months” and inserting in lieu thereof the following: “(i)

42 USC 425.

in cases where the furnishing of such services results in the performance by such individuals of substantial gainful activity for a continuous period of nine months, (ii) in cases where such individuals receive benefits as a result of section 225(b) (except that no reimbursement under this paragraph shall be made for services furnished to any individual receiving such benefits for any period after the close of such individual's ninth consecutive month of substantial gainful activity or the close of the month in which his or her entitlement to such benefits ceases, whichever first occurs), and (iii) in cases where such individuals, without good cause, refuse to continue to accept vocational rehabilitation services or fail to cooperate in such a manner as to preclude their successful rehabilitation".

Ante, p. 1805.

(2) The second sentence of section 222(d)(1) of such Act is amended by striking out "of such individuals to substantial gainful activity" and inserting in lieu thereof "of an individual to substantial gainful activity, the determination that an individual, without good cause, refused to continue to accept vocational rehabilitation services or failed to cooperate in such a manner as to preclude successful rehabilitation,".

42 USC 1382d.

(b)(1) The first sentence of section 1615(d) of such Act is amended by striking out "if such services result in their performance of substantial gainful activity which lasts for a continuous period of nine months" and inserting in lieu thereof the following: "(1) in cases where the furnishing of such services results in the performance by such individuals of substantial gainful activity for a continuous period of nine months, (2) in cases where such individuals receive benefits as a result of section 1631(a)(6) (except that no reimbursement under this subsection shall be made for services furnished to any individual receiving such benefits for any period after the close of such individual's ninth consecutive month of substantial gainful activity or the close of the month with which his or her entitlement to such benefits ceases, whichever first occurs), and (3) in cases where such individuals, without good cause, refuse to continue to accept vocational rehabilitation services or fail to cooperate in such a manner as to preclude their successful rehabilitation".

42 USC 1383.

(2) The second sentence of section 1615(d) of such Act is amended by inserting after "The determination" the following: "that the vocational rehabilitation services contributed to the successful return of an individual to substantial gainful activity, the determination that an individual, without good cause, refused to continue to accept vocational rehabilitation services or failed to cooperate in such a manner as to preclude successful rehabilitation, and the determination".

Effective date.

42 USC 422 note.

(c) The amendments made by this section shall apply with respect to individuals who receive benefits as a result of section 225(b) or section 1631(a)(6) of the Social Security Act, or who refuse to continue to accept rehabilitation services or fail to cooperate in an approved vocational rehabilitation program, in or after the first month following the month in which this Act is enacted.

ADVISORY COUNCIL STUDY

42 USC 907 note.

SEC. 12. (a) The Secretary of Health and Human Services shall appoint the members of the next Advisory Council on Social

Security pursuant to section 706 of the Social Security Act prior to June 1, 1985. 42 USC 907.

(b)(1) The Advisory Council shall include in its review and report, studies and recommendations with respect to the medical and vocational aspects of disability, including studies and recommendations relating to— Report.

(A) the effectiveness of vocational rehabilitation programs for recipients of disability insurance benefits or supplemental security income benefits;

(B) the question of using specialists for completing medical and vocational evaluations at the State agency level in the disability determination process, including the question of requiring, in cases involving impairments other than mental impairments, that the medical portion of each case review (as well as any applicable assessment of residual functional capacity) be completed by an appropriate medical specialist employed by the State agency before any determination can be made with respect to the impairment involved;

(C) alternative approaches to work evaluation in the case of applicants for benefits based on disability under title XVI and recipients of such benefits undergoing reviews of their cases, including immediate referral of any such applicant or recipient to a vocational rehabilitation agency for services at the same time he or she is referred to the appropriate State agency for a disability determination; 42 USC 1381

(D) the feasibility and appropriateness of providing work evaluation stipends for applicants for and recipients of benefits based on disability under title XVI in cases where extended work evaluation is needed prior to the final determination of their eligibility for such benefits or for further rehabilitation and related services;

(E) the standards, policies, and procedures which are applied or used by the Secretary of Health and Human Services with respect to work evaluations in order to determine whether such standards, policies, and procedures will provide appropriate screening criteria for work evaluation referrals in the case of applicants for and recipients of benefits based on disability under title XVI; and

(F) possible criteria for assessing the probability that an applicant for or recipient of benefits based on disability under title XVI will benefit from rehabilitation services, taking into consideration not only whether the individual involved will be able after rehabilitation to engage in substantial gainful activity but also whether rehabilitation services can reasonably be expected to improve the individual's functioning so that he or she will be able to live independently or work in a sheltered environment.

(2) For purposes of this subsection, "work evaluation" includes (with respect to any individual) a determination of—

(A) such individual's skills,

(B) the work activities or types of work activity for which such individual's skills are insufficient or inadequate,

(C) the work activities or types of work activity for which such individual might potentially be trained or rehabilitated,

(D) the length of time for which such individual is capable of sustaining work (including, in the case of the mentally

impaired, the ability to cope with the stress of competitive work), and

(E) any modifications which may be necessary, in work activities for which such individual might be trained or rehabilitated, in order to enable him or her to perform such activities.

(c) The Advisory Council may convene task forces of experts to consider and comment upon specialized issues.

**QUALIFYING EXPERIENCE FOR APPOINTMENT OF CERTAIN STAFF
ATTORNEYS TO ADMINISTRATIVE LAW JUDGE POSITIONS**

Report.

SEC. 13. The Secretary of Health and Human Services shall, within 120 days after the date of enactment of this Act, submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on actions taken by the Secretary to establish positions which enable staff attorneys to gain the qualifying experience and quality of experience necessary to compete for the position of administrative law judge under section 3105 of title 5, United States Code.

**SUPPLEMENTAL SECURITY INCOME BENEFITS FOR INDIVIDUALS WHO
PERFORM SUBSTANTIAL GAINFUL ACTIVITY DESPITE SEVERE MEDICAL
IMPAIRMENT**

42 USC 1382h
note.

SEC. 14. (a) Section 201(d) of the Social Security Disability Amendments of 1980 is amended by striking out "shall remain in effect only for a period of three years after such effective date" and inserting in lieu thereof "shall remain in effect only through June 30, 1987".

42 USC 1382h.

(b) Section 1619 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(c) The Secretary of Health and Human Services and the Secretary of Education shall jointly develop and disseminate information, and establish training programs for staff personnel, with respect to the potential availability of benefits and services for disabled individuals under the provisions of this section. The Secretary of Health and Human Services shall provide such information to individuals who are applicants for and recipients of benefits based on disability under this title and shall conduct such programs for the staffs of the district offices of the Social Security Administration. The Secretary of Education shall conduct such programs for the staffs of the State Vocational Rehabilitation agencies, and in cooperation with such agencies shall also provide such information to other appropriate individuals and to public and private organizations and agencies which are concerned with rehabilitation and social services or which represent the disabled."

FREQUENCY OF CONTINUING ELIGIBILITY REVIEWS

Regulations.
42 USC 421 note.

SEC. 15. The Secretary of Health and Human Services shall promulgate final regulations, within 180 days after the date of the enactment of this Act, which establish the standards to be used by the Secretary in determining the frequency of reviews under section 221(i) of the Social Security Act. Until such regulations have been issued as final regulations, no individual may be reviewed more than once under section 221(i) of the Social Security Act.

42 USC 421.

DETERMINATION AND MONITORING OF NEED FOR REPRESENTATIVE
PAYEE

SEC. 16. (a) Section 205(j) of the Social Security Act is amended by inserting "(1)" after "(j)" and by adding at the end thereof the following new paragraphs: 42 USC 405.

"(2) Any certification made under paragraph (1) for payment to a person other than the individual entitled to such payment must be made on the basis of an investigation, carried out either prior to such certification or within forty-five days after such certification, and on the basis of adequate evidence that such certification is in the interest of the individual entitled to such payment (as determined by the Secretary in regulations). The Secretary shall ensure that such certifications are adequately reviewed.

"(3)(A) In any case where payment under this title is made to a person other than the individual entitled to such payment, the Secretary shall establish a system of accountability monitoring whereby such person shall report not less often than annually with respect to the use of such payments. The Secretary shall establish and implement statistically valid procedures for reviewing such reports in order to identify instances in which such persons are not properly using such payments.

"(B) Subparagraph (A) shall not apply in any case where the other person to whom such payment is made is a parent or spouse of the individual entitled to such payment who lives in the same household as such individual. The Secretary shall require such parent or spouse to verify on a periodic basis that such parent or spouse continues to live in the same household as such individual.

"(C) Subparagraph (A) shall not apply in any case where the other person to whom such payment is made is a State institution. In such cases, the Secretary shall establish a system of accountability monitoring for institutions in each State.

"(D) Subparagraph (A) shall not apply in any case where the individual entitled to such payment is a resident of a Federal institution and the other person to whom such payment is made is the institution.

"(E) Notwithstanding subparagraphs (A), (B), (C), and (D), the Secretary may require a report at any time from any person receiving payments on behalf of another, if the Secretary has reason to believe that the person receiving such payments is misusing such payments.

"(4)(A) The Secretary shall make an initial report to each House of the Congress on the implementation of paragraphs (2) and (3) within 270 days after the date of the enactment of this paragraph. Report.

"(B) The Secretary shall include as a part of the annual report required under section 704, information with respect to the implementation of paragraphs (2) and (3), including the number of cases in which the payee was changed, the number of cases discovered where there has been a misuse of funds, how any such cases were dealt with by the Secretary, the final disposition of such cases, including any criminal penalties imposed, and such other information as the Secretary determines to be appropriate." 42 USC 904.

(b) Section 1631(a)(2) of such Act is amended by inserting "(A)" after "(2)" and by adding at the end thereof the following new subparagraphs: 42 USC 1383.

"(B) Any determination made under subparagraph (A) that payment should be made to a person other than the individual or spouse

entitled to such payment must be made on the basis of an investigation, carried out either prior to such determination or within forty-five days after such determination, and on the basis of adequate evidence that such determination is in the interest of the individual or spouse entitled to such payment (as determined by the Secretary in regulations). The Secretary shall ensure that such determinations are adequately reviewed.

“(C)(i) In any case where payment is made under this title to a person other than the individual or spouse entitled to such payment, the Secretary shall establish a system of accountability monitoring whereby such person shall report not less often than annually with respect to the use of such payments. The Secretary shall establish and implement statistically valid procedures for reviewing such reports in order to identify instances in which such persons are not properly using such payments.

“(ii) Clause (i) shall not apply in any case where the other person to whom such payment is made is a parent or spouse of the individual entitled to such payment who lives in the same household as such individual. The Secretary shall require such parent or spouse to verify on a periodic basis that such parent or spouse continues to live in the same household as such individual.

“(iii) Clause (i) shall not apply in any case where the other person to whom such payment is made is a State institution. In such cases, the Secretary shall establish a system of accountability monitoring for institutions in each State.

“(iv) Clause (i) shall not apply in any case where the individual entitled to such payment is a resident of a Federal institution and the other person to whom such payment is made is the institution.

“(v) Notwithstanding clauses (i), (ii), (iii), and (iv), the Secretary may require a report at any time from any person receiving payments on behalf of another, if the Secretary has reason to believe that the person receiving such payments is misusing such payments.

Report.

“(D) The Secretary shall make an initial report to each House of the Congress on the implementation of subparagraphs (B) and (C) within 270 days after the date of the enactment of this subparagraph. The Secretary shall include in the annual report required under section 704, information with respect to the implementation of subparagraphs (B) and (C), including the same factors as are required to be included in the Secretary’s report under section 205(j)(4)(B).”

42 USC 904.

Ante, p. 1809.

42 USC 1383a.

(c)(1) Section 1632 of the Social Security Act is amended by inserting “(a)” after “Sec. 1632.” and by adding at the end thereof the following new subsection:

42 USC 1383.

“(b)(1) Any person or other entity who is convicted of a violation of any of the provisions of paragraphs (1) through (4) of subsection (a), if such violation is committed by such person or entity in his role as, or in applying to become, a payee under section 1631(a)(2) on behalf of another individual (other than such person’s eligible spouse), in lieu of the penalty set forth in subsection (a)—

“(A) upon his first such conviction, shall be guilty of a misdemeanor and shall be fined not more than \$5,000 or imprisoned for not more than one year, or both; and

“(B) upon his second or any subsequent such conviction, shall be guilty of a felony and shall be fined not more than \$25,000 or imprisoned for not more than five years, or both.

“(2) In any case in which the court determines that a violation described in paragraph (1) includes a willful misuse of funds by such

person or entity, the court may also require that full or partial restitution of such funds be made to the individual for whom such person or entity was the certified payee.

“(3) Any person or entity convicted of a felony under this section or under section 208 may not be certified as a payee under section 1631(a)(2).”

42 USC 408.
Ante, p. 1810.
 42 USC 408.

(2) Section 208 of such Act is amended by adding at the end thereof the following unnumbered paragraphs:

“Any person or other entity who is convicted of a violation of any of the provisions of this section, if such violation is committed by such person or entity in his role as, or in applying to become, a certified payee under section 205(j) on behalf of another individual (other than such person’s spouse), upon his second or any subsequent such conviction shall, in lieu of the penalty set forth in the preceding provisions of this section, be guilty of a felony and shall be fined not more than \$25,000 or imprisoned for not more than five years, or both. In the case of any violation described in the preceding sentence, including a first such violation, if the court determines that such violation includes a willful misuse of funds by such person or entity, the court may also require that full or partial restitution of such funds be made to the individual for whom such person or entity was the certified payee.

Ante, p. 1809.

“Any individual or entity convicted of a felony under this section or under section 1632(b) may not be certified as a payee under section 205(j).”

Ante, p. 1810.

(d) The amendments made by this section shall become effective on the date of the enactment of this Act, and, in the case of the amendments made by subsection (c), shall apply with respect to violations occurring on or after such date.

Effective date.
 42 USC 405 note.

MEASURES TO IMPROVE COMPLIANCE WITH FEDERAL LAW

SEC. 17. (a)(1) Section 221(b)(1) of the Social Security Act is amended to read as follows:

42 USC 421.

“(b)(1)(A) Upon receiving information indicating that a State agency may be substantially failing to make disability determinations in a manner consistent with regulations and other written guidelines issued by the Secretary, the Secretary shall immediately conduct an investigation and, within 21 days after the date on which such information is received, shall make a preliminary finding with respect to whether such agency is in substantial compliance with such regulations and guidelines. If the Secretary finds that an agency is not in substantial compliance with such regulations and guidelines, the Secretary shall, on the date such finding is made, notify such agency of such finding and request assurances that such agency will promptly comply with such regulations and guidelines.

“(B)(i) Any agency notified of a preliminary finding made pursuant to subparagraph (A) shall have 21 days from the date on which such finding was made to provide the assurances described in subparagraph (A).

“(ii) The Secretary shall monitor the compliance with such regulations and guidelines of any agency providing such assurances in accordance with clause (i) for the 30-day period beginning on the day after the date on which such assurances have been provided.

“(C) If the Secretary determines that an agency monitored in accordance with clause (ii) of subparagraph (B) has not substantially complied with such regulations and guidelines during the period for

which such agency was monitored, or if an agency notified pursuant to subparagraph (A) fails to provide assurances in accordance with clause (i) of subparagraph (B), the Secretary shall, within 60 days after the date on which a preliminary finding was made with respect to such agency under subparagraph (A), (or within 90 days after such date, if, at the discretion of the Secretary, such agency is granted a hearing by the Secretary on the issue of the noncompliance of such agency) make a final determination as to whether such agency is substantially complying with such regulations and guidelines. Such determination shall not be subject to judicial review.

“(D)(i) If the Secretary makes a final determination pursuant to subparagraph (C) with respect to any agency that the agency is not substantially complying with such regulations and guidelines, the Secretary shall, as soon as possible but not later than 180 days after the date of such final determination, make the disability determinations referred to in subsection (a)(1), complying with the requirements of paragraph (3) to the extent that such compliance is possible within such 180-day period. In order to carry out this subparagraph, the Secretary shall, as the Secretary finds necessary, exceed any applicable personnel ceilings and waive any applicable hiring restrictions. In addition, to the extent feasible within the 180-day period after the final determination, the Secretary, in conjunction with the Secretary of Labor, shall assure the statutory protections of State agency employees not hired by the Secretary.

“(ii) During the 180-day period specified in clause (i), the Secretary shall take such actions as may be necessary to assure that any case with respect to which a determination referred to in subsection (a)(1) was made by an agency, during the period for which such agency was not in substantial compliance with the applicable regulations and guidelines, was decided in accordance with such regulations and guidelines.”.

42 USC 421.

(2) Section 221(a)(1) of such Act is amended by striking out “subsection (b)(1)” and inserting in lieu thereof “subsection (b)(1)(C)”.

(3)(A) Section 221(b)(3)(A) of such Act is amended by striking out “The Secretary” and inserting in lieu thereof “Except as provided in subparagraph (D)(i) of paragraph (1), the Secretary”.

(B) Section 221(b)(3)(B) of such Act is amended by striking out “The Secretary” and inserting in lieu thereof “Except as provided in subparagraph (D)(i) of paragraph (1), the Secretary”.

(4) Section 221(d) of such Act is amended by striking out “Any individual” and inserting in lieu thereof “Except as provided in subsection (b)(1)(D), any individual”.

Effective date.

42 USC 421 note.

(b) The amendments made by subsection (a) of this section shall become effective on the date of the enactment of this Act and shall expire on December 31, 1987. The provisions of the Social Security Act amended by subsection (a) of this section (as such provisions were in effect immediately before the date of the enactment of this Act) shall be effective after December 31, 1987.

42 USC 1305.

SEPARABILITY

SEC. 18. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

42 USC 1303
note.

Approved October 9, 1984.

LEGISLATIVE HISTORY—H.R. 3755 (S. 476):

HOUSE REPORTS: No. 98-618 (Comm. on Ways and Means) and
No. 98-1039 (Comm. of Conference).

SENATE REPORT No. 98-466 accompanying S. 476 (Comm. on Finance).

CONGRESSIONAL RECORD, Vol. 130 (1984):

Mar. 27, considered and passed House.

May 22, considered and passed Senate, amended, in lieu of S. 476.

Sept. 19, House and Senate agreed to Conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 41 (1984):

Oct. 9, Presidential statement.

Public Law 98-461
98th Congress

Joint Resolution

Oct. 10, 1984
[H.J. Res. 663]

Making further continuing appropriations for fiscal year 1985.

Ante, p. 1747.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the joint resolution of October 5, 1984 (Public Law 98-455), is hereby amended by striking out "October 9, 1984" and inserting in lieu thereof "October 11, 1984".

SEC. 2. (a) Federal employees furloughed as a result of the lapse of appropriations from midnight October 3, 1984, until the date of enactment of this joint resolution, will be compensated at their standard rate of compensation for the period during which there was a lapse of appropriations.

(b) All obligations incurred in anticipation of the appropriations and authority provided in this joint resolution for the purposes of maintaining the minimum level of essential activities necessary to protect life and property and bringing about orderly termination of other functions are hereby ratified and confirmed if otherwise in accordance with the provisions of this joint resolution.

Approved October 10, 1984.

LEGISLATIVE HISTORY—H.J. Res. 663:

CONGRESSIONAL RECORD, Vol. 130 (1984):

Oct. 9, considered and passed House and Senate.

Public Law 98-462
98th Congress

An Act

To promote research and development, encourage innovation, stimulate trade, and make necessary and appropriate modifications in the operation of the antitrust laws.

Oct. 11, 1984
[S. 1841]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National
Cooperative
Research Act of
1984.

SHORT TITLE

SECTION 1. This Act may be cited as the "National Cooperative Research Act of 1984".

15 USC 4301
note.

DEFINITIONS

SEC. 2. (a) For purposes of this Act:

15 USC 4301.

(1) The term "antitrust laws" has the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that such section 5 applies to unfair methods of competition.

(2) The term "Attorney General" means the Attorney General of the United States.

(3) The term "Commission" means the Federal Trade Commission.

(4) The term "person" has the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)).

(5) The term "State" has the meaning given it in section 4G(2) of the Clayton Act (15 U.S.C. 15g(2)).

(6) The term "joint research and development venture" means any group of activities, including attempting to make, making, or performing a contract, by two or more persons for the purpose of—

(A) theoretical analysis, experimentation, or systematic study of phenomena or observable facts,

(B) the development or testing of basic engineering techniques,

(C) the extension of investigative findings or theory of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, prototypes, equipment, materials, and processes,

(D) the collection, exchange, and analysis of research information, or

(E) any combination of the purposes specified in subparagraphs (A), (B), (C), and (D),

and may include the establishment and operation of facilities for the conducting of research, the conducting of such venture on a protected and proprietary basis, and the prosecuting of applications for patents and the granting of licenses for the

results of such venture, but does not include any activity specified in subsection (b).

(b) The term "joint research and development venture" excludes the following activities involving two or more persons:

(1) exchanging information among competitors relating to costs, sales, profitability, prices, marketing, or distribution of any product, process, or service that is not reasonably required to conduct the research and development that is the purpose of such venture,

(2) entering into any agreement or engaging in any other conduct restricting, requiring, or otherwise involving the production or marketing by any person who is a party to such venture of any product, process, or service, other than the production or marketing of proprietary information developed through such venture, such as patents and trade secrets, and

(3) entering into any agreement or engaging in any other conduct—

(A) to restrict or require the sale, licensing, or sharing of inventions or developments not developed through such venture, or

(B) to restrict or require participation by such party in other research and development activities, that is not reasonably required to prevent misappropriation of proprietary information contributed by any person who is a party to such venture or of the results of such venture.

RULE OF REASON STANDARD

15 USC 4302.

SEC. 3. In any action under the antitrust laws, or under any State law similar to the antitrust laws, the conduct of any person in making or performing a contract to carry out a joint research and development venture shall not be deemed illegal per se; such conduct shall be judged on the basis of its reasonableness, taking into account all relevant factors affecting competition, including, but not limited to, effects on competition in properly defined, relevant research and development markets.

LIMITATION ON RECOVERY

Claims.
15 USC 4303.

SEC. 4. (a) Notwithstanding section 4 of the Clayton Act (15 U.S.C. 15) and in lieu of the relief specified in such section, any person who is entitled to recovery on a claim under such section shall recover the actual damages sustained by such person, interest calculated at the rate specified in section 1961 of title 28, United States Code, on such actual damages as specified in subsection (d), and the cost of suit attributable to such claim, including a reasonable attorney's fee pursuant to section 5 of this Act if such claim—

(1) results from conduct that is within the scope of a notification that has been filed under section 6(a) of this Act for a joint research and development venture, and

(2) is filed after such notification becomes effective pursuant to section 6(c) of this Act.

(b) Notwithstanding section 4C of the Clayton Act (15 U.S.C. 15c), and in lieu of the relief specified in such section, any State that is entitled to monetary relief on a claim under such section shall recover the total damage sustained as described in subsection (a)(1) of such section, interest calculated at the rate specified in section

1961 of title 28, United States Code, on such total damage as specified in subsection (d), and the cost of suit attributable to such claim, including a reasonable attorney's fee pursuant to section 4C of the Clayton Act if such claim—

15 USC 15c.

(1) results from conduct that is within the scope of a notification that has been filed under section 6(a) of this Act for a joint research and development venture, and

(2) is filed after such notification becomes effective pursuant to section 6(c) of this Act.

(c) Notwithstanding any provision of any State law providing damages for conduct similar to that forbidden by the antitrust laws, any person who is entitled to recovery on a claim under such provision shall not recover in excess of the actual damages sustained by such person, interest calculated at the rate specified in section 1961 of title 28, United States Code, on such actual damages as specified in subsection (d), and the cost of suit attributable to such claim, including a reasonable attorney's fee pursuant to section 5 of this Act if such claim—

(1) results from conduct that is within the scope of a notification that has been filed under section 6(a) of this Act for a joint research and development venture, and

(2) is filed after notification has become effective pursuant to section 6(c) of this Act.

(d) Interest shall be awarded on the damages involved for the period beginning on the earliest date for which injury can be established and ending on the date of judgment, unless the court finds that the award of all or part of such interest is unjust in the circumstances.

(e) This section shall be applicable only if the challenged conduct of a person defending against a claim is not in violation of any decree or order, entered or issued after the effective date of this Act, in any case or proceeding under the antitrust laws or any State law similar to the antitrust laws challenging such conduct as part of a joint research and development venture.

ATTORNEY'S FEES

SEC. 5. (a) Notwithstanding sections 4 and 16 of the Clayton Act, in any claim under the antitrust laws, or any State law similar to the antitrust laws, based on the conducting of a joint research and development venture, the court shall, at the conclusion of the action—

15 USC 4304.
15 USC 15, 26.

(1) award to a substantially prevailing claimant the cost of suit attributable to such claim, including a reasonable attorney's fee, or

(2) award to a substantially prevailing party defending against any such claim the cost of suit attributable to such claim, including a reasonable attorney's fee, if the claim, or the claimant's conduct during the litigation of the claim, was frivolous, unreasonable, without foundation, or in bad faith.

(b) The award made under subsection (a) may be offset in whole or in part by an award in favor of any other party for any part of the cost of suit, including a reasonable attorney's fee, attributable to conduct during the litigation by any prevailing party that the court finds to be frivolous, unreasonable, without foundation, or in bad faith.

DISCLOSURE OF JOINT RESEARCH AND DEVELOPMENT VENTURE

15 USC 4305.

SEC. 6. (a) Any party to a joint research and development venture, acting on such venture's behalf, may, not later than 90 days after entering into a written agreement to form such venture or not later than 90 days after the date of the enactment of this Act, whichever is later, file simultaneously with the Attorney General and the Commission a written notification disclosing—

- (1) the identities of the parties to such venture, and
- (2) the nature and objectives of such venture.

Any party to such venture, acting on such venture's behalf, may file additional disclosure notifications pursuant to this section as are appropriate to extend the protections of section 4. In order to maintain the protections of section 4, such venture shall, not later than 90 days after a change in its membership, file simultaneously with the Attorney General and the Commission a written notification disclosing such change.

Federal
Register,
publication.

(b) Except as provided in subsection (e), not later than 30 days after receiving a notification filed under subsection (a), the Attorney General or the Commission shall publish in the Federal Register a notice with respect to such venture that identifies the parties to such venture and that describes in general terms the area of planned activity of such venture. Prior to its publication, the contents of such notice shall be made available to the parties to such venture.

(c) If with respect to a notification filed under subsection (a), notice is published in the Federal Register, then such notification shall operate to convey the protections of section 4 as of the earlier of—

- (1) the date of publication of notice under subsection (b), or
- (2) if such notice is not so published within the time required by subsection (b), after the expiration of the 30-day period beginning on the date the Attorney General or the Commission receives the applicable information described in subsection (a).

Public informa-
tion.
Confidentiality.

(d) Except with respect to the information published pursuant to subsection (b)—

- (1) all information and documentary material submitted as part of a notification filed pursuant to this section, and
- (2) all other information obtained by the Attorney General or the Commission in the course of any investigation, administrative proceeding, or case, with respect to a potential violation of the antitrust laws by the joint research and development venture with respect to which such notification was filed,

shall be exempt from disclosure under section 552 of title 5, United States Code, and shall not be made publicly available by any agency of the United States to which such section applies except in a judicial or administrative proceeding in which such information and material is subject to any protective order.

(e) Any person who files a notification pursuant to this section may withdraw such notification before notice of the joint research and development venture involved is published under subsection (b). Any notification so withdrawn shall not be subject to subsection (b) and shall not confer the protections of section 4 on any person with respect to whom such notification was filed.

(f) Any action taken or not taken by the Attorney General or the Commission with respect to notifications filed pursuant to this section shall not be subject to judicial review.

(g)(1) Except as provided in paragraph (2), for the sole purpose of establishing that a person is entitled to the protections of section 4, the fact of disclosure of conduct under section 6(a) and the fact of publication of a notice under section 6(b) shall be admissible into evidence in any judicial or administrative proceeding.

(2) No action by the Attorney General or the Commission taken pursuant to this section shall be admissible into evidence in any such proceeding for the purpose of supporting or answering any claim under the antitrust laws or under any State law similar to the antitrust laws.

Approved October 11, 1984.

LEGISLATIVE HISTORY—S. 1841 (H.R. 5041):

HOUSE REPORTS: No. 98-1044 (Comm. of Conference) and No. 98-656 accompanying

H.R. 5041 (Comm. on the Judiciary).

SENATE REPORT No. 98-427 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 130 (1984):

May 1, H.R. 5041 considered and passed House.

July 31, considered and passed Senate.

Aug. 9, considered and passed House, amended, in lieu of H.R. 5041.

Sept. 26, Senate agreed to conference report.

Oct. 1, House agreed to conference report.

Public Law 98-463
98th Congress

Joint Resolution

Oct. 11, 1984
[S.J. Res. 201]

To provide for the designation of the week of November 25 through December 1, 1984, as "National Epidermolysis Bullosa Awareness Week".

Whereas the incidence and prevalence of epidermolysis bullosa present a significant health problem in the United States;

Whereas epidermolysis bullosa is an inherited disorder showing widespread blistering and skin erosions which result in pain, scarring, deformity, contractures, malnutrition, anemia, gastrointestinal problems, dental problems, corneal erosions, and carcinoma;

Whereas an estimated ten to fifteen thousand Americans of both sexes are afflicted with the disease, and another twenty to thirty thousand Americans may be carriers of this disease;

Whereas the Nation faces a continuing need to support innovative research into the causes, treatment, and cure of epidermolysis bullosa;

Whereas it is appropriate to focus the Nation's attention upon the plight of epidermolysis bullosa sufferers and upon the continuing peril epidermolysis bullosa poses to humanity: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of November 25 through December 1, 1984, is designated "National Epidermolysis Bullosa Awareness Week" and the President of the United States is authorized and requested to issue a proclamation calling upon all Government agencies and the people of the United States to observe the week with appropriate programs, ceremonies, and activities.

Approved October 11, 1984.

LEGISLATIVE HISTORY—S.J. Res. 201:

CONGRESSIONAL RECORD, Vol. 130 (1984):
Sept. 17, considered and passed Senate.
Oct. 2, considered and passed House.

Public Law 98-464
98th Congress

An Act

To authorize appropriations for fiscal year 1985 to carry out the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979, and for other purposes.

Oct. 11, 1984
[S. 2688]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 17(a) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1684(a)) is amended by—

- (1) striking “and” at the end of paragraph (1);
- (2) striking the period at the end of paragraph (2) and inserting in lieu thereof “; and”; and
- (3) adding at the end thereof the following new paragraph:
“(3) \$3,472,000, for the fiscal year ending September 30, 1985.”.

(b) Section 17(b) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1684(b)) is amended by—

- (1) striking “and” at the end of paragraph (1);
- (2) striking the period at the end of paragraph (2) and inserting in lieu thereof “; and”; and
- (3) adding at the end thereof the following new paragraph:
“(3) \$3,728,000, for the fiscal year ending September 30, 1985.”.

SEC. 2. (a) Section 214(a) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2013(a)) is amended by—

- (1) striking “and” at the end of paragraph (1);
- (2) striking the period at the end of paragraph (2) and inserting in lieu thereof “; and”; and
- (3) adding at the end thereof the following new paragraph:
“(3) \$900,000, for the fiscal year ending September 30, 1985.”.

(b) Section 214(b) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2013(b)) is amended by—

- (1) striking “and” at the end of paragraph (1);
- (2) striking the period at the end of paragraph (2) and inserting in lieu thereof “; and”; and
- (3) adding at the end thereof the following new paragraph:
“(3) \$500,000, for the fiscal year ending September 30, 1985.”.

SEC. 3. (a) Section 16(a) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1683(a)) is amended by—

- (1) striking “to the President for transmittal”; and
- (2) striking “June 15” and inserting in lieu thereof “April 15”.

(b) Section 213(a) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2012(a)) is amended by—

- (1) striking “to the President for transmittal”; and
- (2) striking “June 15” and inserting in lieu thereof “April 15”.

SEC. 4. (a) The Secretary of Transportation shall study issues relating to the transportation of methanol through the interstate liquid pipeline system in the United States and shall make recommendations for the safe and efficient transportation of methanol through such pipeline system.

Study.

(b) Such study shall include an examination of—

- (1) the feasibility of such transportation;
- (2) the economics and engineering of such transportation; and
- (3) any environmental, health and safety problems associated with such transportation.

Report.

(c) The Secretary shall submit to the Congress a report detailing the results of such study and setting forth the Secretary's recommendations no later than one hundred and eighty days after the date of enactment of this Act.

SEC. 5. Section 210 of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2009) is amended by adding at the end thereof the following new subsection:

Study.

"(c)(1) The Secretary shall study the feasibility of and costs connected with requiring various methods of testing and inspecting hazardous liquid pipeline facilities subject to the provisions of this title. In carrying out such study, the Secretary shall evaluate any new technologies available for monitoring, from the outside or the inside, the condition of such facilities.

"(2) The Secretary shall make recommendations, based on the study undertaken under this subsection and on consultations between the Secretary and the Technical Hazardous-Liquid Pipeline Safety Standards Committee established under section 204 of this title, as to the frequency and type of testing and inspection of pipeline facilities which should be required, taking into account—

49 USC app.
2003.

"(A) the location of the pipeline facilities;

"(B) the type, age, manufacturer, method of construction, and condition of the pipeline facilities;

"(C) the nature of the materials transported through the pipeline facilities, the sequence in which such materials are transported, and the pressure at which they are transported;

"(D) the climatic, geologic, and seismic characteristics of, and conditions (including soil characteristics) associated with the areas in which the pipeline facilities are located, and the existing and projected population and demographic characteristics associated with such areas;

"(E) the frequency of leaks, if any;

"(F) the costs of the various available methods; and

"(G) any other factors the Secretary determines to be relevant to the safety of the pipeline facilities.

Report.

"(3) The Secretary shall submit to the Congress a report detailing the results of the study undertaken under this subsection and setting forth the recommendations made under paragraph (2) no later than one year after the date of enactment of this subsection."

Reports.
49 USC app. 1682
note.

SEC. 6. (a) Each person who owns or operates interstate transmission facilities shall, within one hundred and eighty days after the date of enactment of this section, submit a report to the Secretary of Transportation which—

(1) identifies the location and condition of all such pipeline facilities owned or operated by such person, the construction of which was completed before January 1, 1940; and

(2) includes the most recent leak survey information compiled by such owner or operator with respect to the pipeline facilities so identified.

(b) The Secretary shall, within ninety days after the expiration of the one hundred and eighty-day period referred to in subsection (a) of this section—

(1) identify, on the basis of information contained in reports submitted under subsection (a) of this section, any pipeline facilities which may be hazardous to life and property within the meaning of section 12(b) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1679b(b)); and

(2) inspect the pipeline facilities so identified.

(c) The Secretary shall, within one hundred and twenty days after the expiration of the one hundred and eighty-day period referred to in subsection (a) of this section, report to the Congress on—

Report.

(1) any actions taken under subsection (b) of this section; and

(2) the recommendations of the Secretary for any additional action the Secretary considers necessary with respect to the pipeline facilities referred to in subsection (a)(1) of this section, together with an estimate of the time and resources necessary for undertaking such actions.

(d) As used in this section, the term—

(1) “interstate transmission facilities” shall have the meaning given to such term in section 2(8) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1671(8));

(2) “person” shall have the meaning given to such term in section 2(1) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1671(1)); and

(3) “pipeline facilities” shall have the meaning given to such term in section 2(4) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1671(4)).

SEC. 7. (a) Section 14(a) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1681(a)) is amended by adding at the end thereof the following: “In conducting training activities for State or local government personnel in the enforcement of regulations issued under this Act, the Secretary may not assess any charge or fee in the nature of tuition.”

(b) Section 211(a) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2010(a)) is amended by adding at the end thereof the following: “In conducting training activities for State or local government personnel in the enforcement of regulations issued under this Act, the Secretary may not assess any charge or fee in the nature of tuition.”

Approved October 11, 1984.

LEGISLATIVE HISTORY—S. 2688 (H.R. 5313):

HOUSE REPORTS No. 98-780, Pt. 1 (Comm. on Public Works and Transportation) and Pt. 2 (Comm. on Energy and Commerce) both accompanying H.R. 5313.

SENATE REPORT No. 98-456 (Comm. on Commerce, Science, and Transportation). CONGRESSIONAL RECORD, Vol. 130 (1984):

June 21, considered and passed Senate.

June 25, H.R. 5313 considered and passed House; S. 2688, amended, passed in lieu.

Sept. 21, Senate concurred in House amendment with an amendment.

Sept. 26, House concurred in Senate amendment.

Public Law 98-465
98th Congress

Joint Resolution

Oct. 11, 1984
[S.J. Res. 237]

To designate the week of November 25, 1984, through December 1, 1984, as "National Home Care Week"

Whereas organized home health care services to the elderly and disabled have existed in this country since the last quarter of the eighteenth century;

Whereas home health care is recognized as an effective and economical alternative to unnecessary institutionalization;

Whereas caring for the ill and disabled in their homes places emphasis on the dignity and independence of the individual receiving these services;

Whereas since the enactment of the medicare program, including skilled nursing services, physical therapy, speech therapy, social services, occupational therapy, and home health aide services, the number of home health agencies providing these services has increased from less than five hundred to more than four thousand; and

Whereas many private and charitable organizations provide these and similar services to millions of patients each year preventing, postponing, and limiting the need for institutionalization: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of November 25, 1984, through December 1, 1984, is designated as "National Home Care Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate programs, ceremonies, and activities.

Approved October 11, 1984.

LEGISLATIVE HISTORY—S.J. Res. 237:

CONGRESSIONAL RECORD, Vol. 130 (1984):
Mar. 12, considered and passed Senate.
Oct. 2, considered and passed House.

Public Law 98-466
98th Congress

An Act

To direct the Secretary of the Department of Transportation to conduct an independent study to determine the adequacy of certain industry practices and Federal Aviation Administration rules and regulations, and for other purposes.

Oct. 11, 1984
[S. 197]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) The Secretary of Transportation shall, in the interest of health and safety, and in the interest of promoting and maintaining a superior United States aviation industry, commission an independent study by the National Academy of Sciences. The study shall determine whether civil commercial aviation industry practices and standards and Federal Aviation Administration rules, regulations, and minimum standards are nondiscriminatory and at least in conformance and parity with nonaviation standards, practices, and regulations for the appropriate maintenance of public and occupational health and safety (including de facto circumstances) in relation to airline cabin air quality for all passengers and crew aboard civil commercial aircraft.

(b) In conducting the study, special and objective considerations shall be given to the uniqueness of the environment onboard civil commercial aircraft. The study shall focus on all health and safety aspects of airline cabin air quality, including but not limited to—

- (1) the quantity of fresh air per occupant and overall quality of air onboard;
- (2) the quantity and quality of humidification;
- (3) onboard environmental conditions and contamination limits, including exposure to radiation;
- (4) emergency breathing equipment, including toxic fume-protective breathing equipment;
- (5) measures, procedures, and capabilities for detecting and extinguishing fires and the removal of smoke and toxic fumes within safe pressurization limits;
- (6) safe pressurization of the aircraft, considering the broad range of cardiopulmonary health of the traveling public, and dissemination of information to the medical profession and the general public of current pressurization limits and practices to assure valid medical advice concerning the health effects of air travel;
- (7) the feasibility of collection and dissemination by the aviation industry, the Federal Aviation Administration, or any other private or governmental organization of a data base of medical statistics and environmental factors relating to air travel, including but not limited to, maintenance and operation records and procedures of aircraft, in an effort to assess the adequacy of aircraft systems, design, regulations, standards and practices relating to airline cabin air quality from the standpoint of health and safety, and for the purpose of issuing Federal Aviation Administration administrative advisory circu-

Aircraft and air
carriers.
Health.
Safety.
49 USC app. 1303
note.

Public
information.

lars and airworthiness directive regulations to correct any deficiencies disclosed;

(8) the adequacy of current preflight and inflight health and safety instructions for air travelers that relate to airline cabin air quality, including but not limited to, life safety procedures during inflight fire, smoke, and toxic fume emergencies; and

(9) a comparison of foreign industry practices, regulations, and standards.

(c) In conducting the study, special care shall be taken to assure that all existing studies, recommendations, data, and state of the art technology relevant to the health and safety aspects of airline cabin air quality are considered.

(d) In conducting the study, the National Academy of Sciences shall consult with and solicit the views of academic experts, representatives of airline labor, the aviation industry and independent experts and organizations.

(e) The study shall include such recommendations for legislative, regulatory, and industry changes as the National Academy of Sciences determines to be advisable for promotion of health and safety in relation to airline cabin air quality.

49 USC app. 1303
note.

SEC. 2. The Secretary of Transportation shall submit a copy of the study, as it was prepared by the National Academy of Sciences, to the Congress within eighteen months after the date of enactment of this Act. At such time the Secretary shall also set forth such comments on the matters covered by the study and such recommendations for legislative, regulatory, and industry changes as the Secretary determines to be necessary.

Appropriation
authorization.
49 USC app. 1303
note.

SEC. 3. There is authorized to be appropriated not to exceed \$500,000 for the fiscal year commencing October 1, 1984, to carry out the study authorized by this Act. Such funds shall remain available for obligation until expended.

Approved October 11, 1984.

LEGISLATIVE HISTORY—S. 197:

SENATE REPORT No. 98-468 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 130 (1984):

June 15, considered and passed Senate.

Oct. 1, considered and passed House.

Public Law 98-467
98th Congress

Joint Resolution

To designate the week of October 7, 1984, through October 13, 1984, as "Smokey Bear Week".

Oct. 11, 1984
[S.J. Res. 273]

Whereas August 9, 1984, marks the fortieth anniversary of the introduction of Smokey Bear into the Cooperative Forest Fire Protection campaign through the efforts of the United States Department of Agriculture Forest Service, The Advertising Council, and the National Association of State Foresters;

Whereas May 23, 1984, marks the thirty-second anniversary of President Harry S Truman signing the Act to enact section 711 of title 18, United States Code, protecting the use of the character Smokey Bear;

Whereas the Smokey Bear program has demonstrated the success of the United States Department of Agriculture Forest Service, The Advertising Council, and the National Association of State Foresters in producing a unique public service campaign to create and maintain public awareness for the prevention of forest fires;

Whereas the Smokey Bear program has encouraged children across the Nation to prevent wildfires by becoming junior forest rangers;

Whereas several generations of children have been taught about Smokey Bear and have become responsible adults who are careful with fire;

Whereas since the establishment of the Smokey Bear program in 1944, the damage caused by forest fires has been reduced from ten million acres to three million acres in 1981, saving over \$20,000,000,000 for United States taxpayers; and

Whereas the Smokey Bear program on August 9, 1984 enters the forty-first year of successful stewardship of forests in the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 7, 1984, through October 13, 1984, is designated "Smokey Bear

Week” and the President is authorized and requested to issue a proclamation recognizing the successful efforts of the organizations and people involved in the Smokey Bear program and calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved October 11, 1984.

LEGISLATIVE HISTORY—S.J. Res. 273:

CONGRESSIONAL RECORD, Vol. 130 (1984):

May 8, considered and passed Senate.

Oct. 2, considered and passed House, amended.

Oct. 4, Senate concurred in House amendments.

Public Law 98-468
98th Congress

Joint Resolution

Designating the month of November 1984 as "National Christmas Seal Month".

Oct. 11, 1984
[S.J. Res. 324]

Whereas among the fastest rising causes of death in our country are chronic obstructive pulmonary diseases. More than seven million Americans, among them over two million children, suffer from asthma. More than two million of our people have emphysema. Almost eight million Americans suffer from chronic bronchitis. Before the end of this decade it is projected that deaths from lung cancer will surpass breast cancer as the leading cause of cancer deaths among American women;

Whereas one out of twelve, or more than seventeen million Americans are afflicted with chronic diseases of the lung. The consequence is more than two hundred and twenty-five thousand deaths annually, with a cost to the Nation of more than \$29,400,000 in medical expenses, lost wages, and untold dollars in lost productivity;

Whereas the American Lung Association—the Christmas Seal people—is a nonprofit public health organization supported by individual contributions to Christmas Seals and other donations. It is this Nation's first national voluntary health organization. Founded in 1904 to combat tuberculosis, today the association, its medical section, the American Thoracic Society, and its one hundred and forty-four federated associations throughout the country, are dedicated to the control and prevention of all lung diseases and some of their related causes. These include smoking, air pollution, and occupational lung hazards;

Whereas, since 1907, Christmas Seals have been used by the association to raise funds through private contributions, to pioneer and develop health education programs in our schools. The tradition remains strong. This year, sixty million homes will receive Christmas Seals;

Whereas this year the association is conducting a new public education program, "Marijuana: A Second Look"—which is targeted to nine, ten, and eleven-year-old children. It is not waiting until marijuana smokers begin suffering from profound lung diseases before it acts. The program is teaching America's youth about the hazards of marijuana smoke to lungs. Once again, the association is taking a leadership role in protecting this country's lung health; and

Whereas, through its community lung associations, the American Lung Association helps educate the public, patients, and their families about all forms of lung diseases and their causes, and sponsors community action programs. In the past decade, it has provided more than \$10,800,000 for research programs specifically designed to investigate prevention and control of lung diseases. It has pioneered in the development of self-management programs as an adjunct to medical care of asthma both for children and

adults. And it conducts vigorous campaigns against cigarette smoking and air pollution: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of November 1984 is designated "National Christmas Seal Month". The President is requested to issue a proclamation calling upon all Government agencies, educational, philanthropic, scientific, medical, health care organizations and professionals, and the people of the United States to observe that month with appropriate ceremonies and activities.

Approved October 11, 1984.

LEGISLATIVE HISTORY—S.J. Res. 324:

CONGRESSIONAL RECORD, Vol. 130 (1984):

Aug. 3, considered and passed Senate.

Oct. 2, considered and passed House.

Public Law 98-469
98th Congress

An Act

To extend through September 30, 1988, the period during which amendments to the United States Grain Standards Act contained in section 155 of the Omnibus Budget Reconciliation Act of 1981 remain effective, and for other purposes.

Oct. 11, 1984

[H R. 5221]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 155 of the Omnibus Budget Reconciliation Act of 1981 (95 Stat. 371), is amended by striking out in the introductory clause "Effective for the period October 1, 1981, through September 30, 1984, inclusive," and inserting in lieu thereof "Effective for the period beginning October 1, 1981, and ending September 30, 1988,".

7 USC 79 note.

SEC. 2. Effective for the period beginning with the date of enactment of this Act and ending September 30, 1988, the United States Grain Standards Act, as amended by the Omnibus Budget Reconciliation Act of 1981, is amended by—

(1) adding at the end of section 7(j) (7 U.S.C. 79(j)) a new paragraph as follows:

"(3) Any sums collected or received by the Administrator under this Act and deposited to the fund created in paragraph (1) of this subsection and any late payment penalties collected by the Administrator and credited to such fund may be invested by the Secretary in insured or fully collateralized, interest-bearing accounts or, at the discretion of the Secretary, by the Secretary of the Treasury in United States Government debt instruments. The interest earned on such sums and any late payment penalties collected by the Administrator shall be credited to the fund and shall be available without fiscal year limitation for the expenses of the Service incident to providing services under this Act.";

(2) inserting in section 7C (7 U.S.C. 79c) after "35 per centum", the words ", and for each of the fiscal years 1985 through 1988 shall not exceed 40 per centum,"; and

Prohibition.
Wheat.

(3) striking out in section 19 (7 U.S.C. 87h) “during the period beginning October 1, 1981, and ending September 30, 1984”, and inserting in lieu thereof “during the period beginning October 1, 1981, and ending September 30, 1988”.

SEC. 3. Notwithstanding any other provision of law, the Secretary of Agriculture shall not establish a new class of wheat designated “Red Wheat”, as proposed in 49 Federal Register, pages 1730-1735, dated January 13, 1984.

Approved October 11, 1984.

LEGISLATIVE HISTORY—H.R. 5221:

HOUSE REPORT No. 98-756 (Comm. on Agriculture).

SENATE REPORT No. 98-617 (Comm. of Agriculture, Nutrition, and Forestry).

CONGRESSIONAL RECORD, Vol. 130 (1984):

May 21, considered and passed House.

Sept. 28, considered and passed Senate.

Public Law 98-470
98th Congress

An Act

To authorize amendments to a certain repayment and water service contract for the Frenchman Unit of the Pick-Sloan Missouri River Basin Program.

Oct. 11, 1984
[H.R. 3130]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law, the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") is authorized to execute an amendatory contract with H&RW Irrigation District (hereinafter in this Act referred to as the "district"), Nebraska, to amend the provisions of the district's existing contract (numbered 7-07-70-W0045) with the United States for water service and construction of a distribution system in the following manner:

(1) Rescind the construction charge obligations remaining unpaid as of September 30, 1980, and any interest or penalty thereon, under part B of such existing contract.

(2) Amend part A of such existing contract to provide that, beginning January 1, 1982, the district's annual obligation for payment of costs to the United States for water service (including the cost to the United States to operate and maintain the reserved water supply works on the Frenchman unit of the Pick-Sloan Missouri River Basin Program) and for the construction of a distribution system shall be limited to the annual water service charges for the amount of water delivered to the district. Such charges shall be based on the repayment ability of the district associated with the amount of water delivered by the district for irrigation purposes as may be determined by the Secretary taking into account an appropriate share of the district's costs for the care, operation, and maintenance of those works of the Frenchman unit transferred to the district for such purposes.

(3) Those costs allocated to the irrigation purpose of the Frenchman unit and properly assignable to the district for payment which are in excess of the district's repayment ability as determined by the Secretary, pursuant to paragraph (2), and all obligations (including any interest or penalty thereon) described in paragraph (1) shall be repaid from municipal and industrial and/or power revenues in

33 USC 701
et seq.

accordance with procedures established for the Pick-Sloan Missouri River Program, authorized by the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved December 22, 1944 (58 Stat. 887-901, as amended).

Approved October 11, 1984.

LEGISLATIVE HISTORY—H.R. 3130:

HOUSE REPORT No. 98-840 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 98-624 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 130 (1984):
June 18, considered and passed House.
Sept. 28, considered and passed Senate.

Public Law 98-471
98th Congress

Joint Resolution

Designating the week beginning on November 11, 1984, as "National Blood Pressure Awareness Week".

Oct. 11, 1984
[S.J. Res. 260]

Whereas diseases resulting from hypertension cause needless mortality and morbidity which can be reduced if hypertension is discovered through blood pressure screening;

Whereas sixty million Americans are hypertensive;

Whereas hypertension is a major factor in five hundred thousand strokes and one hundred and seventy-five thousand stroke-related deaths annually as well as more than one million five hundred thousand heart attacks and five hundred and sixty-seven thousand heart attack-related deaths annually;

Whereas twenty-nine million workdays, representing \$2,000,000,000 in earnings, are lost each year because of cardiovascular diseases;

Whereas the risk of the major cardiovascular diseases is directly related to hypertension and even mild elevation in blood pressure may result in substantial risk of illness;

Whereas much of the 30 per centum reduction in mortality between 1970 and 1980 for stroke, hypertension heart disease and other cardiovascular system disease can be partially attributed to increased awareness and better control of blood pressure; and

Whereas increased blood pressure screening will identify greater numbers of Americans at risk for hypertension-related cardiovascular disease and encourage these Americans to seek treatment to control their blood pressure: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning on November 11, 1984, is hereby designated as "National Blood Pressure Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved October 11, 1984.

LEGISLATIVE HISTORY—S.J. Res. 260:

CONGRESSIONAL RECORD, Vol. 130 (1984):

May 8, considered and passed Senate.
Oct. 2, considered and passed House.

Public Law 98-472
98th Congress

Joint Resolution

Oct. 11, 1984
[S.J. Res. 295]To provide for the designation of the week of October 14 through October 20, 1984, as
"Myasthenia Gravis Awareness Week".

Whereas the incidence and prevalence of myasthenia gravis presents a significant health problem in the United States;

Whereas myasthenia gravis is a severe neuromuscular disorder, characterized by weakness of the voluntary muscles of the body;

Whereas an estimated one hundred thousand to two hundred thousand diagnosed, and over one hundred thousand undiagnosed, Americans of both sexes, and all races and ages, are afflicted with the disease;

Whereas the Nation faces a continuing need to support innovative research into the causes, treatment, and cure of myasthenia gravis; and

Whereas it is appropriate to focus the Nation's attention upon the problem of myasthenia gravis: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 14 through October 20, 1984, is designated as "Myasthenia Gravis Awareness Week" and the President of the United States is authorized and requested to issue a proclamation calling upon all Government agencies and the people of the United States to observe the week with appropriate programs, ceremonies, and activities.

Approved October 11, 1984.

LEGISLATIVE HISTORY—S.J. Res. 295:

CONGRESSIONAL RECORD, Vol. 130 (1984):

Aug. 10, considered and passed Senate.

Oct. 2, considered and passed House.

***Public Law 98-473**
98th Congress

Joint Resolution

Making continuing appropriations for the fiscal year 1985, and for other purposes.

Oct. 12, 1984
[H.J. Res. 648]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1985, and for other purposes, namely:

SEC. 101. (a) Such sums as may be necessary for programs, projects, or activities provided for in the Agriculture, Rural Development and Related Agencies Appropriation Act, 1985 (H.R. 5743), to the extent and in the manner provided for in the conference report and joint explanatory statement of the Committee of Conference (House Report Numbered 98-1071), filed in the House of Representatives on September 25, 1984, as if such Act had been enacted into law.

Agriculture,
rural
development
appropriations.

(b) Such sums as may be necessary for programs, projects, or activities provided for in the District of Columbia Appropriation Act, 1985 (H.R. 5899), to the extent and in the manner provided for in the conference report and joint explanatory statement of the Committee of Conference (House Report Numbered 98-1088), filed in the House of Representatives on September 26, 1984, as if such Act had been enacted into law.

D.C.
appropriations.

(c) Such amounts as may be necessary for programs, projects or activities provided for in the Department of the Interior and Related Agencies Appropriations Act, 1985, at a rate of operations and to the extent and in the manner provided as follows, to be effective as if it had been enacted into law as the regular appropriation Act:

Post, p. 1838.

*Note: The printed text of Public Law 98-473 is a reprint of the hand enrollment, signed by the President on October 12, 1984.

AN ACT

Department of
the Interior and
Related
Agencies
Appropriations
Act, 1985.

Making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1985, and for other purposes.

TITLE I—DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

For expenses necessary for protection, use, improvement, development, disposal, cadastral surveying, classification, and performance of other functions, including maintenance of facilities, as authorized by law, in the management of lands and their resources under the jurisdiction of the Bureau of Land Management, including the general administration of the Bureau of Land Management, \$393,849,000.

CONSTRUCTION AND ACCESS

For acquisition of lands and interests therein, and construction of buildings, recreation facilities, roads, trails, and appurtenant facilities, \$1,228,000, to remain available until expended.

PAYMENTS IN LIEU OF TAXES

97 Stat. 323, 324. For expenses necessary to implement the Act of October 20, 1976 (31 U.S.C. 6901-07), \$105,000,000, of which not to exceed \$400,000 shall be available for administrative expenses.

LAND ACQUISITION

43 USC 1715, 1716, 1748. For expenses necessary to carry out the provisions of sections 205, 206, and 318(d) of Public Law 94-579 including administrative expenses and acquisition of lands or waters, or interest therein, \$2,750,000, to be derived from the Land and Water Conservation Fund, to remain available until expended.

OREGON AND CALIFORNIA GRANT LANDS

43 USC 1181f. For expenses necessary for management, protection, and development of resources and for construction, operation, and maintenance of access roads, reforestation, and other improvements on the revested Oregon and California Railroad grant lands, on other Federal lands in the Oregon and California land-grant counties of Oregon, and on adjacent rights-of-way; and acquisition of lands or interests therein including existing connecting roads on or adjacent to such grant lands; \$55,397,000, to remain available until expended: *Provided*, That the amount appropriated herein for road construction shall be transferred to the Federal Highway Administration, Department of Transportation: *Provided further*, That 25 per centum of the aggregate of all receipts during the current fiscal year from the revested Oregon and California Railroad grant lands is hereby made a charge against the Oregon and California land grant fund and shall be transferred to the General Fund in the Treasury in accordance with the provisions of the second paragraph of subsection (b) of title II of the Act of August 28, 1937 (50 Stat. 876).

SPECIAL ACQUISITION OF LANDS AND MINERALS

For the purchase of non-Federal coal deposits and other mineral interests and rights pursuant to Public Law 97-466, \$15,000,000, to remain available until expended. 96 Stat. 2538.

RANGE IMPROVEMENTS

For rehabilitation, protection, and acquisition of lands and interests therein, and improvement of Federal rangelands pursuant to section 401 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701), notwithstanding any other Act, sums equal to fifty per centum of all moneys received during the prior fiscal year under sections 3 and 15 of the Taylor Grazing Act (43 U.S.C. 315, et seq.), but not less than \$10,000,000 (43 U.S.C. 1901), and the amount designated for range improvements from grazing fees and mineral leasing receipts from Bankhead-Jones lands transferred to the Department of the Interior pursuant to law, to remain available until expended: *Provided*, That not to exceed \$600,000 shall be available for administrative expenses: *Provided further*, That the dollar equivalent of value, in excess of the grazing fee established under law and paid to the United States Government, received by any permittee or lessee as compensation for an assignment or other conveyance of a grazing permit or lease, or any grazing privileges or rights thereunder, and in excess of the installation and maintenance cost of grazing improvements provided for by the permittee in the allotment management plan or amendments or otherwise approved by the Bureau of Land Management, shall be paid to the Bureau of Land Management and disposed of as provided for by section 401(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701): *Provided further*, That if the dollar value prescribed above is not paid to the Bureau of Land Management, the grazing permit or lease shall be canceled. 43 USC 1751.
43 USC 315b, 315m.
90 Stat. 2772.

SERVICE CHARGES, DEPOSITS, AND FORFEITURES

For administrative expenses and other costs related to processing application documents and other authorizations for use and disposal of public lands and resources, for monitoring construction, operation, and termination of facilities in conjunction with use authorizations, and for rehabilitation of damaged property, such amounts as may be collected under sections 209(b), 304(a), 304(b), 305(a), and 504(g) of the Act approved October 21, 1976 (43 U.S.C. 1701), and sections 101 and 203 of Public Law 93-153, to be immediately available until expended. 43 USC 1719, 1734, 1735, 1764.
30 USC 185.
43 USC 1652.

MISCELLANEOUS TRUST FUNDS

In addition to amounts authorized to be expended under existing law, there is hereby appropriated such amounts as may be contributed under section 307 of the Act of October 21, 1976 (43 U.S.C. 1701), and such amounts as may be advanced for administrative costs, surveys, appraisals, and costs of making conveyances of omitted lands under section 211(b) of that Act, to remain available until expended. 43 USC 1737.
43 USC 1721.

ADMINISTRATIVE PROVISIONS

43 USC 1181f-4.

43 USC 1752
note.

Appropriations for the Bureau of Land Management shall be available for purchase, erection, and dismantlement of temporary structures and alteration and maintenance of necessary buildings and appurtenant facilities to which the United States has title; up to \$10,000 for payments, at the discretion of the Secretary, for information or evidence concerning violations of laws administered by the United States Bureau of Land Management; miscellaneous and emergency expenses of enforcement activities, authorized or approved by the Secretary and to be accounted for solely on his certificate, not to exceed \$10,000: *Provided*, That appropriations herein made for the Bureau of Land Management expenditures in connection with the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands (other than expenditures made under the appropriation "Oregon and California grant lands") shall be reimbursed to the General Fund of the Treasury from the 25 per centum referred to in subsection (c), title II, of the Act approved August 28, 1937 (50 Stat. 876), of the special fund designated the "Oregon and California land grant fund" and section 4 of the Act approved May 24, 1939 (53 Stat. 754), of the special fund designated the "Coos Bay Wagon Road grant fund": *Provided further*, That appropriations herein made may be expended for surveys of Federal lands of the United States and on a reimbursable basis for protection of lands for the State of Alaska: *Provided further*, That an appeal of any reductions in grazing allotments on public rangelands must be taken within thirty days after receipt of a final grazing allotment decision. Reductions of up to 10 per centum in grazing allotments shall become effective when so designated by the Secretary of the Interior. Upon appeal any proposed reduction in excess of 10 per centum shall be suspended pending final action on the appeal, which shall be completed within two years after the appeal is filed: *Provided further*, That appropriations herein made shall be available for paying costs incidental to the utilization of services contributed by individuals who serve without compensation as volunteers in aid of work of the Bureau to protect, improve, develop, or manage the public lands; and that within appropriations herein provided, Bureau officials may authorize either direct procurement of or reimbursement for expenses incidental to the effective use of volunteers such as, but not limited to, training, transportation, lodging, subsistence, equipment, and supplies: *Provided further*, That provision for such expenses or services is in accord with volunteer or cooperative agreements made with such individuals, private organizations, educational institutions, or State or local governments: *Provided further*, That the segregative effect of the Department of the Navy withdrawal application N 37171, covering approximately 181,323 acres of public lands in Churchill County, Nevada, shall continue until such withdrawal is acted upon by the Congress. Segregation shall not prevent compatible public land uses which would be allowed under the terms of the proposed withdrawal: *Provided further*, That no later than six months after the date of enactment of this Act, the Secretary of the Interior shall conclude a land exchange between the Oregon International Port of Coos Bay and the United States. Lands to be offered by the United States are described in Federal Register Notice, May 10, 1984. Lands to be offered by the Port are described as lots 4 through 16 inclusive, block 30, Nasburg's Addition to Marshfield, Coos County, Oregon.

The Secretary is authorized to execute such instruments as may be necessary to permit the grantee to use permanently and develop for public roadway purposes, a tract of land described in Department of the Army Easement Number DACW 57-2-84-4 on Coos Bay North Jetty Road. As otherwise provided pursuant to the Federal Land Policy and Management Act of 1976 (90 Stat. 2743, Public Law 94-579), the Secretary shall conclude the above mentioned land exchange.

43 USC 1701
note.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For expenses necessary for scientific and economic studies, conservation, management, investigations, protection, and utilization of sport fishery and wildlife resources, except whales, seals, and sea lions, and for the performance of other authorized functions related to such resources; for the general administration of the Fish and Wildlife Service; for maintenance of the herd of long-horned cattle on the Wichita Mountains Wildlife Refuge, and not less than \$3,300,000 for high priority projects within the scope of the approved budget which shall be carried out by Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93-408, \$311,365,000 of which \$4,000,000, to carry out the purposes of 16 U.S.C. 1535, shall remain available until expended; and, of which \$4,591,000 shall be for operation and maintenance of fishery mitigation facilities constructed by the Corps of Engineers under the Lower Snake River Compensation Plan, authorized by the Water Resources Development Act of 1976 (90 Stat. 2921), to compensate for loss of fishery resources from water development projects on the Lower Snake River, which will remain available until expended: *Provided*, That the only critical habitat hereafter to be designated under section 4(b)(2) of the Endangered Species Act of 1973 (Public Law 93-205), as amended, for the Northern Rocky Mountain Wolf in Idaho shall be coterminous with the boundaries of the Central Idaho Wilderness Areas, as established by Public Law 96-312.

16 USC
1701-1706.

16 USC 1533.

94 Stat. 948.

CONSTRUCTION AND ANADROMOUS FISH

For construction and acquisition of buildings and other facilities required in the conservation, management, investigations, protection, and utilization of sport fishery and wildlife resources, and the acquisition of lands and interests therein; \$24,794,000, to remain available until expended, of which \$4,100,000 shall be available for expenses necessary to carry out the Anadromous Fish Conservation Act (16 U.S.C. 757a-757g).

MIGRATORY BIRD CONSERVATION ACCOUNT

For an advance to the migratory bird conservation account, as authorized by the Act of October 4, 1971, as amended (16 U.S.C. 715k-3, 5), \$21,700,000, to remain available until expended.

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory

16 USC 460l-4
note.

authority applicable to the United States Fish and Wildlife Service, \$64,508,000, to be derived from the Land and Water Conservation Fund, to remain available until expended: *Provided*, That \$1,500,000 for the Connecticut Coastal National Wildlife Refuge shall become available for obligation only upon enactment of authorizing legislation.

NATIONAL WILDLIFE REFUGE FUND

For expenses necessary to implement the Act of October 17, 1978 (16 U.S.C. 715s), \$5,760,000.

ADMINISTRATIVE PROVISIONS

Appropriations and funds available to the United States Fish and Wildlife Service shall be available for purchase of not to exceed 206 passenger motor vehicles of which 172 are for replacement only (including 64 for police-type use); purchase of 2 new aircraft for replacement only; acceptance of one donated aircraft as an addition; not to exceed \$200,000 for payment, at the discretion of the Secretary, for information, rewards, or evidence concerning violations of laws administered by the United States Fish and Wildlife Service and miscellaneous and emergency expenses of enforcement activities, authorized or approved by the Secretary and to be accounted for solely on his certificate; repair of damage to public roads within and adjacent to reservation areas caused by operations of the United States Fish and Wildlife Service; options for the purchase of land at not to exceed \$1 for each option; facilities incident to such public recreational uses on conservation areas as are not inconsistent with their primary purpose; and the maintenance and improvement of aquaria, buildings, and other facilities under the jurisdiction of the United States Fish and Wildlife Service and to which the United States has title, and which are utilized pursuant to law in connection with management and investigation of fish and wildlife resources.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For expenses necessary for the management, operation, and maintenance of areas and facilities administered by the National Park Service (including special road maintenance service to trucking permittees on a reimbursable basis), and for the general administration of the National Park Service, including not to exceed \$418,000 for the Roosevelt Campobello International Park Commission, \$500,000 for the Volunteers-in-the-Park program, not less than \$3,400,000 for high priority projects within the scope of the approved budget which shall be carried out by Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93-408, and \$350,000 for the National Capital Children's Museum and \$350,000 for the Arena Stage as if authorized by the Historic Sites Act of 1935 (16 U.S.C. 462(e)), \$625,365,000 without regard to the Act of August 24, 1912, as amended (16 U.S.C. 451): *Provided*, That the Park Service shall not enter into future concessionaire contracts, including renewals, that do not include a termination for cause clause that provides for possible extinguishment of possessory interests excluding depreciated book value of concessionaire investments without compensation: *Provided further*, That appropriations

16 USC
1701-1706.

16 USC 20b note.

for maintenance and improvement of roads within the boundary of Indiana Dunes National Lakeshore shall be available for such purposes without regard to whether title to such road rights-of-way is in the United States: *Provided further*, That \$85,000 shall be available to assist the town of Harpers Ferry, West Virginia, for police force use.

NATIONAL RECREATION AND PRESERVATION

For expenses necessary to carry out recreation programs, natural programs, cultural programs, environmental compliance and review, and grant administration, not otherwise provided for, \$11,338,000.

HISTORIC PRESERVATION FUND

For expenses necessary in carrying out the provisions of the Historic Preservation Act of 1966 (80 Stat. 915), as amended (16 U.S.C. 470), \$26,000,000 to be derived from the Historic Preservation Fund, established by section 108 of that Act, as amended, to remain available for obligation until September 30, 1986.

16 USC 470h.

VISITOR FACILITIES FUND

For grants to the National Park Foundation for reconstruction, rehabilitation, replacement, improvement, relocation, or removal of visitor facilities within the National Park System, and related expenses, as authorized by Public Law 97-433, \$6,000,000 to remain available for obligation until September 30, 1989, to be derived from the National Park System Visitor Facilities Fund.

16 USC 19aa
note.

CONSTRUCTION

For construction, improvements, repair or replacement of physical facilities, without regard to the Act of August 24, 1912, as amended (16 U.S.C. 451), \$113,716,000, to remain available until expended, including \$1,500,000 to carry out the provisions of sections 303 and 304 of Public Law 95-290, \$38,000 for a grant to the French Camp Academy: *Provided further*, That for payment of obligations incurred for engineering services, road and bridge access, and twin main tunnel bore work for the Cumberland Gap Tunnel, as authorized by section 160 of Public Law 93-87, \$28,000,000, to be derived from the Highway Trust Fund and to remain available until expended to liquidate contract authority provided under section 104(a)(8) of Public Law 95-599, as amended, such contract authority to remain available until expended.

16 USC 410cc-33,
410cc-34.

87 Stat. 278.

92 Stat. 2690.

LAND ACQUISITION AND STATE ASSISTANCE

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the National Park Service, \$150,220,000, to be derived from the Land and Water Conservation Fund, to remain available until expended, of which \$75,000,000 is for the State Assistance program including \$1,681,000 to administer the program: *Provided*, That State administrative expenses associated with the State grant portion of the State Assistance program shall not exceed

16 USC 4601-4
note.

15 percent: *Provided further*, That none of the State Assistance funds may be used as a contingency fund: *Provided further*, That of the amounts previously appropriated to the Secretary's contingency fund for grants to States, \$318,000 shall be available in 1985 for administrative expenses of the State grant program.

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

For expenses necessary for operating and maintaining the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, \$4,621,000.

NATIONAL CAPITAL REGION ARTS AND CULTURAL AFFAIRS

16 USC 1e.

For the fiscal year ending September 30, 1986, for a program to support artistic and cultural programs in the National Capital region, \$5,000,000, to remain available until expended: *Provided*, That there is hereby established under the direction of the National Park Service a program to support and enhance artistic and cultural activities in the National Capital region. Eligibility for grants shall be limited to organizations of demonstrated national significance which meet at least two of the additional following criteria:

- (1) an annual operating budget in excess of \$1,000,000;
- (2) an annual audience or visitation of at least 200,000 people;
- (3) a paid staff of at least one hundred persons; or
- (4) eligibility under the Historic Sites Act of 1935 (16 U.S.C. 462(e)).

Public or private colleges and universities are not eligible for grants under this program.

Grants awarded under this section may be used to support general operations and maintenance, security, or special projects. No organization may receive a grant in excess of \$500,000 in a single year.

The Director of the National Park Service shall establish an application process, appoint a review panel of five qualified persons, at least a majority of whom reside in the National Capital region, and develop other program guidelines and definitions as required.

The contractual amounts required for the support of Ford's Theater and Wolf Trap Farm Park for the Performing Arts shall be available within the amount herein provided without regard to any other provisions of this section.

ILLINOIS AND MICHIGAN CANAL NATIONAL HERITAGE CORRIDOR COMMISSION

For the establishment and operation of the Illinois and Michigan Canal National Heritage Corridor Commission, \$250,000.

JEFFERSON NATIONAL EXPANSION MEMORIAL COMMISSION

For the establishment and operation of the Jefferson National Expansion Memorial Commission, \$75,000.

ADMINISTRATIVE PROVISIONS

Appropriations for the National Park Service shall be available for the purchase of not to exceed 1 aircraft for replacement only, 202 passenger motor vehicles of which 163 shall be for replacement only, including not to exceed 106 for police-type use and 4 buses; and to

provide, notwithstanding any other provision of law, at a cost not exceeding \$100,000, transportation for children in nearby communities to and from any unit of the National Park System used in connection with organized recreation and interpretive programs of the National Park Service; options for the purchase of land at not to exceed \$1 for each option; and for the procurement and delivery of medical services within the jurisdiction of units of the National Park System: *Provided*, That any funds available to the National Park Service may be used, with the approval of the Secretary, to maintain law and order in emergency and other unforeseen law enforcement situations and conduct emergency search and rescue operations in the National Park System: *Provided further*, That none of the funds appropriated to the National Park Service may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided further*, That none of the funds appropriated to the National Park Service may be used to add industrial facilities to the list of National Historic Landmarks without the consent of the owner: *Provided further*, That the National Park Service may use helicopters and motorized equipment at Death Valley National Monument for removal of feral burros and horses: *Provided further*, That notwithstanding the requirements of section 6(e)(1) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-8(e)), the properties which were the subject to grant assistance from the Land and Water Conservation Fund and transferred by the city of Boise, Idaho, to the Bureau of Land Management for subsequent transfer to the Peregrine Fund shall be replaced, at no cost, with land administered by the Bureau of Land Management: *Provided further*, That such replacement land shall be provided in accordance with the existing statewide comprehensive outdoor recreation plan, be of at least equal fair market value, and of reasonably equivalent usefulness and location.

16 USC 4601-8.

GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For expenses necessary for the Geological Survey to perform surveys, investigations, and research covering topography, geology, and the mineral and water resources of the United States, its Territories and possessions, and other areas as authorized by law (43 U.S.C. 31, 1332 and 1340); classify lands as to their mineral and water resources; give engineering supervision to power permittees and Federal Energy Regulatory Commission licensees; administer the minerals exploration program (30 U.S.C. 641); and publish and disseminate data relative to the foregoing activities; \$420,664,000: *Provided*, That \$52,066,000 shall be available only for cooperation with States or municipalities for water resources investigations: *Provided further*, That no part of this appropriation shall be used to pay more than one-half the cost of any topographic mapping or water resources investigations carried on in cooperation with any State or municipality: *Provided further*, That the Geological Survey is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private.

43 USC 50.

ADMINISTRATIVE PROVISIONS

The amount appropriated for the Geological Survey shall be available for purchase of not to exceed 12 passenger motor vehicles, for replacement only; reimbursement to the General Services Administration for security guard services; contracting for the furnishing of topographic maps and for the making of geophysical or other specialized surveys when it is administratively determined that such procedures are in the public interest; construction and maintenance of necessary buildings and appurtenant facilities; acquisition of lands for observation wells; expenses of the United States National Committee on Geology; and payment of compensation and expenses of persons on the rolls of the Geological Survey appointed, as authorized by law, to represent the United States in the negotiation and administration of interstate compacts.

MINERALS MANAGEMENT SERVICE

LEASING AND ROYALTY MANAGEMENT

For expenses necessary for minerals leasing and environmental studies, regulation of industry operations, and collection of royalties, as authorized by law; for enforcing laws and regulations applicable to oil, gas, and other minerals leases, permits, licenses and operating contracts; and for matching grants or cooperative agreements; including the purchase of not to exceed 8 passenger motor vehicles for replacement only; \$166,818,000 of which not less than \$39,890,000 shall be available for royalty management activities including general administration: *Provided*, That of the funds appropriated for the Minerals Management Service, \$50,000 shall be available for administrative, travel, communications, per diem, and other necessary expenses incurred by a nonprofit inter-industry organization in conducting meetings and workshops related to Outer Continental Shelf activities off Alaska.

BUREAU OF MINES

MINES AND MINERALS

For expenses necessary for conducting inquiries, technological investigations and research concerning the extraction, processing, use and disposal of mineral substances without objectionable social and environmental costs; to foster and encourage private enterprise in the development of mineral resources and the prevention of waste in the mining, minerals, metal and mineral reclamation industries; to inquire into the economic conditions affecting those industries; to promote health and safety in mines and the mineral industry through research; and for other related purposes as authorized by law, \$138,734,000, of which \$81,836,000 shall remain available until expended, together with \$1,667,000 to be derived from the amount appropriated in Public Law 97-257 to carry out the purposes of section 2(b) of Public Law 96-543.

96 Stat. 838.
94 Stat. 3211.

ADMINISTRATIVE PROVISIONS

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal,

State, or private: *Provided*, That the Bureau of Mines is authorized, during the current fiscal year, to sell directly or through any Government agency, including corporations, any metal or mineral product that may be manufactured in pilot plants operated by the Bureau of Mines, and the proceeds of such sales shall be covered into the Treasury as miscellaneous receipts.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

REGULATION AND TECHNOLOGY

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, \$76,625,000, including the purchase of not to exceed 14 passenger motor vehicles, of which 9 shall be for replacement only; and uniform allowances of not to exceed \$400 for each uniformed employee of the Office of Surface Mining Reclamation and Enforcement. 30 USC 1201 note.

ABANDONED MINE RECLAMATION FUND

For necessary expenses to carry out the provisions of title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, including the purchase of not more than 21 passenger motor vehicles, of which 15 shall be for replacement only, to remain available until expended, \$303,001,000 to be derived from receipts of the Abandoned Mine Reclamation Fund: *Provided*, That pursuant to Public Law 97-365, the Department of the Interior is authorized to utilize up to 20 percent from the recovery of the delinquent debt owed to the United States Government to pay for contracts to collect these debts: *Provided further*, That of the funds made available to the States to contract for reclamation projects authorized in section 406(a) of Public Law 95-87, administrative expenses may not exceed 15 percent: *Provided further*, That none of these funds shall be used to increase over the fiscal year 1984 level a reclamation grant to any State which has no active program to review regulatory permits for those individuals who have outstanding fines or penalties related to past coal mining violations. 30 USC 1231. 96 Stat. 1749. 30 USC 1236.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For operation of Indian programs by direct expenditure, contracts, cooperative agreements and grants including expenses necessary to provide education and welfare services for Indians, either directly or in cooperation with States and other organizations, including payment of care, tuition, assistance, and other expenses of Indians in boarding homes, institutions, or schools; grants and other assistance to needy Indians; maintenance of law and order; management, development, improvement, and protection of resources and appurtenant facilities under the jurisdiction of the Bureau of Indian Affairs, including payment of irrigation assessments and charges; acquisition of water rights; advances for Indian industrial and business enterprises; operation of Indian arts and crafts shops and museums; development of Indian arts and crafts, as authorized by law; for the general administration of the Bureau of Indian Affairs, including such expenses in field offices, \$895,834,000, of which not to

- exceed \$55,706,000 for higher education scholarships and assistance to public schools under the Act of April 16, 1934 (48 Stat. 596), as amended (25 U.S.C. 452 et seq.), shall remain available for obligation until September 30, 1986, and the funds made available to tribes and tribal organizations through contracts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450 et seq.) shall remain available until September 30, 1986: *Provided*, That this carryover authority does not extend to programs directly operated by the Bureau of Indian Affairs; and includes expenses necessary to carry out the provisions of section
- 25 USC 640d-18. 19(a) of Public Law 93-531 (25 U.S.C. 640(d)-18(a)), \$2,830,000, to remain available until expended: *Provided further*, That none of these funds shall be expended as matching funds for programs funded under section 103(a)(1)(B)(iii) of the Vocational Education Act of 1963, as amended (20 U.S.C. 2303(a)(1)(B)(iii)): *Provided further*,
- 25 USC 13b. That hereafter, funds appropriated under this or any other Act for the Bureau of Indian Affairs may be used for the payment in advance or from date of admission of care, tuition, assistance, and other expenses of Indians in boarding homes, institutions, or schools; and the payment of rewards for information or evidence concerning violations of law on Indian reservation lands or treaty fishing rights use areas: *Provided further*, That hereafter moneys received by grant to the Bureau of Indian Affairs from other Federal agencies to carry out various programs for elementary and secondary education, handicapped programs, bilingual education, and other specific programs shall be deposited into the appropriation account available for the operation of Bureau schools during the period covered by the grant and shall remain available as otherwise provided by law:
- 25 USC 14a. *Provided further*, That hereafter any cost of providing lunches to nonboarding students in public schools from funds appropriated under this or any other Act for the Bureau of Indian Affairs shall be paid from the amount of such funds otherwise allocated for the schools involved without regard to the cost of providing lunches for such students: *Provided further*, That no part of any appropriations to the Bureau of Indian Affairs shall be available to provide general assistance payments for Alaska Natives in the State of Alaska unless and until otherwise specifically provided for by Congress:
- 25 USC 13c. *Provided further*, That after September 30, 1985, no part of any appropriation (except trust funds) to the Bureau of Indian Affairs may be used directly or by contract for general or other welfare assistance (except child welfare assistance) payments (1) for other than essential needs (specifically identified in regulations of the Secretary or in regulations of the State public welfare agency pursuant to the Social Security Act adopted by reference in the Secretary's regulations) which could not be reasonably expected to be met from financial resources or income (including funds held in trust) available to the recipient individual which are not exempted under law from consideration in determining eligibility for or the amount of Federal financial assistance or (2) for individuals who are eligible for general public welfare assistance available from a State except to the extent the Secretary of the Interior determines that such payments are required under sections 6(b)(2), 6(i), and 9(b) of the Maine Indian Claims Settlement Act of 1980 (94 Stat. 1793, 1794, 1796; 25 U.S.C. 1725(b)(2), 1725(i), 1728(b)): *Provided further*, That for the fiscal year ending September 30, 1985, the Secretary may not contract for the establishment or operation of a school not currently operated by the Bureau or assisted by the Bureau under contract.
- 25 USC 13d.

CONSTRUCTION

For construction, major repair and improvement of irrigation and power systems, buildings, utilities, and other facilities, including architectural and engineering services by contract; acquisition of lands and interests in lands; preparation of lands for farming; and construction, repair, and improvement of Indian housing, \$109,686,000, to remain available until expended: *Provided*, That such amounts as may be available for the construction of the Navajo Indian Irrigation Project may be transferred to the Bureau of Reclamation.

ROAD CONSTRUCTION

For construction of roads and bridges pursuant to authority contained in 23 U.S.C. 203, the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13), and the Act of May 26, 1928 (45 Stat. 750; 25 U.S.C. 318a), \$6,000,000, to remain available until expended: *Provided*, That not to exceed 5 percent of contract authority available to the Bureau of Indian Affairs from the Federal Highway Trust Fund may be used to cover roads program management costs and construction supervision costs of the Bureau of Indian Affairs.

UTAH PAIUTE TRUST FUND

For deposit into the Economic Development and Tribal Government Fund established pursuant to Public Law 98-219, to be held in trust for the benefit of the Utah Paiute Tribe pursuant to that law, \$2,500,000.

Ante, p. 11.

TRIBAL TRUST FUNDS

In addition to the tribal funds authorized to be expended by existing law, there is hereby appropriated not to exceed \$4,000,000 from tribal funds not otherwise available for expenditure and in addition hereafter tribal funds may be advanced to Indian tribes during each fiscal year for such purposes as may be designated by the governing body of the particular tribe involved and approved by the Secretary including: expenditures for the benefit of Indians and Indian tribes; care, tuition, and other assistance to Indian children attending public and private schools (which may be paid in advance or from date of admission); purchase of land and improvements on land, title to which shall be taken in the name of the United States in trust for the tribe for which purchased; lease of lands and water rights; compensation and expenses of attorneys and other persons employed by Indian tribes under approved contracts; pay, travel, and other expenses of tribal officers, councils, committees, and employees thereof, or other tribal organizations, including mileage for use of privately owned automobiles and per diem in lieu of subsistence at rates established administratively but not to exceed those applicable to civilian employees of the Government; and relief of Indians, including cash grants.

25 USC 123c.

REVOLVING FUND FOR LOANS

During fiscal year 1985, and within the resources and authority available, gross obligations for the principal amount of direct loans pursuant to the Indian Financing Act of 1974 (88 Stat. 77; 25 U.S.C. 1451 et seq.), shall not exceed \$18,600,000.

INDIAN LOAN GUARANTY AND INSURANCE FUND

During fiscal year 1985, total commitments to guarantee loans pursuant to the Indian Financing Act of 1974 (88 Stat. 77; 25 U.S.C. 1451 et seq.), may be made only to the extent that the total loan principal, any part of which is to be guaranteed, shall not exceed resources and authority available.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Indian Affairs (except the revolving fund for loans and the Indian loan guaranty and insurance fund) shall be available for expenses of exhibits; purchase of not to exceed 275 passenger carrying motor vehicles of which 225 shall be for replacement only, and hereafter such appropriations under this or any other act shall be available for: the expenses of exhibits; advance payments for services (including services which may extend beyond the current fiscal year) under contracts executed pursuant to the Act of June 4, 1936 (48 Stat. 596), as amended (25 U.S.C. 452 et seq.), the Act of August 3, 1956 (70 Stat. 896), as amended (25 U.S.C. 309 et seq.), and legislation terminating Federal supervision over certain tribes; and expenses required by continuing or permanent treaty provision: *Provided*, That hereafter passenger carrying motor vehicles of the Bureau may be used for the transportation of Indians: *Provided further*, That hereafter no part of any appropriations to the Bureau of Indian Affairs under this or any other Act shall be available to continue academic and residential programs of the Chilocco, Seneca, Concho, and Fort Sill boarding schools, Oklahoma; Mount Edgumbe boarding school, Alaska; Intermountain boarding school, Utah; and Stewart boarding school, Nevada: *Provided further*, That hereafter no part of any appropriation to the Bureau of Indian Affairs under this or any other act shall be used to subject the transportation of school children to any limitation on travel or transportation expenditures for Federal employees: *Provided further*, That notwithstanding any other provision of law, within sixty days of enactment of this Act, the Secretary of the Interior shall employ in the Flathead Irrigation and Power Project of the Bureau of Indian Affairs twenty-eight employees of the Joint Board of Control of the Flathead, Mission, and Jocko Valley Irrigation Districts at appropriate rates of pay which shall not be less than their rates of pay as of September 27, 1984: *Provided further*, That none of the funds contained in this Act may be used to implement the provisions of sections 501 through 512 of title V of S. 2496 as agreed to by the Senate on October 3, 1984 (legislative day of September 24, 1984).

25 USC 13e.
49 Stat. 1458.
70 Stat. 986.
25 USC 16.
25 USC 292c.
25 USC 290a.
25 USC 2001 note.
Post, p. 2391.

TERRITORIAL AND INTERNATIONAL AFFAIRS

ADMINISTRATION OF TERRITORIES

For expenses necessary for the administration of Territories under the jurisdiction of the Department of the Interior, \$76,554,000, of which (1) not to exceed \$73,826,000 shall be available until expended for technical assistance; grants to the judiciary in American Samoa for compensation and expenses, as authorized by law (48 U.S.C. 1661(c)); grants to American Samoa, in addition to current local revenues, for support of governmental functions; grants to the Government of the Virgin Islands as authorized by law (Public Law

98-213); construction grants to Guam of \$5,725,000; direct grants to the Government of the Northern Mariana Islands as authorized by law (Public Law 94-241, 90 Stat. 272, and Public Law 96-205, 94 Stat. 86); and (2) not to exceed \$2,728,000 for fiscal year 1985 salaries and expenses of the Office of Territorial and International Affairs: *Provided*, That the Territorial and local governments herein provided for are authorized to make purchases through the General Services Administration: *Provided further*, That all financial transactions of the Territorial and local governments herein provided for, including such transactions of all agencies or instrumentalities established or utilized by such governments, shall be audited by the General Accounting Office, in accordance with the provisions of the Budget and Accounting Act, 1921 (42 Stat. 23), as amended, and the Accounting and Auditing Act of 1950 (64 Stat. 834): *Provided further*, That moneys heretofore appropriated by Public Law 97-394 and Public Law 98-146, or hereinafter appropriated for a direct grant or grants to the Northern Mariana Islands for the purpose of building health care facilities, as authorized by section 202 of Public Law 96-205, were and shall be transferred directly to the Northern Mariana Islands without regard to, limitation of, or restriction under laws, regulations, Office of Management and Budget circulars, or policy directives, except in the discretion of the Secretary of the Interior.

97 Stat. 1459.

48 USC 1401f,
1423i, 1665.

48 USC 1469b.

96 Stat. 1968.

97 Stat. 919.

94 Stat. 86.

TRUST TERRITORY OF THE PACIFIC ISLANDS

For expenses necessary for the Department of the Interior in administration of the Trust Territory of the Pacific Islands pursuant to the Trusteeship Agreement approved by joint resolution of July 18, 1947 (61 Stat. 397), and the Act of June 30, 1954 (68 Stat. 330), as amended (90 Stat. 299; 91 Stat. 1159; 92 Stat. 495), grants for the expenses of the High Commissioner of the Trust Territory of the Pacific Islands; grants for the compensation and expenses of the Judiciary of the Trust Territory of the Pacific Islands; grants to the Trust Territory of the Pacific Islands in addition to local revenues, for support of governmental functions; \$100,811,000, of which \$79,311,000 is for operations, and \$21,500,000 is for construction, to remain available until expended: *Provided*, That all financial transactions of the Trust Territory, including such transactions of all agencies or instrumentalities established or utilized by such Trust Territory, shall be audited by the General Accounting Office in accordance with the provisions of the Budget and Accounting Act, 1921 (42 Stat. 23), as amended, and the Accounting and Auditing Act of 1950 (64 Stat. 834): *Provided further*, That the government of the Trust Territory of the Pacific Islands is authorized to make purchases through the General Services Administration.

48 USC 1681
note.

48 USC 1683.

48 USC 1687.

DEPARTMENTAL OFFICES

OFFICE OF THE SECRETARY

For necessary expenses of the Office of the Secretary of the Interior, \$45,544,000, of which not to exceed \$10,000 may be for official reception and representation expenses.

OFFICE OF THE SOLICITOR

For necessary expenses of the Office of the Solicitor, \$20,548,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General, \$17,253,000.

CONSTRUCTION MANAGEMENT

For necessary expenses of the Office of Construction Management, \$750,000.

OFFICE OF THE SECRETARY

(SPECIAL FOREIGN CURRENCY PROGRAM)

For payment in foreign currencies which the Treasury Department shall determine to be excess to the normal requirements of the United States, for necessary expenses of the United States Fish and Wildlife Service as authorized by law, \$2,000,000, to remain available until expended: *Provided*, That this appropriation shall be available, in addition to other appropriations, to such office for payments in the foregoing currencies (7 U.S.C. 1704).

ADMINISTRATIVE PROVISIONS

There is hereby authorized for acquisition from available resources within the Working Capital Fund, 10 additional aircraft, 4 of which shall be for replacement only: *Provided*, That no programs funded with appropriated funds in the "Office of the Secretary", "Office of the Solicitor", and "Office of Inspector General" may be augmented through the Working Capital Fund or the Consolidated Working Fund.

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

Funds.

SEC. 101. Appropriations made in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities, or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: *Provided*, That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted.

30 USC 1240.

SEC. 102. The Secretary may authorize the expenditure or transfer of any no year appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under jurisdiction of the Department of the Interior; for the emergency rehabilitation of burned-over lands under its jurisdiction; for emergency actions related to potential or actual earthquakes or volcanoes; for emergency reclamation projects under section 410 of Public Law 95-87; and shall transfer, from any no year funds available to the Office of Surface Mining Reclamation and Enforcement, such funds as may be necessary to permit assumption of regulatory authority in the event a primacy State is not carrying out the regulatory provisions of the Surface Mining Act: *Provided*, That appropriations made in this title for fire suppression purposes shall be available for the payment of obligations incurred during the preceding fiscal year, and for reimbursement to other Federal agencies for destruction of vehicles, aircraft, or other equip-

ment in connection with their use for fire suppression purposes, such reimbursement to be credited to appropriations currently available at the time of receipt thereof: *Provided further*, That funds transferred pursuant to this section must be replenished by a supplemental appropriation which must be requested as promptly as possible.

SEC. 103. Appropriations made in this title shall be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by sections 1535 and 1536 of title 31, U.S.C.: *Provided*, That reimbursements for costs and supplies, materials, equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

SEC. 104. Appropriations made to the Department of the Interior in this title shall be available for services as authorized by 5 U.S.C. 3109, when authorized by the Secretary, in total amount not to exceed \$300,000; hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchase of reprints; payment for telephone service in private residences in the field, when authorized under regulations approved by the Secretary, and the payment of dues, when authorized by the Secretary, for library membership in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members: *Provided*, That no funds available to the Department of the Interior are available for any expenses of the Great Hall of Commerce.

SEC. 105. Appropriations available to the Department of the Interior for salaries and expenses shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902 and D.C. Code 4-204).

SEC. 106. Appropriations made in this title shall be available for obligation in connection with contracts issued by the General Services Administration for services or rentals for periods not in excess of twelve months beginning at any time during the fiscal year.

Contracts.

SEC. 107. No funds provided in this title may be expended by the Department of the Interior for the procurement, leasing, bidding, exploration, or development of lands within the Department of the Interior Central and Northern California Planning Area which lie north of the line between the row of blocks numbered N816 and the row of blocks numbered N817 of the Universal Transverse Mercator Grid System.

SEC. 108. No funds provided in this title may be expended by the Department of the Interior for the preparation for, or conduct of, pre-leasing and leasing activities (including but not limited to: calls for information, tract selection, notices of sale, receipt of bids and award of leases) of lands within:

Outer
Continental
Shelf.

(a) An area of the Outer Continental Shelf, as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)), located in the Atlantic Ocean, bounded by the following line: from the intersection of the seaward limit of the Commonwealth of Massachusetts territorial sea and the 71 degree west longitude line south along that longitude line to its intersection with the line which passes between blocks 598 and 642 on Outer Continental Shelf protraction diagram NK 19-10; then along that line in an easterly direction to its intersection with the line

between blocks 600 and 601 of protraction diagram NK 19-11; then in a northerly direction along that line to the intersection with the 60 meter isobath between blocks 204 and 205 of protraction diagram NK 19-11; then along the 60 meter isobath, starting in a roughly southeasterly direction; then turning roughly northeast, north, and west until such isobath intersects with the northern boundary of block 974 of protraction diagram NK 19-6; then along the line that lies between blocks 930 and 974 of protraction diagram NK 19-6 in a westerly direction to the first point of intersection with the seaward limit of the Commonwealth of Massachusetts territorial sea; then southwesterly along the seaward limit of the territorial sea to the point of beginning at the intersection of the seaward limit of the territorial sea and the 71 degree west longitude line.

(b) The following blocks are excluded from the described area: In protraction diagram NK 19-10, blocks numbered 474 through 478, 516 through 524, 560 through 568, and 604 through 612; in protraction diagram NK 19-6, blocks numbered 969 through 971; in protraction diagram NK 19-5, blocks numbered 1005 through 1008; and in protraction diagram NK 19-8, blocks numbered 37 through 40, 80 through 84, 124 through 127, and 168 through 169.

(c) The following blocks are included in the described area: In protraction diagram NK 19-11, blocks numbered 633 through 644, 677 through 686, 721 through 724, 765 through 767, 809 through 810, and 853; in protraction diagram NK 19-9, blocks numbered 106, 150, 194, 238, 239, and 283; and in protraction diagram NK 19-6, blocks numbered 854, 899, 929, 943, 944, and 987.

(d) Blocks in and at the head of submarine canyons: An area of the Outer Continental Shelf, as defined in section 2(a) of the Outer Continental Shelf Lands Act (45 U.S.C. 1331(a)), located in the Atlantic Ocean off the coastline of the Commonwealth of Massachusetts, lying at the head of, or within the submarine canyons known as Atlantis Canyon, Veatch Canyon, Hydrographer Canyon, Welker Canyon, Oceanographer Canyon, Gilbert Canyon, Lydonia Canyon, Alvin Canyon, Powell Canyon, Munson Canyon, and Corsair Canyon, and consisting of the following blocks, respectively:

(1) On Outer Continental Shelf protraction diagram NJ 19-1; blocks 36, 37, 38, 42-44, 80-82, 86-88, 124, 125, 130-132, 168, 169, 174-176, 212, 213.

(2) On Outer Continental Shelf protraction diagram NJ 19-2; blocks 8, 9, 17-19, 51-52, 53, 54, 61-63, 95-98, 139, 140.

(3) On Outer Continental Shelf protraction diagram NK 19-10; blocks 916, 917, 921, 922, 960, 961, 965, 966, 1003-1005, 1009-1011.

(4) On Outer Continental Shelf protraction diagram NK 19-11; blocks 521, 522, 565, 566, 609, 610, 653-655, 697-700, 734, 735, 741-744, 769, 778-781, 785-788, 813, 814, 822-826, 829-831, 857, 858, 866-869, 873-875, 901, 902, 910-913, 917, 945-947, 955, 956, 979, 980, 989-991, 999.

(5) On Outer Continental Shelf protraction diagram NK 19-12; blocks 155, 156, 198, 199, 280-282, 324-326, 369-371, 401, 413-416, 442-446, 450, 451, 489-490, 494, 495, 530, 531, 533-540, 574, 575, 577-583, 618, 619, 621-623, 626, 627, 662,

663, 665-667, 671, 672, 706, 707, 710, 711, 750, 751, 754, 755, 794, 795, 798, 799.

(6) On Outer Continental Shelf protraction diagram NK 19-9; blocks 559-561, 603-607, 647-651, 693-695, 737-739.

(7) On Outer Continental Shelf protraction diagram NK 20-7; blocks 706, 750, 662, 618, 574.

(e) Nothing in this section shall prohibit the lease of that portion of any blocks described in subsection (d) above which lies outside the geographical boundaries of the submarine canyons and submarine canyon heads described in subsection (d) above: *Provided*, That for purposes of this subsection, the geographical boundaries of the submarine canyons and submarine canyon heads shall be those recognized by the National Oceanographic and Atmospheric Administration, Department of Commerce, on the date of enactment of this Act.

(f) Nothing in this section shall prohibit the Secretary of the Interior from granting contracts for scientific study, the results of which could be used in making future leasing decisions in the planning area and in preparing environmental impact statements as required by the National Environmental Policy Act.

(g) References made to blocks, protraction diagrams, and isobaths are to such blocks, protraction diagrams, and isobaths as they appear on the map entitled Outer Continental Shelf of the North Atlantic from 39° to 45° North Latitude (Map No. MMS-10), prepared by the United States Department of the Interior, Minerals Management Service, Atlantic OCS Region.

SEC. 109. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance changing the name of the mountain located 63 degrees, 04 minutes, 15 seconds west, presently named and referred to as Mount McKinley.

SEC. 110. Notwithstanding any other provision of law, appropriations in this title shall be available to provide insurance on official motor vehicles, aircraft, and boats operated by the Department of the Interior in Canada and Mexico.

SEC. 111. No funds provided in this title may be expended by the Department of the Interior for the lease sale of tracts in Lease Sale numbered 80 within the following areas:

(1) an area of the Department of the Interior Southern California Planning Area bounded by the following line on the California (Lambert) Plane Coordinate System: From the point of intersection of the international boundary line between the United States and Mexico and the seaward boundary of the California State Tidelands west along said international boundary line to the point of intersection with the line between the row of blocks numbered 28 west and the row of blocks numbered 27 west; thence north to the northeast corner of block 20 north, 28 west; thence northwest to the southwest corner of block 29 north, 35 west; thence north along the line between the row of blocks numbered 36 west and the row of blocks numbered 35 west to its intersection with the seaward boundary of the California State Tidelands; thence easterly along the seaward boundary of the California State Tidelands to the point of beginning;

(2) a portion of the Department of the Interior Southern California Planning Area which lies both: (a) east of the line between the row of blocks numbered 53 west and the row of

42 USC 4321
note.

Mt. McKinley.

Insurance.

California lands,
leasing.

blocks numbered 52 west, and (b) north of the line between the row of blocks numbered 34 north and the row of blocks numbered 35 north, on the California (Lambert) Plane Coordinate System;

(3) the boundaries of the Channel Island National Marine Sanctuary, as defined by title 15, part 935.3 of the Code of Federal Regulations; and

(4) the boundaries of the Santa Barbara Channel Ecological Preserve and Buffer Zone, as defined by the Department of the Interior, Bureau of Land Management Public Land Order numbered 4587 (vol. 34, page 5655 Federal Register March 26, 1969).

This section shall not affect the authority of the Secretary of the Interior to approve any plan, or to grant any license or permit, which is restricted to scientific exploration or other scientific activities, or other preleasing activities necessary up to the point of sale.

SEC. 112. No funds provided in this title may be used to detail any employee to an organization unless such detail is in accordance with Office of Personnel Management regulations.

97 Stat. 13.

SEC. 113. Notwithstanding the provisions of Public Law 98-8, the deadline for outlaying Federal funds provided in that Act under the headings "Repairing and Restoring Parks and Recreational Facilities," "Historic Preservation Fund," and "Land and Water Conservation Fund" is extended to March 1, 1985.

TITLE II—RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST RESEARCH

For necessary expenses of forest research as authorized by law, \$123,433,000, of which \$8,000,000 shall remain available until expended for competitive research grants, as authorized by section 5 of Public Law 95-307.

16 USC 1644.

STATE AND PRIVATE FORESTRY

For necessary expenses of cooperating with, and providing technical and financial assistance to States, Territories, possessions, and others; and for forest pest management activities, \$59,505,000, to remain available for obligation until expended, to carry out activities authorized in Public Law 95-313: *Provided*, That a grant of \$3,000,000 shall be made to the State of Minnesota for the purposes authorized by section 6 of Public Law 95-495: *Provided further*, That not less than \$35,000 in pest suppression funds shall be provided for suppression of oak wilt in the State of Texas: *Provided further*, That \$325,000 shall be made available to the Disabled Veterans Recreation, Inc., for construction of and other improvements to the Disabled Veterans Wilderness Retreat in Ely, Minnesota, for purposes authorized by section 18(d) of Public Law 95-495.

16 USC 2101
note.

92 Stat. 1652.

92 Stat. 1658.

NATIONAL FOREST SYSTEM

For necessary expenses of the Forest Service, not otherwise provided for, for management, protection, improvement, and utilization of the National Forest System, and for liquidation of obligations

incurred in the preceding fiscal year for forest fire protection and emergency rehabilitation, including administrative expenses associated with the management of funds provided under the heads "Forest Research", "State and Private Forestry", "National Forest System", "Construction", and "Land Acquisition", and not less than \$3,300,000 for high priority projects within the scope of the approved budget which shall be carried out by Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93-408, \$1,067,020,000 of which \$151,095,000, for reforestation and timber stand improvement, cooperative law enforcement, and maintenance of forest development roads and trails shall remain available for obligation until September 30, 1986.

16 USC
1701-1706.

CONSTRUCTION

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Forest Service, not otherwise provided for, for construction, \$268,635,000, of which \$226,290,000 shall be derived by transfer from the unused funds for timber purchaser road credits previously appropriated under the heading "Forest Roads" in Public Law 94-373, Public Law 95-74, and Public Law 95-465 and under the heading "Construction and Land Acquisition" in Public Law 96-196 and Public Law 96-514, to remain available until expended, of which \$26,922,000 is for construction and acquisition of buildings and other facilities; and \$241,713,000 is for construction of forest roads and trails by the Forest Service as authorized by 16 U.S.C. 532-538 and 23 U.S.C. 101 and 205: *Provided*, That funds becoming available in fiscal year 1985 under the Act of March 4, 1913 (16 U.S.C. 501), shall be transferred to the General Fund of the Treasury of the United States: *Provided further*, That no more than \$196,226,000, to remain available without fiscal year limitation, shall be obligated for the construction of forest roads by timber purchasers.

90 Stat. 1043.
91 Stat. 285.
92 Stat. 1279.
94 Stat. 64.
94 Stat. 2957.

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the Forest Service, \$44,493,000, to be derived from the Land and Water Conservation Fund, to remain available until expended: *Provided*, That \$2,000,000 shall be available for the acquisition of oil, gas, and other mineral interests in the Allegheny National Forest: *Provided further*, That such funds shall be available for obligation only to the extent that the Secretary of Agriculture deems necessary to carry out the purposes of the Pennsylvania Wilderness Act of 1984.

16 USC 4601-4
note.

Ante, p. 3100.

ACQUISITION OF LANDS FOR NATIONAL FORESTS, SPECIAL ACTS

For acquisition of land within the exterior boundaries of the Cache, Uinta, and Wasatch National Forests, Utah; the Toiyabe National Forest, Nevada; and the Angeles, San Bernardino, and Cleveland National Forests, California, as authorized by law, \$782,000, to be derived from forest receipts.

ACQUISITION OF LANDS TO COMPLETE LAND EXCHANGES

For acquisition of lands in accordance with the Act of December 4, 1967 (16 U.S.C. 484a), all funds deposited by public school authorities pursuant to that Act, to remain available until expended.

RANGE BETTERMENT FUND

43 USC 1751. For necessary expenses of range rehabilitation, protection, and improvement in accordance with section 401(b)(1), of the Act of October 21, 1976, Public Law 94-579, as amended, 50 per centum of all moneys received during the prior fiscal year, as fees for grazing domestic livestock on lands in National Forests in the sixteen Western States, to remain available until expended.

MISCELLANEOUS TRUST FUNDS

For expenses authorized by 16 U.S.C. 1643(b), \$90,000, to remain available until expended, to be derived from the fund established pursuant to 16 U.S.C. 1643(b).

ADMINISTRATIVE PROVISIONS, FOREST SERVICE

Appropriations to the Forest Service for the current fiscal year shall be available for: (a) purchase of not to exceed 179 passenger motor vehicles of which 8 will be used primarily for law enforcement purposes and of which 163 shall be for replacement only, acquisition of 184 passenger motor vehicles from excess sources, and hire of such vehicles; operation and maintenance of aircraft, the purchase of not to exceed 4 for replacement only, and acquisition of 45 aircraft from excess sources; (b) services pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed \$100,000 for employment under 5 U.S.C. 3109; (c) uniform allowances for each uniformed employee of the United States Forest Service, not in excess of \$400 annually; (d) purchase, erection, and alteration of buildings and other public improvements (7 U.S.C. 2250); (e) acquisition of land, waters, and interests therein, pursuant to the Act of August 3, 1956 (7 U.S.C. 428a); and (f) for expenses pursuant to the Volunteers in the National Forest Act of 1972 (16 U.S.C. 558a, 558d, 558a note).

None of the funds made available under this Act shall be obligated or expended to adjust annual recreational residence fees to an amount greater than that annual fee in effect at the time of the next to last fee adjustment, plus 50 per centum. In those cases where the currently applicable annual recreational residence fee exceeds that adjusted amount, the Forest Service shall credit to the permittee that excess amount, times the number of years that that fee has been in effect, to offset future fees owed to the Forest Service.

Current permit holders who acquired their recreational residence permit after the next to last fee adjustment shall have their annual permit fee computed as if they had their permit prior to the next to last fee adjustment, except that no permittee shall receive an unearned credit.

None of the funds made available under this Act shall be obligated or expended to change the boundaries of any region, to abolish any region, to move or close any regional office for research, State and private forestry, or National Forest System administration of the Forest Service, Department of Agriculture, without the consent

of the House and Senate Committees on Appropriations and the Committee on Agriculture, Nutrition, and Forestry in the United States Senate and the Committee on Agriculture in the United States House of Representatives.

Any appropriations or funds available to the Forest Service may be advanced to the National Forest System appropriation for the emergency rehabilitation of burned-over lands under its jurisdiction.

Appropriations and funds available to the Forest Service shall be available to comply with the requirements of section 313(a) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1323(a)).

The appropriation structure for the Forest Service may not be altered without advance approval of the House and Senate Committees on Appropriations.

Funds appropriated to the Forest Service shall be available for assistance to or through the Agency for International Development and the Office of International Cooperation and Development in connection with forest and rangeland research and technical information and assistance in foreign countries.

Funds previously appropriated for timber salvage sales may be recovered from receipts deposited for use by the applicable national forest and credited to the Forest Service Permanent Appropriations to be expended for timber salvage sales from any national forest.

Provisions of section 702(b) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 2257) shall apply to appropriations available to the Forest Service only to the extent that the proposed transfer is approved by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report 97-942.

No funds appropriated to the Forest Service shall be transferred to the Working Capital Fund of the Department of Agriculture without the approval of the Chief of the Forest Service.

Notwithstanding any delegations of authority provided for in the regulations of the Department of Agriculture or in the Forest Service manual, the Chief of the Forest Service shall, personally and without aid of mechanical devices or persons acting on his behalf, execute (1) all deeds conveying federally owned land which exceeds \$250,000 in value, (2) all acceptances of options on lands to be acquired which exceed \$250,000 in value, (3) all recommendations that condemnation be initiated, (4) all letters accepting donations of land, (5) all decisions on appeals of decisions related to land transactions made by regional foresters, and (6) land related transmittals to the House or Senate Committees on Appropriations, including all proposals for congressional action such as the acquisition of lands in excess of the approved appraised value, condemnation actions, and other items covered in reprogramming guidelines.

Not to exceed \$900,000 shall be available from National Forest System appropriations or permanent appropriations for the specific purpose of removing slash and cull logs from the Bull Run, Oregon, watershed to preserve water quality and reduce fire hazards.

DEPARTMENT OF THE TREASURY

ENERGY SECURITY RESERVE

(RESCISSION)

Of the funds appropriated to the Energy Security Reserve by the Department of the Interior and Related Agencies Appropriations Act, 1980 (Public Law 96-126) and subsequently made available to carry out title I, part B of the Energy Security Act (Public Law 96-294) by Public Laws 96-304 and 96-514, \$5,375,000,000 are rescinded: *Provided*, That of the remaining funds in the Energy Security Reserve for carrying out title I, part B of the Energy Security Act, the amount of \$5,700,000,000 shall be initially available only for obligation to projects with Letters of Intent authorized by the Board of Directors of the United States Synthetic Fuels Corporation on or before June 1, 1984; and, if by reason of Board determinations that the Corporation will not enter into financial assistance contracts with projects for which such Letters were authorized, or that lesser amounts of financial assistance than those specified in such authorizations shall be awarded, there remains a balance of such amount which is unobligated and uncommitted, 50 percent of said balance shall cease to be available for obligation and the remaining 50 percent of said balance shall thereafter be available for commitment or obligation by the Corporation pursuant to the Energy Security Act: *Provided further*, That until such time as the comprehensive strategy is approved pursuant to section 126(c) of the Energy Security Act, the Board of Directors shall solicit proposals and award financial assistance pursuant to applicable sections of the Energy Security Act without regard to the national synthetic fuel production goal established under section 125 of the Act: *Provided further*, That of the \$5,375,000,000 rescinded from the Energy Security Reserve, \$750,000,000 shall be deposited and retained in a separate account hereby established in the Treasury of the United States, entitled the "Clean Coal Technology Reserve," which account and the appropriations therefor, shall be available for the purpose of conducting cost-shared clean coal technology projects for the construction and operation of facilities to demonstrate the feasibility for future commercial application of such technology, including those identified in section 320 of the fiscal year 1985 Department of the Interior and Related Agencies Appropriations Act, as reported by the Senate Committee on Appropriations (H.R. 5973, Senate Report 98-578), without fiscal year limitation, subject to subsequent annual appropriation in the Department of the Interior and Related Agencies Appropriations Act.

Section 117 of the United States Synthetic Fuels Corporation Act of 1980 is amended by adding at the end thereof the following new subsection:

"(f) Subject to section 118, Directors, officers, and employees of the Corporation shall be subject to the same standards of ethical conduct and financial reporting as are set forth in Executive Order 11222. The Chairman shall promptly implement such standards."

Section 168 of the United States Synthetic Fuels Corporation Act of 1980 is amended by—

- (1) Redesignating section 168 as subsection 168(a); and
- (2) Inserting at the end thereof the following new subsection:

93 Stat. 954.

42 USC 8701
note.94 Stat. 857.
94 Stat. 2957.42 USC 8701
note.

42 USC 8722.

42 USC 8721.

42 USC 8713.

42 USC 8714.

18 USC 201 note.

42 USC 8768.

“(b) An aggrieved person may bring action in the district courts of the United States to enforce, and secure compliance with, the policies and guidelines of the Corporation implementing the requirements of subsections 121 (a) and (b) for public disclosure of information and the requirements of subsection 116(f) for meetings of the Board of Directors to be open to the public and preceded by reasonable public notice.”.

Courts, U.S.

42 USC 8717.

42 USC 8712.

DEPARTMENT OF ENERGY

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses in carrying out fossil energy research and development activities, under the authority of the Department of Energy Organization Act (Public Law 95-91), including the acquisition of interest, including defeasible and equitable interests in any real property or any facility or for plant or facility acquisition or expansion, \$280,558,000, to remain available until expended, and \$39,196,000 to be derived by transfer from unobligated balances in the “fossil energy construction” account, \$5,800,000 to be derived by transfer from the account in Public Law 96-126 (93 Stat. 970 (1979)) entitled “Alternative Fuels Production”, \$2,500,000 to be derived by transfer from unobligated prior year balances in the energy production, demonstration, and distribution account, and \$3,000,000 is to be derived by transfer from amounts derived from fees for guarantees of obligations collected pursuant to section 19 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended (42 U.S.C. 5919), and deposited in the Energy Security Reserve established by Public Law 96-126: *Provided*, That no part of the sum herein made available shall be used for the field testing of nuclear explosives in the recovery of oil and gas: *Provided further*, That \$7,500,000 of the sum provided under this heading shall be available for demonstration of the Kilngas coal gasification process, with the provision that the United States Treasury shall be repaid up to double the total Federal expenditure for such process from proceeds to the participants from the commercial sale, lease, manufacture, or use of such process.

42 USC 7101
note.

NAVAL PETROLEUM AND OIL SHALE RESERVES

For necessary expenses in carrying out naval petroleum and oil shale reserves activities, including the purchase of not to exceed 2 passenger motor vehicles, \$160,076,000 to remain available until expended.

ENERGY CONSERVATION

For necessary expenses in carrying out energy conservation activities, \$467,969,000 to remain available until expended: *Provided*, That for the base State Energy Conservation Program (part D of the Energy Policy and Conservation Act, sections 361 through 366), each State will hereafter match in cash or in kind not less than 20 percent of the Federal contribution: *Provided further*, That these funds may be used for grants to the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau under part D of title

42 USC 6323a.
42 USC
6321-6326.

III of the Energy Policy and Conservation Act (relating to primary and supplemental State energy conservation programs, 42 U.S.C. 6321-6327) and under the National Energy Extension Service Act (42 U.S.C. 7001-7011): *Provided further*, That pursuant to section 111(b)(1)(B) of the Energy Reorganization Act of 1974, as amended, 42 U.S.C. 5821(b)(1)(B), of the amount appropriated under this head, \$16,000,000 shall be available for a grant for basic industry research facilities located at Northwestern University without section 111(b)(2) of such Act being applicable.

ECONOMIC REGULATION

For necessary expenses in carrying out the activities of the Economic Regulatory Administration and the Office of Hearings and Appeals, \$25,247,000.

EMERGENCY PREPAREDNESS

For necessary expenses in carrying out emergency preparedness activities, \$6,220,000.

SPR PETROLEUM ACCOUNT

42 USC 6247.

The aggregate amount that may be obligated under section 167 of the Energy Policy and Conservation Act of 1975 (Public Law 94-163), as amended by the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35), for the acquisition and transportation of petroleum, and for other necessary expenses, is \$2,049,550,000, in addition to authority provided in fiscal years 1982, 1983, and 1984, to remain available until expended: *Provided*, That the minimum required fill rate during fiscal year 1985 shall be not less than 159,000 barrels per day.

ENERGY INFORMATION ADMINISTRATION

For necessary expenses in carrying out the activities of the Energy Information Administration, \$61,657,000.

ADMINISTRATIVE PROVISIONS, DEPARTMENT OF ENERGY

Appropriations under this Act for the current fiscal year shall be available for hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; purchase, repair, and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services.

From this appropriation, transfers of sums may be made to other agencies of the Government for the performance of work for which the appropriation is made.

None of the funds made available to the Department of Energy under this Act shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriations Act.

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private, or foreign: *Provided*, That (1) revenues received from the sale of any products produced in facilities other than demonstration plants operated as part of Department of Energy programs appropriated under this Act shall be covered into the Treasury as

miscellaneous receipts; and (2) revenues and other moneys received by or for the account of the Department of Energy or otherwise generated by sale of products in connection with demonstration plant projects of the Department appropriated under this Act may be retained by the Secretary of Energy, to be available until expended, and used only for plant construction, operation, costs, and payments to cost-sharing entities as provided in appropriate cost-sharing contracts or agreements: *Provided further*, That the remainder of revenues after the making of such payments shall be covered into the Treasury as miscellaneous receipts: *Provided further*, That any contract, agreement or provision thereof entered into by the Secretary pursuant to this authority shall be submitted to the Senate Committee on Appropriations and the House Committee on Appropriations and a period of thirty days shall elapse while Congress is in session (in computing the thirty days, there shall be excluded the days on which either the Senate or the House is not in session because of adjournment for more than three days) before the contract, agreement or provision thereof shall become effective, except that such committees, after having received the proposed contract, agreement or provision thereof, may, by separate resolutions in writing, waive the condition of all or any portion of such thirty-day period.

Where the Secretary has the legal authority under other provisions of law, including other provisions of this Act, to undertake projects for the design, construction, or operation of Government-owned facilities for developing or demonstrating the conversion of coal into gaseous, liquid, or solid hydrocarbon products, the Secretary may use the authority contained in Public Law 85-804 (50 U.S.C. 1431-1435), with respect to such contracts or agreements for or related to such projects: *Provided*, That any contract, agreement, or provision thereof entered into by the Secretary using the authority of Public Law 85-804 shall be submitted to the Senate Committee on Appropriations and the House Committee on Appropriations and a period of thirty days shall elapse while Congress is in session (in computing the thirty days, there shall be excluded the days on which either the Senate or the House is not in session because of adjournment for more than three days) before the contract, agreement or provision thereof shall become effective, except that such committees, after having received the proposed contract, agreement or provision thereof, may, by separate resolutions in writing, waive the condition of all or any portion of such thirty-day period. The notification required herein shall be in lieu of the notification requirements of Public Law 85-804.

The Secretary of Energy may transfer to the Emergency Preparedness appropriation such funds as are necessary to meet any unforeseen needs from any funds available to the Department of Energy from this Act.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH SERVICES ADMINISTRATION

INDIAN HEALTH SERVICES

For expenses necessary to carry out the Act of August 5, 1954 (68 Stat. 674), the Indian Self-Determination Act, the Indian Health Care Improvement Act, and titles III and V and section 338G of the

42 USC
2001-2004b.
25 USC 450 note.
25 USC 1601
note.

42 USC 241, 219,
254r.

Public Health Service Act with respect to the Indian Health Service, including hire of passenger motor vehicles and aircraft; purchase of reprints; purchase and erection of portable buildings; payments for telephone service in private residences in the field, when authorized under regulations approved by the Secretary, \$809,927,000: *Provided*, That funds made available to tribes and tribal organizations through grants and contracts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450), shall remain available until September 30, 1986. Funds provided in this Act may be used for one-year contracts and grants which are to be performed in two fiscal years, so long as the total obligation is recorded in the year for which the funds are appropriated: *Provided further*, That the amounts collected by the Secretary of Health and Human Services under the authority of title IV of the Indian Health Care Improvement Act shall be available until September 30, 1986, for the purpose of achieving compliance with the applicable conditions and requirements of titles XVIII and XIX of the Social Security Act (exclusive of planning, design, construction of new facilities, or major renovation of existing Indian Health Service facilities): *Provided further*, That funding contained herein, and in any earlier appropriations Act, for scholarship programs under section 103 of the Indian Health Care Improvement Act and section 757 of the Public Health Service Act shall remain available for expenditure until September 30, 1986.

25 USC note
prec. 1651.

42 USC 1395,
1396.

25 USC 1613.
42 USC 254r.

INDIAN HEALTH FACILITIES

For construction, major repair, improvement, and equipment of health and related auxiliary facilities, including quarters for personnel; preparation of plans, specifications, and drawings; acquisition of sites, purchase and erection of portable buildings, purchases of trailers and for provision of domestic and community sanitation facilities for Indians, as authorized by section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), the Indian Self-Determination Act and the Indian Health Care Improvement Act, \$62,892,000, to remain available until expended.

25 USC 450 note.
25 USC 1601
note.

ADMINISTRATIVE PROVISIONS, HEALTH SERVICES ADMINISTRATION

Appropriations in this Act to the Health Services Administration, available for salaries and expenses, shall be available for services as authorized by 5 U.S.C. 3109 but at rates not to exceed the per diem equivalent to the rate for GS-18, and for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901-5902), and for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities: *Provided*, That none of the funds appropriated under this Act to the Indian Health Service shall be available for the initial lease of permanent structures without advance provision therefor in appropriations Acts: *Provided further*, That non-Indian patients may be extended health care at all Indian Health Service facilities, if such care can be extended without impairing the ability of the Indian Health Service to fulfill its responsibility to provide health care to Indians served by such facilities and subject to such reasonable charges as the Secretary of Health and Human Services shall prescribe, the proceeds of which shall be deposited in

the fund established by sections 401 and 402 of the Indian Health Care Improvement Act: *Provided further*, That funds appropriated to the Indian Health Service in this Act, except those used for administrative and program direction purposes, shall not be subject to limitations directed at curtailing Federal travel and transportation: *Provided further*, That with the exception of service units which currently have a billing policy, the Indian Health Service shall not initiate any further action to bill Indians in order to collect from third-party payers nor to charge those Indians who may have the economic means to pay unless and until such time as Congress has agreed upon a specific policy to do so and has directed the IHS to implement such a policy: *Provided further*, That hereafter the Indian Health Service may seek subrogation of claims including but not limited to auto accident claims, including no-fault claims, personal injury, disease, or disability claims, and workman's compensation claims except as otherwise limited by the fourth proviso of this section: *Provided further*, That hereafter, notwithstanding any other law, an Indian tribe may acquire and expend funds, other than funds appropriated to the Service, for major renovation and modernization, including planning and design for such renovation and modernization of Service facilities, including facilities operated pursuant to contract under the Indian Self-Determination and Education Assistance Act (Public Law 93-638) subject to the following conditions:

(1) the implementation of such project shall not require or obligate the Service to provide any additional staff or equipment;

(2) the project shall be subject to the approval of the Area Director of the Service area office involved;

(3) the tribe shall have full authority to administer the project, but shall do so in accordance with applicable rules and regulations of the Secretary governing construction or renovation of Service health facilities; and

(4) no project of renovation or modernization shall be authorized herein if it would require the diversion of Service funds from meeting the needs of projects having a higher priority on the current health facilities priority system.

43 USC 1395f, 1395n, 1395qq and note, 1396j and note, 1396d.

25 USC 1681.

25 USC 1682.

25 USC 1635.

25 USC 450 note.

DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

INDIAN EDUCATION

For carrying out, to the extent not otherwise provided, part A (\$51,350,000) and parts B and C (\$15,000,000) of the Indian Education Act, and the General Education Provisions Act, \$68,780,000.

20 USC 241aa note.
20 USC 1221.

OTHER RELATED AGENCIES

NAVAJO AND HOPI INDIAN RELOCATION COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Navajo and Hopi Indian Relocation Commission as authorized by Public Law 93-531, \$20,736,000, to remain available until expended, for operating expenses of the

25 USC 640d—640d-28.

Commission: *Provided*, That July 7, 1985, is hereby established as the deadline for receipt of applications for voluntary relocation.

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

For necessary expenses of the Smithsonian Institution, including research in the fields of art, science, and history; development, preservation, and documentation of the National Collections; presentation of public exhibits and performances; collection, preparation, dissemination, and exchange of information and publications; conduct of education, training, and museum assistance programs; maintenance, alteration, operation, lease (for terms not to exceed ten years), and protection of buildings, facilities, and approaches; not to exceed \$100,000 for services as authorized by 5 U.S.C. 3109; up to 5 replacement passenger vehicles; purchase, rental, repair, and cleaning of uniforms for employees; \$165,730,000 including not less than \$789,000 to carry out the provisions of the National Museum Act, \$350,000 to be made available to the trustees of the John F. Kennedy Center for the Performing Arts for payment to the National Symphony Orchestra and \$350,000 for payment to the Washington Opera Society for activities related to their responsibilities as resident entities of the Center: *Provided*, That funds appropriated herein are available for advance payments to independent contractors performing research services or participating in official Smithsonian presentations: *Provided further*, That none of these funds shall be available to a Smithsonian Research Foundation.

MUSEUM PROGRAMS AND RELATED RESEARCH

(SPECIAL FOREIGN CURRENCY PROGRAM)

For payments in foreign currencies which the Treasury Department shall determine to be excess to the normal requirements of the United States, for necessary expenses for carrying out museum programs, scientific and cultural research, and related educational activities, as authorized by law, \$9,000,000, to remain available until expended and to be available only to United States institutions: *Provided*, That this appropriation shall be available, in addition to other appropriations to the Smithsonian Institution, for payments in the foregoing currencies: *Provided further*, That none of these funds shall be available to a Smithsonian Research Foundation: *Provided further*, That not to exceed \$500,000 may be used to make grant awards to employees of the Smithsonian Institution.

CONSTRUCTION AND IMPROVEMENTS, NATIONAL ZOOLOGICAL PARK

For necessary expenses of planning, construction, remodeling, and equipping of buildings and facilities at the National Zoological Park, by contract or otherwise, \$4,950,000 to remain available until expended.

RESTORATION AND RENOVATION OF BUILDINGS

For necessary expenses of restoration and renovation of buildings owned or occupied by the Smithsonian Institution, by contract or otherwise, as authorized by section 2 of the Act of August 22, 1949 (63 Stat. 623), including not to exceed \$10,000 for services as author-

ized by 5 U.S.C. 3109, \$13,750,000, to remain available until expended: *Provided*, That contracts awarded for environmental systems, protection systems, and exterior repair or renovation of buildings of the Smithsonian Institution may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price: *Provided further*, That notwithstanding any other provisions of law, the Secretary of the Smithsonian Institution is authorized to transfer to the county of Santa Cruz, Arizona, a sum not to exceed \$100,000 within available funds for the sole purpose of assisting in the funding of the construction of a permanent access to the Whipple Observatory near Amado, Arizona.

NATIONAL GALLERY OF ART, SALARIES AND EXPENSES

For the upkeep and operations of the National Gallery of Art, the protection and care of the works of art therein, and administrative expenses incident thereto, as authorized by the Act of March 24, 1937 (50 Stat. 51), as amended by the public resolution of April 13, 1939 (Public Resolution 9, Seventy-sixth Congress), including services as authorized by 5 U.S.C. 3109; payment in advance when authorized by the treasurer of the Gallery for membership in library, museum, and art associations or societies whose publications or services are available to members only, or to members at a price lower than to the general public; purchase, repair, and cleaning of uniforms for guards, and uniforms, or allowances therefor, for other employees as authorized by law (5 U.S.C. 5901-5902); purchase, or rental of devices and services for protecting buildings and contents thereof, and maintenance, alteration, improvement, and repair of buildings, approaches, and grounds; and purchase of services for restoration and repair of works of art for the National Gallery of Art by contracts made, without advertising, with individuals, firms, or organizations at such rates or prices and under such terms and conditions as the Gallery may deem proper, \$36,821,000, of which \$3,200,000 for the repair, renovation, and restoration program of the original West Building shall remain available until expended and of which \$3,992,000 for the special exhibition program (of which \$2,000,000 is for the Treasure Houses of Britain exhibition) shall remain available until expended: *Provided*, That contracts awarded for environmental systems, protection systems, and exterior repair or renovation of buildings of the National Gallery of Art may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

20 USC 74.

WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS, SALARIES AND EXPENSES

For expenses necessary in carrying out the provisions of the Woodrow Wilson Memorial Act of 1968 (82 Stat. 1356), including hire of passenger vehicles and services as authorized by 5 U.S.C. 3109, \$2,712,000.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS

GRANTS AND ADMINISTRATION

20 USC 951 note. For necessary expenses to carry out the National Foundation on the Arts and Humanities Act of 1965, as amended, \$137,000,000 of which \$121,100,000 shall be available to the National Endowment for the Arts for the support of projects and productions in the arts through assistance to groups and individuals pursuant to section 5(c) of the Act, of which not less than 20 per centum of the funds provided for section 5(c) shall be available for assistance pursuant to section 5(g) of the Act, and \$15,900,000 shall be available for administering the functions of the Act.

20 USC 954.

MATCHING GRANTS

20 USC 959. To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, \$30,000,000 to remain available until September 30, 1986, to the National Endowment for the Arts, of which \$21,000,000 shall be available for purposes of section 5(1): *Provided*, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of section 10(a)(2), subsections 11(a)(2)(A) and 11(a)(3)(A) during the current and preceding fiscal year for which equal amounts have not previously been appropriated.

20 USC 954.

20 USC 960.

NATIONAL ENDOWMENT FOR THE HUMANITIES

GRANTS AND ADMINISTRATION

20 USC 956. For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, \$111,325,000 of which \$97,150,000 shall be available to the National Endowment for the Humanities for support of activities in the humanities, pursuant to section 7(c) of the Act, of which not less than 20 per centum shall be available for assistance pursuant to section 7(f) of the Act, and \$14,175,000 shall be available for administering the functions of the Act.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, \$31,000,000, to remain available until September 30, 1986, of which \$20,000,000 shall be available to the National Endowment for the Humanities for the purposes of section 7(h): *Provided*, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of subsections 11(a)(2)(B) and 11(a)(3)(B) during the current and preceding fiscal years, for which equal amounts have not previously been appropriated.

INSTITUTE OF MUSEUM SERVICES

GRANTS AND ADMINISTRATION

For carrying out title II of the Arts, Humanities, and Cultural Affairs Act of 1976, as amended, \$22,000,000: *Provided*, That none of these funds shall be available for the compensation of Executive Level V or higher positions. 20 USC 961 note.

ADMINISTRATIVE PROVISIONS

None of the funds appropriated to the National Foundation on the Arts and the Humanities may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided*, That none of the funds appropriated to the National Foundation on the Arts and the Humanities may be used for official reception and representation expenses.

COMMISSION OF FINE ARTS

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing a Commission of Fine Arts (40 U.S.C. 104), \$380,000.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing an Advisory Council on Historic Preservation, Public Law 89-665, as amended, \$1,578,000: *Provided*, That none of these funds shall be available for the compensation of Executive Level V or higher positions. 16 USC 470.

NATIONAL CAPITAL PLANNING COMMISSION

SALARIES AND EXPENSES

For necessary expenses, as authorized by the National Capital Planning Act of 1952 (40 U.S.C. 71-71i), including services as authorized by 5 U.S.C. 3109; and uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902), \$2,725,000. 16 USC 71 note.

FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Franklin Delano Roosevelt Memorial Commission, established by the Act of August 11, 1955 (69 Stat. 694), as amended by Public Law 92-332 (86 Stat. 401), \$21,000 to remain available for obligation until September 30, 1986.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

SALARIES AND EXPENSES

For necessary expenses, as authorized by section 17(a) of Public Law 92-578, as amended, \$2,300,000 for operating and administrative expenses of the Corporation. 40 USC 885.

PUBLIC DEVELOPMENT

40 USC 885. For public development activities and projects in accordance with the development plan as authorized by section 17(b) of Public Law 92-578, as amended, \$4,500,000 to remain available for obligation until expended.

FEDERAL INSPECTOR FOR THE ALASKA GAS PIPELINE

PERMITTING AND ENFORCEMENT

For necessary expenses of the Federal Inspector for the Alaska Gas Pipeline, \$1,430,000, of which not to exceed \$1,000 may be used for official reception and representation expenses.

UNITED STATES HOLOCAUST MEMORIAL COUNCIL

HOLOCAUST MEMORIAL COUNCIL

36 USC 1401—1408. For expenses of the Holocaust Memorial Council, as authorized by Public Law 96-388, \$2,031,000.

TITLE III—GENERAL PROVISIONS

Contracts.
Public
availability. SEC. 301. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

Timber.
Exports. SEC. 302. No part of any appropriation under this Act shall be available to the Secretaries of the Interior and Agriculture for use for any sale hereafter made of unprocessed timber from Federal lands west of the 100th meridian in the contiguous 48 States which will be exported from the United States, or which will be used as a substitute for timber from private lands which is exported by the purchaser: *Provided*, That this limitation shall not apply to specific quantities of grades and species of timber which said Secretaries determine are surplus to domestic lumber and plywood manufacturing needs.

Shawnee
National Forest,
Ill.
Petroleum and
petroleum
products.
Natural gas. SEC. 303. No part of any appropriation under this Act shall be available to the Secretary of the Interior or the Secretary of Agriculture for the leasing of oil and natural gas by noncompetitive bidding on publicly owned lands within the boundaries of the Shawnee National Forest, Illinois: *Provided*, That nothing herein is intended to inhibit or otherwise affect the sale, lease, or right to access to minerals owned by private individuals.

Lobbying SEC. 304. No part of any appropriation contained in this Act shall be available for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which congressional action is not complete.

Hunting.
Birds. SEC. 305. No funds appropriated by this Act shall be available for the implementation or enforcement of any rule or regulation of the United States Fish and Wildlife Service, Department of the Interior, requiring the use of steel shot in connection with the hunting of waterfowl in any State of the United States unless the appropriate

State regulatory authority approves such implementation and enforcement.

SEC. 306. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 307. None of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency.

SEC. 308. Except for lands described by sections 105 and 106 of Public Law 96-560, section 103 of Public Law 96-550, section 5(d)(1) of Public Law 96-312, and except for land in the State of Alaska, and lands in the national forest system released to management for any use the Secretary of Agriculture deems appropriate through the land management planning process by any statement or other Act of Congress designating components of the National Wilderness Preservation System now in effect or hereinafter enacted, and except to carry out the obligations and responsibilities of the Secretary of the Interior under section 17(k)(1) (A) and (B) of the Mineral Leasing Act of 1920 (30 U.S.C. 226), none of the funds provided in this Act shall be obligated for any aspect of the processing or issuance of permits or leases pertaining to exploration for or development of coal, oil, gas, oil shale, phosphate, potassium, sulphur, gilsonite, or geothermal resources on Federal lands within any component of the National Wilderness Preservation System or within any Forest Service RARE II areas recommended for wilderness designation or allocated to further planning in Executive Communication 1504, Ninety-sixth Congress (House Document numbered 96-119); or within any lands designated by Congress as wilderness study areas or within Bureau of Land Management wilderness study areas: *Provided*, That nothing in this section shall prohibit the expenditure of funds for any aspect of the processing or issuance of permits pertaining to exploration for or development of the mineral resources described in this section, within any component of the National Wilderness Preservation System now in effect or hereinafter enacted, any Forest Service RARE II areas recommended for wilderness designation or allocated to further planning, within any lands designated by Congress as wilderness study areas, or Bureau of Land Management wilderness study areas, under valid existing rights, or leases validly issued in accordance with all applicable Federal, State, and local laws or valid mineral rights in existence prior to October 1, 1982: *Provided further*, That funds provided in this Act may be used by the Secretary of Agriculture in any area of National Forest lands or the Secretary of the Interior to issue under their existing authority in any area of National Forest or public lands withdrawn pursuant to this Act such permits as may be necessary to conduct prospecting, seismic surveys, and core sampling conducted by helicopter or other means not requiring construction of roads or improvement of existing roads or ways, for the purpose of gathering information about and inventorying energy, mineral, and other resource values of such area, if such activity is carried out in a manner compatible with the preservation of the wilderness environment: *Provided further*, That seismic activities involving the use of explosives shall not be permitted in designated wilderness areas: *Provided further*, That funds provided in this Act may be used by the Secretary of the Interior to augment recurring surveys of the mineral values of wilderness areas pursuant to

National Forest
System.
National
Wilderness
Preservation
System.
Conservation.
94 Stat.
3268-3270.
94 Stat. 3223.
94 Stat. 949

16 USC 1133.

section 4(d)(2) of the Wilderness Act and acquire information on other national forest and public land areas withdrawn pursuant to this Act, by conducting, in conjunction with the Secretary of Energy, the national laboratories, or other Federal agencies, as appropriate, such mineral inventories of areas withdrawn pursuant to this Act as he deems appropriate. These inventories shall be conducted in a manner compatible with the preservation of the wilderness environment through the use of methods including core sampling conducted by helicopter; geophysical techniques such as induced polarization, synthetic aperture radar, magnetic and gravity surveys; geochemical techniques including stream sediment reconnaissance and X-ray diffraction analysis; land satellites; or any other methods he deems appropriate. The Secretary of the Interior is hereby authorized to conduct inventories or segments of inventories, such as data analysis activities, by contract with private entities deemed by him to be qualified to engage in such activities whenever he has determined that such contracts would decrease Federal expenditures and would produce comparable or superior results: *Provided further*, That in carrying out any such inventory or surveys, where National Forest System lands are involved, the Secretary of the Interior shall consult with the Secretary of Agriculture concerning any activities affecting surface resources: *Provided further*, That funds provided in this Act may be used by the Secretary of the Interior to issue oil and gas leases for the subsurface of any lands designated by Congress as wilderness study areas, that are immediately adjacent to producing oil and gas fields or areas that are prospectively valuable. Such leases shall allow no surface occupancy and may be entered only by directional drilling from outside the wilderness study area or other nonsurface disturbing methods.

Mount Baker-Snoqualmie National Forest, Wash.

SEC. 309. None of the funds provided in this Act shall be used to evaluate, consider, process, or award oil, gas, or geothermal leases on Federal lands in the Mount Baker-Snoqualmie National Forest, State of Washington, within the hydrographic boundaries of the Cedar River municipal watershed upstream of river mile 21.6, the Green River municipal watershed upstream of river mile 61.0, the North Fork of the Tolt River proposed municipal watershed upstream of river mile 11.7, and the South Fork Tolt River municipal watershed upstream of river mile 8.4.

SEC. 310. No assessments may be levied against any program, budget activity, subactivity, or project funded by this Act unless such assessments and this basis therefor are presented to the Committees on Appropriations and are approved by such committees.

Government organization and employees.

SEC. 311. Employment funded by this Act shall not be subject to any personnel ceiling or other personnel restriction for permanent or other than permanent employment except as provided by law.

42 USC 4651.

SEC. 312. Funds provided for land acquisition in this Act may not be used to acquire lands for more than the approved appraised value (as addressed in section 301(3) of Public Law 91-646) except for condemnations and declarations of taking, without the written approval of the Committees on Appropriations.

Contracts.

SEC. 313. Notwithstanding any other provisions of law, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Energy, and the Secretary of the Smithsonian Institution, are authorized to enter into contracts with State and local governmental entities, including local fire districts, for procurement of services in the presuppression, detection, and suppression of fires on any units within their jurisdiction. In addition, any contracts or agreements

with the jurisdiction for fire management services listed above which are previously executed shall remain valid.

SEC. 314. None of the funds provided by this Act to the United States Fish and Wildlife Service may be obligated or expended to plan for, conduct, or supervise deer hunting on the Loxahatchee National Wildlife Refuge.

Loxahatchee
National
Wildlife Refuge.
Hunting.

SEC. 315. Funds available to the Department of the Interior and the Forest Service in fiscal year 1985 for the purpose of contracting for services that require the utilization of privately owned aircraft for the carriage of cargo or freight shall be used only to contract for aircraft that are certified as air-worthy by the Administrator of the Federal Aviation Administration as standard category aircraft under 14 CFR 21.183 unless the Secretary of the contracting department determines that such aircraft are not reasonably available to conduct such services.

Aircraft and air
carriers.

SEC. 316. None of the funds provided in this Act may be used for the augmentation of grizzly bear populations in currently occupied areas of Forest Service grizzly bear habitat or the preparation of specific augmentation proposals to establish new grizzly bear populations in areas identified as suitable grizzly bear habitat in any unit of the National Park System or National Forest System unless the appropriate General Management Plan or Forest Plan provides for such augmentation and has been adopted, including having been available for public comment and review: *Provided*, That such activities may be conducted only with funds specifically justified for such purpose in an agency budget justification and subsequently approved in a report accompanying an appropriation bill making appropriations for that agency, or with funds provided for through reprogramming procedures: *Provided further*, That this is not intended to prohibit the emergency relocation of nuisance bears into currently occupied areas of congressionally designated wilderness areas within Forest Service boundaries, or into other currently occupied situation on areas where conflict between bears and humans is not likely to occur: *Provided further*, That the Secretaries of Interior and Agriculture shall provide for a public meeting at each affected National Forest and National Park Headquarters and the subsequent publication of the "Guidelines for Management Involving Grizzly Bears in the Greater Yellowstone Area" in the Federal Register, reflecting the public comments: *Provided further*, That notwithstanding any other provision of law, agencies included in this Act are authorized to reimburse permittees for such reasonable expenses as may be incurred as a result of moving permitted animals from one location to another, as may be required by the permitting agency, in order to prevent harassment and attacks by grizzly bears. Such expenses are to be determined by the agency responsible for the permitted action.

Animals.
National parks,
monuments, etc.
National Forest
System.

Federal
Register,
publication.

SEC. 317. The Administrator of the General Services Administration shall transfer to the Secretary of the Interior, without reimbursement, for inclusion in the War in the Pacific National Historical Park the following parcels of land:

(1) Agat Bay, parcel 2, United States Naval Station, Guam (GSA control number 9-N-GU-426); and

(2) GLUP: Nimitz Hill, parcel 3, Nimitz Hill Annex Area "C", Municipality of Asan, Guam (GSA control number 9-N-GU-415).

SEC. 318. The Secretary of the Interior shall quantify, in cooperation with the Secretary of Agriculture and the Governor of North

North Dakota.
Conservation.

Dakota, and consistent with an agreement to be negotiated between the Secretary of the Interior and the Governor of North Dakota, the number of wetland acres, including a description by quarter section, subject to waterfowl production area easements in each county; and the Secretary and the Governor shall develop a plan for the purchase of additional easement acres previously authorized by the Governor.

Geothermal
leasing.

SEC. 319. The primary term of any geothermal lease in effect as of July 27, 1984, issued pursuant to the Geothermal Act of 1970 (Public Law 91-581, 84 Stat. 1566, 30 U.S.C. 1001-1025) is hereby extended to December 31, 1986, if the Secretary of the Interior finds that—

(a) a bona fide sale of the geothermal resource, from a well capable of production, for delivery to or utilization by a facility or facilities, has not been completed (1) due to administrative delays by government entities, beyond the control of the lessee, or (2) such sale would be uneconomic;

(b) substantial investment in the development of or for the benefit of the lease has been made; and

(c) the lease would otherwise expire prior to December 31, 1986.

Yellowstone
National Park.

Notwithstanding any other provision of law, the Secretary shall not issue any geothermal lease pursuant to the Geothermal Steam Act of 1970 (Public Law 91-581, as amended) in the Island Park Known as Geothermal Resource Area adjacent to Yellowstone National Park.

5 USC 5911 note.

SEC. 320. Notwithstanding title 5 of the United States Code or any other provision of law, after September 30, 1984, rents and charges collected by payroll deduction or otherwise for the use or occupancy of quarters of agencies funded by this Act shall thereafter be deposited in a special fund in each agency, to remain available until expended, for the maintenance and operation of the quarters of that agency: *Provided*, That for the fiscal year ending September 30, 1985, and each fiscal year thereafter, such amounts as may be collected may be expended in the agency unit or subunit (e.g. Park, refuge, hatchery, Forest, Agency office, School, Service unit, hospital, clinic, etc.) where the funds are collected: *Provided further*, That up to 10 per centum of funds collected in such unit may be transferred to another unit within the same agency.

Pollution.

SEC. 321. The Secretary of Energy pursuant to the Federal Nonnuclear Energy Research and Development Act of 1974 (Public Law 93-577), shall—

42 USC 5901
note.
Federal
Register,
publication.

(1) no later than sixty days after the date of the enactment of this Act, publish in the Federal Register a notice soliciting statements of interest in, and proposals for projects employing emerging clean coal technologies, which statements and proposals are to be submitted to the Secretary within ninety days after the publication of such notice; and

Report.

(2) no later than April 15, 1985, submit to Congress a report that analyzes the information contained in such statements of interest and proposals, assesses the potential usefulness of each emerging clean coal technology for which a statement of interest or proposal has been received, and identifies the extent to which Federal incentives, including financial assistance, will accelerate the commercial availability of these technologies.

SEC. 322. Section 5542(b)(2)(B)(iv) of title 5, United States Code, is amended by inserting immediately before the period at the end thereof a comma and the following: "including travel by an

employee to such an event and the return of such employee from such event to his or her official-duty station”.

SEC. 323. It is the sense of the Congress that the Continental Scientific Drilling Program is an important national scientific endeavor, benefiting the commerce of the Nation, which should be vigorously pursued by Government and the private sector. The Continental Scientific Drilling Program is an important national scientific endeavor that is vital to the understanding of the geologic evolution of the Earth and the economic value of its resources; the most effective and efficient means of realizing the fullest potential in the Continental Scientific Drilling Program is through a cooperative effort by the Department of Energy, the National Science Foundation, and the United States Geological Survey; many important commercial and scientific advances may result from the Continental Scientific Drilling Program; and many foreign nations are engaged in a comparable deep drilling program, and cooperation and coordination would be beneficial to United States efforts. It is the sense of the Congress that—

Science and
technology.

(1) the Continental Scientific Drilling Program is an important national scientific endeavor by the United States which should be enthusiastically implemented through a joint cooperative effort among the United States Department of Energy, the National Science Foundation, and the United States Geological Survey;

(2) the private sector should be encouraged to support the Continental Scientific Drilling Program and the participating agencies should solicit appropriate private sector participation in such program; and

(3) the United States Government should cooperate to the extent practicable with the international community in developing this important scientific and technical activity.

SEC. 324. Notwithstanding any other provision of this joint resolution or any other law, section 401(c)(1) of Public Law 95-87 is amended by striking the word “and” after the words “in situ;” and adding the following after the word “subsidence;”: “and establishment of self-sustaining, individual State administered programs to insure private property against damages caused by land subsidence resulting from underground coal mining in those States which have reclamation plans approved in accordance with section 503 of this Act: *Provided*, That funds used for this purpose shall not exceed \$3,000,000 of the funds made available to any State under section 402(g)(2) of this Act;”.

30 USC 1231.

SEC. 325. None of the funds provided for in this joint resolution or hereafter provided shall be used to lease the mineral interest of the United States with respect to a tract of land in Payne County, Oklahoma, totalling nine hundred sixty acres located on the Indian Base Meridian; township 19 north; range 1 east, section 22 west half; section 26 northwest quarter; section 27 north half, southeast quarter; unless such lease prohibits the surface occupancy of the land for development of those interests.

30 USC 1253.

30 USC 1232.
Payne County,
Okla.
Mines and
mining.

SEC. 326. The land acquisition and relocation authorized for Centralia, Pennsylvania, under chapter IV of Public Law 98-181 shall not require any matching share of funding from the State of Pennsylvania under Section 407(e) of the “Surface Mining Control and Reclamation Act of 1977”.

Centralia, Pa.
97 Stat. 1207.

SEC. 327. Each amount of budget authority provided in this Act, for payments not required by law, is hereby reduced by 2 per

30 USC 1237.

Department of
the Interior and
Related
Agencies
Appropriations
Act, 1985.
John F. Kennedy
Center Act
Amendments of
1984.
20 USC 76h note.

centum: *Provided*, That such reductions shall be applied ratably to each account, program, activity, and project provided for in this Act.

This Act may be cited as the "Department of the Interior and Related Agencies Appropriations Act, 1985".

The following may be cited as "The John F. Kennedy Center Act Amendments of 1984".

Section 9 of the Kennedy Center Act (20 U.S.C. 76o) is amended—

(1) by inserting "(a)" immediately after "SEC. 9.", and by striking out the third, fourth, and seventh sentences thereof; and

(2) by adding at the end thereof the following new subsections:

"(b) Effective as of the date of enactment of this subsection the obligations of the Board incurred under subsection (a) of this section shall bear no interest, and the requirement of the Board to pay the unpaid interest which has accrued on such obligations is terminated.

"(c) There is hereby established in the Treasury of the United States a sinking fund, the Kennedy Center Revenue Bond Sinking Fund (hereinafter referred to as the 'Fund'), which shall be used to retire the obligations of the Board incurred under subsection (a) of this section upon the respective maturities of such obligations. The Board shall pay into the Fund, beginning on January 1, 1987 and ending on January 1, 2016, the annual sum of \$200,000 in amortization of the principal amount of the obligations. Such sums shall be invested by the Secretary of the Treasury in public debt securities with maturities suitable for the needs of the Fund and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities. The interest on such investments shall be credited to and form a part of the Fund. Moneys in the Fund shall be used exclusively to retire the obligations of the Board incurred under subsection (a) of this section. Adjustments of not greater than plus or minus 5 per centum may be made from time to time in the annual payments to the Fund in order to correct any gains or deficiencies as a result of fluctuations in interest rates over the life of the investments: *Provided, however*, That a final adjustment shall be made between the Board and the Secretary of the Treasury at the end of the amortization period to correct any overall gain or deficiency in the Fund. The terms of this adjustment shall be covered by a memorandum of understanding between the Board and the Secretary of the Treasury to be consummated on or before the time the initial payment into the Fund is made."

(d) Such amounts as may be necessary for programs, projects, or activities provided for in the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1985 (H.R. 6028), to the extent and in the manner provided for in the conference report and joint explanatory statement of the Committee of Conference (House Report Numbered 98-1132), filed in the House of Representatives on October 3, 1984, as if such Act had been enacted into law: *Provided*, That sections 204 and 307 of Public Law 98-139 shall apply to funds appropriated in this subsection: *Provided further*, That notwithstanding any other provision of this joint resolution, there is appropriated \$4,000,000 for the United States Institute of Peace as authorized in the United States Institute of Peace Act.

Post p. 3305.

97 Stat. 887, 895.

Notwithstanding any other provision of this joint resolution, there is appropriated to the National Library of Medicine, an additional \$3,500,000 for carrying out section 301 with respect to health information communications and parts I and J of title III of the Public Health Service Act.

42 USC 241.

Notwithstanding any other provision of this joint resolution, and in addition to amounts appropriated elsewhere, there are appropriated \$2,500,000 for fiscal year 1985 for the Alcohol, Drug Abuse, and Mental Health Administration.

42 USC 275,
280b.

Section 412(e) of the Immigration and Nationality Act (8 U.S.C. 1522(e)) is amended by adding at the end thereof the following new paragraph:

“(7)(A) The Secretary shall develop and implement alternative projects for refugees who have been in the United States less than thirty-six months, under which refugees are provided interim support, medical services, support services, and case management, as needed, in a manner that encourages self-sufficiency, reduces welfare dependency, and fosters greater coordination among the resettlement agencies and service providers.

Refugees.

“(B) Refugees covered under such alternative projects shall be precluded from receiving cash or medical assistance under any other paragraph of this subsection or under title XIX or part A of title IV of the Social Security Act.

42 USC 1396.
42 USC 601.
Report.

“(C) The Secretary, in consultation with the United States Coordinator for Refugee Affairs, shall report to Congress not later than October 31, 1985, on the results of these projects and on any recommendations respecting changes in the refugee assistance program under this section to take into account such results.

“(D) To the extent that the use of such funds is consistent with the purposes of such provisions, funds appropriated under paragraph (1) or (2) of section 414(a) of this Act, part A of title IV of the Social Security Act, or title XIX of such Act, may be used for the purpose of implementing and evaluating alternative projects under this paragraph.”. The amendment made by this paragraph shall take effect on October 1, 1984.

8 USC 1524.

Effective date.
8 USC 1522 note.

(e) Such amounts as may be necessary for programs, projects or activities provided for in the Military Construction Appropriations Act, 1985, at a rate of operations and to the extent and in the manner provided as follows, to be effective as if it had been enacted into law as the regular appropriation Act:

Infra.

AN ACT

Making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1985, and for other purposes.

Military
Construction
Appropriations
Act, 1985.

MILITARY CONSTRUCTION, ARMY

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Army as currently authorized by law, and for construction and operation of facilities in support of the functions of the Commander-in-Chief, \$1,593,137,000, to remain available until September 30, 1989: *Provided*, That of this amount, not to exceed \$153,500,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are

necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further*, That none of the funds appropriated by this Act may be used for construction of a chemical munitions demilitarization facility at Lexington-Blue Grass Army Depot, Kentucky.

MILITARY CONSTRUCTION, NAVY

For acquisition, construction, installation, and equipment of temporary or permanent public works, naval installations, facilities, and real property for the Navy as currently authorized by law, including personnel in the Naval Facilities Engineering Command and other personal services necessary for the purposes of this appropriation, \$1,534,592,000, to remain available until September 30, 1989: *Provided*, That of this amount, not to exceed \$140,900,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

MILITARY CONSTRUCTION, AIR FORCE

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Air Force as currently authorized by law, \$1,572,655,000 to remain available until September 30, 1989: *Provided*, That of this amount, not to exceed \$143,900,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

MILITARY CONSTRUCTION, DEFENSE AGENCIES

For acquisition, construction, installation, and equipment of temporary or permanent public works, installations, facilities, and real property for activities and agencies of the Department of Defense (other than the military departments), as currently authorized by law, \$302,198,000 to remain available until September 30, 1989: *Provided*, That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to such appropriations of the Department of Defense available for military construction as he may designate, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided further*, That of the amount appropriated, not to exceed \$27,500,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

For the United States share of the cost of multilateral programs for the acquisition or construction of military facilities and installations (including international military headquarters) for the collective defense of the North Atlantic Treaty Area as authorized in military construction Acts and section 2806 of title 10, United States Code, \$107,200,000, to remain available until expended.

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, \$98,603,000, to remain available until September 30, 1989.

10 USC 2231 *et seq.*

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, \$111,200,000, to remain available until September 30, 1989.

MILITARY CONSTRUCTION, ARMY RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army Reserve as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, \$69,306,000, to remain available until September 30, 1989.

MILITARY CONSTRUCTION, NAVAL RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the reserve components of the Navy and Marine Corps as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, \$60,800,000, to remain available until September 30, 1989.

MILITARY CONSTRUCTION, AIR FORCE RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air Force Reserve as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, \$67,800,000, to remain available until September 30, 1989.

FAMILY HOUSING, ARMY

For expenses of family housing for the Army for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, \$143,215,000; for Operation and maintenance,

\$1,183,300,000; for debt payment, \$21,917,000; in all \$1,348,432,000: *Provided*, That the amount provided for construction shall remain available until September 30, 1989.

FAMILY HOUSING, NAVY AND MARINE CORPS

For expenses of family housing for the Navy and Marine Corps for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, \$117,027,000; for Operation and maintenance, \$538,602,000; for debt payment, \$25,446,000; in all \$681,075,000: *Provided*, That the amount provided for construction shall remain available until September 30, 1989.

FAMILY HOUSING, AIR FORCE

For expenses of family housing for the Air Force for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, \$181,123,000; for Operation and maintenance, \$700,940,000; for debt payment, \$29,980,000; in all \$912,043,000: *Provided*, That the amount provided for construction shall remain available until September 30, 1989.

FAMILY HOUSING, DEFENSE AGENCIES

For expenses of family housing for the activities and agencies of the Department of Defense (other than the military departments) for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, leasing, and minor construction, as authorized by law, as follows: for Construction, \$707,000; for Operation and maintenance, \$16,730,000; in all \$17,437,000: *Provided*, That the amount provided for construction shall remain available until September 30, 1989.

GENERAL PROVISIONS

Funds.

SEC. 101. Funds appropriated to the Department of Defense for construction in prior years are hereby made available for construction authorized for each such department by the authorizations enacted into law during the second session of the Ninety-eighth Congress.

Contracts.

SEC. 102. None of the funds appropriated in this Act shall be expended for payments under a cost-plus-a-fixed-fee contract for work, where cost estimates exceed \$25,000, to be performed within the United States, except Alaska, without the specific approval in writing of the Secretary of Defense setting forth the reasons therefor.

Motor vehicles.

SEC. 103. Funds herein appropriated to the Department of Defense for construction shall be available for hire of passenger motor vehicles.

SEC. 104. Funds appropriated to the Department of Defense for construction may be used for advances to the Federal Highway

Administration, Department of Transportation, for the construction of access roads as authorized by section 210 of title 23, United States Code, when projects authorized therein are certified as important to the national defense by the Secretary of Defense.

SEC. 105. None of the funds appropriated in this Act may be used to begin construction of new bases inside the continental United States for which specific appropriations have not been made.

SEC. 106. No part of the funds provided in this Act shall be used for purchase of land or land easements in excess of 100 per centum of the value as determined by the Corps of Engineers or the Naval Facilities Engineering Command, except: (a) where there is a determination of value by a Federal court, or (b) purchases negotiated by the Attorney General or his designee, or (c) where the estimated value is less than \$25,000, or (d) as otherwise determined by the Secretary of Defense to be in the public interest.

SEC. 107. None of the funds appropriated in this Act shall be used to (1) acquire land, (2) provide for site preparation, or (3) install utilities for any family housing, except housing for which funds have been made available in annual military construction appropriation Acts.

SEC. 108. None of the funds appropriated in this Act for minor construction may be used to transfer or relocate any activity from one base or installation to another, without prior notification to the Committees on Appropriations.

SEC. 109. None of the funds appropriated or otherwise made available under this Act shall be obligated or expended in connection with any base realignment or closure activity, until all terms, conditions and requirements of the National Environmental Policy Act have been complied with, with respect to each such activity.

SEC. 110. No part of the funds appropriated in this Act may be used for the procurement of steel for any construction project or activity for which American steel producers, fabricators, and manufacturers have been denied the opportunity to compete for such steel procurement.

SEC. 111. No part of the funds appropriated in this Act for dredging in the Indian Ocean may be used for the performance of the work by foreign contractors: *Provided*, That the low responsive bid of a United States contractor does not exceed the lowest responsive bid of a foreign contractor by greater than 20 per centum.

SEC. 112. No part of the funds appropriated in this Act may be obligated for construction of any site-specific facilities for the MX missile system until all terms, conditions, and requirements of the National Environmental Policy Act (42 U.S.C. 4332) are met.

SEC. 113. None of the funds available to the Department of Defense for military construction or family housing during the current fiscal year may be used to pay real property taxes in any foreign nation.

SEC. 114. No part of the funds appropriated in this Act may be used to pay the compensation of an officer of the Government of the United States or to reimburse a contractor for the employment of a person for work in the continental United States by any such person if such person is an alien who has not been lawfully admitted to the United States.

SEC. 115. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection.

42 USC 4321
note.
Steel.

Indian Ocean.

MX missile.

Public
availability.

tion, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

Funds.

SEC. 116. Notwithstanding any other provision of law, any funds appropriated to a military department or defense agency for the construction of military projects may be obligated for a military construction project or contract, or for any portion of such a project or contract, at any time before the end of the fourth fiscal year after the fiscal year for which funds for such project were appropriated if the funds obligated for such project (1) are obligated from funds available for military construction projects, and (2) do not exceed the amount appropriated for such projects, plus any amount by which the cost of such project is increased pursuant to law.

**Ft. DeRussy,
Hawaii.**

SEC. 117. None of the funds appropriated in this Act may be obligated or expended in any way for the express purpose of the sale, lease, or rental of any portion of land currently identified as Fort DeRussy, Honolulu, Hawaii.

SEC. 118. None of the funds in this Act may be used to initiate a new installation overseas without prior notification to the Committees on Appropriations.

Expense sharing.

SEC. 119. None of the funds appropriated in this Act for F-16 beddown projects at Misawa, Japan, may be obligated or expended unless there has been notification to the Committees on Appropriations that the approved Government of Japan budget for fiscal year 1985 includes projects associated with the F-16 beddown as an additive over the level of funding provided in Japanese fiscal year 1984 for the facilities improvement program.

Contracts.

SEC. 120. None of the funds appropriated in this Act may be obligated for contracts estimated by the Government to exceed \$10,000,000 for military construction projects to be accomplished in Japan or in any NATO member country if that country has not increased its defense spending by at least 3 per centum in calendar year 1983, as certified by the Secretary of Defense, unless such contracts require that all installed equipment utilized in such projects have been manufactured in the United States.

Contracts.

SEC. 121. None of the funds appropriated in this Act may be obligated for architect and engineer contracts estimated by the Government to exceed \$1,000,000 for projects to be accomplished in Japan or in any NATO member country if that country has not increased its defense spending by at least 3 per centum in calendar year 1983, as certified by the Secretary of Defense, unless such contracts are awarded to United States firms or United States firms in joint venture with host nation firms.

Contracts.

SEC. 122. None of the funds appropriated in this Act for military construction in the United States territories and possessions in the Pacific and on Kwajalein Island may be used to award any contract estimated by the Government to exceed \$5,000,000 to a foreign contractor: *Provided*, That this section shall not be applicable to contract awards for which the lowest responsive bid of a United States contractor exceeds the lowest responsive bid of a foreign contractor by greater than 20 per centum.

**Military
exercises, prior
notice.**

SEC. 123. The Secretary of Defense is to inform the Committees on Appropriations and Committees on Armed Services of the plans and scope of any proposed military exercise involving United States personnel prior to its occurring, if amounts expended for construction, either temporary or permanent, are anticipated to exceed \$100,000.

SEC. 124. Unexpended balances in the Military Family Housing Management Account established pursuant to section 2831 of title 10, United States Code, as well as any additional amounts which would otherwise be transferred to the Military Family Housing Management Account during fiscal year 1985, shall be transferred to the appropriations for Family Housing provided in this Act, as determined by the Secretary of Defense, based on the sources from which the funds were derived, and shall be available for the same purposes, and for the same time period, as the appropriation to which they have been transferred.

Funds.

SEC. 125. (a) None of the funds appropriated in this Act may be available for any country if the President determines that the government of such country is failing to take adequate measures to prevent narcotic drugs or other controlled substances cultivated or produced or processed illicitly, in whole or in part, in such country, or transported through such country, from being sold illegally within the jurisdiction of such country to United States personnel or their dependents, or from being smuggled into the United States. Such prohibition shall continue in force until the President determines and reports to the Congress in writing that—

Drugs and drug abuse.

(1) the government of such country has prepared and committed itself to a plan presented to the Secretary of State that would eliminate the cause or basis for the application to such country of the prohibition contained in the first sentence; and

(2) the government of such country has taken appropriate law enforcement measures to implement the plan presented to the Secretary of State.

(b) The provisions of subsection (a) shall not apply in the case of any country with respect to which the President determines that the application of the provisions of such subsection would be inconsistent with the national security interests of the United States.

SEC. 126. Of the total amount of budget authority provided for fiscal year 1985 by this Act that would otherwise be available for consulting services, management and professional services, and special studies and analyses, 10 per centum of the amount intended for such purposes in the President's budget for 1985, as amended, for any agency, department or entity subject to apportionment by the Executive shall be placed in reserve and not made available for obligation or expenditure: *Provided*, That this section shall not apply to any agency, department or entity whose budget request for 1985 for the purposes stated above did not amount to \$5,000,000.

SEC. 127. It is the sense of the Congress that the administration should call on the pertinent member nations of the North Atlantic Treaty Organization and on Japan to meet or exceed their pledges for at least a 3 per centum real increase in defense spending and furtherance of increased unity, equitable sharing of our common defense burden, and international stability.

Expense sharing.
22 USC 1928
note.

This Act may be cited as the "Military Construction Appropriations Act, 1985".

Military
Construction
Appropriations
Act, 1985.

Notwithstanding any other provision of this joint resolution, funds appropriated by this joint resolution for the United States share of the North Atlantic Treaty Organization infrastructure program may be obligated or expended only to the extent that one dollar (or its equivalent) has been recouped by the United States for North Atlantic Treaty Organization eligible projects prefinanced with United States funds for every four dollars (or their equivalent)

obligated or expended from funds made available under this joint resolution for such purpose.

(1) Such amounts as may be necessary for projects or activities provided for in the Foreign Assistance and Related Programs Appropriations Act, 1985, at a rate for operations and to the extent in the following Act; this subsection shall be effective as if it had been enacted into law as the regular appropriation Act:

AN ACT

Foreign
Assistance and
Related
Programs
Appropriations
Act, 1985.

Making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1985, and for other purposes, namely:

TITLE I—MULTILATERAL ECONOMIC ASSISTANCE FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL FINANCIAL INSTITUTIONS

CONTRIBUTION TO THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

22 USC 286e-1h.

For payment to the International Bank for Reconstruction and Development by the Secretary of the Treasury, for the United States share of the paid-in share portion of the increase in capital stock as authorized by the International Financial Institutions Act, \$109,721,549 for the General Capital Increase, as authorized by section 39 of the Bretton Woods Agreements Act, as amended (Public Law 79-171), to remain available until expended: *Provided*, That no such payment may be made while the United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the International Bank for Reconstruction and Development may subscribe without fiscal year limitation to the callable capital portion of the United States share of increases in capital stock in an amount not to exceed \$1,353,220,096.

CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

For payment to the International Development Association by the Secretary of the Treasury, \$750,000,000, for the first installment of the United States contribution to the seventh replenishment, to remain available until expended, and \$150,000,000 for the United States contribution to the sixth replenishment, to remain available until expended: *Provided*, That no such payment may be made while the United States Executive Director to the International Bank for Reconstruction and Development is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States

Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position of level V of the Executive Schedule under section 5316 of title 5, United States Code: *Provided further*, That there is hereby enacted into law the amendment made by section 901 of S. 2582, as reported by the Committee on Foreign Relations of the Senate on April 18, 1984, except for subsection (c) of the section enacted by this proviso: *Provided further*, That the Secretary of the Treasury shall instruct the United States Executive Director to undertake negotiations to ensure, to the maximum extent possible consistent with the effective use of resources, that the amount of development credits made available to sub-Saharan Africa through the seventh replenishment shall equal or exceed the amount of development credits made available to sub-Saharan Africa through the sixth replenishment.

22 USC 284p.

22 USC 284p
note.

CONTRIBUTION TO THE INTER-AMERICAN DEVELOPMENT BANK

For payment to the Inter-American Development Bank by the Secretary of the Treasury for the United States share of the increase in the resources of the Fund for Special Operations, as authorized by the Inter-American Development Bank Act, as amended (Public Law 86-147), \$72,500,000 to remain available until expended; and \$38,000,983 for the United States share of the increase in paid-in capital stock to remain available until expended; and \$10,000,000 for the United States share of the capital stock of the Inter-American Investment Corporation to remain available until expended: *Provided*, That there is hereby enacted into law title II of S. 2416, as introduced in the Senate on March 13, 1984: *Provided further*, That no such payment may be made while the United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director for the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

22 USC 283 note.

12 USC 24.
22 USC 276c-2,
283aa note,
283aa—283ii.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the Inter-American Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such increase in capital stock in an amount not to exceed \$806,464,582.

CONTRIBUTION TO THE ASIAN DEVELOPMENT BANK

For payment to the Asian Development Bank by the Secretary of the Treasury, for the paid-in share portion of the United States share of the increase in capital stock, \$13,232,676 to remain available until expended; and for the United States contribution to the increases in resources of the Asian Development Fund, as authorized by the Asian Development Bank Act, as amended (Public Law 98-369), \$100,000,000, to remain available until expended: *Provided*, That no such payment may be made while the United States Director of the Bank is compensated by the Bank at a rate which, together with whatever compensation such Director receives from the United States, is in excess of the rate provided for an individual

22 USC 285 note.
Ante, p. 494.

occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while any alternate United States Director to the Bank is compensated by the Bank in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the Asian Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such increase in capital stock in an amount not to exceed \$251,367,220.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT FUND

For payment to the African Development Fund by the Secretary of the Treasury, \$50,000,000, for the United States contribution to the third replenishment of the African Development Fund, to remain available until expended.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT BANK

For payment to the African Development Bank by the Secretary of the Treasury, for the paid-in share portion of the United States share of the increase in capital stock, \$17,987,678, to remain available until expended: *Provided*, That no such payment may be made while the United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the African Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed \$53,960,036.

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

22 USC 2221,
2151a.
22 USC 287 note.

For necessary expenses to carry out the provisions of sections 301 and 103(g) of the Foreign Assistance Act of 1961, and of section 2 of the United Nations Environment Program Participation Act of 1983, \$358,676,500: *Provided*, That no funds shall be available for the United Nations Fund for Science and Technology: *Provided further*, That the total amount of funds made available by this paragraph shall be available only as follows: \$165,000,000 for the United Nations Development Program; \$53,500,000 for the United Nations Children's Fund; \$2,000,000 for the World Food Program; \$2,000,000 for the United Nations Capital Development Fund; \$500,000 for the United Nations Voluntary Fund for the Decade for Women; \$2,000,000 for the World Meteorological Organization Voluntary Cooperation Program; \$14,814,000 for the International Atomic Energy Agency; \$10,000,000 for the United Nations Environment

Program; \$1,000,000 for the United Nations Educational and Training Program for South Africa; \$500,000 for the United Nations Institute for Namibia; \$343,000 for the United Nations Trust Fund for South Africa; \$422,000 for the United Nations Institute for Training and Research; \$200,000 for the Convention on International Trade in Endangered Species; \$90,000,000 for the International Fund for Agricultural Development; \$449,000 for the United Nations Fellowship Program; \$100,000 for the UNIDO Investment Promotion Service; \$248,500 for the World Heritage Fund; \$100,000 for the United Nations Voluntary Fund for Victims of Torture; and \$15,500,000 for the Organization of American States.

TITLE II—BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

For expenses necessary to enable the President to carry out the provisions of the Central America Democracy, Peace and Development Initiative Act of 1984, the Foreign Assistance Act of 1961, and for other purposes, to remain available until September 30, 1985, unless otherwise specified herein, as follows:

22 USC 2151
note.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Agriculture, rural development and nutrition, Development Assistance: For necessary expenses to carry out the provisions of section 103, \$745,551,000: *Provided*, That of this amount the funds provided for loans shall remain available for obligation until September 30, 1986: *Provided further*, That notwithstanding any other provision of law, up to \$10,000,000 of the funds appropriated under this heading may be available for agricultural activities in Poland which are managed by the Polish Catholic Church or other nongovernmental organizations, which sum shall remain available until September 30, 1986, except that \$5,000,000 of the funds made available by this proviso may not be obligated or expended until October 1, 1985: *Provided further*, That of the funds made available under this paragraph not more than \$1,700,000 shall be available for Uganda except as provided through the regular notification process of the Committees on Appropriations: *Provided further*, That in addition to amounts otherwise appropriated by this Act to carry out the provisions of section 103, there is hereby appropriated \$10,000,000 which shall be used only for nutrition activities not previously justified to the Committees on Appropriations, with such assistance to be provided through private and voluntary organizations and international organizations wherever appropriate.

22 USC 2151a.

Population, Development Assistance: For necessary expenses to carry out the provisions of section 104(b), \$290,000,000: *Provided*, That of this amount the funds provided for loans shall remain available for obligation until September 30, 1986: *Provided further*, That none of the funds appropriated under this heading may be available for the World Health Organization's Special Program of Research, Development and Research Training in Human Reproduction: *Provided further*, That not less than \$46,000,000 or 16 per centum of the amount appropriated under this paragraph, whichever is lower, shall be available only to support the United Nations Fund for Population Activities: *Provided further*, That none of the funds appropriated under this paragraph may be available to any

22 USC 2151b.

22 USC 2151b.
95 Stat. 1647.

country which includes as part of its population planning programs involuntary abortion: *Provided further*, That none of the funds appropriated under this paragraph may be available to any organization which includes as part of its population planning programs involuntary abortion: *Provided further*, That it is the sense of the House of Representatives to reaffirm its commitment to United States population assistance, as authorized by section 104 of the Foreign Assistance Act of 1961 and as appropriated by the Foreign Assistance and Related Programs Appropriations Act, 1982. It is further the sense of the House of Representatives that United States population assistance shall be administered in accordance with and faithful to these laws as interpreted by AID's 1982 "Policy Paper: Population Assistance" and that no funds shall be denied to multi-lateral as well as nongovernmental and private and voluntary organizations because of their participation, paid for by funds other than those appropriated by the Congress, in activities conducted in accordance with all applicable United States Federal laws and regulations.

Health, Development Assistance: For necessary expenses to carry out the provisions of section 104(c), \$173,138,000: *Provided*, That of this amount the funds provided for loans shall remain available for obligation until September 30, 1986: *Provided further*, That not less than \$42,000,000 of the funds appropriated under this paragraph shall be available only for Africa: *Provided further*, That in addition to amounts otherwise appropriated by this Act to carry out the provisions of section 104(c) there is hereby appropriated \$50,000,000, which shall be available only for the delivery of primary and related health care services, and basic health care education (primarily oral rehydration and immunization programs) activities not previously justified to the Committees on Appropriations, with such assistance to be provided through private and voluntary organizations and international organizations wherever appropriate.

Child Survival Fund: For necessary expenses to carry out the provisions of the "Child Survival Fund", \$25,000,000.

22 USC 2151c.

Education and human resources development, Development Assistance: For necessary expenses to carry out the provisions of section 105, \$188,833,000: *Provided*, That of this amount the funds provided for loans shall remain available for obligation until September 30, 1986: *Provided further*, That \$4,000,000 of this amount shall be available only for scholarships for South African students in accordance with the last sentence of section 105(a) of the Foreign Assistance Act of 1961 (as added by title III of the International Security and Development Cooperation Act of 1981).

22 USC 2151d.

Energy and selected development activities, Development Assistance: For necessary expenses to carry out the provisions of section 106, \$190,000,000: *Provided*, That of this amount the funds provided for loans shall remain available for obligation until September 30, 1986: *Provided further*, That of the funds appropriated under this paragraph, \$2,000,000 shall be transferred to and made available for "Science and technology, Development Assistance", which sum shall be made available only for cooperative projects among the United States, Israel, and developing countries.

22 USC 2151a—
2151d.

Transfer of funds for Zimbabwe: Of the funds appropriated to carry out the provisions of sections 103 through 106, \$15,000,000 previously justified to the Committees on Appropriations shall be transferred to the Economic Support Fund for Zimbabwe.

Central America Development Assistance: Of the funds appropriated to carry out the provisions of sections 103 through 106, not more than \$225,000,000 shall be available for Central America except as provided through the regular notification process of the Committees on Appropriations.

22 USC 2151a—
2151d.

Private and Voluntary Organizations: None of the funds appropriated or otherwise made available in this Act for development assistance may be made available after January 1, 1986, to any United States private and voluntary organization, except any cooperative development organization, which obtains less than 25 per centum of its total annual funding for international activities from sources other than the United States Government, notwithstanding section 123(g) of the Foreign Assistance Act of 1961.

22 USC 2151u
note.

Science and technology, Development Assistance: For necessary expenses to carry out the provisions of section 106, \$10,000,000: *Provided*, That the amounts provided for loans to carry out the purposes of this paragraph shall remain available for obligation until September 30, 1986.

22 USC 2151u.

22 USC 2151d.

Private sector revolving fund: For necessary expenses to carry out the provisions of section 108 of the Foreign Assistance Act of 1961, as amended, not to exceed \$20,000,000 to be derived by transfer from funds appropriated to carry out the provisions of chapter 1 of part I of such Act, to remain available until expended. During 1985, obligations for assistance from amounts in the revolving fund account under section 108 shall not exceed \$20,000,000.

22 USC 2151f.

22 USC 2151.

Loan allocation, Development Assistance: In order to carry out the provisions of part I, the Administrator of the Agency responsible for administering such part may furnish loan assistance pursuant to existing law and on such terms and conditions as he may determine: *Provided*, That to the maximum extent practicable, loans to private sector institutions, from funds made available to carry out the provisions of sections 103 through 106, shall be provided at or near the prevailing interest rate paid on Treasury obligations of similar maturity at the time of obligating such funds: *Provided further*, That loans made to countries whose annual per capita gross national product is greater than \$805 but less than \$1,301 shall be repayable within twenty-five years following the date on which funds are initially made available under such loans and loans to countries whose annual per capita gross national product is greater than or equal to \$1,301 shall be repayable within twenty years following the date on which funds are initially made available under such loans.

22 USC 2151.

American schools and hospitals abroad: For necessary expenses to carry out the provisions of section 214, \$30,000,000: *Provided*, That the Secretary of State shall conduct a study addressing what means would be most appropriate to continue financial assistance to the American University of Beirut and the American University of Cairo in future years in view of the value of the Universities to the interests of the United States in the Middle East, including the possibility of establishing a trust fund: *Provided further*, That the results of this study shall be provided to the chairman of the Committee on Appropriations and the Committee on Foreign Affairs of the House of Representatives and the chairmen of the Committee on Appropriations and the Committee on Foreign Relations of the Senate no later than January 1, 1985: *Provided further*, That the Secretary is directed to consult with the Committees on Appropriations during the development of this study.

22 USC 2174.

22 USC 2292. International disaster assistance: For necessary expenses to carry out the provisions of section 491, \$25,000,000, to remain available until expended.

22 USC 2151s. Sahel development program: For necessary expenses to carry out the provisions of section 121, \$97,500,000, to remain available until expended: *Provided*, That no part of such appropriation may be available to make any contribution of the United States to the Sahel development program in excess of 10 per centum of the total contributions to such program.

22 USC 2362. Overseas training and special development activities (foreign currency program): For necessary expenses as authorized by section 612, \$1,100,000 in foreign currencies which the Treasury Department declares to be excess to the normal requirements of the United States.

22 USC 3901 note. Payment to the Foreign Service Retirement and Disability Fund: For payment to the "Foreign Service Retirement and Disability Fund", as authorized by the Foreign Service Act of 1980, \$40,562,000.

22 USC 2346. Economic support fund: For necessary expenses to carry out the provisions of chapter 4 of part II, \$3,826,000,000: *Provided*, That of the funds appropriated under this paragraph, not less than \$1,200,000,000 shall be available only for Israel, which sum shall be available on a grant basis as a cash transfer and shall be provided before January 1, 1985: *Provided further*, That not less than \$815,000,000 shall be available only for Egypt, which sum shall be provided on a grant basis and of which \$100,000,000 shall be provided as a cash transfer: *Provided further*, That it is the sense of the Congress that the recommended levels of assistance for Egypt are based in great measure upon the continued participation of Egypt in the Camp David Accords and upon the Egyptian-Israeli peace treaty; and that Egypt and Israel are urged to renew actively their efforts to restore a full diplomatic relationship and achieve realization of the Camp David Accords: *Provided further*, That \$75,000,000 of the funds appropriated under this paragraph shall be made available for programs or activities for sub-Saharan Africa not previously justified to the Committees on Appropriations: *Provided further*, That not more than \$195,000,000 of the funds appropriated under this paragraph shall be provided for El Salvador: *Provided further*, That any of the funds appropriated under this paragraph for El Salvador which are placed in the Central Reserve Bank of El Salvador shall be maintained in a separate account and not commingled with any other funds, except that such funds may be obligated and expended notwithstanding provisions of law, which are inconsistent with the cash transfer nature of this assistance, or which are referenced in the Joint Explanatory Statement of the Committee of Conference accompanying House Joint Resolution 648: *Provided further*, That notwithstanding section 660 of the Foreign Assistance Act of 1961, not less than \$6,000,000 shall be available for programs and projects in El Salvador to promote the creation of judicial investigative capabilities, protection for key participants in pending judicial cases, and modernization of penal and evidentiary codes: *Provided further*, That \$15,000,000 shall be available only for Cyprus, and that none of these funds shall be used to support refugee housing construction or rent subsidies: *Provided further*, That not less than \$20,000,000 shall be available only for Tunisia: *Provided further*, That not less than \$5,000,000 shall be available only to assist Central American countries to develop energy self-

22 USC 2420.

sufficiency, to identify and utilize indigenous resources to improve economic development, and to reduce reliance on imported energy: *Provided further*, That none of the funds appropriated under this paragraph shall be available for the Central American Regional Program except as provided through the regular notification process of the Committees on Appropriations: *Provided further*, That not more than \$12,500,000 of the funds appropriated under this paragraph shall be available for Guatemala, and that such funds may be made available only for development activities consistent with the objectives of sections 103 through 106 of the Foreign Assistance Act of 1961 that are aimed directly at improving the lives of the poor in that country, especially the indigenous population in the highlands: *Provided further*, That none of the funds appropriated under this paragraph shall be available for Guatemala except in accordance with the regular notification process of the Committees on Appropriations: *Provided further*, That not more than \$10,000,000 of the funds appropriated under this paragraph shall be available for Zaire.

22 USC 2151a—
2151d.

Peacekeeping operations: For necessary expenses to carry out the provisions of section 551, \$44,000,000.

22 USC 2348.

Operating expenses of the Agency for International Development: For necessary expenses to carry out the provisions of section 667, \$391,533,250: *Provided*, That not more than \$20,000,000 of this amount shall be for Foreign Affairs Administrative Support: *Provided further*, That none of the funds appropriated or made available (other than funds appropriated or made available by this paragraph) pursuant to this Act for carrying out the foreign Assistance Act of 1961, may be used for the operating expenses of the Agency for International Development: *Provided further*, That except to the extent that the Administrator of the Agency for International Development determines otherwise, not less than 10 per centum of the aggregate of the funds made available for the fiscal year 1985 to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 shall be made available only for activities of economically and socially disadvantaged enterprises (within the meaning of section 133(c)(5) of the International Development and Food Assistance Act of 1977), historically black colleges and universities, and private and voluntary organizations which are controlled by individuals who are black Americans, Hispanic Americans, or Native Americans, or who are economically and socially disadvantaged (within the meaning of section 133(c)(5) (B) and (C) of the International Development and Food Assistance Act of 1977). For purposes of this section, economically and socially disadvantaged individuals shall be deemed to include women.

22 USC 2427.

22 USC 2151
note.

22 USC 2151.

22 USC 2151
note.

Trade credit insurance program: During the fiscal year 1985, total commitments to guarantee or ensure loans for the "Trade credit insurance program" shall not exceed \$300,000,000 of contingent liability for loan principal.

Trade and development: For necessary expenses to carry out the provisions of section 661, \$21,000,000.

Housing and other credit guaranty programs: For payment to the reserve fund established by section 223 of the Foreign Assistance Act of 1961, \$40,000,000, to remain available until expended: *Provided*, That such amounts shall be available for expenditure in discharge of guarantees extended prior to enactment of this Act. During the fiscal year 1985, total commitments to guarantee

22 USC 2183.

loans shall not exceed \$160,000,000 of contingent liability for loan principal.

AFRICAN DEVELOPMENT FOUNDATION

22 USC 290h
note.

For necessary expenses to carry out the provisions of title V of the International Security and Development Cooperation Act of 1980, Public Law 96-533, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104, title 31, United States Code, \$1,000,000: *Provided*, That the unobligated balances as of September 30, 1984, of funds heretofore made available for the African Development Foundation are hereby continued available for the fiscal year 1985 for the use of the African Development Foundation.

INTER-AMERICAN FOUNDATION

22 USC 290f.

For expenses necessary to carry out the functions of the Inter-American Foundation in accordance with the provisions of section 401 of the Foreign Assistance Act of 1969, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104, title 31, United States Code, \$11,992,000.

OVERSEAS PRIVATE INVESTMENT CORPORATION

The Overseas Private Investment Corporation is authorized to make such expenditures within the limits of funds available to it and in accordance with law (including not to exceed \$35,000 for official reception and representation expenses), and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104 of title 31, United States Code, as may be necessary in carrying out the program set forth in the budget for the current fiscal year.

During the fiscal year 1985 and within the resources and authority available, gross obligations for the amount of direct loans shall not exceed \$15,000,000.

During the fiscal year 1985, total commitments to guarantee loans shall not exceed \$150,000,000 of contingent liability for loan principal.

INDEPENDENT AGENCY

PEACE CORPS

22 USC 2501
note.

For expenses necessary to carry out the provisions of the Peace Corps Act (75 Stat. 612), \$128,600,000: *Provided*, That none of the funds appropriated in this paragraph shall be used to pay for abortions.

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL

22 USC 2291.

For necessary expenses to carry out the provisions of section 481, \$50,217,000.

MIGRATION AND REFUGEE ASSISTANCE

For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross and assistance to

refugees, including contributions to the Intergovernmental Committee for European Migration and the United Nations High Commissioner for Refugees; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980, allowances as authorized by sections 5921 through 5925 of title 5, United States Code; hire of passenger motor vehicles; and services as authorized by section 3109 of title 5, United States Code; \$325,500,000: *Provided*, That not less than \$15,000,000 shall be available for Soviet, Eastern European and other refugees resettling in Israel, of which \$2,500,000 shall be available for Ethiopian Jews: *Provided further*, That these funds shall be administered in a manner that ensures equity in the treatment of all refugees receiving Federal assistance: *Provided further*, That no funds herein appropriated shall be used to assist directly in the migration to any nation in the Western Hemisphere of any person not having a security clearance based on reasonable standards to ensure against Communist infiltration in the Western Hemisphere: *Provided further*, That no more than \$8,150,396 of the funds appropriated under this heading shall be available for the administrative expenses of the Office of Refugee Programs of the Department of State.

22 USC 3901
note.

ANTI-TERRORISM ASSISTANCE

For necessary expenses to carry out the provisions of chapter 8 of part II, \$5,000,000.

22 USC 2349aa.

TITLE III—MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

MILITARY ASSISTANCE

For necessary expenses to carry out the provisions of section 503 of the Foreign Assistance Act of 1961, including administrative expenses and purchase of passenger motor vehicles for replacement only for use outside of the United States, \$805,100,000: *Provided*, That of the funds appropriated under this paragraph, not more than \$111,750,000 shall be available for El Salvador and not more than \$215,000,000 shall be available for Turkey: *Provided further*, That of the funds appropriated under this paragraph, not more than \$4,000,000 shall be available for Zaire, except as provided through the regular notification process of the Committees on Appropriations: *Provided further*, That of the funds provided for El Salvador under this paragraph half the amount shall be available for obligation and expenditure October 1, 1984, and the remaining half March 1, 1985: *Provided further*, That in the event of an emergency certified by the President funds herein appropriated to be obligated for El Salvador after March 1, 1985, may be obligated in advance of that date, only if the Committees on Appropriations are notified at least fifteen days in advance: *Provided further*, That before the date of March 1, 1985, the administration shall consult with the Committees on Appropriations in regard to reduction and punishment of death squad activities, elimination of corruption and misuse of governmental funds, development of an El Salvadoran plan to improve the performance of the military, and progress toward discussions leading to a peaceful resolution of the conflict, with it being the direction of the Congress of the United States that military

22 USC 2311.

22 USC 2311,
2347.
22 USC 2751
note.

Report.

assistance funds available in the second half of fiscal year 1985 for El Salvador not be obligated until substantial progress has been made on each of the above points: *Provided further*, That \$5,000,000 of the amount made available by this Act for military assistance and financing for El Salvador under chapters 2 and 5 of part II of the Foreign Assistance Act of 1961 and under the Arms Export Control Act may not be expended until the Government of El Salvador has (1) substantially concluded all investigative action with respect to those responsible for the January 1981 deaths of the two United States land reform consultants Michael Hammer and Mark Pearlman and the Salvadoran Land Reform Institute Director Jose Rodolfo Viera, and (2) brought the accused to trial and obtained a verdict: *Provided further*, That funds appropriated under this paragraph may be made available for Turkey only if the President certifies to the Congress (a) that the United States Government is acting with urgency and determination to oppose any actions aimed at effecting a permanent bifurcation of Cyprus; and is calling upon the Government of Turkey to take without delay all necessary steps to reverse the illegal action declaring an independent state and to promote, pursuant to pertinent United Nations resolutions, the full political and economic unity of the Republic of Cyprus; and (b) that Turkey is making efforts to ensure that the Turkish Cypriot community is not taking any actions with regard to the region of Famagusta/Varosha which would prejudice the outcome or otherwise impede intercommunal talks on the future of Cyprus: *Provided further*, That none of the funds made available by this paragraph may be obligated or expended for the construction or operation of a Regional Military Training Center in Honduras except as provided through the regular notification process of the Committees on Appropriations and until the President provides to the Committees on Appropriations of the Senate and the House of Representatives (1) a report that the Government of Honduras has provided a site for such a Center and assumed responsibility for any competing claims to rights of use or ownership of such site, and has provided written assurances to make that site available on a long-term basis for training by the armed forces of other friendly countries in the region as well as those of Honduras; (2) a detailed plan, with specific cost estimates, for the construction of such a Center at the site provided by the Government of Honduras; and (3) a determination that the Government of Honduras recognizes the need to compensate as required by international law the United States citizen who claims injury from the establishment and operation of the existing Center, and that it is taking appropriate steps to discharge its obligations under international law, in particular the Treaty of Friendship, Commerce and Consular Rights with the United States, as well as its letter of December 14, 1983, to the United States Trade Representative: *Provided further*, That the President shall report to the Committees sixty days after the passage of this resolution and again in one hundred and twenty days on progress in resolving this claim; in one hundred and eighty days, the President shall report on the resolution of the claim or, if Honduras has failed to resolve the claim, on the actions which he proposes to take in response to the situation and in particular actions with respect to the granting of preferential trade benefits under the Caribbean Basin Initiative, disbursement of economic support funds or any other funds provided under this resolution and review of the status of Honduras under other, expropriation-related legislation.

SPECIAL DEFENSE ACQUISITION FUND

(LIMITATION ON OBLIGATIONS)

There are authorized to be made available for the Special Defense Acquisition Fund for the fiscal year 1985, \$325,000,000.

INTERNATIONAL MILITARY EDUCATION AND TRAINING

For necessary expenses to carry out the provisions of section 541, 22 USC 2347, \$56,221,000.

FOREIGN MILITARY CREDIT SALES

For necessary expenses to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, \$4,939,500,000, of which not less than \$1,400,000,000 shall be available only for Israel and not less than \$1,175,000,000 shall be available only for Egypt: *Provided*, That of the amount made available for Israel under this paragraph, up to \$150,000,000 shall be made available for research and development activities in the United States for the Lavi program, and not less than \$250,000,000 shall be for the procurement in Israel of defense articles and services, including research and development, for the Lavi program: *Provided further*, That during fiscal year 1985, gross obligations for the principal amount of direct loans, exclusive of loan guarantee defaults, shall not exceed \$4,939,500,000: *Provided further*, That section 102 of S. 2346, as introduced on February 27, 1984, is hereby enacted: *Provided further*, That credits (or participation in credits) extended under this Act for Greece for the fiscal year 1985 shall be at a rate of interest equal to the rate of interest charged on such credits extended for Turkey for the fiscal year 1985: *Provided further*, That no credits may be extended and no guarantees may be issued under this paragraph for Turkey for the fiscal year 1985 if the extension of such credits or the issuance of such guarantees would cause the sum of such credits and guarantees provided for Turkey for such fiscal year to exceed \$485,000,000: *Provided further*, That of the funds available in this paragraph not less than \$50,000,000 shall be available for Tunisia, not more than \$15,000,000 shall be available for the Philippines: *Provided further*, That none of the funds available in this paragraph shall be available for Guatemala: *Provided further*, That concessional interest rates available under this paragraph shall not be less than five percent: *Provided further*, That all country and funding level changes in requested concessional financing allocations shall be submitted through the regular notification process of the Committees on Appropriations: *Provided further*, That it is the sense of the Congress that no sales of sophisticated weaponry—specifically advanced aircraft, new air defense weapons systems or other new advanced military weapons systems be made to Jordan unless the Government of Jordan is publicly committed to the recognition of Israel and to prompt entry into serious peace negotiations with Israel.

GUARANTEE RESERVE FUND

For necessary expenses to carry out the provisions of section 24 of the Arms Export Control Act, \$109,000,000, to remain available until expended: *Provided*, That this sum is available only for the 22 USC 2764.

22 USC 2151
note.
22 USC 2751
note.

Guarantee Reserve Fund notwithstanding any other provision of the Foreign Assistance Act of 1961 or the Arms Export Control Act.

TITLE IV—EXPORT-IMPORT BANK OF THE UNITED STATES

31 USC 9104.

The Export-Import Bank of the United States is authorized to make such expenditures within the limits of funds and borrowing authority available to such corporation, and in accordance with law, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 104 of the Government Corporation Control Act, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation: *Provided*, That none of the funds available during the current fiscal year may be used to make expenditures, contracts, or commitments for the export of nuclear equipment, fuel, or technology to any country other than a nuclear-weapon state as defined in article IX of the Treaty on the Non-Proliferation of Nuclear Weapons eligible to receive economic or military assistance under this Act that has detonated a nuclear explosive after the date of enactment of this Act.

21 UST 483.

LIMITATION OF PROGRAM ACTIVITY

During the fiscal year 1985 and within the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed \$3,865,000,000: *Provided*, That during the fiscal year 1985, total commitments to guarantee loans shall not exceed \$10,000,000,000 of contingent liability for loan principal.

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed \$18,900,000 (to be computed on an accrual basis) shall be available during the current fiscal year for administrative expenses, including hire of passenger motor vehicles and services as authorized by section 3109 of title 5, United States Code, and not to exceed \$16,000 for entertainment allowances for members of the Board of Directors: *Provided*, That (1) fees or dues to international organizations of credit institutions engaged in financing foreign trade, (2) necessary expenses (including special services performed on a contract or fee basis, but not including other personal services) in connection with the acquisition, operation, maintenance, improvement, or disposition of any real or personal property belonging to the Export-Import Bank or in which it has an interest, including expenses of collections of pledged collateral, or the investigation or appraisal of any property in respect to which an application for a loan has been made, and (3) expenses (other than internal expenses of the Export-Import Bank) incurred in connection with the issuance and servicing of guarantees, insurance, and reinsurance, shall be considered as nonadministrative expenses for the purposes of this paragraph.

TITLE V—GENERAL PROVISIONS

Flood control.
Reclamation
projects.

SEC. 501. None of the funds appropriated in this Act (other than funds appropriated for "International organizations and programs") shall be used to finance the construction of any new flood control, reclamation, or other water or related land resource project or program which has not met the standards and criteria used in determining the feasibility of flood control, reclamation, and other

water and related land resource programs and projects proposed for construction within the United States of America under the principles, standards and procedures established pursuant to the Water Resources Planning Act (42 U.S.C. 1962, et seq.) or Acts amendatory or supplementary thereto.

SEC. 502. Except for the appropriations entitled "International disaster assistance", "United States emergency refugee and migration assistance fund" and the special requirements fund within the appropriation entitled "Economic support fund", not more than 15 per centum of any appropriation item made available by this Act for the current fiscal year shall be obligated or reserved during the last month of availability.

SEC. 503. None of the funds appropriated in this Act nor any of the counterpart funds generated as a result of assistance hereunder or any prior Act shall be used to pay pensions, annuities, retirement pay, or adjusted service compensation for any person heretofore or hereafter serving in the armed forces of any recipient country.

SEC. 504. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used for making payments on any contract for procurement to which the United States is a party entered into after the date of enactment of this Act which does not contain a provision authorizing the termination of such contract for the convenience of the United States.

SEC. 505. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used to pay in whole or in part any assessments, arrearages, or dues of any member of the United Nations.

SEC. 506. None of the funds contained in title II of this Act may be used to carry out the provisions of section 209(d) of the Foreign Assistance Act of 1961.

SEC. 507. Of the funds appropriated or made available pursuant to this Act, not to exceed \$110,000 shall be for official residence expenses of the Agency for International Development during the current fiscal year: *Provided*, That appropriate steps be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars.

SEC. 508. Of the funds appropriated or made available pursuant to this Act, not to exceed \$10,000 shall be for entertainment expenses of the Agency for International Development during the current fiscal year.

SEC. 509. Of the funds appropriated or made available pursuant to this Act, not to exceed \$100,000 shall be for representation allowances for the Agency for International Development during the current fiscal year: *Provided*, That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars: *Provided further*, That of the total funds made available by this Act under the headings "Military assistance" and "Foreign military credit sales", not to exceed \$2,500 shall be available for entertainment expenses and not to exceed \$70,000 shall be available for representation allowances: *Provided further*, That of the funds made available by this Act under the heading "International military education and training", not to exceed \$125,000 shall be available for entertainment allowances: *Provided further*, That of the funds made available by this Act for the Inter-American Foundation, not to exceed \$2,500 shall be available for entertainment and representation allow-

Contracts.
22 USC 2151
note.

22 USC 2169.

ances: *Provided further*, That of the funds made available by this Act for the Peace Corps, not to exceed a total of \$4,000 shall be available for entertainment expenses.

Nuclear non-
proliferation.
22 USC 2151
note.

SEC. 510. None of the funds appropriated or made available (other than funds for "International organizations and programs") pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used to finance the export of nuclear equipment, fuel, technology or to provide assistance for the training of foreign nationals in nuclear fields.

Human rights.

SEC. 511. Funds appropriated by this Act may not be obligated or expended to provide assistance to any country for the purpose of aiding the efforts of the government of such country to repress the legitimate rights of the population of such country contrary to the Universal Declaration of Human Rights.

Mozambique.

SEC. 512. None of the funds appropriated or made available pursuant to this Act shall be obligated or expended to finance directly any assistance to Mozambique, except that the President may waive this prohibition if he determines, and so reports to the Congress, that furnishing such assistance would further the foreign policy interests of the United States.

Angola.
Cambodia.
Cuba.
Iraq.
Libya.
Laos.
Vietnam.
South Yeman.
Syria.

SEC. 513. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance or reparations to Angola, Cambodia, Cuba, Iraq, Libya, Laos, the Socialist Republic of Vietnam, South Yemen, or Syria.

SEC. 514. None of the funds made available by this Act may be obligated under an appropriation account to which they were not appropriated without the written approval of the Appropriations Committees of both Houses of the Congress.

31 USC 1501,
1108, 1502.

SEC. 515. Amounts certified pursuant to section 1311 of the Supplemental Appropriations Act, 1955, as having been obligated against appropriations heretofore made under the authority of the Foreign Assistance Act of 1961 for the same general purpose as any of the paragraphs under "Agency for International Development" are, if deobligated, hereby continued available for the same period as the respective appropriations in such paragraphs for the same general purpose and for the same country as originally obligated, or for activities in the Andean region: *Provided*, That the Appropriations Committees of both Houses of the Congress are notified fifteen days in advance of the deobligation or reobligation of such funds.

Lobbying.

SEC. 516. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not authorized before the date of enactment of this Act by Congress.

SEC. 517. No part of any appropriation contained in this Act shall remain available for obligation after the expiration of the current fiscal year unless expressly so provided in this Act.

Loans.

SEC. 518. No part of any appropriation contained in this Act shall be used to furnish assistance to any country which is in default during a period in excess of one calendar year in payment to the United States of principal or interest on any loan made to such country by the United States pursuant to a program for which funds are appropriated under this Act.

SEC. 519. None of the funds appropriated or made available pursuant to this Act shall be available to any international financial institution whose United States representative cannot upon request obtain the amounts and the names of borrowers for all loans of the

international financial institution, including loans to employees of the institution, or the compensation and related benefits of employees of the institution.

SEC. 520. None of the funds appropriated or made available pursuant to this Act shall be available to any international financial institution whose United States representative cannot upon request obtain any document developed by the management of the international financial institution.

SEC. 521. None of the funds appropriated or otherwise made available by this Act to the Export-Import Bank and funds appropriated by this Act for direct foreign assistance may be obligated for any government which aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed or is being sought by any other government for prosecution for any war crime or an act of international terrorism, unless the President finds that the national security requires otherwise.

Terrorism.

SEC. 522. None of the funds appropriated or made available pursuant to this Act for direct assistance and none of the funds otherwise made available pursuant to this Act to the Export-Import Bank and the Overseas Private Investment Corporation shall be obligated or expended to finance any loan, any assistance or any other financial commitments for establishing or expanding production of any commodity for export by any country other than the United States, if the commodity is likely to be in surplus on world markets at the time the resulting productive capacity is expected to become operative and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity: *Provided*, That such prohibition shall not apply to the Export-Import Bank if in the judgment of its Board of Directors the benefits to industry and employment in the United States are likely to outweigh the injury to United States producers of the same, similar, or competing commodity.

Commerce and trade.

SEC. 524. The Secretary of the Treasury shall instruct the United States Executive Directors of the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the African Development Bank, and the African Development Fund to use the voice and vote of the United States to oppose any assistance by these institutions, using funds appropriated or made available pursuant to this Act, for the production of any commodity for export, if it is in surplus on world markets and if the assistance will cause substantial injury to the United States producers of the same, similar, or competing commodity.

22 USC 262h.

SEC. 525. None of the funds made available under this Act for "Agriculture, rural development and nutrition, Development Assistance", "Population, Development Assistance", "Child Survival Fund", "Health, Development Assistance", "Education and human resources development, Development Assistance", "Energy, private voluntary organizations, and selected development activities, Development Assistance", "Science and technology, Development Assistance", "International organizations and programs", "American schools and hospitals abroad", "Sahel development program", "Trade and development program", "International narcotics control", "Economic support fund", "Peacekeeping operations", "Operating Expenses of the Agency for International Development",

"Anti-Terrorism Assistance", "Military assistance", "International military education and training", "Foreign military credit sales", "Inter-American Foundation", "African Development Foundation", "Peace Corps", or "Migration and refugee assistance", shall be available for obligation for activities, programs, projects, type of material assistance, countries, or other operation not justified or in excess of the amount justified to the Appropriations Committees for obligation under any of these specific headings for the current fiscal year unless the Appropriations Committees of both Houses of Congress are previously notified fifteen days in advance.

Contracts.
Public
availability.

SEC. 526. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

Abortion.

SEC. 527. None of the funds appropriated under this Act may be used to lobby for abortion.

Drugs and drug
abuse.

SEC. 528. None of the funds appropriated or otherwise made available under this Act may be available for any country during any three-month period beginning on or after October 1, 1984, immediately following a certification by the President to the Congress that the government of such country is failing to take adequate measures to prevent narcotic drugs or other controlled substances (as listed in the schedules in section 202 of the Comprehensive Drug Abuse and Prevention Control Act of 1971 (21 U.S.C. 812)) which are cultivated, produced, or processed illicitly, in whole or in part, in such country, or transported through such country from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from entering the United States unlawfully.

SEC. 529. Notwithstanding any other provision of law or this Act, none of the funds provided for "International organizations and programs" shall be available for the United States' proportionate share for any programs for the Palestine Liberation Organization, the Southwest Africa Peoples Organization, Libya, Iran, or Cuba.

President of U.S.
Report.
22 USC 2414a.

SEC. 530. (a) Not later than January 31 of each year, or at the time of the transmittal by the President to the Congress of the annual presentation materials on foreign assistance, whichever is earlier, the President shall transmit to the Speaker of the House of Representatives and the President of the Senate a full and complete report which assesses, with respect to each foreign country, the degree of support by the government of each such country during the preceding twelve-month period for the foreign policy of the United States. Such report shall include, with respect to each such country which is a member of the United Nations, information to be compiled and supplied by the Permanent Representative of the United States to the United Nations, consisting of a comparison of the overall voting practices in the principal bodies of the United Nations during the preceding twelve-month period of such country and the United States, with special note of the voting and speaking records of such country on issues of major importance to the United States in the General Assembly and the Security Council, and shall also include a report on actions with regard to the United States in important related documents such as the Non-Aligned Communiqué. A full compilation of the information supplied by the Permanent Representative of the United States to the United Nations for

inclusion in such report shall be provided as an addendum to such report.

(b) None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance to a country which the President finds, based on the contents of the report required to be transmitted under subsection (a), is engaged in a consistent pattern of opposition to the foreign policy of the United States.

SEC. 531. Notwithstanding any other provision of law, Israel may utilize any loan which is or was made available under the Arms Export Control Act and for which repayment is or was forgiven before utilizing any other loan made available under the Arms Export Control Act.

Loans.
Israel.
22 USC 2751
note.

SEC. 532. Funds appropriated under this Act may be made available for the procurement of construction or engineering services from advanced developing countries, eligible under the Geographic Code 941, which have attained a competitive capability in international markets for construction services or engineering services and which are receiving direct assistance under chapter 1 of part I or chapter 4 of part II of the Foreign Assistance Act of 1961, notwithstanding section 604(g) of the Foreign Assistance Act of 1961: *Provided*, That this provision shall apply only in the case of those advanced developing countries that permit United States firms to compete for construction or engineering services financed from assistance programs of such countries.

Contracts.

22 USC 2151,
2346.
22 USC 2354.

SEC. 533. (a) Not later than thirty days after the date of entry into force of any memorandum of understanding or other international agreement between the United States Government and the Government of El Salvador regarding the use of local currencies generated from assistance furnished to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 or generated from the sale of agricultural commodities under the Agricultural Trade Development and Assistance Act of 1954, with respect to El Salvador, the President shall prepare and transmit to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives a report setting forth for each such memorandum or agreement—

El Salvador.
President of U.S.
Reports.

7 USC 1691 note.

- (1) the text of each such memorandum or agreement;
- (2) the status and description of each such memorandum or agreement, including the period of time covered, the amount of funding involved, and the sources of funding involved;
- (3) an explanation of the manner in which funds are to be used in El Salvador to—
 - (A) eliminate the climate of violence and civil strife;
 - (B) develop democratic institutions and processes;
 - (C) develop strong and free economies with diversified production for both external and domestic markets;
 - (D) make sharp improvement in the social conditions of the poorest Salvadorans; and
 - (E) improve substantially the distribution of income and wealth; and
- (4) the degree of compliance by the Government of El Salvador with the provisions of such memorandum or agreement.

(b) Not later than thirty days after the date of enactment of this Act, the President shall prepare and transmit to the committees referred to in subsection (a) a report providing the information described by paragraphs (1) through (4) of subsection (a) with respect

to any memorandum of understanding or other international agreement described by such subsection which is in effect on the date of enactment of this Act.

(c) Not later than six months after the date of entry into force of each memorandum of understanding or other international agreement described in subsection (a), and upon the date of termination of each such memorandum or agreement, the President shall prepare and transmit to the committees referred to in subsection (a) a report describing the progress achieved in carrying out the provisions of such memorandum or agreement, including the progress achieved in carrying out the provisions of clauses (A) through (E) of subsection (a)(3).

Loans.
Israel.

SEC. 534. The Congress finds that progress on the peace process in the Middle East is vitally important to United States security interests in the region. The Congress recognizes that, in fulfilling its obligations under the Treaty of Peace Between the Arab Republic of Egypt and the State of Israel, done at Washington on March 26, 1979, Israel incurred severe economic burdens. Furthermore, the Congress recognizes that an economically and militarily secure Israel serves the security interests of the United States, for a secure Israel is an Israel which has the incentive and confidence to continue pursuing the peace process. Therefore, the Congress declares that it is the policy and the intention of the United States that the funds provided in annual appropriations for the Economic Support Fund which are allocated to Israel shall not be less than the annual debt repayment (interest and principal) from Israel to the United States Government in recognition that such a principle serves United States interests in the region.

Palestine
Liberation
Organization.

SEC. 535. In reaffirmation of the 1975 memorandum of agreement between the United States and Israel, and in accordance with section 909 of the International Security and Development Cooperation Act of 1984, as passed by the House of Representatives on May 10, 1984, no employee of or individual acting on behalf of the United States Government shall recognize or negotiate with the Palestine Liberation Organization or representatives thereof, so long as the Palestine Liberation Organization does not recognize Israel's right to exist, does not accept Security Council Resolutions 242 and 338, and does not renounce the use of terrorism.

SEC. 536. None of the funds made available in this Act shall be restricted for obligation or disbursement solely as a result of the policies of any multilateral institution.

El Salvador.

SEC. 537. Notwithstanding any other provision of law, if at any time following the appropriation of funds herein the duly elected President of El Salvador should be deposed by military coup or decree all funds appropriated herein for El Salvador and not theretofore obligated or expended shall not thereafter be available for expenditure or obligation unless reappropriated by Congress.

SEC. 538. Ceilings and earmarks contained in this Act shall not be applicable to funds or authorities appropriated or otherwise made available by any subsequent act unless such act specifically so directs.

Report.

SEC. 539. The Secretary of the Treasury and the Secretary of State are directed to submit to the Committees on Foreign Affairs and the Committees on Appropriations by February 1, 1985, a report on the domestic economic policies of those nations receiving economic assistance, either directly or indirectly from the United States

including, where appropriate, an analysis of the foreign assistance programs conducted by these recipient nations.

SEC. 540. (a) To the maximum extent practicable, assistance for Haiti under chapter 1 of part I and under chapter 4 of part II of the Foreign Assistance Act of 1961 should be provided through private and voluntary organizations.

Haiti.
Voluntarism.
22 USC 2151,
2346.

(b) Funds available for fiscal year 1985 to carry out chapter 1 of part I or chapter 4 or chapter 5 of part II of the Foreign Assistance Act of 1961 may be obligated for Haiti only if the President determines that the Government of Haiti—

22 USC 2347.

(1) is continuing to cooperate with the United States in halting illegal emigration to the United States from Haiti;

(2) is cooperating fully in implementing United States development, food, and other economic assistance programs in Haiti (including programs for prior fiscal years); and

(3) is making progress toward improving the human rights situation in Haiti and progress toward implementing political reforms which are essential to the development of democracy in Haiti, such as progress toward the establishment of political parties, free elections, and freedom of the press.

(c) Six months after the date of the enactment of this Act and six months thereafter, the President shall report to the Congress on the extent to which the actions of the Government of Haiti are consistent with each paragraph of subsection (b).

President of U.S.
Report.

(d) Notwithstanding the limitations of section 660 of the Foreign Assistance Act of 1961, funds made available under such Act may be used for programs with Haiti, which shall be consistent with prevailing United States refugee policies, to assist in halting significant illegal emigration from Haiti to the United States.

22 USC 2420.

(e) Assistance may not be provided for Haiti for the fiscal year 1985 under chapter 2 of part II of the Foreign Assistance Act of 1961 or under the Arms Export Control Act.

22 USC 2311.
22 USC 2751
note.

SEC. 541. (a) Sections 116, 303, 311, 312, 703, and 1011 of H.R. 5119 as passed by the House of Representatives on May 10, 1984, are hereby enacted.

22 USC 2321h,
2321h note,
2151b, 2181,
2182, 2183, 2183
note, 2182a,
2506, 2184.

(b) Section 102 of this joint resolution shall not apply with respect to the provisions enacted by this section and to those provisions of S. 2346, S. 2416, and S. 2582 enacted by this Act.

SEC. 542. (a) Of the amounts made available by this Act for "Foreign Military Credit Sales" which are provided to Israel, and Egypt, Israel and Egypt shall be released from their contractual liability to repay the United States Government with respect to such credits.

Loans.
Egypt.
Israel.

(b) Of the amounts made available by this Act for "Foreign Military Credit Sales", the principal amount of loans provided at nonconcessional interest rates which are provided for Greece, Korea, Philippines, Portugal, Somalia, Spain (as long as Spain is a member of the North Atlantic Treaty Organization), Sudan, Tunisia, and Turkey shall (if and to the extent each country so desires) be repaid in not more than twenty years, following a grace period of ten years on repayment of principal.

Greece.
Korea.
Philippines.
Portugal.
Somalia.
Spain.
Sudan.
Tunisia.
Turkey.
22 USC 2412.
22 USC 2680.

SEC. 543. Section 10 of Public Law 91-672 and section 15(a) of the State Department Basic Authorities Act of 1956 shall not apply with respect to funds and authorities appropriated or otherwise made available by this Act.

This Act may be cited as the "Foreign Assistance and Related Programs Appropriations Act, 1985".

Foreign
Assistance and
Related
Programs
Appropriations
Act, 1985.

Infra.

(h) Such amounts as may be necessary for programs, projects or activities provided for in the Department of Defense Appropriation Act, 1985, at a rate of operations and to the extent and in the manner provided as follows, to be effective as if it had been enacted into law as the regular appropriation Act:

AN ACT

Department of
Defense
Appropriations
Act, 1985.

Making appropriations for the Department of Defense for the fiscal year ending September 30, 1985, and for other purposes.

TITLE I

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund; \$21,020,344,000.

MILITARY PERSONNEL, NAVY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund; \$15,660,246,000.

MILITARY PERSONNEL, MARINE CORPS

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund; \$4,803,366,000.

MILITARY PERSONNEL, AIR FORCE

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Air Force on active duty (except members of Reserve components provided for elsewhere), cadets, and aviation cadets; and

for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund; \$17,572,005,000.

RESERVE PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 265, 3019, and 3033 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; \$2,084,100,000.

RESERVE PERSONNEL, NAVY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Naval Reserve on active duty under section 265 of title 10, United States Code, or personnel while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; \$1,127,700,000.

RESERVE PERSONNEL, MARINE CORPS

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 265 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Marine Corps platoon leaders class, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; \$268,700,000.

RESERVE PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 265, 8019, and 8033 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Air Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United

States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; \$564,500,000.

NATIONAL GUARD PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under section 265, 3033, or 3496 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 672(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; \$2,926,100,000.

NATIONAL GUARD PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under section 265, 8033, or 8496 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 672(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; \$868,578,000.

TITLE II

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed \$11,602,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes; \$18,411,078,000, of which not less than \$1,429,000,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, NAVY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed \$2,823,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes; \$25,116,241,000, of which not less than \$764,000,000 shall be available only for the maintenance of real property facilities, and of which \$10,500,000 shall be transferred to U.S. Coast Guard operating expenses for fixed costs associated with the operation of the

polar icebreaker program: *Provided*, That of the total amount of this appropriation made available for the alteration, overhaul, and repair of naval vessels, not more than \$3,700,000,000 shall be available for the performance of such work in Navy shipyards: *Provided further*, That from the amounts of this appropriation for the alteration, overhaul and repair of naval vessels, funds shall be available for a test program to acquire the overhaul of two or more vessels by competition between public and private shipyards. The Secretary of the Navy shall certify, prior to award of a contract under this test, that the successful bid includes comparable estimates of all direct and indirect costs for both public and private shipyards. Competition under such test program shall not be subject to section 502 of the Department of Defense Authorization Act, 1981, as amended, or Office of Management and Budget Circular A-76: *Provided further*, That funds herein provided shall be available for payments in support of the LEASAT program in accordance with the terms of the Aide Memoire, dated January 5, 1981: *Provided further*, That obligations incurred or to be incurred hereafter for termination liability and charter hire in connection with the TAKX and T-5 programs, for which the Navy has already entered into agreement for charter and time charters including conversion or construction related to such agreements or charters shall, for the purposes of title 31, United States Code, (1) in regard to and so long as the Government remains liable for termination costs, be considered as obligations in the current Operation and Maintenance, Navy, appropriation account, to be held in reserve in the event such termination liability is incurred, in an amount equal to 10 per centum of the outstanding termination liability, and (2) in regard to charter hire, be considered obligations in the Navy Industrial Fund with an amount equal to the estimated charter hire for the then current fiscal year recorded as an obligation against such fund. Obligations of the Navy under such time charters are general obligations of the United States secured by its full faith and credit.

20 USC 3489
note.

OPERATION AND MAINTENANCE, MARINE CORPS

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law; \$1,640,294,000, of which not less than \$220,000,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, AIR FORCE

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law, including the lease and associated maintenance of replacement aircraft for the CT-39 aircraft to the same extent and manner as authorized for service contracts by section 2306(g), title 10, United States Code; and not to exceed \$4,682,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes; \$19,093,265,000, of which not less than \$1,250,000,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, DEFENSE AGENCIES

For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments), as authorized by law; \$7,067,469,000, of which not to exceed \$9,956,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes: *Provided*, That not less than \$95,548,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, ARMY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; \$724,400,000, of which not less than \$42,485,000 shall be available only for maintenance of real property facilities.

OPERATION AND MAINTENANCE, NAVY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; \$827,181,000, of which not less than \$37,000,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; \$58,642,000, of which not less than \$2,765,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; \$872,461,000, of which not less than \$20,200,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compliance with National Guard regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft); \$1,424,293,000, of which not less than \$44,000,000 shall be available only for the maintenance of real property facilities: *Provided*, That \$1,650,000 shall be available for the upgrade of the runway at the Devil's Lake Municipal Airport, Devil's Lake, North Dakota, to accommodate military troop transport aircraft.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For operation and maintenance of the Air National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, repair, and other necessary expenses of facilities for the training and administration of the Air National Guard, including repair of facilities, maintenance, operation, and modification of aircraft; transportation of things; hire of passenger motor vehicles; supplies, materials, and equipment, as authorized by law for the Air National Guard; and expenses incident to the maintenance and use of supplies, materials, and equipment, including such as may be furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard regulations when specifically authorized by the Chief, National Guard Bureau; \$1,810,348,000, of which not less than \$43,700,000 shall be available only for the maintenance of real property facilities.

NATIONAL BOARD FOR THE PROMOTION OF RIFLE PRACTICE, ARMY

For the necessary expenses, in accordance with law, for construction, equipment, and maintenance of rifle ranges; the instruction of citizens in marksmanship; the promotion of rifle practice; and the travel of rifle teams, military personnel, and individuals attending regional, national, and international competitions; \$914,000, of which not to exceed \$7,500 shall be available for incidental expenses of the National Board; and from other funds provided in this Act, not to exceed \$680,000 worth of ammunition may be issued under authority of title 10, United States Code, section 4311: *Provided*, That competitors at national matches under title 10, United States Code, section 4312, may be paid subsistence and travel allowances in excess of the amounts provided under title 10, United States Code, section 4313.

CLAIMS, DEFENSE

For payment, not otherwise provided for, of claims authorized by law to be paid by the Department of Defense (except for civil functions), including claims for damages arising under training contracts with carriers, and repayment of amounts determined by the Secretary concerned, or officers designated by him, to have been erroneously collected from military and civilian personnel of the Department of Defense, or from States, territories, or the District of Columbia, or members of the National Guard units thereof; \$157,900,000.

COURT OF MILITARY APPEALS, DEFENSE

For salaries and expenses necessary for the United States Court of Military Appeals; \$2,870,000, and not to exceed \$1,500 can be used for official representation purposes.

ENVIRONMENTAL RESTORATION, DEFENSE

For expenses, not otherwise provided for, for environmental restoration programs, including hazardous waste disposal operations and removal of unsafe or unsightly buildings and debris of the Department of Defense, and including programs and operations at sites formerly used by the Department of Defense; \$314,000,000, of which, not to exceed \$6,000,000 shall be available for payment to the Anchorage School District for a share of the cost of removal and treatment of asbestos and related facility rehabilitation at the Bartlett-Begich Junior/Senior High School located on Fort Richardson, Alaska.

TITLE III**PROCUREMENT****AIRCRAFT PROCUREMENT, ARMY**

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; \$3,940,900,000, of which \$642,600,000 shall be available for the purchase of UH-60/EH-60 Blackhawk/Quickfix helicopters under a multiyear contract and \$431,900,000 shall be available for the purchase of CH-47 Chinook helicopter modifications under a multiyear contract; to remain available for obligation until September 30, 1987: *Provided*, That appropriations available herein shall be used to procure no less than eighteen AH-64 Apache attack helicopters for assignment to the Army National Guard.

MISSILE PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, as follows: For the Chaparral program, \$32,000,000; for Other Missile Support, \$9,300,000; for the Patriot program, \$976,400,000; for the Stinger program, \$209,600,000; for the Laser Hellfire program, \$225,000,000; for the TOW program, \$201,700,000; for the Pershing II program, \$370,000,000; for the MLRS program, \$541,400,000; for modification of missiles, \$208,800,000; for spares and repair parts, \$270,300,000; for support equipment and facilities, \$122,500,000; in all: \$3,167,000,000; to remain available for obligation until September 30, 1987.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; \$4,548,100,000; to remain available for obligation until September 30, 1987: *Provided*, That notwithstanding any other provision of this Act, none of the funds appropriated may be expended for the Division Air Defense system until—

(1) initial production testing and the fiscal year 1985 operational testing of such system have been completed;

(2) the Secretary of Defense has reported to the Armed Services and Appropriations Committees of the Congress the results of the testing and has certified to the Committees that (a) additional production of the Division Air Defense system is in the national interest to counter the present and projected Soviet threat, and (b) the system satisfactorily meets all design and performance requirements, and

(3) a period of at least thirty days has elapsed after the day on which the Committees have received the report and certification, such date to be not later than sixty days after the completion of either initial production testing or the fiscal year 1985 operational testing, whichever is later.

Report.

PROCUREMENT OF AMMUNITION, ARMY

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized in military construction authorization Acts or authorized by section 2854, title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; \$2,646,300,000; to remain available for obligation until September 30, 1987.

OTHER PROCUREMENT, ARMY

For construction, procurement, production, and modification of vehicles, including tactical, support, and nontracked combat vehicles; the purchase of not to exceed two thousand three hundred and sixty passenger motor vehicles for replacement only; communications and electronic equipment; other support equipment; spare parts, ordnance, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; \$5,122,450,000, of which \$347,200,000 shall be available for the purchase of five ton trucks under a multiyear contract; to remain available for obligation until September 30, 1987: *Provided*, That multiyear contracting authority provided in Public Law 98-212 for the Armored Combat Earthmover is rescinded.

97 Stat. 1421.

AIRCRAFT PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of aircraft, equipment including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; \$10,903,798,000, of which \$36,120,000 shall be available for the purchase of CH/MH-53E heavy lift helicopters under a multiyear contract; to remain available for obligation until September 30, 1987.

WEAPONS PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, and related support equipment including spare parts, and accessories therefor;

expansion of public and private plants, including the land necessary therefor, and such lands and interest therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, as follows: For missile programs, \$3,403,311,000; for the MK-48 torpedo program, \$89,000,000; for the MK-48 ADCAP torpedo program, \$105,600,000; for the MK-46 torpedo program, \$229,700,000; for the MK-60 captor mine program, \$122,000,000; for the MK-30 mobile target program, \$21,300,000; for the MK-38 mini mobile target program, \$2,500,000; for the antisubmarine rocket (ASROC) program, \$25,900,000; for modification of torpedoes, \$32,200,000; for the torpedo support equipment program, \$96,000,000; for the MK-15 close-in weapons system program, \$163,900,000; for the MK-75 gun mount, \$10,900,000; for the MK-19 machinegun program, \$2,000,000; for the 25mm gun mount, \$3,100,000; for small arms and weapons, \$3,500,000; for the modification of guns and gun mounts, \$46,300,000; for the guns and gun mounts support equipment program, \$13,400,000; in all: \$4,353,611,000; to remain available for obligation until September 30, 1987: *Provided*, That within the total amount appropriated, the subdivisions within this account shall be reduced by \$17,000,000, as follows: \$2,000,000 for contract support services, and \$15,000,000 for miscellaneous contract savings.

SHIPBUILDING AND CONVERSION, NAVY

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, as follows: For the Trident submarine program, \$1,748,200,000; for the SSN-688 nuclear attack submarine program, \$2,665,000,000; for the aircraft carrier service life extension program, \$714,500,000; for the CG-47 AEGIS cruiser program, \$2,883,000,000; for CG-47 AEGIS cruiser advance procurement, \$102,000,000, of which \$83,000,000 shall be solely for development of second production source(s) for SPY-1 radar and AEGIS combat system components and related integration for CG-47 and DDG-51 ship classes; for the DDG-51 guided missile destroyer program, \$1,050,000,000; for the LSD-41 landing ship dock program, \$489,500,000; for the LHD-1 amphibious assault ship program, \$39,200,000; for the LPD-4 service life extension program, \$15,000,000; for the MCM mine countermeasures ship program, \$344,500,000; for the T-AO fleet oiler ship program, \$522,600,000; for the T-AGOS ocean surveillance ship program, \$128,400,000; for the T-AGS ocean survey ship program, \$225,000,000; for the T-ACS auxiliary crane ship program, \$36,000,000; for the ARTB nuclear reactor training ship conversion program, \$30,000,000; for the T-AVB logistics support ship program, \$31,800,000; for the strategic sealift program, \$31,000,000; for the LCAC air cushion landing craft program, \$230,100,000; for

craft, outfitting, post delivery, cost growth, and escalation on prior year programs, \$450,200,000; in all: \$11,736,000,000; to remain available for obligation until September 30, 1989: *Provided*, That additional obligations may be incurred after September 30, 1989, for engineering services, tests, evaluations, and other such budgeted work that must be performed in the final stage of ship construction; and each Shipbuilding and Conversion, Navy, appropriation that is currently available for such obligations may also hereafter be so obligated after the date of its expiration: *Provided further*, That none of the funds herein provided for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign shipyards for the construction of major components of the hull or superstructure of such vessel: *Provided further*, That none of the funds herein provided shall be used for the construction of any naval vessel in foreign shipyards: *Provided further*, That notwithstanding any other provision of law, the Navy is not required to install a Phased Array Radar on the FFG-61 which was authorized and for which appropriations were provided in fiscal year 1984, provided that this ship be equipped with a MK-92 Upgrade Phase II (CORT) System, and in addition to funds previously provided for the fiscal year 1984 FFG-7 guided missile frigate program, \$36,300,000 shall be available by transfer from the amount appropriated in "Shipbuilding and Conversion, Navy, 1983/1987".

OTHER PROCUREMENT, NAVY

For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance and ammunition (except ordnance for new aircraft, new ships, and ships authorized for conversion); the purchase of not to exceed three vehicles required for physical security of personnel notwithstanding price limitations applicable to passenger carrying vehicles but not to exceed \$100,000 per vehicle and the purchase of not to exceed four hundred and eighty-nine passenger motor vehicles which shall be for replacement only; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; as follows: For ship support equipment, \$775,100,000; for communications and electronics equipment, \$1,758,800,000; for aviation support equipment, \$990,328,000; for ordnance support equipment, \$1,126,500,000; for civil engineering support equipment, \$238,000,000; for supply support equipment, \$112,000,000; for personnel/command support equipment, \$391,886,000; in all: \$5,341,614,000; to remain available for obligation until September 30, 1987: *Provided*, That within the total amount appropriated, the subdivisions within this account shall be reduced by \$51,000,000, as follows: \$1,000,000 for contract support services; and \$50,000,000 for Trident facilities.

PROCUREMENT, MARINE CORPS

For expenses necessary for the procurement, manufacture, and modification of missiles, armament, ammunition, military equip-

ment, spare parts, and accessories therefor; plant equipment, appliances, and machine tools, and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; vehicles for the Marine Corps, including purchase of not to exceed two hundred and nineteen passenger motor vehicles for replacement only; and expansion of public and private plants, including land necessary therefor, and such lands, and interests therein, may be acquired and construction prosecuted thereon prior to approval of title; \$1,836,722,000; to remain available for obligation until September 30, 1987.

AIRCRAFT PROCUREMENT, AIR FORCE

For construction, procurement, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; \$26,188,266,000, of which \$586,800,000 shall be available under a multiyear contract for procurement of seven hundred and twenty F-16 aircraft, of which seventy-two, shall be assigned to the Reserve Forces by 1991; to remain available for obligation until September 30, 1987: *Provided*, That none of the funds in this Act may be obligated on B-1B bomber production contracts if such contracts would cause the production portion of the Air Force's \$20,500,000,000 estimate for the B-1B bomber baseline costs expressed in fiscal year 1981 constant dollars to be exceeded: *Provided further*, That thirty of the F-16 aircraft for which funds are appropriated in this Act shall be provided to the Reserve Forces: *Provided further*, That of the C-130H aircraft for which funds are appropriated in this Act, eight shall be provided to the Air National Guard and eight shall be provided to the Air Force Reserve: *Provided further*, That \$144,800,000 appropriated in fiscal year 1983 for procurement of commercial wide body aircraft shall be available only for the Civil Reserve Air Fleet (CRAF) modification program.

MISSILE PROCUREMENT, AIR FORCE

For construction, procurement, and modification of missiles, spacecraft, rockets, and related equipment, including spare parts and accessories therefor, ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; \$6,909,245,000, of which \$251,200,000 shall be available for the phase III defense satellite communications system (DSCS III) under a multiyear contract; to remain available for

obligation until September 30, 1987: *Provided*, That the funds appropriated or made available in this paragraph include not more than \$1,000,000,000 which may be obligated only for procurement related to the deployment of the 21 MX missiles for which funds were appropriated for fiscal year 1984, for advance procurement of parts and materials for the MX missile program and maintenance of the MX missile program contractor base, and for spare parts for the MX missile program. An additional \$1,500,000,000 of prior year unobligated balances is available from the following accounts and in the specified amounts:

Aircraft Procurement, Army	1984/86.....	\$30,000,000
Missile Procurement, Army	1984/86.....	25,000,000
Procurement of Weapons and Tracked Combat Vehicles, Army.....	1983/85.....	58,100,000
Procurement of Weapons and Tracked Combat Vehicles, Army.....	1984/86.....	214,600,000
Procurement of Ammunition, Army.....	1984/86.....	44,000,000
Other Procurement, Army	1984/86.....	47,500,000
Aircraft Procurement, Navy	1984/86.....	75,000,000
Weapons Procurement, Navy.....	1984/86.....	20,000,000
Shipbuilding and Conversion, Navy.....	1981/85.....	52,300,000
Shipbuilding and Conversion, Navy.....	1983/87.....	527,400,000
Shipbuilding and Conversion, Navy.....	1984/88.....	57,000,000
Other Procurement, Navy	1984/86.....	85,700,000
Procurement, Marine Corps.....	1984/86.....	7,500,000
Aircraft Procurement, Air Force.....	1983/85.....	50,000,000
Aircraft Procurement, Air Force.....	1984/86.....	176,400,000
Missile Procurement, Air Force ..	1984/86.....	15,000,000
Other Procurement, Air Force.....	1984/86.....	14,500,000.

The foregoing prior year unobligated balances shall remain available only for obligation for transfers or reprogrammings or for the procurement of twenty-one additional operational MX missiles. These prior year unobligated balances may not be obligated or become available for the procurement of twenty-one additional operational MX missiles unless after March 1, 1985—

Report.

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(a) the President submits to Congress a report described under section 110(e) of the Department of Defense Authorization Act, 1985;

(b) a joint resolution approving authorization of obligation of funds for additional MX missiles is enacted as provided in section 110(d)(1) of the Department of Defense Authorization Act, 1985; and

(c) a joint resolution further approving the obligation and availability of those prior year unobligated balances is enacted as provided for in this proviso:

(1) For the purposes of clause (c), "joint resolution" means only a joint resolution introduced after the date on which the report of the President described under section 110(e) of the Department of Defense Authorization Act, 1985, is received by Congress, the matter after the resolving clause of which is as follows: "That the Congress approves the obliga-

tion and availability of prior year unobligated balances made available for fiscal year 1985 for the procurement of additional operational MX missiles.”.

(2) A resolution described in paragraph (1) introduced in the House of Representatives shall be referred to the Committee on Appropriations of the House of Representatives. A resolution described in paragraph (1) introduced in the Senate shall be referred to the Committee on Appropriations of the Senate.

(3) The committee to which is referred a resolution described in paragraph (1) may not report such resolution in less than eight calendar days after its introduction. If a committee to which is referred a resolution described in paragraph (1) has not reported such resolution (or an identical resolution) at the end of fifteen calendar days after its introduction or at the end of the second day after the House involved has voted on final passage of a joint resolution approving the further obligation of funds for the procurement of operational MX missiles as provided for in section 110(d)(1) of the Department of Defense Authorization Act, 1985, whichever is earlier, such committee shall be deemed to be discharged from further consideration of such resolution and such resolution shall be placed on the appropriate calendar of the House involved.

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(4)(A) Subject to subparagraph (B), when the committee to which a resolution is referred has reported, or has been deemed to be discharged (under paragraph (3)) from further consideration of, a resolution described in paragraph (1), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution, and all points of order against the resolution (and against consideration of the resolution) are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

(B) Notwithstanding subparagraph (A), it is not in order to consider a resolution described in paragraph (1) unless a resolution has been agreed to in the House involved as provided in section 110(d)(1) of the Department of Defense Authorization Act, 1985.

(C) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than ten hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is in order and not debatable but such motion shall not be in order in the Senate until after five hours of debate. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is

not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

(D) Immediately following the conclusion of the debate on a resolution described in paragraph (1), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

(E) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in paragraph (1) shall be decided without debate.

(5) If, before the passage by the Senate of a resolution of the Senate described in paragraph (1), the Senate receives from the House of Representatives a resolution described in paragraph (1), then the following procedures shall apply:

(A) The resolution of the House of Representatives shall not be referred to a committee.

(B) With respect to a resolution described in paragraph (1) of the Senate—

(i) the procedure in the Senate shall be the same as if no resolution had been received from the House; but

(ii) the vote on final passage shall be on the resolution of the House.

(C) Upon disposition of the resolution received from the House, it shall no longer be in order to consider the resolution originated in the Senate.

(6) If the Senate receives from the House of Representatives, a resolution described in paragraph (1) after the Senate has disposed of a Senate originated resolution, the action of the Senate with regard to the disposition of the Senate originated resolution shall be deemed to be the action of the Senate with regard to the House originated resolution.

(7) This proviso is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in paragraph (1), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(8) Section 110(d)(1) of the Department of Defense Authorization Act, 1985, as approved by Congress on September 27, 1984, is amended by deleting the word “appropriated” and inserting in lieu thereof the word “available”.

OTHER PROCUREMENT, AIR FORCE

For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed one thousand eight hundred and ninety-eight passenger motor vehicles of which one thousand six hundred and forty-seven shall be for replacement only; and expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon, prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; \$3,861,697,000; to remain available for obligation until September 30, 1987.

NATIONAL GUARD AND RESERVE EQUIPMENT

For procurement of aircraft, missiles, tracked combat vehicles, and other procurement for the reserve components of the Armed Forces, not to exceed \$380,000,000 to remain available until September 30, 1987, distributed as follows: Army National Guard, not to exceed \$150,000,000; Air National Guard, not to exceed \$20,000,000; Naval Reserve, not to exceed \$20,000,000; Marine Corps Reserve, not to exceed \$30,000,000; Army Reserve, not to exceed \$150,000,000; and Air Force Reserve, not to exceed \$10,000,000.

PROCUREMENT, DEFENSE AGENCIES

For expenses of activities and agencies of the Department of Defense (other than the military departments) necessary for procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed one hundred and thirty-two passenger motor vehicles of which one hundred and twenty-seven shall be for replacement only; expansion of public and private plants, equipment, and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; \$1,165,701,000, to remain available for obligation until September 30, 1987.

DEFENSE PRODUCTION ACT PURCHASES

For purchases or commitments to purchase metals, minerals, or other materials by the Department of Defense pursuant to section 303 of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2093); \$10,000,000, to remain available for obligation until September 30, 1987.

TITLE IV

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; \$4,349,015,000, of which \$13,338,000 is available only for activities relevant to approving the 120-millimeter mortar for service use, to remain available for obligation until September 30, 1986.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; \$9,172,622,000, of which \$29,941,000 is available only for the Low Cost Anti-Radiation Seeker Program, to remain available for obligation until September 30, 1986: *Provided*, That none of the funds appropriated by this Act for the new design attack submarine may be obligated or expended unless and until the Secretary of the Navy provides to the Committees on Appropriations and Armed Services of the Senate and House of Representatives written certification that, based on current national intelligence estimates approved by the Director of Central Intelligence, the new design attack submarine will be capable under operational conditions of engaging the known Soviet submarine threat.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, AIR FORCE

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; \$13,424,147,000, of which \$82,698,000 is available only for the Engine Model Derivative Program, and \$3,000,000 is available only for the Low Cost Anti-Radiation Seeker Program, to remain available for obligation until September 30, 1986.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, DEFENSE
AGENCIES

(INCLUDING TRANSFER OF FUNDS)

For expenses of activities and agencies of the Department of Defense (other than the military departments), necessary for basic and applied scientific research, development, test, and evaluation; advanced research projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; \$4,182,287,000, of which \$10,000,000 is available only for the adapting of free electron laser technology to biomedical and materials science research, to remain available for obligation until September 30, 1986: *Provided*, That such amounts as may be determined by the Secretary of Defense to have been made available in other appropriations available to the Department of Defense during the current fiscal year for programs related to advanced research may

be transferred to and merged with this appropriation to be available for the same purposes and time period: *Provided further*, That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to carry out the purposes of advanced research to those appropriations for military functions under the Department of Defense which are being utilized for related programs to be merged with and to be available for the same time period as the appropriation to which transferred.

DIRECTOR OF TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, of independent activities of the Director of Defense Test and Evaluation in the direction and supervision of test and evaluation, including initial operational testing and evaluation; and performance of joint testing and evaluation; and administrative expenses in connection therewith; \$59,000,000, to remain available for obligation until September 30, 1986.

TITLE V

SPECIAL FOREIGN CURRENCY PROGRAM

For payment in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States for expenses in carrying out programs of the Department of Defense, as authorized by law; \$8,650,000, to remain available for obligation until September 30, 1986: *Provided*, That this appropriation shall be available in addition to other appropriations to such Department, for payments in the foregoing currencies.

TITLE VI

REVOLVING AND MANAGEMENT FUNDS

ARMY STOCK FUND

For the Army stock fund; \$366,448,000.

NAVY STOCK FUND

For the Navy stock fund; \$473,307,000.

MARINE CORPS STOCK FUND

For the Marine Corps stock fund; \$34,908,000.

AIR FORCE STOCK FUND

For the Air Force stock fund; \$548,593,000.

DEFENSE STOCK FUND

For the Defense stock fund; \$130,700,000.

TITLE VII

RELATED AGENCIES

INTELLIGENCE COMMUNITY STAFF

For necessary expenses of the Intelligence Community Staff; \$20,797,000.

CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY
SYSTEM FUND

For payment to the Central Intelligence Agency Retirement and Disability System Fund, to maintain proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System; \$99,300,000.

TITLE VIII

GENERAL PROVISIONS

Contracts.
Public
availability.

SEC. 8001. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

Lobbying.

SEC. 8002. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 8003. During the current fiscal year, the Secretary of Defense and the Secretaries of the Army, Navy, and Air Force, respectively, if they should deem it advantageous to the national defense, and if in their opinions the existing facilities of the Department of Defense are inadequate, are authorized to procure services in accordance with section 3109 of title 5, United States Code, under regulations prescribed by the Secretary of Defense, and to pay in connection therewith travel expenses of individuals, including actual transportation and per diem in lieu of subsistence while traveling from their homes or places of business to official duty stations and return as may be authorized by law: *Provided*, That such contracts may be renewed annually.

10 USC 1584
note.

SEC. 8004. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense.

SEC. 8005. Appropriations for the Department of Defense for the current fiscal year shall be available for: (a) transportation to primary and secondary schools of minor dependents of military and civilian personnel of the Department of Defense as authorized for the Navy by section 7204 of title 10, United States Code; (b) expenses in connection with administration of occupied areas; (c) payment of rewards as authorized for the Navy by section 7209(a) of title 10, United States Code, for information leading to the discovery of missing naval property or the recovery thereof; (d) payment of deficiency judgments and interests thereon arising out of condemna-

tion proceedings; (e) leasing of buildings and facilities including payment of rentals for special purpose space at the seat of government, and in the conduct of field exercises and maneuvers or, in administering the provisions of the Act of July 9, 1942 (56 Stat. 654; 43 U.S.C. 315q), rentals may be paid in advance; (f) payments under contracts for maintenance of tools and facilities for twelve months beginning at any time during the fiscal year; (g) maintenance of defense access roads certified as important to national defense in accordance with section 210 of title 23, United States Code; (h) the purchase of milk for enlisted personnel of the Department of Defense heretofore made available pursuant to section 202 of the Agricultural Act of 1949 (7 U.S.C. 1446a), and the cost of milk so purchased, as determined by the Secretary of Defense, shall be included in the value of the commuted ration; (i) transporting civilian clothing to the home of record of selective service inductees and recruits on entering the military services; (j) payments under leases for real or personal property, including maintenance thereof when contracted for as a part of the lease agreement, for twelve months beginning at any time during the fiscal year; (k) pay and allowances of not to exceed nine persons, including personnel detailed to International Military Headquarters and Organizations, at rates provided for under section 625(d)(1) of the Foreign Assistance Act of 1961, as amended; (l) the purchase of right-hand-drive vehicles not to exceed \$12,000 per vehicle; (m) payment of unusual cost overruns incident to ship overhaul, maintenance, and repair for ships inducted into industrial fund activities or contracted for in prior fiscal years: *Provided*, That the Secretary of Defense shall notify the Congress promptly prior to obligation of any such payments; (n) payments from annual appropriations to industrial fund activities and/or under contract for changes in scope of ship overhaul, maintenance, and repair after expiration of such appropriations, for such work either inducted into the industrial fund activity or contracted for in that fiscal year; and (o) payments for depot maintenance contracts for twelve months beginning at any time during the fiscal year.

22 USC 2385.

SEC. 8006. Appropriations for the Department of Defense for the current fiscal year shall be available for: (a) donations of not to exceed \$25 to each prisoner upon each release from confinement in military or contract prison and to each person discharged for fraudulent enlistment; (b) authorized issues of articles to prisoners, applicants for enlistment and persons in military custody; (c) subsistence of selective service registrants called for induction, applicants for enlistment, prisoners, civilian employees as authorized by law, and supernumeraries when necessitated by emergent military circumstances; (d) reimbursement for subsistence of enlisted personnel while sick in hospitals; (e) expenses of prisoners confined in nonmilitary facilities; (f) military courts, boards, and commissions; (g) utility services for buildings erected at private cost, as authorized by law, and buildings on military reservations authorized by regulations to be used for welfare and recreational purposes; (h) exchange fees, and losses in the accounts of disbursing officers or agents in accordance with law; (i) expenses of Latin American cooperation as authorized for the Navy by section 7208 of title 10, United States Code; (j) expenses of apprehension and delivery of deserters, prisoners, and members absent without leave, including payment of rewards of not to exceed \$75 in any one case; and (k) carrying out section 10 of the Act of September 23, 1950, as amended.

10 USC 858 note.

10 USC 807 note.

20 USC 640.

Small and
minority
business.

SEC. 8007. The Secretary of Defense and each purchasing and contracting agency of the Department of Defense shall assist American small and minority-owned business to participate equitably in the furnishing of commodities and services financed with funds appropriated under this Act by increasing, to an optimum level, the resources and number of personnel jointly assigned to promoting both small and minority business involvement in purchases financed with funds appropriated herein, and by making available or causing to be made available to such businesses, information, as far in advance as possible, with respect to purchases proposed to be financed with funds appropriated under this Act, and by assisting small and minority business concerns to participate equitably as subcontractors on contracts financed with funds appropriated herein, and by otherwise advocating and providing small and minority business opportunities to participate in the furnishing of commodities and services financed with funds appropriated by this Act.

SEC. 8008. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 8009. (a) During the current fiscal year, the President may exempt appropriations, funds, and contract authorizations, available for military functions under the Department of Defense, from the provisions of section 1512 of title 31, United States Code, whenever he deems such action to be necessary in the interest of national defense.

(b) Upon determination by the President that such action is necessary, the Secretary of Defense is authorized to provide for the cost of an airborne alert as an excepted expense in accordance with the provisions of section 3732 of the Revised Statutes (41 U.S.C. 11).

(c) Upon determination by the President that it is necessary to increase the number of military personnel on active duty subject to existing laws beyond the number for which funds are provided in this Act, the Secretary of Defense is authorized to provide for the cost of such increased military personnel, as an excepted expense in accordance with the provisions of section 3732 of the Revised Statutes (41 U.S.C. 11).

Report.

(d) The Secretary of Defense shall immediately advise Congress of the exercise of any authority granted in this section, and shall report monthly on the estimated obligations incurred pursuant to subsections (b) and (c).

SEC. 8010. No appropriation contained in this Act shall be available in connection with the operation of commissary stores of the agencies of the Department of Defense for the cost of purchase (including commercial transportation in the United States to the place of sale but excluding all transportation outside the United States) and maintenance of operating equipment and supplies, and for the actual or estimated cost of utilities as may be furnished by the Government and of shrinkage, spoilage, and pilferage of merchandise under the control of such commissary stores, except as authorized under regulations promulgated by the Secretaries of the military departments concerned with the approval of the Secretary of Defense, which regulations shall provide for reimbursement therefor to the appropriations concerned and, notwithstanding any other provision of law, shall provide for the adjustment of the sales prices in such commissary stores to the extent necessary to furnish sufficient gross revenues from sales of commissary stores to make such reimbursement: *Provided*, That under such regulations as may

be issued pursuant to this section all utilities may be furnished without cost to the commissary stores outside the continental United States and in Alaska: *Provided further*, That no appropriation contained in this Act shall be available to pay any costs incurred by any commissary store or other entity acting on behalf of any commissary store in connection with obtaining the face value amount of manufacturer or vendor cents-off discount coupons unless all fees or moneys received for handling or processing such coupons are reimbursed to the appropriation charged with the incurred costs: *Provided further*, That no appropriation contained in this Act shall be available in connection with the operation of commissary stores within the continental United States unless the Secretary of Defense has certified that items normally procured from commissary stores are not otherwise available at a reasonable distance and a reasonable price in satisfactory quality and quantity to the military and civilian employees of the Department of Defense.

SEC. 8011. No part of the appropriations in this Act shall be available for any expense of operating aircraft under the jurisdiction of the armed forces for the purpose of proficiency flying, as defined in Department of Defense Directive 1340.4, except in accordance with regulations prescribed by the Secretary of Defense. Such regulations (1) may not require such flying except that required to maintain proficiency in anticipation of a member's assignment to combat operations and (2) such flying may not be permitted in cases of members who have been assigned to a course of instruction of ninety days or more.

SEC. 8012. No part of any appropriation contained in this Act shall be available for expense of transportation, packing, crating, temporary storage, drayage, and unpacking of household goods and personal effects in any one shipment having a net weight in excess of thirteen thousand five hundred pounds for military personnel.

SEC. 8013. Vessels under the jurisdiction of the Department of Transportation, the Department of the Army, the Department of the Air Force, or the Department of the Navy may be transferred or otherwise made available without reimbursement to any such agencies upon the request of the head of one agency and the approval of the agency having jurisdiction of the vessels concerned.

40 USC 483a.

SEC. 8014. Not more than 20 per centum of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year: *Provided*, That this section shall not apply to obligations for support of active duty training of civilian components or summer camp training of the Reserve Officers' Training Corps, or the National Board for the Promotion of Rifle Practice, Army, or to the appropriations provided in this Act for Claims, Defense, or for Environmental Restoration, Defense.

SEC. 8015. During the current fiscal year the agencies of the Department of Defense may accept the use of real property from foreign countries for the United States in accordance with mutual defense agreements or occupational arrangements and may accept services furnished by foreign countries as reciprocal international courtesies or as services customarily made available without charge; and such agencies may use the same for the support of the United States forces in such areas without specific appropriation therefor.

In addition to the foregoing, agencies of the Department of Defense may accept real property, services, and commodities from foreign countries for the use of the United States in accordance with

Report. mutual defense agreements or occupational arrangements and such agencies may use the same for the support of the United States forces in such areas, without specific appropriations therefor: *Provided*, That the foregoing authority shall not be available for the conversion of heating plants from coal to oil at defense facilities in Europe: *Provided further*, That within thirty days after the end of each quarter the Secretary of Defense shall render to Congress and to the Office of Management and Budget a full report of such property, supplies, and commodities received during such quarter.

Sec. 8016. During the current fiscal year, appropriations available to the Department of Defense for research and development may be used for the purposes of section 2353 of title 10, United States Code, and for purposes related to research and development for which expenditures are specifically authorized in other appropriations of the Service concerned.

Research
and
development.

Sec. 8017. No appropriation contained in this Act shall be available for the payment of more than 75 per centum of charges of educational institutions for tuition or expenses of off-duty training of military personnel (except with regard to such charges of educational institutions (a) for enlisted personnel in the pay grade E-5 or higher with less than 14 years' service, for which payment of 90 per centum may be made or (b) for military personnel in off-duty high school completion programs, for which payment of 100 per centum may be made), nor for the payment of any part of tuition or expenses for such training for commissioned personnel who do not agree to remain on active duty for two years after completion of such training: *Provided*, That the foregoing limitation shall not apply to the Program for Afloat College Education.

10 USC 2103
note.

Sec. 8018. No part of the funds appropriated herein shall be expended for the support of any formally enrolled student in basic courses of the senior division, Reserve Officers' Training Corps, who has not executed a certificate of loyalty or loyalty oath in such form as shall be prescribed by the Secretary of Defense.

Sec. 8019. No part of any appropriation contained in this Act, except for small purchases in amounts not exceeding \$10,000 shall be available for the procurement of any article of food, clothing, cotton, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles), or specialty metals including stainless steel flatware, or hand or measuring tools, not grown, reprocessed, reused, or produced in the United States or its possessions, except to the extent that the Secretary of the Department concerned shall determine that satisfactory quality and sufficient quantity of any articles of food or clothing or any form of cotton, woven silk and woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, wool, or specialty metals including stainless steel flatware, grown, reprocessed, reused, or produced in the United States or its possessions cannot be procured as and when needed at United States market prices and except procurements outside the United States in support of combat operations, procurements by vessels in foreign waters, and emergency procurements or procurements of perishable foods by establishments located outside the United States for the personnel attached thereto: *Provided*, That nothing herein shall preclude the procurement of specialty metals or chemical warfare protective clothing produced outside the United States or its possessions when such procurement is necessary to

comply with agreements with foreign governments requiring the United States to purchase supplies from foreign sources for the purposes of offsetting sales made by the United States Government or United States firms under approved programs serving defense requirements or where such procurement is necessary in furtherance of the standardization and interoperability of equipment requirements within NATO so long as such agreements with foreign governments comply, where applicable, with the requirements of section 36 of the Arms Export Control Act and with section 2457 of title 10, United States Code: *Provided further*, That nothing herein shall preclude the procurement of foods manufactured or processed in the United States or its possessions: *Provided further*, That no funds herein appropriated shall be used for the payment of a price differential on contracts hereafter made for the purpose of relieving economic dislocations other than certain contracts not involving fuel made on a test basis by the Defense Logistics Agency with a cumulative value not to exceed \$4,000,000,000, as may be determined by the Secretary of Defense pursuant to existing laws and regulations as not to be inappropriate therefor by reason of national security considerations: *Provided further*, That the Secretary specifically determines that there is a reasonable expectation that offers will be obtained from a sufficient number of eligible concerns so that awards of such contracts will be made at a reasonable price and that no award shall be made for such contracts if the price differential exceeds 2.2 per centum: *Provided further*, That none of the funds appropriated in this Act shall be used except that, so far as practicable, all contracts shall be awarded on a formally advertised competitive bid basis to the lowest responsible bidder.

22 USC 2776.

SEC. 8020. None of the funds appropriated by this Act may be obligated under section 206 of title 37, United States Code, for inactive duty training pay of a member of the National Guard or a member of a reserve component of a uniformed service for more than four periods of equivalent training, instruction, duty or appropriate duties that are performed instead of that member's regular period of instruction or regular period appropriate duty.

SEC. 8021. During the current fiscal year, appropriations available to the Department of Defense for pay of civilian employees shall be available for uniforms, or allowances therefor, as authorized by section 5901 of title 5, United States Code.

SEC. 8022. Funds provided in this Act for legislative liaison activities of the Department of the Army, the Department of the Navy, the Department of the Air Force, and the Office of the Secretary of Defense shall not exceed \$12,700,000 for the current fiscal year: *Provided*, That this amount shall be available for apportionment to the Department of the Army, the Department of the Navy, the Department of the Air Force, and the Office of the Secretary of Defense as determined by the Secretary of Defense: *Provided further*, That costs for military retired pay accrual shall be included within this limitation.

SEC. 8023. Of the funds made available by this Act for the services of the Military Airlift Command, \$100,000,000 shall be available only for procurement of commercial transportation service from carriers participating in the civil reserve air fleet program; and the Secretary of Defense shall utilize the services of such carriers which qualify as small businesses to the fullest extent found practicable: *Provided*, That the Secretary of Defense shall specify in such pro-

curement, performance characteristics for aircraft to be used based upon modern aircraft operated by the civil reserve air fleet.

SEC. 8024. During the current fiscal year, appropriations available to the Department of Defense for operation may be used for civilian clothing, not to exceed \$40 in cost for enlisted personnel: (1) discharged for misconduct, unsuitability, or otherwise than honorably; (2) sentenced by a civil court to confinement in a civil prison or interned or discharged as an alien enemy; or (3) discharged prior to completion of recruit training under honorable conditions for dependency, hardship, minority, disability, or for the convenience of the Government.

(TRANSFER OF FUNDS)

SEC. 8025. Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed \$1,200,000,000 of working capital funds of the Department of Defense or funds made available in this Act to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided*, That such authority to transfer may not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by Congress: *Provided further*, That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority.

(TRANSFER OF FUNDS)

SEC. 8026. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: *Provided*, That transfers may be made between such funds in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that transfers between a stock fund account and an industrial fund account may not be made unless the Secretary of Defense has notified the Congress of the proposed transfer. Except in amounts equal to the amounts appropriated to working capital funds in this Act, no obligations may be made against a working capital fund to procure war reserve material inventory, unless the Secretary of Defense has notified the Congress prior to any such obligation.

SEC. 8027. No part of the funds appropriated under this Act shall be used to provide a loan, guarantee of a loan, or a grant to any applicant who has been convicted by any court of general jurisdiction of any crime which involves the use of or the assistance to others in the use of force, trespass, or the seizure of property under control of an institution of higher education to prevent officials or students at such an institution from engaging in their duties or pursuing their studies.

SEC. 8028. None of the funds available to the Department of Defense shall be utilized for the conversion of heating plants from coal to oil at defense facilities in Europe.

SEC. 8029. None of the funds appropriated by this Act shall be available for any research involving uninformed or nonvoluntary human beings as experimental subjects: *Provided*, That this limitation shall not apply to measures intended to be beneficial to the recipient and consent is obtained from the recipient or a legal representative acting on the recipient's behalf.

Human experiments.

SEC. 8030. No part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for reprogramming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprogramming is requested has been denied by the Congress.

Health and medical care.

SEC. 8031. No funds appropriated by this Act shall be available to pay claims for nonemergency inpatient hospital care provided under the Civilian Health and Medical Program of the Uniformed Services for services available at a facility of the uniformed services within a 40-mile radius of the patient's residence: *Provided*, That the foregoing limitation shall not apply to payments that supplement primary coverage provided by other insurance plans or programs for inpatient care.

SEC. 8032. None of the funds contained in this Act available for the Civilian Health and Medical Program of the Uniformed Services under the provisions of section 1079(a) of title 10, United States Code, shall be available for (a) services of pastoral counselors, or family and child counselors, or marital counselors unless the patient has been referred to such counselor by a medical doctor for treatment of a specific problem with results of that treatment to be communicated back to the physician who made such referral; (b) special education, except when provided as secondary to the active psychiatric treatment on an institutional inpatient basis; (c) therapy or counseling for sexual dysfunctions or sexual inadequacies; (d) treatment of obesity when obesity is the sole or major condition treated; (e) surgery which improves physical appearance but which is not expected to significantly restore functions including, but not limited to, mammary augmentation, face lifts and sex gender changes except that breast reconstructive surgery following mastectomy and reconstructive surgery to correct serious deformities caused by congenital anomalies, accidental injuries and neoplastic surgery are not excluded; (f) reimbursement of any physician or other authorized individual provider of medical care in excess of the eightieth percentile of the customary charges made for similar services in the same locality where the medical care was furnished, as determined for physicians in accordance with section 1079(h) of title 10, United States Code; or (g) any service or supply which is not medically or psychologically necessary to prevent, diagnose, or treat a mental or physical illness, injury, or bodily malfunction as assessed or diagnosed by a physician, dentist, clinical psychologist, optometrist, podiatrist, certified nurse-midwife, certified nurse practitioner, or certified clinical social worker, as appropriate, except as authorized by section 1079(a)(4) of title 10, United States Code: *Provided*, That any changes in availability of funds for the program made in this Act from those in effect prior to its enactment shall be effective for care received following enactment of this Act.

Health and medical care.

SEC. 8033. Appropriations available to the Department of Defense for the current fiscal year shall be available to provide an individual entitled to health care under chapter 55 of title 10, United States Code, with one wig if the individual has alopecia that resulted from

10 USC 1071
et seq.

treatment of malignant disease: *Provided*, That the individual has not previously received a wig from the Government.

SEC. 8034. None of the funds appropriated by this Act may be used to support more than three hundred enlisted aides for officers in the United States Armed Forces.

SEC. 8035. No appropriation contained in this Act may be used to pay for the cost of public affairs activities of the Department of Defense in excess of \$43,400,000: *Provided*, That costs for military retired pay accrual shall be included within this limitation.

22 USC 2777.

22 USC 2761.

SEC. 8036. None of the funds provided in this Act shall be available for the planning or execution of programs which utilize amounts credited to Department of Defense appropriations or funds pursuant to the provisions of section 37(a) of the Arms Export Control Act representing payment for the actual value of defense articles specified in section 21(a)(1) of that Act: *Provided*, That such amounts shall be credited to the Special Defense Acquisition Fund, as authorized by law, or, to the extent not so credited shall be deposited in the Treasury as miscellaneous receipts as provided in section 3302(b) of title 31, United States Code.

ROTC.

SEC. 8037. No appropriation contained in this Act shall be available to fund any costs of a Senior Reserve Officers' Training Corps unit—except to complete training of personnel enrolled in Military Science 4—which in its junior year class (Military Science 3) has for the four preceding academic years, and as of September 30, 1983, enrolled less than (a) seventeen students where the institution prescribes a four-year or a combination four- and two-year program; or (b) twelve students where the institution prescribes a two-year program: *Provided*, That, notwithstanding the foregoing limitation, funds shall be available to maintain one Senior Reserve Officers' Training Corps unit in each State and at each State-operated maritime academy: *Provided further*, That units under the consortium system shall be considered as a single unit for purposes of evaluation of productivity under this provision: *Provided further*, That enrollment standards contained in Department of Defense Directive 1215.8 for Senior Reserve Officers' Training Corps units, as revised during fiscal year 1981, may be used to determine compliance with this provision, in lieu of the standards cited above.

SEC. 8038. (a) None of the funds appropriated by this Act or available in any working capital fund of the Department of Defense shall be available to pay the expenses attributable to lodging of any person on official business away from his designated post of duty, or in the case of an individual described under section 5703 of title 5, United States Code, his home or regular place of duty, when adequate Government quarters are available, but are not occupied by such person.

(b) The limitation set forth in subsection (a) is not applicable to employees whose duties require official travel in excess of 50 per centum of the total number of the basic administrative work weeks during the current fiscal year.

10 USC 6330
note.

SEC. 8039. (a) During the current fiscal year and hereafter, none of the assets of the Department of Defense Military Retirement Fund shall be available to pay the retainer pay of any enlisted member of the Regular Navy, the Naval Reserve, the Regular Marine Corps, or the Marine Corps Reserve who is transferred to the Fleet Reserve or the Fleet Marine Corps Reserve under section 6330 of title 10, United States Code, on or after December 31, 1977, if the provisions of section 6330(d) of title 10, are utilized in determining such mem-

ber's eligibility for retirement under section 6330(b) of the title 10: *Provided*, That notwithstanding the foregoing, time creditable as active service for a completed minority enlistment, and an enlistment terminated within three months before the end of the term of enlistment under section 6330(d) of title 10, prior to December 31, 1977, may be utilized in determining eligibility for retirement: *Provided further*, That notwithstanding the foregoing, time may be credited as active service in determining a member's eligibility for retirement under section 6330(b) of title 10 pursuant to the provisions of the first sentence of section 6330(d) of title 10 for those members who had formally requested transfer to the Fleet Reserve or the Fleet Marine Corps Reserve on or before October 1, 1977.

(b) During the current fiscal year and hereafter, none of the assets of the Department of Defense Military Retirement Fund shall be available to pay that portion of the retainer pay of any enlisted member of the Regular Navy, the Naval Reserve, the Regular Marine Corps, or the Marine Corps Reserve who is transferred to the Fleet Reserve or the Fleet Marine Corps Reserve under section 6330 of title 10, United States Code, on or after December 31, 1977, which is attributable under the second sentence of section 6330(d) of title 10 to time which, after December 31, 1977, is not actually served by such member.

SEC. 8040. None of the funds appropriated by this Act for programs of the Central Intelligence Agency shall remain available for obligation beyond the current fiscal year, except for: (a) funds appropriated for the Reserve for Contingencies, which shall remain available until September 30, 1986; and (b) funds appropriated for Headquarters Construction, which shall remain available until September 30, 1989.

SEC. 8041. None of the funds provided by this Act may be used to pay the salaries of any person or persons who authorized the transfer of unobligated and deobligated appropriations into the Reserve for Contingencies of the Central Intelligence Agency.

SEC. 8042. None of the funds appropriated by this Act may be used to support more than 9,901 full-time and 2,603 part-time military personnel assigned to or used in the support of Morale, Welfare, and Recreation activities as described in Department of Defense Instruction 7000.12 and its enclosures, dated September 4, 1980.

SEC. 8043. All obligations incurred in anticipation of the appropriations and authority provided in this Act are hereby ratified and confirmed if otherwise in accordance with the provisions of this Act.

SEC. 8044. None of the funds provided by this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

Abortion.

SEC. 8045. None of the funds appropriated by this Act shall be used for the provision, care or treatment to dependents of members or former members of the Armed Services or the Department of Defense for the elective correction of minor dermatological blemishes and marks or minor anatomical anomalies.

SEC. 8046. None of the funds appropriated by this Act or heretofore appropriated by any other Act shall be obligated or expended for the payment of anticipatory possession compensation claims to the Federal Republic of Germany other than claims listed in the 1973 agreement (commonly referred to as the Global Agreement) between the United States and the Federal Republic of Germany.

Claims
Germany.

SEC. 8047. During the current fiscal year the Department of Defense may enter into contracts to recover indebtedness to the

Contracts.

United States pursuant to section 3718 of title 31, United States Code, and any such contract entered into by the Department of Defense may provide that appropriate fees charged by the contractor under the contract to recover indebtedness may be payable from amounts collected by the contractor to the extent and under the conditions provided under the contract.

Contracts.

SEC. 8048. None of the funds appropriated by this Act shall be available for a contract for studies, analyses, or consulting services entered into without competition on the basis of an unsolicited proposal unless the head of the activity responsible for the procurement determines:

(a) as a result of thorough technical evaluation, only one source is found fully qualified to perform the proposed work, or

(b) the purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source, or

(c) where the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support:

Provided, That this limitation shall not apply to contracts in an amount of less than \$25,000, contracts related to improvements of equipment that is in development or production, or contracts as to which a civilian official of the Department of Defense, who has been confirmed by the Senate, determines that the award of such contract is in the interest of the national defense.

SEC. 8049. None of the funds appropriated by this Act shall be available to provide medical care in the United States on an inpatient basis to foreign military and diplomatic personnel or their dependents unless the Department of Defense is reimbursed for the costs of providing such care: *Provided*, That reimbursements for medical care covered by this section shall be credited to the appropriations against which charges have been made for providing such care, except that inpatient medical care may be provided in the United States without cost to military personnel and their dependents from a foreign country if comparable care is made available to a comparable number of United States military personnel in that foreign country.

94 Stat. 1150.

SEC. 8050. None of the funds appropriated by this Act shall be obligated for the second career training program authorized by Public Law 96-347.

SEC. 8051. None of the funds appropriated or otherwise made available in this Act shall be obligated or expended for salaries or expenses during the current fiscal year for the purposes of demilitarization of surplus nonautomatic firearms less than .50 caliber.

Contracts.

SEC. 8052. None of the funds provided in this Act shall be available to initiate (1) a multiyear contract that employs economic order quantity procurement in excess of \$20,000,000 in any one year of the contract or that includes an unfunded contingent liability in excess of \$20,000,000, or (2) a contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of \$20,000,000 in any one year, unless the Committees on Appropriations and Armed Services of the Senate and House of Representatives have been notified at least thirty days in advance of the proposed contract award: *Provided*, That no part of any appropriation contained in this Act shall be available to initiate a

multiyear contract for which the economic order quantity advance procurement is not funded at least to the limits of the Government's liability: *Provided further*, That no part of any appropriation contained in this Act shall be available to initiate multiyear procurement contracts for major systems unless specifically provided herein. For purposes of this provision, a major system is defined as a system or major assembly thereof whose eventual total expenditure for research, development, test, and evaluation is more than \$200,000,000, or whose eventual total expenditure for procurement is more than \$1,000,000,000.

SEC. 8053. None of the funds appropriated by this Act which are available for payment of travel allowances for per diem in lieu of subsistence to enlisted personnel shall be used to pay such an allowance to any enlisted member in an amount that is more than the amount of per diem in lieu of subsistence that the enlisted member is otherwise entitled to receive minus the basic allowance for subsistence, or pro rata portion of such allowance, that the enlisted member is entitled to receive during any day, or portion of a day, that the enlisted member is also entitled to be paid a per diem in lieu of subsistence: *Provided*, That if an enlisted member is in a travel status and is not entitled to receive a per diem in lieu of subsistence because the member is furnished meals in a Government mess, funds available to pay the basic allowance for subsistence to such a member shall not be used to pay that allowance, or pro rata portion of that allowance, for each day, or portion of a day, that such enlisted member is furnished meals in a Government mess.

SEC. 8054. During the current fiscal year and hereafter, none of the assets of the Department of Defense Military Retirement Fund shall be available to pay the retired pay or retainer pay of a member of the Armed Forces for any month who, on or after January 1, 1982, becomes entitled to retired or retainer pay, in an amount that is greater than the amount otherwise determined to be payable after such reductions as may be necessary to reflect adjusting the computation of retired pay or retainer pay that includes credit for a part of a year of service to permit credit for a part of a year of service only for such month or months actually served: *Provided*, That the foregoing limitation shall not apply to any member who before January 1, 1982: (a) applied for retirement or transfer to the Fleet Reserve or Fleet Marine Corps Reserve; (b) is being processed for retirement under the provisions of chapter 61 of title 10 or who is on the temporary disability retired list and thereafter retired under the provisions of sections 1210 (c) or (d) of title 10; or (c) is retired or in an inactive status and would be eligible for retired pay under the provisions of chapter 67 of title 10, but for the fact that the person is under sixty years of age.

SEC. 8055. None of the funds appropriated by this Act shall be available to approve a request for waiver of the costs otherwise required to be recovered under the provisions of section 21(e)(1)(C) of the Arms Export Control Act unless the Committees on Appropriations have been notified in advance of the proposed waiver.

SEC. 8056. None of the funds appropriated by this Act shall be available for the transportation of equipment or materiel designated as Prepositioned Materiel Configured in Unit Sets (POMCUS) in Europe in excess of four division sets: *Provided*, That the foregoing limitation shall not apply with respect to any item of equipment or materiel which is maintained in the inventories of the Active and

10 USC 1401
note.

10 USC 2101
et seq.

10 USC 1331
et seq.

22 USC 2761.

Reserve Forces at levels of at least 70 per centum of the established requirements for such an item of equipment or materiel for the Active Forces and 50 per centum of the established requirement for the Reserve Forces for such an item of equipment or materiel: *Provided further*, That no additional commitments to the establishment of POMCUS sites shall be made without prior approval of Congress.

SEC. 8057. (a) None of the funds in this Act may be used to transfer any article of military equipment or data related to the manufacture of such equipment to a foreign country prior to the approval in writing of such transfer by the Secretary of the military service involved.

(b) No funds appropriated by this Act may be used for the transfer of a technical data package from any Government-owned and operated defense plant manufacturing large caliber cannons to any foreign government, nor for assisting any such government in producing any defense item currently being manufactured or developed in a United States Government-owned, Government-operated defense plant manufacturing large caliber cannons.

(TRANSFER OF FUNDS)

SEC. 8058. None of the funds appropriated in this Act may be made available through transfer, reprogramming, or other means for any intelligence or special activity different from that previously justified to the Congress unless the Director of Central Intelligence or the Secretary of Defense has notified the House and Senate Appropriations Committees of the intent to make such funds available for such activity.

SEC. 8059. Of the funds appropriated by this Act for strategic programs, the Secretary of Defense shall provide funds for the Advanced Technology Bomber program at a level at least equal to the amount provided by the committee of conference on this Act in order to maintain priority emphasis on this program.

SEC. 8060. None of the funds available to the Department of Defense during the current fiscal year shall be used by the Secretary of a military department to purchase coal or coke from foreign nations for use at United States defense facilities in Europe when coal from the United States is available.

SEC. 8061. None of the funds available to the Department of Defense shall be available for the procurement of manual typewriters which were manufactured by facilities located within states which are Signatories to the Warsaw Pact.

SEC. 8062. None of the funds appropriated by this Act may be used to appoint or compensate more than 37 individuals in the Department of Defense in positions in the Executive Schedule (as provided in sections 5312-5316 of title 5, United States Code).

SEC. 8063. None of the funds appropriated by this Act shall be available to convert a position in support of the Army Reserve, Air Force Reserve, Army National Guard, and Air National Guard occupied by, or programed to be occupied by, a (civilian) military technician to a position to be held by a person in an active Guard or Reserve status if that conversion would reduce the total number of positions occupied by, or programed to be occupied by, (civilian) military technicians of the component concerned, below 62,410: *Provided*, That none of the funds appropriated by this Act shall be available to support more than 37,957 positions in support of the

Army Reserve, Army National Guard or Air National Guard occupied by, or programed to be occupied by, persons in an active Guard or Reserve status: *Provided further*, That none of the funds appropriated by this Act may be used to include (civilian) military technicians in computing civilian personnel ceilings, including statutory or administratively imposed ceilings, on activities in support of the Army Reserve, Air Force Reserve, Army National Guard or Air National Guard.

SEC. 8064. (a) The provisions of section 138(c)(2) of title 10, United States Code, shall not apply with respect to fiscal year 1985 or with respect to the appropriation of funds for that year.

(b) During fiscal year 1985, the civilian personnel of the Department of Defense may not be managed on the basis of any end-strength, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an end-strength) on the number of such personnel who may be employed on the last day of such fiscal year.

(c) The fiscal year 1986 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 1986 Department of Defense budget request shall be prepared and submitted to the Congress as if sections (a) and (b) of this provision were effective with regard to fiscal year 1986.

(TRANSFER OF FUNDS)

SEC. 8065. Appropriations or funds available to the Department of Defense during the current fiscal year may be transferred to appropriations provided in this Act for research, development, test, and evaluation to the extent necessary to meet increased pay costs authorized by or pursuant to law, to be merged with and to be available for the same purposes, and the same time period, as the appropriation to which transferred.

SEC. 8066. (a) During fiscal year 1985, no funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States involved in intelligence activities may be obligated or expended for the purpose or which would have the effect of supporting, directly or indirectly, military or paramilitary operations in Nicaragua by any nation, group, organization, movement, or individual.

Nicaragua.

(b) The prohibition concerning Nicaragua contained in subsection (a) shall cease to apply if, after February 28, 1985—

(1) the President submits to Congress a report—

Report.

(A) stating that the Government of Nicaragua is providing materiel or monetary support to anti-government forces engaged in military or paramilitary operations in El Salvador or other Central American countries;

(B) analyzing the military significance of such support;

(C) stating that the President has determined that assistance for military or paramilitary operations prohibited by subsection (a) is necessary;

(D) justifying the amount and type of such assistance and describing its objectives; and

(E) explaining the goals of United States policy for the Central American region and how the proposed assistance would further such goals, including the achievement of peace and security in Central America through a compre-

hensive, verifiable and enforceable agreement based upon the Contadora Document of Objectives; and

(2) a joint resolution approving assistance for military or paramilitary operations in Nicaragua is enacted.

(c)(1) For the purpose of subsection (b)(2), "joint resolution" means only a joint resolution introduced after the date on which the report of the President under subsection (b)(1) is received by Congress, the matter after the resolving clause of which is as follows: "That the Congress approves the obligation and expenditure of funds available for fiscal year 1985 for supporting, directly or indirectly, military or paramilitary operations in Nicaragua."

(2) The report described in subsection (b)(1) shall be referred to the appropriate committee or committees of the House of Representatives and to the appropriate committee or committees of the Senate.

(3) A resolution described in paragraph (1) introduced in the House of Representatives shall be referred to the Committee on Appropriations of the House of Representatives. A resolution described in paragraph (1) introduced in the Senate shall be referred to the Committee on Appropriations of the Senate. Such a resolution may not be reported before the eighth day after its introduction.

(4) If the committee to which is referred a resolution described in paragraph (1) has not reported such resolution (or an identical resolution) at the end of fifteen calendar days after its introduction, such committee shall be discharged from further consideration of such resolution and such resolution shall be placed on the appropriate calendar of the House involved.

(5)(A) When the committee to which a resolution is referred has reported, or has been deemed to be discharged (under paragraph (4)) from further consideration of, a resolution described in paragraph (1), notwithstanding any rule or precedent of the Senate, including Rule 22, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution, and all points of order against the resolution (and against consideration of the resolution) are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

(B) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than ten hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

(C) Immediately following the conclusion of the debate on a resolution described in paragraph (1), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

(D) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in paragraph (1) shall be decided without debate.

(6) If, before the passage by the Senate of a resolution of the Senate described in paragraph (1), the Senate receives from the House of Representatives a resolution described in paragraph (1), then the following procedures shall apply:

(A) The resolution of the House of Representatives shall not be referred to a committee.

(B) With respect to a resolution described in paragraph (1) of the Senate—

(i) the procedure in the Senate shall be the same as if no resolution had been received from the House; but

(ii) the vote on final passage shall be on the resolution of the House.

(C) Upon disposition of the resolution received from the House, it shall no longer be in order to consider the resolution originated in the Senate.

(7) If the Senate receives from the House of Representatives a resolution described in paragraph (1) after the Senate has disposed of a Senate originated resolution, the action of the Senate with regard to the disposition of the Senate originated resolution shall be deemed to be the action of the Senate with regard to the House originated resolution.

(8) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in paragraph (1), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(d) During fiscal year 1985 funds approved by the resolution described in subsection (b)(2) for the purpose of supporting, directly or indirectly, military or paramilitary operations in Nicaragua, shall not exceed \$14,000,000. Nicaragua.

SEC. 8067. So far as may be practicable, Indian labor shall be employed, and purchases of the products of Indian industry may be made in open market in the discretion of the Secretary of Defense: *Provided*, That the products must meet pre-set contract specifications. Indians.

SEC. 8068. None of the funds made available by this Act shall be used in any way for the leasing to non-Federal agencies in the United States aircraft or vehicles owned or operated by the Department of Defense when suitable aircraft or vehicles are commercially available in the private sector: *Provided*, That nothing in this section shall affect authorized and established procedures for the sale of surplus aircraft or vehicles: *Provided further*, That nothing in this section shall prohibit such leasing when specifically authorized in a subsequent Act of Congress.

SEC. 8069. None of the funds made available by this Act shall be used in any way, directly or indirectly, to influence congressional Lobbying.

action on any legislation or appropriation matters pending before the Congress.

Contracts.

SEC. 8070. No funds available to the Department of Defense during the current fiscal year may be used to enter into any contract with a term of eighteen months or more, inclusive of any option for contract extension or renewal, for any vessels, aircraft or vehicles, through a lease, charter, or similar agreement without prior congressional approval of appropriations. Further, any contractual agreement which imposes an estimated termination liability (excluding the estimated value of the leased item at the time of termination) on the Government exceeding 50 per centum of the original purchase value of the vessel, aircraft, or vehicle must have specific authority in an appropriation Act for the obligation of 10 per centum of such termination liability.

Contracts.

SEC. 8071. None of the funds appropriated by this Act may be obligated or expended on a Department of Defense contract for commercial or commercial-type products if the solicitation excludes any small business concern (as defined pursuant to section 3 of the Small Business Act) that cannot demonstrate that its product is accepted in the commercial market (except to the extent that may be required to evidence compliance with the Walsh-Healey Public Contracts Act).

15 USC 632.

41 USC 35 note.
Ft. DeRussy,
Hawaii.

SEC. 8072. None of the funds appropriated in this Act may be obligated or expended in any way for the purpose of the sale, lease, rental, or excessing of any portion of land currently identified as Fort DeRussy, Honolulu, Hawaii.

SEC. 8073. None of the funds made available by this Act shall be available to operate in excess of 247 commissaries in the contiguous United States.

SEC. 8074. None of the funds provided in this Act shall be used to procure aircraft ejection seats manufactured in any foreign nation that does not permit United States manufacturers to compete for ejection seat procurement requirements in that foreign nation. This limitation shall apply only to ejection seats procured for installation on aircraft produced or assembled in the United States.

SEC. 8075. No more than \$197,800,000 of the funds appropriated by this Act shall be available for the payment of unemployment compensation benefits.

SEC. 8076. None of the funds appropriated by this Act should be obligated for the pay of any individual who is initially employed after the date of enactment of this Act as a technician in the administration and training of the Army Reserve and the maintenance and repair of supplies issued to the Army Reserve unless such individual is also a military member of the Army Reserve troop program unit that he or she is employed to support. Those technicians employed by the Army Reserve in areas other than Army Reserve troop program units need only be members of the Selected Reserve.

SEC. 8077. None of the funds appropriated by this Act may be obligated or expended to adjust a base period under section 1079(h)(2) of title 10, United States Code, more frequently than the Secretary of Defense considers appropriate.

10 USC 2304
note.

SEC. 8078. None of the funds hereafter available to the Department of Defense shall be used to adjust any contract price for amounts set forth in any shipbuilding claim, request for equitable adjustment, or demand for payment incurred due to the preparation, submission, or adjudication of any such shipbuilding claim,

request, or demand under a contract entered into after the date of enactment of this Act arising out of events occurring more than eighteen months prior to the submission of such shipbuilding claim, request, or demand. For the purposes of this section, requirement for submission of a shipbuilding claim, request, or demand is met only when the certification required in section 6(c)(1) of the Contract Disputes Act of 1978 and supporting data are provided.

41 USC 605.

SEC. 8079. None of the funds appropriated by this Act shall be used for the transfer of the Department of Defense Dependents Schools (DODDS) to the Department of Education, as prohibited by section 1223 of the Department of Defense Authorization Act, 1984.

97 Stat. 692.

20 USC 3442.

SEC. 8080. No part of the funds appropriated herein shall be available for the purchase of more than 50 per centum of the fiscal year requirements for aircraft power supply cable assemblies of each military facility from industries established pursuant to title 18, United States Code: *Provided*, That the restriction contained herein shall not apply to small purchases in amounts not exceeding \$10,000.

SEC. 8081. None of the funds appropriated by this Act shall be used to purchase dogs or cats or otherwise fund the use of dogs or cats for the purpose of training Department of Defense students or other personnel in surgical or other medical treatment of wounds produced by any type of weapon: *Provided*, That the standards of such training with respect to the treatment of animals shall adhere to the Federal Animal Welfare Law and to those prevailing in the civilian medical community.

Animals.

7 USC 2131 note.

SEC. 8082. None of the funds appropriated by this Act shall be obligated under the competitive rate program of the Department of Defense for the transportation of household goods to or from Alaska and Hawaii.

SEC. 8083. None of the funds made available by this Act shall be used to initiate full-scale engineering development of any major defense acquisition program until the Secretary of Defense has provided to the Committees on Appropriations of the House and Senate—

(a) a certification that the system or subsystem being developed will be procured in quantities that are not sufficient to warrant development of two or more production sources, or

(b) a plan for the development of two or more sources for the production of the system or subsystem being developed.

SEC. 8084. None of the funds appropriated by this Act shall be available to pay any member of the uniformed service for unused accrued leave pursuant to section 501 of title 37, United States Code, for more than sixty days of such leave, less the number of days for which payment was previously made under section 501 after February 9, 1976.

SEC. 8085. Within the funds made available under title II of this Act, the military departments may use such funds as necessary, but not to exceed \$4,700,000, to carry out the provisions of section 430 of title 37, United States Code: *Provided*, That none of the funds appropriated to the Department of Defense for the travel and transportation of dependent students of military personnel stationed overseas shall be obligated for a transportation allowance for travel within or between the contiguous United States.

SEC. 8086. Within funds available under title II of this Act, but not to exceed \$100,000, and under such regulations as the Secretary of Defense may prescribe, the Department of Defense may, in addition

to allowances currently available, make payments for travel and transportation expenses of the surviving spouse, children, parents, and brothers and sisters of any member of the Armed Forces of the United States, who dies as the result of an injury or disease incurred in line of duty to attend the funeral of such member in any case in which the funeral of such member is more than two hundred miles from the residence of the surviving spouse, children, parents or brothers and sisters, if such spouse, children, parents or brothers and sisters, as the case may be, are financially unable to pay their own travel and transportation expenses to attend the funeral of such member.

Nuclear
weapons.

SEC. 8087. Notwithstanding any other provision of this Act, no funds appropriated by this Act shall be expended for the research, development, test, evaluation or procurement for integration of a nuclear warhead into the Joint Tactical Missile System (JTACMS).

SEC. 8088. None of the funds available to the Department of Defense may be used for the floating storage of petroleum or petroleum products except in vessels of or belonging to the United States.

Civil Air Patrol.

SEC. 8089. Of the funds made available to the Department of the Air Force in this Act, not less than \$3,000,000 shall be available for the Civil Air Patrol.

China Lake
Naval Weapons
Center.

SEC. 8090. Funds appropriated by this Act may be used by the Department of the Navy for the use of helicopters and motorized equipment at China Lake Naval Weapons Center for removal of feral burros and horses.

SEC. 8091. On or after June 30, 1985, none of the funds appropriated by this Act shall be available to execute an agreement for continuation pay authorized under section 311 of title 37, United States Code, with an officer of the Army or Navy in the Dental Corps or an officer of the Air Force designated as a dental officer who is serving in a dental specialty which is manned in excess of 95 per centum of the authorized strength for that specialty: *Provided*, That an agreement for such continuation pay may be executed with such an officer if the agreement provides that such officer will receive only 50 per centum of the amount of the continuation pay to which the officer would otherwise be entitled under section 311 of title 37: *Provided further*, That the foregoing limitation shall cease to be applicable upon the enactment of legislation repealing or amending the continuation pay provisions currently authorized by section 311 of title 37.

(TRANSFER OF FUNDS)

SEC. 8092. Not to exceed \$100,000,000 may be transferred from the appropriation "Operation and Maintenance, Defense Agencies" to operation and maintenance appropriations under the military departments in connection with demonstration projects authorized by section 1092 of title 10, United States Code: *Provided*, That the Secretary of Defense shall promptly notify the Congress of any such transfer of funds under this provision: *Provided further*, That the authority to make transfers pursuant to this section is in addition to the authority to make transfers under other provisions of this Act.

Brooklyn Naval
Shipyard.

SEC. 8093. The eleven sets of excess Navy quarters and related facilities on a six-acre site at the former Brooklyn Naval Shipyard shall be transferred at no cost to the Secretary of the Army for use by the Army National Guard.

SEC. 8094. None of the funds available for Defense installations in Europe shall be used for the consolidation or conversion of heating facilities to district heating distribution systems in Europe: *Provided*, That those facilities identified by the Department of the Army as of September 24, 1984, as being in advanced stages of negotiations shall be exempt from such provision upon written notification to the Committees on Appropriations of the House of Representatives and the Senate from the Department justifying the conversion for each facility.

SEC. 8095. Section 7309(a) of title 10, United States Code, is amended—

(1) by inserting “and no vessel of any other military department,” after “no naval vessel,”; and

(2) by striking out “a naval” and inserting in lieu thereof “any such”.

SEC. 8096. It is the sense of the Congress that the Secretary of Defense should formulate and carry out a program under which contracts awarded by the Department of Defense in fiscal year 1985 would, to the maximum extent practicable and consistent with existing law, be awarded to contractors who agree to carry out such contracts in labor surplus areas (as defined and identified by the Department of Labor).

SEC. 8097. None of the funds appropriated or otherwise made available under this Act may be available for any country during any three-month period beginning on or after November 1, 1983, immediately following a certification by the President to the Congress that the government of such country is failing to take adequate measures to prevent narcotic drugs or other controlled substances (as listed in the schedules in section 202 of the Comprehensive Drug Abuse and Prevention Control Act of 1971 (21 U.S.C. 812)), which are cultivated, produced, or processed illicitly, in whole or in part, in such country, or transported through such country from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from entering the United States unlawfully.

Drugs and
drug abuse.

SEC. 8098. It is the sense of the Congress that competition, which is necessary to enhance innovation, effectiveness, and efficiency, and which has served our Nation so well in other spheres of political and economic endeavor, should be expanded and increased in the provision of our national defense.

SEC. 8099. None of the funds available to the Department of Defense shall be obligated or expended to contract out any activity currently performed by the Defense Personnel Support Center in Philadelphia, Pennsylvania: *Provided*, That this provision shall not apply after notification to the Committees on Appropriations of the House of Representatives and the Senate of the results of the cost analysis of contracting out any such activity.

SEC. 8100. (a) Notwithstanding any other provision of law, none of the funds appropriated or made available in this or any other Act may be obligated or expended to test against an object in space the miniature homing vehicle (MHV) anti-satellite warhead launched from an F-15 aircraft unless the President determines and certifies to Congress—

Anti-satellite
weapons.
President of U.S.
10 USC 139 note.

(1) that the United States is endeavoring, in good faith, to negotiate with the Soviet Union a mutual and verifiable agreement with the strictest possible limitations on anti-satellite

weapons consistent with the national security interests of the United States;

(2) that, pending agreement on such strict limitations, testing against objects in space of the F-15 launched miniature homing vehicle anti-satellite warhead by the United States is necessary to avert clear and irrevocable harm to the national security;

(3) that such testing would not constitute an irreversible step that would gravely impair prospects for negotiations on anti-satellite weapons; and

(4) that such testing is fully consistent with the rights and obligations of the United States under the Anti-Ballistic Missile Treaty of 1972 as those rights and obligations exist at the time of such testing.

23 UST 3435.

(b) During fiscal year 1985, funds appropriated for the purpose of testing the F-15 launched miniature homing vehicle anti-satellite warhead may not be used to conduct more than three tests of that warhead against objects in space.

(c) The limitation on the expenditure of funds provided by subsection (a) of this section shall cease to apply fifteen calendar days after the date of the receipt by Congress of the certification referred to in subsection (a) or March 1, 1985, whichever occurs later.

Central
American
combat.
50 USC 1541
note.

SEC. 8101. (a) The Congress makes the following findings:

(1) The President has stated that there is no need to introduce United States Armed Forces into Central America for combat and that he has no intention of doing so.

(2) The President of El Salvador has stated that there is no need for United States Armed Forces to conduct combat operations in El Salvador and that he has no intention of asking that they do so.

(3) The possibility of the introduction of United States Armed Forces into Central America for combat raises very grave concern in the Congress and the American people.

(b) It is the sense of Congress that—

(1) United States Armed Forces should not be introduced into or over the countries of Central America for combat; and

(2) if circumstances change from those present on the date of the enactment of this Act and the President believes that those changed circumstances require the introduction of United States Armed Forces into or over a country of Central America for combat, the President should consult with Congress before any decision to so introduce United States Armed Forces and any such introduction of United States Armed Forces must comply with the War Powers Resolution.

50 USC 1541
note.

SEC. 8102. None of the funds appropriated by this Act shall be available to compensate foreign selling costs as described in Federal Acquisition Regulation 31.205-38(b) as in effect on April 1, 1984.

48 CFR
31.205-38.

SEC. 8103. Of the funds appropriated for the operation and maintenance of the Armed Forces, obligations may be incurred for humanitarian and civic assistance costs incidental to authorized operations, and these obligations shall be reported to Congress on September 30, 1985: *Provided*, That funds available for operation and maintenance shall be available for providing humanitarian and similar assistance in the Trust Territories of the Pacific Islands by using Civic Action Teams.

10 USC 139
note.

SEC. 8104. It is the sense of the Congress that—(a) the President shall inform and make every effort to consult with other member nations of the North Atlantic Treaty Organization, Japan, and other

appropriate allies concerning the research being conducted in the Strategic Defense Initiative program. (b) The Secretary of Defense, in coordination with the Secretary of State and the Director of the Arms Control and Disarmament Agency, shall at the time of the submission of the annual budget presentation materials for each fiscal year beginning after September 30, 1984, report to the Committees on Appropriations, Armed Services, and Foreign Relations of the Senate and the Committees on Appropriations, Armed Services, and Foreign Affairs of the House of Representatives on the status of the consultations referred to under subsection (a).

Report.

SEC. 8105. It is the sense of Congress that the President should insist that the pertinent member nations of the North Atlantic Treaty Organization meet or exceed their pledges for an annual increase in defense spending during fiscal years 1984 and 1985 of at least 3 per centum real growth and should insist that Japan further increase its defense spending during fiscal years 1984 and 1985 in furtherance of increased unity, equitable sharing of our common defense burden, and international stability.

North Atlantic
Treaty
Organization.
Japan.
22 USC 1928
note.

SEC. 8106. Notwithstanding any other provision of law, the Secretaries of the Army and Air Force may authorize the retention in an active status until age sixty of any officer who would otherwise be removed from an active status and who is employed as a National Guard or Reserve technician in a position in which active status in a reserve component of the Army or Air Force is required as a condition of that employment.

SEC. 8107. None of the funds available to the Department of Defense may be used to transport any chemical munitions into the Lexington-Blue Grass Army Depot for purposes of future demilitarization.

Lexington-Blue
Grass Army
Depot.

SEC. 8108. Notwithstanding any other provision of law, including any amendments to section 405 of title 37, United States Code, enacted into law between September 26, 1984, and November 25, 1984, a station housing allowance ("rent plus") may be prescribed for a member of the uniformed services on duty in Alaska or Hawaii pursuant to the provisions of section 405 of title 37, United States Code, in effect on September 1, 1984: *Provided*, That a member of the uniformed services on duty in Alaska or Hawaii who receives such allowance shall not be entitled to a variable housing allowance.

SEC. 8109. Notwithstanding any other provision of law, in addition to the contracts authorized by paragraph (7) of section 2828(g) of title 10, United States Code, and section 806 of Public Law 98-407, the Secretary of the Army may enter into contracts for not more than one thousand two hundred family housing units at Fort Drum, New York; Fort Wainwright, Alaska; and Fort Benning, Georgia; if the contracts are necessary in order to provide sufficient family housing to accommodate the restationing of the light infantry divisions.

Contracts.
Fort Drum, N.Y.
Fort
Wainwright,
Alaska.
Fort Benning,
Ga.
Ante, p. 1521.

SEC. 8110. Notwithstanding any other provision of law, none of the funds appropriated in title II of this Act shall be available to meet the unforeseen and contingent requirement of the unified and specified commands of the Armed Forces: *Provided*, That this provision shall not apply to unforeseen and contingent requirements of the unified and specified commands of the Armed Forces which may be funded under the terms and conditions of this bill governing title II obligations and expenditures.

SEC. 8111. None of the funds appropriated by this Act may be obligated or expended for the purposes delineated in section 1002(e)(2)(A) of the Department of Defense Authorization Act, 1985,

Post, p. 2574.

without the prior notification to the Committees on Appropriations of the House of Representatives and the Senate.

SEC. 8112. (a) Notwithstanding any other provision of this joint resolution, of the total amount appropriated by this joint resolution, or any other Act appropriating funds for the Department of Defense for fiscal year 1985, for programs and activities subject to the reporting requirements of the Federal Procurement Data System Individual Contract Action Report (SF-279), an amount not less than \$1,000,000,000 may not be apportioned or utilized for the costs of consultants, studies, analyses, management support services or other advisory and assistance services which are included in such reported programs and activities.

Report.

(b) Not later than September 1, 1985, the Secretary of Defense shall submit a report to the Congress indicating the manner in which compliance with subsection (a) has been achieved.

37 USC 404 note.

SEC. 8113. The Secretaries concerned (as defined in section 101(5) of title 37, United States Code), under uniform regulations prescribed by them and to the extent that funds are available within the permanent change of station travel account, may increase the rate per mile for mileage allowance under section 404(d)(2) of title 37, United States Code, to 15 cents per mile.

Study.

SEC. 8114. (a) The Secretary of Defense shall provide for an objective study to supplement and update the report entitled "Military Spouse and Family Issues, Europe, 1982."

(b) The study shall include within its scope all areas in which members of the uniformed services are assigned to permanent duty stations and to which the dependents of members of the uniformed services are permitted to travel at Government expense.

(c) The Secretary shall select an independent organization to conduct the study referred to in subsection (a) with such administrative support and technical advice as may be necessary for such organization to carry out the study. Such support and advice may be provided by the Secretary on an in-house basis and to reduce contractual expenditures to include collating, tabulating, computer, word processor, printing, and similar routine services.

Report.

(d) A report containing the results of the study carried out under this section shall be submitted to the Committees on Appropriations and Armed Services of the Senate and the House of Representatives not later than May 1, 1985.

(e) For the purpose of contracting out the study called for by this section, the Secretary of Defense may utilize not more than \$250,000 out of any funds available to the Department of Defense.

Department of
Defense
Appropriations
Act, 1985.

This Act may be cited as the "Department of Defense Appropriations Act, 1985".

Post, p. 1945.

(i) Such amounts as may be necessary for projects or activities provided for in the Department of Transportation and Related Agencies Appropriations Act, 1985, at a rate for operations and to the extent in the following Act; this subsection shall be effective as if it had been enacted into law as the regular appropriation Act:

AN ACT

Making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1985, and for other purposes.

Department of
Transportation
and Related
Agencies
Appropriation
Act, 1985.

TITLE I—DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

For necessary expenses of the Office of the Secretary of Transportation, including not to exceed \$36,500 for allocation within the Department of official reception and representation expenses as the Secretary may determine, \$50,000,000, of which \$4,000,000 shall remain available until expended and shall be available for the purposes of the Minority Business Resource Center as authorized by 49 U.S.C. 332: *Provided*, That, notwithstanding any other provision of law, funds available for the purposes of the Minority Business Resource Center in this or any other Act, may be used for business opportunities related to any mode of transportation.

TRANSPORTATION PLANNING, RESEARCH, AND DEVELOPMENT

For necessary expenses for conducting transportation planning, research, and development activities, including the collection of national transportation statistics, and university research and internships, to remain available until expended, \$5,700,000: *Provided*, That the Secretary is directed to make simultaneous competitive study awards for the Phase I proposals, as submitted by the two technically qualified finalists in the competition to perform a methane conversion study, as authorized by section 152 of the Surface Transportation Assistance Act of 1982.

23 USC 307 note.

LIMITATION ON WORKING CAPITAL FUND

Necessary expenses for operating costs and capital outlays of the Department of Transportation Working Capital Fund not to exceed \$65,500,000 shall be paid, in accordance with law, from appropriations made available by this Act and prior appropriation Acts to the Department of Transportation, together with advances and reimbursements received by the Department of Transportation.

COAST GUARD

OPERATING EXPENSES

For necessary expenses for the operation and maintenance of the Coast Guard, not otherwise provided for; purchase of not to exceed eight passenger motor vehicles for replacement only; and recreation and welfare, \$1,740,000,000, of which \$202,861 shall be applied to Capehart Housing debt reduction: *Provided*, That the number of aircraft on hand at any one time shall not exceed two hundred and ten exclusive of planes and parts stored to meet future attrition: *Provided further*, That none of the funds appropriated in this or any other Act shall be available for pay or administrative expenses in connection with shipping commissioners in the United States: *Pro-*

14 USC 92 note.

vided further, That none of the funds provided in this Act shall be available for expenses incurred for yacht documentation under 46 U.S.C. 103 except to the extent fees are collected from yacht owners and credited to this appropriation.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

10 USC 2304
note.

For necessary expenses of acquisition, construction, rebuilding, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto; to remain available until September 30, 1989, \$344,500,000: *Provided*, That the Secretary of Transportation shall issue regulations requiring that written warranties shall be included in all contracts with prime contractors for major systems acquisitions of the Coast Guard: *Provided further*, That any such written warranty shall not apply in the case of any system or component thereof which has been furnished by the Government to a contractor: *Provided further*, That the Secretary of Transportation may provide for a waiver of the requirements for a warranty where: (1) the waiver is necessary in the interest of the national defense or the warranty would not be cost effective; and (2) the Committees on Appropriations of the Senate and the House of Representatives are notified in writing of the Secretary's intention to waive and reasons for waiving such requirements: *Provided further*, That the requirements for such written warranties shall not cover combat damage.

ALTERATION OF BRIDGES

For necessary expenses for alteration or removal of obstructive bridges, \$5,200,000, to remain available until expended.

RETIRED PAY

10 USC 1071 *et seq.*

For retired pay including the payment of obligations therefor otherwise chargeable to lapsed appropriations for this purpose, and payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and for payments for medical care of retired personnel and their dependents under the Dependents Medical Care Act (10 U.S.C., ch. 55), \$330,800,000.

RESERVE TRAINING

For all necessary expenses for the Coast Guard Reserve, as authorized by law; maintenance and operation of facilities; and supplies, equipment, and services, \$58,833,000.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

For necessary expenses, not otherwise provided for, for basic and applied scientific research, development, test, and evaluation; maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law, \$23,000,000, to remain available until expended: *Provided*, That there may be credited to this appropriation funds received from State and local governments, other public authorities, private sources and foreign countries for expenses incurred for research, development, testing, and evaluation.

OFFSHORE OIL POLLUTION COMPENSATION FUND

For necessary expenses to carry out the provisions of title III of the Outer Continental Shelf Lands Act Amendments of 1978 (Public Law 95-372), \$1,000,000, to be derived from the Offshore Oil Pollution Compensation Fund and to remain available until expended. In addition, to the extent that available appropriations are not adequate to meet the obligations of the Fund, the Secretary of Transportation is authorized to issue to the Secretary of the Treasury notes or other obligations in such amounts and at such times as may be necessary: *Provided*, That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of \$60,000,000 in fiscal year 1985 for the "Offshore Oil Pollution Compensation Fund".

43 USC 1811.

DEEPWATER PORT LIABILITY FUND

For necessary expenses to carry out the provisions of section 18 of the Deepwater Port Act of 1974 (Public Law 93-627), \$1,000,000, to be derived from the Deepwater Port Liability Fund and to remain available until expended. In addition, to the extent that available appropriations are not adequate to meet the obligations of the Fund, the Secretary of Transportation is authorized to issue, and the Secretary of the Treasury is authorized to purchase, without fiscal year limitation, notes or other obligations in such amounts and at such times as may be necessary: *Provided*, That none of the funds in this Act shall be available for the implementation or execution of programs, the obligations for which are in excess of \$50,000,000 in fiscal year 1985 for the "Deepwater Port Liability Fund".

33 USC 1517.

33 USC 1517a.

NATIONAL RECREATIONAL BOATING SAFETY AND FACILITIES
IMPROVEMENT FUND

(LIQUIDATION OF CONTRACT AUTHORIZATION)

For payment of obligations incurred for recreational boating safety assistance under Public Law 92-75, as amended, \$13,625,000, to be derived from the National Recreational Boating Safety and Facilities Improvement Fund and to remain available until expended: *Provided*, That none of the funds in this Act shall be available for the planning or execution of programs, the obligations for which are in excess of \$13,750,000 in fiscal year 1985 for recreational boating safety assistance: *Provided further*, That no obligations may be incurred for the improvement of recreational boating facilities.

46 USC 1451
note.

FEDERAL AVIATION ADMINISTRATION

HEADQUARTERS ADMINISTRATION

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses, not otherwise provided for, of providing administrative services at the headquarters location of the Federal Aviation Administration, including but not limited to accounting, budgeting, personnel, legal, public affairs, and executive direction for the Federal Aviation Administration, \$66,900,000: *Provided*, That the Secretary of Transportation is authorized to transfer ap-

propriated funds between this appropriation and the Federal Aviation Administration appropriation for Operations: *Provided further*, That this appropriation shall be neither increased nor decreased by more than 7.5 per centum by any such transfers: *Provided further*, That any such transfers shall be reported to the Committees on Appropriations.

OPERATIONS

49 USC app. 1701
note.

For necessary expenses of the Federal Aviation Administration, not otherwise provided for, including administrative expenses for research and development, and for establishment of air navigation facilities, and carrying out the provisions of the Airport and Airway Development Act, as amended, or other provisions of law authorizing obligation of funds for similar programs of airport and airway development or improvement; purchase of four passenger motor vehicles for replacement only and purchase and repair of skis and snowshoes, \$2,622,600,000, of which not to exceed \$1,110,000,000 shall be derived from the Airport and Airway Trust Fund, notwithstanding any other provision of law: *Provided*, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred in the maintenance and operation of air navigation facilities: *Provided further*, That none of these funds shall be available for new applicants for the second career training program.

FACILITIES AND EQUIPMENT (AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for acquisition, establishment, and improvement by contract or purchase, and hire of air navigation and experimental facilities, including initial acquisition of necessary sites by lease or grant; engineering and service testing including construction of test facilities and acquisition of necessary sites by lease or grant; construction and furnishing of quarters and related accommodations of officers and employees of the Federal Aviation Administration stationed at remote localities where such accommodations are not available, and the lease or purchase of one aircraft; to be derived from the Airport and Airway Trust Fund and to remain available until September 30, 1989, \$1,370,000,000: *Provided*, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred in the establishment and modernization of air navigation facilities: *Provided further*, That of the funds available under this heading, \$5,000,000 shall be available for the Secretary of Transportation to enter into grant agreements with universities or colleges to conduct demonstration projects in the development, advancement, or expansion of an airway science curriculum and such money, which shall remain available until expended, shall be made available under such terms and conditions as the Secretary of Transportation may prescribe, to such universities or colleges for the purchase or lease of buildings and associated facilities, instructional materials, or equipment to be used in conjunction with the airway science curriculum.

RESEARCH, ENGINEERING AND DEVELOPMENT (AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for research, engineering, and development, in accordance with the provisions of the Federal Aviation Act (49 U.S.C. 1301-1542), including construction of experimental facilities and acquisition of necessary sites by lease or grant, \$265,000,000 to be derived from the Airport and Airway Trust Fund and to remain available until expended: *Provided*, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred for research, engineering and development.

GRANTS-IN-AID FOR AIRPORTS (LIQUIDATION OF CONTRACT AUTHORIZATION) (AIRPORT AND AIRWAY TRUST FUND)

For liquidation of obligations incurred for airport planning and development under section 14 of Public Law 91-258, as amended, and under other law authorizing such obligations, and obligations for noise compatibility planning and programs, \$810,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended: *Provided*, That none of the funds in this Act shall be available for the planning or execution of programs the commitments for which are in excess of \$925,000,000 in fiscal year 1985 for grants-in-aid for airport planning and development, and noise planning and programs, notwithstanding section 506(e)(4) of the Airport and Airway Improvement Act of 1982.

49 USC app.
1714.49 USC app.
2205.**OPERATION AND MAINTENANCE, METROPOLITAN WASHINGTON AIRPORTS**

For expenses incident to the care, operation, maintenance, improvement, and protection of the federally owned civil airports in the vicinity of the District of Columbia, including purchase of ten passenger motor vehicles for police use, for replacement only; purchase, cleaning, and repair of uniforms; and arms and ammunition, \$35,931,500: *Provided*, That there may be credited to this appropriation funds received from air carriers, concessionaires, and non-Federal tenants sufficient to cover utility and fuel costs which are in excess of \$6,970,000: *Provided further*, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, or private sources, for expenses incurred in the maintenance and operation of the federally owned civil airports.

CONSTRUCTION, METROPOLITAN WASHINGTON AIRPORTS

For necessary expenses for construction at the federally owned civil airports in the vicinity of the District of Columbia, \$13,000,000, to remain available until September 30, 1987.

AVIATION INSURANCE REVOLVING FUND

The Secretary of Transportation is hereby authorized to make such expenditures and investments, within the limits of funds available pursuant to section 1306 of the Act of August 23, 1958, as amended (49 U.S.C. 1536), and in accordance with section 104 of the

Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for aviation insurance activities under said Act.

AIRCRAFT PURCHASE LOAN GUARANTEE PROGRAM

49 USC app. 1324
note.

49 USC app. 1324
note.

40 Stat. 288.

The Secretary of Transportation may hereafter issue notes or other obligations to the Secretary of the Treasury, in such forms and denominations, bearing such maturities, and subject to such terms and conditions as the Secretary of the Treasury may prescribe. Such obligations may be issued to pay any necessary expenses required pursuant to any guarantee issued under the Act of September 7, 1957, Public Law 85-307, as amended (49 U.S.C. 1324 note). The aggregate amount of such obligations during fiscal year 1985 shall not exceed \$125,000,000. Such obligations shall be redeemed by the Secretary from appropriations authorized by this action. The Secretary of the Treasury shall purchase any such obligations, and for such purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force. The purposes for which securities may be issued under such Act are extended to include any purchase of notes or other obligations issued under the subsection. The Secretary of the Treasury may sell any such obligations at such times and price and upon such terms and conditions as he shall determine in his discretion. All purchase, redemptions, and sales of such obligations by such Secretary shall be treated as public debt transactions of the United States.

FEDERAL HIGHWAY ADMINISTRATION

LIMITATION ON GENERAL OPERATING EXPENSES

Necessary expenses for administration, operation, and research of the Federal Highway Administration, not to exceed \$204,891,000, shall be paid, in accordance with law, from appropriations made available by this Act to the Federal Highway Administration together with advances and reimbursements received by the Federal Highway Administration: *Provided*, That not to exceed \$57,750,000 of the amount provided herein shall remain available until expended: *Provided further*, That, of the funds available under this limitation, \$5,000,000 shall be made available only for the establishment and implementation of a Demonstration Bonding Program for economically and socially disadvantaged businesses: *Provided further*, That, notwithstanding any other provision of law, there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities and private sources, for training expenses incurred for non-Federal employees.

HIGHWAY SAFETY RESEARCH AND DEVELOPMENT

For necessary expenses in carrying out provisions of sections 307(a) and 403 of title 23, United States Code, to be derived from the Highway Trust Fund and to remain available until expended, \$8,500,000.

HIGHWAY-RELATED SAFETY GRANTS (LIQUIDATION OF CONTRACT
AUTHORIZATION) (TRUST FUND)

For payment of obligations incurred in carrying out the provisions of title 23, United States Code, section 402, administered by the Federal Highway Administration, to remain available until expended, \$5,000,000 to be derived from the Highway Trust Fund: *Provided*, That not to exceed \$100,000 of the amount appropriated herein shall be available for "Limitation on general operating expenses": *Provided further*, That none of the funds in this Act shall be available for the planning or execution of programs, the obligations for which are in excess of \$10,000,000 in fiscal year 1985 for "Highway-related safety grants".

RAILROAD-HIGHWAY CROSSINGS DEMONSTRATION PROJECTS

For necessary expenses of certain railroad-highway crossings demonstration projects as authorized by section 163 of the Federal-Aid Highway Act of 1973, as amended, to remain available until expended, \$15,000,000, of which \$10,000,000 shall be derived from the Highway Trust Fund.

23 USC 130 note.

INTERMODAL URBAN DEMONSTRATION PROJECT

For necessary expenses to carry out the provisions of section 124 of the Federal-Aid Highway Amendments of 1974, \$2,750,000, to be derived from the Highway Trust Fund and to remain available until September 30, 1987.

88 Stat. 2290.

AUTO-PEDESTRIAN SEPARATION DEMONSTRATION PROJECT

For necessary expenses to carry out a demonstration project in Fargo, North Dakota, which demonstrates a cost-effective method for enhancing pedestrian safety, \$1,750,000, to remain available until expended.

FEDERAL-AID HIGHWAYS (LIQUIDATION OF CONTRACT
AUTHORIZATION) (TRUST FUND)

For carrying out the provisions of title 23, United States Code, which are attributable to Federal-aid highways, including the National Scenic and Recreational Highway as authorized by 23 U.S.C. 148, not otherwise provided, including reimbursements for sums expended pursuant to the provisions of 23 U.S.C. 308, \$12,800,000,000 or so much thereof as may be available in and derived from the Highway Trust Fund, to remain available until expended: *Provided*, That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of \$13,250,000,000 for Federal-aid highways and highway safety construction programs for fiscal year 1985, except that this limitation shall not apply to obligations for emergency relief under section 125 of title 23, United States Code, obligations under section 157 of title 23, United States Code, projects covered under section 147 of the Surface Transportation Assistance Act of 1978, section 9 of the Federal-Aid Highway Act of 1981, subsections 131 (b) and (j) of Public Law 97-424, section 118 of the National Visitors Center Facilities Act of 1968, section 320 of title

23 USC 104 note.

46 USC 144 note.
95 Stat. 1701.
96 Stat. 2119.
40 USC 818.

23, United States Code, or completion of the Zilwaukee Bridge required because of construction failure.

**RIGHT-OF-WAY REVOLVING FUND (LIMITATION ON DIRECT LOANS)
(TRUST FUND)**

During fiscal year 1985 and with the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed \$50,000,000.

MOTOR CARRIER SAFETY

49 USC app. 1651
note.

For necessary expenses to carry out motor carrier safety functions of the Secretary, as authorized by the Department of Transportation Act (80 Stat. 939-940), \$14,066,000, of which \$1,162,000 shall remain available until expended, and not to exceed \$1,601,000 shall be available for "Limitation on general operating expenses".

MOTOR CARRIER SAFETY GRANTS

49 USC app.
2302.

For necessary expenses to carry out the provisions of section 402 of Public Law 97-424, \$14,000,000, to be derived from the Highway Trust Fund and to remain available until September 30, 1988.

ACCESS HIGHWAYS TO PUBLIC RECREATION AREAS ON CERTAIN LAKES

For necessary expenses of certain Access Highway Projects, as authorized by section 155, title 23, United States Code, \$5,000,000.

WASTE ISOLATION PILOT PROJECT ROADS

For necessary expenses in connection with the upgrading of certain highways for the transportation of nuclear waste generated during defense-related activities, not otherwise provided for, \$16,400,000 to remain available until expended.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

OPERATION AND RESEARCH

15 USC 1901
note.

For expenses necessary to discharge the functions of the Secretary with respect to traffic and highway safety and functions under the Motor Vehicle Information and Cost Savings Act (Public Law 92-513, as amended), \$82,350,000, of which \$23,831,000 shall be derived from the Highway Trust Fund: *Provided*, That not to exceed \$34,128,000 shall remain available until expended, of which \$10,000,000 shall be derived from the Highway Trust Fund.

**HIGHWAY TRAFFIC SAFETY GRANTS (LIQUIDATION OF CONTRACT
AUTHORIZATION) (TRUST FUND)**

(INCLUDING TRANSFERS OF UNEXPENDED BALANCES)

23 USC 401 note.

For payment of obligations incurred in carrying out the provisions of 23 U.S.C. 402, 406 and 408, and section 209 of Public Law 95-599, as amended, to remain available until expended, \$125,000,000, to be derived from the Highway Trust Fund: *Provided*, That none of the funds in this Act shall be available for the planning or execution of

programs, the total obligations for which are in excess of \$100,000,000 in fiscal year 1985 for "State and community highway safety" authorized under 23 U.S.C. 402: *Provided further*, That none of these funds shall be used for construction, rehabilitation or remodeling costs or for office furnishings and fixtures for State, local, or private buildings or structures: *Provided further*, That none of the funds in this Act shall be available for the planning or execution of programs, the total obligations for which are in excess of \$50,000,000 for "Alcohol safety incentive grants" authorized under 23 U.S.C. 408: *Provided further*, That none of the funds in this Act shall be available for the planning or execution of programs authorized by section 209 of Public Law 95-599, as amended, the total obligations for which are in excess of \$5,000,000 in fiscal years 1983, 1984, and 1985: *Provided further*, That not to exceed \$4,900,000 shall be available for administering the provisions of 23 U.S.C. 402: *Provided further*, That, for fiscal year 1985, no State shall obligate less than 8 per centum of the amount distributed to such State for State and Community Highway Safety grants authorized under 23 U.S.C. 402 for the purposes of developing and implementing comprehensive programs approved by the Secretary of Transportation concerning the use of child restraint systems in motor vehicles: *Provided further*, That the unexpended balances of the appropriations "State and Community Highway Safety" and "Miscellaneous Safety Programs" exclusive of the General Fund amounts appropriated to cover unexpended Territorial obligations and unexpended Transportation Systems Management obligations shall be transferred to this appropriation and remain available until expended.

23 USC 401 note.

FEDERAL RAILROAD ADMINISTRATION

OFFICE OF THE ADMINISTRATOR

For necessary expenses of the Federal Railroad Administration, not otherwise provided for, \$10,700,000.

RAILROAD SAFETY

For necessary expenses in connection with railroad safety, not otherwise provided for, \$26,061,000.

RAILROAD RESEARCH AND DEVELOPMENT

For necessary expenses for railroad research and development, \$15,525,000, to remain available until expended.

RAIL SERVICE ASSISTANCE

For necessary expenses for rail service assistance authorized by section 5 of the Department of Transportation Act, as amended, for Washington Union Station, as authorized by Public Law 97-125, and for necessary administrative expenses in connection with Federal rail assistance programs not otherwise provided for, to remain available until expended, \$23,200,000: *Provided*, That none of the funds provided under this Act shall be available for the planning or execution of a program making commitments to guarantee new loans under the Emergency Rail Services Act of 1970, as amended, and that no new commitments to guarantee loans under section

49 USC app.
1654.
40 USC 801 note.

45 USC 661 note.

- 45 USC 721. 211(a) or 211(h) of the Regional Rail Reorganization Act of 1973, as amended, shall be made: *Provided further*, That none of the funds in this Act shall be available for the acquisition, sale or transference of Washington Union Station without the prior approval of the House and Senate Committees on Appropriations: *Provided further*, That, of the funds available under this head, \$15,000,000 shall be available for allocation to the States under section 5(h)(2) of the Department of Transportation Act, as amended: *Provided further*, That, notwithstanding any other provision of law, a State may not apply for fiscal year 1985 funds available under section 5(h)(2) until such State has expended all funds granted to it in the fiscal years prior to the beginning of fiscal year 1980, other than funds not expended due to pending litigation: *Provided further*, That a State denied funding by reason of the immediately preceding proviso may still apply for and receive funds for planning purposes: *Provided further*, That, notwithstanding any other provision of law, of the funds available under section 5(h)(2), \$10,000,000 shall be made available for use under sections 5(h)(3)(B)(ii) and 5(h)(3)(C) of the Department of Transportation Act, as amended, notwithstanding the limitations set forth in section 5(h)(3)(B)(ii).
- 49 USC app. 1654.

CONRAIL LABOR PROTECTION

- 45 USC 797I. For labor protection as authorized by section 713 of the Regional Rail Reorganization Act of 1973 as added by section 1143 of the Northeast Rail Service Act of 1981, to remain available until expended, \$15,000,000: *Provided*, That such sum shall be considered to have been appropriated to the Secretary under said section 713 for transfer to the Railroad Retirement Board for the payment of benefits under section 701 of the Regional Rail Reorganization Act of 1973, as amended: *Provided further*, That, for the purposes of section 710 of the Regional Rail Reorganization Act of 1973, as added by section 1143 of the Northeast Rail Service Act of 1981, such sum shall be considered to have been appropriated under section 713 of the Regional Rail Reorganization Act of 1973 and counted against the limitation on the total liability of the United States: *Provided further*, That such sums as may be necessary shall be made available for necessary expenses of administration of section 701 of the Regional Rail Reorganization Act of 1973 by the Railroad Retirement Board.
- 45 USC 797.
- 45 USC 797i.

NORTHEAST CORRIDOR IMPROVEMENT PROGRAM

- 45 USC 851 note. For necessary expenses related to Northeast Corridor improvements authorized by title VII of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended (45 U.S.C. 851 et seq.), \$27,800,000, to remain available until expended: *Provided*, That, notwithstanding any other provision of law, the provisions of Public Law 85-804 shall apply to the Northeast Corridor Improvement Program: *Provided further*, That the Secretary may waive the provisions of 23 U.S.C. 322 (c) and (d) if such action would serve a public purpose: *Provided further*, That all public at grade-level crossings remaining along the Northeast Corridor upon completion of the project shall be equipped with protective devices including gates and lights.
- 50 USC 1431—1435.

GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

To enable the Secretary of Transportation to make grants to the National Railroad Passenger Corporation for operating losses incurred by the Corporation, capital improvements, and labor protection costs authorized by 45 U.S.C. 565, to remain available until expended, \$684,000,000: *Provided*, That none of the funds herein appropriated shall be used for lease or purchase of passenger motor vehicles or for the hire of vehicle operators for any officer or employee, other than the president of the Corporation, excluding the lease of passenger motor vehicles for those officers or employees while in official travel status: *Provided further*, That the Secretary shall make no commitments to guarantee new loans or loans for new purposes under 45 U.S.C. 602 in fiscal year 1985: *Provided further*, That the incurring of any obligation or commitment by the Corporation for the purchase of capital improvements not expressly provided for in an appropriation Act or prohibited by this Act shall be deemed a violation of 31 U.S.C. 1341: *Provided further*, That no funds are required to be expended or reserved for expenditure pursuant to 45 U.S.C. 601(e): *Provided further*, That none of the funds in this Act shall be made available to finance the rehabilitation and other improvements (including upgrading track and the signal system, ensuring safety at public and private highway and pedestrian crossings by improving signals or eliminating such crossings, and the improvement of operational portions of stations related to intercity rail passenger service) on the main line track between Atlantic City, New Jersey, and the main line of the Northeast Corridor, unless the Secretary of Transportation certifies that not less than 40 per centum of the costs of such improvements shall be derived from non-Federal sources: *Provided further*, That, notwithstanding any other provision of law, the National Railroad Passenger Corporation shall not operate rail passenger service between Atlantic City, New Jersey, and the Northeast Corridor main line unless the Corporation's Board of Directors determines that revenues from such service have covered or exceeded 80 per centum of the short term avoidable costs of operating such service in the first year of operation and 100 per centum of the short term avoidable operating costs for each year thereafter: *Provided further*, That none of the funds provided in this or any other Act shall be made available to finance the acquisition and rehabilitation of a line, and construction necessary to facilitate improved rail passenger service, between Spuyten Duyvil, New York, and the main line of the Northeast Corridor unless the Secretary of Transportation certifies that not less than 40 per centum of the costs of such improvement shall be derived from non-Amtrak sources.

ALASKA RAILROAD REVOLVING FUND

The Alaska Railroad Revolving Fund shall continue available until expended for the work authorized by law, including operation and maintenance of oceangoing or coastwise vessels by ownership, charter, or arrangement with other branches of the Government service, for the purpose of providing additional facilities for transportation of freight, passengers, or mail, when deemed necessary for the benefit and development of industries or travel in the area served and payment of compensation and expenses as authorized by 5 U.S.C. 8146, to be reimbursed as therein provided: *Provided*, That

63 Stat. 954. no employee shall be paid an annual salary out of said fund in excess of the salaries prescribed by the Classification Act of 1949, as amended, for grade GS-15, except the general manager of said railroad, one assistant general manager and five officers at not to exceed the salaries prescribed for members of the Senior Executive Service.

RAILROAD REHABILITATION AND IMPROVEMENT FINANCING FUNDS

45 USC 831-833. The total commitments to guarantee new loans pursuant to sections 511 through 513 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210), as amended, shall not exceed \$2,500,000 of contingent liabilities for loan principal during fiscal year 1985: *Provided*, That the Secretary of Transportation is authorized to issue to the Secretary of the Treasury notes or other obligations pursuant to section 512 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210), as amended, in such amounts and at such times as may be necessary to pay any amounts required pursuant to the guarantee of the principal amount of obligations under sections 511 through 513 of such Act, such authority to exist as long as any such guaranteed obligation is outstanding: *Provided further*, That the aggregate amount of such notes or other obligations during fiscal year 1985 shall not exceed \$100,000,000.

45 USC 832.

REDEEMABLE PREFERENCE SHARES

The Secretary of Transportation is hereby authorized to expend proceeds from the sale of fund anticipation notes to the Secretary of the Treasury and any other moneys deposited in the Railroad Rehabilitation and Improvement Fund pursuant to sections 502, 505-507, and 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210), as amended, and section 803 of Public Law 95-620, for uses authorized for the Fund.

45 USC 822, 825, 826, 827, 829.
45 USC 821, 822 and note, 825.

URBAN MASS TRANSPORTATION ADMINISTRATION

ADMINISTRATIVE EXPENSES

49 USC app. 1601 note.
23 USC 101 *et seq.* For necessary administrative expenses of the urban mass transportation program authorized by the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 *et seq.*), 23 U.S.C. chapter 1, in connection with these activities, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, \$31,000,000.

RESEARCH, TRAINING, AND HUMAN RESOURCES

49 USC app. 1601 note. For necessary expenses for research, training, and human resources as authorized by the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 *et seq.*), to remain available until expended, \$51,000,000: *Provided*, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred for training.

FORMULA GRANTS

For necessary expenses to carry out the provisions of sections 9 and 18 of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), \$2,449,500,000 to remain available until expended: *Provided*, That funds shall not be made available for planning, preliminary engineering and design, or construction of the proposed light rail line or subway in the Detroit, Michigan, area until a source of operating funds has been approved in accordance with Michigan law.

49 USC app.
1607a, 1614.
Detroit, Mich.

DISCRETIONARY GRANTS (LIMITATIONS ON OBLIGATIONS)

None of the funds in this Act shall be available for the implementation or execution of programs in excess of \$1,120,000,000 in fiscal year 1985 for grants under the contract authority authorized in section 21(a)(2)(B) of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.): *Provided*, That this limitation shall not apply to any authority for section 21(a)(2)(B) previously made available for obligation: *Provided further*, That no funds shall be made available for the proposed Woodward light rail line in the Detroit, Michigan, area until a source of operating funds has been approved in accordance with Michigan law: *Provided further*, That the Woodward line restriction shall not apply to alternatives analysis studies.

49 USC app.
1617.
Detroit, Mich.

LIQUIDATION OF CONTRACT AUTHORIZATION

For payment of obligations incurred in carrying out section 21(a)(2) of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), administered by the Urban Mass Transportation Administration, \$450,000,000, to be derived from the Highway Trust Fund and to remain available until expended.

49 USC app.
1617.

INTERSTATE TRANSFER GRANTS—TRANSIT

For necessary expenses to carry out the provisions of 23 U.S.C. 103(e)(4) related to transit projects, \$250,000,000, to remain available until expended.

WASHINGTON METRO

For necessary expenses to carry out the provisions of section 14 of Public Law 96-184, authorizing completion of the 101-mile Adopted Regional System of rapid rail transit, \$250,000,000, to remain available until expended: *Provided*, That in obligating and expending funds appropriated under this section, the Secretary may not withhold approval of any construction grant request solely on the basis of any mileage limitation.

93 Stat. 1320.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

The Saint Lawrence Seaway Development Corporation is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to such Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the budget for

31 USC 9104.

the current fiscal year for the Corporation except as hereinafter provided.

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed \$1,822,000 shall be available for administrative expenses which shall be computed on an accrual basis, including not to exceed \$3,000 for official entertainment expenses to be expended upon the approval or authority of the Secretary of Transportation: *Provided*, That Corporation funds shall be available for the hire of passenger motor vehicles and aircraft, operation and maintenance of aircraft, uniforms or allowances therefor for operation and maintenance personnel, as authorized by law (5 U.S.C. 5901-5902), and \$15,000 for services as authorized by 5 U.S.C. 3109.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

RESEARCH AND SPECIAL PROGRAMS

49 USC app.
1674. For expenses necessary to discharge the functions of the Research and Special Programs Administration, for expenses for conducting research and development and for grants-in-aid to carry out a pipeline safety program, as authorized by section 5 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1674), \$18,900,000, of which \$6,975,000 shall remain available until expended: *Provided*, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training.

OFFICE OF THE INSPECTOR GENERAL

SALARIES AND EXPENSES

5 USC app. For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, \$27,900,000.

TITLE II—RELATED AGENCIES

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

SALARIES AND EXPENSES

29 USC 792. For expenses necessary for the Architectural and Transportation Barriers Compliance Board, as authorized by section 502 of the Rehabilitation Act of 1973, as amended, \$2,000,000.

NATIONAL TRANSPORTATION SAFETY BOARD

SALARIES AND EXPENSES

For necessary expenses of the National Transportation Safety Board, including hire of passenger motor vehicles and aircraft; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS-18; uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901-5902), \$21,700,000, of which not to exceed \$300 may be used for official reception and representation expenses.

CIVIL AERONAUTICS BOARD

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF UNEXPENDED BALANCES)

For necessary expenses of the Civil Aeronautics Board, including hire of aircraft; hire of passenger motor vehicles; services as authorized by 5 U.S.C. 3109; uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); and not to exceed \$1,250 for official reception and representation expenses, \$5,600,000: *Provided*, That of the foregoing amounts any unexpended balances available on January 1, 1985, shall be transferred to agencies receiving transferred functions.

PAYMENTS TO AIR CARRIERS

(INCLUDING TRANSFER OF UNEXPENDED BALANCES)

For payments to air carriers of so much of the compensation fixed and determined by the Civil Aeronautics Board under section 419 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1389), as is payable by the Board, \$52,000,000, to remain available until expended and such amounts as may be necessary to liquidate obligations incurred prior to September 30, 1984, under 49 U.S.C. 1376 and 1389 and under Public Law 97-369, "Payments to air carriers": *Provided*, That of the foregoing amount, any unexpended balances available on January 1, 1985, shall be transferred to the Department of Transportation: *Provided further*, That the Board shall expend not to exceed \$102,597 per year to restore guaranteed essential air transportation at Hazelton, Pennsylvania, to the minimum level of service of two round trip flights per day, five days per week, to either Philadelphia, Pennsylvania, or New York, New York, as determined by the community.

INTERSTATE COMMERCE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Interstate Commerce Commission, including services as authorized by 5 U.S.C. 3109, and not to exceed \$1,500 for official reception and representation expenses, \$48,000,000: *Provided*, That joint board members and cooperating State commissioners may use Government transportation requests when traveling in connection with their official duties as such.

19 USC 10344
note.

PAYMENTS FOR DIRECTED RAIL SERVICE

None of the funds provided in this Act shall be available for the execution of programs the obligations for which can reasonably be expected to exceed \$1,000,000 for directed rail service authorized under 49 U.S.C. 11125 or any other legislation.

PANAMA CANAL COMMISSION

OPERATING EXPENSES

For operating expenses necessary for the Panama Canal Commission, including hire of passenger motor vehicles and aircraft; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); not to exceed \$8,000 for official reception and representation expenses of the Board; operation of guide services; residence for the Administrator; disbursements by the Administrator for employee and community projects; not to exceed \$25,000 for official reception and representation expenses of the Administrator; and to employ services as authorized by law (5 U.S.C. 3109); \$406,346,000, to be derived from the Panama Canal Commission Fund: *Provided*, That there may be credited to this appropriation funds received from the Panama Canal Commission's capital outlay account for expenses incurred for supplies and services provided for capital projects and funds received from officers and employees of the Commission and/or commercial insurers of Commission employees for payment to other United States Government agencies for expenditures made for services provided to Commission employees and their dependents by such other agencies.

CAPITAL OUTLAY

For acquisition, construction, replacement, and improvements of facilities, structures, and equipment required by the Panama Canal Commission, including the purchase of not to exceed forty-four passenger motor vehicles for replacement only; to employ services authorized by law (5 U.S.C. 3109); \$23,500,000, to be derived from the Panama Canal Commission Fund and to remain available until expended.

UNITED STATES RAILWAY ASSOCIATION

ADMINISTRATIVE EXPENSES

45 USC 701 note. For necessary administrative expenses to enable the United States Railway Association to carry out its functions under the Regional Rail Reorganization Act of 1973, as amended, to remain available until expended, \$2,100,000, of which not to exceed \$500 may be available for official reception and representation expenses.

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

INTEREST PAYMENTS

93 Stat. 1320. For necessary expenses for interest payments, to remain available until expended, \$46,175,945: *Provided*, That these funds shall be disbursed pursuant to terms and conditions established by Public Law 96-184 and the Initial Bond Repayment Participation Agreement.

TITLE III—GENERAL PROVISIONS

SEC. 301. During the current fiscal year applicable appropriations to the Department of Transportation shall be available for maintenance and operation of aircraft; hire of passenger motor vehicles

and aircraft; purchase of liability insurance for motor vehicles operating in foreign countries on official departmental business; and uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901-5902).

SEC. 302. Funds appropriated for the Panama Canal Commission may be apportioned notwithstanding section 3679 of the Revised Statutes, as amended (31 U.S.C. 1341), to the extent necessary to permit payment of such pay increases for officers or employees as may be authorized by administrative action pursuant to law which are not in excess of statutory increases granted for the same period in corresponding rates of compensation for other employees of the Government in comparable positions.

SEC. 303. Funds appropriated under this Act for expenditures by the Federal Aviation Administration shall be available (1) except as otherwise authorized by the Act of September 30, 1950 (20 U.S.C. 236-244), for expenses of primary and secondary schooling for dependents of Federal Aviation Administration personnel stationed outside the continental United States at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools, if any, available in the locality are unable to provide adequately for the education of such dependents and (2) for transportation of said dependents between schools serving the area which they attend and their places of residence when the Secretary, under such regulations as may be prescribed, determines that such schools are not accessible by public means of transportation on a regular basis.

20 USC 241 note.

SEC. 304. Appropriations contained in this Act for the Department of Transportation shall be available for services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS-18.

SEC. 305. None of the funds provided under this Act for urban formula grants shall be made available to support mass transit facilities, equipment, or operating expenses unless the applicant for such assistance has given satisfactory assurances in such manner and forms as the Secretary may require, and in accordance with such terms and conditions as the Secretary may prescribe, that the rates charged elderly and handicapped persons during nonpeak hours shall not exceed one-half of the rates generally applicable to other persons at peak hours: *Provided*, That the Secretary, in prescribing the terms and conditions for the provision of such assistance shall permit an applicant whose existing fare collection system does not reasonably permit the collection of half fares to continue to use a preferential fare system for elderly and handicapped persons which was in effect on or before November 26, 1974, and which incorporates the offering of a free return ride upon payment of the generally applicable full fare, except that such a system may be used after October 1, 1984, only if such system is available for use by all elderly and handicapped persons.

Grants.
Elderly persons.
Handicapped
persons.

SEC. 306. None of the funds appropriated in this Act for the Panama Canal Commission may be expended unless in conformance with the Panama Canal Treaties of 1977 and any law implementing those treaties.

TIAS 10029.

SEC. 307. None of the funds provided in this Act may be used for planning or construction of rail-highway crossings under section 322(a) of title 23, United States Code, or under section 701(a)(5) or section 703(1)(A) of the Railroad Revitalization and Regulatory Reform Act of 1976 at the—

45 USC 851.

45 USC 853.

Groton, Conn.
Stonington,
Conn.

- (1) School street crossing in Groton, Connecticut; and
- (2) Broadway Extension crossing in Stonington, Connecticut.

SEC. 308. None of the funds in this Act shall be used for the planning or execution of any program to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings funded in this Act.

SEC. 309. None of the funds in this Act shall be used to assist, directly or indirectly, any State in imposing mandatory State inspection fees or sticker requirements on vehicles which are lawfully registered in another State, including vehicles engaged in interstate commercial transportation which are in compliance with Part 396—Inspection and Maintenance of the Federal Motor Carrier Safety Regulations of the U.S. Department of Transportation.

49 CFR Part
396.

SEC. 310. None of the funds contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

49 USC app.
1617.

SEC. 311. Notwithstanding any other provision of law, total amounts of contract authority authorized for fiscal year 1985 in section 21(a)(2)(B) of the Urban Mass Transportation Act of 1964, as amended, shall be available for obligation through fiscal year 1988.

SEC. 312. None of the funds in this or any other Act shall be available for the planning or implementation of any change in the current Federal status of the Transportation Systems Center.

SEC. 313. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

Washington
National
Airport.

SEC. 314. None of the funds in this Act may be used to implement a rulemaking which would lower the annual passenger ceiling at Washington National Airport.

23 USC 104 note.

SEC. 315. (a) For fiscal year 1985 the Secretary of Transportation shall distribute the obligation limitation for Federal-aid highways by allocation in the ratio which sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to each State for such fiscal year bear to the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to all the States for such fiscal year.

(b) During the period October 1 through December 31, 1984, no State shall obligate more than 40 per centum of the amount distributed to such State under subsection (a), and the total of all State obligations during such period shall not exceed 25 per centum of the total amount distributed to all States under such subsection.

(c) Notwithstanding subsections (a) and (b), the Secretary shall—

(1) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways and highway safety construction which have been apportioned to a State, except in those instances in which a State indicates its intention to lapse sums apportioned under section 104(b)(5)(A) of title 23, United States Code.

(2) after August 1, 1985, revise a distribution of the funds made available under subsection (a) if a State will not obligate the amount distributed during that fiscal year and redistribute sufficient amounts to those States able to obligate amounts in

addition to those previously distributed during that fiscal year giving priority to those States having large unobligated balances of funds apportioned under section 104 of title 23, United States Code, and giving priority to those States which, because of statutory changes made by the Surface Transportation Assistance Act of 1982 and the Federal-Aid Highway Act of 1981, have experienced substantial proportional reductions in their apportionments and allocations.

23 USC 101 note.
23 USC 101 note.

(3) not distribute amounts authorized for administrative expenses and the Federal Lands Highway Programs.

This Act may be cited as the "Department of Transportation and Related Agencies Appropriation Act, 1985".

Department of
Transportation
and Related
Agencies
Appropriation
Act, 1985

(j) Such sums as may be necessary for programs, projects, or activities provided for in the Treasury, Postal Service and General Government Appropriations Act, 1985 (H.R. 5798) to the extent and in the manner provided for in the conference report and joint explanatory statement of the committee of conference as passed by the House of Representatives on September 12, 1984, as if enacted into law (with the exception of the provisions involved in amendments numbered 24 and 26 which shall be effective as if enacted into law): *Provided*, That, notwithstanding section 102 of this joint resolution, the Department of the Treasury shall consolidate the operations of the Bureau of Government Financial Operations in accordance with the language concerning amendment numbered 9 in the joint explanatory statement of the committee of conference (H. Rept. 98-993).

It is the sense of the Congress that—

42 USC 1971
note.

(1) voter registration drives should be encouraged by governmental entities at all levels; and

(2) voter registration drives conducted by State governments on a nonpartisan basis do not violate the provisions of the Intergovernmental Personnel Act (42 U.S.C. 4728, 4763).

(k) Such amounts as may be necessary for continuing the following activities, not otherwise provided for in this joint resolution, which were conducted in the fiscal year 1984, under the terms and conditions provided in applicable appropriation Acts for the fiscal year 1984, at the current rate:

Activities under the Public Health Service Act; and

42 USC 201 note.

Refugee and entrant assistance activities under the provisions of title IV of the Immigration and Nationality Act, title IV and part B of title III of the Refugee Act of 1980, and sections 501 (a) and (b) of the Refugee Education Assistance Act of 1980, except that such activities shall be continued at a rate for operations not in excess of the lower of the current rate or the rate authorized by H.R. 3729 as passed the House of Representatives: *Provided*, That such funds may be expended for individuals who would meet the definition of "Cuban and Haitian entrant" under section 501(e) of the Refugee Education Assistance Act of 1980, but for the application of paragraph (2)(B) thereof;

8 USC 1521.
8 USC 1522 note,
1521.
8 USC 1522 note.

Foster care and adoption assistance activities under title IV-E of the Social Security Act under the terms and conditions established by sections 474(b) and 474(c) of that Act, and sections 102(a)(1) and 102(c) of Public Law 96-272, as those sections were in effect for fiscal year 1984;

8 USC 1522 note
42 USC 670.
42 USC 674
42 USC 672 and
note.

Emergency immigrant education activities authorized by section 101(g) of Public Law 98-151; and

97 Stat 964.

42 USC 9801
note.

Activities under the Follow Through Act, except that the annual rate for such activities shall not exceed \$10,000,000.

SEC. 102. Unless otherwise provided for in this joint resolution or in the applicable appropriation Act, appropriations and funds made available and authority granted pursuant to this joint resolution shall be available from October 1, 1984, and shall remain available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) enactment of the applicable appropriation Act by both Houses without any provision for such project or activity, or (c) September 30, 1985, whichever first occurs.

SEC. 103. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any project or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 104. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

31 USC 1511.

SEC. 105. Any appropriation for fiscal year 1985 required to be apportioned pursuant to subchapter II of chapter 15 of title 31, United States Code, may be apportioned on a basis indicating the need (to the extent any such increases cannot be absorbed within available appropriations) for a supplemental or deficiency estimate of appropriation to the extent necessary to permit payment of such pay increases as may be granted pursuant to law to civilian officers and employees and to active and retired military personnel. Each such appropriation shall otherwise be subject to the requirements of subchapter II of chapter 15 of title 31, United States Code.

97 Stat. 1230.
12 USC 1749bbb.

SEC. 113. Section 1201(b)(1) of the National Housing Act is amended—

(1) by striking out “September 30, 1984” and inserting in lieu thereof “September 30, 1985”; and

(2) in subparagraph (A), by inserting after “1985” the following: “, and September 30, 1986, respectively”.

SEC. 108. Notwithstanding any other provision of this joint resolution, for an additional amount for “Abatement, control and compliance, Environmental Protection Agency”, \$13,000,000, to remain available until expended, which shall be available to the city of Akron, Ohio, to refinance the bond debt of the recycle energy system of such city: *Provided*, That such sum may not exceed 60 percent of such debt: *Provided further*, That the facilities of such recycle energy system shall be made available to the Federal Government as a laboratory facility for municipal waste to energy research.

38 USC 1801 *et seq.*

SEC. 108B. For expenses necessary to carry out loan guaranty and insurance operations, as authorized by law (38 U.S.C. chapter 37, except administrative expenses, as authorized by section 1824 of such title), \$306,600,000 is hereby appropriated for “Loan guaranty revolving fund, Veterans’ Administration”, to remain available until expended.

12 USC 1701s,
1715z-1.

SEC. 109. The penultimate proviso in the paragraph under the heading “Rent Supplement” in the Supplemental Appropriations Act, 1983 (Public Law 98-63, 97 Stat. 301, 320) is amended to read as follows: “*Provided further*, That upon the completion of each contract under such section 101 or 236(f)(2) on behalf of qualified tenants on a State-aided, noninsured rental housing project, the

balance of the contract authority provided in appropriation Acts for such contract shall be rescinded.”. Any amounts of authority for contracts under section 236 of the National Housing Act (12 U.S.C. 1715z-1) or under section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s) which would otherwise become available at the time of cancellation of any such contract as a result of a foreclosure action, or a transfer of a deed in lieu of foreclosure, of a State-aided, noninsured rental housing project having any contracts under such sections shall remain available for such project for the balance of the term which remains at the time of cancellation of such a contract as a result of a foreclosure action or such transfer of deed, and the Secretary of Housing and Urban Development shall offer to execute new contracts under such sections, subject to compliance with the requirements of sections 236 (b) and (f)(2) of the National Housing Act, or such section 101, respectively.

SEC. 110. The item relating to “Department of Housing and Urban Development—Housing Programs—Annual Contributions for Assisted Housing” in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1984 (Public Law 98-45; 97 Stat. 219, 220), is amended by adding at the end thereof the following new paragraph:

“Notwithstanding any other provision of this Act or any other law regarding the availability of recaptured budget authority, \$9,000,000 of budget authority recaptured and becoming available for obligation in fiscal year 1984 shall be made available only to provide assistance under the new construction program of section 8 of the United States Housing Act of 1937 for 40 dwelling units in the Carmel Plaza North Project Numbered 000-32028-PM/L8, in the District of Columbia, which project was terminated by the Secretary of Housing and Urban Development on July 26, 1984. Such budget authority shall remain available for obligation for fiscal year 1985, and the provisions repealed by section 209(a) of the Housing and Urban-Rural Recovery Act of 1983 (Public Law 98-181; 97 Stat. 1153, 1183) shall remain in effect with respect to such project and budget authority.”.

42 USC 1437f.

SEC. 111. The Administrator of the Environmental Protection Agency shall make a grant not to exceed \$2,337,000 from construction grant funds allotted to the State of Ohio for fiscal year 1985 to the owners of the Rocky River Wastewater Treatment Plant in Rocky River, Ohio, for reimbursement of such owners for the cost of construction of such plant.

Rocky River
Wastewater
Treatment
Plant, Ohio.

SEC. 111A. (a) The Small Business Act is amended by adding the following new section:

Fish and fishing.

“SEC. 23. Notwithstanding any other provision of law, rule, or regulations, for purposes of section 7(b) of this Act (15 U.S.C. 636(b)), the Administrator shall, with respect to small business concerns involved in the fishing industry, treat the recent El Nino-related ocean conditions as a disaster under such subsection:

15 USC 650.

“(1) disaster loan assistance shall be provided to the fishing industry pursuant to paragraph (2) of such section—

“(A) the term ‘recent El Nino-related ocean conditions’ means the ocean conditions (including high water temperatures, scarcity of prey, and absence of normal upwellings) which occurred in the eastern Pacific Ocean off the west coast of the North American Continent during the period beginning with June 1982 and ending at the close of Decem-

ber 1983, and which resulted from the climatic conditions occurring in the Equatorial Pacific during 1982 and 1983;

“(B) the term ‘fishing industry’ means any trade or business involved in (i) the catching, taking, or harvesting of fish (whether or not sold on a commercial basis), (ii) any operation at sea or on land, in preparation for, or substantially dependent upon, the catching, taking, or harvesting of fish, and (iii) the processing or canning of fish (including storage, refrigeration and transportation of fish before processing or canning); and

“(C) the term ‘fish’ means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than marine mammals and birds; and

“(2) for purposes of paragraphs (2) through (4) of subsection 7(b) of this Act, eligibility of individual applicants shall not in any way be dependent upon the number of disaster victims in any county or other political subdivision.”; and

15 USC 636.

Ante, p. 161.

(b) Section 3(j) of such Act is amended by striking all of such subsection after the word “association” in the second sentence thereof and by inserting in lieu thereof “as a business concern and shall not include the income or employees of any member shareholder of such cooperative.”.

SEC. 112. The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 236 of the National Housing Act, as amended (12 U.S.C. 1715z-1), reduced in fiscal year 1985 by not more than \$7,631,000 in uncommitted balances of authorizations provided for this purpose in appropriation Acts pursuant to the paragraph under the heading “Rental housing assistance” in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1985 (Public Law 98-371, 98 Stat. 1213, 1215), shall not be reduced by more than \$4,331,000 in fiscal year 1985: *Provided*, That \$3,300,000 in such uncommitted balances shall be made available in fiscal year 1985 and remain available thereafter until used as needed to replace amounts pooled for interest reduction payments for State-aided, noninsured rental housing projects under such section 236, but used during fiscal year 1982 for amendments to contracts for rental assistance payments.

SEC. 113. The head of any department or agency of the Federal Government in carrying out any loan guarantee or insurance program for the fiscal year 1985 shall enter into commitments to guarantee or insure loans pursuant to such program in the full amount provided by law subject only to (1) the availability of qualified applicants for such guarantee or insurance, and (2) limitations on such amount contained in appropriation Acts.

42 USC 1437b.

97 Stat. 1176.

42 USC 1437c.

SEC. 113A. Notwithstanding any other provision of this joint resolution, there is appropriated to the Treasury \$300,000,000, to be made available to cover the additional interest expenses incurred on borrowings by the Secretary of Housing and Urban Development from the Treasury that are necessary to extend direct loans to local public housing agencies as authorized under section 4(a) of the United States Housing Act of 1937, for the purposes of financing public housing projects as authorized under section 5(c) of the United States Housing Act of 1937: *Provided*, That the foregoing appropriation shall be available only in connection with additional interest expenses incurred on Treasury borrowings having maturities not in excess of seven months from the date that such borrow-

ings occur: *Provided further*, That no such Treasury borrowings in connection with the foregoing appropriation shall take place after April 3, 1985: *Provided further*, That the foregoing \$300,000,000 shall be available until expended on interest incurred pursuant to the Treasury borrowings: *Provided further*, That direct loan proceeds shall be made available for new loan commitments and contract executions for public housing development, modernization and Indian housing, and for financing of existing contracts: *Provided further*, That notwithstanding section 4 of the United States Housing Act of 1937, or any other provision of law, loans made pursuant to section 4(a) of the United States Housing Act of 1937 by the Secretary of Housing and Urban Development (and Treasury borrowing under section 4(b) of such Act), which are necessary due to the failure to publicly sell tax-exempt public housing agency obligations, shall be at interest rates comparable to the interest rates on such obligations issued by public housing agencies.

42 USC 1437b.

SEC. 114. None of the funds appropriated or made available by this joint resolution or any other Act may be used by the United States Customs Service to propose or promulgate any rule or regulation relating to the subject matter of the Advanced Notice of Proposed Regulations published in the Federal Register on July 21, 1983 (48 Fed. Reg. 33318): *Provided*, That nothing shall prevent the expenditure of funds to propose any rule or regulation relating to duty-free stores which implements or conforms to statutory standards hereafter enacted by Congress.

SEC. 115. Section 404 of the Small Business Investment Act of 1958 (15 U.S.C. 694-1) is amended as follows:

(1) by striking out "may be issued" in paragraph (1) of subsection (b) and inserting in lieu thereof "shall be issued";

(2) by inserting before the period at the end of paragraph (1) of subsection (b) the following: ", and the Administration is expressly prohibited from denying such guarantee due to the property being so acquired"; and

(3) by striking out "exceed 3½ per centum" in subsection (c) and inserting in lieu thereof "be less than 1 per centum or more than 3½ per centum".

SEC. 116. Of the funds appropriated to the Department of State in Public Law 97-257, Supplemental Appropriations Act, 1982 (96 Stat. 824), \$3,500,000 in "Salaries and expenses" and \$3,000,000 in "Acquisition, operations and maintenance of buildings abroad" shall remain available until September 30, 1985.

SEC. 117. Notwithstanding any other provision of this joint resolution, the Administrator of the General Services Administration is to provide an additional \$3,611,000 from the Federal Buildings Fund for repairs and alterations of the Blair House.

Blair House.

SEC. 118. Notwithstanding any other provision of this joint resolution, \$348,000 is appropriated to the State of Arizona to be available for expenses in connection with the San Luis, Arizona Border Station.

San Luis,
Arizona Border
Station.

SEC. 119. Pursuant to the recommendation of the United States Claims Court in G.E. Amick, et al. against United States, (a)(1) the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to each of the individuals named in subsection (b) the amount set forth opposite the name of each such individual in full settlement of all claims of each such individual against the United States for damages arising in connection with the flooding of certain lands as the result

Flood control.
Stockton Dam
and Reservoir,
Mo.

of the unnecessary release of excess amounts of waters from the Stockton Dam and Reservoir during the period from November 1972 through June 1974, at which time such dam and reservoir were in operation under the control of the United States Army Corps of Engineers.

(2) The individuals referred to in subsection (a) and the amounts of money due each such individual are as follows:

R. Dean Dawes of Stockton, Missouri.....	\$2,700
Harlen Chism of Stockton, Missouri.....	6,596
Ray and Clara Pinkman of Stockton, Missouri.....	4,211
Perrin Masters of Stockton, Missouri.....	2,394
Ray M. Pinkman of Stockton, Missouri.....	3,819
A.W. Spillers of El Dorado Springs, Missouri.....	3,500
Hester E. Simrell of Stockton, Missouri.....	2,200
G.E. Amick of El Dorado Springs, Missouri.....	3,200
T.M. Montgomery of Stockton, Missouri.....	3,087
T.M. and Berla Montgomery of Stockton, Missouri.....	190
A.C. and Virginia I. Montgomery of Stockton, Missouri.....	4,500
Irene Larson of Aurora, Missouri and Virginia Montgomery of Stockton, Missouri.....	7,796
Ruby Dean Leffler of Stockton, Missouri.....	4,982
Edward C. and Frances Pyle of Stockton, Missouri.....	1,545
Gilbert and Pansy Pyle and Ronnie and Kay Pyle of Stockton, Missouri...	4,422
Gilbert and Ronnie Pyle of Stockton, Missouri.....	11,458
Lageta Cowan of Stockton, Missouri.....	3,200
Swangel Estate of Stockton, Missouri.....	12,123
W.H. Eslinger of Stockton, Missouri.....	5,668
J.C. Eslinger of Stockton, Missouri.....	5,668
Max A. and Betty Lee Smith of Stockton, Missouri.....	310
Lat and Zella Lee Smith of Stockton, Missouri.....	384
Riley Carver of El Dorado Springs, Missouri.....	6,800

Penalties. (b) No part of each amount appropriated in this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, any contract to the contrary notwithstanding. A violation in this section is a misdemeanor punishable by a fine in an amount not to exceed \$10,000.

Metropolitan statistical area. Illinois. Missouri. SEC. 119A. (a) For purposes of any provision of Federal law, the Director of the Office of Management and Budget shall rescind the designation of the St. Louis primary metropolitan statistical area, the designation of the Alton-Granite City, Illinois, primary metropolitan statistical area, and the designation of the East St. Louis-Belleville, Illinois, primary metropolitan statistical area, and shall not take any action to designate such three primary metropolitan statistical areas as a consolidated metropolitan statistical area.

(b) The Director of the Office of Management and Budget shall designate a single metropolitan statistical area which includes the following:

- (1) The city of St. Louis, Missouri.
- (2) The counties of St. Louis, Franklin, Jefferson, and St. Charles in Missouri.
- The counties of Monroe, Madison, Jersey, Clinton, and St. Clair in Illinois.

The metropolitan statistical area designation pursuant to this subsection shall be known as the "St. Louis Metropolitan Statistical Area".

97 Stat. 977. SEC. 120. (a) Section 5723(a)(1)(C) of title 5, United States Code, is amended by striking out " , by and with the advice and consent of the Senate," .

(b) Subchapter II of chapter 57 of such title is amended by striking out sections 5724b and 5724c and inserting in lieu thereof the following:

“§ 5724b. Taxes on reimbursements for travel, transportation, and relocation expenses of employees transferred

5 USC 5724b.

“(a) Under such regulations as the President may prescribe and to the extent considered necessary and appropriate, as provided therein, appropriations or other funds available to an agency for administrative expenses are available for the reimbursement of substantially all of the Federal, State, and local income taxes incurred by an employee, or by an employee and such employee’s spouse (if filing jointly), for any moving or storage expenses furnished in kind, or for which reimbursement or an allowance is provided (but only to the extent of the expenses paid or incurred). Reimbursements under this subsection shall also include an amount equal to all income taxes for which the employee and spouse, as the case may be, would be liable due to the reimbursement for the taxes referred to in the first sentence of this subsection.

“(b) For the purposes of this section, ‘moving or storage expenses’ means travel and transportation expenses (including storage of household goods and personal effects under section 5724 of this title) and other relocation expenses under sections 5724a and 5724c of this title.

5 USC 5724.

5 USC 5724a.

“§ 5724c. Relocation services

5 USC 5724c.

“Under such regulations as the President may prescribe, each agency is authorized to enter into contracts to provide relocation services to agencies and employees for the purpose of carrying out the provisions of this subchapter. Such services include but need not be limited to arranging for the purchase of a transferred employee’s residence.”

SEC. 123. The first sentence of section 101(e) of the joint resolution entitled “Making continuing appropriations for the fiscal year 1983, and for other purposes”, approved October 2, 1982 (96 Stat. 1189), is amended by inserting “(1)” after “except that” and by striking out the period at the end thereof and inserting in lieu thereof the following: “, and (2) the proviso contained in the paragraph under the heading ‘Acquisition of Property as an Addition to the Capitol Grounds’ in S. 2939 shall not be effective after the date of enactment of this clause.”

SEC. 123A. (a) The provisions of the third paragraph under the heading “Clerical assistance to Senators” of the first section of the Legislative Branch Appropriation Act for the fiscal year ending June 30, 1928 (2 U.S.C. 92a) shall not be applicable to any employee of the Senate.

2 USC 92a note.

(b) The following provisions of law are hereby repealed: (1) the last paragraph under the heading “Clerical assistance to Senators” of the first section of the Legislative Branch Appropriation Act, 1944 (2 U.S.C. 92e), (2) the last paragraph under the heading “Clerical assistance to Senators” of the first section of the Legislative Branch Appropriation Act, 1945 (2 U.S.C. 92e), (3) the next-to-last paragraph under the heading “Clerical assistance to Senators” of the first section of the Legislative Branch Appropriation Act, 1946 (2 U.S.C. 92e), and (4) the next-to-last paragraph under the heading “Clerical assistance to Senators” of the first section of the Legislative Branch Appropriation Act, 1947 (2 U.S.C. 92e).

(c) The second proviso of the paragraph of section 101 of the Legislative Branch Appropriation Act, 1974, which appears under the heading "Committee Employees" (2 U.S.C. 68-1) is amended by striking out "the committee Auditor and the committee Assistant Auditor" and inserting in lieu thereof "any employee or employees of such Committee".

Aircraft and air
carriers.

49 USC app. 2101
note.

SEC. 124. Notwithstanding any other provision of this joint resolution, the Secretary of the Department of Transportation shall grant an exemption from the January 1, 1985 deadline for compliance with the provisions of Public Law 96-193, if an applicant for such exemption submits to the Secretary prior to January 1, 1985 an application for exemption which complies with the provisions of subsections (b) or (c) of this section.

(b) the Secretary shall specify the form and manner in which any application shall be made. Any such application from a person operating aircraft for which equipment to assure compliance with the provisions of Public Law 96-193 ("hush kits") is currently under development shall include a copy of a contract entered into by the applicant and a known supplier of equipment which would bring the applicant into compliance with the provisions of Public Law 96-193.

(c) applicants currently operating aircraft obtained prior to January 1, 1980 for which no such compliance equipment is currently under development shall accompany their application with a sworn commitment to enter into a contract not later than June 1, 1985 for aircraft which will comply with the provisions of Public Law 96-193.

(d) Nothing in this section shall be construed to limit the power of the Secretary to deny any application or revoke any exemption granted under this section if, after examining any contract submitted under subsection (b) or (c) of this section, the Secretary determines that the applicant or holder of such exemption will not be able to comply with the requirements of Public Law 96-193 within the timeframe set forth in such exemption. No exemptions shall be issued to any applicant pursuant to this section unless the Secretary determines that the contract required under subsection (b) or (c) of this section is with a bona fide supplier of equipment to assure compliance in the case of subsection (b) of this section, or complying aircraft in the case of subsection (c) of this section; that such equipment or aircraft can reasonably be expected to achieve compliance; that such contract provides for non-refundable deposits sufficient to assure good faith compliance by such applicant; and that the contract provides for compliance at the earliest possible date.

(e) Any exemption granted under this section shall expire not later than December 31, 1985 except that, if the Secretary determines that equipment to ensure compliance with the provisions of Public Law 96-193 which has been certified by the Department for that purpose will not be available to the holder of the exemption by that date, the Secretary may extend such exemption for such period as the Secretary determines is necessary to insure compliance with such provisions.

(f) No person receiving an exemption under the provisions of this section may increase either the frequency of operations into the place for which the exemption was granted, or increase the number of non-compliant aircraft operated at the place for which the exemption was granted beyond that existing in the twelve months prior to the date of enactment of this section.

(g) No exemption granted pursuant to this section shall (i) permit flights at any airport in the United States, as the term United

States is defined in 49 U.S.C. 1301, other than Miami International Airport, in Miami, Florida, and Bangor International Airport, in Bangor, Maine, or (ii) permit the operation of flights which serve both Miami International Airport and Bangor International Airport.

49 USC app.
1301.

SEC. 125. Notwithstanding any other provisions of law or this joint resolution, unexpended balances of funds appropriated by the Department of Transportation and Related Agencies Appropriations Act of 1984, for employee protection as authorized by the Rock Island Railroad Transition and Employee Assistance Act as amended (45 U.S.C. 1001 et seq.), shall continue to remain available for such purpose until not later than April 1, 1985; and, such funds shall be expended in accordance with the amendment made by section 201 of H.R. 3648 as passed by the House of Representatives on March 6, 1984.

97 Stat. 453.

SEC. 125A. Notwithstanding any other provision of this joint resolution to the contrary, none of the funds in this joint resolution shall be available for the planning or execution of programs, the total obligations for which are in excess of \$126,500,000 in fiscal year 1985 for "State and community highway safety" authorized under 23 U.S.C. 402. Any amount provided in this joint resolution under the heading relating to Highway Traffic Safety Grants for the purposes specified in this subsection which is not identical to the obligation level specified in this subsection shall have no force and effect.

Highways.
Safety.

SEC. 125B. Notwithstanding any other provision of this joint resolution, not to exceed \$7,500,000 shall be available in the fiscal year ending September 30, 1985 from the unobligated balances in the appropriations "Highway Safety Research and Development", "Railroad Research and Development", and "Research, Training and Human Resources", for the purposes of carrying out a national program to encourage the use of automobile safety belts and passive restraints as authorized by 23 U.S.C. 403.

Motor vehicles.

SEC. 125C. (a) Notwithstanding section 16 of the Federal Airport Act (as in effect on November 25, 1947), the Secretary of Transportation is authorized, subject to the provisions of section 4 of the Act of October 1, 1949 (50 App. U.S.C. 16222(c)), and the provisions of subsection (b) of this section, to grant release from any of the terms, conditions, reservations, and restrictions contained in a deed of conveyance dated July 30, 1948, under which the United States conveyed certain property to the city of Flagstaff for airport purposes.

Flagstaff, Ariz.
49 USC app. 1115
note.

(b) Any release granted by the Secretary of Transportation under subsection (a) shall be subject to the following conditions:

(1) the city of Flagstaff shall agree that in conveying any interest in the property which the United States conveyed pursuant to the deed described in subsection (a), the city of Flagstaff will receive an amount which is equal to the fair market value (as determined pursuant to regulations issued by such Secretary); and

(2) any such amount so received shall be used for the development, improvement, operation, or maintenance of a public airport.

SEC. 125D. For necessary expenses to carry out a series of highway projects in the vicinities of Pontiac and East Lansing, Michigan, which demonstrate methods of enhancing safety and promoting economic development through construction of grade separations

Pontiac and East
Lansing, Mich.
Highways.

and road widenings on a highway on the Federal-aid primary system and on highways on the Federal-aid urban system; \$12,000,000, to remain available until expended.

Waiver.
Bridges.
St. Paul, Minn.

SEC. 125F. The Secretary of Transportation shall waive the alternate design requirements, specified in "Alternate Design for Bridges Policy Statement" (49-FR93 # 21409), allowing construction of a steel deck tied arch option only (including approach spans), for the Smith Avenue High Bridge, St. Paul, Minnesota.

Great Point
Lighthouse,
Nantucket
Island, Mass.

SEC. 125G. For an additional amount for "Coast Guard Acquisition, Construction, and Improvements", \$2,000,000 to reconstruct in its original form the Great Point Lighthouse on Nantucket Island, Massachusetts, at the site designated by the United States Coast Guard.

SEC. 126. Notwithstanding any other provision of this joint resolution, there is an additional amount appropriated for the Agricultural Research Service, United States Department of Agriculture, \$1,000,000.

Acquired
immune
deficiency
syndrome.

SEC. 127. Notwithstanding any other provision of this joint resolution, and in addition to amounts appropriated elsewhere, there are appropriated \$3,200,000 for fiscal year 1985 for Salaries and Expenses of the Food and Drug Administration to carry out the Drug Price Competition and Patent Term Restoration Act of 1984; and \$8,350,000 for fiscal year 1985 for the Food and Drug Administration for activities (including construction) related to acquired immune deficiency syndrome, which shall be available only to the extent an official budget request is transmitted to the Congress.

Ante, p. 1585.

SEC. 127A. Notwithstanding any other provision of the law, such sums as may be necessary may be used from the remaining balances of fiscal year 1984 funds for the Commodity Supplemental Food Program for the purpose of settling unresolved administrative funding claims associated with the handling of regular and bonus commodities distributed by the Commodity Supplemental Food Program operators in fiscal year 1982.

SEC. 128. (a) Funds appropriated by this joint resolution or any other appropriation Act to carry out the Food Stamp Act of 1977 (7 U.S.C. 2011-2029) shall, notwithstanding any other provision of law or this Act, be used in a manner to ensure that, under the food stamp program, households certified as eligible to participate in the program are issued an allotment that reflects the full cost of the thrifty food plan, adjusted to reflect changes in the cost of such plan for the twelve months ending June 30, 1984, rounded to the nearest lower dollar increment for each household size.

Effective date.

(b) The provisions of subsection (a) shall be effective during the period beginning November 1, 1984, and ending September 30, 1985.

Hospice care.
42 USC 1395f.
Ante, p. 1964.

SEC. 134. Notwithstanding section 1814(i) of the Social Security Act and section 102 of this joint resolution, in the case of a hospice which—

(1) commenced operations prior to January 1, 1975;

(2) participated in a hospice demonstration project during fiscal year 1984; and

42 USC 1395.

(3) is not certified as a hospice provider under title XVIII of the Social Security Act prior to September 24, 1984, payment under such title for hospice care provided by such hospice on and after October 1, 1984, and prior to October 1, 1986, shall be made on the same basis as payment was made to such hospice under such demonstration project.

SEC. 136. There are hereby appropriated \$400,000 to carry out the provisions of S. 2456, as passed by the Senate on September 21, 1984.

SEC. 137. Notwithstanding any other provision of law or this joint resolution, none of the funds provided in this joint resolution or any other provision of law shall be available for the United States' proportionate share for any "post adjustment allowance" for United Nations employees of any United Nations, organization implemented after July 31, 1984, or for any such "post adjustment allowance" which is calculated by using any methodology not used in calculating such "post adjustment allowance" prior to January 1, 1984.

United Nations
employees.

SEC. 139. Notwithstanding any other provision of this joint resolution, the following additional amounts are hereby appropriated for the Department of State, Administration of Foreign Affairs, and all to remain available until September 30, 1986; \$81,200,000 for "Salaries and expenses"; \$28,000,000 for "Acquisition, operation, and maintenance of buildings abroad"; and \$1,000,000 for "Emergencies in the diplomatic and consular service" to pay rewards for information concerning terrorist acts: *Provided*, That these funds shall be available notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956: *Provided further*, That the Department shall report to the appropriate committees in Congress on the obligation of funds every thirty days from the date of enactment.

Department of
State.

22 USC 2680.
Report.

SEC. 140. The Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) is amended by adding at the end thereof the following new section:

SECURITY PERSONNEL AT AGENCY INSTALLATIONS

SEC. 15. (a) The Director may authorize Agency personnel within the United States to perform the same functions as special policemen of the General Services Administration perform under the first section of the Act entitled "An Act to authorize the Federal Works Administrator or officials of the Federal Works Agency duly authorized by him to appoint special policemen for duty upon Federal property under the jurisdiction of the Federal Works Agency, and for other purposes" (40 U.S.C. 318), with the powers set forth in that section, except that such personnel shall perform such functions and exercise such powers only within Agency installations and the rules and regulations enforced by such personnel shall be rules and regulations promulgated by the Director.

50 USC 403a.

(b) The Director is authorized to establish penalties for violations of the rules or regulations promulgated by the Director under subsection (a) of this section. Such penalties shall not exceed those specified in the fourth section of the Act referred to in subsection (a) of this section (40 U.S.C. 318c).

Penalties.

(c) Agency personnel designated by the Director under subsection (a) of this section shall be clearly identifiable as United States Government security personnel while engaged in the performance of the functions to which subsection (a) of this section refers.

SEC. 122. (a) Federal employees furloughed as a result of the lapse of appropriations from midnight, October 3, 1984, until the enactment of this Act, will be compensated at their standard rate of compensation for the period during which there was a lapse of appropriations.

Furloughed
employees,
compensation

(b) All obligations incurred in anticipation of the appropriations and authority provided in this joint resolution for the purposes of

maintaining the minimum level of essential activities necessary to protect life and property and bringing about orderly termination of other functions are hereby ratified and confirmed if otherwise in accordance with the provisions of this joint resolution.

District of
Columbia.

SEC. 131. (a) Section 466(b) of the District of Columbia Self-Government and Governmental Reorganization Act (D.C. Code, sec. 47-246) is amended by striking out "sold before October 1, 1984," and inserting in lieu thereof "sold before October 1, 1985,".

87 Stat. 784.

(b) Section 303(b) of the District of Columbia Self-Government and Governmental Reorganization Act is amended to read as follows:

"(b) An amendment to the charter ratified by the registered electors shall take effect upon the expiration of the 35-calendar-day period (excluding Saturdays, Sundays, holidays, and days on which either House of Congress is not in session) following the date such amendment was submitted to the Congress, or upon the date prescribed by such amendment, whichever is later, unless during such 35-day period, there has been enacted into law a joint resolution, in accordance with the procedures specified in section 604 of this Act, disapproving such amendment. In any case in which any such joint resolution disapproving such an amendment has, within such 35-day period, passed both Houses of Congress and has been transmitted to the President, such resolution, upon becoming law subsequent to the expiration of such 35-day period, shall be deemed to have repealed such amendment, as of the date such resolution becomes law."

87 Stat. 816.

87 Stat. 788.

(c)(1) The second sentence of section 412(a) of such Act is amended to read as follows: "Except as provided in the last sentence of this subsection, the Council shall use acts for all legislative purposes."

Resolutions.

(2) The last sentence of section 412(a) of such Act is amended to read as follows: "Resolutions shall be used (1) to express simple determinations, decisions, or directions of the Council of a special or temporary character; and (2) to approve or disapprove proposed actions of a kind historically or traditionally transmitted by the Mayor, the Board of Elections, Public Service Commission, Armory Board, Board of Education, the Board of Trustees of the University of the District of Columbia, or the Convention Center Board of Directors to the Council pursuant to an act. Such resolutions must be specifically authorized by that act and must be designed to implement that act."

Congress.
87 Stat. 813.

(d) The second sentence of section 602(c)(1) of such Act is amended to read as follows: "Except as provided in paragraph (2), such act shall take effect upon the expiration of the 30-calendar-day period (excluding Saturdays, Sundays, and holidays, and any day on which neither House is in session because of an adjournment sine die, a recess of more than three days, or an adjournment of more than three days) beginning on the day such act is transmitted by the Chairman to the Speaker of the House of Representatives and the President of the Senate, or upon the date prescribed by such act, whichever is later, unless during such 30-day period, there has been enacted into law a joint resolution disapproving such act. In any case in which any such joint resolution disapproving such an act has, within such 30-day period, passed both Houses of Congress and has been transmitted to the President, such resolution, upon becoming law, subsequent to the expiration of such 30-day period, shall be deemed to have repealed such act, as of the date such resolution becomes law."

(e) The third sentence of section 602(c)(1) of such Act is amended by deleting "concurrent" and inserting in lieu thereof "joint".

(f) The first sentence of section 602(c)(2) of such Act is amended to read as follows: "In the case of any such Act transmitted by the Chairman with respect to any Act codified in title 22, 23, or 24 of the District of Columbia Code, such act shall take effect at the end of the 60-day period beginning on the day such act is transmitted by the Chairman to the Speaker of the House of Representatives and the President of the Senate unless, during such 60-day period, there has been enacted into law a joint resolution disapproving such act. In any case in which any such joint resolution disapproving such an act has, within such 60-day period, passed both Houses of Congress and has been transmitted to the President, such resolution, upon becoming law subsequent to the expiration of such 60-day period shall be deemed to have repealed such act, as of the date such resolution becomes law."

Congress.
87 Stat. 813.

(g) The second sentence of section 602(c)(2) is amended to read as follows: "The provisions of section 604, relating to an expedited procedure for consideration of joint resolutions, shall apply to a joint resolution disapproving such Act as specified in this paragraph."

(h) Section 604(b) of such Act is amended by deleting "concurrent" and inserting in lieu thereof "joint".

87 Stat. 816.

(i) Subsections (b) and (c) of section 740 of such Act are amended by deleting in each such subsection the words "adoption of a resolution by either the Senate or the House of Representatives" and inserting in lieu thereof "enactment into law of a joint resolution by the Congress".

87 Stat. 830.

(j) Section 740(d) of such Act is amended by deleting "approve a concurrent" and inserting in lieu thereof "enact into law a joint".

(k) The amendments made by the preceding subsections of this section shall not be applicable with respect to any law, which was passed by the Council of the District of Columbia prior to the date of the enactment of this Act, and such laws are hereby deemed valid, in accordance with the provisions thereof notwithstanding such amendments. Any previous Act of the Council of the District of Columbia which has been disapproved by the Congress pursuant to section 602(c)(1) or section 602(c)(2) is hereby deemed null and void.

(l) Part F of title VII of such Act is amended by adding at the end thereof the following new section:

"SEVERABILITY

"SEC. 762. If any particular provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby."

(m) Section 164(a)(3) of the District of Columbia Retirement Reform Act is amended to read as follows:

93 Stat. 891.
Congress.

"(3)(A) The Congress may reject any filing under this section within thirty days of such filing by enacting into law a joint resolution stating that the Congress has determined—

"(i) that such filing is incomplete for purposes of this part, or

"(ii) that there is any material qualification by an accountant or actuary contained in an opinion submitted pursuant to section 162(a)(3)(A) or section 162(a)(4)(B).

93 Stat. 885.
Congress.

"(B) If the Congress rejects a filing under subparagraph (A) and if either a revised filing is not submitted within forty-five days after the enactment under subparagraph (A) rejecting the initial filing or such revised filing is rejected by the Congress by enactment into law

of a joint resolution within thirty days after submission of the revised filing, then the Congress may, if it deems it is in the best interests of the participants, take any one or more of the following actions:

“(i) Retain an independent qualified public accountant on behalf of the participants to perform an audit.

“(ii) Retain an enrolled actuary on behalf of the participants to prepare an actuarial statement.

The Board and the Mayor shall permit any accountant or actuary so retained to inspect whatever books and records of the Fund and the retirement program are necessary for performing such audit or preparing such statement.

“(C) If a revised filing is rejected under subparagraph (B) or if a filing required under this title is not made by the date specified, no funds appropriated for the Fund with respect to which such filing was required as part of the Federal payment may be paid to the Fund until such time as an acceptable filing is made. For purposes of this subparagraph, a filing is unacceptable if, within thirty days of its submission, the Congress enacts into law a joint resolution disapproving such filing.”.

(n) The provisions of this section shall be effective hereafter without limitation as to fiscal year, notwithstanding any other provision of this joint resolution.

Comprehensive
Crime Control
Act of 1984.
18 USC 1 note.

TITLE II

This title may be cited as the “Comprehensive Crime Control Act of 1984.”

SEC. 201. Section 102 of this joint resolution (H.J. Res. 648) shall not apply with respect to the provisions enacted by this title.

Bail Reform Act
of 1984.
18 USC 3141
note.

CHAPTER I—BAIL

SEC. 202. This chapter may be cited as the “Bail Reform Act of 1984”.

SEC. 203. (a) Sections 3141 through 3151 of title 18, United States Code, are repealed and the following new sections are inserted in lieu thereof:

18 USC 3141.

“§ 3141. Release and detention authority generally

“(a) PENDING TRIAL.—A judicial officer who is authorized to order the arrest of a person pursuant to section 3041 of this title shall order that an arrested person who is brought before him be released or detained, pending judicial proceedings, pursuant to the provisions of this chapter.

“(b) PENDING SENTENCE OR APPEAL.—A judicial officer of a court of original jurisdiction over an offense, or a judicial officer of a Federal appellate court, shall order that, pending imposition or execution of sentence, or pending appeal of conviction or sentence, a person be released or detained pursuant to the provisions of this chapter.

18 USC 3142.

“§ 3142. Release or detention of a defendant pending trial

“(a) IN GENERAL.—Upon the appearance before a judicial officer of a person charged with an offense, the judicial officer shall issue an order that, pending trial, the person be—

"(1) released on his personal recognizance or upon execution of an unsecured appearance bond, pursuant to the provisions of subsection (b);

"(2) released on a condition or combination of conditions pursuant to the provisions of subsection (c);

"(3) temporarily detained to permit revocation of conditional release, deportation, or exclusion pursuant to the provisions of subsection (d); or

"(4) detained pursuant to the provisions of subsection (e).

"(b) RELEASE ON PERSONAL RECOGNIZANCE OR UNSECURED APPEARANCE BOND.—The judicial officer shall order the pretrial release of the person on his personal recognizance, or upon execution of an unsecured appearance bond in an amount specified by the court, subject to the condition that the person not commit a Federal, State, or local crime during the period of his release, unless the judicial officer determines that such release will not reasonably assure the appearance of the person as required or will endanger the safety of any other person or the community.

"(c) RELEASE ON CONDITIONS.—If the judicial officer determines that the release described in subsection (b) will not reasonably assure the appearance of the person as required or will endanger the safety of any other person or the community, he shall order the pretrial release of the person—

"(1) subject to the condition that the person not commit a Federal, State, or local crime during the period of release; and

"(2) subject to the least restrictive further condition, or combination of conditions, that he determines will reasonably assure the appearance of the person as required and the safety of any other person and the community, which may include the condition that the person—

"(A) remain in the custody of a designated person, who agrees to supervise him and to report any violation of a release condition to the court, if the designated person is able reasonably to assure the judicial officer that the person will appear as required and will not pose a danger to the safety of any other person or the community;

"(B) maintain employment, or, if unemployed, actively seek employment;

"(C) maintain or commence an educational program;

"(D) abide by specified restrictions on his personal associations, place of abode, or travel;

"(E) avoid all contact with an alleged victim of the crime and with a potential witness who may testify concerning the offense;

"(F) report on a regular basis to a designated law enforcement agency, pretrial services agency, or other agency;

"(G) comply with a specified curfew;

"(H) refrain from possessing a firearm, destructive device, or other dangerous weapon;

"(I) refrain from excessive use of alcohol, or any use of a narcotic drug or other controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802), without a prescription by a licensed medical practitioner;

"(J) undergo available medical or psychiatric treatment, including treatment for drug or alcohol dependency, and remain in a specified institution if required for that purpose;

“(K) execute an agreement to forfeit upon failing to appear as required, such designated property, including money, as is reasonably necessary to assure the appearance of the person as required, and post with the court such indicia of ownership of the property or such percentage of the money as the judicial officer may specify;

“(L) execute a bail bond with solvent sureties in such amount as is reasonably necessary to assure the appearance of the person as required;

“(M) return to custody for specified hours following release for employment, schooling, or other limited purposes; and

“(N) satisfy any other condition that is reasonably necessary to assure the appearance of the person as required and to assure the safety of any other person and the community.

The judicial officer may not impose a financial condition that results in the pretrial detention of the person. The judicial officer may at any time amend his order to impose additional or different conditions of release.

“(d) TEMPORARY DETENTION TO PERMIT REVOCATION OF CONDITIONAL RELEASE, DEPORTATION, OR EXCLUSION.—If the judicial officer determines that—

“(1) the person—

“(A) is, and was at the time the offense was committed, on—

“(i) release pending trial for a felony under Federal, State, or local law;

“(ii) release pending imposition or execution of sentence, appeal of sentence or conviction, or completion of sentence, for any offense under Federal, State, or local law; or

“(iii) probation or parole for any offense under Federal, State, or local law; or

“(B) is not a citizen of the United States or lawfully admitted for permanent residence, as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)); and

“(2) the person may flee or pose a danger to any other person or the community;

he shall order the detention of the person, for a period of not more than ten days, excluding Saturdays, Sundays, and holidays, and direct the attorney for the Government to notify the appropriate court, probation or parole official, or State or local law enforcement official, or the appropriate official of the Immigration and Naturalization Service. If the official fails or declines to take the person into custody during that period, the person shall be treated in accordance with the other provisions of this section, notwithstanding the applicability of other provisions of law governing release pending trial or deportation or exclusion proceedings. If temporary detention is sought under paragraph (1)(B), the person has the burden of proving to the court that he is a citizen of the United States or is lawfully admitted for permanent residence.

“(e) DETENTION.—If, after a hearing pursuant to the provisions of subsection (f), the judicial officer finds that no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of any other person and the

community, he shall order the detention of the person prior to trial. In a case described in (f)(1), a rebuttable presumption arises that no condition or combination of conditions will reasonably assure the safety of any other person and the community if the judge finds that—

“(1) the person has been convicted of a Federal offense that is described in subsection (f)(1), or of a State or local offense that would have been an offense described in subsection (f)(1) if a circumstance giving rise to Federal jurisdiction had existed;

“(2) the offense described in paragraph (1) was committed while the person was on release pending trial for a Federal, State, or local offense; and

“(3) a period of not more than five years has elapsed since the date of conviction, or the release of the person from imprisonment, for the offense described in paragraph (1), whichever is later.

Subject to rebuttal by the person, it shall be presumed that no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of the community if the judicial officer finds that there is probable cause to believe that the person committed an offense for which a maximum term of imprisonment of ten years or more is prescribed in the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), section 1 of the Act of September 15, 1980 (21 U.S.C. 955a), or an offense under section 924(c) of title 18 of the United States Code.

“(f) DETENTION HEARING.—The judicial officer shall hold a hearing to determine whether any condition or combination of conditions set forth in subsection (c) will reasonably assure the appearance of the person as required and the safety of any other person and the community in a case—

“(1) upon motion of the attorney for the Government, that involves—

“(A) a crime of violence;

“(B) an offense for which the maximum sentence is life imprisonment or death;

“(C) an offense for which a maximum term of imprisonment of ten years or more is prescribed in the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or section 1 of the Act of September 15, 1980 (21 U.S.C. 955a); or

“(D) any felony committed after the person had been convicted of two or more prior offenses described in subparagraphs (A) through (C), or two or more State or local offenses that would have been offenses described in subparagraphs (A) through (C) if a circumstance giving rise to Federal jurisdiction had existed; or

“(2) Upon motion of the attorney for the Government or upon the judicial officer's own motion, that involves—

“(A) a serious risk that the person will flee;

“(B) a serious risk that the person will obstruct or attempt to obstruct justice, or threaten, injure, or intimidate, or attempt to threaten, injure, or intimidate, a prospective witness or juror.

The hearing shall be held immediately upon the person's first appearance before the judicial officer unless that person, or the

attorney for the Government, seeks a continuance. Except for good cause, a continuance on motion of the person may not exceed five days, and a continuance on motion of the attorney for the Government may not exceed three days. During a continuance, the person shall be detained, and the judicial officer, on motion of the attorney for the Government or on his own motion, may order that, while in custody, a person who appears to be a narcotics addict receive a medical examination to determine whether he is an addict. At the hearing, the person has the right to be represented by counsel, and, if he is financially unable to obtain adequate representation, to have counsel appointed for him. The person shall be afforded an opportunity to testify, to present witnesses on his own behalf, to cross-examine witnesses who appear at the hearing, and to present information by proffer or otherwise. The rules concerning admissibility of evidence in criminal trials do not apply to the presentation and consideration of information at the hearing. The facts the judicial officer uses to support a finding pursuant to subsection (e) that no condition or combination of conditions will reasonably assure the safety of any other person and the community shall be supported by clear and convincing evidence. The person may be detained pending completion of the hearing.

“(g) **FACTORS TO BE CONSIDERED.**—The judicial officer shall, in determining whether there are conditions of release that will reasonably assure the appearance of the person as required and the safety of any other person and the community, take into account the available information concerning—

“(1) the nature and circumstances of the offense charged, including whether the offense is a crime of violence or involves a narcotic drug;

“(2) the weight of the evidence against the person;

“(3) the history and characteristics of the person, including—

“(A) his character, physical and mental condition, family ties, employment, financial resources, length of residence in the community, community ties, past conduct, history relating to drug or alcohol abuse, criminal history, and record concerning appearance at court proceedings; and

“(B) whether, at the time of the current offense or arrest, he was on probation, on parole, or on other release pending trial, sentencing, appeal, or completion of sentence for an offense under Federal, State, or local law; and

“(4) the nature and seriousness of the danger to any person or the community that would be posed by the person's release. In considering the conditions of release described in subsection (c)(2)(K) or (c)(2)(L), the judicial officer may upon his own motion, or shall upon the motion of the Government, conduct an inquiry into the source of the property to be designated for potential forfeiture or offered as collateral to secure a bond, and shall decline to accept the designation, or the use as collateral, of property that, because of its source, will not reasonably assure the appearance of the person as required.

“(h) **CONTENTS OF RELEASE ORDER.**—In a release order issued pursuant to the provisions of subsection (b) or (c), the judicial officer shall—

“(1) include a written statement that sets forth all the conditions to which the release is subject, in a manner sufficiently clear and specific to serve as a guide for the person's conduct; and

“(2) advise the person of—

“(A) the penalties for violating a condition of release, including the penalties for committing an offense while on pretrial release;

“(B) the consequences of violating a condition of release, including the immediate issuance of a warrant for the person’s arrest; and

“(C) the provisions of sections 1503 of this title (relating to intimidation of witnesses, jurors, and officers of the court), 1510 (relating to obstruction of criminal investigations), 1512 (tampering with a witness, victim, or an informant), and 1513 (retaliating against a witness, victim, or an informant).

“(i) **CONTENTS OF DETENTION ORDER.**—In a detention order issued pursuant to the provisions of subsection (e), the judicial officer shall—

“(1) include written findings of fact and a written statement of the reasons for the detention;

“(2) direct that the person be committed to the custody of the Attorney General for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal;

“(3) direct that the person be afforded reasonable opportunity for private consultation with his counsel; and

“(4) direct that, on order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility in which the person is confined deliver the person to a United States marshal for the purpose of an appearance in connection with a court proceeding.

The judicial officer may, by subsequent order, permit the temporary release of the person, in the custody of a United States marshal or another appropriate person, to the extent that the judicial officer determines such release to be necessary for preparation of the person’s defense or for another compelling reason.

“(j) **PRESUMPTION OF INNOCENCE.**—Nothing in this section shall be construed as modifying or limiting the presumption of innocence.

“§ 3143. Release or detention of a defendant pending sentence or appeal

18 USC 3143.

“(a) **RELEASE OR DETENTION PENDING SENTENCE.**—The judicial officer shall order that a person who has been found guilty of an offense and who is waiting imposition or execution of sentence, be detained, unless the judicial officer finds by clear and convincing evidence that the person is not likely to flee or pose a danger to the safety of any other person or the community if released pursuant to section 3142 (b) or (c). If the judicial officer makes such a finding, he shall order the release of the person in accordance with the provisions of section 3142 (b) or (c).

“(b) **RELEASE OR DETENTION PENDING APPEAL BY THE DEFENDANT.**—The judicial officer shall order that a person who has been found guilty of an offense and sentenced to a term of imprisonment, and who has filed an appeal or a petition for a writ of certiorari, be detained, unless the judicial officer finds—

“(1) by clear and convincing evidence that the person is not likely to flee or pose a danger to the safety of any other person or the community if released pursuant to section 3142 (b) or (c); and

“(2) that the appeal is not for purpose of delay and raises a substantial question of law or fact likely to result in reversal or an order for a new trial.

If the judicial officer makes such findings, he shall order the release of the person in accordance with the provisions of section 3142 (b) or (c).

“(c) **RELEASE OR DETENTION PENDING APPEAL BY THE GOVERNMENT.**—The judicial officer shall treat a defendant in a case in which an appeal has been taken by the United States pursuant to the provisions of section 3731 of this title, in accordance with the provisions of section 3142, unless the defendant is otherwise subject to a release or detention order.

18 USC 3144.

“§ 3144. Release or detention of a material witness

“If it appears from an affidavit filed by a party that the testimony of a person is material in a criminal proceeding, and if it is shown that it may become impracticable to secure the presence of the person by subpoena, a judicial officer may order the arrest of the person and treat the person in accordance with the provisions of section 3142. No material witness may be detained because of inability to comply with any condition of release if the testimony of such witness can adequately be secured by deposition, and if further detention is not necessary to prevent a failure of justice. Release of a material witness may be delayed for a reasonable period of time until the deposition of the witness can be taken pursuant to the Federal Rules of Criminal Procedure.

18 USC app.

18 USC 3145.

“§ 3145. Review and appeal of a release or detention order

“(a) **REVIEW OF A RELEASE ORDER.**—If a person is ordered released by a magistrate, or by a person other than a judge of a court having original jurisdiction over the offense and other than a Federal appellate court—

“(1) the attorney for the Government may file, with the court having original jurisdiction over the offense, a motion for revocation of the order or amendment of the conditions of release; and

“(2) the person may file, with the court having original jurisdiction over the offense, a motion for amendment of the conditions of release.

The motion shall be determined promptly.

“(b) **REVIEW OF A DETENTION ORDER.**—If a person is ordered detained by a magistrate, or by a person other than a judge of a court having original jurisdiction over the offense and other than a Federal appellate court, the person may file, with the court having original jurisdiction over the offense, a motion for revocation or amendment of the order. The motion shall be determined promptly.

“(c) **APPEAL FROM A RELEASE OR DETENTION ORDER.**—An appeal from a release or detention order, or from a decision denying revocation or amendment of such an order, is governed by the provisions of section 1291 of title 28 and section 3731 of this title. The appeal shall be determined promptly.

28 USC 1291.

18 USC 3146.

“§ 3146. Penalty for failure to appear

“(a) **OFFENSE.**—A person commits an offense if, after having been released pursuant to this chapter—

“(1) he knowingly fails to appear before a court as required by the conditions of his release; or

“(2) he knowingly fails to surrender for service of sentence pursuant to a court order.

“(b) GRADING.—If the person was released—

“(1) in connection with a charge of, or while awaiting sentence, surrender for service of sentence, or appeal or certiorari after conviction, for—

“(A) an offense punishable by death, life imprisonment, or imprisonment for a term of fifteen years or more, he shall be fined not more than \$25,000 or imprisoned for not more than ten years, or both;

“(B) an offense punishable by imprisonment for a term of five or more years, but less than fifteen years, he shall be fined not more than \$10,000 or imprisoned for not more than five years, or both;

“(C) any other felony, he shall be fined not more than \$5,000 or imprisoned for not more than two years, or both; or

“(D) a misdemeanor, he shall be fined not more than \$2,000 or imprisoned for not more than one year, or both; or

“(2) for appearance as a material witness, he shall be fined not more than \$1,000 or imprisoned for not more than one year, or both.

A term of imprisonment imposed pursuant to this section shall be consecutive to the sentence of imprisonment for any other offense.

“(c) AFFIRMATIVE DEFENSE.—It is an affirmative defense to a prosecution under this section that uncontrollable circumstances prevented the person from appearing or surrendering, and that the person did not contribute to the creation of such circumstances in reckless disregard of the requirement that he appear or surrender, and that he appeared or surrendered as soon as such circumstances ceased to exist.

“(d) DECLARATION OF FORFEITURE.—If a person fails to appear before a court as required, and the person executed an appearance bond pursuant to section 3142(b) or is subject to the release condition set forth in section 3142 (c)(2)(K) or (c)(2)(L), the judicial officer may, regardless of whether the person has been charged with an offense under this section, declare any property designated pursuant to that section to be forfeited to the United States.

“§ 3147. Penalty for an offense committed while on release

18 USC 3147.

“A person convicted of an offense committed while released pursuant to this chapter shall be sentenced, in addition to the sentence prescribed for the offense to—

“(1) a term of imprisonment of not less than two years and not more than ten years if the offense is a felony; or

“(2) a term of imprisonment of not less than ninety days and not more than one year if the offense is a misdemeanor.

A term of imprisonment imposed pursuant to this section shall be consecutive to any other sentence of imprisonment.

“§ 3148. Sanctions for violation of a release condition

18 USC 3148.

“(a) AVAILABLE SANCTIONS.—A person who has been released pursuant to the provisions of section 3142, and who has violated a condition of his release, is subject to a revocation of release, an order of detention, and a prosecution for contempt of court.

“(b) REVOCATION OF RELEASE.—The attorney for the Government may initiate a proceeding for revocation of an order of release by

filing a motion with the district court. A judicial officer may issue a warrant for the arrest of a person charged with violating a condition of release, and the person shall be brought before a judicial officer in the district in which his arrest was ordered for a proceeding in accordance with this section. To the extent practicable, a person charged with violating the condition of his release that he not commit a Federal, State, or local crime during the period of release shall be brought before the judicial officer who ordered the release and whose order is alleged to have been violated. The judicial officer shall enter an order of revocation and detention if, after a hearing, the judicial officer—

“(1) finds that there is—

“(A) probable cause to believe that the person has committed a Federal, State, or local crime while on release; or

“(B) clear and convincing evidence that the person has violated any other condition of his release; and

“(2) finds that—

“(A) based on the factors set forth in section 3142(g), there is no condition or combination of conditions of release that will assure that the person will not flee or pose a danger to the safety of any other person or the community; or

“(B) the person is unlikely to abide by any condition or combination of conditions of release.

If there is probable cause to believe that, while on release, the person committed a Federal, State, or local felony, a rebuttable presumption arises that no condition or combination of conditions will assure that the person will not pose a danger to the safety of any other person or the community. If the judicial officer finds that there are conditions of release that will assure that the person will not flee or pose a danger to the safety of any other person or the community, and that the person will abide by such conditions, he shall treat the person in accordance with the provisions of section 3142 and may amend the conditions of release accordingly.

“(c) PROSECUTION FOR CONTEMPT.—The judge may commence a prosecution for contempt, pursuant to the provisions of section 401, if the person has violated a condition of his release.

18 USC 3149.

“§ 3149. Surrender of an offender by a surety

“A person charged with an offense, who is released upon the execution of an appearance bond with a surety, may be arrested by the surety, and if so arrested, shall be delivered promptly to a United States marshal and brought before a judicial officer. The judicial officer shall determine in accordance with the provisions of section 3148(b) whether to revoke the release of the person, and may absolve the surety of responsibility to pay all or part of the bond in accordance with the provisions of Rule 46 of the Federal Rules of Criminal Procedure. The person so committed shall be held in official detention until released pursuant to this chapter or another provision of law.

18 USC app.

18 USC 3150.

“§ 3150. Applicability to a case removed from a State court

“The provisions of this chapter apply to a criminal case removed to a Federal court from a State court.”

(b) Section 3154 of title 18, United States Code, is amended—

(1) in subsection (1), by striking out “and recommend appropriate release conditions for each such person” and inserting in lieu thereof “and, where appropriate, include a recommenda-

tion as to whether such individual should be released or detained and, if release is recommended, recommend appropriate conditions of release"; and

(2) in subsection (2), by striking out "section 3146(e) or section 3147" and inserting in lieu thereof "section 3145".

(c) Section 3156(a) of title 18, United States Code, is amended—

(1) by striking out "3146" and inserting in lieu thereof "3141";

(2) in paragraph (1)—

(A) by striking out "bail or otherwise" and inserting in lieu thereof "detain or"; and

(B) by deleting "and" at the end thereof;

(3) in paragraph (2), by striking out the period at the end and inserting in lieu thereof "; and";

(4) by adding after paragraph (2) the following new paragraphs:

"(3) The term 'felony' means an offense punishable by a maximum term of imprisonment of more than one year; and

"(4) The term 'crime of violence' means—

"(A) an offense that has as an element of the offense the use, attempted use, or threatened use of physical force against the person or property of another; or

"(B) any other offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense."; and

(5) in subsection (b)(1), by striking out "bail or otherwise" and inserting in lieu thereof "detain or".

(d) The item relating to chapter 207 in the analysis of part II of title 18, United States Code, is amended to read as follows:

"207. Release and detention pending judicial proceedings..... 3141".

(e)(1) The caption of chapter 207 is amended to read as follows:

"CHAPTER 207—RELEASE AND DETENTION PENDING JUDICIAL PROCEEDINGS".

(2) The section analysis for chapter 207 is amended by striking out the items relating to sections 3141 through 3151 and inserting in lieu thereof the following:

"3141. Release and detention authority generally.

"3142. Release or detention of a defendant pending trial.

"3143. Release or detention of a defendant pending sentence or appeal.

"3144. Release or detention of a material witness.

"3145. Review and appeal of a release or detention order.

"3146. Penalty for failure to appear.

"3147. Penalty for an offense committed while on release.

"3148. Sanctions for violation of a release condition.

"3149. Surrender of an offender by a surety.

"3150. Applicability to a case removed from a State court."

SEC. 204. Chapter 203 of title 18, United States Code, is amended as follows:

(a) The last sentence of section 3041 is amended by striking out "determining to hold the prisoner for trial" and inserting in lieu thereof "determining, pursuant to the provisions of section 3142 of this title, whether to detain or conditionally release the prisoner prior to trial".

(b) The second paragraph of section 3042 is amended by striking out "imprisoned or admitted to bail" and inserting in lieu thereof

“detained or conditionally released pursuant to section 3142 of this title”.

Repeal.

(c) Section 3043 is repealed.

18 USC 3043.

(d) The following new section is added after section 3061:

18 USC 3062.

“§ 3062. General arrest authority for violation of release conditions

Ante, pp. 1976,
1985.

“A law enforcement officer, who is authorized to arrest for an offense committed in his presence, may arrest a person who is released pursuant to chapter 207 if the officer has reasonable grounds to believe that the person is violating, in his presence, a condition imposed on the person pursuant to section 3142 (c)(2)(D), (c)(2)(E), (c)(2)(H), (c)(2)(I), or (c)(2)(M), or, if the violation involves a failure to remain in a specified institution as required, a condition imposed pursuant to section 3142(c)(2)(J).”.

(e) The section analysis is amended—

(1) by amending the item relating to section 3043 to read as follows:

“3043. Repealed.”; and

(2) by adding the following new item after the item relating to section 3061:

“3062. General arrest authority for violation of release conditions.”.

SEC. 205. Section 3731 of title 18, United States Code, is amended by adding after the second paragraph the following new paragraph:

“An appeal by the United States shall lie to a court of appeals from a decision or order, entered by a district court of the United States, granting the release of a person charged with or convicted of an offense, or denying a motion for revocation of, or modification of the conditions of, a decision or order granting release.”.

SEC. 206. The second paragraph of section 3772 of title 18, United States Code, is amended by striking out “bail” and inserting in lieu thereof “release pending appeal.”

SEC. 207. Section 4282 of title 18, United States Code, is amended—

(a) by striking out “and not admitted to bail” and substituting “and detained pursuant to chapter 207”; and

(b) by striking out “and unable to make bail”.

SEC. 208. Section 636 of title 28, United States Code, is amended by striking out “impose conditions of release under section 3146 of title 18” and inserting in lieu thereof “issue orders pursuant to section 3142 of title 18 concerning release or detention of persons pending trial”.

18 USC app.

SEC. 209. The Federal Rules of Criminal Procedure are amended as follows:

(a) Rule 5(c) is amended by striking out “shall admit the defendant to bail” and inserting in lieu thereof “shall detain or conditionally release the defendant”.

(b) The second sentence of rule 15(a) is amended by striking out “committed for failure to give bail to appear to testify at a trial or hearing” and inserting in lieu thereof “detained pursuant to section 3144 of title 18, United States Code”.

(c) Rule 40(f) is amended to read as follows:

“(f) RELEASE OR DETENTION.—If a person was previously detained or conditionally released, pursuant to chapter 207 of title 18, United States Code, in another district where a warrant, information, or

Ante, pp. 1976,
1985.

indictment issued, the Federal magistrate shall take into account the decision previously made and the reasons set forth therefor, if any, but will not be bound by that decision. If the Federal magistrate amends the release or detention decision or alters the conditions of release, he shall set forth the reasons for his action in writing.”.

(d) Rule 46 is amended—

(1) in subdivision (a), by striking out “§ 3146, § 3148, or § 3149” and inserting in lieu thereof “§§ 3142 and 3144”;

(2) in subdivision (c), by striking out “3148” and inserting in lieu thereof “3143”;

(3) by amending subdivision (e)(2) to read as follows:

“(2) **SETTING ASIDE.**—The court may direct that a forfeiture be set aside in whole or in part, upon such conditions as the court may impose, if a person released upon execution of an appearance bond with a surety is subsequently surrendered by the surety into custody or if it otherwise appears that justice does not require the forfeiture.”; and

(4) by adding the following new subdivision at the end thereof:

“(h) **FORFEITURE OF PROPERTY.**—

“Nothing in this rule or in chapter 207 of title 18, United States Code, shall prevent the court from disposing of any charge by entering an order directing forfeiture of property pursuant to 18 U.S.C. 3142(c)(2)(K) if the value of the property is an amount that would be an appropriate sentence after conviction of the offense charged and if such forfeiture is authorized by statute or regulation.”.

(e) Rule 54(b)(3) is amended by striking out “under 18 U.S.C. § 3043, and”.

SEC. 210. Rule 9(c) of the Federal Rules of Appellate Procedure is amended by striking out “3148” and inserting in lieu thereof “3143”, and following the word “community”, inserting “and that the appeal is not for purpose of delay and raises a substantial question of law or fact likely to result in reversal or in an order for a new trial”.

CHAPTER II—SENTENCING REFORM

SEC. 211. This chapter may be cited as the “Sentencing Reform Act of 1984”.

SEC. 212. (a) Title 18 of the United States Code is amended by—

(1) redesignating sections 3577, 3578, 3579, 3580, 3611, 3612, 3615, 3617, 3618, 3619, 3620, and 3656 as sections 3661, 3662, 3663, 3664, 3665, 3666, 3667, 3668, 3669, 3670, 3671, and 3672 of a new chapter 232 of title 18 of the United States Code, respectively;

(2) repealing chapters 227, 229, and 231 and substituting the following new chapters:

“CHAPTER 227—SENTENCES

“Subchapter

“A. General Provisions	3551
“B. Probation	3561
“C. Fines	3571
“D. Imprisonment	3581

18 USC app.

Ante, pp 1976, 1985.

18 USC app.

28 USC app.

Sentencing Reform Act of 1984.
18 USC 3551 note.

Post, p. 2175.

Repeals.
18 USC 3561 *et seq.*, 3611 *et seq.*, 3651 *et seq.*

“SUBCHAPTER A—GENERAL PROVISIONS

“Sec.

“3551. Authorized sentences.

“3552. Presentence reports.

“3553. Imposition of a sentence.

“3554. Order of criminal forfeiture.

“3555. Order of notice to victims.

“3556. Order of restitution.

“3557. Review of a sentence.

“3558. Implementation of a sentence.

“3559. Sentencing classification of offenses.

“SUBCHAPTER A—GENERAL PROVISIONS

18 USC 3551.

“§ 3551. Authorized sentences

“(a) IN GENERAL.—Except as otherwise specifically provided, a defendant who has been found guilty of an offense described in any Federal statute, other than an Act of Congress applicable exclusively in the District of Columbia or the Uniform Code of Military Justice, shall be sentenced in accordance with the provisions of this chapter so as to achieve the purposes set forth in subparagraphs (A) through (D) of section 3553(a)(2) to the extent that they are applicable in light of all the circumstances of the case.

“(b) INDIVIDUALS.—An individual found guilty of an offense shall be sentenced, in accordance with the provisions of section 3553, to—

Post, p. 1992.

“(1) a term of probation as authorized by subchapter B;

Post, p. 1995.

“(2) a fine as authorized by subchapter C; or

Post, p. 1998.

“(3) a term of imprisonment as authorized by subchapter D.

A sentence to pay a fine may be imposed in addition to any other sentence. A sanction authorized by section 3554, 3555, or 3556 may be imposed in addition to the sentence required by this subsection.

“(c) ORGANIZATIONS.—An organization found guilty of an offense shall be sentenced, in accordance with the provisions of section 3553, to—

“(1) a term of probation as authorized by subchapter B; or

“(2) a fine as authorized by subchapter C.

A sentence to pay a fine may be imposed in addition to a sentence to probation. A sanction authorized by section 3554, 3555, or 3556 may be imposed in addition to the sentence required by this subsection.

18 USC 3552.

“§ 3552. Presentence reports

“(a) PRESENTENCE INVESTIGATION AND REPORT BY PROBATION OFFICER.—A United States probation officer shall make a presentence investigation of a defendant that is required pursuant to the provisions of Rule 32(c) of the Federal Rules of Criminal Procedure, and shall, before the imposition of sentence, report the results of the investigation to the court.

18 USC app.

“(b) PRESENTENCE STUDY AND REPORT BY BUREAU OF PRISONS.—If the court, before or after its receipt of a report specified in subsection (a) or (c), desires more information than is otherwise available to it as a basis for determining the sentence to be imposed on a defendant found guilty of a misdemeanor or felony, it may order a study of the defendant. The study shall be conducted in the local community by qualified consultants unless the sentencing judge finds that there is a compelling reason for the study to be done by the Bureau of Prisons or there are no adequate professional resources available in the local community to perform the study. The period of the study shall take no more than sixty days. The order shall specify the additional information that the court needs before

determining the sentence to be imposed. Such an order shall be treated for administrative purposes as a provisional sentence of imprisonment for the maximum term authorized by section 3581(b) for the offense committed. The study shall inquire into such matters as are specified by the court and any other matters that the Bureau of Prisons or the professional consultants believe are pertinent to the factors set forth in section 3553(a). The period of the study may, in the discretion of the court, be extended for an additional period of not more than sixty days. By the expiration of the period of the study, or by the expiration of any extension granted by the court, the United States marshal shall return the defendant to the court for final sentencing. The Bureau of Prisons or the professional consultants shall provide the court with a written report of the pertinent results of the study and make to the court whatever recommendations the Bureau or the consultants believe will be helpful to a proper resolution of the case. The report shall include recommendations of the Bureau or the consultants concerning the guidelines and policy statements, promulgated by the Sentencing Commission pursuant to 28 U.S.C. 994(a), that they believe are applicable to the defendant's case. After receiving the report and the recommendations, the court shall proceed finally to sentence the defendant in accordance with the sentencing alternatives and procedures available under this chapter.

Expiration date.

Post, p. 2019.

“(c) **PRESENTENCE EXAMINATION AND REPORT BY PSYCHIATRIC OR PSYCHOLOGICAL EXAMINERS.**—If the court, before or after its receipt of a report specified in subsection (a) or (b) desires more information than is otherwise available to it as a basis for determining the mental condition of the defendant, it may order that the defendant undergo a psychiatric or psychological examination and that the court be provided with a written report of the results of the examination pursuant to the provisions of section 4247.

“(d) **DISCLOSURE OF PRESENTENCE REPORTS.**—The court shall assure that a report filed pursuant to this section is disclosed to the defendant, the counsel for the defendant, and the attorney for the Government at least ten days prior to the date set for sentencing, unless this minimum period is waived by the defendant.

“§ 3553. **Imposition of a sentence**

18 USC 3553.

“(a) **FACTORS TO BE CONSIDERED IN IMPOSING A SENTENCE.**—The court shall impose a sentence sufficient, but not greater than necessary, to comply with the purposes set forth in paragraph (2) of this subsection. The court, in determining the particular sentence to be imposed, shall consider—

“(1) the nature and circumstances of the offense and the history and characteristics of the defendant;

“(2) the need for the sentence imposed—

“(A) to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense;

“(B) to afford adequate deterrence to criminal conduct;

“(C) to protect the public from further crimes of the defendant; and

“(D) to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner;

“(3) the kinds of sentences available;

“(4) the kinds of sentence and the sentencing range established for the applicable category of offense committed by the

Post, p. 2019.

applicable category of defendant as set forth in the guidelines that are issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)(1) and that are in effect on the date the defendant is sentenced;

“(5) any pertinent policy statement issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)(2) that is in effect on the date the defendant is sentenced; and

“(6) the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct.

“(b) APPLICATION OF GUIDELINES IN IMPOSING A SENTENCE.—The court shall impose a sentence of the kind, and within the range, referred to in subsection (a)(4) unless the court finds that an aggravating or mitigating circumstance exists that was not adequately taken into consideration by the Sentencing Commission in formulating the guidelines and that should result in a sentence different from that described.

“(c) STATEMENT OF REASONS FOR IMPOSING A SENTENCE.—The court, at the time of sentencing, shall state in open court the reasons for its imposition of the particular sentence, and, if the sentence—

“(1) is of the kind, and within the range, described in subsection (a)(4), the reason for imposing a sentence at a particular point within the range; or

“(2) is not of the kind, or is outside the range, described in subsection (a)(4), the specific reason for the imposition of a sentence different from that described.

If the sentence does not include an order of restitution, the court shall include in the statement the reason therefor. The clerk of the court shall provide a transcription of the court's statement of reasons to the Probation System, and, if the sentence includes a term of imprisonment, to the Bureau of Prisons.

“(d) PRESENTENCE PROCEDURE FOR AN ORDER OF NOTICE OR RESTITUTION.—Prior to imposing an order of notice pursuant to section 3555, or an order of restitution pursuant to section 3556, the court shall give notice to the defendant and the Government that it is considering imposing such an order. Upon motion of the defendant or the Government, or on its own motion, the court shall—

“(1) permit the defendant and the Government to submit affidavits and written memoranda addressing matters relevant to the imposition of such an order;

“(2) afford counsel an opportunity in open court to address orally the appropriateness of the imposition of such an order; and

“(3) include in its statement of reasons pursuant to subsection (c) specific reasons underlying its determinations regarding the nature of such an order.

Upon motion of the defendant or the Government, or on its own motion, the court may in its discretion employ any additional procedures that it concludes will not unduly complicate or prolong the sentencing process.

18 USC 3554.

“§ 3554. Order of criminal forfeiture

“The court, in imposing a sentence on a defendant who has been found guilty of an offense described in section 1962 of this title or in title II or III of the Comprehensive Drug Abuse Prevention and Control Act of 1970 shall order, in addition to the sentence that is imposed pursuant to the provisions of section 3551, that the defend-

21 USC 801, 951.

ant forfeit property to the United States in accordance with the provisions of section 1963 of this title or section 413 of the Comprehensive Drug Abuse and Control Act of 1970.

Post, p. 2044.

“§ 3555. Order of notice to victims

18 USC 3555.

“The court, in imposing a sentence on a defendant who has been found guilty of an offense involving fraud or other intentionally deceptive practices, may order, in addition to the sentence that is imposed pursuant to the provisions of section 3551, that the defendant give reasonable notice and explanation of the conviction, in such form as the court may approve, to the victims of the offense. The notice may be ordered to be given by mail, by advertising in designated areas or through designated media, or by other appropriate means. In determining whether to require the defendant to give such notice, the court shall consider the factors set forth in section 3553(a) to the extent that they are applicable and shall consider the cost involved in giving the notice as it relates to the loss caused by the offense, and shall not require the defendant to bear the costs of notice in excess of \$20,000.

“§ 3556. Order of restitution

18 USC 3556.

“The court, in imposing a sentence on a defendant who has been found guilty of an offense under this title, or an offense under section 902 (h), (i), (j), or (n) of the Federal Aviation Act of 1958 (49 U.S.C. 1472), may order, in addition to the sentence that is imposed pursuant to the provisions of section 3551, that the defendant make restitution to any victim of the offense in accordance with the provisions of sections 3663 and 3664.

49 USC app.
1472.

“§ 3557. Review of a sentence

18 USC 3557.

“The review of a sentence imposed pursuant to section 3551 is governed by the provisions of section 3742.

Post, p. 2011.

“§ 3558. Implementation of a sentence

18 USC 3558.

“The implementation of a sentence imposed pursuant to section 3551 is governed by the provisions of chapter 229.

Post, p. 2001.

“§ 3559. Sentencing classification of offenses

18 USC 3559.

“(a) CLASSIFICATION.—An offense that is not specifically classified by a letter grade in the section defining it, is classified—

“(1) if the maximum term of imprisonment authorized is—

“(A) life imprisonment, or if the maximum penalty is death, as a Class A felony;

“(B) twenty years or more, as a Class B felony;

“(C) less than twenty years but ten or more years, as a Class C felony;

“(D) less than ten years but five or more years, as a Class D felony;

“(E) less than five years but more than one year, as a Class E felony;

“(F) one year or less but more than six months, as a Class A misdemeanor;

“(G) six months or less but more than thirty days, as a Class B misdemeanor;

“(H) thirty days or less but more than five days, as a Class C misdemeanor; or

“(I) five days or less, or if no imprisonment is authorized, as an infraction.

“(b) **EFFECT OF CLASSIFICATION.**—An offense classified under subsection (a) carries all the incidents assigned to the applicable letter designation except that:

“(1) the maximum fine that may be imposed is the fine authorized by the statute describing the offense, or by this chapter, whichever is the greater; and

“(2) the maximum term of imprisonment is the term authorized by the statute describing the offense.

“SUBCHAPTER B—PROBATION

“Sec.

“3561. Sentence of probation.

“3562. Imposition of a sentence of probation.

“3563. Conditions of probation.

“3564. Running of a term of probation.

“3565. Revocation of probation.

“3566. Implementation of a sentence of probation.

“SUBCHAPTER B—PROBATION

18 USC 3561.

“§ 3561. Sentence of probation

“(a) **IN GENERAL.**—A defendant who has been found guilty of an offense may be sentenced to a term of probation unless—

“(1) the offense is a Class A or Class B felony;

“(2) the offense is an offense for which probation has been expressly precluded; or

“(3) the defendant is sentenced at the same time to a term of imprisonment for the same or a different offense.

The liability of a defendant for any unexecuted fine or other punishment imposed as to which probation is granted shall be fully discharged by the fulfillment of the terms and conditions of probation.

“(b) **AUTHORIZED TERMS.**—The authorized terms of probation are—

“(1) for a felony, not less than one nor more than five years;

“(2) for a misdemeanor, not more than five years; and

“(3) for an infraction, not more than one year.

18 USC 3562.

“§ 3562. Imposition of a sentence of probation

“(a) **FACTORS TO BE CONSIDERED IN IMPOSING A TERM OF PROBATION.**—The court, in determining whether to impose a term of probation, and, if a term of probation is to be imposed, in determining the length of the term and the conditions of probation, shall consider the factors set forth in section 3553(a) to the extent that they are applicable.

“(b) **EFFECT OF FINALITY OF JUDGMENT.**—Notwithstanding the fact that a sentence of probation can subsequently be—

“(1) modified or revoked pursuant to the provisions of section 3564 or 3565;

“(2) corrected pursuant to the provisions of rule 35 and section 3742; or

“(3) appealed and modified, if outside the guideline range, pursuant to the provisions of section 3742; a judgment of conviction that includes such a sentence constitutes a final judgment for all other purposes.

Post, p. 2015.

Post, p. 2011.

“§ 3563. Conditions of probation

18 USC 3563.

“(a) MANDATORY CONDITIONS.—The court shall provide, as an explicit condition of a sentence of probation—

“(1) for a felony, a misdemeanor, or an infraction, that the defendant not commit another Federal, State, or local crime during the term of probation; and

“(2) for a felony, that the defendant also abide by at least one condition set forth in subsection (b)(2), (b)(3), or (b)(13).

If the court has imposed and ordered execution of a fine and placed the defendant on probation, payment of the fine or adherence to the court-established installment schedule shall be a condition of the probation.

“(b) DISCRETIONARY CONDITIONS.—The court may provide, as further conditions of a sentence of probation, to the extent that such conditions are reasonably related to the factors set forth in section 3553 (a)(1) and (a)(2) and to the extent that such conditions involve only such deprivations of liberty or property as are reasonably necessary for the purposes indicated in section 3553(a)(2), that the defendant—

“(1) support his dependents and meet other family responsibilities;

“(2) pay a fine imposed pursuant to the provisions of subchapter C;

“(3) make restitution to a victim of the offense pursuant to the provisions of section 3556;

“(4) give to the victims of the offense the notice ordered pursuant to the provisions of section 3555;

“(5) work conscientiously at suitable employment or pursue conscientiously a course of study or vocational training that will equip him for suitable employment;

“(6) refrain, in the case of an individual, from engaging in a specified occupation, business, or profession bearing a reasonably direct relationship to the conduct constituting the offense, or engage in such a specified occupation, business, or profession only to a stated degree or under stated circumstances;

“(7) refrain from frequenting specified kinds of places or from associating unnecessarily with specified persons;

“(8) refrain from excessive use of alcohol, or any use of a narcotic drug or other controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802), without a prescription by a licensed medical practitioner;

“(9) refrain from possessing a firearm, destructive device, or other dangerous weapon;

“(10) undergo available medical, psychiatric, or psychological treatment, including treatment for drug or alcohol dependency, as specified by the court, and remain in a specified institution if required for that purpose;

“(11) remain in the custody of the Bureau of Prisons during nights, weekends, or other intervals of time, totaling no more than the lesser of one year or the term of imprisonment authorized for the offense in section 3581(b), during the first year of the term of probation;

“(12) reside at, or participate in the program of, a community corrections facility for all or part of the term of probation;

“(13) work in community service as directed by the court;

“(14) reside in a specified place or area, or refrain from residing in a specified place or area;

“(15) remain within the jurisdiction of the court, unless granted permission to leave by the court or a probation officer;

“(16) report to a probation officer as directed by the court or the probation officer;

“(17) permit a probation officer to visit him at his home or elsewhere as specified by the court;

“(18) answer inquiries by a probation officer and notify the probation officer promptly of any change in address or employment;

“(19) notify the probation officer promptly if arrested or questioned by a law enforcement officer; or

“(20) satisfy such other conditions as the court may impose.

“(c) MODIFICATIONS OF CONDITIONS.—The court may, after a hearing, modify, reduce, or enlarge the conditions of a sentence of probation at any time prior to the expiration or termination of the term of probation, pursuant to the provisions applicable to the initial setting of the conditions of probation.

“(d) WRITTEN STATEMENT OF CONDITIONS.—The court shall direct that the probation officer provide the defendant with a written statement that sets forth all the conditions to which the sentence is subject, and that is sufficiently clear and specific to serve as a guide for the defendant's conduct and for such supervision as is required.

18 USC 3564.

“§ 3564. Running of a term of probation

“(a) COMMENCEMENT.—A term of probation commences on the day that the sentence of probation is imposed, unless otherwise ordered by the court.

“(b) CONCURRENCE WITH OTHER SENTENCES.—Multiple terms of probation, whether imposed at the same time or at different times, run concurrently with each other. A term of probation runs concurrently with any Federal, State, or local term of probation, or supervised release, or parole for another offense to which the defendant is subject or becomes subject during the term of probation, except that it does not run during any period in which the defendant is imprisoned for a period of at least thirty consecutive days in connection with a conviction for a Federal, State, or local crime.

“(c) EARLY TERMINATION.—The court, after considering the factors set forth in section 3553(a) to the extent that they are applicable, may terminate a term of probation previously ordered and discharge the defendant at any time in the case of a misdemeanor or an infraction or at any time after the expiration of one year of probation in the case of a felony, if it is satisfied that such action is warranted by the conduct of the defendant and the interest of justice.

“(d) EXTENSION.—The court may, after a hearing, extend a term of probation, if less than the maximum authorized term was previously imposed, at any time prior to the expiration or termination of the term of probation, pursuant to the provisions applicable to the initial setting of the term of probation.

“(e) SUBJECT TO REVOCATION.—A sentence of probation remains conditional and subject to revocation until its expiration or termination.

“§ 3565. Revocation of probation*Post*, p. 2039.

18 USC 3565.

“(a) CONTINUATION OR REVOCATION.—If the defendant violates a condition of probation at any time prior to the expiration or termination of the term of probation, the court may, after a hearing pursuant to Rule 32.1 of the Federal Rules of Criminal Procedure, and after considering the factors set forth in section 3553(a) to the extent that they are applicable—

18 USC app.

“(1) continue him on probation, with or without extending the term of modifying or enlarging the conditions; or

“(2) revoke the sentence of probation and impose any other sentence that was available under subchapter A at the time of the initial sentencing.

“(b) DELAYED REVOCATION.—The power of the court to revoke a sentence of probation for violation of a condition of probation, and to impose another sentence, extends beyond the expiration of the term of probation for any period reasonably necessary for the adjudication of matters arising before its expiration if, prior to its expiration, a warrant or summons has been issued on the basis of an allegation of such a violation.

“§ 3566. Implementation of a sentence of probation

18 USC 3566.

“The implementation of a sentence of probation is governed by the provisions of subchapter A of chapter 229.

Post, p. 2001.**“SUBCHAPTER C—FINES****“Sec.**

“3571. Sentence of fine.

“3572. Imposition of a sentence of fine.

“3573. Modification or remission of fine.

“3574. Implementation of a sentence of fine.

“SUBCHAPTER C—FINES**“§ 3571. Sentence of fine**

18 USC 3571.

“(a) IN GENERAL.—A defendant who has been found guilty of an offense may be sentenced to pay a fine.

“(b) AUTHORIZED FINES.—Except as otherwise provided in this chapter, the authorized fines are—

“(1) if the defendant is an individual—

“(A) for a felony, or for a misdemeanor resulting in the loss of human life, not more than \$250,000;

“(B) for any other misdemeanor, not more than \$25,000; and

“(C) for an infraction, not more than \$1,000; and

“(2) if the defendant is an organization—

“(A) for a felony, or for a misdemeanor resulting in the loss of human life, not more than \$500,000;

“(B) for any other misdemeanor, not more than \$100,000; and

“(C) for an infraction, not more than \$10,000.

“§ 3572. Imposition of a sentence of fine

18 USC 3572.

“(a) FACTORS TO BE CONSIDERED IN IMPOSING FINE.—The court, in determining whether to impose a fine, and, if a fine is to be imposed, in determining the amount of the fine, the time for payment, and the method of payment, shall consider—

“(1) the factors set forth in section 3553(a), to the extent they are applicable, including, with regard to the characteristics of the defendant under section 3553(a), the ability of the defendant to pay the fine in view of the defendant’s income, earning capacity, and financial resources and, if the defendant is an organization, the size of the organization;

“(2) the nature of the burden that payment of the fine will impose on the defendant, and on any person who is financially dependent upon the defendant, relative to the burden which alternative punishments would impose;

“(3) any restitution or reparation made by the defendant to the victim of the offense, and any obligation imposed upon the defendant to make such restitution or reparation to the victim of the offense;

“(4) if the defendant is an organization, any measure taken by the organization to discipline its employees or agents responsible for the offense or to insure against a recurrence of such an offense; and

“(5) any other pertinent equitable consideration.

“(b) **LIMIT ON AGGREGATE OF MULTIPLE FINES.**—Except as otherwise expressly provided, the aggregate of fines that a court may impose on a defendant at the same time for different offenses that arise from a common scheme or plan, and that do not cause separable or distinguishable kinds of harm or damage, is twice the amount impossible for the most serious offense.

“(c) **EFFECT OF FINALITY OF JUDGMENT.**—Notwithstanding the fact that a sentence to pay a fine can subsequently be—

“(1) modified or remitted pursuant to the provisions of section 3573;

“(2) corrected pursuant to the provisions of rule 35 and section 3742; or

“(3) appealed and modified, if outside the guideline range, pursuant to the provisions of section 3742; a judgment of conviction that includes such a sentence constitutes a final judgment for all other purposes.

“(d) **TIME AND METHOD OF PAYMENT.**—Payment of a fine is due immediately unless the court, at the time of sentencing—

“(1) requires payment by a date certain; or

“(2) establishes an installment schedule, the specific terms of which shall be fixed by the court.

“(e) **ALTERNATIVE SENTENCE PRECLUDED.**—At the time a defendant is sentenced to pay a fine, the court may not impose an alternative sentence to be served in the event that the fine is not paid.

“(f) **INDIVIDUAL RESPONSIBILITY FOR PAYMENT.**—If a fine is imposed on an organization, it is the duty of each individual authorized to make disbursement of the assets of the organization to pay the fine from assets of the organization. If a fine is imposed on an agent or shareholder of an organization, the fine shall not be paid, directly or indirectly, out of the assets of the organization, unless the court finds that such payment is expressly permissible under applicable State law.

“(g) **RESPONSIBILITY TO PROVIDE CURRENT ADDRESS.**—At the time of imposition of the fine, the court shall order the person fined to provide the Attorney General with a current mailing address for the entire period that any part of the fine remains unpaid. Failure to provide the Attorney General with a current address or a change in address shall be punishable as a contempt of court.

Post, p. 2015.
Post, p. 2011.

“(h) **STAY OF FINE PENDING APPEALS.**—Unless exceptional circumstances exist, if a sentence to pay a fine is stayed pending appeal, the court granting the stay shall include in such stay—

“(1) a requirement that the defendant, pending appeal, to deposit the entire fine amount, or the amount due under an installment schedule, during the pendency of an appeal, in an escrow account in the registry of the district court, or to give bond for the payment thereof; or

“(2) an order restraining the defendant from transferring or dissipating assets found to be sufficient, if sold, to meet the defendant’s fine obligation.

“(i) **DELINQUENT FINE.**—A fine is delinquent if any portion of such fine is not paid within thirty days of when it is due, including any fines to be paid pursuant to an installment schedule.

“(j) **DEFAULT.**—A fine is in default if any portion of such fine is more than ninety days delinquent. When a criminal fine is in default, the entire amount is due with thirty days of notification of the default, notwithstanding any installment schedule.

“§ 3573. Modification or remission of fine

18 USC 3573.

“(a) **PETITION FOR MODIFICATION OR REMISSION.**—A defendant who has been sentenced to pay a fine, and who—

“(1) can show a good faith effort to comply with the terms of the sentence and concerning whom the circumstances no longer exist that warranted the imposition of the fine in the amount imposed or payment by the installment schedule, may at any time petition the court for—

“(A) an extension of the installment schedule, not to exceed two years except in case of incarceration or special circumstances; or

“(B) a remission of all or part of the unpaid portion including interest and penalties; or

“(2) has voluntarily made restitution or reparation to the victim of the offense, may at any time petition the court for a remission of the unpaid portion of the fine in an amount not exceeding the amount of such restitution or reparation.

Any petition filed pursuant to this subsection shall be filed in the court in which sentence was originally imposed, unless that court transfers jurisdiction to another court. The petitioner shall notify the Attorney General that the petition has been filed within ten working days after filing. For the purposes of clause (1), unless exceptional circumstances exist, a person may be considered to have made a good faith effort to comply with the terms of the sentence only after payment of a reasonable portion of the fine.

“(b) **ORDER OF MODIFICATION OR REMISSION.**—If, after the filing of a petition as provided in subsection (a), the court finds that the circumstances warrant relief, the court may enter an appropriate order, in which case it shall provide the Attorney General with a copy of such order.

“§ 3574. Implementation of a sentence of fine

18 USC 3574.

“The implementation of a sentence to pay a fine is governed by the provisions of subchapter B of chapter 229.

Post, p. 2004.

"SUBCHAPTER D—IMPRISONMENT

"Sec.

"3581. Sentence of imprisonment.

"3582. Imposition of a sentence of imprisonment.

"3583. Inclusion of a term of supervised release after imprisonment.

"3584. Multiple sentences of imprisonment.

"3585. Calculation of a term of imprisonment.

"3586. Implementation of a sentence of imprisonment.

"SUBCHAPTER D—IMPRISONMENT

18 USC 3581.

"§ 3581. Sentence of imprisonment

"(a) **IN GENERAL.**—A defendant who has been found guilty of an offense may be sentenced to a term of imprisonment.

"(b) **AUTHORIZED TERMS.**—The authorized terms of imprisonment are—

"(1) for a Class A felony, the duration of the defendant's life or any period of time;

"(2) for a Class B felony, not more than twenty-five years;

"(3) for a Class C felony, not more than twelve years;

"(4) for a Class D felony, not more than six years;

"(5) for a Class E felony, not more than three years;

"(6) for a Class A misdemeanor, not more than one year;

"(7) for a Class B misdemeanor, not more than six months;

"(8) for a Class C misdemeanor, not more than thirty days;

and

"(9) for an infraction, not more than five days.

18 USC 3582.

"§ 3582. Imposition of a sentence of imprisonment

"(a) **FACTORS TO BE CONSIDERED IN IMPOSING A TERM OF IMPRISONMENT.**—The court, in determining whether to impose a term of imprisonment, and, if a term of imprisonment is to be imposed, in determining the length of the term, shall consider the factors set forth in section 3553(a) to the extent that they are applicable, recognizing that imprisonment is not an appropriate means of promoting correction and rehabilitation. In determining whether to make a recommendation concerning the type of prison facility appropriate for the defendant, the court shall consider any pertinent policy statements issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)(2).

Post, p. 2019.

"(b) **EFFECT OF FINALITY OF JUDGMENT.**—Notwithstanding the fact that a sentence to imprisonment can subsequently be—

"(1) modified pursuant to the provisions of subsection (c);

Post, p. 2015.

"(2) corrected pursuant to the provisions of rule 35 and section

Post, p. 2011.

3742; or

"(3) appealed and modified, if outside the guideline range, pursuant to the provisions of section 3742;

a judgment of conviction that includes such a sentence constitutes a final judgment for all other purposes.

"(c) **MODIFICATION OF AN IMPOSED TERM OF IMPRISONMENT.**—The court may not modify a term of imprisonment once it has been imposed except that—

"(1) in any case—

"(A) the court, upon motion of the Director of the Bureau of Prisons, may reduce the term of imprisonment, after considering the factors set forth in section 3553(a) to the

extent that they are applicable, if it finds that extraordinary and compelling reasons warrant such a reduction and that such a reduction is consistent with applicable policy statements issued by the Sentencing Commission; and

“(B) the court may modify an imposed term of imprisonment to the extent otherwise expressly permitted by statute or by Rule 35 of the Federal Rules of Criminal Procedure; and

Post, p. 2015.

“(2) in the case of a defendant who has been sentenced to a term of imprisonment based on a sentencing range that has subsequently been lowered by the Sentencing Commission pursuant to 28 U.S.C. 994(n), upon motion of the defendant or the Director of the Bureau of Prisons, or on its own motion, the court may reduce the term of imprisonment, after considering the factors set forth in section 3553(a) to the extent that they are applicable, if such a reduction is consistent with applicable policy statements issued by the Sentencing Commission.

Post, p. 2019.

“(d) **INCLUSION OF AN ORDER TO LIMIT CRIMINAL ASSOCIATION OF ORGANIZED CRIME AND DRUG OFFENDERS.**—The court, in imposing a sentence to a term of imprisonment upon a defendant convicted of a felony set forth in chapter 95 (racketeering) or 96 (racketeer influenced and corrupt organizations) of this title or in the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 801 et seq.), or at any time thereafter upon motion by the Director of the Bureau of Prisons or a United States attorney, may include as a part of the sentence an order that requires that the defendant not associate or communicate with a specified person, other than his attorney, upon a showing of probable cause to believe that association or communication with such person is for the purpose of enabling the defendant to control, manage, direct, finance, or otherwise participate in an illegal enterprise.

“§ 3583. Inclusion of a term of supervised release after imprisonment

18 USC 3583.

“(a) **IN GENERAL.**—The court, in imposing a sentence to a term of imprisonment for a felony or a misdemeanor, may include as a part of the sentence a requirement that the defendant be placed on a term of supervised release after imprisonment.

“(b) **AUTHORIZED TERMS OF SUPERVISED RELEASE.**—The authorized terms of supervised release are—

“(1) for a Class A or Class B felony, not more than three years;

“(2) for a Class C or Class D felony, not more than two years;

and

“(3) for a Class E felony, or for a misdemeanor, not more than one year.

“(c) **FACTORS TO BE CONSIDERED IN INCLUDING A TERM OF SUPERVISED RELEASE.**—The court, in determining whether to include a term of supervised release, and, if a term of supervised release is to be included, in determining the length of the term and the conditions of supervised release, shall consider the factors set forth in section 3553 (a)(1), (a)(2)(B), (a)(2)(D), (a)(4), (a)(5), and (a)(6).

“(d) **CONDITIONS OF SUPERVISED RELEASE.**—The court shall order, as an explicit condition of supervised release, that the defendant not commit another Federal, State, or local crime during the term of supervision. The court may order, as a further condition of supervised release, to the extent that such condition—

“(1) is reasonably related to the factors set forth in section 3553 (a)(1), (a)(2)(B), and (a)(2)(D);

“(2) involves no greater deprivation of liberty than is reasonably necessary for the purposes set forth in section 3553 (a)(2)(B) and (a)(2)(D); and

Post, p. 2019. “(3) is consistent with any pertinent policy statements issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a); any condition set forth as a discretionary condition of probation in section 3563 (b)(1) through (b)(10) and (b)(12) through (b)(19), and any other condition it considers to be appropriate. If an alien defendant is subject to deportation, the court may provide, as a condition of supervised release, that he be deported and remain outside the United States, and may order that he be delivered to a duly authorized immigration official for such deportation.

“(e) **MODIFICATION OF TERM OR CONDITIONS.**—The court may, after considering the factors set forth in section 3553 (a)(1), (a)(2)(B), (a)(2)(D), (a)(4), (a)(5), and (a)(6)—

“(1) terminate a term of supervised release previously ordered and discharge the person released at any time after the expiration of one year of supervised release, if it is satisfied that such action is warranted by the conduct of the person released and the interest of justice;

“(2) after a hearing, extend a term of supervised release if less than the maximum authorized term was previously imposed, and may modify, reduce, or enlarge the conditions of supervised release, at any time prior to the expiration or termination of the term of supervised release, pursuant to the provisions applicable to the initial setting of the terms and conditions of post-release supervision; or

“(3) treat a violation of a condition of a term of supervised release as contempt of court pursuant to section 401(3) of this title.

“(f) **WRITTEN STATEMENT OF CONDITIONS.**—The court shall direct that the probation officer provide the defendant with a written statement that sets forth all the conditions to which the term of supervised release is subject, and that is sufficiently clear and specific to serve as a guide for the defendant’s conduct and for such supervision as is required.

18 USC 3584.

“§ 3584. Multiple sentences of imprisonment

“(a) **IMPOSITION OF CONCURRENT OR CONSECUTIVE TERMS.**—If multiple terms of imprisonment are imposed on a defendant at the same time, or if a term of imprisonment is imposed on a defendant who is already subject to an undischarged term of imprisonment, the terms may run concurrently or consecutively, except that the terms may not run consecutively for an attempt and for another offense that was the sole objective of the attempt. Multiple terms of imprisonment imposed at the same time run concurrently unless the court orders or the statute mandates that the terms are to run consecutively. Multiple terms of imprisonment imposed at different times run consecutively unless the court orders that the terms are to run concurrently.

“(b) **FACTORS TO BE CONSIDERED IN IMPOSING CONCURRENT OR CONSECUTIVE TERMS.**—The court, in determining whether the terms imposed are to be ordered to run concurrently or consecutively, shall consider, as to each offense for which a term of imprisonment is being imposed, the factors set forth in section 3553(a).

“(c) **TREATMENT OF MULTIPLE SENTENCE AS AN AGGREGATE.**—Multiple terms of imprisonment ordered to run consecutively or concur-

rently shall be treated for administrative purposes as a single, aggregate term of imprisonment.

“§ 3585. Calculation of a term of imprisonment

18 USC 3585.

“(a) **COMMENCEMENT OF SENTENCE.**—A sentence to a term of imprisonment commences on the date the defendant is received in custody awaiting transportation to, or arrives voluntarily to commence service of sentence at, the official detention facility at which the sentence is to be served.

“(b) **CREDIT FOR PRIOR CUSTODY.**—A defendant shall be given credit toward the service of a term of imprisonment for any time he has spent in official detention prior to the date the sentence commences—

“(1) as a result of the offense for which the sentence was imposed; or

“(2) as a result of any other charge for which the defendant was arrested after the commission of the offense for which the sentence was imposed;

that has not been credited against another sentence.

“§ 3586. Implementation of a sentence of imprisonment

18 USC 3586.

“The implementation of a sentence of imprisonment is governed by the provisions of subchapter C of chapter 229 and, if the sentence includes a term of supervised release, by the provisions of subchapter A of chapter 229.

Post, p. 2007.

**“CHAPTER 229—POSTSENTENCE
ADMINISTRATION**

“Subchapter

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“SUBCHAPTER A—PROBATION

“Sec.

“3601. Supervision of probation.

“3602. Appointment of probation officers.

“3603. Duties of probation officers.

“3604. Transportation of a probationer.

“3605. Transfer of jurisdiction over a probationer.

“3606. Arrest and return of a probationer.

“3607. Special probation and expungement procedures for drug possessor.

“SUBCHAPTER A—PROBATION

“§ 3601. Supervision of probation

18 USC 3601.

“A person who has been sentenced to probation pursuant to the provisions of subchapter B of chapter 227, or placed on probation pursuant to the provisions of chapter 403, or placed on supervised release pursuant to the provisions of section 3583, shall, during the term imposed, be supervised by a probation officer to the degree warranted by the conditions specified by the sentencing court.

Ante, p. 1992.
18 USC 5031 *et seq.*

“§ 3602. Appointment of probation officers

18 USC 3602.

“(a) **APPOINTMENT.**—A district court of the United States shall appoint qualified persons to serve, with or without compensation, as probation officers within the jurisdiction and under the direction of the court making the appointment. The court may, for cause, remove a probation officer appointed to serve with compensation,

and may, in its discretion, remove a probation officer appointed to serve without compensation.

"(b) RECORD OF APPOINTMENT.—The order of appointment shall be entered on the records of the court, a copy of the order shall be delivered to the officer appointed, and a copy shall be sent to the Director of the Administrative Office of the United States Courts.

"(c) CHIEF PROBATION OFFICER.—If the court appoints more than one probation officer, one may be designated by the court as chief probation officer and shall direct the work of all probation officers serving in the judicial district.

18 USC 3603.

"§ 3603. Duties of probation officers

"A probation officer shall—

"(a) instruct a probationer or a person on supervised release, who is under his supervision, as to the conditions specified by the sentencing court, and provide him with a written statement clearly setting forth all such conditions;

"(b) keep informed, to the degree required by the conditions specified by the sentencing court, as to the conduct and condition of a probationer or a person on supervised release, who is under his supervision, and report his conduct and condition to the sentencing court;

"(c) use all suitable methods, not inconsistent with the conditions specified by the court, to aid a probationer or a person on supervised release who is under his supervision, and to bring about improvements in his conduct and condition;

"(d) be responsible for the supervision of any probationer or a person on supervised release who is known to be within the judicial district;

"(e) keep a record of his work, and make such reports to the Director of the Administrative Office of the United States Courts as the Director may require;

"(f) upon request of the Attorney General or his designee, supervise and furnish information about a person within the custody of the Attorney General while on work release, furlough, or other authorized release from his regular place of confinement, or while in prerelease custody pursuant to the provisions of section 3624(c);

"(g) keep informed concerning the conduct, condition, and compliance with any condition of probation, including the payment of a fine or restitution of each probationer under his supervision and report thereon to the court placing such person on probation and report to the court any failure of a probationer under his supervision to pay a fine in default within thirty days after notification that it is in default so that the court may determine whether probation should be revoked; and

"(h) perform any other duty that the court may designate.

18 USC 3604.

"§ 3604. Transportation of a probationer

"A court, after imposing a sentence of probation, may direct a United States marshal to furnish the probationer with—

"(a) transportation to the place to which he is required to proceed as a condition of his probation; and

"(b) money, not to exceed such amount as the Attorney General may prescribe, for subsistence expenses while traveling to his destination.

“§ 3605. Transfer of jurisdiction over a probationer

18 USC 3605.

“A court, after imposing a sentence, may transfer jurisdiction over a probationer or person on supervised release to the district court for any other district to which the person is required to proceed as a condition of his probation or release, or is permitted to proceed, with the concurrence of such court. A later transfer of jurisdiction may be made in the same manner. A court to which jurisdiction is transferred under this section is authorized to exercise all powers over the probationer or releasee that are permitted by this subchapter or subchapter B or D of chapter 227.

Ante, pp. 1992, 1998.

18 USC 3606.

“§ 3606. Arrest and return of a probationer

“If there is probable cause to believe that a probationer or a person on supervised release has violated a condition of his probation or release, he may be arrested, and, upon arrest, shall be taken without unnecessary delay before the court having jurisdiction over him. A probation officer may make such an arrest wherever the probationer or releasee is found, and may make the arrest without a warrant. The court having supervision of the probationer or releasee, or, if there is no such court, the court last having supervision of the probationer or releasee, may issue a warrant for the arrest of a probationer or releasee for violation of a condition of release, and a probation officer or United States marshal may execute the warrant in the district in which the warrant was issued or in any district in which the probationer or releasee is found.

“§ 3607. Special probation and expungement procedures for drug possessors

18 USC 3607.

“(a) **PRE-JUDGMENT PROBATION.**—If a person found guilty of an offense described in section 404 of the Controlled Substances Act (21 U.S.C. 844)—

“(1) has not, prior to the commission of such offense, been convicted of violating a Federal or State law relating to controlled substances; and

“(2) has not previously been the subject of a disposition under this subsection;

the court may, with the consent of such person, place him on probation for a term of not more than one year without entering a judgment of conviction. At any time before the expiration of the term of probation, if the person has not violated a condition of his probation, the court may, without entering a judgment of conviction, dismiss the proceedings against the person and discharge him from probation. At the expiration of the term of probation, if the person has not violated a condition of his probation, the court shall, without entering a judgment of conviction, dismiss the proceedings against the person and discharge him from probation. If the person violates a condition of his probation, the court shall proceed in accordance with the provisions of section 3565.

“(b) **RECORD OF DISPOSITION.**—A nonpublic record of a disposition under subsection (a), or a conviction that is the subject of an expungement order under subsection (c), shall be retained by the Department of Justice solely for the purpose of use by the courts in determining in any subsequent proceeding whether a person qualifies for the disposition provided in subsection (a) or the expungement provided in subsection (c). A disposition under subsection (a), or a conviction that is the subject of an expungement order under

subsection (c), shall not be considered a conviction for the purpose of a disqualification or a disability imposed by law upon conviction of a crime, or for any other purpose.

“(c) **EXPUNGEMENT OF RECORD OF DISPOSITION.**—If the case against a person found guilty of an offense under section 404 of the Controlled Substances Act (21 U.S.C. 844) is the subject of a disposition under subsection (a), and the person was less than twenty-one years old at the time of the offense, the court shall enter an expungement order upon the application of such person. The expungement order shall direct that there be expunged from all official records, except the nonpublic records referred to in subsection (b), all references to his arrest for the offense, the institution of criminal proceedings against him, and the results thereof. The effect of the order shall be to restore such person, in the contemplation of the law, to the status he occupied before such arrest or institution of criminal proceedings. A person concerning whom such an order has been entered shall not be held thereafter under any provision of law to be guilty of perjury, false swearing, or making a false statement by reason of his failure to recite or acknowledge such arrests or institution of criminal proceedings, or the results thereof, in response to an inquiry made of him for any purpose.

“SUBCHAPTER B—FINES

“Sec.

“3611. Payment of a fine.

“3612. Collection of an unpaid fine.

“3613. Civil remedies for satisfaction of an unpaid fine.

“3614. Resentencing upon failure to pay a fine.

“3615. Criminal default.

“SUBCHAPTER B—FINES

18 USC 3611.

“§ 3611. Payment of a fine

Ante, p. 1995.

“A person who has been sentenced to pay a fine pursuant to the provisions of subchapter C of chapter 227 shall pay the fine immediately, or by the time and method specified by the sentencing court, to the clerk of the court. The clerk shall forward the payment to the United States Treasury.

18 USC 3612.

“§ 3612. Collection of an unpaid fine

“(a) **DISPOSITION OF PAYMENT.**—The clerk shall forward each fine payment to the United States Treasury and shall notify the Attorney General of its receipt within ten working days.

“(b) **CERTIFICATION OF IMPOSITION.**—If a fine exceeding \$100 is imposed, modified, or remitted, the sentencing court shall incorporate in the order imposing, remitting, or modifying such fine, and promptly certify to the Attorney General—

“(1) the name of the person fined;

“(2) his current address;

“(3) the docket number of the case;

“(4) the amount of the fine imposed;

“(5) any installment schedule;

“(6) the nature of any modification or remission of the fine or installment schedule; and

“(7) the amount of the fine that is due and unpaid.

“(c) **RESPONSIBILITY FOR COLLECTION.**—The Attorney General shall be responsible for collection of an unpaid fine concerning which a certification has been issued as provided in subsection (b). An order

of restitution, pursuant to section 3556, does not create any right of action against the United States by the person to whom restitution is ordered to be paid.

“(d) **NOTIFICATION OF DELINQUENCY.**—Within ten working days after a fine is determined to be delinquent as provided in section 3572(i), the Attorney General shall notify the person whose fine is delinquent, by certified mail, to inform him that the fine is delinquent.

“(e) **NOTIFICATION OF DEFAULT.**—Within ten working days after a fine is determined to be in default as provided in section 3572(j), the Attorney General shall notify the person defaulting, by certified mail, to inform him that the fine is in default and the entire unpaid balance, including interest and penalties, is due within thirty days.

“(f) **INTEREST, MONETARY PENALTIES FOR DELINQUENCY, AND DEFAULT.**—Upon a determination of willful nonpayment, the court may impose the following interest and monetary penalties:

“(1) **INTEREST.**—Notwithstanding any other provision of law, interest at the rate of 1 per centum per month, or 12 per centum per year, shall be charged, beginning the thirty-first day after sentencing on the first day of each month during which any fine balance remains unpaid, including sums to be paid pursuant to an installment schedule.

“(2) **MONETARY PENALTIES FOR DELINQUENT FINES.**—Notwithstanding any other provision of law, a penalty sum equal to 10 per centum shall be charged for any portion of a criminal fine which has become delinquent. The Attorney General may waive all or part of the penalty for good cause.

Waiver.

“§ 3613. Civil remedies for satisfaction of an unpaid fine

18 USC 3613.

“(a) **LIEN.**—A fine imposed pursuant to the provisions of subchapter C of chapter 227 is a lien in favor of the United States upon all property belonging to the person fined. The lien arises at the time of the entry of the judgment and continues until the liability is satisfied, remitted, or set aside, or until it becomes unenforceable pursuant to the provisions of subsection (b). On application of the person fined, the Attorney General shall—

Ante, p. 1995.

“(1) issue a certificate of release, as described in section 6325 of the Internal Revenue Code, of any lien imposed pursuant to this section, upon his acceptance of a bond described in section 6325(a)(2) of the Internal Revenue Code; or

26 USC 6325.

“(2) issue a certificate of discharge, as described in section 6325 of the Internal Revenue Code, of any part of the person's property subject to a lien imposed pursuant to this section, upon his determination that the fair market value of that part of such property remaining subject to and available to satisfy the lien is at least three times the amount of the fine.

“(b) **EXPIRATION OF LIEN.**—A lien becomes unenforceable and liability to pay a fine expires—

“(1) twenty years after the entry of the judgment; or

“(2) upon the death of the individual fined.

The period set forth in paragraph (1) may be extended, prior to its expiration, by a written agreement between the person fined and the Attorney General. The running of the period set forth in paragraph (1) is suspended during any interval for which the running of the period of limitations for collection of a tax would be suspended pursuant to section 6503(b), 6503(c), 6503(f), 6503(i), or 7508(a)(1)(I) of the Internal Revenue Code of 1954 (26 U.S.C. 6503(b), 6503(c), 6503(f),

6503(i), or 7508(a)(1)(I)), or section 513 of the Act of October 17, 1940, 54 Stat. 1190.

50 USC app. 573.

“(c) APPLICATION OF OTHER LIEN PROVISIONS.—The provisions of sections 6323, 6331, 6332, 6334 through 6336, 6337(a), 6338 through 6343, 6901, 7402, 7403, 7424 through 7426, 7505(a), 7506, 7701, and 7805 of the Internal Revenue Code of 1954 (26 U.S.C. 6323, 6331, 6332, 6334 through 6336, 6337(a), 6338 through 6343, 6901, 7402, 7403, 7424 through 7426, 7505(a), 7506, 7701, and 7805) and of section 513 of the Act of October 17, 1940, 54 Stat. 1190, apply to a fine and to the lien imposed by subsection (a) as if the liability of the person fined were for an internal revenue tax assessment, except to the extent that the application of such statutes is modified by regulations issued by the Attorney General to accord with differences in the nature of the liabilities. For the purposes of this subsection, references in the preceding sections of the Internal Revenue Code of 1954 to ‘the Secretary’ shall be construed to mean ‘the Attorney General,’ and references in those sections to ‘tax’ shall be construed to mean ‘fine.’

26 USC 1 *et seq.*

“(d) EFFECT OF NOTICE OF LIEN.—A notice of the lien imposed by subsection (a) shall be considered a notice of lien for taxes payable to the United States for the purposes of any State or local law providing for the filing of a notice of a tax lien. The registration, recording, docketing, or indexing, in accordance with 28 U.S.C. 1962, of the judgment under which a fine is imposed shall be considered for all purposes as the filing prescribed by section 6323(f)(1)(A) of the Internal Revenue Code of 1954 (26 U.S.C. 6323(f)(1)(A)) and by subsection (c).

“(e) ALTERNATIVE ENFORCEMENT.—Notwithstanding any other provision of this section, a judgment imposing a fine may be enforced by execution against the property of the person fined in like manner as judgments in civil cases, but in no event shall liability for payment of a fine extend beyond the period specified in subsection (b).

“(f) DISCHARGE OF DEBTS INAPPLICABLE.—No discharge of debts pursuant to a bankruptcy proceeding shall render a lien under this section unenforceable or discharge liability to pay a fine.

18 USC 3614.

“§ 3614. Resentencing upon failure to pay a fine

“(a) RESENTENCING.—Subject to the provisions of subsection (b), if a defendant knowingly fails to pay a delinquent fine the court may resentence the defendant to any sentence which might originally have been imposed.

“(b) IMPRISONMENT.—The defendant may be sentenced to a term of imprisonment under subsection (a) only if the court determines that—

“(1) the defendant willfully refused to pay the delinquent fine or had failed to make sufficient bona fide efforts to pay the fine; or

“(2) in light of the nature of the offense and the characteristics of the person, alternatives to imprisonment are not adequate to serve the purposes of punishment and deterrence.

18 USC 3615.

“§ 3615. Criminal default

“Whoever, having been sentenced to pay a fine, willfully fails to pay the fine, shall be fined not more than twice the amount of the unpaid balance of the fine or \$10,000, whichever is greater, imprisoned not more than one year, or both.

"SUBCHAPTER C—IMPRISONMENT

"Sec.

"3621. Imprisonment of a convicted person.

"3622. Temporary release of a prisoner.

"3623. Transfer of a prisoner to State authority.

"3624. Release of a prisoner.

"3625. Inapplicability of the Administrative Procedure Act.

"SUBCHAPTER C—IMPRISONMENT

"§ 3621. Imprisonment of a convicted person

18 USC 3621.

"(a) COMMITMENT TO CUSTODY OF BUREAU OF PRISONS.—A person who has been sentenced to a term of imprisonment pursuant to the provisions of subchapter D of chapter 227 shall be committed to the custody of the Bureau of Prisons until the expiration of the term imposed, or until earlier released for satisfactory behavior pursuant to the provisions of section 3624.

Ante, p. 1998.

"(b) PLACE OF IMPRISONMENT.—The Bureau of Prisons shall designate the place of the prisoner's imprisonment. The Bureau may designate any available penal or correctional facility that meets minimum standards of health and habitability established by the Bureau, whether maintained by the Federal Government or otherwise and whether within or without the judicial district in which the person was convicted, that the Bureau determines to be appropriate and suitable, considering—

"(1) the resources of the facility contemplated;

"(2) the nature and circumstances of the offense;

"(3) the history and characteristics of the prisoner;

"(4) any statement by the court that imposed the sentence—

"(A) concerning the purposes for which the sentence to imprisonment was determined to be warranted; or

"(B) recommending a type of penal or correctional facility as appropriate; and

"(5) any pertinent policy statement issued by the Sentencing Commission pursuant to section 994(a)(2) of title 28.

Post, p. 2019.

The Bureau may at any time, having regard for the same matters, direct the transfer of a prisoner from one penal or correctional facility to another.

"(c) DELIVERY OF ORDER OF COMMITMENT.—When a prisoner, pursuant to a court order, is placed in the custody of a person in charge of a penal or correctional facility, a copy of the order shall be delivered to such person as evidence of this authority to hold the prisoner, and the original order, with the return endorsed thereon, shall be returned to the court that issued it.

"(d) DELIVERY OF PRISONER FOR COURT APPEARANCES.—The United States marshal shall, without charge, bring a prisoner into court or return him to a prison facility on order of a court of the United States or on written request of an attorney for the Government.

"§ 3622. Temporary release of a prisoner

18 USC 3622.

"The Bureau of Prisons may release a prisoner from the place of his imprisonment for a limited period if such release appears to be consistent with the purpose for which the sentence was imposed and any pertinent policy statement issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)(2), if such release otherwise appears to be consistent with the public interest and if there is reasonable cause to believe that a prisoner will honor the trust to be

Post, p. 2019.

imposed in him, by authorizing him, under prescribed conditions, to—

“(a) visit a designated place for a period not to exceed thirty days, and then return to the same or another facility, for the purpose of—

“(1) visiting a relative who is dying;

“(2) attending a funeral of a relative;

“(3) obtaining medical treatment not otherwise available;

“(4) contacting a prospective employer;

“(5) establishing or reestablishing family or community ties; or

“(6) engaging in any other significant activity consistent with the public interest;

“(b) participate in a training or educational program in the community while continuing in official detention at the prison facility; or

“(c) work at paid employment in the community while continuing in official detention at the penal or correctional facility if—

“(1) the rates of pay and other conditions of employment will not be less than those paid or provided for work of a similar nature in the community; and

“(2) the prisoner agrees to pay to the Bureau such costs incident to official detention as the Bureau finds appropriate and reasonable under all the circumstances, such costs to be collected by the Bureau and deposited in the Treasury to the credit of the appropriation available for such costs at the time such collections are made.

18 USC 3623.

“§ 3623. Transfer of a prisoner to State authority

“The Director of the Bureau of Prisons shall order that a prisoner who has been charged in an indictment or information with, or convicted of, a State felony, be transferred to an official detention facility within such State prior to his release from a Federal prison facility if—

“(1) the transfer has been requested by the Governor or other executive authority of the State;

“(2) the State has presented to the Director a certified copy of the indictment, information, or judgment of conviction; and

“(3) the Director finds that the transfer would be in the public interest.

If more than one request is presented with respect to a prisoner, the Director shall determine which request should receive preference. The expenses of such transfer shall be borne by the State requesting the transfer.

18 USC 3624.

“§ 3624. Release of a prisoner

“(a) **DATE OF RELEASE.**—A prisoner shall be released by the Bureau of Prisons on the date of the expiration of his term of imprisonment, less any time credited toward the service of his sentence as provided in subsection (b). If the date for a prisoner's release falls on a Saturday, a Sunday, or a legal holiday at the place of confinement, the prisoner may be released by the Bureau on the last preceding weekday.

“(b) **CREDIT TOWARD SERVICE OF SENTENCE FOR SATISFACTORY BEHAVIOR.**—A prisoner who is serving a term of imprisonment of more than one year, other than a term of imprisonment for the duration

of his life, shall receive credit toward the service of his sentence, beyond the time served, of fifty-four days at the end of each year of his term of imprisonment, beginning after the first year of the term, unless the Bureau of Prisons determines that, during that year, he has not satisfactorily complied with such institutional disciplinary regulations as have been approved by the Attorney General and issued to the prisoner. If the Bureau determines that, during that year, the prisoner has not satisfactorily complied with such institutional regulations, he shall receive no such credit toward service of his sentence or shall receive such lesser credit as the Bureau determines to be appropriate. The Bureau's determination shall be made within fifteen days after the end of each year of the sentence. Such credit toward service of sentence vests at the time that it is received. Credit that has vested may not later be withdrawn, and credit that has not been earned may not later be granted. Credit for the last year or portion of a year of the term of imprisonment shall be prorated and credited within the last six weeks of the sentence.

“(c) PRE-RELEASE CUSTODY.—The Bureau of Prisons shall, to the extent practicable, assure that a prisoner serving a term of imprisonment spends a reasonable part, not to exceed six months, of the last 10 per centum of the term to be served under conditions that will afford the prisoner a reasonable opportunity to adjust to and prepare for his re-entry into the community. The United States Probation System shall, to the extent practicable, offer assistance to a prisoner during such pre-release custody.

“(d) ALLOTMENT OF CLOTHING, FUNDS, AND TRANSPORTATION.—Upon the release of a prisoner on the expiration of his term of imprisonment, the Bureau of Prisons shall furnish him with—

“(1) suitable clothing;

“(2) an amount of money, not more than \$500, determined by the Director to be consistent with the needs of the offender and the public interest, unless the Director determines that the financial position of the offender is such that no sum should be furnished; and

“(3) transportation to the place of his conviction, to his bona fide residence within the United States, or to such other place within the United States as may be authorized by the Director.

“(e) SUPERVISION AFTER RELEASE.—A prisoner whose sentence includes a term of supervised release after imprisonment shall be released by the Bureau of Prisons to the supervision of a probation officer who shall, during the term imposed, supervise the person released to the degree warranted by the conditions specified by the sentencing court. The term of supervised release commences on the day the person is released from imprisonment. The term runs concurrently with any Federal, State, or local term of probation or supervised release or parole for another offense to which the person is subject or becomes subject during the term of supervised release, except that it does not run during any period in which the person is imprisoned, other than during limited intervals as a condition of probation or supervised release, in connection with a conviction for a Federal, State, or local crime. No prisoner shall be released on supervision unless such prisoner agrees to adhere to an installment schedule, not to exceed two years except in special circumstances, to pay for any fine imposed for the offense committed by such prisoner.

18 USC 3625.

“§ 3625. Inapplicability of the Administrative Procedure Act

“The provisions of sections 554 and 555 and 701 through 706 of title 5, United States Code, do not apply to the making of any determination, decision, or order under this subchapter.”;

18 USC 3663.

(3) in section 3663 (formerly section 3579):

(A) by amending subsection (g) to read as follows:

“(g) If such defendant is placed on probation or sentenced to a term of supervised release under this title, any restitution ordered under this section shall be a condition of such probation or supervised release. The court may revoke probation, or modify the term or conditions of a term of supervised release, or hold a defendant in contempt pursuant to section 3583(e) if the defendant fails to comply with such order. In determining whether to revoke probation, modify the term or conditions of supervised release, or hold a defendant serving a term of supervised release in contempt, the court shall consider the defendant’s employment status, earning ability, financial resources, the willfulness of the defendant’s failure to pay, and any other special circumstances that may have a bearing on the defendant’s ability to pay.”; and

(B) by amending subsection (h) to read as follows:

“(h) An order of restitution may be enforced by the United States in the manner provided in sections 3812 and 3813 or in the same manner as a judgment in a civil action, and by the victim named in the order to receive the restitution in the same manner as a judgment in a civil action.”;

(4) adding the following new section at the end of chapter 232:

18 USC 3673.

“§ 3673. Definitions for sentencing provisions

“As used in chapters 227 and 229—

“(a) ‘found guilty’ includes acceptance by a court of a plea of guilty or nolo contendere;

“(b) ‘commission of an offense’ includes the attempted commission of an offense, the consummation of an offense, and any immediate flight after the commission of an offense; and

“(c) ‘law enforcement officer’ means a public servant authorized by law or by a government agency to engage in or supervise the prevention, detection, investigation, or prosecution of an offense.”; and

(5) adding the following caption and sectional analysis at the beginning of new chapter 232:

“CHAPTER 232—MISCELLANEOUS SENTENCING PROVISIONS

“Sec.

“3661. Use of information for sentencing.

“3662. Conviction records.

“3663. Order of restitution.

“3664. Procedure for issuing order of restitution.

“3665. Firearms possessed by convicted felons.

“3666. Bribe moneys.

“3667. Liquors and related property; definitions.

“3668. Remission or mitigation of forfeitures under liquor laws; possession pending trial.

“3669. Conveyance carrying liquor.

“3670. Disposition of conveyances seized for violation of the Indian liquor laws.

“3671. Vessels carrying explosives and steerage passengers.

“3672. Duties of Director of Administrative Office of the United States Courts.

“3673. Definitions for sentencing provisions.”.

Ante, pp. 1987,
2001.

(b) The chapter analysis of part II of title 18, United States Code, is amended by striking out the items relating to chapters 227, 229, and 231, and inserting in lieu thereof the following:

"227. Sentences.....	3551
"229. Post-Sentence Administration.....	3601
"231. Repealed.....	
"232. Miscellaneous Sentencing Provisions.....	3661".

SEC. 213. (a) Chapter 235 of title 18, United States Code, is amended by adding the following new section at the end thereof:

"§ 3742. Review of a sentence

18 USC 3742.

"(a) **APPEAL BY A DEFENDANT.**—A defendant may file a notice of appeal in the district court for review of an otherwise final sentence if the sentence—

"(1) was imposed in violation of law;

"(2) was imposed as a result of an incorrect application of the sentencing guidelines issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a); or

Post, p. 2019.

"(3) was imposed for an offense for which a sentencing guideline has been issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)(1), and the sentence is greater than—

"(A) the sentence specified in the applicable guideline to the extent that the sentence includes a greater fine or term of imprisonment or term of supervised release than the maximum established in the guideline, or includes a more limiting condition of probation or supervised release under section 3563 (b)(6) or (b)(11) than the maximum established in the guideline; and

"(B) the sentence specified in a plea agreement, if any, under Rule 11 (e)(1)(B) or (e)(1)(C) of the Federal Rules of Criminal Procedure; or

18 USC app.

"(4) was imposed for an offense for which no sentencing guideline has been issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)(1) and is greater than the sentence specified in a plea agreement, if any, under Rule 11 (e)(1)(B) or (e)(1)(C) of the Federal Rules of Criminal Procedure.

"(b) **APPEAL BY THE GOVERNMENT.**—The Government may file a notice of appeal in the district court for review of an otherwise final sentence if the sentence—

"(1) was imposed in violation of law;

"(2) was imposed as a result of an incorrect application of the sentencing guidelines issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a);

"(3) was imposed for an offense for which a sentencing guideline has been issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)(1), and the sentence is less than—

"(A) the sentence specified in the applicable guideline to the extent that the sentence includes a lesser fine or term of imprisonment or term of supervised release than the minimum established in the guideline, or includes a less limiting condition of probation or supervised release under section 3563 (b)(6) or (b)(11) than the minimum established in the guideline; and

"(B) the sentence specified in a plea agreement, if any, under Rule 11 (e)(1)(B) or (e)(1)(C) of the Federal Rules of Criminal Procedure; or

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"(4) was imposed for an offense for which no sentencing guideline has been issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)(1) and is less than the sentence specified in a plea agreement, if any, under Rule 11 (e)(1)(B) or (e)(1)(C) of the Federal Rules of Criminal Procedure;

and the Attorney General or the Solicitor General personally approves the filing of the notice of appeal.

"(c) RECORD ON REVIEW.—If a notice of appeal is filed in the district court pursuant to subsection (a) or (b), the clerk shall certify to the court of appeals—

"(1) that portion of the record in the case that is designated as pertinent by either of the parties;

"(2) the presentence report; and

"(3) the information submitted during the sentencing proceeding.

"(d) CONSIDERATION.—Upon review of the record, the court of appeals shall determine whether the sentence—

"(1) was imposed in violation of law;

"(2) was imposed as a result of an incorrect application of the sentencing guidelines; or

"(3) is outside the range of the applicable sentencing guideline, and is unreasonable, having regard for—

Ante, p. 1987.

"(A) the factors to be considered in imposing a sentence, as set forth in chapter 227 of this title; and

"(B) the reasons for the imposition of the particular sentence, as stated by the district court pursuant to the provisions of section 3553(c).

The court of appeals shall give due regard to the opportunity of the district court to judge the credibility of the witnesses, and shall accept the findings of fact of the district court unless they are clearly erroneous.

"(e) DECISION AND DISPOSITION.—If the court of appeals determines that the sentence—

"(1) was imposed in violation of law or imposed as a result of an incorrect application of the sentencing guidelines, it shall—

"(A) remand the case for further sentencing proceedings;

or

"(B) correct the sentence;

"(2) is outside the range of the applicable sentencing guideline and is unreasonable, it shall state specific reasons for its conclusions and—

"(A) if it determines that the sentence is too high and the appeal has been filed under subsection (a), it shall set aside the sentence and—

"(i) remand the case for imposition of a lesser sentence;

"(ii) remand the case for further sentencing proceedings; or

"(iii) impose a lesser sentence;

"(B) if it determines that the sentence is too low and the appeal has been filed under subsection (b), it shall set aside the sentence and—

"(i) remand the case for imposition of a greater sentence;

"(ii) remand the case for further sentencing proceedings; or

"(iii) impose a greater sentence; or

"(3) was not imposed in violation of law or imposed as a result of an incorrect application of the sentencing guidelines, and is not unreasonable, it shall affirm the sentence."

(b) The sectional analysis of chapter 235 of title 18, United States Code, is amended by adding the following new item after the item relating to section 3741:

"3742. Review of a sentence."

SEC. 214. Chapter 403 of title 18, United States Code is amended as follows:

(a) Section 5037 is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by striking out subsections (a) and (b) and inserting the following new subsections in lieu thereof:

"(a) If the court finds a juvenile to be a juvenile delinquent, the court shall hold a disposition hearing concerning the appropriate disposition no later than twenty court days after the juvenile delinquency hearing unless the court has ordered further study pursuant to subsection (e). After the disposition hearing, and after considering any pertinent policy statements promulgated by the Sentencing Commission pursuant to 28 U.S.C. 994, the court may suspend the findings of juvenile delinquency, enter an order of restitution pursuant to section 3556, place him on probation, or commit him to official detention. With respect to release or detention pending an appeal or a petition for a writ of certiorari after disposition, the court shall proceed pursuant to the provisions of chapter 207.

"(b) The term for which probation may be ordered for a juvenile found to be a juvenile delinquent may not extend—

"(1) in the case of a juvenile who is less than eighteen years old, beyond the lesser of—

"(A) the date when the juvenile becomes twenty-one years old; or

"(B) the maximum term that would be authorized by section 3561(b) if the juvenile had been tried and convicted as an adult; or

"(2) in the case of a juvenile who is between eighteen and twenty-one years old, beyond the lesser of—

"(A) three years; or

"(B) the maximum term that would be authorized by section 3561(b) if the juvenile had been tried and convicted as an adult.

The provisions dealing with probation set forth in sections 3563, 3564, and 3565 are applicable to an order placing a juvenile on probation.

"(c) The term for which official detention may be ordered for a juvenile found to be a juvenile delinquent may not extend—

"(1) in the case of a juvenile who is less than eighteen years old, beyond the lesser of—

"(A) the date when the juvenile becomes twenty-one years old; or

"(B) the maximum term of imprisonment that would be authorized by section 3581(b) if the juvenile had been tried and convicted as an adult; or

"(2) in the case of a juvenile who is between eighteen and twenty-one years old—

"(A) who if convicted as an adult would be convicted of a Class A, B, or C felony, beyond five years; or

Children and
youth.
18 USC 5037.

Post, p. 2019.

Ante, pp. 1976,
1985.

“(B) in any other case beyond the lesser of—

“(i) three years; or

“(ii) the maximum term of imprisonment that would be authorized by section 3581(b) if the juvenile had been tried and convicted as an adult.”.

Repeal.
18 USC 5041.
18 USC 5042.

(b) Section 5041 is repealed.

(c) Section 5042 is amended by—

(1) striking out “parole or” each place it appears in the caption and text; and

(2) striking out “parolee or”.

(d) The sectional analysis is amended by striking out the items relating to sections 5041 and 5042 and inserting in lieu thereof the following:

“5041. Repealed.

“5042. Revocation of Probation.”.

18 USC app.

SEC. 215. The Federal Rules of Criminal Procedure are amended as follows:

(a) Rule 32 is amended—

(1) by deleting subdivision (a)(1) and inserting in lieu thereof the following:

“(1) IMPOSITION OF SENTENCE.—Sentence shall be imposed without unnecessary delay, but the court may, upon a motion that is jointly filed by the defendant and by the attorney for the Government and that asserts a factor important to the sentencing determination is not capable of being resolved at that time, postpone the imposition of sentence for a reasonable time until the factor is capable of being resolved. Prior to the sentencing hearing, the court shall provide the counsel for the defendant and the attorney for the Government with notice of the probation officer’s determination, pursuant to the provisions of subdivision (c)(2)(B), of the sentencing classifications and sentencing guideline range believed to be applicable to the case. At the sentencing hearing, the court shall afford the counsel for the defendant and the attorney for the Government an opportunity to comment upon the probation officer’s determination and on other matters relating to the appropriate sentence. Before imposing sentence, the court shall also—

“(A) determine that the defendant and his counsel have had the opportunity to read and discuss the presentence investigation report made available pursuant to subdivision (c)(3)(A) or summary thereof made available pursuant to subdivision (c)(3)(B);

“(B) afford counsel for the defendant an opportunity to speak on behalf of the defendant; and

“(C) address the defendant personally and ask him if he wishes to make a statement in his own behalf and to present any information in mitigation of the sentence.

The attorney for the Government shall have an equivalent opportunity to speak to the court. Upon a motion that is jointly filed by the defendant and by the attorney for the Government, the court may hear in camera such a statement by the defendant, counsel for the defendant, or the attorney for the Government.”;

(2) in subdivision (a)(2), by adding “, including any right to appeal the sentence,” after “right to appeal” in the first sentence;

(3) in subdivision (a)(2), by adding “, except that the court shall advise the defendant of any right to appeal his sentence” after “*nolo contendere*” in the second sentence;

(4) by amending the first sentence of subdivision (c)(1) to read as follows:

“A probation officer shall make a presentence investigation and report to the court before the imposition of sentence unless the court finds that there is in the record information sufficient to enable the meaningful exercise of sentencing authority pursuant to 18 U.S.C. 3553, and the court explains this finding on the record.”;

(5) by amending subdivision (c)(2) to read as follows:

“(2) REPORT.—The report of the presentence investigation shall contain—

“(A) information about the history and characteristics of the defendant, including his prior criminal record, if any, his financial condition, and any circumstances affecting his behavior that may be helpful in imposing sentence or in the correctional treatment of the defendant;

“(B) the classification of the offense and of the defendant under the categories established by the Sentencing Commission pursuant to section 994(a) of title 28, that the probation officer believes to be applicable to the defendant’s case; the kinds of sentence and the sentencing range suggested for such a category of offense committed by such a category of defendant as set forth in the guidelines issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)(1); and an explanation by the probation officer of any factors that may indicate that a sentence of a different kind or of a different length than one within the applicable guideline would be more appropriate under all the circumstances;

Post, p. 2019.

“(C) any pertinent policy statement issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)(2);

“(D) verified information stated in a nonargumentative style containing an assessment of the financial, social, psychological, and medical impact upon, and cost to, any individual against whom the offense has been committed;

“(E) unless the court orders otherwise, information concerning the nature and extent of nonprison programs and resources available for the defendant; and

“(F) such other information as may be required by the court.”;

(6) in subdivision (c)(3)(A), by deleting “exclusive of any recommendations as to sentence” and inserting in lieu thereof “, including the information required by subdivision (c)(2) but not including any final recommendation as to sentence,”;

(7) in subdivision (c)(3)(D), delete “or the Parole Commission”;

(8) in subdivision (c)(3)(F), delete “or the Parole Commission pursuant to 18 U.S.C. §§ 4205(c), 4252, 5010(e), or 5037(c)” and substitute “pursuant to 18 U.S.C. § 3552(b)”;

(9) by deleting “imposition of sentence is suspended, or disposition is had under 18 U.S.C. § 4205(c),” in subdivision (d).

(b) Rule 35 is amended to read as follows:

18 USC app.

“Rule 35. Correction of Sentence

“(a) CORRECTION OF A SENTENCE ON REMAND.—The court shall correct a sentence that is determined on appeal under 18 U.S.C. 3742 to have been imposed in violation of law, to have been imposed as a

Ante, p. 2011.

result of an incorrect application of the sentencing guidelines, or to be unreasonable, upon remand of the case to the court—

“(1) for imposition of a sentence in accord with the findings of the court of appeals; or

“(2) for further sentencing proceedings if, after such proceedings, the court determines that the original sentence was incorrect.

“(b) CORRECTION OF SENTENCE FOR CHANGED CIRCUMSTANCES.—The court, on motion of the Government, may within one year after the imposition of a sentence, lower a sentence to reflect a defendant's subsequent, substantial assistance in the investigation or prosecution of another person who has committed an offense, to the extent that such assistance is a factor in applicable guidelines or policy statements issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a).”

Post, p. 2019.
18 USC app.

(c) Rule 38 is amended—

(1) by amending the caption to read: “Stay of Execution” and deleting “(a) Stay of Execution.”;

(2) by deleting subdivisions (b) and (c);

(3) by redesignating subdivisions (a)(1) through (a)(4) as subdivisions (a) through (d), respectively;

(4) in subdivision (a), by adding “from the conviction or sentence” after “is taken”;

(5) in the first sentence of subdivision (b), by adding “from the conviction or sentence” after “is taken”;

(6) by amending subdivision (d) to read as follows:

“(d) PROBATION.—A sentence of probation may be stayed if an appeal from the conviction or sentence is taken. If the sentence is stayed, the court shall fix the terms of the stay.”; and

(7) by adding new subdivisions (e) and (f) as follows:

“(e) CRIMINAL FORFEITURE, NOTICE TO VICTIMS, AND RESTITUTION.—A sanction imposed as part of the sentence pursuant to 18 U.S.C. 3554, 3555, or 3556 may, if an appeal of the conviction or sentence is taken, be stayed by the district court or by the court of appeals upon such terms as the court finds appropriate. The court may issue such orders as may be reasonably necessary to ensure compliance with the sanction upon disposition of the appeal, including the entering of a restraining order or an injunction or requiring a deposit in whole or in part of the monetary amount involved into the registry of the district court or execution of a performance bond.

“(f) DISABILITIES.—A civil or employment disability arising under a Federal statute by reason of the defendant's conviction or sentence, may, if an appeal is taken, be stayed by the district court or by the court of appeals upon such terms as the court finds appropriate. The court may enter a restraining order or an injunction, or take any other action that may be reasonably necessary to protect the interest represented by the disability pending disposition of the appeal.”

18 USC app.

(d) Rule 40 is amended by deleting “3653” in subdivision (d)(1) and inserting in lieu thereof “3605”.

18 USC app.

(e) Rule 54 is amended by amending the definition of “Petty offense” in subdivision (c) to read as follows: “ ‘Petty offense’ means a class B or C misdemeanor or an infraction.”.

18 USC app.

(f) Rule 6(e)(3)(C) is amended by adding the following subdivision:

“(iv) when permitted by a court at the request of an attorney for the government, upon a showing that such matters may disclose a violation of state criminal law, to an

appropriate official of a state or subdivision of a state for the purpose of enforcing such law.”.

(g) The Table of Rules that precedes Rule 1 is amended as follows:

(1) The item relating to Rule 35 is amended to read as follows:

“35. Correction of Sentence.

“(a) Correction of a sentence on remand.

“(b) Correction of a sentence for changed circumstances.”.

(2) The item relating to Rule 38 is amended to read as follows:

“38 Stay of Execution.

“(a) Death.

“(b) Imprisonment.

“(c) Fine.

“(d) Probation.

“(e) Criminal forfeiture, notice to victims, and restitution.

“(f) Disabilities.”.

SEC. 216. (a) The Rules of Procedure for the Trial of Misdemeanors Before United States Magistrates are amended by adding the following new rule at the end thereof:

“Rule 9. Definition

18 USC app.

“As used in these rules, ‘petty offense’ means a Class B or C misdemeanor or an infraction.”.

(b) The Table of Rules that precedes Rule 1 is amended by adding at the end thereof the following new item:

“9. Definition.”.

SEC. 217. (a) Title 28 of the United States Code is amended by adding the following new chapter after chapter 57:

“CHAPTER 58—UNITED STATES SENTENCING COMMISSION

“Sec.

“991. United States Sentencing Commission; establishment and purposes.

“992. Terms of office; compensation.

“993. Powers and duties of Chairman.

“994. Duties of the Commission.

“995. Powers of the Commission.

“996. Director and staff.

“997. Annual report.

“998. Definitions.

“§ 991. United States Sentencing Commission; establishment and purposes 28 USC 991.

“(a) There is established as an independent commission in the judicial branch of the United States a United States Sentencing Commission which shall consist of seven voting members and one nonvoting member. The President, after consultation with representatives of judges, prosecuting attorneys, defense attorneys, law enforcement officials, senior citizens, victims of crime, and others interested in the criminal justice process, shall appoint the voting members of the Commission, by and with the advice and consent of the Senate, one of whom shall be appointed, by and with the advice and consent of the Senate, as the Chairman. At least three of the members shall be Federal judges in regular active service selected after considering a list of six judges recommended to the President by the Judicial Conference of the United States. Not more than four

of the members of the Commission shall be members of the same political party. The Attorney General, or his designee, shall be an ex officio, nonvoting member of the Commission. The Chairman and members of the Commission shall be subject to removal from the Commission by the President only for neglect of duty or malfeasance in office or for other good cause shown.

“(b) The purposes of the United States Sentencing Commission are to—

“(1) establish sentencing policies and practices for the Federal criminal justice system that—

Ante, p. 1989.

“(A) assure the meeting of the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code;

“(B) provide certainty and fairness in meeting the purposes of sentencing, avoiding unwarranted sentencing disparities among defendants with similar records who have been found guilty of similar criminal conduct while maintaining sufficient flexibility to permit individualized sentences when warranted by mitigating or aggravating factors not taken into account in the establishment of general sentencing practices; and

“(C) reflect, to the extent practicable, advancement in knowledge of human behavior as it relates to the criminal justice process; and

“(2) develop means of measuring the degree to which the sentencing, penal, and correctional practices are effective in meeting the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

28 USC 992.

“§ 992. Terms of office; compensation

“(a) The voting members of the United States Sentencing Commission shall be appointed for six-year terms, except that the initial terms of the first members of the Commission shall be staggered so that—

“(1) two members, including the Chairman, serve terms of six years;

“(2) three members serve terms of four years; and

“(3) two members serve terms of two years.

“(b) No voting member may serve more than two full terms. A voting member appointed to fill a vacancy that occurs before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

“(c) The Chairman of the Commission shall hold a full-time position and shall be compensated during the term of office at the annual rate at which judges of the United States courts of appeals are compensated. The voting members of the Commission, other than the Chairman, shall hold full-time positions until the end of the first six years after the sentencing guidelines go into effect pursuant to section 225(a)(1)(B)(ii) of the Sentencing Reform Act of 1983, and shall be compensated at the annual rate at which judges of the United States courts of appeals are compensated. Thereafter, the voting members of the Commission, other than the Chairman, shall hold part-time positions and shall be paid at the daily rate at which judges of the United States courts of appeals are compensated. A Federal judge may serve as a member of the Commission without resigning his appointment as a Federal judge.

“§ 993. Powers and duties of Chairman

28 USC 993.

“The Chairman shall—

“(a) call and preside at meetings of the Commission, which shall be held for at least two weeks in each quarter after the members of the Commission hold part-time positions; and

“(b) direct—

“(1) the preparation of requests for appropriations for the Commission; and

“(2) the use of funds made available to the Commission.

“§ 994. Duties of the Commission

28 USC 994.

“(a) The Commission, by affirmative vote of at least four members of the Commission, and pursuant to its rules and regulations and consistent with all pertinent provisions of this title and title 18, United States Code, shall promulgate and distribute to all courts of the United States and to the United States Probation System—

“(1) guidelines, as described in this section, for use of a sentencing court in determining the sentence to be imposed in a criminal case, including—

“(A) a determination whether to impose a sentence to probation, a fine, or a term of imprisonment;

“(B) a determination as to the appropriate amount of a fine or the appropriate length of a term of probation or a term of imprisonment;

“(C) a determination whether a sentence to a term of imprisonment should include a requirement that the defendant be placed on a term of supervised release after imprisonment, and, if so, the appropriate length of such a term; and

“(D) a determination whether multiple sentences to terms of imprisonment should be ordered to run concurrently or consecutively;

“(2) general policy statements regarding application of the guidelines or any other aspect of sentencing or sentence implementation that in the view of the Commission would further the purposes set forth in section 3553(a)(2) of title 18, United States Code, including the appropriate use of—

“(A) the sanctions set forth in sections 3554, 3555, and 3556 of title 18;

“(B) the conditions of probation and supervised release set forth in sections 3563(b) and 3583(d) of title 18;

“(C) the sentence modification provisions set forth in sections 3563(c), 3573, and 3582(c) of title 18;

“(D) the authority granted under rule 11(e)(2) of the Federal Rules of Criminal Procedure to accept or reject a plea agreement entered into pursuant to rule 11(e)(1); and

“(E) the temporary release provisions set forth in section 3622 of title 18, and the prerelease custody provisions set forth in section 3624(c) of title 18; and

“(3) guidelines or general policy statements regarding the appropriate use of the probation revocation provisions set forth in section 3565 of title 18, and the provisions for modification of the term or conditions of probation or supervised release set forth in sections 3563(c), 3564(d), and 3583(e) of title 18.

“(b) The Commission, in the guidelines promulgated pursuant to subsection (a)(1), shall, for each category of offense involving each

Ante, p. 1989.

Ante, pp. 1990, 1991.

Ante, pp. 1993, 1999.

Ante, pp. 1997, 1998.

18 USC app.

Ante, p. 2007.

Ante, p. 2008.

Ante, p. 1995.

Ante, pp. 1993, 1994, 1999.

category of defendant, establish a sentencing range that is consistent with all pertinent provisions of title 18, United States Code. If a sentence specified by the guidelines includes a term of imprisonment, the maximum of the range established for such a term shall not exceed the minimum of that range by more than 25 per centum.

"(c) The Commission, in establishing categories of offenses for use in the guidelines and policy statements governing the imposition of sentences of probation, a fine, or imprisonment, governing the imposition of other authorized sanctions, governing the size of a fine or the length of a term of probation, imprisonment, or supervised release, and governing the conditions of probation, supervised release, or imprisonment, shall consider whether the following matters, among others, have any relevance to the nature, extent, place of service, or other incidents of an appropriate sentence, and shall take them into account only to the extent that they do have relevance—

"(1) the grade of the offense;

"(2) the circumstances under which the offense was committed which mitigate or aggravate the seriousness of the offense;

"(3) the nature and degree of the harm caused by the offense, including whether it involved property, irreplaceable property, a person, a number of persons, or a breach of public trust;

"(4) the community view of the gravity of the offense;

"(5) the public concern generated by the offense;

"(6) the deterrent effect a particular sentence may have on the commission of the offense by others; and

"(7) the current incidence of the offense in the community and in the Nation as a whole.

"(d) The Commission in establishing categories of defendants for use in the guidelines and policy statements governing the imposition of sentences of probation, a fine, or imprisonment, governing the imposition of other authorized sanctions, governing the size of a fine or the length of a term of probation, imprisonment, or supervised release, and governing the conditions of probation, supervised release, or imprisonment, shall consider whether the following matters, among others, with respect to a defendant, have any relevance to the nature, extent, place of service, or other incidents of an appropriate sentence, and shall take them into account only to the extent that they do have relevance—

"(1) age;

"(2) education;

"(3) vocational skills;

"(4) mental and emotional condition to the extent that such condition mitigates the defendant's culpability or to the extent that such condition is otherwise plainly relevant;

"(5) physical condition, including drug dependence;

"(6) previous employment record;

"(7) family ties and responsibilities;

"(8) community ties;

"(9) role in the offense;

"(10) criminal history; and

"(11) degree of dependence upon criminal activity for a livelihood.

Nondis-
crimination.

The Commission shall assure that the guidelines and policy statements are entirely neutral as to the race, sex, national origin, creed, and socioeconomic status of offenders.

"(e) The Commission shall assure that the guidelines and policy statements, in recommending a term of imprisonment or length of a term of imprisonment, reflect the general inappropriateness of considering the education, vocational skills, employment record, family ties and responsibilities, and community ties of the defendant.

"(f) The Commission, in promulgating guidelines pursuant to subsection (a)(1), shall promote the purposes set forth in section 991(b)(1), with particular attention to the requirements of subsection 991(b)(1)(B) for providing certainty and fairness in sentencing and reducing unwarranted sentence disparities.

"(g) The Commission, in promulgating guidelines pursuant to subsection (a)(1) to meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code, shall take into account the nature and capacity of the penal, correctional, and other facilities and services available, and shall make recommendations concerning any change or expansion in the nature or capacity of such facilities and services that might become necessary as a result of the guidelines promulgated pursuant to the provisions of this chapter. The sentencing guidelines prescribed under this chapter shall be formulated to minimize the likelihood that the Federal prison population will exceed the capacity of the Federal prisons, as determined by the Commission.

Ante, p. 1987.

"(h) The Commission shall assure that the guidelines will specify a sentence to a term of imprisonment at or near the maximum term authorized by section 3581(b) of title 18, United States Code, for categories of defendants in which the defendant is eighteen years old or older and—

Ante, p. 1998.

"(1) has been convicted of a felony that is—

"(A) a crime of violence; or

"(B) an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841), sections 1002(a), 1005, and 1009 of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 955, and 959), and section 1 of the Act of September 15, 1980 (21 U.S.C. 955a); and

"(2) has previously been convicted of two or more prior felonies, each of which is—

"(A) a crime of violence; or

"(B) an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841), sections 1002(a), 1005, and 1009 of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 955, and 959), and section 1 of the Act of September 15, 1980 (21 U.S.C. 955a).

"(i) The Commission shall assure that the guidelines will specify a sentence to a substantial term of imprisonment for categories of defendants in which the defendant—

"(1) has a history of two or more prior Federal, State, or local felony convictions for offenses committed on different occasions;

"(2) committed the offense as part of a pattern of criminal conduct from which he derived a substantial portion of his income;

"(3) committed the offense in furtherance of a conspiracy with three or more persons engaging in a pattern of racketeering activity in which the defendant participated in a managerial or supervisory capacity;

"(4) committed a crime of violence that constitutes a felony while on release pending trial, sentence, or appeal from a

Federal, State, or local felony for which he was ultimately convicted; or

“(5) committed a felony that is set forth in section 401 or 1010 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 841 and 960), and that involved trafficking in a substantial quantity of a controlled substance.

“(j) The Commission shall insure that the guidelines reflect the general appropriateness of imposing a sentence other than imprisonment in cases in which the defendant is a first offender who has not been convicted of a crime of violence or an otherwise serious offense, and the general appropriateness of imposing a term of imprisonment on a person convicted of a crime of violence that results in serious bodily injury.

“(k) The Commission shall insure that the guidelines reflect the inappropriateness of imposing a sentence to a term of imprisonment for the purpose of rehabilitating the defendant or providing the defendant with needed educational or vocational training, medical care, or other correctional treatment.

“(l) The Commission shall insure that the guidelines promulgated pursuant to subsection (a)(1) reflect—

“(1) the appropriateness of imposing an incremental penalty for each offense in a case in which a defendant is convicted of—

“(A) multiple offenses committed in the same course of conduct that result in the exercise of ancillary jurisdiction over one or more of the offenses; and

“(B) multiple offenses committed at different times, including those cases in which the subsequent offense is a violation of section 3146 (penalty for failure to appear) or is committed while the person is released pursuant to the provisions of section 3147 (penalty for an offense committed while on release) of title 18; and

“(2) the general inappropriateness of imposing consecutive terms of imprisonment for an offense of conspiring to commit an offense or soliciting commission of an offense and for an offense that was the sole object of the conspiracy or solicitation.

“(m) The Commission shall insure that the guidelines reflect the fact that, in many cases, current sentences do not accurately reflect the seriousness of the offense. This will require that, as a starting point in its development of the initial sets of guidelines for particular categories of cases, the Commission ascertain the average sentences imposed in such categories of cases prior to the creation of the Commission, and in cases involving sentences to terms of imprisonment, the length of such terms actually served. The Commission shall not be bound by such average sentences, and shall independently develop a sentencing range that is consistent with the purposes of sentencing described in section 3553(a)(2) of title 18, United States Code.

“(n) The Commission periodically shall review and revise, in consideration of comments and data coming to its attention, the guidelines promulgated pursuant to the provisions of this section. In fulfilling its duties and in exercising its powers, the Commission shall consult with authorities on, and individual and institutional representatives of, various aspects of the Federal criminal justice system. The United States Probation System, the Bureau of Prisons, the Judicial Conference of the United States, the Criminal Division of the United States Department of Justice, and a representative of the Federal Public Defenders shall submit to the Commission any

Ante, pp. 1982,
1983.

Ante, p. 1989.

Report.

observations, comments, or questions pertinent to the work of the Commission whenever they believe such communication would be useful, and shall, at least annually, submit to the Commission a written report commenting on the operation of the Commission's guidelines, suggesting changes in the guidelines that appear to be warranted, and otherwise assessing the Commission's work.

"(o) The Commission, at or after the beginning of a regular session of Congress but not later than the first day of May, shall report to the Congress any amendments of the guidelines promulgated pursuant to subsection (a)(1), and a report of the reasons therefor, and the amended guidelines shall take effect one hundred and eighty days after the Commission reports them, except to the extent the effective date is enlarged or the guidelines are disapproved or modified by Act of Congress. Report.

"(p) The Commission and the Bureau of Prisons shall submit to Congress an analysis and recommendations concerning maximum utilization of resources to deal effectively with the Federal prison population. Such report shall be based upon consideration of a variety of alternatives, including— Report.

"(1) modernization of existing facilities;

"(2) inmate classification and periodic review of such classification for use in placing inmates in the least restrictive facility necessary to ensure adequate security; and

"(3) use of existing Federal facilities, such as those currently within military jurisdiction.

"(q) The Commission, within three years of the date of enactment of the Sentencing Reform Act of 1983, and thereafter whenever it finds it advisable, shall recommend to the Congress that it raise or lower the grades, or otherwise modify the maximum penalties, of those offenses for which such an adjustment appears appropriate.

"(r) The Commission shall give due consideration to any petition filed by a defendant requesting modification of the guidelines utilized in the sentencing of such defendant, on the basis of changed circumstances unrelated to the defendant, including changes in— Petition.

"(1) the community view of the gravity of the offense;

"(2) the public concern generated by the offense; and

"(3) the deterrent effect particular sentences may have on the commission of the offense by others.

Within one hundred and eighty days of the filing of such petition the Commission shall provide written notice to the defendant whether or not it has approved the petition. If the petition is disapproved the written notice shall contain the reasons for such disapproval. The Commission shall submit to the Congress at least annually an analysis of such written notices.

"(s) The Commission, in promulgating general policy statements regarding the sentencing modification provisions in section 3582(c)(1)(A) of title 18, shall describe what should be considered extraordinary and compelling reasons for sentence reduction, including the criteria to be applied and a list of specific examples. Rehabilitation of the defendant alone shall not be considered an extraordinary and compelling reason. Ante, p. 1998.

"(t) If the Commission reduces the term of imprisonment recommended in the guidelines applicable to a particular offense or category of offenses, it shall specify by what amount the sentences of prisoners serving terms of imprisonment that are outside the applicable guideline ranges for the offense may be reduced.

“(u) The Commission shall ensure that the general policy statements promulgated pursuant to subsection (a)(2) include a policy limiting consecutive terms of imprisonment for an offense involving a violation of a general prohibition and for an offense involving a violation of a specific prohibition encompassed within the general prohibition.

Report.

“(v) The appropriate judge or officer shall submit to the Commission in connection with each sentence imposed a written report of the sentence, the offense for which it is imposed, the age, race, and sex of the offender, information regarding factors made relevant by the guidelines, and such other information as the Commission finds appropriate. The Commission shall submit to Congress at least annually an analysis of these reports and any recommendations for legislation that the Commission concludes is warranted by that analysis.

5 USC 553.

“(w) The provisions of section 553 of title 5, relating to publication in the Federal Register and public hearing procedure, shall apply to the promulgation of guidelines pursuant to this section.

28 USC 995.

“§ 995. Powers of the Commission

“(a) The Commission, by vote of a majority of the members present and voting, shall have the power to—

“(1) establish general policies and promulgate such rules and regulations for the Commission as are necessary to carry out the purposes of this chapter;

“(2) appoint and fix the salary and duties of the Staff Director of the Sentencing Commission, who shall serve at the discretion of the Commission and who shall be compensated at a rate not to exceed the highest rate now or hereafter prescribed for grade 18 of the General Schedule pay rates (5 U.S.C. 5332);

“(3) deny, revise, or ratify any request for regular, supplemental, or deficiency appropriations prior to any submission of such request to the Office of Management and Budget by the Chairman;

“(4) procure for the Commission temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code;

“(5) utilize, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, local, and private agencies and instrumentalities with or without reimbursement therefor;

“(6) without regard to 31 U.S.C. 3324, enter into and perform such contracts, leases, cooperative agreements, and other transactions as may be necessary in the conduct of the functions of the Commission, with any public agency, or with any person, firm, association, corporation, educational institution, or non-profit organization;

“(7) accept and employ, in carrying out the provisions of this title, voluntary and uncompensated services, notwithstanding the provisions of 31 U.S.C. 1342, however, individuals providing such services shall not be considered Federal employees except for purposes of chapter 81 of title 5, United States Code, with respect to job-incurred disability and title 28, United States Code, with respect to tort claims;

“(8) request such information, data, and reports from any Federal agency or judicial officer as the Commission may from

5 USC 8101 *et seq.*

time to time require and as may be produced consistent with other law;

“(9) monitor the performance of probation officers with regard to sentencing recommendations, including application of the Sentencing Commission guidelines and policy statements;

“(10) issue instructions to probation officers concerning the application of Commission guidelines and policy statements;

“(11) arrange with the head of any other Federal agency for the performance by such agency of any function of the Commission, with or without reimbursement;

“(12) establish a research and development program within the Commission for the purpose of—

“(A) serving as a clearinghouse and information center for the collection, preparation, and dissemination of information on Federal sentencing practices; and

“(B) assisting and serving in a consulting capacity to Federal courts, departments, and agencies in the development, maintenance, and coordination of sound sentencing practices;

“(13) collect systematically the data obtained from studies, research, and the empirical experience of public and private agencies concerning the sentencing process;

“(14) publish data concerning the sentencing process;

“(15) collect systematically and disseminate information concerning sentences actually imposed, and the relationship of such sentences to the factors set forth in section 3553(a) of title 18, United States Code;

“(16) collect systematically and disseminate information regarding effectiveness of sentences imposed;

“(17) devise and conduct, in various geographical locations, seminars and workshops providing continuing studies for persons engaged in the sentencing field;

“(18) devise and conduct periodic training programs of instruction in sentencing techniques for judicial and probation personnel and other persons connected with the sentencing process;

“(19) study the feasibility of developing guidelines for the disposition of juvenile delinquents;

“(20) make recommendations to Congress concerning modification or enactment of statutes relating to sentencing, penal, and correctional matters that the Commission finds to be necessary and advisable to carry out an effective, humane and rational sentencing policy;

“(21) hold hearings and call witnesses that might assist the Commission in the exercise of its powers or duties; and

“(22) perform such other functions as are required to permit Federal courts to meet their responsibilities under section 3553(a) of title 18, United States Code, and to permit others involved in the Federal criminal justice system to meet their related responsibilities.

“(b) The Commission shall have such other powers and duties and shall perform such other functions as may be necessary to carry out the purposes of this chapter, and may delegate to any member or designated person such powers as may be appropriate other than the power to establish general policy statements and guidelines pursuant to section 994(a) (1) and (2), the issuance of general policies and promulgation of rules and regulations pursuant to subsection (a)(1)

Ante, p. 1989.

of this section, and the decisions as to the factors to be considered in establishment of categories of offenses and offenders pursuant to section 994(b). The Commission shall, with respect to its activities under subsections (a)(9), (a)(10), (a)(11), (a)(12), (a)(13), (a)(14), (a)(15), (a)(16), (a)(17), and (a)(18), to the extent practicable, utilize existing resources of the Administrative Office of the United States Courts and the Federal Judicial Center for the purpose of avoiding unnecessary duplication.

“(c) Upon the request of the Commission, each Federal agency is authorized and directed to make its services, equipment, personnel, facilities, and information available to the greatest practicable extent to the Commission in the execution of its functions.

“(d) A simple majority of the membership then serving shall constitute a quorum for the conduct of business. Other than for the promulgation of guidelines and policy statements pursuant to section 994, the Commission may exercise its powers and fulfill its duties by the vote of a simple majority of the members present.

“(e) Except as otherwise provided by law, the Commission shall maintain and make available for public inspection a record of the final vote of each member on any action taken by it.

28 USC 996.

“§ 996. Director and staff

“(a) The Staff Director shall supervise the activities of persons employed by the Commission and perform other duties assigned to him by the Commission.

“(b) The Staff Director shall, subject to the approval of the Commission, appoint such officers and employees as are necessary in the execution of the functions of the Commission. The officers and employees of the Commission shall be exempt from the provisions of part III of title 5, United States Code, except the following chapters: 81 (Compensation for Work Injuries), 83 (Retirement), 85 (Unemployment Compensation), 87 (Life Insurance), 89 (Health Insurance), and 91 (Conflicts of Interest).

5 USC 2101.
5 USC 8101 *et seq.*, 8301 *et seq.*,
8501 *et seq.*, 8701
et seq., 8901 *et seq.*
28 USC 997.

“§ 997. Annual report

“The Commission shall report annually to the Judicial Conference of the United States, the Congress, and the President of the United States on the activities of the Commission.

28 USC 998.

“§ 998. Definitions

“As used in this chapter—

“(a) ‘Commission’ means the United States Sentencing Commission;

“(b) ‘Commissioner’ means a member of the United States Sentencing Commission;

“(c) ‘guidelines’ means the guidelines promulgated by the Commission pursuant to section 994(a) of this title; and

“(d) ‘rules and regulations’ means rules and regulations promulgated by the Commission pursuant to section 995 of this title.”.

(b) The chapter analysis of part III of title 28, United States Code, is amended by adding after the item relating to chapter 57 the following new item:

“58. United States Sentencing Commission 991”.

REPEALERS

SEC. 218. (a) The following provisions of title 18, United States Code, are repealed:

- (1) section 1;
- (2) section 3012;
- (3) sections 4082(a), 4082(b), 4082(c), 4082(e), 4084, and 4085;
- (4) chapter 309;
- (5) chapter 311;
- (6) chapter 314;
- (7) sections 4281, 4283, and 4284; and
- (8) chapter 402.

18 USC 4161 *et*
seq.
 18 USC 4201 *et*
seq.
 18 USC 4251 *et*
seq.
 18 USC 5005 *et*
seq.

Redesignate subsections in section 4082 accordingly.

(b) The item relating to section 1 in the sectional analysis of chapter 1 of title 18, United States Code, is amended to read: "1. Repealed."

(c) The item relating to section 3012 in the sectional analysis of chapter 201 of title 18, United States Code, is amended to read: "3012. Repealed."

(d) The chapter analysis of Part III of title 18, United States Code, is amended by amending the items relating to—

- (1) chapters 309 and 311 to read as follows:

"309. Repealed.....";
 "311. Repealed.....";

and

- (2) chapter 314 to read as follows:

"314. Repealed.....".

(e) The items relating to sections 4084 and 4085 in the sectional analysis of chapter 305 of title 18, United States Code, are amended to read as follows:

"4084. Repealed."
 "4085. Repealed".

(f) The sectional analysis of chapter 315 of title 18, United States Code, is amended by amending the items relating to—

- (1) section 4281 to read:

"4281. Repealed.";

and

- (2) sections 4283 and 4284 to read as follows:

"4283. Repealed."
 "4284. Repealed".

(g) The item relating to chapter 402 in the chapter analysis of Part IV of title 18, United States Code, is amended to read as follows:

"402. Repealed.....".

SEC. 219. (a) Sections 404(b) and 409 of the Controlled Substances Act (21 U.S.C. 844(b) and 849) are repealed.

(b) Section 404(a) of the Controlled Substances Act (21 U.S.C. 844(a)) is amended by deleting the designation "(a)" at the beginning of the subsection.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 220. The Immigration and Nationality Act (8 U.S.C. 1101 *et seq.*) is amended as follows:

Aliens.

(a) The second sentence of section 212(a)(9) (8 U.S.C. 1182(a)(9)) is amended to read: "An alien who would be excludable because of the conviction of an offense for which the sentence actually imposed did not exceed a term of imprisonment in excess of six months, or who would be excludable as one who admits the commission of an offense for which a sentence not to exceed one year's imprisonment might have been imposed on him, may be granted a visa and admitted to the United States if otherwise admissible: *Provided*, That the alien has committed only one such offense, or admits the commission of acts which constitute the essential elements of only one such offense."

(b) Section 242(h) (8 U.S.C. 1252(h)) is amended by adding "supervised release," after "parole,".

SEC. 221. Section 4 of the Act of September 28, 1962 (16 U.S.C. 460k-3) is amended by deleting "petty offense (18 U.S.C. 1)" and substituting "misdemeanor".

SEC. 222. Section 9 of the Act of October 8, 1964 (16 U.S.C. 460n-8) is amended—

(a) in the first paragraph, by deleting "commissioner" each place it appears and substituting "magistrate"; and

(b) in the second paragraph, by amending the first sentence to read: "The functions of the magistrate shall include the trial and sentencing of persons charged with the commission of misdemeanors and infractions as defined in section 3581 of title 18, United States Code."

SEC. 223. Title 18 of the United States Code is amended as follows:

(a) Section 924(a) is amended by deleting ", and shall become eligible for parole as the Board of Parole shall determine".

(b) Section 1161 is amended by deleting "3618" and substituting "3669".

(c) Section 1761(a) is amended by adding ", supervised release," after "parole".

(d) Section 2114 is amended by adding "not more than" after "imprisoned".

(e) Section 3006A is amended—

(1) in subsections (a)(1) and (b), by deleting "misdemeanor (other than a petty offense as defined in section 1 of this title)" each place it appears and substituting "Class A misdemeanor"; and

(2) in subsections (a)(3) and (g), deleting "subject to revocation of parole," each place it appears.

Ante, p. 1981.

(f) Section 3143, as amended by this Act, is amended—

(1) in subsection (a), by adding "other than a person for whom the applicable guideline promulgated pursuant to 28 U.S.C. 994 does not recommend a term of imprisonment," after "sentence,"; and

(2) in subsection (c), by adding the following at the end thereof: "The judge shall treat a defendant in a case in which an appeal has been taken by the United States pursuant to the provisions of section 3742 in accordance with the provisions of—

Ante, p. 2011.

"(1) subsection (a) if the person has been sentenced to a term of imprisonment; or

Ante, p. 1976.

"(2) section 3142 if the person has not been sentenced to a term of imprisonment."

Ante, p. 1983.

(g) Section 3147, as amended by this Act, is amended—

(1) in paragraph (1), by deleting "not less than two years and"; and

- (2) in paragraph (2), by deleting “not less than ninety days and”
- (h) Section 3156(b)(2) is amended by deleting “petty offense as defined in section 1(3) of this title” and substituting “Class B or C misdemeanor or an infraction”. 18 USC 3156.
- (i) Section 3172(2) is amended by deleting “petty offense as defined in section 1(3) of this title” and substituting “Class B or C misdemeanor or an infraction”. 18 USC 3172.
- (j) Section 3401 is amended— 18 USC 3401.
- (1) by repealing subsection (g) and redesignating (h) to (g); and
- (2) in subsection (h), by deleting “petty offense case” and substituting “Class B or C misdemeanor case, or infraction case”.
- (k) Section 3670 (formerly section 3619) is amended by deleting “3617” and “3618” and substituting “3668” and “3669”, respectively. *Ante*, p. 1987.
- (l) Section 4004 is amended by deleting “record clerks, and parole officers” and substituting “and record clerks”. 18 USC 4004.
- (m) Chapter 306 is amended as follows:
- (1) Section 4101 is amended— 18 USC 4101.
- (A) in subsection (f), by adding “, including a term of supervised release pursuant to section 3583” after “supervision”; and
- (B) in subsection (g), by deleting “to a penalty of imprisonment the execution of which is suspended and” and substituting “under which”, and by deleting “the suspended” and substituting “a”.
- (2) Section 4105(c) is amended— 18 USC 4105.
- (A) in paragraph (1), by deleting “for good time” the second place it appears and substituting “toward service of sentence for satisfactory behavior”;
- (B) in paragraphs (1) and (2), by deleting “section 4161” and substituting “section 3624(b)”;
- (C) in paragraph (1), by deleting “section 4164” and substituting “section 3624(a)”;
- (D) by repealing paragraph (3);
- (E) by amending paragraph (4) to read as follows:
- “(3) Credit toward service of sentence may be withheld as provided in section 3624(b) of this title.”; and
- (F) by redesignating paragraphs accordingly.
- (3) Section 4106 is amended— 18 USC 4106.
- (A) in subsection (a), by deleting “Parole Commission” and substituting “Probation System”;
- (B) by amending subsection (b) to read as follows:
- “(b) An offender transferred to the United States to serve a sentence of imprisonment shall be released pursuant to section 3624(a) of this title after serving the period of time specified in the applicable sentencing guideline promulgated pursuant to 28 U.S.C. 994(a)(1). He shall be released to serve a term of supervised release for any term specified in the applicable guideline. The provisions of section 3742 of this title apply to a sentence to a term of imprisonment under this subsection, and the United States court of appeals for the district in which the offender is imprisoned after transfer to the United States has jurisdiction to review the period of imprisonment as though it had been imposed by the United States district court.”; and
- (C) by repealing subsection (c).

18 USC 4108.

(4) Section 4108(a) is amended by adding “, including any term of imprisonment or term of supervised release specified in the applicable sentencing guideline promulgated pursuant to 28 U.S.C. 994(a)(1),” after “consequences thereof”.

Ante, p. 2019.

(n) Section 4321 is amended by deleting “parole or”.

(o) Section 4351(b) is amended by deleting “Parole Board” and substituting “Sentencing Commission”.

(p) Section 5002 is amended by deleting “Board of Parole, the Chairman of the Youth Division,” and substituting “United States Sentencing Commission,”.

SEC. 224. The Controlled Substances Act (21 U.S.C. 801 et seq.) is amended as follows:

(a) Section 401 (21 U.S.C. 841) is amended—

(1) in subsection (b)(1)(A), by deleting the last sentence;

(2) in subsection (b)(1)(B), by deleting the last sentence;

(3) in subsection (b)(2), by deleting the last sentence;

(4) in subsection (b)(4), by deleting “subsections (a) and (b) of”, and by adding “and section 3607 of title 18, United States Code” after “404”;

(5) in subsection (b)(5), by deleting the last sentence; and

(6) by repealing subsection (c).

(b) Section 405 (21 U.S.C. 845) is amended—

(1) in subsection (a), by deleting “(1)” the second place it appears, and by deleting “, and (2) at least twice any special parole term authorized by section 401(b), for a first offense involving the same controlled substance and schedule”; and

(2) in subsection (b), by deleting “(1)” the second place it appears, and by deleting “, and (2) at least three times any special parole term authorized by section 401(b), for a second or subsequent offense involving the same controlled substance and schedule”.

(c) Section 408(c) (21 U.S.C. 848(c)) is amended by deleting “and section 4202 of title 18 of the United States Code”.

SEC. 225. The Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.) is amended as follows:

(a) Section 1010 (21 U.S.C. 960) is amended—

(1) in subsection (b)(1), by deleting the last sentence;

(2) in subsection (b)(2), by deleting the last sentence; and

(3) by repealing subsection (c).

(b) Section 1012(a) (21 U.S.C. 962(a)) is amended by deleting the last sentence.

SEC. 226. Section 114(b) of title 23, United States Code, is amended by adding “, supervised release,” after “parole”.

SEC. 227. Section 5871 of the Internal Revenue Code of 1954 (26 U.S.C. 5871) is amended by deleting “, and shall become eligible for parole as the Board of Parole shall determine”.

SEC. 228. Title 28 of the United States Code is amended as follows:

(a) Section 509 is amended—

(1) by adding “and” after paragraph (2) and, in paragraph (3), by deleting “; and” and substituting a period; and

(2) by repealing paragraph (4).

(b) Section 591(a) is amended by deleting “petty offense” and substituting “Class B or C misdemeanor or an infraction”.

(c) Section 2901 is amended—

(1) in subsection (e), by deleting “section 1” and substituting “section 3581”; and

Post, p. 2070.

(2) in subsection (g)(3), by adding “, supervised release,” after “parole”, and by adding “supervised release,” after “parole”.

SEC. 229. Section 504(a) of the Labor Management Reporting and Disclosure Act of 1959 (29 U.S.C. 504(a)) and section 411(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1111(a)) are amended—

Post, p. 2131.

(a) by deleting “the Board of Parole of the United States Department of Justice” and substituting “if the offense is a Federal offense, the sentencing judge or, if the offense is a State or local offense, on motion of the United States Department of Justice, the district court of the United States for the district in which the offense was committed, pursuant to sentencing guidelines and policy statements issued pursuant to 28 U.S.C. 994(a)”;

Ante, p. 2019.

(b) by deleting “Board” and “Board’s” and substituting “court” and “court’s”, respectively; and

(c) by deleting “an administrative” and substituting “a”.

SEC. 230. Section 411(c)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1111(c)(3)) is amended by adding “or supervised release” after “parole”.

SEC. 231. Section 425(b) of the Job Training and Partnership Act is amended by deleting “or parole” the first place it appears and substituting “, parole, or supervised release”.

29 USC 1695.

SEC. 232. The Public Health Service Act (42 U.S.C. 201 et seq.) is amended as follows:

(a) Section 341(a) (42 U.S.C. 257(a)) is amended by deleting “or convicted of offenses against the United States and sentenced to treatment” and “addicts who are committed to the custody of the Attorney General pursuant to provisions of the Federal Youth Corrections Act (chapter 402 of title 18 of the United States Code)”.

(b) Section 343(d) (42 U.S.C. 259(d)) is amended by adding “or supervised release” after “parole”.

SEC. 232A. Section 902 of the Federal Aviation Act of 1958 (49 U.S.C. 1472) is amended by inserting “notwithstanding the provisions of 18 U.S.C. 3559(b),” before the term “if” in paragraphs (i)(1)(B) and (n)(1)(B).

49 USC app. 1472.

SEC. 233. Section 11507 of title 49, United States Code, is amended by adding “, supervised release,” after “parole”.

SEC. 234. Section 10(b)(7) of the Military Selective Service Act (50 U.S.C. App. 460(b)(7)) is amended by deleting “parole” and substituting “release”.

EFFECTIVE DATE

SEC. 235. (a)(1) This chapter shall take effect on the first day of the first calendar month beginning twenty-four months after the date of enactment, except that—

18 USC 3551 note.

(A) the repeal of chapter 402 of title 18, United States Code, shall take effect on the date of enactment;

18 USC 5005 *et seq.*
Guidelines.
Ante, p. 2017.

(B)(i) chapter 58 of title 28, United States Code, shall take effect on the date of enactment of this Act or October 1, 1983, whichever occurs later, and the United States Sentencing Commission shall submit the initial sentencing guidelines promulgated to section 994(a)(1) of title 28 to the Congress within eighteen months of the effective date of the chapter; and

Ante, p. 2019.

(ii) the sentencing guidelines promulgated pursuant to section 994(a)(1), and the provisions of sections 3581, 3583, and 3624 of

Ante, pp. 1998,
1999, 2008.

Report.

title 18, United States Code, shall not go into effect until the day after—

(I) the United States Sentencing Commission has submitted the initial set of sentencing guidelines to the Congress pursuant to subparagraph (B)(i), along with a report stating the reasons for the Commission's recommendations;

(II) the General Accounting Office has undertaken a study of the guidelines, and their potential impact in comparison with the operation of the existing sentencing and parole release system, and has, within one hundred and fifty days of submission of the guidelines, reported to the Congress the results of its study; and

(III) the Congress has had six months after the date described in subclause (I) in which to examine the guidelines and consider the reports; and

(IV) the provisions of sections 227 and 228 shall take effect on the date of enactment.

Ante, p. 2030.

Ante, p. 2018.

(2) For the purposes of section 992(a) of title 28, the terms of the first members of the United States Sentencing Commission shall not begin to run until the sentencing guidelines go into effect pursuant to paragraph (1)(B)(ii).

(b)(1) The following provisions of law in effect on the day before the effective date of this Act shall remain in effect for five years after the effective date as to an individual convicted of an offense or adjudicated to be a juvenile delinquent before the effective date and as to a term of imprisonment during the period described in subsection (a)(1)(B):

(A) Chapter 311 of title 18, United States Code.

(B) Chapter 309 of title 18, United States Code.

(C) Sections 4251 through 4255 of title 18, United States Code.

(D) Sections 5041 and 5042 of title 18, United States Code.

(E) Sections 5017 through 5020 of title 18, United States Code,

as to a sentence imposed before the date of enactment.

(F) The maximum term of imprisonment in effect on the effective date for an offense committed before the effective date.

(G) Any other law relating to a violation of a condition of release or to arrest authority with regard to a person who violates a condition of release.

(2) Notwithstanding the provisions of section 4202 of title 18, United States Code, as in effect on the day before the effective date of this Act, the term of office of a Commissioner who is in office on the effective date is extended to the end of the five-year period after the effective date of this Act.

(3) The United States Parole Commission shall set a release date, for an individual who will be in its jurisdiction the day before the expiration of five years after the effective date of this Act, that is within the range that applies to the prisoner under the applicable parole guideline. A release date set pursuant to this paragraph shall be set early enough to permit consideration of an appeal of the release date, in accordance with Parole Commission procedures, before the expiration of five years following the effective date of this Act.

(4) Notwithstanding the other provisions of this subsection, all laws in effect on the day before the effective date of this Act pertaining to an individual who is—

(A) released pursuant to a provision listed in paragraph (1);
and

18 USC 4201 *et*
seq.
18 USC 4161 *et*
seq.

(B)(i) subject to supervision on the day before the expiration of the five-year period following the effective date of this Act; or
 (ii) released on a date set pursuant to paragraph (3);
 including laws pertaining to terms and conditions of release, revocation of release, provision of counsel, and payment of transportation costs, shall remain in effect as to the individual until the expiration of his sentence, except that the district court shall determine, in accord with the Federal Rules of Criminal Procedure, whether release should be revoked or the conditions of release amended for violation of a condition of release.

18 USC app.

(5) Notwithstanding the provisions of section 991 of title 28, United States Code, and sections 4351 and 5002 of title 18, United States Code, the Chairman of the United States Parole Commission or his designee shall be a member of the National Institute of Corrections, and the Chairman of the United States Parole Commission shall be a member of the Advisory Corrections Council and a nonvoting member of the United States Sentencing Commission, ex officio, until the expiration of the five-year period following the effective date of this Act. Notwithstanding the provisions of section 4351 of title 18, during the five-year period the National Institute of Corrections shall have seventeen members, including seven ex officio members. Notwithstanding the provisions of section 991 of title 28, during the five-year period the United States Sentencing Commission shall consist of nine members, including two ex officio, nonvoting members.

Ante, p. 2017.

SEC. 236. (a)(1) Four years after the sentencing guidelines promulgated pursuant to section 994(a)(1), and the provisions of sections 3581, 3583, and 3624 of title 18, United States Code, go into effect, the General Accounting Office shall undertake a study of the guidelines in order to determine their impact and compare the guidelines system with the operation of the previous sentencing and parole release system, and, within six months of the undertaking of such study, report to the Congress the results of its study.

Study.
 Report.
 28 USC 994 note.
Ante, p. 2019.
Ante, pp. 1998,
 1999, 2008.

(2) Within one month of the start of the study required under subsection (a), the United States Sentencing Commission shall submit a report to the General Accounting Office, all appropriate courts, the Department of Justice, and the Congress detailing the operation of the sentencing guideline system and discussing any problems with the system or reforms needed. The report shall include an evaluation of the impact of the sentencing guidelines on prosecutorial discretion, plea bargaining, disparities in sentencing, and the use of incarceration, and shall be issued by affirmative vote of a majority of the voting members of the Commission.

Report.

(b) The Congress shall review the study submitted pursuant to subsection (a) in order to determine—

(1) whether the sentencing guideline system has been effective;

(2) whether any changes should be made in the sentencing guideline system; and

(3) whether the parole system should be reinstated in some form and the life of the Parole Commission extended.

SEC. 237. (a)(1) Except as provided in paragraph (2), for each criminal fine for which the unpaid balance exceeds \$100 as of the effective date of this Act, the Attorney General shall, within one hundred and twenty days, notify the person by certified mail of his obligation, within thirty days after notification, to—

Penalties.
 18 USC 3612
 note.

(A) pay the fine in full;

(B) specify, and demonstrate compliance with, an installment schedule established by a court before enactment of the amendments made by this Act, specifying the dates on which designated partial payments will be made; or

(C) establish with the concurrence of the Attorney General, a new installment schedule of a duration not exceeding two years, except in special circumstances, and specifying the dates on which designated partial payments will be made.

(2) This subsection shall not apply in cases in which—

(A) the Attorney General believes the likelihood of collection is remote; or

(B) criminal fines have been stayed pending appeal.

(b) The Attorney General shall, within one hundred and eighty days after the effective date of this Act, declare all fines for which this obligation is unfulfilled to be in criminal default, subject to the civil and criminal remedies established by amendments made by this Act. No interest or monetary penalties shall be charged on any fines subject to this section.

(c) Not later than one year following the effective date of this Act, the Attorney General shall include in the annual crime report steps taken to implement this Act and the progress achieved in criminal fine collection, including collection data for each judicial district.

SEC. 238. (a) Title 18 of the United States Code is amended by adding the following new chapter after chapter 227:

Post, p. 3139.

“CHAPTER 228—IMPOSITION, PAYMENT, AND COLLECTION OF FINES

“Sec.

“3591. Imposition of a fine.

“3592. Payment of a fine, delinquency and default.

“3593. Modification or remission of fine.

“3594. Certification and notification.

“3595. Interest, monetary penalties for delinquency, and default.

“3596. Civil remedies for satisfaction of an unpaid fine.

“3597. Resentencing upon failure to pay a fine.

“3598. Statute of limitations.

“3599. Criminal default.

18 USC 3591.

“§ 3591. Imposition of a fine

“(a) **FACTORS TO BE CONSIDERED IN IMPOSING A FINE.**—The court, in determining whether to impose a fine, the amount of any fine, the time for payment, and the method of payment, shall consider—

“(1) the ability of the defendant to pay the fine in view of the income of the defendant, earning capacity and financial resources, and, if the defendant is an organization, the size of the organization;

“(2) the nature of the burden that payment of the fine will impose on the defendant, and on any person who is financially dependent on the defendant, relative to the burden which alternative punishments would impose;

“(3) any restitution or reparation made by the defendant in connection with the offense and any obligation imposed upon the defendant to make such restitution or reparation;

“(4) if the defendant is an organization, any measure taken by the organization to discipline its employees or agents responsible for the offense or to ensure against a recurrence of such an offense; and

“(5) any other pertinent consideration.

“(b) EFFECT OF FINALITY OF JUDGMENT.—Notwithstanding the fact that a sentence to pay a fine can subsequently be—

“(1) modified or remitted pursuant to the provisions of section 3592;

“(2) corrected pursuant to the provisions of rule 35; or

Ante, p. 2015.

“(3) appealed;

a judgment of conviction that includes such a sentence constitutes a final judgment for all other purposes.

“§ 3592. Payment of a fine, delinquency and default

18 USC 3592.

“(a) TIME AND METHOD OF PAYMENT.—Payment of a fine is due immediately unless the court, at the time of sentencing—

“(1) requires payment by a date certain; or

“(2) establishes an installment schedule, the specific terms of which shall be fixed by the court.

“(b) INDIVIDUAL RESPONSIBILITIES FOR PAYMENT.—If a fine is imposed on an organization, it is the duty of each individual authorized to make disbursement of the assets of the organization to pay the fine from assets of the organization. If a fine is imposed on an agent or shareholder of an organization, the fine shall not be paid, directly or indirectly, out of the assets of the organization, unless the court finds that such payment is expressly permissible under applicable State law.

“(c) RESPONSIBILITY TO PROVIDE CURRENT ADDRESS.—At the time of imposition of the fine, the court shall order the person fined to provide the Attorney General with a current mailing address for the entire period that any part of the fine remains unpaid. Failure to provide the Attorney General with a current address or a change in address shall be punishable as a contempt of court.

“(d) STAY OF FINE PENDING APPEAL.—Unless exceptional circumstances exist, if a sentence to pay a fine is stayed pending appeal, the court granting the stay shall include in such stay—

“(1) a requirement that the defendant, pending appeal, deposit the entire fine amount, or the amount due under an installment schedule, during the pendency of an appeal, in an escrow account in the registry of the district court, or to give bond for the payment thereof; or

“(2) an order restraining the defendant from transferring or dissipating assets found to be sufficient, if sold, to meet the defendant's fine obligation.

“(e) DELINQUENT FINE.—A fine is delinquent if any portion of such fine is not paid within thirty days of when it is due, including any fines to be paid pursuant to an installment schedule.

“(f) DEFAULT.—A fine is in default if any portion of such fine is more than ninety days delinquent. When a criminal fine is in default, the entire amount is due within thirty days of notification of the default, notwithstanding any installment schedule.

“§ 3593. Modification or remission of fine

18 USC 3593.

“(a) PETITION FOR MODIFICATION OR REMISSION.—A person who has been sentenced to pay a fine, and who—

“(1) can show a good faith effort to comply with the terms of the sentence and concerning whom the circumstances no longer exist that warranted the imposition of the fine in the amount imposed or payment by the installment schedule, may at any time petition the court for—

“(A) an extension of the installment schedule, not to exceed two years except in case of incarceration or special circumstances; or

“(B) a remission of all or part of the unpaid portion including interest and penalties; or

“(2) has voluntarily made restitution or reparation to the victim of the offense, may at any time petition the court for a remission of the unpaid portion of the fine in an amount not exceeding the amount of such restitution or reparation.

Any petition filed pursuant to this subsection shall be filed in the court in which sentence was originally imposed, unless that court transfers jurisdiction to another court. The petitioner shall notify the Attorney General that the petition has been filed within ten working days after filing. For the purposes of clause (1), unless exceptional circumstances exist, a person may be considered to have made a good faith effort to comply with the terms of the sentence only after payment of a reasonable portion of the fine.

“(b) ORDER OF MODIFICATION OR REMISSION.—If, after the filing of a petition as provided in subsection (a), the court finds that the circumstances warrant relief, the court may enter an appropriate order, in which case it shall provide the Attorney General with a copy of such order.

18 USC 3594.

“§ 3594. Certification and notification

“(a) DISPOSITION OF PAYMENT.—The clerk shall forward each fine payment to the United States Treasury and shall notify the Attorney General of its receipt within ten working days.

“(b) CERTIFICATION OF IMPOSITION.—If a fine exceeding \$100 is imposed, modified, or remitted, the sentencing court shall incorporate in the order imposing, remitting, and modifying such fine, and promptly certify to the Attorney General—

“(1) the name of the person fined;

“(2) his current address;

“(3) the docket number of the case;

“(4) the amount of the fine imposed;

“(5) any installment schedule;

“(6) the nature of any modification or remission of the fine or installment schedule; and

“(7) the amount of the fine that is due and unpaid.

“(c) RESPONSIBILITY FOR COLLECTION.—The Attorney General shall be responsible for collection of an unpaid fine concerning which a certification has been issued as provided in subsection (a).

“(d) NOTIFICATION OF DELINQUENCY.—Within ten working days after a fine is determined to be delinquent as provided in section 3592(e), the Attorney General shall notify the person whose fine is delinquent, by certified mail, to inform him that the fine is delinquent.

“(e) NOTIFICATION OF DEFAULT.—Within ten working days after a fine is determined to be in default as provided in section 3592(f), the Attorney General shall notify the person defaulting, by certified mail, to inform him that the fine is in default and the entire unpaid balance, including interest and penalties, is due within thirty days.

18 USC 3595.

“§ 3595. Interest, monetary penalties for delinquency, and default

“Upon a determination of willful nonpayment, the court may impose the following interest and monetary penalties:

“(1) **INTEREST.**—Notwithstanding any other provision of law, interest at the rate of 1 per centum per month, or 12 per centum per year, shall be charged, beginning the thirty-first day after sentencing on the first day of each month during which any fine balance remains unpaid, including sums to be paid pursuant to an installment schedule.

“(2) **MONETARY PENALTIES FOR DELINQUENT FINES.**—Notwithstanding any other provision of law, a penalty sum equal to 10 per centum shall be charged for any portion of a criminal fine which has become delinquent. The Attorney General may waive all or part of the penalty for good cause.

Waiver.

“§ 3596. **Civil remedies for satisfaction of an unpaid fine**

18 USC 3596.

“(a) **LIEN.**—A fine imposed as a sentence is a lien in favor of the United States upon all property belonging to the person fined. The lien arises at the time of the entry of the judgment and continues until the liability is satisfied, remitted, or set aside, or until it becomes unenforceable pursuant to the provisions of subsection (b). On application of the person fined, the Attorney General shall—

“(1) issue a certificate of release, as described in section 6325 of the Internal Revenue Code, of any lien imposed pursuant to this section, upon his acceptance of a bond described in section 6325(a)(2) of the Internal Revenue Code; or

26 USC 6325.

“(2) issue a certificate of discharge, as described in section 6325 of the Internal Revenue Code, of any part of the person's property subject to a lien imposed pursuant to this section, upon his determination that the fair market value of that part of such property remaining subject to and available to satisfy the lien is at least three times the amount of the fine.

“(b) **EXPIRATION OF LIEN.**—A lien becomes unenforceable at the time liability to pay a fine expires as provided in section 3598.

“(c) **APPLICATION OF OTHER LIEN PROVISIONS.**—The provisions of sections 6323, 6331, 6334 through 6336, 6337(a), 6338 through 6343, 6901, 7402, 7403, 7424 through 7426, 7505(a), 7506, 7701, and 7805 of the Internal Revenue Code of 1954 (26 U.S.C. 6323, 6331, 6332, 6334 through 6336, 6337(a), 6338 through 6343, 6901, 7402, 7403, 7424 through 7426, 7505(a), 7506, 7701, and 7805) and of section 513 of the Act of October 17, 1940 (54 Stat. 1190), apply to a fine and to the lien imposed by subsection (a) as if the liability of the person fined were for an internal revenue tax assessment, except to the extent that the application of such statutes is modified by regulations issued by the Attorney General to accord with differences in the nature of the liabilities. For the purposes of this subsection, references in the preceding sections of the Internal Revenue Code of 1954 to ‘the Secretary’ shall be construed to mean ‘the Attorney General,’ and references in those sections to ‘tax’ shall be construed to mean ‘fine.’

50 USC app. 573.

“(d) **EFFECT ON NOTICE OF LIEN.**—A notice of the lien imposed by subsection (a) shall be considered a notice of lien for taxes payable to the United States for the purposes of any State or local law providing for the filing of a notice of a tax lien. The registration, recording, docketing, or indexing, in accordance with 28 U.S.C. 1962, of the judgment under which a fine is imposed shall be considered for all purposes as the filing prescribed by section 6323(f)(1)(A) of the Internal Revenue Code of 1954 (26 U.S.C. 6323(f)(1)(A)) and by subsection (c).

26 USC 1 *et seq.*

“(e) **ALTERNATIVE ENFORCEMENT.**—Notwithstanding any other provision of this section, a judgment imposing a fine may be

enforced by execution against the property of the person fined in like manner as judgments in civil cases.

“(f) DISCHARGE OF DEBTS INAPPLICABLE.—No discharge of debts pursuant to a bankruptcy proceeding shall render a lien under this section unenforceable or discharge liability to pay a fine.

18 USC 3597. **“§ 3597. Resentencing upon failure to pay a fine**

“(a) RESENTENCING.—Subject to the provisions of subsection (b), if a person knowingly fails to pay a delinquent fine the court may resentence the person to any sentence which might originally have been imposed.

“(b) IMPRISONMENT.—The defendant may be sentenced to a term of imprisonment under subsection (a) only if the court determines that—

“(1) the person willfully refused to pay the delinquent fine or had failed to make sufficient bona fide efforts to pay the fine; or

“(2) in light of the nature of the offense and the characteristics of the person, alternatives to imprisonment are not adequate to serve the purposes of punishment and deterrence.

18 USC 3598. **“§ 3598. Statute of limitations**

“(a) LIABILITY TO PAY A FINE EXPIRES.—

“(1) twenty years after the entry of the judgment;

“(2) upon the death of the person fined.

“(b) The period set forth in subsection (a) may be extended, prior to its expiration, by a written agreement between the person fined and the Attorney General. The running of the period set forth in subsection (a) is suspended during any interval for which the running of the period of limitations for collection of a tax would be suspended pursuant to section 6503(b), 6503(c), 6503(f), 6503(i), or 7508(a)(1)(I) of the Internal Revenue Code of 1954 (26 U.S.C. 6503(b), 6503(c), 6503(f), 6503(i), or 7508(a)(1)(I)), or section 513 of the Act of October 17, 1940 (54 Stat. 1190).

50 USC app. 573.

18 USC 3599. **“§ 3599. Criminal default**

“Whoever, having been sentenced to pay a fine, willfully fails to pay the fine, shall be fined not more than twice the amount of the unpaid balance of the fine or \$10,000, whichever is greater, imprisoned not more than one year, or both.”.

(b) Section 3651 of title 18, United States Code, is amended by inserting after “May be required to provide for the support of any persons, for whose support he is legally responsible.” the following new paragraph:

“If the court has imposed and ordered execution of a fine and placed the defendant on probation, payment of the fine or adherence to the court-established installment schedule shall be a condition of the probation.”.

(c) Section 3651 of title 18, United States Code, is amended by striking out the last paragraph and inserting in lieu thereof the following:

“The defendant’s liability for any unexecuted fine or other punishment imposed as to which probation is granted, shall be fully discharged by the fulfillment of the terms and conditions of probation.”.

(d) The second paragraph of section 3655 of title 18, United States Code, is amended to read as follows:

“He shall keep informed concerning the conduct, condition, and compliance with any condition of probation, including the payment of a fine or restitution of each probationer under his supervision, and shall report thereon to the court placing such person on probation. He shall report to the court any failure of a probationer under his supervision to pay a fine in default within thirty days after notification that it is in default so that the court may determine whether probation should be revoked.”.

(e) Section 4209 of title 18, United States Code, is amended in subsection (a) by striking out the period at the end of the first sentence and inserting in lieu thereof “and, in a case involving a criminal fine that has not already been paid, that the parolee pay or agree to adhere to an installment schedule, not to exceed two years except in special circumstances, to pay for any fine imposed for the offense.”.

Ante, p. 2027.

(f) Subsection (b)(1) of section 4214 of title 18, United States Code, is amended by adding after “parole” the following: “or a failure to pay a fine in default within thirty days after notification that it is in default”.

Ante, p. 2027.

(g)(1) Section 3565 of title 18, United States Code, is repealed.

Repeal.

(2) The table of sections for chapter 227 of title 18, United States Code, is amended by striking out the item for section 3565 and inserting in lieu thereof the following:

Ante, p. 1995.

“3565. Repealed.”.

(h) Section 3569 of title 18, United States Code, is amended by—

(1) striking out “(a)”; and

(2) striking out subsection (b).

(i) This section shall be repealed on the first day of the first calendar month beginning twenty-four months after the date of enactment of this Act.

Repeal.

SEC. 239. Since, due to an impending crisis in prison overcrowding, available Federal prison space must be treated as a scarce resource in the sentencing of criminal defendants;

18 USC 3565
note.
18 USC 3551
note.

Since, sentencing decisions should be designed to ensure that prison resources are, first and foremost, reserved for those violent and serious criminal offenders who pose the most dangerous threat to society;

Since, in cases of nonviolent and nonserious offenders, the interests of society as a whole as well as individual victims of crime can continue to be served through the imposition of alternative sentences, such as restitution and community service;

Since, in the two years preceding the enactment of sentencing guidelines, Federal sentencing practice should ensure that scarce prison resources are available to house violent and serious criminal offenders by the increased use of restitution, community service, and other alternative sentences in cases of nonviolent and nonserious offenders: Now, therefore, be it

Declared, That it is the sense of the Senate that in the two years preceding the enactment of the sentencing guidelines, Federal judges, in determining the particular sentence to be imposed, consider—

(1) the nature and circumstances of the offense and the history and characteristics of the defendant;

(2) the general appropriateness of imposing a sentence other than imprisonment in cases in which the defendant has not

been convicted of a crime of violence or otherwise serious offense; and

(3) the general appropriateness of imposing a sentence of imprisonment in cases in which the defendant has been convicted of a crime of violence or otherwise serious offense.

CHAPTER III—FORFEITURE

Comprehensive
Forfeiture Act of
1984.
18 USC 1961
note.

SEC. 301. This title may be cited as the "Comprehensive Forfeiture Act of 1984".

PART A

SEC. 302. Section 1963 of title 18 of the United States Code is amended to read as follows:

"§ 1963. Criminal penalties

"(a) Whoever violates any provision of section 1962 of this chapter shall be fined not more than \$25,000 or imprisoned not more than twenty years, or both, and shall forfeit to the United States, irrespective of any provision of State law—

"(1) any interest the person has acquired or maintained in violation of section 1962;

"(2) any—

"(A) interest in;

"(B) security of;

"(C) claim against; or

"(D) property or contractual right of any kind affording a source of influence over;
any enterprise which the person has established, operated, controlled, conducted, or participated in the conduct of, in violation of section 1962; and

"(3) any property constituting, or derived from, any proceeds which the person obtained, directly or indirectly, from racketeering activity or unlawful debt collection in violation of section 1962.

The court, in imposing sentence on such person shall order, in addition to any other sentence imposed pursuant to this section, that the person forfeit to the United States all property described in this subsection.

"(b) Property subject to criminal forfeiture under this section includes—

"(1) real property, including things growing on, affixed to, and found in land; and

"(2) tangible and intangible personal property, including rights, privileges, interests, claims, and securities.

"(c) All right, title, and interest in property described in subsection (a) vests in the United States upon the commission of the act giving rise to forfeiture under this section. Any such property that is subsequently transferred to a person other than the defendant may be the subject of a special verdict of forfeiture and thereafter shall be ordered forfeited to the United States, unless the transferee establishes in a hearing pursuant to subsection (m) that he is a bona fide purchaser for value of such property who at the time of purchase was reasonably without cause to believe that the property was subject to forfeiture under this section.

"(d) If any of the property described in subsection (a)—

"(1) cannot be located;

“(2) has been transferred to, sold to, or deposited with, a third party;

“(3) has been placed beyond the jurisdiction of the court;

“(4) has been substantially diminished in value by any act or omission of the defendant; or

“(5) has been commingled with other property which cannot be divided without difficulty;

the court shall order the forfeiture of any other property of the defendant up to the value of any property described in paragraphs (1) through (5).

“(e)(1) Upon application of the United States, the court may enter a restraining order or injunction, require the execution of a satisfactory performance bond, or take any other action to preserve the availability of property described in subsection (a) for forfeiture under this section—

Courts, U.S.

“(A) upon the filing of an indictment or information charging a violation of section 1962 of this chapter and alleging that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section; or

“(B) prior to the filing of such an indictment or information, if, after notice to persons appearing to have an interest in the property and opportunity for a hearing, the court determines that—

“(i) there is a substantial probability that the United States will prevail on the issue of forfeiture and that failure to enter the order will result in the property being destroyed, removed from the jurisdiction of the court, or otherwise made unavailable for forfeiture; and

“(ii) the need to preserve the availability of the property through the entry of the requested order outweighs the hardship on any party against whom the order is to be entered:

Provided, however, That an order entered pursuant to subparagraph (B) shall be effective for not more than ninety days, unless extended by the court for good cause shown or unless an indictment or information described in subparagraph (A) has been filed.

“(2) A temporary restraining order under this subsection may be entered upon application of the United States without notice or opportunity for a hearing when an information or indictment has not yet been filed with respect to the property, if the United States demonstrates that there is probable cause to believe that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section and that provision of notice will jeopardize the availability of the property for forfeiture. Such a temporary order shall expire not more than ten days after the date on which it is entered, unless extended for good cause shown or unless the party against whom it is entered consents to an extension for a longer period. A hearing requested concerning an order entered under this paragraph shall be held at the earliest possible time, and prior to the expiration of the temporary order.

“(3) The court may receive and consider, at a hearing held pursuant to this subsection, evidence and information that would be inadmissible under the Federal Rules of Evidence.

“(f) Upon conviction of a person under this section, the court shall enter a judgment of forfeiture of the property to the United States and shall also authorize the Attorney General to seize all property

28 USC app.
Seizure and
forfeiture of
property.

ordered forfeited upon such terms and conditions as the court shall deem proper. Following the entry of an order declaring the property forfeited, the court may, upon application of the United States, enter such appropriate restraining orders or injunctions, require the execution of satisfactory performance bonds, appoint receivers, conservators, appraisers, accountants, or trustees, or take any other action to protect the interest of the United States in the property ordered forfeited. Any income accruing to, or derived from, an enterprise or an interest in an enterprise which has been ordered forfeited under this section may be used to offset ordinary and necessary expenses to the enterprise which are required by law, or which are necessary to protect the interests of the United States or third parties.

Disposition of
property.

“(g) Following the seizure of property ordered forfeited under this section, the Attorney General shall direct the disposition of the property by sale or any other commercially feasible means, making due provision for the rights of any innocent persons. Any property right or interest not exercisable by, or transferable for value to, the United States shall expire and shall not revert to the defendant, nor shall the defendant or any person acting in concert with or on behalf of the defendant be eligible to purchase forfeited property at any sale held by the United States. Upon application of a person, other than the defendant or a person acting in concert with or on behalf of the defendant, the court may restrain or stay the sale or disposition of the property pending the conclusion of any appeal of the criminal case giving rise to the forfeiture, if the applicant demonstrates that proceeding with the sale or disposition of the property will result in irreparable injury, harm or loss to him. Notwithstanding 31 U.S.C. 3302(b), the proceeds of any sale or other disposition of property forfeited under this section and any moneys forfeited shall be used to pay all proper expenses for the forfeiture and the sale, including expenses of seizure, maintenance and custody of the property pending its disposition, advertising and court costs. The Attorney General shall deposit in the Treasury any amounts of such proceeds or moneys remaining after the payment of such expenses.

“(h) With respect to property ordered forfeited under this section, the Attorney General is authorized to—

“(1) grant petitions for mitigation or remission of forfeiture, restore forfeited property to victims of a violation of this chapter, or take any other action to protect the rights of innocent persons which is in the interest of justice and which is not inconsistent with the provisions of this chapter;

“(2) compromise claims arising under this section;

“(3) award compensation to persons providing information resulting in a forfeiture under this section;

“(4) direct the disposition by the United States of all property ordered forfeited under this section by public sale or any other commercially feasible means, making due provision for the rights of innocent persons; and

“(5) take appropriate measures necessary to safeguard and maintain property ordered forfeited under this section pending its disposition.

“(i) The Attorney General may promulgate regulations with respect to—

“(1) making reasonable efforts to provide notice to persons who may have an interest in property ordered forfeited under this section;

“(2) granting petitions for remission or mitigation of forfeiture;

“(3) the restitution of property to victims of an offense petitioning for remission or mitigation of forfeiture under this chapter;

“(4) the disposition by the United States of forfeited property by public sale or other commercially feasible means;

“(5) the maintenance and safekeeping of any property forfeited under this section pending its disposition; and

“(6) the compromise of claims arising under this chapter.

Pending the promulgation of such regulations, all provisions of law relating to the disposition of property, or the proceeds from the sale thereof, or the remission or mitigation of forfeitures for violation of the customs laws, and the compromise of claims and the award of compensation to informers in respect of such forfeitures shall apply to forfeitures incurred, or alleged to have been incurred, under the provisions of this section, insofar as applicable and not inconsistent with the provisions hereof. Such duties as are imposed upon the Customs Service or any person with respect to the disposition of property under the customs law shall be performed under this chapter by the Attorney General.

“(j) Except as provided in subsection (m), no party claiming an interest in property subject to forfeiture under this section may—

“(1) intervene in a trial or appeal of a criminal case involving the forfeiture of such property under this section; or

“(2) commence an action at law or equity against the United States concerning the validity of his alleged interest in the property subsequent to the filing of an indictment or information alleging that the property is subject to forfeiture under this section.

“(k) The district courts of the United States shall have jurisdiction to enter orders as provided in this section without regard to the location of any property which may be subject to forfeiture under this section or which has been ordered forfeited under this section.

Courts, U.S.

“(l) In order to facilitate the identification or location of property declared forfeited and to facilitate the disposition of petitions for remission or mitigation of forfeiture, after the entry of an order declaring property forfeited to the United States the court may, upon application of the United States, order that the testimony of any witness relating to the property forfeited be taken by deposition and that any designated book, paper, document, record, recording, or other material not privileged be produced at the same time and place, in the same manner as provided for the taking of depositions under Rule 15 of the Federal Rules of Criminal Procedure.

18 USC app.

“(m)(1) Following the entry of an order of forfeiture under this section, the United States shall publish notice of the order and of its intent to dispose of the property for at least seven successive court days in such manner as the Attorney General may direct. The Government may also, to the extent practicable, provide direct written notice to any person known to have alleged an interest in the property that is the subject of the order of forfeiture as a substitute for published notice as to those persons so notified.

“(2) Any person, other than the defendant, asserting a legal interest in property which has been ordered forfeited to the United States pursuant to this section may, within thirty days of the final publication of notice or his receipt of notice under paragraph (1), whichever is earlier, petition the court for a hearing to adjudicate

the validity of his alleged interest in the property. The hearing shall be held before the court alone, without a jury.

“(3) The petition shall be signed by the petitioner under penalty of perjury and shall set forth the nature and extent of the petitioner’s right, title, or interest in the property, the time and circumstances of the petitioner’s acquisition of the right, title, or interest in the property, any additional facts supporting the petitioner’s claim, and the relief sought.

“(4) The hearing on the petition shall, to the extent practicable and consistent with the interests of justice, be held within thirty days of the filing of the petition. The court may consolidate the hearing on the petition with a hearing on any other petition filed by a person other than the defendant under this subsection.

“(5) At the hearing, the petitioner may testify and present evidence and witnesses on his own behalf, and cross-examine witnesses who appear at the hearing. The United States may present evidence and witnesses in rebuttal and in defense of its claim to the property and cross-examine witnesses who appear at the hearing. In addition to testimony and evidence presented at the hearing, the court shall consider the relevant portions of the record of the criminal case which resulted in the order of forfeiture.

“(6) If, after the hearing, the court determines that the petitioner has established by a preponderance of the evidence that—

“(A) the petitioner has a legal right, title, or interest in the property, and such right, title, or interest renders the order of forfeiture invalid in whole or in part because the right, title, or interest was vested in the petitioner rather than the defendant or was superior to any right, title, or interest of the defendant at the time of the commission of the acts which gave rise to the forfeiture of the property under this section; or

“(B) the petitioner is a bona fide purchaser for value of the right, title, or interest in the property and was at the time of purchase reasonably without cause to believe that the property was subject to forfeiture under this section;

the court shall amend the order of forfeiture in accordance with its determination.

“(7) Following the court’s disposition of all petitions filed under this subsection, or if no such petitions are filed following the expiration of the period provided in paragraph (2) for the filing of such petitions, the United States shall have clear title to property that is the subject of the order of forfeiture and may warrant good title to any subsequent purchaser or transferee.”.

PART B

SEC. 303. Part D of title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 841 et seq.) is amended by adding at the end thereof the following new sections 413 and 414:

“CRIMINAL FORFEITURES

“PROPERTY SUBJECT TO CRIMINAL FORFEITURE

“SEC. 413. (a) Any person convicted of a violation of this title or title III punishable by imprisonment for more than one year shall forfeit to the United States, irrespective of any provision of State law—

Post, p. 2192,
2193.
21 USC 853.
21 USC 951.

“(1) any property constituting, or derived from, any proceeds the person obtained, directly or indirectly, as the result of such violation;

“(2) any of the person’s property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, such violation; and

“(3) in the case of a person convicted of engaging in a continuing criminal enterprise in violation of section 408 of this title (21 U.S.C. 848), the person shall forfeit, in addition to any property described in paragraph (1) or (2), any of his interest in, claims against, and property or contractual rights affording a source of control over, the continuing criminal enterprise.

The court, in imposing sentence on such person, shall order, in addition to any other sentence imposed pursuant to this title or title III, that the person forfeit to the United States all property described in this subsection. 21 USC 951

“MEANING OF TERM ‘PROPERTY’

“(b) Property subject to criminal forfeiture under this section includes—

“(1) real property, including things growing on, affixed to, and found in land; and

“(2) tangible and intangible personal property, including rights, privileges, interests, claims, and securities.

“THIRD PARTY TRANSFERS

“(c) All right, title, and interest in property described in subsection (a) vests in the United States upon the commission of the act giving rise to forfeiture under this section. Any such property that is subsequently transferred to a person other than the defendant may be the subject of a special verdict of forfeiture and thereafter shall be ordered forfeited to the United States, unless the transferee establishes in a hearing pursuant to subsection (o) that he is a bona fide purchaser for value of such property who at the time of purchase was reasonably without cause to believe that the property was subject to forfeiture under this section.

“(d) If any of the property described in subsection (a)—

“(1) cannot be located;

“(2) has been transferred to, sold to, or deposited with a third party;

“(3) has been placed beyond the jurisdiction of the court;

“(4) has been substantially diminished in value by any act or omission of the defendant; or

“(5) has been commingled with other property which cannot be divided without difficulty;

the court shall order the forfeiture of any other property of the defendant up to the value of any property described in paragraphs (1) through (5).

“REBUTTABLE PRESUMPTION

“(e) There is a rebuttable presumption at trial that any property of a person convicted of a felony under this title or title III is subject to forfeiture under this section if the United States establishes by a preponderance of the evidence that—

21 USC 951.

“(1) such property was acquired by such person during the period of the violation of this title or title III or within a reasonable time after such period; and

“(2) there was no likely source for such property other than the violation of this title or title III.

“PROTECTIVE ORDERS

“(f)(1) Upon application of the United States, the court may enter a restraining order or injunction, require the execution of a satisfactory performance bond, or take any other action to preserve the availability of property described in subsection (a) for forfeiture under this section—

“(A) upon the filing of an indictment or information charging a violation of this title or title III for which criminal forfeiture may be ordered under this section and alleging that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section; or

“(B) prior to the filing of such an indictment or information, if, after notice to persons appearing to have an interest in the property and opportunity for a hearing, the court determines that—

“(i) there is a substantial probability that the United States will prevail on the issue of forfeiture and that failure to enter the order will result in the property being destroyed, removed from the jurisdiction of the court, or otherwise made unavailable for forfeiture; and

“(ii) the need to preserve the availability of the property through the entry of the requested order outweighs the hardship on any party against whom the order is to be entered:

Provided, however, That an order entered pursuant to subparagraph (B) shall be effective for not more than ninety days, unless extended by the court for good cause shown or unless an indictment or information described in subparagraph (A) has been filed.

“(2) A temporary restraining order under this subsection may be entered upon application of the United States without notice or opportunity for a hearing when an information or indictment has not yet been filed with respect to the property, if the United States demonstrates that there is probable cause to believe that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section and that provision of notice will jeopardize the availability of the property for forfeiture. Such a temporary order shall expire not more than ten days after the date on which it is entered, unless extended for good cause shown or unless the party against whom it is entered consents to an extension for a longer period. A hearing requested concerning an order entered under this paragraph shall be held at the earliest possible time and prior to the expiration of the temporary order.

“(3) The court may receive and consider, at a hearing held pursuant to this subsection, evidence and information that would be inadmissible under the Federal Rules of Evidence.

28 USC app.

“WARRANT OF SEIZURE

“(g) The Government may request the issuance of a warrant authorizing the seizure of property subject to forfeiture under this section in the same manner as provided for a search warrant. If the court determines that there is probable cause to believe that the property to be seized would, in the event of conviction, be subject to forfeiture and that an order under subsection (f) may not be sufficient to assure the availability of the property for forfeiture, the court shall issue a warrant authorizing the seizure of such property.

“EXECUTION

“(h) Upon entry of an order of forfeiture under this section, the court shall authorize the Attorney General to seize all property ordered forfeited upon such terms and conditions as the court shall deem proper. Following entry of an order declaring the property forfeited, the court may, upon application of the United States, enter such appropriate restraining orders or injunctions, require the execution of satisfactory performance bonds, appoint receivers, conservators, appraisers, accountants, or trustees, or take any other action to protect the interest of the United States in the property ordered forfeited. Any income accruing to or derived from property ordered forfeited under this section may be used to offset ordinary and necessary expenses to the property which are required by law, or which are necessary to protect the interests of the United States or third parties.

“DISPOSITION OF PROPERTY

“(i) Following the seizure of property ordered forfeited under this section, the Attorney General shall direct the disposition of the property by sale or any other commercially feasible means, making due provision for the rights of any innocent persons. Any property right or interest not exercisable by, or transferable for value to, the United States shall expire and shall not revert to the defendant, nor shall the defendant or any person acting in concert with him or on his behalf be eligible to purchase forfeited property at any sale held by the United States. Upon application of a person, other than the defendant or a person acting in concert with him or on his behalf, the court may restrain or stay the sale or disposition of the property pending the conclusion of any appeal of the criminal case giving rise to the forfeiture, if the applicant demonstrates that proceeding with the sale or disposition of the property will result in irreparable injury, harm, or loss to him.

“AUTHORITY OF THE ATTORNEY GENERAL

“(j) With respect to property ordered forfeited under this section, the Attorney General is authorized to—

“(1) grant petitions for mitigation or remission of forfeiture, restore forfeited property to victims of a violation of this chapter, or take any other action to protect the rights of innocent persons which is in the interest of justice and which is not inconsistent with the provisions of this section;

“(2) compromise claims arising under this section;

“(3) award compensation to persons providing information resulting in a forfeiture under this section;

“(4) direct the disposition by the United States, in accordance with the provisions of section 511(e) of this title (21 U.S.C. 881(e)), of all property ordered forfeited under this section by public sale or any other commercially feasible means, making due provision for the rights of innocent persons; and

“(5) take appropriate measures necessary to safeguard and maintain property ordered forfeited under this section pending its disposition.

“APPLICABILITY OF CIVIL FORFEITURE PROVISIONS

“(k) Except to the extent that they are inconsistent with the provisions of this section, the provisions of section 511(d) of this title (21 U.S.C. 881(d)) shall apply to a criminal forfeiture under this section.

“BAR ON INTERVENTION

“(l) Except as provided in subsection (o), no party claiming an interest in property subject to forfeiture under this section may—

“(1) intervene in a trial or appeal of a criminal case involving the forfeiture of such property under this section; or

“(2) commence an action at law or equity against the United States concerning the validity of his alleged interest in the property subsequent to the filing of an indictment or information alleging that the property is subject to forfeiture under this section.

“JURISDICTION TO ENTER ORDERS

“(m) The district courts of the United States shall have jurisdiction to enter orders as provided in this section without regard to the location of any property which may be subject to forfeiture under this section or which has been ordered forfeited under this section.

“DEPOSITIONS

“(n) In order to facilitate the identification and location of property declared forfeited and to facilitate the disposition of petitions for remission or mitigation of forfeiture, after the entry of an order declaring property forfeited to the United States, the court may, upon application of the United States, order that the testimony of any witness relating to the property forfeited be taken by deposition and that any designated book, paper, document, record, recording, or other material not privileged be produced at the same time and place, in the same manner as provided for the taking of depositions under Rule 15 of the Federal Rules of Criminal Procedure.

18 USC app.

“THIRD PARTY INTERESTS

“(o)(1) Following the entry of an order of forfeiture under this section, the United States shall publish notice of the order and of its intent to dispose of the property for at least seven successive court days in such manner as the Attorney General may direct. The Government may also, to the extent practicable, provide direct written notice to any person known to have alleged an interest in the property that is the subject of the order of forfeiture as a substitute for published notice as to those persons so notified.

“(2) Any person, other than the defendant, asserting a legal interest in property which has been ordered forfeited to the United States pursuant to this section may, within thirty days of the final publication of notice or his receipt of notice under paragraph (1), whichever is earlier, petition the court for a hearing to adjudicate the validity of his alleged interest in the property. The hearing shall be held before the court alone, without a jury.

“(3) The petition shall be signed by the petitioner under penalty of perjury and shall set forth the nature and extent of the petitioner’s right, title, or interest in the property, the time and circumstances of the petitioner’s acquisition of the right, title, or interest in the property, any additional facts supporting the petitioner’s claim, and the relief sought.

“(4) The hearing on the petition shall, to the extent practicable and consistent with the interests of justice, be held within thirty days of the filing of the petition. The court may consolidate the hearing on the petition with a hearing on any other petition filed by a person other than the defendant under this subsection.

“(5) At the hearing, the petitioner may testify and present evidence and witnesses on his own behalf, and cross-examine witnesses who appear at the hearing. The United States may present evidence and witnesses in rebuttal and in defense of its claim to the property and cross-examine witnesses who appear at the hearing. In addition to testimony and evidence presented at the hearing, the court shall consider the relevant portions of the record of the criminal case which resulted in the order of forfeiture.

“(6) If, after the hearing, the court determines that the petitioner has established by a preponderance of the evidence that—

“(A) the petitioner has a legal right, title, or interest in the property, and such right, title, or interest renders the order of forfeiture invalid in whole or in part because the right, title, or interest was vested in the petitioner rather than the defendant or was superior to any right, title, or interest of the defendant at the time of the commission of the acts which gave rise to the forfeiture of the property under this section; or

“(B) the petitioner is a bona fide purchaser for value of the right, title, or interest in the property and was at the time of purchase reasonably without cause to believe that the property was subject to forfeiture under this section;

the court shall amend the order of forfeiture in accordance with its determination.

“(7) Following the court’s disposition of all petitions filed under this subsection, or if no such petitions are filed following the expiration of the period provided in paragraph (2) for the filing of such petitions, the United States shall have clear title to property that is the subject of the order of forfeiture and may warrant good title to any subsequent purchaser or transferee.

“(p) The provisions of this section shall be liberally construed to effectuate its remedial purposes.

“INVESTMENT OF ILLICIT DRUG PROFITS

“SEC. 414. (a) It shall be unlawful for any person who has received any income derived, directly or indirectly, from a violation of this title or title III punishable by imprisonment for more than one year in which such person has participated as a principal within the meaning of section 2 of title 18, United States Code, to use or invest,

21 USC 854.

21 USC 951.

- directly or indirectly, any part of such income, or the proceeds of such income, in acquisition of any interest in, or the establishment or operation of, any enterprise which is engaged in, or the activities of which affect interstate or foreign commerce. A purchase of securities on the open market for purposes of investment, and without the intention of controlling or participating in the control of the issuer, or of assisting another to do so, shall not be unlawful under this section if the securities of the issuer held by the purchaser, the members of his immediate family, and his or their accomplices in any violation of this title or title III after such purchase do not amount in the aggregate to 1 per centum of the outstanding securities of any one class, and do not confer, either in law or in fact, the power to elect one or more directors of the issuer.
- Securities.** 21 USC 951.
- Penalties.** “(b) Whoever violates this section shall be fined not more than \$50,000 or imprisoned not more than ten years, or both.
“(c) As used in this section, the term ‘enterprise’ includes any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity.
“(d) The provisions of this section shall be liberally construed to effectuate its remedial purposes.”
- SEC. 304. Section 304 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 824) is amended by adding at the end of subsection (f) the following sentence: “All right, title, and interest in such controlled substances shall vest in the United States upon a revocation order becoming final.”
- SEC. 305. Section 408 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 848) is amended—
- (a) in subsection (a)—
- (1) by striking out “(1)”;
 - (2) by striking out “paragraph (2)” each time it appears, and inserting in lieu thereof “section 413 of this title”; and
 - (3) by striking out paragraph (2); and
- (b) by striking out subsection (d).
- SEC. 306. Section 511 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881) is amended—
- (a) in subsection (a) by inserting at the end thereof the following new subsection:
- “(7) All real property, including any right, title, and interest in the whole of any lot or tract of land and any appurtenances or improvements, which is used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, a violation of this title punishable by more than one year’s imprisonment, except that no property shall be forfeited under this paragraph, to the extent of an interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner.”;
- (b) in subsection (b)—
- (1) by inserting “civil or criminal” after “Any property subject to”; and
 - (2) by striking out in paragraph (4) “has been used or is intended to be used in violation of” and inserting in lieu thereof “is subject to civil or criminal forfeiture under”;
- (c) in subsection (c)—
- (1) by inserting in the second sentence “any of” after “Whenever property is seized under”; and
- Real property.**

(2) by inserting in paragraph (3) “, if practicable,” after “remove it”;

(d) in subsection (d), by inserting “any of” after “alleged to have been incurred, under”;

(e) in subsection (e)—

(1) by inserting “civilly or criminally” in the first sentence after “Whenever property is”; and

(2) by striking out in paragraph (3) “and remove it for disposition” and inserting in lieu thereof “and dispose of it”; and

(f) by inserting at the end thereof the following new subsections:

“(h) All right, title, and interest in property described in subsection (a) shall vest in the United States upon commission of the act giving rise to forfeiture under this section.

“(i) The filing of an indictment or information alleging a violation of this title or title III which is also related to a civil forfeiture proceeding under this section shall, upon motion of the United States and for good cause shown, stay the civil forfeiture proceeding. 21 USC 951.

“(j) In addition to the venue provided for in section 1395 of title 28, United States Code, or any other provision of law, in the case of property of a defendant charged with a violation that is the basis for forfeiture of the property under this section, a proceeding for forfeiture under this section may be brought in the judicial district in which the defendant owning such property is found or in the judicial district in which the criminal prosecution is brought.”.

SEC. 307. Part A of title III of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by adding at the end thereof the following new section:

“CRIMINAL FORFEITURES

“SEC. 1017. Section 413 of title II, relating to criminal forfeitures, shall apply in every respect to a violation of this title punishable by imprisonment for more than one year.”. 21 USC 970. *Ante*, p. 2044.

SEC. 308. The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended—

(a) by adding immediately after

“Sec. 412. Applicability of treaties and other international agreements.”.

the following new items:

“Sec. 413. Criminal forfeitures.

“Sec. 414. Investment of illicit drug profits.”.

and

(b) by adding immediately after

“Sec. 1016. Authority of Secretary of the Treasury.”.

the following new item:

“Sec. 1017. Criminal forfeitures.”.

PART C

SEC. 309. (a) Section 511(e)(1) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881(e)(1)) is amended by adding after “retain the property for official use” the following: “or transfer the custody or ownership of any forfeited property to any Federal, State, or local agency pursuant to section 616 of the Tariff Act of 1930 (19 U.S.C. 1616)”.

Post, p. 2055.

(b) Section 511(e) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881(e)) is amended by inserting

before "The proceeds from any sale under paragraph (2)" the following: "The Attorney General shall ensure the equitable transfer pursuant to paragraph (1) of any forfeited property to the appropriate State or local law enforcement agency so as to reflect generally the contribution of any such agency participating directly in any of the acts which led to the seizure or forfeiture of such property. A decision by the Attorney General pursuant to paragraph (1) shall not be subject to review."

(c) Section 511(e) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881(e)) is further amended by striking out "the general fund of the United States Treasury" in the sentence beginning "The Attorney General shall" and inserting in lieu thereof "accordance with section 524(c) of title 28, United States Code".

Post, p. 2193.

Department of
Justice Assets
Forfeiture Fund,
establishment.

SEC. 310. Section 524 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) There is established in the United States Treasury a special fund to be known as the Department of Justice Assets Forfeiture Fund (hereinafter in this subsection referred to as the 'fund') which shall be available to the Attorney General without fiscal year limitation in such amounts as may be specified in appropriations Acts for the following purposes of the Department of Justice—

"(A) the payment, at the discretion of the Attorney General, of any expenses necessary to seize, detain, inventory, safeguard, maintain, advertise, or sell property under seizure, detention, or forfeited pursuant to any law enforced or administered by the Department of Justice, or of any other necessary expenses incident to the seizure, detention, or forfeiture of such property; such payments may include payments for contract services and payments to reimburse any Federal, State, or local agency for any expenditures made to perform the foregoing functions;

"(B) the payment of awards for information or assistance leading to a civil or criminal forfeiture under the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 800 et seq.) or a criminal forfeiture under the Racketeer Influenced and Corrupt Organizations statute (18 U.S.C. 1961 et seq.), at the discretion of the Attorney General;

"(C) the compromise and payment of valid liens and mortgages against property that has been forfeited pursuant to any law enforced or administered by the Department of Justice, subject to the discretion of the Attorney General to determine the validity of any such lien or mortgage and the amount of payment to be made; and

"(D) disbursements authorized in connection with remission or mitigation procedures relating to property forfeited under any law enforced or administered by the Department of Justice.

"(2) Any award paid from the fund for information concerning a forfeiture, as provided in paragraph (1)(B), shall be paid at the discretion of the Attorney General or his delegate, except that the authority to pay an award of \$10,000 or more shall not be delegated to any person other than the Deputy Attorney General, the Associate Attorney General, the Director of the Federal Bureau of Investigation, or the Administrator of the Drug Enforcement Administration. Any award for such information shall not exceed the lesser of \$150,000 or one-fourth of the amount realized by the United States from the property forfeited.

21 USC 801 note.

"(3) There shall be deposited in the fund all amounts from the forfeiture of property under any law enforced or administered by the Department of Justice remaining after the payment of expenses for forfeiture and sale authorized by law.

"(4) Amounts in the fund which are not currently needed for the purpose of this section shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

"(5) The Attorney General shall transmit to the Congress, not later than four months after the end of each fiscal year a detailed report on the amounts deposited in the fund and a description of expenditures made under this subsection.

Report.

"(6) The provisions of this subsection relating to deposits in the fund shall apply to all property in the custody of the Department of Justice on or after the effective date of the Comprehensive Forfeiture Act of 1983.

"(7) For fiscal years 1984, 1985, 1986, and 1987, there are authorized to be appropriated such sums as may be necessary for the purposes described in paragraph (1). At the end of each fiscal year, any amount in the fund in excess of the amount appropriated shall be deposited in the general fund of the Treasury of the United States, except that an amount not to exceed \$5,000,000 may be carried forward and available for appropriation in the next fiscal year.

Appropriation authorization.

"(8) For the purposes of this subsection, property is forfeited pursuant to a law enforced or administered by the Department of Justice if it is forfeited pursuant to—

"(A) any criminal forfeiture proceeding;

"(B) any civil judicial forfeiture proceeding; or

"(C) any civil administrative forfeiture proceeding conducted by the Department of Justice;

except to the extent that the seizure was effected by a Customs officer or that custody was maintained by the Customs Service in which case the provisions of section 613a of the Tariff Act of 1930 (19 U.S.C. 1613a) shall apply."

Post, p. 2054.

PART D

SEC. 311. Section 607 of the Tariff Act of 1930 (19 U.S.C. 1607) is amended to read as follows:

"§ 607. Seizure; value \$100,000 or less, prohibited articles, transporting conveyances

"(a) If—

"(1) the value of such seized vessel, vehicle, aircraft, merchandise, or baggage does not exceed \$100,000;

"(2) such seized merchandise consists of articles the importation of which is prohibited; or

"(3) such seized vessel, vehicle, or aircraft was used to import, export, or otherwise transport or store any controlled substances;

the appropriate customs officer shall cause a notice of the seizure of such articles and the intention to forfeit and sell or otherwise dispose of the same according to law to be published for at least three successive weeks in such manner as the Secretary of the Treasury may direct. Written notice of seizure together with information on the applicable procedures shall be sent to each party who appears to have an interest in the seized article.

“(b) As used in this section, the term ‘controlled substance’ has the meaning given that term in section 102 of the Controlled Substances Act (21 U.S.C. 802).”.

SEC. 312. Section 608 of the Tariff Act of 1930 (19 U.S.C. 1608) is amended in the second sentence by inserting after “penal sum of” the following: “\$5,000 or 10 per centum of the value of the claimed property, whichever is lower, but not less than,”.

SEC. 313. Section 609 of the Tariff Act of 1930 (19 U.S.C. 1609) is amended by striking out “after deducting the actual expenses of seizure, publication, and sale in the Treasury of the United States.” and inserting in lieu thereof “after deducting expenses enumerated in section 613 of this Act into the Customs Forfeiture Fund.”.

SEC. 314. Section 610 of the Tariff Act of 1930 (19 U.S.C. 1610) is amended by striking out “If the value of any vessel, vehicle, merchandise, or baggage so seized is greater than \$10,000,” and substituting in lieu thereof the following: “If any vessel, vehicle, aircraft, merchandise, or baggage is not subject to the procedure set forth in section 607,”.

SEC. 315. Section 612 of the Tariff Act of 1930 (19 U.S.C. 1612) is amended by—

(1) inserting “aircraft,” immediately after “vehicle,” wherever it appears in the section;

(2) striking out “and the value of such vessel, vehicle, merchandise, or baggage as determined under section 606 does not exceed \$10,000,” in the first sentence and inserting in lieu thereof the following: “and the article is subject to the provisions of section 607 of this Act,”; and

(3) striking out “If such value of such vessel, vehicle, merchandise, or baggage exceeds \$10,000,” in the second sentence and inserting in lieu thereof the following: “If the article is not subject to the provisions of section 607 of this Act,”.

SEC. 316. Section 613(a)(3) of the Tariff Act of 1930 (19 U.S.C. 1613(a)(3)) is amended to read as follows:

“(3) The residue shall be deposited in the Customs Forfeiture Fund.”.

SEC. 317. The Tariff Act of 1930 is amended by adding a new section immediately after section 613 (19 U.S.C. 1613) to read as follows:

19 USC 1613a. **“§ 613a. Customs Forfeiture Fund**

Establishment.

“(a) There is hereby established in the Treasury of the United States a special fund for the United States Customs Service that shall be entitled the ‘Customs Forfeiture Fund’ (hereinafter referred to in this section as the ‘fund’). This fund shall be available without fiscal year limitation in such amounts as may be specified in appropriations Acts for the following purposes of the United States Customs Service—

19 USC 1613. “(1) the payment of all proper expenses of the seizure or detention or the proceedings of forfeiture and sale (not otherwise recovered under section 613(a)) including but not limited to, expenses of inventory, security, maintaining the custody of the property, advertising and sale, and if condemned by the court and a bond for such costs was not given, the costs as taxed by the court; and

Post, p. 2056. “(2) the payment of awards of compensation to informers under section 619 of the Tariff Act of 1930, as amended.

“(b) There shall be deposited in the fund all proceeds from the sale or other disposition of property forfeited under, and any currency or monetary instruments seized and forfeited under, the laws enforced or administered by the United States Customs Service.

“(c) Amounts in the fund which are not currently needed for the purposes of this section shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

“(d) The Commissioner of Customs shall transmit to the Congress, not later than four months after the end of each fiscal year a detailed report on the amounts deposited in the fund and a description of expenditures made under this section.

Report.

“(e) The provisions of this section relating to deposits in the fund shall apply to all property in the custody of the United States Customs Service on or after the effective date of the Comprehensive Forfeiture Act of 1983.

“(f) For the purposes described in subsection (a), there are authorized to be appropriated from the fund for fiscal year 1984 not more than \$10,000,000, for fiscal year 1985 not more than \$15,000,000, for fiscal year 1986, not more than \$20,000,000, and for fiscal year 1987 not more than \$20,000,000. Amounts in the fund in excess of the amounts appropriated at the end of each fiscal year shall be deposited in the General Fund of the Treasury of the United States. At the end of the last fiscal year for which appropriations from the fund are authorized by this Act, the fund shall cease to exist and any amount then remaining in the fund shall be deposited in the General Fund of the Treasury of the United States.”

Appropriation
authorization.

SEC. 318. A new section 616 is added to the Tariff Act of 1930 (19 U.S.C. 1616) to read as follows:

“§ 616. Disposition of forfeited property

“(a) Notwithstanding any other provision of the law, the Commissioner is authorized to retain forfeited property, or to transfer such property on such terms and conditions as he may determine to—

“(1) any other Federal agency; or

“(2) any State or local law enforcement agency which participated directly in any of the acts which led to the seizure or forfeiture of the property.

The Secretary of the Treasury shall ensure the equitable transfer pursuant to paragraph (2) of any forfeited property to the appropriate State or local law enforcement agency so as to reflect generally the contribution of any such agency participating directly in any of the acts which led to the seizure or forfeiture of such property. A decision by the Secretary pursuant to paragraph (2) shall not be subject to review. The United States shall not be liable in any action arising out of the use of any property the custody of which was transferred pursuant to this section to any non-Federal agency.

“(b) The Secretary of the Treasury may order the discontinuance of any forfeiture proceedings under this Act in favor of the institution of forfeiture proceedings by State or local authorities under an appropriate State or local statute. After the filing of a complaint for forfeiture under this Act, the Attorney General may seek dismissal of the complaint in favor of forfeiture proceedings under State or local law.

“(c) Whenever forfeiture proceedings are discontinued by the United States in favor of State or local proceedings, the United States may transfer custody and possession of the seized property to

the appropriate State or local official immediately upon the initiation of the proper actions by such officials.

“(d) Whenever forfeiture proceedings are discontinued by the United States in favor of State or local proceedings, notice shall be sent to all known interested parties advising them of the discontinuance or dismissal. The United States shall not be liable in any action arising out of the seizure, detention, and transfer of seized property to State or local officials.”.

SEC. 319. Section 619 of the Tariff Act of 1930 (19 U.S.C. 1619) is amended by—

(a) striking out “\$50,000” each time it appears and inserting in lieu thereof “\$150,000”; and

(b) adding at the end thereof “In no event shall the Secretary delegate the authority to pay an award under this section in excess of \$10,000 to an official below the level of the Commissioner of Customs.”.

SEC. 320. The Tariff Act of 1930 is amended by adding a new section 589, to read as follows:

19 USC 1589. **“§ 589. Arrest authority of customs officers**

19 USC 1401. “Subject to the direction of the Secretary of the Treasury, an officer of the Customs Service as defined in section 401(i) of this Act, as amended, may—

“(1) carry a firearm;

“(2) execute and serve any order, warrant, subpoena, summons, or other process issued under the authority of the United States;

“(3) make an arrest without a warrant for any offense against the United States committed in the officer’s presence or for a felony, cognizable under the laws of the United States committed outside the officer’s presence if the officer has reasonable grounds to believe that the person to be arrested has committed or is committing a felony; and

“(4) perform any other law enforcement duty that the Secretary of the Treasury may designate.”.

Repeal. (b) Section 7607 of the Internal Revenue Act of 1954 (26 U.S.C. 7607) is repealed.

SEC. 321. Sections 602, 605, 606, 608, 609, 611, 613, 614, 615, 618, and 619 (19 U.S.C. 1602, 1605, 1606, 1608, 1609, 1611, 1613, 1614, 1615, 1618, and 1619) of the Tariff Act of 1930 are amended by inserting the word “aircraft,” immediately after the words “vehicle” or “vehicles,” wherever they appear.

SEC. 322. Section 644 of the Tariff Act of 1930 (19 U.S.C. 1644) is amended to read as follows:

“§ 644. Application of the Federal Aviation Act and section 1518(d) of title 33

49 USC app. 1509. “(a) The authority vested by section 1109 of the Federal Aviation Act of 1958 (49 U.S.C. 1509) in the Secretary of the Treasury, by regulation to provide for the application to civil air navigation of the laws and regulations relating to the administration of customs, and of the laws and regulations relating to the entry and clearance of vessels, shall extend to the application in like manner of any of the provisions of this Act, or of the Anti-Smuggling Act of 1935, or of any regulations promulgated hereunder.

19 USC 1711.

“(b) For purposes of section 1518(d) of title 33, the term ‘customs laws administered by the Secretary of the Treasury’ shall mean this chapter and any other provisions of law classified to this title.”.

SEC. 323. The Tariff Act of 1930 is amended by adding a new section 600 to read as follows:

“§ 600. Application of the customs laws to other seizures by customs officers 19 USC 1600.

“The procedures set forth in sections 602 through 619 of this Act (19 U.S.C. 1602 through 1619) shall apply to seizures of any property effected by customs officers under any law enforced or administered by the Customs Service unless such law specifies different procedures.”.

CHAPTER IV—OFFENDERS WITH MENTAL DISEASE OR DEFECT

Insanity Defense Reform Act of 1984.

SEC. 401. This chapter may be cited as the “Insanity Defense Reform Act of 1984.”

18 USC 4241 note.

SEC. 402. (a) Chapter 1 of title 18, United States Code, is amended by adding at the end thereof the following new section:

“§ 20. Insanity defense

18 USC 20.

“(a) **AFFIRMATIVE DEFENSE.**—It is an affirmative defense to a prosecution under any Federal statute that, at the time of the commission of the acts constituting the offense, the defendant, as a result of a severe mental disease or defect, was unable to appreciate the nature and quality or the wrongfulness of his acts. Mental disease or defect does not otherwise constitute a defense.

“(b) **BURDEN OF PROOF.**—The defendant has the burden of proving the defense of insanity by clear and convincing evidence.”.

(b) The sectional analysis of chapter 1 of title 18, United States Code, is amended to add the following new section 20:

“20. Insanity Defense.”.

SEC. 403. (a) Chapter 313 of title 18, United States Code, is amended to read as follows:

“CHAPTER 313—OFFENDERS WITH MENTAL DISEASE OR DEFECT

“Sec.

“4241. Determination of mental competency to stand trial.

“4242. Determination of the existence of insanity at the time of the offense.

“4243. Hospitalization of a person found not guilty only by reason of insanity.

“4244. Hospitalization of a convicted person suffering from mental disease or defect.

“4245. Hospitalization of an imprisoned person suffering from mental disease or defect.

“4246. Hospitalization of a person due for release but suffering from mental disease or defect.

“4247. General provisions for chapter.

“§ 4241. Determination of mental competency to stand trial

18 USC 4241.

“(a) **MOTION TO DETERMINE COMPETENCY OF DEFENDANT.**—At any time after the commencement of a prosecution for an offense and prior to the sentencing of the defendant, the defendant or the attorney for the Government may file a motion for a hearing to determine the mental competency of the defendant. The court shall

grant the motion, or shall order such a hearing on its own motion, if there is reasonable cause to believe that the defendant may presently be suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense.

“(b) **PSYCHIATRIC OR PSYCHOLOGICAL EXAMINATION AND REPORT.**—Prior to the date of the hearing, the court may order that a psychiatric or psychological examination of the defendant be conducted, and that a psychiatric or psychological report be filed with the court, pursuant to the provisions of section 4247 (b) and (c).

“(c) **HEARING.**—The hearing shall be conducted pursuant to the provisions of section 4247(d).

“(d) **DETERMINATION AND DISPOSITION.**—If, after the hearing, the court finds by a preponderance of the evidence that the defendant is presently suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense, the court shall commit the defendant to the custody of the Attorney General. The Attorney General shall hospitalize the defendant for treatment in a suitable facility—

“(1) for such a reasonable period of time, not to exceed four months, as is necessary to determine whether there is a substantial probability that in the foreseeable future he will attain the capacity to permit the trial to proceed; and

“(2) for an additional reasonable period of time until—

“(A) his mental condition is so improved that trial may proceed, if the court finds that there is a substantial probability that within such additional period of time he will attain the capacity to permit the trial to proceed; or

“(B) the pending charges against him are disposed of according to law;

whichever is earlier.

If, at the end of the time period specified, it is determined that the defendant's mental condition has not so improved as to permit the trial to proceed, the defendant is subject to the provisions of section 4246.

“(e) **DISCHARGE.**—When the director of the facility in which a defendant is hospitalized pursuant to subsection (d) determines that the defendant has recovered to such an extent that he is able to understand the nature and consequences of the proceedings against him and to assist properly in his defense, he shall promptly file a certificate to that effect with the clerk of the court that ordered the commitment. The clerk shall send a copy of the certificate to the defendant's counsel and to the attorney for the Government. The court shall hold a hearing, conducted pursuant to the provisions of section 4247(d), to determine the competency of the defendant. If, after the hearing, the court finds by a preponderance of the evidence that the defendant has recovered to such an extent that he is able to understand the nature and consequences of the proceedings against him and to assist properly in his defense, the court shall order his immediate discharge from the facility in which he is hospitalized and shall set the date for trial. Upon discharge, the defendant is subject to the provisions of chapter 207.

“(f) **ADMISSIBILITY OF FINDING OF COMPETENCY.**—A finding by the court that the defendant is mentally competent to stand trial shall not prejudice the defendant in raising the issue of his insanity as a

defense to the offense charged, and shall not be admissible as evidence in a trial for the offense charged.

“§ 4242. Determination of the existence of insanity at the time of the offense 18 USC 4242.

“(a) MOTION FOR PRETRIAL PSYCHIATRIC OR PSYCHOLOGICAL EXAMINATION.—Upon the filing of a notice, as provided in Rule 12.2 of the Federal Rules of Criminal Procedure, that the defendant intends to rely on the defense of insanity, the court, upon motion of the attorney for the Government, shall order that a psychiatric or psychological examination of the defendant be conducted, and that a psychiatric or psychological report be filed with the court, pursuant to the provisions of section 4247 (b) and (c).

18 USC app.

“(b) SPECIAL VERDICT.—If the issue of insanity is raised by notice as provided in Rule 12.2 of the Federal Rules of Criminal Procedure on motion of the defendant or of the attorney for the Government, or on the court’s own motion, the jury shall be instructed to find, or, in the event of a nonjury trial, the court shall find the defendant—

“(1) guilty;

“(2) not guilty; or

“(3) not guilty only by reason of insanity.

“§ 4243. Hospitalization of a person found not guilty only by reason of insanity 18 USC 4243.

“(a) DETERMINATION OF PRESENT MENTAL CONDITION OF ACQUITTED PERSON.—If a person is found not guilty only by reason of insanity at the time of the offense charged, he shall be committed to a suitable facility until such time as he is eligible for release pursuant to subsection (e).

“(b) PSYCHIATRIC OR PSYCHOLOGICAL EXAMINATION AND REPORT.—Prior to the date of the hearing, pursuant to subsection (c), the court shall order that a psychiatric or psychological examination of the defendant be conducted, and that a psychiatric or psychological report be filed with the court, pursuant to the provisions of section 4247 (b) and (c).

“(c) HEARING.—A hearing shall be conducted pursuant to the provisions of section 4247(d) and shall take place not later than forty days following the special verdict.

“(d) BURDEN OF PROOF.—In a hearing pursuant to subsection (c) of this section, a person found not guilty only by reason of insanity of an offense involving bodily injury to, or serious damage to the property of, another person, or involving a substantial risk of such injury or damage, has the burden of proving by clear and convincing evidence that his release would not create a substantial risk of bodily injury to another person or serious damage of property of another due to a present mental disease or defect. With respect to any other offense, the person has the burden of such proof by a preponderance of the evidence.

“(e) DETERMINATION AND DISPOSITION.—If, after the hearing, the court fails to find by the standard specified in subsection (d) of this section that the person’s release would not create a substantial risk of bodily injury to another person or serious damage of property of another due to a present mental disease or defect, the court shall commit the person to the custody of the Attorney General. The Attorney General shall release the person to the appropriate official of the State in which the person is domiciled or was tried if such State will assume responsibility for his custody, care, and treatment.

The Attorney General shall make all reasonable efforts to cause such a State to assume such responsibility. If, notwithstanding such efforts, neither such State will assume such responsibility, the Attorney General shall hospitalize the person for treatment in a suitable facility until—

“(1) such a State will assume such responsibility; or

“(2) the person’s mental condition is such that his release, or his conditional release under a prescribed regimen of medical, psychiatric, or psychological care or treatment, would not create a substantial risk of bodily injury to another person or serious damage to property of another;

whichever is earlier. The Attorney General shall continue periodically to exert all reasonable efforts to cause such a State to assume such responsibility for the person’s custody, care, and treatment.

“(f) DISCHARGE.—When the director of the facility in which an acquitted person is hospitalized pursuant to subsection (e) determines that the person has recovered from his mental disease or defect to such an extent that his release, or his conditional release under a prescribed regimen of medical, psychiatric, or psychological care or treatment, would no longer create a substantial risk of bodily injury to another person or serious damage to property of another, he shall promptly file a certificate to that effect with the clerk of the court that ordered the commitment. The clerk shall send a copy of the certificate to the person’s counsel and to the attorney for the Government. The court shall order the discharge of the acquitted person or, on the motion of the attorney for the Government or on its own motion, shall hold a hearing, conducted pursuant to the provisions of section 4247(d), to determine whether he should be released. If, after the hearing, the court finds by the standard specified in subsection (d) that the person has recovered from his mental disease or defect to such an extent that—

“(1) his release would no longer create a substantial risk of bodily injury to another person or serious damage to property of another, the court shall order that he be immediately discharged; or

“(2) his conditional release under a prescribed regimen of medical, psychiatric, or psychological care or treatment would no longer create a substantial risk of bodily injury to another person or serious damage to property of another, the court shall—

“(A) order that he be conditionally discharged under a prescribed regimen of medical, psychiatric, or psychological care or treatment that has been prepared for him, that has been certified to the court as appropriate by the director of the facility in which he is committed, and that has been found by the court to be appropriate; and

“(B) order, as an explicit condition of release, that he comply with the prescribed regimen of medical, psychiatric, or psychological care or treatment.

The court at any time may, after a hearing employing the same criteria, modify or eliminate the regimen of medical, psychiatric, or psychological care or treatment.

“(g) REVOCATION OF CONDITIONAL DISCHARGE.—The director of a medical facility responsible for administering a regimen imposed on an acquitted person conditionally discharged under subsection (f) shall notify the Attorney General and the court having jurisdiction over the person of any failure of the person to comply with the

regimen. Upon such notice, or upon other probable cause to believe that the person has failed to comply with the prescribed regimen of medical, psychiatric, or psychological care or treatment, the person may be arrested, and, upon arrest, shall be taken without unnecessary delay before the court having jurisdiction over him. The court shall, after a hearing, determine whether the person should be remanded to a suitable facility on the ground that, in light of his failure to comply with the prescribed regimen of medical, psychiatric, or psychological care or treatment, his continued release would create a substantial risk of bodily injury to another person or serious damage to property of another.

“§ 4244. Hospitalization of a convicted person suffering from mental disease or defect 18 USC 4244.

“(a) MOTION TO DETERMINE PRESENT MENTAL CONDITION OF CONVICTED DEFENDANT.—A defendant found guilty of an offense, or the attorney for the Government, may, within ten days after the defendant is found guilty, and prior to the time the defendant is sentenced, file a motion for a hearing on the present mental condition of the defendant if the motion is supported by substantial information indicating that the defendant may presently be suffering from a mental disease or defect for the treatment of which he is in need of custody for care or treatment in a suitable facility. The court shall grant the motion, or at any time prior to the sentencing of the defendant shall order such a hearing on its own motion, if it is of the opinion that there is reasonable cause to believe that the defendant may presently be suffering from a mental disease or defect for the treatment of which he is in need of custody for care or treatment in a suitable facility.

“(b) PSYCHIATRIC OR PSYCHOLOGICAL EXAMINATION AND REPORT.—Prior to the date of the hearing, the court may order that a psychiatric or psychological examination of the defendant be conducted, and that a psychiatric or psychological report be filed with the court, pursuant to the provisions of section 4247 (b) and (c). In addition to the information required to be included in the psychiatric or psychological report pursuant to the provisions of section 4247(c), if the report includes an opinion by the examiners that the defendant is presently suffering from a mental disease or defect but that it is not such as to require his custody for care or treatment in a suitable facility, the report shall also include an opinion by the examiner concerning the sentencing alternatives that could best accord the defendant the kind of treatment he does need.

“(c) HEARING.—The hearing shall be conducted pursuant to the provisions of section 4247(d).

“(d) DETERMINATION AND DISPOSITION.—If, after the hearing, the court finds by a preponderance of the evidence that the defendant is presently suffering from a mental disease or defect and that he should, in lieu of being sentenced to imprisonment, be committed to a suitable facility for care or treatment, the court shall commit the defendant to the custody of the Attorney General. The Attorney General shall hospitalize the defendant for care or treatment in a suitable facility. Such a commitment constitutes a provisional sentence of imprisonment to the maximum term authorized by law for the offense for which the defendant was found guilty.

“(e) DISCHARGE.—When the director of the facility in which the defendant is hospitalized pursuant to subsection (d) determines that the defendant has recovered from his mental disease or defect to

such an extent that he is no longer in need of custody for care or treatment in such a facility, he shall promptly file a certificate to that effect with the clerk of the court that ordered the commitment. The clerk shall send a copy of the certificate to the defendant's counsel and to the attorney for the Government. If, at the time of the filing of the certificate, the provisional sentence imposed pursuant to subsection (d) has not expired, the court shall proceed finally to sentencing and may modify the provisional sentence.

18 USC 4245.

“§ 4245. Hospitalization of an imprisoned person suffering from mental disease or defect

“(a) **MOTION TO DETERMINE PRESENT MENTAL CONDITION OF IMPRISONED PERSON.**—If a person serving a sentence of imprisonment objects either in writing or through his attorney to being transferred to a suitable facility for care or treatment, an attorney for the Government, at the request of the director of the facility in which the person is imprisoned, may file a motion with the court for the district in which the facility is located for a hearing on the present mental condition of the person. The court shall grant the motion if there is reasonable cause to believe that the person may presently be suffering from a mental disease or defect for the treatment of which he is in need of custody for care or treatment in a suitable facility. A motion filed under this subsection shall stay the transfer of the person pending completion of procedures contained in this section.

“(b) **PSYCHIATRIC OR PSYCHOLOGICAL EXAMINATION AND REPORT.**—Prior to the date of the hearing, the court may order that a psychiatric or psychological examination of the person may be conducted, and that a psychiatric or psychological report be filed with the court, pursuant to the provisions of section 4247 (b) and (c).

“(c) **HEARING.**—The hearing shall be conducted pursuant to the provisions of section 4247(d).

“(d) **DETERMINATION AND DISPOSITION.**—If, after the hearing, the court finds by a preponderance of the evidence that the person is presently suffering from a mental disease or defect for the treatment of which he is in need of custody for care or treatment in a suitable facility, the court shall commit the person to the custody of the Attorney General. The Attorney General shall hospitalize the person for treatment in a suitable facility until he is no longer in need of such custody for care or treatment or until the expiration of the sentence of imprisonment, whichever occurs earlier.

“(e) **DISCHARGE.**—When the director of the facility in which the person is hospitalized pursuant to subsection (d) determines that the person has recovered from his mental disease or defect to such an extent that he is no longer in need of custody for care or treatment in such a facility, he shall promptly file a certificate to that effect with the clerk of the court that ordered the commitment. The clerk shall send a copy of the certificate to the person's counsel and to the attorney for the Government. If, at the time of the filing of the certificate, the term of imprisonment imposed upon the person has not expired, the court shall order that the person be reimprisoned until the expiration of his sentence of imprisonment.

18 USC 4246.

“§ 4246. Hospitalization of a person due for release but suffering from mental disease or defect

“(a) **INSTITUTION OF PROCEEDING.**—If the director of a facility in which a person is hospitalized certifies that a person whose sentence

is about to expire, or who has been committed to the custody of the Attorney General pursuant to section 4241(d), or against whom all criminal charges have been dismissed solely for reasons related to the mental condition of the person, is presently suffering from a mental disease or defect as a result of which his release would create a substantial risk of bodily injury to another person or serious damage to property of another, and that suitable arrangements for State custody and care of the person are not available, he shall transmit the certificate to the clerk of the court for the district in which the person is confined. The clerk shall send a copy of the certificate to the person, and to the attorney for the Government, and, if the person was committed pursuant to section 4241(d), to the clerk of the court that ordered the commitment. The court shall order a hearing to determine whether the person is presently suffering from a mental disease or defect as a result of which his release would create a substantial risk of bodily injury to another person or serious damage to property of another. A certificate filed under this subsection shall stay the release of the person pending completion of procedures contained in this section.

“(b) **PSYCHIATRIC OR PSYCHOLOGICAL EXAMINATION AND REPORT.**—Prior to the date of the hearing, the court may order that a psychiatric or psychological examination of the defendant be conducted, and that a psychiatric or psychological report be filed with the court, pursuant to the provisions of section 4247 (b) and (c).

“(c) **HEARING.**—The hearing shall be conducted pursuant to the provisions of section 4247(d).

“(d) **DETERMINATION AND DISPOSITION.**—If, after the hearing, the court finds by clear and convincing evidence that the person is presently suffering from a mental disease or defect as a result of which his release would create a substantial risk of bodily injury to another person or serious damage to property of another, the court shall commit the person to the custody of the Attorney General. The Attorney General shall release the person to the appropriate official of the State in which the person is domiciled or was tried if such State will assume responsibility for his custody, care, and treatment. The Attorney General shall make all reasonable efforts to cause such a State to assume such responsibility. If, notwithstanding such efforts, neither such State will assume such responsibility, the Attorney General shall hospitalize the person for treatment in a suitable facility, until—

“(1) such a State will assume such responsibility; or

“(2) the person’s mental condition is such that his release, or his conditional release under a prescribed regimen of medical, psychiatric, or psychological care or treatment would not create a substantial risk of bodily injury to another person or serious damage to property of another;

whichever is earlier. The Attorney General shall continue periodically to exert all reasonable efforts to cause such a State to assume such responsibility for the person’s custody, care, and treatment.

“(e) **DISCHARGE.**—When the director of the facility in which a person is hospitalized pursuant to subsection (d) determines that the person has recovered from his mental disease or defect to such an extent that his release would no longer create a substantial risk of bodily injury to another person or serious damage to property of another, he shall promptly file a certificate to that effect with the clerk of the court that ordered the commitment. The clerk shall send a copy of the certificate to the person’s counsel and to the

attorney for the Government. The court shall order the discharge of the person or, on the motion of the attorney for the Government or on its own motion, shall hold a hearing, conducted pursuant to the provisions of section 4247(d), to determine whether he should be released. If, after the hearing, the court finds by a preponderance of the evidence that the person has recovered from his mental disease or defect to such an extent that—

“(1) his release would no longer create a substantial risk of bodily injury to another person or serious damage to property of another, the court shall order that he be immediately discharged; or

“(2) his conditional release under a prescribed regimen of medical, psychiatric, or psychological care or treatment would no longer create a substantial risk of bodily injury to another person or serious damage to property of another, the court shall—

“(A) order that he be conditionally discharged under a prescribed regimen of medical, psychiatric, or psychological care or treatment that has been prepared for him, that has been certified to the court as appropriate by the director of the facility in which he is committed, and that has been found by the court to be appropriate; and

“(B) order, as an explicit condition of release, that he comply with the prescribed regimen of medical, psychiatric, or psychological care or treatment.

The court at any time may, after a hearing employing the same criteria, modify or eliminate the regimen of medical, psychiatric, or psychological care or treatment.

“(f) **REVOCATION OF CONDITIONAL DISCHARGE.**—The director of a medical facility responsible for administering a regimen imposed on a person conditionally discharged under subsection (e) shall notify the Attorney General and the court having jurisdiction over the person of any failure of the person to comply with the regimen. Upon such notice, or upon other probable cause to believe that the person has failed to comply with the prescribed regimen of medical, psychiatric, or psychological care or treatment, the person may be arrested, and, upon arrest, shall be taken without unnecessary delay before the court having jurisdiction over him. The court shall, after a hearing, determine whether the person should be remanded to a suitable facility on the ground that, in light of his failure to comply with the prescribed regimen of medical, psychiatric, or psychological care or treatment, his continued release would create a substantial risk of bodily injury to another person or serious damage to property of another.

“(g) **RELEASE TO STATE OF CERTAIN OTHER PERSONS.**—If the director of a facility in which a person is hospitalized pursuant to this subchapter certifies to the Attorney General that a person, against whom all charges have been dismissed for reasons not related to the mental condition of the person, is presently suffering from a mental disease or defect as a result of which his release would create a substantial risk of bodily injury to another person or serious damage to property of another, the Attorney General shall release the person to the appropriate official of the State in which the person is domiciled or was tried for the purpose of institution of State proceedings for civil commitment. If neither such State will assume such responsibility, the Attorney General shall release the person upon receipt of notice from the State that it will not assume such

responsibility, but not later than ten days after certification by the director of the facility.

“§ 4247. General provisions for chapter

18 USC 4247.

“(a) DEFINITIONS.—As used in this chapter—

“(1) ‘rehabilitation program’ includes—

“(A) basic educational training that will assist the individual in understanding the society to which he will return and that will assist him in understanding the magnitude of his offense and its impact on society;

“(B) vocational training that will assist the individual in contributing to, and in participating in, the society to which he will return;

“(C) drug, alcohol, and other treatment programs that will assist the individual in overcoming his psychological or physical dependence; and

“(D) organized physical sports and recreation programs; and

“(2) ‘suitable facility’ means a facility that is suitable to provide care or treatment given the nature of the offense and the characteristics of the defendant.

“(b) PSYCHIATRIC OR PSYCHOLOGICAL EXAMINATION.—A psychiatric or psychological examination ordered pursuant to this chapter shall be conducted by a licensed or certified psychiatrist or clinical psychologist, or, if the court finds it appropriate, by more than one such examiner. Each examiner shall be designated by the court, except that if the examination is ordered under section 4245 or 4246, upon the request of the defendant an additional examiner may be selected by the defendant. For the purposes of an examination pursuant to an order under section 4241, 4244, or 4245, the court may commit the person to be examined for a reasonable period, but not to exceed thirty days, and under section 4242, 4243, or 4246, for a reasonable period, but not to exceed forty-five days, to the custody of the Attorney General for placement in a suitable facility. Unless impracticable, the psychiatric or psychological examination shall be conducted in the suitable facility closest to the court. The director of the facility may apply for a reasonable extension, but not to exceed fifteen days under section 4241, 4244, or 4245, and not to exceed thirty days under section 4242, 4243, or 4246, upon a showing of good cause that the additional time is necessary to observe and evaluate the defendant.

“(c) PSYCHIATRIC OR PSYCHOLOGICAL REPORTS.—A psychiatric or psychological report ordered pursuant to this chapter shall be prepared by the examiner designated to conduct the psychiatric or psychological examination, shall be filed with the court with copies provided to the counsel for the person examined and to the attorney for the Government, and shall include—

“(1) the person’s history and present symptoms;

“(2) a description of the psychiatric, psychological, and medical tests that were employed and their results;

“(3) the examiner’s findings; and

“(4) the examiner’s opinions as to diagnosis, prognosis, and—

“(A) if the examination is ordered under section 4241, whether the person is suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and conse-

quences of the proceedings against him or to assist properly in his defense;

“(B) if the examination is ordered under section 4242, whether the person was insane at the time of the offense charged;

“(C) if the examination is ordered under section 4243 or 4246, whether the person is suffering from a mental disease or defect as a result of which his release would create a substantial risk of bodily injury to another person or serious damage to property of another;

“(D) if the examination is ordered under section 4244 or 4245, whether the person is suffering from a mental disease or defect as a result of which he is in need of custody for care or treatment in a suitable facility; or

“(E) if the examination is ordered as a part of a presentence investigation, any recommendation the examiner may have as to how the mental condition of the defendant should affect the sentence.

“(d) HEARING.—At a hearing ordered pursuant to this chapter the person whose mental condition is the subject of the hearing shall be represented by counsel and, if he is financially unable to obtain adequate representation, counsel shall be appointed for him pursuant to section 3006A. The person shall be afforded an opportunity to testify, to present evidence, to subpoena witnesses on his behalf, and to confront and cross-examine witnesses who appear at the hearing.

“(e) PERIODIC REPORT AND INFORMATION REQUIREMENTS.—(1) The director of the facility in which a person is hospitalized pursuant to—

“(A) section 4241 shall prepare semiannual reports; or

“(B) section 4243, 4244, 4245, or 4246 shall prepare annual reports concerning the mental condition of the person and containing recommendations concerning the need for his continued hospitalization. The reports shall be submitted to the court that ordered the person's commitment to the facility and copies of the reports shall be submitted to such other persons as the court may direct.

“(2) The director of the facility in which a person is hospitalized pursuant to section 4241, 4243, 4244, 4245, or 4246 shall inform such person of any rehabilitation programs that are available for persons hospitalized in that facility.

“(f) VIDEOTAPE RECORD.—Upon written request of defense counsel, the court may order a videotape record made of the defendant's testimony or interview upon which the periodic report is based pursuant to subsection (e). Such videotape record shall be submitted to the court along with the periodic report.

“(g) HABEAS CORPUS UNIMPAIRED.—Nothing contained in section 4243 or 4246 precludes a person who is committed under either of such sections from establishing by writ of habeas corpus the illegality of his detention.

“(h) DISCHARGE.—Regardless of whether the director of the facility in which a person is hospitalized has filed a certificate pursuant to the provisions of subsection (e) of section 4241, 4243, 4244, 4245, or 4246, counsel for the person or his legal guardian may, at any time during such person's hospitalization, file with the court that ordered the commitment a motion for a hearing to determine whether the person should be discharged from such facility, but no such motion may be filed within one hundred and eighty days of a court determi-

nation that the person should continue to be hospitalized. A copy of the motion shall be sent to the director of the facility in which the person is hospitalized and to the attorney for the Government.

“(i) **AUTHORITY AND RESPONSIBILITY OF THE ATTORNEY GENERAL.**—The Attorney General—

“(A) may contract with a State, a political subdivision, a locality, or a private agency for the confinement, hospitalization, care, or treatment of, or the provision of services to, a person committed to his custody pursuant to this chapter;

“(B) may apply for the civil commitment, pursuant to State law, of a person committed to his custody pursuant to section 4243 or 4246;

“(C) shall, before placing a person in a facility pursuant to the provisions of section 4241, 4243, 4244, 4245, or 4246, consider the suitability of the facility’s rehabilitation programs in meeting the needs of the person; and

“(D) shall consult with the Secretary of the Department of Health and Human Services in the general implementation of the provisions of this chapter and in the establishment of standards for facilities used in the implementation of this chapter.

“(j) This chapter does not apply to a prosecution under an Act of Congress applicable exclusively to the District of Columbia or the Uniform Code of Military Justice.”

(b) The item relating to chapter 313 in the chapter analysis of part III of title 18, United States Code, is amended to read as follows:

“313. Offenders with mental disease or defect.”

SEC. 404. Rule 12.2 of the Federal Rules of Criminal Procedure is amended— 18 USC app.

(a) by deleting “crime” in subdivision (a) and inserting in lieu thereof “offense”;

(b) by deleting “other condition bearing upon the issue of whether he had the mental state required for the offense charged” in subdivision (b) and inserting in lieu thereof “any other mental condition bearing upon the issue of guilt”;

(c) by deleting “to a psychiatric examination by a psychiatrist designated for this purpose in the order of the court” in subdivision (c) and inserting in lieu thereof “to an examination pursuant to 18 U.S.C. 4242”; and

(d) by deleting “mental state” in subdivision (d) and inserting in lieu thereof “guilt”.

SEC. 405. Section 3006A of title 18, United States Code, is amended—

(a) in subsection (a), by deleting “or, (4)” and substituting “(4) whose mental condition is the subject of a hearing pursuant to chapter 313 of this title, or (5)”; and

(b) in subsection (g), by deleting “or section 4245 of title 18”.

SEC. 406. Rule 704 of the Federal Rules of Evidence is amended to read as follows: 28 USC app.

“Rule 704. Opinion on ultimate issue

“(a) Except as provided in subdivision (b), testimony in the form of an opinion or inference otherwise admissible is not objectionable because it embraces an ultimate issue to be decided by the trier of fact.

“(b) No expert witness testifying with respect to the mental state or condition of a defendant in a criminal case may state an opinion or inference as to whether the defendant did or did not have the mental state or condition constituting an element of the crime charged or of a defense thereto. Such ultimate issues are matters for the trier of fact alone.”.

Controlled
Substances
Penalties
Amendments
Act of 1984.
21 USC 801 note.

CHAPTER V—DRUG ENFORCEMENT AMENDMENTS

PART A—CONTROLLED SUBSTANCES PENALTIES

SEC. 501. This chapter may be cited as the “Controlled Substances Penalties Amendments Act of 1984”.

SEC. 502. Subsection (b) of section 401 of the Controlled Substances Act (21 U.S.C. 841(b)) is amended—

(1) in paragraph (1), by—

(A) redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively, and inserting after “(1)” a new subparagraph to read as follows:

“(A) In the case of a violation of subsection (a) of this section involving—

“(i) 100 grams or more of a controlled substance in schedule I or II which is a mixture or substance containing a detectable amount of a narcotic drug other than a narcotic drug consisting of—

“(I) coca leaves;

“(II) a compound, manufacture, salt, derivative, or preparation of coca leaves; or

“(III) a substance chemically identical thereto;

“(ii) a kilogram or more of any other controlled substance in schedule I or II which is a narcotic drug;

“(iii) 500 grams or more of phencyclidine (PCP); or

“(iv) 5 grams or more of lysergic acid diethylamide (LSD);

such person shall be sentenced to a term of imprisonment of not more than 20 years, a fine of not more than \$250,000, or both. If any person commits such a violation after one or more prior convictions of him for an offense punishable under this paragraph, or for a felony under any other provision of this title or title III or other law of a State, the United States, or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not more than 40 years, a fine of not more than \$500,000, or both”;

(B) in subparagraph (B), as redesignated above, by—

(i) striking out “which is a narcotic drug” in the first sentence and inserting in lieu thereof “except as provided in subparagraphs (A) and (C);”

(ii) striking out “\$25,000” and “\$50,000” and inserting in lieu thereof “\$125,000” and “\$250,000”, respectively; and

(iii) striking out “of the United States” in the second sentence and inserting in lieu thereof “of a State, the United States, or a foreign country”; and

(C) in subparagraph (C), as redesignated above, by—

(i) striking out “a controlled substance in schedule I or II which is not a narcotic drug” and “(5), and (6)” and inserting in lieu thereof “less than 50 kilograms of

21 USC 951.

marihuana, 10 kilograms of hashish, or one kilogram of hashish oil" and "and (5)", respectively;

(ii) striking out "\$15,000" and "\$30,000" and inserting in lieu thereof "\$50,000" and "\$100,000", respectively; and

(iii) striking out "of the United States" in the second sentence and inserting in lieu thereof "of a State, the United States, or a foreign country";

(2) in paragraph (2), by—

(A) striking out "\$10,000" and "\$20,000" and inserting in lieu thereof "\$25,000" and "\$50,000", respectively; and

(B) striking out "of the United States" and inserting in lieu thereof "of a State, the United States, or a foreign country";

(3) in paragraph (3), by—

(A) striking out "\$5,000" and "\$10,000" and inserting in lieu thereof "\$10,000" and "\$20,000", respectively; and

(B) striking out "of the United States" and inserting in lieu thereof "of a State, the United States, or a foreign country";

(4) in paragraph (4), by striking out "(1)(B)" and inserting in lieu thereof "(1)(C)";

(5) by striking out paragraphs (5) and (6);

(6) by adding at the end thereof the following:

"(5) Notwithstanding paragraph (1), any person who violates subsection (a) by cultivating a controlled substance on Federal property shall be fined not more than—

"(A) \$500,000 if such person is an individual; and

"(B) \$1,000,000 if such person is not an individual."

SEC. 503. (a) Part D of the Controlled Substances Act is amended by adding after section 405 of the following new section:

"DISTRIBUTION IN OR NEAR SCHOOLS

"SEC. 405A. (a) Any person who violates section 401(a)(1) by distributing a controlled substance in or on, or within one thousand feet of, the real property comprising a public or private elementary or secondary school is (except as provided in subsection (b)) punishable (1) by a term of imprisonment, or fine, or both up to twice that authorized by section 841(b) of this title; and (2) at least twice any special parole term authorized by section 401(b) for a first offense involving the same controlled substance and schedule.

"(b) Any person who violates section 401(a)(1) by distributing a controlled substance in or on, or within one thousand feet of, the real property comprising a public or private elementary or secondary school after a prior conviction or convictions under subsection (a) have become final is punishable (1) by a term of imprisonment of not less than three years and not more than life imprisonment and (2) at least three times any special term authorized by section 401(b) for a second or subsequent offense involving the same controlled substance and schedule.

"(c) In the case of any sentence imposed under subsection (b), imposition or execution of such sentence shall not be suspended and probation shall not be granted. An individual convicted under subsection (b) shall not be eligible for parole under section 4202 of title 18 of the United States Code until the individual has served the minimum sentence required by such subsection."

Penalties.
21 USC 845a.
21 USC 841.

Ante, p. 2068.

Ante, p. 2027.

(b)(1) Section 401(b) of such Act (21 U.S.C. 841(b)) is amended by inserting "or 405A" after "405".

(2) Section 401(c) of such Act is amended by inserting "405A" after "405" each place it occurs.

(3) Section 405 of such Act (21 U.S.C. 845) is amended by striking out "Any" in subsections (a) and (b) and inserting in lieu thereof "Except as provided in section 405A, any".

SEC. 504. Subsection (b) of section 1010 of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)) is amended—

(1) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively, and inserting after "(b)" a new paragraph to read as follows:

"(1) In the case of a violation under subsection (a) of this section involving—

"(A) 100 grams or more of a mixture or substance containing a detectable amount of a narcotic drug in schedule I or II other than a narcotic drug consisting of—

"(i) coca leaves;

"(ii) a compound, manufacture, salt, derivative, or preparation of coca leaves; or

"(iii) a substance chemically identical thereto;

"(B) a kilogram or more of any other narcotic drug in schedule I or II;

"(C) 500 grams or more of phencyclidine (PCP);

"(D) 5 grams or more of lysergic acid diethylamide (LSD); the person committing such violation shall be imprisoned for not more than twenty years, or fined not more than \$250,000, or both.";

(2) in paragraph (2), as redesignated above, by—

(A) striking out "narcotic drug in schedule I or II, the person committing such violation shall" and inserting in lieu thereof "controlled substance in schedule I or II, the person committing such violation shall, except as provided in paragraphs (1) and (3)."; and

(B) striking out "\$25,000" and inserting in lieu thereof "\$125,000";

(3) in paragraph (3), as redesignated above, by—

(A) striking out "a controlled substance other than a narcotic drug in schedule I or II, the person committing such violation shall" and inserting in lieu thereof "less than 50 kilograms of marihuana, less than 10 kilograms of hashish, less than one kilogram of hashish oil, or any quantity of a controlled substance in schedule III, IV, or V, the person committing such violation shall, except as provided in paragraph (4)."; and

(B) striking out "\$15,000" and substituting "\$50,000".

SEC. 505. Section 1012 of the Controlled Substances Import and Export Act (21 U.S.C. 962) is amended by striking out "the United States" in subsection (b) and inserting in lieu thereof "a State, the United States, or a foreign country".

Dangerous
Drug Diversion
Control Act of
1984.
18 USC 801 note.

PART B—DIVERSION CONTROL AMENDMENTS

SEC. 506. (a) This part may be cited as the "Dangerous Drug Diversion Control Act of 1984".

(b) Whenever in sections 507 through 519 an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a

section or other provision of the Controlled Substances Act, and whenever in sections 520 through 525 an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Controlled Substances Import and Export Act.

21 USC 801 note.

SEC. 507. (a) Section 102 (21 U.S.C. 802) is amended by redesignating paragraphs (14) through (29) as paragraphs (15) through (30), respectively, and by adding after paragraph (13) the following:

21 USC 951 note.

“(14) The term ‘isomer’ means the optical isomer, except as used in schedule I(c) and schedule II(a)(4). As used in schedule I(c), the term ‘isomer’ means the optical, positional, or geometric isomer. As used in schedule II(a)(4), the term ‘isomer’ means the optical or geometric isomer.”

(b) Paragraph (17) (as so redesignated) of section 102 is amended to read as follows:

“(17) The term ‘narcotic drug’ means any of the following whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

“(A) Opium, opiates, derivatives of opium and opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation. Such term does not include the isoquinoline alkaloids of opium.

“(B) Poppy straw and concentrate of poppy straw.

“(C) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed.

“(D) Cocaine, its salts, optical and geometric isomers, and salts of isomers.

“(E) Ecgonine, its derivatives, their salts, isomers, and salts of isomers.

“(F) Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in subparagraphs (A) through (E).”

(c) Paragraph (a)(4) of schedule II is amended by inserting after “coca leaves” the first time it appears the following: “(including cocaine and ecgonine and their salts, isomers, derivatives, and salts of isomers and derivatives)”.

21 USC 812.

SEC. 508. Section 201 (21 U.S.C. 811) is amended by adding a new subsection (h) as follows:

“(h)(1) If the Attorney General finds that the scheduling of a substance in schedule I on a temporary basis is necessary to avoid an imminent hazard to the public safety, he may, by order and without regard to the requirements of subsection (b) relating to the Secretary of Health and Human Services, schedule such substance in schedule I if the substance is not listed in any other schedule in section 202 or if no exemption or approval is in effect for the substance under section 505 of the Federal Food, Drug, and Cosmetic Act. Such an order may not be issued before the expiration of thirty days from—

21 USC 821.

“(A) the date of the publication by the Attorney General of a notice in the Federal Register of the intention to issue such order and the grounds upon which such order is to be issued, and

21 USC 355.
Federal
Register,
publication.

“(B) the date the Attorney General has transmitted the notice required by paragraph (4).

“(2) The scheduling of a substance under this subsection shall expire at the end of one year from the date of the issuance of the order scheduling such substance, except that the Attorney General may, during the pendency of proceedings under subsection (a)(1) with respect to the substance, extend the temporary scheduling for up to six months.

“(3) When issuing an order under paragraph (1), the Attorney General shall be required to consider, with respect to the finding of an imminent hazard to the public safety, only those factors set forth in paragraphs (4), (5), and (6) of subsection (c), including actual abuse, diversion from legitimate channels, and clandestine importation, manufacture, or distribution.

“(4) The Attorney General shall transmit notice of an order proposed to be issued under paragraph (1) to the Secretary of Health and Human Services. In issuing an order under paragraph (1), the Attorney General shall take into consideration any comments submitted by the Secretary in response to a notice transmitted pursuant to this paragraph.

“(5) An order issued under paragraph (1) with respect to a substance shall be vacated upon the conclusion of a subsequent rulemaking proceeding initiated under subsection (a) with respect to such substance.

“(6) An order issued under paragraph (1) is not subject to judicial review.”

SEC. 509. (a) Section 201(g) (21 U.S.C. 811(g)) is amended by adding at the end the following:

“(3) The Attorney General may, by regulation, exempt any compound, mixture, or preparation containing a controlled substance from the application of all or any part of this title if he finds such compound, mixture, or preparation meets the requirements of one of the following categories:

“(A) A mixture, or preparation containing a nonnarcotic controlled substance, which mixture or preparation is approved for prescription use, and which contains one or more other active ingredients which are not listed in any schedule and which are included therein in such combinations, quantity, proportion, or concentration as to vitiate the potential for abuse.

“(B) A compound, mixture, or preparation which contains any controlled substance, which is not for administration to a human being or animal, and which is packaged in such form or concentration, or with adulterants or denaturants, so that as packaged it does not present any significant potential for abuse.”

(b) Section 202(d) (21 U.S.C. 812(d)) is repealed.

SEC. 510. Section 302(a) (21 U.S.C. 822(a)) is amended to read as follows:

“(a)(1) Every person who manufactures or distributes any controlled substance, or who proposes to engage in the manufacture or distribution of any controlled substance, shall obtain annually a registration issued by the Attorney General in accordance with the rules and regulations promulgated by him.

“(2) Every person who dispenses, or who proposes to dispense, any controlled substance, shall obtain from the Attorney General a registration issued in accordance with the rules and regulations promulgated by him. The Attorney General shall, by regulation,

determine the period of such registrations. In no event, however, shall such registrations be issued for less than one year nor for more than three years.”

SEC. 511. Section 303(f) (21 U.S.C. 823(f)) is amended to read as follows:

“(f) The Attorney General shall register practitioners (including pharmacies, as distinguished from pharmacists) to dispense, or conduct research with, controlled substances in schedule II, III, IV, or V, if the applicant is authorized to dispense, or conduct research with respect to, controlled substances under the laws of the State in which he practices. The Attorney General may deny an application for such registration if he determines that the issuance of such registration would be inconsistent with the public interest. In determining the public interest, the following factors shall be considered:

“(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

“(2) The applicant’s experience in dispensing, or conducting research with respect to controlled substances.

“(3) The applicant’s conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

“(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

“(5) Such other conduct which may threaten the public health and safety.

Separate registration under this part for practitioners engaging in research with controlled substances in schedule II, III, IV, or V, who are already registered under this part in another capacity, shall not be required. Registration applications by practitioners wishing to conduct research with controlled substances in schedule I shall be referred to the Secretary, who shall determine the qualifications and competency of each practitioner requesting registration, as well as the merits of the research protocol. The Secretary, in determining the merits of each research protocol, shall consult with the Attorney General as to effective procedures to adequately safeguard against diversion of such controlled substances from legitimate medical or scientific use. Registration for the purpose of bona fide research with controlled substances in schedule I by a practitioner deemed qualified by the Secretary may be denied by the Attorney General only on a ground specified in section 304(a). Article 7 of the Convention on Psychotropic Substances shall not be construed to prohibit, or impose additional restrictions upon, research involving drugs or other substances scheduled under the convention which is conducted in conformity with this subsection and other applicable provisions of this title.”

Research and
development.

Infra.
32 UST 543.

SEC. 512. Section 304(a) (21 U.S.C. 824(a)) is amended—

(1) by inserting before the period in paragraph (3) the following: “or has had the suspension, revocation, or denial of his registration recommended by competent State authority”; and

(2) by striking out “or” at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof “; or”, and by adding after paragraph (3) the following:

“(4) has committed such acts as would render his registration under section 303 inconsistent with the public interest as determined under such section.”

21 USC 823.

SEC. 513. Section 304 (21 U.S.C. 824) is amended by adding at the end the following:

“(g) The Attorney General may, in his discretion, seize or place under seal any controlled substances owned or possessed by a registrant whose registration has expired or who has ceased to practice or do business in the manner contemplated by his registration. Such controlled substances shall be held for the benefit of the registrant, or his successor in interest. The Attorney General shall notify a registrant, or his successor in interest, who has any controlled substance seized or placed under seal of the procedures to be followed to secure the return of the controlled substance and the conditions under which it will be returned. The Attorney General may not dispose of any controlled substance seized or placed under seal under this subsection until the expiration of one hundred and eighty days from the date such substance was seized or placed under seal.”.

SEC. 514. (a) Section 307(c)(1)(A) (21 U.S.C. 827(C)(1)(A)) is amended to read as follows:

“(A) to the prescribing of controlled substances in schedule II, III, IV, or V by practitioners acting in the lawful course of their professional practice unless such substance is prescribed in the course of maintenance or detoxification treatment of an individual; or”.

(b) Section 307(c)(1)(B) (21 U.S.C. 827(c)(1)(B)) is amended to read as follows:

“(B) to the administering of a controlled substance in schedule II, III, IV, or V unless the practitioner regularly engages in the dispensing or administering of controlled substances and charges his patients, either separately or together with charges for other professional services, for substances so dispensed or administered or unless such substance is administered in the course of maintenance treatment or detoxification treatment of an individual;”.

SEC. 515. Section 307 (21 U.S.C. 827) is further amended by adding at the end a new subsection (g) as follows:

“(g) Every registrant under this title shall be required to report any change of professional or business address in such manner as the Attorney General shall by regulation require.”.

SEC. 516. Section 403(a)(2) (21 U.S.C. 843(a)(2)) is amended to read as follows:

“(2) to use in the course of the manufacture, distribution, or dispensing of a controlled substance, or to use for the purpose of acquiring or obtaining a controlled substance, a registration number which is fictitious, revoked, suspended, expired, or issued to another person.”.

SEC. 517. (a) Section 503(a) (21 U.S.C. 873(a)) is amended by striking out “and” at the end of paragraph (4), by striking out the period at the end of paragraph (5) and inserting in lieu thereof “; and” and by adding at the end the following:

“(6) assist State and local governments in suppressing the diversion of controlled substances from legitimate medical, scientific, and commercial channels by—

“(A) making periodic assessments of the capabilities of State and local governments to adequately control the diversion of controlled substances;

“(B) providing advice and counsel to State and local governments on the methods by which such governments may strengthen their controls against diversion; and

“(C) establishing cooperative investigative efforts to control diversion.”

(b) Section 503 is amended by adding at the end the following:

21 USC 873.
Grants.

“(d)(1) The Attorney General may make grants, in accordance with paragraph (2), to State and local governments to assist in meeting the costs of—

“(A) collecting and analyzing data on the diversion of controlled substances,

“(B) conducting investigations and prosecutions of such diversions,

“(C) improving regulatory controls and other authorities to control such diversions,

“(D) programs to prevent such diversions,

“(E) preventing and detecting forged prescriptions, and

“(F) training law enforcement and regulatory personnel to improve the control of such diversions.

“(2) No grant may be made under paragraph (1) unless an application therefor is submitted to the Attorney General in such form and manner as the Attorney General may prescribe. No grant may exceed 80 per centum of the costs for which the grant is made, and no grant may be made unless the recipient of the grant provides assurances satisfactory to the Attorney General that it will obligate funds to meet the remaining 20 per centum of such costs. The Attorney General shall review the activities carried out with grants under paragraph (1) and shall report annually to Congress on such activities.

Report.

“(3) To carry out this subsection there is authorized to be appropriated \$6,000,000 for fiscal year 1985 and \$6,000,000 for fiscal year 1986.”

Appropriation
authorization.

SEC. 518. Section 511(a) (21 U.S.C. 881(a)) is amended by inserting the following new paragraph:

Ante, p. 2050.

“(8) All controlled substances which have been possessed in violation of this title.”

SEC. 519. Section 1002(a)(1) (21 U.S.C. 952(a)(1)) is amended to read as follows:

“(1) such amounts of crude opium, poppy straw, concentrate of poppy straw, and coca leaves as the Attorney General finds to be necessary to provide for medical, scientific, or other legitimate purposes, and”

SEC. 520. Section 1002(a)(2) (21 U.S.C. 952(a)(2)) is amended by striking out “or” at the end of subparagraph (A), by adding “or” at the end of subparagraph (B), and by adding the following after subparagraph (B):

“(C) in any case in which the Attorney General finds that such controlled substance is in limited quantities exclusively for scientific, analytical, or research uses,”

SEC. 521. Section 1002(b)(2) (21 U.S.C. 952(b)(2)) is amended to read as follows:

“(2) is imported pursuant to such notification, or declaration, or in the case of any nonnarcotic controlled substance in schedule III, such import permit, notification, or declaration, as the Attorney General may by regulation prescribe, except that if a nonnarcotic controlled substance in schedule IV or V is also listed in schedule I or II of the Convention on Psychotropic Substances it shall be imported pursuant to such import permit requirements, prescribed by regulation of the Attorney General, as are required by the Convention.”

32 UST 543.

SEC. 522. Section 1003(e) (21 U.S.C. 953(e)) is amended to read as follows:

“(e) It shall be unlawful to export from the United States to any other country any nonnarcotic controlled substance in schedule III or IV or any controlled substances in schedule V unless—

“(1) there is furnished (before export) to the Attorney General documentary proof that importation is not contrary to the laws or regulations of the country of destination for consumption for medical, scientific, or other legitimate purposes;

“(2) it is exported pursuant to such notification or declaration, or in the case of any nonnarcotic controlled substance in schedule III, such export permit, notification, or declaration as the Attorney General may by regulation prescribe; and

“(3) in the case of a nonnarcotic controlled substance in schedule IV or V which is also listed in schedule I or II of the Convention on Psychotropic Substances, it is exported pursuant to such export permit requirements, prescribed by regulation of the Attorney General, as are required by the Convention.”.

SEC. 523. Section 1007(a)(2) (21 U.S.C. 957(a)(2)) is amended to read as follows:

“(2) export from the United States any controlled substance in schedule I, II, III, IV, or V.”.

SEC. 524. Section 1008(b) (21 U.S.C. 958(b)) is amended to read as follows:

“(b) Registration granted under this section shall not entitle a registrant to import or export controlled substances other than specified in the registration.”.

SEC. 525. Section 1008 (21 U.S.C. 958) is further amended by redesignating subsections (d), (e), (f), (g), and (h) as subsections (e), (f), (g), (h), and (i), respectively, and—

(1) by inserting after subsection (c) the following new subsection (d):

“(d)(1) The Attorney General may deny an application for registration under subsection (a) if he is unable to determine that such registration is consistent with the public interest (as defined in subsection (a)) and with the United States obligations under international treaties, conventions, or protocols in effect on the effective date of this part.

“(2) The Attorney General may deny an application for registration under subsection (c), or revoke or suspend a registration under subsection (a) or (c), if he determines that such registration is inconsistent with the public interest (as defined in subsection (a) or (c)) or with the United States obligations under international treaties, conventions, or protocols in effect on the effective date of this part.

“(3) The Attorney General may limit the revocation or suspension of a registration to the particular controlled substance, or substances, with respect to which grounds for revocation or suspension exist.

“(4) Before taking action pursuant to this subsection, the Attorney General shall serve upon the applicant or registrant an order to show cause as to why the registration should not be denied, revoked, or suspended. The order to show cause shall contain a statement of the basis thereof and shall call upon the applicant or registrant to appear before the Attorney General, or his designee, at a time and place stated in the order, but in no event less than thirty days after the date of receipt of the order. Proceedings to deny, revoke, or

suspend shall be conducted pursuant to this subsection in accordance with subchapter II of chapter 5 of title 5 of the United States Code. Such proceedings shall be independent of, and not in lieu of, criminal prosecutions or other proceedings under this title or any other law of the United States.

5 USC 551.

“(5) The Attorney General may, in his discretion, suspend any registration simultaneously with the institution of proceedings under this subsection, in cases where he finds that there is an imminent danger to the public health and safety. Such suspension shall continue in effect until the conclusion of such proceedings, including judicial review thereof, unless sooner withdrawn by the Attorney General or dissolved by a court of competent jurisdiction.

“(6) In the event that the Attorney General suspends or revokes a registration granted under this section, all controlled substances owned or possessed by the registrant pursuant to such registration at the time of suspension or the effective date of the revocation order, as the case may be, may, in the discretion of the Attorney General, be seized or placed under seal. No disposition may be made of any controlled substances under seal until the time for taking an appeal has elapsed or until all appeals have been concluded, except that a court, upon application therefor, may at any time order the sale of perishable controlled substances. Any such order shall require the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all such controlled substances (or proceeds of the sale thereof which have been deposited with the court) shall be forfeited to the United States; and the Attorney General shall dispose of such controlled substances in accordance with section 511(e) of the Controlled Substances Act.”; and

Ante, p. 2051.

(2) by striking our “304,” in the second sentence of redesignated subsection (e).

CHAPTER VI

DIVISION I—JUSTICE ASSISTANCE

Justice Assistance Act of 1984.

Subdivision A—Amendments to Omnibus Crime Control and Safe Streets Act of 1968

SHORT TITLE

SEC. 601. This division may be cited as the “Justice Assistance Act of 1984”.

42 USC 3711 note.

DECLARATION AND PURPOSE

SEC. 602. Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3701–3799) is amended in the matter preceding part A by striking out the declaration and purpose.

42 USC 3701.

OFFICE OF JUSTICE PROGRAMS

SEC. 603. (a) Part A of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711–3713) is amended to read as follows—

"PART A—OFFICE OF JUSTICE PROGRAMS

"ESTABLISHMENT OF OFFICE OF JUSTICE PROGRAMS

42 USC 3711.

"SEC. 101. There is hereby established an Office of Justice Programs within the Department of Justice under the general authority of the Attorney General. The Office of Justice Programs (hereinafter referred to in this title as the 'Office') shall be headed by an Assistant Attorney General (hereinafter in this title referred to as the 'Assistant Attorney General') appointed by the President, by and with the advice and consent of the Senate.

"DUTIES AND FUNCTIONS OF ASSISTANT ATTORNEY GENERAL

42 USC 3712.

"SEC. 102. (a) The Assistant Attorney General shall—

"(1) publish and disseminate information on the conditions and progress of the criminal justice systems;

"(2) maintain liaison with the executive and judicial branches of the Federal and State governments in matters relating to criminal justice;

"(3) provide information to the President, the Congress, the judiciary, State and local governments, and the general public relating to criminal justice;

"(4) maintain liaison with public and private educational and research institutions, State and local governments, and governments of other nations relating to criminal justice;

"(5) provide staff support to coordinate the activities of the Office and the Bureau of Justice Assistance, the National Institute of Justice, the Bureau of Justice Statistics, and the Office of Juvenile Justice and Delinquency Prevention; and

"(6) exercise such other powers and functions as may be vested in the Assistant Attorney General pursuant to this title or by delegation of the Attorney General.

Report.

"(b) The Assistant Attorney General shall submit an annual report to the President and to the Congress not later than March 31 of each year."

NATIONAL INSTITUTE OF JUSTICE

SEC. 604. (a) Section 201 of part B of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3721) is amended—

(1) in paragraph (3) by inserting "and" at the end thereof,

(2) by striking out paragraph (4),

(3) by redesignating paragraph (5) as paragraph (4),

(4) by striking out "to develop alternatives to judicial resolution of disputes," and

(5) by inserting "and demonstrate" after "to develop".

(b) Section 202 of part B of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3722) is amended—

(1) in subsection (b) by inserting after the second sentence the following: "The Director shall report to the Attorney General through the Assistant Attorney General.", and

(2) in subsection (c)—

(A) in paragraph (2)—

(i) in subparagraph (A) by striking out "including programs authorized by section 103 of this title", and

(ii) in subparagraph (E) by striking out "the prevention and reduction of parental kidnapping", and

- (B) in paragraph (3) by striking out “part” and inserting in lieu thereof “title”,
 - (C) by striking out paragraph (4),
 - (D) in paragraph (10)—
 - (i) by striking out “national priority grants under part E and”, and
 - (ii) by striking out “part F” and inserting in lieu thereof “part E”,
 - (E) by striking out paragraph (9), and
 - (F) by redesignating paragraphs (5), (6), (7), (8), (10), and (11) as paragraphs (4), (5), (6), (7), (8), and (9), respectively.
- (c) Part B of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3721-3724) is amended by striking out section 204.

Repeal.
42 USC 3724.

BUREAU OF JUSTICE STATISTICS

SEC. 605. (a) The first sentence of section 301 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3731) is amended—

- (1) by striking out “(including white-collar crime and public corruption)”, and
 - (2) by striking out “(including crimes against the elderly, white-collar crime, and public corruption)”.
- (b) Section 302 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3732) is amended—
- (1) in subsection (b) by inserting after the third sentence the following: “The Director shall report to the Attorney General through the Assistant Attorney General.”,
 - (2) in subsection (c)—
 - (A) by striking out paragraphs (13) and (16),
 - (B) by redesignating paragraphs (14), (15), and (17) as paragraphs (16), (17), and (19), respectively,
 - (C) by inserting after paragraph (12) the following new paragraphs:
 - “(13) provide for the development of justice information systems programs and assistance to the States and units of local government relating to collection, analysis, or dissemination of justice statistics;
 - “(14) develop and maintain a data processing capability to support the collection, aggregation, analysis and dissemination of information on the incidence of crime and the operation of the criminal justice system;
 - “(15) collect, analyze and disseminate comprehensive Federal justice transaction statistics (including statistics on issues of Federal justice interest such as public fraud and high technology crime) and to provide technical assistance to and work jointly with other Federal agencies to improve the availability and quality of Federal justice data;”, and
 - (D) by inserting after paragraph (17), as so redesignated, the following new paragraph:
 - “(18) ensure conformance with security and privacy requirement of section 812 and identify, analyze, and participate in the development and implementation of privacy, security and information policies which impact on Federal and State criminal justice operations and related statistical activities; and”, and
 - (3) in subsection (d)—

Post, p. 2093.

(A) in paragraph (1) by inserting “, and to enter into agreements with such agencies and instrumentalities for purposes of data collection and analysis” before the semicolon,

(B) in paragraph (3) by striking out “and” at the end thereof,

(C) in paragraph (4) by striking out the period at the end thereof and inserting in lieu thereof a “; and”, and

(D) by inserting after paragraph (4) the following new paragraph:

“(5) encourage replication, coordination and sharing among justice agencies regarding information systems, information policy, and data.

Repeal.

42 USC 3734.

(c) Part C of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3731-3735) is amended by striking out section 304.

42 USC 3735.

(d) Part C of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3731-3735) is amended by redesignating section 305 as section 304.

BLOCK GRANTS

SEC. 606. Part D of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3741-3745) is amended to read as follows:

“PART D—BLOCK GRANTS

“ESTABLISHMENT OF BUREAU OF JUSTICE ASSISTANCE

42 USC 3741.

“SEC. 401. (a) There is established within the Department of Justice, under the general authority of the Attorney General, a Bureau of Justice Assistance (hereinafter in this part and part E referred to as the ‘Bureau’).

Post, pp. 2086,
2087.

Report.

“(b) The Bureau shall be headed by a Director (hereinafter in this part and part E referred to as the ‘Director’) who shall be appointed by the Attorney General. The Director shall report to the Attorney General through the Assistant Attorney General. The Director shall have final authority for all grants, cooperative agreements, and contracts awarded by the Bureau. The Director shall not engage in any employment other than that of serving as the Director, nor shall the Director hold any office in, or act in any capacity for, any organization, agency, or institution with which the Bureau makes any contract or other arrangement under this title.

“DUTIES AND FUNCTIONS OF DIRECTOR

42 USC 3742.

“SEC. 402. The Director shall—

“(1) provide funds to eligible States, units of local government and private nonprofit organizations pursuant to this part and part E;

“(2) establish priorities for programs in accordance with part E and, following public announcement of such priorities, award and allocate funds and technical assistance in accordance with the criteria of part E and on terms and conditions determined by the Director to be consistent with part E;

“(3) cooperate with and provide technical assistance to States, units of local government, and other public and private organi-

zations or international agencies involved in criminal justice activities;

"(4) provide for the development of technical assistance and training programs for State and local criminal justice agencies and foster local participation in such activities;

"(5) encourage the targeting of State and local resources on efforts to reduce the incidence of violent crime and on programs relating to the apprehension and prosecution of repeat offenders;

"(6) establish and carry on a specific and continuing program of cooperation with the States and units of local government designed to encourage and promote consultation and coordination concerning decisions made by the Bureau affecting State and local criminal justice priorities; and

"(7) exercise such other powers and functions as may be vested in the Director pursuant to this title.

"DESCRIPTION OF PROGRAM

"SEC. 403. (a) It is the purpose of this part to assist States and units of local government in carrying out specific programs which offer a high probability of improving the functioning of the criminal justice system, with special emphasis on violent crime and serious offenders. The Bureau is authorized to make grants under this part to States for the purpose of—

42 USC 3743.

Grants.

"(1) providing community and neighborhood programs that enable citizens and police to undertake initiatives to prevent and control neighborhood crime;

"(2) disrupting illicit commerce in stolen goods and property;

"(3) combating arson;

"(4) effectively investigating and bringing to trial white-collar crime, organized crime, public corruption crimes, and fraud against the Government;

"(5) identifying criminal cases involving persons (including juvenile offenders) with a history of serious criminal conduct in order to expedite the processing of such cases and to improve court system management and sentencing practices and procedures in such cases;

"(6) developing and implementing programs which provide assistance to jurors and witnesses, and assistance (other than compensation) to victims of crimes;

"(7) providing alternatives to pretrial detention, jail, and prison for persons who pose no danger to the community;

"(8) providing programs which identify and meet the needs of drug-dependent offenders;

"(9) providing programs which alleviate prison and jail overcrowding and programs which identify existing State and Federal buildings suitable for prison use;

"(10) providing training, management, and technical assistance to criminal justice personnel and determining appropriate prosecutorial and judicial personnel needs;

"(11) providing prison industry projects designed to place inmates in a realistic working and training environment in which they will be enabled to acquire marketable skills and to make financial payments for restitution to their victims, for support of their own families, and for support of themselves in the institution;

"(12) providing for operational information systems and workload management systems which improve the effectiveness of criminal justice agencies;

"(13) providing programs of the same types as programs described in section 501(a)(4)—

"(A) which the Director establishes, under section 503(a), as discretionary programs for financial assistance under part E; and

"(B) which are innovative and have been deemed by the Director as likely to prove successful;

"(14) implement programs which address critical problems of crime, such as drug trafficking, which have been certified by the Director, after consultation with the Director of the National Institute of Justice, Director of the Bureau of Justice Statistics, and Administrator of the Office of Juvenile Justice and Delinquency Prevention, as having proved successful;

"(15) providing programs which address the problem of serious offenses committed by juveniles;

"(16) addressing the problem of crime committed against the elderly;

"(17) providing training, technical assistance, and programs to assist State and local law enforcement authorities in rural areas in combating crime, with particular emphasis on violent crime, juvenile delinquency, and crime prevention; and

"(18) improving the operational effectiveness of law enforcement by integrating and maximizing the effectiveness of police field operations and the use of crime analysis techniques.

Effective date.

"(b)(1) For any fiscal year ending after September 30, 1984, the Federal portion of any grant made under this part shall be 50 per centum of the cost of programs and projects specified in the application of such grant, except that in the case of funds distributed to an Indian tribe which performs law enforcement functions (as determined by the Secretary of the Interior) for any program or project described in subsection (a), the Federal portion shall be 100 per centum of such cost.

"(2) The non-Federal portion of the cost of such program or project shall be in cash.

"(c) No funds may be given under this title to a grant recipient for a program or project for which funds have been given under this title for four years (in the aggregate), including any period occurring before the effective date of this subsection.

"ELIGIBILITY

Appropriation
authorization.
42 USC 3744.

"SEC. 404. The Bureau is authorized to make financial assistance under this part available to a State to enable it to carry out all or a substantial part of a program or project submitted and approved in accordance with the provisions of this part.

"APPLICATIONS

Prohibition.
42 USC 3745.

"SEC. 405. No grant may be made by the Bureau to a State, or by a State to an eligible recipient pursuant to this part, unless the application for such grant sets forth criminal justice programs and projects covering a two-year period which meet the purposes of section 403(a) of this title, designates which purpose specified in section 403(a) each such program or project is intended to achieve,

and identifies the State agency or unit of local government which will implement each such program or project. This application must be amended annually if new programs are to be added to the application or if the programs contained in the original application are not implemented. The application must include—

“(1) an assurance that following the first fiscal year covered by an application and each fiscal year thereafter, the applicant shall submit to the Bureau or to the State, as the case may be—

“(A) a performance report concerning the activities carried out pursuant to this part and part E; and

“(B) an assessment by the applicant of the impact of those activities on the purposes of this part and the needs and objectives identified in the applicant's statement;

“(2) a certification that Federal funds made available under this title will not be used to supplant State or local funds, but will be used to increase the amounts of such funds that would, in the absence of Federal funds, be made available for criminal justice activities;

“(3) an assurance that fund accounting, auditing, monitoring, and such evaluation procedures as may be necessary to keep such records as the Bureau shall prescribe shall be provided to assure fiscal control, proper management, and efficient disbursement of funds received under this title;

“(4) an assurance that the applicant shall maintain such data and information and submit such reports in such form, at such times, and containing such data and information as the Bureau may reasonably require to administer other provisions of this title;

“(5) a certification that its programs meet all the requirements of this section, that all the information contained in the application is correct, that there has been appropriate coordination with affected agencies, and that the applicant will comply with all provisions of this title and all other applicable Federal laws (such certification shall be made in a form acceptable to the Bureau and shall be executed by the chief executive or such other officer of the applicant qualified under regulations promulgated by the Office);

“(6) if the applicant is a State, an assurance that not more than 10 per centum of the aggregate amount of funds received by a State under this part for a fiscal year will be distributed for programs and projects designated as intended to achieve the purpose specified in section 403(a)(13);

“(7) an assurance that the State will take into account the needs and requests of units of general local government in the State and encourage local initiative in the development of programs which meet the purposes of section 403(a);

“(8) an assurance that the State application described in this section, and any amendment to such application, has been submitted for review to the State legislature or its designated body (for purposes of this section, such application or amendment shall be deemed to be reviewed if the State legislature or such body does not review such application or amendment within the 60-day period beginning on the date such application or amendment is so submitted); and

“(9) an assurance that the State application and any amendment thereto was made public before submission to the Bureau and, to the extent provided under State law or established

Report.

Post, pp. 2086,
2087.

Effective date.

procedure, an opportunity to comment thereon was provided to citizens and to neighborhood and community groups.

“REVIEW OF APPLICATIONS

42 USC 3746.

“SEC. 406. (a) The Bureau shall provide financial assistance to each State applicant under this part to carry out the programs or projects submitted by such applicant upon determining that—

“(1) the application or amendment thereto is consistent with the requirements of this title; and

“(2) before the approval of the application and any amendment thereto the Bureau has made an affirmative finding in writing that the program or project has been reviewed in accordance with section 405.

Ante, p. 2082.

Effective date.

Each application or amendment made and submitted for approval to the Bureau pursuant to section 405 of this title shall be deemed approved, in whole or in part, by the Bureau not later than sixty days after first received unless the Bureau informs the applicant of specific reasons for disapproval.

“(b) The Bureau shall suspend funding for an approved application in whole or in part if such application contains a program or project which has failed to conform to the requirements of this part or purposes of section 403(a) of this title. The Bureau may make appropriate adjustments in the amounts of grants in accordance with its findings pursuant to this subsection.

Ante, p. 2081.

Prohibitions.

“(c) Grant funds awarded under this part shall not be used for—

“(1) the purchase of equipment or hardware, or the payment of personnel costs, unless the cost of such purchases and payments is incurred as an incidental and necessary part of a program under section 403(a) of this title;

“(2) programs which have as their primary purpose general salary payments for employees or classes of employees within an eligible jurisdiction, except for the compensation of personnel for time engaged in conducting or undergoing training programs or the compensation of personnel engaged in research, development, demonstration, or short-term programs;

“(3) land acquisition or construction projects; or

“(4) programs or projects which, based upon evaluations by the National Institute of Justice, Bureau of Justice Assistance, Bureau of Justice Statistics, State or local agencies, and other public or private organizations, have been demonstrated to offer a low probability of improving the functioning of the criminal justice system. Such programs must be formally identified by a notice in the Federal Register after opportunity for comment.

Federal
Register,
publication.
Public
availability.

“(d) The Bureau shall not finally disapprove any application, or any amendment thereto, submitted to the Director under this part without first affording the applicant reasonable notice and opportunity for reconsideration.

“ALLOCATION AND DISTRIBUTION OF FUNDS

42 USC 3747.

Post, pp. 2086,
2087.

“SEC. 407. (a) Of the total amount appropriated for this part and part E in any fiscal year, 80 per centum shall be set aside for this part and allocated to States as follows:

“(1) \$250,000 shall be allocated to each of the participating States.

"(2) Of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each State an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the population of such State bears to the population of all the States.

"(b)(1) Each State which receives funds under subsection (a) in a fiscal year shall distribute among units of local government, or combinations of units of local government, in such State for the purposes specified in section 403(a) of this title that portion of such funds which bears the same ratio to the aggregate amount of such funds as the amount of funds expended by all units of local government for criminal justice in the preceding fiscal year bears to the aggregate amount of funds expended by the State and all units of local government in such State for criminal justice in such preceding fiscal year.

Ante, p. 2081.

"(2) In distributing funds received under this part among urban, rural, and suburban units of local government and combinations thereof, the State shall give priority to those jurisdictions with the greatest need.

"(3) Any funds not distributed to units of local government under paragraph (1) shall be available for expenditure by the State involved.

"(4) For purposes of determining the distribution of funds under paragraph (1), the most accurate and complete data available for the fiscal year involved shall be used. If data for such fiscal year are not available, then the most accurate and complete data available for the most recent fiscal year preceding such fiscal year shall be used.

"(c) No funds allocated to a State under subsection (a) or received by a State for distribution under subsection (b) may be distributed by the Director or by the State involved for any program other than a program contained in an approved application.

"(d) If the Director determines, on the basis of information available to it during any fiscal year, that a portion of the funds allocated to a State for that fiscal year will not be required or that a State will be unable to qualify or receive funds under this part, or that a State chooses not to participate in the program established by this part, then such portion shall be awarded by the Director to urban, rural, and suburban units of local government or combinations thereof within such State giving priority to those jurisdictions with greatest need.

"(e) Any funds not distributed under subsections (b) and (d) shall be available for obligation under part E.

Post, pp. 2086, 2087.

"STATE OFFICE

"SEC. 408. (a) The chief executive of each participating State shall designate a State office for purposes of—

42 USC 3748.

"(1) preparing an application to obtain funds under this part; and

"(2) administering funds received from the Bureau of Justice Assistance, including receipt, review, processing, monitoring, progress and financial report review, technical assistance, grant adjustments, accounting, auditing, and fund disbursements.

"(b) An office or agency performing other functions within the executive branch of a State may be designated to carry out the functions specified in subsection (a)."

NATIONAL PRIORITY GRANTS

Repeal.
Post, p. 2087.
 42 USC
 3751-3755.

SEC. 607. Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3701 et seq.) is amended by striking out part E.

DISCRETIONARY GRANTS

Post, p. 2087.
 42 USC
 3761-3763.

SEC. 608. (a) Sections 601, 602, and 603 of part F of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3761-3762) are amended to read as follows:

"PURPOSE

42 USC 3761.

"SEC. 501. (a) The purpose of this part is to provide additional Federal financial assistance to public agencies and private nonprofit organizations for purposes of—

"(1) undertaking educational and training programs for criminal justice personnel;

"(2) providing technical assistance to States and local units of governments;

"(3) undertaking projects which are national or multi-State in scope and which address the purposes specified in section 403(a) of this title; and

"(4) providing financial assistance to public agencies and private nonprofit organizations for demonstration programs which, in view of previous research or experience, are likely to be a success in more than one jurisdiction and are not likely to be funded with moneys from other sources.

"(b) In carrying out this part, the Bureau is authorized to make grants, and enter into cooperative agreements and contracts with, public agencies and private nonprofit organizations.

"PERCENTAGE OF APPROPRIATION FOR DISCRETIONARY GRANT PROGRAM

Ante, p. 2080.
 42 USC 3762.

"SEC. 502. Of the total amount appropriated for part D and this part in any fiscal year, 20 per centum shall be reserved and set aside for this part in a special discretionary fund for use by the Bureau in carrying out the purposes specified in section 501 of this title. Grants under this part may be made for amounts up to 100 per centum of the costs of the programs or projects contained in the approved application.

"PROCEDURE FOR ESTABLISHING DISCRETIONARY PROGRAMS

42 USC 3763.

Expiration date.

"SEC. 503. (a) The Director of the Bureau shall periodically establish discretionary programs and projects for financial assistance under this part. Such programs and projects shall be considered priorities for a period of time not to exceed three years from the time of such determination.

"(b) The Director shall annually request the National Institute of Justice, the Bureau of Justice Statistics, the Office of Justice Programs, State and local governments, and other appropriate public and private agencies to suggest discretionary programs and projects. The Director shall then, pursuant to regulations, annually publish the proposed priorities pursuant to this part and invite and encourage public comment concerning such priorities. Priorities shall not be established or modified until the Director has provided at least sixty-days advance notice for such public comment and the Director

shall encourage and invite recommendations and opinion concerning such priorities from appropriate agencies and officials of State and units of local government. After considering any comments submitted during such period of time and after consultation with appropriate agencies and officials of State and units of local government, the Director shall determine whether existing established priorities should be modified. The Director shall publish in the Federal Register the priorities established pursuant to this part before the beginning of fiscal year 1985 and each fiscal year thereafter for which appropriations will be available to carry out the program.”.

Federal
Register,
publication.

(b) Section 604 of part F of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3764) is amended by striking out “Administration” each place it appears and inserting in lieu thereof “Bureau”.

Infra.

(c) Section 605 of part F of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3765) is amended to read as follows:

Infra.

“CRITERIA FOR AWARD

“SEC. 505. The Bureau shall, in its discretion and according to the criteria, and on the terms and conditions it determines consistent with this part, provide financial assistance to those programs or projects which most clearly satisfy the priorities established under section 503 of this title. In providing such assistance pursuant to this part, the Bureau shall consider whether certain segments and components of the criminal justice system have received a disproportionate allocation of financial aid and assistance pursuant to other parts of this title, and, if such a finding is made, shall assure the funding of such other segments and components of the criminal justice system as to correct inequities resulting from such disproportionate allocations.”.

Ante, p. 2086.

(d) Section 606 of part F of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3766) is amended to read as follows:

Infra.

“PERIOD FOR AWARD

“SEC. 506. The Bureau may provide financial aid and assistance to programs or projects under this part for a period not to exceed three years. Grants made pursuant to this part may be extended or renewed by the Bureau for an additional period of up to two years if—

Expiration date.

“(1) an evaluation of the program or project indicates that it has been effective in achieving the stated goals or offers the potential for improving the functioning of the criminal justice system; and

“(2) the public agency or private nonprofit organization within which the program or project has been conducted agrees to provide at least one-half of the total cost of such program or project from any source of funds, including Federal grants, available to the eligible jurisdiction.”.

(e) The heading for part F of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3761-3766) is amended by striking out “Part F” and inserting in lieu thereof “Part E”.

(f) Part E, as so redesignated, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3701-3766) is amended by redesignating section 604 as section 504.

42 USC 3764.

State and local
governments.

PILOT PROGRAMS FOR CONSTRUCTION OF CRIMINAL JUSTICE FACILITIES

Ante, p. 2087.
42 USC
3701-3797.

SEC. 609. Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3701-3799) is amended by inserting after part E, as so redesignated, the following new part:

"PART F—CRIMINAL JUSTICE FACILITY CONSTRUCTION: PILOT
PROGRAM

"AUTHORITY FOR PAYMENTS

Grants.
Housing.
42 USC 3769.

"SEC. 601. In order to relieve overcrowding and substandard conditions at State and local correctional facilities, the Director of the Bureau of Justice Assistance (hereinafter in this part referred to as the 'Director') is authorized to make grants to States, units of local government, and combinations of such units to assist in construction of correctional facility projects approved under this part, and in planning to relieve overcrowding and substandard conditions in correctional facilities.

"ELIGIBILITY

42 USC 3769a

"SEC. 602. (a) A State, unit of local government, or combination of such units shall be eligible for assistance under this part for a correctional facility project only—

18 USC 4281 *et*
seq.

"(1) if the Director, with the concurrence of the Director of the National Institute of Corrections established in chapter 315 of title 18, United States Code, has made a determination that such project represents a prototype of new and innovative methods and advanced design that will stand as examples of technology for avoiding delay and reducing costs in correctional facility design, construction, and improvement; and

"(2) for not more than one such project in any State per fiscal year.

"(b) A State, a unit of local government, or a combination of such units shall be eligible for assistance under this part for the development of a plan for relieving overcrowding or substandard conditions in correctional facilities operated by the State, a unit of local government, or a combination of such units. Such assistance shall not exceed 50 percent of the cost of developing the plan.

"APPLICATION; APPROVAL; PAYMENT

42 USC 3769b.

"SEC. 603. (a) A State, unit of local government, or combination of such units desiring to receive assistance under this part for a correctional facility project shall submit to the Director an application which shall include—

"(1) reasonable assurance that the applicant has developed an acceptable plan for reducing overcrowding and improving conditions of confinement in its correctional facilities and has implemented, or is in the process of implementing, such plan through legislative, executive, or judicial initiatives;

"(2) a detailed description of the correctional facility to be constructed, altered, or expanded, including a description of the site of such facility;

"(3) an estimate of the total cost of the construction of such project, including the amount of assistance requested for such project;

"(4) reasonable assurance that title to such site is or will be vested solely in the applicant, or another agency or instrumentality of the applicant;

"(5) reasonable assurance that adequate financial support will be available for the construction of the project and for its maintenance and operation when complete; and

"(6) reasonable assurance that the applicant will comply with the standards and recommendations of the clearinghouse on the construction and modernization of correctional facilities established under section 605.

"(b)(1) The Director may approve any such application only if the Director finds that— *Infra.*

"(A) there are sufficient funds available to provide the assistance requested;

"(B) such assistance does not exceed 20 percent of the estimated total cost of construction;

"(C) the application contains such reasonable assurances as may be required under subsection (a); and

"(D) the eligibility criteria of section 602 are met.

"(2) In approving applications under this subsection, the Director shall consider the numbers and general characteristics of the inmate population (to include factors such as offenders' ages, offenses, average term of incarceration, and custody status), and the degree to which the applicant has implemented an inmate classification system which addresses the need for appropriate security assignment. *Ante, p. 2088.*

"(c) Upon approving an application under this section, the Director shall award the amount of assistance so approved, but in no event an amount greater than 20 percent of the cost of construction of the approved correctional facility project, and shall provide for payment to the applicant or, if designated by the applicant, any agency or instrumentality of the applicant. Such amount shall be paid, in advance or by way of reimbursement, and in such installments consistent with the progress of construction as the Director may determine. Funds paid under this subsection for the construction of an approved project shall be used solely for carrying out such project as so approved.

"(d) An amendment of any application shall be subject to approval in the same manner as an original application.

"RECAPTURE PROVISIONS

"SEC. 605. If, within 20 years after completion of any correctional facility project with respect to which assistance has been provided under this section, such facility ceases to be operated as a correctional facility, the United States may recover from the recipient of such assistance any amount not to exceed 20 percent of the then current value of such project (but in no event an amount greater than the amount of assistance provided under this part for such project), as determined by agreement with the parties or by action brought in the district court of the United States for the district in which such facility is situated.

Claims.
42 USC 3769c.

**"CLEARINGHOUSE ON THE CONSTRUCTION AND MODERNIZATION OF
CRIMINAL JUSTICE FACILITIES**

Public
information.
42 USC 3769d.

"SEC. 606. (a) The Director shall provide for the operation of a clearinghouse on the construction and modernization of correctional facilities, which shall collect, prepare, and disseminate to the public and to interested State and local public agencies information, including recommendations, pertaining to the construction and modernization of correctional facilities. Such information shall include information regarding—

"(1) new and innovative methods and advanced design that will stand as examples of technology for avoiding delay and reducing costs in correctional facility design, construction, and improvement;

"(2) ways in which a construction planning program may be used to improve the administration of the criminal justice system within each State;

"(3) recommended minimum standards concerning construction materials and methods, to be updated from time to time to reflect technological advances;

"(4) the cost effectiveness of available construction materials, methods, and design technologies;

"(5) the training of correctional facility personnel; and

"(6) health and safety considerations in construction planning.

Contracts.

"(b) The Director is authorized to enter into contracts with private organizations and interagency agreements with the National Institute of Corrections, the National Institute of Justice, the Bureau of Justice and Statistics, and other appropriate public agencies, to operate the clearinghouse required under this section."

TRAINING AND MANPOWER DEVELOPMENT

SEC. 609A. (a) Part G of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3771-3775) is amended to read as follows:

**"PART G—FBI TRAINING OF STATE AND LOCAL CRIMINAL JUSTICE
PERSONNEL**

"TRAINING AND MANPOWER DEVELOPMENT

42 USC 3771.

"SEC. 701. (a) The Director of the Federal Bureau of Investigation is authorized to—

Federal Bureau
of Investigation
National
Academy,
Quantico, Va.

"(1) establish and conduct training programs at the Federal Bureau of Investigation National Academy at Quantico, Virginia, to provide, at the request of a State or unit of local government, training for State and local criminal justice personnel;

"(2) develop new or improved approaches, techniques, systems, equipment, and devices to improve and strengthen criminal justice; and

"(3) assist in conducting, at the request of a State or unit of local government, local and regional training programs for the training of State and local criminal justice personnel engaged in the investigation of crime and the apprehension of criminals. Training for rural criminal justice personnel shall include,

Rural areas.

when appropriate, effective use of regional resources and methods to improve coordination among criminal justice personnel in different areas and in different levels of government. Such training shall be provided only for persons actually employed as State police or highway patrol, police of a unit of local government, sheriffs, and their deputies, and other persons as the State or such unit may nominate for police training while such persons are actually employed as officers of such State or unit.

“(b) In the exercise of the functions, powers, and duties established under this section the Director of the Federal Bureau of Investigation shall be under the general authority of the Attorney General.

“(c) Notwithstanding the provisions of subsection (a), the Secretary of the Treasury is authorized to establish, develop, and conduct training programs at the Federal Law Enforcement Training Center at Glynco, Georgia, to provide, at the request of a State or unit of local government, training for State and local criminal justice personnel provided that such training does not interfere with the Center's mission to train Federal law enforcement personnel.”.

Federal Law
Enforcement
Training Center,
Glynco, Ga.

ADMINISTRATIVE PROVISIONS

SEC. 609B. (a) Part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3781 et seq.) is amended by striking out section 801.

Repeal.
42 USC 3781.

(b) Sections 802 and 803 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3782) are amended to read as follows:

42 USC 3782,
3783.

“CONSULTATION; ESTABLISHMENT OF RULES AND REGULATIONS

42 USC 3782.

“SEC. 801. (a) The Office of Justice Programs, the Bureau of Justice Assistance, the Office of Juvenile Justice and Delinquency Prevention, the Bureau of Justice Statistics, and the National Institute of Justice are authorized, after appropriate consultation with representatives of States and units of local government, to establish such rules, regulations, and procedures as are necessary to the exercise of their functions, and as are consistent with the stated purposes of this title.

“(b) The Bureau of Justice Assistance shall, after consultation with the National Institute of Justice, the Bureau of Justice Statistics, the Office of Juvenile Justice and Delinquency Prevention, State and local governments, and the appropriate public and private agencies, establish such rules and regulations as are necessary to assure the continuing evaluation of selected programs or projects conducted pursuant to parts D and E, in order to determine—

Ante, pp. 2080,
2086, 2087.

“(1) whether such programs or projects have achieved the performance goals stated in the original application, are of proven effectiveness, have a record of proven success, or offer a high probability of improving the criminal justice system;

“(2) whether such programs or projects have contributed or are likely to contribute to the improvement of the criminal justice system and the reduction and prevention of crime;

“(3) their cost in relation to their effectiveness in achieving stated goals;

“(4) their impact on communities and participants; and

“(5) their implication for related programs.

Report.
Ante, p. 2080.

Ante, p. 2081.

Paperwork
reduction.
Waste and
efficiency.

In conducting evaluations described in this subsection, the Bureau of Justice Assistance shall, when practical, compare the effectiveness of programs conducted by similar applicants and different applicants. The Bureau of Justice Assistance shall also require applicants under part D to submit an annual performance report concerning activities carried out pursuant to part D together with an assessment by the applicant of the effectiveness of those activities in achieving the purposes of section 403(a) of this title and the relationships of those activities to the needs and objectives specified by the applicant in the application submitted pursuant to section 403 of this title. The Bureau shall suspend funding for an approved application under part D if an applicant fails to submit such an annual performance report.

“(c) The procedures established to implement the provisions of this title shall minimize paperwork and prevent needless duplication and unnecessary delays in award and expenditure of funds at all levels of government.

“NOTICE AND HEARING ON DENIAL OR TERMINATION OF GRANT

42 USC 3783.

“SEC. 802. (a) Whenever, after reasonable notice and opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code, the Bureau of Justice Assistance, the National Institute of Justice, and the Bureau of Justice Statistics finds that a recipient of assistance under this title has failed to comply substantially with—

“(1) any provisions of this title;

“(2) any regulations or guidelines promulgated under this title; or

“(3) any application submitted in accordance with the provisions of this title, or the provisions of any other applicable Federal Act;

the Director involved shall, until satisfied that there is no longer any such failure to comply, terminate payments to the recipient under this title, reduce payments to the recipient under this title by an amount equal to the amount of such payments which were not expended in accordance with this title, or limit the availability of payments under this title to programs, projects, or activities not affected by such failure to comply.

“(b) If any grant application submitted under part D of this title has been denied, or any grant under this title has been terminated, then the Bureau of Justice Assistance, the National Institute of Justice, or the Bureau of Justice Statistics, as appropriate, shall notify the applicant of its action and set forth the reason for the action taken. Whenever such an applicant requests a hearing, the Bureau of Justice Assistance, the National Institute of Justice, or the Bureau of Justice Statistics, or any authorized officer thereof, is authorized and directed to hold such hearings or investigations, including hearings on the record in accordance with section 554 of title 5, United States Code, at such times and places as necessary, following appropriate and adequate notice to such applicant; and the findings of fact and determinations made with respect thereto shall be final and conclusive, except as otherwise provided herein. The Bureau of Justice Assistance, the National Institute of Justice, or the Bureau of Justice Statistics is authorized to take final action without a hearing if, after an administrative review of the denial of such application or termination of such grant, it is determined that

the basis for the appeal, if substantiated, would not establish a basis for awarding or continuing of the grant involved. Under such circumstances, a more detailed statement of reasons for the agency action should be made available, upon request, to the applicant.

“(c) If the applicant involved is dissatisfied with the findings and determinations of the Bureau of Justice Assistance, the National Institute of Justice, or the Bureau of Justice Statistics following notice and hearing provided for in subsection (a) of this section, a request may be made for rehearing, under such regulations and procedure as the Bureau of Justice Assistance, the National Institute of Justice, or the Bureau of Justice Statistics may establish, and such applicant shall be afforded an opportunity to present such additional information as may be deemed appropriate and pertinent to the matter involved.”.

(c) Section 804 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3784) is amended by striking out “Law Enforcement Assistance Administration” and inserting in lieu thereof “Bureau of Justice Assistance”.

Infra.

(d) Section 805 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3785) is amended—

Infra.

(1) by striking out “Office of Justice Assistance, Research, and Statistics, the Law Enforcement Assistance Administration,” each place it appears and inserting in lieu thereof “Office of Justice Programs, Bureau of Justice Assistance,”

(2) by inserting “the Office of Juvenile Justice and Delinquency Prevention,” before “or the National Institute of Justice” each place it appears,

(3) in subsection (a) by striking out “section 803, 804, or 815(c)(2)(G)” and inserting in lieu thereof “section 802, 803, or 809(c)(2)(G)”, and

(4) in subsection (b) by inserting “the Office of Juvenile Justice and Delinquency Prevention” before “or the Bureau of Justice Statistics”.

(e) Part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3781 et seq.) is amended by striking out sections 806, 807, 808, 809, 810, 811, 812, 813, 814, 819, and 826.

(f) Part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3781-3789o) is amended by redesignating sections 804, 805, 815, 816, 817, 818, 820, 821, 822, 823, 824, 825, and 827 as sections 803, 804, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, and 819, respectively.

(g) Part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3781-3789o) is amended by inserting after section 804, as so redesignated, the following new sections:

“DELEGATION OF FUNCTIONS

“SEC. 805. The Attorney General, the Assistant Attorney General, the Director of the National Institute of Justice, the Director of the Bureau of Justice Statistics, the Administrator of the Office of Juvenile Justice and Delinquency Prevention, and the Director of the Bureau of Justice Assistance may delegate to any of their respective officers or employees such functions under this title as they deem appropriate.

Repeals

42 USC
3786-3789c,
3789h, 3789o
18 USC 1761 and
note; 41 USC 35,
post, p 2103.
42 USC 3784,
3785, 3789d-
3789g, 3789i-
3789n.

42 USC
3781-3789o.

42 USC 3786.

“SUBPOENA POWER; EMPLOYMENT OF HEARING OFFICERS; AUTHORITY
TO HOLD HEARINGS

42 USC 3787.

“SEC. 806. The Bureau of Justice Assistance, the National Institute of Justice, and the Bureau of Justice Statistics may appoint such hearing examiners or administrative law judges or request the use of such administrative law judges selected by the Office of Personnel Management pursuant to section 3344 of title 5, United States Code, as shall be necessary to carry out their respective powers and duties under this title. The Bureau of Justice Assistance, the National Institute of Justice, and the Bureau of Justice Statistics or upon authorization, any member thereof or any hearing examiner or administrative law judge assigned to or employed thereby shall have the power to hold hearings and issue subpoenas, administer oaths, examine witnesses, and receive evidence at any place in the United States they respectively may designate.

“PERSONNEL AND ADMINISTRATIVE AUTHORITY

42 USC 3788.

“SEC. 807. (a) The Assistant Attorney General, the Director of the Bureau of Justice Assistance, the Director of the Institute, and the Director of the Bureau of Justice Statistics are authorized to select, appoint, employ, and fix compensation of such officers and employees as shall be necessary to carry out the powers and duties of the Office, the Bureau of Justice Assistance, the National Institute of Justice, and the Bureau of Justice Statistics, respectively, under this title.

“(b) The Office, the Bureau of Justice Assistance, the National Institute of Justice, and the Bureau of Justice Statistics are authorized, on a reimbursable basis when appropriate, to use the available services, equipment, personnel, and facilities of Federal, State, and local agencies to the extent deemed appropriate after giving due consideration to the effectiveness of such existing services, equipment, personnel, and facilities.

“(c) The Office, the Bureau of Justice Assistance, the National Institute of Justice, and the Bureau of Justice Statistics may arrange with and reimburse the heads of other Federal departments and agencies for the performance of any of the functions under this title.

“(d) The Office, the Bureau of Justice Assistance, the National Institute of Justice, and the Bureau of Justice Statistics may procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, relating to appointments in the Federal service, at rates of compensation for individuals not to exceed the daily equivalent of the rate of pay payable from time to time for GS-18 of the General Schedule under section 5332 of title 5, United States Code.

“(e) The Office, the Bureau of Justice Assistance, the National Institute of Justice, and the Bureau of Justice Statistics are authorized to appoint, without regard to the provisions of title 5, United States Code, advisory committees to advise them with respect to the administration of this title as they deem necessary. Such committees shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.). Members of such committees not otherwise in the employ of the United States, while engaged in advising or attending meetings of such committees, shall be compensated at rates to be fixed by the Office but not to exceed the daily equivalent of the rate

Advisory
committees,
establishment.

5 USC app. 1.

of pay payable from time to time for GS-18 of the General Schedule under section 5332 of title 5 of the United States Code, and while away from home or regular place of business they may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as authorized by section 5703 of such title 5 for persons in the Government service employed intermittently.

5 USC 5703.

“(f) Payments under this title may be made in installments, and in advance or by way of reimbursement, as may be determined by the Office, the Bureau of Justice Assistance, the National Institute of Justice, or the Bureau of Justice Statistics, and may be used to pay the transportation and subsistence expenses of persons attending conferences or other assemblages notwithstanding section 1345 of title 31, United States Code.

“(g) The Office, the Bureau of Justice Assistance, the National Institute of Justice, and the Bureau of Justice Statistics are authorized to accept and employ, in carrying out the provisions of this title, voluntary and uncompensated services notwithstanding section 1342 of title 31, United States Code. Such individuals shall not be considered Federal employees except for purposes of chapter 81 of title 5, United States Code, with respect to job-incurred disability and title 28, United States Code, with respect to tort claims.

5 USC 8101 *et seq.*
28 USC 2671.

“TITLE TO PERSONAL PROPERTY

“SEC. 808. Notwithstanding any other provision of law, title to all expendable and nonexpendable personal property purchased with funds made available under this title, including such property purchased with funds made available under this title as in effect before the effective date of the Justice Assistance Act of 1984, shall vest in the criminal justice agency or nonprofit organization that purchased the property if it certifies to the State office described in section 408 of this title that it will use the property for criminal justice purposes. If such certification is not made, title to the property shall vest in the State office, which shall seek to have the property used for criminal justice purposes elsewhere in the State prior to using it or disposing of it in any other manner.”

42 USC 3789.

Ante, p. 2077.*Ante*, p. 2085.

(h) Section 809, as so redesignated, of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789d) is amended—

Ante, p. 2093.

(1) by amending the heading to read as follows: “Prohibition of Federal Control Over State and Local Criminal Justice Agencies; Prohibition of Discrimination”;

(2) by amending subsection (a) to read as follows:

“(a) Nothing in this title or any other Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over any police force or any other criminal justice agency of any State or any political subdivision thereof.”; and

(3) in subsection (c) by striking out “Office of Justice Assistance, Research, and Statistics” each place it appears and inserting in lieu thereof “Office of Justice Programs”.

(i) Section 810, as so redesignated, of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789e) is amended to read as follows:

Ante, p. 2093.

“REPORT TO PRESIDENT AND CONGRESS

“SEC. 810. Not later than April 1 of each year, the Assistant Attorney General, the Director of the Bureau of Justice Assistance, the Director of the Bureau of Justice Statistics, and the Director of the National Institute of Justice shall each submit a report to the President and to the Speaker of the House of Representatives and the President of the Senate, on their activities under this title during the fiscal year next preceding such date.”.

(j) Section 811, as so redesignated, of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789f) is amended—

(1) by striking out “Office of Justice Assistance, Research, and Statistics” each place it appears and inserting in lieu thereof “Office of Justice Programs”,

(2) by striking out subsection (d), and

(3) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

(k) Section 812, as so redesignated, of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789g) is amended by striking out “Office of Justice Assistance, Research, and Statistics” each place it appears and inserting in lieu thereof “Office of Justice Programs”.

(l) Part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3781–3789o) is amended by striking out section 819.

(m) Section 813, as so redesignated, of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789i) is amended—

(1) by striking out subsection (a), and

(2) in subsection (b) by striking out “(b)”.

(n) Section 816, as so redesignated, of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789l) is amended by striking out “Administration” and inserting in lieu thereof “Assistant Attorney General”.

(o) Section 819(c), as so redesignated, of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (18 U.S.C. 1761 note) is amended—

(1) by striking out “this section” and inserting in lieu thereof “section 1761 of title 18, United States Code, and of the first section of the Act of June 30, 1936 (49 Stat. 2036; 41 U.S.C. 35), commonly known as the Walsh-Healey Act,”; and

(2) by inserting “, as amended from time to time,” after “goods”.

DEFINITIONS

SEC. 609C. (a) Section 901 of part I of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791) is amended by striking out “Administration” each place it appears and inserting in lieu thereof “Office”.

(b) Section 901(a) of part I of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(a)) is amended—

(1) in paragraph (2)—

(A) by inserting “and” after “Puerto Rico,” and

(B) by striking out “, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands”,

(2) in paragraph (3) by inserting “, Guam, American Samoa, the Trust Territory of the Pacific Islands, or the Commonwealth of the Northern Mariana Islands” after “District of Columbia” before the semicolon,

(3) in paragraph (4)—

(A) by inserting “renovation, repairs, remodeling,” after “acquisition,” and

(B) by striking out “, but does not include renovation, repairs, or remodeling”,

(4) in paragraph (7) by striking out “institution or”,

(5) by amending paragraph (8) to read as follows:

“(8) ‘correctional facility project’ means a project for the construction, replacement, alteration or expansion of a prison or jail for the purpose of relieving overcrowding or substandard conditions;”, and

(6) by amending paragraph (13) to read as follows:

“(13) ‘cost of construction’ means all expenses found by the Director to be necessary for the construction of the project, including architect and engineering fees, but excluding land acquisition costs;”.

FUNDING

SEC. 609D. (a) Section 1001 of part J of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793) is amended to read as follows:

“AUTHORIZATION OF APPROPRIATIONS

“SEC. 1001. (a)(1) There are authorized to be appropriated for fiscal years 1984, 1985, 1986, 1987, and 1988 such sums as may be necessary to carry out the functions of the Bureau of Justice Statistics.

“(2) There are authorized to be appropriated for fiscal years 1984, 1985, 1986, 1987, and 1988 such sums as may be necessary to carry out the functions of the National Institute of Justice.

“(3) There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1984, 1985, 1986, 1987, and 1988 to carry out the remaining functions of the Office of Justice Programs and the Bureau of Justice Assistance, other than functions under parts F, G, and L of this title.

“(4) There is authorized to be appropriated \$25,000,000 for each of the fiscal years 1984, 1985, 1986, 1987, and 1988 to carry out part F.

“(5) There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out part L.

“(6) Funds appropriated for any fiscal year may remain available for obligation until expended.

“(b) Notwithstanding any other provision of law, no funds appropriated under this section for parts D and E of this title may be transferred or reprogrammed for carrying out any activity which is not authorized under such parts.”.

(b) Part J of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793-3793b) is amended by striking out sections 1002 and 1003.

Ante, pp. 2088,
2090; *post*, p.
2098.

Prohibition.
Ante, pp. 2080,
2086, 2087.

Repeal.
42 USC 3793a,
3793b.

CRIMINAL PENALTIES

SEC. 609E. (a) Section 1101 of part K of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3795) is

amended by striking out "Law Enforcement Assistance Administration" and inserting in lieu thereof "Office of Justice Programs, Bureau of Justice Assistance".

42 USC 3795b. (b) Section 1103 of part K of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3795-3795b) is amended by striking out "Law Enforcement Assistance Administration" and inserting in lieu thereof "Office of Justice Programs, Bureau of Justice Assistance".

PUBLIC SAFETY OFFICERS' DEATH BENEFITS

SEC. 609F. Part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796-3796c) is amended to read as follows:

"PART L—PUBLIC SAFETY OFFICERS' DEATH BENEFITS

"PAYMENTS

42 USC 3796. "SEC. 1201. (a) In any case in which the Bureau of Justice Assistance (hereinafter in this part referred to as the 'Bureau') determines, under regulations issued pursuant to this part, that a public safety officer has died as the direct and proximate result of a personal injury sustained in the line of duty, the Bureau shall pay a benefit of \$50,000 as follows:

"(1) if there is no surviving child of such officer, to the surviving spouse of such officer;

"(2) if there is a surviving child or children and a surviving spouse, one-half to the surviving child or children of such officer in equal shares and one-half to the surviving spouse;

"(3) if there is no surviving spouse, to the child or children of such officer in equal shares; or

"(4) if none of the above, to the dependent parent or parents of such officer in equal shares.

"(b) Whenever the Bureau determines upon showing of need and prior to final action that the death of a public safety officer is one with respect to which a benefit will probably be paid, the Bureau may make an interim benefit payment not exceeding \$3,000 to the individual entitled to receive a benefit under subsection (a) of this section.

"(c) The amount of an interim payment under subsection (b) shall be deducted from the amount of any final benefit paid to such individual.

"(d) Where there is no final benefit paid, the recipient of any interim payment under subsection (b) shall be liable for repayment of such amount. The Bureau may waive all or part of such repayment, considering for this purpose the hardship which would result from such repayment.

"(e) The benefit payable under this part shall be in addition to any other benefit that may be due from any other source, except—

"(1) payments authorized by section 12(k) of the Act of September 1, 1916, as amended (D.C. Code, sec. 4-622); or

"(2) benefits authorized by section 8191 of title 5, United States Code. Such beneficiaries shall only receive benefits under such section 8191 that are in excess of the benefits received under this part.

“(f) No benefit paid under this part shall be subject to execution or attachment. Prohibitions.

“LIMITATIONS

“SEC. 1202. No benefit shall be paid under this part—

42 USC 3796a.

“(1) if the death was caused by the intentional misconduct of the public safety officer or by such officer’s intention to bring about his death;

“(2) if the public safety officer was voluntarily intoxicated at the time of his death;

“(3) if the public safety officer was performing his duties in a grossly negligent manner at the time of his death;

“(4) to any individual who would otherwise be entitled to a benefit under this part if such individual’s actions were a substantial contributing factor to the death of the public safety officer; or

“(5) to any individual employed in a capacity other than a civilian capacity.

“DEFINITIONS

“SEC. 1203. As used in this part—

42 USC 3796b.

“(1) ‘child’ means any natural, illegitimate, adopted, or posthumous child or stepchild of a deceased public safety officer who, at the time of the public safety officer’s death, is—

“(i) 18 years of age or under;

“(ii) over 18 years of age and a student as defined in section 8101 of title 5, United States Code; or

“(iii) over 18 years of age and incapable of self-support because of physical or mental disability;

“(2) ‘dependent’ means any individual who was substantially reliant for support upon the income of the deceased public safety officer;

“(3) ‘firefighter’ includes an individual serving as an officially recognized or designated member of a legally organized volunteer fire department;

“(4) ‘intoxication’ means a disturbance of mental or physical faculties resulting from the introduction of alcohol into the body as evidenced by—

“(i) a post-mortem blood alcohol level of .20 per centum or greater; or

“(ii) a post-mortem blood alcohol level of at least .10 per centum but less than .20 per centum unless the Bureau receives convincing evidence that the public safety officer was not acting in an intoxicated manner immediately prior to his death;

or resulting from drugs or other substances in the body;

“(5) ‘law enforcement officer’ means an individual involved in crime and juvenile delinquency control or reduction, or enforcement of the laws, including, but not limited to, police, corrections, probation, parole, and judicial officers;

“(6) ‘public agency’ means the United States, any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Commonwealth of the Northern Mariana Islands, and any territory or possession of the United States, or any unit of local

government, department, agency, or instrumentality of any of the foregoing; and

“(7) ‘public safety officer’ means an individual serving a public agency in an official capacity, with or without compensation, as a law enforcement officer or a firefighter.

“ADMINISTRATIVE PROVISIONS

Regulations.
42 USC 3796c.

“SEC. 1204. (a) The Bureau is authorized to establish such rules, regulations, and procedures as may be necessary to carry out the purposes of this part. Such rules, regulations, and procedures will be determinative of conflict of laws issues arising under this part. Rules, regulations, and procedures issued under this part may include regulations governing the recognition of agents or other persons representing claimants under this part before the Bureau. The Bureau may prescribe the maximum fees which may be charged for services performed in connection with any claim under this part before the Bureau, and any agreement in violation of such rules and regulations shall be void.

Claims.

“(b) In making determinations under section 1201, the Bureau may utilize such administrative and investigative assistance as may be available from State and local agencies. Responsibility for making final determinations shall rest with the Bureau.”.

TRANSITION

42 USC 3797.

SEC. 609G. Section 1301 of part M of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3799) is amended—

(1) in subsection (a)—

(A) by inserting “(1)” after “(a)”, and

(B) by adding at the end thereof the following new paragraph:

Ante, p. 2077.

“(2) All orders, determinations, rules, regulations, and instructions issued under this title which are in effect on the date of the enactment of the Justice Assistance Act of 1984 shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked by the President, the Attorney General, the Assistant Attorney General, the Director of the Bureau of Justice Statistics, the Director of the National Institute of Justice, the Administrator of the Office of Juvenile Justice and Delinquency Prevention, or the Director of the Bureau of Justice Assistance with respect to their functions under this title or by operation of law.”.

(2) by striking out subsection (j), and

(3) by redesignating subsection (k) as subsection (j).

TABLE OF CONTENTS

42 USC
3701-3797.

SEC. 609H. The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3701-3799) is amended to read as follows:

“TABLE OF CONTENTS

“PART A—OFFICE OF JUSTICE PROGRAMS

“Sec. 101. Establishment of Office of Justice Programs.

“Sec. 102. Duties and functions of Assistant Attorney General.

“PART B—NATIONAL INSTITUTE OF JUSTICE

“Sec. 201. National Institute of Justice.

“Sec. 202. Establishment, duties, and functions.

"Sec. 203. Authority for 100 per centum grants.

"PART C—BUREAU OF JUSTICE STATISTICS

"Sec. 301. Bureau of Justice Statistics.

"Sec. 302. Establishment, duties, and functions.

"Sec. 303. Authority for 100 per centum grants.

"Sec. 304. Use of data.

"PART D—BLOCK GRANTS

"Sec. 401. Establishment of Bureau of Justice Assistance.

"Sec. 402. Duties and functions of Director.

"Sec. 403. Description of program.

"Sec. 404. Eligibility.

"Sec. 405. Applications.

"Sec. 406. Review of applications.

"Sec. 407. Allocation and distribution of funds.

"Sec. 408. State office.

"PART E—DISCRETIONARY GRANTS

"Sec. 501. Purpose.

"Sec. 502. Percentage of appropriation for discretionary grant program.

"Sec. 503. Procedure for establishing discretionary programs.

"Sec. 504. Application requirements.

"Sec. 505. Criteria for award.

"Sec. 506. Period for award.

"PART F—CRIMINAL JUSTICE FACILITY CONSTRUCTION: PILOT PROGRAM

"Sec. 601. Authority for payments.

"Sec. 602. Eligibility.

"Sec. 603. Application; approval; payment.

"Sec. 604. Recapture provisions.

"Sec. 605. Clearinghouse on the construction and modernization of criminal justice facilities.

"PART G—FBI TRAINING OF STATE AND LOCAL CRIMINAL JUSTICE PERSONNEL

"Sec. 701. Training and manpower development.

"PART H—ADMINISTRATIVE PROVISIONS

"Sec. 801. Consultation; establishment of rules and regulations.

"Sec. 802. Notice and hearing on denial or termination of grant.

"Sec. 803. Finality of determinations.

"Sec. 804. Appellate court review.

"Sec. 805. Delegation of functions.

"Sec. 806. Subpoena power; employment of hearing officers; authority to hold hearings.

"Sec. 807. Personnel and administrative authority.

"Sec. 808. Title to personal property.

"Sec. 809. Prohibition of Federal control over State and local criminal justice agencies; prohibition of discrimination.

"Sec. 810. Report to President and Congress.

"Sec. 811. Recordkeeping requirement.

"Sec. 812. Confidentiality of information.

"Sec. 813. Administration of juvenile delinquency programs.

"Sec. 814. Prohibition of land acquisition.

"Sec. 815. Prohibition on use of CIA services.

"Sec. 816. Indian liability waiver.

"Sec. 817. District of Columbia matching fund source.

"Sec. 818. Limitation on civil justice matters.

"Sec. 819. Prison industry enhancement.

"PART I—DEFINITIONS

"Sec. 901. Definitions.

"PART J—FUNDING

"Sec. 1001. Authorization of appropriations.

"PART K—CRIMINAL PENALTIES

- "Sec. 1101. Misuse of Federal assistance.
- "Sec. 1102. Falsification or concealment of facts.
- "Sec. 1103. Conspiracy to commit offense against United States.

"PART L—PUBLIC SAFETY OFFICERS' DEATH BENEFITS

- "Sec. 1201. Payments.
- "Sec. 1202. Limitations.
- "Sec. 1203. Definitions.
- "Sec. 1204. Administrative provisions.

"PART M—TRANSITION—EFFECTIVE DATE—REPEALER

- "Sec. 1301. Continuation of rules, authorities, and proceedings."

REFERENCES IN OTHER LAWS

42 USC 3711
note.

42 USC 3701
note.

SEC. 609I. (a) Any reference to the Law Enforcement Assistance Administration, or to the Administrator of the Law Enforcement Assistance Administration, in any law other than this Act and the Omnibus Crime Control and Safe Streets Act of 1968, applicable to activities, functions, powers, and duties that after the date of the enactment of this Act are carried out by the Bureau of Justice Assistance shall be deemed to be a reference to the Bureau of Justice Assistance, or to the Director of the Bureau of Justice Assistance, as the case may be.

(b) Any reference to the Office of Justice Assistance, Research, and Statistics, or to the Director of the Office of Justice Assistance, Research, and Statistics, in any law other than this Act and the Omnibus Crime Control and Safe Streets Act of 1968, applicable to activities, functions, powers, and duties that after the date of the enactment of this Act are carried out by the Office of Justice Programs, the Bureau of Justice Assistance, the Bureau of Justice Statistics, the National Institute of Justice, or the Office of Juvenile Justice Delinquency Prevention shall be deemed to be a reference to the Office of Justice Programs, the Bureau of Justice Assistance, the Bureau of Justice Statistics, National Institute of Justice, or Office of Juvenile Justice Delinquency Prevention, or to the Director of the Office of Justice Programs, the Director of the Bureau of Justice Assistance, the Director of the Bureau of Justice Statistics, the Director of the National Institute of Justice, or the Administrator of the Office of Juvenile Justice and Delinquency Prevention, as the case may be.

TECHNICAL AMENDMENTS TO OTHER LAWS

SEC. 609J. (a) Section 5314 of title 5, United States Code, is amended by striking out "Director, Office of Justice Assistance, Research, and Statistics."

(b) Section 5315 of title 5, United States Code, is amended by striking out "Administrator of Law Enforcement Assistance."

OFFENSES INVOLVING PRISON-MADE GOODS

SEC. 609K. (a) Section 1761(c) of title 18, United States Code, is amended—

(1) by striking out "seven" and inserting in lieu thereof "twenty", and

(2) by striking out "Administrator of the Law Enforcement Assistance Administration" and inserting in lieu thereof "Director of the Bureau of Justice Assistance".

(b) Section 1761 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

“(d) Notwithstanding any law to the contrary, materials produced by convict labor may be used in the construction of any highways or portion of highways located on Federal-aid systems, as described in section 103 of title 23, United States Code.”.

Highways.

FRAUD AND RELATED ACTIVITY IN CONNECTION WITH IDENTIFICATION DOCUMENTS

SEC. 609L. (a) For purposes of section 1028 of title 18, United States Code, to the maximum extent feasible, personal descriptors or identifiers utilized in identification documents, as defined in such section, shall utilize common descriptive terms and formats designed to—

18 USC 1028
note.

(1) reduce the redundancy and duplication of identification systems by providing information which can be utilized by the maximum number of authorities, and

(2) facilitate positive identification of bona fide holders of identification documents.

(b) The President shall, no later than 3 years after the date of enactment of this Act, and after consultation with Federal, State, local, and international issuing authorities, and concerned groups make recommendations to the Congress for the enactment of comprehensive legislation on Federal identification systems. Such legislation shall—

President of U.S.

(1) give due consideration to protecting the privacy of persons who are the subject of any identification system,

(2) recommend appropriate civil and criminal sanctions for the misuse or unauthorized disclosure of personal identification information, and

(3) make recommendations providing for the exchange of personal identification information as authorized by Federal or State law or Executive order of the President or the chief executive officer of any of the several States.

Subtitle B—Emergency Federal Law Enforcement Assistance Application

SEC. 609M. (a) In the event that a law enforcement emergency exists throughout a State or a part of a State, a State (on behalf of itself or another appropriate unit of government) may submit an application under this section for Federal law enforcement assistance.

42 USC 10501.

(b) An application for assistance under this section shall be submitted in writing by the chief executive officer of a State to the Attorney General, in a form prescribed by rules issued by the Attorney General. The Attorney General shall, after consultation with the Director of the Office of Justice Assistance and appropriate members of the Federal law enforcement community, approve or disapprove such application not later than 10 days after receiving such application.

(c) Federal law enforcement assistance may be provided if such assistance is necessary to provide an adequate response to a law enforcement emergency. In determining whether to approve or disapprove an application for assistance under this section, the Attorney General shall consider—

(1) the nature and extent of such emergency throughout a State or in any part of a State,

(2) the situation or extraordinary circumstances which produced such emergency,

(3) the availability of State and local criminal justice resources to resolve the problem,

(4) the cost associated with the increased Federal presence,

(5) the need to avoid unnecessary Federal involvement and intervention in matters primarily of State and local concern, and

(6) any assistance which the State or other appropriate unit of government has received, or could receive, under any provision of title I of the Omnibus Crime Control and Safe Streets Act of 1968.

42 USC 3701.

DEFINITIONS

42 USC 10502.

SEC. 609N. For purposes of this subdivision—

(1) the term “Federal law enforcement assistance” means funds, equipment, training, intelligence information, and personnel,

(2) the term “Federal law enforcement community” means the heads of the following departments or agencies:

(A) the Federal Bureau of Investigation,

(B) the Drug Enforcement Administration,

(C) the Criminal Division of the Department of Justice,

(D) the Internal Revenue Service,

(E) the Customs Service,

(F) the Immigration and Naturalization Service,

(G) the United States Marshals Service,

(H) the National Park Service,

(I) the United States Postal Service,

(J) the Secret Service,

(K) the Coast Guard,

(L) the Bureau of Alcohol, Tobacco, and Firearms, and

(M) other Federal agencies with specific statutory authority to investigate violations of Federal criminal laws,

(3) the term “law enforcement emergency” means an uncommon situation which requires law enforcement, which is or threatens to become of serious or epidemic proportions, and with respect to which State and local resources are inadequate to protect the lives and property of citizens or to enforce the criminal law, except that such term does not include—

(A) the perceived need for planning or other activities related to crowd control for general public safety projects, or

(B) a situation requiring the enforcement of laws associated with scheduled public events, including political conventions and sports events, and

(4) the term “State” means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, or the Commonwealth of the Northern Mariana Islands.

LIMITATION ON AUTHORITY

SEC. 609O. (a) Nothing in this subdivision authorizes the use of Federal law enforcement personnel to investigate violations of criminal law other than violations with respect to which investigation is authorized by other provisions of law.

Law
enforcement.
42 USC 10503.

(b) Nothing in this subdivision shall be construed to authorize the Attorney General or the Federal law enforcement community to exercise any direction, supervision, or control over any police force or other criminal justice agency of an applicant for Federal law enforcement assistance.

(c) Nothing in this subdivision shall be construed to authorize the Attorney General or the Federal law enforcement community—

(1) to condition the availability or amount of Federal law enforcement assistance upon the adoption by an applicant for such assistance of, or

(2) to deny or discontinue such assistance upon the failure of such applicant to adopt, a percentage ratio, quota system, or other program to achieve racial balance in any criminal justice agency of such applicant.

(d) No funds provided under this subdivision may be used to supplant State or local funds that would otherwise be made available for such purposes.

(e) Nothing in this subdivision shall be construed to limit any authority to provide emergency assistance otherwise provided by law.

Disaster
assistance.

PROHIBITION OF DISCRIMINATION

SEC. 609P. (a) No person in any State shall, on the ground of race, color, religion, national origin, or sex, be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in connection with any activity for which Federal law enforcement assistance is provided under this subdivision.

42 USC 10504.

(b) Paragraph (3) and paragraph (4) of section 809(c) of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (as so redesignated by section 511(f) of this Act) shall apply with respect to a violation of subsection (a), except that the terms "this section" and "paragraph (1)", as such terms appear in such paragraphs, shall be deemed to be references to subsection (a) of this section, and a reference to the Office of Justice Programs in such paragraphs shall be deemed to be a reference to the Attorney General.

Ante, pp. 2093

CONFIDENTIALITY OF INFORMATION

SEC. 609Q. Section 812 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (as so redesignated by section 511(f) of this Act) shall apply with respect to—

42 USC 10505.
Ante, pp. 2093,
2096.
98 Stat. 1213.
42 USC 3789g.

(1) information furnished under this subdivision,

(2) criminal history information collected, stored, or disseminated with the support of Federal law enforcement assistance provided under this subdivision, and

(3) criminal intelligence systems operating with the support of Federal law enforcement assistance provided under this subdivision,

except that the terms "this title" and "this section", as such terms appear in such section 812, shall be deemed to be references to this

Ante, pp. 2093, 2096. subdivision and this section, respectively, of this Act, and a reference to the Office of Justice Programs in such section 812 shall be deemed to be a reference to the Attorney General.

PROHIBITION OF LAND ACQUISITION

42 USC 10506. SEC. 609R. No funds provided under this subdivision shall be used for land acquisition.

REPAYMENT

42 USC 10507. SEC. 609S. (a) If Federal law enforcement assistance provided under this subdivision is used by the recipient of such assistance in violation of section 554 or for any purpose other than the purpose for which it is provided, then such recipient shall promptly repay to the Attorney General an amount equal to the value of such assistance.

Claims. (b) The Attorney General may bring a civil action in an appropriate United States district court to recover any amount required to be repaid under subsection (a).

RECORDKEEPING REQUIREMENT

42 USC 10508. SEC. 609T. (a) Each recipient of Federal law enforcement assistance provided under this subdivision shall keep such records as the Attorney General may prescribe to facilitate an effective audit.

Audit. (b) The Attorney General and the Comptroller General of the United States shall have access, for the purpose of audit and examination, to any books, documents, and records of recipients of Federal law enforcement assistance provided under this subdivision which, in the opinion of the Attorney General or the Comptroller General, are related to the receipt or use of such assistance.

REPORT TO CONGRESS

42 USC 10509. SEC. 609U. Not later than April 1 of each year, the Attorney General shall submit to the President, to the Speaker of the House of Representatives, and to the President of the Senate a report describing Federal law enforcement assistance provided under this subdivision during the calendar year preceding the date such report is made.

BUREAU OF JUSTICE ASSISTANCE

42 USC 10510. SEC. 609V. The Director of the Bureau of Justice Assistance may assist the Attorney General in providing Federal law enforcement assistance under this subdivision and in coordinating the activities authorized under this subdivision.

LIMITATION ON CIVIL JUSTICE MATTERS

42 USC 10511. SEC. 609W. Federal law enforcement assistance provided under this subdivision may not be used with respect to civil justice matters except to the extent that such civil justice matters bear directly and substantially upon criminal justice matters or are inextricably intertwined with criminal justice matters.

ISSUANCE OF RULES

SEC. 609X. The Attorney General, after consultation with appropriate members of the law enforcement community and with State and local officials, shall issue rules to carry out this subdivision. 42 USC 10512.

AUTHORIZATION OF APPROPRIATIONS

SEC. 609Y.(a) There is authorized to be appropriated \$20,000,000 for each fiscal year ending after September 30, 1984, to provide under this subdivision Federal law enforcement assistance in the form of funds. 42 USC 10513.

(b) There are authorized to be appropriated for each fiscal year ending after September 30, 1984, such sums as may be necessary to provide under this subdivision Federal law enforcement assistance other than funds.

Subtitle C—Conforming Amendment; Effective Dates

REPEALER

SEC. 609Z. Section 204 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act (Public Law 98-411) is repealed. 42 USC 3796-3796b, 3796 note. *Ante*, p. 1561.

EFFECTIVE DATES

SEC. 609AA. (a) Except as provided in subsection (b), this division and the amendments made by this title shall take effect on the date of the enactment of this joint resolution or October 1, 1984, whichever is later. 42 USC 3711 note.

(b)(1) The amendment made by section 609F shall take effect on October 1, 1984, and shall not apply with respect to injuries sustained before October 1, 1984.

(2) Section 609Z shall take effect on October 1, 1984.

DIVISION II—AMENDMENTS TO THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974

Juvenile Justice, Runaway Youth, and Missing Children's Act Amendments of 1984,

Subdivision A—General Provisions

SHORT TITLE

SEC. 610. This Division may be cited as the "Juvenile Justice, Runaway Youth, and Missing Children's Act Amendments of 1984". 42 USC 5601 note.

FINDINGS

SEC. 611. Section 101(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601(a)) is amended—

(1) in paragraph (1)—

(A) by striking out "account" and inserting in lieu thereof "accounted", and

(B) by striking out "today" and inserting in lieu thereof "in 1974 and for less than one-third of such arrests in 1983",

(2) in paragraph (2) by inserting "and inadequately trained staff in such courts, services, and facilities" after "facilities",

(3) in paragraph (3) by striking out "the countless, abandoned, and dependent", and

(4) in paragraph (5) by striking out “prevented” and inserting in lieu thereof “reduced”.

PURPOSE

SEC. 612. Section 102(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5602(a)) is amended—

(1) in paragraph (1) by striking out “prompt” and inserting in lieu thereof “ongoing”;

(2) in paragraph (4) by striking out “an information clearing-house to disseminate” and inserting in lieu thereof “the dissemination of”, and

(3) in paragraph (7) by inserting “and homeless” after “runaway”.

DEFINITIONS

SEC. 613. Section 103 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603) is amended—

(1) in paragraph (3)—

(A) by striking out “for neglected, abandoned, or dependent youth and other youth”, and

(B) by inserting “juvenile” after “prevent”,

(2) in paragraph (4) by amending subparagraphs (A) and (B) to read as follows:

“(A) the term ‘Bureau of Justice Assistance’ means the bureau established by section 401 of the Omnibus Crime Control and Safe Streets Act of 1968;

“(B) the term ‘Office of Justice Programs’ means the office established by section 101 of the Omnibus Crime Control and Safe Streets Act of 1968;”

(3) in paragraph (6) by striking out “services,” and inserting in lieu thereof “serviceses),”

(4) in paragraph (14)—

(A) by inserting “or other sex offenses punishable as a felony” after “rape”, and

(B) by striking out “and” at the end thereof,

(5) in paragraph (15) by striking out the period at the end thereof and inserting in lieu thereof “; and”, and

(6) by adding at the end thereof the following new paragraph:

“(16) the term ‘valid court order’ means a court order given by a juvenile court judge to a juvenile who has been brought before the court and made subject to a court order. The use of the word ‘valid’ permits the incarceration of juveniles for violation of a valid court order only if they received their full due process rights as guaranteed by the Constitution of the United States.”.

Ante, p. 2080.

Ante, p. 2078.

Subdivision B—Juvenile Justice and Delinquency Prevention

OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION

SEC. 620. Section 201 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611) is amended to read:

“ESTABLISHMENT OF OFFICE

“SEC. 201. (a) There is hereby established an Office of Juvenile Justice and Delinquency Prevention (hereinafter in this division

referred to as the 'Office') within the Department of Justice under the general authority of the Attorney General.

"(b) The Office shall be headed by an Administrator (hereinafter in this title referred to as the 'Administrator') appointed by the President, by and with the advice and consent of the Senate, from among individuals who have had experience in juvenile justice programs. The Administrator is authorized to prescribe regulations consistent with this Act to award, administer, modify, extend, terminate, monitor, evaluate, reject, or deny all grants and contracts from, and applications for, funds made available under this title. The Administrator shall report to the Attorney General through the Assistant Attorney General who heads the Office of Justice Programs under part A of title I of the Omnibus Crime Control and Safe Streets Act of 1968.

Ante, p. 2077.

"(c) There shall be in the Office a Deputy Administrator who shall be appointed by the Attorney General and whose function shall be to supervise and direct the National Institute for Juvenile Justice and Delinquency Prevention established by section 241 of this Act. The Deputy Administrator shall also perform such functions as the Administrator may from time to time assign or delegate and shall act as the Administrator during the absence or disability of the Administrator."

42 USC 5651.

TECHNICAL AMENDMENTS

SEC. 621. (a) Section 202(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5612(a)) is amended by striking out "him" and inserting in lieu thereof "the Administrator".

(b) Section 202(c) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5612(c)) is amended—

(1) by striking out "him" and inserting in lieu thereof "the Administrator", and

(2) by striking out "his functions" and inserting in lieu thereof "the functions of the Administrator".

CONCENTRATION OF FEDERAL EFFORTS

SEC. 622. (a) Section 204(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5614(a)) is amended by striking out "his functions" and inserting in lieu thereof "the functions of the Administrator".

(b) Section 204(b) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5614(b)) is amended—

(1) in paragraph (2) by striking out "he" and inserting in lieu thereof "the Administrator",

(2) in paragraph (4) by striking out "he" and inserting in lieu thereof "the Administrator",

(3) in paragraph (5) by striking out "and",

(4) in paragraph (6) by striking out the period and inserting in lieu thereof "; and", and

(5) by inserting after paragraph (6) the following new paragraph:

"(7) provide for the auditing of monitoring systems required under section 223(a)(15) to review the adequacy of such systems."

42 USC 5633.

(c) Section 204(e) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5614(e)) is amended by striking out "subsection (1)" and inserting in lieu thereof "subsection (l)".

(d) Section 204(f) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5614(f)) is amended—

(1) by striking out "him" and inserting in lieu thereof "the Administrator", and

(2) by striking out "he" and inserting in lieu thereof "the Administrator".

(e) Section 204(g) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5614(g)) is amended by striking out "his functions" and inserting in lieu thereof "the functions of the Administrator".

(f) Section 204(i) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5614(i)) is amended—

(1) by striking out "title" and inserting in lieu thereof "section", and

(2) by striking out "he" and inserting in lieu thereof "the Administrator".

(g) Section 204(l) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5614(l)) is amended—

(1) in paragraph (1)—

(A) by striking out "section 204(d)(1)" and inserting in lieu thereof "subsection (d)(1)", and

(B) by striking out "section 204(f)" and inserting in lieu thereof "subsection (f)",

(2) in paragraph (2)—

(A) by striking out "subsection (1)" and inserting in lieu thereof "paragraph (1)", and

(B) by striking out "section 204(e)" each place it appears and inserting in lieu thereof "subsection (e)", and

(3) in paragraph (3)—

(A) by striking out "him" and inserting in lieu thereof "the Administrator", and

(B) by striking out "subsection (1)" and inserting in lieu thereof "paragraph (1)".

COORDINATING COUNCIL ON JUVENILE JUSTICE AND DELINQUENCY PREVENTION

SEC. 623. (a) Section 206(a)(1) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616(a)(1)) is amended—

(1) by striking out "Community Services Administration" and inserting in lieu thereof "Office of Community Services",

(2) by striking out "Director of the Office of Justice Assistance, Research, and Statistics," and inserting in lieu thereof "Assistant Attorney General who heads the Office of Justice Programs", and

(3) by striking out "Administrator of the Law Enforcement Assistance Administration" and inserting in lieu thereof "Director of the Bureau of Justice Assistance".

(b) Section 206(c) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616(c)) is amended by striking out "delinquency programs" and inserting in lieu thereof "delinquency programs and, in consultation with the Advisory Board on Missing Children, all Federal programs relating to missing and exploited children".

(c) Section 206(e) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616(e)) is amended by striking out “he” and inserting in lieu thereof “the Administrator”.

(d) Section 206(g) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616(g)) is amended by striking out “\$500,000” and insert in lieu thereof “\$200,000”.

NATIONAL ADVISORY COMMITTEE FOR JUVENILE JUSTICE AND
DELINQUENCY PREVENTION

SEC. 624. Section 207 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5617(a)) is repealed.

Repeal.
42 USC 5617.

TECHNICAL AMENDMENTS

SEC. 625. (a) The Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.) is amended by inserting after the heading for subpart I of part B of title II the following new heading for section 221:

42 USC 5631.

“AUTHORITY TO MAKE GRANTS”.

(b) Section 222(b) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5632(b)) is amended—

(1) by striking out “and the Trust Territory” and inserting in lieu thereof “the Trust Territory”, and

(2) by inserting “, and the Commonwealth of the Northern Mariana Islands” after “Pacific Islands”.

STATE PLANS

SEC. 626. (a) Section 223(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(a)) is amended—

(1) by amending paragraph (1) to read as follows:

“(1) designate the State agency described in section 261(c)(1) as the sole agency for supervising the preparation and administration of the plan;”,

42 USC 5671.

(2) in paragraph (2) by striking out “(hereafter referred to in this part as the ‘State criminal justice council’),”

(3) in paragraph (3)—

(A) by amending subparagraph (C) to read as follows: “(C) which shall include (i) representatives of private organizations, including those with a special focus on maintaining and strengthening the family unit, those representing parents or parent groups, those concerned with delinquency prevention and treatment and with neglected or dependent children, and those concerned with the quality of juvenile justice, education, or social services for children; (ii) representatives of organizations which utilize volunteers to work with delinquents or potential delinquents; (iii) representatives of community based delinquency prevention or treatment programs; (iv) representatives of business groups or businesses employing youth; (v) youth workers involved with alternative youth programs; and (vi) persons with special experience and competence in addressing the problems of the family, school violence and vandalism, and learning disabilities,” and

(B) in subparagraph (F)—

- (i) by striking out "State criminal justice council" each place it appears and inserting in lieu thereof "State agency designated under paragraph (1)",
- (ii) in clause (ii) by striking out "paragraph (12)(A) and paragraph (13)" and inserting in lieu thereof "paragraphs (12), (13), and (14)", and
- (iii) in clause (iv)—
 - (I) by striking out "paragraph (12)(A) and paragraph (13)" and inserting in lieu thereof "paragraphs (12), (13), and (14)", and
 - (II) by striking out "in advising on the State's maintenance of effort under section 1002 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended,"
- (4) in paragraph (9) by inserting "special education," after "education,"
- (5) In paragraph (10)—
 - (A) in the matter preceding subparagraph (A)—
 - (i) by striking out "programs for juveniles" and inserting in lieu thereof "programs for juveniles, including those processed in the criminal justice system," and
 - (ii) by striking out "and provide for effective rehabilitation" and inserting in lieu thereof "provide for effective rehabilitation, and facilitate the coordination of services between the juvenile justice and criminal justice systems",
 - (B) in subparagraph (E) by inserting ", including programs to counsel delinquent youth and other youth regarding the opportunities which education provides" before the semicolon at the end thereof,
 - (C) in subparagraph (F) by inserting "and their families" before the semicolon at the end thereof,
 - (D) in subparagraph (H)—
 - (i) by amending clause (iii) to read as follows:

"(iii) establish and adopt, based on the recommendations of the National Advisory Committee for Juvenile Justice and Delinquency Prevention made before the date of the enactment of the Juvenile Justice, Runaway Youth, and Missing Children's Act Amendments of 1984, standards for the improvement of juvenile justice within the State,"
 - (ii) in clause (iv) by inserting "or" at the end thereof, and
 - (iii) by adding at the end thereof the following new clause:

"(v) involve parents and other family members in addressing the delinquency-related problems of juveniles,"
 - (E) in subparagraph (I) by striking out "and" at the end thereof,
 - (F) in subparagraph (J) by striking out "juvenile gangs and their members" and inserting in lieu thereof "gangs whose membership is substantially composed of juveniles", and
 - (G) by adding at the end thereof the following new subparagraphs:

Ante, p. 2107.

“(K) programs and projects designed to provide for the treatment of juveniles’ dependence on or abuse of alcohol or other addictive or nonaddictive drugs; and

Drugs and drug abuse.

“(L) law-related education programs and projects designed to prevent juvenile delinquency;”

Education.

(6) by amending paragraph (14) to read as follows:

“(14) provide that, beginning after the five-year period following December 8, 1980, no juvenile shall be detained or confined in any jail or lockup for adults, except that the Administrator shall, through 1989, promulgate regulations which make exceptions with regard to the detention of juveniles accused of non-status offenses who are awaiting an initial court appearance pursuant to an enforceable State law requiring such appearances within twenty-four hours after being taken into custody (excluding weekends and holidays) provided that such exceptions are limited to areas which—

“(i) are outside a Standard Metropolitan Statistical Area,

“(ii) have no existing acceptable alternative placement available, and

“(iii) are in compliance with the provisions of paragraph (13).”

(7) in paragraph (18)—

(A) by striking out “arrangements are made” and inserting in lieu thereof “arrangements shall be made”;

(B) by striking out “Act. Such” and inserting in lieu thereof “Act and shall provide for the terms and conditions of such protective arrangements established pursuant to this section, and such”;

(C) in subparagraph (D) by inserting “and” at the end thereof,

(D) in subparagraph (E) by striking out the period at the end thereof and inserting in lieu thereof a semicolon, and

(E) by striking out the last sentence of such paragraph,

(8) in paragraph (21) by striking out “State criminal justice council” and inserting in lieu thereof “State agency designated under paragraph (1)”;

(9) in the matter following paragraph (22) by striking out the first sentence,

(10) by striking out the last sentence thereof,

(11) by redesignating paragraphs (17), (18), (19), (20), (21), and (22) as paragraphs (18), (19), (20), (21), (22), and (23), respectively, and

(12) by inserting after paragraph (16) the following new paragraph:

“(17) provide assurance that consideration will be given to and that assistance will be available for approaches designed to strengthen and maintain the family units of delinquent and other youth to prevent juvenile delinquency. Such approaches should include the involvement of grandparents or other extended family members when possible and appropriate;”

(b) Section 223(b) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(b)) is amended—

(1) by striking out “State criminal justice council designated pursuant to section 223(a)” and inserting in lieu thereof “State agency designated under subsection (a)(1)”, and

(2) by striking out “section 223(a)” and inserting in lieu thereof “subsection (a)”.

(c) The last sentence of section 223(c) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(c)) is amended by striking out "not to exceed 2 additional years" and inserting in lieu thereof "not to exceed 3 additional years".

(d) Section 223(d) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(d)) is amended by striking out "sections 803, 804, and 805" and inserting in lieu thereof "sections 802, 803, and 804".

GRANTS AND CONTRACTS

SEC. 627. Section 224 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5634) is amended to read as follows:

"AUTHORITY TO MAKE GRANTS AND CONTRACTS

"SEC. 224. (a) From not less than 15 percent, but not more than 25 percent, of the funds appropriated for a fiscal year to carry out this part, the Administrator shall, by making grants to and entering into contracts with public and private nonprofit agencies, organizations, institutions, or individuals provide for each of the following during each fiscal year:

"(1) developing and maintaining community-based alternatives to traditional forms of institutionalization of juvenile offenders;

"(2) developing and implementing effective means of diverting juveniles from the traditional juvenile justice and correctional system, including restitution and reconciliation projects which test and validate selected arbitration models, such as neighborhood courts or panels, and increase victim satisfaction while providing alternatives to incarceration for detained or adjudicated delinquents;

"(3) developing and supporting programs stressing advocacy activities aimed at improving services to youth impacted by the juvenile justice system, including services which encourage the improvement of due process available to juveniles in the juvenile justice system;

"(4) developing model programs to strengthen and maintain the family unit in order to prevent or treat juvenile delinquency;

"(5) developing and implementing special emphasis prevention and treatment programs relating to juveniles who commit serious crimes (including such crimes committed in schools), including programs designed to deter involvement in illegal activities or to promote involvement in lawful activities on the part of gangs whose membership is substantially composed of juveniles; and

"(6) developing and implementing further a coordinated, national law-related education program of delinquency prevention, including training programs for persons responsible for the implementation of law-related education programs in elementary and secondary schools.

"(b) From any special emphasis funds remaining available after grants and contracts are made under subsection (a), but not to exceed 10 percent of the funds appropriated for a fiscal year to carry out this part, the Administrator is authorized, by making grants to and entering into contracts with public and private nonprofit agen-

Crimes and
misdemeanors.

Education.
Schools and
colleges.

Education.

cies, organizations, institutions, or individuals, to develop and implement new approaches, techniques, and methods designed to—

“(1) improve the capability of public and private agencies and organizations to provide services for delinquents and other youth to help prevent juvenile delinquency;

“(2) develop and implement, in coordination with the Secretary of Education, model programs and methods to keep students in elementary and secondary schools, to prevent unwarranted and arbitrary suspensions and expulsions, and to encourage new approaches and techniques with respect to the prevention of school violence and vandalism;

“(3) develop, implement, and support, in conjunction with the Secretary of Labor, other public and private agencies and organizations and business and industry programs for youth employment;

“(4) develop and support programs designed to encourage and enable State legislatures to consider and further the purposes of this title, both by amending State laws if necessary, and devoting greater resources to those purposes;

“(5) develop and implement programs relating to juvenile delinquency and learning disabilities, including on-the-job training programs to assist law enforcement personnel and juvenile justice personnel to more effectively recognize and provide for learning disabled and other handicapped juveniles;

“(6) develop statewide programs through the use of subsidies or other financial incentives designed to—

“(A) remove juveniles from jails and lockups for adults;

“(B) replicate juvenile programs designated as exemplary by the National Institute of Justice; or

“(C) establish and adopt, based upon the recommendations of the National Advisory Committee for Juvenile Justice and Delinquency Prevention made before the date of the enactment of the Juvenile Justice, Runaway Youth, and Missing Children's Act Amendments of 1984, standards for the improvement of juvenile justice within each State involved;

Ante, p. 2107.

“(7) develop and implement model programs, relating to the special education needs of delinquent and other youth, which develop locally coordinated policies and programs among education, juvenile justice, and social service agencies.

“(c) Not less than 30 percent of the funds available for grants and contracts under this section shall be available for grants to and contracts with private nonprofit agencies, organizations, or institutions which have had experience in dealing with youth.

“(d) Assistance provided under this section shall be available on an equitable basis to deal with female, minority, and disadvantaged youth, including mentally, emotionally, or physically handicapped youth.

Women.
Minorities.
Disadvantaged
persons.

“(e) Not less than 5 percent of the funds available for grants and contracts under this section shall be available for grants and contracts designed to address the special needs and problems of juvenile delinquency in the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.”

APPROVAL OF APPLICATIONS

SEC. 628. (a) Section 225(b) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5635(b)) is amended—

(1) in paragraph (2) by inserting “(such purpose or purposes shall be specifically identified in such application)” before the semicolon,

(2) in paragraph (5) by striking out “, when appropriate,” and inserting in lieu thereof “(if such State or local agency exists)”,

(3) in paragraph (6) by striking out “, when appropriate”, and

(4) in paragraph (8) by striking out “indicate” and inserting in lieu thereof “attach a copy of”.

(b) Section 225(c) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5635(c)) is amended—

(1) by inserting “and for contracts” after “for grants”,

(2) in paragraph (4) by striking out “delinquents and other youth to help prevent delinquency” and inserting in lieu thereof “address juvenile delinquency and juvenile delinquency prevention”,

(3) in paragraph (5) by inserting “and” at the end thereof,

(4) by striking out paragraph (6), and

(5) by redesignating paragraph (7) as paragraph (6).

(c) Section 225 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5635) is amended—

(1) by redesignating subsection (d) as subsection (e), and

(2) inserting after subsection (c) the following new subsection:

“(d)(1)(A) Except as provided in subparagraph (B) new programs selected after the effective date of the Juvenile Justice, Runaway Youth, and Missing Children’s Act Amendments of 1984 for assistance through grants or contracts under section 224 or part C of this title shall be selected through a competitive process to be established by rule by the Administrator. As part of such process, the Administrator shall announce in the Federal Register the availability of funds for such assistance, the general criteria applicable to the selection of applicants to receive such assistance, and a description of the procedures applicable to submitting and reviewing applications for such assistance.

“(B) The competitive process described in subparagraph (A) shall not be required if—

“(i) the Administrator has made a written determination that the proposed program is not within the scope of any program announcement or any announcement expected to be issued, but can otherwise be supported by a grant or contract in accordance with section 224 or part C of this title, and if the proposed program is of such outstanding merit, as determined through peer review conducted under paragraph (2), that the award of a grant or contract without competition is justified; or

“(ii) the Administrator makes a written determination, which shall include the factual and other bases thereof, that the applicant is uniquely qualified to provide proposed training services as provided in section 244, and other qualified sources are not capable of carrying out the proposed program.

“(C) In each case where a program is selected for assistance without competition pursuant to the exception provided in subparagraph (B), the Administrator shall promptly so notify the chairman of the Committee on Education and Labor of the House of Representatives and the chairman of the Committee on the Judiciary of

Grants.
Contracts.
Ante, p. 2107.

Ante, p. 2114, 42
USC 5651.

Federal
Register,
publication.
Public
availability.

Post, p. 2119.

the Senate. Such notification shall include copies of the Administrator's determination under clause (i) or clause (ii) of such subparagraph and the peer review determination required under paragraph (2).

"(2) New programs selected after the effective date of the Juvenile Justice, Runaway Youth, and Missing Children's Act Amendments of 1984 for assistance through grants or contracts under section 224 shall be reviewed before selection and thereafter as appropriate through a formal peer review process utilizing experts (other than officers and employees of the Department of Justice) in fields related to the subject matter of the proposed program. Such process shall be established by the Administrator in consultation with the Directors and other appropriate officials of the National Science Foundation and the National Institute of Mental Health. Before implementation, the Administrator shall submit such process to such Directors, each of whom shall prepare and furnish to the chairman of the Committee on Education and Labor of the House of Representatives and the chairman of the Committee on the Judiciary of the Senate a final report containing their comments on such process as proposed to be established.

Ante, pp. 2107,
2114.

Report.

"(3) The Administrator, in establishing the processes required under paragraphs (1) and (2), shall provide for emergency expedited consideration of program proposals when necessary to avoid any delay which would preclude carrying out the program."

(d) Section 225 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5035) is amended by adding at the end thereof the following new subsection:

42 USC 5635.

"(f) Notification of grants and contracts made under section 224 (and the applications submitted for such grants and contracts) shall, upon being made, be transmitted by the Administrator, to the chairman of the Committee on Education and Labor of the House of Representatives and the chairman of the Committee on the Judiciary of the Senate."

Ante, p. 2114.

USE OF FUNDS

SEC. 629. Section 227(c) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5637(c)) is amended by striking out "section 224(a)(7)" each place it appears and inserting in lieu thereof "section 224(a)(3)".

PAYMENTS

SEC. 630. (a) Section 228(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5638(a)) is amended by striking out "he" and inserting in lieu thereof "the Administrator".

(b) Section 228(d) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5638(d)) is amended by striking out "he" and inserting in lieu thereof "the Administrator".

(c) Section 228(e) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5638(e)) is amended—

(1) by striking out "him" and inserting in lieu thereof "the Administrator",

(2) by striking out "section 803" and inserting in lieu thereof "section 802", and

(3) by striking out "section 224(a)(5)" and inserting in lieu thereof "section 224(b)(6)".

NATIONAL INSTITUTE FOR JUVENILE JUSTICE AND DELINQUENCY
PREVENTION

42 USC 5651. SEC. 631. (a) The Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.) is amended by inserting after the heading for part C of title II the following new heading for section 241:

“ESTABLISHMENT OF NATIONAL INSTITUTE FOR JUVENILE JUSTICE AND
DELINQUENCY PREVENTION”.

(b) Section 241(b) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5651(b)) is amended by striking out “section 201(f)” and inserting in lieu thereof “section 201(c)”.

(c) Section 241(d) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5651(d)) is amended to read as follows:

“(d) It shall be the purpose of the Institute to provide—

“(1) a coordinating center for the collection, preparation, and dissemination of useful data regarding the prevention, treatment, and control of juvenile delinquency; and

“(2) appropriate training (including training designed to strengthen and maintain the family unit) for representatives of Federal, State, local law enforcement officers, teachers and special education personnel, family counselors, child welfare workers, juvenile judges and judicial personnel, probation personnel, correctional personnel (including volunteer lay personnel), persons associated with law-related education, youth workers, and representatives of private agencies and organizations with specific experience in the prevention, treatment, and control of juvenile delinquency.”.

(d) Section 241 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5651) is amended—

(1) by redesignating subsection (f) as subsection (g),

(2) by inserting after subsection (e) the following new subsection:

“(f) The Administrator, acting through the Institute, shall provide, not less frequently than once every 2 years, for a national conference of member representatives from State advisory groups for the purpose of—

“(1) disseminating information, data, standards, advanced techniques, and program models developed through the Institute and through programs funded under section 224;

“(2) reviewing Federal policies regarding juvenile justice and delinquency prevention;

“(3) advising the Administrator with respect to particular functions or aspects of the work of the Office; and

“(4) advising the President and Congress with regard to State perspectives on the operation of the Office and Federal legislation pertaining to juvenile justice and delinquency prevention.”,

and

(3) by adding at the end thereof the following new subsection:

“(h) The authorities of the Institute under this part shall be subject to the terms and conditions of section 225(d).”.

Ante, p. 2114.

Ante, p. 2116.

RESEARCH, DEMONSTRATION, AND EVALUATION FUNCTIONS

SEC. 632. Section 243 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5653) is amended—

(1) in paragraph (1) by inserting “which seek to strengthen and maintain the family unit or” after “methods”,

(2) in paragraph (4) by striking “Associate” and inserting in lieu thereof “Deputy”,

(3) by amending paragraph (5) to read as follows:

Studies.

“(5) prepare, in cooperation with educational institutions, with Federal, State, and local agencies, and with appropriate individuals and private agencies, such studies as it considers to be necessary with respect to the prevention and treatment of juvenile delinquency and related matters, including—

“(A) recommendations designed to promote effective prevention and treatment, particularly by strengthening and maintaining the family unit; and

“(B) assessments regarding the role of family violence, sexual abuse or exploitation, media violence, the improper handling of youth placed in one State by another State, the possible ameliorating roles of familial relationships, special education, remedial education, and recreation, and the extent to which youth in the juvenile system are treated differently on the basis of sex, race, or family income and the ramifications of such treatment;

“(C) examinations of the treatment of juveniles processed in the criminal justice system; and

“(D) recommendations as to effective means for deterring involvement in illegal activities or promoting involvement in lawful activities on the part of gangs whose membership is substantially composed of juveniles.”, and

(4) in paragraph (7) by striking out “(including a periodic journal)”.

TRAINING FUNCTIONS

SEC. 633. Section 244 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5654) is amended—

(1) in paragraph (1)—

(A) by striking out “or who are” and inserting in lieu thereof “working with or”, and

(B) by striking out “and juvenile offenders” and inserting in lieu thereof “, juvenile offenders, and their families”,

(2) in paragraph (2) by striking out “workshop” and inserting in lieu thereof “workshops”, and

(3) in paragraph (3) by striking out “teachers” and all that follows through the end thereof and inserting in lieu thereof the following: “teachers and special education personnel, family counselors, child welfare workers, juvenile judges and judicial personnel, probation personnel (including volunteer lay personnel), persons associated with law-related education, youth workers, and organizations with specific experience in the prevention and treatment of juvenile delinquency; and”.

REPEALER

SEC. 634. Section 245 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5655) is repealed.

ANNUAL REPORT

SEC. 635. Section 246 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5656) is amended by striking out "SEC. 246." and inserting in lieu thereof "SEC. 245."

DEVELOPMENT OF STANDARDS FOR JUVENILE JUSTICE

SEC. 636. Section 247 of the Juvenile Justice and Delinquency Act of 1974 (42 U.S.C. 5657) is amended to read as follows:

"ADDITIONAL FUNCTIONS OF THE INSTITUTE

"SEC. 246. (a) The National Institute for Juvenile Justice and Delinquency Prevention shall review existing reports, data, and standards, relating to the juvenile justice system in the United States.

"(b) The National Institute for Juvenile Justice and Delinquency Prevention is authorized to develop and support model State legislation consistent with the mandates of this title and the standards developed by National Advisory Committee for Juvenile Justice and Delinquency Prevention before the date of the enactment of the Juvenile Justice, Runaway Youth, and Missing Children's Act Amendments of 1984."

Ante, p. 2107.

ESTABLISHMENT OF TRAINING PROGRAM

SEC. 637. (a) Section 248(b) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5659(b)) is amended to read as follows:

"(b) Enrollees in the training program established under this section shall be drawn from law enforcement and correctional personnel (including volunteer lay personnel), teachers and special education personnel, family counselors, child welfare workers, juvenile judges and judicial personnel, persons associated with law-related education, youth workers, and representatives of private agencies and organizations with specific experience in the prevention and treatment of juvenile delinquency."

(b) Section 248 of the Juvenile Justice and Delinquency Act of 1974 (42 U.S.C. 5659) is amended by striking out "SEC. 248." and inserting in lieu thereof "SEC. 247."

TECHNICAL AMENDMENT

SEC. 638. Section 249 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5660) is amended by striking out "SEC. 249." and inserting in lieu thereof "SEC. 248."

TRAINING PROGRAM

SEC. 639. (a) The heading for section 250 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5661) is amended to read as follows:

"PARTICIPATION IN TRAINING PROGRAM AND STATE ADVISORY GROUP
CONFERENCES"

(b) Section 250(c) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5661(c)) is amended to read as follows:

"(c) While participating as a trainee in the program established under section 246 or while participating in any conference held under section 241(f), and while traveling in connection with such participation, each person so participating shall be allowed travel expenses, including a per diem allowance in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed travel expenses under section 5703 of title 5, United States Code. No consultation fee may be paid to such person for such participation."

Ante, p. 2120.

Ante, p. 2118.

Prohibition.

(c) Section 250 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5661) is amended by striking out "SEC. 250." and inserting in lieu thereof "SEC. 249."

AUTHORIZATION OF APPROPRIATIONS

SEC. 640. Section 261 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 261. (a) To carry out the purposes of this title there is authorized to be appropriated such sums as may be necessary for fiscal years 1985, 1986, 1987, and 1988. Funds appropriated for any fiscal year may remain available for obligation until expended.

"(b) Of such sums as are appropriated to carry out the purposes of this title—

"(1) not to exceed 7.5 percent shall be available to carry out part A;

"(2) not less than 81.5 percent shall be available to carry out part B; and

"(3) 11 percent shall be available to carry out part C.

42 USC 5651.

"(c) Notwithstanding any other provision of law, the Administrator shall—

"(1) establish appropriate administrative and supervisory board membership requirements for a State agency responsible for supervising the preparation and administration of the State plan submitted under section 223 and permit the State advisory group appointed under section 223(a)(3) to operate as the supervisory board for such agency, at the discretion of the Governor; and

42 USC 5633.

Ante, p. 2111.

"(2) approve any appropriate State agency designated by the Governor of the State involved in accordance with paragraph (1).

"(d) No funds appropriated to carry out the purposes of this title may be used for any bio-medical or behavior control experimentation on individuals or any research involving such experimentation. For the purpose of this subsection, the term 'behavior control' refers to experimentation or research employing methods which involve a substantial risk of physical or psychological harm to the individual subject and which are intended to modify or alter criminal and other anti-social behavior, including aversive conditioning therapy, drug therapy or chemotherapy (except as part of routine clinical care), physical therapy of mental disorders, electroconvulsive therapy, or physical punishment. The term does not apply to a limited class of programs generally recognized as involving no such risk, including methadone maintenance and certain alcohol treatment programs, psychological counseling, parent training, behavior con-

tracting, survival skills training, restitution, or community service, if safeguards are established for the informed consent of subjects (including parents or guardians of minors).”.

APPLICATION OF OTHER ADMINISTRATIVE AUTHORITY

SEC. 641. Section 262 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5672) is amended to read as follows:

“ADMINISTRATIVE AUTHORITY

“SEC. 262. (a) The Office shall be administered by the Administrator under the general authority of the Attorney General.

“(b) Sections 809(c), 811(a), 811(b), 811(c), 812(a), 812(b), and 812(d) of the Omnibus Crime Control and Safe Streets Act of 1968, as so designated by the operation of the amendments made by the Justice Assistance Act of 1984, shall apply with respect to the administration of and compliance with this Act, except that for purposes of this Act—

“(1) any reference to the Office of Justice Programs in such sections shall be deemed to be a reference to the Assistant Attorney General who heads the Office of Justice Programs; and

“(2) the term ‘this title’ as it appears in such sections shall be deemed to be a reference to this Act.

“(c) Sections 801(a), 801(c), and 806 of the Omnibus Crime Control and Safe Streets Act of 1968, as so designated by the operation of the amendments made by the Justice Assistance Act of 1984, shall apply with respect to the administration of and compliance with this Act, except that for purposes of this Act—

“(1) any reference to the Attorney General, the Assistant Attorney General who heads the Office of Justice Programs, the Director of the National Institute of Justice, the Director of the Bureau of Justice Statistics, or the Director of the Bureau of Justice Assistance shall be deemed to be a reference to the Administrator;

“(2) any reference to the Office of Justice Programs, the Bureau of Justice Assistance, the National Institute of Justice, or the Bureau of Justice Statistics shall be deemed to be a reference to the Office of Juvenile Justice and Delinquency Prevention; and

“(3) the term ‘this title’ as it appears in such sections shall be deemed to be a reference to this Act.

“(d) The Administrator is authorized, after appropriate consultation with representatives of States and units of local government, to establish such rules, regulations, and procedures as are necessary for the exercise of the functions of the Office and as are consistent with the purpose of this Act.”

Subdivision C—Runaway and Homeless Youth

RULES

SEC. 650. Section 303 of the Runaway and Homeless Youth Act (42 U.S.C. 5702) is amended to read as follows:

Ante, pp. 2093,
2095, 2096.

Ante, pp. 2091,
2093.

Regulations.

"RULES

"SEC. 303. The Secretary of Health and Human Services (hereinafter in this title referred to as the 'Secretary') may issue such rules as the Secretary considers necessary or appropriate to carry out the purposes of this title."

42 USC 5702.

PURPOSES OF GRANT PROGRAM

SEC. 651. (a) The first sentence of section 311(a) of the Runaway and Homeless Youth Act (42 U.S.C. 5711(a)) is amended—

(1) by inserting "and assistance to their families" before the period at the end thereof, and

(2) by striking, in the first sentence, "nonprofit private agencies and coordinated networks of such agencies" and inserting in lieu thereof "private entities and coordinated networks of such entities".

(b) Section 311(b) of the Runaway and Homeless Youth Act (42 U.S.C. 5711(b)) is amended by inserting "and to the families of such juveniles" before the period at the end thereof.

ELIGIBILITY

SEC. 652. Section 312(b) of the Runaway and Homeless Youth Act (42 U.S.C. 5712) is amended—

(1) in paragraph (2) by striking out "portion" and inserting in lieu thereof "proportion",

(2) in paragraph (3) by striking out "(if such action is required by State law)",

(3) in paragraph (4) by inserting "school system personnel," after "social service personnel,"

(4) in paragraph (5) by striking out "parents" and inserting in lieu thereof "families", and

(5) in paragraph (6) by striking out "parents" and inserting in lieu thereof "family members".

APPROVAL BY SECRETARY

SEC. 653. The first sentence of section 313 of the Runaway and Homeless Youth Act (42 U.S.C. 5713) is amended by striking out "nonprofit private agency" and inserting in lieu thereof "private entity".

GRANTS TO PRIVATE AGENCIES, STAFFING

SEC. 654. Section 314 of the Runaway and Homeless Youth Act (42 U.S.C. 5714) is amended—

(1) by amending the heading to read as follows: "GRANTS TO PRIVATE ENTITIES; STAFFING", and

(2) in the first sentence—

(A) by striking out "nonprofit private agencies" and inserting in lieu thereof "private entities", and

(B) by striking out "house" and inserting in lieu thereof "center".

ADDITIONAL ASSISTANCE

SEC. 655. The Runaway and Homeless Youth Act (42 U.S.C. 5701 et seq.) is amended—

42 USC 5601
note.

42 USC 5715,
5716.

- (1) by redesignating sections 315 and 316 as sections 317 and 318, respectively, and
- (2) by inserting after section 314 the following new sections:

“ASSISTANCE TO POTENTIAL GRANTEEES

42 USC 5714a.

“SEC. 315. The Secretary shall provide informational assistance to potential grantees interested in establishing runaway and homeless youth centers. Such assistance shall consist of information on—

“(1) steps necessary to establish a runaway and homeless youth center, including information on securing space for such center, obtaining insurance, staffing, and establishing operating procedures;

“(2) securing local private or public financial support for the operation of such center, including information on procedures utilized by grantees under this title; and

“(3) the need for the establishment of additional runaway youth centers in the geographical area identified by the potential grantee involved.

“LEASE OF SURPLUS FEDERAL FACILITIES FOR USE AS RUNAWAY AND HOMELESS YOUTH CENTERS

42 USC 5714b.

“SEC. 316. (a) The Secretary may enter into cooperative lease arrangements with States, localities, and nonprofit private agencies to provide for the use of appropriate surplus Federal facilities transferred by the General Services Administration to the Department of Health and Human Services for use as runaway and homeless youth centers if the Secretary determines that—

“(1) the applicant involved has suitable financial support necessary to operate a runaway and homeless youth center;

“(2) the applicant is able to demonstrate the program expertise required to operate such center in compliance with this title, whether or not the applicant is receiving a grant under this part; and

“(3) the applicant has consulted with and obtained the approval of the chief executive officer of the unit of general local government in which the facility is located.

Prohibition.

“(b)(1) Each facility made available under this section shall be made available for a period of not less than 2 years, and no rent or fee shall be charged to the applicant in connection with use of such facility.

“(2) Any structural modifications or additions to facilities made available under this section shall become the property of the United States. All such modifications or additions may be made only after receiving the prior written consent of the Secretary or other appropriate officer of the Department of Health and Human Services.”.

REORGANIZATION

Repeal.

SEC. 656. Part C of the Runaway and Homeless Youth Act (42 U.S.C. 5741) is repealed.

AUTHORIZATION OF APPROPRIATIONS

SEC. 657. (a) The Runaway and Homeless Youth Act (42 U.S.C. 5701 et seq.) is amended by inserting after the heading for part D the following new heading for section 341:

“AUTHORIZATION OF APPROPRIATIONS”.

(b) Section 341(a) is amended by striking out “for each of the fiscal years” and all that follows through the period at the end thereof and inserting in lieu thereof “such sums as may be necessary for fiscal years 1985, 1986, 1987, and 1988.” 42 USC 5751.

(c) Section 341(b) of the Runaway and Homeless Youth Act (42 U.S.C. 5751(b)) is amended by striking out “Associate”.

(d) Section 341 of the Runaway and Homeless Youth Act (42 U.S.C. 5751) is amended by adding at the end thereof the following new subsection:

“(c) No funds appropriated to carry out the purposes of this title—

“(1) may be used for any program or activity which is not specifically authorized by this title; or

“(2) may be combined with funds appropriated under any other Act if the purpose of combining such funds is to make a single discretionary grant or a single discretionary payment unless such funds are separately identified in all grants and contracts and are used for the purposes specified in this title.”.

(e) Part D of the Runaway and Homeless Youth Act (42 U.S.C. 5751) is redesignated as part C.

(f) Section 341 of the Runaway and Homeless Youth Act (42 U.S.C. 5757) is redesignated as section 331. 42 USC 5751.

Subdivision D—Missing Children’s Assistance

ASSISTANCE RELATING TO MISSING CHILDREN

SEC. 660. The Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.) is amended by adding at the end thereof the following new title:

“TITLE IV—MISSING CHILDREN

Missing
Children’s
Assistance Act.

“SHORT TITLE

“SEC. 401. This title may be cited as the Missing Children’s Assistance Act. 42 USC 5601 note.

“FINDINGS

“SEC. 402. The Congress hereby finds that—

42 USC 5771.

“(1) each year thousands of children are abducted or removed from the control of a parent having legal custody without such parent’s consent, under circumstances which immediately place them in grave danger;

“(2) many of these children are never reunited with their families;

“(3) often there are no clues to the whereabouts of these children;

“(4) many missing children are at great risk of both physical harm and sexual exploitation;

“(5) in many cases, parents and local law enforcement officials have neither the resources nor the expertise to mount expanded search efforts;

“(6) abducted children are frequently moved from one locality to another, requiring the cooperation and coordination of local, State, and Federal law enforcement efforts;

“(7) on frequent occasions, law enforcement authorities quickly exhaust all leads in missing children cases, and require assistance from distant communities where the child may be located; and

“(8) Federal assistance is urgently needed to coordinate and assist in this interstate problem.

“DEFINITIONS

42 USC 5772.

“SEC. 403. For the purpose of this title—

“(1) the term ‘missing child’ means any individual less than 18 years of age whose whereabouts are unknown to such individual’s legal custodian if—

“(A) the circumstances surrounding such individual’s disappearance indicate that such individual may possibly have been removed by another from the control of such individual’s legal custodian without such custodian’s consent; or

“(B) the circumstances of the case strongly indicate that such individual is likely to be abused or sexually exploited; and

“(2) the term ‘Administrator’ means the Administrator of the Office of Juvenile Justice and Delinquency Prevention.

“DUTIES AND FUNCTIONS OF THE ADMINISTRATOR

42 USC 5773.
Regulations.

“SEC. 404. (a) The Administrator shall—

“(1) issue such rules as the Administrator considers necessary or appropriate to carry out this title;

“(2) make such arrangements as may be necessary and appropriate to facilitate effective coordination among all federally funded programs relating to missing children (including the preparation of an annual comprehensive plan for facilitating such coordination);

Public
information.

“(3) provide for the furnishing of information derived from the national toll-free telephone line, established under subsection (b)(1), to appropriate law enforcement entities;

“(4) provide adequate staff and agency resources which are necessary to properly carry out the responsibilities pursuant to this title;

“(5) analyze, compile, publish, and disseminate an annual summary of recently completed research, research being conducted, and Federal, State, and local demonstration projects relating to missing children with particular emphasis on—

“(A) effective models of local, State, and Federal coordination and cooperation in locating missing children;

“(B) effective programs designed to promote community awareness of the problem of missing children;

“(C) effective programs to prevent the abduction and sexual exploitation of children (including parent, child, and community education); and

“(D) effective program models which provide treatment, counseling, or other aid to parents of missing children or to children who have been the victims of abduction or sexual exploitation; and

“(6) prepare, in conjunction with and with the final approval of the Advisory Board on Missing Children, an annual comprehensive plan for facilitating cooperation and coordination

among all agencies and organizations with responsibilities related to missing children.

“(b) The Administrator, either by making grants to or entering into contracts with public agencies or nonprofit private agencies, shall—

Grants.
Contracts.
Public
information.

“(1) establish and operate a national toll-free telephone line by which individuals may report information regarding the location of any missing child, or other child 13 years of age or younger whose whereabouts are unknown to such child’s legal custodian, and request information pertaining to procedures necessary to reunite such child with such child’s legal custodian;

“(2) establish and operate a national resource center and clearinghouse designed—

“(A) to provide technical assistance to local and State governments, public and private nonprofit agencies, and individuals in locating and recovering missing children;

“(B) to coordinate public and private programs which locate, recover, or reunite missing children with their legal custodians;

“(C) to disseminate nationally information about innovative and model missing childrens’ programs, services, and legislation; and

“(D) to provide technical assistance to law enforcement agencies, State and local governments, elements of the criminal justice system, public and private nonprofit agencies, and individuals in the prevention, investigation, prosecution, and treatment of the missing and exploited child case; and

“(3) periodically conduct national incidence studies to determine for a given year the actual number of children reported missing each year, the number of children who are victims of abduction by strangers, the number of children who are the victims of parental kidnappings, and the number of children who are recovered each year.

Studies.

“(c) Nothing contained in this title shall be construed to grant to the Administrator any law enforcement responsibility or supervisory authority over any other Federal agency.

“ADVISORY BOARD

“Sec. 405. (a) There is hereby established the Advisory Board on Missing Children (hereinafter in this title referred to as the ‘Advisory Board’) which shall be composed of 9 members as follows:

Establishment.
42 USC 5774.

“(1) a law enforcement officer;

“(2) an individual whose official duty is to prosecute violations of the criminal law of a State;

“(3) the chief executive officer of a unit of local government within a State;

“(4) a statewide elected officer of a State;

“(5) the Director of the Federal Bureau of Investigation or the Director’s designee from within the Federal Bureau of Investigation; and

“(6) 4 members of the public who have experience or expertise relating to missing children (including members representing parent groups).

"(b) The Attorney General shall make the initial appointments to the Advisory Board not later than 90 days after the effective date of this title. The Advisory Board shall meet periodically and at the call of the Attorney General, but not less frequently than annually. The Chairman of the Advisory Board shall be designated by the Attorney General.

"(c) The Advisory Board shall—

"(1) advise the Administrator and the Attorney General in coordinating programs and activities relating to missing children which are planned, administered, or assisted by any Federal program;

Infra.

"(2) advise the Administrator with regard to the establishment of priorities for making grants or contracts under section 406; and

"(3) approve the annual comprehensive plan for facilitating cooperation and coordination among all agencies and organizations with responsibilities relating to missing children and submit the first such annual plan to the President and the Congress not later than eighteen months after the effective date of this title.

"(d) Members of the Advisory Board, while serving away from their places of residence or regular places of business, shall be entitled to reimbursement for travel expenses, including per diem in lieu of subsistence, in the same manner as is authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

"GRANTS

Contracts.
42 USC 5775.

"Sec. 406. (a) The Administrator is authorized to make grants to and enter into contracts with public agencies or nonprofit private organizations, or combinations thereof, for research, demonstration projects, or service programs designed—

"(1) to educate parents, children, and community agencies and organizations in ways to prevent the abduction and sexual exploitation of children;

"(2) to provide information to assist in the locating and return of missing children;

"(3) to aid communities in the collection of materials which would be useful to parents in assisting others in the identification of missing children;

"(4) to increase knowledge of and develop effective treatment pertaining to the psychological consequences, on both parents and children, of—

"(A) the abduction of a child, both during the period of disappearance and after the child is recovered; and

"(B) the sexual exploitation of a missing child;

"(5) to collect detailed data from selected States or localities on the actual investigative practices utilized by law enforcement agencies in missing children's cases; and

"(6) to address the particular needs of missing children by minimizing the negative impact of judicial and law enforcement procedures on children who are victims of abuse or sexual exploitation and by promoting the active participation of children and their families in cases involving abuse or sexual exploitation of children.

“(b) In considering grant applications under this title, the Administrator shall give priority to applicants who—

“(1) have demonstrated or demonstrate ability in—

“(A) locating missing children or locating and reuniting missing children with their legal custodians;

“(B) providing other services to missing children or their families; or

“(C) conducting research relating to missing children; and

“(2) with respect to subparagraphs (A) and (B) of paragraph (1), substantially utilize volunteer assistance.

The Administrator shall give first priority to applicants qualifying under subparagraphs (A) and (B) of paragraph (1).

“(c) In order to receive assistance under this title for a fiscal year, applicants shall give assurance that they will expend, to the greatest extent practicable, for such fiscal year an amount of funds (without regard to any funds received under any Federal law) that is not less than the amount of funds they received in the preceding fiscal year from State, local, and private sources.

“CRITERIA FOR GRANTS

“SEC. 407. The Administrator, in consultation with the Advisory Board, shall establish annual research, demonstration, and service program priorities for making grants and contracts pursuant to section 406 and, not less than 60 days before establishing such priorities, shall publish in the Federal Register for public comment a statement of such proposed priorities.

Federal Register, publication.
42 USC 5776.
Ante, p. 2128.

“AUTHORIZATION OF APPROPRIATIONS

“SEC. 408. To carry out the provisions of this title, there are authorized to be appropriated \$10,000,000 for fiscal year 1985, and such sums as may be necessary for fiscal years 1986, 1987, and 1988.”

42 USC 5777.

Subdivision E—Effective Dates

EFFECTIVE DATES

SEC. 670. (a) Except as provided in subsection (b), this division and the amendments made by this division shall take effect on the date of the enactment of this joint resolution or October 1, 1984, whichever occurs later.

42 USC 5601 note.

(b) Paragraph (2) of section 331(c) of the Runaway and Homeless Youth Act, as added by section 657(d) of this division, shall not apply with respect to any grant or payment made before the effective date of this joint resolution.

Ante, p. 2124.

CHAPTER VII—SURPLUS FEDERAL PROPERTY AMENDMENTS

SEC. 701. Section 203 of the Federal Property and Administrative Services Act of 1949 as amended (40 U.S.C. 484), is further amended by adding at the end thereof the following new subsection:

Real property.
Prisoners.

“(p)(1) Under such regulations as he may prescribe, the Administrator is authorized in his discretion to transfer or convey to the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, the Commonwealth of the Northern

Claims.

Mariana Islands, or any political subdivision or instrumentality thereof, surplus real and related personal property determined by the Attorney General to be required for correctional facility use by the authorized transferee or grantee under an appropriate program or project for the care or rehabilitation of criminal offenders as approved by the Attorney General. Transfers or conveyance under this authority shall be made by the Administrator without monetary consideration to the United States. If the Attorney General determines that any surplus property transferred or conveyed pursuant to an agreement entered into between March 1, 1982, and the enactment of this subsection was suitable for transfer or conveyance under this subsection, the Administrator shall reimburse the transferee for any monetary consideration paid to the United States for such transfer or conveyance.

“(2) The deed of conveyance of any surplus real and related personal property disposed of under the provisions of this subsection—

“(A) shall provide that all such property shall be used and maintained for the purpose for which it was conveyed in perpetuity, and that in the event the property ceases to be used or maintained for that purpose, all or any portion of the property shall, in its then existing condition, at the option of the United States, revert to the United States; and

“(B) may contain such additional terms, reservations, restrictions, and conditions as may be determined by the Administrator to be necessary to safeguard the interests of the United States.

“(3) With respect to surplus real and related personal property conveyed pursuant to this subsection, the Administrator is authorized and directed—

“(A) to determine and enforce compliance with the terms, conditions, reservations, and restrictions contained in any instrument by which such transfer was made;

“(B) to reform, correct, or amend any such instrument by the execution of a corrective reformatory or amendatory instrument where necessary to correct such instrument or to conform such transfer to the requirements of applicable law; and

“(C) to (i) grant releases from any of the terms, conditions, reservations, and restrictions contained in, and (ii) convey, quitclaim, or release to the transferee or other eligible user any right or interest reserved to the United States by any instrument by which such transfer was made, if he determines that the property so transferred no longer serves the purpose for which it was transferred, or that such release, conveyance, or quitclaim deed will not prevent accomplishment of the purpose for which such property was so transferred: *Provided*, That any such release, conveyance, or quitclaim deed may be granted on, or made subject to, such terms and conditions as he or she shall deem necessary to protect or advance the interests of the United States.”.

SEC. 702. The first sentence of subsection (o) of section 203 of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 484(o)), is further amended by revising the first sentence of such subsection to read as follows:

Report.

“(o) The Administrator with respect to personal property donated under subsection (j) of this section and with respect to real and related personal property transferred or conveyed under subsec-

tion (p) of this section, and the head of each executive agency disposing of real property under subsection (k) of this section, shall submit during the calendar quarter following the close of each fiscal year a report to the Senate (or to the Secretary of the Senate if the Senate is not in session) and to the House of Representatives (or to the Clerk of the House if the House is not in session) showing the acquisition cost of all personal property so donated and of all real property so disposed of during the preceding fiscal year.”.

CHAPTER VIII—LABOR RACKETEERING AMENDMENTS

Crimes and
misdemeanors.
Penalties.

SEC. 801. Subsection (d) of section 302 of the Labor Management Relations Act, 1947 (29 U.S.C. 186), is amended to read as follows:

“(d)(1) Any person who participates in a transaction involving a payment, loan, or delivery of money or other thing of value to a labor organization in payment of membership dues or to a joint labor-management trust fund as defined by clause (B) of the proviso to clause (5) of subsection (c) of this section or to a plant, area, or industry-wide labor-management committee that is received and used by such labor organization, trust fund, or committee, which transaction does not satisfy all the applicable requirements of subsections (c)(4) through (c)(9) of this section, and willfully and with intent to benefit himself or to benefit other persons he knows are not permitted to receive a payment, loan, money, or other thing of value under subsections (c)(4) through (c)(9) violates this subsection, shall, upon conviction thereof, be guilty of a felony and be subject to a fine of not more than \$15,000, or imprisoned for not more than five years, or both; but if the value of the amount of money or thing of value involved in any violation of the provisions of this section does not exceed \$1,000, such person shall be guilty of a misdemeanor and be subject to a fine of not more than \$10,000, or imprisoned for not more than one year, or both.

“(2) Except for violations involving transactions covered by subsection (d)(1) of this section, any person who willfully violates this section shall, upon conviction thereof, be guilty of a felony and be subject to a fine of not more than \$15,000, or imprisoned for not more than five years, or both; but if the value of the amount of money or thing of value involved in any violation of the provisions of this section does not exceed \$1,000, such person shall be guilty of a misdemeanor and be subject to a fine of not more than \$10,000, or imprisoned for not more than one year, or both.”.

SEC. 802. (a) So much of subsection (a) of section 411 of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1111) as follows “the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 401),” is amended to read as follows: “any felony involving abuse or misuse of such person’s position or employment in a labor organization or employee benefit plan to seek or obtain an illegal gain at the expense of the members of the labor organization or the beneficiaries of the employee benefit plan, or conspiracy to commit any such crimes or attempt to commit any such crimes, or a crime in which any of the foregoing crimes is an element, shall serve or be permitted to serve—

“(1) as an administrator, fiduciary, officer, trustee, custodian, counsel, agent, employee, or representative in any capacity of any employee benefit plan,

“(2) as a consultant or adviser to an employee benefit plan, including but not limited to any entity whose activities are in

whole or substantial part devoted to providing goods or services to any employee benefit plan, or

“(3) in any capacity that involves decisionmaking authority or custody or control of the moneys, funds, assets, or property of any employee benefit plan,

during or for the period of thirteen years after such conviction or after the end of such imprisonment, whichever is later, unless the sentencing court on the motion of the person convicted sets a lesser period of at least three years after such conviction or after the end of such imprisonment, whichever is later, or unless prior to the end of such period, in the case of a person so convicted or imprisoned (A) his citizenship rights, having been revoked as a result of such conviction, have been fully restored, or (B) the United States Parole Commission determines that such person’s service in any capacity referred to in paragraphs (1) through (3) would not be contrary to the purposes of this title. Prior to making any such determination the Commission shall hold an administrative hearing and shall give notice to such proceeding by certified mail to the Secretary of Labor and to State, county, and Federal prosecuting officials in the jurisdiction or jurisdictions in which such person was convicted. The Commission’s determination in any such proceeding shall be final. No person shall knowingly hire, retain, employ, or otherwise place any other person to serve in any capacity in violation of this subsection. Notwithstanding the preceding provisions of this subsection, no corporation or partnership will be precluded from acting as an administrator, fiduciary, officer, trustee, custodian, counsel, agent, or employee of any employee benefit plan or as a consultant to any employee benefit plan without a notice, hearing, and determination by such Parole Commission that such service would be inconsistent with the intention of this section.”.

(b) Subsection (b) of such section is amended to read as follows:

“(b) Any person who intentionally violates this section shall be fined not more than \$10,000 or imprisoned for not more than five years, or both.”.

(c) Subsection (c) of such section is amended to read as follows:

“(c) For the purpose of this section—

“(1) A person shall be deemed to have been ‘convicted’ and under the disability of ‘conviction’ from the date of the judgment of the trial court, regardless of whether that judgment remains under appeal.

“(2) The term ‘consultant’ means any person who, for compensation, advises, or represents an employee benefit plan or who provides other assistance to such plan, concerning the establishment or operation of such plan.

“(3) A period of parole shall not be considered as part of a period of imprisonment.”.

(d) Such section is amended by adding at the end thereof the following:

“(d) Whenever any person—

“(1) by operation of this section, has been barred from office or other position in an employee benefit plan as a result of a conviction, and

“(2) has filed an appeal of that conviction,
any salary which would be otherwise due such person by virtue of such office or position, shall be placed in escrow by the individual or organization responsible for payment of such salary. Payment of such salary into escrow shall continue for the duration of the appeal

or for the period of time during which such salary would be otherwise due, whichever period is shorter. Upon the final reversal of such person's conviction on appeal, the amounts in escrow shall be paid to such person. Upon the final sustaining of that person's conviction on appeal, the amounts in escrow shall be returned to the individual or organization responsible for payments of those amounts. Upon final reversal of such person's conviction, such person shall no longer be barred by this statute from assuming any position from which such person was previously barred."

SEC. 803. (a) So much of subsection (a) of section 504 of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 504) as follows "or a violation of title II or III of this Act" is amended to read as follows: "any felony involving abuse or misuse of such person's position or employment in a labor organization or employee benefit plan to seek or obtain an illegal gain at the expense of the members of the labor organization or the beneficiaries of the employee benefit plan, or conspiracy to commit any such crimes or attempt to commit any such crimes, or a crime in which any of the foregoing crimes is an element, shall serve or be permitted to serve—

"(1) as a consultant or adviser to any labor organization,

"(2) as an officer, director, trustee, member of any executive board or similar governing body, business agent, manager, organizer, employee, or representative in any capacity of any labor organization,

"(3) as a labor relations consultant or adviser to a person engaged in an industry or activity affecting commerce, or as an officer, director, agent, or employee of any group or association of employers dealing with any labor organization, or in a position having specific collective bargaining authority or direct responsibility in the area of labor-management relations in any corporation or association engaged in an industry or activity affecting commerce, or

"(4) in a position which entitles its occupant to a share of the proceeds of, or as an officer or executive or administrative employee of, any entity whose activities are in whole or substantial part devoted to providing goods or services to any labor organization, or

"(5) in any capacity, other than in his capacity as a member of such labor organization, that involves decisionmaking authority concerning, or decisionmaking authority over, or custody of, or control of the moneys, funds, assets, or property of any labor organization,

during or for the period of thirteen years after such conviction or after the end of such imprisonment, whichever is later, unless the sentencing court on the motion of the person convicted sets a lesser period of at least three years after such conviction or after the end of such imprisonment, whichever is later, or unless prior to the end of such period, in the case of a person so convicted or imprisoned, (A) his citizenship rights, having been revoked as a result of such conviction, have been fully restored, or (B) the United States Parole Commission determines that such person's service in any capacity referred to in clauses (1) through (5) would not be contrary to the purposes of this Act. Prior to making any such determination the Commission shall hold an administrative hearing and shall give notice of such proceeding by certified mail to the Secretary of Labor and to State, county, and Federal prosecuting officials in the juris-

diction or jurisdictions in which such person was convicted. The Commission's determination in any such proceeding shall be final. No person shall knowingly hire, retain, employ, or otherwise place any other person to serve in any capacity in violation of this subsection."

(b) Subsection (b) of such section is amended to read as follows:

"(b) Any person who willfully violates this section shall be fined not more than \$10,000 or imprisoned for not more than five years, or both."

(c) Subsection (c) of such section is amended to read as follows:

"(c) For the purpose of this section—

"(1) A person shall be deemed to have been 'convicted' and under the disability of 'conviction' from the date of the judgment of the trial court, regardless of whether that judgment remains under appeal.

"(2) A period of parole shall not be considered as part of a period of imprisonment."

29 USC 504.

(d) Such section 504 is amended by adding at the end thereof the following:

"(d) Whenever any person—

"(1) by operation of this section, has been barred from office or other position in a labor organization as a result of a conviction, and

"(2) has filed an appeal of that conviction,

any salary which would be otherwise due such person by virtue of such office or position, shall be placed in escrow by the individual employer or organization responsible for payment of such salary. Payment of such salary into escrow shall continue for the duration of the appeal or for the period of time during which such salary would be otherwise due, whichever period is shorter. Upon the final reversal of such person's conviction on appeal, the amounts in escrow shall be paid to such person. Upon the final sustaining of such person's conviction on appeal, the amounts in escrow shall be returned to the individual employer or organization responsible for payments of those amounts. Upon final reversal of such person's conviction, such person shall no longer be barred by this statute from assuming any position from which such person was previously barred."

Effective date.

29 USC 504 note.

SEC. 804. (a) The amendments made by section 802 and section 803 of this title shall take effect with respect to any judgment of conviction entered by the trial court after the date of enactment of this title, except that that portion of such amendments relating to the commencement of the period of disability shall apply to any judgment of conviction entered prior to the date of enactment of this title if a right of appeal or an appeal from such judgment is pending on the date of enactment of this title.

(b) Subject to subsection (a) the amendments made by sections 803 and 804 shall not affect any disability under section 411 of the Employee Retirement Income Security Act of 1974 or under section 504 of the Labor-Management Reporting and Disclosure Act of 1959 in effect on the date of enactment of this title.

Ante, p. 2131.

29 USC 1111.

Ante, p. 2133.

29 USC 504.

SEC. 805. (a) The first paragraph of section 506 of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1136) is amended by striking out "In order" and inserting in lieu thereof the following:

"(a) COORDINATION WITH OTHER AGENCIES AND DEPARTMENTS.—In order".

(b) Such section is amended by adding at the end thereof the following new subsection:

“(b) RESPONSIBILITY FOR DETECTING AND INVESTIGATING CIVIL AND CRIMINAL VIOLATIONS OF EMPLOYEE RETIREMENT INCOME SECURITY ACT AND RELATED FEDERAL LAWS.—The Secretary shall have the responsibility and authority to detect and investigate and refer, where appropriate, civil and criminal violations related to the provisions of this title and other related Federal laws, including the detection, investigation, and appropriate referrals of related violations of title 18 of the United States Code. Nothing in this subsection shall be construed to preclude other appropriate Federal agencies from detecting and investigating civil and criminal violations of this title and other related Federal laws.”

(c) The title of such section is amended to read as follows:

“COORDINATION AND RESPONSIBILITY OF AGENCIES ENFORCING EMPLOYEE RETIREMENT INCOME SECURITY ACT AND RELATED FEDERAL LAWS”.

CHAPTER IX—CURRENCY AND FOREIGN TRANSACTIONS REPORTING ACT AMENDMENTS

SEC. 901. (a) Section 5321(a)(1) of title 31, United States Code, is amended by striking out “a civil penalty of not more than \$1,000” and inserting in lieu thereof “a civil penalty of not more than \$10,000”.

Crimes and
misdemeanors.
Penalties.

(b) Subsection (a) of section 5322 of title 31, United States Code, is amended by striking out “\$1,000, or imprisonment not more than one year, or both” and inserting in lieu thereof “\$250,000, or imprisonment not more than five years, or both”.

(c) Subsection (a) of section 5316 of title 31, United States Code, is amended—

(1) by inserting “, or attempts to transport or have transported,” after “transports or has transported” in paragraph (1); and

(2) by striking out “more than \$5,000” and inserting in lieu thereof “more than \$10,000” in paragraph (1).

(d) Section 5317 of title 31, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting the following new subsection after subsection (a):

“(b) A customs officer may stop and search, without a search warrant, a vehicle, vessel, aircraft, or other conveyance, envelope or other container, or person entering or departing from the United States with respect to which or whom the officer has reasonable cause to believe there is a monetary instrument being transported in violation of section 5316 of this title.”

31 USC 5316.

(e) Chapter 53 of title 31 of the United States Code is amended by adding a new section 5323 at the end thereof as follows:

“§5323. Rewards for informants

31 USC 5323.

“(a) The Secretary may pay a reward to an individual who provides original information which leads to a recovery of a criminal fine, civil penalty, or forfeiture, which exceeds \$50,000, for a violation of this chapter.

“(b) The Secretary shall determine the amount of a reward under this section. The Secretary may not award more than 25 per centum

of the net amount of the fine, penalty, or forfeiture collected or \$150,000, whichever is less.

“(c) An officer or employee of the United States, a State, or a local government who provides information described in subsection (a) in the performance of official duties is not eligible for a reward under this section.

Appropriations
authorization.

“(d) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.”.

(f) The table of contents of chapter 53 of title 31 is amended by adding the following new item after the item relating to section 5322:

“5323. Rewards for informants.”.

Post, p. 2143.

(g) Section 1961(1) of title 18, United States Code, is amended—

(1) by striking out “or” after “(relating to embezzlement from union funds),”; and

(2) by inserting before the semicolon at the end thereof the following: “, or (E) any act which is indictable under the Currency and Foreign Transactions Reporting Act”.

31 USC 321,
5311-5314,
5316-5322.
Crimes and
misdemeanors.
Penalties.

CHAPTER X—MISCELLANEOUS VIOLENT CRIME AMENDMENTS

PART A—MURDER-FOR-HIRE AND VIOLENT CRIMES IN AID OF RACKETEERING ACTIVITY

SEC. 1001. (a) Chapter 1 of title 18 of the United States Code is amended by adding a new section 16 as follows:

18 USC 16.

“§ 16. Crime of violence defined

“The term ‘crime of violence’ means—

“(a) an offense that has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or

“(b) any other offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.”.

(b) The analysis for chapter 1 of title 18 of the United States Code is amended by adding at the end thereof the following:

“16. Crime of violence defined.”.

SEC. 1002. (a) Chapter 95 of title 18, United States Code, is amended by adding new sections 1952A and 1952B, following section 1952, as follows:

18 USC 1952A.

“§1952A. Use of interstate commerce facilities in the commission of murder-for-hire

Mail.

“(a) Whoever travels in or causes another (including the intended victim) to travel in interstate or foreign commerce, or uses or causes another (including the intended victim) to use the mail or any facility in interstate or foreign commerce, with intent that a murder be committed in violation of the laws of any State or the United States as consideration for the receipt of, or as consideration for a promise or agreement to pay, anything of pecuniary value, shall be fined not more than \$10,000 or imprisoned for not more than five years, or both; and if personal injury results, shall be fined not more

than \$20,000 and imprisoned for not more than twenty years, or both; and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than \$50,000, or both.

“(b) As used in this section and section 1952B—

Infra.

“(1) ‘anything of pecuniary value’ means anything of value in the form of money, a negotiable instrument, a commercial interest, or anything else the primary significance of which is economic advantage; and

“(2) ‘facility of interstate commerce’ includes means of transportation and communication.

“§ 1952B. Violent crimes in aid of racketeering activity

18 USC 1952B.

“(a) Whoever, as consideration for the receipt of, or as consideration for a promise or agreement to pay, anything of pecuniary value from an enterprise engaged in racketeering activity, or for the purpose of gaining entrance to or maintaining or increasing position in an enterprise engaged in racketeering activity, murders, kidnaps, maims, assaults with a dangerous weapon, commits assault resulting in serious bodily injury upon, or threatens to commit a crime of violence against any individual in violation of the laws of any State or the United States, or attempts or conspires so to do, shall be punished—

“(1) for murder or kidnaping, by imprisonment for any term of years or for life or a fine of not more than \$50,000, or both;

“(2) for maiming, by imprisonment for not more than thirty years or a fine of not more than \$30,000, or both;

“(3) for assault with a dangerous weapon or assault resulting in serious bodily injury, by imprisonment for not more than twenty years or a fine of not more than \$20,000, or both;

“(4) for threatening to commit a crime of violence, by imprisonment for not more than five years or a fine of not more than \$5,000, or both;

“(5) for attempting or conspiring to commit murder or kidnaping, by imprisonment for not more than ten years or a fine of not more than \$10,000, or both; and

“(6) for attempting or conspiring to commit a crime involving maiming, assault with a dangerous weapon, or assault resulting in serious bodily injury, by imprisonment for not more than three years or a fine of not more than \$3,000, or both.

“(b) As used in this section—

“(1) ‘racketeering activity’ has the meaning set forth in section 1961 of this title; and

“(2) ‘enterprise’ includes any partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity, which is engaged in, or the activities of which affect, interstate or foreign commerce.”.

(b) The analysis at the beginning of chapter 95 of title 18 is amended by adding after the item relating to section 1952 the following:

“1952A. Use of interstate commerce facilities in the commission of murder-for-hire.

“1952B. Violent crimes in aid of racketeering activity.”.

PART B—SOLICITATION TO COMMIT A CRIME OF VIOLENCE

SEC. 1003. (a) Chapter 19 of title 18 of the United States Code is amended by adding at the end thereof the following new section:

18 USC 373.

“§ 373. Solicitation to commit a crime of violence

“(a) Whoever, with intent that another person engage in conduct constituting a felony that has as an element the use, attempted use, or threatened use of physical force against the person or property of another in violation of the laws of the United States, and under circumstances strongly corroborative of that intent, solicits, commands, induces, or otherwise endeavors to persuade such other person to engage in such conduct, shall be imprisoned not more than one-half the maximum term of imprisonment or fined not more than one-half of the maximum fine prescribed for the punishment of the crime solicited, or both; or if the crime solicited is punishable by death, shall be imprisoned for not more than twenty years.

“(b) It is an affirmative defense to a prosecution under this section that, under circumstances manifesting a voluntary and complete renunciation of his criminal intent, the defendant prevented the commission of the crime solicited. A renunciation is not ‘voluntary and complete’ if it is motivated in whole or in part by a decision to postpone the commission of the crime until another time or to substitute another victim or another but similar objective. If the defendant raises the affirmative defense at trial, the defendant has the burden of proving the defense by a preponderance of the evidence.

“(c) It is not a defense to a prosecution under this section that the person solicited could not be convicted of the crime because he lacked the state of mind required for its commission, because he was incompetent or irresponsible, or because he is immune from prosecution or is not subject to prosecution.”

(b) The analysis at the beginning of chapter 19 of title 18 is amended by adding after the item relating to section 372 the following:

“373. Solicitation to commit a crime of violence.”

PART C—FELONY-MURDER RULE

SEC. 1004. Section 1111 of title 18 of the United States Code is amended by adding after the word “arson” the words “escape, murder, kidnaping, treason, espionage, sabotage,”.

PART D—MANDATORY PENALTY FOR USE OF A FIREARM DURING A
FEDERAL CRIME OF VIOLENCE

18 USC 924.

SEC. 1005. (a) Subsection (c) of section 924 of title 18 is amended to read as follows:

“(c) Whoever, during and in relation to any crime of violence, including a crime of violence which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device, for which he may be prosecuted in a court of the United States, uses or carries a firearm, shall, in addition to the punishment provided for such crime of violence, be sentenced to imprisonment for five years. In the case of his second or subsequent conviction under this subsection, such person shall be sentenced to imprisonment for ten years. Notwithstanding any other provision of

law, the court shall not place on probation or suspend the sentence of any person convicted of a violation of this subsection, nor shall the term of imprisonment imposed under this subsection run concurrently with any other term of imprisonment including that imposed for the crime of violence in which the firearm was used or carried. No person sentenced under this subsection shall be eligible for parole during the term of imprisonment imposed herein.”.

Prohibition.

PART E—ARMOR-PIERCING BULLETS

SEC. 1006. (a) Chapter 44 of title 18, United States Code, is amended by adding at the end thereof the following:

“§ 929. Use of restricted ammunition

18 USC 929.

“(a) Whoever, during and in relation to the commission of a crime of violence including a crime of violence which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device for which he may be prosecuted in a court of the United States, uses or carries any handgun loaded with armor-piercing ammunition as defined in subsection (b), shall, in addition to the punishment provided for the commission of such crime of violence be sentenced to a term of imprisonment for not less than five nor more than ten years. Notwithstanding any other provision of law, the court shall not suspend the sentence of any person convicted of a violation of this subsection, nor place him on probation, nor shall the term of imprisonment run concurrently with any other terms of imprisonment including that imposed for the felony in which the armor-piercing handgun ammunition was used or carried. No person sentenced under this subsection shall be eligible for parole during the term of imprisonment imposed herein.

“(b) For purposes of this section—

“(1) ‘armor-piercing ammunition’ means ammunition which, when or if fired from any handgun used or carried in violation of subsection (a) under the test procedure of the National Institute of Law Enforcement and Criminal Justice Standard for the Ballistics Resistance of Police Body Armor promulgated December 1978, is determined to be capable of penetrating bullet-resistant apparel or body armor meeting the requirements of Type IIA of Standard NILECJ-STD-0101.01 as formulated by the United States Department of Justice and published in December of 1978; and

“(2) ‘handgun’ means any firearm, including a pistol or revolver, originally designed to be fired by the use of a single hand.”.

(b) The table of sections for chapter 44 of title 18, United States Code, is amended by adding at the end thereof the following:

“929. Use of restricted ammunition.”.

PART F—KIDNAPING OF FEDERAL OFFICIALS

SEC. 1007. Section 1201 of title 18 of the United States Code is amended—

- (1) in subsection (a)(3), by deleting “or” at the end thereof;
- (2) in subsection (a)(4), by deleting the comma at the end thereof and substituting “; or”; and
- (3) by adding after subsection (a)(4) a new subsection (a)(5) to read as follows:

Post, pp. 2142,
2868.

"(5) The person is among those officers and employees designated in section 1114 of this title and any such act against the person is done while the person is engaged in, or on account of, the performance of his official duties,".

PART G—CRIMES AGAINST FAMILY MEMBERS OF FEDERAL OFFICIALS

SEC. 1008. (a) Chapter 7 of title 18 of the United States Code is amended by adding a new section at the end thereof to read as follows:

18 USC 115.

"§ 115. Influencing, impeding, or retaliating against a Federal official by threatening or injuring a family member

Post, pp. 2142,
2868.

"(a) Whoever assaults, kidnaps, or murders, or attempts to kidnap or murder, or threatens to assault, kidnap or murder a member of the immediate family of a United States official, a United States judge, a Federal law enforcement officer, or an official whose killing would be a crime under 18 U.S.C. 1114, as amended, with intent to impede, intimidate, interfere with, or retaliate against such official, judge or law enforcement officer while he is engaged in or on account of the performance of his official duties, shall be punished as provided in subsection (b).

18 USC 111.

"(b)(1) An assault in violation of this section shall be punished as provided in section 111 of this title.

Ante, p. 2139.

"(2) A kidnaping or attempted kidnaping in violation of this section shall be punished as provided in section 1201 of this title.

Ante, p. 2138; 18
USC 1113.

"(3) A murder or attempted murder in violation of this section shall be punished as provided in sections 1111 and 1113 of this title.

"(4) A threat made in violation of this section shall be punished by a fine of not more than \$5,000 or imprisonment for a term of not more than five years, or both, except that imprisonment for a threatened assault shall not exceed three years.

"(c) As used in this section, the term—

"(1) 'Federal law enforcement officer' means any officer, agent, or employee of the United States authorized by law or by a Government agency to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of Federal criminal law;

"(2) 'immediate family member' of an individual means—

"(A) his spouse, parent, brother or sister, child or person to whom he stands in loco parentis; or

"(B) any other person living in his household and related to him by blood or marriage;

"(3) 'United States judge' means any judicial officer of the United States, and includes a justice of the Supreme Court and a United States magistrate; and

"(4) 'United States official' means the President, President-elect, Vice President, Vice President-elect, a Member of Congress, a member-elect of Congress, a member of the executive branch who is the head of a department listed in 5 U.S.C. 101, or the Director of The Central Intelligence Agency."

"(b) The analysis of chapter 7 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"115. Influencing, impeding, or retaliating against a Federal official by threatening or injuring a family member."

**PART H—ADDITION OF CRIMES OF MAIMING AND INVOLUNTARY
SODOMY TO MAJOR CRIMES ACT**

SEC. 1009. Section 1153 of title 18 is amended to read as follows:

“Any Indian who commits against the person or property of another Indian or other person any of the following offenses, namely, murder, manslaughter, kidnaping, maiming, rape, involuntary sodomy, carnal knowledge of any female, not his wife, who has not attained the age of sixteen years, assault with intent to commit rape, incest, assault with intent to commit murder, assault with a dangerous weapon, assault resulting in serious bodily injury, arson, burglary, robbery, and a felony under section 661 of this title within the Indian country, shall be subject to the same law and penalties as all other persons committing any of the above offenses, within the exclusive jurisdiction of the United States.

Indians.

“As used in this section, the offenses of burglary, involuntary sodomy, and incest shall be defined and punished in accordance with the laws of the State in which such offense was committed as are in force at the time of such offense.

18 USC 661.

State and local governments.

“In addition to the offenses of burglary, involuntary sodomy, and incest, any other of the above offenses which are not defined and punished by Federal law in force within the exclusive jurisdiction of the United States shall be defined and punished in accordance with the laws of the State in which such offense was committed as are in force at the time of such offense.”

SEC. 1009A. Section 114 of title 18 is amended by deleting “Shall be fined not more than \$1,000 or imprisoned not more than seven years, or both” and inserting in lieu thereof “Shall be fined not more than \$25,000 and imprisoned not more than twenty years, or both”.

18 USC 114.

PART I—DESTRUCTION OF MOTOR VEHICLES

SEC. 1010. Section 31 of title 18 of the United States Code is amended in the definition of “motor vehicle” by striking out “or passengers and property;” and inserting in lieu thereof “passengers and property, or property or cargo;”.

Post, p. 2187.

PART J—DESTRUCTION OF ENERGY FACILITIES

SEC. 1011. (a) Chapter 65 of title 18, United States Code, is amended by adding at the end thereof the following:

“§ 1365. Destruction of an energy facility

18 USC 1365.

“(a) Whoever knowingly and willfully damages the property of an energy facility in an amount that in fact exceeds \$100,000, or damages the property of an energy facility in any amount and causes a significant interruption or impairment of a function of an energy facility, shall be punishable by a fine of not more than \$50,000 or imprisonment for not more than ten years, or both.

“(b) Whoever knowingly and willfully damages the property of an energy facility in an amount that in fact exceeds \$5,000 shall be punishable by a fine of not more than \$25,000, or imprisonment for not more than five years, or both.

“(c) For purposes of this section, the term ‘energy facility’ means a facility that is involved in the production, storage, transmission, or distribution of electricity, fuel, or another form or source of energy, or research, development, or demonstration facilities relating

49 USC app.
1671.

thereto, regardless of whether such facility is still under construction or is otherwise not functioning, except a facility subject to the jurisdiction, administration, or in the custody of the Nuclear Regulatory Commission or interstate transmission facilities, as defined in 49 U.S.C. 1671.

“(d) The table of contents for chapter 65 of title 18, United States Code, is amended by adding at the end thereof the following new item:

“1365 Destruction of an energy facility.”.

PART K—ASSAULTS UPON FEDERAL OFFICIALS

Post, p. 2868.

SEC. 1012. Section 1114 of title 18 of the United States Code is amended—

(1) by inserting “or attempts to kill” after “kills”;

(2) by striking out “while engaged in the performance of his official duties or on account of the performance of his official duties” and inserting in lieu thereof “or any United States probation or pretrial services officer, or any United States magistrate, or any officer or employee of any department or agency within the Intelligence Community (as defined in section 3.4(F) of Executive Order 12333, December 8, 1981, or successor orders) not already covered under the terms of this section,”;

3 CFR, 1981
Comp., p. 200.

(3) by adding “, or any other officer, agency, or employee of the United States designated for coverage under this section in regulations issued by the Attorney General” after “National Credit Union Administration”; and

(4) by inserting before the period at the end thereof the following: “, except that any such person who is found guilty of attempted murder shall be imprisoned for not more than twenty years”.

PART L—ESCAPE FROM CUSTODY RESULTING FROM CIVIL COMMITMENT

SEC. 1013. Section 1826 of title 28, United States Code is amended by adding a new subsection (c) as follows:

Ante, p. 2059.

“(c) Whoever escapes or attempts to escape from the custody of any facility or from any place in which or to which he is confined pursuant to this section or section 4243 of title 18, or whoever rescues or attempts to rescue or instigates, aids, or assists the escape or attempt to escape of such a person, shall be subject to imprisonment for not more than three years, or a fine of not more than \$10,000, or both.”.

PART M—ARSON AMENDMENTS

SEC. 1014. Section 844 of title 18, United States Code, is amended by—

(1) by deleting “personal injury results” in subsections (d), (f), and (i) and substitute “personal injury results to any person, including any public safety officer performing duties as a direct or proximate result of conduct prohibited by this subsection,”;

(2) by deleting “death results” in subsections (d), (f), and (i) and substitute “death results to any person, including any public safety officer performing duties as a direct or proximate result of conduct prohibited by this subsection,”.

PART N—RACKETEERING IN OBSCENE MATTER

SEC. 1020. Section 1961(1) of title 18, United States Code, is amended— *Ante*, p. 2136.

(1) in clause (A) by inserting after “extortion,” the following: “dealing in obscene matter,”; and

(2) in clause (B) by inserting after “section 1343 (relating to wire fraud),” the following: “sections 1461-1465 (relating to obscene matter),”.

CHAPTER XI—SERIOUS NONVIOLENT OFFENSES

Crimes and
misdemeanors.
Penalties.

PART B—WARNING THE SUBJECT OF A SEARCH

SEC. 1103. Section 2232 of title 18 of the United States Code is amended—

(a) by deleting in the first paragraph “shall be fined not more than \$2,000 or imprisoned not more than one year, or both” and inserting in lieu thereof “shall be fined not more than \$10,000 or imprisoned more than five years, or both;

(b) by adding a new paragraph as follows:

“Whoever, having knowledge that any person authorized to make searches and seizures has been authorized or is otherwise likely to make a search or seizure, in order to prevent the authorized seizing or securing of any person, goods, wares, merchandise or other property, gives notice or attempts to give notice of the possible search or seizure to any person shall be fined not more than \$10,000 or imprisoned not more than five years, or both.”.

PART C—PROGRAM FRAUD AND BRIBERY

SEC. 1104. (a) Chapter 31 of title 18 of the United States Code is amended by adding a new section 666 as follows:

“§ 666. Theft or bribery concerning programs receiving Federal funds

State and local
governments.
18 USC 666.

“(a) Whoever, being an agent of an organization, or of a State or local government agency, that receives benefits in excess of \$10,000 in any one year period pursuant to a Federal program involving a grant, a contract, a subsidy, a loan, a guarantee, insurance, or another form of Federal assistance, embezzles, steals, purloins, willfully misapplies, obtains by fraud, or otherwise knowingly without authority converts to his own use or to the use of another, property having a value of \$5,000 or more owned by or under the care, custody, or control of such organization or State or local government agency, shall be imprisoned for not more than ten years and fined not more than \$100,000 or an amount equal to twice that which was obtained in violation of this subsection, whichever is greater, or both so imprisoned and fined.

“(b) Whoever, being an agent of an organization, or of a State or local government agency, described in subsection (a), solicits, demands, accepts, or agrees to accept anything of value from a person or organization other than his employer or principal for or because of the recipient’s conduct in any transaction or matter or a series of transactions or matters involving \$5,000 or more concerning the affairs of such organization or State or local government agency, shall be imprisoned for not more than ten years or fined not

more than \$100,000 or an amount equal to twice that which was obtained, demanded, solicited or agreed upon in violation of this subsection, whichever is greater, or both so imprisoned and fined.

“(c) Whoever offers, gives, or agrees to give to an agent of an organization or of a State or local government agency, described in subsection (a), anything of value for or because of the recipient’s conduct in any transaction or matter or any series of transactions or matters involving \$5,000 or more concerning the affairs of such organization or State or local government agency, shall be imprisoned not more than ten years or fined not more than \$100,000 or an amount equal to twice that offered, given or agreed to be given, whichever is greater, or both so imprisoned and fined.

“(d) For purposes of this section—

“(1) ‘agent’ means a person or organization authorized to act on behalf of another person, organization or a government and, in the case of an organization or a government, includes a servant or employee, a partner, director, officer, manager and representative;

“(2) ‘organization’ means a legal entity, other than a government, established or organized for any purpose, and includes a corporation, company, association, firm, partnership, joint stock company, foundation, institution, trust, society, union, and any other association of persons;

“(3) ‘government agency’ means a subdivision of the executive, legislative, judicial, or other branch of a government, including a department, independent establishment, commission, administration, authority, board, and bureau; or a corporation or other legal entity established by, and subject to control by, a government or governments for execution of a governmental or intergovernmental program; and

“(4) ‘local’ means of or pertaining to a political subdivision within a State.”

(b) The analysis at the beginning of chapter 31 of title 18 of the United States Code is amended by adding after the item relating to section 665 the following:

“666. Theft or bribery concerning programs receiving Federal funds.”

PART D—COUNTERFEITING OF STATE AND CORPORATE SECURITIES

SEC. 1105. (a) Chapter 25 of title 18 of the United States Code is amended by adding the following new sections at the end thereof:

Post, p. 2768.
18 USC 511.

“§ 511. Securities of the States and private entities

“(a) Whoever makes, utters or possesses a counterfeited security of a State or a political subdivision thereof or of an organization, or whoever makes, utters or possesses a forged security of a State or political subdivision thereof or of an organization, with intent to deceive another person, organization, or government shall be fined not more than \$250,000 or imprisoned for not more than ten years, or both.

“(b) Whoever makes, receives, possesses, sells or otherwise transfers an implement designed for or particularly suited for making a counterfeit or forged security with the intent that it be so used shall be punished by a fine of not more than \$250,000 or by imprisonment for not more than ten years, or both.

“(c) For purposes of this section—

“(1) the term ‘counterfeited’ means a document that purports to be genuine but is not, because it has been falsely made or manufactured in its entirety;

“(2) the term ‘forged’ means a document that purports to be genuine but is not because it has been falsely altered, completed, signed, or endorsed, or contains a false addition thereto or insertion therein, or is a combination of parts of two or more genuine documents;

“(3) the term ‘security’ means—

“(A) a note, stock certificate, treasury stock certificate, bond, treasury bond, debenture, certificate of deposit, interest coupon, bill, check, draft, warrant, debit instrument as defined in section 916(c) of the Electronic Fund Transfer Act (15 U.S.C. 1693(c)), money order, traveler’s check, letter of credit, warehouse receipt, negotiable bill of lading, evidence of indebtedness, certificate of interest in or participation in any profit-sharing agreement collateral-trust certificate, pre-reorganization certificate of subscription, transferable share, investment contract, voting trust certificate, or certificate of interest in tangible or intangible property;

15 USC 1693n.

“(B) an instrument evidencing ownership of goods, wares, or merchandise;

“(C) any other written instrument commonly known as a security;

“(D) a certificate of interest in, certificate of participation in, certificate for, receipt for, or warrant or option or other right to subscribe to or purchase, any of the foregoing; or

“(E) a blank form of any of the foregoing;

“(4) the term ‘organization’ means a legal entity, other than a government, established or organized for any purpose, and includes a corporation, company, association, firm, partnership, joint stock company, foundation, institution, society, union, or any other association or persons which operates in or the activities of which affect interstate or foreign commerce; and

“(5) the term ‘State’ includes a State of the United States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, and any other territory or possession of the United States.”.

(b) The analysis at the beginning of chapter 25 of title 18 is amended by adding after the item relating to section 509 the following:

“510. Securities of the State and private entities.”.

PART E—RECEIPT OF STOLEN BANK PROPERTY

SEC. 1106. Subsection (c) of section 2113 of title 18 is amended to read as follows:

“(c) Whoever receives, possesses, conceals, stores, barter, sells, or disposes of, any property or money or other thing of value which has been taken or stolen from a bank, credit union, or savings and loan association in violation of subsection (b), knowing the same to be property which has been stolen shall be subject to the punishment provided in subsection (b) for the taker.”.

PART F—BANK BRIBERY

SEC. 1107. (a) Section 215 of title 18 is amended to read as follows:

“(a) Whoever, being an officer, director, employee, agent, or attorney of any financial institution, bank holding company, or savings and loan holding company, except as provided by law, directly or indirectly, asks, demands, exacts, solicits, seeks, accepts, receives or agrees to receive anything of value, for himself or for any other person or entity, other than such financial institution, from any person or entity for or in connection with any transaction or business of such financial institution; or

“(b) Whoever, except as provided by law, directly or indirectly, gives, offers, or promises anything of value to any officer, director, employee, agent, or attorney of any financial institution, bank holding company, or savings and loan holding company, or offers or promises any such officer, director, employee, agent, or attorney to give anything of value to any person or entity, other than such financial institution, for or in connection with any transaction or business of such financial institution, shall be fined not more than \$5,000 or three times the value of anything offered, asked, given, received, or agreed to be given or received, whichever is greater, or imprisoned not more than five years, or both; but if the value of anything offered, asked, given, received, or agreed to be given or received does not exceed \$100, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

“(c) As used in this section—

“(1) ‘financial institution’ means—

“(A) any bank the deposits of which are insured by the Federal Deposit Insurance Corporation;

“(B) any member, as defined in section 2 of the Federal Home Loan Bank Act, as amended, of the Federal Home Loan Bank System and any Federal Home Loan Bank;

“(C) any institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation;

“(D) any credit union the accounts of which are insured by the Administrator of the National Credit Union Administration;

“(E) any Federal land bank, Federal land bank association, Federal intermediate credit bank, production credit association, bank for cooperatives; and

“(F) a small business investment company, as defined in section 103 of the Small Business Investment Act of 1958 (15 U.S.C. 662); and

“(2) ‘bank holding company’ or ‘savings and loan holding company’ means any person, corporation, partnership, business trust, association or similar organization which controls a financial institution in such a manner as to be a bank holding company or a savings and loan holding company under the Bank Holding Company Act Amendments of 1956 (12 U.S.C. 1841) or the Savings and Loan Holding Company Amendments of 1967 (12 U.S.C. 1730a).

“(d) This section shall not apply to the payment by a financial institution of the usual salary or director’s fee paid to an officer, director, employee, agent, or attorney thereof, or to a reasonable fee paid by such financial institution to such officer, director, employee, agent, or attorney for services rendered to such financial institution.”

(b) Section 216 of title 18 is repealed, and the section analysis of chapter 11 for section 216 be amended to read:

“216. Repealed.”

12 USC 1422.

12 USC 1841
note.
12 USC 1701
note.

Repeal.
18 USC 216.

PART G—BANK FRAUD

SEC. 1108. (a) Chapter 63 of title 18 of the United States Code is amended by adding a new section as follows:

“§ 1344. Bank fraud

18 USC 1344.

“(a) Whoever knowingly executes, or attempts to execute, a scheme or artifice—

“(1) to defraud a federally chartered or insured financial institution; or

“(2) to obtain any of the moneys, funds, credits, assets, securities or other property owned by or under the custody or control of a federally chartered or insured financial institution by means of false or fraudulent pretenses, representations, or promises, shall be fined not more than \$10,000, or imprisoned not more than five years, or both.

“(b) As used in this section, the term ‘federally chartered or insured financial institution’ means—

“(1) a bank with deposits insured by the Federal Deposit Insurance Corporation;

“(2) an institution with accounts insured by the Federal Savings and Loan Insurance Corporation;

“(3) a credit union with accounts insured by the National Credit Union Administration Board;

“(4) a Federal home loan bank or a member, as defined in section 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422), of the Federal home loan bank system; or

“(5) a bank, banking association, land bank, intermediate credit bank, bank for cooperatives, production credit association, land bank association, mortgage association, trust company, savings bank, or other banking or financial institution organized or operating under the laws of the United States.”.

(b) The analysis for chapter 63 of title 18 of the United States Code is amended by adding at the end thereof the following:

“1344. Bank fraud.”.

PART H—POSSESSION OF CONTRABAND IN PRISON

SEC. 1109. (a) Section 1791 of title 18, United States Code is amended to read as follows:

“§ 1791. Providing or possessing contraband in prison

“(a) OFFENSE.—A person commits an offense if, in violation of a statute, or a regulation, rule, or order issued pursuant thereto—

“(1) he provides, or attempts to provide, to an inmate of a Federal penal or correctional facility—

“(A) a firearm or destructive device;

“(B) any other weapon or object that may be used as a weapon or as a means of facilitating escape;

“(C) a narcotic drug as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802);

“(D) a controlled substance, other than a narcotic drug, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802), or an alcoholic beverage;

“(E) United States currency; or

“(F) any other object; or

“(2) being an inmate of a Federal penal or correctional facility, he makes, possesses, procures, or otherwise provides himself with, or attempts to make, possess, procure, or otherwise provide himself with, anything described in paragraph (1).

“(b) GRADING.—An offense described in this section is punishable by—

“(1) imprisonment for not more than ten years, a fine of not more than \$25,000, or both, if the object is anything set forth in paragraph (1)(A);

“(2) imprisonment for not more than five years, a fine of not more than \$10,000, or both, if the object is anything set forth in paragraph (1)(B) or (1)(C);

“(3) imprisonment for not more than one year, a fine of not more than \$5,000, or both, if the object is anything set forth in paragraph (1)(D) or (1)(E); and

“(4) imprisonment for not more than six months, a fine of not more than \$1,000, or both, if the object is any other object.

“(c) DEFINITIONS.—As used in this section, ‘firearm’ and ‘destructive device’ have the meaning given those terms, respectively, in 18 U.S.C. 921(a) (3) and (4).”

(b) Section 1792 of title 18, United States Code, is amended to read as follows:

“§ 1792. Mutiny and riot prohibited

“Whoever instigates, connives, willfully attempts to cause, assists, or conspires to cause any mutiny or riot, at any Federal penal or correctional facility, shall be imprisoned not more than ten years or fined not more than \$25,000, or both.”;

(c) The analysis at the beginning of chapter 87 of title 18, United States Code, is amended to read as follows:

“CHAPTER 87

“Sec.

“1791. Providing or possessing contraband in prison.

“1792. Mutiny and riot prohibited.”.

(d) Chapter 301 of title 18, United States Code, is amended by adding at the end thereof the following new section:

18 USC 4012.

“§ 4012. Summary seizure and forfeiture of prison contraband

“An officer or employee of the Bureau of Prisons may, pursuant to rules and regulations of the Director of the Bureau of Prisons, summarily seize any object introduced into a Federal penal or correctional facility or possessed by an inmate of such a facility in violation of a rule, regulation or order promulgated by the Director, and such object shall be forfeited to the United States.”; and

(e) The analysis at the beginning of chapter 301 of title 18, United States Code, is amended by adding after the item relating to section 4011 the following:

“4012. Summary seizure and forfeiture of prison contraband.”.

Livestock Fraud
Protection Act.
18 USC 641 note.

PART I—LIVESTOCK FRAUD

SEC. 1110. This Part may be cited as the “Livestock Fraud Protection Act”.

SEC. 1111. Chapter 31 of title 18, United States Code, is amended by adding a new section 667 to read as follows:

“§ 667. Theft of livestock

Ante, p. 2143.
18 USC 667.
Marketing.

“Whoever obtains or uses the property of another which has a value of \$10,000 or more in connection with the marketing of livestock in interstate or foreign commerce with intent to deprive the other of a right to the property or a benefit of the property or to appropriate the property to his own use or the use of another shall be fined not more than \$10,000 or imprisoned not more than five years, or both.”.

SEC. 1112. The analysis of chapter 31 of title 18, United States Code, is amended by inserting at the end thereof the following new item:

“667. Theft of livestock.”.

SEC. 1113. Section 2316 of title 18, United States Code, is amended by striking out “cattle” each place it appears in the section heading and in the text and inserting in lieu thereof in such instance “livestock”.

SEC. 1114. Section 2317 of title 18, United States Code, is amended by striking “cattle” each place it appears in the section heading and in the text and inserting in lieu thereof in such instance “livestock”.

SEC. 1115. The analysis of chapter 113 of title 18, United States Code, is amended by striking out “cattle” in sections 2316 and 2317 and inserting in lieu thereof “livestock”.

PART J—18 U.S.C. 219 AMENDMENT

SEC. 1116. Section 219 of title 18, United States Code, is amended by:

(1) striking out “an officer or employee” and inserting in lieu thereof “a public official”; and

(2) adding at the end thereof the following new paragraph:

“For the purpose of this section ‘public official’ means Member of Congress, the Delegate from the District of Columbia, or Resident Commissioner, either before or after he has qualified, or an officer or employee or person acting for or on behalf of the United States, or any department, agency, or branch of Governments thereof, including the District of Columbia, in any official function, under or by authority of any such department, agency, or branch of Government, or a juror.”.

CHAPTER XII—PROCEDURAL AMENDMENTS

Crimes and
misdemeanors.

PART A—PROSECUTION OF CERTAIN JUVENILES AS ADULTS

SEC. 1201. (a) The first paragraph of section 5032 of title 18 of the United States Code is amended to read as follows:

“A juvenile alleged to have committed an act of juvenile delinquency, other than a violation of law committed within the special maritime and territorial jurisdiction of the United States for which the maximum authorized term of imprisonment does not exceed six months, shall not be proceeded against in any court of the United States unless the Attorney General, after investigation, certifies to the appropriate district court of the United States that (1) the juvenile court or other appropriate court of a State does not have

Post, p. 2150.

jurisdiction or refuses to assume jurisdiction over said juvenile with respect to such alleged act of juvenile delinquency, (2) the State does not have available programs and services adequate for the needs of juveniles, or (3) the offense charged is a crime of violence that is a felony or an offense described in section 841, 952(a), 955, or 959 of title 21, and that there is a substantial Federal interest in the case or the offense to warrant the exercise of Federal jurisdiction."

21 USC 841, 952, 955, 959.

Ante, p. 2149.

(b) The fourth paragraph of section 5032 of title 18 of the United States Code is amended—

(1) by striking "punishable by a maximum term of ten years imprisonment or more, life imprisonment or death," and inserting in lieu thereof: "that is a crime of violence or an offense described in section 841, 952(a), 955, or 959 of title 21,";

(2) by striking out "sixteen" and "sixteenth" and inserting in lieu thereof "fifteen" and "fifteenth" respectively; and

(3) by striking out the period at the end of the paragraph and inserting in lieu thereof: "; however, a juvenile who is alleged to have committed an act after his sixteenth birthday which if committed by an adult would be a felony offense that has as an element thereof the use, attempted use, or threatened use of physical force against the person of another, or that, by its very nature, involves a substantial risk that physical force against the person of another may be used in committing the offense, or would be an offense described in section 32, 81, 844 (d), (e), (f), (h), (i) or 2275 of this title, and who has previously been found guilty of an act which if committed by an adult would have been one of the offenses set forth in this subsection or an offense in violation of a State felony statute that would have been such an offense if a circumstance giving rise to Federal jurisdiction had existed, shall be transferred to the appropriate district court of the United States for criminal prosecution."; and

Post, p. 2187; 18 USC 81, 844; *ante*, p. 2142; 18 USC 2275.

(c) Section 5032 of title 18 of the United States Code is further amended by adding at the end thereof the following:

"Whenever a juvenile transferred to district court under this section is not convicted of the crime upon which the transfer was based or another crime which would have warranted transfer had the juvenile been initially charged with that crime, further proceedings concerning the juvenile shall be conducted pursuant to the provisions of this chapter.

"Any proceedings against a juvenile under this chapter or as an adult shall not be commenced until any prior juvenile court records of such juvenile have been received by the court, or the clerk of the juvenile court has certified in writing that the juvenile has no prior record, or that the juvenile's record is unavailable and why it is unavailable.

"Whenever a juvenile is adjudged delinquent pursuant to the provisions of this chapter, the specific acts which the juvenile has been found to have committed shall be described as part of the official record of the proceedings and part of the juvenile's official record."

SEC. 1202. Section 5038 of title 18 of the United States Code is amended to read as follows:

Confidentiality.

"§ 5038. Use of juvenile records

"(a) Throughout and upon the completion of the juvenile delinquency proceeding, the records shall be safeguarded from disclosure

to unauthorized persons. The records shall be released to the extent necessary to meet the following circumstances:

- "(1) inquiries received from another court of law;
- "(2) inquiries from an agency preparing a presentence report for another court;
- "(3) inquiries from law enforcement agencies where the request for information is related to the investigation of a crime or a position within that agency;
- "(4) inquiries, in writing, from the director of a treatment agency or the director of a facility to which the juvenile has been committed by the court;
- "(5) inquiries from an agency considering the person for a position immediately and directly affecting the national security; and
- "(6) inquiries from any victim of such juvenile delinquency, or if the victim is deceased from the immediate family of such victim, related to the final disposition of such juvenile by the court in accordance with section 5037.

18 USC 5037.

Unless otherwise authorized by this section, information about the juvenile record may not be released when the request for information is related to an application for employment, license, bonding, or any civil right or privilege. Responses to such inquiries shall not be different from responses made about persons who have never been involved in a delinquency proceeding.

"(b) District courts exercising jurisdiction over any juvenile shall inform the juvenile, and his parent or guardian, in writing in clear and nontechnical language, of rights relating to his juvenile record.

"(c) During the course of any juvenile delinquency proceeding, all information and records relating to the proceeding, which are obtained or prepared in the discharge of an official duty by an employee of the court or an employee of any other governmental agency, shall not be disclosed directly or indirectly to anyone other than the judge, counsel for the juvenile and the Government, or others entitled under this section to receive juvenile records.

"(d) Whenever a juvenile is found guilty of committing an act which if committed by an adult would be a felony that is a crime of violence or an offense described in section 841, 952(a), 955, or 959 of title 21, such juvenile shall be fingerprinted and photographed. Except a juvenile described in subsection (f), fingerprints and photographs of a juvenile who is not prosecuted as an adult shall be made available only in accordance with the provisions of subsection (a) of this section. Fingerprints and photographs of a juvenile who is prosecuted as an adult shall be made available in the manner applicable to adult defendants.

21 USC 841, 952, 955, 959.

"(e) Unless a juvenile who is taken into custody is prosecuted as an adult neither the name nor picture of any juvenile shall be made public in connection with a juvenile delinquency proceeding.

Public information.

"(f) Whenever a juvenile has on two separate occasions been found guilty of committing an act which if committed by an adult would be a felony crime of violence or an offense described in section 841, 952(a), 955, or 959 of title 21, the court shall transmit to the Federal Bureau of Investigation, Identification Division, the information concerning the adjudications, including name, date of adjudication, court, offenses, and sentence, along with the notation that the matters were juvenile adjudications."

PART B—WIRETAP AMENDMENTS

SEC. 1203. (a) Section 2518(7) of title 18 of the United States Code is amended by inserting “, the Deputy Attorney General, the Associate Attorney General,” after the words “Attorney General”.

(b) Paragraph (a) of section 2518(7) of title 18 of the United States Code is amended to read as follows:

“(a) an emergency situation exists that involves—

“(i) immediate danger of death or serious physical injury to any person,

“(ii) conspiratorial activities threatening the national security interest, or

“(iii) conspiratorial activities characteristic of organized crime,

that requires a wire or oral communication to be intercepted before an order authorizing such interception can, with due diligence, be obtained, and”.

(c) Subsection (1) of section 2516 of title 18 of the United States Code is amended—

(1) in paragraph (c) by adding “section 1343 (fraud by wire, radio, or television), section 2252 or 2253 (sexual exploitation of children),” after “section 664 (embezzlement from pension and welfare funds),”;

(2) again in paragraph (c) by deleting “section 1503” and substituting “sections 1503, 1512, and 1513”;

(3) by deleting the “or” at the end of paragraph (f), by redesignating present paragraph “(g)” as “(h)”, and by inserting a new paragraph (g) as follows:

“(g) a violation of section 5322 of title 31, United States Code (dealing with the reporting of currency transactions); or” and

(4) in the first paragraph by inserting the words “Deputy Attorney General, Associate Attorney General,” after the words “Attorney General.”.

PART C—EXPANSION OF VENUE FOR THREAT OFFENSES

Mail.
Commerce and
trade.
Imports.

SEC. 1204. (a) The second paragraph of subsection (a) of section 3237 of title 18, United States Code is amended to read as follows:

“Any offense involving the use of the mails, transportation in interstate or foreign commerce, or the importation of an object or person into the United States is a continuing offense and, except as otherwise expressly provided by enactment of Congress, may be inquired of and prosecuted in any district from, through, or into which such commerce, mail matter, or imported object or person moves.”.

Repeal.

(b) Section 3239 of title 18 of the United States Code is deleted, and amend section analysis accordingly.

PART D—INJUNCTIONS AGAINST FRAUD

SEC. 1205. (a) Chapter 63 of title 18 of the United States Code is amended by adding at the end thereof a new section 1345 as follows:

Ante, p. 2147.
18 USC 1345.

“§ 1345. Injunctions against fraud

“Whenever it shall appear that any person is engaged or is about to engage in any act which constitutes or will constitute a violation of this chapter, the Attorney General may initiate a civil proceeding

in a district court of the United States to enjoin such violation. The court shall proceed as soon as practicable to the hearing and determination of such an action, and may, at any time before final determination, enter such a restraining order or prohibition, or take such other action, as is warranted to prevent a continuing and substantial injury to the United States or to any person or class of persons for whose protection the action is brought. A proceeding under this section is governed by the Federal Rules of Civil Procedure, except that, if an indictment has been returned against the respondent, discovery is governed by the Federal Rules of Criminal Procedure.”.

28 USC app.

18 USC app.

(b) The analysis at the beginning of chapter 63 of title 18 is amended by adding after the item relating to section 1343 the following:

“1345. Injunctions against fraud.”.

PART E—GOVERNMENT APPEAL OF POST-CONVICTION NEW TRIAL ORDERS

SEC. 1206. The first paragraph of section 3731 of title 18 of the United States Code is amended by adding, after “indictment or information” the words, “or granting a new trial after verdict or judgment,”.

PART F—WITNESS PROTECTION

SUBPART A

SEC. 1207. This subpart may be cited as the “Witness Security Reform Act of 1984”.

Witness Security
Reform Act of
1984.
18 USC 3521
note.

AUTHORITIES OF ATTORNEY GENERAL

SEC. 1208. Part II of title 18, United States Code, is amended by inserting after chapter 223 the following new chapter:

“CHAPTER 224—PROTECTION OF WITNESSES

“Sec.

“3521. Witness relocation and protection.

“3522. Probationers and parolees.

“3523. Civil judgments.

“3524. Child custody arrangements.

“3525. Victims Compensation Fund.

“3526. Cooperation of other Federal agencies and State governments.

“3527. Additional authority of Attorney General.

“3528. Definition.

“§ 3521. Witness relocation and protection

18 USC 3521.

“(a)(1) The Attorney General may provide for the relocation and other protection of a witness or a potential witness for the Federal Government or for a State government in an official proceeding concerning an organized criminal activity or other serious offense, if the Attorney General determines that an offense involving a crime of violence directed at the witness with respect to that proceeding, an offense set forth in chapter 73 of this title directed at the witness, or a State offense that is similar in nature to either such offense, is likely to be committed. The Attorney General may also provide for the relocation and other protection of the immediate family of, or a person otherwise closely associated with, such witness or potential

18 USC 1501 *et seq.*

witness if the family or person may also be endangered on account of the participation of the witness in the judicial proceeding.

Guidelines.

“(2) The Attorney General shall issue guidelines defining the types of cases for which the exercise of the authority of the Attorney General contained in paragraph (1) would be appropriate.

Claims.

“(3) The United States and its officers and employees shall not be subject to any civil liability on account of any decision to provide or not to provide protection under this chapter.

“(b)(1) In connection with the protection under this chapter of a witness, a potential witness, or an immediate family member or close associate of a witness or potential witness, the Attorney General shall take such action as the Attorney General determines to be necessary to protect the person involved from bodily injury and otherwise to assure the health, safety, and welfare of that person, including the psychological well-being and social adjustment of that person, for as long as, in the judgment of the Attorney General, the danger to that person exists. The Attorney General may, by regulation—

“(A) provide suitable documents to enable the person to establish a new identity or otherwise protect the person;

“(B) provide housing for the person;

“(C) provide for the transportation of household furniture and other personal property to a new residence of the person;

“(D) provide to the person a payment to meet basic living expenses, in a sum established in accordance with regulations issued by the Attorney General, for such times as the Attorney General determines to be warranted;

“(E) assist the person in obtaining employment;

“(F) provide other services necessary to assist the person in becoming self-sustaining;

Confidentiality.

“(G) disclose or refuse to disclose the identity or location of the person relocated or protected, or any other matter concerning the person or the program after weighing the danger such a disclosure would pose to the person, the detriment it would cause to the general effectiveness of the program, and the benefit it would afford to the public or to the person seeking the disclosure, except that the Attorney General shall, upon the request of State or local law enforcement officials or pursuant to a court order, without undue delay, disclose to such officials the identity, location, criminal records, and fingerprints relating to the person relocated or protected when the Attorney General knows or the request indicates that the person is under investigation for or has been arrested for or charged with an offense that is punishable by more than one year in prison or that is a crime of violence; and

“(H) exempt procurement for services, materials, and supplies, and the renovation and construction of safe sites within existing buildings from other provisions of law as may be required to maintain the security of protective witnesses and the integrity of the Witness Security Program.

Records.

The Attorney General shall establish an accurate, efficient, and effective system of records concerning the criminal history of persons provided protection under this chapter in order to provide the information described in subparagraph.

“(2) Deductions shall be made from any payment made to a person pursuant to paragraph (1)(D) to satisfy obligations of that person for family support payments pursuant to a State court order.

“(3) Any person who, without the authorization of the Attorney General, knowingly discloses any information received from the Attorney General under paragraph (1)(G) shall be fined \$5,000 or imprisoned five years, or both.

Confidentiality.
Penalties.

“(c) Before providing protection to any person under this chapter, the Attorney General shall, to the extent practicable, obtain information relating to the suitability of the person for inclusion in the program, including the criminal history, if any, and a psychological evaluation of, the person. The Attorney General shall also make a written assessment in each case of the seriousness of the investigation or case in which the person's information or testimony has been or will be provided and the possible risk of danger to other persons and property in the community where the person is to be relocated and shall determine whether the need for that person's testimony outweighs the risk of danger to the public. In assessing whether a person should be provided protection under this chapter, the Attorney General shall consider the person's criminal record, alternatives to providing protection under this chapter, the possibility of securing similar testimony from other sources, the need for protecting the person, the relative importance of the person's testimony, results of psychological examinations, whether providing such protection will substantially infringe upon the relationship between a child who would be relocated in connection with such protection and that child's parent who would not be so relocated, and such other factors as the Attorney General considers appropriate. The Attorney General shall not provide protection to any person under this chapter if the risk of danger to the public, including the potential harm to innocent victims, outweighs the need for that person's testimony. This subsection shall not be construed to authorize the disclosure of the written assessment made pursuant to this subsection.

Confidentiality.

“(d)(1) Before providing protection to any person under this chapter, the Attorney General shall enter into a memorandum of understanding with that person. Each such memorandum of understanding shall set forth the responsibilities of that person, including—

“(A) the agreement of the person, if a witness or potential witness, to testify in and provide information to all appropriate law enforcement officials concerning all appropriate proceedings;

“(B) the agreement of the person not to commit any crime;

“(C) the agreement of the person to take all necessary steps to avoid detection by others of the facts concerning the protection provided to that person under this chapter;

“(D) the agreement of the person to comply with legal obligations and civil judgments against that person;

“(E) the agreement of the person to cooperate with all reasonable requests of officers and employees of the Government who are providing protection under this chapter;

“(F) the agreement of the person to designate another person to act as agent for the service of process;

“(G) the agreement of the person to make a sworn statement of all outstanding legal obligations, including obligations concerning child custody and visitation;

Post, p. 2157.

“(H) the agreement of the person to disclose any probation or parole responsibilities, and if the person is on probation or parole under State law, to consent to Federal supervision in accordance with section 3522 of this title; and

“(I) the agreement of the person to regularly inform the appropriate program official of the activities and current address of such person.

Each such memorandum of understanding shall also set forth the protection which the Attorney General has determined will be provided to the person under this chapter, and the procedures to be followed in the case of a breach of the memorandum of understanding, as such procedures are established by the Attorney General. Such procedures shall include a procedure for filing and resolution of grievances of persons provided protection under this chapter regarding the administration of the program. This procedure shall include the opportunity for resolution of a grievance by a person who was not involved in the case.

“(2) The Attorney General shall enter into a separate memorandum of understanding pursuant to this subsection with each person protected under this chapter who is eighteen years of age or older. The memorandum of understanding shall be signed by the Attorney General and the person protected.

“(3) The Attorney General may delegate the responsibility initially to authorize protection under this chapter only to the Deputy Attorney General, to the Associate Attorney General, to the Assistant Attorney General in charge of the Criminal Division of the Department of Justice, to the Assistant Attorney General in charge of Civil Rights Division of the Department of Justice (insofar as the delegation relates to a criminal civil rights case), and to one other officer or employee of the Department of Justice.

Ante, p. 2153.

“(e) If the Attorney General determines that harm to a person for whom protection may be provided under section 3521 of this title is imminent or that failure to provide immediate protection would otherwise seriously jeopardize an ongoing investigation, the Attorney General may provide temporary protection to such person under this chapter before making the written assessment and determination required by subsection (c) of this section or entering into the memorandum of understanding required by subsection (d) of this section. In such a case the Attorney General shall make such assessment and determination and enter into such memorandum of understanding without undue delay after the protection is initiated.

Termination.
Children and
youth.

“(f) The Attorney General may terminate the protection provided under this chapter to any person who substantially breaches the memorandum of understanding entered into between the Attorney General and that person pursuant to subsection (d), or who provides false information concerning the memorandum of understanding or the circumstances pursuant to which the person was provided protection under this chapter, including information with respect to the nature and circumstances concerning child custody and visitation. Before terminating such protection, the Attorney General shall send notice to the person involved of the termination of the protection provided under this chapter and the reasons for the termination. The decision of the Attorney General to terminate such protection shall not be subject to judicial review.

“§ 3522. Probationers and parolees

18 USC 3522.

“(a) A probation officer may, upon the request of the Attorney General, supervise any person provided protection under this chapter who is on probation or parole under State law, if the State involved consents to such supervision. Any person so supervised shall be under Federal jurisdiction during the period of supervision and shall, during that period be subject to all laws of the United States which pertain to parolees.

“(b) The failure by any person provided protection under this chapter who is supervised under subsection (a) to comply with the memorandum of understanding entered into by that person pursuant to section 3521(d) of this title shall be grounds for the revocation of probation or parole, as the case may be.

Ante, p. 2153.

“(c) The United States Parole Commission and the Chairman of the Commission shall have the same powers and duties with respect to a probationer or parolee transferred from State supervision pursuant to this section as they have with respect to an offender convicted in a court of the United States and paroled under chapter 311 of this title. The provisions of sections 4201 through 4204, 4205 (a), (e), and (h), 4206 through 4216, and 4218 of this title shall apply following a revocation of probation or parole under this section.

Ante, p. 2027.
18 USC 4201 *et seq.*

“(d) If a person provided protection under this chapter who is on probation or parole and is supervised under subsection (a) of this section has been ordered by the State court which imposed sentence on the person to pay a sum of money to the victim of the offense involved for damage caused by the offense, that penalty or award of damages may be enforced as though it were a civil judgment rendered by a United States district court. Proceedings to collect the moneys ordered to be paid may be instituted by the Attorney General in any United States district court. Moneys recovered pursuant to such proceedings shall be distributed to the victim.

Penalties.

“§ 3523. Civil judgmentsConfidentiality.
18 USC 3523.

“(a) If a person provided protection under this chapter is named as a defendant in a civil cause of action arising prior to or during the period in which the protection is provided, process in the civil proceeding may be served upon that person or an agent designated by that person for that purpose. The Attorney General shall make reasonable efforts to serve a copy of the process upon the person protected at the person's last known address. The Attorney General shall notify the plaintiff in the action whether such process has been served. If a judgment in such action is entered against that person the Attorney General shall determine whether the person has made reasonable efforts to comply with the judgment. The Attorney General shall take appropriate steps to urge the person to comply with the judgment. If the Attorney General determines that the person has not made reasonable efforts to comply with the judgment, the Attorney General may, after considering the danger to the person and upon the request of the person holding the judgment disclose the identity and location of the person to the plaintiff entitled to recovery pursuant to the judgment. Any such disclosure of the identity and location of the person shall be made upon the express condition that further disclosure by the plaintiff of such identity or location may be made only if essential to the plaintiff's efforts to recover under the judgment, and only to such additional persons as is necessary to effect the recovery. Any such disclosure or nondisclo-

Claims.

sure by the Attorney General shall not subject the United States and its officers or employees to any civil liability.

Confidentiality.

“(b)(1) Any person who holds a judgment entered by a Federal or State court in his or her favor against a person provided protection under this chapter may, upon a decision by the Attorney General to deny disclosure of the current identity and location of such protected person, bring an action against the protected person in the United States district court in the district where the person holding the judgment (hereinafter in this subsection referred to as the ‘petitioner’) resides. Such action shall be brought within one hundred and twenty days after the petitioner requested the Attorney General to disclose the identity and location of the protected person. The complaint in such action shall contain statements that the petitioner holds a valid judgment of a Federal or State court against a person provided protection under this chapter and that the petitioner sought to enforce the judgment by requesting the Attorney General to disclose the identity and location of the protected person.

“(2) The petitioner in an action described in paragraph (1) shall notify the Attorney General of the action at the same time the action is brought. The Attorney General shall appear in the action and shall affirm or deny the statements in the complaint that the person against whom the judgment is allegedly held is provided protection under this chapter and that the petitioner requested the Attorney General to disclose the identity and location of the protected person for the purpose of enforcing the judgment.

“(3) Upon a determination (A) that the petitioner holds a judgment entered by a Federal or State court and (B) that the Attorney General has declined to disclose to the petitioner the current identity and location of the protected person against whom the judgment was entered, the court shall appoint a guardian to act on behalf of the petitioner to enforce the judgment. The clerk of the court shall forthwith furnish the guardian with a copy of the order of appointment. The Attorney General shall disclose to the guardian the current identity and location of the protected person and any other information necessary to enable the guardian to carry out his or her duties under this subsection.

Claims.

“(4) It is the duty of the guardian to proceed with all reasonable diligence and dispatch to enforce the rights of the petitioner under the judgment. The guardian shall, however, endeavor to carry out such enforcement duties in a manner that maximizes, to the extent practicable, the safety and security of the protected person. In no event shall the guardian disclose the new identity or location of the protected person without the permission of the Attorney General, except that such disclosure may be made to a Federal or State court in order to enforce the judgment. Any good faith disclosure made by the guardian in the performance of his or her duties under this subsection shall not create any civil liability against the United States or any of its officers or employees.

28 USC app.

“(5) Upon appointment, the guardian shall have the power to perform any act with respect to the judgment which the petitioner could perform, including the initiation of judicial enforcement actions in any Federal or State court or the assignment of such enforcement actions to a third party under applicable Federal or State law. The Federal Rules of Civil Procedure shall apply in any action brought under this subsection to enforce a Federal or State court judgment.

“(6) The costs of any action brought under this subsection with respect to a judgment, including any enforcement action described in paragraph (5), and the compensation to be allowed to a guardian appointed in any such action shall be fixed by the court and shall be apportioned among the parties as follows: the petitioner shall be assessed in the amount the petitioner would have paid to collect on the judgment in an action not arising under the provisions of this subsection; the protected person shall be assessed the costs which are normally charged to debtors in similar actions and any other costs which are incurred as a result of an action brought under this subsection. In the event that the costs and compensation to the guardian are not met by the petitioner or by the protected person, the court may, in its discretion, enter judgment against the United States for costs and fees reasonably incurred as a result of the action brought under this subsection.

Claims.

“(7) No officer or employee of the Department of Justice shall in any way impede the efforts of a guardian appointed under this subsection to enforce the judgment with respect to which the guardian was appointed.

Prohibition.

“(c) The provisions of this section shall not apply to a court order to which section 3524 of this title applies.

“§ 3524. Child custody arrangements

State and local
governments.
18 USC 3524.

“(a) The Attorney General may not relocate any child in connection with protection provided to a person under this chapter if it appears that a person other than that protected person has legal custody of that child.

“(b) Before protection is provided under this chapter to any person (1) who is a parent of a child of whom that person has custody, and (2) who has obligations to another parent of that child with respect to custody or visitation of that child under a court order, the Attorney General shall obtain and examine a copy of such order for the purpose of assuring that compliance with the order can be achieved. If compliance with a visitation order cannot be achieved, the Attorney General may provide protection under this chapter to the person only if the parent being relocated initiates legal action to modify the existing court order under subsection (e)(1) of this section. The parent being relocated must agree in writing before being provided protection to abide by any ensuing court orders issued as a result of an action to modify.

“(c) With respect to any person provided protection under this chapter (1) who is the parent of a child who is relocated in connection with such protection and (2) who has obligations to another parent of that child with respect to custody or visitation of that child under a State court order, the Attorney General shall, as soon as practicable after the person and child are so relocated, notify in writing the child's parent who is not so relocated that the child has been provided protection under this chapter. The notification shall also include statements that the rights of the parent not so relocated to visitation or custody, or both, under the court order shall not be infringed by the relocation of the child and the Department of Justice responsibility with respect thereto. The Department of Justice will pay all reasonable costs of transportation and security incurred in insuring that visitation can occur at a secure location as designated by the United States Marshals Service, but in no event shall it be obligated to pay such costs for visitation in excess of thirty days a year, or twelve in number a year. Additional visitation

may be paid for, in the discretion of the Attorney General, by the Department of Justice in extraordinary circumstances. In the event that the unrellocated parent pays visitation costs, the Department of Justice may, in the discretion of the Attorney General, extend security arrangements associated with such visitation.

“(d)(1) With respect to any person provided protection under this chapter (A) who is the parent of a child who is relocated in connection with such protection and (B) who has obligations to another parent of that child with respect to custody or visitation of that child under a court order, an action to modify that court order may be brought by any party to the court order in the District Court for the District of Columbia or in the district court for the district in which the child’s parent resides who has not been relocated in connection with such protection.

“(2) With respect to actions brought under paragraph (1), the district courts shall establish a procedure to provide a reasonable opportunity for the parties to the court order to mediate their dispute with respect to the order. The court shall provide a mediator for this purpose. If the dispute is mediated, the court shall issue an order in accordance with the resolution of the dispute.

“(3) If, within sixty days after an action is brought under paragraph (1) to modify a court order, the dispute has not been mediated, any party to the court order may request arbitration of the dispute. In the case of such a request, the court shall appoint a master to act as arbitrator, who shall be experienced in domestic relations matters. Rule 53 of the Federal Rules of Civil Procedure shall apply to masters appointed under this paragraph. The court and the master shall, in determining the dispute, give substantial deference to the need for maintaining parent-child relationships, and any order issued by the court shall be in the best interests of the child. In actions to modify a court order brought under this subsection, the court and the master shall apply the law of the State in which the court order was issued or, in the case of the modification of a court order issued by a district court under this section, the law of the State in which the parent resides who was not relocated in connection with the protection provided under this chapter. The costs to the Government of carrying out a court order may be considered in an action brought under this subsection to modify that court order but shall not outweigh the relative interests of the parties themselves and the child.

“(4) Until a court order is modified under this subsection, all parties to that court order shall comply with their obligations under that court order subject to the limitations set forth in subsection (c) of this section.

“(5) With respect to any person provided protection under this chapter who is the parent of a child who is relocated in connection with such protection, the parent not relocated in connection with such protection may bring an action, in the District Court for the District of Columbia or in the district court for the district in which that parent resides, for violation by that protected person of a court order with respect to custody or visitation of that child. If the court finds that such a violation has occurred, the court may hold in contempt the protected person. Once held in contempt, the protected person shall have a maximum of sixty days, in the discretion of the Attorney General, to comply with the court order. If the protected person fails to comply with the order within the time specified by the Attorney General, the Attorney General shall disclose the new

28 USC app.

Confidentiality.

identity and address of the protected person to the other parent and terminate any financial assistance to the protected person unless otherwise directed by the court.

“(6) The United States shall be required by the court to pay litigation costs, including reasonable attorneys’ fees, incurred by a parent who prevails in enforcing a custody or visitation order; but shall retain the right to recover such costs from the protected person.

“(e)(1) In any case in which the Attorney General determines that, as a result of the relocation of a person and a child of whom that person is a parent in connection with protection provided under this chapter, the implementation of a court order with respect to custody or visitation of that child would be substantially impossible, the Attorney General may bring, on behalf of the person provided protection under this chapter, an action to modify the court order. Such action may be brought in the district court for the district in which the parent resides who would not be or was not relocated in connection with the protection provided under this chapter. In an action brought under this paragraph, if the Attorney General establishes, by clear and convincing evidence, that implementation of the court order involved would be substantially impossible, the court may modify the court order but shall, subject to appropriate security considerations, provide an alternative as substantially equivalent to the original rights of the nonrelocating parent as feasible under the circumstances.

“(2) With respect to any State court order in effect to which this section applies, and with respect to any district court order in effect which is issued under this section, if the parent who is not relocated in connection with protection provided under this chapter intentionally violates a reasonable security requirement imposed by the Attorney General with respect to the implementation of that court order, the Attorney General may bring an action in the district court for the district in which that parent resides to modify the court order. The court may modify the court order if the court finds such an intentional violation.

“(3) The procedures for mediation and arbitration provided under subsection (d) of this section shall not apply to actions for modification brought under this subsection.

“(f) In any case in which a person provided protection under this chapter is the parent of a child of whom that person has custody and has obligations to another parent of that child concerning custody and visitation of that child which are not imposed by court order, that person, or the parent not relocated in connection with such protection, may bring an action in the district court of the district in which that parent not relocated resides to obtain an order providing for custody or visitation, or both, of that child. In any such action, all the provisions of subsection (d) of this section shall apply.

“(g) In any case in which an action under this section involves court orders from different States with respect to custody or visitation of the same child, the court shall resolve any conflicts by applying the rules of conflict of laws of the State in which the court is sitting.

“(h)(1) Subject to paragraph (2), the costs of any action described in subsection (d), (e), or (f) of this section shall be paid by the United States.

“(2) The Attorney General shall insure that any State court order in effect to which this section applies and any district court order in

effect which is issued under this section are carried out. The Department of Justice shall pay all costs and fees described in subsections (c) and (d) of this section.

“(i) As used in this section, the term ‘parent’ includes any person who stands in the place of a parent by law.

18 USC 3525.

“§ 3525. Victims Compensation Fund

“(a) The Attorney General may pay restitution to, or in the case of death, compensation for the death of any victim of a crime that causes or threatens death or serious bodily injury and that is committed by any person during a period in which that person is provided protection under this chapter.

Report.

“(b) Not later than four months after the end of each fiscal year, the Attorney General shall transmit to the Congress a detailed report on payments made under this section for such year.

Appropriations authorization.

“(c) There are authorized to be appropriated for the fiscal year 1985 and for each fiscal year thereafter, \$1,000,000 for payments under this section.

Ante, p. 1987.

“(d) The Attorney General shall establish guidelines and procedures for making payments under this section. The payments to victims under this section shall be made for the types of expenses provided for in section 3579(b) of this title, except that in the case of the death of the victim, an amount not to exceed \$50,000 may be paid to the victim’s estate. No payment may be made under this section to a victim unless the victim has sought restitution and compensation provided under Federal or State law or by civil action. Such payments may be made only to the extent the victim, or the victim’s estate, has not otherwise received restitution and compensation, including insurance payments, for the crime involved. Payments may be made under this section to victims of crimes occurring on or after the date of the enactment of this chapter. In the case of a crime occurring before the date of the enactment of this chapter, a payment may be made under this section only in the case of the death of the victim, and then only in an amount not exceeding \$25,000, and such a payment may be made notwithstanding the requirements of the third sentence of this subsection.

Claims.

“(e) Nothing in this section shall be construed to create a cause of action against the United States.

18 USC 3526.

“§ 3526. Cooperation of other Federal agencies and State governments; reimbursement of expenses

“(a) Each Federal agency shall cooperate with the Attorney General in carrying out the provisions of this chapter and may provide, on a reimbursable basis, such personnel and services as the Attorney General may request in carrying out those provisions.

Contracts.

“(b) In any case in which a State government requests the Attorney General to provide protection to any person under this chapter—

“(1) the Attorney General may enter into an agreement with that State government in which that government agrees to reimburse the United States for expenses incurred in providing protection to that person under this chapter; and

“(2) the Attorney General shall enter into an agreement with that State government in which that government agrees to cooperate with the Attorney General in carrying out the provisions of this chapter with respect to all persons.

“§ 3527. Additional authority of Attorney General

“The Attorney General may enter into such contracts or other agreements as may be necessary to carry out this chapter. Any such contract or agreement which would result in the United States being obligated to make outlays may be entered into only to the extent and in such amount as may be provided in advance in an appropriation Act.

Contracts.
18 USC 3527.

“§ 3528. Definition

“For purposes of this chapter, the term ‘State’ means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.”.

SEC. 1209. (a) The table of chapters for part II of title 18, United States Code, is amended by inserting after the item relating to chapter 223 the following new item:

“224. Protection of witnesses 3521”.

(b) Title V of the Organized Crime Control Act of 1970 (84 Stat. 933) is repealed.

SEC. 1210. This subpart and the amendments made by this subpart shall take effect on October 1, 1984.

18 USC 3528.

Repeal.
18 USC note
prec. 3481.
Effective date.
18 USC 3521
note.

Subpart B

SEC. 1211. (a) Chapter 37 of title 28, United States Code, is amended by adding at the end the following new section:

“§ 576. Reemployment rights

“(a) A United States marshal for a judicial district who was appointed from a position in the competitive service (as defined in section 2102 of title 5) in the United States Marshals Service and who, for reasons other than misconduct, neglect of duty, or malfeasance, is removed from such office, is entitled to be reemployed in any vacant position in the competitive service in the United States Marshals Service at the same grade or pay level, or lower, as the individual’s former position if—

“(1) the individual is qualified for the vacant position; and

“(2) the individual has made application for the position not later than ninety days after being removed from office as a United States marshal.

Such individual shall be so reemployed within thirty days after making such application or after being removed from office, whichever is later. An individual denied reemployment under this section in a position because the individual is not qualified for that position may appeal that denial to the Merit Systems Protection Board under section 7701 of title 5.

(b) Any United States marshal serving on the effective date of this section shall continue to serve for the remainder of the term for which such marshal was appointed, unless sooner removed by the President.”.

(c) The table of sections for chapter 37 of title 28, United States Code, is amended by adding at the end the following new item:

“576. Reemployment rights.”.

SEC. 1212. The amendments made by this subpart shall take effect on October 1, 1984.

28 USC 576.

5 USC 2102.

President of U.S.

Effective date.
28 USC 576 note.

PART G—18 U.S.C. 951 AMENDMENTS

SEC. 1209. Section 951 of title 18, United States Code, is amended by—

- (1) striking out "Secretary of State" and inserting in lieu thereof "Attorney General if required in subsection (b)";
- (2) inserting "(a)" before "Whoever" and adding at the end of such subsection the following new subsections:
 - Regulations. "(b) The Attorney General shall promulgate rules and regulations establishing requirements for notification.
 - "(c) The Attorney General shall, upon receipt, promptly transmit one copy of each notification statement filed under this section to the Secretary of State for such comment and use as the Secretary of State may determine to be appropriate from the point of view of the foreign relations of the United States. Failure of the Attorney General to do so shall not be a bar to prosecution under this section.
 - "(d) For purposes of this section, the term 'agent of a foreign government' means an individual who agrees to operate within the United States subject to the direction or control of a foreign government or official, except that such term does not include—
 - "(1) a duly accredited diplomatic or consular officer of a foreign government, who is so recognized by the Department of State;
 - "(2) any officially and publicly acknowledged and sponsored official or representative of a foreign government;
 - "(3) any officially and publicly acknowledged and sponsored member of the staff of, or employee of, an officer, official, or representative described in paragraph (1) or (2), who is not a United States citizen; or
 - "(4) any person engaged in a legal commercial transaction."

PART H—JURISDICTION OVER CRIMES BY UNITED STATES NATIONALS IN PLACES OUTSIDE THE JURISDICTION OF ANY NATION

SEC. 1210. Section 7 of title 18, United States Code, is amended by adding a new paragraph, as follows:

- "(7) Any place outside the jurisdiction of any nation with respect to an offense by or against a national of the United States."

PART I—DEPARTMENT OF JUSTICE INTERNAL OPERATIONS GUIDELINES

Report.

SEC. 1211. The Attorney General shall, not later than twelve months after the date of enactment of this Act, provide a detailed report to the Congress concerning—

- (1) the extent to which internal operating guidelines promulgated by the Attorney General for the direction of the investigative and prosecutorial activities of the Department of Justice have been relied upon by criminal defendants in courts of the United States as the basis for due process challenges to indictment and prosecution by law enforcement authorities of crimes prohibited by Federal statute;
- (2) the extent to which courts of the United States have sustained challenges based upon such guidelines in cases wherein it has been alleged that Federal investigative agents or prosecutorial personnel have failed to comply with the requirements of such internal operating guidelines, and the extent and

nature of such failures to comply as the courts of the United States have found to exist;

(3) the remedial measures taken by the Attorney General to ensure the minimization of such violations of internal operating guidelines by the investigative or prosecutorial personnel of the Department of Justice; and

(4) the advisability of the enactment of legislation that would prohibit criminal defendants in the courts of the United States from relying upon such violations as grounds for the dismissal of indictments, suppression of evidence, or the vacation of judgments of conviction.

PART J—NOTICE ON SOCIAL SECURITY CHECKS

SEC. 1212. (a) The Secretary of the Treasury shall take such steps as may be necessary to provide that all checks issued for payment of benefits under title II of the Social Security Act, and the envelopes in which such checks are mailed, contain a printed notice that the commission of forgery in conjunction with the cashing or attempted cashing of such checks constitutes a violation of Federal law. Such notice shall also state the maximum penalties for forgery under the applicable provisions of title 18 of the United States Code.

Crimes and misdemeanors.
42 USC 1302
note
42 USC 401.

(b) Subsection (a) shall apply with respect to checks issued for months after the ninth month after the date of the enactment of this Act.

Effective date.

PART K—FOREIGN EVIDENCE

SEC. 1217. (a) Chapter 223 of title 18, United States Code, is amended by adding at the end the following new sections:

“§ 3505. Foreign records of regularly conducted activity

18 USC 3505.

“(a)(1) In a criminal proceeding in a court of the United States, a foreign record of regularly conducted activity, or a copy of such record, shall not be excluded as evidence by the hearsay rule if a foreign certification attests that—

“(A) such record was made, at or near the time of the occurrence of the matters set forth, by (or from information transmitted by) a person with knowledge of those matters;

“(B) such record was kept in the course of a regularly conducted business activity;

“(C) the business activity made such a record as a regular practice; and

“(D) if such record is not the original, such record is a duplicate of the original;

unless the source of information or the method or circumstances of preparation indicate lack of trustworthiness.

“(2) A foreign certification under this section shall authenticate such record or duplicate.

“(b) At the arraignment or as soon after the arraignment as practicable, a party intending to offer in evidence under this section a foreign record of regularly conducted activity shall provide written notice of that intention to each other party. A motion opposing admission in evidence of such record shall be made by the opposing party and determined by the court before trial. Failure by a party to file such motion before trial shall constitute a waiver of objection to such record or duplicate, but the court for cause shown may grant relief from the waiver.

Waiver

“(c) As used in this section, the term—

“(1) ‘foreign record of regularly conducted activity’ means a memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions, or diagnoses, maintained in a foreign country;

“(2) ‘foreign certification’ means a written declaration made and signed in a foreign country by the custodian of a foreign record of regularly conducted activity or another qualified person that, if falsely made, would subject the maker to criminal penalty under the laws of that country; and

“(3) ‘business’ includes business, institution, association, profession, occupation, and calling of every kind, whether or not conducted for profit.

18 USC 3506.

“§ 3506. Service of papers filed in opposition to official request by United States to foreign government for criminal evidence

“(a) Except as provided in subsection (b) of this section, any national or resident of the United States who submits, or causes to be submitted, a pleading or other document to a court or other authority in a foreign country in opposition to an official request for evidence of an offense shall serve such pleading or other document on the Attorney General at the time such pleading or other document is submitted.

“(b) Any person who is a party to a criminal proceeding in a court of the United States who submits, or causes to be submitted, a pleading or other document to a court or other authority in a foreign country in opposition to an official request for evidence of an offense that is a subject of such proceeding shall serve such pleading or other document on the appropriate attorney for the Government, pursuant to the Federal Rules of Criminal Procedure, at the time such pleading or other document is submitted.

18 USC app.

“(c) As used in this section, the term ‘official request’ means a letter rogatory, a request under a treaty or convention, or any other request for evidence made by a court of the United States or an authority of the United States having criminal law enforcement responsibility, to a court or other authority of a foreign country.

18 USC 3507.

“§ 3507. Special master at foreign deposition

“Upon application of a party to a criminal case, a United States district court before which the case is pending may, to the extent permitted by a foreign country, appoint a special master to carry out at a deposition taken in that country such duties as the court may direct, including presiding at the deposition or serving as an advisor on questions of United States law. Notwithstanding any other provision of law, a special master appointed under this section shall not decide questions of privilege under foreign law. The refusal of a court to appoint a special master under this section, or of the foreign country to permit a special master appointed under this section to carry out a duty at a deposition in that country, shall not affect the admissibility in evidence of a deposition taken under the provisions of the Federal Rules of Criminal Procedure.”

Prohibition.

18 USC app.

(b) The table of sections for chapter 223 of title 18, United States Code, is amended by adding at the end the following new items:

“3505. Foreign records of regularly conducted activity.

“3506. Service of papers filed in opposition to official request by United States to foreign government for criminal evidence.

“3507. Special master at foreign deposition.”

SEC. 1218. (a) Chapter 213 of title 18, United States Code, is amended by adding at the end the following new section:

“§ 3292. Suspension of limitations to permit United States to obtain foreign evidence 18 USC 3292.

“(a)(1) Upon application of the United States, filed before return of an indictment, indicating that evidence of an offense is in a foreign country, the district court before which a grand jury is impaneled to investigate the offense shall suspend the running of the statute of limitations for the offense if the court finds by a preponderance of the evidence that an official request has been made for such evidence and that it reasonably appears, or reasonably appeared at the time the request was made, that such evidence is, or was, in such foreign country.

“(2) The court shall rule upon such application not later than thirty days after the filing of the application.

“(b) Except as provided in subsection (c) of this section, a period of suspension under this section shall begin on the date on which the official request is made and end on the date on which the foreign court or authority takes final action on the request.

“(c) The total of all periods of suspension under this section with respect to an offense—

“(1) shall not exceed three years; and

“(2) shall not extend a period within which a criminal case must be initiated for more than six months if all foreign authorities take final action before such period would expire without regard to this section.

“(d) As used in this section, the term ‘official request’ means a letter rogatory, a request under a treaty or convention, or any other request for evidence made by a court of the United States or an authority of the United States having criminal law enforcement responsibility, to a court or other authority of a foreign country.”.

(b) The table of sections for chapter 213 of title 18, United States Code, is amended by adding after the item relating to section 3291 the following new item:

“3292. Suspension of limitations to permit United States to obtain foreign evidence.”.

SEC. 1219. Subsection (h) of section 3161 of title 18, United States Code, is amended—

(1) in paragraph (8)(C), by striking out “paragraph (8)(A) of this subsection” and inserting in lieu thereof “subparagraph (A) of this paragraph”; and

(2) by adding at the end the following new paragraph:

“(9) Any period of delay, not to exceed one year, ordered by a district court upon an application of a party and a finding by a preponderance of the evidence that an official request, as defined in section 3292 of this title, has been made for evidence of any such offense and that it reasonably appears, or reasonably appeared at the time the request was made, that such evidence is, or was, in such foreign country.”.

Supra.

SEC. 1220. This part and the amendments made by this part shall take effect thirty days after the date of the enactment of this Act.

Effective date.
18 USC 3505
note.

National
Narcotics Act of
1984.
Drugs and drug
abuse.
Law
enforcement.
21 USC 1201
note.
21 USC 1201.

CHAPTER XIII—NATIONAL NARCOTICS ACT

SEC. 1301. This chapter may be cited as the "National Narcotics Act of 1984".

SEC. 1302. (a) The Congress hereby makes the following findings:

(1) The flow of illegal narcotics into the United States is a major and growing problem.

(2) The problem of illegal drug activity falls across the entire spectrum of Federal activities both nationally and internationally.

(3) Illegal drug trafficking is estimated by the General Accounting Office to be an \$80,000,000,000 per annum industry in the United States.

(4) The annual consumption of drugs has reached epidemic proportions.

(5) Despite the efforts of the United States Government and other nations, the mechanisms for smuggling opium and other hard drugs into the United States remain virtually intact and United States agencies estimate that they are able to interdict no more than 5 to 15 percent of all hard drugs flowing into the country.

(6) Such significant indicators of the drug problem as drug-related deaths, emergency room visits, hospital admissions due to drug-related incidents, and addiction rates are soaring.

(7) Increased drug trafficking is strongly linked to violent, addiction-related crime and recent studies have shown that over 90 percent of heroin users rely upon criminal activity as a means of income.

(8) Much of the drug trafficking is handled by syndicates, a situation which results in increased violence and criminal activity because of the competitive struggle for control of the domestic drug market.

(9) Controlling the supply of illicit drugs is a key to reducing the crime epidemic confronting every region of the country.

(10) The magnitude and scope of the problem requires the establishment of a National Drug Enforcement Policy Board, chaired by the Attorney General, to facilitate coordination of all Federal efforts by relevant agencies.

(11) Such a Board must have responsibility for coordinating the operations of Federal agencies involved in attacking this problem through the development of policy and resources, so that a unified and efficient effort can be undertaken.

(b) It is the purpose of this Act to insure—

(1) the maintenance of a national and international effort against illegal drugs;

(2) that the activities of the Federal agencies involved are fully coordinated; and

(3) that a single, competent, and responsible high-level Board of the United States Government, chaired by the Attorney General, will be charged with this responsibility of coordinating United States policy with respect to national and international drug law enforcement.

SEC. 1303. There is established in the executive branch of the Government a Board to be known as the "National Drug Enforcement Policy Board" (hereinafter in this Act referred to as the "Board"). There shall be at the head of the Board a chairman who shall be the Attorney General (hereinafter in this Act referred to as

National Drug
Enforcement
Policy Board,
establishment.
21 USC 1202.

the "Chairman"). In addition to the Chairman, the Board shall be comprised of the Secretaries of State, Treasury, Defense, Transportation, Health and Human Services, the Director of the Office of Management and Budget, and the Director of Central Intelligence and such other officials as may be appointed by the President. Decisions made by the Board pursuant to section 4(a) of this Act shall be acknowledged by each member thereof in writing.

Infra.

SEC. 1304. (a) The Board shall facilitate coordination of United States operations and policy on illegal drug law enforcement. In the furtherance of that responsibility, the Board shall have the responsibility, and is authorized to—

21 USC 1203.

(1) review, evaluate and develop United States Government policy, strategy and resources with respect to illegal drug law enforcement efforts, including budgetary priorities and a National and International Drug Law Enforcement Strategy;

(2) facilitate coordination of all United States Government efforts to halt national and international trafficking in illegal drugs; and

(3) coordinate the collection and evaluation of information necessary to implement United States policy with respect to illegal drug law enforcement.

(b) For the purpose of coordinating the activities of the several departments and agencies with responsibility for drug law enforcement and implementing the determinations of the Board, it shall be the duty of the Chairman—

(1) to advise the Board in matters concerning drug law enforcement;

(2) to make recommendations to the Board for the coordination of drug enforcement activities;

(3) to correlate and evaluate intelligence and other information on drug law enforcement to support the activities of the Board;

(4) to act as primary adviser to the President and Congress on national and international illegal drug law enforcement programs and policies developed by the Board under subsection (a) of this section and the implementation thereof; and

(5) to perform such other duties as the President may direct.

(c) In carrying out responsibilities under this section, the Chairman, on behalf of the Board, is authorized to—

(1) direct, with the concurrence of the head of the agency employing such personnel, the assignment of Government personnel within the United States Government in order to implement United States policy with respect to illegal drug law enforcement;

(2) provide guidance in the implementation and maintenance of policy, strategy, and resources developed under subsection (a) of this section;

(3) review and approve the reprogramming of funds relating to budgetary priorities developed under subsection (a) of this section;

(4) procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for the grade of GS-18 of the General Schedule;

(5) accept and use donations of property from all Government agencies; and

5 USC 5332.
Gifts and
property.

Mail. (6) use the mails in the same manner as any other department or agency of the executive branch.

Prohibition. (d) Notwithstanding the authority granted in this section, the Board and the Chairman shall not interfere with routine law enforcement or intelligence decisions of any agency and shall undertake no activity inconsistent with the authorities and responsibilities of the Director of Central Intelligence under the provisions of the National Security Act of 1947, as amended, or Executive Order 12333.

50 USC 401 note.
3 CFR, 1981
Comp., p. 200.

(e) The Administrator of the General Services Administration shall provide to the Board on a reimbursable basis such administrative support services as the Chairman may request.

21 USC 1204.

SEC. 1305. The Chairman shall submit to the Congress, within nine months after enactment of this Act, and biannually thereafter, a full and complete report reflecting United States policy with respect to illegal drug law enforcement, plans proposed for the implementation of such policy, and, commencing with the submission of the second report, a full and complete report reflecting accomplishments with respect to the United States policy and plans theretofore submitted to the Congress.

21 USC 1111.

SEC. 1306. Title II of the Drug Abuse Prevention, Treatment and Rehabilitation Act (21 U.S.C. 1112) is amended by adding at the end of section 201 (21 U.S.C. 1111) a new subsection (d) as follows:

Health.

“(d) SUPPORT TO NATIONAL DRUG ENFORCEMENT POLICY BOARD.—One of the duties of the White House Office of Drug Abuse Policy shall be to insure coordination between the National Drug Enforcement Policy Board and the health issues associated with drug abuse.”

Effective date.
21 USC 1201
note.

SEC. 1307. This chapter and the amendments made by this chapter shall take effect January 20, 1985.

**Victims of Crime
Act of 1984.**
42 USC 10601
note.

CHAPTER XIV—VICTIM COMPENSATION AND ASSISTANCE

SEC. 1401. This chapter may be cited as the “Victims of Crime Act of 1984”.

CRIME VICTIMS FUND

Establishment.
42 USC 10601.

SEC. 1402. (a) There is created in the Treasury a separate account to be known as the Crime Victims Fund (hereinafter in this chapter referred to as the “Fund”).

(b) Except as limited by subsection (c), there shall be deposited in the Fund—

(1) all fines that are collected from persons convicted of offenses against the United States except—

(A) fines available for use by the Secretary of the Treasury pursuant to—

(i) section 11(d) of the Endangered Species Act (16 U.S.C. 1540(d)); and

(ii) section 6(d) of the Lacey Act Amendments of 1981 (16 U.S.C. 3375(d)); and

(B) fines to be paid into—

(i) the railroad unemployment insurance account pursuant to the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.);

(ii) the Postal Service Fund pursuant to sections 2601(a)(2) and 2003 of title 39 of the United States Code

and for the purposes set forth in section 404(a)(8) of such title 39;

39 USC 404.

(iii) the navigable waters revolving fund pursuant to section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321); and

(iv) county public school funds pursuant to section 3613 of title 18 of the United States Code;

Ante, pp. 1987, 2005.

(2) penalty assessments collected under section 3013 of title 18 of the United States Code;

Post, p. 2174.

(3) the proceeds of forfeited appearance bonds, bail bonds, and collateral collected under section 3146 of title 18 of the United States Code; and

Ante, pp. 1976, 1982.

(4) any money ordered to be paid into the Fund under section 3671(c)(2) of title 18 of the United States Code.

Ante, pp. 1987, *post*, p. 2175.

(c)(1) If the total deposited in the Fund during a particular fiscal year reaches the sum of \$100 million, the excess over that sum shall be deposited in the general fund of the Treasury and shall not be a part of the Fund.

(2) No deposits shall be made in the Fund after September 30, 1988.

(d)(1) Sums deposited in the Fund shall remain in the Fund and be available for expenditure under this subsection for grants under this title without fiscal year limitation.

Grants.

(2) Fifty percent of the total deposited in the Fund during a particular fiscal year shall be available for grants under section 1403 and fifty percent shall be available for grants under section 1404.

Infra.

Post, p. 2172.

(e) Any sums awarded as part of a grant under this chapter that remain unspent at the end of a fiscal year in which such grant is made may be expended for the purpose for which such grant is made at any time during the next succeeding fiscal year, at the end of which year any remaining unobligated sums shall be returned to the general fund of the Treasury.

Grants.

(f) As used in this section, the term "offenses against the United States" does not include—

(1) a criminal violation of the Uniform Code of Military Justice (10 U.S.C. 801 et seq.);

(2) an offense against the laws of the District of Columbia; and

(3) an offense triable by an Indian tribal court or Court of Indian Offenses.

CRIME VICTIM COMPENSATION

SEC. 1403. (a)(1) Except as provided in paragraph (2), the Attorney General shall make an annual grant from the Fund to an eligible crime victim compensation program of 35 percent of the amounts awarded during the preceding fiscal year, other than amounts awarded for property damage. A grant under this section shall be used by such program only for awards of compensation.

Grants.

42 USC 10602.

(2) If the sums available in the Fund for grants under this section are insufficient to provide grants of 35 percent as provided in paragraph (1), the Attorney General shall make, from the sums available, a grant to each eligible crime victim compensation program so that all such programs receive the same percentage of the amounts awarded by such program during the preceding fiscal year, other than amounts awarded for property damage.

State and local
governments.

(b) A crime victim compensation program is an eligible crime victim compensation program for the purposes of this section if—

(1) such program is operated by a State and offers compensation to victims of crime and survivors of victims of crime for—

(A) medical expenses attributable to a physical injury resulting from compensable crime, including expenses for mental health counseling and care;

(B) loss of wages attributable to a physical injury resulting from a compensable crime; and

(C) funeral expenses attributable to a death resulting from a compensable crime;

(2) such program promotes victim cooperation with the reasonable requests of law enforcement authorities;

(3) such State certifies that grants received under this section will not be used to supplant State funds otherwise available to provide crime victim compensation;

(4) such program, as to compensable crimes occurring within the State, makes compensation awards to victims who are nonresidents of the State on the basis of the same criteria used to make awards to victims who are residents of such State;

(5) such program provides compensation to victims of crimes occurring within such State that would be compensable crimes, but for the fact that such crimes are subject to Federal jurisdiction, on the same basis that such program provides compensation to victims of compensable crimes; and

(6) such program provides such other information and assurances related to the purposes of this section as the Attorney General may reasonably require.

State and local
governments.

(c) A State crime victim compensation program in effect on the date grants may first be made under this section shall be deemed an eligible crime victim compensation program for the purposes of this section until the day after the close of the first regular session of the legislature of that State that begins after such date.

(d) As used in this section—

(1) the term “property damage” does not include damage to prosthetic devices or dental devices;

(2) the term “medical expenses” includes, to the extent provided under the eligible crime victim compensation program, expenses for dental services and devices and prosthetic devices and for services rendered in accordance with a method of healing recognized by the law of the State;

(3) the term “compensable crime” means a crime the victims of which are eligible for compensation under the eligible crime victim compensation program; and

(4) the term “State” includes the District of Columbia, the Commonwealth of Puerto Rico, and any other possession or territory of the United States.

CRIME VICTIM ASSISTANCE

State and local
governments.
Grants.
42 USC 10603.

SEC. 1404. (a)(1) Subject to the availability of money in the Fund, the Attorney General shall make an annual grant from any portion of the Fund not used for grants under section 1403 with respect to a particular fiscal year, and after any deduction under subsection (c), to the chief executive of each State for the financial support of eligible crime victim assistance programs.

(2) Such chief executive shall—

(A) certify that priority shall be given to eligible crime victim assistance programs providing assistance to victims of sexual assault, spousal abuse, or child abuse;

(B) certify that funds awarded to eligible crime victim assistance programs will not be used to supplant State and local funds otherwise available for crime victim assistance; and

(C) provide such other information and assurances related to the purposes of this section as the Attorney General may reasonably require.

(3) The amounts of grants under paragraph (1) shall be—

(A) \$100,000 to each State; and

(B) that portion of the then remaining available money to each State that results from a distribution among the States on the basis of each State's population in relation to the population of all States.

(4) If the amount available for grants under paragraph (1) is insufficient to provide \$100,000 to each State, the funds available shall be distributed equally among the States.

(b)(1) A victim assistance program is an eligible crime victim assistance program for the purposes of this section if such program—

(A) is operated by a public agency or a nonprofit organization, or a combination of such agencies or organizations or of both such agencies and organizations, and provides services to victims of crime;

(B) demonstrates—

(i) a record of providing effective services to victims of crime and financial support from sources other than the Fund; or

(ii) substantial financial support from sources other than the Fund;

(C) utilizes volunteers in providing such services, unless and to the extent the chief executive determines that compelling reasons exist to waive this requirement;

(D) promotes within the community served coordinated public and private efforts to aid crime victims; and

(E) assists potential recipients in seeking crime victim compensation benefits.

(2) An eligible crime victim assistance program shall expend sums received under subsection (a) only for providing services to victims of crime.

(c)(1) The Attorney General may in any fiscal year deduct from amounts available under section 1404 an amount not to exceed 5 percent of the amount in the Fund, and may expend the amount so deducted to provide services to victims of Federal crimes by the Department of Justice, or reimburse other instrumentalities of the Federal Government otherwise authorized to provide such services.

(2) The Attorney General shall appoint or designate an official of the Department of Justice to be the Federal Crime Victim Assistance Administrator (hereinafter in this chapter referred to as the "Federal Administrator") to exercise the responsibilities of the Attorney General under this subsection.

(3) The Federal Administrator shall—

(A) be responsible for monitoring compliance with guidelines for fair treatment of crime victims and witnesses issued under section 6 of the Victim and Witness Protection Act of 1982 (Public Law 97-291);

(B) consult with the heads of Federal law enforcement agencies that have responsibilities affecting victims of Federal crimes;

(C) coordinate victim services provided by the Federal Government with victim services offered by other public agencies and nonprofit organizations; and

(D) perform such other functions related to the purposes of this title as the Attorney General may assign.

Contracts.

(4) The Attorney General may reimburse other instrumentalities of the Federal Government and contract for the performance of functions authorized under this subsection.

(d) As used in this section—

(1) the term “State” includes the District of Columbia, the Commonwealth of Puerto Rico, and, except for the purposes of paragraphs (3)(A) and (4) of subsection (a) of this section, any other territory or possession of the United States; and

(2) the term “services to victims of crime” includes—

(A) crises intervention services;

(B) providing, in an emergency, transportation to court, short-term child care services, and temporary housing and security measures;

(C) assistance in participating in criminal justice proceedings; and

(D) payment of all reasonable costs for a forensic medical examination of a crime victim, to the extent that such costs are otherwise not reimbursed or paid;

(3) the term “services to victims of Federal crime” means services to victims of crime with respect to Federal crime, and includes—

(A) training of law enforcement personnel in the delivery of services to victims of Federal crime;

(B) preparation, publication, and distribution of informational materials—

(i) setting forth services offered to victims of crime; and

(ii) concerning services to victims of Federal crime for use by Federal law enforcement personnel; and

(C) salaries of personnel who provide services to victims of crime, to the extent that such personnel provide such services;

(4) the term “crises intervention services” means counseling to provide emotional support in crises arising from the occurrence of crime; and

(5) the term “chief executive” includes a person designated by a chief executive to perform the functions of the chief executive under this section.

PENALTY ASSESSMENT

SEC. 1405. (a) Chapter 201 of title 18 of the United States Code is amended by adding at the end the following:

18 USC 3013.

“§ 3013. Special assessment on convicted persons

“(a) The court shall assess on any person convicted of an offense against the United States—

“(1) in the case of a misdemeanor—

“(A) the amount of \$25 if the defendant is an individual;
and
“(B) the amount of \$100 if the defendant is a person other
than an individual; and
“(2) in the case of a felony—
“(A) the amount of \$50 if the defendant is an individual;
and
“(B) the amount of \$200 if the defendant is a person other
than an individual.
“(b) Such amount so assessed shall be collected in the manner that
fines are collected in criminal cases.”.
(b) The table of sections for chapter 201 of title 18 of the United
States Code is amended by adding at the end the following:
“3013. Special assessment on convicted persons.”.

SPECIAL FORFEITURE OF COLLATERAL PROFITS OF CRIME

SEC. 1406. (a) Title 18 of the United States Code is amended by
adding after chapter 231 the following:

“CHAPTER 232—SPECIAL FORFEITURE OF COLLATERAL PROFITS OF CRIME

“Sec.

“3671. Order of special forfeiture.

“3672. Notice to victims of order of special forfeiture.

“§ 3671. Order of special forfeiture

18 USC 3671.

“(a) Upon the motion of the United States attorney made at any
time after conviction of a defendant for an offense against the
United States resulting in physical harm to an individual, and after
notice to any interested party, the court shall, if the court deter-
mines that the interest of justice or an order of restitution under
chapter 227 or 231 of this title so requires, order such defendant to
forfeit all or any part of proceeds received or to be received by that
defendant, or a transferee of that defendant, from a contract relat-
ing to a depiction of such crime in a movie, book, newspaper,
magazine, radio or television production, or live entertainment of
any kind, or an expression of that defendant’s thoughts, opinions, or
emotions regarding such crime.

Ante, p. 1987.

“(b) An order issued under subsection (a) of this section shall
require that the person with whom the defendant contracts pay to
the Attorney General any proceeds due the defendant under such
contract.

“(c)(1) Proceeds paid to the Attorney General under this section
shall be retained in escrow in the Crime Victims Fund in the
Treasury by the Attorney General for five years after the date of an
order under this section, but during that five year period may—

“(A) be levied upon to satisfy—

“(i) a money judgment rendered by a United States dis-
trict court in favor of a victim of an offense for which such
defendant has been convicted, or a legal representative of
such victim; and

“(ii) a fine imposed by a court of the United States; and

“(B) if ordered by the court in the interest of justice, be used
to—

“(i) satisfy a money judgment rendered in any court in favor of a victim of any offense for which such defendant has been convicted, or a legal representative of such victim; and

“(ii) pay for legal representation of the defendant in matters arising from the offense for which such defendant has been convicted, but no more than 20 percent of the total proceeds may be so used.

“(2) The court shall direct the disposition of all such proceeds in the possession of the Attorney General at the end of such five years and may require that all or any part of such proceeds be released from escrow and paid into the Crime Victims Fund in the Treasury.

“(d) As used in this section, the term ‘interested party’ includes the defendant and any transferee of proceeds due the defendant under the contract, the person with whom the defendant has contracted, and any person physically harmed as a result of the offense for which the defendant has been convicted.

18 USC 3672.

“§ 3672. Notice to victims of order of special forfeiture

“The United States attorney shall, within thirty days after the imposition of an order under this chapter and at such other times as the Attorney General may require, publish in a newspaper of general circulation in the district in which the offense for which a defendant was convicted occurred, a notice that states—

“(1) the name of, and other identifying information about, the defendant;

“(2) the offense for which the defendant was convicted; and

“(3) that the court has ordered a special forfeiture of certain proceeds that may be used to satisfy a judgment obtained against the defendant by a victim of an offense for which the defendant has been convicted.”

(b) The table of chapters for part II of title 18 of the United States Code is amended by adding after the item for chapter 231 the following:

“232. Special forfeiture of collateral profits of crime.”

ADMINISTRATIVE PROVISIONS

Regulations.
42 USC 10604.

SEC. 1407. (a) The Attorney General may establish such rules, regulations, guidelines, and procedures as are necessary to carry out any function of the Attorney General under this chapter and may delegate to any officer or employee of the Department of Justice any such function as the Attorney General deems appropriate.

Records.

(b) Each recipient of sums under this chapter shall keep such records as the Attorney General shall prescribe, including records that fully disclose the amount and disposition by such recipient of such sums, the total cost of the undertaking for which such sums are used, and that portion of the cost of the undertaking supplied by other sources, and such other records as will facilitate an effective audit.

Audit.

(c) The Attorney General or any duly authorized representative of the Attorney General shall have access, for purpose of audit and examination, to any books, documents, papers, and records of the recipient of sums under this chapter that, in the opinion of the Attorney General or any duly authorized representative of

the Attorney General, may be related to the expenditure of funds received under this chapter.

(d) Except as otherwise provided by Federal law, no officer or employee of the Federal Government, and no recipient of sums under this chapter, shall use or reveal any research or statistical information furnished under this chapter by any person and identifiable to any specific private person for any purpose other than the purpose for which such information was obtained in accordance with this chapter. Such information, and any copy of such information, shall be immune from legal process and shall not, without the consent of the person furnishing such information, be admitted as evidence or used for any purpose in any action, suit, or other judicial, legislative, or administrative proceeding.

Confidentiality.

(e) No person shall on the ground of race, color, religion, national origin, handicap, or sex be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with, any undertaking funded in whole or in part with sums made available under this chapter.

Discrimination, prohibition.

(f) If, after reasonable notice and opportunity for a hearing on the record, the Attorney General finds that a State has failed to comply substantially with any provision of this chapter or a rule, regulation, guideline, or procedure issued under this chapter, or an application submitted in accordance with this chapter or the provisions of any other applicable law, the Attorney General shall—

State and local governments.

(1) terminate payments to such State;

(2) suspend payments to such State until the Attorney General is satisfied that such noncompliance has ended; or

(3) take such other action as the Attorney General deems appropriate.

(h) The Attorney General shall, no later than December 31, 1987, report to the President and to the Congress on the revenue derived from each source described in section 1302 and on the effectiveness of the activities supported under this chapter. The Attorney General may include in such report recommendations for legislation to improve this chapter.

Report.

Ante, p. 2168.

PAROLE PROCEEDING AMENDMENTS

SEC. 1408 (a) Section 4207 of title 18 of the United States Code is amended—

Ante, pp. 2027, 2032.

(1) by striking out “and” at the end of paragraph (4); and

(2) by inserting after paragraph (4) the following new paragraph:

“(5) a statement, which may be presented orally or otherwise, by any victim of the offense for which the prisoner is imprisoned about the financial, social, psychological, and emotional harm done to, or loss suffered by such victim; and”.

(b) Section 6(a) of the Victim and Witness Protection Act of 1982 is amended—

18 USC 1512 note.

(1) in the catchline of paragraph (4), by striking out “Major”;

(2) in paragraph (4), by striking out “if possible, of judicial proceedings relating to their case, including—” and inserting in lieu thereof “if possible, of—”; and

(3) in subparagraph (D) of paragraph (4)—

(A) by inserting “and punishment” after “prosecution”; and

Ante, pp. 2027, 2032. (B) by inserting "a hearing to determine a parole release date and" after "imposed,".

(c) Section 4215 of title 18 of the United States Code is amended—

(1) so that the heading of such section reads as follows:

"§ 4215. Appeal";

(2) in subsection (a)—

(A) in the first sentence—

(i) by striking out "have the decision reconsidered" and inserting in lieu thereof "appeal such decision"; and

(ii) by striking out "regional commissioner" and inserting in lieu thereof "National Appeal Board"; and

(B) by striking out the second sentence; and

(3) in subsection (b), by striking out the first sentence.

(d) The table of sections at the beginning of chapter 311 of title 18 of the United States Code is amended so that the item relating to section 4215 reads as follows:

"4215. Appeal."

EFFECTIVE DATES

42 USC 10601 note. SEC. 1409. (a) Except as provided in subsection (b), this chapter and the amendments made by this chapter shall take effect thirty days after the date of enactment of this joint resolution.

(b) Sections 1402, 1403, 1404, and 1407 of this chapter shall take effect on October 1, 1984.

CONFORMING AMENDMENT

18 USC 3150a. SEC. 1410. Section 3150(a) of title 18 U.S.C. is amended by striking out "the general fund of".

CHAPTER XV—TRADEMARK COUNTERFEITING

Trademark Counterfeiting Act of 1984. 18 USC 2311 note. SEC. 1501. This chapter may be cited as the "Trademark Counterfeiting Act of 1984".

TITLE 18 AMENDMENT

SEC. 1502. (a) Chapter 113 of title 18 of the United States Code is amended by adding at the end the following:

"§ 2320. Trafficking in counterfeit goods or services

Penalties. *Post*, p. 2770. 18 USC 2320. "(a) Whoever intentionally traffics or attempts to traffic in goods or services and knowingly uses a counterfeit mark on or in connection with such goods or services shall, if an individual, be fined not more than \$250,000 or imprisoned not more than five years, or both, and, if a person other than an individual, be fined not more than \$1,000,000. In the case of an offense by a person under this section that occurs after that person is convicted of another offense under this section, the person convicted, if an individual, shall be fined not more than \$1,000,000 or imprisoned not more than fifteen years, or both, and if other than an individual, shall be fined not more than \$5,000,000.

"(b) Upon a determination by a preponderance of the evidence that any articles in the possession of a defendant in a prosecution under this section bear counterfeit marks, the United States may obtain an order for the destruction of such articles.

“(c) All defenses, affirmative defenses, and limitations on remedies that would be applicable in an action under the Lanham Act shall be applicable in a prosecution under this section. In a prosecution under this section, the defendant shall have the burden of proof, by a preponderance of the evidence, of any such affirmative defense.

15 USC 1051
note.

“(d) For the purposes of this section—

“(1) the term ‘counterfeit mark’ means—

“(A) a spurious mark—

“(i) that is used in connection with trafficking in goods or services;

“(ii) that is identical with, or substantially indistinguishable from, a mark registered for those goods or services on the principal register in the United States Patent and Trademark Office and in use, whether or not the defendant knew such mark was so registered; and

“(iii) the use of which is likely to cause confusion, to cause mistake, or to deceive; or

“(B) a spurious designation that is identical with, or substantially indistinguishable from, a designation as to which the remedies of the Lanham Act are made available by reason of section 110 of the Olympic Charter Act;

36 USC 380.

but such term does not include any mark or designation used in connection with goods or services of which the manufacturer or producer was, at the time of the manufacture or production in question authorized to use the mark or designation for the type of goods or services so manufactured or produced, by the holder of the right to use such mark or designation;

“(2) the term ‘traffic’ means transport, transfer, or otherwise dispose of, to another, as consideration for anything of value, or make or obtain control of with intent so to transport, transfer, or dispose of;

“(3) the term ‘Lanham Act’ means the Act entitled ‘An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes’, approved July 5, 1946 (15 U.S.C. 1051 et seq.); and

“(4) the term ‘Olympic Charter Act’ means the Act entitled ‘An Act to incorporate the United States Olympic Association’, approved September 21, 1950 (36 U.S.C. 371 et seq.).”

(b) The table of sections at the beginning of chapter 113 of title 18 of the United States Code is amended by adding at the end the following new item:

“2320. Trafficking in counterfeit goods or services.”.

LANHAM ACT AMENDMENT

SEC. 1503. The Act entitled “An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes”, approved July 5, 1946 (15 U.S.C. 1051 et seq.) is amended—

(1) in section 34 (15 U.S.C. 1116)—

(A) by designating the first paragraph as subsection (a);

(B) by designating the second paragraph as subsection (b);

(C) by designating the third paragraph as subsection (c); and

(D) by adding at the end the following:

Law enforce-
ment.
Claims.

“(d)(1)(A) In the case of a civil action arising under section 32(1)(a) of this Act (15 U.S.C. 1114) or section 110 of the Act entitled ‘An Act to incorporate the United States Olympic Association’, approved September 21, 1950 (36 U.S.C. 380) with respect to a violation that consists of using a counterfeit mark in connection with the sale, offering for sale, or distribution of goods or services, the court may, upon ex parte application, grant an order under subsection (a) of this section pursuant to this subsection providing for the seizure of goods and counterfeit marks involved in such violation and the means of making such marks, and records documenting the manufacture, sale, or receipt of things involved in such violation.

“(B) As used in this subsection the term ‘counterfeit mark’ means—

“(i) a counterfeit of a mark that is registered on the principal register in the United States Patent and Trademark Office for such goods or services sold, offered for sale, or distributed and that is in use, whether or not the person against whom relief is sought knew such mark was so registered; or

“(ii) a spurious designation that is identical with, or substantially indistinguishable from, a designation as to which the remedies of this Act are made available by reason of section 110 of the Act entitled ‘An Act to incorporate the United States Olympic Association’, approved September 21, 1950 (36 U.S.C. 380);

but such term does not include any mark or designation used in connection with goods or services of which the manufacture or producer was, at the time of the manufacture or production in question authorized to use the mark or designation for the type of goods or services so manufactured or produced, by the holder of the right to use such mark or designation.

“(2) The court shall not receive an application under this subsection unless the applicant has given such notice of the application as is reasonable under the circumstances to the United States attorney for the judicial district in which such order is sought. Such attorney may participate in the proceedings arising under such application if such proceedings may affect evidence of an offense against the United States. The court may deny such application if the court determines that the public interest in a potential prosecution so requires.

“(3) The application for an order under this subsection shall—

“(A) be based on an affidavit or the verified complaint establishing facts sufficient to support the findings of fact and conclusions of law required for such order; and

“(B) contain the additional information required by paragraph (5) of this subsection to be set forth in such order.

“(4) The court shall not grant such an application unless—

“(A) the person obtaining an order under this subsection provides the security determined adequate by the court for the payment of such damages as any person may be entitled to recover as a result of a wrongful seizure or wrongful attempted seizure under this subsection; and

“(B) the court finds that it clearly appears from specific facts that—

“(i) an order other than an ex parte seizure order is not adequate to achieve the purposes of section 32 of this Act (15 U.S.C. 1114);

“(ii) the applicant has not publicized the requested seizure;

“(iii) the applicant is likely to succeed in showing that the person against whom seizure would be ordered used a counterfeit mark in connection with the sale, offering for sale, or distribution of goods or services;

“(iv) an immediate and irreparable injury will occur if such seizure is not ordered;

“(v) the matter to be seized will be located at the place identified in the application;

“(vi) the harm to the applicant of denying the application outweighs the harm to the legitimate interests of the person against whom seizure would be ordered of granting the application; and

“(vii) the person against whom seizure would be ordered, or persons acting in concert with such person, would destroy, move, hide, or otherwise make such matter inaccessible to the court, if the applicant were to proceed on notice to such person.

“(5) An order under this subsection shall set forth—

“(A) the findings of fact and conclusions of law required for the order;

“(B) a particular description of the matter to be seized, and a description of each place at which such matter is to be seized;

“(C) the time period, which shall end not later than seven days after the date on which such order is issued, during which the seizure is to be made;

“(D) the amount of security required to be provided under this subsection; and

“(E) a date for the hearing required under paragraph (10) of this subsection.

“(6) The court shall take appropriate action to protect the person against whom an order under this subsection is directed from publicity, by or at the behest of the plaintiff, about such order and any seizure under such order.

“(7) Any materials seized under this subsection shall be taken into the custody of the court. The court shall enter an appropriate protective order with respect to discovery by the applicant of any records that have been seized. The protective order shall provide for appropriate procedures to assure that confidential information contained in such records is not improperly disclosed to the applicant.

Confidentiality.

“(8) An order under this subsection, together with the supporting documents, shall be sealed until the person against whom the order is directed has an opportunity to contest such order, except that any person against whom such order is issued shall have access to such order and supporting documents after the seizure has been carried out.

“(9) The court shall order that a United States marshal or other law enforcement officer is to serve a copy of the order under this subsection and then is to carry out the seizure under such order. The court shall issue orders, when appropriate, to protect the defendant from undue damage from the disclosure of trade secrets or other confidential information during the course of the seizure, including, when appropriate, orders restricting the access of the applicant (or

Confidentiality

any agent or employee of the applicant) to such secrets or information.

“(10)(A) The court shall hold a hearing, unless waived by all the parties, on the date set by the court in the order of seizure. That date shall be not sooner than ten days after the order is issued and not later than fifteen days after the order is issued, unless the applicant for the order shows good cause for another date or unless the party against whom such order is directed consents to another date for such hearing. At such hearing the party obtaining the order shall have the burden to prove that the facts supporting findings of fact and conclusions of law necessary to support such order are still in effect. If that party fails to meet that burden, the seizure order shall be dissolved or modified appropriately.

28 USC app.

“(B) In connection with a hearing under this paragraph, the court may make such orders modifying the time limits for discovery under the Rules of Civil Procedure as may be necessary to prevent the frustration of the purposes of such hearing.

26 USC 6621.

“(11) A person who suffers damage by reason of a wrongful seizure under this subsection has a cause of action against the applicant for the order under which such seizure was made, and shall be entitled to recover such relief as may be appropriate, including damages for lost profits, cost of materials, loss of good will, and punitive damages in instances where the seizure was sought in bad faith, and, unless the court finds extenuating circumstances, to recover a reasonable attorney’s fee. The court in its discretion may award prejudgment interest on relief recovered under this paragraph, at an annual interest rate established under section 6621 of the Internal Revenue Code of 1954, commencing on the date of service of the claimant’s pleading setting forth the claim under this paragraph and ending on the date such recovery is granted, or for such shorter time as the court deems appropriate.”;

(2) in section 35 (15 U.S.C. 1117)—

(A) by inserting “(a)” before “When”; and

(B) by adding at the end the following new subsection:

Ante, p. 2179.

26 USC 6621.

“(b) In assessing damages under subsection (a), the court shall, unless the court finds extenuating circumstances, enter judgment for three times such profits or damages, whichever is greater, together with a reasonable attorney’s fee, in the case of any violation of section 32(1)(a) of this Act (15 U.S.C. 1114(1)(a)) or section 110 of the Act entitled ‘An Act to incorporate the United States Olympic Association’, approved September 21, 1950 (36 U.S.C. 380) that consists of intentionally using a mark or designation, knowing such mark or designation is a counterfeit mark (as defined in section 34(d) of this Act (15 U.S.C. 1116(d))), in connection with the sale, offering for sale, or distribution of goods or services. In such cases, the court may in its discretion award prejudgment interest on such amount at an annual interest rate established under section 6621 of the Internal Revenue Code of 1954, commencing on the date of the service of the claimant’s pleadings setting forth the claim for such entry and ending on the date such entry is made, or for such shorter time as the court deems appropriate.”; and

Ante, p. 2179.

(3) in section 36 (15 U.S.C. 1118), by adding at the end of such section “The party seeking an order under this section for destruction of articles seized under section 34(d) (15 U.S.C. 1116(d)) shall give ten days’ notice to the United States attorney for the judicial district in which such order is sought (unless good cause is shown for lesser notice) and such United States

attorney may, if such destruction may affect evidence of an offense against the United States, seek a hearing on such destruction or participate in any hearing otherwise to be held with respect to such destruction.”.

CHAPTER XVI—CREDIT CARD FRAUD

SEC. 1601. This chapter may be cited as the “Credit Card Fraud Act of 1984”.

SEC. 1602. (a) Chapter 47 of title 18 of the United States Code is amended by adding at the end thereof the following:

Credit Card
Fraud Act of
1984.
18 USC 1001
note.

“§ 1029. Fraud and related activity in connection with access devices

Penalties.
18 USC 1029.

“(a) Whoever—

“(1) knowingly and with intent to defraud produces, uses, or traffics in one or more counterfeit access devices;

“(2) knowingly and with intent to defraud traffics in or uses one or more unauthorized access devices during any one-year period, and by such conduct obtains anything of value aggregating \$1,000 or more during that period;

“(3) knowingly and with intent to defraud possesses fifteen or more devices which are counterfeit or unauthorized access devices; or

“(4) knowingly, and with intent to defraud, produces, traffics in, has control or custody of, or possesses device-making equipment;

shall, if the offense affects interstate or foreign commerce, be punished as provided in subsection (c) of this section.

“(b)(1) Whoever attempts to commit an offense under subsection (a) of this section shall be punished as provided in subsection (c) of this section.

“(2) Whoever is a party to a conspiracy of two or more persons to commit an offense under subsection (a) of this section, if any of the parties engages in any conduct in furtherance of such offense, shall be fined an amount not greater than the amount provided as the maximum fine for such offense under subsection (c) of this section or imprisoned not longer than one-half the period provided as the maximum imprisonment for such offense under subsection (c) of this section, or both.

“(c) The punishment for an offense under subsection (a) or (b)(1) of this section is—

“(1) a fine of not more than the greater of \$10,000 or twice the value obtained by the offense or imprisonment for not more than ten years, or both, in the case of an offense under subsection (a)(2) or (a)(3) of this section which does not occur after a conviction for another offense under either such subsection, or an attempt to commit an offense punishable under this paragraph;

“(2) a fine of not more than the greater of \$50,000 or twice the value obtained by the offense or imprisonment for not more than fifteen years, or both, in the case of an offense under subsection (a)(1) or (a)(4) of this section which does not occur after a conviction for another offense under either such subsection, or an attempt to commit an offense punishable under this paragraph; and

U.S. Secret Service, investigations.

“(3) a fine of not more than the greater of \$100,000 or twice the value obtained by the offense or imprisonment for not more than twenty years, or both, in the case of an offense under subsection (a) of this section which occurs after a conviction for another offense under such subsection, or an attempt to commit an offense punishable under this paragraph.

“(d) The United States Secret Service shall, in addition to any other agency having such authority, have the authority to investigate offenses under this section. Such authority of the United States Secret Service shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury and the Attorney General.

“(e) As used in this section—

“(1) the term ‘access device’ means any card, plate, code, account number, or other means of account access that can be used, alone or in conjunction with another access device, to obtain money, goods, services, or any other thing of value, or that can be used to initiate a transfer of funds (other than a transfer originated solely by paper instrument);

“(2) the term ‘counterfeit access device’ means any access device that is counterfeit, fictitious, altered, or forged, or an identifiable component of an access device or a counterfeit access device;

“(3) the term ‘unauthorized access device’ means any access device that is lost, stolen, expired, revoked, canceled, or obtained with intent to defraud;

“(4) the term ‘produce’ includes design, alter, authenticate, duplicate, or assemble;

“(5) the term ‘traffic’ means transfer, or otherwise dispose of, to another, or obtain control of with intent to transfer or dispose of; and

“(6) the term ‘device-making equipment’ means any equipment, mechanism, or impression designed or primarily used for making an access device or a counterfeit access device.

“(f) This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or of an intelligence agency of the United States, or any activity authorized under title V of the Organized Crime Control Act of 1970) 18 U.S.C. note prec. 3481).”

(b) The table of sections at the beginning of chapter 47 of title 18 of the United States Code is amended by adding at the end the following new item:

“1029. Fraud and related activity in connection with access devices ”

Report.
18 USC 1029
note.

SEC. 1603. The Attorney General shall report to the Congress annually, during the first three years following the date of the enactment of this joint resolution, concerning prosecutions under the section of title 18 of the United States Code added by this chapter.

CHAPTER XVII—SALARIES OF UNITED STATES ATTORNEYS

SEC. 1701. (a) Section 548 of title 28, United States Code, is amended to read as follows:

“§ 548. Salaries

28 USC 548.

“Subject to sections 5315 through 5317 of title 5, the Attorney General shall fix the annual salaries of United States attorneys, assistant United States attorneys, and attorneys appointed under section 543 of this title at rates of compensation not in excess of the rate of basic compensation provided for Executive Level IV of the Executive Schedule set forth in section 5315 of title 5, United States Code.”

5 USC
5315–5317.

28 USC 543.

(b) Section 5315 of title 5, United States Code, is amended by striking out the items relating to the United States Attorney for the Southern District of New York, the United States Attorney for the District of Columbia, the United States Attorney for the Northern District of Illinois, and the United States Attorney for the Central District of California.

CHAPTER XVIII—ARMED CAREER CRIMINALArmed Career
Criminal Act of
1984.
18 USC app.
1201 note.
Penalty.

SEC. 1801. This chapter may be cited as the “Armed Career Criminal Act of 1984”.

SEC. 1802. Section 1202(a) of title VII of the Omnibus Crime Control and Safe Streets Act of 1968 (18 U.S.C. App. 1202(a)) is amended by adding at the end “In the case of a person who receives, possesses, or transports in commerce or affecting commerce any firearm and who has three previous convictions by any court referred to in paragraph (1) of this subsection for robbery or burglary, or both, such person shall be fined not more than \$25,000 and imprisoned not less than fifteen years, and, notwithstanding any other provision of law, the court shall not suspend the sentence of, or grant a probationary sentence to, such person with respect to the conviction under this subsection, and such person shall not be eligible for parole with respect to the sentence imposed under this subsection.”

SEC. 1803. Section 1202(c) of title VII of the Omnibus Crime Control and Safe Streets Act of 1968 (18 U.S.C. App. 1202(c)) is amended—

(1) by striking out the period at the end of paragraph (7) and inserting a semicolon in lieu thereof; and

(2) by adding at the end the following:

“(8) ‘robbery’ means any felony consisting of the taking of the property of another from the person or presence of another by force or violence, or by threatening or placing another person in fear that any person will imminently be subjected to bodily injury; and

“(9) ‘burglary’ means any felony consisting of entering or remaining surreptitiously within a building that is property of another with intent to engage in conduct constituting a Federal or State offense.”

CHAPTER XIX—CRIMINAL JUSTICE ACT REVISIONCriminal Justice
Act Revision of
1984.
18 USC 3006A
note.

SEC. 1901. This chapter may be cited as the “Criminal Justice Act Revision of 1984”.

Subsection (d) of section 3006A of title 18, United States Code, is amended—

(1) by striking out “\$30” in paragraph (1) and inserting in lieu thereof “\$60”;

(2) by striking out “\$20” in paragraph (1) and inserting in lieu thereof “\$40”;

(3) by striking out “, or such other hourly rate, fixed by the Judicial Council of the Circuit, not to exceed the minimum hourly scale established by a bar association for similar services rendered in the district” in paragraph (1);

(4) by striking out “\$1,000” each place it appears in paragraph (2) and inserting in lieu thereof “\$2,000”;

(5) by striking out “\$400” in paragraph (2) and inserting in lieu thereof “\$800”; and

(6) by striking out “\$250” in paragraph (2) and inserting in lieu thereof “\$500”.

CHAPTER XX—TERRORISM

PART A—HOSTAGE TAKING

Act for the Prevention and Punishment of the Crime of Hostage-Taking.
18 USC 1201
note.

SEC. 2001. This part may be cited as the “Act for the Prevention and Punishment of the Crime of Hostage-Taking”.

SEC. 2002. (a) Chapter 55 of title 18 of the United States Code is amended by adding at the end the following new section:

18 USC 1203

“§ 1203. Hostage taking

“(a) Except as provided in subsection (b) of this section, whoever, whether inside or outside the United States, seizes or detains and threatens to kill, to injure, or to continue to detain another person in order to compel a third person or a governmental organization to do or abstain from doing any act as an explicit or implicit condition for the release of the person detained, or attempts to do so, shall be punished by imprisonment for any term of years or for life.

“(b)(1) It is not an offense under this section if the conduct required for the offense occurred outside the United States unless—

“(A) the offender or the person seized or detained is a national of the United States;

“(B) the offender is found in the United States; or

“(C) the governmental organization sought to be compelled is the Government of the United States.

“(2) It is not an offense under this section if the conduct required for the offense occurred inside the United States, each alleged offender and each person seized or detained are nationals of the United States, and each alleged offender is found in the United States, unless the governmental organization sought to be compelled is the Government of the United States.

“(C) As used in this section, the term ‘national of the United States’ has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).”.

(b) The table of sections at the beginning of chapter 55 of title 18 of the United States Code is amended by adding at the end the following new item:

“1203. Hostage taking.”.

Effective date.
18 USC 1203
note.

Sec. 2003. This part and the amendments made by this part shall take effect on the later of—

(1) the date of the enactment of this joint resolution; or

(2) the date the International Convention Against the Taking of Hostages has come into force and the United States has become a party to that convention.

PART B—AIRCRAFT SABOTAGE

Aircraft Sabo-
tage Act.

SHORT TITLE

SEC. 2011. This part may be cited as the “Aircraft Sabotage Act”. 18 USC 31 note.

STATEMENT OF FINDINGS AND PURPOSE

SEC. 2012. The Congress hereby finds that—

Safety.

(1) the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (ratified by the United States on November 1, 1972) requires each contracting State to establish its jurisdiction over certain offenses affecting the safety of civil aviation;

18 USC 31 note.

(2) such offenses place innocent lives in jeopardy, endanger national security, affect domestic tranquility, gravely affect interstate and foreign commerce, and are offenses against the law of nations; and

24 UST 564.

(3) the purpose of this subtitle is to implement fully the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation and to expand the protection accorded to aircraft and related facilities.

24 UST 564.

SEC. 2013. (a) Section 31 of title 18, United States Code, is amended—

Ante, p. 2141.

(1) in the first paragraph by—

(A) striking out “and” before the term “spare part” and inserting “and ‘special aircraft jurisdiction of the United States’” after the term “spare part”; and

(B) striking out “Civil Aeronautics Act of 1938” and inserting in lieu thereof “Federal Aviation Act of 1958”;

(2) by striking out “and” at the end of the third undesignated paragraph thereof;

(3) by striking the period at the end thereof and inserting in lieu thereof “;” ; and

(4) by adding at the end thereof the following new paragraphs:

“‘In flight’ means any time from the moment all the external doors of an aircraft are closed following embarkation until the moment when any such door is opened for disembarkation. In the case of a forced landing the flight shall be deemed to continue until competent authorities take over the responsibility for the aircraft and the persons and property on board; and

“‘In service’ means any time from the beginning of preflight preparation of the aircraft by ground personnel or by the crew for a specific flight until twenty-four hours after any landing; the period of service shall, in any event, extend for the entire period during which the aircraft is in flight.”.

(b) Section 32 of title 18, United States Code, is amended to read as follows:

“§ 32. Destruction of aircraft or aircraft facilities

Penalties.

(a) Whoever willfully—

“(1) sets fire to, damages, destroys, disables, or wrecks any aircraft in the special aircraft jurisdiction of the United States or any civil aircraft used, operated, or employed in interstate, overseas, or foreign air commerce;

“(2) places or causes to be placed a destructive device or substance in, upon, or in proximity to, or otherwise makes or

causes to be made unworkable or unusable or hazardous to work or use, any such aircraft, or any part or other materials used or intended to be used in connection with the operation of such aircraft, if such placing or causing to be placed or such making or causing to be made is likely to endanger the safety of any such aircraft;

“(3) sets fire to, damages, destroys, or disables any air navigation facility, or interferes by force or violence with the operation of such facility, if such fire, damaging, destroying, disabling, or interfering is likely to endanger the safety of any such aircraft in flight;

“(4) with the intent to damage, destroy, or disable any such aircraft, sets fire to, damages, destroys, or disables or places a destructive device or substance in, upon, or in proximity to, any appliance or structure, ramp, landing area, property, machine, or apparatus, or any facility or other material used, or intended to be used, in connection with the operation, maintenance, loading, unloading or storage of any such aircraft or any cargo carried or intended to be carried on any such aircraft;

“(5) performs an act of violence against or incapacitates any individual on any such aircraft, if such act of violence or incapacitation is likely to endanger the safety of such aircraft;

“(6) communicates information, knowing the information to be false and under circumstances in which such information may reasonably be believed, thereby endangering the safety of any such aircraft in flight; or

“(7) attempts to do anything prohibited under paragraphs (1) through (6) of this subsection;

shall be fined not more than \$100,000 or imprisoned not more than twenty years or both.

“(b) Whoever willfully—

“(1) performs an act of violence against any individual on board any civil aircraft registered in a country other than the United States while such aircraft is in flight, if such act is likely to endanger the safety of that aircraft;

“(2) destroys a civil aircraft registered in a country other than the United States while such aircraft is in service or causes damage to such an aircraft which renders that aircraft incapable of flight or which is likely to endanger that aircraft's safety in flight;

“(3) places or causes to be placed on a civil aircraft registered in a country other than the United States while such aircraft is in service, a device or substance which is likely to destroy that aircraft, or to cause damage to that aircraft which renders that aircraft incapable of flight or which is likely to endanger that aircraft's safety in flight; or

“(4) attempts to commit an offense described in paragraphs (1) through (3) of this subsection;

shall, if the offender is later found in the United States, be fined not more than \$100,000 or imprisoned not more than twenty years, or both.

“(c) Whoever willfully imparts or conveys any threat to do an act which would violate any of paragraphs (1) through (5) of subsection (a) or any of paragraphs (1) through (3) of subsection (b) of this section, with an apparent determination and will to carry the threat into execution shall be fined not more than \$25,000 or imprisoned not more than five years, or both.”.

(c) Section 101(38)(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1301(38)(d)), relating to the definition of the term "special aircraft jurisdiction of the United States", is amended—

49 USC app.
1301.

(1) in clause (i), by striking out "; or" and inserting in lieu thereof a semicolon;

(2) at the end of clause (ii), by striking out "and" and inserting in lieu thereof "or"; and

(3) by adding at the end thereof the following new clause:

"(iii) regarding which an offense as defined in subsection (d) or (e) of article I, section I of the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Montreal, September 23, 1971) is committed if the aircraft lands in the United States with an alleged offender still on board; and"

24 UST 564.

SEC. 2014. (a)(1) Section 901 of the Federal Aviation Act of 1958 (49 U.S.C. 1471) is amended by adding at the end thereof the following new subsections:

Penalties.
49 USC app.
1471.

"(c) Whoever imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false and under circumstances in which such information may reasonably be believed, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by subsection (i), (j), (k), or (l) of section 902 of this Act, shall be subject to a civil penalty of not more than \$10,000 which shall be recoverable in a civil action brought in the name of the United States.

"(d) Except for law enforcement officers of any municipal or State government or officers or employees of the Federal Government, who are authorized or required within their official capacities to carry arms, or other persons who may be so authorized under regulations issued by the Administrator, whoever while aboard, or while attempting to board, any aircraft in, or intended for operation in, air transportation or intrastate air transportation, has on or about his person or his property a concealed deadly or dangerous weapon, which is, or would be, accessible to such person in flight shall be subject to a civil penalty of not more than \$10,000 which shall be recoverable in a civil action brought in the name of the United States."

(2) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading

"Sec. 901. Civil penalties."

is amended by inserting at the end thereof:

"(c) Conveying false information.

"(d) Concealed weapons."

(b) Section 901(a)(2) of the Federal Aviation Act of 1958 (49 U.S.C. 1471(a)(2)) is amended by inserting "penalties provided for in subsections (c) and (d) of this section or" after "Secretary of Transportation in the case of".

49 USC app.
1471.

(c)(1) Section 902(l)(1) of the Federal Aviation Act of 1958 (49 U.S.C. 1472(l)(1)) is amended by striking out "\$1,000" and inserting in lieu thereof "\$10,000".

49 USC app.
1472.

(2) Section 902(l)(2) of the Federal Aviation Act of 1958 (49 U.S.C. 1472(l)(2)) is amended by striking out "\$5,000" and inserting in lieu thereof "\$25,000".

49 USC app.
1472.

Penalties.
49 USC app.
1472.

(d)(1) Section 902(m) of the Federal Aviation Act of 1958 (49 U.S.C. 1472(m)) is amended to read as follows:

"FALSE INFORMATION AND THREATS

"(m)(1) Whoever willfully and maliciously, or with reckless disregard for the safety of human life, imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false and under circumstances in which such information may reasonably be believed, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a felony prohibited by subsection (i), (j), (k), or (l) of this section, shall be fined not more than \$25,000 or imprisoned not more than five years, or both.

"(2) Whoever imparts or conveys or causes to be imparted or conveyed any threat to do an act which would be a felony prohibited by subsection (i), (j), (k), or (l) of this section with an apparent determination and will to carry the threat into execution shall be fined not more than \$25,000 or imprisoned not more than five years, or both."

(2) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading

"Sec. 902. Criminal penalties."

is amended by striking out

"(m) False information."

and inserting in lieu thereof

"(m) False information and threats."

Effective date.
18 USC 31 note.

SEC. 2015. This part shall become effective on the date of the enactment of this joint resolution.

Counterfeit Access Device and Computer Fraud and Abuse Act of 1984.
18 USC 1001 note.

CHAPTER XXI—ACCESS DEVICES AND COMPUTERS

SEC. 2101. This chapter may be cited as the "Counterfeit Access Device and Computer Fraud and Abuse Act of 1984".

SEC. 2102. (a) Chapter 47 of title 18 of the United States Code as amended by chapter XVI of this joint resolution is further amended by adding at the end thereof the following:

Penalties.
18 USC 1030.

"§ 1030. Fraud and related activity in connection with computers

"(a) Whoever—

"(1) knowingly accesses a computer without authorization, or having accessed a computer with authorization, uses the opportunity such access provides for purposes to which such authorization does not extend, and by means of such conduct obtains information that has been determined by the United States Government pursuant to an Executive order or statute to require protection against unauthorized disclosure for reasons of national defense or foreign relations, or any restricted data, as defined in paragraph r. of section 11 of the Atomic Energy Act of 1954, with the intent or reason to believe that such information so obtained is to be used to the injury of the United States, or to the advantage of any foreign nation;

"(2) knowingly accesses a computer without authorization, or having accessed a computer with authorization, uses the oppor-

42 USC 2014.

tunity such access provides for purposes to which such authorization does not extend, and thereby obtains information contained in a financial record of a financial institution, as such terms are defined in the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 et seq.), or contained in a file of a consumer reporting agency on a consumer, as such terms are defined in the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.); or

“(3) knowingly accesses a computer without authorization, or having accessed a computer with authorization, uses the opportunity such access provides for purposes to which such authorization does not extend, and by means of such conduct knowingly uses, modifies, destroys, or discloses information in, or prevents authorized use of, such computer, if such computer is operated for or on behalf of the Government of the United States and such conduct affects such operation;

shall be punished as provided in subsection (c) of this section. It is not an offense under paragraph (2) or (3) of this subsection in the case of a person having accessed a computer with authorization and using the opportunity such access provides for purposes to which such access does not extend, if the using of such opportunity consists only of the use of the computer.

“(b)(1) Whoever attempts to commit an offense under subsection (a) of this section shall be punished as provided in subsection (c) of this section.

“(2) Whoever is a party to a conspiracy of two or more persons to commit an offense under subsection (a) of this section, if any of the parties engages in any conduct in furtherance of such offense, shall be fined an amount not greater than the amount provided as the maximum fine for such offense under subsection (c) of this section or imprisoned not longer than one-half the period provided as the maximum imprisonment for such offense under subsection (c) of this section, or both.

“(c) The punishment for an offense under subsection (a) or (b)(1) of this section is—

“(1)(A) a fine of not more than the greater of \$10,000 or twice the value obtained by the offense or imprisonment for not more than ten years, or both, in the case of an offense under subsection (a)(1) of this section which does not occur after a conviction for another offense under such subsection, or an attempt to commit an offense punishable under this subparagraph; and

“(B) a fine of not more than the greater of \$100,000 or twice the value obtained by the offense or imprisonment for not more than twenty years, or both, in the case of an offense under subsection (a)(1) of this section which occurs after a conviction for another offense under such subsection, or an attempt to commit an offense punishable under this subparagraph; and

“(2)(A) a fine of not more than the greater of \$5,000 or twice the value obtained or loss created by the offense or imprisonment for not more than one year, or both, in the case of an offense under subsection (a)(2) or (a)(3) of this section which does not occur after a conviction for another offense under such subsection, or an attempt to commit an offense punishable under this subparagraph; and

“(B) a fine of not more than the greater of \$10,000 or twice the value obtained or loss created by the offense or imprisonment for not more than ten years, or both, in the case of an offense under subsection (a)(2) or (a)(3) of this section which occurs after

a conviction for another offense under such subsection, or an attempt to commit an offense punishable under this subparagraph.

U.S. Secret
Service,
investigations.

“(d) The United States Secret Service shall, in addition to any other agency having such authority, have the authority to investigate offenses under this section. Such authority of the United States Secret Service shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury and the Attorney General.

“(e) As used in this section, the term ‘computer’ means an electronic, magnetic, optical, electrochemical, or other high speed data processing device performing logical, arithmetic, or storage functions, and includes any data storage facility or communications facility directly related to or operating in conjunction with such device, but such term does not include an automated typewriter or typesetter, a portable hand held calculator, or other similar device.”.

(b) The table of sections at the beginning of chapter 47 of title 18 of the United States Code is amended by adding at the end the following new items:

“1030. Fraud and related activity in connection with computers.”.

Report.
18 USC 1030
note.

SEC. 2103. The Attorney General shall report to the Congress annually, during the first three years following the date of the enactment of this joint resolution, concerning prosecutions under the sections of title 18 of the United States Code added by this chapter.

CHAPTER XXII

State and local
governments.
Labor relations.
29 USC 524a.

SEC. 2201. Notwithstanding this or any other Act regulating labor-management relations, each State shall have the authority to enact and enforce, as part of a comprehensive statutory system to eliminate the threat of pervasive racketeering activity in an industry that is, or over time has been, affected by such activity, a provision of law that applies equally to employers, employees, and collective bargaining representatives, which provision of law governs service in any position in a local labor organization which acts or seeks to act in that State as a collective bargaining representative pursuant to the National Labor Relations Act, in the industry that is subject to that program.

29 USC 167.

CHAPTER XXIII

Penalties.
Ante, p. 2040.

SEC. 2301. (a) Subsection (a) of section 1963 of title 18 of the United States Code, as amended by chapter III of this title, is further amended by adding at the end the following: “In lieu of a fine otherwise authorized by this section, a defendant who derives profits or other proceeds from an offense may be fined not more than twice the gross profits or other proceeds.”

(b) Section 1963 of title 18 of the United States Code, as amended by chapter III of this title, is further amended by striking out subsection (d).

(c) Section 1963 (m)(1) of title 18 of the United States Code, as amended by chapter III of this title, is further amended by striking out “for at least seven successive court days”.

21 USC 853.

(d) Section 413(a) of title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970, as amended by chapter III of this title, is further amended by adding at the end the following: “In lieu of a fine otherwise authorized by this part, a defendant who

derives profits or other proceeds from an offense may be fined not more than twice the gross profits or other proceeds.”

(e) Section 413 of title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970, as amended by chapter III of this title, is further amended—

Ante, p. 2040.
21 USC 853.

(1) by striking out subsection (d); and

(2) by redesignating subsections (e), (f), (g), (h), (i), (l), (m), (n), (o), and (p) as subsections (d), (e), (f), (g), (h), (i), (j), (h), (l), (m), (n), and (o) respectively.

(f) Section 413(n) of title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970, as amended by chapter III of this title, and as so redesignated by this chapter, is further amended by striking out “for at least seven successive court days”.

SEC. 2302. Part D of title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970, as amended by chapter III of this title and this chapter, is further amended by adding at the end the following new section:

“ALTERNATIVE FINE

“SEC. 415. In lieu of a fine otherwise authorized by this part, a defendant who derives profits or other proceeds from an offense may be fined not more than twice the gross profits or other proceeds.”.

Ante, p. 2044.
21 USC 855.

SEC. 2303. (a) Section 524 of title 28 of the United States Code, as amended by chapter III of this title, is further amended in subsection (c)(1)—

Ante, p. 2052.

(1) by striking out “and” at the end of subparagraph (c);

(2) by striking out the period at the end of subparagraph (1) and inserting a semicolon in lieu thereof; and

(3) by inserting after subparagraph (D) the following:

“(E) for equipping for law enforcement functions of forfeited vessels, vehicles, and aircraft retained as provided by law for official use by the Drug Enforcement Administration or the Immigration and Naturalization Service; and

“(F) for purchase of evidence of any violation of the Controlled Substances Act or the Controlled Substances Import and Export Act.”.

Drugs and drug
abuse.
Hazardous
materials.
Imports and
exports.
Transportation.

(b) Section 524 of title 28 of the United States Code, as amended by chapter III of this title, is further amended in subsection (c)—

(1) by inserting after paragraph (2) the following new paragraph:

“(3) Any amount under subparagraph (F) of subsection (c)(1) of this section shall be paid at the discretion of the Attorney General or his delegate, except that the authority to pay \$100,000 or more may be delegated only to the respective head of the agency involved.”; and

(2) by redesignating paragraphs (3) through (8) as (4) through (9) respectively.

SEC. 2304. Section 613(a) of the Tariff Act of 1930, as amended by chapter III of this title, is further amended—

Ante, p. 2054.

(1) by striking out “and” at the end of subsection (a)(1);

(2) by striking out the period at the end of subsection (a)(2) and inserting a semicolon in lieu thereof;

(3) by inserting after paragraph (2) of subsection (a) the following:

“(3) for equipping for law enforcement functions of forfeited vessels, vehicles, and aircraft retained as provided by law for official use by the United States Customs Service; and

Hazardous
materials.
Imports and
exports.
Transportation.

31 USC 5301 *et seq.*

“(4) purchases by the United States Customs Service for evidence (A) of smuggling of controlled substances, and (B) of violations of the currency and foreign transaction reporting requirements of chapter 53 of title 31, United States Code, if there is a substantial probability that the violation of these requirements are related to the smuggling of controlled substances”;

(4) by inserting after subsection (a) the following:

“(b) If the expense of keeping the vessel, vehicle, aircraft, merchandise, or baggage is disproportionate to the value thereof, and such value is less than \$1,000, such officer may proceed forthwith to order destruction or other appropriate disposition of such property, under regulations prescribed by the Secretary of the Treasury.

“(c) Amounts under subsection (a) of this section shall be available, at the discretion of the Commissioner of Customs, to reimburse the applicable appropriation for expenses incurred by the Coast Guard for a purpose specified in such subsection.”; and

(5) by redesignating subsections (b) through (f) as subsections (d) through (h) respectively.

President's
Emergency Food
Assistance Act of
1984.
Third world
nations.
7 USC 1728 note.

TITLE III—PRESIDENT'S EMERGENCY FOOD ASSISTANCE ACT OF 1984

SHORT TITLE

SEC. 301. This title may be cited as the “President's Emergency Food Assistance Act of 1984”.

PART A—PRESIDENT'S EMERGENCY FUND

FINDINGS

7 USC 1728.

SEC. 302. The Congress finds that—

(1) acute food crises continue to cause loss of life, severe malnutrition, and general human suffering in many areas of the Third World, especially in sub-Saharan Africa;

(2) the United States continues to respond to these needs, as a reflection of its humanitarian concern for the people of the Third World, with emergency food and other necessary assistance to alleviate the suffering of those affected by severe food shortages;

(3) the timely provision of food and other necessary assistance to those in need is of paramount importance if the worst effects of such food crises are to be mitigated; and

(4) the ability of the United States to provide food and other necessary assistance on a timely basis, and to ensure that such assistance is distributed to those in need, should be enhanced in order to better enable the United States to help those affected by severe food shortages.

ESTABLISHMENT OF THE FUND

President's
Emergency Food
Assistance Fund.
7 USC 1728a.

SEC. 303. (a) There is hereby established the President's Emergency Food Assistance Fund (hereafter in this title referred to as the “Fund”). Whenever the President determines it to be in the national interest of the United States, he is authorized to furnish, in accordance with the provisions of this part, and on such terms and conditions as he may determine, assistance from the Fund for the

purpose of alleviating the human suffering of peoples outside the United States caused by acute food shortages. Such assistance may be provided through such governments or other entities, private or public, including intergovernmental and multilateral organizations, as the President deems appropriate.

(b) Because the effects of severe food shortages will vary with the country or region, assistance to alleviate human suffering may include the provision of food assistance or such activities as the provision of seed, animal fodder, animal vaccines, and transportation (including inland transportation) and distribution services.

(c) There are authorized to be appropriated to the President \$50,000,000 each for fiscal year 1985 and fiscal year 1986 to carry out the purposes of this title, to remain available until expended.

(d) The President may make loans, advances, and grants to, make and perform agreements and contracts with, or enter into transactions with, any individual, corporation, or other body of persons, government or government agency, whether within or without the United States, and international and intergovernmental organizations in furtherance of the purposes and within the limitations of this title.

Appropriations
authorization.

President of U.S.
Grants.
Contracts.

REPORTS

SEC. 304. Not later than December 31 of each year, the President shall submit a comprehensive report to the appropriate committees of Congress detailing all activities carried out under the authority of this title during the previous fiscal year.

President of U.S.
7 USC 1728b.

PART B—FOOD FOR PEACE PROGRAM

TRANSPORTATION AND STORAGE

SEC. 305. Section 203 of the Agricultural Trade Development and Assistance Act of 1954 is amended by inserting after the semicolon at the end of clause (4) the following: "in the case of commodities for urgent and extraordinary relief requirements, including prepositioned commodities, transportation costs from designated points of entry or ports of entry abroad to storage and distribution sites and associated storage and distribution costs;"

7 USC 1723.

TITLE IV

SEC. 401. (a)(1) Notwithstanding any provision of title XX of the Social Security Act, the amount applicable under section 2003(c)(3) of such Act shall be \$2,725,000,000 for fiscal year 1985. Of such amount, \$25,000,000 shall be allotted and used in accordance with this section.

(2) In addition to any other amounts appropriated under this resolution or any Act, there are hereby appropriated \$25,000,000 for fiscal year 1985, for carrying out title XX of the Social Security Act, to be used in accordance with the provisions of this section.

(3) Amounts appropriated under this section shall remain available until September 30, 1985, without regard to section 102 of this resolution.

(4) Except as otherwise provided in this section, each State's allotment of the additional amounts authorized and appropriated under this section shall be the same proportion of \$25,000,000 as such State's proportional allotment of other title XX funds for fiscal

State and local
governments.
Appropriations
authorizations.
42 USC 1397b
note.
42 USC 1397.
97 Stat 861.
42 USC 1397.

Ante, p. 1852.

	year 1985, as determined under section 2003 of the Social Security Act.
42 USC 1397b.	(b) The additional \$25,000,000 made available to the States for fiscal year 1985 pursuant to subsection (a) shall—
Children and youth.	(1) be used only for the purpose of providing training and retraining (including training in the prevention of child abuse in child care settings) to providers of licensed or registered child care services, operators and staffs (including those receiving in-service training) of facilities where licensed or registered child care services are provided, State licensing and enforcement officials, and parents;
	(2) be expended only to supplement the level of any funds that would, in the absence of the additional funds appropriated under this section, be available from other sources (including any amounts available under title XX of the Social Security Act without regard to this section) for the purpose specified in paragraph (1), and shall in no case supplant such funds from other sources or reduce the level thereof; and
42 USC 1397.	(3) be separately accounted for in the reports and audits provided for in section 2006 of the Social Security Act.
Reports Audits. 42 USC 1397e. Children and youth.	(c)(1) In order to provide guidance and assistance to the States in utilizing funds allocated pursuant to title XX of the Social Security Act, not later than 3 months after the date of enactment of this section, the Secretary shall draft and distribute to the States for their consideration, a Model Child Care Standards Act containing—
	(A) minimum licensing or registration standards for day care centers, group homes, and family day care homes regarding matters including—
	(i) the training, development, supervision, and evaluation of staff;
	(ii) staff qualification requirements, by job classification;
	(iii) staff-child ratios;
	(iv) probation periods for new staff;
	(v) employment history checks for staff; and
	(vi) parent visitation; and
Effective date.	(2)(A) Any State receiving an allotment under such title from the funds made available as a result of subsection (a) shall have in effect, not later than September 30, 1985—
	(i) procedures, established by State law or regulation, to provide for employment history and background checks; and
86 Stat. 1109.	(ii) provisions of State law, enacted in accordance with the provisions of Public Law 92-544 (86 Stat. 115) requiring nationwide criminal record checks
	for all operators, staff or employees, or prospective operators, staff or employees of child care facilities (including any facility or program having primary custody of children for 20 hours or more per week), juvenile detention, correction or treatment facilities, with the objective of protecting the children involved and promoting such children's safety and welfare while receiving service through such facilities or programs.
	(B) In the case of any State not meeting the requirements of subparagraph (A) by September 30, 1985, such State's allotment for fiscal year 1986 or 1987 shall be reduced in the aggregate by an amount equal to one-half of the amount by which such State's allotment under such title was increased for fiscal year 1985 as a result of subsection (a).

(d) The determination and promulgation required by section 2003(b) of the Social Security Act with respect to the fiscal year 1985 (to take into account the preceding provisions of this section) shall be made as soon as possible after the date of the enactment of this Act. 42 USC 1397b.

SEC. 402. (a) The Congress finds that—

(1) disturbing increases have occurred in recent years in the numbers of younger Americans who are abused;

(2) many children who run away from home, who fall prey to pornography and prostitution, who suffer from a dependency on alcohol and drugs, and who become juvenile offenders, have been victims of child abuse;

(3) research has shown that abuse tends to repeat itself, and many times parents who abuse their children were once victims themselves;

(4) given the increased demand for treatment and crisis intervention in child abuse and neglect cases, Federal funds distributed to States are most often used for treatment and little is left for prevention efforts;

(5) since 1980 some States have begun to recognize the critical need for prevention efforts, and trust funds (generated by surcharges on marriage licenses, birth certificates or divorce actions, or by special checkoffs on income tax returns) are being established to allow such States to pay for child abuse and neglect prevention activities despite depressed State economies and budget cutbacks;

(6) in recognition of the increased cases of child abuse and neglect, other States have established significant funds for child abuse and neglect prevention activities through direct appropriations; and

(7) the Nation cannot afford to ignore the importance of preventing child abuse.

(b) It is the purpose of sections 402 to 409, by providing for Federal challenge grants, to encourage States to establish and maintain trust funds or other funding mechanisms, including appropriations to support child abuse and neglect prevention activities.

Children and
youth.
42 USC 5116.

DEFINITIONS

SEC. 403. As used in sections 402 to 409—

(1) the term "Secretary" means the Secretary of Health and Human Services; and

(2) the term "State" means each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

42 USC 5116a.

GRANTS AUTHORIZED

SEC. 404. (a) The Secretary is authorized, in accordance with the provisions of sections 402 to 409, to make grants to eligible States.

(b) Payments under sections 402 to 409 may be made in any fiscal year following the fiscal year in which any State has collected funds for child abuse and neglect prevention activities through a trust fund or other funding mechanism.

(c) There is authorized to be appropriated such sums as are necessary to carry out the provisions of sections 402 to 409 for the fiscal year 1985 and for each of the four succeeding fiscal years.

State and local
governments.
42 USC 5116b.

STATE ELIGIBILITY

Grants.
42 USC 5116c.

SEC. 405. Any State is eligible for a grant under sections 402 to 409 for any fiscal year if such State has established or maintained in the previous fiscal year a trust fund or other funding mechanism, including appropriations, which is available only for child abuse and neglect prevention activities, including activities which—

(1) provide statewide educational and public informational seminars for the purpose of developing appropriate public awareness regarding the problems of child abuse and neglect;

(2) encourage professional persons and groups to recognize and deal with problems of child abuse and neglect;

(3) make information about the problems of child abuse and neglect available to the public and organizations and agencies which deal with problems of child abuse and neglect; and

(4) encourage the development of community prevention programs, including—

(A) community-based educational programs on parenting, prenatal care, perinatal bonding, child development, basic child care, care of children with special needs, coping with family stress, personal safety and sexual abuse prevention training for children, and self-care training for latchkey children; and

(B) community-based programs relating to crisis care, aid to parents, child-abuse counseling, peer support groups for abusive or potentially abusive parents and their children, lay health visitors, respite or crisis child care, and early identification of families where the potential for child abuse and neglect exists.

LIMITATIONS

Grants.
State and local
governments.
42 USC 5116d.

SEC. 406. (a)(1) Any grant made to any eligible State under sections 402 to 409 in any fiscal year shall be equal to the lesser of—

(A) 25 percent of the total amount made available by such State for child abuse and neglect prevention activities and collected in the previous fiscal year in a trust fund (excluding any interest income from the principal of such fund) or through any other funding mechanism, including appropriations; or

(B) an amount equal to 50 cents times the number of children residing in such State according to the most current data available to the Secretary.

(2) For purposes of clause (B) of paragraph (1), the term “children” means individuals who have not attained the age of majority, as defined by such State.

(b)(1) No grant may be made to any eligible State unless an application is made to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary deems essential to carry out the purposes and provisions of sections 402 to 409. Each application shall—

(A) specify that the trust fund advisory board, or in States without a trust fund mechanism, the State liaison agency to the National Center on Child Abuse and Neglect, established by section 2 of the Child Abuse Prevention and Treatment Act, will be responsible for administering and awarding of the Federal grants to eligible recipients carrying out activities described in section 5;

42 USC 5101.

(B) provide assurances that any assistance received under sections 402 to 409 shall not be used as a source for non-Federal funds for the matching requirements of any other provision of Federal law; and

(C) provide for keeping records and making such reasonable reports as the Secretary deems essential to carry out the purposes and provisions of sections 402 to 409.

Records.
Reports.

(2) The Secretary shall approve any application that meets the requirements of this subsection, and the Secretary shall not disapprove any such application except after reasonable notice of the Secretary's intention to disapprove and opportunity for a hearing with respect to the disapproval.

WITHHOLDING

SEC. 407. Whenever the Secretary, after reasonable notice to any State and opportunity for hearing within the State, finds that there has been a failure to comply with any provision of sections 402 to 409, the Secretary shall notify the State that further payments will not be made under sections 402 to 409 until the Secretary is satisfied that there is no longer any such failure to comply. Until the Secretary is so satisfied, no further payments shall be made under sections 402 to 409.

State and local
governments.
42 USC 5116e.

AUDIT

SEC. 408. The Comptroller General of the United States, and any of his duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of any applicant and any other entity receiving assistance under sections 402 to 409 that are pertinent to the sums received and disbursed under sections 402 to 409.

42 USC 5116f.

REPORT

SEC. 409. The Secretary shall prepare and submit to the Congress at the end of each year a compilation and analysis of any reports submitted by eligible States under section 6(b)(1)(C).

42 USC 5116g.

Approved October 12, 1984.

LEGISLATIVE HISTORY—H J Res. 648 (S.J. Res. 356):

HOUSE REPORTS: No. 98-1030 (Comm. on Appropriations) and No. 98-1159 (Comm. of Conference).

SENATE REPORT No. 98-634 accompanying S.J. Res. 356 (Comm. on Appropriations)

CONGRESSIONAL RECORD, Vol. 130 (1984):

Sept. 25, considered and passed House.

Sept. 27-29, Oct. 1-4, considered and passed Senate, amended.

Oct. 10, House agreed to conference report, receded from its disagreement and concurred in a certain Senate amendment.

Oct. 11, Senate agreed to conference report.

Public Law 98-474
98th Congress

An Act

Oct. 12, 1984
[H.R. 3979]

To establish a national program to increase the availability of information on the health consequences of smoking, to amend the Federal Cigarette Labeling and Advertising Act to change the label requirements for cigarettes, and for other purposes.

Comprehensive
Smoking Edu-
cation Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

15 USC 1331
note.

SECTION 1. This Act may be cited as the “Comprehensive Smoking Education Act”.

PURPOSE

15 USC 1331
note.

SEC. 2. It is the purpose of this Act to provide a new strategy for making Americans more aware of any adverse health effects of smoking, to assure the timely and widespread dissemination of research findings and to enable individuals to make informed decisions about smoking.

SMOKING RESEARCH, EDUCATION, AND INFORMATION

15 USC 1341.

SEC. 3. (a) The Secretary of Health and Human Services (hereinafter in this section referred to as the “Secretary”) shall establish and carry out a program to inform the public of any dangers to human health presented by cigarette smoking. In carrying out such program, the Secretary shall—

(1) conduct and support research on the effect of cigarette smoking on human health and develop materials for informing the public of such effect;

(2) coordinate all research and educational programs and other activities within the Department of Health and Human Services (hereinafter in this section referred to as the “Department”) which relate to the effect of cigarette smoking on human health and coordinate, through the Interagency Committee on Smoking and Health (established under subsection (b)), such activities with similar activities of other Federal agencies and of private agencies;

(3) establish and maintain a liaison with appropriate private entities, other Federal agencies, and State and local public agencies respecting activities relating to the effect of cigarette smoking on human health;

(4) collect, analyze, and disseminate (through publications, bibliographies, and otherwise) information, studies, and other data relating to the effect of cigarette smoking on human health, and develop standards, criteria, and methodologies for improved information programs related to smoking and health;

(5) compile and make available information on State and local laws relating to the use and consumption of cigarettes; and

(6) undertake any other additional information and research activities which the Secretary determines necessary and appropriate to carry out this section.

(b)(1) To carry out the activities described in paragraphs (2) and (3) of subsection (a) there is established an Interagency Committee on Smoking and Health. The Committee shall be composed of—

Establishment.

(A) members appointed by the Secretary from appropriate institutes and agencies of the Department, which may include the National Cancer Institute, the National Heart, Lung, and Blood Institute, the National Institute of Child Health and Human Development, the National Institute on Drug Abuse, the Health Resources and Services Administration, and the Centers for Disease Control;

(B) at least one member appointed from the Federal Trade Commission, the Department of Education, the Department of Labor, and any other Federal agency designated by the Secretary, the appointment of whom shall be made by the head of the entity from which the member is appointed; and

(C) five members appointed by the Secretary from physicians and scientists who represent private entities involved in informing the public about the health effects of smoking.

The Secretary shall designate the chairman of the Committee.

(2) While away from their homes or regular places of business in the performance of services for the Committee, members of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the manner provided by sections 5702 and 5703 of title 5 of the United States Code.

(3) The Secretary shall make available to the Committee such staff, information, and other assistance as it may require to carry out its activities effectively.

(c) The Secretary shall transmit a report to Congress not later than January 1, 1985, and biennially thereafter which shall contain—

Report.

(1) an overview and assessment of Federal activities undertaken to inform the public of the health consequences of smoking and the extent of public knowledge of such consequences,

(2) a description of the Secretary's and Committee's activities under subsection (a),

(3) information regarding the activities of the private sector taken in response to the effects of smoking on health, and

(4) such recommendations as the Secretary may consider appropriate.

LABELS FOR CIGARETTES AND CIGARETTE ADVERTISING

SEC. 4. (a) Section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333) is amended to read as follows:

“LABELING

“SEC. 4. (a)(1) It shall be unlawful for any person to manufacture, package, or import for sale or distribution within the United States any cigarettes the package of which fails to bear, in accordance with the requirements of this section, one of the following labels:

“SURGEON GENERAL'S WARNING: Smoking Causes Lung Cancer, Heart Disease, Emphysema, And May Complicate Pregnancy.

"SURGEON GENERAL'S WARNING: Quitting Smoking Now Greatly Reduces Serious Risks to Your Health.

"SURGEON GENERAL'S WARNING: Smoking By Pregnant Women May Result in Fetal Injury, Premature Birth, And Low Birth Weight.

"SURGEON GENERAL'S WARNING: Cigarette Smoke Contains Carbon Monoxide.

"(2) It shall be unlawful for any manufacturer or importer of cigarettes to advertise or cause to be advertised (other than through the use of outdoor billboards) within the United States any cigarette unless the advertising bears, in accordance with the requirements of this section, one of the following labels:

"SURGEON GENERAL'S WARNING: Smoking Causes Lung Cancer, Heart Disease, Emphysema, And May Complicate Pregnancy.

"SURGEON GENERAL'S WARNING: Quitting Smoking Now Greatly Reduces Serious Risks to Your Health.

"SURGEON GENERAL'S WARNING: Smoking By Pregnant Women May Result in Fetal Injury, Premature Birth, And Low Birth Weight.

"SURGEON GENERAL'S WARNING: Cigarette Smoke Contains Carbon Monoxide.

"(3) It shall be unlawful for any manufacturer or importer of cigarettes to advertise or cause to be advertised within the United States through the use of outdoor billboards any cigarette unless the advertising bears, in accordance with the requirements of this section, one of the following labels:

"SURGEON GENERAL'S WARNING: Smoking Causes Lung Cancer, Heart Disease, And Emphysema.

"SURGEON GENERAL'S WARNING: Quitting Smoking Now Greatly Reduces Serious Health Risks.

"SURGEON GENERAL'S WARNING: Pregnant Women Who Smoke Risk Fetal Injury And Premature Birth.

"SURGEON GENERAL'S WARNING: Cigarette Smoke Contains Carbon Monoxide.

"(b)(1) Each label statement required by paragraph (1) of subsection (a) shall be located in the place label statements were placed on cigarette packages as of the date of the enactment of this subsection. The phrase 'Surgeon General's Warning' shall appear in capital letters and the size of all other letters in the label shall be the same as the size of such letters as of such date of enactment. All the letters in the label shall appear in conspicuous and legible type in contrast by typography, layout, or color with all other printed material on the package.

"(2) The format of each label statement required by paragraph (2) of subsection (a) shall be the format required for label statements in cigarette advertising as of the date of the enactment of this subsection, except that the phrase 'Surgeon General's Warning' shall appear in capital letters, the area of the rectangle enclosing the label shall be 50 per centum larger in size with a corresponding increase in the size of the type in the label, the width of the rule forming the border around the label shall be twice that in effect on such date, and the label may be placed at a distance from the outer edge of the advertisement which is one-half the distance permitted on such date. Each label statement shall appear in conspicuous and legible type in contrast by typography, layout, or color with all other printed material in the advertisement.

“(3) The format and type style of each label statement required by paragraph (3) of subsection (a) shall be the format and type style required in outdoor billboard advertising as of the date of the enactment of this subsection. Each such label statement shall be printed in capital letters of the height of the tallest letter in a label statement on outdoor advertising of the same dimension on such date of enactment. Each such label statement shall be enclosed by a black border which is located within the perimeter of the format required in outdoor billboard advertising of the same dimension on such date of enactment and the width of which is twice the width of the vertical element of any letter in the label statement within the border.

“(c) The label statements specified in paragraphs (1), (2), and (3) of subsection (a) shall be rotated by each manufacturer or importer of cigarettes quarterly in alternating sequence on packages of each brand of cigarettes manufactured by the manufacturer or importer and in the advertisements for each such brand of cigarettes in accordance with a plan submitted by the manufacturer or importer and approved by the Federal Trade Commission. The Federal Trade Commission shall approve a plan submitted by a manufacturer or importer of cigarettes which will provide the rotation required by this subsection and which assures that all of the labels required by paragraphs (1), (2), and (3) will be displayed by the manufacturer or importer at the same time.

“(d) Subsection (a) does not apply to a distributor or a retailer of cigarettes who does not manufacture, package, or import cigarettes for sale or distribution within the United States.”

(b) The amendment made by subsection (a) shall take effect upon the expiration of a one-year period beginning on the date of the enactment of this Act.

Effective date.
15 USC 1333
note.

CIGARETTE INGREDIENTS

SEC. 5. (a) The Federal Cigarette Labeling and Advertising Act is amended by redesignating sections 7 through 12 as sections 8 through 13, respectively, and by inserting after section 6 the following new section:

15 USC 1336-
1340, 1331 note.

“CIGARETTE INGREDIENTS

“SEC. 7. (a) Each person who manufactures, packages, or imports cigarettes shall annually provide the Secretary with a list of the ingredients added to tobacco in the manufacture of cigarettes which does not identify the company which uses the ingredients or the brand of cigarettes which contain the ingredients. A person or group of persons required to provide a list by this subsection may designate an individual or entity to provide the list required by this subsection.

15 USC 1335a.

“(b)(1) At such times as the Secretary considers appropriate, the Secretary shall transmit to the Congress a report, based on the information provided under subsection (a), respecting—

Report.

“(A) a summary of research activities and proposed research activities on the health effects of ingredients added to tobacco in the manufacture of cigarettes and the findings of such research;

“(B) information pertaining to any such ingredient which in the judgement of the Secretary poses a health risk to cigarette smokers; and

“(C) any other information which the Secretary determines to be in the public interest.

Confidentiality.

“(2)(A) Any information provided to the Secretary under subsection (a) shall be treated as trade secret or confidential information subject to section 552(b)(4) of title 5, United States Code and section 1905 of title 18, United States Code and shall not be revealed, except as provided in paragraph (1), to any person other than those authorized by the Secretary in carrying out their official duties under this section.

“(B) Subparagraph (A) does not authorize the withholding of a list provided under subsection (a) from any duly authorized subcommittee or committee of the Congress. If a subcommittee or committee of the Congress requests the Secretary to provide it such a list, the Secretary shall make the list available to the subcommittee or committee and shall, at the same time, notify in writing the person who provided the list of such request.

“(C) The Secretary shall establish written procedures to assure the confidentiality of information provided under subsection (a). Such procedures shall include the designation of a duly authorized agent to serve as custodian of such information. The agent—

“(i) shall take physical possession of the information and, when not in use by a person authorized to have access to such information, shall store it in a locked cabinet or file, and

“(ii) shall maintain a complete record of any person who inspects or uses the information.

Such procedures shall require that any person permitted access to the information shall be instructed in writing not to disclose the information to anyone who is not entitled to have access to the information.”

Effective date.
15 USC 1335a
note.

(b) Section 7 of the Federal Cigarette Labeling and Advertising Act added by subsection (a) shall take effect upon the expiration of the one-year period beginning on the date of the enactment of this Act.

MISCELLANEOUS AMENDMENTS

SEC. 6. (a) Paragraph (1) of section 2 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1331) is amended to read as follows:

“(1) the public may be adequately informed about any adverse health effects of cigarette smoking by inclusion of warning notices on each package of cigarettes and in each advertisement of cigarettes; and”.

(b) Section 3 of such Act (15 U.S.C. 1332) is amended by adding at the end the following:

“(8) The term ‘Secretary’ means the Secretary of Health and Human Services.”.

(c) Section 8 of such Act (15 U.S.C. 1336) (as so redesignated) is amended to read as follows:

“FEDERAL TRADE COMMISSION

“SEC. 8. Nothing in this Act (other than the requirements of section 4(b)) shall be construed to limit, restrict, expand, or otherwise affect the authority of the Federal Trade Commission with respect to unfair or deceptive acts or practices in the advertising of cigarettes.”.

Ante, p. 2201.

(d) Section 9 of such Act (15 U.S.C. 1337) (as so redesignated) is amended—

(1) by striking out “of Health, Education, and Welfare” in subsection (a),

(2) by redesignating clauses (A) and (B) in such subsection as clauses (1) and (2), respectively,

(3) by striking out clause (A) in subsection (b) and by redesignating clauses (B) and (C) as clauses (1) and (2), respectively.

Approved October 12, 1984.

LEGISLATIVE HISTORY—H R. 3979:

HOUSE REPORT No. 98-805 (Comm. on Energy and Commerce).

CONGRESSIONAL RECORD, Vol. 130 (1984):

Sept. 10, considered and passed House.

Sept. 26, considered and passed Senate, amended; House concurred in Senate amendments.

Public Law 98-475
98th Congress

Joint Resolution

Oct. 13, 1984
[H.J. Res. 654]

Increasing the statutory limit on the public debt.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (b) of section 3101 of title 31, United States Code, is amended by striking out the dollar limitation contained in such subsection and inserting in lieu thereof “\$1,575,700,000,000, or \$1,823,800,000,000 on and after October 1, 1984,”.

Approved October 13, 1984.

LEGISLATIVE HISTORY—H.J. Res. 654:

CONGRESSIONAL RECORD, Vol. 130 (1984):

Oct. 1, considered and passed House.

Oct. 5, 9-12, considered and passed Senate.

Public Law 98-476
98th Congress

Joint Resolution

To proclaim October 16, 1984, as "World Food Day".

Oct. 15, 1984
[S.J. Res. 332]

- Whereas hunger and chronic malnutrition remain daily facts of life for hundreds of millions of people throughout the world;
- Whereas the children of the world suffer the most serious effects of hunger and malnutrition, with millions of children dying each year from hunger-related illness and disease, and many others suffering permanent physical or mental impairment, including blindness, because of vitamin and protein deficiencies;
- Whereas Congress is particularly concerned by the rise of hunger, recurring natural catastrophes, and inadequate food production now affecting a large number of African countries and the need for an appropriate United States response to emergency and long-term food needs of that continent;
- Whereas, although progress has been made in reducing the incidence of hunger and malnutrition in the United States, certain groups, notably Native Americans, migrant workers, the elderly, and children, remain vulnerable to malnutrition and related diseases;
- Whereas the danger posed malnutrition and related diseases to these groups and to other people is intensified by unemployment and slow rates of economic growth;
- Whereas national policies concerning food, farmland, and nutrition require continuing evaluation and should consider and strive for the well-being and protection of all residents of the United States and particularly those most at health risk;
- Whereas there is widespread concern that the use and conservation of land and water resources required for food production throughout the United States ensure care for the national patrimony we bequeath to future generations;
- Whereas the United States has always supported the principle that the health of a nation depends on a strong agriculture based on private enterprise and the primacy of the independent family farm;
- Whereas the United States, as the world's largest producer and trader of food, has a key role to play in efforts to assist nations and peoples to improve their ability to feed themselves;
- Whereas the United States has a long tradition of demonstrating its humanitarian concern for helping the hungry and malnourished;
- Whereas efforts to resolve the world hunger problem are critical to the security of the United States and the international community;
- Whereas Congress is acutely aware of the paradox of immense farm surpluses and rising farm foreclosures in the United States despite the desperate need for food by hundreds of millions of people around the world;

Whereas a key recommendation of the 1980 report of the Presidential Commission on World Hunger was that efforts be undertaken to increase public awareness of the world hunger problem;

Whereas the member nations of the Food and Agriculture Organization of the United Nations designated October 16 of each year as World Food Day because of the need to alert the public to the increasingly dangerous world food situation;

Whereas past observances of World Food Day have been supported by proclamations of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States, by resolutions of Congress, by Presidential proclamations, by programs of the United States Department of Agriculture and other Government departments and agencies, and by the governments and peoples of many other nations; and

Whereas more than three hundred private and voluntary organizations and many thousands of community leaders are participating in the planning of World Food Day observances this year: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 16, 1984, is hereby proclaimed "World Food Day". The President is authorized and requested to issue a proclamation calling on the people of the United States to observe that day with appropriate activities to explore ways in which our Nation can further contribute to the elimination of hunger in the world.

Approved October 15, 1984.

LEGISLATIVE HISTORY—S.J. Res. 332:

CONGRESSIONAL RECORD, Vol. 130 (1984):

Aug. 10, considered and passed Senate.

Oct. 2, considered and passed House.

Public Law 98-477
98th Congress

An Act

To amend the National Security Act of 1947 to regulate public disclosure of information held by the Central Intelligence Agency, and for other purposes.

Oct. 15, 1984
[H.R. 5164]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Central Intelligence Agency Information Act".

SEC. 2. (a) The National Security Act of 1947 is amended by adding at the end thereof the following new title:

Central
Intelligence
Agency
Information Act.
50 USC 401 note.

"TITLE VII—PROTECTION OF OPERATIONAL FILES OF THE
CENTRAL INTELLIGENCE AGENCY

"EXEMPTION OF CERTAIN OPERATIONAL FILES FROM SEARCH, REVIEW,
PUBLICATION, OR DISCLOSURE

"SEC. 701. (a) Operational files of the Central Intelligence Agency may be exempted by the Director of Central Intelligence from the provisions of section 552 of title 5, United States Code (Freedom of Information Act), which require publication or disclosure, or search or review in connection therewith.

50 USC 431.

"(b) For the purposes of this title the term 'operational files' means—

"(1) files of the Directorate of Operations which document the conduct of foreign intelligence or counterintelligence operations or intelligence or security liaison arrangements or information exchanges with foreign governments or their intelligence or security services;

"(2) files of the Directorate for Science and Technology which document the means by which foreign intelligence or counterintelligence is collected through scientific and technical systems; and

"(3) files of the Office of Security which document investigations conducted to determine the suitability of potential foreign intelligence or counterintelligence sources; except that files which are the sole repository of disseminated intelligence are not operational files.

"(c) Notwithstanding subsection (a) of this section, exempted operational files shall continue to be subject to search and review for information concerning—

"(1) United States citizens or aliens lawfully admitted for permanent residence who have requested information on themselves pursuant to the provisions of section 552 of title 5, United States Code (Freedom of Information Act), or section 552a of title 5, United States Code (Privacy Act of 1974);

"(2) any special activity the existence of which is not exempt from disclosure under the provisions of section 552 of title 5, United States Code (Freedom of Information Act); or

"(3) the specific subject matter of an investigation by the intelligence committees of the Congress, the Intelligence Over-

sight Board, the Department of Justice, the Office of General Counsel of the Central Intelligence Agency, the Office of Inspector General of the Central Intelligence Agency, or the Office of the Director of Central Intelligence for any impropriety, or violation of law, Executive order, or Presidential directive, in the conduct of an intelligence activity.

“(d)(1) Files that are not exempted under subsection (a) of this section which contain information derived or disseminated from exempted operational files shall be subject to search and review.

“(2) The inclusion of information from exempted operational files in files that are not exempted under subsection (a) of this section shall not affect the exemption under subsection (a) of this section of the originating operational files from search, review, publication, or disclosure.

“(3) Records from exempted operational files which have been disseminated to and referenced in files that are not exempted under subsection (a) of this section and which have been returned to exempted operational files for sole retention shall be subject to search and review.

“(e) The provisions of subsection (a) of this section shall not be superseded except by a provision of law which is enacted after the date of enactment of subsection (a), and which specifically cites and repeals or modifies its provisions.

Courts, U.S.

“(f) Whenever any person who has requested agency records under section 552 of title 5, United States Code (Freedom of Information Act), alleges that the Central Intelligence Agency has improperly withheld records because of failure to comply with any provision of this section, judicial review shall be available under the terms set forth in section 552(a)(4)(B) of title 5, United States Code, except that—

“(1) in any case in which information specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign relations which is filed with, or produced for, the court by the Central Intelligence Agency, such information shall be examined *ex parte*, *in camera* by the court;

“(2) the court shall, to the fullest extent practicable, determine issues of fact based on sworn written submissions of the parties;

“(3) when a complaint alleges that requested records were improperly withheld because of improper placement solely in exempted operational files, the complainant shall support such allegation with a sworn written submission, based upon personal knowledge or otherwise admissible evidence;

“(4)(A) when a complainant alleges that requested records were improperly withheld because of improper exemption of operational files, the Central Intelligence Agency shall meet its burden under section 552(a)(4)(B) of title 5, United States Code, by demonstrating to the court by sworn written submission that exempted operational files likely to contain responsive records currently perform the functions set forth in subsection (b) of this section; and

“(B) the court may not order the Central Intelligence Agency to review the content of any exempted operational file or files in order to make the demonstration required under subparagraph (A) of this paragraph, unless the complainant disputes the Central Intelligence Agency's showing with a sworn written

submission based on personal knowledge or otherwise admissible evidence;

“(5) in proceedings under paragraphs (3) and (4) of this subsection, the parties shall not obtain discovery pursuant to rules 26 through 36 of the Federal Rules of Civil Procedure, except that requests for admission may be made pursuant to rules 26 and 36;

28 USC app.

“(6) if the court finds under this subsection that the Central Intelligence Agency has improperly withheld requested records because of failure to comply with any provision of this section, the court shall order the Central Intelligence Agency to search and review the appropriate exempted operational file or files for the requested records and make such records, or portions thereof, available in accordance with the provisions of section 552 of title 5, United States Code (Freedom of Information Act), and such order shall be the exclusive remedy for failure to comply with this section; and

“(7) if at any time following the filing of a complaint pursuant to this subsection the Central Intelligence Agency agrees to search the appropriate exempted operational file or files for the requested records, the court shall dismiss the claim based upon such complaint.

“DECENNIAL REVIEW OF EXEMPTED OPERATIONAL FILES

“SEC. 702. (a) Not less than once every ten years, the Director of Central Intelligence shall review the exemptions in force under subsection (a) of section 701 of this Act to determine whether such exemptions may be removed from any category of exempted files or any portion thereof.

50 USC 432.

Ante, p. 2209.

“(b) The review required by subsection (a) of this section shall include consideration of the historical value or other public interest in the subject matter of the particular category of files or portions thereof and the potential for declassifying a significant part of the information contained therein.

“(c) A complainant who alleges that the Central Intelligence Agency has improperly withheld records because of failure to comply with this section may seek judicial review in the district court of the United States of the district in which any of the parties reside, or in the District of Columbia. In such a proceeding, the court’s review shall be limited to determining (1) whether the Central Intelligence Agency has conducted the review required by subsection (a) of this section within ten years of enactment of this title or within ten years after the last review, and (2) whether the Central Intelligence Agency, in fact, considered the criteria set forth in subsection (b) of this section in conducting the required review.”.

Courts, U.S.

(b) The table of contents at the beginning of such Act is amended by adding at the end thereof the following:

“TITLE VII—PROTECTION OF OPERATIONAL FILES OF THE CENTRAL INTELLIGENCE AGENCY

“Sec. 701. Exemption of certain operational files from search, review, publication, or disclosure.

“Sec. 702. Decennial review of exempted operational files.”.

(c) Subsection (q) of section 552a of title 5, United States Code, is amended—

(1) by inserting “(1)” after “(q)”; and

(2) by adding at the end thereof the following:

“(2) No agency shall rely on any exemption in this section to withhold from an individual any record which is otherwise accessible to such individual under the provisions of section 552 of this title.”.

5 USC 552.

Reports.

50 USC 432 note.

SEC. 3. (a) The Director of Central Intelligence, in consultation with the Archivist of the United States, the Librarian of Congress, and appropriate representatives of the historical discipline selected by the Archivist, shall prepare and submit by June 1, 1985, a report on the feasibility of conducting systematic review for declassification and release of Central Intelligence Agency information of historical value.

(b)(1) The Director shall, once each six months, prepare and submit an unclassified report which includes—

(A) a description of the specific measures established by the Director to improve the processing of requests under section 552 of title 5, United States Code;

(B) the current budgetary and personnel allocations for such processing;

(C) the number of such requests (i) received and processed during the preceding six months, and (ii) pending at the time of submission of such report; and

(D) an estimate of the current average response time for completing the processing of such requests.

(2) The first report required by paragraph (1) shall be submitted by a date which is six months after the date of enactment of this Act. The requirements of such paragraph shall cease to apply after the submission of the fourth such report.

(c) Each of the reports required by subsections (a) and (b) shall be submitted to the Permanent Select Committee on Intelligence and the Committee on Government Operations of the House of Representatives and the Select Committee on Intelligence and the Committee on the Judiciary of the Senate.

Effective date.

50 USC 431 note.

SEC. 4. The amendments made by subsections (a) and (b) of section 2 shall be effective upon enactment of this Act and shall apply with respect to any requests for records, whether or not such request was made prior to such enactment, and shall apply to all civil actions not commenced prior to February 7, 1984.

Approved October 15, 1984.

LEGISLATIVE HISTORY—H.R. 5164 (S. 1324):

HOUSE REPORTS: No. 98-726, Pt. 1 (Permanent Select Committee on Intelligence) and Pt. 2 (Comm. on Government Operations).

CONGRESSIONAL RECORD, Vol. 130 (1984):

Sept. 17, 19, considered and passed House.

Sept. 28, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 42 (1984):
Oct. 15, Presidential statement.

Public Law 98-478
98th Congress

An Act

Entitled the "Federal Timber Contract Payment Modification Act".

Oct. 16, 1984

[H.R. 2838]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Timber Contract Payment Modification Act".

Federal Timber
Contract
Payment
Modification
Act
16 USC 618 note.
Forests and
forest
products.
16 USC 618.

SEC. 2. (a)(1) Notwithstanding any other provisions of law, in order to retain jobs, to preserve free competition, to utilize the potential productive capacity of plants, to preserve small communities dependent on a single economic sector to assure an open and competitive market for future sales of Government timber, and to lessen the impact of unemployment, the Secretary of Agriculture for national forest lands and the Secretary of the Interior for public lands under their respective jurisdictions are authorized and directed to permit a requesting purchaser to return to the Government a volume of the purchaser's timber contracts as determined under paragraph (2) upon payment of a buy-out charge from such purchaser in an amount as determined under paragraph (3). The purchaser shall be released from further obligation to cut, remove, and pay for timber under such contract upon payment, or arrangement for payment as provided under paragraph (3)(E), of such buy-out charge and completion of any obligation required pursuant to subsection (4)(B). The Government does not hereby surrender any other claim against a purchaser which arose under a contract prior to effectuation of this release and not in connection with this release from obligation to cut, harvest and pay for timber.

(2)(A) To qualify for buy-out under this section, a timber sales contract must have been bid prior to January 1, 1982, for an original contract period of 10 years or less, and be held as of June 1, 1984: *Provided*, That any such contract that was defaulted after January 1, 1981 may qualify for buy-out under this section so long as (i) settlement for damages has not been reached between the purchaser and the United States; and (ii) the purchaser's loss on all of its qualifying timber sales contracts, as determined in section 2(a)(3)(A) of this Act, is in excess of 50 per centum of the net book worth of the purchaser. A contract is qualified for buy-out notwithstanding the fact that it was reformed after October 1, 1983, pursuant to Bureau of Land Management Instructional Memorandum 83-743 or is included in a Forest Service multisale plan pursuant to the President's program of July 28, 1983.

(B) A purchaser holding more than twenty-seven million three hundred thousand board feet of net merchantable sawtimber as of January 1, 1982, in qualifying contracts as provided in (A) shall be entitled to buy out up to 55 per centum of such timber volume up to a maximum of two hundred million board feet.

(C) A purchaser holding twenty-seven million three hundred thousand or less board feet of net merchantable sawtimber as of January 1, 1982, in qualifying contracts as provided in (A) shall be

entitled to buy out up to fifteen million board feet of such timber volume or one contract, whichever is greater in volume.

(D) So long as the volume limitation of two hundred million board feet is not exceeded, the percentage limitation of paragraph (B) or the volume limitation of paragraph (C) may be exceeded by a volume amount not to exceed the volume of the smallest volume contract bought out by the purchaser if the purchaser could not otherwise attain his percentage or volume entitlement.

(E) Timber returned to the Government pursuant to this subsection shall be available for resale by the Government upon payment, or arrangement for payment, of the buy-out charge and completion of obligations, if any, under paragraph 4(B).

(3)(A) Sums collected by the appropriate Secretary in connection with the buy-out of contracts pursuant to this subsection shall be deposited in and paid from the Treasury in the same manner as moneys received from timber sales from such lands and shall be determined as follows: The purchaser's loss on any qualifying timber sales contracts shall be determined by the Forest Service or the Bureau of Land Management by subtracting the current delivered log value (as determined by such agency) from the delivered log cost based on the current contract return (as determined by such agency) of any such contracts. If such loss is—

(i) in excess of 100 per centum of the net book worth of the purchaser, the buy-out cost shall be \$10 per one thousand board feet of currently held volume bought out;

(ii) in excess of 50 per centum up to 100 per centum of the net book worth of the purchaser, the buy-out cost shall be 10 per centum of the contract overbid but at least \$10 per one thousand board feet of currently held volume bought out; or

(iii) up to 50 per centum or less of the net book worth of the purchaser, the buy-out cost shall be 15 per centum for the purchaser's first one hundred twenty-five million board feet, 20 per centum for additional board feet above one hundred twenty-five million up to one hundred fifty million, 25 per centum for additional board feet above one hundred fifty million up to one hundred seventy-five million, and 30 per centum for additional board feet above one hundred seventy-five million up to two hundred million, of the contract overbid but at least \$10 per one thousand board feet of currently held volume bought out.

(B) For purposes of this paragraph, the term "net book worth" does not include the value of any outstanding uncut Federal timber sales contracts.

(C) Net book worth shall be, subject to agency verification, as determined by an independent certified public accountant in accordance with generally accepted accounting standards for the timber industry.

(D) A purchaser may elect to pay the buy-out cost imposed by paragraph (iii) in lieu of utilizing loss and net book worth determinations.

(E) Where a purchaser is not able to obtain sufficient credit elsewhere to finance the buy-out charge at reasonable rates and terms, purchaser may, upon payment of 5 per centum of the buy-out charge, pay the remainder of the buy-out charge in equal quarterly payments over a period not to exceed 5 years at an interest rate adjusted with each payment equal to the average market yield of outstanding Treasury obligations with remaining years to maturity

Loans.

of five years payment must be secured by bond, deposited securities or other forms of security acceptable to the appropriate Secretary in an amount sufficient to cover the entire buy-out payment.

(F) For purposes of this paragraph, the term "contract overbid" is the difference between the advertised contract rate and the rate the purchaser bid.

(4)(A) Contracts returned pursuant to this subsection under which no harvest has begun shall be returned in full.

(B) Contracts returned to the appropriate Secretary pursuant to this subsection under which harvest has begun, shall be returned conditionally and shall not be considered as part of the outstanding volume of timber under contract for the purposes of this Act. The return shall become final after the purchaser has completed stages of contractual obligations for the units on which the harvest has begun, including work on roads, to logical stopping points as determined by the Secretary after consultation with the purchaser. All remaining unharvested units must be returned.

(C) The appropriate Secretary may reject return of a contract on which harvest has begun if he determines, in his discretion, that the remaining unharvested portion is substantially unrepresentative of the original sale as a whole in terms of species, logging methods, or other appropriate criteria, and that accepting the return of such contract would seriously disadvantage the Government.

(5)(A) Timber from returned or defaulted contracts shall be offered for resale in an orderly fashion as part of, and not in addition to, the normal congressionally authorized timber sales program, and in a manner which does not disrupt regional markets or artificially depress domestic timber prices. Timber from returned or defaulted contracts shall be given preference for resale in the Forest Service timber sales programs.

(B) Timber sales in Forest Service region 6 shall not exceed four billion three hundred million board feet of net merchantable sawtimber in fiscal year 1984.

(C) Beginning in fiscal year 1985 and continuing through fiscal year 1991 or the fiscal year in which timber contract extensions in region 6 granted under the President's program of July 28, 1983 (as constituted at the date of enactment of this Act), are completed, whichever is later, the Secretary of Agriculture shall set, and periodically adjust as necessary, the maximum annual timber sale volume in region 6. Such maximum sale volume shall be set so as to achieve a volume of region 6 net merchantable sawtimber under contract at the end of each fiscal year which does not exceed twelve billion three hundred million board feet: *Provided, however,* That such maximum annual sale volume shall not exceed five billion two hundred million board feet of net merchantable sawtimber. The sale of timber within region 6 shall be made in such a manner as not to result in discriminatory treatment as between different forests in the region.

(6)(A) The Secretary of the Interior and the Secretary of Agriculture shall publish final rules for the implementation of this subsection in the Federal Register within ninety days after the date of enactment of this Act.

(B) Such final rules shall require purchasers to submit buy-out requests to the appropriate Secretary within ninety days after the publication of such rules.

(7)(A) For purposes only of determining a purchaser's buy-out limitation under subsection (2) and net worth in connection with

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Federal
Register,
publication.

buy-out cost under subsection (3), concerns which are affiliates as defined under paragraph (B) of this subsection shall be treated as a single entity.

(B) Definition of affiliates: Concerns are affiliates of each other when either directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both. In determining whether or not affiliation exists, consideration shall be given to all appropriate factors, including, but not limited to, common ownership, common management, and contractual relationships.

(C) Definition of purchaser: For the purposes of this Act, a purchaser is the holder of a contract to purchase timber from the Secretary of Agriculture or the Secretary of the Interior.

(b)(1) Timber contracts bid prior to January 1, 1982, not bought out pursuant to subsection (a) and included in the President's program of July 28, 1983, shall not be subject to any further extension of time for performance except as permitted under the President's program of July 28, 1983, as implemented by the Secretary of Agriculture and the Secretary of the Interior, providing for the extension of certain timber sale contracts and requiring the phased harvesting of such extended contracts, which program is hereby ratified except as modified by paragraph (2).

(2) Notwithstanding any other provision of law, timber contracts extended pursuant to the President's program of July 28, 1983, as implemented by the Secretary of Agriculture shall not be subject to inclusion of additional provisions for calculating damages for default.

(c) The Secretary of Agriculture and the Secretary of the Interior shall monitor bidding patterns on timber sale contracts and take action to discourage bidding at such a rate as would indicate that the bidder, if awarded the contract, would be unable to perform the obligations as required, or that the bid is otherwise for the purpose of speculation. Each Secretary shall include in the annual report to Congress information concerning actions taken under this paragraph.

(d) Effective January 1, 1985, in any contract for the sale of timber from the National Forests, the Secretary of Agriculture shall require a cash down-payment at the time the contract is executed and periodic payments to be made over the remaining period of the contract.

SEC. 3. (a) Notwithstanding any other provision of law, the Secretary of Agriculture is directed to waive annually without charge all or a portion of payment or rental fees required under terms of a permit for use of certain lands of the National Forest System as organization camps by local units of the Boy Scouts of America or such other nonprofit organization when such local units of the Boy Scouts of America or such nonprofit organization are willing to perform services, as the Secretary prescribes and determines will yield a valuable benefit to the public and to the program of the Secretary of such lands. If the Secretary determines that a local unit of the Boy Scouts of America or such other nonprofit organization has not fully performed such services, such organization shall not be entitled in the subsequent year to waiver under the provisions of this section.

(b) The term "other nonprofit organization" shall mean (1) a nonprofit organization holding an exemption under section 501(c) of the Internal Revenue Code, as amended; and (2) a nonprofit associa-

Report.

Effective date.

National Forest
System.
Boy Scouts of
America.
16 USC 539f

26 USC 501.

tion or nonprofit corporation, which is not controlled or owned by profitmaking corporations or business enterprises, and which is engaged in public or semipublic activity to further public health, safety, or welfare.

SEC. 4. (a) Emergency stumpage rate redetermination shall be made upon the written application of the purchaser of National Forest timber in Alaska, bid after January 1, 1974, and rates established as a result thereof shall be effective for timber scaled during a period between January 1, 1981, and five years from the effective date of this legislation.

Alaska.
16 USC 619.

(b) In making the emergency rate redeterminations the Secretary may modify existing contract terms, including the amount of the bid premium, in order to provide rates which will permit the holders of contracts bid after January 1, 1974, to be competitive with other purchasers of National Forest timber.

(c) The provisions of this section shall not apply to contracts held by the holders of 50-year timber sale contracts in Alaska.

Approved October 16, 1984.

LEGISLATIVE HISTORY—H.R. 2838:

HOUSE REPORTS: No. 98-255, Pt. 1 (Comm. on Interior and Insular Affairs) and Pt. 2 (Comm. on Agriculture).

SENATE REPORT No. 98-596 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD:

Vol. 129 (1983): Nov. 16, considered and passed House.

Vol. 130 (1984): Sept. 26, considered and passed Senate, amended.

Oct. 1, House concurred in Senate amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 42 (1984):

Oct. 16, Presidential statement.

Public Law 98-479
98th Congress

An Act

Oct. 17, 1984

[S. 2819]

To make technical and conforming amendments in certain laws relating to housing and community development.

Housing and
Community
Development
Technical
Amendments
Act of 1984.
42 USC 5301
note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Housing and Community Development Technical Amendments Act of 1984".

TITLE I—TECHNICAL AND CONFORMING AMENDMENTS TO
HOUSING AND URBAN-RURAL RECOVERY ACT OF 1983

COMMUNITY AND NEIGHBORHOOD DEVELOPMENT AND CONSERVATION

SEC. 101. (a)(1) The last sentence of section 102(a)(4) of the Housing and Community Development Act of 1974 is amended—

(A) by striking out "while its population is included in an urban county for such fiscal year";

(B) by striking out "continues" and inserting in lieu thereof "elects"; and

(C) by striking out "such" the last place it appears and inserting in lieu thereof "an".

(2) Section 102(a)(6) of the Housing and Community Development Act of 1974 is amended—

(A) in the penultimate sentence, by inserting before the period at the end thereof the following: "; except that the provisions of this sentence shall not apply with respect to any county losing its classification as an urban county by reason of the election of any unit of general local government included in such county to have its population excluded under clause (B)(i) of the first sentence or to not renew a cooperation agreement under clause (B)(ii) of such sentence";

(B) by inserting before the semicolon at the end of clause (B) of the last sentence the following: "; (excluding the population of metropolitan cities therein) in all its unincorporated areas that are not units of general local government and in all units of general local government located within such county"; and

(C) by inserting before the period at the end of clause (D) of the last sentence the following: "(excluding the population of metropolitan cities therein) in all its unincorporated areas that are not units of general local government and in all units of general local government located within such county".

(3) Section 102(a)(20) of the Housing and Community Development Act of 1974 is amended to read as follows:

"(20)(A) The terms 'persons of low and moderate income' and 'low- and moderate-income persons' mean families and individuals whose incomes do not exceed 80 percent of the median income of the area involved, as determined by the Secretary with adjustments for smaller and larger families. The term 'persons of low income' means families and individuals whose

97 Stat. 1159.
42 USC 5302.

97 Stat. 1160.

97 Stat. 1160.

incomes do not exceed 50 percent of the median income of the area involved, as determined by the Secretary with adjustments for smaller and larger families. The term 'persons of moderate income' means families and individuals whose incomes exceed 50 percent, but do not exceed 80 percent, of the median income of the area involved, as determined by the Secretary with adjustments for smaller and larger families. For purposes of such terms, the area involved shall be determined in the same manner as such area is determined for purposes of assistance under section 8 of the United States Housing Act of 1937.

42 USC 1437f.

"(B) The Secretary may establish percentages of median income for any area that are higher or lower than the percentages set forth in subparagraph (A), if the Secretary finds such variations to be necessary because of unusually high or low family incomes in such area."

(4) Section 102(a)(21) of the Housing and Community Development Act of 1974 is amended by striking out "capital or office buildings" and inserting in lieu thereof the following: "capitol or office buildings,"

97 Stat. 1160.
42 USC 5302.

(5) Section 104(a)(2)(E) of the Housing and Community Development Act of 1974 is amended by inserting before the period at the end thereof the following: "or in the method of distribution of such funds".

97 Stat. 1161.
42 USC 5304.

(6) Section 104(b)(5)(B) of the Housing and Community Development Act of 1974 is amended by striking out "low and moderate income who are not persons of very low" and inserting in lieu thereof "moderate".

97 Stat. 1162.

(7) Section 104(d) of the Housing and Community Development Act of 1974 is amended—

97 Stat. 1162.

(A) in the third sentence, by striking out the last comma;

(B) in the fifth sentence, by inserting "general" before "local" the last place it appears; and

(C) in the sixth sentence, by inserting "general" before "local".

(8)(A) Section 105(a)(8) of the Housing and Community Development Act of 1974 is amended by inserting "fiscal year 1982 or" before "fiscal year 1983".

97 Stat. 1163.
42 USC 5305.

(B) Section 105(a)(15) of the Housing and Community Development Act of 1974 is amended by striking out "including" and inserting in lieu thereof "and".

97 Stat. 1164.

(9)(A) Section 105(c)(2) of the Housing and Community Development Act of 1974 is amended by striking out "(B)" and all that follows through "recipient" and inserting in lieu thereof the following: "(B) in any metropolitan city or urban county, the area served by such activity is within the highest quartile of all areas within the jurisdiction of such city or county in terms of the degree of concentration of persons of low and moderate income".

97 Stat. 1164.

(B) The amendment made by subparagraph (A) shall take effect upon the enactment of this Act and shall be implemented through an interim instruction issued by the Secretary of Housing and Urban Development. Not later than June 1, 1985, the Secretary of Housing and Urban Development shall issue a final regulation regarding the provisions of such amendment.

Effective date.
42 USC 5305
note.

Regulations.

(10) Section 106(d)(2)(A) of the Housing and Community Development Act of 1974 is amended—

97 Stat. 1165.
42 USC 5306.

(A) by striking out “a State that has elected, in such manner and at such time as the Secretary shall prescribe” any place it appears and inserting in lieu thereof “the State”; and

(B) in clause (i), as such clause may have been amended by subparagraph (A), by striking out “the State” and inserting in lieu thereof the following: “a State that has elected, in such manner and at such time as the Secretary shall prescribe, to distribute such amounts”.

97 Stat. 1166.
42 USC 5306. (11) Section 106(d)(3) of the Housing and Community Development Act of 1974 is amended—

(A) in the second sentence of subparagraph (A), by inserting after “title” the following: “or section 17(e)(1) of the United States Housing Act of 1937”; and

(B) in subparagraph (C), by inserting after “104” the following: “or to make the certifications required in subparagraphs (C) and (D) of paragraph (2)”.

97 Stat. 1166. (12) Section 106(d)(5)(D)(ii) of the Housing and Community Development Act of 1974 is amended by striking out “low and moderate income who are not persons of very low” and inserting in lieu thereof “moderate”.

97 Stat. 1168.
42 USC 5312. (13)(A) Section 112 of the Housing and Community Development Act of 1974 is amended by striking out subsection (c).

Baltimore, Md. (B)(i) Notwithstanding any other provision of law or other requirement, the City of Baltimore in the State of Maryland is authorized to retain any land disposition proceeds from financially closed-out urban renewal projects not paid to the Department of Housing and Urban Development, and to use such proceeds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The City of Baltimore shall retain such proceeds in a lump sum and shall be entitled to retain and use all past and future earnings from such proceeds, including any interest.

42 USC 5301. (ii) Notwithstanding any other provision of law or other requirement, the City of Denver in the State of Colorado, or its designee, is authorized to receive all funds held by the Denver Urban Renewal Authority from the urban renewal project subject to civil litigation in the case of *United States v. Denver Urban Renewal Authority*, No. 84-K-67 (D. Colo.), for use as a direct grantee under and in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The City of Denver shall retain such funds in a lump sum and shall be entitled to retain and use all past and future earnings from such funds, including any interest.

97 Stat. 1170.
12 USC 1706e. (14) The last sentence of section 810(f) of the Housing and Community Development Act of 1974 is amended by inserting “, State,” after “government”.

97 Stat. 1168.
42 USC 5316 note. (b)(1) Section 110(b) of the Housing and Urban-Rural Recovery Act of 1983 is amended by striking out “section” and inserting in lieu thereof “part”.

97 Stat. 1172.
42 USC 5318 note. (2) Section 123(b)(3) of the Housing and Urban-Rural Recovery Act of 1983 is amended by striking out “(a)(4)” each place it appears and inserting in lieu thereof “(a)(1)”.

(3) Section 123(c) of the Housing and Urban-Rural Recovery Act of 1983 is amended—

(A) by striking out “(1)” after the subsection designation; and

(B) by redesignating subparagraphs (A) through (D) as paragraphs (1) through (4), respectively.

HOUSING ASSISTANCE PROGRAMS

- SEC. 102. (a)(1) Section 235(h)(1) of the National Housing Act is amended—
- (A) in the penultimate sentence, by inserting after “1983,” the first place it appears the following: “utilizing amounts approved in appropriation Acts before the date of the enactment of the Housing and Urban-Rural Recovery Act of 1983,”; and
- (B) in the last sentence, by striking out “November 30, 1983” and inserting in lieu thereof “September 30, 1985”.
- (2) The first sentence of section 236(f)(4) of the National Housing Act is amended by striking out “up to”.
- (b)(1) Section 3(b)(2) of the United States Housing Act of 1937 is amended by adding at the end thereof the following new sentence: “Such ceilings shall be established in consultation with the Secretary of Agriculture for any rural area, as defined in section 520 of the Housing Act of 1949, taking into account the subsidy characteristics and types of programs to which such ceilings apply.”.
- (2) Section 3(b)(4) of the United States Housing Act of 1937 is amended by inserting before the period at the end thereof the following: “, in consultation with the Secretary of Agriculture”.
- (3) Section 3(b)(5)(C) of the United States Housing Act of 1937 is amended to read as follows:
- “(C) the amount by which the aggregate of the following expenses of the family exceeds 3 percent of annual family income: (i) medical expenses for any elderly family; and (ii) reasonable attendant care and auxiliary apparatus expenses for each handicapped member of any family, to the extent necessary to enable any member of such family (including such handicapped member) to be employed; and”.
- (4) Section 6(j) of the United States Housing Act of 1937 is amended—
- (A) by inserting “, acquisition, or acquisition and rehabilitation” after “construction”; and
- (B) by striking out “large families” and inserting in lieu thereof “families requiring three or more bedrooms”.
- (5) Section 6(m) of the United States Housing Act of 1937 is amended by striking out “hearing” and inserting in lieu thereof “housing”.
- (6) Section 8(d)(2) of the United States Housing Act of 1937 is amended by striking out the last two sentences and inserting in lieu thereof the following: “Where the Secretary enters into an annual contributions contract with a public housing agency pursuant to which the agency will enter into a contract for assistance payments with respect to an existing structure, the contract for assistance payments may not be attached to the structure unless (A) the Secretary and the public housing agency approve such action, and (B) the owner agrees to rehabilitate the structure other than with assistance under this Act and otherwise complies with the requirements of this section.”.
- (7) Section 8(e)(2) of the United States Housing Act of 1937 is amended by adding at the end thereof the following new sentence: “The Secretary shall increase the amount of assistance provided under this paragraph above the amount of assistance otherwise permitted by this paragraph and subsection (c)(1), if the Secretary determines such increase necessary to assist in the sale of multi-

97 Stat. 1194.
12 USC 1715z.

97 Stat. 1187.
12 USC 1715z-1.
97 Stat. 1179.
42 USC 1437a.

42 USC 1490.

42 USC 1437a.

97 Stat. 1179.

97 Stat. 1177.
42 USC 1437f.

97 Stat. 1179.

97 Stat. 1182.
42 USC 1437f.

97 Stat. 1183.

family housing projects owned by the Department of Housing and Urban Development.”

42 USC 1437f.

(8) Section 8(n) of the United States Housing Act of 1937 is amended by striking out “In” and all that follows through “Secretary” and inserting in lieu thereof the following: “In making assistance available under subsections (b)(1) and (e)(2), the Secretary”.

(9) The first sentence under section 8(o)(3) of the United States Housing Act of 1937 is amended—

(A) by striking out “or” before “(B)”; and

(B) by inserting before the period at the end thereof the following: “, or (C) a family that is determined to be a lower income family at the time it initially receives assistance and that is displaced by activities under section 17(c)”.

97 Stat. 1181.

(10) Section 8(o)(7)(D) of the United States Housing Act of 1937 is amended by inserting “unit of” before “general”.

97 Stat. 1190.
12 USC 1701q.

(c)(1) The first sentence of section 202(a)(4)(B)(i) of the Housing Act of 1959 is amended by striking out “1985” and inserting in lieu thereof “1984”.

97 Stat. 1190.

(2) Section 202(h) of the Housing Act of 1959 is amended—

(A) by inserting “and” at the end of paragraph (1); and

(B) by striking out “; and” at the end of paragraph (2) and inserting in lieu thereof a period.

97 Stat. 1191.

(3) Section 202(1) of the Housing Act of 1959 is amended by adding at the end thereof the following new sentence: “The Secretary shall not impose difference requirements or standards with respect to construction change orders, increases in loan amount to cover change orders, errors in plans and specifications, and use of contingency funds, because of the method of contractor selection used by the sponsor or borrower.”.

97 Stat. 1187.
12 USC 1701s.

(d) The penultimate sentence of section 101(g) of the Housing and Urban Development Act of 1965 is amended by striking out “up to”.

97 Stat. 1175.
42 USC 1439.

(e) Section 213(d)(2) of the Housing and Community Development Act of 1974 is amended by striking out “532” and inserting in lieu thereof “533”.

97 Stat. 1191.
42 USC 8010.

(f) Section 411(a)(4) of the Congregate Housing Services Act of 1978 is amended by adding at the end thereof a semicolon.

97 Stat. 1186.

(g)(1) Section 216 of the Housing and Urban-Rural Recovery Act of 1983 is amended—

(A) by inserting “of Housing and Urban Development” after “Secretary” each place it appears; and

(B) by striking out “paragraph” each place it appears and inserting in lieu thereof “section”.

97 Stat. 1188.

(2) Section 220 of the Housing and Urban-Rural Recovery Act of 1983 is amended by inserting “of Housing and Urban Development” after “Secretary” each place it appears.

97 Stat. 1188.
42 USC 602 note.

(3) Section 221 of the Housing and Urban-Rural Recovery Act of 1983 is amended—

(A) by striking out “chapter” and inserting in lieu thereof “part”;

(B) by striking out “, up to the utility allowance,”;

(C) by inserting “in lieu of any rental payment” after “made”; and

(D) by striking out “rental” and inserting in lieu thereof “shelter”.

RENTAL HOUSING REHABILITATION AND PRODUCTION PROGRAM

SEC. 103. (a) Section 17(a)(1)(A) of the United States Housing Act of 1937 is amended by striking out “to States and units of general local government”.

97 Stat. 1196.
42 USC 1437o.

(b) Section 17(b)(2)(B) of the United States Housing Act of 1937 is amended by striking out “(f)” and inserting in lieu thereof “(e)”.

(c)(1) Section 17(c)(2)(H) of the United States Housing Act of 1937 is amended by striking out “State or unit of general local government that receives the assistance” and inserting in lieu thereof “grantee”.

(2) Section 17(c)(3)(A) of the United States Housing Act of 1937 is amended by striking out “families, including large families with children” and inserting in lieu thereof the following: “families with children, particularly families requiring three or more bedrooms”.

(d)(1) Section 17(d)(2) of the United States Housing Act of 1937 is amended—

(A) in the penultimate sentence, by inserting “general local” before “government”; and

(B) by inserting after the penultimate sentence the following new sentence: “Notwithstanding such minimum standards, a city shall also be eligible to submit such an application if (A) according to the most recent data compiled by the United States Bureau of the Census, such city has a population of not less than 450,000; and (B) the percentage of the total rental units in such city that are vacant and available for rent is less than 10 percent.”.

(2) Section 17(d)(4)(E) of the United States Housing Act of 1937 is amended by striking out “persons” and all that follows through “income” and inserting in lieu thereof “lower income families”.

(3) Section 17(d)(5)(H) of the United States Housing Act of 1937 is amended by striking out “families, including large families with children” and inserting in lieu thereof the following: “families with children, particularly families requiring three or more bedrooms”.

(e)(1) Section 17(e)(1) of the United States Housing Act of 1937 is amended—

(A) in the first sentence, by striking out “(b)(2)” and inserting in lieu thereof “(b)”; and

(B) in the second sentence, by striking out “cities with populations of less than fifty thousand” and inserting in lieu thereof the following: “units of general local government and areas of the State that do not receive allocations under subsection (b)”.

(2) Section 17(e)(2) of the United States Housing Act of 1937 is amended by striking out “(b)(2) of this section” and inserting in lieu thereof “(b)”.

(f) Section 17(i)(3) of the United States Housing Act of 1937 is amended by striking out “structure” and inserting in lieu thereof “project”.

(g)(1) Section 17(k)(5)(A) is amended by striking out “resources under this section” and inserting in lieu thereof the following: “resources under subsection (b), and any unit of general local government receiving resources under subsection (d)”.

(2) Section 17(k)(5)(B) of the United States Housing Act of 1937 is amended by striking out “(f)” and inserting in lieu thereof “(e)”.

(3) Section 17(k)(5)(C) of the United States Housing Act of 1937 is amended by striking out “(f)(2)” and inserting in lieu thereof “(e)”.

- 97 Stat. 1196.
42 USC 1437o. (4) Section 17(k) of the United States Housing Act of 1937 is amended—
- (A) by striking out “and” at the end of paragraph (4);
- (B) by striking out the period at the end of paragraph (5) and inserting in lieu thereof a semicolon; and
- (C) by inserting after paragraph (5) the following new paragraphs:
- “(6) the term ‘State’ means each of the several States and the Commonwealth of Puerto Rico; and
- “(7) the term ‘unit of general local government’ means (A) any city, county, town, township, parish, village, or other general purpose political subdivision of a State; (B) any Indian tribe (as defined in section 102(a)(17) of the Housing and Community Development Act of 1974); and (C) the District of Columbia, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.”.
- 42 USC 5302. (h)(1) Section 17(l)(1) of the United States Housing Act of 1937 is amended—
- (A) by inserting a comma after “government”; and
- (B) by striking out “(f)(1)” and inserting in lieu thereof “(e)(1)”; and
- (2) Section 17(l)(2) of the United States Housing Act of 1937 is amended by striking out “(e)(2)” and inserting in lieu thereof “(e)(1)”.
- (i) Section 17 of the United States Housing Act of 1937 is amended by adding at the end thereof the following new subsection:
- “(o) INAPPLICABILITY OF CERTAIN PROVISIONS.—Unless otherwise specifically provided in this section, the following provisions of this Act shall not apply to grants provided under this section: section 3(a), section 3(b)(1), the third sentence of section 3(b)(3), section 3(b)(7), the last sentence of section 6(a), and any other provision of this Act that is inconsistent with the provisions of this section.”.
- 42 USC 1437a.
42 USC 1437d.

PROGRAM AMENDMENTS AND EXTENSIONS

- 12 USC 1715w. SEC. 104. (a)(1) The section heading of section 232 of the National Housing Act is amended to read as follows: “MORTGAGE INSURANCE FOR NURSING HOMES, INTERMEDIATE CARE FACILITIES, AND BOARD AND CARE HOMES”.
- 97 Stat. 1213.
12 USC 1715y. (2) Section 234(k) of the National Housing Act is amended—
- (A) by striking out “or” before “(3)”; and
- (B) by inserting before the period at the end thereof the following: “, or (4) before April 20, 1984 (A) application was made to the Secretary for a commitment to insure a mortgage covering any unit in the project, (B) in the case of direct endorsement, the mortgagee received the case number assigned by the Secretary for any unit in the project, or (C) application was made for approval of the project for guarantee, insurance, or direct loan under chapter 37 of title 38, United States Code”.
- 38 USC 1801 *et seq.*
12 USC 1715z. (3) Section 235(j)(2)(C) of the National Housing Act is amended to read as follows:
- “(C) bear interest at a rate not to exceed such percent per annum on the amount of the principal obligation outstanding at any time as the Secretary determines is necessary to meet the mortgage market, taking into consideration the yields on mortgages in the primary and secondary markets;”.

(4) Section 236(j)(4)(B) of the National Housing Act is amended to read as follows: 12 USC 1715z-1.

“(B) bear interest at a rate not to exceed such percent per annum on the amount of the principal obligation outstanding at any time as the Secretary determines is necessary to meet the mortgage market, taking into consideration the yields on mortgages in the primary and secondary markets; and”.

(5) Section 244(d) of the National Housing Act is amended to read as follows: 12 USC 1715z-9.

“(d) No mortgage, advance, or loan shall be insured pursuant to this section after September 30, 1985, except pursuant to a commitment to insure made before that date.”.

(6) The section heading of section 526 of the National Housing Act is amended to read as follows: “MINIMUM PROPERTY STANDARDS”. 12 USC 1735f-4.

(7) Section 531 of the National Housing Act is amended by striking out “title II” each place it appears and inserting in lieu thereof “this Act”. 97 Stat. 1208.
12 USC 1735f-9.

(8) Section 1101(c)(4) of the National Housing Act is amended to read as follows: 12 USC 1749aaa.

“(4) bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee.”.

(b) Section 7(o)(6)(C) of the Department of Housing and Urban Development Act is amended by striking out “3 of Public Law 90-301” and inserting in lieu thereof “235 or 236 of the National Housing Act”. 42 USC 3535.

(c)(1) Section 906(a) of the Housing and Urban Development Act of 1968 is amended— 42 USC 3936.

(A) by striking out “and” at the end of paragraph (2);

(B) by striking out the period at the end of paragraph (3) and inserting in lieu thereof “; and”; and

(C) by adding at the end thereof the following new paragraph;

“(4) for the purpose of generating income to support the building or rehabilitation of housing primarily for the benefit of families and individuals of low or moderate income (A) design, develop, manufacture and sell products and services for use in the construction, sale, or financing of housing, and (B) design and develop commercial, industrial, or retail facilities that are not directly related to housing, except that the development and preservation of housing for families and individuals of low or moderate income shall be the primary activity of the corporation.”.

(2) Section 906 of the Housing and Urban Development Act of 1968 is amended by adding at the end thereof the following:

“(e) The combined outstanding equity commitment of the corporation and the partnership with respect to activities undertaken under subsection (a)(4) may not exceed (1) 7 percent of their total combined equity commitment outstanding during the first 12-month period following the date of enactment of this subsection; (2) 14 percent of their total combined equity commitment outstanding during the second 12-month period following the date of enactment of this subsection; or (3) 20 percent of their total combined equity commitment outstanding at any time thereafter.”.

(3) Section 908(a) of the Housing and Urban Development Act of 1968 is amended— 42 USC 3938.

(A) by inserting “(1)” after “(a)”; and

(B) by adding at the end thereof the following:

Ante, p. 2225.

“(2) The report shall contain a description of the activities undertaken under section 906(a)(4), and shall specify, as a percentage of equity and in dollars, the extent of the corporation’s and the partnership’s investment in housing for the benefit of families and individuals of low or moderate income, the extent of the corporation’s and the partnership’s investment in other housing, and the extent of the corporation’s and the partnership’s activities which are undertaken under section 906(a)(4).”

97 Stat. 1234.
12 USC 3612.

(d)(1) Section 514(b)(5)(A) of the Solar Energy and Energy Conservation Bank Act is amended by striking out “loan” and inserting in lieu thereof “grant”.

97 Stat. 1234.
12 USC 3618.

(2)(A) Section 520(b)(5) of the Solar Energy and Energy Conservation Bank Act is amended to read as follows:

“(5)(A) establish explicit criteria, and their relative weights, for the allocation of financial assistance under this subtitle among eligible financial institutions; and

“(B) provide that all amounts available for financial assistance under this subtitle as a result of any one appropriations law, or otherwise available for such assistance, shall be allocated at the same time; and”.

Regulations.
12 USC 3618
note.

(B) The Secretary shall issue the regulations required as a result of the amendment made by this paragraph not later than 90 days after the date of the enactment of this Act.

12 USC 3612.

(e)(1) Section 463 of the Housing and Urban-Rural Recovery Act of 1983 is amended by striking out “(c)(1)” the second place it appears and inserting in lieu thereof “(d)(1)”.

97 Stat. 1239.

(2) Section 482 of the Housing and Urban-Rural Recovery Act of 1983 is amended by striking out “305(b)” and inserting in lieu thereof “305”.

Prohibition.
12 USC 1715b
note.

(f) The Secretary of Housing and Urban Development shall, not later than October 31, 1984, issue regulations to carry out the amendments made to section 242 of the National Housing Act by section 436 of the Housing and Urban-Rural Recovery Act of 1983.

97 Stat. 1222.
12 USC 1715z-7.

RURAL HOUSING

97 Stat. 1240.
42 USC 1471.

SEC. 105. (a) Section 501(b)(4) of the Housing Act of 1949 is amended by striking out “by the Secretary of Housing and Urban Development”.

97 Stat. 1240.
42 USC 1472.

(b)(1) Section 502(d) of the Housing Act of 1949 is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

“(1) not less than 40 percent of the funds approved in appropriation Acts for use under this section shall be set aside and made available only for very low-income families or persons; and

“(2) not less than 30 percent of the funds allocated to each State under this section shall be available only for very low-income families or persons.”.

42 USC 1472
note.

(2) Notwithstanding any other provision of law, the provisions of section 502(d) of the Housing Act of 1949, as amended by paragraph (1), shall apply with respect to fiscal year 1985 and thereafter, and the provisions of such section, as so amended, may not be changed or superseded except by another provision of law which amends such section.

- (c) Section 510(e) of the Housing Act of 1949 is amended by striking out “. Such” and “. Where” and inserting in lieu thereof “; such” and “; where”, respectively. 97 Stat. 1243.
42 USC 1480.
- (d)(1) Section 513(a) of the Housing Act of 1949 is amended— 97 Stat. 1243.
42 USC 1483.
- (A) by inserting “(1)” after the subsection designation; and
- (B) by adding at the end thereof the following new paragraph:
- “(2) Notwithstanding any other provision of law, insured and guaranteed loan authority authorized in this title for any fiscal year beginning after September 30, 1984, shall not be transferred or used for any purpose not specified in this title.”.
- (2) Section 513(b)(7) of the Housing Act of 1949 is amended by striking out “531” and inserting in lieu thereof “533”.
- (e) Section 515(k)(2)(B) of the Housing Act of 1949 is amended by inserting “, at the option of the applicant, either that there is a reasonable assurance that the contract for assistance will be extended or renewed, or” after “five years, and”. 97 Stat. 1244.
42 USC 1485.
- (f) Section 517(j)(4) of the Housing Act of 1949 is amended by inserting “and” after the semicolon at the end thereof. 42 USC 1487.
- (g) The last sentence of section 520 of the Housing Act of 1949 is amended by striking out “1984” and inserting in lieu thereof “1985”. 97 Stat. 1247.
42 USC 1490.
- (h) Section 521(d)(1) of the Housing Act of 1949 is amended to read as follows: 42 USC 1490a.
- “(d)(1) In utilizing the rental assistance payments authority pursuant to subsection (a)(2)—
- “(A) the Secretary shall make such assistance available in existing projects for units occupied by low income families or persons to extend expiring contracts or to provide additional assistance when necessary to provide the full amount authorized pursuant to existing contracts;
- “(B) any such authority remaining after carrying out subparagraph (A) shall be used in projects receiving commitments under section 514, 515, or 516 after fiscal year 1983 for contracts to assist very low-income families or persons to occupy the units in such projects, except that not more than 5 percent of the units assisted may be occupied by low income families or persons who are not very low-income families or persons; and
- “(C) any such authority remaining after carrying out subparagraphs (A) and (B) may be used to provide further assistance to existing projects under section 514, 515, or 516.”. 42 USC
1484-1486.

TITLE II—TECHNICAL AND CONFORMING AMENDMENTS TO OTHER HOUSING AND COMMUNITY DEVELOPMENT AND BANKING LAWS

CONFORMING REFERENCES TO SECRETARY OF HEALTH AND HUMAN SERVICES AND SECRETARY OF EDUCATION

- SEC. 201. (a)(1) Section 242(c) of the National Housing Act is amended by striking out “Health, Education, and Welfare” and inserting in lieu thereof “Health and Human Services”. 12 USC 1715z-7.
- (2) Section 1104 of the National Housing Act is amended by striking out “Health, Education, and Welfare” and inserting in lieu thereof “Health and Human Services”. 12 USC
1749aaa-3.
- (b) Section 302(c)(2)(B) of the Federal National Mortgage Association Charter Act is amended— 12 USC 1717.
- (1) by striking out “Health, Education, and Welfare” and inserting in lieu thereof “Education”; and

- (2) by striking out "Commissioner" and inserting in lieu thereof "Secretary".
- 42 USC 1490b. (c) Section 522(a) of the Housing Act of 1949 is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health, and Human Services".
- 12 USC 1749a. (d)(1) Section 402(c) of the Housing Act of 1950 is amended—
 (A) by striking out paragraph (2); and
 (B) by redesignating paragraphs (3) through (9) as paragraphs (2) through (8), respectively.
- 12 USC 1749c. (2) Section 404(f) of the Housing Act of 1950 is amended by striking out "Housing and Urban Development" and inserting in lieu thereof "Education".
- 12 USC 1701q. (e) Section 202(f) of the Housing Act of 1959 is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".
- 42 USC 3337. (f) Section 207 of the Demonstration Cities and Metropolitan Development Act of 1966 is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".
- 42 USC 1438. (g) Section 209 of the Housing and Community Development Act of 1974 is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".
- 42 USC 6863. (h) Paragraphs (1) and (2) of section 413(b) of the Energy Conservation in Existing Building Act of 1976 are amended by striking out "Health, Education, and Welfare" each place it appears and inserting in lieu thereof "Health and Human Services".
- 12 USC 1701z-6 note. (i) Section 207(c)(3) of the Public Housing Security Demonstration Act of 1978 is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".
- 42 USC 8004. (j) Section 405(i) of the Congregate Housing Services Act of 1978 is amended by striking out "the Department of Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

CONFORMING CROSS-REFERENCES TO TITLE 5, UNITED STATES CODE

- 12 USC 1702. SEC. 202. (a)(1) The second sentence of section 1 of the National Housing Act is amended by striking out "without" and all that follows through "States".
- 12 USC 1749bbb-17. (2) Section 1247 of the National Housing Act is amended by striking out "the Administrative Procedure Act" and inserting in lieu thereof the following: "subchapter II of chapter 5, and chapter 7, of title 5, United States Code".
- 12 USC 1701c. (b)(1) The first sentence of section 502(a) of the Housing Act of 1948 is amended by striking out "the Classification Act of 1949, as amended" and inserting in lieu thereof the following: "chapter 51 and subchapter III of chapter 53 of title 5, United States Code".
- 12 USC 1701h. (2) Section 502(c)(1) of the Housing Act of 1948 is amended by striking out "5 U.S.C. 73b-2" and inserting in lieu thereof the following: "section 5703 of title 5, United States Code".
- 15 USC 1715. (c) Section 601 of the Housing Act of 1949 is amended by striking out "section 5 of the Act of August 2, 1946 (5 U.S.C. 73b-2)" and inserting in lieu thereof the following: "section 5703 of title 5, United States Code".
- (d) Section 1416(b) of the Interstate Land Sales Full Disclosure Act is amended by striking out "the Administrative Procedure Act" and

inserting in lieu thereof the following: “subchapter II of chapter 5, and chapter 7, of title 5, United States Code”.

CONFORMING CROSS-REFERENCES TO TITLE 31, UNITED STATES CODE

- SEC. 203. (a)(1) Section 304(c) of the Federal National Mortgage Association Charter Act is amended by striking out “the Second Liberty Bond Act, as now or hereafter in force” each place it appears and inserting in lieu thereof “chapter 31 of title 31, United States Code”. 12 USC 1719.
- (2) Section 306(d) of the Federal National Mortgage Association Charter Act is amended by striking out “the Second Liberty Bond Act, as now or hereafter in force” each place it appears and inserting in lieu thereof “chapter 31 of title 31, United States Code”. 12 USC 1721.
- (3) Section 309(b) of the Federal National Mortgage Association Charter Act is amended by striking out “the Government Corporation Control Act” and inserting in lieu thereof “chapter 91 of title 31, United States Code”. 12 USC 1723a.
- (4) Section 315(c) of the Federal National Mortgage Association Charter Act is amended by striking out “the Second Liberty Bond Act, as now or hereafter in force” each place it appears and inserting in lieu thereof “chapter 31 of title 31, United States Code”. 12 USC 1723g.
- (5) Section 316(c) of the Federal National Mortgage Association Charter Act is amended by striking out “the Second Liberty Bond Act, as now or hereafter in force” each place it appears and inserting in lieu thereof “chapter 31 of title 31, United States Code”. 12 USC 1723h.
- (b)(1) Section 4(b) of the United States Housing Act of 1937 is amended— 42 USC 1437b.
- (A) by striking out “the Second Liberty Bond Act, as amended” and inserting in lieu thereof “chapter 31 of title 31, United States Code”; and
- (B) by striking out “such Act, as amended,” and inserting in lieu thereof “such chapter”.
- (2) Section 10(a) of the United States Housing Act of 1937 is amended by striking out “the Government Corporation Control Act, as amended” each place it appears and inserting in lieu thereof “chapter 91 of title 31, United States Code”. 42 USC 1437h.
- (c) Section 502(c)(2) of the Housing Act of 1948 is amended by striking out “section 3648 of the Revised Statutes” and inserting in lieu thereof “subsections (a) and (b) of section 3324 of title 31, United States Code”. 12 USC 1701c.
- (d)(1) Section 102(f) of the Housing Act of 1949 is amended— 42 USC 1452.
- (A) by striking out “the Second Liberty Bond Act, as amended” and inserting in lieu thereof “chapter 31 of title 31, United States Code”; and
- (B) by striking out “such Act, as amended,” and inserting in lieu thereof “such chapter”.
- (2) Section 106(a) of the Housing Act of 1949 is amended by striking out “the Government Corporation Control Act, as amended” each place it appears and inserting in lieu thereof “chapter 91 of title 31, United States Code”. 42 USC 1456.
- (3) Section 501(b)(6) of the Housing Act of 1949 is amended by striking out “the State and Local Fiscal Assistance Act of 1972 (Public Law 92-512)” and inserting in lieu thereof “chapter 67 of title 31, United States Code”. 42 USC 1471.
- (4) Section 511 of the Housing Act of 1949 is amended— 42 USC 1481.

- (A) by striking out “the Second Liberty Bond Act, as amended” and inserting in lieu thereof “chapter 31 of title 31, United States Code”; and
- (B) by striking out “such Act” and inserting in lieu thereof “such chapter”.
- 42 USC 1487. (5) Section 517(h) of the Housing Act of 1949 is amended—
- (A) by striking out “the Second Liberty Bond Act, as amended” and inserting in lieu thereof “chapter 31 of title 31, United States Code”; and
- (B) by striking out “such Act” and inserting in lieu thereof “such chapter”.
- (6) Section 517(k) of the Housing Act of 1949 is amended by striking out “the Budget and Accounting Act, 1921” and inserting in lieu thereof “chapter 11 of title 31, United States Code”.
- 12 USC 1749. (e)(1) Section 401(e) of the Housing Act of 1950 is amended—
- (A) by striking out “the Second Liberty Bond Act, as amended” and inserting in lieu thereof “chapter 31 of title 31, United States Code”; and
- (B) by striking out “such Act, as amended,” and inserting in lieu thereof “such chapter”.
- 12 USC 1749a. (2) Section 402(a)(1) of the Housing Act of 1950 is amended by striking out “the Government Corporation Control Act, as amended” and inserting in lieu thereof “chapter 91 of title 31, United States Code”.
- (3) Section 402(a)(2) of the Housing Act of 1950 is amended by striking out “the Accounting and Auditing Act of 1950” and inserting in lieu thereof “chapter 35 of title 31, United States Code”.
- (4) Section 402(e) of the Housing Act of 1950 is amended—
- (A) by striking out “section 309 of the Independent Offices Appropriation Act, 1950 (63 Stat. 662)” and inserting in lieu thereof “section 9107(a) of title 31, United States Code”; and
- (B) by striking out “the Government Corporation Control Act” and inserting in lieu thereof “chapter 91 of such title”.
- 42 USC 1493. (f) Section 203(a) of the Housing Amendments of 1955 is amended—
- (1) by striking out “the Second Liberty Bond Act, as amended” and inserting in lieu thereof “chapter 31 of title 31, United States Code”; and
- (2) by striking out “such Act, as amended,” and inserting in lieu thereof “such chapter”.
- 42 USC 2414. (g) Section 15(e) of the Federal Flood Insurance Act of 1956 is amended—
- (1) by striking out “the Second Liberty Bond Act, as amended,” and inserting in lieu thereof “chapter 31 of title 31, United States Code”; and
- (2) by striking out “such Act, as amended,” and inserting in lieu thereof “such chapter”.
- 12 USC 1701q. (h) Section 202(a)(4)(B)(i) of the Housing Act of 1959 is amended—
- (1) by striking out “the Second Liberty Bond Act” and inserting in lieu thereof “chapter 31 of title 31, United States Code”; and
- (2) by striking out “that Act” and inserting in lieu thereof “such chapter”.
- 12 USC 1749bbb-8. (i)(1) Section 1222(c) of the Urban Property Protection and Reinsurance Act of 1968 is amended by striking out “section 3679(a) of the Revised Statutes of the United States (31 U.S.C. 665(a))” and

inserting in lieu thereof “section 1341(a) of title 31, United States Code”.

(2) Section 1243(d) of the Urban Property Protection and Reinsurance Act of 1968 is amended by striking out “law (sections 102, 103, and 104 of the Government Corporation Control Act (31 U.S.C. 847-849))” and inserting in lieu thereof “sections 9103 and 9104 of title 31, United States Code”.

12 USC
1749bbb-13.

(j)(1) Section 1310(e) of the National Flood Insurance Act of 1968 is amended by striking out “law (sections 102, 103, and 104 of the Government Corporation Control Act (31 U.S.C. 847-849))” and inserting in lieu thereof “sections 9103 and 9104 of title 31, United States Code”.

42 USC 4017.

(2) Section 1360(b) of the National Flood Insurance Act of 1968 is amended by striking out “sections 3648 and 3709 of the Revised Statutes, as amended (31 U.S.C. 529 and 41 U.S.C. 5)” and inserting in lieu thereof “subsections (a) and (b) of section 3324 of title 31, United States Code, and section 3709 of the Revised Statutes (41 U.S.C. 5)”.

42 USC 4101.

(3) Section 1373 of the National Flood Insurance Act of 1968 is amended by striking out “the Government Corporation Control Act” and inserting in lieu thereof “chapter 91 of title 31, United States Code”.

42 USC 4124.

(k) Section 502(e) of the Housing and Urban Development Act of 1970 is amended by striking out “section 3648 of the Revised Statutes” and inserting in lieu thereof “subsections (a) and (b) of section 3324 of title 31, United States Code”.

12 USC 1701z-2.

(l)(1) Section 102(a)(17) of the Housing and Community Development Act of 1974 is amended by striking out “the State and Local Fiscal Assistance Act of 1972 (Public Law 92-512)” and inserting in lieu thereof “chapter 67 of title 31, United States Code”.

42 USC 5302.

(2) Section 108(g) of the Housing and Community Development Act of 1974 is amended—

42 USC 5308.

(A) by striking out “the Second Liberty Bond Act, as now or hereafter in force” and inserting in lieu thereof “chapter 31 of title 31, United States Code”; and

(B) by striking out “such Act” and inserting in lieu thereof “such chapter”.

(3) Section 119(n)(2) of the Housing and Community Development Act of 1974 is amended by striking out “the State and Local Fiscal Assistance Act of 1972” and inserting in lieu thereof “chapter 67 of title 31, United States Code”.

42 USC 5318.

(4) Section 802(e)(2) of the Housing and Community Development Act of 1974 is amended—

42 USC 1440.

(A) by striking out “the Second Liberty Bond Act” and inserting in lieu thereof “chapter 31 of title 31, United States Code”; and

(B) by striking out “that Act” and inserting in lieu thereof “such chapter”.

(m) Section 608(d) of the Neighborhood Reinvestment Corporation Act is amended by striking out “the Budget and Accounting Act, 1921” and inserting in lieu thereof “chapter 11 of title 31, United States Code”.

42 USC 8107.

MISCELLANEOUS TECHNICAL CORRECTIONS

SEC. 204. (a)(1) Section 4 of the National Housing Act is amended by striking out “suuch” and inserting in lieu thereof “such”.

12 USC 1705.

- 12 USC 1709. (2) Section 203(n)(2)(A) of the National Housing Act is amended by striking out "an" and inserting in lieu thereof "a".
- 12 USC 1713. (3) The first sentence of section 207(i) of the National Housing Act is amended by inserting "section" before "221(g)".
- 12 USC 1715d. (4)(A) The National Housing Act is amended by inserting the following section heading for section 214: "INSURANCE OF MORTGAGES ON PROPERTY IN ALASKA, GUAM, AND HAWAII".
- 12 USC 1715d. (B) The third sentence of section 214 of the National Housing Act is amended by striking out "Notwithstanding" and inserting in lieu thereof "Notwithstanding".
- 12 USC 1715h. (5) Section 217 of the National Housing Act is amended by inserting "section 244, section 245," after "236,".
- 12 USC 1715l. (6) Section 221(d)(3)(iii) of the National Housing Act is amended by striking out "rehabilitated" and inserting in lieu thereof "rehabilitated".
- 12 USC 1715n. (7) The first sentence of section 223(f)(2) of the National Housing Act is amended by inserting "a" before "multifamily".
- 12 USC 1715z. (8) Section 235(i)(3)(C) of the National Housing Act is amended by striking out "Seretary" and inserting in lieu thereof "Secretary".
- 12 USC 1715z-1. (9) Section 236(j)(5)(C) of the National Housing Act is amended by striking out "or residents" and inserting in lieu thereof "of residents".
- 12 USC 1715z-5. (10) Section 240(a) of the National Housing Act is amended by striking out "purchasers" and inserting in lieu thereof "purchases".
- 12 USC 1715z-6. (11) The first sentence of section 241(a) of the National Housing Act is amended by striking out "to made" and inserting in lieu thereof "to make".
- 12 USC 1715z-7. (12) Section 241(b)(1) of the National Housing Act is amended by striking out "of facility" and inserting in lieu thereof "or facility".
- 12 USC 1715z-7. (13) Section 242(d)(3)(A) of the National Housing Act is amended by striking out the comma at the end thereof and inserting in lieu thereof a semicolon.
- 12 USC 1715z-8. (14) Section 243(d)(2) of the National Housing Act is amended by redesignating subparagraphs (1) through (3) as subparagraphs (A) through (C), respectively.
- 12 USC 1717. (15) Section 243(j)(3)(ii) of the National Housing Act is amended by striking out the period at the end thereof and inserting in lieu thereof "; and".
- 12 USC 1717. (16) The fourth sentence of section 302(b)(2) of the National Housing Act is amended by striking out "Corporation" and inserting in lieu thereof "corporation".
- 12 USC 1731a. (17) The National Housing Act is amended by inserting the following section heading for section 512: "PENALTIES".
- 12 USC 1731b. (18) The National Housing Act is amended by inserting the following section heading for the first section 513: "PROHIBITION AGAINST TRANSIENT HOUSING".
- 12 USC 1732. (19) The National Housing Act is amended by redesignating the second section 513 as section 513A. Any reference in any law, regulation, order, document, record, or other paper of the United States to the section redesignated in this paragraph hereby is deemed to refer to section 513A of the National Housing Act.
- 12 USC 1732 note. (20) The National Housing Act is amended by inserting the following section heading for section 515: "AMENDMENT, EXTENSION, OR INCREASE OF COMMITMENT AMOUNTS".
- 12 USC 1734. (21) The National Housing Act is amended by inserting the following section heading for section 516: "PAYMENT OF CERTAIN FUNDS TO TREASURY".
- 12 USC 1735.

- (22) Section 527 of the National Housing Act is amended by inserting "(a)" after the section designation. 12 USC 1735f-5.
- (23) The last sentence of section 904(d) of the National Housing Act is amended by striking out "authorized" and inserting in lieu thereof "authorized". 12 USC 1750c.
- (b)(1) The first sentence of section 6(a) of the United States Housing Act of 1937 is amended by striking out "covenants" and inserting in lieu thereof "covenants". 42 USC 1437d.
- (2) Section 14(a) of the United States Housing Act of 1937 is amended by striking out the comma at the end of each of paragraphs (1) and (2) and inserting in lieu thereof a semicolon. 42 USC 1437l.
- (c)(1) The last sentence of section 105(f) of the Housing Act of 1949 is amended by striking out "Committees on Banking and Currency of the Senate and the House of Representatives" and inserting in lieu thereof the following: "Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives". 42 USC 1455.
- (2) Section 523(g) of the Housing Act of 1949 is amended by inserting "Housing" before "Land" the second place it appears. 42 USC 1490c.
- (3) The Housing Act of 1949 is amended by inserting the following section heading for section 528: "TAXATION OF PROPERTY HELD BY SECRETARY". 42 USC 1490h.
- (d) Section 402(a)(2) of the Housing Act of 1950 is amended by striking out "Administrator" each place it appears and inserting in lieu thereof "Secretary". 12 USC 1749a.
- (e) Section 101(j)(1)(D) of the Housing and Community Development Act of 1965 is amended by striking out "divided" and inserting in lieu thereof "dividend". 12 USC 1701s.
- (f) The second sentence of section 106(b)(1) of the Housing and Urban Development Act of 1968 is amended by striking out "architectual" and inserting in lieu thereof "architectural". 12 USC 1701x.
- (g) The last sentence of section 1309(a) of the National Flood Insurance Act of 1968 is amended—
- (1) by striking out "and Currency" and inserting in lieu thereof ", Finance and Urban Affairs"; and
- (2) by inserting a comma after "Housing". 42 USC 4016.
- (h) Section 308(f) of the Federal Home Loan Mortgage Corporation Act is amended by striking out "United States Code" and inserting in lieu thereof "United States". 12 USC 1457.
- (i) Section 702(d)(8) of the National Urban Policy and New Community Development Act of 1970 is amended by striking out "of" the last place it appears. 42 USC 4502.
- (j) The last sentence of section 201(e) of the Flood Disaster Protection Act of 1973 is amended by striking out the quotation marks. 42 USC 4105.
- (k)(1) The first sentence of section 108(h) of the Housing and Community Development Act of 1974 is amended by striking out "subsection (g)" and inserting in lieu thereof "subsection (j)". 42 USC 5308.
- (2) Section 117(B) of the Housing and Community Development Act of 1974 is amended by striking out "of 1965 (Public Law 81-428;" and inserting in lieu thereof ", 1955 (Public Law 83-428;". 42 USC 5317.
- (l) Section 604(e) of the National Manufactured Housing Construction and Safety Standards Act of 1974 is amended by striking out
- 42 USC 5403.

- “than” the last place it appears and inserting in lieu thereof “that”.
- 12 USC 2706. (m)(1) Section 107 of the Emergency Homeowners’ Relief Act is amended—
- (A) by striking out “(a)(1)” and inserting in lieu thereof “(a)”;
 - (B) by redesignating subparagraphs (A) through (C) of paragraph (1) as paragraphs (1) through (3), respectively;
 - (C) by redesignating paragraph (2) as subsection (b); and
 - (D) by redesignating subparagraphs (A) and (B) of paragraph (2) as paragraphs (1) and (2), respectively.
- 12 USC 2709. (2) Section 110 of the Emergency Homeowners’ Relief Act is amended by striking out the subsection designation.
- 12 USC 1715z-1a. (n)(1) Section 201(c) of the Housing and Community Development Amendments of 1978 is amended by striking out “a” the first place it appears and inserting in lieu thereof “A”.
- (2) Section 201(j) of the Housing and Community Development Amendments of 1978 is amended by striking out “236(f)(3)(B)” and inserting in lieu thereof “236(f)(3)”.
- 12 USC 1701z-13. (3) Section 209(d) of the Housing and Community Development Amendments of 1978 is amended by striking out “conjunction” and inserting in lieu thereof “conjunction”.
- 42 USC 3541. (4) Section 905(b)(1) of the Housing and Community Development Amendments of 1978 is amended by inserting “of 1974” after “Act”.

AMENDMENT TO THE TRUTH IN LENDING ACT

SEC. 205. Section 125(e) of the Truth in Lending Act (15 U.S.C. 1635(e)) is amended—

- (1) by striking out “(1)” after “(e)”;
- (2) by redesignating clauses (A) through (D) as clauses (1) through (4), respectively; and
- (3) by striking out paragraph (2).

CREDIT UNION LOANS TO HOMEOWNERS

SEC. 206. Section 107(5)(A)(ii) of the Federal Credit Union Act (12 U.S.C. 1757(5)(A)(ii)) is amended to read as follows:

“(ii) a loan to finance the purchase of a mobile home, which shall be secured by a first lien on such mobile home, to be used by the credit union member as his residence, a loan for the repair, alteration, or improvement of a residential dwelling which is the residence of a credit union member, or a second mortgage loan secured by a residential dwelling which is the residence of a credit union member, shall have a maturity not to exceed fifteen years unless such loan is insured or guaranteed as provided in subparagraph (iii);”.

AMENDMENT TO THE FEDERAL HOME LOAN BANK ACT

SEC. 207. Section 5A(b)(1)(D) of the Federal Home Loan Bank Act (12 U.S.C. 1425a(b)(1)(D)) is amended by striking out “solely to any of the obligations or other investments enumerated in subparagraphs (A) through (C)” and inserting in lieu thereof “solely to any of the obligations or other investments enumerated in subparagraphs (A) through (C), (F), and (G)”.

Approved October 17, 1984.

LEGISLATIVE HISTORY—S. 2819:

HOUSE REPORT No. 98-1103 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 130 (1984):

June 29, considered and passed Senate.

Sept. 11, considered and passed House, amended.

Oct. 2, House agreed to conference report.

Oct. 3, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 42 (1984):

Oct. 17, Presidential statement.

Public Law 98-480
98th Congress

An Act

Oct. 17, 1984

[H.R. 2878]

To amend and extend the Library Services and Construction Act.

Grants.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Library
Services and
Construction Act
Amendments
of 1984.

20 USC 351 note.

20 USC 351 note.

TITLE I—LIBRARY SERVICES AND CONSTRUCTION

SHORT TITLE; FINDINGS

SEC. 101. (a) This title may be cited as the "Library Services and Construction Act Amendments of 1984".

(b) The Congress finds that—

(1) the role of libraries has expanded to include (A) providing programs to meet the needs of special segments of the population, including librarian training and outreach programs, (B) providing literacy training for illiterate and functionally illiterate adults, and (C) sharing resources and materials among a wide variety of libraries;

(2) it has become necessary to expand the role of libraries as information centers for their communities, utilizing improved and new technologies and resources to meet the increasing need for information services and educational resources of Americans in a rapidly changing economy;

(3) funding for construction of new libraries and renovation of existing libraries is essential to ensure continuation of library services for the public;

(4) attention should be paid to the needs of small and rural community libraries and information centers because these facilities are often underfunded and understaffed and as a consequence cannot adequately serve the needs of the community; and

20 USC 351 note.

(5) the scope and purpose of the Library Services and Construction Act should therefore be revised to include a more comprehensive range of programs which may receive funds thereunder and to ensure the extension of services to minorities and other populations that would otherwise be unable to use regular library facilities.

DECLARATION OF PURPOSE

20 USC 351.

SEC. 102. (a) Section 2(a) of the Library Services and Construction Act (hereafter in this title referred to as "the Act") is amended to read as follows:

Indians.

"SEC. 2. (a) It is the purpose of this Act to assist the States in the extension and improvement of public library services to areas and populations of the States which are without such services or to which such services are inadequate and to assist Indian tribes in planning and developing library services to meet their needs. It is the further purpose of this Act to assist with (1) public library

construction and renovation; (2) improving State and local public library services for older Americans, and for handicapped, institutionalized, and other disadvantaged individuals; (3) strengthening State library administrative agencies; (4) promoting interlibrary cooperation and resource sharing among all types of libraries; (5) strengthening major urban resource libraries; and (6) increasing the capacity of libraries to keep up with rapidly changing information technology.”.

(b) Section 2(b) of the Act is amended by inserting “and Indian tribes” before the period at the end of the second sentence.

Aged persons.
Handicapped
persons.
Disadvantaged
persons.

Indians.
20 USC 351.

DEFINITIONS; ADMINISTRATIVE AMENDMENT

SEC. 103. (a) Section 3 of the Act is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following:

“(1) ‘Secretary’ means the Secretary of Education.”;

(2) by inserting after the first sentence in paragraph (2) the following new sentence: “Such term includes remodeling to meet standards under the Act of August 12, 1968, commonly known as the ‘Architectural Barriers Act of 1968’, remodeling designed to conserve energy, renovation or remodeling to accommodate new technologies, and the purchase of existing historic buildings for conversion to public libraries.”;

(3) by inserting “the Northern Mariana Islands,” after “the Virgin Islands,” in paragraph (7);

(4) by striking out the parenthetical in paragraph (9) and inserting in lieu thereof the following: “(including mentally retarded, hearing impaired, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, or other health impaired persons who by reason thereof require special education)”;

(5) by adding at the end thereof the following new paragraphs:

“(15) ‘Indian tribe’ means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation as defined in or established pursuant to the Alaskan Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, as determined by the Secretary after consultation with the Secretary of the Interior.

“(16) ‘Hawaiian native’ means any individual any of whose ancestors were natives prior to 1778 in the area which now comprises the State of Hawaii.”.

(b) The Act is amended—

(1) by striking out “Commissioner” each place it appears and inserting in lieu thereof “Secretary”; and

(2) by striking out “Commissioner’s” each place it appears and inserting in lieu thereof “Secretary’s”.

20 USC 351a.

42 USC 4151
note.

43 USC 1601
note.

AUTHORIZATION OF APPROPRIATIONS

SEC. 4. (a) Section 4(a) of the Act is amended to read as follows:

“SEC. 4. (a) There are authorized to be appropriated—

“(1) for the purpose of making grants as provided in title I, \$75,000,000 for fiscal year 1985, \$80,000,000 for fiscal year 1986,

20 USC 351b.

20 USC 352.

- \$85,000,000 for fiscal year 1987, \$90,000,000 for fiscal year 1988, and \$95,000,000 for fiscal year 1989;
- 20 USC 355a. “(2) for the purpose of making grants as provided in title II, \$50,000,000 for each of the fiscal years 1985, 1986, 1987, 1988, and 1989;
- 20 USC 355e. “(3) for the purpose of making grants as provided in title III, \$20,000,000 for fiscal year 1985, \$25,000,000 for fiscal year 1986, \$30,000,000 for fiscal year 1987, \$35,000,000 for fiscal year 1988, and \$30,000,000 for fiscal year 1989;
- Post*, p. 2244. “(4) for the purpose of making grants as provided in title V, \$1,000,000 for each of the fiscal years 1985, 1986, 1987, and 1988; and
- Post*, p. 2245. “(5) for the purpose of making grants as provided in title VI, \$5,000,000 for each of the fiscal years 1985, 1986, 1987, and 1988.
- Post*, p. 2243. There shall be available for the purpose of making grants under title IV for each of the fiscal years 1985, 1986, 1987, 1988, and 1989, 1.5 per centum of the amount appropriated pursuant to each of clauses (1), (2), and (3) for each such fiscal year. There shall be available for the purpose of making grants under section 5(d) for such fiscal years 0.5 per centum of the amount appropriated pursuant to each of such clauses for each such fiscal year.”
- 20 USC 351b. (b) Section 4 of the Act is further amended by adding at the end thereof the following new subsection:
- “(c)(1) For the purpose of affording adequate notice of funding available under this Act, appropriations under this Act are authorized to be included in an appropriation Act for the fiscal year preceding the fiscal year for which they are first available for obligation.
- “(2) In order to effect a transition to the advance funding method of timing appropriation action, the provisions of this subsection shall apply notwithstanding that its initial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year.”

ALLOTMENTS TO STATES AND INDIAN TRIBES

- 20 USC 351c. SEC. 105. Section 5 of the Act is amended—
- (1) by inserting “AND INDIAN TRIBES” after “STATES” in the heading of such section;
- (2) by striking out “paragraph (1), (2), (3), or (4)” each place it appears in subsection (a) and inserting in lieu thereof “clause (1), (2), or (3)”;
- (3) by inserting “the Northern Mariana Islands,” after “the Virgin Islands,” each place it appears in subsection (a)(3);
- (4) in subsection (a)(3), by inserting “and” at the end of clause (B), by striking out “; and” at the end of clause (C), and inserting in lieu thereof a period, and by striking out clause (D);
- (5) in subsection (b), by striking out “paragraph (1), (2), or (3)” and inserting in lieu thereof “clause (1), (2), or (3)”;
- (6) by adding at the end thereof the following new subsections:
- “(c)(1) From the sums available pursuant to the second sentence of section 4(a) for any fiscal year, the Secretary shall allot an equal amount to each Indian tribe. Grants from such allotted amounts shall be made to Indian tribes which have submitted approved applications under section 403.
- Ante*, p. 2237.
- Post*, p. 2244.

“(2) Any allotted funds for which an Indian tribe does not apply, or applies but does not qualify, shall be reallocated by the Secretary among Indian tribes which have submitted approved plans under section 404. In making such allocations (A) no funds shall be allocated to an Indian tribe unless such funds will be administered by a librarian, and (B) the Secretary shall take into account the needs of Indian tribes for such allocations to carry out the activities described in section 402(b).

Post, p. 2244.

“(d)(1) From the sums available pursuant to the last sentence of section 4(a) for any fiscal year, the Secretary shall make grants to organizations primarily serving and representing Hawaiian natives that are recognized by the Governor of the State of Hawaii.

Post, p. 2243.

Ante, p. 2237.

“(2) Grants under this subsection shall be made on the basis of applications and plans submitted by such organizations that are consistent with the requirements imposed pursuant to sections 403 and 404. Funds made available by grants under this subsection may be used for the purposes specified in clauses (1) through (8) of section 402(a). Section 402(c) shall apply with respect to the cultural materials of Hawaiian natives.”

Post, p. 2244.

Post, p. 2244.

Post, p. 2243.

PLANS AND PROGRAMS

SEC. 106. Section 6 of the Act is amended—

20 USC 351d.

(1) by striking out “STATE” in the heading of such section;

(2) by striking out “titles I, II, III, and IV” in subsection (a) and inserting in lieu thereof “titles I, II, and III”;

(3) by striking out clause (4) of subsection (b) and inserting in lieu thereof the following:

“(4) provide that priority will be given to programs and projects—

“(A) that improve access to public library resources and services for the least served populations in the State, including programs for individuals with limited English-speaking proficiency or handicapping conditions, and programs and projects in urban and rural areas;

“(B) that serve the elderly;

“(C) that are designed to combat illiteracy; and

“(D) that increase services and access to services through effective use of technology.”; and

(4) by adding at the end thereof the following new subsection:

“(g)(1) Any Indian tribe desiring to receive its allotment under section 5(c)(1) shall submit an application to the Secretary in accordance with section 403.

Ante, p. 2238.

Post, p. 2244.

“(2) Any Indian tribe desiring to receive an additional allocation under section 5(c)(2) shall submit a plan in accordance with section 404.”

Ante, p. 2238.

Post, p. 2244.

PAYMENTS

SEC. 107. Section 7 of the Act is amended—

20 USC 351e.

(1) by striking out “TO STATES” in the heading of such section;

(2) by striking out “paragraph (1), (2), (3), or (4)” in subsection (a) and inserting in lieu thereof “clause (1), (2), or (3)”;

(3) by striking out “and title IV” in subsection (b)(1);

(4) by inserting “and the Northern Mariana Islands” after “American Samoa,” in subsection (b)(1);

(5) by inserting “the Northern Mariana Islands,” after “the Virgin Islands,” in subsection (b)(2); and

(6) by adding at the end thereof the following new subsection:

Ante, p. 2237.
Post, p. 2244.
Ante, p. 2238.
Post, p. 2244.
Ante, p. 2239.

“(c) From the sums available pursuant to the second sentence of section 4(a), the Secretary shall pay to each Indian tribe which has an approved application under section 403 an amount equal to such tribe’s allotment under section 5(c)(1) and shall pay to each Indian tribe which has an approved plan under section 404 an amount equal to such tribe’s additional allocation under section 6(g)(2), except that such additional allocation shall not exceed 80 percent of the cost of carrying out such plan.”.

ADMINISTRATIVE COST

20 USC 351f.

SEC. 108. Section 8 of the Act is amended to read as follows:

“ADMINISTRATIVE COST

20 USC 352,
 355a.
 20 USC 355e.

“SEC. 8. A State may expend funds received under titles I and II for administrative costs in connection with programs and activities carried out under titles I, II, and III, but such administrative expenditures under such titles for any fiscal year may not exceed the greater of (1) 6 per centum of the sum of the amounts allotted to such State under such titles for such fiscal year, or (2) \$60,000.”.

GRANTS FOR LIBRARY SERVICE

20 USC 352.

SEC. 109. Section 101 of the Act is amended to read as follows:

“GRANTS TO STATES FOR LIBRARY SERVICES

Ante, p. 2237.
Ante, p. 2239.
Post, p. 2241.

“SEC. 101. The Secretary shall carry out a program of making grants from sums appropriated pursuant to section 4(a)(1) to States which have approved basic State plans under section 6 and have submitted annual programs under section 103—

“(1) for the extension of public library services to areas and populations without such services and the improvement of such services to areas and populations to ensure that such services are adequate to meet user needs and to make library services accessible to individuals who, by reason of distance, residence, handicap, age, literacy level, or other disadvantage, are unable to receive the benefits of public library services regularly made available to the public;

“(2) for adapting public library services to meet particular needs of individuals within the States;

“(3) for assisting libraries to serve as community information referral centers;

“(4) for assisting libraries in providing literacy programs for adults and school dropouts in cooperation with other agencies and organizations, if appropriate;

“(5) for strengthening State library administrative agencies; and

“(6) for strengthening major urban resource libraries.”.

USES OF FEDERAL FUNDS

20 USC 353.

SEC. 110. Section 102(a)(1) of the Act is amended by inserting “assist libraries to serve as community centers for information and referral and to” after “designed to”.

STATE LIBRARY SERVICE PROGRAM

SEC. 111. Section 103 of the Act is amended—

20 USC 354.

(1) by inserting after “handicapped” in clause (3) the following: “and institutionalized individuals”;

(2) by redesignating clauses (4) and (5) as clauses (6) and (7), respectively, and inserting after clause (3) the following:

“(4) describe the uses of funds for programs for the elderly, which may include (A) the training of librarians to work with the elderly; (B) the conduct of special library programs for the elderly particularly for the elderly who are handicapped; (C) the purchase of special library materials for use by the elderly; (D) the payment of salaries for elderly persons who wish to work in libraries as assistants on programs for the elderly; (E) the provision of in-home visits by librarians and other library personnel to the elderly; (F) the establishment of outreach programs to notify the elderly of library services available to them; and (G) the furnishing of transportation to enable the elderly to have access to library services;

“(5) describe the manner in which funds for programs for handicapped individuals will be used to make library services more accessible to such individuals;” and

(3) by adding at the end thereof the following new sentence: “The amount which a State is required to expend pursuant to clause (3) of this section shall be ratably reduced to the extent that Federal allocations to the State are reduced.”.

CONSTRUCTION: USE OF FUNDS

SEC. 112. (a) Section 202 of the Act is amended by striking out the second sentence and inserting in lieu thereof the following: “Such grants shall be used for the construction (as defined in section 3(2)) of public libraries.”.

20 USC 355b.

(b)(1) Section 202 of the Act is further amended by inserting “(a)” after “Sec. 202.” and by adding at the end thereof the following new subsections:

“(b) For the purposes of subsection (a), the Federal share of the cost of construction of any project assisted under this title shall not exceed one-half of the total cost of such project.

“(c) If, within 20 years after completion of construction of any library facility which has been constructed in part with funds made available under this title—

“(1) the recipient (or its successor in title or possession) ceases or fails to be a public or nonprofit institution, or

“(2) the facility ceases to be used as a library facility, unless the Secretary determines that there is good cause for releasing the institution from its obligation,

the United States shall be entitled to recover from such recipient (or successor) an amount which bears the same ratio to the value of the facility at that time (or part thereof constituting an approved project or projects) as the amount of the Federal grant bore to the cost of such facility (or part thereof). The value shall be determined by the parties or by action brought in the United States district court for the district in which the facility is located.”.

Courts, U.S.

(2) Subsection (c) of section 202 of the Act as added by the amendment made by paragraph (1) of this subsection shall apply to

20 USC 355b
note.

any facility constructed prior to or after the date of enactment of this Act with funds made available under title II of the Act.

20 USC 355a.

INTERLIBRARY COOPERATION AND RESOURCE SHARING

20 USC prec.
355e.

SEC. 113. (a) The heading of title III of the Act is amended by inserting "AND RESOURCE SHARING" after "INTERLIBRARY COOPERATION".

20 USC 355e.

(b) Section 301 of the Act is amended—

(1) by striking out "section 6 and" and inserting in lieu thereof "section 6,"; and

(2) by inserting before the period at the end thereof a comma and the following: "and have submitted long-range and annual programs which are directed toward eventual compliance with the requirements of section 304".

Infra.

20 USC 355e-2.

(c) Section 303 of the Act is amended by inserting "shall comply with the requirements of section 304," after "by regulation and" in the second sentence.

(d) Title III of the Act is further amended by adding at the end thereof the following new section:

"RESOURCE SHARING

20 USC 355e-3.

"SEC. 304. (a) The long-range program and annual program of each State shall include a statewide resource sharing plan which is directed toward eventual compliance with the provisions of this section.

"(b) In developing the State basic and long-range programs, the State library agency with the assistance of the State advisory council on libraries shall consider recommendations from current and potential participating institutions in the interlibrary and resource sharing programs authorized by this title.

Ante, p. 2239.

"(c) The State's long-range program shall identify interlibrary and resource sharing objectives to be achieved during the period covered by the basic and long-range plans required by section 6. The long-range program may include—

"(1) criteria for participation in statewide resource sharing to ensure equitable participation by libraries of all types that agree to meet requirements for resource sharing;

"(2) an analysis of the needs for development and maintenance of bibliographic access, including data bases for monographs, serials, and audiovisual materials;

"(3) an analysis of the needs for development and maintenance of communications systems for information exchange among participating libraries;

"(4) an analysis of the needs for development and maintenance of delivery systems for exchanging library materials among participating libraries;

"(5) a projection of the computer and other technological needs for resource sharing;

"(6) an identification of means which will be required to provide users access to library resources, including collection development and maintenance in major public, academic, school, and private libraries serving as resource centers;

"(7) a proposal, where appropriate, for the development, establishment, demonstration, and maintenance of intrastate multitype library systems;

“(8) an analysis of the State’s needs for development and maintenance of links with State and national resource sharing systems; and

“(9) a description of how the evaluations required by section 6(d) will be conducted.

“(d) Libraries participating in resource sharing activities under this section may be reimbursed for their expenses in loaning materials to public libraries.”.

LIBRARY SERVICES FOR INDIAN TRIBES

SEC. 114. Title IV of the Act is amended to read as follows:

“TITLE IV—LIBRARY SERVICES FOR INDIAN TRIBES

“FINDINGS AND PURPOSE; AUTHORIZATION OF GRANTS

“SEC. 401. (a) The Congress finds that—

20 USC 361.

“(1) most Indian tribes receive little or no funds under titles I, II, and III of this Act;

20 USC 352,
355a, 355e.

“(2) Indian tribes and reservations are generally considered to be separate nations and seldom are eligible for direct library allocations from States;

“(3) the vast majority of Indians living on or near reservations do not have access to adequate libraries or have access to no libraries at all; and

“(4) this title is therefor required specifically to promote special efforts to provide Indian tribes with library services.

“(b) It is therefor the purpose of this title (1) to promote the extension of public library services to Indian people living on or near reservations; (2) to provide incentives for the establishment and expansion of tribal library programs; and (3) to improve the administration and implementation of library services for Indians by providing funds to establish and support ongoing library programs.

“(c) The Secretary shall carry out a program of making grants from allotments under section 5(c)(1) to Indian tribes that have submitted an approved application under section 403 for library services to Indians living on or near reservations.

Ante, p. 2238.
Post, p. 2244.

“(d) The Secretary shall carry out a program of making special project grants from funds available under section 5(c)(2) to Indian tribes that have submitted approved plans for the provision of library services as described in section 404.

Ante, p. 2238.
Post, p. 2244.

“USE OF FUNDS

“SEC. 402. (a) Funds made available by grant under subsection (c) or (d) of section 401 may be used for—

20 USC 362.
Supra.

“(1) inservice or preservice training of Indians as library personnel;

“(2) purchase of library materials;

“(3) conduct of special library programs for Indians;

“(4) salaries of library personnel;

“(5) construction, purchase, renovation, or remodeling of library buildings and facilities;

“(6) transportation to enable Indians to have access to library services;

“(7) dissemination of information about library services;

“(8) assessment of tribal library needs; and

“(9) contracts to provide public library services to Indians living on or near reservations or to accomplish any of the activities described in clauses (1) through (8).

“(b) Any tribe that supports a public library system shall continue to expend from Federal, State, and local sources an amount not less than the amount expended by the tribe from such sources for public library services during the second fiscal year preceding the fiscal year for which the determination is made.

“(c) Nothing in this Act shall be construed to prohibit restricted collections of tribal cultural materials with funds made available under this Act.

“APPLICATIONS FOR LIBRARY SERVICES TO INDIANS

20 USC 363.
Ante, p. 2238.

“SEC. 403. Any Indian tribe which desires to receive its allotment under section 5(c)(1) shall submit an application which contains such information as the Secretary may require by regulation.

“PLANS FOR LIBRARY SERVICES TO INDIANS

20 USC 364.
Ante, p. 2238.

“SEC. 404. Any Indian tribe which desires to receive a special project grant from funds available under section 5(c)(2) shall submit a plan for library services on or near an Indian reservation. Such plans shall be submitted at such time, in such form, and contain such information as the Secretary may require by regulation and shall set forth a program for the year under which funds paid to the Indian tribe will be used, consistent with—

Ante, p. 2243.

“(1) a long-range program, and
“(2) the purposes set forth in section 402(a).

“COORDINATION WITH PROGRAMS FOR INDIANS

20 USC 365.

“SEC. 405. The Secretary, with the Secretary of the Interior, shall coordinate programs under this title with the programs assisted under the various Acts and programs administered by the Department of the Interior that pertain to Indians.”

FOREIGN LANGUAGE MATERIALS AND LITERACY PROGRAMS

SEC. 115. The Act is further amended by adding at the end thereof the following new titles:

“TITLE V—FOREIGN LANGUAGE MATERIALS ACQUISITION

“GRANTS FOR FOREIGN LANGUAGE MATERIAL ACQUISITION

20 USC 371.
Ante, p. 2237.

“SEC. 501. (a) The Secretary shall carry out a program of making grants from sums appropriated pursuant to section 4(a)(4) to State and local public libraries for the acquisition of foreign language materials.

“(b) Recipients of grants under this title shall be selected on a competitive basis.

“(c) No grant under this title for any fiscal year shall exceed \$15,000.

"TITLE VI—LIBRARY LITERACY PROGRAMS

"STATE AND LOCAL LIBRARY GRANTS

"SEC. 601. (a) The Secretary shall carry out a program of making grants from sums appropriated pursuant to section 4(a)(5) to State and local public libraries for the purposes of supporting literacy programs.

20 USC 375.
Ante, p. 2237.

"(b) Grants to State public libraries under this title shall be for the purposes of—

"(1) coordinating and planning library literacy programs; and

"(2) making arrangements for training librarians and volunteers to carry out such programs.

"(c) Grants to local public libraries shall be for the purposes of—

"(1) promoting the use of the voluntary services of individuals, agencies, and organizations in providing literacy programs;

"(2) acquisition of materials for literacy programs; and

"(3) using library facilities for such programs.

"(d) Recipients of grants under this title shall be selected on a competitive basis.

"(e) No grant under this title for any fiscal year shall exceed \$25,000."

TITLE II—HOWARD UNIVERSITY ENDOWMENT

Howard
University
Endowment Act.

SHORT TITLE

SEC. 201. This title may be cited as the "Howard University Endowment Act".

20 USC 130aa
note.

DEFINITIONS

SEC. 202. For purposes of this title—

20 USC 130aa.

(1) the term "endowment fund" means a fund, or a tax exempt foundation, established and maintained by Howard University for the purpose of generating income for its support, but which shall not include real estate;

(2) the term "endowment fund corpus" means an amount equal to the grants awarded under this title plus an amount equal to such grants provided by Howard University;

(3) the term "endowment fund income" means an amount equal to the total value of the endowment fund established under this title minus the endowment fund corpus;

(4) the term "Secretary" means the Secretary of Education; and

(5) the term "University" means the Howard University established by the Act of March 2, 1867.

14 Stat. 438.

PROGRAM AUTHORIZED

SEC. 203. (a) The Secretary is authorized to establish an endowment program, in accordance with the provisions of this title, for the purpose of establishing or increasing endowment funds, providing additional incentives to promote fundraising activities, and encouraging independence and self-sufficiency at the University.

20 USC 130aa-1.

(b)(1) From the funds appropriated pursuant to this title for endowments in any fiscal year for the University, the Secretary is

authorized to make grants to Howard University. The Secretary may enter into agreements with the University and include in any agreement made pursuant to this title such provisions deemed necessary by the Secretary to assure that the purposes of this title will be achieved.

(2) The University may receive a grant under this section only if it has deposited in the endowment fund established under this title an amount equal to such grant and has adequately assured the Secretary that it will administer the endowment fund in accordance with the requirements of this title. The source of funds for this institutional match shall not include Federal funds or funds derived from an existing endowment fund.

(3) The period of any grant under this section shall not exceed twenty years, and during such period the University shall not withdraw or expend any of its endowment fund corpus. Upon the expiration of any grant period, the University may use the endowment fund corpus plus any endowment fund income for any educational purpose.

INVESTMENTS

20 USC 130aa-2. SEC. 204. (a) The University shall invest its endowment fund corpus and endowment fund income in those low-risk instruments and securities in which a regulated insurance company may invest under the law of the District of Columbia, such as federally insured bank savings account or comparable interest bearing account, certificate of deposit, money market fund, mutual fund, or obligations of the United States.

(b) The University, in investing its endowment fund corpus and income, shall exercise the judgment and care, under circumstances then prevailing, which a person of prudence, discretion, and intelligence would exercise in the management of his own business affairs.

WITHDRAWALS AND EXPENDITURES

20 USC 130aa-3. SEC. 205. (a) The University may withdraw and expend its endowment fund income to defray any expenses necessary to its operation, including expenses of operations and maintenance, administration, academic and support personnel, construction and renovation, community and student services programs, technical assistance, and research. No endowment fund income or corpus may be used for any type of support of the executive officers of the University or for any commercial enterprise or endeavor entered into after January 1, 1981. Except as provided in subsection (b), the University shall not, in the aggregate, withdraw or expend more than 50 per centum of the total aggregate endowment fund income earned prior to the time of withdrawal or expenditure.

(b) The Secretary is authorized to permit the University to withdraw or expend more than 50 per centum of its total aggregate endowment income whenever the University demonstrates such withdrawal or expenditure is necessary because of—

(A) a financial emergency, such as a pending insolvency or temporary liquidity problem;

(B) a life-threatening situation occasioned by a natural disaster or arson; or

(C) another unusual occurrence or exigent circumstance.

(c)(1) If the University withdraws or expends more than the endowment fund income authorized by this section, the University shall repay the Secretary an amount equal to 50 per centum of the amount improperly expended (representing the Federal share thereof).

(2) The University shall not withdraw or expend any endowment fund corpus. If the University withdraws or expends any endowment fund corpus, the University shall repay the Secretary an amount equal to 50 per centum of the amount withdrawn or expended (representing the Federal share thereof) plus any income earned thereon.

ENFORCEMENT

SEC. 206. (a) After notice and an opportunity for a hearing, the Secretary is authorized to terminate and recover any grant awarded under this title if the University—

20 USC 130aa-4.

(1) withdraws or expends any endowment fund corpus, or any endowment fund income in excess of the amount authorized by section 205;

(2) fails to invest its endowment fund corpus or income in accordance with the investment standards set forth in section 204; or

(3) fails to account properly to the Secretary concerning investments and expenditures of its endowment fund corpus or income.

(b) If the Secretary terminates a grant under subsection (a), the University shall return to the Treasury of the United States an amount equal to the sum of the original grant or grants under this Act plus any income earned thereon. The Secretary may direct the University to take such other appropriate measures to remedy any violation of this title and to protect the financial interest of the United States.

AUTHORIZATION OF APPROPRIATIONS

SEC. 207. There is authorized to be appropriated \$2,000,000 for the purposes authorized under section 203. Funds appropriated under this section shall remain available until expended.

20 USC 130aa-5.

CONFORMING AMENDMENTS

SEC. 208. Section 8 of the Act of March 2, 1867, entitled "An Act to incorporate the Howard University in the District of Columbia" (ch. 162, 14 Stat. 439, 20 U.S.C. 123, as amended by Public Law 70-634, 45 Stat. 1021, and by Public Law 79-615, 60 Stat. 871) is further amended by inserting "endowment," after "improvement,".

EFFECTIVE DATE

SEC. 209. This title shall take effect on October 1, 1984.

20 USC 130aa
note.

TITLE III—HIGHER EDUCATION PROJECTS

LIBRARY PROJECT AUTHORIZED

SEC. 301. (a) The Secretary of Education (hereafter in this title referred to as the "Secretary") is authorized to provide financial

University of
Hartford,
Hartford, Conn.

assistance, in accordance with the provisions of this section, to pay all of the cost of construction, and related expenses, for an addition to the William H. Mortensen Library at the University of Hartford located at Hartford, Connecticut, to enable the University of Hartford to house a collection of materials relating to Presidential campaigns and to American political history, known as the Presidential Americana, together with other collections.

(b) No financial assistance may be made under this section except upon an application at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require.

Appropriation
authorization.

(c) There are authorized to be appropriated such sums, not to exceed \$6,500,000, as may be necessary to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended.

HUMAN DEVELOPMENT CENTER FACILITY AUTHORIZED

University of
Kansas,
Lawrence,
Kans.
Handicapped
persons.

SEC. 302. (a) The Secretary is authorized, in accordance with the provisions of this section, to provide financial assistance to the University of Kansas located in Lawrence, Kansas, to pay the Federal share of the cost of construction and related costs for a human development center facility at the University of Kansas, to be used as a national research and training resource for individuals acquiring expertise in the rehabilitation, education, parent training, employment, independent living, and public policy concerns of handicapped individuals and their families, and as a treatment resource for handicapped persons and their families.

(b) No financial assistance may be made under this section unless an application is made at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require.

Appropriation
authorization.

(c) There are authorized to be appropriated such sums, not to exceed \$9,000,000, as may be necessary to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended.

CARL VINSON INSTITUTE OF GOVERNMENT AUTHORIZED

University of
Georgia, Athens,
Ga.

SEC. 303. (a) In recognition of the public service of Representative Carl Vinson, in order to enhance the program of service to State and local governments in Georgia and in other States provided by the Carl Vinson Institute of Government of the University of Georgia, and in order to preserve a historic landmark that provided special education opportunities for young women in Georgia and in other States at a time when such opportunities were limited or nonexistent, the Secretary is authorized, in accordance with the provisions of this section, to provide financial assistance to the State of Georgia to renovate the physical facilities of the former Lucy Cobb Institute for Girls in Athens, Georgia, for the purpose of providing a center for the Carl Vinson Institute of Government of the University of Georgia.

(b) No financial assistance may be made under this section except upon an application at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require.

(c) There are authorized to be appropriated \$3,500,000 to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended.

Appropriation
authorization.

JOHN W. MCCORMACK INSTITUTE OF PUBLIC AFFAIRS

SEC. 304. (a) In recognition of the public service of the former Speaker of the United States House of Representatives, John W. McCormack, and of the pressing need for national centers for applied public policy research, the Secretary is authorized to provide funds in accordance with the provisions of this section to assist in the development of the John W. McCormack Institute of Public Affairs, located at the University of Massachusetts, Boston, Massachusetts.

University of
Massachusetts,
Boston, Mass.

(b) No payment may be made under this section except upon an application at such time, in such manner, and containing or accompanied by such information as the Secretary may require in order to certify the amount of eligible funds. All such payments may be used in furtherance of the mission of the McCormack Institute, which is defined as research, instruction, and civil education related to public policy and the role of representative government in the United States.

(c)(1) Funds appropriated pursuant to this section shall be made available to the John W. McCormack Institute on or after October 1, 1984, and prior to the close of the fiscal year ending September 30, 1987.

(2) There are authorized to be appropriated such sums as may be necessary to carry out this section for the fiscal year ending September 30, 1985, and for each of the two succeeding fiscal years, except that the aggregate amount so appropriated shall not exceed \$3,000,000. Funds appropriated pursuant to this section shall remain available until expended.

Appropriation
authorization.

Approved October 17, 1984.

LEGISLATIVE HISTORY—H.R. 2878 (S. 2490):

HOUSE REPORTS: No. 98-165 (Comm. on Education and Labor) and
No. 98-1075 (Comm. of Conference).

SENATE REPORT No. 98-486 accompanying S. 2490 (Comm. on Labor and Human
Resources).

CONGRESSIONAL RECORD, Vol. 130 (1984):

Jan. 30, 31, considered and passed House.

June 21, considered and passed Senate, amended, in lieu of S. 2490.

Aug. 8, House concurred in Senate amendment with an amendment.

Oct. 2, House agreed to conference report.

Oct. 3, Senate agreed to conference report.

Public Law 98-481
98th Congress

An Act

Oct. 17, 1984
[H.R. 5540]

To provide for restoration of Federal recognition to the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians, to institute for such Tribe those Federal services provided to Indians who are recognized by the Federal Government and who receive such services because of Federal trust responsibility, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Coos, Lower
Umpqua, and
Siuslaw
Restoration Act.

SHORT TITLE

25 USC 714 note.

SECTION 1. That this Act may be cited as the "Coos, Lower Umpqua, and Siuslaw Restoration Act".

DEFINITIONS

25 USC 714.

SEC. 2. For the purposes of this Act—

(1) "Tribe" means the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians;

(2) "Secretary" means the Secretary of the Interior or his authorized representative;

(3) "Interim Council" means the tribal council of the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians, which serves pursuant to section 5 of this Act; and

(4) "member" used with respect to the Tribe means a person enrolled on the membership roll of the Tribe provided for in section 4 of this Act.

EXTENSION OF FEDERAL RECOGNITION, RIGHTS, AND PRIVILEGES

25 USC 714a.

SEC. 3. (a) **FEDERAL RECOGNITION.**—Federal recognition is hereby extended to the Tribe, and its members shall be eligible for all Federal services and benefits furnished to federally recognized tribes. Notwithstanding any provision to the contrary in any law establishing such services and benefits, eligibility of the Tribe and its members for such Federal services and benefits shall become effective upon passage of this Act without regard to the existence of a reservation for the Tribe or the residence of the members of the Tribe on a reservation for such members who reside in the following counties of Oregon: Coos, Lane, Lincoln, Douglas, and Curry.

(b) **RESTORATION OF RIGHTS AND PRIVILEGES.**—Except as provided in subsection (c) of this section, all rights and privileges of the Tribe and of members of the Tribe under any Federal treaty, Executive order, agreement or statute, or under any other authority, which were diminished or lost under the Act of August 13, 1954 (25 U.S.C. 691, et seq.), are hereby restored and the provisions of that Act are inapplicable to the Tribe and to members of the Tribe upon passage of this Act.

(c) **HUNTING, FISHING, OR TRAPPING RIGHTS NOT GRANTED OR RESTORED.**—This Act shall not grant or restore any hunting, fishing,

or trapping right of any nature, including any indirect or procedural right or advantage, to any member of the Tribe, nor shall any presumption be created by this Act as to the existence or non-existence of such rights.

(d) **EFFECT ON PROPERTY RIGHTS AND OTHER OBLIGATIONS.**—Except as specifically provided in this Act, nothing in this Act shall alter any property right or obligation, any contractual right or obligation, or any obligation for taxes already levied.

MEMBERSHIP ROLLS

SEC. 4. (a) OPENING; DUTY OF INTERIM COUNCIL AND TRIBAL OFFICIALS.—The membership roll is declared open. The Interim Council and tribal officials under the Tribe's constitution and bylaws shall take such measures as will insure the continuing accuracy of the membership roll.

25 USC 714b.

(b) **CRITERIA FOR ENROLLMENT.**—

(1) Until a tribal constitution and bylaws are adopted, a person shall be a member of the Tribe and his name shall be placed on the membership roll if the individual is living and if—

(a) that individual's name was listed on the Tribe's Census Roll of 1940;

(b) that individual was entitled to be listed on the Tribe's Census Roll of January 1, 1940 but was not so listed. Any person placed on the membership roll must be listed on the January 1, 1940 Census Roll of the Grand Ronde-Siletz Indian Agency of nonreservation Indians as Coos, Lower Umpqua, or Siuslaw, be a descendant of such a person, or be a descendant of public domain allottee of Western Oregon who was a member of one of these three tribes.

(c) that individual is a direct lineal descendant of an individual, living or dead, identified by subparagraph (a) or (b); and

(d) that individual or the lineal ancestor through whom he qualifies for membership under subparagraph (c) has never been an enrolled member of, or qualified for the payment of any money for the taking of land or otherwise through, any other Indian tribe, either federally recognized or acknowledged or not federally recognized or acknowledged.

(2) Until a tribal constitution and bylaws are adopted, a person shall be eligible for membership if the individual is living and meets the criteria established in subsections (b)(1)(a), (b) and (c) of this section. Such individual may submit an application for enrollment to the Interim Council for consideration and decision and the Interim Council shall place on the roll the name of all individuals who submitted an application and are meeting the criteria established under subsections (b)(1)(a), (b) and (c) of this section: *Provided*, That the Interim Council may reject the application of any person who is found to be a member or who is claiming membership in another Indian tribe. Nothing in this Act shall bar unsuccessful applicants for enrollment before the Interim Council from submitting an application for enrollment to the Tribe after the adoption of a tribal constitution and bylaws.

(3) After the adoption of a tribal constitution and bylaws, those documents shall govern membership in the Tribe.

(c) VERIFICATION OF ELIGIBILITY FOR ENROLLMENT; APPEAL; FINALITY OF DETERMINATION; POSSESSION OF ENROLLMENT RECORDS AND MATERIALS.—

(1) Prior to any election pursuant to section 6 of this Act, the Interim Council shall verify by tribal resolution the eligibility for enrollment and age of each member listed on the Tribe's membership roll, which resolution shall be forwarded to the Secretary.

(2) With regard to the exclusion of any name from the tribal membership roll, any member may appeal to the Secretary, who shall make a final determination of each such appeal within ninety days after an appeal has been filed with him. The determination of the Secretary with respect to such an appeal shall be final.

(d) FRANCHISEMENT.—A member who is eighteen years of age or older is entitled and eligible to be given notice of, attend, participate in, and vote at, general council meetings and to nominate candidates for, to run for any office in, and to vote in elections of members to the interim council and to other tribal councils.

INTERIM COUNCIL

25 USC 714c.

SEC. 5. Until such time as a new tribal constitution and bylaws are adopted in accordance with section 6 of this Act, the Tribe shall be governed by an Interim Council, the membership of which shall consist of the members of the current council of the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians, Incorporated or such new members as may be elected in accordance with election procedures followed by the tribal corporate body prior to the enactment of this Act.

TRIBAL CONSTITUTION AND BYLAWS

25 USC 714d.

SEC. 6. (a) ELECTION; TIME AND PROCEDURE.—Upon the written request of the Interim Council, the Secretary shall conduct an election by secret ballot, pursuant to section 16 of the Act of June 18, 1934 (25 U.S.C. 476), for the purpose of adopting a constitution and bylaws for the Tribe. The election shall be held after such written request and within sixty days after the Secretary has published in appropriate local media a certification copy of the Tribe's membership roll.

(b) PREELECTION DISTRIBUTION OF PROPOSED CONSTITUTION AND BYLAWS AND BRIEF IMPARTIAL DESCRIPTION; CONSULTATION BY INTERIM COUNCIL WITH MEMBERS OF TRIBE.—The Interim Council shall draft and distribute to each member described in section 4(d) of this Act, no later than thirty days before the election under subsection (a) of this section, a copy of the proposed constitution and bylaws of the Tribe, as proposed by the Interim Council, along with a brief, impartial description of the constitution and bylaws. The members of the Interim Council may freely consult with members of the Tribe, outside legal counsel and other consultants concerning the text and description of the constitution and bylaws, except that such consultation may not be carried on within fifty feet of the polling places on the date of the election.

(c) MAJORITY VOTE NECESSARY FOR ADOPTION OF CONSTITUTION AND BYLAWS.—In any election held pursuant to subsection (a) of this section, the vote of a majority of those actually voting shall be

necessary and sufficient for the adoption of a tribal constitution and bylaws: *Provided*, That the total vote cast shall not be less than thirty percent of those entitled to vote.

(d) **ELECTION OF TRIBAL OFFICIALS PROVIDED FOR IN CONSTITUTION AND BYLAWS; BALLOT REQUIREMENTS.**—Not later than one hundred and twenty days after the tribe adopts a constitution and bylaws, the Interim Council shall conduct an election by secret ballot for the purpose of electing the individuals who will serve as tribal officials as provided in the tribal constitution and bylaws. For the purpose of this election and notwithstanding any provision in the tribal constitution and bylaws to the contrary, absentee balloting shall be permitted.

RESERVATION

SEC. 7. (a) ESTABLISHMENT.—A reservation shall be established by this Act at no cost to the Federal Government. 25 USC 714e.

(b) **LEGAL DESCRIPTION.**—So long as the lands are offered to the Federal Government free of purchase cost, the Secretary shall accept the following lands in trust for the tribe as a reservation:

(1) In Coos County, Oregon, a parcel containing 1.02 acres and described as parcel 3200 of section 106B of township 25 south, range 12 west, Willamette meridian.

(2) In Coos County, Oregon, a parcel described as lots 10-18, block 13, Empire Commercial tracts K73 2K 81, A. N. Foley Donation Land Claim Numbered 38, section 20 of township 25 south, range 13 west, Willamette meridian. The Secretary shall not accept this parcel into trust until the date that is 1 year after enactment of this Act. If before the end of the ninety day period, a person or entity other than the tribe files a lawsuit in a court of competent jurisdiction claiming an interest in such parcel or portion thereof, the Secretary shall not accept the parcel into trust until the final adjudication of this lawsuit. Nothing in this Act shall be construed to the prejudice of any parties to such lawsuit or be construed to prevent a court of competent jurisdiction from partitioning such parcel in the adjudication of such lawsuit. Notwithstanding any other provision of law, the United States District Court for the District of Oregon shall be deemed to have jurisdiction over any lawsuit filed to determine the rights to the above described parcel of land.

Courts, U.S.

(3) In Curry County, Oregon, a parcel described as the southeast quarter of the southeast quarter of the southwest quarter of section 11 of township 32 south, range 15 west, Willamette meridian.

(c) The State of Oregon shall exercise criminal and civil jurisdiction over the reservation, and over the individuals on the reservation, in accordance with section 1162 of title 18, United States Code, and section 1360 of title 28, United States Code, respectively.

REGULATIONS

25 USC 714f.

SEC. 8. The Secretary may promulgate such regulations as may be necessary to carry out the provisions of this Act.

Approved October 17, 1984.

LEGISLATIVE HISTORY—H.R. 5540:

HOUSE REPORT No. 98-904 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 130 (1984):

Aug. 6, considered and passed House.
Sept. 28, considered and passed Senate, amended.
Oct. 2, House concurred in Senate amendment.

Public Law 98-482
98th Congress

An Act

To modify Federal land acquisition and disposal policies carried out with respect to Fire Island National Seashore, and for other purposes.

Oct. 17, 1984
[H.R. 3697]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Fire Island National Seashore Amendments Act of 1984".

SEC. 2. Section 2 of the Act entitled "An Act to establish the Fire Island National Seashore, and for other purposes", approved September 11, 1964 (16 U.S.C. 459e-1), is amended by adding at the end thereof the following new subsections:

"(h)(1)(A) The Secretary shall sell any property described in subparagraph (B) of this paragraph acquired by condemnation under this Act to the highest bidder; except that—

"(i) no property shall be sold at less than its fair market value; and

"(ii) no property shall be sold unless it is sold subject to covenants or other restrictions that will ensure that the use of such property conforms—

"(I) to the standards specified in regulations issued under section 3(a) of this Act which are in effect at the time of such sale, and

"(II) to any approved zoning ordinance or amendment thereof to which such property is subject.

"(B) The property referred to in subparagraph (A) of this paragraph is any property within the boundaries of the national seashore as delineated on the map mentioned in section 1 except—

"(i) property within the Dune district referred to in subsection (g) of this section;

"(ii) beach or waters and adjoining land within the exempt communities referred to in the first sentence of subsection (e) of this section; and

"(iii) property within the eight-mile area described in the second sentence of subsection (e) of this section; and

"(iv) any property acquired prior to October 1, 1982, that the Secretary determines should be retained to further the purpose of this Act.

"(2) Notwithstanding any other provision of law, all moneys received from sales under paragraph (1) of this subsection may be retained and shall be available to the Secretary, without further appropriation, only for purposes of acquiring property under this Act.

"(i)(1) Upon or after the commencement of any action for condemnation with respect to any property under this Act, the Secretary, through the Attorney General of the United States, may apply to the United States District Court for the Eastern District of New York for a temporary restraining order or injunction to prevent any use of, or construction upon, such property that—

Fire Island
National
Seashore
Amendments
Act of 1984.
Conservation.
Real property.
16 USC 459e
note.

16 USC 459e-2.

Courts, U.S.

16 USC 459e-2. “(A) fails, or would result in a failure of such property, to conform to the standards specified in regulations issued under section 3(a) of this Act in effect at the time such use or construction began; or

“(B) in the case of undeveloped tracts in the Dune district referred to in subsection (g) of this section, would result in such undeveloped property not being maintained in its natural state.

Infra. “(2) Any temporary restraining order or injunction issued pursuant to such an application shall terminate in accordance with the provisions of section 3(g) of this Act.”.

SEC. 3. Section 3(e) of the Act entitled “An Act to establish the Fire Island National Seashore, and for other purposes”, approved September 11, 1964 (16 U.S.C. 459e-2(e)), is amended to read as follows:

16 USC 459e-1. “(e) In the case of any property, including improved property but excluding undeveloped property in the Dune district referred to in section 2(g) of this Act, with respect to which the Secretary’s authority to acquire by condemnation has been suspended under this Act if—

Ante, p. 2255. “(1) such property is, after the date of the enactment of the Fire Island National Seashore Amendments Act of 1984, made the subject of a variance under, or becomes for any reason an exception to, any applicable zoning ordinance approved under this section; and

“(2) such variance or exception results, or will result, in such property being used in a manner that fails to conform to any applicable standard contained in regulations of the Secretary issued pursuant to this section and in effect at the time such variance or exception took effect;

then the suspension of the Secretary’s authority to acquire such property by condemnation shall automatically cease.”.

Ante, p. 2255. SEC. 4. Subsection (b) of section 3 of the Act entitled “An Act to establish the Fire Island National Seashore, and for other purposes”, approved September 11, 1964 (16 U.S.C. 459e-2(b)) is amended by striking out “by means of acreage, frontage, and setback requirements.” and inserting “by means of limitations or restrictions on the size, location or use of any commercial, residential, and other structures. In accomplishing these objectives, such standards shall seek to reconcile the population density of the seashore at the time of enactment of the Fire Island National Seashore Amendments Act of 1984 with the protection of the natural resources of the Seashore consistent with the purposes for which it has been established as provided by this Act.”.

Courts, U.S. SEC. 5. Section 3 of the Act entitled “An Act to establish the Fire Island National Seashore, and for other purposes”, approved September 11, 1984 (16 U.S.C. 459e-2) is amended by adding the following new subsection (g) after subsection (f):

“(g) Notwithstanding any other provision of this Act, the Secretary of the Interior, acting through the Attorney General of the United States, may apply to the United States District Court for the Eastern District of New York for a temporary restraining order or injunction to prohibit the use of, including construction upon, any property within the seashore in a manner that—

“(1) will cause or is likely to cause significant harm to the natural resources of the seashore, or

“(2) is inconsistent with the purposes for which the seashore was established.

Except to the extent the Court may deem necessary in extraordinary circumstances, no such order or injunction shall continue in effect for more than one hundred and eighty days. During the period of such order or injunction, the Secretary shall diligently and in good faith negotiate with the owner of the property to assure that following termination of the order or injunction, the inconsistent use is abated or the significant harm to the natural resources is mitigated.”.

Approved October 17, 1984.

LEGISLATIVE HISTORY—H.R. 3697:

HOUSE REPORT No. 98-1065 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 130 (1984):
Sept. 24, considered and passed House.
Oct. 3, considered and passed Senate.

Public Law 98-483
98th Congress

An Act

Oct. 17, 1984

[H.R. 2889]

To amend the National Historic Preservation Act, and for other purposes.

Appropriation
authorization.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 212(a) of the National Historic Preservation Act (16 U.S.C. 470t(a)) is amended by striking out the second and third sentences and inserting in lieu thereof "To carry out the provisions of this title, there is authorized to be appropriated not more than \$2,500,000 for each of the fiscal years 1985 through 1989".

Approved October 17, 1984.

LEGISLATIVE HISTORY—H.R. 2889:

HOUSE REPORT No. 98-761 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 98-623 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 130 (1984):
June 4, considered and passed House.
Oct. 3, considered and passed Senate, amended.
Oct 4, House concurred in Senate amendment.

Public Law 98-484
98th Congress

An Act

To modify the boundary of the Pike National Forest in the State of Colorado, and for other purposes.

Oct. 17, 1984
[H.R. 3601]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. In order to provide for the more efficient administration of certain Federal lands in the vicinity of Waterton Canyon, South Platte River in the State of Colorado, the exterior boundary of the Pike National Forest is hereby modified as shown on Department of Agriculture, Forest Service maps entitled "Boundary Modification, Pike National Forest", dated March 1981. The maps and legal description of the boundary of such lands shall be on file and available for public inspection in the offices of the Chief of the Forest Service, Department of Agriculture and the Director of the Bureau of Land Management, Department of the Interior, and appropriate field offices of those agencies.

National Forest
System.

Public
availability.

SEC. 2. All public lands brought within the boundary of the Pike National Forest as a result of the boundary modification set forth in the first section of this Act (comprising about 2,869 acres and currently administered by the Bureau of Land Management, Department of the Interior) are hereby added to the Pike National Forest, and shall be administered in accordance with the laws, rules, and regulations applicable with respect to lands in the National Forest System.

SEC. 3. Nothing in this Act shall affect valid existing rights, or interests in existing land use authorizations, except that any such right or authorization shall be administered by the agency having jurisdiction of the land after the enactment of this Act in accordance with section 2 of this Act and other applicable law. Reissuance of any such authorization shall be in accordance with applicable law and the regulations of the agency having jurisdiction, except that the change of administrative jurisdiction resulting from the enactment of this Act shall not in itself constitute a basis for denying the renewal or reissuance of any such authorization.

SEC. 4. For the purpose of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9), the boundary of the Pike National Forest, as modified by the first section of this Act, shall be treated as if it were the boundary of that forest as of January 1, 1965.

16 USC 4601-9.

SEC. 5. (a) Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1271-1287) is amended by adding the following new paragraph at the end thereof—

Ante, p. 261.
16 USC 1276.

"(90) Horsepasture, North Carolina: The segment from Bohaynee Road (N.C. 281) downstream to Lake Jocassee."

(b) Section 5(b)(3) of such Act is amended by adding the following at the end thereof: "The study of the river named in paragraph (90) of subsection (a) shall be completed not later than three years after the date of the enactment of this sentence."

Study.

Appropriation
authorization.
16 USC 1276.

16 USC 1276
note.

Effective date.

(c) The first paragraph (4) in section 5(b) of such Act is amended by adding the following at the end thereof: "There are authorized to be appropriated for the purpose of conducting the study of the river named in paragraph (90) such sums as may be necessary.". The second paragraph (4) in such section 5(b) and paragraph (5) in such section 5(b) are redesignated as paragraphs (5) and (6) respectively.

SEC. 6. The provisions of this Act shall take effect on the date of the enactment of this Act.

Approved October 17, 1984.

LEGISLATIVE HISTORY—H.R. 3601:

HOUSE REPORT No. 98-1066 (Comm. on Interior and Insular Affairs).

CONGRESSIONAL RECORD, Vol. 130 (1984):

Sept. 24, considered and passed House.

Oct. 3, considered and passed Senate.

Public Law 98-485
98th Congress

An Act

To withdraw certain public lands in Lincoln County, Nevada, and for other purposes.

Oct. 17, 1984
[H.R. 4932]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) Subject to valid existing rights, the lands depicted on the map entitled "Groom Mountain Addition to Nellis Air Force Range", dated September 1984, and aggregating approximately 89,600 acres in Lincoln County, Nevada, are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws but not the mineral and geothermal leasing laws. Such lands are reserved for use by the Secretary of the Air Force—

Defense and
national
security.

(1) for training for electronic warfare, tactical maneuvering, and air support, and

(2) for other defense-related purposes consistent with, and involving no greater adverse impact on the withdrawn lands and their resources than, such training.

(b) The withdrawal provided by subsection (a) with regard to the lands described in subsection (a), and the right of their use by the Secretary of the Air Force for the purposes specified in that subsection, terminates on December 31, 1987.

Termination
date.

SEC. 2. As soon as possible after the date of the enactment of this Act but no later than January 1, 1987, the Secretary of the Interior and the Secretary of the Air Force shall issue an environmental impact statement, consistent with requirements of the National Environmental Policy Act of 1969, concerning continued or renewed withdrawal of the lands described in section 1(a) after December 31, 1987. Such statement shall include a description of and recommendations concerning measures to mitigate the impact of such continued or renewed withdrawal on opportunities for outdoor recreation, mineral exploration and development, and agriculture in Nevada. Such measures shall include possible acquisition by the Secretary of the Interior (through exchanges or otherwise) of lands in Nevada suitable for outdoor recreational uses and possible increased mineral, agricultural, or recreational use of lands in Nevada withdrawn for military purposes.

Conservation.

42 USC 4321
note.

SEC. 3. (a) During the period of the withdrawal of the lands described in section 1(a), the Secretary of the Interior shall manage such lands pursuant to the Federal Land Policy and Management Act of 1976 and other applicable law, including this Act. All use of such lands, and the issuance of any lease, easement, right-of-way, or other authorization with regard to such lands—

43 USC 1701
note.

(1) shall be secondary to the military use of such lands for the purposes specified in section 1, and

(2) may be authorized by the Secretary of the Interior only with the concurrence of the Secretary of the Air Force.

(b) When military operations, public safety, or national security, as determined by the Secretary of the Air Force, require the closure to public use of any road, any trail, or any other portion of the lands

withdrawn by this Act, the Secretary of the Air Force may take such action as the Secretary of the Air Force determines necessary or desirable to effect and maintain such closure. Such closures shall be limited to the minimum areas and periods which the Secretary of the Air Force determines are required for the purposes specified in this subsection. During such closures appropriate warning notices shall be kept posted and the Secretary of the Air Force shall take appropriate steps to notify the public concerning such closures.

Federal
Register,
publication.

(c)(1) As soon as possible after the date of the enactment of this Act, the Secretary of the Interior shall prepare and publish in the Federal Register a legal description of the lands withdrawn by this Act. The Secretary of the Air Force shall reimburse the Secretary of the Interior for the costs of preparing and publishing such description.

Public
availability.

(2) The map referred to in section 1(a) shall be on file and available for public inspection in the Offices of the Secretary of the Interior and the Secretary of the Air Force in Washington, District of Columbia, and Las Vegas and Carson City, Nevada.

(3) The withdrawal provided by this Act is not intended to—

(A) reserve or otherwise withdraw any water for use in connection with the purposes specified in section 1;

(B) affect in any manner the future appropriation, under State law, by the United States or others, of waters in, under, or upon the lands withdrawn by this Act; or

(C) affect any water rights acquired by the Secretary of the Air Force or any other person or entity before the date of the enactment of this Act.

(4) The withdrawal established by this Act may not be extended or renewed except by Act of Congress.

Approved October 17, 1984.

LEGISLATIVE HISTORY—H.R. 4932:

HOUSE REPORT No. 98-1046, Pt. 1 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 130 (1984):
Sept. 24, considered and passed House.
Oct. 2, considered and passed Senate.

Public Law 98-486
98th Congress

An Act

To exempt from taxation by the District of Columbia certain property of the Jewish War Veterans, U.S.A. National Memorial, Incorporated.

Oct. 17, 1984
[H R. 4994]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the property situated in the city of Washington, District of Columbia, at 1811 R Street, N.W., described as lot 175 in square 133, is hereby exempt from taxation by the District of Columbia as long as such property is owned and occupied by the Jewish War Veterans, U.S.A. National Memorial, Incorporated, and is not used for commercial purposes. The provisions of sections 2, 3, and 5 of the Act entitled "An Act to define the real property exempt from taxation in the District of Columbia", approved December 24, 1942 (56 Stat. 1091; D.C. Code secs. 47-1005, 1007, 1009), shall apply to the property made exempt from taxation by this Act.

Real property.

SEC. 2. The first section of this Act shall apply on and after the date on which the Jewish War Veterans, U.S.A. National Memorial, Incorporated, owns the property described in the first section of this Act.

Approved October 17, 1984.

LEGISLATIVE HISTORY—H.R. 4994:

HOUSE REPORTS: No. 98-1023 and Pt. 2 (Comm. on the District of Columbia).
CONGRESSIONAL RECORD, Vol. 130 (1984):
Sept. 17, considered and passed House.
Oct. 3, considered and passed Senate.

Public Law 98-487
98th Congress

An Act

Oct. 17, 1984
[H.R. 5223]

To amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to exempt restaurant central kitchens under certain conditions from Federal inspection requirements.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 301(c)(2) of the Federal Meat Inspection Act (21 U.S.C. 661(c)(2)) is amended by adding the following sentence at the end thereof: "For the purposes of this subparagraph, operations conducted at a restaurant central kitchen facility shall be considered as being conducted at a restaurant if the restaurant central kitchen prepares meat or meat food products that are ready to eat when they leave such facility and are served in meals or as entrees only to customers at restaurants owned or operated by the same person, firm, or corporation owning or operating such facility: *Provided*, That such facility shall be subject to the provisions of section 202 of this Act: *Provided further*, That the facility may be subject to the inspection requirements under title I of this Act for as long as the Secretary deems necessary, if the Secretary determines that the sanitary conditions or practices of the facility or the processing procedures or methods at the facility are such that any of its meat or meat food products are rendered adulterated."

21 USC 642.

SEC. 2. Section 5(c)(2) of the Poultry Products Inspection Act (21 U.S.C. 454(c)(2)) is amended by adding the following sentence at the end thereof: "For the purposes of this subparagraph, operations conducted at a restaurant central kitchen facility shall be considered as being conducted at a restaurant if the restaurant central kitchen prepares poultry products that are ready to eat when they leave such facility and are served in meals or as entrees only to customers at restaurants owned or operated by the same person owning or operating such facility: *Provided*, That such facility shall be subject to the provisions of section 11(b) of this Act: *Provided*

21 USC 461.

further, That the facility may be subject to the inspection requirements of this Act for as long as the Secretary deems necessary, if the Secretary determines that the sanitary conditions or practices of the facility or the processing procedures or methods at the facility are such that any of its poultry products are rendered adulterated.”.

Approved October 17, 1984.

LEGISLATIVE HISTORY—H.R. 5223 (S. 2256):

HOUSE REPORT No. 98-885 (Comm. on Agriculture).

SENATE REPORT No. 98-610 accompanying S. 2256 (Comm. on Agriculture, Nutrition, and Forestry).

CONGRESSIONAL RECORD, Vol. 130 (1984):

July 24, considered and passed House.

Oct. 2, considered and passed Senate, amended, in lieu of S. 2256.

Oct. 3, House concurred in Senate amendments.

Public Law 98-488
98th Congress

An Act

Oct. 17, 1984
[H.R. 5513]

To designate the Delta States Research Center in Stoneville, Mississippi, as the "Jamie Whitten Delta States Research Center".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Delta States Research Center of the United States Department of Agriculture's Agricultural Research Service, located in Stoneville, Mississippi, is hereby designated as the "Jamie Whitten Delta States Research Center". Any reference in a law, map, regulation, document, record, or other paper of the United States to that center shall be deemed to be a reference to the "Jamie Whitten Delta States Research Center".

Approved October 17, 1984.

LEGISLATIVE HISTORY—H.R. 5513:

HOUSE REPORT No. 98-1064 (Comm. on Agriculture).
CONGRESSIONAL RECORD, Vol. 130 (1984):
Sept. 24, considered and passed House.
Oct. 3, considered and passed Senate.

Public Law 98-489
98th Congress

An Act

To provide for the acquisition of a visitor contact and administrative site for the Big Thicket National Preserve in the State of Texas.

Oct. 17, 1984

[H.R. 5631]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (c) of the first section of the Act entitled "An Act to authorize the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes", approved October 11, 1974 (16 U.S.C. 698), is amended by inserting after the first sentence the following new sentence: "The Secretary may also acquire, by any of the above methods, approximately 15 acres of land outside of the boundaries of the preserve in the vicinity of the intersection of United States Highway 69 and State Farm-Market Road 420, in Hardin County, Texas, for purposes of a visitor contact and administrative site."

(b) Section 6 of such Act is amended by inserting at the end thereof the following new sentence: "Effective October 1, 1984, there is authorized to be appropriated such sums as may be necessary for the acquisition of the visitor contact and administrative site referred to in subsection (c) of the first section of this Act."

Appropriation
authorization.
16 USC 698e.

Approved October 17, 1984.

LEGISLATIVE HISTORY—H.R. 5631:

HOUSE REPORT No. 98-957 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 130 (1984):

Aug. 6, considered and passed House.

Oct. 3, considered and passed Senate.

Public Law 98-490
98th Congress

An Act

Oct. 17, 1984
[H.R. 5782]

Granting the consent of Congress to an amendment to the Delaware River Basin Compact.

Securities.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress consents to an amendment to the Delaware River Basin Compact which has been enacted by the States of Delaware, New York, and New Jersey and the Commonwealth of Pennsylvania, and the effect of which is to amend section 12.9 of Article 12 of the Delaware River Basin Compact to read as follows:

“12.9 Interest. Bonds shall bear interest at a rate determined by the Commission, payable annually or semiannually.”.

Approved October 17, 1984.

LEGISLATIVE HISTORY—H.R. 5782:

HOUSE REPORT No. 98-1055 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 130 (1984):
Sept. 24, considered and passed House.
Oct. 3, considered and passed Senate.

Public Law 98-491
98th Congress

An Act

To enable the Consumer Product Safety Commission to protect the public by ordering notice and repair, replacement or refund of certain toys or articles intended for use by children if such toys or articles contain a defect which creates a substantial risk of injury to children.

Oct. 17, 1984
[H.R. 5818]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Toy Safety Act of 1984".

SEC. 2. (a) Section 15 of the Federal Hazardous Substances Act (15 U.S.C. 1274) is amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively; and

(2) by inserting immediately after subsection (b) the following:

"(c)(1) If the Commission determines (after affording interested persons, including consumers and consumer organizations, an opportunity for a hearing in accordance with subsection (e) of this section) that any toy or other article intended for use by children that is not a banned hazardous substance contains a defect which creates a substantial risk of injury to children (because of the pattern of defect, the number of defective toys or such articles distributed in commerce, the severity of the risk, or otherwise) and that notification is required to protect adequately the public from such toy or article, the Commission may order the manufacturer or any distributor or dealer of such toy or article to take any one or more of the following actions:

"(A) To give public notice that such defective toy or article contains a defect which creates a substantial risk of injury to children.

"(B) To mail such notice to each person who is a manufacturer, distributor, or dealer of such toy or article.

"(C) To mail such notice to every person to whom the person giving notice knows such toy or article was delivered or sold.

An order under this paragraph shall specify the form and content of any notice required to be given under the order.

"(2) If the Commission determines (after affording interested persons, including consumers and consumer organizations, an opportunity for a hearing in accordance with subsection (e) of this section) that any toy or other article intended for use by children that is not a banned hazardous substance contains a defect which creates a substantial risk of injury to children (because of the pattern of defect, the number of defective toys or such articles distributed in commerce, the severity of the risk, or otherwise) and that action under this paragraph is in the public interest, the Commission may order the manufacturer, distributor, or dealer to take whichever of the following actions the person to whom the order is directed elects:

"(A) If repairs to or changes in the toy or article can be made so that it will not contain a defect which creates a substantial risk of injury to children, to make such repairs or changes.

Toy Safety Act of
1984.
Hazardous
materials.
15 USC 1261
note.

“(B) To replace such toy or article with a like or equivalent toy or article which does not contain a defect which creates a substantial risk of injury to children.

“(C) To refund the purchase price of such toy or article (less a reasonable allowance for use, if such toy or article has been in the possession of the consumer for 1 year or more (i) at the time of public notice under paragraph (1)(A), or (ii) at the time the consumer receives actual notice that the toy or article contains a defect which creates a substantial risk of injury to children, whichever first occurs).

An order under this paragraph may also require the person to whom it applies to submit a plan, satisfactory to the Commission, for taking the action which such person has elected to take. The Commission shall specify in the order the person to whom refunds must be made if the person to whom the order is directed elects to take the action described in subparagraph (C). If an order under this paragraph is directed to more than one person, the Commission shall specify which person has the election under this paragraph. An order under this paragraph may prohibit the person to whom it applies from manufacturing for sale, offering for sale, distributing in commerce, or importing into the customs territory of the United States (as defined in general headnote 2 to the Tariff Schedules of the United States), or from doing any combination of such actions, with respect to the toy or article with respect to which the order was issued.”.

Prohibition.

19 USC 1202.

Ante, p. 2269.

(b) Section 15(d)(1) of the Federal Hazardous Substances Act, as so redesignated by subsection (a) of this section, is amended by striking “subsection (b)” and inserting in lieu thereof “subsection (b) or (c)”.

(c) Section 15(d)(2) of such Act, as so redesignated by subsection (a) of this section, is amended—

(1) by striking “an article” and inserting in lieu thereof “a toy, article”; and

(2) by inserting “toy,” immediately before “article” the second and third time it appears.

(d) Section 15 (d)(2) and (e) of such Act, as so redesignated by subsection (a) of this section, is amended by striking “subsection (a) or (b)” and inserting in lieu thereof “subsection (a), (b), or (c)”.

Approved October 17, 1984.

LEGISLATIVE HISTORY—H.R. 5818 (S. 2650):

HOUSE REPORT No. 98-895 (Comm. on Energy and Commerce).

SENATE REPORT No. 98-591 accompanying S. 2650 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 130 (1984):

Aug. 6, considered and passed House.

Sept. 12, S. 2650 considered and passed Senate.

Oct. 3, considered and passed Senate, amended; House concurred in Senate amendments.

Public Law 98-492
98th Congress

An Act

To designate the United States Post Office and Courthouse in Pendleton, Oregon, as the "John F. Kilkenny United States Post Office and Courthouse".

Oct. 17, 1984
[H.R. 5997]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Post Office and Courthouse located at 104 Southwest Dorian Avenue, Pendleton, Oregon, shall hereafter be known and designated as the "John F. Kilkenny United States Post Office and Courthouse". Any reference in a law, map, regulation, document, record, or other paper of the United States to that building shall be deemed to be a reference to the "John F. Kilkenny United States Post Office and Courthouse".

Public buildings
and grounds.

Approved October 17, 1984.

LEGISLATIVE HISTORY—H.R. 5997:

HOUSE REPORT No. 98-928 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 130 (1984):

Aug. 9, considered and passed House.
Oct. 3, considered and passed Senate.

Public Law 98-493
98th Congress

An Act

Oct. 17, 1984
[H.R. 6223]

To amend the Act providing for the incorporation of certain persons as Group Hospitalization, Inc.

Corporation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. The first section of the Act entitled "An Act providing for the incorporation of certain persons as Group Hospitalization, Inc.", approved August 11, 1939 (hereinafter in this Act referred to as "the Act"), is amended by striking out "Group Hospitalization, Inc." and inserting in lieu thereof "Group Hospitalization and Medical Services, Inc."

SEC. 2. Section 2 of the Act is amended—

(1) in subsection (a) by inserting "and medical care" after "hospitalization";

(2) in subsection (b)—

(A) by inserting "and other providers" after "hospitals"; and

(B) by striking out "and" after "certificates,"; and

(3) in subsection (c)—

(A) by striking out "groups" and inserting in lieu thereof "individuals, groups,"; and

(B) by striking out the period at the end of such subsection and inserting in lieu thereof "; and (d) to engage in any lawful business that is incidental to or supportive of the business and affairs of this corporation."

SEC. 3. Section 3 of the Act is amended by striking out all after the second sentence and inserting in lieu thereof the following: "The number of trustees, their terms of office, and the manner in which they may be elected shall be fixed by the bylaws."

SEC. 4. Section 8 of the Act is amended by inserting “and unemployment compensation” after “real estate”.

SEC. 5. The title of the Act is amended to read as follows: “An Act providing for the incorporation of certain persons as Group Hospitalization and Medical Services, Inc.”.

Approved October 17, 1984.

LEGISLATIVE HISTORY—H.R. 6223:

HOUSE REPORTS: No. 98-1022 and Pt. 2 (Comm. on the District of Columbia).
CONGRESSIONAL RECORD, Vol. 130 (1984):

Sept. 17, considered and passed House.
Oct. 3, considered and passed Senate.

Public Law 98-494
98th Congress

An Act

Oct. 19, 1984 [S. 416]	<p>To amend the Wild and Scenic Rivers Act by designating a segment of the Illinois River in Oregon and the Owyhee River in Oregon as components of the National Wild and Scenic Rivers System, and for other purposes.</p> <p><i>Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,</i> That the Wild and Scenic Rivers Act (82 Stat. 906 as amended; 16 U.S.C. 1271-1287), is further amended as follows:</p> <p>In section 3(a) after the last paragraph insert the following new paragraphs:</p> <p>“(52) Illinois, Oregon: The segment from the boundary of the Siskiyou National Forest downstream to its confluence with the Rogue River as generally depicted on a map entitled ‘Illinois River Study’ and is also part of a report entitled ‘A Proposal: Illinois Wild and Scenic River’; to be administered by the Secretary of Agriculture. After consultation with State and local governments and the interested public, the Secretary shall take such action as is required under subsection (b) of this section within one year from the date of enactment of this paragraph. For the purposes of this Act with respect to the river designated by this paragraph, effective October 1, 1984, there are authorized to be appropriated such sums as necessary for the acquisition of lands or interests in lands, and such sums as necessary for development.</p> <p>“(53) Owyhee, Oregon: The South Fork from the Idaho-Oregon State line downstream to Three Forks; the Owyhee River from Three Forks downstream to China Gulch; and the Owyhee River downstream from Crooked Creek to the Owyhee Reservoir as generally depicted on a map entitled ‘Owyhee, Oregon’ dated April 1984; all three segments to be administered as a wild river by the Secretary of the Interior. After consultation with State and local governments and the interested public, the Secretary shall take such appropriate action as is required under subsection (b) of this section within one year from the date of enactment of this paragraph. For the purposes of this Act with respect to the river designated by this paragraph, effective October 1, 1984, there are authorized to be appropriated such sums as necessary for the acquisition of lands or interests and such sums as necessary for development.”.</p> <p>SEC. 2. Section 5(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:</p> <p>“(90) The North Umpqua, Oregon: The segment from the Soda Springs Powerhouse to the confluence of Rock Creek. The provisions of section 7(a) shall apply to tributary Steamboat Creek in the same</p>
16 USC 1274.	
Appropriation authorization.	
Appropriation authorization.	
16 USC 1276.	
16 USC 1278.	

manner as such provisions apply to the rivers referred to in such section 7(a). The Secretary of Agriculture shall, in the Umpqua National Forest plan, provide that management practices for Steamboat Creek and its immediate environment conserve, protect, and enhance the anadromous fish habitat and population.”.

16 USC 1278.
Conservation.

Approved October 19, 1984.

LEGISLATIVE HISTORY—S. 416:

HOUSE REPORT No. 98-1068 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 98-460 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 130 (1984):

May 24, considered and passed Senate.

Sept. 24, considered and passed House, amended.

Oct. 3, Senate concurred in House amendments.

Public Law 98-495
98th Congress

An Act

Oct. 19, 1984
[S. 566]

To direct the Secretary of Agriculture to release on behalf of the United States a reversionary interest in certain tracts of land conveyed to the South Carolina State Commission of Forestry, and to direct the Secretary of the Interior to convey certain mineral interests of the United States in such land to such Commission, and for other purposes.

Real property.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, (a) subject to section 2, the Secretary of Agriculture shall release, on behalf of the United States, with respect to the tracts of land described in subsection (b), the condition contained in the deed dated June 28, 1955, between the United States of America and the South Carolina State Commission of Forestry, conveying certain tracts of land, of which such described tracts of land are a part, to such Commission, which condition requires that the land conveyed be used for public purposes and revert back to the United States should the land cease to be used for such purposes.

(b) The tracts of land referred to in subsection (a) are—

(1) A tract of land consisting of approximately 1.99 acres in Sumter County, South Carolina, more particularly described as follows: Beginning at an iron pipe located on the west side of the Old Kings Highway and being south 18 degrees and 35 minutes east and 2519.2 feet from Manchester State Forest monument number 2314; thence south 3 degrees 19 minutes east 417.22 feet to an iron pipe; thence south 86 degrees 41 minutes west 208.64 feet to an iron pipe; thence north 3 degrees 19 minutes west 199.97 feet to an iron pipe; thence north 3 degrees 32 minutes west 214.05 feet to an iron pipe; thence north 85 degrees 47 minutes east 209.27 feet to an iron pipe, the same being the point of beginning.

(2) A tract of land consisting of approximately 22.715 acres in Sumter County, South Carolina, more particularly described as follows: Beginning at the point of intersection of the center line of the Burnt Gin Road with the center line of Wedgelake Drive proceed south 64 degrees, 41 minutes east a distance of 63.16 feet to the point of beginning. Proceed thence south 88 degrees 0 minutes east a distance of 1454.56 feet to an iron pin; thence south 18 degrees, 57 minutes west a distance of 1059.17 feet to an iron pin; thence north 62 degrees, 15 minutes west a distance of 367.24 feet to a corner; thence along the arc of a curve to the right having a radius of 1031.31 feet a distance of 197.10 feet to a corner; thence north 51 degrees, 18 minutes west a distance of 107.80 feet to a corner; thence along the arc of a curve to the left having a radius of 637.49 feet a distance of 202.13 feet to a corner; thence north 69 degrees 28 minutes west a distance of 167.47 feet to a corner; thence along the arc of a curve to the right having a radius of 581.69 feet a distance of 146.19 feet to a corner; thence north 55 degrees, 04 minutes west a distance of 163.98 feet to a corner; thence north 18 degrees, 10 minutes west

a distance of 39.99 feet to a corner; thence along the arc of a curve to the left having a radius of 781.17 feet a distance of 215.48 feet to a corner; thence north 02 degrees, 00 minutes east a distance of 107.84 feet to a corner; thence north 47 degrees 00 minutes east a distance of 42.50 feet to the point of beginning.

SEC. 2. The Secretary of Agriculture shall release the condition referred to in section 1(a) of this Act only with respect to land covered by and described in an agreement or agreements entered into between the Secretary and the South Carolina State Commission of Forestry in which the Commission, in consideration of the release of such condition, agrees that the tract of land described in section 1(b)(1) of this Act will not be sold, leased, exchanged, or otherwise disposed of—

(1) except to the Tiverton Baptist Church of Sumter, South Carolina; and

(2) unless the proceeds of such disposal are—

(A) deposited and held in an account open to inspection by the Secretary of Agriculture, and

(B) used, if withdrawn from such account, exclusively for public purposes.

SEC. 3. The Secretary of Agriculture shall release the condition referred to in section 1(a) of this Act only with respect to land covered by and described in an agreement or agreements entered into between the Secretary and the South Carolina State Commission of Forestry in which the Commission, in consideration of the release of such condition, agrees that the tract of land described in section 1(b)(2) of this Act will be exchanged for a tract of land of at least equal value and consisting of approximately 45.43 acres in Sumter County, South Carolina, to be conveyed to the Commission to be used exclusively for public purposes, more particularly described as follows: Beginning at the intersection of the south right of way of Brohun Camp Road and the west right of way of Tiverton Church Road proceed south 50 degrees, 32 minutes west a distance of 2,214.39 feet to a corner; thence north 40 degrees, 02 minutes west a distance of 414.24 feet to a corner; thence north 5 degrees, 19 minutes, 30 seconds east a distance of 1,627.88 feet to a corner; thence south 73 degrees, 45 minutes east a distance of 1,901.55 feet to the point of beginning.

SEC. 4. (a) Subsequent to any release executed by the Secretary of Agriculture with respect to the tracts of land described in section 1(b) of this Act, the South Carolina State Commission of Forestry may apply to the Secretary of the Interior seeking to acquire all the undivided mineral interests of the United States in the tracts of land to which such release applies, and the Secretary of the Interior shall, subject to valid existing rights and subject to subsection (b) of this section, convey such mineral interests as requested.

Mines and
mining.

(b) The Secretary of the Interior shall not convey the undivided mineral interests of the United States in any land as requested in an application filed by the South Carolina State Commission of Forestry under subsection (a) of this section unless—

(1) such application is accompanied by a sum of money which the Secretary of the Interior determines is necessary to pay the administrative costs involved in conveying such mineral interests to the Commission, including the costs of determining the mineral character of such land and the costs of establishing the fair market value of such mineral interests, and

(2) the Commission, in consideration of such conveyance, pays to the Secretary of the Interior—

(A) \$1, in the case of any such land determined by the Secretary of the Interior to have no mineral value and to be under no active mineral development or leasing, or

(B) the fair market value of such mineral interests, as determined by the Secretary of the Interior, in the case of any such land not subject to clause (A) of this subsection.

SEC. 5. The Secretary of Agriculture and the South Carolina Commission of Forestry may revise the size of the tracts of land to be exchanged under this Act and the legal descriptions pertaining thereto in order to ensure that the tracts of land are of at least equal value.

Approved October 19, 1984.

LEGISLATIVE HISTORY—S. 566:

SENATE REPORT No. 98-286 (Comm. on Agriculture, Nutrition, and Forestry).

CONGRESSIONAL RECORD:

Vol. 129 (1983): Nov. 18, considered and passed Senate.

Vol. 130 (1984): Oct. 2, considered and passed House.

Public Law 98-496
98th Congress

An Act

To facilitate the exchange of certain lands in South Carolina.

Oct. 19, 1984
[S. 648]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. The Federal Energy Regulatory Commission shall waive the charges required to be paid under section 10(e) of the Federal Power Act (16 U.S.C. 803(e)) for the use of any interest of the United States in lands lying within the boundary of the South Carolina Public Service Authority's Santee-Cooper hydroelectric project (Federal Energy Regulatory Commission licensed project numbered 199) if, after the date of the enactment of this Act, the Commission determines (pursuant to section 24 of the Federal Power Act (16 U.S.C. 818)) that—

Energy.

(1) such interest in lands has been conveyed by the United States directly to the licensee for that project (subject to any restrictions and reservations established by the Commission pursuant to such section 24), and

(2) the Federal agency conveying such interest in lands has notified the Commission that the United States has received fair market value under applicable provisions of law for such conveyance, taking into account the full value of the waiver authorized under this section during the remaining term of the license.

Approved October 19, 1984.

LEGISLATIVE HISTORY—S. 648:

SENATE REPORT No. 98-573 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 130 (1984):

Aug. 6, 9, considered and passed Senate.

Oct. 2, considered and passed House, amended.

Oct. 4, Senate concurred in House amendment.

Public Law 98-497
98th Congress

An Act

Oct. 19, 1984

[S. 905]

To establish the National Archives and Records Administration, and for other purposes.

National
Archives and
Records
Administration
Act of 1984.
44 USC 101 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Archives and Records Administration Act of 1984".

TITLE I—ESTABLISHMENT OF AN INDEPENDENT
NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

ESTABLISHMENT

SEC. 101. Section 2102 of title 44, United States Code, is amended to read as follows:

“§ 2102. Establishment

“There shall be an independent establishment in the executive branch of the Government to be known as the National Archives and Records Administration. The Administration shall be administered under the supervision and direction of the Archivist.”.

ORGANIZATION AND GENERAL AUTHORITY

SEC. 102. (a) Chapter 21 of title 44, United States Code, is amended—

44 USC
2107-2118.

(1) by redesignating sections 2103 through 2114 as sections 2107 through 2118, respectively; and

(2) by inserting after section 2102 the following new sections:

44 USC 2103.

“§ 2103. Officers

President of U.S.

“(a) The Archivist of the United States shall be appointed by the President by and with the advice and consent of the Senate. The Archivist shall be appointed without regard to political affiliations and solely on the basis of the professional qualifications required to perform the duties and responsibilities of the office of Archivist. The Archivist may be removed from office by the President. The President shall communicate the reasons for any such removal to each House of the Congress.

5 USC 5314.

“(b) The Archivist shall be compensated at the rate provided for level III of the Executive Schedule under section 5314 of title 5.

“(c) There shall be in the Administration a Deputy Archivist of the United States, who shall be appointed by and who shall serve at the pleasure of the Archivist. The Deputy Archivist shall be established as a career reserved position in the Senior Executive Service within the meaning of section 3132(a)(8) of title 5. The Deputy Archivist shall perform such functions as the Archivist shall designate. During any absence or disability of the Archivist, the Deputy Archivist shall act as Archivist. In the event of a vacancy in the

office of the Archivist, the Deputy Archivist shall act as Archivist until an Archivist is appointed under subsection (a).

“§ 2104. Administrative provisions

44 USC 2104.

“(a) The Archivist shall prescribe such regulations as the Archivist deems necessary to effectuate the functions of the Archivist, and the head of each executive agency shall cause to be issued such orders and directives as such agency head deems necessary to carry out such regulations.

Regulations.

“(b) Except as otherwise expressly provided by law, the Archivist may delegate any of the functions of the Archivist to such officers and employees of the Administration as the Archivist may designate, and may authorize such successive redelegations of such functions as the Archivist may deem to be necessary or appropriate. A delegation of functions by the Archivist shall not relieve the Archivist of responsibility for the administration of such functions.

“(c) The Archivist may organize the Administration as the Archivist finds necessary or appropriate.

“(d) The Archivist is authorized to establish, maintain, alter, or discontinue such regional, local, or other field offices as the Archivist finds necessary or appropriate to perform the functions of the Archivist or the Administration.

“(e) The Archivist shall cause a seal of office to be made for the Administration of such design as the Archivist shall approve. Judicial notice shall be taken of such seal.

“(f) The Archivist may establish advisory committees to provide advice with respect to any function of the Archivist or the Administration. Members of any such committee shall serve without compensation but shall be entitled to transportation expenses and per diem in lieu of subsistence in accordance with section 5703 of title 5.

5 USC 5703.

“(g) The Archivist shall advise and consult with interested Federal agencies with a view to obtaining their advice and assistance in carrying out the purposes of this chapter.

“(h) If authorized by the Archivist, officers and employees of the Administration having investigatory functions are empowered, while engaged in the performance of their duties in conducting investigations, to administer oaths.

“§ 2105. Personnel and services

44 USC 2105.

“(a) The Archivist is authorized to select, appoint, employ, and fix the compensation of such officers and employees, pursuant to part III of title 5, as are necessary to perform the functions of the Archivist and the Administration.

5 USC 2101.

“(b) The Archivist is authorized to obtain the services of experts and consultants under section 3109 of title 5.

“(c) Notwithstanding the provisions of section 973 of title 10 or any other provision of law, the Archivist, in carrying out the functions of the Archivist or the Administration, is authorized to utilize in the Administration the services of officials, officers, and other personnel in other Federal agencies, including personnel of the armed services, with the consent of the head of the agency concerned.

10 USC 973

“(d) Notwithstanding section 1342 of title 31, United States Code, the Archivist is authorized to accept and utilize voluntary and uncompensated services.

Voluntarism.

44 USC 2106.

“§ 2106. Reports to Congress

“The Archivist shall submit to the Congress, in January of each year and at such other times as the Archivist finds appropriate, a report concerning the administration of functions of the Archivist, the Administration, the National Historical Publications and Records Commission, and the National Archives Trust Fund. Such report shall describe—

“(1) program administration and expenditures of funds, both appropriated and nonappropriated, by the Administration, the Commission, and the Trust Fund Board;

“(2) research projects and publications undertaken by Commission grantees, and by Trust Fund grantees, including detailed information concerning the receipt and use of all appropriated and nonappropriated funds;

“(3) by account, the moneys, securities, and other personal property received and held by the National Archives Trust Fund Board, and of its operations, including a listing of the purposes for which funds are transferred to the National Archives and Records Administration for expenditure to other Federal agencies; and

Post, p. 2288.

“(4) the matters specified in section 2904(c)(8) of this title.”.

(b) Section 2101 of title 44, United States Code, is amended—

(1) by designating the two indented paragraphs as paragraphs (1) and (2), respectively;

(2) by striking out “sections 2103-2113 of this title” in the matter preceding the first such paragraph and inserting in lieu thereof “this chapter”;

(3) by striking out the period at the end and inserting in lieu thereof a semicolon; and

(4) by adding at the end thereof the following new paragraphs:

Ante, p. 2280.

“(3) ‘Archivist’ means the Archivist of the United States appointed under section 2103 of this title; and

“(4) ‘Administration’ means the National Archives and Records Administration established under section 2102 of this title.”.

Ante, p. 2280.

(c)(1) The table of sections for chapter 21 of title 44, United States Code, is amended to read as follows:

“CHAPTER 21—NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

“Sec.

“2101. Definitions.

“2102. Establishment.

“2103. Officers.

“2104. Administrative provisions.

“2105. Personnel and services.

“2106. Reports to Congress.

“2107. Acceptance of records for historical preservation.

“2108. Responsibility for custody, use, and withdrawal of records.

“2109. Preservation, arrangement, duplication, exhibition of records.

“2110. Servicing records.

“2111. Material accepted for deposit.

“2112. Presidential archival depository.

“2113. Depository for agreements between States.

“2114. Preservation of motion-picture films, still pictures, and sound recordings.

“2115. Reports; correction of violations.

“2116. Legal status of reproductions; official seal; fees for copies and reproductions.

“2117. Limitation on liability.

“2118. Records of Congress.”.

(2) The item relating to chapter 21 in the table of chapters for title 44, United States Code, is amended to read as follows:

“21. National Archives and Records Administration..... 2101”.

TRANSFERS

SEC. 103. (a) The National Archives and Records Service of the General Services Administration is transferred to the National Archives and Records Administration.

44 USC 2102
note.

(b)(1) All functions which were assigned to the Administrator of General Services by section 6 of Executive Order No. 10530 of May 11, 1954 (19 Fed. Reg. 2709; relating to documents and the Administrative Committee of the Federal Register), and by Executive Order Numbered 11440 of December 11, 1968 (33 Fed. Reg. 18475; relating to supplemental use of Federal exhibits and displays), shall be exercised by the Archivist of the United States.

3 USC 301 note.

44 USC 2105
note.

(2) All functions pertaining to the maintenance, operation, and protection of a Presidential archival depository which were assigned to the Administrator of General Services by the Act of September 6, 1965 (Public Law 89-169, 79 Stat. 648), relating to the Lyndon Baines Johnson Presidential Archival Depository, and by the Act of August 27, 1966 (Public Law 89-547, 80 Stat. 370) and the Act of May 26, 1977 (Public Law 95-34, 91 Stat. 174), relating to the John Fitzgerald Kennedy Library, shall be exercised by the Archivist of the United States.

44 USC 2108
note.

44 USC 2108
note.

(c) In the exercise of the functions transferred by this Act and the amendments made by this Act, the Archivist shall have the same authority as had the Administrator of General Services prior to the transfer of such functions, and the actions of the Archivist shall have the same force and effect as when exercised by such Administrator.

(d) Prior to the appointment and confirmation of an individual to serve as Archivist of the United States under section 2103 of title 44, United States Code, the individual holding the office of Archivist of the United States on the day before the effective date of this Act may serve as Archivist under such section, and while so serving shall be compensated at the rate provided under subsection (b) of such section.

Ante, p. 2280.

TRANSFER OF PERSONNEL

SEC. 104. (a) Except as otherwise provided in this Act, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to or to be made available in connection with the functions and agencies transferred by this Act and the amendments made by this Act, subject to section 1531 of title 31, United States Code, are transferred to the Archivist for appropriate allocation. Pursuant to the preceding sentence, there shall be transferred to the Archivist for appropriate allocation (1) for the remainder of fiscal year 1985, an amount equal to not less than \$2,760,000 (adjusted to reflect actual salaries and benefits of transferred employees and other costs) from the unexpended balances of the fiscal year 1985 funds and appropriations available to the General Services Administration, and (2) 115.5 full-time equivalent employee positions, of which not less than 30 percent shall be vacant. Unexpended funds transferred pursuant to this subsection shall be used

44 USC 2102
note.

only for the purposes for which the funds were originally authorized and appropriated.

(b) The transfer pursuant to this title of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employees to be separated or reduced in grade or compensation for one year after such transfer or after the effective date of this Act, whichever is later.

SAVINGS PROVISIONS

44 USC 2102
note.

SEC. 105. (a) All orders, determinations, rules, regulations, grants, contracts, agreements, permits, licenses, privileges, and other actions which have been issued, granted, made, undertaken, or entered into in the performance of any function transferred by this Act or the amendments made by this Act shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by any authorized official, a court of competent jurisdiction, or by operation of law.

(b)(1) The transfer of functions by this Act and by the amendments made by this Act shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending on the effective date of this Act before the General Services Administration; but such proceedings and applications, to the extent that they relate to the functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Archivist, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

Regulations

(2) The Archivist is authorized to promulgate regulations providing for the orderly transfer of proceedings continued under paragraph (1) from the General Services Administration to the Administration.

(c) Except as provided in subsection (e)—

(1) the provisions of this Act and of the amendments made by this Act shall not affect actions commenced prior to the effective date of this Act, and

(2) in all such actions, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(d) No action or other proceeding lawfully commenced by or against any officer of the United States acting in the official capacity of such officer shall abate by reason of any transfer of functions by this Act or by an amendment made by this Act. No cause of action by or against the General Services Administration or by or against any officer thereof in the official capacity of such officer shall abate by reason of any such transfer of functions.

(e) If, before the date on which this Act takes effect, the General Services Administration or any officer thereof in the official capacity of such officer, is a party to an action, and under this Act or the amendments made by this Act any function in connection with such

action is transferred to the Archivist or any other official of the Administration, then such action shall be continued with the Archivist or other appropriate official of the Administration substituted or added as a party.

(f) Orders and actions of the Archivist in the exercise of functions transferred by this Act or by amendments made by this Act shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the individual holding the office of Archivist of the United States on the day before the effective date of this Act or the Administrator of General Services in the exercise of such functions immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this Act or by any amendment made by this Act shall apply to the exercise of such function by the Archivist.

REFERENCE

SEC. 106. With respect to any functions transferred by this Act or by an amendment made by this Act and exercised after the effective date of this Act, reference in any other Federal law to the office of the Archivist of the United States as in existence on the date before the effective date of this Act, or the National Archives and Records Service of the General Services Administration, or any office or officer thereof, shall be deemed to refer to the Archivist or the Administration.

44 USC 2102
note.

CONFORMING AMENDMENTS

SEC. 107. (a)(1) Section 2107 of title 44, United States Code, as redesignated by section 102(a)(1), is amended—

Ante, p. 2280.

(A) by striking out “Administrator of General Services” and inserting in lieu thereof “Archivist”;

(B) by striking out “or of the Congress” in paragraph (1) and inserting in lieu thereof “, the Congress, the Architect of the Capitol, or the Supreme Court”;

(C) by striking out “Administrator” each place it appears and inserting in lieu thereof “Archivist”; and

(D) by striking out “section 2107” in paragraph (4) and inserting in lieu thereof “section 2111”.

(2) Section 2108 of such title, as redesignated by section 102(a)(1), is amended—

44 USC 2108.

(A) by striking out “the Administrator, the Archivist of the United States, and to the employees of the General Services Administration” in subsection (a) and inserting in lieu thereof “the Archivist and to the employees of the National Archives and Records Administration”;

(B) by striking out “and in consultation with the Archivist of the United States” in such subsection;

(C) by striking out “the Archivist and” in the fifth sentence of such subsection;

(D) by striking out “Administrator of General Services” each place it appears and inserting in lieu thereof “Archivist”; and

(E) by striking out “Administrator” each place it appears and inserting in lieu thereof “Archivist”.

(3) Section 2109 of such title, as redesignated by section 102(a)(1), is amended—

44 USC 2109.

- (A) by striking out “Administrator of General Services” and inserting in lieu thereof “Archivist”; and
 (B) by inserting “and Records” immediately following “National Historical Publications”.
- 44 USC 2110. (4) Section 2110 of such title, as redesignated by section 102(a)(1), is
Ante, p. 2280. amended by striking out “Administrator of General Services” and inserting in lieu thereof “Archivist”.
- 44 USC 2111. (5) Section 2111 of such title, as redesignated by section 102(a)(1), is amended—
 (A) by striking out “Administrator of General Services” and inserting in lieu thereof “Archivist”; and
 (B) by striking out “Administrator” and inserting in lieu thereof “Archivist”.
- 44 USC 2112. (6) Section 2112 of such title, as redesignated by section 102(a)(1), is amended—
 (A) by striking out “Administrator of General Services” and inserting in lieu thereof “Archivist”;
 (B) by striking out “Administrator” each place it appears and inserting in lieu thereof “Archivist”; and
 (C) by striking out “section 2107” each place it appears and inserting in lieu thereof “section 2111”.
- 44 USC 2113, 2114, 2117. (7) Sections 2113, 2114, and 2117 of such title, as redesignated by section 102(a)(1), are amended by striking out “Administrator of General Services” and inserting in lieu thereof “Archivist”.
- 44 USC 2115. (8) Section 2115 of such title, as redesignated by section 102(a)(1), is amended to read as follows:
- “§ 2115. Reports; correction of violations**
- “(a) In carrying out their respective duties and responsibilities under chapters 21, 25, 29, 31, and 33 of this title, the Archivist and the Administrator may each obtain reports from any Federal agency on such agency’s activities under such chapters.
- “(b) When either the Archivist or the Administrator finds that a provision of any such chapter has been or is being violated, the Archivist or the Administrator shall (1) inform in writing the head of the agency concerned of the violation and make recommendations for its correction; and (2) unless satisfactory corrective measures are inaugurated within a reasonable time, submit a written report of the matter to the President and the Congress.”.
- 44 USC 2116. (9) Section 2116 of such title, as redesignated by section 102(a)(1), is
Ante, p. 2280. amended—
 (A) by striking out “Administrator of General Services” and inserting in lieu thereof “Archivist,”; and
 (B) by striking out “Administrator” and inserting in lieu thereof “Archivist”.
- 44 USC 2118. (10) Section 2118 of such title, as redesignated by section 102(a)(1), is amended by striking out “General Services Administration” and inserting in lieu thereof “National Archives and Records Administration”.
- (b)(1) Sections 710, 711, and 729 of title 44, United States Code, are amended by striking out “Administrator of General Services” each place it appears and inserting in lieu thereof “Archivist of the United States”.
- 44 USC 1501. (2) Section 1501 of such title is amended—
 (A) by striking out the period at the end of the last paragraph and inserting in lieu thereof a semicolon and “and”; and
 (B) by adding at the end thereof the following new paragraph:

- “National Archives of the United States’ has the same meaning as in section 2901(11) of this title.”.
- (3) Section 1502 of such title is amended by striking out “Administrator of General Services” each place it appears and inserting in lieu thereof “Archivist of the United States”. 44 USC 1502.
- (4) Section 1503 of such title is amended— 44 USC 1503.
- (A) by striking out “Administrator of General Services” and inserting in lieu thereof “Archivist of the United States”;
- (B) by striking out “General Services Administration” and inserting in lieu thereof “National Archives and Records Administration”; and
- (C) by striking out “Administrator” each place it appears and inserting in lieu thereof “Archivist”.
- (5) Section 1506 of such title is amended by striking out the third sentence. 44 USC 1506.
- (6) Section 1714 of such title is amended by striking out “General Services Administration” and inserting in lieu thereof “National Archives and Records Administration”. 44 USC 1714.
- (7) Sections 2204(c)(1) and 2205 of such title are amended by striking out “National Archives and Records Service of the General Services Administration” and inserting in lieu thereof “National Archives and Records Administration”. 44 USC 2204, 2205.
- (8) Section 2301 of such title is amended by striking out the second sentence thereof. 44 USC 2301.
- (9) Section 2501 of such title is amended by striking out the last sentence thereof. 44 USC 2501.
- (10) Section 2504 of such title is amended— 44 USC 2504, 97 Stat. 1323.
- (A) by striking out “Administrator of General Services” in the third sentence of subsection (a) and inserting in lieu thereof “Archivist of the United States”;
- (B) by inserting “and Records” after “Historical Publications” in the fourth sentence of such subsection;
- (C) by striking out “Administrator” in the fourth sentence of such subsection and inserting in lieu thereof “Archivist”;
- (D) by striking out “transmit to the Administrator” in the last sentence of such subsection and inserting in lieu thereof “transmit to the President and the Congress”; and
- (E) by striking out “General Services Administration” in subsection (b) and inserting in lieu thereof “National Archives and Records Administration”.
- (11) Section 2506 of such title is amended— 44 USC 2506.
- (A) by striking out “Administrator of General Services” in subsection (a) and inserting in lieu thereof “Archivist of the United States”; and
- (B) by striking out “Administrator” in subsection (b) and inserting in lieu thereof “Archivist”.
- (12)(A) Section 2507 of such title is repealed. Repeal.
- (B) The table of sections for chapter 25 of such title is amended by striking out the item relating to section 2507. 44 USC 2507.
- (13) Section 2901 of such title is amended— 44 USC 2901.
- (A) by striking out “27,” in the matter preceding paragraph (1);
- (B) by inserting before the semicolon at the end of paragraph (2) the following: “in order to achieve adequate and proper documentation of the policies and transactions of the Federal Government and effective and economical management of agency operations”;

(C) by striking out “Administrator” each place it appears in paragraphs (6), (9), and (11) and inserting in lieu thereof “Archivist”; and

(D) by striking out paragraphs (12) and (13) and inserting in lieu thereof the following:

“(12) the term ‘Archivist’ means the Archivist of the United States;

“(13) the term ‘executive agency’ shall have the meaning given such term by section 3(a) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472(a));

“(14) the term ‘Federal agency’ means any executive agency or any establishment in the legislative or judicial branch of the Government (except the Supreme Court, the Senate, the House of Representatives, and the Architect of the Capitol and any activities under the direction of the Architect of the Capitol); and

“(15) the term ‘Administrator’ means the Administrator of General Services.”.

44 USC 2902. (14) Section 2902(7) of such title is amended by inserting “or the Archivist” after “Administrator”.

44 USC 2903, 2907. (15)(A) Sections 2903 and 2907 of such title are amended by striking out “Administrator” each place it appears and inserting in lieu thereof “Archivist”.

44 USC 2905, 2908, 2909. (B) Sections 2905, 2908, and 2909 of such title are amended by striking out “Administrator of General Services” each place it appears and inserting in lieu thereof “Archivist”.

44 USC 2904. (16) Section 2904 of such title is amended to read as follows:

“§ 2904. General responsibilities for records management

“(a) The Archivist shall provide guidance and assistance to Federal agencies with respect to ensuring adequate and proper documentation of the policies and transactions of the Federal Government and ensuring proper records disposition.

“(b) The Administrator shall provide guidance and assistance to Federal agencies to ensure economical and effective records management by such agencies.

“(c) In carrying out their responsibilities under subsection (a) or (b), respectively, the Archivist and the Administrator shall each have the responsibility—

“(1) to promulgate standards, procedures, and guidelines with respect to records management and the conduct of records management studies;

“(2) to conduct research with respect to the improvement of records management practices and programs;

“(3) to collect and disseminate information on training programs, technological developments, and other activities relating to records management;

“(4) to establish such interagency committees and boards as may be necessary to provide an exchange of information among Federal agencies with respect to records management;

“(5) to direct the continuing attention of Federal agencies and the Congress on the need for adequate policies governing records management;

Studies.

“(6) to conduct records management studies and, in his discretion, designate the heads of executive agencies to conduct records management studies with respect to establishing sys-

tems and techniques designed to save time and effort in records management;

“(7) to conduct inspections or surveys of the records and the records management programs and practices within and between Federal agencies;

“(8) to report to the appropriate oversight and appropriations committees of the Congress and to the Director of the Office of Management and Budget in January of each year and at such other times as the Archivist or the Administrator (as the case may be) deems desirable—

Report.

“(A) on the results of activities conducted pursuant to paragraphs (1) through (7) of this section,

“(B) on evaluations of responses by Federal agencies to any recommendations resulting from inspections or studies conducted under paragraphs (6) and (7) of this section, and

“(C) to the extent practicable, estimates of costs to the Federal Government resulting from the failure of agencies to implement such recommendations.

“(d) In addition, the Administrator, in carrying out subsection (b), shall have the responsibility to promote economy and efficiency in the selection and utilization of space, staff, equipment, and supplies for records management.”.

(17) Section 2906 of such title is amended to read as follows:

44 USC 2906.

“§ 2906. Inspection of agency records

“(a)(1) In carrying out their respective duties and responsibilities under this chapter, the Administrator of General Services and the Archivist (or the designee of either) may inspect the records or the records management practices and programs of any Federal agency solely for the purpose of rendering recommendations for the improvement of records management practices and programs. Officers and employees of such agencies shall cooperate fully in such inspections, subject to the provisions of paragraphs (2) and (3) of this subsection.

“(2) Records, the use of which is restricted by law or for reasons of national security or the public interest, shall be inspected, in accordance with regulations promulgated by the Administrator and the Archivist, subject to the approval of the head of the agency concerned or of the President. The regulations promulgated by the Administrator and the Archivist under this paragraph shall, to the extent practicable, be identical.

Regulations.

“(3) If the Administrator or the Archivist (or the designee of either) inspects a record, as provided in this subsection, which is contained in a system of records which is subject to section 552a of title 5, such record shall be—

5 USC 552a.

“(A) maintained by the Administrator, the Archivist, or such designee as a record contained in a system of records; or

“(B) deemed to be a record contained in a system of records for purposes of subsections (b), (c), and (i) of section 552a of title 5.

“(b) In conducting the inspection of agency records provided for in subsection (a) of this section, the Administrator and the Archivist (or the designee of either) shall, in addition to complying with the provisions of law cited in subsection (a)(3), comply with all other Federal laws and be subject to the sanctions provided therein.”.

(18)(A) The heading of chapter 29 of title 44, United States Code, is amended to read as follows:

44 USC prec.
2901.

“CHAPTER 29—RECORDS MANAGEMENT BY THE ARCHIVIST OF THE UNITED STATES AND BY THE ADMINISTRATOR OF GENERAL SERVICES”.

(B) The item relating to chapter 29 in the table of chapters for title 44, United States Code, is amended to read as follows:

“29. Records Management by the Archivist of the United States and by the Administrator of General Services..... 2901”.

44 USC 3102. (19) Section 3102 of such title is amended—
 (A) by inserting “and the Archivist” after “Administrator of General Services” in paragraph (2);
 (B) by striking out “sections 2101-2113” and inserting in lieu thereof “sections 2101-2117”; and
 (C) by striking out “2701”.

44 USC 3103. (20) Section 3103 of such title is amended by striking out “Administrator” each place it appears and inserting in lieu thereof “Archivist”.

44 USC 3104, 3106. (21) Sections 3104 and 3106 of such title are amended—
 (A) by striking out “Administrator of General Services” and inserting in lieu thereof “Archivist”; and
 (B) by striking out “Administrator” each place it appears and inserting in lieu thereof “Archivist”.

44 USC 3105. (22) Section 3105 of such title is amended by striking out “Administrator of General Services” and inserting in lieu thereof “Archivist”.

44 USC 3302, 3303, 3308, 3311. (23) Sections 3302, 3303, 3308, and 3311 of such title are amended by striking out “Administrator of General Services” and inserting in lieu thereof “Archivist”.

44 USC 3303a, 3310. (24) Sections 3303a and 3310 of such title are amended—
 (A) by striking out “Administrator of General Services” and inserting in lieu thereof “Archivist”; and
 (B) by striking out “Administrator” each place it appears and inserting in lieu thereof “Archivist”.

44 USC 3303. (25)(A) The heading of section 3303 of such title is amended to read as follows:

“§ 3303. Lists and schedules of records to be submitted to the Archivist by head of each Government agency”.

44 USC 3303a. (B) The heading of section 3303a of such title is amended to read as follows:

“§ 3303a. Examination by Archivist of lists and schedules of records lacking preservation value; disposal of records”.

44 USC 3311. (C) The heading of section 3311 of such title is amended to read as follows:

“§ 3311. Destruction of records outside continental United States in time of war or when hostile action seems imminent; written report to Archivist”.

(D) The table of sections for chapter 33 of such title is amended by striking out “Administrator of General Services” in the items pertaining to sections 3303, 3303a, and 3311 and inserting in lieu thereof “Archivist”.

(26) Section 3504(e) of such title is amended by inserting “the Archivist of the United States and” before “the Administrator of General Services” each place it appears in paragraphs (1) and (2). 44 USC 3504.

(27) Section 3513 of such title is amended by inserting “and the Archivist of the United States” after “Administrator of General Services”. 44 USC 3513.

(c)(1) Section 101 of the Presidential Recordings and Materials Preservation Act is amended— 44 USC 2111 note.

(A) by striking out “section 2107” each place it appears and inserting in lieu thereof “section 2111”;

(B) by striking out “Administrator of General Services (hereinafter in this title referred to as the ‘Administrator’)” and inserting in lieu thereof “Archivist of the United States (hereinafter referred to as the ‘Archivist’)”; and

(C) by striking out “Administrator” and inserting in lieu thereof “Archivist”.

(2) Section 102 of such Act is amended— 44 USC 2111 note.

(A) by striking out “section 2107” and inserting in lieu thereof “section 2111”, and

(B) by striking out “Administrator” each place it appears and inserting in lieu thereof “Archivist”.

(3) Section 103 of such Act is amended by striking out “Administrator” and inserting in lieu thereof “Archivist”. 44 USC 2111 note.

(4) Section 104 of such Act is amended— 44 USC 2111 note.

(A) by striking out “Administrator” each place it appears and inserting in lieu thereof “Archivist”; and

(B) by striking out subsection (b) and inserting in lieu thereof the following:

“(b) The regulations proposed by the Archivist in the report required by subsection (a) shall not take effect until the expiration of the first period of 60 calendar days of continuous session of the Congress after the date of the submission of such regulations to each House of the Congress. For the purposes of this subsection, continuity of session is broken only by an adjournment of Congress sine die, but the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded.”. Regulations.

(d) Sections 106a, 106b, 112, 113, and 201 of title 1, United States Code, are amended by striking out “Administrator of General Services” and “General Services Administration” each place they appear and inserting in lieu thereof “Archivist of the United States” and “National Archives and Records Administration”, respectively.

(e)(1) Sections 6 and 11 through 13 of title 3, United States Code, are amended by striking out “Administrator of General Services” and “General Services Administration” each place they appear and inserting in lieu thereof “Archivist of the United States,” and “National Archives and Records Administration”, respectively.

(2)(A) The heading of section 6 of such title is amended to read as follows: 3 USC 6.

“§ 6. Credentials of electors; transmission to Archivist of the United States and to Congress; public inspection”.

(B) The heading of section 12 of such title is amended to read as follows: 3 USC 12.

“§ 12. Failure of certificates of electors to reach President of the Senate or Archivist of the United States; demand on State for certificate”.

3 USC 1 *et seq.*

(3) The table of sections for chapter 1 of such title is amended by striking out “Administrator of General Services” in the items pertaining to sections 6 and 12 and inserting in lieu thereof “Archivist of the United States”.

(f) Sections 141 through 145 of title 4, United States Code, are amended by striking out “Administrator of General Services”, “Administrator”, and “General Services Administration” each place they appear and inserting in lieu thereof “Archivist of the United States”, “Archivist”, and “National Archives and Records Administration”, respectively.

(g) Section 552a of title 5, United States Code, is amended—

(1) by striking out subsection (b)(6) and inserting in lieu thereof the following:

“(6) to the National Archives and Records Administration as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Archivist of the United States or the designee of the Archivist to determine whether the record has such value;”;

(2) by striking out “Administrator of General Services” each place it appears in subsection (1)(1) and inserting in lieu thereof “Archivist of the United States”.

(h) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following:

“Archivist of the United States.”.

(i) Section 4(5) of the Act of October 25, 1951 (25 U.S.C. 199a) is amended by striking out “Administrator of General Services” each place it appears and inserting in lieu thereof “Archivist of the United States”.

DEFINITIONS

44 USC 2102
note.

SEC. 108. For purposes of sections 103 through 106—

(1) the term “Archivist” means the Archivist of the United States appointed under section 2103 of title 44, United States Code, as added by section 102(a)(2) of this Act;

Ante, p. 2280.

(2) the term “Administration” means the National Archives and Records Administration established under section 2102 of such title (as amended by section 101 of this Act); and

Ante, p. 2280.

(3) the term “function” includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

TITLE II—ADMINISTRATIVE PROVISIONS

COPYING AND AUTHENTICATING CHARGES

Ante, p. 2280.

SEC. 201. Section 2116(c) of title 44, United States Code (as redesignated by section 102(a)), is amended to read as follows:

“(c) The Archivist may charge a fee set to recover the costs for making or authenticating copies or reproductions of materials transferred to his custody. Such fee shall be fixed by the Archivist at a level which will recover, so far as practicable, all elements of such costs, and may, in the Archivist’s discretion, include increments for the estimated replacement cost of equipment. Such fees shall be paid into, administered, and expended as a part of the National

Archives Trust Fund. The Archivist may not charge for making or authenticating copies or reproductions of materials for official use by the United States Government unless appropriations available to the Archivist for this purpose are insufficient to cover the cost of performing the work.”.

NATIONAL ARCHIVES TRUST FUND BOARD

SEC. 202. (a) Chapter 23 of title 44, United States Code, is amended by striking out sections 2302 through 2305 and inserting in lieu thereof the following:

“§ 2302. Authority of the Board; seal; services; bylaws; rules; regulations; employees

44 USC 2302.

“In carrying out the purposes of this chapter, the Board—

“(1) may adopt an official seal, which shall be judicially noticed;

“(2) may utilize on a reimbursable basis the services and personnel of the National Archives and Records Administration necessary (as determined by the Archivist) to assist the Board in the administration of the trust fund, and in the preparation and publication of special works and collections of sources and preparation, duplication, editing, and release of historical photographic materials and sound recordings, and may utilize on a reimbursable basis the services and personnel of other Federal agencies for such purposes;

“(3) may adopt bylaws, rules, and regulations necessary for the administration of its functions under this chapter; and

“(4) may, subject to the laws and regulations governing appointments in the civil service, appoint and fix the compensation of such personnel as may be necessary to carry out its functions.

“§ 2303. Powers and obligations of the Board; liability of members

44 USC 2303.

“Except as otherwise provided by this chapter, the Board shall have all the usual powers and obligations of a trustee with respect to property and funds administered by it, but the members of the Board are not personally liable, except for malfeasance.

“§ 2304. Compensation of members; availability of trust funds for expenses of the Board

44 USC 2304

“Compensation may not be paid to the members of the Board for their services as members. Costs incurred by the Board in carrying out its duties under this chapter, including the obligations necessarily incurred by the members of the Board in the performance of their duties and the compensation of persons employed by the Board, shall be paid by the Archivist of the United States from trust funds available to the Board for this purpose. The Board, by resolution, may authorize the transfer of funds (including the principal or interest of a gift or bequest) to the National Archives and Records Administration to be expended on an archival or records activity approved by the Board or to accomplish the purpose of a gift or bequest.

“§ 2305. Acceptance of gifts

44 USC 2305.

“The Board may solicit and accept gifts or bequests of money, securities, or other personal property, for the benefit of or in connec-

tion with the national archival and records activities administered by the National Archives and Records Administration. Moneys that are for deposit into the trust fund shall be deposited within 10 working days of the receipt thereof.”

(b) Section 2307 of title 44, United States Code, is amended to read as follows:

“§ 2307. Trust fund account; disbursements; sales of publications and releases

“The income from trust funds held by the Board and the proceeds from the sale of securities and other personal property, as and when collected, shall be covered into the Treasury of the United States in a trust fund account to be known as the National Archives Trust Fund, subject to disbursement on the basis of certified vouchers of the Archivist of the United States (or his designee) for activities approved by the Board and in the interest of the national archival and records activities administered by the National Archives and Records Administration, including but not restricted to the preparation and publication of special works, and collections of sources and the preparation, duplication, editing, and release of historical photographic materials and sound recordings. The Archivist may sell publications and releases authorized by this section and paid for out of the income derived from trust funds at a price which will cover their cost, plus 10 percent, and moneys received from these sales shall be paid into, administered, and expended as part of the National Archives Trust Fund.”

(c) The table of sections for chapter 23 of title 44, United States Code, is amended by striking out the item pertaining to section 2302 and inserting in lieu thereof the following:

“2302. Authority of the Board; seal; services; bylaws; rules; regulations; employees.”

SECURITY OF RECORDS

SEC. 203. (a) Section 2905(a) of title 44, United States Code, is amended by adding at the end thereof the following new sentence: “In any case in which the head of the agency does not initiate an action for such recovery or other redress within a reasonable period of time after being notified of any such unlawful action, the Archivist shall request the Attorney General to initiate such an action, and shall notify the Congress when such a request has been made.”

(b) Section 3106 of title 44, United States Code, is amended by adding at the end thereof the following new sentence: “In any case in which the head of the agency does not initiate an action for such recovery or other redress within a reasonable period of time after being notified of any such unlawful action, the Archivist shall request the Attorney General to initiate such an action, and shall notify the Congress when such a request has been made.”

PUBLIC NOTICE

SEC. 204. Section 3303a(a) of title 44, United States Code, is amended by inserting “, after publication of notice in the Federal Register and an opportunity for interested persons to submit comment thereon” immediately after “may” in the second sentence thereof.

TITLE III—GENERAL PROVISIONS

EFFECTIVE DATE

SEC. 301. The provisions of this Act (including the amendments made by this Act) shall be effective on April 1, 1985. 44 USC 2102 note.

SPENDING AUTHORITY

SEC. 302. Any new spending authority (within the meaning of section 401 of the Congressional Budget Act of 1974) which is provided under this Act shall be effective for any fiscal year only to the extent or in such amounts as provided in appropriations Acts. 44 USC 2102 note.
2 USC 651.

Approved October 19, 1984.

LEGISLATIVE HISTORY—S. 905 (H.R. 3987):

HOUSE REPORTS: No. 98-1124 (Comm. of Conference) and No. 98-707 accompanying H.R. 3987 (Comm. on Government Operations).

SENATE REPORT No. 98-373 (Comm. on Governmental Affairs).

CONGRESSIONAL RECORD, Vol. 130 (1984):

June 21, considered and passed Senate.

Aug. 2, H.R. 3987 considered and passed House; S. 905, amended, passed in lieu.

Oct. 3, Senate agreed to conference report.

Oct. 4, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 42 (1984):

Oct. 19, Presidential statement.

Public Law 98-498
98th Congress

An Act

Oct. 19, 1984
[S. 1102]

To provide authorization of appropriations for title III of the Marine Protection, Research, and Sanctuaries Act of 1972, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Marine
Sanctuaries
Amendments of
1984.
16 USC 1431
note.

TITLE I—MARINE SANCTUARIES

SEC. 101. This title may be cited as the "Marine Sanctuaries Amendments of 1984".

SEC. 102. Title III of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.) is amended to read as follows:

"TITLE III—NATIONAL MARINE SANCTUARIES

16 USC 1431.

"SEC. 301. FINDINGS, PURPOSES, AND POLICIES.

"(a) FINDINGS.—The Congress finds that—

"(1) this Nation historically has recognized the importance of protecting special areas of its public domain, but these efforts have been directed almost exclusively to land areas above the high-water mark;

"(2) certain areas of the marine environment possess conservation, recreational, ecological, historical, research, educational, or esthetic qualities which give them special national significance;

"(3) while the need to control the effects of particular activities has led to enactment of resource-specific legislation, these laws cannot in all cases provide a coordinated and comprehensive approach to the conservation and management of special areas of the marine environment;

"(4) a Federal program which identifies special areas of the marine environment will contribute positively to marine resources conservation and management; and

"(5) such a Federal program will also serve to enhance public awareness, understanding, appreciation, and wise use of the marine environment.

"(b) PURPOSES AND POLICIES.—The purposes and policies of this title are—

"(1) to identify areas of the marine environment of special national significance due to their resource or human-use values;

"(2) to provide authority for comprehensive and coordinated conservation and management of these marine areas that will complement existing regulatory authorities;

"(3) to support, promote, and coordinate scientific research on, and monitoring of, the resources of these marine areas;

"(4) to enhance public awareness, understanding, appreciation, and wise use of the marine environment; and

“(5) to facilitate, to the extent compatible with the primary objective of resource protection, all public and private uses of the resources of these marine areas not prohibited pursuant to other authorities.

“SEC. 302. DEFINITIONS.

16 USC 1432.

“As used in this title, the term—

“(1) ‘draft management plan’ means the plan described in section 304(a)(1)(E);

“(2) ‘Magnuson Act’ means the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.);

“(3) ‘marine environment’ means those areas of coastal and ocean waters, the Great Lakes and their connecting waters, and submerged lands over which the United States exercises jurisdiction, consistent with international law;

“(4) ‘Secretary’ means the Secretary of Commerce; and

“(5) ‘State’ means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, the Virgin Islands, Guam, and any other commonwealth, territory, or possession of the United States.

“SEC. 303. SANCTUARY DESIGNATION STANDARDS.

16 USC 1433.

“(a) **STANDARDS.**—The Secretary may designate any discrete area of the marine environment as a national marine sanctuary and promulgate regulations implementing the designation if the Secretary—

“(1) determines that the designation will fulfill the purposes and policies of this title; and

“(2) finds that—

“(A) the area is of special national significance due to its resource or human-use values;

“(B) existing State and Federal authorities are inadequate to ensure coordinated and comprehensive conservation and management of the area, including resource protection, scientific research, and public education;

“(C) designation of the area as a national marine sanctuary will facilitate the objectives in subparagraph (B); and

“(D) the area is of a size and nature that will permit comprehensive and coordinated conservation and management.

“(b) **FACTORS AND CONSULTATIONS REQUIRED IN MAKING DETERMINATIONS AND FINDINGS.**—

“(1) **FACTORS.**—For purposes of determining if an area of the marine environment meets the standards set forth in subsection (a), the Secretary shall consider—

“(A) the area’s natural resource and ecological qualities, including its contribution to biological productivity, maintenance of ecosystem structure, maintenance of ecologically or commercially important or threatened species or species assemblages, and the biogeographic representation of the site;

“(B) the area’s historical, cultural, archaeological, or paleontological significance;

“(C) the present and potential uses of the area that depend on maintenance of the area’s resources, including commercial and recreational fishing, subsistence uses,

other commercial and recreational activities, and research and education;

“(D) the present and potential activities that may adversely affect the factors identified in subparagraphs (A), (B), and (C);

“(E) the existing State and Federal regulatory and management authorities applicable to the area and the adequacy of those authorities to fulfill the purposes and policies of this title;

“(F) the manageability of the area, including such factors as its size, its ability to be identified as a discrete ecological unit with definable boundaries, its accessibility, and its suitability for monitoring and enforcement activities;

“(G) the public benefits to be derived from sanctuary status, with emphasis on the benefits of long-term protection of nationally significant resources, vital habitats, and resources which generate tourism;

“(H) the negative impacts produced by management restrictions on income-generating activities such as living and nonliving resources development; and

“(I) the socioeconomic effects of sanctuary designation.

“(2) CONSULTATION.—In making determinations and findings, the Secretary shall consult with—

“(A) the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate;

“(B) the Secretaries of State, Defense, Transportation, and the Interior, the Administrator, and the heads of other interested Federal agencies;

“(C) the responsible officials or relevant agency heads of the appropriate State and local government entities, including coastal zone management agencies, that will or are likely to be affected by the establishment of the area as a national marine sanctuary;

“(D) the appropriate officials of any Regional Fishery Management Council established by section 302 of the Magnuson Act (16 U.S.C. 1852) that may be affected by the proposed designation; and

“(E) other interested persons.

“(3) RESOURCE ASSESSMENT REPORT.—In making determinations and findings, the Secretary shall draft, as part of the environmental impact statement referred to in section 304(a)(1), a resource assessment report documenting present and potential uses of the area, including commercial and recreational fishing, research and education, minerals and energy development, subsistence uses, and other commercial or recreational uses. The Secretary, in consultation with the Secretary of the Interior, shall draft a resource assessment section for the report regarding any commercial or recreational resource uses in the area under consideration that are subject to the primary jurisdiction of the Department of the Interior.

16 USC 1434.

“SEC. 304. PROCEDURES FOR DESIGNATION AND IMPLEMENTATION.

“(a) SANCTUARY PROPOSAL.—

“(1) NOTICE.—In proposing to designate a national marine sanctuary, the Secretary shall—

“(A) issue, in the Federal Register, a notice of the proposal, proposed regulations that may be necessary and reasonable to implement the proposal, and a summary of the draft management plan;

Federal
Register,
publication.

“(B) provide notice of the proposal in newspapers of general circulation or electronic media in the communities that may be affected by the proposal; and

Public
information.

“(C) on the same day the notice required by subparagraph (A) is issued, the Secretary shall submit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a prospectus on the proposal which shall contain—

“(i) the terms of the proposed designation;

“(ii) the basis of the findings made under section 303(a) with respect to the area;

“(iii) an assessment of the considerations under section 303(b)(1);

“(iv) proposed mechanisms to coordinate existing regulatory and management authorities within the area;

“(v) the draft management plan detailing the proposed goals and objectives, management responsibilities, resource studies, interpretive and educational programs, and enforcement, including surveillance activities for the area;

“(vi) an estimate of the annual cost of the proposed designation, including costs of personnel, equipment and facilities, enforcement, research, and public education;

“(vii) the draft environmental impact statement;

“(viii) an evaluation of the advantages of cooperative State and Federal management if all or part of a proposed marine sanctuary is within the territorial limits of any State or is superjacent to the subsoil and seabed within the seaward boundary of a State, as that boundary is established under the Submerged Lands Act (43 U.S.C. 1301 et seq.); and

“(ix) the proposed regulations referred to in subparagraph (A).

“(2) ENVIRONMENTAL IMPACT STATEMENT.—The Secretary shall—

“(A) prepare a draft environmental impact statement, as provided by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), on the proposal that includes the resource assessment report required under section 303(b)(3), maps depicting the boundaries of the proposed designated area, and the existing and potential uses and resources of the area; and

“(B) make copies of the draft environmental impact statement available to the public.

Public
availability.

“(3) PUBLIC HEARING.—No sooner than thirty days after issuing a notice under this subsection, the Secretary shall hold at least one public hearing in the coastal area or areas that will be most affected by the proposed designation of the area as a national marine sanctuary for the purpose of receiving the views of interested parties.

“(4) **TERMS OF DESIGNATION.**—The terms of designation of a sanctuary shall include the geographic area proposed to be included within the sanctuary, the characteristics of the area that give it conservation, recreational, ecological, historical, research, educational, or esthetic value, and the types of activities that will be subject to regulation by the Secretary to protect those characteristics. The terms of designation may be modified only by the same procedures by which the original designation is made.

“(5) **FISHING REGULATIONS.**—The Secretary shall provide the appropriate Regional Fishery Management Council with the opportunity to prepare draft regulations for fishing within the United States Fishery Conservation Zone as the Council may deem necessary to implement the proposed designation. Draft regulations prepared by the Council, or a Council determination that regulations are not necessary pursuant to this paragraph, shall be accepted and issued as proposed regulations by the Secretary unless the Secretary finds that the Council’s action fails to fulfill the purposes and policies of this title and the goals and objectives of the proposed designation. In preparing the draft regulations, a Regional Fishery Management Council shall use as guidance the national standards of section 301(a) of the Magnuson Act (16 U.S.C. 1851) to the extent that the standards are consistent and compatible with the goals and objectives of the proposed designation. The Secretary shall prepare the fishing regulations, if the Council declines to make a determination with respect to the need for regulations, makes a determination which is rejected by the Secretary, or fails to prepare the draft regulations in a timely manner. Any amendments to the fishing regulations shall be drafted, approved, and issued in the same manner as the original regulations.

“(6) **COMMITTEE ACTION.**—After receiving the prospectus under subsection (a)(1)(C), the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate may each hold hearings on the proposed designation and on the matters set forth in the prospectus. If within the forty-five day period of continuous session of Congress beginning on the date of submission of the prospectus, either Committee issues a report concerning matters addressed in the prospectus, the Secretary shall consider this report before publishing a notice to designate the national marine sanctuary.

“(b) **TAKING EFFECT OF DESIGNATIONS.**—

“(1) **NOTICE.**—In designating a national marine sanctuary, the Secretary shall publish in the Federal Register notice of the designation together with final regulations to implement the designation and any other matters required by law, and submit such notice to the Congress. The Secretary shall advise the public of the availability of the final management plan and the final environmental impact statement with respect to such sanctuary. No notice of designation may occur until the expiration of the period for Committee action under subsection (a)(6). The designation (and any of its terms not disapproved under this subsection) and regulations shall take effect and become final after the close of a review period of forty-five days of continuous session of Congress beginning on the day on which such notice is published unless—

Federal
Register,
publication.
Regulations.

Public
availability.

Effective date.

“(A) the designation or any of its terms is disapproved by enactment of a joint resolution of disapproval described in paragraph (3); or

“(B) in the case of a natural marine sanctuary that is located partially or entirely within the seaward boundary of any State, the Governor affected certifies to the Secretary that the designation or any of its terms is unacceptable, in which case the designation or the unacceptable term shall not take effect in the area of the sanctuary lying within the seaward boundary of the State.

“(2) WITHDRAWAL OF DESIGNATION.—If the Secretary considers that actions taken under paragraph (1) (A) or (B) will affect the designation of a national marine sanctuary in a manner that the goals and objectives of the sanctuary cannot be fulfilled, the Secretary may withdraw the entire designation. If the Secretary does not withdraw the designation, only those terms of the designation not disapproved under paragraph (1)(A) or not certified under paragraph (1)(B) shall take effect.

“(3) RESOLUTION OF DISAPPROVAL.—For the purposes of this subsection, the term ‘resolution of disapproval’ means a joint resolution which states after the resolving clause the following: ‘That the Congress disapproves the national marine sanctuary designation entitled _____ that was submitted to Congress by the Secretary of Commerce on _____’, the first blank space being filled with the title of the designation and the second blank space being filled with the date on which the notice was submitted to Congress. In the event that the disapproval is addressed to one or more terms of the designation, the joint resolution shall state after the resolving clause the following: ‘That the Congress approves the national marine sanctuary designation entitled _____ that was submitted to Congress by the Secretary of Commerce on _____ but disapproves the following terms of such designation: _____’, the first blank space being filled with the title of the designation, the second blank space being filled with the date on which the notice was submitted to Congress, and the third blank space referencing each term of the designation which is disapproved.

“(4) PROCEDURES.—

“(A) In computing the forty-five-day periods of continuous session of Congress pursuant to subsection (a)(6) and paragraph (1) of this subsection—

“(i) continuity of session is broken only by an adjournment of Congress sine die; and

“(ii) the days on which either House of Congress is not in session because of an adjournment of more than three days to a day certain are excluded.

“(B) When the committee to which a joint resolution has been referred has reported such a resolution, it shall at any time thereafter be in order to move to proceed to the consideration of the resolution. The motion shall be privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

“(C) This subsection is enacted by Congress as an exercise of the rulemaking power of each House of Congress, respectively, and as such is deemed a part of the rules of each

House, respectively, but applicable only with respect to the procedure to be followed in the case of resolutions described in this subsection. This subsection supersedes other rules only to the extent that they are inconsistent therewith, and is enacted with full recognition of the constitutional right of either House to change the rules (so far as those relate to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

“(c) ACCESS AND VALID RIGHTS.—

“(1) Nothing in this title shall be construed as terminating or granting to the Secretary the right to terminate any valid lease, permit, license, or right of subsistence use or of access if the lease, permit, license, or right—

“(A) was in existence on the date of enactment of the Marine Sanctuaries Amendments of 1984, with respect to any national marine sanctuary designated before that date; or

“(B) is in existence on the date of designation of any national marine sanctuary, with respect to any national marine sanctuary designated after the date of enactment of the Marine Sanctuaries Amendments of 1984.

“(2) The exercise of a lease, permit, license, or right is subject to regulation by the Secretary consistent with the purposes for which the sanctuary is designated.

16 USC 1435.

SEC. 305. APPLICATION OF REGULATIONS AND INTERNATIONAL NEGOTIATIONS.

“(a) REGULATIONS.—The regulations issued under section 304 shall be applied in accordance with generally recognized principles of international law, and in accordance with treaties, conventions, and other agreements to which the United States is a party. No regulation shall apply to a person who is not a citizen, national, or resident alien of the United States, unless in accordance with—

“(1) generally recognized principles of international law;

“(2) an agreement between the United States and the foreign state of which the person is a citizen; or

“(3) an agreement between the United States and the flag state of a foreign vessel, if the person is a crewmember of the vessel.

“(b) NEGOTIATIONS.—The Secretary of State, in consultation with the Secretary, shall take appropriate action to enter into negotiations with other governments to make necessary arrangements for the protection of any national marine sanctuary and to promote the purposes for which the sanctuary is established.

16 USC 1436.

“SEC. 306. RESEARCH AND EDUCATION.

“The Secretary shall conduct research and educational programs as are necessary and reasonable to carry out the purposes and policies of this title.

16 USC 1437.

“SEC. 307. ENFORCEMENT.

“(a) IN GENERAL.—The Secretary shall conduct such enforcement activities as are necessary and reasonable to carry out this title. The Secretary shall, whenever appropriate, utilize by agreement the personnel, services, and facilities of other Federal departments,

agencies, and instrumentalities on a reimbursable basis in carrying out the Secretary's responsibilities under this title.

“(b) CIVIL PENALTIES.—

“(1) CIVIL PENALTY.—Any person subject to the jurisdiction of the United States who violates any regulation issued under this title shall be liable to the United States for a civil penalty of not more than \$50,000 for each such violation, to be assessed by the Secretary. Each day of a continuing violation shall constitute a separate violation.

“(2) NOTICE.—No penalty shall be assessed under this subsection until the person charged has been given notice and an opportunity to be heard. Upon failure of the offending party to pay an assessed penalty, the Attorney General, at the request of the Secretary, shall commence action in the appropriate district court of the United States to collect the penalty and to seek such other relief as may be appropriate.

“(3) IN REM JURISDICTION.—A vessel used in the violation of a regulation issued under this title shall be liable in rem for any civil penalty assessed for such violation and may be proceeded against in any district court of the United States having jurisdiction thereof.

“(c) JURISDICTION.—The district courts of the United States shall have jurisdiction to restrain a violation of the regulations issued under this title, and to grant such other relief as may be appropriate. Actions shall be brought by the Attorney General in the name of the United States. The Attorney General may bring suit either on the Attorney General's own initiative or at the request of the Secretary.

Courts, U.S.

“SEC. 308. AUTHORIZATION OF APPROPRIATIONS.

16 USC 1438.

“To carry out this title, there are authorized to be appropriated:

“(1) \$3,000,000 for fiscal year 1985.

“(2) \$3,300,000 for fiscal year 1986.

“(3) \$3,600,000 for fiscal year 1987.

“(4) \$3,900,000 for fiscal year 1988.

“SEC. 309. SEVERABILITY.

16 USC 1439.

“If any provision of this Act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of this Act and of the application of such provision to other persons and circumstances shall not be affected thereby.”

TITLE II—MARINE SAFETY

SUBTITLE A—INSPECTION AND REPORTING REQUIREMENTS

SEC. 210. This subtitle may be cited as the “Maritime Safety Act of 1984”.

SEC. 211. (a) Section 3309 of title 46, United States Code, is amended by adding at the end:

“(c) At least 30 days (but not more than 60 days) before the current certificate of inspection issued to a vessel under subsection (a) of this section expires, the owner, charterer, managing operator, agent, master, or individual in charge of the vessel shall submit to the Secretary in writing a notice that the vessel—

“(1) will be required to be inspected; or

“(2) will not be operated so as to require an inspection.”.

Maritime
Safety Act of
1984.
Vessels.
46 USC 3301
note.

- (b) Section 3311 of title 46, United States Code, is amended by—
- (1) striking “A vessel” and substituting “(a) Except as provided in subsection (b), a vessel”;
 - (2) striking the word “valid”; and
 - (3) inserting at the end the following:

“(b) The Secretary may direct the owner, charterer, managing operator, agent, master, or individual in charge of a vessel subject to inspection under this chapter and not having on board a certificate of inspection—

“(1) to have the vessel proceed to mooring and remain there until a certificate of inspection is issued;

“(2) to take immediate steps necessary for the safety of the vessel, individuals on board the vessel, or the environment; or

“(3) to have the vessel proceed to a place to make repairs necessary to obtain a certificate of inspection.”.

- (c) Section 3318 of title 46, United States Code, is amended as follows:

- (1) Subsection (a) is amended by—

(A) striking “The” the first time it appears and substituting “Except as otherwise provided in this part, the”; and

(B) striking “\$1,000, except that when the violation involves operation of a barge, the penalty is \$500.”, and substituting “not more than \$5,000.”.

- (2) Subsection (c) is amended by striking “\$2,000,” and substituting “\$5,000,”.

(3) Subsection (d) is amended by striking “\$2,000,” and substituting “\$5,000,”.

(4) Subsection (e) is amended by striking “\$2,000,” and substituting “\$10,000,”.

(5) Subsection (f) is amended by striking “\$5,000,” and substituting “\$10,000,”.

(6) Subsection (g) is amended by striking “shall be fined not more than \$10,000, imprisoned for not more than one year, or both,” and substituting “is liable to the Government for a civil penalty of not more than \$5,000,”.

(7) Subsection (h) is amended by striking “United States Government for a civil penalty of not more than \$500.” and substituting “Government for a civil penalty of not more than \$1,000.”.

- (8) At the end add the following:

“(i) A person violating section 3309(c) of this title is liable to the Government for a civil penalty of not more than \$1,000.

“(j)(1) An owner, charterer, managing operator, agent, master, or individual in charge of a vessel required to be inspected under this chapter operating the vessel without the certificate of inspection is liable to the Government for a civil penalty of not more than \$10,000 for each day during which the violation occurs, except when the violation involves operation of a vessel of less than 1,600 gross tons, the penalty is not more than \$2,000 for each day during which the violation occurs. The vessel also is liable in rem for the penalty.

- “(2) A person is not liable for a penalty under this subsection if—

“(A) the owner, charterer, managing operator, agent, master, or individual in charge of the vessel has notified the Secretary under section 3309(c) of this title;

“(B) the owner, charterer, managing operator, agent, master, or individual in charge of the vessel has complied with all other

directions and requirements for obtaining an inspection under this part; and

“(C) the Secretary believes that unforeseen circumstances exist so that it is not feasible to conduct a scheduled inspection before the expiration of the certificate of inspection.

“(k) The owner, charterer, managing operator, agent, master, or individual in charge of a vessel failing to comply with a direction issued by the Secretary under section 3311(b) of this title is liable to the Government for a civil penalty of not more than \$10,000 for each day during which the violation occurs. The vessel also is liable in rem for the penalty.

“(l) A person committing an act described by subsections (b)–(f) of this section is liable to the Government for a civil penalty of not more than \$5,000. If the violation involves the operation of a vessel, the vessel also is liable in rem for the penalty.”.

SEC. 212. (a) Chapter 23 of title 46, United States Code is amended as follows:

(1) At the end of the chapter analysis, add the following:

“2306 Vessel reporting requirements.”.

(2) In section 2301, strike “This chapter” and substitute “Except as provided in section 2306 of this title, this chapter”.

(3) Add at the end the following:

“§ 2306. Vessel reporting requirements

46 USC 2306.

“(a)(1) An owner, charterer, managing operator, or agent of a vessel of the United States, having reason to believe (because of lack of communication with or nonappearance of a vessel or any other incident) that the vessel may have been lost or imperiled, immediately shall—

“(A) notify the Coast Guard; and

“(B) use all available means to determine the status of the vessel.

“(2) When more than 48 hours have passed since the owner, charterer, managing operator, or agent of a vessel required to report to the United States Flag Merchant Vessel Location Filing System under authority of section 212(A) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1122a), has received a communication from the vessel, the owner, charterer, managing operator, or agent immediately shall—

“(A) notify the Coast Guard; and

“(B) use all available means to determine the status of the vessel.

“(3) A person notifying the Coast Guard under paragraph (1) or (2) of this subsection shall provide the name and identification number of the vessel, the names of individuals on board, and other information that may be requested by the Coast Guard. The owner, charterer, managing operator, or agent also shall submit written confirmation to the Coast Guard within 24 hours after nonwritten notification to the Coast Guard under those paragraphs.

“(4) An owner, charterer, managing operator, or agent violating this subsection is liable to the United States Government for a civil penalty of not more than \$5,000 for each day during which the violation occurs.

“(b)(1) The master of a vessel of the United States required to report to the System shall report to the owner, charterer, managing operator, or agent at least once every 48 hours.

“(2) A master violating this subsection is liable to the Government for a civil penalty of not more than \$1,000 for each day during which the violation occurs.

“(c) The Secretary may prescribe regulations to carry out this section.”.

(b)(1) Section 6101 of title 46, United States Code, is amended—

(A) in subsection (a), by striking “and incidents”; and

(B) by striking subsection (c).

(2) Section 6103 of title 46, United States Code, is amended by striking “or incident”.

SEC. 213. (a) Subsection (b) of section 4283 of the Revised Statutes of the United States (46 App. U.S.C. 183(b)) is amended by striking out “\$60” each place it appears and inserting in lieu thereof “\$420”.

(b) The amendment made by subsection (a) shall apply to incidents occurring after the date of enactment of this Act.

SEC. 214. Sections 211(a) and 212 of this subtitle are effective one hundred and eighty days after the date of enactment of this Act.

SUBTITLE B—RECREATIONAL DIVING SAFETY

Report.

SEC. 220. (a) Within one hundred and eighty days after the date of enactment of this section, the Rules of the Road Advisory Council and the National Boating Safety Advisory Council shall report to the Secretary of the department in which the Coast Guard is operating recommendations regarding the need for the display of a divers flag (traditionally recognized as a bright or fluorescent red flag having a diagonal white stripe) or any other signal, if appropriate, to promote safety in recreational diving operations and navigation under the jurisdiction of the United States. In developing the recommendations, the Councils shall consider, as a minimum: visibility requirements; restriction of diver and vessel operations in a diving area; adequacy of, and conformity with, the laws of the States and international practice and with the laws of the United States governing navigation safety; appropriate penalties; and the views of the recreational diving community.

(b) Within one year after the date of enactment of this section, the Secretary of the department in which the Coast Guard is operating shall transmit to Congress the recommendations required under subsection (a) of this section and the Secretary's evaluation and recommendations for recreational diving safety and, as appropriate, proposed legislation to implement those recommendations.

TITLE III—NOAA CORPS

SUBTITLE A—HEALTH CARE

SEC. 310. (a) Section 3 of the Act of December 31, 1970 (33 U.S.C. 857-3) is amended by adding “(a)” after “Sec. 3.” and by adding at the end the following new subsection:

“(b) The Secretary may provide medical and dental care, including care in private facilities, for personnel of the Administration entitled to that care by law or regulation.”.

(b) The matter before subsection (b) in the first section of the Act of July 19, 1963 (42 U.S.C. 253a(a)), is amended by striking “at facilities of the Public Health Service: *Provided, That*” and inserting in lieu thereof “by the Public Health Service if”.

Effective date.
46 USC app. 183
note.
Effective date.
46 USC 2306
note.

(c) The first sentence of subsection (b) of the first section of that Act (42 U.S.C. 253a(b)) is amended—

- (1) by striking “at its hospitals and relief stations”; and
- (2) by striking “at hospitals of the Public Health Service: *Provided, That*” and inserting in lieu thereof “by the Public Health Service if”.

SUBTITLE B—PERSONNEL PROVISIONS

SEC. 320. (a)(1) Sections 8 and 9 of the Coast and Geodetic Survey Commissioned Officers' Act of 1948 (33 U.S.C. 853g, 853h) are amended to read as follows:

Government organization and employees.

“SEC. 8. (a) As recommended by the personnel board—

“(1) an officer in the permanent grade of captain or commander may be transferred to the retired list; and

“(2) an officer in the permanent grade of lieutenant commander, lieutenant, or lieutenant (junior grade) who is not qualified for retirement may be separated from the service.

“(b) In any fiscal year, the total number of officers selected for retirement or separation under subsection (a) plus the number of officers retired for age may not exceed the whole number nearest four percent of the total number of officers authorized to be on the active list, except as otherwise provided by law.

“(c) Any retirement or separation under subsection (a) shall take effect on the first day of the sixth month beginning after the date on which the Secretary of Commerce approves the retirement or separation, except that if the officer concerned requests earlier retirement or separation, the date shall be as determined by the Secretary.

“SEC. 9. (a) An officer who is separated under section 8 and who has completed more than three years of continuous active service immediately before that separation is entitled to separation pay computed under subsection (b) unless the Secretary of Commerce determines that the conditions under which the officer is separated do not warrant payment of that pay.

“(b)(1) In the case of an officer who has completed five or more years of continuous active service immediately before that separation, the amount of separation pay which may be paid to the officer under this section is 10 percent of the product of (A) the years of active service creditable to the officer, and (B) twelve times the monthly basic pay to which the officer was entitled at the time of separation, or \$30,000, whichever is less.

“(2) In the case of an officer who has completed three but fewer than five years of continuous active service immediately before that separation, the amount of separation pay which may be paid to the officer under this section is one-half of the amount computed under paragraph (1), but in no event more than \$15,000.

“(c) In determining an officer's years of active service for the purpose of computing separation pay under this section, each full month of service that is in addition to the number of full years of service creditable to the officer is counted as one-twelfth of a year and any remaining fractional part of a month is disregarded.

“(d)(1) A period for which an officer has previously received separation pay, severance pay, or readjustment pay under any other provision of law based on service in a uniformed service may not be included in determining the years of creditable service that may be

counted in computing the separation pay of the officer under this section.

“(2) The total amount that an officer may receive in separation pay under this section and separation pay, severance pay, and readjustment pay under any other provision of law based on service in a uniformed service may not exceed \$30,000.

“(e)(1) An officer who has received separation pay under this section, or separation pay, severance pay, or readjustment pay under any other provision of law, based on service in a uniformed service and who later qualifies for retired pay under this Act shall have deducted from each payment of retired pay so much of that pay as is based on the service for which the officer received that separation pay, severance pay, or readjustment pay until the total amount deducted is equal to the total amount of separation pay, severance pay, and readjustment pay received.

“(2) An officer who has received separation pay under this section may not be deprived, by reason of receipt of that pay, of any disability compensation to which the officer is entitled under the laws administered by the Veterans’ Administration, but there shall be deducted from that disability compensation an amount equal to the total amount of separation pay received. Notwithstanding the preceding sentence, no deduction may be made from disability compensation for the amount of separation pay received because of an earlier discharge, separation, or release from a period of active duty if the disability which is the basis for that disability compensation was incurred or aggravated during a later period of active duty.”.

(2) Section 1174(h)(1) of title 10, United States Code, is amended by striking out “severance pay” the first and second place it appears and inserting in lieu thereof “separation pay, severance pay,”.

(b) Section 12(c) of the Coast and Geodetic Survey Commissioned Officers’ Act of 1948 (33 U.S.C. 853j-1(c)) is amended—

(1) by striking out “deemed necessary or desirable” and inserting in lieu thereof “determined”;

(2) by striking out “alone provided” and inserting in lieu thereof “alone. Any”;

(3) by striking out “will terminate” and inserting in lieu thereof “terminates”; and

(4) by striking out “assignment,” and all that follows and inserting in lieu thereof “assignment.”.

(c)(1) The Coast and Geodetic Survey Commissioned Officers’ Act of 1948 (33 U.S.C. 853a et seq.) is amended by adding at the end thereof the following new section:

33 USC 853u.

“Sec. 24. (a) The Secretary may designate positions in the Administration as being positions of importance and responsibility for which it is appropriate that commissioned officers of the Administration, if serving in those positions, serve in the grade of vice admiral, rear admiral, or commodore as designated by the Secretary for each position, and may assign officers to those positions. An officer assigned to any position under this section has the grade designated for that position if appointed to that grade by the President, by and with the advice and consent of the Senate.

“(b) The number of officers serving on active duty under appointments under this section may not exceed—

“(1) one in the grade of vice admiral;

“(2) three in the grade of rear admiral; and

“(3) three in the grade of commodore.

“(c) An officer appointed to a grade under this section, while serving in that grade, shall have the pay and allowances of the grade to which appointed.

“(d) An appointment of an officer under this section—

“(1) does not vacate the permanent grade held by the officer; and

“(2) creates a vacancy on the active list.

“(e) The provisions of section 2(g) of Reorganization Plan Numbered 4 of 1970 (84 Stat. 2090, 5 U.S.C. App.) apply to an officer who serves in a grade above captain under an appointment under this section in the same manner as if the officer served in that grade under section 2(d) or 2(f) of that Reorganization Plan.”

(2) After the date of the enactment of this Act, no appointment of a commissioned officer may be made under section 2(d) or 2(f) of Reorganization Plan Numbered 4 of 1970 (84 Stat. 2090, 5 U.S.C. App.).

33 USC 853u
note.

(3) Effective as of December 28, 1977, section 3(a)(1) of Public Law 95-219 is amended by striking out “Section 2” and inserting in lieu thereof “Section 2(e)”.

Effective date.
5 USC app.;
15 USC
1511 note.
33 USC 853u
note.

(4)(A) An officer of the commissioned corps of the National Oceanic and Atmospheric Administration who on the day before the date of the enactment of this Act was carried on active duty in the grade of rear admiral and was receiving the basic pay of a rear admiral of the upper half shall after that date be serving in the grade of rear admiral.

(B) An officer who on the day before the date of the enactment of this Act was serving on active duty in the grade of rear admiral and was receiving the basic pay of a rear admiral of the lower half shall after that date be serving in the grade of commodore, but shall (while serving in that grade) retain the title of rear admiral and be entitled to wear the uniform and insignia of a rear admiral.

(C) An officer who on the date before the date of the enactment of this Act held the grade of rear admiral on the retired list retains the grade of rear admiral and is entitled to wear the uniform and insignia of a rear admiral.

TITLE IV—FISHERIES

SUBTITLE A—PACIFIC FISHERIES DEVELOPMENT FOUNDATION

SEC. 410. Section 2 of the Central, Western, and South Pacific Fisheries Development Act (Public Law 92-444; 16 U.S.C. 758e) is amended by striking out “Pacific Tuna Development Foundation” and inserting in lieu thereof “Pacific Fisheries Development Foundation”.

SUBTITLE B—FISHERMEN’S CONTINGENCY FUND

SEC. 420. Title IV of the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1841 et seq.) is amended—

(1) by striking in section 403(a)(1) “limitation on” and substituting “limitation of not less than 90 days on”;

43 USC 1843.

(2) by striking out “25 per centum” in section 403(c)(1) and inserting in lieu thereof “50 percent”;

(3) by striking out “, except” and all that follows thereafter in section 405(a) and inserting in lieu thereof “under subsection (d)(1).”; and

43 USC 1845.

43 USC 1845.

(4) by inserting "time," before "form" in section 405(d)(1).

SUBTITLE C—FISHERIES LOAN FUND

SEC. 430. The Fish and Wildlife Act of 1956 (16 U.S.C. 742a et seq.) is amended—

16 USC 742c. (1) by striking out "September 30, 1984" each place it appears in section 4(c) and inserting in lieu thereof "September 30, 1986"; and

16 USC 742f. (2) by striking out "1982, 1983, and 1984." in section 7(c)(6) and inserting in lieu thereof "1982, 1983, 1984, 1985, and 1986."

SEC. 431. Section 221(a) of the American Fisheries Promotion Act (16 U.S.C. 742c note) is amended—

(1) by amending subsection (a)—

(A) by amending the side heading to read as follows: "LOAN AUTHORITY.—", and

(B) by striking out "September 30, 1984" and inserting in lieu thereof "September 30, 1986";

(2) by amending subsection (b)—

(A) by striking out "each of fiscal years 1982, 1983, 1984," in paragraph (2)(A) and inserting in lieu thereof "each of fiscal years 1982, 1983, 1984, 1985, and 1986," and

(B) by striking out "1981, 1982, 1983, and 1984" in paragraph (2)(C) and inserting in lieu thereof "1981, 1982, 1983, 1984, 1985, and 1986"; and

(3) by striking out "any of fiscal years 1981, 1982, 1983, and 1984," in subsection (c)(1) and inserting in lieu thereof "any of fiscal years 1981, 1982, 1983, 1984, 1985, and 1986,".

Securities.

16 USC 742c-1.

SEC. 432. All moneys in the Fisheries Loan Fund established under Section 4 of the Fish and Wildlife Act of 1956 (16 U.S.C. 742c), as amended, shall be invested by the Secretary of Commerce in obligations of the United States, except so much as shall be currently needed for loans or administrative expenses authorized under the Fisheries Loan Fund. All accrued proceeds from such investment shall be, subject to amounts provided in advance by appropriations, credited by the Secretary of the Treasury to the debt of the Secretary of Commerce incurred under section 1105(d) of the Merchant Marine Act, 1936 (46 U.S.C. 1275), as amended, in connection with fisheries financing under title XI of the Merchant Marine Act, 1936 (46 U.S.C. 1271-1280), as amended, for so long as such debt exists. All accrued proceeds from such investment, after such debt has been liquidated, shall be, subject to amounts provided in advance by appropriations, credited to the fisheries portion of the Federal Ship Financing Fund established under section 1102 of the Merchant Marine Act, 1936 (46 U.S.C. 1272), as amended, and used for the fisheries purposes provided in title XI of the Merchant Marine Act, 1936 (46 U.S.C. 1271-1280), as amended.

SUBTITLE D—GOVERNING INTERNATIONAL FISHERY AGREEMENT
WITH THE HOME GOVERNMENT OF THE FAROE ISLANDS AND THE
GOVERNMENT OF DENMARK

16 USC 1823
note.

SEC. 440. Notwithstanding section 203 of the Magnuson Fishery Conservation and Management Act of 1976, the Governing International Fishery Agreement between the Government of the United States of America of the One Part and the Home Government of the Faroe Islands and the Government of Denmark of the Other Part

Concerning Faroese Fishing in Fisheries Off the Coasts of the United States, as contained in the message to Congress from the President of the United States dated July 13, 1984—

(1) is approved by Congress as a governing international fishery agreement for purposes of that Act; and

(2) may enter into force with respect to the United States in accordance with the terms of Article XVI of the Agreement following the enactment of this title.

TITLE V—VESSELS

SEC. 510. Notwithstanding sections 12105(d), 12106(a)(2), 12107(a)(2), and 12108(a)(2) of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 833), as applicable, the Secretary of the department in which the Coast Guard is operating may issue certificates of documentation for the following vessels—

- (a) Wingaway, official number 654146;
- (b) Endless Summer, official number 296259;
- (c) Muskegon Clipper, official number 252908;
- (d) Scuba King, official number 532376;
- (e) Ululani, official number 239729;
- (f) No Slack, official number 587630; and
- (g) La Jolie, Michigan registration number MC2780LB.

Approved October 19, 1984.

LEGISLATIVE HISTORY—S 1102:

SENATE REPORT No. 98-280 (Comm on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD:

Vol. 129 (1983): Nov. 18, considered and passed Senate.

Vol. 130 (1984) Sept. 14, considered and passed House, amended.

Oct. 2, Senate concurred in House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol 20, No. 42 (1984):
Oct. 19, Presidential statement.

Public Law 98-499
98th Congress

An Act

Oct. 19, 1984
[S. 1146]

To amend the Federal Aviation Act of 1958 to provide for the revocation of the airman certificates and for additional penalties for the transportation by aircraft of controlled substances, and for other purposes.

Aviation Drug-
Trafficking
Control Act.
Law
enforcement.
49 USC app. 1301
note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Aviation Drug-Trafficking Control Act".

SEC. 2. (a) Section 609 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1429) is amended by adding at the end thereof the following new subsection:

**"TRANSPORTATION, DISTRIBUTION, AND OTHER ACTIVITIES RELATED TO
CONTROLLED SUBSTANCES**

"(c)(1) The Administrator shall issue an order revoking the airman certificates of any person upon conviction of such person of a crime punishable by death or imprisonment for a term exceeding one year under a State or Federal law relating to a controlled substance (other than a law relating to simple possession of a controlled substance), if the Administrator determines that (A) an aircraft was used in the commission of the offense or to facilitate the commission of the offense, and (B) such person served as an airman, or was on board such aircraft, in connection with the commission of the offense or the facilitation of the commission of the offense. The Administrator shall have no authority under this paragraph to review the issue of whether an airman violated a State or Federal law relating to a controlled substance.

"(2) The Administrator shall issue an order revoking the airman certificates of any person if the Administrator determines that (A) such person knowingly engaged in an activity that is punishable by death or imprisonment for a term exceeding one year under a State or Federal law relating to a controlled substance (other than any law relating to simple possession of a controlled substance), (B) an aircraft was used to carry out such activity or to facilitate such activity, and (C) such person served as an airman, or was on board such aircraft, in connection with such activity or the facilitation of such activity. The Administrator shall not revoke, and the National Transportation Safety Board on appeal under paragraph (3) shall not affirm the revocation of, a certificate under this paragraph on the basis of any activity if the holder of the certificate is acquitted of all charges contained in an indictment or information which relate to controlled substances and which arise from such activity.

"(3) Prior to revoking an airman certificate under this subsection, the Administrator shall advise the holder thereof of the charges or any reasons relied upon by the Administrator for his proposed action and shall provide the holder of such certificate an opportunity to answer any charges and be heard as to why such certificate should not be revoked. Any person whose certificate is revoked by the Administrator under this subsection may appeal the Adminis-

trator's order to the National Transportation Safety Board and the Board shall, after notice and a hearing on the record, affirm or reverse the Administrator's order. In the conduct of its hearings, the National Transportation Safety Board shall not be bound by findings of fact of the Administrator. The filing of an appeal with the National Transportation Safety Board shall stay the effectiveness of the Administrator's order unless the Administrator advises the Board that safety in air commerce or air transportation requires the immediate effectiveness of his order, in which event the order shall remain effective and the Board shall finally dispose of the appeal within sixty days after being so advised by the Administrator. The person substantially affected by the National Transportation Safety Board's order may obtain judicial review of such order under the provisions of section 1006, and the Administrator shall be made a party to such proceedings.

Courts, U.S.

49 USC app.
1486.

"(4) For purposes of this subsection, the term 'controlled substance' has the meaning given such term by section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6))."

(b) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading

"Sec. 609. Amendment, suspension, and revocation of certificates."
is amended by adding at the end thereof

"(c) Transportation, distribution, and other activities related to controlled substances."

SEC. 3. Section 602(b) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1422(b)) is amended by inserting "(1)" after "(b)" and by adding at the end thereof the following new paragraph:

"(2)(A) Except as provided in subparagraphs (B) and (C), the Administrator shall not issue an airman certificate to any person whose airman certificate has been revoked under subsection (c) of section 609 of this title during the five-year period beginning on the date of such revocation.

Ante, p. 2312.

"(B) The Administrator may issue an airman certificate to any such person before the end of such five-year period (but not before the end of the one-year period beginning on the date of such revocation) if, in addition to the findings required by paragraph (1), the Administrator determines (i) that revocation of the certificate for such five-year period would be excessive considering the nature of the offense or the act committed and the burden which revocation places on such person, or (ii) that revocation of the certificate for such five-year period would not be in the public interest. The determinations under clauses (i) and (ii) of the preceding sentence shall be within the discretion of the Administrator and any such determination or failure to make such a determination shall not be subject to administrative or judicial review.

"(C) In any case in which the Administrator has revoked an airman certificate of a person under section 609(c) (1) or (2) as a result of any activity and—

Ante, p. 2312.

"(i) such person is subsequently acquitted of all charges contained in an indictment or information which relate to controlled substances and which arise from such activity; or

"(ii) in the case of a revocation under section 609(c)(1), the judgment of conviction on which the revocation is based is reversed on appeal;

the Administrator shall issue an airman certificate to such person if such person is otherwise qualified to serve as an airman under this section.”.

SEC. 4. (a) Section 501(e) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1401(e)) is amended by inserting “(1)” after “(e)” and by adding at the end thereof the following new paragraph:

“(2)(A) The Administrator shall issue an order revoking the certificate of registration issued to an owner under this section for an aircraft and each other certificate of registration held by such owner under this section, if the Administrator determines that—

“(i) such aircraft has been used to carry out an activity, or to facilitate an activity, that is punishable by death or imprisonment for a term exceeding one year under a State or Federal law relating to a controlled substance (other than any law relating to simple possession of a controlled substance); and

“(ii) the use of the aircraft was permitted by such owner with the knowledge that the aircraft was intended to be used for an activity described in clause (i) of this subparagraph.

For purposes of this paragraph, an owner of an aircraft who is not an individual shall be considered to have permitted the use of an aircraft with knowledge that it was intended to be used for an activity described in clause (i) of this subparagraph only if a majority of the individuals who control such owner or who are involved in forming the major policy of such owner permitted the use of the aircraft with knowledge of such intended use. The Administrator shall not revoke, and the National Transportation Safety Board on appeal under subparagraph (B) shall not affirm the revocation of, a certificate under this paragraph on the basis of any activity if the holder of the certificate is acquitted of all charges contained in an indictment or information which relate to controlled substances and which arise from such activity.

“(B) Prior to revoking any certificate of registration under this subsection, the Administrator shall advise the holder thereof of the charges or any reasons relied upon by the Administrator for his proposed action and shall provide the holder of the certificate of registration an opportunity to answer any charges and be heard as to why such certificate should not be revoked. Any person whose certificate of registration is revoked by the Administrator under this subsection may appeal the Administrator’s order to the National Transportation Safety Board and the Board shall, after notice and a hearing on the record, affirm or reverse the Administrator’s order. In the conduct of its hearings, the National Transportation Safety Board shall not be bound by findings of fact of the Administrator. The filing of an appeal with the National Transportation Safety Board shall stay the effectiveness of the Administrator’s order unless the Administrator advises the Board that safety in air commerce or air transportation requires the immediate effectiveness of his order, in which event the order shall remain effective and the Board shall finally dispose of the appeal within 60 days after being so advised by the Administrator. The person substantially affected by the National Transportation Safety Board’s order may obtain judicial review of such order under the provisions of section 1006, and the Administrator shall be made a party to such proceedings.

“(C) For purposes of this paragraph, the term ‘controlled substance’ has the meaning given such term by section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

“(D) Except as provided in subparagraphs (E) and (F), the Administrator shall not issue a certificate of registration to any person who has had a certificate revoked under subparagraph (A) of this paragraph during the five-year period beginning on the date of such revocation.

“(E) The Administrator may issue a certificate of registration for an aircraft to any such person before the end of such five-year period (but not before the end of the one-year period beginning on the date of such revocation) if the Administrator determines that such aircraft is otherwise eligible for registration under this section and (i) that revocation of the certificate for such five-year period would be excessive considering the nature of the offense or the act committed and the burden which revocation places on such person, or (ii) that revocation of the certificate for such five-year period would not be in the public interest. The determinations under clauses (i) and (ii) of the preceding sentence shall be within the discretion of the Administrator and any such determination or failure to make such a determination shall not be subject to administrative or judicial review.

“(F) In any case in which the Administrator has revoked the certificate of registration as a result of any activity and such person is subsequently acquitted of all charges contained in an indictment or information which relate to controlled substances and which arise from such activity, the Administrator shall issue a certificate of registration to such person if such person is otherwise qualified for such a certificate under this section.”.

(b) Section 304(a)(9)(A) of the Independent Safety Board Act of 1974 (49 U.S.C. App. 1903(a)(9)(A)) is amended by inserting before the semicolon at the end thereof the following: “and the revocation of any certificate of registration under section 501(e)(2) of such Act”.

Ante, p. 2314.

SEC. 5. (a) Section 902 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472) is amended by adding at the end thereof the following new subsection:

“TRANSPORTING CONTROLLED SUBSTANCES WITHOUT AIRMAN
CERTIFICATE

“(q) Any person who knowingly and willfully serves in any capacity as an airman without an airman certificate authorizing him to serve in such capacity, in connection with the transportation by aircraft of any controlled substance, where (1) such transportation is punishable by death or imprisonment for a term exceeding one year under a State or Federal law or is provided in connection with any act that is punishable by death or imprisonment for a term exceeding one year under a State or Federal law relating to a controlled substance (other than any law relating to simple possession of a controlled substance), and (2) such person has knowledge of such transportation, shall be subject to a fine not exceeding \$25,000 or to imprisonment not exceeding five years, or to both such fine and imprisonment. For purposes of this subsection, the term ‘controlled substance’ has the meaning given such term by section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).”.

(b) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading

“Sec. 902. Criminal penalties.”

is amended by adding at the end thereof

“(q) Transporting controlled substances without airman certificate.”.

SEC. 6. Section 902(b) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472(b)) is amended—

(1) by striking out “(b) Any person who” and inserting in lieu thereof “(b)(1) Except as provided in paragraph (2), any person who”;

(2) by striking out “uses or attempts to use” and inserting in lieu thereof “sells, uses, attempts to use, or possesses with the intent to use”; and

(3) by adding at the end thereof the following new paragraph:

“(2)(A) Any person who violates paragraph (1) of this subsection (other than by selling a fraudulent certificate) with the intent to commit a crime punishable by death or imprisonment for a term exceeding one year under a State or Federal law relating to a controlled substance (other than any law relating to simple possession of a controlled substance) shall be subject to a fine not exceeding \$25,000 or to imprisonment not exceeding five years, or both.

“(B) Any person who violates paragraph (1) of this subsection by selling a fraudulent certificate with the knowledge that the purchaser intends to use such certificate in connection with the commission of a crime punishable by death or imprisonment for a term exceeding one year under a State or Federal law relating to controlled substances (other than any law relating to simple possession of a controlled substance) shall be subject to a fine not exceeding \$25,000 or to imprisonment not exceeding five years, or both.

“(C) For purposes of this paragraph, the term ‘controlled substance’ has the meaning given such term by section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).”.

Effective date.
49 USC app. 1401
note.

SEC. 7. This Act and the amendments made by this Act shall apply with respect to acts and violations occurring after the date of enactment of this Act.

Approved October 19, 1984.

LEGISLATIVE HISTORY—S. 1146 (H.R. 1580):

HOUSE REPORTS: No. 98-883 accompanying H.R. 1580 (Comm. on Public Works and Transportation) and No. 98-1085 (Comm. of Conference).

SENATE REPORT No. 98-228 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD:

Vol. 129 (1983): Sept. 27, considered and passed Senate.

Vol. 130 (1984): July 24, H.R. 1580 considered and passed House; S. 1146, amended, passed in lieu.

Oct. 2, Senate agreed to conference report.

Oct. 4, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 42 (1984):

Oct. 19, Presidential statement.

Public Law 98-500
98th Congress

An Act

To compensate heirs of deceased Indians for improper payments from trust estates to States or political subdivisions thereof as reimbursements for old age assistance received by decedents during their lifetime.

Oct. 19, 1984
[S. 1151]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Old Age Assistance Claims Settlement Act".

Old Age
Assistance
Claims
Settlement Act.
Indians.
25 USC 2301
note.
25 USC 2301.

DEFINITIONS

SEC. 2. For purposes of this Act, the term—

- (1) "Secretary" means the Secretary of the Interior;
- (2) "unauthorized disbursement" means a disbursement made from the trust estate of a deceased Indian which was made by the Secretary to a State or a political subdivision of a State for the purpose of reimbursing the State or political subdivision for any old age assistance made to the deceased Indian before death in violation of Federal laws governing Indian trust property; and
- (3) "trust estate" means that portion of the estate that consists of real or personal property, title to which is held by the United States for the benefit of the Indian or which may not be alienated without the consent of the Secretary.

PAYMENT OF CLAIMS

SEC. 3. (a) The Secretary is authorized and directed to determine the portion of any unauthorized disbursement to which any individual under this Act is entitled, and to pay to such individual the amount which the Secretary determines such individual to be entitled. Any payment under this provision shall include interest at a rate of 5 per centum per annum, simple interest, from the date on which such disbursement was made from the trust estate of the deceased Indian.

25 USC 2302.

(b) No payment shall be made under subsection (a) with respect to any unauthorized disbursement from the trust estate of a deceased Indian if the total amount of unauthorized disbursement from such trust estate was less than \$50.

NOTICE

SEC. 4. (a) Within one hundred and eighty days after the date of enactment of this Act, the Secretary shall publish in the Federal Register a list of all trust estates from which unauthorized disbursements are known to have been made, including the amount of the unauthorized disbursement made from each such trust estate.

Federal
Register,
publication.
25 USC 2303.

(b) Within thirty days after the publication of this list, the Secretary shall provide a copy of this Act and a copy of the Federal Register containing this list, or such parts as may be pertinent, to

each Indian tribe, band, or group the rights of whose members may be affected by this Act.

(c) Any tribe, band or group of Indians, or any individual Indian shall have one hundred and eighty days after the date of the publication in the Federal Register of the list provided for in subsection (b) of this section to submit to the Secretary any additional unauthorized disbursement claims not contained on the list.

Federal
Register,
publication.

(d) Not more than thirty days after the expiration of the one hundred and eighty day period provided for in subsection (c) of this section, the Secretary shall publish in the Federal Register a list containing the additional unauthorized disbursement claims submitted during such period.

IDENTIFICATION OF RIGHT TO PAYMENT AND EXPEDITED CLAIM PAYMENT

25 USC 2304.

SEC. 5. (a) The Secretary shall conduct a search of the records of the Department of the Interior to identify individuals who are entitled to any portion of the unauthorized disbursements which were made and to ascertain the amount of such unauthorized disbursements to which each of such individuals is entitled.

(b) In any case in which the Secretary ascertains the name and location of any individual who is entitled to any portion of an unauthorized disbursement and determines the amount of such unauthorized disbursement to which such individual is entitled, the Secretary shall pay such amount, including interest thereon as provided in section 3, to such individual immediately without requiring such individual to file a formal claim for payment.

(c) The Secretary shall use the best available means of notifying each individual who is identified in the search conducted under subsection (a) of the right of such individual to receive payment under this Act. The means of notification available to the Secretary shall include—

- (1) notice provided directly to such individual;
- (2) notification of the next of kin of such individual;
- (3) notification of the chairman or chief executive officer of the tribe of which such individual is a member or of which the deceased Indian was a member; and
- (4) publication of notice in newspapers of general circulation in the appropriate area.

DISCHARGE AND BARRING OF CLAIMS

25 USC 2305.

SEC. 6. (a) The payment and acceptance of any claim, after its determination in accordance with this Act, shall be a full discharge to the United States or any State or political subdivision thereof of all claims and demands touching any of the matters involved in the controversy.

(b) The provisions of this Act shall not affect claims arising from any unauthorized disbursement which were filed in any court of competent jurisdiction prior to the date of enactment of this Act.

AUTHORIZATIONS

Appropriation
authorization.
25 USC 2306.

SEC. 7. (a) There are authorized to be appropriated for the purpose of carrying out the provisions of this Act \$2,500,000 for each of the fiscal years 1986 and 1987, and such sums as may be necessary for any subsequent fiscal year. The amounts appropriated under the

authority of this subsection shall remain available without fiscal year limitation for purposes of carrying out the provisions of this Act until all claims filed under this Act have been resolved.

(b) Funds necessary to pay the expenses of administering this Act shall be appropriated and expended under the authority of the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13), popularly known as the Snyder Act.

TREATMENT OF FUNDS

SEC. 8. Funds distributed under the provisions of this Act shall not be considered as income or resources nor otherwise utilized as the basis for denying or reducing the financial assistance or other benefits to which such household or member would otherwise be entitled under the Social Security Act or, except for per capita shares in excess of \$2,000, any Federal or federally assisted program.

25 USC 2307.

42 USC 1305.

Approved October 19, 1984.

LEGISLATIVE HISTORY—S. 1151:

SENATE REPORT No. 98-605 (Select Comm. on Indian Affairs).

CONGRESSIONAL RECORD, Vol. 130 (1984):

Sept. 28, considered and passed Senate.

Oct. 4, considered and passed House.

Public Law 98-501
98th Congress

An Act

Oct. 19, 1984
[S. 1330]

To establish a National Council on Public Works Improvement to prepare three annual reports on the state of the Nation's infrastructure, to amend the provisions of title 31, United States Code, relating to the President's budget to require it to separately identify and summarize the capital investment expenditures of the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Public Works
Improvement
Act of 1984.

TITLE I—NATIONAL COUNCIL ON PUBLIC WORKS
IMPROVEMENT

SHORT TITLE

42 USC 3121
note.

SEC. 101. This title may be cited as the "Public Works Improvement Act of 1984".

ESTABLISHMENT

42 USC 3121
note.

SEC. 102. There is established a council to be known as the National Council on Public Works Improvement (hereinafter in this title referred to as the "Council").

DUTIES

Report.
42 USC 3121
note.

SEC. 103. (a)(1) Not later than February 15, 1986, February 15, 1987, and February 15, 1988, the Council shall prepare and submit to the President and the Congress a report on the state of the Nation's infrastructure (hereinafter in this title referred to as the "Infrastructure Report"). Each Infrastructure Report shall include, but not be limited to, an analysis of each of the following:

(A) the age and condition of public works improvements and changes in their condition from preceding years;

(B) the methods used to finance the construction, acquisition, rehabilitation, and maintenance of public works improvements, including but not limited to general obligation and revenue bonds, user fees, excise taxes, direct governmental assistance, and private investment;

(C) any trends in methods used to finance such construction, acquisition, rehabilitation, and maintenance;

(D) the capacity of public works improvements to sustain current and anticipated economic development and to support a sustained and expanding economy;

(E) maintenance needs and projected expenditures for public works improvements.

(2) In addition, each Infrastructure Report—

(A) shall include a discussion of infrastructure program priorities (including alternative methods of meeting national infrastructure needs to effectuate balanced growth and economic development); and

(B) to the extent practicable, shall provide, for other public works facilities owned or operated by the Federal Government, any State or local government, or any public agency or authority organized pursuant to State or local law, an analysis similar to the analysis provided under paragraph (1) for public works improvements.

(b) Not later than September 30, 1985, the Council shall—

(1) analyze criteria and procedures used by Federal agencies, States, and units of local government in inventorying existing and needed public works improvements and assessing the condition of public works improvements and develop and publish uniform criteria and procedures which may be used for conducting such inventories and assessments; and

(2) develop and recommend to the President and the Congress proposed guidelines for the uniform reporting by Federal agencies of construction, acquisition, rehabilitation, and maintenance data with respect to public works improvements.

(c) The Council shall convene its first meeting no earlier than February 15, 1985, and no later than April 15, 1985.

(d) In carrying out its duties under this section, the Council shall use existing data and sampling techniques to the maximum extent feasible. When developing new data under this title, the Council shall make every effort to assure that such data is developed in consultation with the States so that uniform methods, categories, and analyses are used.

(e) Each Infrastructure Report, when submitted to the Congress, shall be referred to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate.

MEMBERSHIP

SEC. 104. (a) The Council shall be composed of five members—

(1) three of whom shall be appointed by the President;

(2) one of whom shall be appointed by the Speaker of the House of Representatives; and

(3) one of whom shall be appointed by the President pro tempore of the Senate;

from among persons knowledgeable and experienced in one or more of the following: public administration, planning, architecture, civil engineering, and public investment financing.

(b) A vacancy in the Council shall not affect its powers but shall be filled in the manner in which the original appointment was made.

(c) Four members of the Council shall constitute a quorum, but the Council may establish a lesser number as a quorum for the purpose of holding hearings, taking testimony, and receiving evidence.

(d) The Chairman of the Council shall be elected by the members of the Council.

42 USC 3121
note.

(e) The Council shall meet at the call of the Chairman or a majority of its members.

(f) Members of the Council shall be appointed for the life of the Council.

(g) Members of the Council shall serve without pay, except that they shall receive per diem and travel expenses in accordance with section 5703 of title 5, United States Code.

DIRECTOR AND STAFF

42 USC 3121
note.

SEC. 105. (a) The Council shall have a director who shall be appointed by the Council and shall be paid at a rate not to exceed the rate of basic pay payable to level V of the Executive Schedule.

(b) The Council may appoint and fix the pay of such additional personnel as the Council considers appropriate.

5 USC 5101 *et*
seq., 5331.

(c) The director and staff of the Council may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and may be made without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. Any Federal employee subject to the civil service laws and regulations who may be employed by the Council shall retain civil service status without interruption or loss of status or privilege. In no event shall any employee of the Council other than the staff director receive as compensation an amount in excess of the maximum rate of basic pay payable for GS-18 of the General Schedule.

5 USC 5332 note.

POWERS OF THE COUNCIL

42 USC 3121
note.

SEC. 106. (a) Upon request of the Council, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Council to assist the Council in carrying out its duties under this title.

(b) Upon request of the Council, the Secretary of the Army, acting through the Chief of Engineers, shall provide, on a reimbursable basis, such office space, supplies, equipment, and other support services to the Council and its staff as may be necessary for the Council to carry out its duties under this title.

(c) The Council may secure directly from any department or agency of the United States information necessary to enable it to carry out this title. Upon request of the Chairman of the Council, the head of such department or agency shall furnish such information to the Council.

Contracts with
U.S.

(d) The Council or any member authorized by the Council may, for the purpose of carrying out this title, hold such hearings, sit and act at such time and places, take such testimony, have such printing and binding done, enter into such contracts and other arrangements (with or without consideration or bond, to such extent or in such amounts as are provided in appropriation Acts, and without regard to section 3709 of the Revised Statutes (41 U.S.C. 5)), make such expenditures, and take such other actions as the Council or such member may deem advisable to carry out this title. Any member of the Council may administer oaths or affirmations to witnesses appearing before the Council or before such member.

ADVISORY GROUP

SEC. 107. (a) There is established an advisory group to provide such assistance and advice as the Council may request. Such group shall be composed of 12 members as follows: Establishment.
42 USC 3121
note.

- (1) the Secretary of the Army, who shall be the Chairman of such group;
 - (2) the Secretary of Agriculture;
 - (3) the Secretary of Housing and Urban Development;
 - (4) the Secretary of Transportation;
 - (5) the Administrator of the Environmental Protection Agency;
 - (6) the Secretary of Commerce;
 - (7) the Chairman of the National Governors Association;
 - (8) the President of the National Conference of State Legislatures;
 - (9) the President of the National Association of Counties;
 - (10) the President of the National Association of Regional Councils;
 - (11) the President of the National League of Cities; and
 - (12) the President of the United States Conference of Mayors.
- (b) The members of the advisory group shall serve without pay.
- (c) The advisory group shall cease to exist on April 15, 1988. Termination.

CONGRESSIONAL BUDGET OFFICE REVIEW

SEC. 108. Not later than 90 days after the date on which each Infrastructure Report is submitted to the Congress by the Council, the Congressional Budget Office shall review such report and shall submit a report on the results of such review to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate. Report.
42 USC 3121
note.

TERMINATION

SEC. 109. The Council shall cease to exist on April 15, 1988. 42 USC 3121
note.

FUNDING

SEC. 110. (a) From funds otherwise appropriated to the Secretary of the Army for purposes of civil works, the Secretary shall transfer to the Council in the fiscal year ending September 30, 1985, such amounts as the Council may request but not to exceed \$3,200,000. 42 USC 3121
note.

(b) There is authorized to be appropriated to the Council to carry out the provisions of this title \$3,500,000 per fiscal year for each of the fiscal years ending September 30, 1986, and September 30, 1987, and \$2,000,000 for the fiscal year ending September 30, 1988. Appropriation
authorization.

DEFINITIONS

SEC. 111. For purposes of this title, the term— 42 USC 3121
note.

(1) “acquisition” includes the addition of land, sites, equipment, structures, facilities, or rolling stock by purchase, lease-purchase, trade, or donation;

(2) “construction” includes the design, planning, and erection of new structures and facilities, the expansion of existing structures and facilities, the reconstruction of a project at an existing

site or adjacent to an existing site, and the installation of initial and replacement equipment for such structures and facilities;

(3) "public works improvements" means the following publicly owned civilian facilities: highways; streets; bridges; mass transportation facilities and equipment; resource recovery facilities; airports; airway facilities; water supply and distribution systems; wastewater collection, treatment, and related facilities; dams; federally owned buildings; docks and ports; waterways; and such other public facilities as the Council determines are critical for national economic development;

(4) "maintenance" means regularly scheduled activities, including routine repairs, intended to keep a facility operating efficiently; and

(5) "rehabilitation" includes the alteration of or correction of deficiencies in an existing structure or facility so as to extend the useful life or improve the effectiveness of the structure or facility, the modernization or replacement of equipment at an existing structure or facility, and the modernization of, or replacement of parts for, rolling stock.

Federal Capital
Investment
Program
Information Act
of 1984.

31 USC 1101
note

TITLE II—FEDERAL CAPITAL INVESTMENT PROGRAM

SHORT TITLE

SEC. 201. This title may be cited as the "Federal Capital Investment Program Information Act of 1984".

PURPOSES

31 USC 1105
note.

SEC. 202. The purposes of this title are—

(1) to provide budget projections for major Federal capital investment programs;

(2) to provide a summary of the most recent needs assessment analyses for these programs;

(3) to provide information on the sensitivity of the needs estimates to major policy issues and technical and economic variables;

(4) to assist the planning capabilities of State and local governments on the assessment of major capital investment programs; and

(5) to improve legislative oversight over Federal capital investment programs.

FEDERAL CAPITAL INVESTMENT PROGRAM REPORT

SEC. 203. Section 1105 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(e)(1) The President shall submit with materials related to each budget transmitted under subsection (a) on or after January 1, 1985, an analysis for the ensuing fiscal year that shall identify requested appropriations or new obligational authority and outlays for each major program that may be classified as a public civilian capital investment program and for each major program that may be classified as a military capital investment program, and shall contain summaries of the total amount of such appropriations or new obligational authority and outlays for public civilian capital investment programs and summaries of the total amount of such appropriations or new obligational authority and outlays for military

capital investment programs. In addition, the analysis under this paragraph shall contain—

“(A) an estimate of the current service levels of public civilian capital investment and of military capital investment and alternative high and low levels of such investments over a period of ten years in current dollars and over a period of five years in constant dollars;

“(B) the most recent assessment analysis and summary, in a standard format, of public civilian capital investment needs in each major program area over a period of ten years;

“(C) an identification and analysis of the principal policy issues that affect estimated public civilian capital investment needs for each major program; and

“(D) an identification and analysis of factors that affect estimated public civilian capital investment needs for each major program, including but not limited to the following factors:

“(i) economic assumptions;

“(ii) engineering standards;

“(iii) estimates of spending for operation and maintenance;

“(iv) estimates of expenditures for similar investments by State and local governments; and

“(v) estimates of demand for public services derived from such capital investments and estimates of the service capacity of such investments.

To the extent that any analysis required by this paragraph relates to any program for which Federal financial assistance is distributed under a formula prescribed by law, such analysis shall be organized by State and within each State by major metropolitan area if data are available.

“(2) For purposes of this subsection, any appropriation, new obligational authority, or outlay shall be classified as a public civilian capital investment to the extent that such appropriation, authority, or outlay will be used for the construction, acquisition, or rehabilitation of any physical asset that is capable of being used to produce services or other benefits for a number of years and is not classified as a military capital investment under paragraph (3). Such assets shall include (but not be limited to)—

“(A) roadways or bridges,

“(B) airports or airway facilities,

“(C) mass transportation systems,

“(D) wastewater treatment or related facilities,

“(E) water resources projects,

“(F) hospitals,

“(G) resource recovery facilities,

“(H) public buildings,

“(I) space or communications facilities,

“(J) railroads, and

“(K) federally assisted housing.

“(3) For purposes of this subsection, any appropriation, new obligational authority, or outlay shall be classified as a military capital investment to the extent that such appropriation, authority, or outlay will be used for the construction, acquisition, or rehabilitation of any physical asset that is capable of being used to produce services or other benefits for purposes of national defense and security for a number of years. Such assets shall include military bases, posts, installations, and facilities.

Defense and
national
security.

“(4) Criteria and guidelines for use in the identification of public civilian and military capital investments, for distinguishing between public civilian and military capital investments, and for distinguishing between major and nonmajor capital investment programs shall be issued by the Director of the Office of Management and Budget after consultation with the Comptroller General and the Congressional Budget Office. The analysis submitted under this subsection shall be accompanied by an explanation of such criteria and guidelines.

“(5) For purposes of this subsection—

“(A) the term ‘construction’ includes the design, planning, and erection of new structures and facilities, the expansion of existing structures and facilities, the reconstruction of a project at an existing site or adjacent to an existing site, and the installation of initial and replacement equipment for such structures and facilities;

“(B) the term ‘acquisition’ includes the addition of land, sites, equipment, structures, facilities, or rolling stock by purchase, lease-purchase, trade, or donation; and

“(C) the term ‘rehabilitation’ includes the alteration of or correction of deficiencies in an existing structure or facility so as to extend the useful life or improve the effectiveness of the structure or facility, the modernization or replacement of equipment at an existing structure or facility, and the modernization of, or replacement of parts for, rolling stock.”.

Approved October 19, 1984.

LEGISLATIVE HISTORY—S. 1330 (H.R. 1244):

HOUSE REPORTS: No. 98-153 accompanying H.R. 1244, Pt. 1 (Comm. on Public Works and Transportation) and Pt. 2 (Comm. on Government Operations), and No. 98-1134 (Comm. of Conference).

SENATE REPORT No. 98-341 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD, Vol. 130 (1984):

Feb. 9, considered and passed Senate.

May 15, H.R. 1244 considered and passed House; S. 1330, amended, passed in lieu.

Oct. 4, House agreed to conference report.

Oct. 5, Senate agreed to conference report.

Public Law 98-502
98th Congress

An Act

To establish uniform audit requirements for State and local governments receiving Federal financial assistance.

Oct. 19, 1984
[S. 1510]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Single Audit Act
of 1984.

SHORT TITLE; PURPOSE

SECTION 1. (a) This Act may be cited as the “Single Audit Act of 1984”.

31 USC 7501
note.

(b) It is the purpose of this Act—

(1) to improve the financial management of State and local governments with respect to Federal financial assistance programs;

(2) to establish uniform requirements for audits of Federal financial assistance provided to State and local governments;

(3) to promote the efficient and effective use of audit resources; and

(4) to ensure that Federal departments and agencies, to the maximum extent practicable, rely upon and use audit work done pursuant to chapter 75 of title 31, United States Code (as added by this Act).

AMENDMENT TO TITLE 31, UNITED STATES CODE

SEC. 2. (a) Subtitle V of title 31, United States Code, is amended by adding at the end thereof the following new chapter:

**“CHAPTER 75—REQUIREMENTS FOR SINGLE
AUDITS**

“Sec.

“7501. Definitions.

“7502. Audit requirements; exemptions.

“7503. Relation to other audit requirements.

“7504. Cognizant agency responsibilities.

“7505. Regulations.

“7506. Monitoring responsibilities of the Comptroller General.

“7507. Effective date; report.

“§ 7501. Definitions

31 USC 7501.

“As used in this chapter, the term—

“(1) ‘cognizant agency’ means a Federal agency which is assigned by the Director with the responsibility for implementing the requirements of this chapter with respect to a particular State or local government.

“(2) ‘Comptroller General’ means the Comptroller General of the United States.

“(3) ‘Director’ means the Director of the Office of Management and Budget.

“(4) ‘Federal financial assistance’ means assistance provided by a Federal agency in the form of grants, contracts, loans, loan guarantees, property, cooperative agreements, interest subsidies, insurance, or direct appropriations, but does not include direct Federal cash assistance to individuals.

“(5) ‘Federal agency’ has the same meaning as the term ‘agency’ in section 551(1) of title 5, United States Code.

“(6) ‘generally accepted accounting principles’ has the meaning specified in the generally accepted government auditing standards.

“(7) ‘generally accepted government auditing standards’ means the standards for audit of governmental organizations, programs, activities, and functions, issued by the Comptroller General.

“(8) ‘independent auditor’ means—

“(A) an external State or local government auditor who meets the independence standards included in generally accepted government auditing standards, or

“(B) a public accountant who meets such independence standards.

“(9) ‘internal controls’ means the plan of organization and methods and procedures adopted by management to ensure that—

“(A) resource use is consistent with laws, regulations, and policies;

“(B) resources are safeguarded against waste, loss, and misuse; and

“(C) reliable data are obtained, maintained, and fairly disclosed in reports.

“(10) ‘Indian tribe’ means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation (as defined in, or established under, the Alaskan Native Claims Settlement Act) that is recognized by the United States as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

“(11) ‘local government’ means any unit of local government within a State, including a county, borough, municipality, city, town, township, parish, local public authority, special district, school district, intrastate district, council of governments, and any other instrumentality of local government.

“(12) ‘major Federal assistance program’ means any program for which total expenditures of Federal financial assistance by the State or local government during the applicable year exceed—

“(A) \$20,000,000 in the case of a State or local government for which such total expenditures for all programs exceed \$7,000,000,000;

“(B) \$19,000,000 in the case of a State or local government for which such total expenditures for all programs exceed \$6,000,000,000 but are less than or equal to \$7,000,000,000;

“(C) \$16,000,000 in the case of a State or local government for which such total expenditures for all programs exceed \$5,000,000,000 but are less than or equal to \$6,000,000,000;

“(D) \$13,000,000 in the case of a State or local government for which such total expenditures for all programs exceed \$4,000,000,000 but are less than or equal to \$5,000,000,000;

“(E) \$10,000,000 in the case of a State or local government for which such total expenditures for all programs exceed \$3,000,000,000 but are less than or equal to \$4,000,000,000;

“(F) \$7,000,000 in the case of a State or local government for which such total expenditures for all programs exceed \$2,000,000,000 but are less than or equal to \$3,000,000,000;

“(G) \$4,000,000 in the case of a State or local government for which such total expenditures for all programs exceed \$1,000,000,000 but are less than or equal to \$2,000,000,000;

“(H) \$3,000,000 in the case of a State or local government for which such total expenditures for all programs exceed \$100,000,000 but are less than or equal to \$1,000,000,000; and

“(I) the larger of (i) \$300,000, or (ii) 3 percent of such total expenditures for all programs, in the case of a State or local government for which such total expenditures for all programs exceed \$100,000 but are less than or equal to \$100,000,000.

“(13) ‘public accountants’ means those individuals who meet the qualification standards included in generally accepted government auditing standards for personnel performing government audits.

“(14) ‘State’ means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, any instrumentality thereof, any multi-State, regional, or interstate entity which has governmental functions, and any Indian tribe.

“(15) ‘subrecipient’ means any person or government department, agency, or establishment that receives Federal financial assistance through a State or local government, but does not include an individual that receives such assistance.

“§ 7502. Audit requirements; exemptions

31 USC 7502.

“(a)(1)(A) Each State and local government which receives a total amount of Federal financial assistance equal to or in excess of \$100,000 in any fiscal year of such government shall have an audit made for such fiscal year in accordance with the requirements of this chapter and the requirements of the regulations prescribed pursuant to section 7505 of this title.

“(B) Each State and local government that receives a total amount of Federal financial assistance which is equal to or in excess of \$25,000 but less than \$100,000 in any fiscal year of such government shall—

“(i) have an audit made for such fiscal year in accordance with the requirements of this chapter and the requirements of the regulations prescribed pursuant to section 7505 of this title; or

“(ii) comply with any applicable requirements concerning financial or financial and compliance audits contained in Federal statutes and regulations governing programs under which such Federal financial assistance is provided to that government.

“(C) Each State and local government that receives a total amount of Federal financial assistance which is less than \$25,000 in any

fiscal year of such government shall be exempt for such fiscal year from compliance with—

“(i) the audit requirements of this chapter; and

“(ii) any applicable requirements concerning financial or financial and compliance audits contained in Federal statutes and regulations governing programs under which such Federal financial assistance is provided to that government.

The provisions of clause (ii) of this subparagraph do not exempt a State or local government from compliance with any provision of a Federal statute or regulation that requires such government to maintain records concerning Federal financial assistance provided to such government or that permits a Federal agency or the Comptroller General access to such records.

“(2) For purposes of this section, a State or local government shall be considered to receive Federal financial assistance whether such assistance is received directly from a Federal agency or indirectly through another State or local government.

“(b)(1) Except as provided in paragraphs (2) and (3), audits conducted pursuant to this chapter shall be conducted annually.

“(2) If a State or local government is required—

“(A) by constitution or statute, as in effect on the date of enactment of this chapter, or

“(B) by administrative rules, regulations, guidelines, standards, or policies, as in effect on such date,

to conduct its audits less frequently than annually, the cognizant agency for such government shall, upon request of such government, permit the government to conduct its audits pursuant to this chapter biennially, except as provided in paragraph (3). Such audits shall cover both years within the biennial period.

“(3) Any State or local government that is permitted, under clause (B) of paragraph (2), to conduct its audits pursuant to this chapter biennially by reason of the requirements of a rule, regulation, guideline, standard, or policy, shall, for any of its fiscal years beginning after December 31, 1986, conduct such audits annually unless such State or local government codifies a requirement for biennial audits in its constitution or statutes by January 1, 1987. Audits conducted biennially under the provisions of this paragraph shall cover both years within the biennial period.

“(c) Each audit conducted pursuant to subsection (a) shall be conducted by an independent auditor in accordance with generally accepted government auditing standards, except that, for the purposes of this chapter, such standards shall not be construed to require economy and efficiency audits, program results audits, or program evaluations.

“(d)(1) Each audit conducted pursuant to subsection (a) for any fiscal year shall cover the entire State or local government's operations except that, at the option of such government—

“(A) such audit may, except as provided in paragraph (5), cover only each department, agency, or establishment which received, expended, or otherwise administered Federal financial assistance during such fiscal year; and

“(B) such audit may exclude public hospitals and public colleges and universities.

“(2) Each such audit shall encompass the entirety of the financial operations of such government or of such department, agency, or establishment, whichever is applicable, and shall determine and report whether—

“(A)(i) the financial statements of the government, department, agency, or establishment present fairly its financial position and the results of its financial operations in accordance with generally accepted accounting principles; and

“(ii) the government, department, agency, or establishment has complied with laws and regulations that may have a material effect upon the financial statements;

“(B) the government, department, agency, or establishment has internal control systems to provide reasonable assurance that it is managing Federal financial assistance programs in compliance with applicable laws and regulations; and

“(C) the government, department, agency, or establishment has complied with laws and regulations that may have a material effect upon each major Federal assistance program.

In complying with the requirements of subparagraph (C), the independent auditor shall select and test a representative number of transactions from each major Federal assistance program.

“(3) Transactions selected from Federal assistance programs, other than major Federal assistance programs, pursuant to the requirements of paragraphs (2)(A) and (2)(B) shall be tested for compliance with Federal laws and regulations that apply to such transactions. Any noncompliance found in such transactions by the independent auditor in making determinations required by this paragraph shall be reported.

“(4) The number of transactions selected and tested under paragraphs (2) and (3), the selection and testing of such transactions, and the determinations required by such paragraphs shall be based on the professional judgment of the independent auditor.

“(5) Each State or local government which, in any fiscal year of such government, receives directly from the Department of the Treasury a total of \$25,000 or more under chapter 67 of this title (relating to general revenue sharing) and which is required to conduct an audit pursuant to this chapter for such fiscal year shall not have the option provided by paragraph (1)(A) for such fiscal year.

“(6) A series of audits of individual departments, agencies, and establishments for the same fiscal year may be considered to be an audit for the purpose of this chapter.

“(e)(1) Each State and local government subject to the audit requirements of this chapter, which receives Federal financial assistance and provides \$25,000 or more of such assistance in any fiscal year to a subrecipient, shall—

“(A) if the subrecipient conducts an audit in accordance with the requirements of this chapter, review such audit and ensure that prompt and appropriate corrective action is taken on instances of material noncompliance with applicable laws and regulations with respect to Federal financial assistance provided to the subrecipient by the State or local government; or

“(B) if the subrecipient does not conduct an audit in accordance with the requirements of this chapter—

“(i) determine whether the expenditures of Federal financial assistance provided to the subrecipient by the State or local government are in accordance with applicable laws and regulations; and

“(ii) ensure that prompt and appropriate corrective action is taken on instances of material noncompliance with applicable laws and regulations with respect to Federal financial

31 USC 6701 *et seq.*

assistance provided to the subrecipient by the State or local government.

“(2) Each such State and local government shall require each subrecipient of Federal assistance through such government to permit, as a condition of receiving funds from such assistance, the independent auditor of the State or local government to have such access to the subrecipient’s records and financial statements as may be necessary for the State or local government to comply with this chapter.

Report.

“(f) The report made on any audit conducted pursuant to this section shall, within thirty days after completion of such report, be transmitted to the appropriate Federal officials and made available by the State or local government for public inspection.

“(g) If an audit conducted pursuant to this section finds any material noncompliance with applicable laws and regulations by, or material weakness in the internal controls of, the State or local government with respect to the matters described in subsection (d)(2), the State or local government shall submit to appropriate Federal officials a plan for corrective action to eliminate such material noncompliance or weakness or a statement describing the reasons that corrective action is not necessary. Such plan shall be consistent with the audit resolution standard promulgated by the Comptroller General (as part of the standards for internal controls in the Federal Government) pursuant to section 3512(b) of this title.

31 USC 3512.

31 USC 7503.

“§ 7503. Relation to other audit requirements

“(a) An audit conducted in accordance with this chapter shall be in lieu of any financial or financial and compliance audit of an individual Federal assistance program which a State or local government is required to conduct under any other Federal law or regulation. To the extent that such audit provides a Federal agency with the information it requires to carry out its responsibilities under Federal law or regulation, a Federal agency shall rely upon and use that information and plan and conduct its own audits accordingly in order to avoid a duplication of effort.

“(b) Notwithstanding subsection (a), a Federal agency shall conduct any additional audits which are necessary to carry out its responsibilities under Federal law or regulation. The provisions of this chapter do not authorize any State or local government (or subrecipient thereof) to constrain, in any manner, such agency from carrying out such additional audits.

“(c) The provisions of this chapter do not limit the authority of Federal agencies to conduct, or enter into contracts for the conduct of, audits and evaluations of Federal financial assistance programs, nor limit the authority of any Federal agency Inspector General or other Federal audit official.

“(d) Subsection (a) shall apply to a State or local government which conducts an audit in accordance with this chapter even though it is not required by section 7502(a) to conduct such audit.

“(e) A Federal agency that performs or contracts for audits in addition to the audits conducted by recipients pursuant to this chapter shall, consistent with other applicable law, arrange for funding the cost of such additional audits. Such additional audits include economy and efficiency audits, program results audits, and program evaluations.

“§ 7504. Cognizant agency responsibilities

31 USC 7504.

“(a) The Director shall designate cognizant agencies for audits conducted pursuant to this chapter.

“(b) A cognizant agency shall—

“(1) ensure that audits are made in a timely manner and in accordance with the requirements of this chapter;

“(2) ensure that the audit reports and corrective action plans made pursuant to section 7502 of this title are transmitted to the appropriate Federal officials; and

“(3)(A) coordinate, to the extent practicable, audits done by or under contract with Federal agencies that are in addition to the audits conducted pursuant to this chapter; and (B) ensure that such additional audits build upon the audits conducted pursuant to this chapter.

“§ 7505. Regulations

31 USC 7505.

“(a) The Director, after consultation with the Comptroller General and appropriate Federal, State, and local government officials, shall prescribe policies, procedures, and guidelines to implement this chapter. Each Federal agency shall promulgate such amendments to its regulations as may be necessary to conform such regulations to the requirements of this chapter and of such policies, procedures, and guidelines.

“(b)(1) The policies, procedures, and guidelines prescribed pursuant to subsection (a) shall include criteria for determining the appropriate charges to programs of Federal financial assistance for the cost of audits. Such criteria shall prohibit a State or local government which is required to conduct an audit pursuant to this chapter from charging to any such program (A) the cost of any financial or financial and compliance audit which is not conducted in accordance with this chapter, and (B) more than a reasonably proportionate share of the cost of any such audit that is conducted in accordance with this chapter.

“(2) The criteria prescribed pursuant to paragraph (1) shall not, in the absence of documentation demonstrating a higher actual cost, permit (A) the ratio of (i) the total charges by a government to Federal financial assistance programs for the cost of audits performed pursuant to this chapter, to (ii) the total cost of such audits, to exceed (B) the ratio of (i) total Federal financial assistance expended by such government during the applicable fiscal year or years, to (ii) such government’s total expenditures during such fiscal year or years.

“(c) Such policies, procedures, and guidelines shall include such provisions as may be necessary to ensure that small business concerns and business concerns owned and controlled by socially and economically disadvantaged individuals will have the opportunity to participate in the performance of contracts awarded to fulfill the audit requirements of this chapter.

“§ 7506. Monitoring responsibilities of the Comptroller General

31 USC 7506.

“The Comptroller General shall review provisions requiring financial or financial and compliance audits of recipients of Federal assistance that are contained in bills and resolutions reported by the committees of the Senate and the House of Representatives. If the Comptroller General determines that a bill or resolution contains provisions that are inconsistent with the requirements of this chap-

ter, the Comptroller General shall, at the earliest practicable date, notify in writing—

“(1) the committee that reported such bill or resolution; and

“(2)(A) the Committee on Governmental Affairs of the Senate (in the case of a bill or resolution reported by a committee of the Senate); or

“(B) the Committee on Government Operations of the House of Representatives (in the case of a bill or resolution reported by a committee of the House of Representatives).

31 USC 7507.

“§ 7507. Effective date; report

“(a) This chapter shall apply to any State or local government with respect to any of its fiscal years which begin after December 31, 1984.

“(b) The Director, on or before May 1, 1987, and annually thereafter, shall submit to each House of Congress a report on operations under this chapter. Each such report shall specifically identify each Federal agency or State or local government which is failing to comply with this chapter.”.

(b) The provisions of this Act shall not diminish or otherwise affect the authority of the Tennessee Valley Authority to conduct its own audits of any matter involving funds disbursed by the Tennessee Valley Authority.

(c) The table of chapters for subtitle V of title 31, United States Code, is amended by inserting after the item relating to chapter 73 the following new item:

“75. Requirements for Single Audits 7501”.

Approved October 19, 1984.

Tennessee
Valley
Authority.
31 USC 7501
note.

LEGISLATIVE HISTORY—S. 1510 (H.R. 4821):

HOUSE REPORT No. 98-708 accompanying H.R. 4821 (Comm. on Government Operations).

SENATE REPORT No. 98-234 (Comm. on Governmental Affairs).

CONGRESSIONAL RECORD:

Vol. 129 (1983): Nov. 2, considered and passed Senate.

Vol. 130 (1984): May 15, H.R. 4821 considered and passed House; S. 1510, amended, passed in lieu.

Oct. 3, Senate concurred in House amendments with amendments.

Oct. 4, House concurred in Senate amendments.

Public Law 98-503
98th Congress

An Act

To amend the Act of October 18, 1972, to authorize additional authorization of appropriations for Sitka National Historical Park, Alaska.

Oct. 19, 1984

[S. 1688]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3 of the Act entitled "An Act to authorize certain additions to the Sitka National Monument in the State of Alaska, and for other purposes", approved October 8, 1972 (86 Stat. 904), as amended by section 101, paragraph (23), of the Act of November 10, 1978 (92 Stat. 3472) is further amended by striking out "\$1,571,000" and inserting in lieu thereof "such sums as may be necessary, but not to exceed \$4,000,000."

Approved October 19, 1984.

LEGISLATIVE HISTORY—S. 1688:

SENATE REPORT No. 98-550 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 130 (1984):

Oct. 3, considered and passed Senate.

Oct. 5, considered and passed House.

Public Law 98-504
98th Congress

An Act

Oct. 19, 1984
[S. 1790]

To authorize the Secretary of the Interior to enter into contracts or cooperative agreements with the Art Barn Association to assist in the preservation and interpretation of the Art Barn in Rock Creek Park in the District of Columbia, and for other purposes.

Corporation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to preserve the Art Barn, located in Rock Creek Park in the District of Columbia, for the benefit and inspiration of the people of the United States, the Secretary of the Interior is authorized to enter into contracts or cooperative agreements with the Art Barn Association (a nonprofit corporation organized under the laws of the District of Columbia), or a successor organization, to assist in the preservation and interpretation of the Art Barn.

(b) Pursuant to contracts or cooperative agreements under subsection (a) and subject to such terms and conditions as the Secretary of the Interior may establish, funds available to the Secretary for operation and maintenance of the Art Barn may be made available to the Art Barn Association.

(c) The authority of the Secretary of the Interior to enter into contracts and cooperative agreements under subsection (a) shall expire on the date 5 years after the enactment of this Act.

(d) For purposes of complying with section 401 of the Congressional Budget Act of 1974, the authorization provided under this Act is subject to the availability of appropriations.

Approved October 19, 1984.

LEGISLATIVE HISTORY—S. 1790:

HOUSE REPORT No. 98-1031 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 98-551 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 130 (1984):

Aug. 9, considered and passed Senate.
Oct. 2, considered and passed House, amended.
Oct. 4, Senate concurred in House amendments.

Public Law 98-505
98th Congress

An Act

To add \$2,000,000 to the budget ceiling for new acquisitions at Sleeping Bear Dunes National Lakeshore.

Oct. 19, 1984

[S. 1868]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 15 of the Act entitled “An Act to establish in the State of Michigan the Sleeping Bear Dunes National Lakeshore, and for other purposes”, approved October 21, 1970 (Public Law 91-479; 16 U.S.C. 460x-14), as amended, is further amended by striking out “\$82,149,558” and inserting in lieu thereof “\$84,149,558”.

Approved October 19, 1984.

LEGISLATIVE HISTORY—S. 1868:

HOUSE REPORT No. 98-1032 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 98-419 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 130 (1984):
Aug. 9, considered and passed Senate.
Oct. 2, considered and passed House.

Public Law 98-506
98th Congress

An Act

Oct. 19, 1984
[S. 1889]

To amend the Act authorizing the establishment of the Congaree Swamp National Monument to provide that at such time as the principal visitor center is established, such center shall be designated as the "Harry R. E. Hampton Visitor Center", and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National parks,
monuments, etc.

SECTION 1. Section 3 of the Act approved October 18, 1976 (90 Stat. 2517), is amended by adding at the end the following new subsection:

"(c) At such time as the principal visitor center at such monument is established, such center shall be designated as the 'Harry R. E. Hampton Visitor Center'."

Waste disposal.
16 USC 4601-22.

SEC. 2. Section 5 of the Act of July 15, 1968 (82 Stat. 354), is amended by redesignating subsection (c) as subsection (d) and by inserting the following new subsection (c) after subsection (b):

"(c) In order to protect the air, land, water, and natural and cultural values of the National Park System and the property of the United States therein, no solid waste disposal site (including any site for the disposal of domestic or industrial solid wastes) may be operated within the boundary of any unit of the National Park System, other than—

"(1) a site which was operating as of September 1, 1984, or

"(2) a site used only for disposal of wastes generated within that unit of the park system so long as such site will not degrade any of the natural or cultural resources of such park unit.

Regulations.
Waste disposal.

The Secretary of the Interior shall promulgate regulations to carry out the provisions of this subsection, including reasonable regulations to mitigate the adverse effects of solid waste disposal sites in operation as of September 1, 1984, upon property of the United States."

Approved October 19, 1984.

LEGISLATIVE HISTORY—S. 1889:

HOUSE REPORT No. 98-1069 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 98-553 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 130 (1984):

Aug. 9, considered and passed Senate.

Sept. 24, considered and passed House, amended.

Oct. 5, Senate concurred in House amendments.

Public Law 98-507
98th Congress

An Act

To provide for the establishment of the Task Force on Organ Transplantation and the Organ Procurement and Transplantation Network, to authorize financial assistance for organ procurement organizations, and for other purposes.

Oct. 19, 1984
[S. 2048]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “National Organ Transplant Act”.

National Organ
Transplant Act.
42 USC 201 note.
Health.

TITLE I—TASK FORCE ON ORGAN PROCUREMENT AND
TRANSPLANTATION

ESTABLISHMENT AND DUTIES OF TASK FORCE

SEC. 101. (a) Not later than ninety days after the date of the enactment of this Act, the Secretary of Health and Human Services (hereinafter in this title referred to as the “Secretary”) shall establish a Task Force on Organ Transplantation (hereinafter in this title referred to as the “Task Force”).

42 USC 273 note.

(b)(1) The Task Force shall—

(A) conduct comprehensive examinations of the medical, legal, ethical, economic, and social issues presented by human organ procurement and transplantation,

(B) prepare the assessment described in paragraph (2) and the report described in paragraph (3), and

(C) advise the Secretary with respect to the development of regulations for grants under section 371 of the Public Health Service Act.

Post, p. 2342.

(2) The Task Force shall make an assessment of immunosuppressive medications used to prevent organ rejection in transplant patients, including—

(A) an analysis of the safety, effectiveness, and costs (including cost-savings from improved success rates of transplantation) of different modalities of treatment;

(B) an analysis of the extent of insurance reimbursement for long-term immunosuppressive drug therapy for organ transplant patients by private insurers and the public sector;

(C) an identification of problems that patients encounter in obtaining immunosuppressive medications; and

(D) an analysis of the comparative advantages of grants, coverage under existing Federal programs, or other means to assure that individuals who need such medications can obtain them.

(3) The Task Force shall prepare a report which shall include—

Report.

(A) an assessment of public and private efforts to procure human organs for transplantation and an identification of factors that diminish the number of organs available for transplantation;

(B) an assessment of problems in coordinating the procurement of viable human organs including skin and bone;

(C) recommendations for the education and training of health professionals, including physicians, nurses, and hospital and emergency care personnel, with respect to organ procurement;

(D) recommendations for the education of the general public, the clergy, law enforcement officers, members of local fire departments, and other agencies and individuals that may be instrumental in effecting organ procurement;

(E) recommendations for assuring equitable access by patients to organ transplantation and for assuring the equitable allocation of donated organs among transplant centers and among patients medically qualified for an organ transplant;

(F) an identification of barriers to the donation of organs to patients (with special emphasis upon pediatric patients), including an assessment of—

(i) barriers to the improved identification of organ donors and their families and organ recipients;

(ii) the number of potential organ donors and their geographical distribution;

(iii) current health care services provided for patients who need organ transplantation and organ procurement procedures, systems, and programs which affect such patients;

(iv) cultural factors affecting the family with respect to the donation of the organs; and

(v) ethical and economic issues relating to organ transplantation needed by chronically ill patients;

(G) recommendations for the conduct and coordination of continuing research concerning all aspects of the transplantation of organs;

(H) an analysis of the factors involved in insurance reimbursement for transplant procedures by private insurers and the public sector;

(I) an analysis of the manner in which organ transplantation technology is diffused among and adopted by qualified medical centers, including a specification of the number and geographical distribution of qualified medical centers using such technology and an assessment of whether the number of centers using such technology is sufficient or excessive and of whether the public has sufficient access to medical procedures using such technology; and

(J) an assessment of the feasibility of establishing, and of the likely effectiveness of, a national registry of human organ donors.

MEMBERSHIP

42 USC 273 note.

SEC. 102. (a) The Task Force shall be composed of twenty-five members as follows:

(1) Twenty-one members shall be appointed by the Secretary of which:

(A) nine members shall be physicians or scientists who are eminent in the various medical and scientific specialties related to human organ transplantation;

(B) three members shall be individuals who are not physicians and who represent the field of human organ procurement;

(C) four members shall be individuals who are not physicians and who as a group have expertise in the fields of law,

theology, ethics, health care financing, and the social and behavioral sciences;

(D) three members shall be individuals who are not physicians or scientists and who are members of the general public; and

(E) two members shall be individuals who represent private health insurers or self-insurers.

(2) The Surgeon General of the United States, the Director of the National Institutes of Health, the Commissioner of the Food and Drug Administration, and the Administrator of the Health Care Financing Administration shall be ex officio members.

(b) No individual who is a full-time officer or employee of the United States may be appointed under subsection (a)(1) to the Task Force. A vacancy in the Task Force shall be filled in the manner in which the original appointment was made. A vacancy in the Task Force shall not affect its powers.

(c) Members shall be appointed for the life of the Task Force.

(d) The Task Force shall select a Chairman from among its members who are appointed under subsection (a)(1).

(e) Thirteen members of the Task Force shall constitute a quorum, but a lesser number may hold hearings.

(f) The Task Force shall hold its first meeting on a date specified by the Secretary which is not later than thirty days after the date on which the Secretary establishes the Task Force under section 101. Thereafter, the Task Force shall meet at the call of the Chairman or a majority of its members, but shall meet at least three times during the life of the Task Force.

(g)(1) Each member of the Task Force who is not an officer or employee of the United States shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day (including traveltime) during which such member is engaged in the actual performance of duties as a member of the Task Force. Each member of the Task Force who is an officer or employee of the United States shall receive no additional compensation.

(2) While away from their homes or regular places of business in the performance of duties for the Task Force, all members of the Task Force shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

SUPPORT FOR THE TASK FORCE

SEC. 103. (a) Upon request of the Task Force, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Task Force to assist the Task Force in carrying out its duties under this Act.

42 USC 273 note.

(b) The Secretary shall provide the Task Force with such administrative and support services as the Task Force may require to carry out its duties.

REPORT

SEC. 104. (a) The Task Force may transmit to the Secretary, the Committee on Labor and Human Resources of the Senate, and the

42 USC 273 note.

Committee on Energy and Commerce of the House of Representatives such interim reports as the Task Force considers appropriate.

Report. (b) Not later than 7 months after the date on which the Task Force is established by the Secretary under section 101, the Task Force shall transmit a report to the Secretary, the Committee on Labor and Human Resources of the Senate, and the Committee on Energy and Commerce of the House of Representatives on its assessment under section 101(b)(2) of immunosuppressive medications used to prevent organ rejection.

Report. (c) Not later than twelve months after the date on which the Task Force is established by the Secretary under section 101, the Task Force shall transmit a final report to the Secretary, the Committee on Labor and Human Resources of the Senate, and the Committee on Energy and Commerce of the House of Representatives. The final report of the Task Force shall include—

(1) a description of any findings and conclusions of the Task Force made pursuant to any examination conducted under section 101(b)(1)(A),

(2) the matters specified in section 101(b)(3), and

(3) such recommendations as the Task Force considers appropriate.

TERMINATION

42 USC 273 note. SEC. 105. The Task Force shall terminate three months after the date on which the Task Force transmits the report required by section 104(c).

TITLE II—ORGAN PROCUREMENT ACTIVITIES

SEC. 201. Part H of title III of the Public Health Service Act is amended to read as follows:

“PART H—ORGAN TRANSPLANTS

“ASSISTANCE FOR ORGAN PROCUREMENT ORGANIZATIONS

Grants. 42 USC 273. “SEC. 371. (a)(1) The Secretary may make grants for the planning of qualified organ procurement organizations described in subsection (b).

“(2) The Secretary may make grants for the establishment, initial operation, and expansion of qualified organ procurement organizations described in subsection (b).

“(3) In making grants under paragraphs (1) and (2), the Secretary shall—

Ante, p. 2339. “(A) take into consideration any recommendations made by the Task Force on Organ Transplantation established under section 101 of the National Organ Transplant Act, and

“(B) give special consideration to applications which cover geographical areas which are not adequately served by organ procurement organizations.

“(b)(1) A qualified organ procurement organization for which grants may be made under subsection (a) is an organization which, as determined by the Secretary, will carry out the functions described in paragraph (2) and—

“(A) is a nonprofit entity,

“(B) has accounting and other fiscal procedures (as specified by the Secretary) necessary to assure the fiscal stability of the organization,

“(C) has an agreement with the Secretary to be reimbursed under title XVIII of the Social Security Act for the procurement of kidneys, 42 USC 1395.

“(D) has procedures to obtain payment for non-renal organs provided to transplant centers,

“(E) has a defined service area which is a geographical area of sufficient size which (unless the service area comprises an entire State) will include at least fifty potential organ donors each year and which either includes an entire standard metropolitan statistical area (as specified by the Office of Management and Budget) or does not include any part of such an area,

“(F) has a director and such other staff, including the organ donation coordinators and organ procurement specialists necessary to effectively obtain organs from donors in its service area, and

“(G) has a board of directors or an advisory board which—

“(i) is composed of—

“(I) members who represent hospital administrators, intensive care or emergency room personnel, tissue banks, and voluntary health associations in its service area,

“(II) members who represent the public residing in such area,

“(III) a physician with knowledge, experience, or skill in the field of histocompatibility,

“(IV) a physician with knowledge or skill in the field of neurology, and

“(V) from each transplant center in its service area which has arrangements described in paragraph (2)(G) with the organization, a member who is a surgeon who has practicing privileges in such center and who performs organ transplant surgery,

“(ii) has the authority to recommend policies for the procurement of organs and the other functions described in paragraph (2), and

“(iii) has no authority over any other activity of the organization.

“(2) An organ procurement organization shall—

“(A) have effective agreements, to identify potential organ donors, with a substantial majority of the hospitals and other health care entities in its service area which have facilities for organ donations,

“(B) conduct and participate in systematic efforts, including professional education, to acquire all useable organs from potential donors,

“(C) arrange for the acquisition and preservation of donated organs and provide quality standards for the acquisition of organs which are consistent with the standards adopted by the Organ Procurement and Transplantation Network under section 372(b)(2)(D),

“(D) arrange for the appropriate tissue typing of donated organs,

“(E) have a system to allocate donated organs among transplant centers and patients according to established medical criteria,

“(F) provide or arrange for the transportation of donated organs to transplant centers,

“(G) have arrangements to coordinate its activities with transplant centers in its service area,

“(H) participate in the Organ Procurement Transplantation Network established under section 372,

“(I) have arrangements to cooperate with tissue banks for the retrieval, processing, preservation, storage, and distribution of tissues as may be appropriate to assure that all useable tissues are obtained from potential donors, and

“(J) evaluate annually the effectiveness of the organization in acquiring potentially available organs.

Appropriation
authorization.

“(c) For grants under subsection (a) there are authorized to be appropriated \$5,000,000 for fiscal year 1985, \$8,000,000 for fiscal year 1986, and \$12,000,000 for fiscal year 1987.

“ORGAN PROCUREMENT AND TRANSPLANTATION NETWORK

42 USC 274.

“SEC. 372. (a) The Secretary shall by contract provide for the establishment and operation of an Organ Procurement and Transplantation Network which meets the requirements of subsection (b). The amount provided under such contract in any fiscal year may not exceed \$2,000,000. Funds for such contracts shall be made available from funds available to the Public Health Service from appropriations for fiscal years beginning after fiscal year 1984.

“(b)(1) The Organ Procurement and Transplantation Network shall carry out the functions described in paragraph (2) and shall—

“(A) be a private nonprofit entity which is not engaged in any activity unrelated to organ procurement, and

“(B) have a board of directors which includes representatives of organ procurement organizations (including organizations which have received grants under section 371), transplant centers, voluntary health associations, and the general public.

“(2) The Organ Procurement and Transplantation Network shall—

“(A) establish in one location or through regional centers—

“(i) a national list of individuals who need organs, and

“(ii) a national system, through the use of computers and in accordance with established medical criteria, to match organs and individuals included in the list, especially individuals whose immune system makes it difficult for them to receive organs,

“(B) maintain a twenty-four-hour telephone service to facilitate matching organs with individuals included in the list,

“(C) assist organ procurement organizations in the distribution of organs which cannot be placed within the service areas of the organizations,

“(D) adopt and use standards of quality for the acquisition and transportation of donated organs,

“(E) prepare and distribute, on a regionalized basis, samples of blood sera from individuals who are included on the list and whose immune system makes it difficult for them to receive organs, in order to facilitate matching the compatibility of such individuals with organ donors,

“(F) coordinate, as appropriate, the transportation of organs from organ procurement organizations to transplant centers,

“(G) provide information to physicians and other health professionals regarding organ donation, and

“(H) collect, analyze, and publish data concerning organ donation and transplants.

“SCIENTIFIC REGISTRY

“SEC. 373. The Secretary shall, by grant or contract, develop and maintain a scientific registry of the recipients of organ transplants. The registry shall include such information respecting patients and transplant procedures as the Secretary deems necessary to an ongoing evaluation of the scientific and clinical status of organ transplantation. The Secretary shall prepare for inclusion in the report under section 376 an analysis of information derived from the registry.

42 USC 274a.

“GENERAL PROVISIONS RESPECTING GRANTS AND CONTRACTS

“SEC. 374. (a) No grant may be made under section 371 or 373 or contract entered into under section 372 or 373 unless an application therefor has been submitted to, and approved by, the Secretary. Such an application shall be in such form and shall be submitted in such manner as the Secretary shall by regulation prescribe.

Grants.
42 USC 274b.

“(b)(1) In considering applications for grants under section 371—

“(A) the Secretary shall give priority to any applicant which has a formal agreement of cooperation with all transplant centers in its proposed service area,

“(B) the Secretary shall give special consideration to organizations which met the requirements of section 371(b) before the date of the enactment of this section, and

“(C) the Secretary shall not discriminate against an applicant solely because it provides health care services other than those related to organ procurement.

The Secretary may not make a grant for more than one organ procurement organization which serve the same service area.

Prohibition.

“(2) A grant for planning under section 371 may be made for one year with respect to any organ procurement organization and may not exceed \$100,000.

“(3) Grants under section 371 for the establishment, initial operation, or expansion of organ procurement organizations may be made for two years. No such grant may exceed \$500,000 for any year and no organ procurement organization may receive more than \$800,000 for initial operation or expansion.

“(c)(1) The Secretary shall determine the amount of a grant made under section 371 or 373. Payments under such grants may be made in advance on the basis of estimates or by the way of reimbursement, with necessary adjustments on account of underpayments or overpayments, and in such installments and on such terms and conditions as the Secretary finds necessary to carry out the purposes of such grants.

“(2)(A) Each recipient of a grant under section 371 or 373 shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant, the total cost of the undertaking in connection with which such grant was made, and the amount of that

Records.

portion of the cost of the undertaking supplied by other sources, and such other records as will facilitate an effective audit.

Audit.

“(B) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient of a grant under section 371 or 373 that are pertinent to such grant.

“(d) For purposes of this part:

“(1) The term ‘transplant center’ means a health care facility in which transplants of organs are performed.

“(2) The term ‘organ’ means the human kidney, liver, heart, lung, pancreas, and any other human organ (other than corneas and eyes) specified by the Secretary by regulation and for purposes of section 373, such term includes bone marrow.

“ADMINISTRATION

42 USC 274c.

“SEC. 375. The Secretary shall, during fiscal years 1985, 1986, 1987, and 1988, designate and maintain an identifiable administrative unit in the Public Health Service to—

42 USC 1395.
Public
information.

“(1) administer this part and coordinate with the organ procurement activities under title XVIII of the Social Security Act,

“(2) conduct a program of public information to inform the public of the need for organ donations,

“(3) provide technical assistance to organ procurement organizations receiving funds under section 371, the Organ Procurement and Transplantation Network established under section 372, and other entities in the health care system involved in organ donations, procurement, and transplants, and

Report.

“(4) one year after the date on which the Task Force on Organ Transplantation transmits its final report under section 104(c) of the National Organ Transplant Act, and annually thereafter through fiscal year 1988, submit to Congress an annual report on the status of organ donation and coordination services and include in the report an analysis of the efficiency and effectiveness of the procurement and allocation of organs and a description of problems encountered in the procurement and allocation of organs.

“REPORT

42 USC 274d.

“SEC. 376. The Secretary shall annually publish a report on the scientific and clinical status of organ transplantation. The Secretary shall consult with the Director of the National Institutes of Health and the Commissioner of the Food and Drug Administration in the preparation of the report.”.

TITLE III—PROHIBITION OF ORGAN PURCHASES

Penalties.
42 USC 274e.

SEC. 301. (a) It shall be unlawful for any person to knowingly acquire, receive, or otherwise transfer any human organ for valuable consideration for use in human transplantation if the transfer affects interstate commerce.

(b) Any person who violates subsection (a) shall be fined not more than \$50,000 or imprisoned not more than five years, or both.

(c) For purposes of subsection (a):

(1) The term “human organ” means the human kidney, liver, heart, lung, pancreas, bone marrow, cornea, eye, bone, and skin,

and any other human organ specified by the Secretary of Health and Human Services by regulation.

(2) The term “valuable consideration” does not include the reasonable payments associated with the removal, transportation, implantation, processing, preservation, quality control, and storage of a human organ or the expenses of travel, housing, and lost wages incurred by the donor of a human organ in connection with the donation of the organ.

(3) The term “interstate commerce” has the meaning prescribed for it by section 201(b) of the Federal Food, Drug and Cosmetic Act.

21 USC 321.

TITLE IV—MISCELLANEOUS

BONE MARROW REGISTRY DEMONSTRATION AND STUDY

SEC. 401. (a) Not later than nine months after the date of enactment of this Act, the Secretary of Health and Human Services shall hold a conference on the feasibility of establishing and the effectiveness of a national registry of voluntary bone marrow donors.

42 USC 273 note.

(b) If the conference held under subsection (a) finds that it is feasible to establish a national registry of voluntary donors of bone marrow and that such a registry is likely to be effective in matching donors with recipients, the Secretary of Health and Human Services, acting through the Assistant Secretary for Health, shall, for purposes of the study under subsection (c), establish a registry of voluntary donors of bone marrow. The Secretary shall assure that—

(1) donors of bone marrow listed in the registry have given an informed consent to the donation of the bone marrow; and

(2) the names of the donors in the registry are kept confidential and access to the names and any other information in the registry is restricted to personnel who need the information to maintain and implement the registry, except that access to such other information shall be provided for purposes of the study under subsection (c).

If the conference held under subsection (a) makes the finding described in this subsection, the Secretary shall establish the registry not later than six months after the completion of the conference.

(c) The Secretary of Health and Human Services, acting through the Assistant Secretary for Health, shall study the establishment and implementation of the registry under subsection (b) to identify the issues presented by the establishment of such a registry, to evaluate participation of bone marrow donors, to assess the imple-

Report.

mentation of the informed consent and confidentiality requirements, and to determine if the establishment of a permanent bone marrow registry is needed and appropriate. The Secretary shall report the results of the study to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate not later than two years after the date the registry is established under subsection (b).

Approved October 19, 1984.

LEGISLATIVE HISTORY—S. 2048 (H.R. 5580) (H.R. 4080):

HOUSE REPORTS: No. 98-575, Pt. 1, accompanying H.R. 4080 (Comm. on Energy and Commerce), No. 98-769 accompanying H.R. 5580 (Comm. on Energy and Commerce), and No. 98-1127 (Comm. of Conference).

SENATE REPORT No. 98-382 (Comm. on Labor and Human Resources).

CONGRESSIONAL RECORD, Vol. 130 (1984):

Apr. 11, considered and passed Senate.

June 20, 21, H.R. 5580 considered and passed House; S. 2048, amended, passed in lieu.

Oct. 3, House agreed to conference report.

Oct. 4, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 42 (1984):

Oct. 19, Presidential statement.

Public Law 98-508
98th Congress

An Act

To designate certain national forest system lands in the State of Arkansas for inclusion in the National Wilderness Preservation System, and for other purposes.

Oct 19, 1984
[S. 2125]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “Arkansas Wilderness Act of 1984”.

SEC. 2. (a) The Congress finds that—

(1) many areas of undeveloped national forest system lands in the State of Arkansas possess outstanding natural characteristics which give them high values as wilderness and will, if properly preserved, contribute as an enduring resource of wilderness for the benefit of the American people;

(2) the Department of Agriculture’s second roadless area review and evaluation (RARE II) of national forest system lands in the State of Arkansas and the related congressional review of such lands have identified areas which, on the basis of their land-form, ecosystem, associated wildlife, and location, will help to fulfill the national forest system’s share of a quality National Wilderness Preservation System; and

(3) the Department of Agriculture’s second roadless area review and evaluation of national forest system lands in the State of Arkansas and the related congressional review of such lands have also identified areas which do not possess outstanding wilderness attributes or which possess outstanding energy, mineral, timber, grazing, dispersed recreation, and other values and which should not now be designated as components of the National Wilderness Preservation System but should be available for nonwilderness multiple uses under the land management planning process and other applicable laws.

(b) The purposes of this Act are to—

(1) designate certain national forest system lands in the State of Arkansas as components of the National Wilderness Preservation System, in order to promote, perpetuate, and preserve the wilderness character of the land, protect watersheds and wildlife habitat, preserve scenic and historic resources, and promote scientific research, primitive recreation, solitude, physical and mental challenge, and inspiration for the benefit of all the American people, to a greater extent than is possible in the absence of wilderness designation; and

(2) insure that certain other national forest system lands in the State of Arkansas be available for nonwilderness multiple uses.

SEC. 3. In furtherance of the purposes of the Wilderness Act, the following lands in the State of Arkansas are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(a) certain lands in the Ouachita National Forest, Arkansas, which comprise approximately seven thousand five hundred

Arkansas
Wilderness Act
of 1984.
National
Wilderness
Preservation
System.
National Forest
System

16 USC 1131
note.

16 USC 1132
note.

and sixty-eight acres, as generally depicted on a map entitled "Black Fork Mountain Wilderness—Proposed", dated September 1984, and which shall be known as the Black Fork Mountain Wilderness;

16 USC 1132
note.

(b) certain lands in the Ouachita National Forest, Arkansas, which comprise approximately six thousand three hundred and ten acres, as generally depicted on a map entitled "Dry Creek Wilderness—Proposed", dated September 1984, and which shall be known as the Dry Creek Wilderness;

16 USC 1132
note.

(c) certain lands in the Ouachita National Forest, Arkansas, which comprise approximately ten thousand eight hundred and eighty-four acres, as generally depicted on a map entitled "Poteau Mountain Wilderness—Proposed", dated September 1984, and which shall be known as the Poteau Mountain Wilderness;

16 USC 1132
note.

(d) certain lands in the Ouachita National Forest, Arkansas, which comprise approximately ten thousand one hundred and five acres, as generally depicted on a map entitled "Flatside Wilderness—Proposed", dated September 1984, and which shall be known as the Flatside Wilderness;

(e) certain lands in the Ozark-Saint Francis National Forest which comprise approximately one thousand five hundred and four acres, as generally depicted on a map entitled "Upper Buffalo Addition—Proposed", dated November 1983, and which are hereby incorporated in and shall be deemed to be a part of the Upper Buffalo Wilderness as designated by Public Law 93-622;

16 USC 1132
note.

16 USC 1132
note.

(f) certain lands in the Ozark-Saint Francis National Forest which comprise approximately fifteen thousand one hundred and seventy-seven acres, as generally depicted on a map entitled "Hurricane Creek Wilderness—Proposed", dated November 1983, and which shall be known as the Hurricane Creek Wilderness;

16 USC 1132
note.

(g) certain lands in the Ozark-Saint Francis National Forest, Arkansas, which comprise approximately eleven thousand eight hundred and twenty-two acres, as generally depicted on a map entitled "Richland Creek Wilderness—Proposed", dated November 1983, and which shall be known as the Richland Creek Wilderness;

16 USC 1132
note.

(h) certain lands in the Ozark-Saint Francis National Forest, Arkansas, which comprise approximately ten thousand seven hundred and seventy-seven acres, as generally depicted on a map entitled "East Fork Wilderness—Proposed", dated September 1984, and which shall be known as the East Fork Wilderness; and

16 USC 1132
note.

(i) certain lands in the Ozark-Saint Francis National Forest, Arkansas, which comprise approximately sixteen thousand nine hundred and fifty-six acres, as generally depicted on a map entitled "Leatherwood Wilderness—Proposed", dated November 1983, and which shall be known as the Leatherwood Wilderness.

Conservation.

SEC. 4. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II);

(2) the Congress has made its own review and examination of national forest system roadless areas in Arkansas and of the

environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the questions of the legal and factual sufficiency of the RARE II Final Environmental Impact Statement (dated January 1979) with respect to national forest system lands in States other than Arkansas, such statement shall not be subject to judicial review with respect to national forest system lands in the State of Arkansas;

(2) with respect to the national forest system lands in the State of Arkansas which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d), that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time the Secretary of Agriculture finds that conditions in a unit have significantly changed;

Congress.
16 USC 1601
note.

(3) areas in the State of Arkansas reviewed in such final environmental statement or referenced in subsection (d) and not designated wilderness upon enactment of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976: *Provided*, That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans;

16 USC 1604.

(4) in the event that revised land management plans in the State of Arkansas are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law; and

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of national forest system lands in the State of Arkansas for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

16 USC 1604. (c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

(d) The provisions of this section shall also apply to national forest system roadless lands in the State of Arkansas which are less than five thousand acres in size.

Public availability. SEC. 5. As soon as practicable after the date of enactment of this Act, the Secretary of Agriculture shall file maps and legal descriptions of each wilderness area designated by this Act with the Committee on Energy and Natural Resources of the United States Senate, and the Committee on Interior and Insular Affairs and the Committee on Agriculture of the House of Representatives, and each map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal descriptions shall be on file and available for public inspection in the office of the Chief, United States Forest Service, Department of Agriculture.

16 USC 1131 note. SEC. 6. Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act of 1964 (78 Stat. 892) governing areas designated by that Act as wilderness areas, except that, with respect to any area designated in this Act, any reference in such provisions to the effective date of the Wilderness Act of 1964 shall be deemed to be a reference to the effective date of this Act.

SEC. 7. Congress does not intend that designation of wilderness areas in the State of Arkansas lead to the creation of protective perimeters or buffer zones around each wilderness area. The fact that nonwilderness activities or uses can be seen or heard from areas within the wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

Approved October 19, 1984.

LEGISLATIVE HISTORY—S. 2125:

HOUSE REPORT No. 98-1097, Pt. 1 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 98-462 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 130 (1984):

Aug. 9, considered and passed House.

Oct. 2, considered and passed Senate, amended.

Oct. 4, Senate concurred in House amendment.

Public Law 98-509
98th Congress

An Act

To amend the Public Health Service Act to revise and extend the authorities of that Act for assistance for alcohol and drug abuse and mental health services.

Oct. 19, 1984
[S. 2303]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the “Alcohol Abuse, Drug Abuse, and Mental Health Amendments of 1984”.

Alcohol Abuse,
Drug Abuse, and
Mental Health
Amendments of
1984.

42 USC 201 note

(b) Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

TITLE I—AMENDMENTS TO TITLE XIX OF THE PUBLIC
HEALTH SERVICE ACT

SEC. 101. Section 1911 (42 U.S.C. 300x) is amended by striking out “and” after “1983,” and by inserting before the period a comma and the following: “\$515,000,000 for fiscal year 1985, \$545,000,000 for fiscal year 1986, and \$576,000,000 for fiscal year 1987”.

SEC. 102. (a) Title XIX is amended by striking out section 1912 and inserting in lieu thereof the following:

“GRANTS

“SEC. 1912. (a) The Secretary may use not more than 1 percent of the amount appropriated under section 1911 for any fiscal year to make grants to public and nonprofit private entities for projects for the training and retraining of employees adversely affected by changes in the delivery of mental health services and for providing such employees assistance in securing employment.

42 USC 300x-1.

“(b) No grant may be made by the Secretary under subsection (a) unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain and be accompanied by such information, as the Secretary may specify. No such application may be approved unless it contains assurances that the applicant will use the funds provided only for the purposes specified in the approved application and will establish such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement and accounting of Federal funds paid to the applicant under subsection (a).

“ALLOTMENTS

“SEC. 1913. (a)(1) If the amount available for allotment from appropriations under section 1911 for a fiscal year does not exceed \$490,000,000, the Secretary shall allot such amount—

42 USC 300x-1a.

“(A) on the basis of a formula prescribed by the Secretary which is based equally—

“(i) on the population of each State, and

“(ii) the population of each State weighted by its relative per capita income, or

“(B) on the basis of the amount received by a State in fiscal year 1984,

whichever yields a higher amount. For purposes of subparagraph (A), the term ‘relative per capita income’ means the quotient of the per capita income of the United States and the per capita income of the State, except that if the State is Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, the Commonwealth of Puerto Rico, or the Virgin Islands, the quotient shall be considered to be one.

42 USC 300x.

“(2) If the amount available for allotment from appropriations under section 1911 for a fiscal year is at least \$490,000,000, the Secretary shall allot \$490,000,000 in accordance with paragraph (1) and shall allot the amount which is in excess of such amount on the basis of the formula described in paragraph (1)(A).

“(3) Notwithstanding paragraph (1), if the aggregate of the amounts to be allotted to each State pursuant to paragraph (1)(B) in any fiscal year exceeds the total amount available for allotment from appropriations under section 1911, the amount to be allotted to a State for such fiscal year shall be an amount which bears the same ratio to the amount which is to be allotted to the State pursuant to such paragraph as the total amount available for allotment from appropriations under section 1911 bears to the total of the amount required to be appropriated and made available under such section for allotments to provide each State with the allotment required by such paragraph.

“(4) To the extent that all the funds appropriated under section 1911 for a fiscal year and available for allotment in such fiscal year are not otherwise allotted to States because—

“(A) one or more States have not submitted an application or description of activities in accordance with section 1916 for the fiscal year;

“(B) one or more States have notified the Secretary that they do not intend to use the full amount of their allotment; or

“(C) some State allotments are offset or repaid under section 1917(b)(3);

such excess shall be allotted among each of the remaining States in proportion to the amount otherwise allotted to such States for the fiscal year without regard to this paragraph.

Indians.

“(b)(1) If the Secretary—

“(A) receives a request from the governing body of an Indian tribe or tribal organization within any State that funds under this part be provided directly by the Secretary to such tribe or organization, and

“(B) determines that the members of such tribe or tribal organization would be better served by means of grants made directly by the Secretary on this part,

the Secretary shall reserve from amounts which would otherwise be allotted to such State under subsection (a) for the fiscal year the amount determined under paragraph (2).

“(2) The Secretary shall reserve for the purpose of paragraph (1) from amounts that would otherwise be allotted to such State under subsection (a) an amount equal to the amount which bears the same

ratio to the State's allotment for the fiscal year involved as the total amount provided or allotted for fiscal year 1980 by the Secretary to such tribe or tribal organization under—

“(A) the Community Mental Health Centers Act,

42 USC 2681
note.

“(B) the Mental Health Systems Act,

42 USC 9401
note.

“(C) section 301 of this Act,

42 USC 241.

“(D) sections 301 and 312 of the Comprehensive Alcohol Abuse and Alcoholism, Prevention, Treatment, and Rehabilitation Act of 1970, and

42 USC 4571,
4578.

“(E) sections 409 and 410 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act,

21 USC 1176
note, 1177.

bore to the total amount provided or allotted for such fiscal year by the Secretary to the State and entities (including Indian tribes and tribal organizations) in the State under such provisions of law.

“(3) The amount reserved by the Secretary on the basis of a determination under this subsection shall be granted to the Indian tribe or tribal organization serving the individuals for whom such a determination has been made.

“(4) In order for an Indian tribe or tribal organization to be eligible for a grant for a fiscal year under this subsection, it shall submit to the Secretary a plan for such fiscal year which meets such criteria as the Secretary may prescribe.

“(5) The terms ‘Indian tribe’ and ‘tribal organization’ have the same meaning given such terms in section 4(b) and section 4(c) of the Indian Self-Determination and Education Assistance Act.”.

25 USC 450b.

(b)(1) The Secretary of Health and Human Services shall enter into an agreement with a nongovernmental entity to review the allotment of funds to the States under part B of title XIX of the Public Health Service Act for the purpose of determining whether a formula for the allotment of funds under such part can be devised which is more equitable than the formula specified in section 1913 of such Act. In conducting such review, such entity shall consider—

42 USC 300x-1a
note.

(A) the financial resources of the various States;

42 USC 300x.

(B) the populations of the States;

(C) any relevant conditions or circumstances which have changed since the date of enactment of such part B; and

42 USC 300x-2.

(D) any other factor which the Secretary may consider appropriate.

(2) In conducting the review required by paragraph (1), such entity shall consult with appropriate representatives of State and local governments.

(3) By October 1, 1986, the Secretary shall prepare and transmit to the Congress a report concerning the review conducted under paragraph (1) which includes such recommendations as the Secretary considers appropriate.

Report.

SEC. 103. (a) Section 1915(c)(6) (42 U.S.C. 300x-4(c)(6)) is amended by striking out subparagraphs (B) and (C) and inserting in lieu thereof the following:

Post, p. 2359.

“(B) The State agrees to use 75 percent of the funds allotted to it under section 1913 for fiscal years beginning after fiscal year 1984 for the mental health and alcohol and drug abuse activities prescribed by section 1915(a) as prescribed by subparagraph (A).”.

(b) Section 1915(c) is amended—

(1) in paragraph (2) by striking out “fiscal years 1982, 1983, and 1984” and inserting in lieu thereof “fiscal years 1985, 1986, and 1987”; and

Women.

(2) by adding at the end thereof the following:

“(14) Of the amount allotted to a State under this part in any fiscal year, the State agrees to use not less than 5 percent of such amount to initiate and provide new alcohol and drug abuse services for women.

“(15) Of the amounts to be used in any fiscal year for mental health activities, the State agrees to use not less than 10 percent of such amount to initiate and provide (A) new mental health services for severely disturbed children and adolescents, and (B) new comprehensive community mental health programs for underserved areas or for underserved populations.”.

Post, p. 2359.
42 USC 300x-4.
Comprehensive
plan.

(d)(1) Section 1915 is amended by redesignating subsection (e) as subsection (h) and by inserting after subsection (d) the following new subsections:

“(e) With amounts available under section 1915(a), the chief executive officer of a State may prepare and submit a comprehensive mental health plan which shall include—

“(1) an identification of the mental health service areas within the State and the agency responsible for the delivery and coordination of mental health services within the State;

“(2) an identification of the need in each mental health service area of the State for mental health and related services, particularly the need for services to chronically mentally ill individuals, seriously mentally ill children, adolescents, and elderly individuals, and other identified populations;

“(3) a description of the resources devoted to and activities to be carried out under the plan, including—

“(A) a description of mental health activities (including activities for chronically mentally ill individuals) funded or supported under this Act,

“(B) a description of mental health activities (including activities for chronically mentally ill individuals) funded or supported by State appropriations,

“(C) a description of mental health and related support activities (including activities for chronically mentally ill individuals) funded under or supported through title XIX of the Social Security Act and other programs of Federal assistance, and

“(D) to the extent feasible, a description of mental health activities reimbursed or provided in the State by private third party insurers and local governments;

“(4) the mental health prevention and treatment objectives to be achieved under the plan and a listing of the programs and resources to be used to meet such objectives;

“(5) a strategy for the establishment and implementation for chronically mentally ill individuals of an organized community-based system of care which shall provide for quantitative targets to be achieved in the implementation of the plan, including numbers of chronically mentally ill individuals residing in the areas to be served, a description of services to be provided to such individuals in gaining access to essential mental health services, and a description of medical and dental care and rehabilitation services and employment, housing, and other support services designed to enable such individuals to function outside of inpatient institutions to the maximum extent of their capabilities;

42 USC 1396.

“(6) quantitative targets for provision of community-based mental health services for underserved populations, with particular emphasis on elderly individuals, children and adolescents, and individuals residing in areas without adequate outpatient treatment facilities; and

“(7) a method for the periodic evaluation of the plan’s effectiveness in meeting the objectives set forth in the plan.

“(f) With amounts available under section 1915(a), the chief executive officer of the State may establish a State mental health services planning council which will—

“(1) serve as an advocate for chronically mentally ill individuals, seriously mentally ill children, adolescents, elderly individuals, and other individuals with mental illness or emotional problems, and

“(2) monitor, review, and evaluate, not less often than annually, the allocation and adequacy of mental health services within the State.

Such a council shall be made up of residents of the State and include in its membership representatives of the principal State agencies involved in mental health, higher education training facilities, and public and private entities concerned with the need, planning, operation, funding, and use of mental health and related services and activities. At least one half of the membership shall consist of individuals who are not State employees or providers of mental health services.

“(g) The Secretary shall report annually to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate on the new programs and services initiated and provided in accordance with paragraphs (14) and (15) of subsection (c). The report shall include a detailed description of such programs and services, an assessment of the adequacy of such programs and services in meeting the alcohol and drug abuse treatment needs of women and the mental health needs of severely disturbed children and adolescents, and such other information, including legislative and administrative recommendations, as the Secretary deems appropriate.”

Report.

(2) Section 1915(c)(2) is amended by striking out “(e)” and inserting in lieu thereof “(h)”.

Post, p. 2359.
42 USC 300x-4.

(3) Section 1915(c)(4)(C) is amended by inserting before the comma the following: “or psychosocial rehabilitation services”.

SEC. 104. (a) Section 1916(a) (42 U.S.C. 300x-5(a)) is amended by striking out “and (3)” and inserting in lieu thereof “(3) to furnish the Secretary a detailed description of the new programs and services initiated and provided in accordance with paragraphs (14) and (15) of section 1916(c), and (4)”.

Post, p. 2359.

(b) Paragraph (2) of section 1916(b) is amended to read as follows:

“(2) Each State shall provide for one of the following:

Audits.
42 USC 300x-5.

“(A) A financial and compliance audit of the funds provided the State under section 1914. Such audits shall be performed biennially, shall cover expenditures in each fiscal year, and shall be conducted in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, activities, and functions.

Post, p. 2359.
42 USC 300x-3.

“(B) A single financial and compliance audit of each entity administering funds provided under section 1914. An audit of such an entity shall be conducted biennially, shall cover expenditures in each fiscal year, and shall be conducted in accordance

with standards of the Comptroller General referred to in subparagraph (A).

Report.
Public
availability.

Within 30 days after completion of an audit under subparagraph (A) or (B), a copy of the audit report shall be transmitted to the State legislature and the Secretary and shall be made available for public inspection. For purposes of subparagraphs (A) and (B), the term 'financial and compliance audit' means an audit to determine whether the financial statements of an audited entity present fairly the financial position and the results of financial operations in accordance with generally accepted accounting principles, and whether the entity has complied with laws and regulations that may have a material effect upon the financial statements."

Post, p. 2359.
42 USC 300x-5.

(c) Paragraph (6) of section 1916(b) is amended by striking out "1983" and inserting in lieu thereof "1986".

(d) Section 1916 is amended by adding at the end thereof the following new subsection:

"(d) The Secretary, in consultation with appropriate national organizations, shall develop model criteria and forms for the collection of data and information with respect to services provided under this part in order to enable States to share uniform data and information with respect to the provision of such services."

Post, p. 2359.
42 USC 300x-9.

SEC. 105. (a) Section 1920 is amended to read as follows:

"TECHNICAL ASSISTANCE; DATA COLLECTION

"SEC. 1920. The Secretary, through the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, shall—

42 USC 300x. (1) provide technical assistance to States (including public and nonprofit private entities within States) with respect to programs conducted under part B of title XIX; and

"(2) conduct data collection activities with respect to such programs, including data collection activities concerning the types of alcoholism, alcohol abuse, drug abuse, and mental health treatment and prevention activities conducted under such part, the number and types of individuals receiving services under such programs and activities, and the sources of funding (other than funding provided under such part) for such programs and activities."

42 USC 300x-3. (b) Section 1914(a) is amended—

(1) by striking out paragraph (2),

(2) by striking out "(1)", and

(3) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively, and by redesignating clauses (i) through (v) as subparagraphs (A) through (E), respectively.

42 USC 300x,
300x-2—300x-5,
300x-7.

SEC. 106. (a) Sections 1911, 1913, 1914, 1915, 1916, and 1918 are each amended by striking out "1912" each place it occurs and inserting in lieu thereof "1913".

42 USC 300x-3,
300x-5, 300-6.

(b) Sections 1914, 1915, and 1916 are each amended by striking out "1913" each place it occurs and inserting in lieu thereof "1914".

(c) Sections 1913 and 1915 are each amended by striking out "1914" each place it appears and inserting in lieu thereof "1915".

42 USC 300x-2,
300x-3, 300x-5,
300x-6.

(d) Sections 1913, 1914, 1916, and 1917 are each amended by striking out "1915" each place it occurs and inserting in lieu thereof "1916".

42 USC 300x-1,
300x-2.

(e) Sections 1912 and 1913 are each amended by striking out "1916" each place it occurs and inserting in lieu thereof "1917".

(f) Section 1915 is amended by striking out “1917” and inserting in lieu thereof “1918”. 42 USC 300x-4.

(g) The section entitled “Payments Under Allotments to States” is redesignated as section 1914 and the existing section 1914 and sections 1915 through 1920 are redesignated as sections 1915 through 1920A, respectively. 42 USC 300x-2.
42 USC 300x-4—
300x-9.

(h) The sections of the Public Health Service Act amended by this section are sections of the Act as in effect on the day before the date of the enactment of this Act. 42 USC 300x
note.

SEC. 107. The amendments made by this title shall apply with respect to applications for allotments under part B of title XIX of the Public Health Service Act for fiscal years beginning after fiscal year 1984 and to allotments made under such part for such fiscal years. Effective date.
42 USC 300x
note.
42 USC 300x.

TITLE II—AMENDMENTS TO TITLE V OF THE PUBLIC HEALTH SERVICE ACT

SEC. 201. (a) Section 501(c) is amended to read as follows:

“(c)(1) There is established the Alcohol, Drug Abuse, and Mental Health Advisory Board (hereinafter in this subsection referred to as the ‘Board’). The Board shall—

“(A) periodically assess the national needs for alcoholism, alcohol abuse, drug abuse, and mental health services and the extent to which those needs are being met by State, local, and private programs and programs receiving funds under this title and part B of title XIX, and

“(B) provide advice to the Secretary and the Administrator respecting activities carried out under this title and part B of title XIX.

“(2)(A) The Board shall consist of fifteen members appointed by the Secretary and such ex officio members from the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, and the National Institute of Mental Health as the Secretary may designate. Of the members appointed to the Board, at least six members shall represent State and private, nonprofit providers of prevention and treatment services for alcoholism, alcohol abuse, drug abuse, and mental illness, at least six members shall be individuals with expertise in public education and prevention services for alcoholism, alcohol abuse, drug abuse, and mental illness, and at least three members shall be appointed from members of the general public who are knowledgeable about alcoholism, alcohol abuse, drug abuse, and mental illness.

“(B) The term of office of a member appointed to the Board is four years, except that of the members first appointed to the Board—

“(i) five shall serve for terms of one year,

“(ii) five shall serve for terms of two years,

“(iii) five shall serve for terms of three years,

as designated by the Secretary at the time of appointment. Any member appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of such member was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of the member's term until the successor of the member has taken office.

“(3)(A) Except as provided in subparagraph (B), members of the Board shall (i) be paid not more than the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General

42 USC 290aa.
Alcohol, Drug
Abuse, and
Mental Health
Advisory Board,
establishment.

5 USC 5332 note. Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Board, and (ii) while away from their homes or regular places of business and while serving in the business of the Board, be entitled to receive transportation expenses as prescribed by section 5703 of title 5, United States Code.

“(B) Members of the Board who are full-time officers or employees of the United States shall receive no additional pay, allowances, or benefits by reason of their service on the Board.

“(4) The Board may appoint such staff personnel as the Board considers appropriate.

“(5) The Secretary shall designate the chairman of the Board.

“(6) The Board shall meet at least three times each calendar year.

Report.

“(7) The Board shall report annually to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate on its activities during the prior year and shall include in such report such recommendations for legislation and administrative action as it deems appropriate.”.

42 USC 290aa.
Grants.

(b) Section 501 is amended by inserting at the end the following:

“(g) The Secretary, acting through the Administrator, shall make grants to schools of the health professions and schools of social work to support the training of students in such schools in the identification and treatment of alcohol and drug abuse. Grants under this subsection shall be made from funds available under this title and section 303.

“(h)(1) The Administrator may obtain (in accordance with section 3109 of title 5, United States Code, but without regard to the limitation in such section on the number of days or the period of service) the services of not more than 20 experts or consultants who have scientific or professional qualifications. Such experts and consultants shall be obtained for the Administration and for each of the research institutes under the Administration.

“(2)(A) Experts and consultants whose services are obtained under paragraph (1) shall be paid or reimbursed for their expenses associated with traveling to and from their assignment location in accordance with sections 5724, 5724a(a)(1), 5724a(a)(3), and 5726(c) of title 5, United States Code.

“(B) Expenses specified in subparagraph (A) may not be allowed in connection with the assignment of an expert or consultant whose services are obtained under paragraph (1), unless and until the expert or consultant agrees in writing to complete the entire period of assignment or one year, whichever is shorter, unless separated or reassigned for reasons beyond the control of the expert or consultant that are acceptable to the Secretary. If the expert or consultant violates the agreement, the money spent by the United States for the expenses specified in subparagraph (A) is recoverable from the expert or consultant as a debt of the United States. The Secretary may waive in whole or in part a right of recovery under this subparagraph.”.

42 USC 290aa-2.

SEC. 202. Section 503 is amended by striking out subsection (d) and by redesignating subsection (e) as subsection (d).

42 USC 290aa-3.

SEC. 203. Subsection (e) of section 504 is amended (1) by striking out “Minority Concerns” each place it occurs and inserting in lieu thereof “Special Populations”, and (2) by inserting “women and” before “minority” each place it occurs.

SEC. 204. Section 504 is amended by adding at the end the following: 42 USC 290aa-3.

"(f)(1) The Secretary, acting through the Director, may make grants to States, political subdivisions of States, and private non-profit agencies for mental health services demonstration projects for the planning, coordination, and improvement of community services for chronically mentally ill individuals, seriously mentally disturbed children, and elderly individuals, and for the conduct of research concerning such services. Grants

"(2) The Secretary may make a grant under paragraph (1) for not more than three consecutive one-year periods, except that the Secretary may waive the limitation of this paragraph with respect to a particular grant if the Secretary determines that extenuating circumstances exist which merit such waiver.

"(3) For purposes of paragraphs (1) and (2) there are authorized to be appropriated \$20,000,000 for each of the fiscal years 1985, 1986, and 1987.

"(g) The Secretary, acting through the Director, may make grants to States for the purpose of developing State comprehensive mental health plans referred to in section 1915(e).

Ante, p 2356.
42 USC 290bb.

SEC. 205. (a)(1) Section 510(b)(3) is amended (1) by striking out "and" at the end of subparagraph (F), (2) by striking out the period at the end of subparagraph (G) and inserting in lieu thereof "and", and (3) by adding after subparagraph (G) the following:

"(H) alcoholism and alcohol abuse among women."

(2) Section 515(a) is amended by adding at the end the following: 42 USC 290cc.
"In making grants and contracts to carry out paragraphs (4) and (5), the Director shall give special consideration to projects relating to drug abuse among women."

(b)(1) Section 503(e) is amended (1) by striking out "and" at the end of paragraph (2), (2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and", and (3) by adding at the end the following: 42 USC 290aa-2.

"(4) prepare for distribution announcements for television to educate the public concerning the dangers resulting from the consumption of drugs and, to the extent feasible, use appropriate private organizations and business concerns in the preparation of such announcements." Public information.

(2) Section 502 is amended by adding at the end the following: 42 USC 290aa-1.
"(e) The Secretary shall prepare for distribution announcements for television to educate the public concerning the dangers resulting from the consumption of alcoholic beverages and, to the extent feasible, use appropriate private organizations and business concerns in the preparation of such announcements."

SEC. 206. (a) Section 512 is redesignated as section 513 and subpart 1 of part B of title V is amended by adding after section 511 the following new section: 42 USC 290bb-2.

"ALCOHOL ABUSE AND ALCOHOLISM DEMONSTRATION PROJECTS

"SEC. 512. (a) The Secretary, through the Director, may make grants to public and nonprofit private entities to support projects— Grants.
42 USC
290bb-1a.

"(1) for the development and demonstration of methods for—
"(A) the prevention of alcohol abuse, alcoholism, and other problems relating to the consumption of alcoholic beverages; and

“(B) the treatment and rehabilitation of individuals suffering from alcohol abuse, alcoholism, or other problems relating to the consumption of alcoholic beverages; and
 “(2)(A) which emphasize the development and demonstration of new and improved methods of treatment, screening, early detection, referral, and diagnosis of individuals with a risk of developing alcohol abuse, alcoholism, or other problems relating to the consumption of alcoholic beverages;

“(B) which emphasize the development and demonstration of new and improved methods of dissemination of knowledge concerning projects supported under this section and methods developed or demonstrated under this section; and

“(C) which emphasize the development and demonstration of new and improved methods for the dissemination to the general public of information on the importance of early detection and prevention of alcohol abuse, alcoholism, and other problems relating to the consumption of alcoholic beverages.

“(b) A grant may be made under subsection (a) for a project which meets the requirements of subsection (a) and also deals with drug abuse.

“(c) No entity may receive grants under subsection (a) for more than three years.”.

(b) Subpart 2 of part B is amended by adding after section 515 the following new section:

“DRUG ABUSE DEMONSTRATION PROJECTS

“SEC. 516. (a) The Secretary, through the National Institute on Drug Abuse, may make grants to and enter into contracts with individuals and public and nonprofit private entities to support projects—

“(1) for the development and demonstration of methods for—

“(A) the prevention of drug abuse and other problems relating to drug abuse, and

“(B) the treatment and rehabilitation of individuals suffering from drug abuse and other problems relating to the misuse of drugs; and

“(2)(A) which emphasize the development and demonstration of new and improved methods of screening and early detection, referral, and diagnosis of individuals with a risk of drug abuse,

“(B) which develop and evaluate new and improved techniques of prevention and treatment services for use in States and local communities, and

“(C) which emphasize the development and demonstration of new and improved methods for the dissemination of research findings and knowledge of effective strategies of early detection, prevention, and treatment of drug abuse.

“(b) A grant or contract may be made under subsection (a) for a project which meets the requirements of subsection (a) and also deals with alcohol abuse and alcoholism.

“(c) No entity may receive grants under subsection (a) for more than three years.”.

(c)(1) Section 510(a) is amended by striking out “demonstrations,”.

(2) Section 515(a) is amended by striking out “demonstrations,”.

SEC. 207. (a) The first sentence of section 513 (as so redesignated) is amended by striking out “and” after “1983” and inserting in lieu thereof a comma and by inserting a comma before the period at the

Grants.
 Contracts with
 U.S.
 42 USC 290cc-1.

42 USC 290bb.
 42 USC 290cc.
 42 USC 290bb-2.

end and the following: “\$52,000,000 for fiscal year 1985, and \$61,000,000 for fiscal year 1986”.

(b) Section 515 is amended by striking out subsection (c) and subpart 2 of part B is amended by adding after the section added by section 206(b) of this Act the following:

42 USC 290cc.

“AUTHORIZATION OF APPROPRIATIONS

“SEC. 517. There are authorized to carry out this subpart \$68,000,000 for fiscal year 1985 and \$74,000,000 for fiscal year 1986.”.

42 USC 290cc-2.

SEC. 208. By October 1, 1985, the Secretary of Health and Human Services shall prepare and transmit to the Congress a report which sets forth a comprehensive national plan to combat alcohol abuse and alcoholism. The report shall include—

Report.

(1) a description of a model program for activities to be conducted by the States to combat alcohol abuse and alcoholism;

(2) an analysis of the social and economic costs of alcoholism and alcohol abuse to the Nation, including amounts expended by public agencies and private organizations—

(A) for the treatment of individuals for alcohol abuse and alcoholism, including a division of such amounts among the types of settings in which such treatment is provided;

(B) for treatment of individuals for health problems resulting from alcohol abuse and alcoholism; and

(C) to meet other costs resulting from alcohol abuse and alcoholism, such as costs resulting from lost employee productivity;

(3) an assessment of current treatment and rehabilitation needs and the current integration and financing of alcoholism treatment and rehabilitation into the Nation's health care system;

(4) an assessment of personnel needs in the fields of research, treatment, rehabilitation, and prevention;

(5) a statement of specific goals and objectives to meet the Nation's current treatment, rehabilitation, and personnel needs in the area of alcoholism and alcohol abuse and plans to meet those needs through specific modification of Federal, State, local, and private policies and regulations, including a specification of recommendations for legislation—

(A) to establish Federal programs and to provide Federal funds to encourage States to adopt and implement the model program described under paragraph (1); and

(B) to modify programs and activities conducted, and services provided, under—

(i) part B of title XIX of the Public Health Service Act;

(ii) titles XVIII and XIX of the Social Security Act;

(iii) chapter 89 of title 5, United States Code; and

(iv) sections 1079 and 1080 of title 10, United States Code,

in order to ensure appropriate cost-effective treatment and prevention of alcohol abuse and alcoholism; and

(6) estimates of public and private resources needed to accomplish the goals and objectives referred to in paragraph (5) as well as resource savings that can be anticipated from achieving the national objectives.

42 USC 300x.
42 USC 1395,
1396.
5 USC 8901 *et*
seq.

TITLE III—OTHER AMENDMENTS

SEC. 301. (a) Section 102(28) of the Controlled Substances Act (21 U.S.C. 802) is amended by striking out “twenty-one” and inserting in lieu thereof “one hundred and eighty”.

Regulations.
Report.
21 USC 802 note.

(b) The Secretary of Health and Human Services shall, within ninety days of the date of the enactment of this Act, promulgate regulations for the administration of section 102(28) of the Controlled Substances Act as amended by subsection (a) and shall include in the first report submitted under section 505(b) of the Public Health Service Act after the expiration of such ninety days the findings of the Secretary with respect to the effect of the amendment made by subsection (a).

(c) Section 2(b) of the Alcohol and Drug Abuse Amendments of 1983 (97 Stat. 181) is amended—

42 USC 290aa.

(1) by striking out “210” in paragraph (2) and inserting in lieu thereof “201”; and

42 USC 290dd,
290dd-1.

(2) by striking out “201, 301” in paragraph (13) and inserting in lieu thereof “301, 201”.

Repeal.

(d) Title III of the Drug Abuse Prevention, Treatment, and Rehabilitation Act (21 U.S.C. 1161–1165) is repealed.

SEC. 302. Section 217(a) (42 U.S.C. 218(a)) is amended by adding after the third sentence the following: “In the case of the National Advisory Council on Alcohol Abuse and Alcoholism, the Secretary shall assure that its membership is broadly representative of experts in the fields of prevention, research, and treatment of alcohol abuse, alcoholism, and rehabilitation of alcohol abusers.”.

Approved October 19, 1984.

LEGISLATIVE HISTORY—S. 2303:

HOUSE REPORT No. 98-1123 (Comm. of Conference).

SENATE REPORT No. 98-381 (Comm. on Labor and Human Resources).

CONGRESSIONAL RECORD, Vol. 130 (1984):

Apr. 26, considered and passed Senate.

June 28, considered and passed House, amended.

Oct. 4, Senate and House agreed to conference report.

Public Law 98-510
98th Congress

An Act

To rename Dulles International Airport in Virginia as the “Washington Dulles International Airport”.

Oct. 19, 1984
[S. 2483]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the airport constructed under the Act entitled “An Act to authorize the construction, protection, operation, and maintenance of a public airport in or in the vicinity of the District of Columbia”, approved September 7, 1950 (64 Stat. 770), known as the Dulles International Airport, shall hereafter be known and designated as the “Washington Dulles International Airport”. Any law, regulation, map, document, record, or other paper of the United States in which such airport is referred to shall be held to refer to such airport as the “Washington Dulles International Airport”.

49 USC app. 2421
note.

Approved October 19, 1984.

LEGISLATIVE HISTORY—S. 2483:

SENATE REPORT No. 98-453 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 130 (1984):
June 15, considered and passed Senate.
Oct. 4, considered and passed House.

Public Law 98-511
98th Congress

An Act

Oct. 19, 1984
[S. 2496]

To extend the authorization of appropriations for certain education programs, and for other purposes.

Education
Amendments of
1984.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

20 USC 2701
note.

SECTION 1. This Act may be cited as the "Education Amendments of 1984".

TITLE I—ADULT EDUCATION ACT AMENDMENTS

STATEMENT OF PURPOSE

20 USC 1201.

SEC. 101. Section 302 of the Adult Education Act (20 U.S.C. 1201 et seq.), hereafter in this title referred to as "the Act", is amended—
(1) by inserting after "basic" in clause (1) the following: "literacy", and
(2) by inserting after "training" in clause (3) the following: "and education".

DEFINITIONS

20 USC 1202.

SEC. 102. (a) Section 303(a) of the Act is amended to read as follows:

"(a) The term 'adult' means an individual who has attained 16 years of age or who is beyond the age of compulsory school attendance under State law, except that for the purpose of section 305(a), the term 'adult' means an individual 16 years of age or older."

(b) Section 303(b) of the Act is amended to read as follows:

"(b) The term 'adult education' means instruction or services below the college level for adults who do not have—

"(1) the basic skills to enable them to function effectively in society; or

"(2) a certificate of graduation from a school providing secondary education (and who have not achieved an equivalent level of education)."

(c) Section 303(d) of the Act is amended to read as follows:

"(d) The term 'Secretary' means the Secretary of Education."

(d) Section 303(g) of the Act is amended to read as follows:

"(g) The term 'State' includes, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands."

(e) Section 303(j) of the Act is amended by striking out "section 801(e) of the Elementary and Secondary Education Act of 1965" and inserting in lieu thereof "section 481 of the Higher Education Act of 1965".

(f) The Act is amended—

Post, p. 2367.

- (1) by striking out "Commissioner" each time it appears, except the second time it appears in section 311(c), and inserting in lieu thereof "Secretary"; and 20 USC 1202 *et seq.*
- (2) by striking out "Commissioners" in section 308(b) and inserting in lieu thereof "Secretary". 20 USC 1207.

STATE GRANTS

SEC. 103. (a) Section 304(a) of the Act is amended— 20 USC 1203.

- (1) by striking out "establishment of expansion" each time it appears and inserting in lieu thereof "establishment or expansion"; and
- (2) by striking out "nonprofit" each time it appears.
- (b) Section 304(a) of the Act is amended—
- (1) by inserting (1) after the subsection designation;
- (2) by redesignating clauses (1) and (2) as clauses (A) and (B); and
- (3) by adding at the end thereof the following new paragraph:

"(2) Grants provided under this section may not be used to carry out programs by a for-profit agency, organization, or institution unless such agency, organization, or institution (A) can make a significant contribution to attaining the objectives of this Act, and (B) can provide substantially equivalent education at a lesser cost or can provide services and equipment not available in public institutions. Whenever the establishment or expansion of programs is carried out by a for-profit agency, organization, or institution, the State educational agency or eligible applicant shall enter into a contract with such agency, organization, or institution, for the establishment or expansion of such programs."

STATE ALLOTMENTS

SEC. 104. (a) Section 305(a) of the Act is amended— 20 USC 1204.

- (1) by striking out "From" and inserting in lieu thereof "Subject to the last sentence of this subsection, from";
- (2) by striking out "not more than 1 per centum thereof among" in clause (1) and inserting in lieu thereof "\$100,000 each to"; and
- (3) by striking out "\$150,000" in clause (2) and inserting in lieu thereof "\$250,000".
- (b) The last sentence of section 305(a) of the Act is amended to read as follows: "No State shall be allotted in any fiscal year beginning after September 30, 1984, an amount less than that State received for fiscal year 1984."

STATE PLANS

SEC. 105. (a) Section 306(a)(1) of the Act is amended by striking out "section 434" and inserting in lieu thereof "section 435". 20 USC 1205.

- (b) Section 306(b) of the Act is amended—
- (1) by striking out "and" at the end of clause (13);
- (2) by striking out clause (14) and inserting in lieu thereof the following:
- "(14) provide such information about the State's adult education students, programs, expenditures, and goals as the Secretary may require, together with information with respect to the age, sex, and race of students in the programs assisted under this Act and whether the students complete such programs; and

“(15) provide such further assurances and information as the Secretary may require.”.

PAYMENTS

20 USC 1206.

SEC. 106. Section 307(b) of the Act is amended by inserting “(1)” after the subsection designation and by adding at the end thereof the following new paragraph:

“(2) The Secretary may waive, for one fiscal year only, the requirements of paragraph (1) of this subsection, if the Secretary determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State educational agency.”.

ADMINISTRATION OF STATE PLANS

20 USC 1207.

SEC. 107. Section 308 of the Act is amended to read as follows:

“ADMINISTRATION OF STATE PLANS

“SEC. 308. Whenever the Secretary has reason to believe that, in administering its State plan, a State has failed to comply substantially with any provision of that State plan, the Secretary may take appropriate action under sections 453 and 454 of the General Education Provisions Act.”.

20 USC 1234b,
1234c.

NATIONAL PROGRAMS

20 USC 1207a.

SEC. 108. Section 309 of the Act is amended to read as follows:

“RESEARCH, DEVELOPMENT, DEMONSTRATION, DISSEMINATION, AND EVALUATION

“SEC. 309. (a)(1) The Secretary shall, with funds set aside under section 314(b), support applied research, development, demonstration, dissemination, evaluation, and related activities which will contribute to the improvement and expansion of adult education in the United States. The activities required by this subsection may include—

“(A) improving adult education opportunities for elderly individuals and adult immigrants,

“(B) evaluating educational technology and computer software suitable for providing instruction to adults, and

“(C) supporting exemplary cooperative adult education programs which combine the resources of businesses, schools and community organizations.

Grants.
Contracts with
U.S.

“(2)(A) The Secretary may support such activities directly, or through grants to, or contracts or cooperative agreements with, public or private institutions, agencies, or organizations, or individuals, including business concerns.

“(B) Whenever the Secretary makes a grant or enters into a contract or cooperative agreement with any private for-profit institution, agency, organization, individual, or business concern, the Secretary shall assure that participants in the program assisted under this subsection are not charged for their participation.

20 USC 1221e.

“(b) In addition to the responsibilities of the Director under section 405 of the General Education Provisions Act, the Director of the National Institute of Education may, with funds available under

that section or with funds set aside under section 314(b) of this Act, support research on the special needs of individuals requiring adult education. The Director may support such research directly, or through grants to, or contracts or cooperative agreements with, public or private institutions, agencies, or organizations, or individuals.”.

Infra.

Grants.
Contracts with
U.S.

REPEALS AND REDESIGNATIONS

SEC. 109. (a)(1) Sections 311 and 318 of the Act are repealed.
(2) Sections 312, 313, 314, 315, and 316 of the Act are redesignated as sections 311, 312, 313, 314, and 315, respectively.

20 USC 1208a,
1211c.
20 USC 1208b,
1209, 1210, 1211,
1211a.
20 USC 1232-1.

(b) Section 431A of the General Education Provisions Act is repealed.

STATE ADVISORY COUNCILS

SEC. 110. Section 311 of the Act (as redesignated by section 109) is amended to read as follows:

20 USC 1208b

“STATE ADVISORY COUNCILS

“SEC. 311. Any State may use funds granted under section 304 to support a State advisory council which assists the State educational agency to plan, implement, or evaluate programs or activities assisted under this Act.”.

Ante, p. 2367.

NATIONAL ADVISORY COUNCIL ON ADULT EDUCATION

SEC. 111. Section 312 of the Act (as redesignated by section 109) is amended by striking out “1984” and inserting in lieu thereof “1988”.

20 USC 1209.

AUTHORIZATION OF APPROPRIATIONS

SEC. 112. Section 314 of the Act (as redesignated by section 109) is amended to read as follows:

20 USC 1211.

“APPROPRIATIONS AUTHORIZED

“SEC. 314. (a) For the purpose of carrying out this title there are authorized to be appropriated \$140,000,000 for fiscal year 1985 and such sums as may be necessary for each of the three succeeding fiscal years.

“(b)(1) From the amount appropriated pursuant to subsection (a) for any fiscal year the Secretary may set aside not to exceed 5 per centum of that amount for programs under section 309. The remainder of the amount appropriated in each fiscal year shall be available for grants made under section 304.

Ante, p. 2496.

“(2) No set aside may be made pursuant to paragraph (1) of this subsection in any fiscal year in which the amount appropriated pursuant to subsection (a) of this section is less than \$112,000,000.”.

Ante, p. 2367.

TITLE II—REVISION OF THE BILINGUAL EDUCATION ACT

SEC. 201. The Bilingual Education Act (20 U.S.C. 3221 et seq.) is amended to read as follows:

Bilingual
Education Act.

“TITLE VII—BILINGUAL EDUCATION PROGRAMS

“SHORT TITLE

20 USC 3221.

“SEC. 701. This title may be cited as the ‘Bilingual Education Act’.

“POLICY; APPROPRIATIONS

20 USC 3222.

“SEC. 702. (a) Recognizing—

“(1) that there are large and growing numbers of children of limited English proficiency;

“(2) that many of such children have a cultural heritage which differs from that of English proficient persons;

“(3) that the Federal Government has a special and continuing obligation to assist in providing equal educational opportunity to limited English proficient children;

“(4) that the Federal Government has a special and continuing obligation to assist language minority students to acquire the English language proficiency that will enable them to become full and productive members of society;

“(5) that a primary means by which a child learns is through the use of such child’s native language and cultural heritage;

“(6) that, therefore, large numbers of children of limited English proficiency have educational needs which can be met by the use of bilingual educational methods and techniques;

“(7) that in some school districts establishment of bilingual education programs may be administratively impractical due to the presence of small numbers of students of a particular native language or because personnel who are qualified to provide bilingual instructional services are unavailable;

“(8) that States and local school districts should be encouraged to determine appropriate curricula for limited English proficient students within their jurisdictions and to develop and implement appropriate instructional programs;

“(9) that children of limited English proficiency have a high dropout rate and low median years of education;

“(10) that the segregation of many groups of limited English proficient students remains a serious problem;

“(11) that both limited English proficient children and children whose primary language is English can benefit from bilingual education programs, and that such programs help develop our national linguistic resources;

“(12) that research, evaluation, and data collection capabilities in the field of bilingual education need to be strengthened so as to better identify and promote those programs and instructional practices which result in effective education;

“(13) that parent and community participation in bilingual education programs contributes to program effectiveness; and

“(14) that because of limited English proficiency, many adults are not able to participate fully in national life, and that limited English proficient parents are often not able to participate effectively in their children’s education,

the Congress declares it to be the policy of the United States, in order to establish equal educational opportunity for all children and to promote educational excellence (A) to encourage the establishment and operation, where appropriate, of educational programs using bilingual educational practices, techniques, and methods, (B)

to encourage the establishment of special alternative instructional programs for students of limited English proficiency in school districts where the establishment of bilingual education programs is not practicable or for other appropriate reasons, and (C) for those purposes, to provide financial assistance to local educational agencies, and, for certain related purposes, to State educational agencies, institutions of higher education, and community organizations. The programs assisted under this title include programs in elementary and secondary schools as well as related preschool and adult programs which are designed to meet the educational needs of individuals of limited English proficiency, with particular attention to children having the greatest need for such programs. Such programs shall be designed to enable students to achieve full competence in English. Such programs may additionally provide for the development of student competence in a second language.

“(b)(1) For the purposes of carrying out the provisions of this title, there are authorized to be appropriated for fiscal year 1985 and each of the three succeeding years such sums as may be necessary, subject to paragraph (7). Appropriation authorization.

“(2) There are further authorized to be appropriated to carry out the provisions of section 732, such sums as may be necessary for fiscal year 1985 and each of the three succeeding fiscal years, subject to paragraph (7). Post, p. 2380.

“(3) From the sums appropriated under paragraph (1) for any fiscal year which do not exceed \$140,000,000, the Secretary shall reserve 4 percent for special alternative instructional programs and related activities authorized under this Act. From the sums appropriated under paragraph (1) for any fiscal year in excess of \$140,000,000, the Secretary shall reserve 50 percent for special alternative instructional programs and related activities authorized under this Act, except that the amount of funds reserved for special alternative instructional programs and related activities pursuant to this paragraph shall not exceed 10 percent of the funds appropriated under paragraph (1). Ante, p. 2369.

“(4) From the sums appropriated under paragraph (1) for any fiscal year, the Secretary shall reserve at least 60 percent for the programs carried out under part A of this Act; and of this amount, at least 75 percent shall be reserved for the programs of transitional bilingual education carried out under section 721(a)(1). Post, p. 2374.

“(5) From the sums appropriated under paragraph (1) for any fiscal year, the Secretary shall reserve at least 25 percent for training activities carried out under part C. Post, p. 2374.

“(6) The Secretary shall reserve from the amount not reserved pursuant to paragraphs (4) and (5) of this subsection such amount as may be necessary, but not in excess of 1 percent thereof, for the purposes of section 752. Post, p. 2383.

“(7) Notwithstanding paragraphs (1) and (2), no amount in excess of \$176,000,000 is authorized to be appropriated to carry out the provisions of this title (including section 732) for fiscal year 1985. Post, p. 2386.

“DEFINITIONS; REGULATIONS

“SEC. 703. (a) The following definitions shall apply to the terms used in this title: 20 USC p. 3223.

“(1) The terms ‘limited English proficiency’ and ‘limited English proficient’ when used with reference to individuals means—

“(A) individuals who were not born in the United States or whose native language is a language other than English;

“(B) individuals who come from environments where a language other than English is dominant, as further defined by the Secretary by regulation; and

“(C) individuals who are American Indian and Alaskan Natives and who come from environments where a language other than English has had a significant impact on their level of English language proficiency, subject to such regulations as the Secretary determines to be necessary; and who, by reason thereof, have sufficient difficulty speaking, reading, writing, or understanding the English language to deny such individuals the opportunity to learn successfully in classrooms where the language of instruction is English or to participate fully in our society.

“(2) The term ‘native language’, when used with reference to an individual of limited English proficiency, means the language normally used by such individuals, or in the case of a child, the language normally used by the parents of the child.

“(3) The term ‘low-income’ when used with respect to a family means an annual income for such a family which does not exceed the poverty level determined pursuant to section 111(c)(2) of title I of the Elementary and Secondary Education Act of 1965.

“(4)(A) The term ‘program of transitional bilingual education’ means a program of instruction, designed for children of limited English proficiency in elementary or secondary schools, which provides, with respect to the years of study to which such program is applicable, structured English language instruction, and, to the extent necessary to allow a child to achieve competence in the English language, instruction in the child’s native language. Such instruction shall incorporate the cultural heritage of such children and of other children in American society. Such instruction shall, to the extent necessary, be in all courses or subjects of study which will allow a child to meet grade-promotion and graduation standards.

“(B) In order to prevent the segregation of children on the basis of national origin in programs of transitional bilingual education, and in order to broaden the understanding of children about languages and cultural heritages other than their own, a program of transitional bilingual education may include the participation of children whose language is English, but in no event shall the percentage of such children exceed 40 percent. The program may provide for centralization of teacher training and curriculum development, but it shall serve such children in the schools which they normally attend.

“(C) In such courses or subjects of study as art, music, and physical education, a program of transitional bilingual education shall make provision for the participation of children of limited English proficiency in regular classes.

“(D) Children enrolled in a program of transitional bilingual education shall, if graded classes are used, be placed, to the extent practicable, in classes with children of approximately the same age and level of educational attainment. If children of significantly varying ages or levels of educational attainment are placed in the same class, the program of transitional bilingual education shall seek to insure that each child is provided

with instruction which is appropriate for his or her level of educational attainment.

“(5)(A) The term ‘program of developmental bilingual education’ means a full-time program of instruction in elementary and secondary schools which provides, with respect to the years of study to which such program is applicable, structured English-language instruction and instruction in a second language. Such programs shall be designed to help children achieve competence in English and a second language, while mastering subject matter skills. Such instruction shall, to the extent necessary, be in all courses or subjects of study which will allow a child to meet grade-promotion and graduation standards.

“(B) Where possible, classes in programs of developmental bilingual education shall be comprised of approximately equal numbers of students whose native language is English and limited English proficient students whose native language is the second language of instruction and study in the program.

“(6) The term ‘special alternative instructional programs’ means programs of instruction designed for children of limited English proficiency in elementary and secondary schools. Such programs are not transitional or developmental bilingual education programs, but have specially designed curricula and are appropriate for the particular linguistic and instructional needs of the children enrolled. Such programs shall provide, with respect to the years of study to which such program is applicable, structured English language instruction and special instructional services which will allow a child to achieve competence in the English language and to meet grade-promotion and graduation standards.

“(7) The term ‘family English literacy program’ means a program of instruction designed to help limited English proficient adults and out-of-school youth achieve competence in the English language. Such programs of instruction may be conducted exclusively in English or in English and the student’s native language. Where appropriate, such programs may include instruction on how parents and family members can facilitate the educational achievement of limited English proficient children. To the extent feasible, preference for participation in such programs shall be accorded to the parents and immediate family members of children enrolled in programs assisted under this title.

“(8) The term ‘programs of academic excellence’ means programs of transitional bilingual education, developmental bilingual education, or special alternative instruction which have an established record of providing effective, academically excellent instruction and which are designed to serve as models of exemplary bilingual education programs and to facilitate the dissemination of effective bilingual educational practices.

“(9) The term ‘Office’ means the Office of Bilingual Education and Minority Language Affairs.

“(10) The term ‘Director’ means the Director of the Office of Bilingual Education and Minority Languages Affairs.

“(11) The term ‘Council’ means the National Advisory and Coordinating Council on Bilingual Education.

“(12) The term ‘Secretary’ means the Secretary of Education.

“(13) The term ‘other programs for persons of limited English proficiency’ when used in this title means any programs within

Ante, p. 2477.
20 USC 1205.

20 USC 351d.
Regulations.

the Department of Education directly involving bilingual education activities serving persons of limited English proficiency, such as the programs carried out in coordination with the provisions of this title pursuant to part E of title IV of the Carl D. Perkins Vocational Education Act, and section 306(a)(11) of the Adult Education Act, and programs and projects serving areas with high concentrations of persons of limited English proficiency pursuant to section 6(b)(4) of the Library Services and Construction Act.

“(b)(1) In prescribing regulations under this title, the Secretary shall, through the National Advisory and Coordinating Council on Bilingual Education, consult with State and local educational agencies, organizations representing persons of limited English proficiency, and organizations representing teachers and other personnel involved in bilingual education.

“(2) The Secretary shall not prescribe under this title any regulations further defining the terms defined in paragraphs (4), (5), (6), (7), and (8) of subsection (a), or any regulations restricting or expanding the definitions contained in such paragraphs.

“(c) Parents of children participating in programs assisted under this title shall be informed of the instructional goals of the program and the progress of their children in such program.

“PART A—FINANCIAL ASSISTANCE FOR BILINGUAL EDUCATION PROGRAMS

“BILINGUAL EDUCATION PROGRAMS

Grants.
20 USC 3231.

“SEC. 721. (a) Funds available for grants under this part shall be used for the establishment, operation, and improvement of—

“(1) programs of transitional bilingual education;

“(2) programs of developmental bilingual education;

“(3) special alternative instructional programs for students of limited English proficiency;

“(4) programs of academic excellence;

“(5) family English literacy programs;

“(6) bilingual preschool, special education, and gifted and talented programs preparatory or supplementary to programs such as those assisted under this Act; and

“(7) programs to develop instructional materials in languages for which such materials are commercially unavailable.

“(b)(1)(A) A grant may be made under subsection (a) (1), (2), (3), or (4) of this section only upon application therefore by one or more local educational agencies or by institutions of higher education, including junior or community colleges, applying jointly with one or more local educational agencies.

“(B) A grant may be made under subsection (a) (5) or (6) only upon application therefore by one or more local educational agencies; institutions of higher education, including junior or community colleges; and private nonprofit organizations, applying separately or jointly.

“(c)(1) Any application for a grant authorized under subsection (a) of this section shall be made to the Secretary at such time, and in such manner, as the Secretary deems appropriate.

“(2) Applications for grants authorized under subsections (a)(1), (a)(2), and (a)(3) of this section, shall contain information regarding—

“(A) the number of children enrolled in programs conducted by the local educational agency;

“(B) the number of children residing in the area served by the local educational agency who are enrolled in private schools;

“(C)(i) the number of children enrolled in public and private schools in the area served by the local educational agency who are limited in their English proficiency; (ii) the method used by the applicant to make this determination; and (iii) evidence of the educational condition of the limited English proficient students, such as reading, mathematics, and subject matter test scores, and, where available, data on grade retention rates, rates of referral to or placement in special education programs, and student dropout rates;

“(D) the number of limited English proficient children who are enrolled in instructional programs specifically designed to meet their educational needs, as well as descriptions of such programs;

“(E) the number of limited English proficient children enrolled in public or private schools in the area served by the local educational agency who need or could benefit from education programs such as those assisted under this title;

“(F) the number of children who are to receive instruction through the proposed program and the extent of their educational needs;

“(G) a statement of the applicant’s ability to serve children of limited English proficiency, including an assessment of the qualifications of personnel who will participate in the proposed project and of the need for further training of such personnel;

“(H) the resources needed to develop and operate or improve the proposed program;

“(I) the activities which would be undertaken under the grant and how these activities will improve the educational attainment of students and expand the capacity of the applicant to operate programs such as those assisted under this Act when Federal assistance under this section is no longer available; and

“(J) the specific educational goals of the proposed program and how achievement of these goals will be measured.

“(3) Applications for grants authorized under subsection (a)(3) of this section from applicants who desire to obtain priority in the awarding of such grants may contain information regarding (A) the administrative impracticability of establishing a bilingual education program due to the presence of small number of students of a particular native language, (B) the unavailability of personnel qualified to provide bilingual instructional services, or (C) the applicant’s current or past efforts to establish a bilingual education program.

“(4) Applications for grants authorized under subsection (a)(4) shall contain information regarding—

“(A) the number of children served by the existing bilingual education program and evidence of their educational condition prior to enrollment in the program;

“(B) a description of the existing program as well as the educational background and linguistic competencies of program personnel;

“(C) the extent to which the program has promoted student academic achievement as indicated by objective evidence, such as improvements in language, mathematics, and subject matter test scores; grade retention rates; rates of referral to or place-

ment in special education programs; student dropout rates; and, where appropriate, postsecondary education and employment experiences of students;

“(D) the extent of parent involvement in and satisfaction with the existing bilingual education program; and

“(E) how the activities carried out under the grant would utilize and promote programs of academic excellence which employ bilingual educational practices, techniques, and methods.

“(5) Applications for grants authorized under subsection (a)(5) shall contain information regarding—

“(A) the number of limited English proficient parents and out-of-school family members of limited English proficient students who would be served by the English literacy program;

“(B) the activities which would be undertaken under the grant and how these activities will promote English literacy and enable parents and family members to assist in the education of limited English proficient children;

“(C) the extent to which the persons to be served by the program have been involved in its development;

“(D) applicant's prior experience and performance in providing educational programs to limited English proficient adults and out-of-school youth;

“(E) with respect to applications by a local educational agency, the extent to which limited English proficient students enrolled in the educational agency are served by programs specifically designed to meet their needs; and

“(F) with respect to other applicants, a description of how the applicant will coordinate its program with a local education agency to ensure that the program will help limited English proficient family members promote the academic progress of limited English proficient children.

“(d)(1)(A) Grants made pursuant to subsections (a)(1), (a)(2), and (a)(3) of this section shall be for three years.

“(B) During the first six months of grants made pursuant to subsections (a)(1), (a)(2), and (a)(3) of this section, an applicant shall engage exclusively in preservice activities. Such activities may include program design, materials development, staff recruitment and training, development of evaluation mechanisms and procedures, and the operation of programs to involve parents in the educational program and to enable parents and family members to assist in the education of limited English proficient children. This subparagraph may be waived by the Secretary upon a determination that an applicant is prepared to operate successfully the proposed instructional program.

“(C) Upon reapplication, grants authorized under subsections (a)(1), (a)(2), and (a)(3) of this section shall be renewed for two additional years unless the Secretary determines that—

“(i) the applicant's program does not comply with the requirements set out in this title;

“(ii) the applicant's program has not made substantial progress in achieving the specific educational goals set out in the original application; or

“(iii) there is no longer a need for the applicant's program.

“(D) Parents or legal guardians of students identified for enrollment in bilingual education programs shall be informed of (i) the reasons for the selection of their child as in need of bilingual

education, (ii) the alternative educational programs that are available, and (iii) the nature of the bilingual education program and of the instructional alternatives. Parents shall also be informed that they have the option of declining enrollment of their children in such programs and shall be given an opportunity to do so if they so choose.

"(2) Grants made pursuant to subsections (a)(4) and (a)(5) shall be for three years.

"(3) Grants made pursuant to subsections (a)(6) and (a)(7) shall be for a period of one to three years.

"(e) An application for a grant authorized under subsections (a)(1), (a)(2), and (a)(3) of this section shall—

"(1) be developed in consultation with an advisory council, of which a majority shall be parents and other representatives of the children to be served in such programs, in accordance with criteria prescribed by the Secretary;

"(2) be accompanied by documentation of such consultation and by the comments which the Council makes on the application;

"(3) contain assurances that, after the application has been approved, the applicant will provide for the continuing consultation with, and participation by, the committee of parents, teachers, and other interested individuals which shall be selected by and predominantly composed of parents of children participating in the program, and in the case of programs carried out in secondary schools, representatives of the secondary students to be served; and

"(4) include evidence that the State educational agency has been notified of the application and has been given the opportunity to offer recommendations thereon to the applicant and to the Secretary.

"(f) An application for a grant under subsections (a)(1), (a)(2), and (a)(3) of this section may be approved only if the Secretary determines—

"(1) that the program will use qualified personnel, including only those personnel who are proficient in the language or languages used for instruction;

"(2) that in designing the program for which application is made, the needs of the children in nonprofit private elementary and secondary schools have been taken into account through consultation with appropriate private school officials; and, consistent with the number of such children enrolled in such schools in the area to be served whose educational needs are of the type and whose language and grade levels are of a similar type which the program is intended to address, after consultation with appropriate private school officials, provision has been made for the participation of such children on a basis comparable to that provided for public school children;

"(3) that the program will be evaluated in accordance with a plan that meets the requirements of section 733 of this title;

"(4) that Federal funds made available for the project or activity will be used so as to supplement the level of State and local funds that, in the absence of those Federal funds, would have been expended for special programs for children of limited English proficiency and in no case to supplant such State and local funds, except that nothing in this clause shall—

Post, p. 2381.

42 USC 2000d.

“(A) preclude a local education agency from using funds under this title for activities carried out under an order of a court of the United States or of any State respecting services to be provided such children, or to carry out a plan approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 with respect to services to be provided such children; or

“(B) authorize any priority or preference to be assigned by the Secretary to the funding of the activities under this title;

“(5) that the assistance provided under the application will contribute toward building the capacity of the applicant to provide a program on a regular basis, similar to that proposed for assistance, which will be of sufficient size, scope, and quality to promise significant improvement in the education of children of limited English proficiency, and that the applicant will have the resources and commitment to continue the program when assistance under this title is reduced or no longer available;

“(6) that the applicant will provide or secure training for personnel participating, or preparing to participate, in the program and that, to the extent possible, college or university credit will be awarded for such training; and

“(7) that the provision of assistance proposed in the application is consistent with criteria established by the Secretary, after consultation with the State educational agency, for the purpose of achieving an equitable distribution of assistance under this part within the State in which the applicant is located, taking into consideration—

“(A) the geographic distribution of children of limited English proficiency;

“(B) the relative need of persons in different geographic areas within the State for the kinds of services and activities authorized under this title;

“(C) and with respect to grants to carry out programs described in subsections (a)(1), (a)(2), and (a)(3) of this section, the relative ability of particular local educational agencies within the State to provide such services and activities; and

“(D) with respect to such grants, the relative numbers of persons from low-income families sought to be benefited by such programs.

“(g) An application for a grant under subsection (a)(3) of this section may receive priority based upon the information provided by the applicant pursuant to clause (A), (B), or (C) of subsection (c)(3) of this section.

“(h) In the consideration of applications from local educational agencies to carry out programs authorized under this section, the Secretary shall give priority to applications from local educational agencies which are located in various geographical regions of the Nation and which propose to assist children of limited English proficiency who have historically been underserved by programs of bilingual education, taking into consideration the relative numbers of such children in the schools of such local educational agencies and the relative need for such programs. In approving such applications, the Secretary shall, to the extent feasible, allocate funds appropriated in proportion to the geographical distribution of children of limited English proficiency throughout the Nation, with due

regard for the relative ability of particular local educational agencies to carry out such programs and the relative numbers of persons from low-income families sought to be benefited by such programs.

“(i) Programs authorized under this title in the Commonwealth of Puerto Rico may, notwithstanding any other provision of this title, include programs of instruction, teacher training, curriculum development, research, evaluation, and testing designed to improve the English proficiency of children, and may also make provision for serving the needs of students of limited proficiency in Spanish.

“(j) If the Secretary determines that an applicant for assistance under this title is unable or unwilling to provide for the participation in the program for which assistance is sought of children of limited English proficiency enrolled in nonprofit, private schools, as required by subsection (f)(2) of this section, the Secretary shall—

“(1) withhold approval of such application until the applicant demonstrates that it is in compliance with those requirements;

or

“(2) reduce the amount of the grant to such applicant by the amount which is required for the Secretary to arrange (such as through a contract with a nonprofit, nonsectarian agency, organization, or institution) to assess the needs of the children in the area to be served for programs of the type authorized in this title and to carry out such programs for the children.

“INDIAN CHILDREN IN SCHOOLS

“SEC. 722. (a) For the purpose of carrying out programs under this title for individuals served by elementary, secondary, or postsecondary schools operated predominantly for Indian or Alaskan Native children, an Indian tribe or a tribally sanctioned educational authority may be considered to be a local educational agency as such term is used in this title, subject to the following qualifications:

“(1) The term ‘Indian tribe’ means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaskan Native Claims Settlement Act (85 Stat. 688) which is recognized for the special programs and services provided by the United States to Indians because of their status as Indians.

“(2) The term ‘tribally sanctioned educational authority’ means any department or division of education operating within the administrative structure of the duly constituted governing body of an Indian tribe, as well as any nonprofit institution or organization which is chartered by the governing body of an Indian tribe to operate any such school or otherwise to oversee delivery of educational services to members of that tribe and which is approved by the Secretary for the purposes of this section.

“(b) From the sums appropriated pursuant to section 702(b), the Secretary is authorized to make payments to the applicants to carry out programs of bilingual education for Indian children on reservations served by elementary and secondary schools operated or funded by the Bureau of Indian Affairs.

“(c) The Assistant Secretary of the Interior for the Bureau of Indian Affairs shall submit to the Congress, the President, and the Secretary by September 30 of each year an annual report which provides—

20 USC 3232.

43 USC 1601
note.

Report.

“(1) an assessment of the needs of the Indian children with respect to the purposes of this title in schools operated or funded by the Department of the Interior, including those tribes and local educational agencies receiving assistance under the Johnson-O'Malley Act (25 U.S.C. 452 et seq.); and

“(2) an assessment of the extent to which such needs are being met by funds provided to such schools for educational purposes through the Secretary of the Interior.

“PART B—DATA COLLECTION, EVALUATION, AND RESEARCH

“USE OF FUNDS

20 USC 3241.

“SEC. 731. Funds available under this part shall be used for (1) collecting data on the number of limited English proficient persons and the educational services available to such persons, (2) evaluating the operation and effectiveness of programs assisted under this title, (3) conducting research to improve the effectiveness of bilingual education programs, and (4) collecting, analyzing, and disseminating data and information on bilingual education.

“GRANTS FOR STATE PROGRAMS

20 USC 3242.

“SEC. 732. (a) Upon an application from a State educational agency, the Secretary shall make provision for the submission and approval of a State program for the collection, aggregation, analysis, and publication of data and information on the State's population of limited English proficient persons and the educational services provided or available to such persons.

Report.
Regulations.

“(b) State programs under this part shall provide for the annual submission of a report to the Secretary containing data and information on such matters as the Secretary shall, by regulation, determine necessary and proper to achieve the purposes of this title, including the matters specified in section 721(c)(2). Such reports shall be in such form and shall be submitted on such date as the Secretary shall specify by regulation. State programs shall provide for the dissemination of information regarding these matters to the public, and particularly to persons of limited English proficiency.

Ante, p. 2374.

Public
information.

“(c) State programs authorized under this section may also provide for—

“(1) the planning and development of educational programs such as those assisted under this title;

“(2) the review and evaluation of programs of bilingual education, including bilingual education programs that are not funded under this title;

“(3) the provision, coordination, or supervision of technical and other forms of nonfinancial assistance to local educational agencies, community organizations, and private elementary and secondary schools that serve limited English proficient persons;

“(4) the development and administration of instruments and procedures for the assessment of the educational needs and competencies of persons of limited English proficiency;

“(5) the training of State and local educational agency staff to carry out the purposes of this title; and

“(6) other activities and services designed to build the capacity of State and local educational agencies to serve the educational needs of persons of limited English proficiency.

“(d) Except as provided in the second sentence of this subparagraph, the Secretary shall pay from the amounts appropriated for the purposes of this section pursuant to section 702(b)(2) for each fiscal year to each State educational agency which has a State program submitted and approved under subsection (a) of this section such sums as may be necessary for the proper and efficient conduct of such State program. The amount paid by the Secretary to any State educational agency under the preceding sentence for any fiscal year shall not be less than \$50,000 nor greater than 5 percent of the aggregate of the amounts paid under section 721 for programs within such State in the fiscal year preceding the fiscal year to which this limitation applies.

Ante, p. 2370.

Ante, p. 2374.

“(e) Funds made available under this section for any fiscal year shall be used by the State educational agency to supplement and, to the extent practical, to increase the level of funds that would, in the absence of such funds, be made available by the State for the purposes described in this section, and in no case to supplant such funds.

“PROGRAM EVALUATION REQUIREMENTS

“SEC. 733. (a) The Secretary shall issue, within six months of the date of enactment of this section, regulations which set forth a comprehensive design for evaluating the programs assisted under part A of this title. Such regulations shall be developed by the Director in consultation with the National Advisory and Coordinating Council on Bilingual Education. Such regulations shall provide for the collection of information and data including—

Regulations.
20 USC 3243.

Ante, p. 2374.

“(1) the educational background, needs, and competencies of the limited English proficient persons served by the program;

“(2) the specific educational activities undertaken pursuant to the program; the pedagogical materials, methods, and techniques utilized in the program; and with respect to classroom activities, the relative amount of instructional time spent with students on specified tasks;

“(3) the educational and professional qualifications, including language competencies, of the staff responsible for planning and operating the program; and

“(4) the extent of educational progress achieved through the program measured, as appropriate, by (A) tests of academic achievement in English language arts, and where appropriate, second language arts; (B) tests of academic achievement in subject matter areas; and (C) changes in the rate of student grade-retention, dropout, absenteeism, referral to or placement in special education classes, placement in programs for the gifted and talented, and enrollment in postsecondary education institutions.

“EVALUATION ASSISTANCE CENTERS

“SEC. 734. The Secretary shall establish, through competitive grants to institutions of higher education, at least two evaluation assistance centers. Such centers shall provide, upon the request of State or local educational agencies, technical assistance regarding methods and techniques for identifying the educational needs and competencies of limited English proficient persons and assessing the educational progress achieved through programs such as those as-

Grants.
20 USC 3244.

sisted under this title. Grants made pursuant to this section shall be for a period of three years.

"RESEARCH

Contracts with
U.S.
20 USC 3245.

"SEC. 735. (a) The Secretary shall, through competitive contracts under this section, provide financial assistance for research and development proposals submitted by institutions of higher education, private for-profit and nonprofit organizations, State and local educational agencies, and individuals.

"(b) Research activities authorized to be assisted under this section shall include—

"(1) studies to determine and evaluate effective models for bilingual education programs;

"(2) studies which examine the process by which individuals acquire a second language and master the subject matter skills required for grade-promotion and graduation, and which identify effective methods for teaching English and subject matter skills within the context of a bilingual education program or special alternative instructional program to students who have language proficiencies other than English;

"(3) longitudinal studies to measure the effect of this title on the education of students who have language proficiencies other than English, and the effect of this title on the capacity of local educational agencies to operate bilingual programs following the termination of assistance under this title;

"(4) studies to determine effective and reliable methods for identifying students who are entitled to services under this title and for determining when their English language proficiency is sufficiently well developed to permit them to derive optimal benefits from an all-English instructional program;

"(5) the operation of a clearinghouse which shall collect, analyze, and disseminate information about bilingual education and related programs;

"(6) studies to determine effective methods of teaching English to adults who have language proficiencies other than English;

"(7) studies to determine and evaluate effective methods of instruction for bilingual programs, taking into account language and cultural differences among students; and

"(8) studies to determine effective approaches to preservice and inservice training for teachers, taking into account the language and cultural differences of their students.

"(c) In carrying out the responsibilities of this section, the Secretary may delegate authority to the Director, and in any event, shall consult with the Director, the National Advisory and Coordinating Council on Bilingual Education, representatives of State and local educational agencies, and appropriate groups and organizations involved in bilingual education.

"(d) The Secretary shall publish and disseminate all requests for proposals in research and development assisted under this title.

"COORDINATION OF RESEARCH

Public
information.

20 USC 3246.
20 USC 1221e.

"SEC. 736. Notwithstanding section 405(b)(1) of the General Education Provisions Act, the Director of the National Institute of Education shall consult with the Director and the National Advisory and

Coordinating Council on Bilingual Education to insure that research activities undertaken pursuant to section 405(b)(2)(C) of the General Education Provisions Act complement and do not duplicate the activities conducted pursuant to this part.

“EDUCATION STATISTICS

“SEC. 737. (a) Notwithstanding section 406 of the General Education Provisions Act, the National Center for Education Statistics shall collect and publish, as part of its annual report on the condition of education, data for States, Puerto Rico, and the Trust Territories with respect to the population of limited English proficient persons, the special educational services and programs available to limited English proficient persons, and the availability of educational personnel qualified to provide special educational services and programs to limited English proficient persons.

“(b) In carrying out its responsibilities under this section, the National Center for Education Statistics shall utilize, to the extent feasible, data submitted to the Department of Education by State and local educational agencies and institutions of higher education pursuant to the provisions of this title.

Public
information.
20 USC 3247.

“PART C—TRAINING AND TECHNICAL ASSISTANCE

“USE OF FUNDS

“SEC. 741. (a) Funds available under this part shall be used for—

20 USC 3251.

“(1) the establishment, operation, and improvement of training programs for educational personnel preparing to participate in, or personnel participating in, the conduct of programs of bilingual education or special alternative instructional programs for limited English proficient students, which shall emphasize opportunities for career development, advancement, and lateral mobility, and may provide training to teachers, administrators, counselors, paraprofessionals, teacher aides, and parents;

“(2) the training of persons to teach and counsel such persons;

“(3) the encouragement of reform, innovation, and improvement in applicable education curricula in graduate education, in the structure of the academic profession, and in recruitment and retention of higher education and graduate school faculties, as related to bilingual education;

“(4) the operation of short-term training institutes designed to improve the skills of participants in programs of bilingual education or special alternative instructional programs for limited English proficient students; which may include summer programs designed to improve the instructional competence of educational personnel in the languages used in the program; and

“(5) the provision of inservice training and technical assistance to parents and educational personnel participating in, or preparing to participate in, bilingual education programs or special alternative instructional programs for limited English proficient students.

“(b)(1) A grant or contract may be made under subsection (a)(1), (a)(2), or (a)(3) of this section upon application of an institution of higher education.

Grants.
Contracts with
U.S.

"(2) A grant or contract may be made under subsection (a)(4) of this section upon application of (A) institutions of higher education (including junior colleges and community colleges) and private for-profit or nonprofit organizations which apply, after consultation with, or jointly with, one or more local educational agencies or a State educational agency; (B) local educational agencies; or (C) a State educational agency.

"(3) A grant or contract may be made under subsection (a)(5) of this section upon application of (A) institutions of higher education (including junior colleges and community colleges), (B) private for-profit or nonprofit organizations, or (C) a State educational agency.

Ante, p. 2374.

"(c) An application for a grant or contract for preservice or inservice training activities described in subsection (a)(1) of this section shall be considered an application for a program of bilingual education for the purposes of section 721(e) of this title.

"(d) In making a grant or contract for preservice training programs described in subsection (a)(1) of this section, the Secretary shall give preference to programs which contain coursework in—

"(1) teaching English as a second language;

"(2) use of a non-English language for instructional purposes;

"(3) linguistics; and

"(4) evaluation and assessment;

and involving parents in the educational process. Preservice training programs shall be designed to ensure that participants become proficient in English and a second language of instruction.

"MULTIFUNCTIONAL RESOURCE CENTERS

Grants.
Contracts with
U.S.
20 USC 3252.

"SEC. 742. (a) Pursuant to subsection (a)(5) of section 741, the Secretary shall establish, through competitive grants or contracts, at least 16 multifunctional resource centers (hereafter in this section referred to as 'centers'). Grants and contracts shall be awarded with consideration given to the geographic and linguistic distribution of children of limited English proficiency.

"(b) In addition to providing technical assistance and training to persons participating in or preparing to participate in bilingual education programs or special alternative instructional programs for limited English proficient students, each center shall be responsible for gathering and providing information to other centers on a particular area of bilingual education, including (but not limited to) bilingual special education, bilingual education for gifted and talented limited English proficient students, bilingual vocational education, bilingual adult education, bilingual education program administration, literacy, education technology in bilingual programs, mathematics and science education in bilingual programs, counseling limited English proficient students, and career education programs for limited English proficient students.

"FELLOWSHIPS

20 USC 3253.

"SEC. 743. (a) Pursuant to subsection (a)(2) of section 741, the Secretary is authorized to award fellowships for advanced study of bilingual education or special alternative instructional programs for limited English proficient students in such areas as teacher training, program administration, research and evaluation, and curriculum development. For the fiscal year ending September 30, 1985, not less than 500 fellowships leading to a graduate degree shall be

awarded under the preceding sentence. Such fellowships shall be awarded, to the extent feasible, in proportion to the needs of various groups of individuals with limited English proficiency. In awarding fellowships, the Secretary shall give preference to individuals intending to study bilingual education or special alternative instructional programs for limited English proficient students in the following specialized areas: vocational education, adult education, gifted and talented education, special education, education technology, literacy, and mathematics and science education. The Secretary shall include information on the operation of the fellowship program in the report required under section 751(c) of this title.

“(b) The Secretary shall undertake an on-going longitudinal study of the impact of recipients of such fellowships on the field of bilingual education and alternative instructional programs for students of limited English proficiency and shall, through the clearinghouse established pursuant to section 735(b)(5) of this title, disseminate research undertaken by recipients of such fellowships.

Infra.
Study.
Public
information.

“(c) Any person receiving a fellowship under this section shall agree either to repay such assistance or to work for a period equivalent to the period of time during which such person received assistance, and such work shall be in an activity related to programs and activities such as those authorized under this Act. The Secretary may waive this requirement in extraordinary circumstances.

“PRIORITY

“SEC. 744. In making grants or contracts under this part, the Secretary shall give priority to eligible applicants with demonstrated competence and experience in programs and activities such as those authorized under this Act.

20 USC 3254.

“STIPENDS

“SEC. 745. In the terms of any arrangement described in this part, the Secretary shall provide for the payment, to persons participating in training programs so described, of such stipends (including allowances for subsistence and other expenses for such persons and their dependents) as the Secretary may determine to be consistent with prevailing practices under comparable federally supported programs.

20 USC 3255.

“PART D—ADMINISTRATION

“OFFICE OF BILINGUAL EDUCATION AND MINORITY LANGUAGES AFFAIRS

“SEC. 751. (a) There shall be, in the Department of Education, an Office of Bilingual Education and Minority Languages Affairs (hereafter in this section referred to as the ‘Office’) through which the Secretary shall carry out functions relating to bilingual education.

Establishment.
20 USC 3261.

“(b)(1) The Office shall be headed by a Director of Bilingual Education and Minority Languages Affairs, appointed by the Secretary, to whom the Secretary shall delegate all delegable functions relating to bilingual education. The Director shall also be assigned responsibility for coordinating the bilingual education aspects of other programs administered by the Secretary.

“(2) The Office shall be organized as the Director determines to be appropriate in order to enable the Director to carry out such functions and responsibilities effectively, except that there shall be

a division, within the Office, which is exclusively responsible for the collection, aggregation, analysis, and publication of data and information on the operation and effectiveness of programs assisted under this title.

Report.

"(c) The Secretary, in consultation with the Council, shall prepare and, not later than February 1 of 1986 and 1988, shall submit to the Congress and the President a report on the condition of bilingual education in the Nation and the administration and operation of this title and of other programs for persons of limited English proficiency. Such report shall include—

"(1) a national assessment of the educational needs of children and other persons with limited English proficiency and of the extent to which such needs are being met from Federal, State, and local efforts;

"(2) a plan, including cost estimates, to be carried out during the five-year period beginning on such date, for extending programs of bilingual education and bilingual vocational and adult education programs to all such preschool and elementary school children and other persons of limited English proficiency, including a phased plan for the training of the necessary teachers and other educational personnel necessary for such purpose;

"(3) a report on and evaluation of the activities carried out under this title during the preceding two fiscal years and the extent to which each of such activities achieves the policy set forth in section 702(a);

"(4) a statement of the activities intended to be carried out during the succeeding period, including an estimate of the cost of such activities;

"(5)(A) an assessment of the number of teachers and other educational personnel needed to carry out programs of bilingual education under this title and those carried out under other programs for persons of limited English proficiency;

"(B) a statement describing the activities carried out thereunder designed to prepare teachers and other educational personnel for such programs; and

"(C) the number of other educational personnel needed to carry out programs of bilingual education in the States; and

"(6) an estimate of the number of fellowships in the field of training teachers for bilingual education which will be necessary for the two succeeding fiscal years.

"(d) In order to maximize Federal efforts aimed at serving the educational needs of children of limited English proficiency, the Secretary shall coordinate and closely cooperate with other programs administered by the Department of Education, including such areas as teacher training, program content, research, and curriculum. The Secretary's report under subsection (c) shall include demonstration that such coordination has taken place.

"(e) The Secretary shall ensure that the Office of Bilingual Education and Minority Languages Affairs is staffed with sufficient personnel trained, or with experience in, bilingual education to discharge effectively the provisions of this title.

**"NATIONAL ADVISORY AND COORDINATING COUNCIL ON BILINGUAL
EDUCATION**

Establishment.
20 USC 3262.

"SEC. 752. (a) Subject to part D of the General Education Provisions Act, there shall be a National Advisory and Coordinating

Ante, p. 2370.

Council on Bilingual Education composed of twenty members appointed by the Secretary, one of whom shall be designated by the Secretary as Chairman. Members of the Council shall be persons experienced in dealing with the educational problems of children and other persons who are of limited English proficiency. Five members of the Council shall be State directors of bilingual education programs, at least three of whom shall represent States with large populations of limited English proficient students. Two members of the Council shall be experienced in research on bilingual education or evaluation of bilingual education programs. One member of the Council shall be experienced in research on methods of alternative instruction for language minority students or evaluation of alternative methods of instruction for such students. One member of the council shall be a classroom teacher of demonstrated teaching abilities using bilingual methods and techniques. One member of the Council shall be a classroom teacher of demonstrated teaching abilities using alternative instructional methods and techniques. One member of the Council shall be experienced in the training of teachers for programs of bilingual education. One member of the Council shall be experienced in the training of teachers for programs of alternative instruction. Two members of the Council shall be parents of students whose language is other than English, and one member of the Council shall be an officer of a professional organization representing bilingual education personnel. The members of the Council shall be appointed in such a way as to be generally representative of the significant segments of the population of persons of limited English proficiency and the geographic areas in which they reside. Subject to section 448(b) of the General Education Provisions Act, the Council shall continue to exist until October 1, 1988.

20 USC 1233g.

“(b) The Council shall meet at the call of the Chairman, but, notwithstanding the provisions of section 446(a) of the General Education Provisions Act, not less often than four times in each year.

20 USC 1233e.

“(c) The Council shall advise the Secretary in the preparation of general regulations and with respect to policy matters arising in the administration and operation of this title, including the development of criteria for approval of applications and plans under this title, and in the administration and operation of other programs for persons of limited English proficiency. The Council shall prepare and, not later than March 31 of each year, submit a report to the Congress and the President on the condition of bilingual education in the Nation and on the administration and operation of this title, including those items specified in section 751(c), and the administration and operation of other programs for persons of limited English proficiency.

Report.

Ante, p. 2385.

“(d) The Secretary shall procure temporary and intermittent services of such personnel as are necessary for the conduct of the functions of the Council, in accordance with section 445 of the General Education Provisions Act, and shall make available to the Council such staff, information, and other assistance as it may require to carry out its activities effectively.”.

20 USC 1233d.

TITLE III—AMENDMENTS TO FEDERAL IMPACT AID LAWS

GENERAL EXTENSIONS OF AUTHORIZATIONS

20 USC 237, 238,
239, 241-1.

SEC. 301. (a)(1) The Act of September 30, 1950 (Public Law 874, Eighty-first Congress; 20 U.S.C. 236) is amended by striking out "October 1, 1983" each place it appears in sections 2(a), 3(b), 4(a), and 7(a)(1) and inserting in lieu thereof "October 1, 1988".

(2) Section 3(d)(2)(E) of such Act is amended—

(A) by striking out "fiscal year 1983 or 1984" in division (ii) and inserting in lieu thereof "any of the fiscal years 1983 through 1988"; and

(B) by striking out division (iii).

(3) Section 3(c)(2)(A) of such Act is amended—

(A) by striking out division (i); and

(B) by redesignating divisions (ii) and (iii) as divisions (i) and (ii), respectively.

20 USC 631
note.

(4)(A) Section 504 of the Omnibus Education Reconciliation Act of 1981 is repealed.

20 USC 237
note.

(B) Section 505(a)(1) of such Act is amended by striking out the first sentence and inserting in lieu thereof the following: "The total amount of appropriations to make payments under the Act of September 30, 1950 (Public Law 874, 81st Congress) shall not exceed \$740,000,000 for fiscal year 1985, \$760,000,000 for fiscal year 1986, \$780,000,000 for fiscal year 1987, and \$800,000,000 for fiscal year 1988.".

20 USC 236
note.

20 USC 237
note, 238 note.

(C) Subsections (a)(3) and (b) of section 505 of such Act are each amended by striking out "1982, 1983, 1984, or 1985" and inserting in lieu thereof "1985, 1986, 1987, or 1988".

(b) The Act of September 23, 1950 (Public Law 815, Eighty-first Congress; 20 U.S.C. 631) is amended—

20 USC 633.

(1) by striking out "September 30, 1983" in section 3 and inserting in lieu thereof "September 30, 1988"; and

20 USC 646.

(2) by striking out "October 1, 1983" in section 16(a)(1)(A) and inserting in lieu thereof "October 1, 1988".

COLLECTION OF OVERPAYMENTS

20 USC 240
note.

SEC. 302. In the case of any local educational agency which the Secretary of Education determines has received, for any fiscal year after fiscal year 1976, an overpayment under section 2 of the Act of September 30, 1950 (20 U.S.C. 237) as a consequence of a recomputation of need based on revised data, the Secretary shall not require more than 10 percent of the amount of the overpayment to be repaid (or deducted from current payments) in any fiscal year.

AMENDMENTS TO IMPACT AID PROGRAM

20 USC 238.

SEC. 303. (a)(1) Section 3(d)(2)(B) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is amended by inserting at the end thereof the following new sentence: "In carrying out the provisions of this subparagraph, the Secretary shall not prorate the amounts computed under this subparagraph attributable to the number of children determined under subsection (a) or (b), or both.".

(2)(A) The second sentence of section 3(d)(2)(B) of such Act is amended by striking out "The" and inserting in lieu thereof "Subject to the provisions of subsection (h) of this section, the".

(B) Section 3 of such Act is amended by adding at the end thereof the following new subsection: 20 USC 238.

“SPECIAL PROVISIONS

“(h) Any local educational agency for which the boundaries of the school district of such agency are coterminous with the boundaries of a military installation and which is not eligible to receive payments under subsection (d)(2)(B) shall receive 100 percent of the amounts to which such agency is entitled under subsection (a) of this section.”.

(b)(1) The last two sentences of section 5(c) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) (as added by section 23 of Public Law 98-211 (97 Stat. 1419)) are redesignated as subsection (h) of section 5 of that Act.

20 USC 240.

(2) The amendment made by paragraph (1) of this subsection shall be effective December 8, 1983.

Effective date.
20 USC 240
note.

TITLE IV—WOMEN'S EDUCATIONAL EQUITY

SHORT TITLE; CONFORMING AMENDMENT

SEC. 401. (a) This title may be cited as the “Women’s Educational Equity Amendments of 1984”.

(b) The Women’s Educational Equity Act of 1978 (20 U.S.C. 3341 et seq.), hereafter in this title referred to as “the Act”, is amended by striking out “Commissioner” each place it appears and inserting in lieu thereof “Secretary of Education”.

Women’s
Educational
Equity
Amendments of
1984.
20 USC 2701
note.
20 USC 3342 et
seq

FINDINGS AND PURPOSE

SEC. 402. (a) Section 931(b)(1) of the Act is amended by adding at the end thereof the following: “The Congress finds and declares that excellence in education cannot be achieved without equity for women and girls.”.

20 USC 3341.

(b) Section 931(b)(2) of the Act is amended by adding at the end thereof the following: “It is also the purpose of this part to provide educational equity for women and girls who suffer multiple discrimination, bias, or stereotyping based on sex and on race, ethnic origin, disability, or age.”.

GRANT AND CONTRACT AUTHORITY

SEC. 403. (a) Section 932(a) of the Act is amended by adding at the end thereof the following: “The Secretary shall ensure that at least 1 grant or contract is available during each fiscal year for the performance of each of the activities described in paragraph (1) of this subsection.”.

20 USC 3342.

(b) Section 932(b) of the Act is amended—

(1) by striking out “\$15,000,000” each place it appears and inserting in lieu thereof “\$6,000,000”;

(2) by striking out “shall be used” and all that follows in the second sentence and inserting in lieu thereof “may be used to support new activities described in paragraph (1) or to support activities described in paragraph (2), or both.”.

CHALLENGE GRANTS

SEC. 404. Section 934 of the Act is amended to read as follows:

20 USC 3344.

“CHALLENGE GRANTS

Ante, p. 2389. “SEC. 934. (a) In addition to the authority of the Secretary under section 932, the Secretary shall carry out a program of challenge grants (as part of the grant program administered under section 932(a)(1)), not to exceed \$40,000 each, in order to support projects to develop—

“(1) comprehensive plans for implementation of equity programs at every educational level;

“(2) innovative approaches to school-community partnerships;

“(3) new dissemination and replication strategies; and

“(4) other innovative approaches to achieving the purposes of this part.

“(b) For the purposes described in clauses (1) through (4) of subsection (a), the Secretary is authorized to make grants to public and private nonprofit agencies and to individuals.”.

CRITERIA AND PRIORITIES

20 USC 3345. SEC. 405. Section 935 of the Act is amended—

(1) by inserting “separate” after “Secretary shall establish”; and

(2) by inserting “under sections 932(a)(1) and 932(a)(2)” after “priorities for awards”.

NATIONAL ADVISORY COUNCIL ON WOMEN’S EDUCATIONAL PROGRAMS

20 USC 3346. SEC. 406. Section 936 of the Act is amended—

(1) by striking out “Office of Education” in subsection (a) and inserting in lieu thereof “Department of Education”;

(2) by striking out paragraph (1) of such subsection and inserting in lieu thereof the following:

“(1) seventeen individuals, some of whom shall be students, and who shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals, broadly representative of the general public and including (A) individuals who are experts in a wide range of issues of educational equity for women at all levels of education, including preschool, elementary and secondary education, higher education, and vocational and adult education; (B) individuals who are representative of and expert in the educational needs of racial and ethnic minority women, older women, and disabled women; (C) both women and men who have demonstrated commitment to and expertise in the purposes of this part; and (D) individuals who are representative of and expert in student financial assistance programs authorized under title IV of the Higher Education Act of 1965;”;

20 USC 1070.

(3) by striking out “advise” and all that follows through “on matters” in subsection (c)(1) and inserting in lieu thereof “advise the Secretary and the Congress on matters”;

(4) by inserting “selection of funding priorities and” before “allocation of any funds” in subsection (c)(2); and

(5) by striking out subsection (c)(3) and inserting in lieu thereof the following:

“(3) advise all Federal agencies which have education programs concerning those aspects of the programs which relate to the educational needs and opportunities of women;”.

REPORT OF THE SECRETARY

SEC. 407. Section 937 of the Act is amended—

20 USC 3347.

(1) by striking out the heading of such section and inserting in lieu thereof the following:

“REPORTS, EVALUATION, AND DISSEMINATION”;

(2) by striking out “, 1980, 1982, and 1984” and inserting in lieu thereof “of each of the years 1985 through 1989”;

(3) by striking out “shall evaluate” in the last sentence and inserting in lieu thereof “shall oversee the evaluation of”;

(4) by striking out “include such evaluation” in such sentence and inserting in lieu thereof “report on such evaluation”; and

(5) by inserting “(a)” after “Sec. 937.” and by adding at the end thereof the following new subsection:

“(b) The Office of Women’s Educational Equity shall evaluate and disseminate (at low cost) all materials and programs developed under this part.”.

Public information.

AUTHORIZATION OF APPROPRIATIONS

SEC. 408. Section 938 of the Act is amended to read as follows:

20 USC 3348.

“AUTHORIZATION OF APPROPRIATIONS

“SEC. 938. For the purpose of carrying out this part there are authorized to be appropriated \$10,000,000 for fiscal year 1985, \$12,000,000 for fiscal year 1986, \$14,000,000 for fiscal year 1987, \$16,000,000 for fiscal year 1988, and \$20,000,000 for fiscal year 1989.”.

TITLE V—AMENDMENTS TO TITLE XI OF THE EDUCATION AMENDMENTS OF 1978

Indian Education Amendments of 1984.

SHORT TITLE; REFERENCE

SEC. 501. (a) This title may be cited as the “Indian Education Amendments of 1984”.

25 USC 2001 note.

(b) Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title XI of the Education Amendments of 1978 (25 U.S.C. 2001 et seq.).

Schools and colleges.

STANDARDS

SEC. 502. (a) Section 1121(b)(2) is amended by adding at the end thereof the following: “Such standards shall include a requirement, developed in coordination with Indian tribes, the affected local school boards, the Indian Health Service of the Department of Health and Human Services, the State health departments, and the Federal Center for Disease Control, on immunization for childhood diseases, including provisions for in-school immunization, where necessary.”.

25 USC 2001.

(b) The first sentence of section 1121(d) is amended by striking out everything after “ill-conceived” and inserting in lieu thereof a period and the following: “The tribal governing body or designated school board shall thereafter submit to the Secretary a proposal for

alternative standards that takes into account the specific needs of the tribe's children.”.

25 USC 2001.

(c) Section 1121(e) is amended—

(1) by inserting “(1)” after “(e)”;

(2) by striking out the second sentence thereof; and

(3) by adding at the end thereof the following new paragraphs:

25 USC 450
note.

“(2) Within two years of the initial contract for the provision of educational services under Indian Self-Determination and Education Assistance Act each such school shall (A) be in compliance with the standards prescribed under subsection (a), or (B) have obtained accreditation, or be a candidate for accreditation, with one of the accrediting agencies recognized by the Secretary of Education or the State in which it is found.

Contracts with
U.S.

“(3) Within one year of the date of enactment of this paragraph, the Bureau shall, through contract with a national Indian organization, establish uniform fiscal control and fund accounting procedures for all contract schools. Such procedures shall yield data results comparable to those used by Bureau schools.”.

Post, pp.
2394–2396.

(d) Section 1121(f) is amended by adding at the end thereof the following: “Failure to implement or meet such standards shall not serve as the basis for taking any personnel action against any individual if (1) the failure is related to inadequate resources (as determined under sections 1128 and 1129 of this title), and (2) the Secretary has not submitted the information required by this subsection and has not requested sufficient funds to cover the cost (as determined under such sections) of meeting such standards at the school concerned.”.

(e) Section 1121 is further amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

“(g)(1) Except as specifically required by statute, no school operated by the Bureau of Indian Affairs on January 1, 1984, may be closed or its program curtailed unless done according to the requirements of this subsection, except that, in those cases where the tribal governing body, or the local school board concerned (if so designated by the tribal governing body), requests closure or consolidation, the requirements of this subsection shall not apply.

Regulations.

“(2) The Secretary shall, by regulation, promulgate standards and procedures for the closing or consolidation of Bureau schools in accordance with the requirements of this subsection.

“(3) Such standards and procedures shall require that, whenever closure or consolidation of a school is under consideration or review by any division of the Bureau or the Department of the Interior, the affected tribe, tribal governing body, designated local school board, and parents will be notified as soon as such consideration or review begins and kept fully and currently informed with respect to such consideration or review. Copies of any such notices and information shall be transmitted promptly to the Congress and published in the Federal Register.

Federal
Register,
publication.
Study.

“(4) Prior to ordering any such school closing or consolidation, the Secretary shall insure that a study is made of each Indian child's educational and (where applicable) social needs and that adequate alternative services are guaranteed. Such a study shall include a description of the consultation conducted between the potential service provider, current service provider, parents, tribal representative of the tribe involved, and the Director of the Bureau of Indian

Affairs, Office of Indian Education Programs, with regard to such child.

“(5) Prior to taking any action to close or consolidate any such school, the Secretary shall make a full report to Congress describing the plans made (including schedules and plans for follow-up studies on the students affected), and the study and consultations undertaken pursuant to paragraph (4) of this subsection. No action may be taken in furtherance of any such proposed school closing or consolidation (including any action which would prejudice the personnel or programs of such school) until the end of the academic year following the academic year in which such report is made.”. Report.

SCHOOL BOUNDARIES

SEC. 503. Section 1124 is amended to read as follows:

25 USC 2004.

“SCHOOL BOUNDARIES

“SEC. 1124. (a) The Secretary shall, in accordance with this section, establish separate geographical attendance areas for each Bureau school.

“(b) No attendance area shall be established with respect to any such school unless the tribal governing body or the local school board concerned (if so designated by the tribal governing body) has been given one year from the date of enactment of the Indian Education Amendments of 1984 to propose such boundaries. Such proposed boundaries shall be accepted unless the Secretary finds, after consultation with such body or board, that such boundaries do not reflect the needs of the Indian students to be served or do not provide adequate stability to all of the programs affected.

Ante, p. 2391.

“(c) In any case where there is only one Bureau operated program located on an Indian reservation, the attendance area for the program shall be the boundaries of the reservation served, and those students residing near the reservation shall also receive services from such program.

“(d) The Bureau of Indian Affairs shall include in the final rules the requirement that each superintendent for education coordinate and consult with the affected tribes and relevant school boards in the establishment of such geographic boundaries.”

BUREAU OF INDIAN AFFAIRS EDUCATION FUNCTIONS

SEC. 504. (a) Section 1126(b) is amended by striking the second sentence and inserting in lieu thereof the following: “All contract functions relating to education (including those pursuant to the Indian Self-Determination and Education Assistance Act) shall be supervised by the Director of the Office.”.

25 USC 2006.

(b) Section 1126(b) is further amended by striking out “Nothing” in the last sentence and inserting in lieu thereof “Subject to the provisions in subsection (c), nothing”.

25 USC 450
note.

(c) Section 1126(c) is amended by striking out “and” at the end of paragraph (1), and by striking out paragraph (2) and inserting in lieu thereof the following:

“(2) provide all services and support functions for education programs with respect to personnel matters involving staffing actions and functions, and

- 25 USC 2006. “(3) provide technical and coordinating assistance in areas such as procurement, contracting, budgeting, personnel, and curriculum.”
- (d) Section 1126 is further amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:
- 25 USC 2005. “(d)(1) The Assistant Secretary shall submit in the annual Budget a plan—
- “(A) for school facilities to be constructed under the system required by section 1125(c); and
- “(B) for establishing priorities among projects and for the improvement and repair of education facilities, which together shall form the basis for the distribution of appropriated funds.
- “(2) The Assistant Secretary shall establish a program, including the distribution of appropriated funds, for the operation and maintenance of education facilities. Such program shall be implemented by the Director of the Office. Such program shall include, but not be limited to—
- “(A) a method of computing the amount necessary for each education facility;
- “(B) similar treatment of all Bureau and contract schools; and
- “(C) the allocation of appropriated funds from the Director of the Office directly to the agency superintendents for education, or to the area education program administrators in the case of multitribal boarding schools located off reservation.
- The agency superintendents for education, or the area education program administrator in the case of multitribal boarding schools located off reservation, shall make arrangements for the maintenance of education facilities with the local supervisors of the Bureau maintenance personnel who are under the authority of the agency superintendent or area directors, respectively. The local supervisors of Bureau maintenance personnel shall take appropriate action to implement the decisions made in this regard by the agency superintendents for education and by the area education program administrators, except that no funds from this program may be expended or transferred by an agency superintendent for education or by an area education program administrator unless such superintendent or administrator is assured that the necessary maintenance has been, or will be, provided in a reasonable manner. Subject to the requirements of subsection (b) of this section, nothing in this Act shall be construed to require the provision of separate operations and maintenance personnel for the Office.
- “(3) The Director of the Office shall supervise all Bureau education facilities, including local Bureau housing constructed for the purpose of housing Bureau personnel at the school site.
- “(4) The requirements of this subsection shall be implemented within 270 days following the date of enactment of the Indian Education Amendments of 1984.”
- Ante*, p. 2391.

ALLOTMENT FORMULA

- 25 USC 2008. SEC. 505. (a) Section 1128(a)(2) is amended—
- (1) by striking out subparagraph (D);
- (2) by redesignating subparagraph (E) as subparagraph (D); and
- (3) by adding at the end thereof the following new subparagraphs:

“(E) special transportation and other costs of isolated and small schools;

“(F) the costs of boarding arrangements, where determined necessary by a tribal governing body or designated local school board;

“(G) costs associated with greater lengths of service by educational personnel;

“(H) special programs for gifted and talented students; and

“(I) costs associated with operating education and recreational programs on a 12-month basis.”

(b) Section 1128(c) is amended by inserting “(1)” after “(c)”, redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively, and by adding at the end thereof the following: 25 USC 2008.

“(2) All Bureau and contract schools receiving funds under this section shall receive an equal amount as an allowance for local school board training and activities including, notwithstanding any other provision of law, meeting expenses and the cost of membership in or support of organizations engaged in activities on behalf of Indian education.

“(3) The Secretary shall, subject to appropriations, provide to all contract schools an amount for administrative and indirect costs which is at least equal to the amount which would be expended by the Secretary if such school were directly operated by the Secretary. The Secretary shall take such actions as are necessary to provide contract schools with the full amount as determined by this paragraph without reducing funds available under subsection (a) of this section.”

(c) Section 1128 is further amended by adding at the end thereof the following new subsection:

“(e) The Director of the Office shall establish a separate fund from which monetary awards and quality step increases for employees shall be paid. Such payments shall not affect school allotments under this section.”

UNIFORM DIRECT FUNDING

SEC. 506. (a) Section 1129(a) is amended—

25 USC 2009.

(1) by striking out “section 1128,” and all that follows in the second sentence and inserting in lieu thereof “section 1128.”; and

(2) by inserting “(1)” after “(a)” and adding at the end thereof the following:

“(2)(A) For the purpose of affording adequate notice of funding available pursuant to the allotments made by this section, amounts appropriated in an appropriation Act for any fiscal year shall become available for obligation by the affected schools on July 1 of the fiscal year in which they are appropriated without further action by the Secretary, and shall remain available for obligation through the succeeding fiscal year. In order to effect a transition to the forward funding method of distribution described in the preceding sentence, there are authorized to be appropriated, in an appropriation Act or Acts for the same fiscal year, two separate appropriations for such allotments, the first of which shall not be subject to the preceding sentence.

“(B) The Secretary shall, on the basis of the amount appropriated in accordance with this paragraph—

“(i) publish, on July 1 preceding the fiscal year for which the funds are appropriated, allotments to each affected school made under this section of 85 percent of such appropriation; and

“(ii) publish, no later than September 30 of such preceding fiscal year, the allotments to be made under this section of the remaining 15 percent of such appropriation, adjusted to reflect actual student attendance.

“(3) Notwithstanding any law or regulation governing procurement by Federal agencies, the supervisor of each school receiving funds under this section shall, subject to school board approval, have the authority to expend no more than 10 percent of the funds allotted by this section to procure supplies and equipment, with or without competitive bidding.”.

25 USC 2009.

(b) Section 1129(c) is amended by inserting at the end thereof the following: “The Secretary shall institute a program for funding tribal divisions of education and the development of tribal codes of education.”.

APPEALS FROM ACTIONS OF SCHOOL BOARDS

SEC. 507. (a) Section 1129(b) is amended by striking out the last sentence and inserting in lieu thereof the following: “The supervisor of the school may appeal any such action of the local school board to the superintendent for education of the Bureau agency by filing a written statement describing the action and the reasons the supervisor believes such action should be overturned. A copy of such statement shall be submitted to the local school board and such board shall be afforded an opportunity to respond, in writing, to such appeal. After reviewing such written appeal and response, the superintendent may, for good cause, overturn the action of the local school board. The superintendent shall transmit the determination of such appeal in the form of a written opinion to such board and to such supervisor identifying the reasons for overturning such action.”.

25 USC 2011.

(b) Section 1131(d) is amended by striking out paragraphs (2) and (3) and inserting in lieu thereof the following:

“(2)(A) The supervisor of a school may appeal to the appropriate agency superintendent for education any determination by the local school board for the school that an individual be employed, or not be employed, in an education position in the school (other than that of supervisor) by filing a written statement describing the determination and the reasons the supervisor believes such determination should be overturned. A copy of such statement shall be submitted to the local school board and such board shall be afforded an opportunity to respond, in writing, to such appeal. After reviewing such written appeal and response, the superintendent may, for good cause, overturn the determination of the local school board. The superintendent shall transmit the determination of such appeal in the form of a written opinion to such board and to such supervisor identifying the reasons for overturning such determination.

“(B) The superintendent for education of an agency office of the Bureau may appeal to the Director of the Office any determination by the local school board for the school that an individual be employed, or not be employed, as the supervisor of a school by filing a written statement describing the determination and the reasons the supervisor believes such determination should be overturned. A copy of such statement shall be submitted to the local school board

and such board shall be afforded an opportunity to respond, in writing, to such appeal. After reviewing such written appeal and response, the Director may, for good cause, overturn the determination of the local school board. The Director shall transmit the determination of such appeal in the form of a written opinion to such board and to such superintendent identifying the reasons for overturning such determination.

“(3) The superintendent for education of an agency office of the Bureau may appeal to the Director of the Office any determination by the agency school board that an individual be employed, or not be employed, in an education position in such agency office by filing a written statement describing the determination and the reasons the supervisor believes such determination should be overturned. A copy of such statement shall be submitted to the agency school board and such board shall be afforded an opportunity to respond, in writing, to such appeal. After reviewing such written appeal and response, the Director may, for good cause, overturn the determination of the agency school board. The Director shall transmit the determination of such appeal in the form of a written opinion to such board and to such superintendent identifying the reasons for overturning such determination.”.

MANAGEMENT INFORMATION SYSTEM

SEC. 508. Section 1132 is amended—

25 USC 2012.

(1) by striking out “the Bureau,” and inserting in lieu thereof “the Office,”;

(2) by striking out “this Act” and inserting in lieu thereof “the Indian Education Amendments of 1984”; and

(3) by striking out “to all agency and area offices of the Bureau and”.

AUDITS

SEC. 509. Section 1136 is amended by inserting “(a)” after “SEC. 1136.” and by adding at the end thereof the following new subsection:

25 USC 2016.

“(b) The Inspector General of the Department of the Interior shall establish a system to ensure that financial and compliance audits are conducted of the Bureau, the Office, and each Bureau school at least once in every three years. Audits of Bureau schools shall be based upon the extent to which such school has complied with its local financial plan under section 1129.”.

Ante, pp. 2395, 2396.

REGULATIONS

SEC. 510. Section 1138 is amended by adding at the end thereof the following: “Such regulations shall contain, immediately following each substantive provision of such regulations, citations to the particular section or sections of statutory law or other legal authority upon which such provision is based.”.

25 USC 2018.

VOLUNTARY SERVICES

SEC. 511. Title XI of the Education Amendments of 1978 is further amended by adding after section 1139 the following new section:

"VOLUNTARY SERVICES

Government
organization
and employees.
25 USC 2020.

"SEC. 1140. Notwithstanding section 1342 of title 31, United States Code, an officer or employee of the Bureau or the Office may, subject to the approval of the local school board concerned, accept voluntary services on behalf of Bureau and contract schools. Nothing in this title shall be construed to require Federal employees to work without compensation or to allow the use of volunteer services to displace or replace Federal employees."

EMPLOYEE BENEFITS

SEC. 512. Title XI of the Education Amendments of 1978 is further amended by adding after section 1140 the following new sections:

"PRORATION OF PAY

25 USC 2021.

"SEC. 1141. (a) Notwithstanding any other provision of law, the Secretary, at the election of the employee, shall prorate the salary of an employee employed in an education position for the academic school-year over the entire twelve month period. Each educator employed for the academic school-year shall annually elect to be paid on a twelve month basis or for those months while school is in session. No educator shall suffer a loss of pay or benefits because of such election.

"(b) During the course of such year the employee may change election once.

"(c) That portion of the employee's pay which would be paid between academic school years may be paid in lump sum at the election of the employee.

25 USC 2011.

"(d) For the purposes of this section the terms 'educator' and 'education position' have the meaning contained in section 1131(n)(1) and (n)(2) of this title. This section applies to those individuals employed under the provisions of section 1131 of this title or title 5, United States Code.

"EXTRACURRICULAR ACTIVITIES

25 USC 2022.

"SEC. 1142. (a) Notwithstanding any other provision of law, the Secretary shall provide a stipend in lieu of overtime premium pay or compensatory time off. Any employee of the Bureau who performs additional activities to provide services to students or otherwise support the school's academic and social programs may elect to be compensated for all such work on the basis of the stipend. Such stipend shall be paid as a supplement to the employee's base pay.

"(b) The amount of such stipends shall be determined at the area level.

"(c) If an employee elects not to be compensated through the stipend established by this section, the appropriate provisions of title 5, United States Code, shall apply.

25 USC 2011.

"(d) This section applies to all Bureau employees, whether employed under section 1131 of this title or title 5, United States Code.

"HOUSING

25 USC 2023.

"SEC. 1143. (a) The Secretary shall continue to apply rental rates for employee housing in accordance with all applicable laws and

regulations. Proceeds from rental receipts shall be used for the improvement and repair of employee quarters.

“(b) Notwithstanding any other provision of law, the agency superintendent for education, or (for boarding schools located off-reservation) the area education program administrator, shall have the authority to waive up to 90 percent of the rental rate for educators on school-wide basis to aid the school in recruiting and retaining educators. Decisions on rent waivers will be made after consultation with the appropriate level school board and the employees. Such superintendent’s or administrator’s decision (as the case may be) on the need for this assistance in recruitment and retention is final and not reviewable.

“(c) During periods when schools are not in session and educators have been placed in non-pay status, all rents payable by those educators shall be waived.

“(d) For the purposes of this section the term ‘educator’ has the meaning contained in section 1131(n)(1) of this title. This section applies to those individuals employed under both the provisions of section 1131 of this title and title 5, United States Code.” 25 USC 2011.

EXTENSIONS OF AUTHORIZATION OF OTHER INDIAN EDUCATION PROGRAMS

SEC. 513. (a)(1) Section 303(a)(1) of the Indian Elementary and Secondary School Assistance Act (20 U.S.C. 241bb(a)(1)) is amended by striking out “For the purpose of computing the amount to which a local educational agency is entitled under this title for any fiscal year ending prior to October 1, 1983,” and inserting in lieu thereof “For any fiscal year for which appropriations are authorized under section 307 of this Act.”

Infra.

(2) Section 303(a)(2)(A) of such Act is amended to read as follows:

“(2)(A) From the sums appropriated under section 307(a) for any fiscal year, the Secretary shall allocate to each local educational agency which has an application approved under this title an amount which bears the same ratio to such sums as the product of (i) the number of eligible Indian children (as determined under paragraph (1)), multiplied by (ii) the average per pupil expenditure per agency (as determined under subparagraph (c)), bears to the sum of such products for all such local educational agencies.”

(3) Section 303 of such Act is further amended—

(A) by inserting “(1)” after “(b)” in subsection (b); and

(B) by striking out all after “financial assistance” in subsection (b) and inserting in lieu thereof the following:

“in accordance with the provisions of this title to schools which—

“(A) are located on or near reservations; and

“(B)(i) are not local educational agencies; or

“(ii) have not been local educational agencies for more than three years.

“(2) The requirements of clause (A) of paragraph (1) shall not apply to any school serving Indian children in California, Oklahoma or Alaska.”

(4) Section 305(b)(2)(B)(ii) of such Act is amended by inserting “written” before “approval of a committee”. 20 USC 241dd.

(5) Section 307 of such Act is amended to read as follows: 20 USC 241ff.

“AUTHORIZATION OF APPROPRIATIONS; ADJUSTMENTS

“SEC. 307. (a) For the purpose of making payments under this title, there are authorized to be appropriated (1) for each of the fiscal years ending prior to October 1, 1986, such sums as may be necessary, and (2) for each of the fiscal years 1987, 1988, and 1989, an amount not to exceed the amount appropriated for such purpose for fiscal year 1986.

“(b) The Secretary may reallocate, in such manner as will best assist in advancing the purposes of this title, any amount which the Secretary determines, based upon estimates made by local educational agencies, will not be needed by any such agency to carry out its approved project.”.

20 USC 241aa *et seq.*

(8) Such Act is further amended by striking out “Commissioner” each place it appears and inserting in lieu thereof “Secretary”.

(b)(1) Section 422(c) of the Indian Education Act (20 U.S.C. 3385a(c)) is amended by striking out “October 1, 1983” and inserting in lieu thereof “October 1, 1986”.

(2) Section 422(c) of such Act is further amended by adding at the end thereof the following: “There is also authorized to be appropriated to carry out the provisions of this section for each of the fiscal years 1987, 1988, and 1989, an amount not to exceed the amount appropriated for such purpose for fiscal year 1986.”.

20 USC 3385b.

(3) Section 423(a) of such Act is amended—

(A) by striking out “1983” and inserting in lieu thereof “1989”;

(B) by striking out “not to exceed two hundred” in the first sentence;

(C) by inserting “psychology,” after “medicine,” in the second sentence; and

(D) by striking out the last sentence and inserting in lieu thereof the following: “The Commissioner may, if a fellowship is vacated prior to the end of the period for which it was awarded, award an additional fellowship for the remainder of such period.”.

(4) Section 423 of such Act is further amended by adding at the end thereof the following new subsection:

“(d) The amount that is authorized to be appropriated to carry out the provisions of this section for each of the fiscal years 1987, 1988, and 1989, is the amount appropriated for such purpose for fiscal year 1986.”.

20 USC 1221g.

(5) Section 442(a) of such Act is amended by striking out “October 1, 1983” and inserting in lieu thereof “October 1, 1989”.

(c) Section 1005(g) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3385(g)) is amended—

(1) by striking out “October 1, 1983” each place it appears and inserting in lieu thereof “October 1, 1989”; and

(2) by adding at the end thereof the following new paragraph:

“(3) Notwithstanding paragraphs (1) and (2), the amount that is authorized to be appropriated to under this subsection for each of the fiscal years 1987, 1988, and 1989, is the amount appropriated for such purpose for fiscal year 1986.”.

(d) Section 316(e) of the Adult Education Act (20 U.S.C. 1211a(e)) is amended—

(1) by striking out “October 1, 1983” and inserting in lieu thereof “October 1, 1986”; and

(2) by adding at the end thereof the following new sentence:
 “There is also authorized to be appropriated for such purpose for each of the fiscal years 1987, 1988, and 1989, an amount not to exceed the amount appropriated for such purpose for fiscal year 1986.”.

(e) Notwithstanding the provisions of any authorization of appropriations amended by this section, the total amount which may be appropriated pursuant to all such authorizations (amended by this section) shall not exceed \$100,000,000 for fiscal year 1985.

20 USC 241ff
note

TITLE VI—EMERGENCY IMMIGRANT EDUCATION ASSISTANCE

Emergency
Immigrant
Education Act
of 1984.

SHORT TITLE

SEC. 601. This title may be cited as the “Emergency Immigrant Education Act of 1984”.

20 USC 4101
note.

DEFINITIONS

SEC. 602. As used in this title—

20 USC 4101.

(1) The term “immigrant children” means children who were not born in any State and who have been attending schools in any one or more States for less than three complete academic years.

(2) The terms “elementary school”, “local educational agency”, “secondary school”, “State”, and “State educational agency” have the meanings given such terms under section 198(a) of the Elementary and Secondary Education Act of 1965.

(3) The term “elementary or secondary nonpublic schools” means schools which comply with the applicable compulsory attendance laws of the State and which are exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954.

26 USC 501.

(4) The term “Secretary” means the Secretary of Education.

AUTHORIZATIONS AND ALLOCATION OF APPROPRIATIONS

SEC. 603. (a) There are authorized to be appropriated to make payments to which State educational agencies are entitled under this title and payments for administration under section 604 \$30,000,000 for fiscal year 1985, and \$40,000,000 for fiscal year 1986 and for each of the three succeeding fiscal years.

20 USC 4102.

(b)(1) If the sums appropriated for any fiscal year to make payments to States under this title are not sufficient to pay in full the sum of the amounts which State educational agencies are entitled to receive under this title for such year, the allocations to State educational agencies shall be ratably reduced to the extent necessary to bring the aggregate of such allocations within the limits of the amounts so appropriated.

(2) In the event that funds become available for making payments under this title for any period after allocations have been made under paragraph (1) of this subsection for such period, the amounts reduced under such paragraph shall be increased on the same basis as they were reduced.

STATE ADMINISTRATIVE COSTS

20 USC 4103.

SEC. 604. The Secretary is authorized to pay to each State educational agency amounts equal to the amounts expended by it for the proper and efficient administration of its functions under this title, except that the total of such payments for any period shall not exceed 1.5 per centum of the amounts which that State educational agency is entitled to receive for that period under this title.

WITHHOLDING

20 USC 4104.

SEC. 605. Whenever the Secretary, after reasonable notice and opportunity for a hearing to any State educational agency, finds that there is a failure to meet the requirements of any provision of this title, the Secretary shall notify that agency that further payments will not be made to the agency under this title, or in the discretion of the Secretary, that the State educational agency shall not make further payments under this title to specified local educational agencies whose actions cause or are involved in such failure until the Secretary is satisfied that there is no longer any such failure to comply. Until the Secretary is so satisfied, no further payments shall be made to the State educational agency under this title, or payments by the State educational agency under this title shall be limited to local educational agencies whose actions did not cause or were not involved in the failure, as the case may be.

STATE ENTITLEMENTS

20 USC 4105.

SEC. 606. (a) The Secretary shall, in accordance with the provisions of this section, make payments to State educational agencies for each of the fiscal years 1985, 1986, 1987, 1988, and 1989 for the purpose set forth in section 607.

Grants.

(b)(1) Except as provided in paragraph (3) and in subsections (c) and (d) of this section, the amount of the grant to which a State educational agency is entitled under this title shall be equal to the product of (A) the number of immigrant children enrolled during such fiscal year in elementary and secondary public schools under the jurisdiction of each local educational agency described under paragraph (2) within that State, and in any elementary or secondary nonpublic school within the district served by each such local educational agency, multiplied by (B) \$500.

(2) The local educational agencies referred to in paragraph (1) are those local educational agencies in which the sum of the number of immigrant children who are enrolled in elementary or secondary public schools under the jurisdiction of such agencies, and in elementary or secondary nonpublic schools within the districts served by such agencies, during the fiscal year for which the payments are to be made under this title, is equal to—

(A) at least five hundred; or

(B) at least 3 per centum of the total number of students enrolled in such public or nonpublic schools during such fiscal year;

whichever number is less.

(3)(A) The amount of the grant of any State educational agency for any fiscal year as determined under paragraph (1) shall be reduced by the amounts made available for such fiscal year under any other Federal law for expenditure within the State for the same purpose as those for which funds are available under this title, but such

reduction shall be made only to the extent that (i) such amounts are made available for such purpose specifically because of the refugee, parolee, asylee, or other immigrant status of the individuals served by such funds, and (ii) such amounts are made available to provide assistance to individuals eligible for services under this title.

(B) No reduction of a grant under this title shall be made under subparagraph (A) for any fiscal year if a reduction is made, pursuant to a comparable provision in any such other Federal law, in the amount made available for expenditure in the State for such fiscal year under such other Federal law, based on the amount assumed to be available under this title.

(c)(1) Determinations by the Secretary under this section for any period with respect to the number of immigrant children shall be made on the basis of data or estimates provided to the Secretary by each State educational agency in accordance with criteria established by the Secretary, unless the Secretary determines, after notice and opportunity for a hearing to the affected State educational agency, that such data or estimates are clearly erroneous.

(2) No such determination with respect to the number of immigrant children shall operate because of an underestimate or overestimate to deprive any State educational agency of its entitlement to any payment (or the amount thereof) under this section to which such agency would be entitled had such determination been made on the basis of accurate data.

(d) Whenever the Secretary determines that any amount of a payment made to a State under this title for a fiscal year will not be used by such State for carrying out the purpose for which the payment was made, the Secretary shall make such amount available for carrying out such purpose to one or more other States to the extent the Secretary determines that such other States will be able to use such additional amount for carrying out such purpose. Any amount made available to a State from an appropriation for a fiscal year in accordance with the preceding sentence shall, for purposes of this title, be regarded as part of such State's payment (as determined under subsection (b)) for such year, but shall remain available until the end of the succeeding fiscal year.

USES OF FUNDS

Sec. 607. (a) Payments made under this title to any State may be used in accordance with applications approved under section 608 for supplementary educational services and costs, as described under subsection (b) of this section, for immigrant children enrolled in the elementary and secondary public schools under the jurisdiction of the local educational agencies of the State described in section 606(b)(2) and in elementary and secondary nonpublic schools of that State within the districts served by such agencies. 20 USC 4106.

(b) Financial assistance provided under this title shall be available to meet the costs of providing immigrant children supplementary educational services, including but not limited to—

(1) supplementary educational services necessary to enable those children to achieve a satisfactory level of performance, including—

- (A) English language instruction;
- (B) other bilingual educational services; and
- (C) special materials and supplies;

(2) additional basic instructional services which are directly attributable to the presence in the school district of immigrant children, including the costs of providing additional classroom supplies, overhead costs, costs of construction, acquisition or rental of space, costs of transportation, or such other costs as are directly attributable to such additional basic instructional services; and

(3) essential inservice training for personnel who will be providing instruction described in either paragraph (1) or (2) of this subsection.

APPLICATIONS

20 USC 4107.

SEC. 608. (a) No State educational agency shall be entitled to any payment under this title for any period unless that agency submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

(1) provide that the educational programs, services, and activities for which payments under this title are made will be administered by or under the supervision of the agency;

(2) provide assurances that payments under this title will be used for purposes set forth in section 607;

(3) provide assurances that such payments will be distributed among local educational agencies within that State on the basis of the number of children counted with respect to such local educational agency under section 606(b)(1), adjusted to reflect any reductions imposed pursuant to section 606(b)(3) which are attributable to such local educational agency;

(4) provide assurances that the State educational agency will not finally disapprove in whole or in part any application for funds received under this title without first affording the local educational agency submitting an application for such funds reasonable notice and opportunity for a hearing;

(5) provide for making such reports as the Secretary may reasonably require to perform the functions under this title; and

(6) provide assurances—

(A) that to the extent consistent with the number of immigrant children enrolled in the elementary or secondary nonpublic schools within the district served by a local educational agency, such agency, after consultation with appropriate officials of such schools, shall provide for the benefit of these children secular, neutral, and nonideological services, materials, and equipment necessary for the education of such children;

(B) that the control of funds provided under this title and the title to any materials, equipment, and property repaired, remodeled, or constructed with those funds shall be in a public agency for the uses and purposes provided in this title, and a public agency shall administer such funds and property; and

(C) that the provision of services pursuant to this paragraph shall be provided by employees of a public agency or through contract by such public agency with a person, association, agency, or corporation who or which, in the provision of such services, is independent of such elemen-

tary or secondary nonpublic school and of any religious organization; and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this paragraph shall not be commingled with State or local funds.

(b) The Secretary shall approve an application which meets the requirements of subsection (a). The Secretary shall not finally disapprove an application of a State educational agency except after reasonable notice and opportunity for a hearing on the record to such agency.

PAYMENTS

SEC. 609. (a) Except as provided in section 603(b), the Secretary shall pay to each State educational agency having an application approved under section 608 the amount which that State is entitled to receive under this title. 20 USC 4108.

(b) If by reason of any provision of law a local educational agency is prohibited from providing educational services for children enrolled in elementary and secondary nonpublic schools, as required by section 608(a)(6), or if the Secretary determines that a local educational agency has substantially failed or is unwilling to provide for the participation on an equitable basis of children enrolled in such schools, the Secretary may waive such requirement and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this title. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with section 557(b) (3) and (4) of the Education Consolidation and Improvement Act of 1981. 20 USC 3806.

TITLE VII—GENERAL ADMINISTRATION AND ORGANIZATION

AMENDMENTS TO THE DEPARTMENT OF EDUCATION ORGANIZATION ACT

SEC. 701. (a) Section 204 of the Department of Education Organization Act (20 U.S.C. 3418) is amended by adding at the end thereof the following new sentence: "There shall be within the Office of Elementary and Secondary Education and directly under the supervision of the Assistant Secretary for Elementary and Secondary Education, an Office of Migrant Education, which shall be responsible for the administration of programs established by subpart 1 of part B of title I of the Elementary and Secondary Education Act of 1965 and by subpart 5 of part A of title IV of the Higher Education Act of 1965." 20 USC 3414.

(b) For the purposes of section 413(a) of the Department of Education Organization Act (20 U.S.C. 3473), the Office of Migrant Education shall be considered to be an organizational entity established by such Act and shall not be subject to the reorganizational authority of the Secretary of Education under that section or any other provision of law. 20 USC 3473 note.

EXTENSION OF AUTHORIZATIONS UNDER THE GENERAL EDUCATION PROVISIONS ACT

SEC. 702. (a) Section 405(k)(7) of the General Education Provisions Act (20 U.S.C. 1221e(k)(7)) is amended by striking out "\$10,500,000

for each fiscal year ending prior to October 1, 1983" and inserting in lieu thereof "\$8,000,000 for fiscal year 1985, and \$10,800,000 for each succeeding fiscal year ending prior to October 1, 1989".

20 USC 1221e-1.

(b) Section 406(g) of such Act (20 U.S.C. 1221-1(g)) is amended—

(1) by striking out "October 1, 1983" in paragraph (1) and inserting in lieu thereof "October 1, 1989"; and

(2) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) The amount available for grants and contracts by the Assistant Secretary under subsection (e) shall not exceed \$10,000,000 for fiscal year 1985, \$12,000,000 for fiscal year 1986, \$14,000,000 for fiscal year 1987, \$16,000,000 for fiscal year 1988, and \$18,000,000 for fiscal year 1989."

NATIONAL INSTITUTE OF EDUCATION

SEC. 703. (a) Section 405(k)(1) of the General Education Provisions Act (20 U.S.C. 1221e(k)(1)) is amended by striking out "and" at the end of subparagraph (C), by striking out the period at the end of subparagraph (D) and inserting in lieu thereof "; and", and by inserting after such subparagraph the following:

"(E) with respect to each State which voluntarily participates in accordance with paragraph (5), provide for a statement of information collected by the National Assessment for each such State."

(b) Section 405(k)(3) of such Act is amended by adding at the end thereof the following: "The appropriateness of all cognitive, background, and attitude items developed as part of the National Assessment shall be the responsibility of the Assessment Policy Committee. Such items shall be subject to review by the Department of Education and the Office of Management and Budget for a single period of not more than 60 days."

COLLECTION OF DATA

SEC. 704. (a) Section 405 of the General Education Provisions Act (20 U.S.C. 1221e) is further amended by adding at the end thereof the following new subsection:

"(1) For purposes of this section, the terms 'United States' and 'State' include the District of Columbia and Puerto Rico."

20 USC 1221e-1.

(b) Section 406 of such Act (20 U.S.C. 1221-1) is amended—

(1) by redesignating subsection (i) as subsection (h); and

(2) by adding at the end thereof the following new subsection:

"(i) For purposes of this section, the terms 'United States' and 'State' include the District of Columbia and Puerto Rico."

ANNUAL EVALUATION REPORTS

SEC. 705. Section 417(a) of the General Education Provisions Act (20 U.S.C. 1226c(a)) is amended by striking out "November 1" and inserting in lieu thereof "December 31".

CONFLICT-OF-INTEREST

SEC. 706. (a) Section 435(b) of the General Education Provisions Act (20 U.S.C. 1232d(b)) is amended—

(1) by striking out "and" at the end of paragraph (6);

(2) by striking out the period at the end of paragraph (7) and inserting in lieu thereof “; and”; and

(3) by inserting after such paragraph the following new paragraph:

“(8) that none of the funds expended under any applicable program will be used to acquire equipment (including computer software) in any instance in which such acquisition results in a direct financial benefit to any organization representing the interests of the purchasing entity or its employees or any affiliate of such an organization.”

(b) Section 436(b) of the General Education Provisions Act (20 U.S.C. 1232e(b)) is amended—

(1) by striking out “and” at the end of paragraph (7);

(2) by striking out the period at the end of paragraph (8) and inserting in lieu thereof “; and”; and

(3) by inserting after such paragraph the following new paragraph:

“(9) that none of the funds expended under any applicable program will be used to acquire equipment (including computer software) in any instance in which such acquisition results in a direct financial benefit to any organization representing the interests of the purchasing entity or its employees or any affiliate of such an organization.”

STUDENT FINANCIAL ASSISTANCE TECHNICAL AMENDMENTS ACT OF 1982

SEC. 707. The Student Financial Assistance Technical Amendments Act of 1982 is amended—

(1) in section 3(a), by striking out “and 1984–1985” and inserting in lieu thereof “, 1984–1985, 1985–1986, and 1986–1987”;

20 USC 1070a note.

(2) in section 3(b), by striking out “year 1984–1985” and inserting in lieu thereof “years 1984–1985, 1985–1986, and 1986–1987”;

20 USC 1070a note.

(3) by striking out “and 1985–1986” each place it appears in sections 4, 5(a), 5(b)(1), 5(c), and 6 and inserting in lieu thereof “, 1985–1986, and 1986–1987”;

20 USC 1070a note, 1089 note.

(4) in section 5(b)(2), by striking out “and” at the end of clause (A), by striking out the period at the end of clause (B) and inserting in lieu thereof “; and”, and by inserting after clause (B) the following new clause:

20 USC 1070a note.

“(C) for the period from October 1, 1983, through September 30, 1984, and the arithmetic mean of such index for the period from October 1, 1984, through September 30, 1985, in the case of academic year 1986–1987.”;

(5) in section 5(b)(3), by striking out “and immediately” and inserting in lieu thereof “, immediately” and by inserting before the period at the end thereof a comma and the following: “and immediately after such publication for September 1985 (with respect to academic year 1986–1987)”;

20 USC 1070a note.

(6) in section 5(d), by striking out “and” at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting in lieu thereof “; and”, and by inserting after such paragraph the following new paragraph:

20 USC 1070a note.

“(3) not later than April 1, 1985, for academic year 1986–1987.”;

(7) in section 9(a), by inserting “and from July 1, 1986, through June 30, 1987,” after “June 30, 1986,”; and

20 USC 1078 note.

20 USC 1078
note.

(8) in section 9(c), by striking out “and” at the end of paragraph (2), by striking out the comma at the end of paragraph (3) and inserting in lieu thereof “; and”, and by inserting after such paragraph the following new paragraph:

“(4) April 1, 1986, for the period of instruction from July 1, 1986, through June 30, 1987,”.

EFFECTIVE DATE AMENDMENT

20 USC 3804
note.

SEC. 708. Section 25(b) of Public Law 98-211 (97 Stat. 1419) is amended by striking out “June 30, 1983” and inserting in lieu thereof “June 30, 1984”.

EDUCATION AMENDMENTS OF 1978: ASSISTANCE TO TERRITORIES

92 Stat 2379.

SEC. 709. (a) Sections 1524 and 1525 of the Education Amendments of 1978 are each amended by striking out “1979” and inserting in lieu thereof “1985”.

(b) No funds in excess of \$5,000,000 are authorized to be appropriated for fiscal year 1985 to carry out the provision of such sections.

CONTRACT AUTHORITY

20 USC 2701
note.

SEC. 710. Any authority to make payments or to enter into contracts under this Act shall be available only to such extent or in such amounts as are provided in advance in appropriation Acts.

EFFECTIVE DATE

20 USC 2701
note.

SEC. 711. (a) Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on the date of enactment of this Act or October 1, 1984, whichever occurs later.

(b) The amendments made by title I of this Act shall take effect on July 1, 1985.

Approved October 19, 1984.

LEGISLATIVE HISTORY—S. 2496 (H.R. 11):

HOUSE REPORTS: No. 98-748 accompanying H.R. 11 (Comm. on Education and Labor) and No. 98-1128 (Comm. of Conference).

SENATE REPORT No. 98-503 (Comm. on Labor and Human Resources).

CONGRESSIONAL RECORD, Vol. 130 (1984):

June 28, considered and passed Senate.

July 26, H.R. 11 considered and passed House; S. 2496, amended, passed in lieu.

Oct. 3, Senate agreed to conference report.

Oct. 4, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 42 (1984):

Oct. 19, Presidential statement.

Public Law 98-512
98th Congress

An Act

To revise and extend the programs of assistance under titles X and XX of the Public Health Service Act.

Oct. 19, 1984
[S. 2616]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

Children and
youth.

42 USC 201 note.

SEC. 2. (a) Section 2010(a) (42 U.S.C. 300z-9(a)) is amended by striking out “and” after “1983,” and by inserting before the period a comma and “and \$30,000,000 for the fiscal year ending September 30, 1985”.

(b) Section 2001(a)(5) (42 U.S.C. 300z(a)(5)) is amended to read as follows:

“(5) pregnancy and childbirth among unmarried adolescents, particularly young adolescents, often results in severe adverse health, social, and economic consequences including: a higher percentage of pregnancy and childbirth complications; a higher incidence of low birth weight babies; a higher infant mortality and morbidity; a greater likelihood that an adolescent marriage will end in divorce; a decreased likelihood of completing schooling; and higher risks of unemployment and welfare dependency; and therefore, education, training, and job research services are important for adolescent parents;”.

(c) Section 2001(b)(3) (42 U.S.C. 300z(b)(3)) is amended by inserting “both” before “for pregnant adolescents” in the matter preceding subparagraph (A).

(d) Section 2002(a)(4)(H) (42 U.S.C. 300z-1(a)(4)(H)) is amended by striking out “and referral to such services”.

(e) Section 2008(g) (42 U.S.C. 300z-7(g)) is repealed.

SEC. 3. (a) Section 1001(c) (42 U.S.C. 300(c)) is amended by striking out “and” after “1983,” and by inserting before the period a semicolon and “and \$158,400,000 for the fiscal year ending September 30, 1985”.

(b) Section 1003(b) (42 U.S.C. 300a-1(b)) is amended by striking out “and” after “1983,” and by inserting before the period a semicolon and “and \$3,500,000 for the fiscal year ending September 30, 1985”.

(c) Section 1005(b) (42 U.S.C. 300a-3(b)) is amended by striking out “and” after “1983,” and by inserting before the period a semicolon and “and \$700,000 for the fiscal year ending September 30, 1985”.

Approved October 19, 1984.

LEGISLATIVE HISTORY—S. 2616:

HOUSE REPORT No. 98-1154 (Comm. of Conference).

SENATE REPORT No. 98-496 (Comm. on Labor and Human Resources).

CONGRESSIONAL RECORD, Vol. 130 (1984):

June 29, considered and passed Senate.

Aug. 10, considered and passed House, amended.

Oct. 9, Senate and House agreed to conference report.

Public Law 98-513
98th Congress

An Act

Pertaining to the inheritance of trust or restricted land on the Lake Traverse Indian Reservation, North Dakota and South Dakota, and for other purposes.

Oct. 19, 1984
[S. 2663]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That to the extent that the laws of devise, descent and distribution of the State of North Dakota or the State of South Dakota are inconsistent with this Act or to the extent that the Indian Land Consolidation Act (25 U.S.C. 2201 et seq.), is inconsistent with this Act, the provisions of this Act shall govern the right to inherit trust or restricted land located within such States and within the original exterior boundaries of the Lake Traverse Indian Reservation (hereinafter the "reservation") as described in article III of the Treaty of February 19, 1867 (15 Stat. 505).

SEC. 2. (a) Except as provided in section 4 of this Act, only the Sisseton-Wahpeton Sioux Tribe of North Dakota and South Dakota (hereinafter the "tribe") or persons who are enrolled members of the tribe shall be entitled to receive by devise or descent any interest in trust or restricted land within the reservation.

(b) The provisions of this Act shall apply only to estates of decedents whose deaths occur on or after the date of enactment of this Act.

SEC. 3. (a) Whenever any person dies possessed of any interest in trust or restricted land within the reservation and the trust or restricted land has not been devised by a will approved by the Secretary of the Interior pursuant to section 2 of the Act of June 25, 1910 (36 Stat. 856), as amended (25 U.S.C. 373), or the bequest of devise is not consistent with the provisions of section 2 of this Act, such interest shall descend to the following persons: *Provided*, That such persons are eligible heirs under sections 2 and 5 of this Act:

(1) one-half of the interest shall descend to the surviving spouse and the other one-half shall descend in equal shares to the children of the decedent and to the issue of any deceased child of the decedent by right of representation;

Children and
youth.

(2) if there is no surviving spouse, the interest shall descend in equal shares to the children of the decedent and to the issue of any deceased child of the decedent by right of representation;

Children and
youth.

(3) if there are no surviving children or issue of any child, the interest shall descend to the surviving spouse;

(4) if there is no surviving spouse and no surviving children or issue of any child, the interest shall descend to the surviving parents or parent of the decedent;

(5) if there is no surviving spouse, and no surviving children or issue of any child, and no surviving parent, the interest shall descend equally to the brothers and sisters of the decedent; and

(6) if there is no surviving spouse, and no surviving children or issue of any child, no surviving parent, and no surviving brothers or sisters, the interest shall escheat to the tribe and

title to such escheated interest shall be taken in the name of the United States in trust for the tribe.

(b) As used in this section, the words "children" and "issue" include children adopted under the laws of a State or foreign country, or in accordance with the laws of an Indian tribe, children of unwed parents where the Secretary of the Interior determines that paternity has been acknowledged or established under the laws of a State or foreign country or in accordance with the laws of an Indian tribe, and children of parents whose parental rights have been terminated pursuant to lawful authority.

(c) As used in this section, the word "parent" shall not include the parent of any child with respect to whom such parent's parental rights have been voluntarily terminated pursuant to lawful authority.

Children and
youth.

SEC. 4. (a) Notwithstanding the provisions of section 2 and subject to the provisions of section 5 of this Act, the nonmember of the tribe surviving spouse, nonmember surviving children and the nonmember surviving issue of any children of any person who dies possessed of any interest in trust or restricted land within the reservation, shall be entitled to take only a life estate in any interest in such trust or restricted land devised by a will approved by the Secretary of the Interior pursuant to section 2 of the Act of June 25, 1910 (36 Stat. 856), as amended (25 U.S.C. 373).

(b) Notwithstanding the provisions of sections 2 and 3 and subject to the provisions of section 5 of this Act, wherever any person dies possessed of any interest in trust or restricted land within the reservation and the trust or restricted land has not been devised by a will approved by the Secretary of the Interior pursuant to section 2 of the Act of June 25, 1910 (36 Stat. 856), as amended (25 U.S.C. 373), the nonmember of the tribe surviving spouse, nonmember children, and the nonmember issue of any children of the decedent shall be entitled to take only a life estate in any interest provided in section 3 of this Act.

(c) At the time that the Secretary of the Interior approves any life estate for a surviving spouse, children, or the issue of any children of a decedent, the trust or restricted land subject to such life estate thereafter shall be held in trust for the appropriate heir under section 3 of this Act or the provisions of any will approved by the Secretary pursuant to section 2 of the Act of June 25, 1910 (36 Stat. 856), as amended (25 U.S.C. 373).

(d) The provisions of subsections (a) and (b) of this section notwithstanding, unless a devise of trust or restricted land otherwise provides, any life estate provided for in this Act shall be subject to applicable regulations pertaining to the use of trust or restricted land and to the following conditions, restrictions and limitations:

(1) whenever the life tenant is a sole heir, such life tenant shall be entitled to determine the use and to receive any income from the lease or other use of the life tenant's interest in the land;

(2) whenever an enrolled member of the tribe dies survived by a nonmember spouse and nonmember children, such spouse shall be entitled to one-half of the income from the lease or other use of the life tenant's interest in the land and such children shall be entitled to the other one-half, and the same division shall apply to any land use determination;

(3) whenever an enrolled member of the tribe dies survived by a nonmember spouse, nonmember children, and nonmember

issue of any deceased child, such spouse shall be entitled to one-half of the income from the lease or other use of the life tenant's interest in the land and such children and issue of children shall be entitled to equal shares of the other one-half, and the same division shall apply to any land use determination;

(4) whenever an enrolled member of the tribe dies without a surviving nonmember spouse but survived by nonmember children, such children shall be entitled equally to determine the use and to receive any income from the lease or other use of the life tenant's interest in the land;

(5) whenever an enrolled member of the tribe dies without a surviving nonmember spouse but survived by nonmember children and nonmember issue of any deceased child, such children and issue of children shall be entitled equally to determine the use and to receive any income from the lease or other use of the life tenant's interest in the land; and

(6) whenever an enrolled member of the tribe dies without a surviving nonmember spouse and nonmember children but survived by nonmember issue of the children of such member, such issue shall be entitled equally to determine the use and to receive any income from the lease or other use of the life tenant's interest in the land.

For the purposes of this subsection, any children or the issue of any children of an enrolled member of the tribe born after the death of such member shall have the same rights as any children or the issue of any children who survive such member.

SEC. 5. Notwithstanding any other provision of this Act, no person shall be entitled by devise or descent to take any interest, including any interest in a life estate under section 4 of this Act, less than two and one-half acres, or the equivalent thereof, in trust or restricted land within the reservation. Any interest less than two and one-half acres of a devisee or intestate distributee of a decedent under section 3 of this Act, shall escheat to the tribe and title to such escheated interest shall be taken in the name of the United States in trust for the tribe: *Provided*, That the provisions of this section shall not be applicable to the devise or descent of any interest in trust or restricted land located within a municipality.

Prohibition.

SEC. 6. If a decedent has devised an interest in trust or restricted land within the reservation to a person prohibited under section 2 of this Act from acquiring an interest in such trust or restricted land, the interest in such land shall escheat to the tribe and title to such escheated interest shall be taken in the name of the United States in trust for the tribe: *Provided*, That any interest escheated to the tribe shall be subject to a life estate in the devisee as provided for under section 4(a) of this Act.

SEC. 7. (a) Whenever the tribe or an enrolled member, or members, of the tribe holds at least a 50 per centum undivided interest in trust or restricted land within the reservation, the Secretary of the Interior, upon the request of the tribe or the enrolled member, or members, of the tribe shall partition the allotment or part thereof: *Provided*, That whenever the tribe requests partition, the Secretary shall partition the allotment to the advantage of the heirs, except that any partition shall assure that the tribe retains one contiguous divided interest in the land unless the tribe agrees to a different division: *Provided further*, That whenever an enrolled member or members of the tribe requests partition, the fair market value of the lands remaining after partition shall not be less than the fair

market value of the interest, prior to partition, of the owners of such lands. The person or persons requesting partition, in order to meet the fair market value requirement of this subsection, may relinquish to the other heirs a portion of their undivided interest in the trust or restricted lands to be partitioned.

(b) The provisions of any law to the contrary notwithstanding, the Secretary of the Interior, upon the request of the tribe or an enrolled heir member of the tribe, shall approve partition of trust or restricted land within the reservation whenever the partitioned interest in the land of the tribe or the enrolled heir member of the tribe is at least two and one-half acres and the owners of more than a 50 per centum undivided interest in the trust or restricted land to be partitioned consent to the partition.

Patents and
trademarks.
Termination
date.

(c) Within one hundred and eighty days after the Secretary, pursuant to subsection (a) or (b) of this section, receives a request to partition trust or restricted land, he shall issue a new trust patent, in accordance with applicable law, for the lands set apart for the tribe or the enrolled heir member of the tribe, as the case may be, the trust period to terminate in accordance with the terms of the original patent or order of extension of the trust period set out in said patent or in accordance with the provisions of law governing the sale of allotted lands: *Provided*, That the provisions of any law to contrary notwithstanding, no patent in fee shall be issued for lands partitioned under this section until the expiration of at least ten years from the date of issuance of such new trust patent.

Prohibition.

SEC. 8. (a) The tribe shall have authority to exercise powers of eminent domain, over trust or restricted lands within the reservation, to eliminate fractional heirship interests in trust or restricted land, to consolidate tribal interests in land, to develop agriculture, and to condemn for other public purposes any interest in trust or restricted land. Upon the request of the tribe, the interest acquired thereafter shall be held by the United States in trust for the tribe: *Provided*, That the tribe has made just compensation under tribal judicial process and in accordance with a code of tribal eminent domain laws approved by the Secretary of the Interior.

Claims.

(b) Subject to the right of judicial review provided in subsection (c) of this section, a final judgment of the tribal court in favor of the tribe in a condemnation action is conclusive as to the title of the tribe, in and to the interest in the trust or restricted land described in said judgment, against any and all parties in said action, including unknown defendants, and against any and all persons claiming from, through or under such a party by title accruing after the filing of the judgment by the clerk of the tribal court or after the filing of a notice of the pendency of the action with an official designated for that purpose under the eminent domain laws of the tribe.

(c) Any party aggrieved by the condemnation findings and determination of the tribal court may seek judicial review thereof in the United States district court for the district within which the affected interest in land is located. Judicial review shall be taken by filing a notice of appeal with the clerk of the tribal court and district court within thirty days of the date of the entry of the judgment or order of condemnation appealed from. If a timely notice of appeal is filed by a party, any other party may file a notice of appeal within fourteen days of the date on which the first notice of appeal was filed. Any appeal taken under this Act shall be limited to a review of whether the tribal court order or judgment of condemnation is in accordance with the provisions of this Act, any tribal eminent

domain laws and the provisions of title II of the Act of April 11, 1968 (82 Stat. 77).

25 USC 1301.

(d) In any tribal court or United States district court proceeding pursuant to subsection (a) or (d) of this section, notice of the proceeding shall be served upon the United States. The United States shall not be an indispensable party in such proceeding.

SEC. 9. The Secretary of the Interior is authorized, with any available funds provided by the United States or the tribe, to acquire by purchase, exchange, or condemnation any land or interest in trust or restricted land within the reservation for the purpose of eliminating fractional heirship interests in land, consolidating tribal interests in land, and developing tribal agriculture or commercial enterprises. After such acquisition, said lands or interests in lands shall be held by the United States in trust for the tribe.

Funds.

SEC. 10. Whenever the tribe imposes a tax against the estate of any person who dies possessed of any interest in trust or restricted land within the reservation, the Secretary of the Interior shall collect the tax out of the estate as part of the probate proceeding. The amount of the tax collected shall be payable to the tribe.

Taxes.

SEC. 11. Within one hundred and twenty days after the date of enactment of this Act, the Secretary of the Interior shall send an explanation of the provisions of this Act to all persons who have any interest in trust or restricted land within the reservation.

SEC. 12. Wills executed prior to or within one hundred and twenty days after the date of enactment of this Act shall be effective, in the absence of compliance with the provisions of this Act, for a period not to exceed one hundred and eighty days after the date of enactment of this Act: *Provided*, That this section shall not apply to invalidate the will of any person who because of unsound mind is unable to amend a will in order to comply with the provisions of this Act.

Wills.

SEC. 13. If any provision of this Act or its application to any person or circumstance is found to be invalid, the remainder of this Act, or the application of the provisions of this Act to other persons or circumstances, shall not be affected.

Provisions held invalid.

Approved October 19, 1984.

LEGISLATIVE HISTORY—S. 2663:

SENATE REPORT No. 98-607 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 130 (1984):

Oct. 3, considered and passed Senate.
Oct. 4, considered and passed House.

Public Law 98-514
98th Congress

An Act

Oct 19, 1984
[S. 2773]

To designate certain National Forest System lands in the State of Georgia as wilderness, and for other purposes.

Georgia
Wilderness Act
of 1984.
National
Wilderness
Preservation
System.
National Forest
System.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Georgia Wilderness Act of 1984".

DESIGNATION OF WILDERNESS AREAS

SEC. 2. In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131-1136), the following lands in the State of Georgia are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

16 USC 1132
note

(1) certain lands in the Chattahoochee National Forest, Georgia, which comprise approximately two thousand acres, as generally depicted on a map entitled "Ellicott Rock Wilderness Addition—Proposed", dated June 1984, and which are hereby incorporated in, and shall be deemed to be part of, the Ellicott Rock Wilderness as designated by Public Law 93-622; and

(2) certain lands in the Chattahoochee National Forest, Georgia, which comprise approximately twelve thousand four hundred and thirty-nine acres, as generally depicted on a map entitled "Southern Nantahala Wilderness Addition—Proposed", dated June 1984, and which are hereby incorporated in, and shall be deemed to be part of, the Southern Nantahala Wilderness as designated by Public Law 98-324.

Ante, p 263.

MAPS AND DESCRIPTIONS

SEC. 3. As soon as practicable after enactment of this Act, the Secretary of Agriculture shall file a map and a legal description of each wilderness area designated by this Act with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and with the Committee on Agriculture, Nutrition, and Forestry of the United States Senate. Each such map and description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in each such map and description may be made by the Secretary. Each such map and description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

Public availability.

ADMINISTRATION OF WILDERNESS

SEC. 4. Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilder-

16 USC 1131
note.

ness Act shall be deemed to be a reference to the date of enactment of this Act.

EFFECT OF RARE II

SEC. 5. (a) The Congress finds that—

Conservation.

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of National Forest System roadless areas in the State of Georgia and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

Congress.

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to National Forest System lands in States other than Georgia, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Georgia;

(2) with respect to the National Forest System lands in the State of Georgia which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d), that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time, the Secretary of Agriculture finds that conditions in a unit have significantly changed;

16 USC 1600
note.

(3) areas in the State of Georgia reviewed in such final environmental statement or referenced in subsection (d) and not designated wilderness upon enactment of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976: *Provided*, That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans;

16 USC 1604.

(4) in the event that revised land management plans in the State of Georgia are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be

16 USC 1600
note.
Prohibition.

required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law; and

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of National Forest System lands in the State of Georgia for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

(d) The provisions of this section shall also apply to National Forest System roadless lands in the State of Georgia which are less than five thousand acres in size.

(e) The provisions of this section shall not apply to—

16 USC 1132
note.

(1) the Georgia portion of the Big Frog Wilderness Study Area as designated by Public Law 93-622; and

(2) the following areas in the Chattahoochee National Forest, Georgia, as generally depicted on a map entitled "Chattahoochee National Forest RARE II Inventory", dated June 1984, and which are known as—

(A) "Raven Cliff", comprising approximately nine thousand one hundred acres;

(B) "Overflow", comprising approximately five thousand acres;

(C) "Blood Mountain", comprising approximately nine thousand four hundred acres;

(D) "Chattahoochee River", comprising approximately twenty-one thousand six hundred acres;

(E) "Tray Mountain", comprising approximately thirty-six thousand six hundred acres;

(F) "Hemp Top", comprising approximately two thousand seven hundred acres;

(G) "Mountain Town", comprising approximately six thousand seven hundred acres;

(H) "Rich Mountain", comprising approximately fifteen thousand six hundred acres;

(I) "Brasstown", comprising approximately three thousand six hundred acres; and

(J) "Wolf Pen", comprising approximately seven thousand seven hundred acres.

These areas shall be considered for all uses, including wilderness, during preparation of a forest plan for the Chattahoochee National Forest pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended.

16 USC 1604.

Approved October 19, 1984.

LEGISLATIVE HISTORY—S. 2773:

SENATE REPORT No. 98-611 (Comm. on Agriculture, Nutrition, and Forestry).

CONGRESSIONAL RECORD, Vol. 130 (1984):

Oct. 2, considered and passed Senate.

Oct. 4, considered and passed House.

Public Law 98-515
98th Congress

An Act

Oct. 19, 1984
[S. 2808]

To designate certain National Forest System lands in the State of Mississippi as wilderness, and for other purposes.

Mississippi
National Forest
Wilderness Act
of 1984.
National
Wilderness
Preservation
System.
National Forest
System.
16 USC
1132 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Mississippi National Forest Wilderness Act of 1984".

DESIGNATION OF WILDERNESS AREAS

SEC. 2. In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131-1136), the following lands in the State of Mississippi are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(1) certain lands in the De Soto National Forest, Mississippi, which comprise approximately four thousand five hundred and sixty acres, as generally depicted on a map entitled "Proposed Black Creek Wilderness", dated January 1979, and which shall be known as the Black Creek Wilderness; and

(2) certain lands in the De Soto National Forest, Mississippi, which comprise approximately nine hundred and forty acres, as generally depicted on a map entitled "Proposed Leaf Wilderness", dated January 1979, and which shall be known as the Leaf Wilderness.

16 USC
1132 note.

MAPS AND DESCRIPTIONS

SEC. 3. As soon as practicable after enactment of this Act, the Secretary of Agriculture shall file a map and a legal description of each wilderness area designated by this Act with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and with the Committee on Agriculture, Nutrition, and Forestry of the United States Senate. Each such map and description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in each such map and description may be made by the Secretary. Each such map and description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

Public
availability.

ADMINISTRATION OF WILDERNESS

SEC. 4. Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act.

16 USC
1131 note.

EFFECT OF RARE II

SEC. 5. (a) The Congress finds that—

Conservation.

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of National Forest System roadless areas in the State of Mississippi, and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

Congress.

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to National Forest System lands in States other than Mississippi, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Mississippi;

(2) with respect to the National Forest System lands in the State of Mississippi which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d), that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time, the Secretary of Agriculture finds that conditions in a unit have significantly changed;

16 USC
1600 note.

(3) areas in the State of Mississippi reviewed in such final environmental statement or referenced in subsection (d) and not designated wilderness upon enactment of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976: *Provided*, That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans;

16 USC 1604.

(4) in the event that revised land management plans in the State of Mississippi are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law; and

16 USC 1604.

16 USC
1600 note.

Prohibition.

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of National Forest System lands in the State of Mississippi for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

16 USC 1604.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

(d) The provisions of this section shall also apply to—

(1) those National Forest System roadless lands which were evaluated in the Delta unit plan dated February 1976; and

(2) National Forest System roadless lands in the State of Mississippi which are less than five thousand acres in size.

Approved October 19, 1984.

LEGISLATIVE HISTORY—S. 2808:

SENATE REPORT No. 98-613 (Comm. on Agriculture, Nutrition, and Forestry).
CONGRESSIONAL RECORD, Vol. 130 (1984):

Oct. 2, considered and passed Senate.

Oct. 4, considered and passed House.

Public Law 98-516
98th Congress

Joint Resolution

To grant posthumously full rights of citizenship to William Penn and to Hannah Callowhill Penn.

Oct. 19, 1984

[S.J. Res. 80]

Whereas William Penn, as a British citizen, founded the Commonwealth of Pennsylvania in order to carry out an experiment based upon faith in divine guidance, representative government, public education without regard to race, creed, sex or ability to pay, and respect for the civil liberties of all persons;

Whereas William Penn, as a farsighted reformer, established a judicial system including public trials, trial by a jury of peers, limitations on the imposition of capital punishment, and the substitution of workhouses for prisons;

Whereas William Penn worked to protect rights concerning personal conscience and freedom of religion consistent with the principles of the first amendment of the Constitution;

Whereas William Penn was conscientiously opposed to war as a means of settling international disputes and worked toward the elimination of war by proposing the establishment of a Parliament of Nations, not unlike the present-day United Nations; and

Whereas Hannah Callowhill Penn, wife of William Penn, for six years effectively administered the Province of Pennsylvania and like her husband devoted her life to the pursuit of peace and justice: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby authorized and requested to declare by proclamation that William Penn, founder of the Commonwealth of Pennsylvania, and his wife, Hannah Callowhill Penn, are honorary citizens of the United States of America.

Approved October 19, 1984.

LEGISLATIVE HISTORY—S.J. Res. 80:

CONGRESSIONAL RECORD:

Vol. 129 (1983): Nov. 18, considered and passed Senate.

Vol. 130 (1984): Oct. 4, considered and passed House.

Public Law 98-517
98th Congress

Joint Resolution

Oct. 19, 1984
[S.J. Res. 259]

To designate the week of November 12, 1984, through November 18, 1984, as
"National Reye's Syndrome Week".

Whereas Reye's Syndrome is a disease of unknown cause that usually attacks healthy children under nineteen years of age and kills or cripples more than half of the victims within several days; Whereas Reye's Syndrome is one of the top ten killers among all diseases of children;

Whereas Reye's Syndrome was a misdiagnosed illness of children until recognized as a specific illness in 1963;

Whereas the reporting of cases of Reye's Syndrome is required in only one-half of the States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the other territories and possessions of the United States;

Whereas national Reye's Syndrome volunteer organizations are established throughout the United States and are supported by thousands of parents;

Whereas such volunteer organizations exist to encourage involvement of the Federal Government in supporting Reye's Syndrome research, to encourage coordination of the treatment and research efforts by the various Reye's Syndrome treatment and research centers, to establish Reye's Syndrome as a reportable disease in every State, to establish a position for the review of data on Reye's Syndrome patients at the Center for Disease Control, to sponsor a multicenter research study by recognized authorities on Reye's Syndrome, to sponsor programs to educate parents and medical professionals with respect to diagnosis and treatment of the illness, and to raise funds for research into cause, prevention, and treatment of Reye's Syndrome;

Whereas the public and the Federal Government are not sufficiently aware of the continuous increase in the incidence of Reye's Syndrome; and

Whereas the Governors of several States have declared Reye's Syndrome weeks: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of November 12, 1984, through November 18, 1984, is designated “National Reye’s Syndrome Week” and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate ceremonies and activities.

Approved October 19, 1984.

LEGISLATIVE HISTORY—S.J. Res. 259:

CONGRESSIONAL RECORD, Vol. 130 (1984):

Mar. 26, considered and passed Senate.

Oct. 5, considered and passed House.

Public Law 98-518
98th Congress

Joint Resolution

Oct. 19, 1984

[S.J. Res. 299]

To designate November 1984, as National Diabetes Month.

Whereas diabetes kills more than all other diseases except cancer and cardiovascular diseases;

Whereas eleven million Americans suffer from diabetes and five million seven hundred thousand of such Americans are not aware of their illness;

Whereas \$10,100,000,000 annually are used for health care costs, disability payments, and premature mortality costs due to diabetes;

Whereas up to 85 per centum of all cases of noninsulin-dependent diabetes may be controllable through greater public understanding, awareness, and education; and

Whereas diabetes is a leading cause of blindness, kidney disease, heart disease, stroke, birth defects, and lower life expectancy, which complications may be reduced through greater patient and public understanding, awareness, and education: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of November 1984, is designated as "National Diabetes Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that month with appropriate programs, ceremonies, and activities.

Approved October 19, 1984.

LEGISLATIVE HISTORY—S.J. Res. 299:

CONGRESSIONAL RECORD, Vol. 130 (1984):

Aug. 10, considered and passed Senate.

Oct. 2, considered and passed House.

Public Law 98-519
98th Congress

Joint Resolution

Authorizing and requesting the President to designate January 1985 as “National Cerebral Palsy Month”.

Oct. 19, 1984
[S.J. Res. 309]

Whereas cerebral palsy affects more than seven hundred thousand individuals in the United States;

Whereas between five thousand and seven thousand children will be born this year with cerebral palsy;

Whereas the Department of Health and Human Services estimates the annual cost of care for individuals with cerebral palsy exceeds \$3,750,000,000; and

Whereas increased national awareness of the effects of cerebral palsy may add new impetus to efforts to expand research activities and educational and employment opportunities for individuals affected by cerebral palsy: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating the month of January 1985 as “National Cerebral Palsy Month”, and calling upon all government agencies and people of the United States to observe such month with appropriate programs, ceremonies, and activities.

Approved October 19, 1984.

LEGISLATIVE HISTORY—S.J. Res. 309:

CONGRESSIONAL RECORD, Vol. 130 (1984):

Aug. 10, considered and passed Senate.

Oct. 2, considered and passed House.

Public Law 98-520
98th Congress

An Act

Oct. 19, 1984
[H.R. 2372]

To recognize the organization known as the Navy Wives Clubs of America.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

CHARTER

Corporation
36 USC 2801.

SECTION 1. Navy Wives Clubs of America, organized and incorporated under the laws of the State of California, is hereby recognized as such and is granted a charter.

POWERS

36 USC 2802.

SEC. 2. Navy Wives Clubs of America (hereinafter referred to as the "corporation") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State or States which it is incorporated and subject to the laws of such State or States.

OBJECTS AND PURPOSES OF CORPORATION

36 USC 2803.

SEC. 3. The objects and purposes for which the corporation is organized shall be those provided in its articles of incorporation and also shall be—

- (1) to support the Constitution of the United States;
- (2) to promote a friendly relationship between the wives of enlisted men who are serving in the active United States Navy, United States Marine Corps, or the United States Coast Guard or who are serving in the Active Reserves thereof; and
- (3) to perform such charitable activities as provided by the constitution or bylaws of the corporation.

SERVICE OF PROCESS

36 USC 2804.

SEC. 4. With respect to service of process, the corporation shall comply with the laws of the States in which it is incorporated and those States in which it carries on its activities in furtherance of its corporate purposes.

MEMBERSHIP

36 USC 2805.

SEC. 5. Eligibility for membership in the corporation and the rights and privileges of members shall be as provided in the bylaws of the corporation.

BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES

36 USC 2806

SEC. 6. The board of directors of the corporation and the responsibilities thereof shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State or States in which it is incorporated.

OFFICERS OF CORPORATION

SEC. 7. The officers of the corporation, and the election of such officers shall be as is provided in the articles of incorporation of the corporation and in conformity with the laws of the State or States wherein it is incorporated. 36 USC 2807.

RESTRICTIONS

SEC. 8. (a) No part of the income or assets of the corporation shall inure to any member, officer, or director of the corporation or be distributed to any such person during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual necessary expenses in amounts approved by the board of directors. 36 USC 2808.

(b) The corporation shall not make any loan to any officer, director, or employee of the corporation.

(c) The corporation and any officer and director of the corporation, acting as such officer or director, shall not contribute to, support or otherwise participate in any political activity or in any manner attempt to influence legislation.

(d) The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

(e) The corporation shall not claim congressional approval or Federal Government authority for any of its activities.

(f) The corporation shall retain and maintain its status as a corporation organized and incorporated under the laws of the State or States wherein it is incorporated.

LIABILITY

SEC. 9. The corporation shall be liable for the acts of its officers and agents when acting within the scope of their authority. 36 USC 2809.

BOOKS AND RECORDS; INSPECTION

SEC. 10. The corporation shall keep correct and complete books and records of account and shall keep minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors. The corporation shall keep at its principal office a record of the names and addresses of all members having the right to vote. All books and records of such corporation may be inspected by any member having the right to vote, or by any agent or attorney of such member, for any proper purpose, at any reasonable time. Nothing in this section shall be construed to contravene any applicable State law. 36 USC 2810.

AUDIT OF FINANCIAL TRANSACTIONS

SEC. 11. The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end thereof the following:

"(67) Navy Wives Clubs of America."

ANNUAL REPORT

36 USC 2811. SEC. 12. The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as is the report of the audit required by section 11 of this Act. The report shall not be printed as a public document.

RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER

Congress.
36 USC 2812. SEC. 13. The right to alter, amend, or repeal this Act is expressly reserved to the Congress.

DEFINITION OF "STATE"

36 USC 2813. SEC. 14. For purposes of this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

TAX-EXEMPT STATUS

36 USC 2814. SEC. 15. The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1954. If the corporation fails to maintain such status, the charter granted hereby shall expire.

TERMINATION

36 USC 2815. SEC. 16. If the corporation shall fail to comply with any of the restrictions or provisions of this Act the charter granted hereby shall expire.

Approved October 19, 1984.

LEGISLATIVE HISTORY—H.R. 2372:

CONGRESSIONAL RECORD, Vol. 130 (1984):
Oct. 4, considered and passed House.
Oct. 5, considered and passed Senate.

Public Law 98-521
98th Congress

An Act

To designate the United States Post Office and Courthouse located at 245 East Capital Street in Jackson, Mississippi, as the "James O. Eastland United States Courthouse".

Oct. 19, 1984

[H.R. 3401]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Post Office and Courthouse located at 245 East Capital Street in Jackson, Mississippi, shall hereafter be known and designated as the "James O. Eastland United States Courthouse". Any reference in any law, map, regulation, document, record, or other paper of the United States to such building shall be deemed to be a reference to the "James O. Eastland United States Courthouse".

Public buildings
and grounds.

Approved October 19, 1984.

LEGISLATIVE HISTORY—H.R. 3401:

HOUSE REPORT No. 98-807 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 130 (1984):

June 18, considered and passed House.

Oct. 5, considered and passed Senate.

Public Law 98-522
98th Congress

An Act

Oct. 19, 1984

[H.R. 3402]

To designate that hereafter the Federal building at 100 West Capital Street in Jackson, Mississippi, will be known as the Doctor A. H. McCoy Federal Building

Public buildings
and grounds.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal building at 100 West Capital Street in Jackson, Mississippi, shall hereafter be known and designated as the "Doctor A. H. McCoy Federal Building". Any reference in any law, map, regulation, document, record, or any other paper of the United States to such building shall be deemed to be a reference to the "Doctor A. H. McCoy Federal Building".

Approved October 19, 1984.

LEGISLATIVE HISTORY—H.R. 3402:HOUSE REPORT No. 98-808 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 130 (1984):

June 18, considered and passed House.

Oct. 5, considered and passed Senate.

Public Law 98-523
98th Congress

An Act

To authorize the Administrator of General Services to transfer to the Smithsonian Institution without reimbursement the General Post Office Building and the site thereof located in the District of Columbia, and for other purposes.

Oct. 19, 1984
[H.R. 4025]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That at such time as it is declared to be excess property pursuant to section 2(d) of this Act, the Administrator of General Services (hereinafter in this Act referred to as the "Administrator") is authorized to transfer to the Smithsonian Institution, in accordance with section 202 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483), without reimbursement, and for use by the Smithsonian Institution for certain art galleries and related functions, the General Post Office Building with any attached underground structures and the site of such building, located between Seventh and Eighth Streets Northwest and E and F Streets Northwest, in the District of Columbia.

Public buildings
and grounds.
Real property.
20 USC 71 note

SEC. 2. (a) The Administrator, at the earliest practicable date, shall relocate all operations of the United States International Trade Commission (hereinafter in this Act referred to as the "Commission") to a building in downtown Washington, District of Columbia. The Administrator's determination as to such relocation shall be based on studies and investigations in which the Chairman of the Commission shall have full opportunity to consult and cooperate with the Administrator. Such consultation shall include opportunity for the Chairman to participate jointly with the Administrator in surveys of available buildings and to submit views and recommendations to the Administrator with respect to space suitable for the Commission's operations. The Administrator shall advise the Chairman in writing of the building to which the operations of the Commission are to be relocated. The Administrator's determination of such relocation shall not take effect for a period of at least sixty days after the date such determination is made and the Chairman is advised of the building to which the operations of the Commission are to be relocated. In the event the Chairman disagrees with the Administrator's determination of such relocation, the Chairman, within thirty days after the Chairman is advised of the building to which the operations of the Commission are to be relocated, may make a written request for review of such determination to the Administrator, and the Administrator shall conduct a formal review of such determination.

20 USC 71 note.

Study.

Effective date.

Study.

(b) The Administrator and the Chairman shall each report separately in writing to the Committees on Environment and Public Works, Finance, Rules and Administration, and Governmental Affairs of the Senate and to the Committees on Public Works and Transportation, Ways and Means, House Administration, and Government Operations of the House of Representatives not later than sixty days after the date of enactment of this Act and every thirty

Report.

days thereafter on the status of the relocation required by this section.

Safety.
Historic
preservation.

(c) During the period in which the Commission and the United States Postal Service continue to occupy the General Post Office Building referred to in the first section of this Act, the Administrator shall maintain such building in order to prevent its deterioration and to assure that conditions therein are safe and the building is presentable and suitable to the normal operations of the Commission and such Service.

(d) Upon accomplishment of the relocation required by subsection (a) of this section, the Administrator shall declare the property referred to in the first section of this Act to be excess property as defined in section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472).

Appropriation
authorization.
20 USC 71 note.
Contracts with
U.S.

SEC. 3. There is authorized to be appropriated to the Board of Regents of the Smithsonian Institution \$40,000,000 for fiscal years beginning after September 30, 1984, for renovation and repair, after the transfer made under the first section of this Act, of the General Post Office Building referred to in such section. Any portion of the sums appropriated under this section may be transferred to the General Services Administration which, in consultation with the Smithsonian Institution, is authorized to enter into contracts and take such other action, to the extent of the sums so transferred to it, as may be necessary to carry out such renovation and repair. No contract for such renovation or repair shall be advertised or entered into before the end of the period of thirty days of continuous session of Congress beginning on the date the Smithsonian Institution submits to the Committees on Public Works and Transportation and House Administration of the House of Representatives and the Committees on Environment and Public Works and Rules and Administration of the Senate the plans and advanced engineering and design for such renovation and repair. For purposes of this section, continuity of session is broken only by an adjournment of Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.

Approved October 19, 1984.

LEGISLATIVE HISTORY—H.R. 4025:

HOUSE REPORT No. 98-778, Pt. 1 (Comm. on Public Works and Transportation).
SENATE REPORT No. 98-651 (Comm. on Environment and Public Works and Comm. on Rules and Administration).
CONGRESSIONAL RECORD, Vol. 130 (1984):
Sept. 18, considered and passed House.
Oct. 5, considered and passed Senate.

Public Law 98-524
98th Congress

An Act

To amend the Vocational Education Act of 1963 to strengthen and expand the economic base of the Nation, develop human resources, reduce structural unemployment, increase productivity, and strengthen the Nation's defense capabilities by assisting the States to expand, improve, and update high-quality programs of vocational-technical education, and for other purposes.

Oct. 19, 1984
[H.R. 4164]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of December 18, 1963 (Public Law 88-210) is amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Carl D. Perkins
Vocational
Education Act.
20 USC 2301
note.

“SHORT TITLE; TABLE OF CONTENTS

“SECTION 1. This Act may be cited as the ‘Carl D. Perkins Vocational Education Act’.

“TABLE OF CONTENTS

- “Sec. 1. Short title.
- “Sec. 2. Statement of purpose.
- “Sec. 3. Authorization of appropriations.

“TITLE I—VOCATIONAL EDUCATION ASSISTANCE TO THE STATES

“PART A—ALLOTMENT AND ALLOCATION

- “Sec. 101. Allotment.
- “Sec. 102. Within State allocation.
- “Sec. 103. Indian and Hawaiian native programs.

“PART B—STATE ORGANIZATIONAL AND PLANNING RESPONSIBILITIES

- “Sec. 111. State administration.
- “Sec. 112. State council on vocational education.
- “Sec. 113. State plans.
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“TITLE II—BASIC STATE GRANTS FOR VOCATIONAL EDUCATION

“PART A—VOCATIONAL EDUCATION OPPORTUNITIES

- “Sec. 201. Uses of funds.
- “Sec. 202. Distribution of assistance.
- “Sec. 203. Within State allocation.
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“PART B—VOCATIONAL EDUCATION PROGRAM IMPROVEMENT, INNOVATION, AND
EXPANSION

- “Sec. 251. Uses of funds.
- “Sec. 252. Criteria for program improvement, innovation, and expansion.

“TITLE III—SPECIAL PROGRAMS

“PART A—STATE ASSISTANCE FOR VOCATIONAL EDUCATION SUPPORT PROGRAMS BY
COMMUNITY-BASED ORGANIZATIONS

- “Sec. 301. Applications.
- “Sec. 302. Uses of funds.

"PART B—CONSUMER AND HOMEMAKER EDUCATION

- "Sec. 311. Consumer and homemaker education grants.
- "Sec. 312. Use of funds from consumer and homemaker education grants.
- "Sec. 313. Information dissemination and leadership.

"PART C—ADULT TRAINING, RETRAINING, AND EMPLOYMENT DEVELOPMENT

- "Sec. 321. Findings and purpose.
- "Sec. 322. Authorization of grants and uses of funds.
- "Sec. 323. Coordination with the Job Training Partnership Act.

"PART D—COMPREHENSIVE CAREER GUIDANCE AND COUNSELING PROGRAMS

- "Sec. 331. Grants for career guidance and counseling.
- "Sec. 332. Use of funds from career guidance and counseling grants.
- "Sec. 333. Information dissemination and leadership.

"PART E—INDUSTRY-EDUCATION PARTNERSHIP FOR TRAINING IN HIGH-TECHNOLOGY OCCUPATIONS

- "Sec. 341. Findings and purpose.
- "Sec. 342. Authorization of grants.
- "Sec. 343. Use of funds.

"TITLE IV—NATIONAL PROGRAMS**"PART A—RESEARCH**

- "Sec. 401. Research objectives.
- "Sec. 402. Research activities.
- "Sec. 403. National assessment of vocational education programs assisted under this Act.
- "Sec. 404. National Center for Research in Vocational Education.

"PART B—DEMONSTRATION PROGRAMS**"Subpart 1—Cooperative Demonstration Programs**

- "Sec. 411. Program authorized.

"Subpart 2—State Equipment Pools

- "Sec. 413. Program authorized.

"Subpart 3—Demonstration Centers for the Retraining of Dislocated Workers

- "Sec. 415. Program authorized.

"Subpart 4—Model Centers for Vocational Education for Older Individuals

- "Sec. 417. Program authorized.

"PART C—VOCATIONAL EDUCATION AND OCCUPATIONAL INFORMATION DATA SYSTEMS

- "Sec. 421. Data systems authorized.
- "Sec. 422. Occupational information system.
- "Sec. 423. Information base for vocational education data system.

"PART D—NATIONAL COUNCIL ON VOCATIONAL EDUCATION

- "Sec. 431. Council established.

"PART E—BILINGUAL VOCATIONAL TRAINING

- "Sec. 441. Program authorized.

"PART F—GENERAL PROVISIONS

- "Sec. 451. Distribution of assistance.

"TITLE V—GENERAL PROVISIONS**"PART A—FEDERAL ADMINISTRATIVE PROVISIONS**

- "Sec. 501. Payments.
- "Sec. 502. Federal share.
- "Sec. 503. Maintenance of effort.
- "Sec. 504. Withholding; judicial review.
- "Sec. 505. Audits.
- "Sec. 506. Authority to make payments.

"PART B—DEFINITIONS

"Sec. 521. Definitions.

"STATEMENT OF PURPOSE

"SEC. 2. It is the purpose of this Act to—

20 USC 2301.

"(1) assist the States to expand, improve, modernize, and develop quality vocational education programs in order to meet the needs of the Nation's existing and future work force for marketable skills and to improve productivity and promote economic growth;

"(2) assure that individuals who are inadequately served under vocational education programs are assured access to quality vocational education programs, especially individuals who are disadvantaged, who are handicapped, men and women who are entering nontraditional occupations, adults who are in need of training and retraining, individuals who are single parents or homemakers, individuals with limited English proficiency, and individuals who are incarcerated in correctional institutions;

"(3) promote greater cooperation between public agencies and the private sector in preparing individuals for employment, in promoting the quality of vocational education in the States, and in making the vocational system more responsive to the labor market in the States;

"(4) improve the academic foundations of vocational students and to aid in the application of newer technologies (including the use of computers) in terms of employment or occupational goals;

"(5) provide vocational education services to train, retrain, and upgrade employed and unemployed workers in new skills for which there is a demand in that State or employment market;

"(6) assist the most economically depressed areas of a State to raise employment and occupational competencies of its citizens;

"(7) to assist the State to utilize a full range of supportive services, special programs, and guidance counseling and placement to achieve the basic purposes of this Act;

"(8) improve the effectiveness of consumer and homemaking education and to reduce the limiting effects of sex-role stereotyping on occupations, job skills, levels of competency, and careers; and

"(9) authorize national programs designed to meet designated vocational education needs and to strengthen the vocational education research process.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 3. (a) There are authorized to be appropriated \$835,300,000 for the fiscal year 1985 and such sums as may be necessary for each of the fiscal years 1986 through 1989 to carry out the provisions of titles I (other than section 112), II, and IV (other than part E) of this Act.

20 USC 2302.

"(b)(1) There are authorized to be appropriated \$15,000,000 for the fiscal year 1985 and such sums as may be necessary for each of the fiscal years 1986 through 1989 to carry out part A of title III,

Post, pp. 2438,
2443, 2450, 2447.

Post, p. 2457.

relating to State assistance for vocational education support programs by community-based organizations.

Post, p. 2458. “(2) There are authorized to be appropriated \$32,000,000 for the fiscal year 1985 and such sums as may be necessary for each of the fiscal years 1986 through 1989 to carry out part B of title III relating to consumer and homemaking education.

Post, p. 2459. “(3)(A) There are authorized to be appropriated \$35,000,000 for the fiscal year 1985 and such sums as may be necessary for each of the fiscal years 1986 through 1989 to carry out part C of title III, relating to adult training, retraining, and employment development.

Post, p. 2450. “(B) Of the amount appropriated in each fiscal year pursuant to subparagraph (A) 50 percent shall be available in each fiscal year for the purpose described in section 201(b)(4), except that the amount made available by this subparagraph for fiscal years 1986 through 1989 shall not exceed \$30,000,000 in any fiscal year.

Post, p. 2462. “(4) There are authorized to be appropriated \$1,000,000 for the fiscal year 1985 and such sums as may be necessary for each of the fiscal years 1986 through 1989 to carry out part D of title III, relating to career guidance and counseling.

Post, p. 2463. “(5) There are authorized to be appropriated \$20,000,000 for the fiscal year 1985 and such sums as may be necessary for fiscal years 1986 through 1989 to carry out part E of title III, relating to industry-education partnerships for training in high-technology occupations.

Post, p. 2443. “(c) There are authorized to be appropriated \$8,000,000 for the fiscal year 1985 and such sums as may be necessary for each of the fiscal years 1986 through 1989 for section 112 of title I, relating to State councils on vocational education.

Post, p. 2477. “(d) There are authorized to be appropriated \$3,700,000 for the fiscal year 1985 and such sums as may be necessary for the fiscal years 1986 through 1989 to carry out part E of title IV, relating to bilingual vocational training programs.

Post, pp. 2466, 2477. “(e) From the funds appropriated pursuant to subsection (a) for each fiscal year, 2 percent shall be available to carry out the provisions of title IV (other than part E), relating to national programs.

“TITLE I—VOCATIONAL EDUCATION ASSISTANCE TO THE STATES

“PART A—ALLOTMENT AND ALLOCATION

“ALLOTMENT

20 USC 2311.

Ante, p. 2437.

Post, p. 2466.

Post, p. 2477.

Post, p. 2440.

“SEC. 101. (a)(1) From the sums appropriated pursuant to section 3(a), the Secretary shall reserve—

“(A) 2 percent for the activities described in title IV (other than part E); and

“(B) 1½ percent for the purpose of carrying out section 103 of which (i) 1¼ percent shall be for the purposes of section 103(b) and (ii) ¼ percent shall be for the purposes of section 103(c).

Ante, p. 2437.

“(2) Subject to the provisions of paragraph (3), from the remainder of the sums appropriated pursuant to sections 3(a) and 3(b), the Secretary shall allot to each State for each fiscal year—

“(A) an amount which bears the same ratio to 50 percent of the sums being allotted as the product of the population aged fifteen to nineteen inclusive, in the State in the fiscal year

preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States;

"(B) an amount which bears the same ratio to 20 percent of the sums being allotted as the product of the population aged twenty to twenty-four, inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States;

"(C) an amount which bears the same ratio to 15 percent of the sums being allotted as the product of the population aged twenty-five to sixty-five, inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States; and

"(D) an amount which bears the same ratio to 15 percent of the sums being allotted as the amounts allotted to the State under clauses (A), (B), and (C) for such years bears to the sum of the amounts allotted to all the States under clauses (A), (B), and (C) for such year.

"(3)(A) No State shall receive in any fiscal year less than the total amount of payments made to the State under allotments determined under the Vocational Education Act of 1963 for fiscal year 1984. Any amounts necessary for increasing the sum of the allotments of certain States to comply with the preceding sentence shall be obtained by ratably reducing the sums of the allotments of the other States, but no such sum shall be thereby reduced to an amount which is less than the total amount of payments made to the State under allotments determined under that Act for fiscal year 1984.

20 USC 2301
note.

"(B) In any fiscal year in which the amounts appropriated and available for allotments under this section exceeds the amounts so available for fiscal year 1984, and subject to the application of subparagraph (A), no State shall receive less than one-half of one percent of the amount available under this subsection for each such fiscal year except that in the case of the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands the minimum allotment shall be \$200,000.

"(C) No State shall, by reason of the application of the provisions of subparagraph (B) of this paragraph, be allotted more than 150 percent of the allotment of that State in the fiscal year preceding the fiscal year for which the determination is made.

"(D) For the purpose of this paragraph, the term 'State' does not include the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

"(b) If the Secretary determines that any amount of any State's allotment under subsection (a) for any fiscal year will not be required for such fiscal year for carrying out the program for which such amount has been allotted, the Secretary shall make such amount available for reallocation. Any such reallocation among other States shall occur on such dates during the same year as the Secretary shall fix, and shall be made on the basis of criteria established by regulation. No funds may be reallocated for any use other than the use for which they were appropriated. Any amount reallocated to a State under this subsection for any fiscal year shall remain available for obligation during the succeeding fiscal year

Regulation.

Prohibition.

and shall be deemed to be part of its allotment for the year in which it is obligated.

“(c)(1) The allotment ratio for any State shall be 1.00 less the product of—

“(A) 0.50; and

“(B) the quotient obtained by dividing the per capita income for the State by the per capita income for all the States (exclusive of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands), except that (i) the allotment ratio in no case shall be more than 0.60 or less than 0.40 and (ii) the allotment ratio for Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands shall be 0.60.

“(2) The allotment ratios shall be promulgated by the Secretary for each fiscal year between October 1 and December 31 of the fiscal year preceding the fiscal year for which the determination is made. Allotment ratios shall be computed on the basis of the average of the appropriate per capita incomes for the three most recent consecutive fiscal years for which satisfactory data are available.

“(3) The term ‘per capita income’ means, with respect to a fiscal year, the total personal income in the calendar year ending in such year, divided by the population of the area concerned in such year.

“(4) For the purposes of this section, population shall be determined by the Secretary on the basis of the latest estimates available to the Department.

“WITHIN STATE ALLOCATION

20 USC 2312.

“SEC. 102. (a) Each State shall allocate from its allotment in each fiscal year—

Post, p. 2450.

“(1) 57 percent for activities described in part A of title II, and

Post, p. 2455.

“(2) 43 percent for activities described in part B of title II.

Post, p. 2445.

“(b) Each State, from the portion of its allotment available for statewide activities under section 113(b), shall allocate not to exceed 7 percent of the allotment of the State for administrative expenses or if the cost of carrying out the provision of section 111(b)(1) exceeds 1 percent of the allotment, the limitation under this subsection shall be 7 percent plus the excess costs.

Post, p. 2441.

“INDIAN AND HAWAIIAN NATIVES PROGRAMS

20 USC 2313.

“SEC. 103. (a)(1) For the purpose of this section—

“(A) the term ‘Act of April 16, 1934’ means the Act entitled ‘An Act authorizing the Secretary of the Interior to arrange with States or territories for the education, medical attention, relief of distress, and social welfare of Indians, and for other purposes’, enacted April 16, 1934 (48 Stat. 596; 25 U.S.C. 452-457); and

“(B) the term ‘Hawaiian native’ means any individual any of whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii.

Contracts with
U.S.
Ante, p. 2438.

“(2) From the funds reserved pursuant to section 101(a)(1)(B), the Secretary shall enter into contracts for Indian and Hawaiian native programs in accordance with the provisions of this section.

“(b)(1) From the funds reserved pursuant to section 101(a)(1)(B)(i), the Secretary is directed, upon the request of any Indian tribe which

is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination Act or under the Act of April 16, 1934, to enter into grants or contracts with any tribal organization of any such Indian tribe to plan, conduct, and administer programs, or portions thereof, which are authorized by and consistent with the purposes of this Act, except that such grants or contracts shall be subject to the terms and conditions of section 102 of the Indian Self-Determination Act and shall be conducted in accordance with the provisions of sections 4, 5, and 6 of the Act of April 16, 1934, which are relevant to the programs administered under this sentence. From any remaining funds reserved pursuant to section 101(a)(1)(B) and available for this subsection, the Secretary is authorized to enter into an agreement with the Assistant Secretary of the Interior for Indian Affairs for the operation of vocational education programs authorized by this Act in institutions serving Indians eligible to receive educational benefits as Indians from the Bureau of Indian Affairs, and the Secretary of the Interior is authorized to receive the funds for the purposes described in this paragraph.

25 USC 450 note.
25 USC 452-457.

25 USC 450f.

25 USC 455-457.

Ante, p. 2438.

“(2) The Bureau of Indian Affairs shall expend an amount equal to the amount made available under this subsection, relating to programs for Indians, to pay a part of the costs of programs funded under this subsection. During each fiscal year the Bureau of Indian Affairs shall expend no less than the amount expended during the prior fiscal year on vocational education programs, services, and activities administered either directly by, or under contract with, the Bureau of Indian Affairs. The Secretary and the Assistant Secretary of the Interior for Indian Affairs shall jointly prepare a plan for the expenditure of funds made available and for the evaluation of programs assisted under this subsection. Upon the completion of a joint plan for the expenditure of these funds and the evaluation of the programs, the Secretary shall assume responsibility for the administration of the program, with the assistance and consultation of the Bureau of Indian Affairs.

“(3) Programs funded under this subsection shall be in addition to such other programs, services, and activities as are made available to eligible Indians under other provisions of this Act.

Ante, p. 2435.

“(4) For the purposes of this Act, the Bureau of Indian Affairs shall be deemed to be a State board; and all the provisions of this Act shall be applicable to the Bureau as if it were a State board.

“(c) From the funds reserved pursuant to section 101(a)(1)(B)(ii), the Secretary is directed, to enter into contracts with organizations primarily serving and representing Hawaiian natives which are recognized by the Governor of the State of Hawaii to plan, conduct, and administer programs, or portions thereof, which are authorized by and consistent with the provisions of this section for the benefit of Hawaiian natives.

Ante, p. 2438.

“PART B—STATE ORGANIZATIONAL AND PLANNING RESPONSIBILITIES

“STATE ADMINISTRATION

“SEC. 111. (a)(1) Any State desiring to participate in the vocational education program authorized by this Act shall, consistent with State law, designate or establish a State board of vocational education which shall be the sole State agency responsible for the admin-

20 USC 2321.

istration or the supervision of the State vocational education program. The responsibilities of the State board shall include—

Ante, p. 2435.
Post, p. 2445.

“(A) coordination of the development, submission, and implementation of the State plan, and the evaluation of the program, services, and activities assisted under this Act pursuant to section 113(b)(9); and

Post, p. 2449.

“(B) the development, in consultation with the State council on vocational education, and the submission to the Secretary, of the State plan required by section 113 and by section 114;

Post, p. 2443.

“(C) consultation with the State council established pursuant to section 112, and other appropriate agencies, groups, and individuals involved in the planning, administration, evaluation, and coordination of programs funded under this Act;

“(D) convening and meeting as a State board (consistent with State law and procedure for the conduct of such meetings) at such time as the State board determines necessary to carry out its functions under this Act, but not less than four times annually; and

“(E) the adoption of such procedures as the State board considers necessary to implement State level coordination with the State job training coordinating council to encourage cooperation in the conduct of their respective programs.

Except with respect to the functions set forth in the preceding sentence, the State board may delegate any of its other responsibilities involving administration, operation, or supervision, in whole or in part, to one or more appropriate State agencies.

“(2) Each State shall include a description of any delegation of its functions under paragraph (1) in its State plan, or amendments to such plan, submitted to the Secretary.

Women.

“(b)(1) Any State desiring to participate in the programs authorized by this Act shall assign one individual within the appropriate agency established or designated by the State board under the last sentence of subsection (a)(1) to administer vocational education programs within the State, to work full time to assist the State board to fulfill the purposes of this Act by—

Post, p. 2450.

“(A) administering the program of vocational education for single parents and homemakers described in section 201(f) and the sex equity program described in section 201(g);

“(B) gathering, analyzing, and disseminating data on the adequacy and effectiveness of vocational education programs in the State in meeting the education and employment needs of women (including preparation for employment in technical occupations, new and emerging occupational fields, and occupations regarded as nontraditional for women), and on the status of men and women students and employees in such programs;

“(C) reviewing vocational education programs (including career guidance and counseling) for sex stereotyping and sex bias, with particular attention to practices which tend to inhibit the entry of women in high technology occupations, and submitting (i) recommendations for inclusion in the State plan of programs and policies to overcome sex bias and sex stereotyping in such programs, and (ii) an assessment of the State's progress in meeting the purposes of this Act with regard to overcoming sex discrimination and sex stereotyping;

“(D) reviewing proposed actions on grants, contracts, and the policies of the State board to ensure that the needs of women are addressed in the administration of this Act;

“(E) developing recommendations for programs of information and outreach to women concerning vocational education and employment opportunities for women (including opportunities for careers as technicians and skilled workers in technical fields and new and emerging occupational fields);

“(F) providing technical assistance and advice to local educational agencies, postsecondary institutions, and other interested parties in the State, in expanding vocational opportunities for women; and

“(G) assisting administrators, instructors, and counselors in implementing programs and activities to increase access for women (including displaced homemakers and single heads of households) to vocational education and to increase male and female students’ enrollment in nontraditional programs.

“(2) For the purpose of this subsection, the term ‘State’ means any one of the fifty States and the District of Columbia.

“(3) Each State shall expend not less than \$60,000 in each fiscal year to carry out the provisions of this subsection.

“(c) The State board shall make available to each private industry council established under section 102 of the Job Training Partnership Act within the State a listing of all programs assisted under this Act.

29 USC 1512.
Ante, p. 2435.

“(d) Each State board, in consultation with the State council, shall establish a limited number of technical committees to advise the council and the board on the development of model curricula to address State labor market needs. Technical committees shall develop an inventory of skills that may be used by the State board to define state-of-the-art model curricula. Such inventory will provide the type and level of knowledge and skills needed for entry, retention, and advancement in occupational areas taught in the State. The State board shall establish procedures for membership, operation, and duration of such committees consistent with the purposes of this Act. The membership shall be representatives of (1) employers from any relevant industry or occupation for which the committee is established; (2) trade or professional organizations representing any relevant occupations; and (3) organized labor, where appropriate.

“(e) The imposition of any State rule or policy relating to the administration and operation of programs funded by this Act (including any rule or policy based on State interpretation of any Federal law, regulation, or guideline) shall be identified as a State imposed requirement.

“STATE COUNCIL ON VOCATIONAL EDUCATION

“SEC. 112. (a) Each State which desires to participate in vocational education programs authorized by this Act for any fiscal year shall establish a State council, which shall be appointed by the Governor or, in the case of States in which the members of the State board of education are elected (including election by the State legislature), by such board. Each State council shall be composed of 13 individuals, and shall be broadly representative of citizens and groups within the State having an interest in vocational education. Each State council shall consist of—

Establishment.
20 USC 2322.

“(1) seven individuals who are representative of the private sector in the State who shall constitute a majority of the membership—

“(A) five of whom shall be representative of business, industry, and agriculture including—

“(i) one member who is representative of small business concerns; and

“(ii) one member who is a private sector member of the State job training coordinating council (established pursuant to section 122 of the Job Training Partnership Act), and

29 USC 1532.

“(B) two of whom shall be representatives of labor organizations;

“(2) six individuals who are representative of secondary and postsecondary vocational institutions (equitably distributed among such institutions), career guidance and counseling organizations within the State, individuals who have special knowledge and qualifications with respect to the special educational and career development needs of special populations (including women, the disadvantaged, the handicapped, individuals with limited English proficiency, and minorities) and of whom one member shall be representative of special education.

29 USC 1501
note.

In selecting individuals under subsection (a) to serve on the State council, due consideration shall be given to the appointment of individuals who serve on a private industry council under the Job Training Partnership Act, or on State councils established under other related Federal Acts.

Post, p. 2445.

“(b) The State shall certify the establishment and membership of the State council at least 90 days prior to the beginning of each planning period described in section 113(a)(1).

“(c) Each State council shall meet as soon as practical after certification has been accepted by the Secretary and shall select from among its membership a chairperson who shall be representative of the private sector. The time, place, and manner of meeting, as well as council operating procedures and staffing, shall be as provided by the rules of the State council, except that such rules must provide for not less than one public meeting each year at which the public is given an opportunity to express views concerning the vocational education program of the State.

“(d) Each State council shall—

“(1) meet with the State board or its representatives during the planning year to advise on the development of the State plan;

“(2) advise the State board and make reports to the Governor, the business community, and general public of the State, concerning—

“(A) policies the State should pursue to strengthen vocational education (with particular attention to programs for the handicapped); and

“(B) initiatives and methods the private sector could undertake to assist in the modernization of vocational education programs;

“(3) analyze and report on the distribution of spending for vocational education in the State and on the availability of vocational education activities and services within the State;

“(4) furnish consultation to the State board on the establishment of evaluation criteria for vocational education programs within the State;

“(5) submit recommendations to the State board on the conduct of vocational education programs conducted in the State

which emphasize the use of business concerns and labor organizations;

“(6) assess the distribution of financial assistance furnished under this Act, particularly with the analysis of the distribution of financial assistance between secondary vocational education programs and postsecondary vocational education programs;

Ante, p. 2435.

“(7) recommend procedures to the State board to ensure and enhance the participation of the public in the provision of vocational education at the local level within the State, particularly the participation of local employers and local labor organizations;

“(8) report to the State board on the extent to which the individuals described in section 201(b) are provided with equal access to quality vocational education programs; and

Post, p. 2450.

“(9)(A) evaluate at least once every two years (i) the vocational education program delivery systems assisted under this Act, and under the Job Training Partnership Act, in terms of their adequacy and effectiveness in achieving the purposes of each of the two Acts and (ii) make recommendations to the State board on the adequacy and effectiveness of the coordination that takes place between vocational education and the Job Training Partnership Act and (B) advise the Governor, the State board, the State job training coordinating council, the Secretary, and the Secretary of Labor of these findings and recommendations.

29 USC 1501 note.

“(e) Each State council is authorized to obtain the services of such professional, technical, and clerical, personnel as may be necessary to enable it to carry out its functions under this Act and to contract for such services as may be necessary to enable the Council to carry out its evaluation functions, independent of programmatic and administrative control by other State boards, agencies, and individuals.

Contracts with U.S.

“(f)(1)(A) From the amounts appropriated pursuant to section 3(c) the Secretary shall make grants to State councils from amounts allotted to State councils in accordance with the method for allotment contained in section 101(a)(2), without regard to paragraph (3), except that no State council shall be allotted less than \$120,000 nor more than \$225,000 for each fiscal year.

Grants.
Ante, p. 2437.

Ante, p. 2438.

“(B) For the purpose of subparagraph (A), the term ‘State’ shall not include the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

“(2) The expenditure of the funds paid pursuant to this subsection is to be determined solely by the State council for carrying out its functions under this Act, and may not be diverted or reprogramed for any other purpose by any State board, agency, or individual. Each State council shall designate an appropriate State agency or other public agency, eligible to receive funds under this Act, to act as its fiscal agent for purposes of disbursement, accounting, and auditing.

“STATE PLANS

“SEC. 113. (a)(1)(A) Any State desiring to receive funds from its allotment for any fiscal year shall submit to the Secretary a State plan for a three-year period in the case of the initial plan and a 2-year period thereafter, together with such annual revisions as the State board determines to be necessary.

20 USC 2323.

29 USC 1514. “(B) The planning periods required by paragraph (1) of this subsection shall be coterminous with the planning program periods required under section 104(a) of the Job Training Partnership Act.

Ante, p. 2443. “(2)(A) In formulating the State plan (and amendments thereto) the State board shall meet with and utilize the State council, established pursuant to section 112 of this Act.

“(B) The State board shall conduct public hearings in the State, after appropriate and sufficient notice, for the purpose of affording all segments of the public and interested organizations and groups an opportunity to present their views and make recommendations regarding the State plan. A summary of such recommendations and the State board’s response shall be included with the State plan.

“(3) In developing the State plan, the State shall—

“(A) assess the current and projected occupational needs and the current and projected demand for general occupational skills within the State;

“(B) examine the needs of students, including adults, in order to determine how best to improve student skill levels in light of the State’s occupational and skill requirements;

Post, p. 2450. “(C) assess the special needs of groups of individuals specified in section 201(b) for access to vocational education and vocational services in terms of labor market needs;

“(D) assess the quality of vocational education in terms of—

“(i) the pertinence of programs to the workplace and to new and emerging technologies,

“(ii) the responsiveness of programs to the current and projected occupational needs in the State,

“(iii) the capacity of programs to facilitate entry into, and participation in, vocational education and to ease the school-to-work and secondary-to-postsecondary transition,

“(iv) the technological and educational quality of vocational curricula, equipment, and instructional materials to enable vocational students and instructors to meet the challenges of increased technological demands of the workplace; and

“(v) the capability of vocational education programs to meet the needs for general occupational skills and improvement of academic foundations in order to address the changing content of jobs;

“(E) determine the capacity of local educational agencies, with respect to secondary education and postsecondary educational institutions, to deliver the vocational education services necessary to meet the needs identified through the assessments required by clauses (A) through (D) of this paragraph; and

Ante, p. 2435. “(F) determine, for each fiscal year, how the services and activities supported by funds furnished under this Act may be expected to assist the State in meeting the needs identified through the assessments required by clauses (A) through (D) of this paragraph.

“(b) Each such plan shall—

“(1) provide assurances that, and where necessary a description of the manner in which, the State board will comply with the requirements of titles I, II, III, and V of this Act, including—

Ante, p. 2438;
post, pp. 2450,
2457, 2479.

“(A) a description of the manner in which the State will comply with the criteria required for programs for the handicapped and for the disadvantaged prescribed by section 204;

Post, p. 2454.

“(B) assurances that the State will comply with the distribution of assistance requirements contained in section 203; and

Post, p. 2453.

“(C) assurances that, to the extent consistent with the number and location of individuals described in clauses (1) and (2) of section 201(b) in the State who are enrolled in private elementary and secondary schools, provision is made for the participation of such individuals in the vocational education program assisted under part A of title II of this Act;

Post, p. 2450.

Post, p. 2450.

“(2) set forth the planned uses of Federal funds available for vocational education for each fiscal year for which the plan is submitted and describe how the State did carry out the provisions of section 113(a)(3);

Ante, p. 2445.

“(3) describe progress the State has made in achieving the goals set forth in each State plan subsequent to the initial State plan;

“(4) provide assurances that the State will distribute at least 80 percent of the funds made available for parts A and B of title II to eligible recipients, or combination of eligible recipients, except that the State will distribute 100 percent of the funds available for clauses (1) and (2) of section 202, relating to the disadvantaged and the handicapped, to eligible recipients in accordance with section 203(a);

Post, pp. 2450, 2455.

Post, p. 2452.

Post, p. 2453.

“(5) set forth the criteria the State board will use in approving applications of eligible recipients and allocating funds made available under this Act to such recipients, which shall ensure that States will allocate more Federal funds to eligible recipients in units of local government which are economically depressed (including both urban and rural units) or which have high unemployment, as determined by the State;

Ante, p. 2435.

“(6) provide such methods of administration as are necessary for the proper and efficient administration of the Act;

“(7) provide assurances that, in the use of funds available for single parents and homemakers under section 201(b)(3), that the State will emphasize assisting individuals with the greatest financial need, and that in serving homemakers the State will give special consideration to homemakers who because of divorce, separation, or the death or disability of a spouse must prepare for paid employment;

Post, p. 2450.

“(8) provide assurances that the State will furnish relevant training and vocational education activities to men and women who desire to enter occupations that are not traditionally associated with their sex;

“(9)(A) provide assurances that the State will develop measures for the effectiveness of programs assisted under this Act in meeting the needs identified in the State plan, including evaluative measurements such as—

“(i) the occupations to be trained for, which will reflect a realistic assessment of the labor market needs of the State;

“(ii) the levels of skills to be achieved in particular occupations, which will reflect the hiring needs of employers; and

“(iii) the basic employment competencies to be used in performance outcomes, which will reflect the hiring needs of employers;

Ante, p. 2435.

29 USC 1501
note.
20 USC 1201
note.
20 USC 2701.
20 USC
3801-3807.
20 USC 1400.
29 USC 701 note.

Post, pp. 2450,
2462.

20 USC 2354.

“(B) the State will, as a component of the measures under subclause (A) of this clause, establish appropriate measures for evaluating the effectiveness of programs for the handicapped assisted under this Act; and

“(C) provide assurances that the State will evaluate not less than 20 percent of the eligible recipients assisted within the State in each fiscal year;

“(10) describe the methods proposed for the joint planning and coordination of programs carried out under this Act with programs conducted under the Job Training Partnership Act, the Adult Education Act, title I of the Elementary and Secondary Education Act of 1965 as modified by chapter 1 of the Education Consolidation and Improvement Act, the Education of the Handicapped Act, and the Rehabilitation Act of 1973, and with apprenticeship training programs;

“(11) that programs of personnel development, and curriculum development shall be funded to further the goals identified in the State plan;

“(12) provide assurances that the vocational education needs of those identifiable segments of the population in the State that have the highest rates of unemployment have been thoroughly assessed, and that such needs are reflected in and addressed by the State plan;

“(13) provide assurances that the State board will cooperate with the State council on vocational education in carrying out its duties under this part;

“(14) provide assurance that none of the funds expended under this Act will be used to acquire equipment (including computer software) in any instance in which such acquisition results in a direct financial benefit to any organization representing the interests of the purchasing entity or its employees or any affiliate of such an organization;

“(15) provide assurances that for each fiscal year, expenditures for career guidance and counseling from allotments for title II and part D of title III will not be less than the expenditures for such guidance and counseling in the State for the fiscal year 1984 assisted under section 134(a) of the Vocational Education Act of 1963;

“(16) provide assurances that Federal funds made available under this Act will be used so as to supplement, and to the extent practicable increase the amount of State and local funds that would in the absence of such Federal funds be made available for the uses specified in the State plan, and in no case supplant such State or local funds; and

“(17) provide assurances that the State will provide for such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of, and accounting for, Federal funds paid to the State (including such funds paid by the State to eligible recipients under this Act).

“(c)(1) When changes in program conditions, labor market conditions, funding, or other factors require substantial amendment to an approved State plan, the State board, in consultation with the State council, shall submit amendments to such State plan to the Secretary. Any such amendments shall be subject to review by the State job training coordinating council, and the State council.

“(2) The Secretary shall approve, within sixty days of submission, the State plan amendments which meet the requirements of this

section, unless such amendments propose changes that are inconsistent with the requirements and purposes of this Act. The Secretary shall not finally disapprove such amendments except after giving reasonable notice and an opportunity for a hearing to the State board.

“APPROVAL

“SEC. 114. (a)(1) Each State plan shall, not less than 60 days before the plan is to be submitted to the Secretary, be furnished to the State legislature and the State job training coordinating council of the State under section 122 of the Job Training Partnership Act for review and comment. If the matters covered by the comments of the State legislature and the State job training coordinating council are not covered by the State plan, the State shall submit the comments with the State plan to the Secretary. 20 USC 2324.
29 USC 1532.

“(2) If the State legislature is not in session during the period described in paragraph (1), the State board shall submit the plan for review and comment to the next meeting of the State legislature and forward the comments of the State legislature to the Secretary when the comments are received.

“(b)(1) Each State plan shall be submitted to the State council on vocational education for review and comment not later than 60 days prior to the submission of the plan to the Secretary.

“(2) If the State council finds that the final State plan is objectionable for any reason, including that it does not meet the labor market needs of the State, the State council shall file its objections with the State board. The State board shall respond to any objections of the State council in submitting such plan to the Secretary. The Secretary shall consider such comments in reviewing the State plan.

“(c)(1) The Secretary shall provide technical assistance and guidance to the States in order to assist the States to fulfill the requirements of section 113(a)(3).

Ante, p. 2445.

“(2)(A) Each State plan shall be submitted to the Secretary by May 1 preceding the beginning of the first fiscal year for which such plan is to be in effect. The Secretary shall approve, within sixty days, each such plan which meets the requirements of section 113, and shall not finally disapprove a State plan except after giving reasonable notice and an opportunity for a hearing to the State board.

“(B) The document submitted under subparagraph (A) shall be considered to be the general application required to be submitted by the State for funds received under this Act for purposes of the provisions of section 435 of the General Education Provisions Act. 20 USC 1232d.

“LOCAL APPLICATION

“SEC. 115. (a) Except as provided in subsection (c), any eligible recipient desiring to receive assistance under this Act shall, according to requirements established by the State board, submit to the State board an application, covering the same period as the State plan, for the use of such assistance. The State board shall determine requirements for local applications (and amendments thereto), except that each such application shall— 20 USC 2325.

“(1) set forth the vocational education programs, services, and activities proposed to be funded; and

29 USC 1501
note.
20 USC 1201
note.
Public
inspection.

“(2) describe the coordination with relevant programs conducted under the Job Training Partnership Act and the Adult Education Act, to avoid duplication.

“(b) Each such local application shall be available for review and comment by interested parties, including the appropriate administrative entity under the Job Training Partnership Act.

“(c)(1) Eligible recipients providing relatively few vocational education programs, services, and activities funded with limited total Federal and State funds may, as determined by the State board, be exempt from the requirements of subsection (a) or (b) or both.

“(2) Each State board shall identify in its State plan the appropriate criteria for determining such exemptions.

“TITLE II—BASIC STATE GRANTS FOR VOCATIONAL EDUCATION

“PART A—VOCATIONAL EDUCATION OPPORTUNITIES

“USES OF FUNDS

20 USC 2331.
Ante, p. 2438.

“SEC. 201. (a) From the portion of the allotment of each State under section 101 available for this part, each State shall provide vocational education services and activities designed to meet the special needs of groups of individuals specified in subsection (b).

“(b) To meet the needs identified in the State plan, each State shall use the portion of its allotment available for this part in any fiscal year to provide vocational education services and activities designed to meet the special needs of, and to enhance the participation of—

“(1) handicapped individuals;

“(2) disadvantaged individuals;

“(3) adults who are in need of training and retraining;

“(4) individuals who are single parents or homemakers;

“(5) individuals who participate in programs designed to eliminate sex bias and stereotyping in vocational education; and

“(6) criminal offenders who are serving in a correctional institution.

“(c)(1) Each State shall use the portion of its allotment available for this part in any fiscal year for handicapped individuals only for the Federal share of expenditures limited to supplemental or additional staff, equipment, materials, and services not provided to other individuals in vocational education that are essential for handicapped individuals to participate in vocational education. If the conditions of handicapped students require a separate program, each State may use such funds for the Federal share of the costs of the services and activities in separate vocational education programs for handicapped individuals which exceed the average average per-pupil expenditures for regular services and activities of the eligible recipient.

“(2) Each State shall use the portion of its allotment available for this part in any fiscal year for disadvantaged individuals only for the Federal share of expenditures limited to supplemental or additional staff, equipment, materials, and services not provided to other individuals in vocational education that are essential for disadvantaged individuals to participate in vocational education. If the conditions of disadvantaged individuals require a separate program, each State may use such funds for the Federal share of the costs of the

services and activities in separate vocational education programs for disadvantaged individuals which exceed the average per-pupil expenditures for regular services and activities of the eligible recipient.

“(d)(1) Each State may use the portion of its allotment available for this part for any fiscal year for the improvement of vocational education services and activities designed to provide equal access to quality vocational education to disadvantaged individuals, the costs of services and activities which apply the latest technological advances to courses of instruction, and, subject to the provisions of paragraph (2), the acquisition of modern machinery and tools.

“(2) Funds available to each recipient under this part for the disadvantaged may be expended for the acquisition of modern machinery and tools in schools at which at least 75 percent of the students enrolled are economically disadvantaged.

“(e)(1) Each State shall use the portion of its allotment available for this part to provide, improve, and expand adult and postsecondary vocational education services and activities to train and retrain adults.

“(2) Funds used for the purpose described in subsection (a) may be used for services and activities developed in coordination with the State agency administering title III of the Job Training Partnership Act.

29 USC 1651.

“(3) Funds for services and activities under this section may be used for—

“(A) additional training under title III of the Job Training Partnership Act;

“(B) vocational education programs for training or retraining adults, including programs for older individuals and displaced homemakers;

“(C) the costs of serving adults in other vocational education programs, including paying the costs of instruction or the costs of keeping school facilities open longer;

“(D) individuals who have completed or left high school and who are enrolled in organized programs of study for which credit is given toward an associate or other degree, but which programs are not designed as baccalaureate or higher degree programs; and

“(E) individuals who have already entered the labor market, or have completed or left high school, and who are not described in clause (D).

“(f) Each State may only use the portion of its allotment available for this part to—

“(1) provide, subsidize, reimburse or pay for vocational education and training activities, including basic literacy instruction and necessary educational materials, that will furnish single parents and homemakers with marketable skills;

“(2) make grants to eligible recipients for expanding vocational education services when this expansion directly increases the eligible recipients' capacity for providing single parents and homemakers with marketable skills;

“(3) make grants to community-based organizations for the provision of vocational education services to single parents and homemakers, if the State determines that the community-based organization has demonstrated effectiveness in providing comparable or related services to single parents and homemakers, taking into account the demonstrated performance of such an

organization in terms of cost, the quality of training and the characteristics of the participants;

“(4) make vocational education and training more accessible to single parents and homemakers by assisting them with child care or transportation services or by organizing and scheduling the programs so that such programs are more accessible; or

“(5) provide information to single parents and homemakers to inform them of vocational education programs and related support services.

Infra.

“(g) That portion of the allotment described in section 202(5) shall be available for—

“(1) programs, services, and activities to eliminate sex bias and stereotyping in secondary and postsecondary vocational education;

“(2) vocational education programs, services, and activities for girls and women, aged 14 through 25, designed to enable the participants to support themselves and their families; and

“(3) support services for individuals participating in vocational education programs, services, and activities described in clauses (1) and (2) including dependent-care services and transportation.

Ante, p. 2441.

The requirement with respect to age limitations contained in clause (2) of subsection (a) may be waived whenever the individual described in section 111(b)(1) determines that the waiver is essential to meet the objectives of this section.

“(h)(1) Each State may use the portion of its allotment available for this part in any fiscal year for basic skills instruction for vocational education students and related to their instructional program whenever the State board determines that such instruction is necessary to carry out the purposes described in subsection (b) of this section.

“(2) Each State may use the portion of its allotment available for this part in any fiscal year for the provision of educational training through arrangements with private vocational training institutions, private postsecondary educational institutions, and employers whenever such institutions or employers can make a significant contribution to obtaining the objectives of the State plan and can provide substantially equivalent training at a lesser cost, or can provide equipment or services not available in public institutions.

“(i)(1) Vocational education services and activities described in subsection (b) shall, to the extent practicable, include work-site programs such as cooperative vocational education, work-study, and apprenticeship programs.

“(2) Vocational education services and activities described in subsection (b) may include placement services for students who have successfully completed vocational education programs.

“DISTRIBUTION OF ASSISTANCE

20 USC 2332.

“SEC. 202. From the portion of the allotment of each State available for this part for each fiscal year—

Handicapped persons.

“(1) 10 percent of the funds available for this title shall be available for handicapped individuals;

Disadvantaged persons.

“(2) 22 percent of such funds shall be available for disadvantaged individuals;

“(3) 12 percent of such funds shall be available for adults who are in need of training and retraining;

“(4) 8.5 percent of such funds shall be available for individuals who are single parents and homemakers;

“(5) 3.5 percent of such funds shall be available for individuals who are participants in programs designed to eliminate sex bias and stereotyping in vocational education; and

“(6) 1 percent of such funds shall be made available for criminal offenders who are in correctional institutions.

“WITHIN STATE ALLOCATION

“SEC. 203. (a)(1)(A) The State board shall allocate the 10 percent of the amount allotted to the State and available for this title for vocational education services and activities for the handicapped to eligible recipients in accordance with the provisions of this paragraph. 20 USC 2333.

“(B) Of the amount allocated under this paragraph—

“(i) 50 percent of such amount shall be allocated to eligible recipients on the basis of the relative number of economically disadvantaged individuals enrolled in each eligible recipient in the fiscal year preceding the fiscal year in which the determination is made to the total number of such individuals enrolled in all eligible recipients within the State in such year; and Disadvantaged persons.

“(ii) 50 percent shall be allocated on the basis of the relative number of handicapped students served in vocational education programs by each eligible recipient within the State in the fiscal year preceding the fiscal year for which the determination is made as compared to the total number of such individuals served by all eligible recipients within the State in such year. Handicapped persons.

“(2)(A) The State board shall allocate the 22 percent of the amount allotted to the State and available for this title for vocational education services and activities for the disadvantaged to eligible recipients in accordance with the provisions of this paragraph.

“(B) Of the amount allocated under this paragraph—

“(i) 50 percent of such amount shall be allocated to eligible recipients on the basis of the relative number of economically disadvantaged individuals enrolled in each eligible recipient in the fiscal year preceding the fiscal year in which the determination is made compared to the total number of such individuals enrolled in all eligible recipients within the State in such year; and Disadvantaged persons.

“(ii) 50 percent shall be allocated on the basis of the relative number of disadvantaged individuals and individuals with limited English proficiency served in vocational education programs by each eligible recipient within the State in the fiscal year preceding the fiscal year for which the determination is made as compared to the total number of such individuals served by all eligible recipients within the State in such year.

“(3) The State board shall assure that sums allocated among eligible recipients pursuant to this subsection shall be used by an eligible recipient for vocational education services and activities for individuals with limited English proficiency in the same proportion as the number of individuals with limited English proficiency served by each eligible recipient within the State in the fiscal year preceding the fiscal year for which the determination is made bears to the population of the State in that year.

“(4) Each local educational agency shall use, to the extent feasible, community-based organizations of demonstrated effectiveness, in

addition to other eligible recipients, for the use of funds available under this part in areas of the State in which there is an absence of sufficient vocational education facilities or in which the vocational education programs do not adequately address the needs of disadvantaged students, or in which the local educational agency determines that the community-based organization can better serve disadvantaged students.

“(5) Each local educational agency is authorized to use funds allocated under paragraph (1) of this subsection for joint projects with one or more other local educational agencies.

“(b) The State board may encourage any eligible recipient within the State which is eligible to receive a grant under this part which is \$1,000 or less in any fiscal year to operate programs jointly with another eligible recipient.

“(c) The State board shall establish criteria for the distribution of the remaining amount of the allotment of the State available for this part to eligible recipients and to community-based organizations pursuant to section 201(c)(3) within the State for the purposes described in clauses (3), (4), (5), and (6) of section 202.

Ante, p. 2450.

Ante, p. 2452.

“CRITERIA FOR SERVICES AND ACTIVITIES FOR THE HANDICAPPED AND FOR THE DISADVANTAGED

20 USC 2334.

Ante, p. 2453.

“SEC. 204. (a) The State board shall, with respect to that portion of the allotment distributed in accordance with section 203(a) for vocational education services and activities for handicapped individuals and disadvantaged individuals, provide assurances that—

“(1) equal access will be provided to handicapped and disadvantaged individuals in recruitment, enrollment, and placement activities;

“(2) equal access will be provided to handicapped and disadvantaged individuals to the full range of vocational programs available to nonhandicapped and nondisadvantaged individuals, including occupationally specific courses of study, cooperative education, and apprenticeship programs; and

“(3)(A) vocational education programs and activities for handicapped individuals will be provided in the least restrictive environment in accordance with section 612(5)(B) of the Education of the Handicapped Act and will, whenever appropriate, be included as a component of the individualized education plan required under section 612(4) and section 614(a)(5) of such Act; and

20 USC 1412.

20 USC 1414.

“(B) vocational education planning for handicapped individuals will be coordinated between appropriate representatives of vocational education and special education.

“(b) Each local educational agency shall, with respect to that portion of the allotment distributed in accordance with section 203(a) for vocational education services and activities for handicapped individuals and disadvantaged individuals, provide information to handicapped and disadvantaged students and parents of such students concerning the opportunities available in vocational education at least one year before the students enter the grade level in which vocational education programs are first generally available in the State, but in no event later than the beginning of the ninth grade, together with the requirements for eligibility for enrollment in such vocational education programs.

Ante, p. 2453.

“(c) Each student who enrolls in vocational education programs and to whom subsection (b) applies shall receive—

“(1) assessment of the interests, abilities, and special needs of such student with respect to completing successfully the vocational education program;

“(2) special services, including adaptation of curriculum, instruction, equipment, and facilities, designed to meet the needs described in clause (1);

“(3) guidance, counseling, and career development activities conducted by professionally trained counselors who are associated with the provision of such special services; and

“(4) counseling services designed to facilitate the transition from school to post-school employment and career opportunities.

“PART B—VOCATIONAL EDUCATION PROGRAM IMPROVEMENT,
INNOVATION, AND EXPANSION

“USES OF FUNDS

“SEC. 251. (a) From the portion of the allotment of each State under section 101 available for this part from amounts appropriated pursuant to section 3(a) for each fiscal year, each State may use funds so available to meet the needs identified in the State plan for—

20 USC 2341.
Ante, p. 2438.
Ante, p. 2437.

“(1) the improvement of vocational education programs within the State designed to improve the quality of vocational education, including high-technology programs involving an industry-education partnership as described in part D of title III, apprenticeship training programs, and the provision of technical assistance;

Post, p. 2462.

“(2) the expansion of vocational education activities necessary to meet student needs and the introduction of new vocational education programs, particularly in economically depressed urban and rural areas of the State;

“(3) the introduction of new vocational education programs, particularly in economically depressed urban and rural areas;

“(4) the creation or expansion of programs to train workers in skilled occupations needed to revitalize businesses and industries or to promote the entry of new businesses and industries into a State or community;

“(5) exemplary and innovative programs which stress new and emerging technologies and which are designed to strengthen vocational education services and activities;

“(6) the improvement and expansion of postsecondary and adult vocational education programs and related services for out-of-school youth and adults, which may include upgrading the skills of (A) employed workers, (B) workers who are unemployed or threatened with unemployment as a result of technological change or industrial dislocation, (C) workers with limited English proficiency, and (D) displaced homemakers and single heads of households;

“(7) the improvement and expansion of career counseling and guidance authorized by part D of title III;

“(8) programs relating to curriculum development in vocational education within the State, including the application of basic skills training;

"(9) the expansion and improvement of programs at area vocational education schools;

"(10) the acquisition of equipment and the renovation of facilities necessary to improve or expand vocational education programs within the State;

"(11) the conduct of special courses and teaching strategies designed to teach the fundamental principles of mathematics and science through practical applications which are an integral part of the student's occupational program;

"(12) the assignment of personnel to work with employers and eligible recipients in a region to coordinate efforts to ensure that vocational programs are responsive to the labor market and supportive of apprenticeship training programs;

"(13) the activities of vocational student organizations carried out as an integral part of the secondary and postsecondary instructional program;

"(14) prevocational programs;

"(15) programs of modern industrial and agricultural arts;

Ante, p. 2441.

Ante, p. 2440.

"(16) support for full-time personnel to carry out section 111(b) which shall be paid for from administrative expenses of the State available under section 102(b);

"(17) the provision of stipends, which shall not exceed reasonable amounts as prescribed by the Secretary by regulation, for students entering or already enrolled in vocational education programs who have acute economic needs which cannot be met under work-study programs;

"(18) placement services for students who have successfully completed vocational education programs (including special services for the handicapped and cooperative efforts with rehabilitation programs);

"(19) day care services for children of students in secondary and postsecondary vocational education programs;

"(20) the construction of area vocational education school facilities in areas having a demonstrated need for such facilities;

"(21) the acquisition of high-technology equipment for vocational education programs;

Ante, p. 2435.

"(22) the provision of vocational education through arrangements with private vocational education institutions, private postsecondary educational institutions, and employers whenever such private institutions or employers can make a significant contribution to attaining the objectives of this Act and can provide substantially equivalent preparation at a lesser cost, or can provide equipment or services not available in public institutions;

"(23) the acquisition and operation of communications and telecommunications equipment for vocational education programs; and

Ante, p. 2450.

"(24) the improvement or expansion of any other vocational education activities authorized under part A.

Ante, p. 2438.

Ante, p. 2437.

"(b) From the portion of the allotment of each State under section 101 available for this part from amounts appropriated pursuant to section 3(a) for each fiscal year, each State shall use grants for the provision of inservice and preservice training designed to increase the competence of vocational education teachers, counselors, and administrators, including special emphasis on the integration of

handicapped and disadvantaged students in regular courses of vocational education.

“CRITERIA FOR PROGRAM IMPROVEMENT, INNOVATION, AND EXPANSION

“SEC. 252. (a) Subject to the provisions of this part, each State may expend funds available under this part in the manner best suited to carry out the purposes of this Act within the State. 20 USC 2342.

“ (b) Each State may make use of community-based organizations of demonstrated effectiveness, in addition to eligible recipients, for the use of funds available under this part in areas of the State in which there is an absence of sufficient vocational education facilities or in which the vocational education programs do not adequately address the needs of disadvantaged students or wherever the community-based organization can better serve disadvantaged students. Ante, p. 2435.

“ (c) Any project assisted with funds made available under this part shall be of sufficient size, scope, and quality to give reasonable promise of meeting the vocational education needs of the students involved in the project.

“TITLE III—SPECIAL PROGRAMS

“PART A—STATE ASSISTANCE FOR VOCATIONAL EDUCATION SUPPORT PROGRAMS BY COMMUNITY-BASED ORGANIZATIONS

“APPLICATIONS

“SEC. 301. (a) Each community-based organization which desires to receive assistance under this part shall prepare jointly with the appropriate eligible recipient and submit an application to the State board at such time, in such manner, and containing or accompanied by such information as the State board may require. Each such application shall— 20 USC 2351.

“ (1) contain an agreement between the community-based organization and the eligible recipients in the area to be served, which includes the designation of fiscal agents established for the program;

“ (2) provide a description of the uses for which assistance is sought pursuant to section 302(b) together with evaluation criteria to be applied to the program;

“ (3) provide assurances that the community-based organization will give special consideration to the needs of severely economically and educationally disadvantaged youth ages sixteen through twenty-one, inclusive;

“ (4) provide assurances that business concerns will be involved, as appropriate, in services and activities for which assistance is sought;

“ (5) describe the collaborative efforts with the eligible recipients and the manner in which the services and activities for which assistance is sought will serve to enhance the enrollment of severely economically and educationally disadvantaged youth into the vocational education programs; and

“ (6) provide assurances that the programs conducted by the community-based organization will conform to the applicable standards of performance and measures of effectiveness required of vocational education programs in the State. Post, p. 2458.

“USES OF FUNDS

20 USC 2352.
Ante, p. 2438.

“SEC. 302. (a) From the portion of the allotment of each State under section 101 available for this part, each State shall provide financial assistance to joint programs of eligible recipients and community-based organizations within the State for the conduct of special vocational education services and activities described in subsection (b).

“(b) Funds provided under this section may be used in accordance with State plans for—

“(1) outreach programs to facilitate the entrance of youth into a program of transitional services and subsequent entrance into vocational education, employment or other education and training;

“(2) transitional services such as attitudinal and motivational prevocational training programs;

“(3) prevocational educational preparation and basic skills development conducted in cooperation with business concerns;

“(4) special prevocational preparations programs targeted to inner-city youth, non-English speaking youth, Appalachian youth, and the youth of other urban and rural areas having a high density of poverty who need special prevocational education programs;

“(5) career intern programs;

“(6) assessment of students needs in relation to vocational education and jobs; and

“(7) guidance and counseling to assist students with occupational choices and with the selection of a vocational education program.

“PART B—CONSUMER AND HOMEMAKER EDUCATION

“CONSUMER AND HOMEMAKER EDUCATION GRANTS

20 USC 2361.

“SEC. 311. From the portion of the allotment of each State under section 101 available for this part, the Secretary is authorized to make grants to States to assist them in conducting consumer and homemaker education programs. Such programs may include (1) instructional programs, services, and activities that prepare youth and adults for the occupation of homemaking, and (2) instruction in the areas of food and nutrition, consumer education, family living and parenthood education, child development and guidance, housing, home management (including resource management), and clothing and textiles.

“USE OF FUNDS FROM CONSUMER AND HOMEMAKER EDUCATION GRANTS

20 USC 2362.
Ante, p. 2449.

“SEC. 312. (a) Grants to any State under this part shall be used, in accordance with State plans approved under section 114—

“(1) to conduct programs in economically depressed areas;

“(2) to encourage participation of traditionally underserved populations;

“(3) to encourage the elimination of sex bias and sex stereotyping;

“(4) to improve, expand, and update programs with an emphasis on those which specifically address needs described under clauses (1), (2), and (3); and

“(5) to address priorities and emerging concerns at the local, State, and national levels.

“(b) Grants for the purposes set forth in subsection (a) may be used for—

“(1) program development and improvement of instruction and curricula relating to managing individual and family resources, making consumer choices, managing home and work responsibilities, improving responses to individual and family crises, strengthening parenting skills, assisting aged and handicapped individuals, improving nutrition, conserving limited resources, understanding the impact of new technology on life and work, applying consumer and homemaker education skills to jobs and careers, and other needs as determined by the State; and

“(2) support services and activities designed to ensure the quality and effectiveness of programs, including demonstration of innovative and exemplary projects, community outreach to underserved populations, application of academic skills (such as reading, writing, mathematics, and science) through consumer and homemaker education programs, curriculum development, research, program evaluation, development of instructional materials, teacher education, upgrading of equipment, teacher supervision, and State administration and leadership, including activities of the student organization.

“(c) Not less than one-third of the Federal funds made available to any State under this section shall be expended in economically depressed areas or areas with high rates of unemployment for programs designed to assist consumers and to help improve home environments and the quality of family life.

“INFORMATION DISSEMINATION AND LEADERSHIP

“SEC. 313. (a) The State board shall ensure that the experience and information gained through carrying out programs assisted under this part is shared with administrators for the purpose of program planning. Funds available under this part shall be used to assist in providing State leadership qualified by experience and preparation in home economics education. 20 USC 2363.

“(b) Not more than 6 percent of the funds available under this part may be used to carry out leadership activities under this section.

“PART C—ADULT TRAINING, RETRAINING, AND EMPLOYMENT DEVELOPMENT

“FINDINGS AND PURPOSE

“SEC. 321. (a) The Congress finds that—

20 USC 2371.

“(1) technological change, international competition, and the demographics of the Nation’s work force have resulted in increases in the numbers of adult workers who are unemployed, who have been dislocated, or who require training, retraining, or upgrading of skills,

“(2) many women entering and reentering the paid labor market are disproportionately employed in low-wage occupations and require additional training,

“(3) many adults cannot gain access to or benefit fully from vocational education due to limited English proficiency, and

“(4) these needs can be met by vocational education programs that are responsive to the needs of individuals and the demands of the labor market.

“(b) It is the purpose of this part (1) to provide financial assistance to the States to enable them to expand and improve vocational education programs designed to meet urgent needs for training, retraining, and employment development of adults who have completed or left high school and are preparing to enter or have entered the labor market, in order to equip adults with the competencies and skills required for productive employment, and (2) to ensure that such programs are relevant to the labor market needs and accessible to all segments of the population, including women, minorities, the handicapped, individuals with limited English proficiency, workers fifty-five and older, and the economically disadvantaged.

“AUTHORIZATION OF GRANTS AND USES OF FUNDS

20 USC 2372.
Ante, p. 2438.

“SEC. 322. (a) From the portion of the allotment of each State under section 101 available for this part, the Secretary shall make grants to the States for programs, services, and activities authorized by this part.

“(b)(1) Grants to States under this part may be used, in accordance with State plans, for—

Ante, p. 2450.

“(A) vocational education programs, services, activities, and employment development authorized by title II which are designed to meet the needs of—

“(i) individuals who have graduated from or left high school and who need additional vocational education for entry into the labor force;

“(ii) unemployed individuals who require training to obtain employment or increase their employability;

“(iii) employed individuals who require retraining to retain their jobs, or who need training to upgrade their skills to qualify for higher paid or more dependable employment;

“(iv) displaced homemakers and single heads of households who are entering or reentering the labor force;

“(v) employers who require assistance in training individuals for new employment opportunities or in retraining employees in new skills required by changes in technology, products, or processes; and

“(vi) workers fifty-five and older;

“(B) short-term programs of retraining designed to upgrade or update skills in accordance with changed work requirements;

“(C) education and training programs designed cooperatively with employers, such as—

“(i) institutional and worksite programs, including apprenticeship training programs (or combinations of such programs) especially tailored to the needs of an industry or group of industries for skilled workers, technicians, or managers, or to assist their existing work force to adjust to changes in technology or work requirements; and

“(ii) quick-start, customized training for workers in new and expanding industries, or for workers for placement in

jobs that are difficult to fill because of a shortage of workers with the requisite skills,

“(D) building more effective linkages between vocational education programs and private sector employers (through a variety of programs including programs where secondary school students are employed on a part-time basis as registered apprentices with transition to full-time apprenticeships upon graduation), and between eligible recipients of assistance under this Act and economic development agencies and other public and private agencies providing job training and employment services, in order to more effectively reach out to and serve individuals described in subparagraph (A);

Ante, p. 2435.

“(E) cooperative education programs with public and private sector employers and economic development agencies, including seminars in institutional or worksite settings, designed to improve management and increase productivity;

“(F) entrepreneurship training programs which assist individuals in the establishment, management, and operation of small business enterprises;

“(G) recruitment, job search assistance, counseling, remedial services, and information and outreach programs designed to encourage and assist males and females to take advantage of vocational education programs and services, with particular attention to reaching women, older workers, individuals with limited English proficiency, the handicapped, and the disadvantaged;

“(H) curriculum development, acquisition of instructional equipment and materials, personnel training, pilot projects, and related and additional services and activities required to effectively carry out the purposes of this part;

“(I) the costs of serving adults in other vocational education programs, including paying the costs of instruction or the costs of keeping school facilities open longer; and

“(J) related instruction for apprentices in apprenticeship training programs.

“(2) In making grants under this part, the Secretary shall require each State, in its State plan (or an amendment thereto), to assure that programs—

“(A) are designed with the active participation of the State council established pursuant to section 112;

Ante, p. 2443.

“(B) make maximum effective use of existing institutions, are planned to avoid duplication of programs or institutional capabilities, and to the fullest extent practicable are designed to strengthen institutional capacity to meet the education and training needs addressed by this part;

“(C) involve close cooperation with and participation by public and private sector employers and public and private agencies working with problems of employment and training and economic development; and

“(D) where appropriate, involve coordination with programs under the Rehabilitation Act of 1973 and the Education of the Handicapped Act.

29 USC 701 note.
20 USC 1400.

“COORDINATION WITH THE JOB TRAINING PARTNERSHIP ACT

“SEC. 323. (a) Each State receiving grants under this part shall include in the State plan methods and procedures for coordinating

20 USC 2373.

29 USC 1651. vocational education programs, services, and activities funded under this part to provide programs of assistance for dislocated workers funded under title III of the Job Training Partnership Act.

29 USC 1532. “(b)(1) The State board shall consult with the State job training coordinating council (established under section 122 of the Job Training Partnership Act) in order that programs assisted under this part may be taken into account by such council in formulating recommendations to the Governor for the Governor’s coordination and special services plan required by section 121 of such Act.

29 USC 1531. “(2) The State board shall also adopt such procedures as it considers necessary to encourage coordination between eligible recipients receiving funds under this part and the appropriate administrative entity established under the Job Training Partnership Act in the conduct of their respective programs, in order to achieve the most effective use of all Federal funds through programs that complement and supplement each other, and, to the extent feasible, provide an ongoing and integrated program of training and services for workers in need of such assistance.

29 USC 1501
note.

“PART D—COMPREHENSIVE CAREER GUIDANCE AND COUNSELING PROGRAMS

“GRANTS FOR CAREER GUIDANCE AND COUNSELING

20 USC 2381.
Ante, p. 2438.

“SEC. 331. From the portion of the allotment of each State under section 101 available for this part, the Secretary is authorized to make grants to States to assist them in conducting career guidance and counseling programs authorized by this part.

“USE OF FUNDS FROM CAREER GUIDANCE AND COUNSELING GRANTS

20 USC 2382.

“SEC. 332. (a) Grants to any State under this part shall be used, in accordance with State plans (and amendments thereto), for programs (organized and administered by certified counselors) designed to improve, expand, and extend career guidance and counseling programs to meet the career development, vocational education, and employment needs of vocational education students and potential students. Such programs shall be designed to assist individuals—

“ (1) to acquire self-assessment, career planning, career decisionmaking, and employability skills;

“ (2) to make the transition from education and training to work;

“ (3) to maintain marketability of current job skills in established occupations;

“ (4) to develop new skills to move away from declining occupational fields and enter new and emerging fields in high-technology areas and fields experiencing skill shortages;

“ (5) to develop midcareer job search skills and to clarify career goals; and

“ (6) to obtain and use information on financial assistance for postsecondary and vocational education, and job training.

“(b) Programs of career guidance and counseling under this part shall encourage the elimination of sex, age, handicapping condition, and race bias and stereotyping, provide for community outreach, enlist the collaboration of the family, the community, business, industry, and labor and be accessible to all segments of the population, including women, minorities, the handicapped, and the eco-

nomically disadvantaged. The programs authorized by this part shall consist of—

“(1) instructional activities and other services at all educational levels to help students with the skills described in clauses (1) through (6) of subsection (a); and

“(2) services and activities designed to ensure the quality and effectiveness of career guidance and counseling programs and projects assisted under this part, such as counselor education (including education of counselors working with individuals with limited English proficiency), training of support personnel, curriculum development, research and demonstration projects, experimental programs, instructional materials development, equipment acquisition, and State and local leadership and supervision; and

“(3) projects which provide opportunities for counselors to obtain firsthand experience in business and industry, and projects which provide opportunities to acquaint students with business, industry, the labor market, and training opportunities (including secondary educational programs that have at least one characteristic of an apprenticeable occupation as recognized by the Department of Labor or the State Apprenticeship Agency in accordance with the Act of August 16, 1937, known as the National Apprenticeship Act, in concert with local business, industry, labor, and other appropriate apprenticeship training entities, designed to prepare participants for an apprenticeable occupation or provide information concerning apprenticeable occupations and their prerequisites).

29 USC 50 note.

“(c) Not less than 20 percent of the sums made available to a State under this part shall be used for programs designed to eliminate sex, age, and race bias and stereotyping under subsection (b) and for activities to ensure that programs under this part are accessible to all segments of the population, including women, the disadvantaged, the handicapped, individuals with limited English proficiency, and minorities.

“INFORMATION DISSEMINATION AND LEADERSHIP

“SEC. 333. (a) The State board shall ensure that the experience and information gained through programs assisted under this part is shared with administrators for the purpose of program planning. Funds available under this part shall be used to assist in providing State leadership qualified by experience and knowledge in guidance and counseling.

20 USC 2383.

“(b) Not more than 6 percent of the funds available under this part may be used to carry out leadership activities under this section.

“PART E—INDUSTRY-EDUCATION PARTNERSHIP FOR TRAINING IN HIGH-TECHNOLOGY OCCUPATIONS

“FINDINGS AND PURPOSE

“SEC. 341. (a) The Congress finds that—

“(1) shortages of technicians in high-technology fields are adversely affecting the Nation’s productivity, its competitiveness in world markets, defense capability, and economic health; and

20 USC 2391.

“(2) the Nation’s vocational education system can make a major contribution in meeting the need for trained technicians and skilled workers in these fields, particularly through partnerships between vocational agencies and institutions and private business and industry.

“(b) It is therefore the purpose of this part—

“(1) to provide incentives for business and industry and the vocational education community to develop programs to train the skilled workers needed to produce, install, operate, and maintain high-technology equipment, systems, and processes; and

“(2) to ensure that such programs are relevant to the labor market and accessible to all segments of the population, including women, minorities, the handicapped, and the economically disadvantaged.

“AUTHORIZATION OF GRANTS

20 USC 2392.
Ante, p. 2438.

“SEC. 342. (a) From the portion of the allotment of each State under section 101 available for this part, the Secretary shall make grants to the States to carry out industry-education partnership training programs in high-technology occupations in accordance with this part.

“(b) Grants to any State under this part shall be used, in accordance with State plans which contain assurances to the Secretary that—

“(1) funds received under this part will be used solely for vocational education programs designed to train skilled workers and technicians in high-technology occupations (including programs providing related instruction to apprentices) and projects to train skilled workers needed to produce, install, operate, and maintain high-technology equipment, systems, and processes;

29 USC 1501
note.

“(2) to the maximum extent practicable, funds received under this part will be utilized in coordination with the Job Training Partnership Act to avoid duplication of effort and to ensure maximum effective utilization of funds under this Act and the Job Training Partnership Act;

“(3) except as provided in subsection (c), not less than 50 per centum of the aggregate costs of programs and projects assisted under this part will be provided from non-Federal sources, and not less than 50 per centum of such non-Federal share of aggregate costs in the State will be provided by participating business and industrial firms;

Ante, p. 2450.

“(4) programs and projects assisted under this part will be coordinated with those assisted under title II, and to the maximum extent practicable (consistent with the purposes of programs assisted under title II), supportive services will be so organized as to serve programs under both titles; and

Ante, p. 2443.

“(5) programs and projects assisted under this part will be developed with the active participation of the State council established pursuant to section 112.

“(c)(1) The business and industrial share of the costs required by subsection (b)(2) may be in the form of cash or of in-kind contributions (such as facilities, overhead, personnel, and equipment) fairly valued.

“(2) The Federal share of such costs shall be available equally from funds available to the States under this part and from funds allotted to the States under title II.

Ante, p. 2450.

“(3) If an eligible recipient demonstrates to the satisfaction of the State that it is incapable of providing all or part of the non-Federal portion of such costs as required by subsection (b)(2), the State may designate funds available under part B of title II or funds available from State sources in lieu of such non-Federal portion.

Ante, p. 2455.

“USE OF FUNDS

“SEC. 343. (a) Funds made available to the States by grants under this part may be used solely for the establishment and operation of programs and projects described by section 342(b) and for—

20 USC 2393.

Ante, p. 2464.

“(1) necessary administrative costs of the State board and of eligible recipients associated with the establishment and operation of programs authorized by this part;

Ante, p. 2463.

“(2) training and retraining of instructional and guidance personnel;

“(3) curriculum development and the development or acquisition of instructional and guidance equipment and materials;

“(4) acquisition and operation of communications and telecommunications equipment and other high-technology equipment for programs authorized by this part; and

“(5) such other activities authorized by this title as may be essential to the successful establishment and operation of programs and projects authorized by this part, including activities and related services to ensure access of women, minorities, the handicapped, and the economically disadvantaged.

“(b) In approving programs and projects assisted under this part, the State board shall give special consideration to—

“(1) the level and degree of business and industry participation in the development and operation of the program;

“(2) the current and projected demand within the State or relevant labor market area for workers with the level and type of skills the program is designed to produce;

“(3) the overall quality of the proposal, with particular emphasis on the probability of successful completion of the program by prospective trainees and the capability of the eligible recipient (with assistance from participating business or industry) to provide high quality training for skilled workers and technicians in high technology; and

“(4) the commitment to serve all segments of the population, including women, minorities, the handicapped, and the economically disadvantaged (as demonstrated by special efforts to provide outreach, information, and counseling, and by the provision of remedial instruction and other assistance).

“(c) Expenditures for administrative costs pursuant to subsection (a)(1) may not exceed 10 per centum of the State's allotment for this part in the first year and 5 per centum of such allotment in each subsequent year.

“TITLE IV—NATIONAL PROGRAMS

“PART A—RESEARCH

“RESEARCH OBJECTIVES

20 USC 2401.

“SEC. 401. It is the purpose of this part—

“(1) to authorize research activities which contribute to improving the access to vocational education programs of individuals who are disadvantaged, who are handicapped, women who are entering nontraditional occupations, adults who are in need of retraining, individuals who are single parents or homemakers, individuals with limited English proficiency, and individuals who are incarcerated in correctional institutions;

“(2) to improve the competitive process by which research projects are awarded;

Ante, p. 2435.

“(3) to encourage the dissemination of findings of research projects assisted under this Act to all States; and

“(4) to authorize research activities which are readily applicable to the vocational education setting and are of practical application to vocational education administrators, counselors, and instructors and others involved in vocational education.

“RESEARCH ACTIVITIES

20 USC 2402.
Supra.

“SEC. 402. (a) In order to carry out the objectives set forth in section 401, the Secretary shall conduct applied research on aspects of vocational education specifically related to this Act. Such research may be conducted through the National Institute of Education or any other division of the Department of Education which the Secretary determines to be appropriate. Such research shall include—

“(1) effective methods for providing quality vocational education to handicapped individuals, disadvantaged individuals, men and women in nontraditional fields, adults, individuals who are single parents or homemakers, individuals with limited English proficiency, and individuals who are incarcerated in correctional institutions;

“(2) strategies for coordinating local, State, and Federal vocational education, employment training, and economic development programs to maximize their efficacy and for improving worker training and retraining;

“(3) the constructive involvement of the private sector in public vocational education;

“(4) successful methods of reinforcing and enhancing basic academic skills in vocational settings;

“(5) the development of curriculum materials and instructional methods relating to new and emerging technologies, and assessments of the nature of change in the workplace and its effect on individual jobs;

“(6) the identification of institutional characteristics which improve the preparation of youth and adults for employment; and

“(7) the development of effective methods for providing quality vocational education to individuals of limited English proficiency, including research related to bilingual vocational training.

“(b) In addition, the Secretary shall—

“(1) initiate leadership development and inservice education activities for State and local vocational education instructors, counselors, and administrators; and

“(2) support meritorious, unsolicited research proposals from individual researchers community colleges, State advisory councils, and State and local educators relating to the goals of this Act.

“(c) The Secretary shall give preference in carrying out the provisions of this part to public and private postsecondary institutions in conducting vocational education research.

“(d)(1) The Secretary shall institute measures designed to ensure that program improvement activities carried out under this section represent a coordinated effort to improve the quality of vocational education.

“(2) The Secretary shall include in the annual report of the Secretary a summary of activities funded under this section, together with an appraisal of their contributions to the improvement and expansion of vocational education.

“NATIONAL ASSESSMENT OF VOCATIONAL EDUCATION PROGRAMS
ASSISTED UNDER THIS ACT

“SEC. 403. (a) The Secretary shall conduct a national assessment of vocational education assisted under this Act, through independent studies and analysis by the National Institute of Education. The assessment shall include descriptions and evaluations of—

20 USC 2403.
Ante, p. 2435.

“(1) the vocational education activities and services delivered to the individuals who benefit from vocational education activities and services assisted under this Act, including the expansion of access to quality vocational education for individuals described in section 201(b) and adults;

Ante, p. 2450.

“(2) the impact of this Act in modernizing the Nation’s vocational education system and expanding its capacity to meet the changing needs of the workplace;

“(3) the resources needed to meet adequately the Nation’s job training needs;

“(4) the coordination of vocational education programs with employment training and economic development among the States;

“(5) the impact of vocational education programs on the achievement of academic skills and employment opportunities of students;

“(6) the coordination of vocational education and postsecondary programing for handicapped and disadvantaged individuals;

“(7) the skill and competency levels developed by States pursuant to section 113(b);

Ante, p. 2445.

“(8) the effectiveness of vocational education programs and services for individuals of limited English proficiency; and

“(9) the effectiveness of bilingual vocational training, including bilingual vocational instructor training, to address the unmet needs of individuals of limited English proficiency.

The National Institute of Education shall consult with the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives in the design and implementation of the assessment required by this section. The National Institute of Education shall report to Congress

Report.

the preliminary results of the assessment required by this section in January and July of 1988, and a final report shall be prepared and submitted to the Congress not later than January 1, 1989.

Ante, p. 2445.

“(b) The Secretary shall conduct an analysis of State plans and of the findings of evaluations conducted pursuant to section 113(b) and make suggestions to State boards for improvements in planning or program operation.

President of U.S.

“(c) Notwithstanding any other provision of law or regulation, such reports shall not be subject to any review outside of the National Institute of Education before their transmittal to the Congress, but the President and the Secretary may make such additional recommendations to the Congress with respect to the assessment as they deem appropriate.

“(d) Not more than 20 percent of the amounts available under this part in any fiscal year may be expended to carry out the assessment authorized by this section.

“NATIONAL CENTER FOR RESEARCH IN VOCATIONAL EDUCATION

20 USC 2404.

Ante, p. 2435.

“SEC. 404. (a)(1) The National Center for Research in Vocational Education established pursuant to this Act (hereinafter in this section referred to as the ‘National Center’) shall continue to be operated with funds made available under this Act.

Grants.

“(2) The Secretary shall provide support for the National Center through an annual grant for its operation. The National Center shall be a nonprofit entity associated with a public or private nonprofit university which is prepared to make a substantial financial contribution toward its establishment. The Secretary shall, on the basis of solicited applications, designate the entity to be the National Center once every five years, acting with the advice of a panel composed of individuals appointed by the Secretary who are not Federal employees and who are recognized nationally as experts in vocational education administration and research.

“(3) The National Center shall have a Director, appointed by the university with which it is associated, and shall be assisted by the advisory committee under subsection (c).

Research and development.

“(b) The National Center shall have as its primary purposes the design and conduct of research and developmental projects and programs, including longitudinal studies, which extend over a period of years (with such supplementary and short-term activities through other grants and contracts as the Director may choose to undertake consistent with the purpose of this Act). Such projects, programs, and activities shall be conducted by the National Center directly and through subcontracts (subject to the availability of appropriations therefor) with other public agencies and public or private institutions of higher education. The National Center shall—

“(1) conduct applied research and development on—

“(A) effective methods for providing quality vocational education to handicapped individuals, disadvantaged individuals, men and women in nontraditional fields, adults, individuals who are single parents or homemakers, individuals with limited English proficiency, and individuals who are incarcerated in correctional institutions;

“(B) the constructive involvement of the private sector in public vocational education;

“(C) successful methods of reinforcing and enhancing basic academic skills in vocational settings;

“(D) the development of curriculum materials and instructional methods relating to new and emerging technologies, and assessments of the nature of change in the workplace and its effect on individual jobs; and

“(E) the identification of institutional characteristics which improve the preparation of youth and adults for employment;

“(2) provide leadership development through an advanced study center and inservice education activities for State and local leaders in vocational education;

“(3) disseminate the results of the research and development projects funded by the Center;

“(4) develop and provide information to facilitate national planning and policy development in vocational education;

“(5) provide technical assistance to programs serving special populations, including the handicapped and individuals with limited English proficiency;

“(6) act as a clearinghouse for information on contracts or grants made by the States to carry out research, curriculum, and personnel development activities and on contracts or grants made by the Secretary pursuant to this title;

“(7) work with States, local educational agencies, and other public agencies in developing methods of planning and evaluating programs, including the followup studies of individuals who complete the program so that such agencies can offer vocational education programs which are more closely related to the types of jobs available in their communities, States, and regions; and

“(8) after consultation with the National Commission for Employment Policy, report annually to the Congress, the Secretary of Education, and the Secretary of Labor on the extent, efficiency, and effectiveness of joint planning and coordination under this Act and the Job Training Partnership Act.

“(c) The Secretary shall appoint an advisory committee which shall advise the Secretary and the Director with respect to policy issues in the administration of the National Center and in the selection and conduct of major research and demonstration projects and activities of the National Center. The advisory committee shall meet at the call of the Secretary at least three times annually at the site of the National Center. The advisory committee shall consist of not more than twelve members, who shall not be employees of the Federal Government, who shall include—

“(1) two members designated by the university with which the National Center is associated;

“(2) at least one member selected from individuals nominated by national organizations representing State and local education administrators and teachers;

“(3) one member who is an individual recognized nationally for work in the field of vocational education research;

“(4) one member who is the owner, chief executive officer, or senior manager of a private business or industry which employs skilled workers and technicians in high-technology occupations;

“(5) one member who is an individual recognized nationally for work in the field of labor market economics;

“(6) one member who is recognized nationally for work in curriculum in vocational education;

Public
information.

Report.

Ante, p. 2435.
29 USC 1501
note.

- “(7) one member who represents organized labor;
- “(8) one member who is an individual recognized nationally for work with individuals with limited English proficiency in the field of vocational education;
- “(9) one member who is an individual recognized nationally for work in guidance and counseling in the field of vocational education; and
- “(10) one member who is an individual recognized nationally for work with the handicapped in the field of vocational education.

“PART B—DEMONSTRATION PROGRAMS

“Subpart 1—Cooperative Demonstration Programs

“PROGRAM AUTHORIZED

Grants.
Contracts with
U.S.
20 USC 2411.
Post, p. 2479.

“SEC. 411. (a) From the amounts available for this part under section 451 for each fiscal year, the Secretary is authorized to carry out, directly or through grants to or contracts with State and local educational agencies, postsecondary educational institutions, institutions of higher education, and other public and private agencies, organizations, and institutions, programs and projects which support—

Ante, p. 2450.

“(1) model programs providing improved access to quality vocational education programs for those individuals described in section 201(b) of this Act and for men and women seeking nontraditional occupations;

“(2) examples of successful cooperation between the private sector and public agencies in vocational education, involving employers or consortia of employers or labor organizations and building trade councils, and State boards or eligible recipients designed to demonstrate ways in which vocational education and the private sector of the economy can work together effectively to assist vocational education students to attain the advanced level of skills needed to make the transition from school to productive employment, including—

“(A) work experience and apprenticeship programs;

“(B) transitional worksite job training for vocational education students which is related to their occupational goals and closely linked to classroom and laboratory instruction provided by an eligible recipient;

“(C) placement services in occupations which the students are preparing to enter; and

“(D) where practical, projects (such as the rehabilitation of public schools or housing in inner cities or economically depressed rural areas) that will benefit the public;

“(3) programs to overcome national skill shortages, as designated by the Secretary in cooperation with the Secretary of Labor, Secretary of Defense, and Secretary of Commerce; and

“(4) such other activities which the Secretary may designate which are related to the purposes of this Act.

“(b)(1) Projects described in clause (2) of subsection (a) may include institutional and on-the-job training, supportive services authorized by this Act, and such other necessary assistance as the Secretary determines to be necessary for the successful completion of the project.

“(2) Not less than 25 percent of the cost of the demonstration programs authorized by this subpart shall be provided by the recipient of the grant or contract, and such share may be in the form of cash or in-kind contributions, including facilities, overhead, personnel, and equipment fairly valued.

“(c) All programs assisted under this section shall be—

“(1) of direct service to individuals enrolled in such programs; and

“(2) capable of wide replication by service providers.

“(d) The Secretary shall disseminate the results of the programs and projects assisted under this section in a manner designed to improve the training of teachers, other instructional personnel, counsellors, and administrators who are needed to carry out the purposes of this Act.

“(e) Not later than one year after the date of enactment of the Carl D. Perkins Vocational Education Act, the Secretary of Labor and the Secretary of Education shall develop and implement a plan for greater coordination between vocational education programs and apprenticeship training programs. Linkages between such programs shall be established relating to apprentice-school programs, and preapprenticeship programs, and program evaluation and performance standards (particularly with respect to apprenticeship training and programs of related instruction). The Secretaries shall establish such other collaborative and cooperative efforts as are considered feasible and appropriate.

Public
availability.

“Subpart 2—State Equipment Pools

“PROGRAM AUTHORIZED

“SEC. 413. From funds made available to carry out this subpart, the Secretary shall develop and implement a program of competitive grants to State boards for the operation of State programs involving the loan of high-technology, state-of-the-art equipment to eligible recipients for use in local vocational education programs. The Secretary shall determine the appropriate amount of any grant. No State may qualify for more than two consecutive years for a grant under this subpart.

Grants.
20 USC 2413.

“Subpart 3—Demonstration Centers for the Retraining of Dislocated Workers

“PROGRAM AUTHORIZED

“SEC. 415. The Secretary shall establish one or more demonstration centers for the retraining of dislocated workers in order to demonstrate the application of general theories of vocational education to the specific problems of retraining displaced workers.

20 USC 2415.

“Subpart 4—Model Centers for Vocational Education for Older Individuals

“PROGRAM AUTHORIZED

“SEC. 417. (a) The Secretary shall establish a grant program to establish and operate model centers to focus greater attention on the special vocational education needs of older individuals and to

Grants.
20 USC 2417.

promote employment opportunities for older individuals in accordance with this subpart.

“(b) Any center established and operated by an eligible recipient under this subpart—

“(1) provide training or retraining to update older individuals’ skills, prepare such individuals for new careers when their skills have been rendered obsolete by technological advances, and promote employment through training or retraining in areas of job potential in growth industries utilizing new technologies;

“(2) provide assistance for later-life career changes, with special emphasis on the needs of older individuals who are displaced homemakers;

“(3) provide information, counseling, and support services to assist older individuals in obtaining employment;

“(4) encourage providers of vocational education, including community colleges and technical schools, to offer more job training opportunities targeted to or easily accessible to older individuals; and

“(5) promote training of paraprofessionals in gerontology and geriatrics.

Public
information.

“(c) The Secretary shall establish and operate a national clearinghouse within the Department of Education to provide State and local governments, and interested organizations and individuals with information concerning centers established under this subpart and their programs.

“(d) For purposes of this subpart, the term ‘older individual’ means an individual fifty-five years of age or older.

“PART C—VOCATIONAL EDUCATION AND OCCUPATIONAL INFORMATION DATA SYSTEMS

“DATA SYSTEMS AUTHORIZED

20 USC 2421.

“SEC. 421. (a)(1) The Secretary shall develop, within the National Center for Education Statistics, a national vocational education data reporting and accounting system using uniform definitions. The system required by this section shall include information on vocational education—

“(A) students (including information concerning race, sex, and handicapping condition),

“(B) programs,

“(C) program completers and leavers,

“(D) placement and followup,

“(E) staff,

“(F) facilities, and

“(G) expenditures in relation to the principal purposes of this Act.

Such information shall include the participation of special populations, including women, the disadvantaged, the handicapped, individuals of limited English proficiency, and minorities.

“(2) The Secretary shall take such action as may be necessary to secure the data required by this section at reasonable cost. The Secretary, in consultation with the Congress, shall determine the number and types of vocational education institutions to be sampled, the methodology to be used, group sample sizes, appropriate breakdown analyses of such groups, and the frequency with which such studies under this section are to be conducted.

“(b)(1) In maintaining and updating such system, the Secretary shall endeavor to the fullest extent feasible to make the system compatible with the occupational information system (established pursuant to section 422), with the vocational education data system authorized under section 161(a) of the Vocational Education Act of 1963, and with other systems developed or assisted under the Job Training Partnership Act and with information collected pursuant to the Education of the Handicapped Act.

Infra.

20 USC 2391.
29 USC 1501
note.
20 USC 1400.

“(2) Any State receiving assistance under this Act shall cooperate with the Secretary in supplying the information required to be submitted by the Secretary and shall comply in its reports with the vocational education data system developed by the Secretary pursuant to subsection (a). Each State shall submit the data required to carry out this subsection to the Secretary in whatever form the Secretary requires.

“(3) The Secretary shall every 2 years update the national vocational education information and accounting system and prepare acquisition plans of data for operating the system. In carrying out the requirements under this paragraph, the Secretary shall use scientific sample surveys for the information required, except that the information required with respect to handicapped students shall be furnished in accordance with section 423 of this Act.

Post, p. 2474.

“(4) The Secretary may conduct special studies on enrollment of disadvantaged students in vocational education programs, on the participation of handicapped students in vocational education programs, and any other similar subjects which the Secretary deems appropriate.

“(c) In carrying out the responsibilities imposed by this section, the Secretary shall cooperate with the Secretary of Labor in implementing section 463 of the Job Training Partnership Act to ensure that the data system operated under this section is compatible with and complementary to other occupational supply and demand information systems developed or maintained with Federal assistance.

29 USC 1753.

“OCCUPATIONAL INFORMATION SYSTEM

“SEC. 422. (a) There is established a National Occupational Information Coordinating Committee which shall consist of the Assistant Secretary for Vocational and Adult Education, the Commissioner of the Rehabilitative Services Administration, the Director of the Office of Bilingual Education and Minority Language Affairs, and the Administrator of the National Center for Education Statistics of the Department of Education, the Commissioner of Labor Statistics and the Assistant Secretary for Employment and Training of the Department of Labor, the Undersecretary for Small Community and Rural Development of the Department of Agriculture, the Assistant Secretary for Economic Development of the Department of Commerce, and the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics). The Committee, with funds available to it under section 451, shall provide funds, on an annual basis, to State occupational information coordinating committees and to eligible recipients and shall—

National
Occupational
Information
Coordinating
Committee,
establishment.
20 USC 2422.

Post, p. 2479.

“(1) in the use of program data and employment data, improve coordination and communication among administrators and planners of programs authorized by this Act and by the Job Training Partnership Act, employment security agency administrators, research personnel, and personnel of employment and

Ante, p. 2435.
29 USC 1501
note.

training planning and administering agencies (including apprenticeship training agencies) at the Federal, State, and local levels;

“(2) develop and implement, in cooperation with State and local agencies, an occupational information system to meet the common occupational information needs of vocational education programs and employment and training programs at the national, State, and local levels, which system shall include data on occupational demand and supply based on uniform definitions, standardized estimating procedures, and standardized occupational classifications;

“(3) conduct studies on the effects of technological change on new and existing occupational areas and the required changes in knowledge and job skills; and

“(4) assist State occupational information coordinating committees established pursuant to subsection (b).

“(b) Each State receiving assistance under this Act shall establish a State occupational information coordinating committee composed of representatives of the State board, the State employment security agency, the State economic development agency, the State job training coordinating council, and the agency administering the vocational rehabilitation program. Such committee shall, with funds available to it from the National Occupational Information Coordinating Committee established pursuant to subsection (a)—

“(A) implement an occupational information system in the State which will meet the common needs for the planning for, and the operation of, programs of the State board assisted under this Act and of the administering agencies under the Job Training Partnership Act; and

“(B) use the occupational information system to implement a career information delivery system.

Ante, p. 2435.
29 USC 1501
note.

“INFORMATION BASE FOR VOCATIONAL EDUCATION DATA SYSTEM

20 USC 2423.

“SEC. 423. The Secretary shall assure that adequate information on the access to vocational education programs by handicapped secondary school students be included in the national vocational education data system, required by section 161 of the Vocational Education Act of 1963 and by this part, for the biennial survey. The information base for the biennial survey for the handicapped shall be in 4-digit detail as defined in A Classification of Instructional Programs published by the National Center for Educational Statistics. The survey shall include information with respect to total handicapped enrollment by program, by type of instructional setting, and by type of handicapping condition.

20 USC 2391.

“PART D—NATIONAL COUNCIL ON VOCATIONAL EDUCATION

“COUNCIL ESTABLISHED

20 USC 2431.

“SEC. 431. (a)(1) There is established the National Council on Vocational Education. The Council shall consist of 17 members appointed by the President of whom 9 shall be representative of the private sector.

“(2) The members of the Council shall serve for such terms as the President may prescribe. Members of the Council shall be individuals who are owners, chief executives or chief operating officers of

private business concerns, private for profit and nonprofit health and educational institutions and executives of business concerns and business associations who have substantial management and policy responsibility including agriculture, small business, and organized labor, except that at least one member shall be a nonpublic member appointed from among members of the National Commission for Employment Policy established under the Job Training Partnership Act, and at least 3 members shall be individuals with broad experience in education and human resources development.

29 USC 1501
note.

“(3) The Chairperson of the Council shall be selected by the President. The Council shall meet not fewer than 4 times each year at the call of the Chairperson. A majority of the members of the Council shall constitute a quorum (but a lesser number may conduct hearings on behalf of the Council), and recommendations may be made, or other actions taken, only by a majority of the members present.

“(b) The Council shall advise the President, Congress, and the Secretary on—

“(1) the effectiveness of this Act or its implementation in achieving the stated purposes of this Act and in providing students with skills that meet needs of employers;

Ante, p. 2435.

“(2) strategies for increasing cooperation between business and vocational education so that training is available for new technologies for which there is a demand;

“(3) practical approaches to retraining adult workers, and to enhancing education, business, and labor cooperation in retraining efforts;

“(4) effective ways of providing access to information regarding the market demand for skills that will enable State and local personnel to develop responsive vocational education curricula;

“(5) the vocational education needs of the handicapped and the level of participation of the handicapped in vocational education programs; and

“(6) the implementation of this Act and the Job Training Partnership Act, and policies needed to expand and improve vocational-technical education programs (and apprenticeship programs) in order to build a coordinated capacity to adequately prepare America's work force for employment.

“(c) Subject to such rules and regulations as may be adopted by the Council, the Chairperson is authorized to—

“(1) prescribe such rules and regulations as may be necessary for conducting the business of the Council;

“(2) appoint and fix the compensation of such personnel as the Chairperson considers necessary (including not to exceed five professional personnel), and appoint (with the approval of the Council) a Director, who shall be the chief executive officer of the Council and perform such duties as are prescribed by the Chairperson;

“(3) procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code;

“(4) accept voluntary and uncompensated services of professional personnel, consultants, and experts, notwithstanding any other provision of the law;

“(5) accept in the name of the United States and employ or dispose of gifts or bequests to carry out the functions of the Council under this section;

Grants.
Contracts with
U.S.

“(6) enter into contracts and grants and make such other arrangements and modifications, as may be necessary;

“(7) conduct such hearings, studies, and research activities as the Council deems necessary to enable it to carry out its functions under this section;

“(8) use the services, personnel, facilities, and information of any department, agency, or instrumentality of the executive branch of the Federal Government and the services, personnel, facilities, and information of State and local public agencies and private agencies and organizations, with the consent of such agencies, with or without reimbursement therefor; and

“(9) make advance, progress, and other payments necessary under this section without regard to the provisions of section 3648 of the Revised Statutes (31 U.S.C. 529).

31 USC 3324.

“(d) Upon request made by the Chairperson of the Council, each department, agency, and instrumentality of the executive branch of the Federal Government is authorized and directed to make its services, personnel, facilities, and information available to the greatest practicable extent to the Council in the performance of its functions under this section.

“(e) The Council may establish working groups on occupational competencies to provide the Secretary, the President, the Congress, and the States with current information on the types and levels of occupational competencies necessary for entry and sustained productive employment in given jobs or industries, including levels of skills required, and equipment, methods, and facilities needed for the occupation. The Council may establish working groups for the occupations the Council considers important or necessary and may reconstitute such groups as occupational priorities are revised. Members of the working groups shall be appointed by the Council on the advice of national trade and professional associations and labor organizations. Working group members shall be individuals with specific knowledge in the technology and practice of the occupations relevant to the task of the group. The Council may provide the results and recommendations of the working groups to each State council on vocational education and other appropriate State agencies.

“(f) The Council may use funds available for this part to obtain the services of staff specialists for working groups who have demonstrated technical skills and instructional ability in the occupations in question.

Report.

“(g) The Council shall make a report of its findings and recommendations to the President, the Congress, and the Secretary every second year, and may make such interim reports and recommendations as the Council may consider desirable. The Council shall include in such reports the manner in which the competency statements provided by the Council have been used by the States. The Council may include in such reports its evaluation of the status, progress, and needs of vocational education (including recommendations for Federal legislation and appropriations). Each such report shall include any minority, dissenting, or supplementary view submitted by any member of the Council.

“PART E—BILINGUAL VOCATIONAL TRAINING**“PROGRAM AUTHORIZED**

“Sec. 441. (a)(1) From the sums made available to carry out this section in each fiscal year under section 3(d), the Secretary is authorized to make grants to and to enter into contracts with appropriate State agencies, local educational agencies, postsecondary educational institutions, private nonprofit vocational training institutions, and other nonprofit organizations specially created to serve individuals who normally use a language other than English, for bilingual vocational education and training for individuals with limited English proficiency to prepare such individuals for jobs in recognized occupations and new and emerging occupations. Such training shall include instruction in the English language to ensure that participants in such training will be equipped to pursue such occupations in an English language environment. The Secretary may also enter into contracts with private for-profit agencies and organizations for bilingual vocational education and training programs.

Grants.
Contracts with
U.S.
20 USC 2441.
Ante, p. 2437.

“(2) Grants and contracts under this subsection may be used for—

“(A) bilingual vocational training programs for individuals who have completed or left elementary or secondary school and who are available for education in a postsecondary educational institution;

“(B) bilingual vocational education and training programs for individuals who have already entered the labor market and who desire or need training or retraining to achieve year-round employment, adjust to changing manpower needs, expand their range of skills, or advance in employment; and

“(C) training allowances for participants in bilingual vocational training programs.

“(b)(1) From the sums made available to carry out this section, the Secretary is authorized to make grants to and to enter into contracts with State agencies and public and private nonprofit educational institutions and to enter into contracts with private for-profit educational institutions to assist such entities in conducting training for instructors of bilingual vocational education and training programs.

“(2) Grants and contracts under this subsection may be used for—

“(A) preservice and inservice training for instructors, aides, counselors, or other ancillary personnel participating or preparing to participate in bilingual vocational training programs; and

“(B) fellowships and traineeships for individuals participating in preservice or inservice training.

“(3) The Secretary may not make a grant or enter into a contract under this subsection unless the Secretary determines that the applicant has an ongoing vocational training program in the field in which participants will be trained and can provide instructors with adequate language capabilities in the language other than English to be used in the program.

“(c)(1) From the sums made available to carry out this section, the Secretary is authorized to make grants to and to enter into contracts with State agencies, educational institutions, and appropriate nonprofit organizations, and to enter into contracts with private for-profit organizations and individuals, to assist in the development of instructional and curriculum materials, methods, or techniques for bilingual vocational training.

“(2) Grants and contracts under this subsection may be used for—

“(A) research in bilingual vocational training;

“(B) training programs to familiarize State agencies and training institutions with research findings and with successful pilot and demonstration projects in bilingual vocational education and training; and

“(C) experimental, developmental, pilot, and demonstration projects.

“(d)(1) Any eligible entity which desires to receive a grant from the Secretary under subsection (a), (b), or (c) shall submit an application to the Secretary in such form, at such times, and accompanied by such information as the Secretary may require. Such application shall provide that the activities and services for which assistance is sought will be administered by or under the supervision of the applicant.

“(2) An application pursuant to subsection (a) shall (A) set forth a program of such size, scope, and design as will make a substantial contribution toward carrying out the purposes of this section, and (B) be submitted to the State board or agency under section 111 for review and comment. Any such comments shall be included for submission to the Secretary.

“(3) An application pursuant to subsection (c) shall set forth the qualifications of staff responsible for any such program.

“(4) An application pursuant to subsection (b) shall—

“(A) describe the capabilities of the applicant (including vocational training or education courses offered by the applicant, accreditation, and any certification of courses by appropriate State agencies);

“(B) describe the qualifications of principal staff responsible for any program under subsection (b); and

“(C) describe minimum qualifications for individuals participating or to participate in any program, describe the selection process for such individuals, and the projected amount of the fellowships or traineeships, if any.

“(5) Prior to making grants or contracts under subsection (a) or (b), the Secretary shall consult with the State board under section 111 to ensure an equitable distribution of assistance among populations of individuals with limited English proficiency within the State.

“(6) The Secretary may approve an application for assistance under this section only if the application meets the requirements set forth under this section. An amendment to an application shall, except as the Secretary may otherwise provide, be subject to approval in the same manner as the initial application.

“(e)(1) The Secretary shall administer programs under this section in consultation with the Secretary of Labor.

“(2) Programs of bilingual vocational education and training under this section in the Commonwealth of Puerto Rico may provide for the needs of students of limited Spanish proficiency.

“(3) The Secretary of Education, in consultation with the Secretary of Labor, shall gather and disseminate information concerning the status of bilingual vocational education in all geographic regions and shall evaluate the impact of bilingual vocational education on occupational shortages of skilled workers, the unemployment or underemployment of individuals with limited English proficiency, and the ability of such individuals to acquire sufficient job skills and English language skills to fully contribute to the economy. The

Ante, p. 2441.

Public
information.

Report.

Secretary of Education and the Secretary of Labor shall annually report their findings to the President and the Congress.

“(f)(1) For each fiscal year, not less than 75 per centum of sums appropriated for the purposes of this section shall be available only for grants and contracts under subsection (a).

“(2) For each fiscal year, not less than 15 per centum of the sums appropriated for the purposes of this section shall be available only for grants and contracts under subsection (b).

“(3) For each fiscal year, not less than 10 per centum of sums appropriated for the purposes of this section shall be available only for grants and contracts under subsection (c).

“PART F—GENERAL PROVISIONS

“DISTRIBUTION OF ASSISTANCE

“SEC. 451. (a) Subject to the provisions of subsection (b), of the amounts available pursuant to section 3(e) for any fiscal year for this title—

“(1) 35 percent shall be available for part A, relating to research; *Ante*, p. 2466.

“(2) 35 percent shall be available for part B, relating to demonstration projects; and *Ante*, p. 2470.

“(3) 30 percent shall be available for part C, relating to vocational education in occupational information data systems. *Ante*, p. 2472.

“(b) Notwithstanding the provisions of subsection (a)—

“(1) there shall be available in each fiscal year not less than \$6,000,000 to carry out the provisions of section 404, relating to the National Center for Research; *Ante*, p. 2468.

“(2) there shall be available for each fiscal year not less than \$3,500,000 for the purpose of carrying out section 422, relating to the occupational information system; and *Ante*, p. 2473.

“(3) there shall be available in each fiscal year \$500,000 for the purpose of carrying out part D, relating to the National Council. *Ante*, p. 2474.

“TITLE V—GENERAL PROVISIONS

“PART A—FEDERAL ADMINISTRATIVE PROVISIONS

“PAYMENTS

“SEC. 501. (a) The Secretary shall pay from its allotment under section 101 to each State for any fiscal year for which the State has a State plan approved in accordance with section 114 (including any amendment to such plan) the Federal share of the costs of carrying out the State plan. *20 USC 2461. Ante*, p. 2438. *Ante*, p. 2449.

“(b) The Secretary shall pay to each State council of a State which has a State plan approved in accordance with section 114, from its allotment under section 112(f), an amount equal to the reasonable amounts expended by the State council in carrying out its functions under this Act in such fiscal year. *Ante*, p. 2443. *Ante*, p. 2435.

“FEDERAL SHARE

“SEC. 502. (a) The Federal share for each fiscal year shall be— *20 USC 2462.*

“(1) 50 percent of the costs of administration of the State plan;

“(2) not to exceed 50 percent of the costs of administration of vocational education services and activities of eligible recipients;

Ante, p. 2450.
Ante, p. 2450.

“(3)(A) 50 percent of the costs of vocational education services and activities under part A of title II for individuals described in clauses (1), (2), and (3) of section 201(b);

“(B) 100 percent of the costs of vocational education programs, services, and activities under part A of title II for individuals described in clauses (4), (5), and (6) of section 201(b);

Ante, p. 2455.

“(4) 50 percent of the costs of vocational education improvement, innovation, and expansion programs under part B of title II;

Ante, p. 2443.

“(5) 100 percent of the costs of the State council under section 112;

Ante, p. 2441.

“(6) 100 percent of the costs to carry out the provisions of section 111(b)(3); and

Ante, p. 2457.

“(7) except as otherwise provided, 100 percent of the costs of programs under title III.

Ante, p. 2450.

“(b) The non-Federal contribution for the costs of vocational education programs, services, and activities for the handicapped and the disadvantaged under part A of title II shall be furnished equitably by the State from State and local sources, except that the non-Federal contributions of such costs shall be furnished by the State from State sources if the State board determines that an eligible recipient cannot reasonably be expected to provide such costs from local sources.

“MAINTENANCE OF EFFORT

20 USC 2463.
Ante, p. 2435.

“SEC. 503. (a) No payments shall be made under this Act for any fiscal year to a State unless the Secretary determines that the fiscal effort per student or the aggregate expenditures of such State for vocational education for the fiscal year preceding the fiscal year for which the determination is made, equaled or exceeded such effort or expenditures for vocational education for the second preceding fiscal year.

“(b) The Secretary may waive the requirements of this section for one fiscal year only, upon making a determination that such waiver would be equitable due to exceptional or uncontrollable circumstances affecting the ability of the applicant to meet such requirements, such as a natural disaster or an unforeseen and precipitous decline in financial resources. No level of funding permitted under such a waiver may be used as the basis for computing the fiscal effort required under this section for years subsequent to the year covered by such waiver; such fiscal effort shall be computed on the basis of the level of funding which would, but for such waiver, have been required.

“WITHHOLDING; JUDICIAL REVIEW

20 USC 2464.

“SEC. 504. (a) Whenever the Secretary, after reasonable notice and opportunity for hearing to the State board, finds that—

Ante, p. 2449.

“(1) the State plan approved under section 114 has been so changed that it no longer complies with the provisions of this Act; or

“(2) in the administration of the State plan or of programs conducted pursuant to it there is a failure to comply substantially with any such provision,

the Secretary shall notify such State board that no further payments will be made to the State under this Act (or, further payments to the State will be limited to programs under or portions of the State plan not affected by such failure) until satisfied that there will no longer be any failure to comply. Until so satisfied, the Secretary shall make no further payments to such State under this Act (or shall limit payments to programs under, or portions of, the State plan not affected by such failure).

“(b) A State board which is dissatisfied with a final action of the Secretary under this section may appeal to the United States court of appeals for the circuit in which the State is located, by filing a petition with such court within sixty days after such final action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary, or any officer designated by him for that purpose. The Secretary thereupon shall file in the court the record of the proceedings on which action is based, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set aside such action, in whole or in part, temporarily or permanently, but until the filing of the record, the Secretary may modify or set aside his action. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari certification as provided in section 1254 of title 28, United States Code. The commencement of proceedings under this subsection shall, unless specifically ordered otherwise by the court, operate as a stay of the Secretary’s action.

Courts, U.S.

“(c)(1) If any eligible recipient is dissatisfied with the final action of the State board or other appropriate State administering agency with respect to approval of its local application, such eligible recipient may, within sixty days after such final action or notice thereof, whichever is later, file with the United States court of appeals for the circuit in which the State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the State board or other appropriate State administering agency. The State board or such other agency thereupon shall file in the court the record of the proceeding on which the State board or such other agency based its action, as provided in section 2112 of title 28, United States Code.

“(2) The findings of fact by the State board or other appropriate administering agency, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the State board or such other agency to take further evidence, and the State board or such other agency may thereupon make new or modified findings of fact and may modify its previous action, and shall certify to the court the record of the further proceedings.

“(3) The court shall have jurisdiction to affirm the action of the State board or other appropriate administering agency or to set it aside, in whole or in part. The judgment of the court shall be subject

to review by the Supreme Court of the United States upon certiorari certification as provided in section 1254 of title 28, United States Code.

20 USC 1232c.

“(d)(1) The Secretary shall prescribe and implement rules to assure that any hearing conducted under section 434(c) of the General Education Provisions Act in connection with funds made available from appropriations under this Act shall be held within the State of the affected unit of local government or geographic area within the State.

“(2) For the purposes of paragraph (1)—

“(A) the term ‘unit of local government’ means a county, municipality, town, township, village, or other unit of general government below the State level; and

“(B) the term ‘geographic area within a State’ means a special purpose district or other region recognized for governmental purposes within such State which is not a unit of local government.

“AUDITS

20 USC 2465.

Ante, p. 2435.

“SEC. 505. Each State shall obtain financial and compliance audits of any funds which the State receives under this Act. Such audits shall be made public within the State on a timely basis. Audits shall be conducted at least every two years and shall be conducted in accordance with the Comptroller General’s Standard for Audit of Governmental Organizations, Programs, Activities, and Functions.

“AUTHORITY TO MAKE PAYMENTS

20 USC 2466.

“SEC. 506. Any authority to make payments or to enter into contracts under this Act shall be available only to such extent or in such amounts as are provided in advance appropriation Acts.

“PART B—DEFINITIONS

“DEFINITIONS

20 USC 2471.

“SEC. 521. As used in this Act:

“(1) The term ‘administration’ means activities of a State necessary for the proper and efficient performance of its duties under this Act, including supervision, but does not include curriculum development activities, personnel development, technical assistance, or research activities.

29 USC 50 note.

“(2) The term ‘apprenticeship training program’ means a program registered with the Department of Labor or the State apprenticeship agency in accordance with the Act of August 16, 1937, known as the National Apprenticeship Act, which is conducted or sponsored by an employer, a group of employers, or a joint apprenticeship committee representing both employers and a union, and which contains all terms and conditions for the qualification, recruitment, selection, employment, and training of apprentices.

“(3) The term ‘area vocational education school’ means—

“(A) a specialized high school used exclusively or principally for the provision of vocational education to individuals who are available for study in preparation for entering the labor market;

“(B) the department of a high school exclusively or principally used for providing vocational education in no less than five different occupational fields to individuals who are available for study in preparation for entering the labor market;

“(C) a technical institute or vocational school used exclusively or principally for the provision of vocational education to individuals who have completed or left high school and who are available for study in preparation for entering the labor market; or

“(D) the department or division of a junior college or community college or university operating under the policies of the State board and which provides vocational education in no less than five different occupational fields leading to immediate employment but not necessarily leading to a baccalaureate degree, if, in the case of a school, department, or division described in subparagraph (C) or this subparagraph, it admits as regular students both individuals who have completed high school and individuals who have left high school.

“(4) The term ‘career guidance and counseling’ means those programs (A) which pertain to the body of subject matter and related techniques and methods organized for the development in individuals of career awareness, career planning, career decisionmaking, placement skills, and knowledge and understanding of local, State, and national occupational, educational, and labor market needs, trends, and opportunities, and (B) which assist them in making and implementing informed educational and occupational choices.

“(5) The term ‘community-based organization’ means any such organization of demonstrated effectiveness described in section 4(5) of the Job Training Partnership Act.

29 USC 1503.

“(6) The term ‘construction’ includes construction of new buildings and acquisition, and expansion, remodeling, and alteration of existing buildings, and includes site grading and improvement and architect fees.

“(7) The term ‘cooperative education’ means a method of instruction of vocational education for individuals who, through written cooperative arrangements between the school and employers, receive instruction, including required academic courses and related vocational instruction by alternation of study in school with a job in any occupational field, but the two experiences must be planned and supervised by the school and employers so that each contributes to the student’s education and to his or her employability. Work periods and school attendance may be on alternate half days, full days, weeks, or other periods of time in fulfilling the cooperative program.

“(8) The term ‘criminal offender’ means any individual who is charged with or convicted of any criminal offense, including a youth offender or a juvenile offender.

“(9) The term ‘correctional institution’ means any—

“(A) prison,

“(B) jail,

“(C) reformatory,

“(D) work farm,

“(E) detention center, or

“(F) halfway house, community-based rehabilitation center, or any other similar institution designed for the confinement or rehabilitation of criminal offenders.

“(10) The term ‘Council’ means the National Council on Vocational Education.

“(11) The term ‘curriculum materials’ means instructional and related or supportive material, including materials using advanced learning technology, in any occupational field which is designed to strengthen the academic foundation and prepare individuals for employment at the entry level or to upgrade occupational competencies of those previously or presently employed in any occupational field, and appropriate counseling and guidance material.

“(12) The term ‘disadvantaged’ means individuals (other than handicapped individuals) who have economic or academic disadvantages and who require special services and assistance in order to enable them to succeed in vocational education programs. Such term includes individuals who are members of economically disadvantaged families, migrants, individuals who have limited English proficiency and individuals who are dropouts from, or who are identified as potential dropouts from, secondary school.

“(13) The term ‘economically depressed area’ means an economically integrated area within any State in which a chronically low level of economic activity or a deteriorating economic base has caused such adverse effects as (A) a rate of unemployment which has exceeded by 50 per centum or more the average rate of unemployment in the State, or in the Nation, for each of the three years preceding the year for which such designation is made, or (B) a large concentration of low-income families, and for which such designation for the purposes of this Act is approved by the Secretary as consistent with these and such other criteria as may be prescribed, and with the purposes of this Act.

“(14) The term ‘eligible recipient’ means a local educational agency or a postsecondary educational institution.

“(15) The term ‘handicapped’, when applied to individuals, means individuals who are mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, or other health impaired persons, or persons with specific learning disabilities, who by reason thereof require special education and related services, and who, because of their handicapping condition, cannot succeed in the regular vocational education program without special education assistance.

“(16) The term ‘high technology’ means state-of-the-art computer, microelectronic, hydraulic, pneumatic, laser, nuclear, chemical, telecommunication, and other technologies being used to enhance productivity in manufacturing, communication, transportation, agriculture, mining, energy, commercial, and similar economic activity, and to improve the provision of health care.

“(17) The term ‘homemaker’ means an individual who—

“(A) is an adult, and

“(B) has worked as an adult primarily without remuneration to care for the home and family, and for that reason has diminished marketable skills.

The Secretary may not prescribe the manner in which the States will comply with the application of the definition contained in this paragraph.

“(18) The term ‘limited English proficiency’ has the meaning given such term in section 703(a)(1) of the Elementary and Secondary Education Act of 1965.

20 USC 3223.

“(19) The term ‘local educational agency’ means a board of education or other legally constituted local school authority having administrative control and direction of public elementary or secondary schools in a city, county, township, school district, or political subdivision in a State, or any other public educational institution or agency having administrative control and direction of a vocational education program.

“(20) The term ‘economically disadvantaged family or individual’ means such families or individuals who are determined by the Secretary to be low-income according to the latest available data from the Department of Commerce.

“(21) The term ‘postsecondary educational institution’ means an institution legally authorized to provide postsecondary education within a State, or any postsecondary educational institution operated by or on behalf of any Indian tribe which is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination Act or under the Act of April 16, 1934.

25 USC 450 note.
25 USC 452-457.

“(22) The term ‘private vocational training institution’ means a business or trade school, or technical institution or other technical or vocational school, in any State, which (A) admits as regular students only persons who have completed or left elementary or secondary school and who have the ability to benefit from the training offered by such institution; (B) is legally authorized to provide, and provides within that State, a program of postsecondary vocational or technical education designed to fit individuals for useful employment in recognized occupations; (C) has been in existence for two years or has been specially accredited by the Secretary as an institution meeting the other requirements of this subsection; and (D) is accredited (i) by a nationally recognized accrediting agency or association listed by the Secretary pursuant to this clause, or (ii) if the Secretary determines that there is no nationally recognized accrediting agency or association qualified to accredit schools of a particular category, by a State agency listed by the Secretary pursuant to this clause, or (iii) if the Secretary determines that there is no nationally recognized or State agency or association qualified to accredit schools of a particular category, by an advisory committee appointed by the Secretary and composed of persons specially qualified to evaluate training provided by schools of that category, which committee shall prescribe the standards of content, scope, and quality which must be met by those schools and shall also determine whether particular schools meet those standards. For the purpose of this paragraph, the Secretary shall publish a list of nationally recognized accrediting agencies or associations and State agencies which the Secretary determines to be reliable authority as to the quality of education or training afforded.

Public
information.

“(23) The term ‘school facilities’ means classrooms and related facilities (including initial equipment) and interests in lands on which such facilities are constructed. Such term shall not in-

clude any facility intended primarily for events for which admission is to be charged to the general public.

“(24) The term ‘Secretary’ means the Secretary of Education.

“(25) The term ‘single parent’ means an individual who—

“(A) is unmarried or legally separated from a spouse, and

“(B) has a minor child or children for which the parent has either custody or joint custody.

“(26) The term ‘small business’ means for-profit enterprises employing five hundred or fewer employees.

“(27) The term ‘State’ includes, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

“(28) The term ‘State board’ means a State board designated or created by State law as the sole State agency responsible for the administration of vocational education, or for supervision of the administration of vocational education in the State.

Ante, p. 2443.

“(29) The term ‘State council’ means the State council on vocational education established in accordance with section 112.

“(30) The term ‘State educational agency’ means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary or secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

“(31) The term ‘vocational education’ means organized educational programs which are directly related to the preparation of individuals in paid or unpaid employment in such fields as agriculture, business occupations, home economics, health occupations, marketing and distributive occupations, technical and emerging occupations, modern industrial and agriculture arts, and trades and industrial occupations, or for additional preparation for a career in such fields, and in other occupations, requiring other than a baccalaureate or advanced degree and vocational student organization activities as an integral part of the program; and for purposes of this paragraph, the term ‘organized education program’ means only (A) instruction (including career guidance and counseling) related to the occupation or occupations for which the students are in training or instruction necessary for students to benefit from such training, and (B) the acquisition (including leasing), maintenance, and repair of instructional equipment, supplies, and teaching aids; but the terms do not mean the construction, acquisition, or initial equipment of buildings, or the acquisition or rental of land.

“(32) The term ‘vocational student organizations’ means those organizations for individuals enrolled in vocational education programs which engage in activities as an integral part of the instructional program. Such organizations may have State and national units which aggregate the work and purposes of instruction in vocational education at the local level.”.

EFFECTIVE DATE

20 USC 2301
note.

SEC. 2. (a) This Act shall take effect for fiscal years beginning on or after October 1, 1984, except that the authority of the Secretary to prescribe regulations under this Act and the responsibility of

States to submit State plans are effective upon the date of enactment of this Act.

(b) Not later than 90 days after the date of the enactment of this Act, the Secretary shall prescribe regulations for carrying out the provisions of this Act.

Regulations.

Ante, p. 2435.

TRANSITION PROVISIONS

SEC. 3. (a) Each State and eligible recipient of financial assistance under the Carl D. Perkins Vocational Education Act, or under the Vocational Education Act of 1963, may expend funds received under the Carl D. Perkins Vocational Education Act or under the Vocational Education Act of 1963 to—

20 USC 2301
note.
Ante, p. 2435.
20 USC 2301
note.

(1) conduct planning for any program or activity authorized under the Carl D. Perkins Vocational Education Act; and

(2) conduct any other activity deemed necessary by the recipient to provide for an orderly transition to the operation of programs under the Carl D. Perkins Vocational Education Act.

(b)(1) On the effective date of the Carl D. Perkins Vocational Education Act, the personnel, property, and records of the National Occupational Information Coordinating Committee established under section 161(b) of the Vocational Education Act of 1963 shall be transferred to the National Occupational Information Coordinating Committee established pursuant to section 422 of this Act.

20 USC 2422
note.

20 USC 2391.

(2) On the effective date of this Act, the personnel, property, and records of the National Advisory Council on Vocational Education shall be transferred to the National Council on Vocational Education established under section 431 of this Act.

Ante, p. 2473.
20 USC 2431
note.

Ante, p. 2474.

CONFORMING AMENDMENTS

SEC. 4. (a)(1) Section 4 of the Job Training Partnership Act (29 U.S.C. 1501 et seq.) is amended—

29 USC 1503.

(A) by striking out “section 195(10) of the Vocational Education Act of 1963” in paragraph (14) and inserting in lieu thereof “section 4(15) of the Carl D. Perkins Vocational Education Act”;

(B) by striking out “section 195(11) of the Vocational Education Act of 1963” in paragraph (23) and inserting in lieu thereof “section 1201(h) of the Higher Education Act of 1965”; and

(C) by striking out “section 195(1) of the Vocational Education Act of 1963” in paragraph (28) and inserting in lieu thereof “section 521(31) of the Carl D. Perkins Vocational Education Act”.

(2) Section 122 of such Act is amended—

29 USC 1532.

(A) by striking out paragraph (8) of subsection (a); and

(B) by striking out “reports required pursuant to section 105(d)(3) of the Vocational Education Act of 1963” in subsection (b)(7)(B) and inserting in lieu thereof “the measures taken pursuant to section 113(b)(9) of the Carl D. Perkins Vocational Education Act”.

(3) Section 125(b)(1) of such Act is amended by striking out “the Vocational Education Act of 1963” and inserting in lieu thereof “the Carl D. Perkins Vocational Education Act”.

29 USC 1535.

(4) Section 427(a)(1) of such Act is amended by striking out “section 104(a)(1) of the Vocational Education Act of 1963” and inserting in lieu thereof “section 111(a)(1) of the Carl D. Perkins Vocational Education Act”.

29 USC 1697.

- 29 USC 1751. (5) Section 461(c) of such Act is amended by striking out “the Vocational Education Act of 1963” and inserting in lieu thereof “the Carl D. Perkins Vocational Education Act”.
- 29 USC 1753. (6)(A) Section 463(a) of such Act is amended by striking out “section 161(b) of the Vocational Education Act of 1963” and inserting in lieu thereof “section 422 of the Carl D. Perkins Vocational Education Act”.
- 29 USC 1754. (B) Section 464(a)(1) of such Act is amended by striking out “section 161(b) of the Vocational Education Act of 1963” and inserting in lieu thereof “section 422 of the Carl D. Perkins Vocational Education Act”.
- (C) Section 464(c) of such Act is amended by striking out “section 161(b) of the Vocational Education Act of 1963” and inserting in lieu thereof “section 422 of the Carl D. Perkins Vocational Education Act”.
- 29 USC 1753. (D) Section 463(a) of such Act is amended by striking out “section 161(b) of the Vocational Education Act of 1963” and inserting in lieu thereof “section 422 of the Carl D. Perkins Vocational Education Act”.
- 29 USC 1754. (E) Section 464(b) of such Act is amended by striking out “the Vocational Education Act of 1963” and inserting in lieu thereof “the Carl D. Perkins Vocational Education Act”.
- 29 USC 1772. (7) Section 472 of such Act is amended by striking out “National Advisory Council on Vocational Education (established under section 162 of the Vocational Education Act of 1963)” in subsection (a) and inserting in lieu thereof “National Council on Vocational Education (established under section 431 of the Carl D. Perkins Vocational Education Act)”.
- 29 USC 1773. (8) Section 473 of such Act is amended—
- (A) by striking out “National Advisory Council on Vocational Education” in paragraph (7)(A) and each place it appears in paragraph (7)(B) and inserting in lieu thereof “National Council on Vocational Education”; and
- (B) by striking out “section 162 of the Vocational Education Act of 1963” and inserting in lieu thereof “part D of title IV of the Carl D. Perkins Vocational Education Act”.
- (b) Section 703(a)(8) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3223(a)(8)) is amended by striking out “section 122(a)(4) and part J of the Vocational Education Act of 1963” and inserting in lieu thereof “the Carl D. Perkins Vocational Education Act”.
- (c)(1) Section 113(d) of the Higher Education Act of 1965 (20 U.S.C. 1013(d)) is amended by striking out “the Vocational Education Act of 1963” and inserting in lieu thereof “the Carl D. Perkins Vocational Education Act”.
- 20 USC 1014. (2) Section 114(b) of such Act is amended by striking out “the Vocational Education Act of 1963” and inserting in lieu thereof “the Carl D. Perkins Vocational Education Act”.
- 20 USC 1135c-1. (3) Section 1022(a) of such Act is amended by striking out “the Vocational Education Act of 1963” and inserting in lieu thereof “the Carl D. Perkins Vocational Education Act”.
- (d)(1) Section 306(b)(11) of the Adult Education Act (20 U.S.C. 1205(b)(11)) is amended by striking out “the Vocational Education Act of 1963” and inserting in lieu thereof “the Carl D. Perkins Vocational Education Act”.

(2) Section 318(a)(4) of such Act is amended by striking out “the Vocational Education Act of 1963” and inserting in lieu thereof “the Carl D. Perkins Vocational Education Act”.

20 USC 1211c.

(e)(1) Section 113(a) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended by striking out “the Vocational Education Act of 1963 (77 Stat. 403)” and inserting in lieu thereof “the Carl D. Perkins Vocational Education Act”.

40 USC app. 113.

(2) Section 114(c) of such Act is amended by striking out “the Vocational Education Act of 1963” and inserting in lieu thereof “the Carl D. Perkins Vocational Education Act”.

40 USC app. 114.

(f) Section 101(a)(11) of the Rehabilitation Act of 1973 (29 U.S.C. 721(a)(11)) is amended by striking out “the Vocational Education Act” and inserting in lieu thereof “the Carl D. Perkins Vocational Education Act”.

(h) Section 104 of the Vocational Education Amendments of 1968 is amended by striking out “section 102(a) of this Act (as such Act will be in effect on October 1, 1977)” and inserting in lieu thereof “section 3 of the Carl D. Perkins Vocational Education Act”.

20 USC 11 note.

NATIONAL SUMMIT CONFERENCE ON EDUCATION

SEC. 5. (a) This section may be cited as the “National Summit Conference on Education Act of 1984”.

National
Summit
Conference on
Education Act of
1984.

(b)(1) The Congress finds that—

(A) increased economic competition requires the development of a better trained and educated workforce which our educational institutions must provide;

(B) problems and deficiencies in American elementary and secondary education require consideration of possible new directions in setting national education policy; and

(C) there should be a National Summit Conference on Education authorized by law by Congress to provide directions for such policy, and any conference established by the Department of Education should be complementary to the National Summit Conference on Education.

(2) For the purpose of this section, the term “Conference” means the National Summit Conference on Education established by this title.

(c) There are authorized to be appropriated to the Department of Education \$500,000 for the purpose of conducting a National Summit Conference on Education, in accordance with the provisions of this section.

Appropriation
authorization.

(d) The participants in the Conference shall consist of not more than two hundred individuals. The participants in the Conference shall be representative of teachers, parents, school administrators, school board members, State education officials, State legislators, Governors, students, business, labor, and special populations, including females, racial and ethnic minorities, and the disabled. The participants in the Conference shall be selected so as to provide racial, political, and geographic balance.

(e) The participants in the Conference shall be chosen from among nominees submitted to the Executive Committee (established pursuant to section 605) by organizations representing public and private elementary and secondary education, vocational education, adult education, teacher training, women, racial and ethnic minorities, and the handicapped, as well as from among nominees supplied by

organizations representing business, organized labor, parents, libraries, and all levels of government.

(f)(1) There shall be an Executive Committee of the Conference consisting of—

(A) two individuals appointed by the President,

(B) two individuals appointed by the Speaker of the House of Representatives,

(C) two individuals appointed by the Majority Leader of the Senate, and

(D) six individuals appointed by the Governors of the States acting as a group.

The six individuals appointed by the Governors shall be appointed from individuals representing chief State school officers, local and State school boards, State legislatures, and Governors.

(2) The Executive Committee shall be responsible for selecting a presiding officer and for selecting the organizations (described in section 604) to supply a list of nominees for selection as participants in the Conference. Not less than 30 organizations shall be so selected by the Executive Committee. Each organization selected shall nominate at least the number of individuals specified by the Executive Committee for that organization in order to provide the representation required by sections 603 and 604. The Executive Committee shall determine the total number of individuals to be selected for participation, consistent with the requirements of this title.

(3) The Executive Committee shall serve without compensation.

(g) The Executive Committee shall appoint and fix the compensation of such staff as may be necessary, not to exceed the equivalent of four full-time employees. The staff shall assist the Executive Committee in planning, conducting, and completing the work of the Conference. The administrative support for the staff and the Executive Committee shall be the responsibility of the Department of Education in conjunction with the Speaker of the House of Representatives and the Majority Leader of the Senate. The staff and the Executive Committee shall report, through properly established lines of authority, to the Congress.

(h)(1) A majority of participants of the Conference shall constitute a quorum if votes are required. If task forces are created, the majority of task force participants shall constitute a quorum if a vote is required.

(2)(A) The Executive Committee shall select the Conference site and shall determine the duration of the Conference. The duration of the Conference shall not exceed six days. Neither the regional meetings (described in section 608(a)) nor the Conference shall meet before January 1, 1985.

(B) The Conference shall prepare and transmit a written record of its recommendations to the President, to the Congress, and to the States not later than four months after the last meeting of the Conference.

(i)(1) The Executive Committee, using data concerning education supplied by the Secretary of Education and by the States, shall develop an agenda for the Conference prior to the Conference. The data will include information furnished to the Secretary from statewide and regional summit conferences devoted to obtaining citizen views about education. The purpose of this agenda shall be to facilitate the development of recommendations on various issues raised by such recently issued education reports as the report of the National Commission on Excellence in Education, the Carnegie

Report.

Report on American High Schools, the National Science Boards' Report on Mathematics, Science and Technology Education, and others.

(2) The agenda so developed shall take into account that it shall be the purpose of the Conference to create national bipartisan support for education at all levels of government, and to make recommendations for the development of viable local, State, and national intergovernmental and intragovernmental cooperation in education to make the most efficient use of funds from all levels of government.

(3) The agenda shall also provide for procedures for determining national consensus regarding types of strategies to be used and the appropriate levels of government to have primary responsibility for implementing educational policy.

VOCATIONAL EDUCATION POLICY

SEC. 6. It is the sense of the Congress that effective vocational education programs are essential to our future as a free and democratic society; that such programs are best administered by local communities, and community colleges school boards, where the primacy of parental control can be emphasized with a minimum of Federal interference; and that as a means to strengthening vocational education and training programs, nongovernmental alternatives promoting links between public school needs and private sector sources of support should be encouraged and implemented.

20 USC 2301
note.

JOB TRAINING REGULATIONS

SEC. 7. Notwithstanding section 629.38(e)(2)(iii) of title 20 of the Code of Federal Regulations, relating to allowable training costs under the Job Training Partnership Act, payment for training packages purchased competitively pursuant to section 141(d)(3) of such Act in the case of youth shall include payment for the full unit price if the training results in either placement in unsubsidized employment or the attainment of an outcome specified in section 106(b)(2) of such Act.

29 USC 1551
note.
29 USC 1501
note.
29 USC 1551.

Approved October 19, 1984.

LEGISLATIVE HISTORY—H.R. 4164 (S. 2341):

HOUSE REPORTS: No. 98-612 (Comm. on Education and Labor) and No. 98-1129 (Comm. of Conference).

SENATE REPORT No. 98-507 accompanying S. 2341 (Comm. on Labor and Human Resources).

CONGRESSIONAL RECORD, Vol. 130 (1984):

Mar. 7, 8, considered and passed House.

Aug. 8, considered and passed Senate, amended, in lieu of S. 2341.

Oct. 3, Senate agreed to conference report.

Oct. 4, House agreed to conference report.

Public Law 98-525
98th Congress

An Act

Oct. 19, 1984
[H.R. 5167]

Department of
Defense
Authorization
Act, 1985.

To authorize appropriations for military functions of the Department of Defense and to prescribe military personnel levels for the Department of Defense for fiscal year 1985, to revise and improve defense procurement, compensation, and management programs, to establish new defense educational assistance programs, to authorize appropriations for national security programs of the Department of Energy, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. (a) This Act may be cited as the "Department of Defense Authorization Act, 1985".

(b) The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—PROCUREMENT

- Sec. 101. Authorization of appropriations, Army.
- Sec. 102. Authorization of appropriations, Navy and Marine Corps.
- Sec. 103. Authorization of appropriations, Air Force.
- Sec. 104. Authorization of appropriations, Defense Agencies.
- Sec. 105. Authorization of appropriations for certain NATO cooperative programs.
- Sec. 106. Extension of authority provided Secretary of Defense in connection with the NATO Airborne Warning and Control System (AWACS) program.
- Sec. 107. Limitation on waivers of cost-recovery requirements under Arms Export Control Act.
- Sec. 108. Waiver of limitation on foreign military sales program.
- Sec. 109. Transfer of certain military equipment or data to foreign countries.
- Sec. 110. Policy concerning acquisition of additional MX missiles.
- Sec. 111. Prohibition of spending funds for binary chemical munitions.
- Sec. 112. Strategic weapons loader.
- Sec. 113. Foreign military sales of Air National Guard OA-37 aircraft.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

- Sec. 201. Authorization of appropriations.
- Sec. 202. Provisions relating to Army programs.
- Sec. 203. Limitations on funds for the Navy.
- Sec. 204. Limitations on funds for the Air Force.
- Sec. 205. Policy governing the test of anti-satellite warheads.
- Sec. 206. Limitation on funds for the Defense Agencies.
- Sec. 207. Implementation of law to establish independent Director of Operational Test and Evaluation.

TITLE III—OPERATION AND MAINTENANCE

- Sec. 301. Authorization of appropriations.
- Sec. 302. General authorization of appropriations for pay raises, fuel costs, and inflation adjustments.
- Sec. 303. Authorization of appropriations for working-capital funds.
- Sec. 304. Contingency funds for the unified and specified commands.
- Sec. 305. Sale of articles manufactured by certain arsenals; asset capitalization program.
- Sec. 306. Administrative transition provision for Navy Stock Fund management change.
- Sec. 307. Limitation on contracting-out core logistics functions.
- Sec. 308. Limitation on consulting and related services.

- Sec. 309. Restriction on reduction in ports of origin for certain cargo carried on vessels of the Military Sealift Command.
- Sec. 310. Sense of Congress concerning introduction of United States Armed Forces into Central America for combat.

TITLE IV—PERSONNEL AUTHORIZATIONS

PART A—ACTIVE FORCES

- Sec. 401. Authorization of end strengths.
- Sec. 402. Extension of quality control on enlistments into the Army.

PART B—RESERVE FORCES

- Sec. 411. Authorization of average strengths for Selected Reserve.
- Sec. 412. Authorization of end strengths for members on active duty in support of the reserve components.
- Sec. 413. Increase in number of certain personnel authorized to be on active duty in support of the reserve components.
- Sec. 414. Clarification of status of members of the National Guard performing full-time duty.

PART C—MILITARY TRAINING

- Sec. 421. Authorization of military training student loads.
- Sec. 422. Reduction in number of students required to be in a unit of the Junior Reserve Officers' Training Corps for the unit to be maintained.

TITLE V—DEFENSE PERSONNEL MANAGEMENT

PART A—CIVILIAN PERSONNEL

- Sec. 501. Waiver of civilian personnel ceilings for fiscal year 1985.
- Sec. 502. Civilian personnel ceilings on industrially-funded activities during fiscal year 1984.

PART B—OFFICER PERSONNEL

- Sec. 511. Temporary increase in the number of general and flag officers authorized to be on active duty.
- Sec. 512. Authority to consider for promotion certain Army reserve brigadier generals.
- Sec. 513. Authority to retain in active status until age 60 up to 10 Army reserve brigadier generals.
- Sec. 514. Extension of authority for the temporary promotion of certain Navy lieutenants.
- Sec. 515. Repeal of four-year limitation on period an officer may be assigned to the Army Staff or the Air Staff.

PART C—AMENDMENTS TO PROVISIONS OF LAW ENACTED BY THE DEFENSE

OFFICER PERSONNEL MANAGEMENT ACT

- Sec. 521. Retention in grade of officers appointed in reserves upon separating from active duty.
- Sec. 522. Increase in limitation on number of regular officers in the Navy, Air Force, and Marine Corps.
- Sec. 523. Clarification of senior general and flag officers continuation in grade during a change in status.
- Sec. 524. Authority to use means other than boards to decide whether an officer should be required to show cause for retention.
- Sec. 525. Removal from further consideration for promotion of officers in pay grade O-2 who have twice failed of selection for promotion.
- Sec. 526. Determination of date of rank for officers whose promotions are delayed administratively.
- Sec. 527. Special selection boards for warrant officers.
- Sec. 528. Authority to discharge reserve second lieutenants and ensigns found not qualified for promotion.
- Sec. 529. Navy limited duty officers.
- Sec. 530. Appointment in permanent grade of certain limited duty officers serving in higher temporary grades.
- Sec. 531. Determination of severance pay in certain cases.
- Sec. 532. Consideration for promotion of certain retired officers who later serve on active duty.
- Sec. 533. Technical amendments.

PART D—OFFICER TRAINING PROGRAMS

- Sec. 541. Clarification of authority to order certain cadets and midshipmen to active duty.
- Sec. 542. Extension of military service obligation of service academy and ROTC cadets and midshipmen.
- Sec. 543. Eligibility for advanced training in senior ROTC program.

PART E—MISCELLANEOUS

- Sec. 551. Women in the Armed Forces.
- Sec. 552. Reserve forces readiness.
- Sec. 553. Precedence of award of Purple Heart.
- Sec. 554. Study of military regulations with regard to religious practices.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS**PART A—BASIC PAY AND ALLOWANCES**

- Sec. 601. Military pay raise for fiscal year 1985.
- Sec. 602. Basic allowance for quarters and variable housing allowance.
- Sec. 603. Reimbursement for accommodations in place of quarters.
- Sec. 604. Clarification of authority to deny certain members without dependents right to elect to receive basic allowance for quarters rather than occupy military quarters.
- Sec. 605. Commutation of rations for reservists on inactive duty training who are unable to obtain rations in kind.
- Sec. 606. Forfeiture of accrued leave by certain members who serve on active duty less than six months.
- Sec. 607. Denial of credit for time spent in a delayed enlistment program for purposes of computation of basic pay.

PART B—TRAVEL AND TRANSPORTATION

- Sec. 611. Emergency medical transportation for dependents of members stationed in Alaska or Hawaii.
- Sec. 612. Transportation incident to emergency leave for members whose residences are in possessions of the United States.
- Sec. 613. Travel pay for certain reserve component instructors.
- Sec. 614. Transportation between residence and place of work for senior defense officials.

PART C—BONUSES AND SPECIAL PAYS

- Sec. 621. Extension of enlistment and reenlistment bonus authorities for active forces.
- Sec. 622. Extension of special pay for certain aviation career officers.
- Sec. 623. Special pay for sea duty and special skills for enlisted members.
- Sec. 624. Elimination of certain categories of incentive pay for hazardous duty.

PART D—HEALTH CARE MATTERS

- Sec. 631. Extension of medical and dental care for reserves and National Guard.
- Sec. 632. Enhanced benefits coverage under CHAMPUS.
- Sec. 633. Authority to provide dental care to certain dependents in facilities of the uniformed services.
- Sec. 634. Study of use by CHAMPUS of Medicare prospective payment system.

PART E—BENEFITS FOR SURVIVORS AND FORMER SPOUSES

- Sec. 641. Elimination of certain social security offsets from the Survivor Benefit Plan.
- Sec. 642. Authority to initiate payments under survivor annuity programs when the participant is missing.
- Sec. 643. Clarification of authority to enforce certain court orders in connection with the payment of retired or retainer pay to former spouses.
- Sec. 644. Clarification of authority to elect former spouses as beneficiaries under the Survivor Benefit Plan.
- Sec. 645. Miscellaneous rights and benefits for former spouses.

PART F—MISCELLANEOUS

- Sec. 651. Legal assistance programs.
- Sec. 652. Limitation on transportation of motor vehicles through Guam.
- Sec. 653. Personal vehicles of United States military personnel in Japan.
- Sec. 654. Authority for voluntary withholding of State income taxes from retired and retainer pay.

- Sec. 655. Recomputation of retired pay of certain recalled retirees.
- Sec. 656. Delay of effective date for fee for veterinary services.

TITLE VII—EDUCATIONAL ASSISTANCE PROGRAMS

- Sec. 701. Short title.
- Sec. 702. New educational assistance program.
- Sec. 703. Coordination with other veterans' education and training programs.
- Sec. 704. Suspension of right to enroll in chapter 32 program.
- Sec. 705. Revision of educational assistance program for the Selected Reserve.
- Sec. 706. Accrual funding of Department of Defense liabilities.
- Sec. 707. Educational leave of absence for members of the Armed Forces.
- Sec. 708. Preseparation counseling.
- Sec. 709. Extension of pilot Department of Defense educational assistance loan repayment program.

TITLE VIII—CIVIL DEFENSE

- Sec. 801. Authorization of appropriations.
- Sec. 802. Repeal of limitation on amounts that may be appropriated for certain purposes.

TITLE IX—NATIONAL DEFENSE STOCKPILE

- Sec. 901. Termination of previous disposal authority.
- Sec. 902. Authorizations for disposal.
- Sec. 903. Restrictions on balance in stockpile transaction fund.
- Sec. 904. Stockpile report.
- Sec. 905. Deposits of funds accruing from Naval Petroleum Reserves.

TITLE X—MATTERS RELATING TO NATO AND OTHER ALLIES

- Sec. 1001. Sense of Congress relating to increase in defense spending by United States allies.
- Sec. 1002. Improvements to NATO conventional capability.
- Sec. 1003. Report on allied contributions to the common defense.
- Sec. 1004. NATO Seasparrow cooperative program.
- Sec. 1005. Procurement of communications support and related supplies and services.
- Sec. 1006. Policy on armaments cooperation with NATO member countries.
- Sec. 1007. Authority of Secretary of Defense in connection with cooperative agreements on air defense in Central Europe.

TITLE XI—MATTERS RELATING TO ARMS CONTROL

- Sec. 1101. Report on strategic nuclear submarine force.
- Sec. 1102. Annual report on strategic defense programs.
- Sec. 1103. Report on theater nuclear weapons and force structure.
- Sec. 1104. Report on withdrawal of tactical nuclear warheads from Europe.
- Sec. 1105. Report on United States counterforce capability.
- Sec. 1106. Transmittal to Congress of report on Soviet compliance with arms control agreements.
- Sec. 1107. Report on nuclear winter findings and policy implications.
- Sec. 1108. Sense of Congress relating to the establishment of Nuclear Risk Reduction Centers in the United States and the Soviet Union.
- Sec. 1109. Sense of Congress regarding a report to Congress on certain verification programs relating to biological and chemical weapons.
- Sec. 1110. Sense of Congress expressing support for United States to pursue outstanding arms control compliance.
- Sec. 1111. Policy on the status of certain treaties to prevent nuclear testing.

TITLE XII—PROCUREMENT POLICY REFORM AND OTHER PROCUREMENT MATTERS

PART A—SHORT TITLE AND CONGRESSIONAL FINDINGS

- Sec. 1201. Short title.
- Sec. 1202. Congressional findings and policy.

PART B—AMENDMENTS TO CHAPTER 137 OF TITLE 10, UNITED STATES CODE

- Sec. 1211. Definition.
- Sec. 1212. Publication of proposed regulations.
- Sec. 1213. Planning for procurement of supplies and for future competition.
- Sec. 1214. Delegation of certain procurement functions.

- Sec. 1215. Personnel evaluations to include emphasis on competition and cost savings.
- Sec. 1216. Improved procurement procedures.
- Sec. 1217. Clerical amendments.

PART C—AMENDMENTS TO CHAPTER 141 OF TITLE 10, UNITED STATES CODE

- Sec. 1231. Identification of sources of supplies.
- Sec. 1232. Revision of long-term lease or charter authority.
- Sec. 1233. Economic order quantities.
- Sec. 1234. Additional miscellaneous procurement provisions.
- Sec. 1235. Clerical amendments.

PART D—OTHER PROCUREMENT PROVISIONS

- Sec. 1241. Cooperative agreements for procurement technical assistance.
- Sec. 1242. Revision of requirements for selected acquisition reports and unit cost reports.
- Sec. 1243. Duration of assignment of program managers for major programs.
- Sec. 1244. Authority to waive compliance with certain requirements provided for in regulations relating to prices of spare parts and replacement equipment.
- Sec. 1245. Regulations for allocating overhead to parts to which the prime contractor has added little value.

PART E—TEMPORARY PROVISIONS, REPORTS, AND EFFECTIVE DATES

- Sec. 1251. Report on implementation of certain recommendations of the Grace Commission.
- Sec. 1252. Plans for management of technical data and computer capability improvements.
- Sec. 1253. Report on use of independent cost estimates for major defense acquisition programs.
- Sec. 1254. One-year extension of test program to authorize price differentials to relieve economic dislocations.

TITLE XIII—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT MATTERS

- Sec. 1301. Joint Chiefs of Staff reorganization.
- Sec. 1302. Reduction in headquarters staffs.
- Sec. 1303. Report on size of service Secretariats.
- Sec. 1304. Implementation of certain personnel policies.
- Sec. 1305. Expansion of authority for collection of debts from members of the Armed Forces.
- Sec. 1306. Increased Coast Guard membership on the Reserve Forces Policy Board.
- Sec. 1307. Limitation on use of funds for conducting polygraphs examinations; report.

TITLE XIV—CODIFICATION OF CERTAIN RECURRING AND PERMANENT PROVISIONS OF LAW

- Sec. 1401. Amendments to title 10, United States Code.
- Sec. 1402. Amendments to title 37, United States Code.
- Sec. 1403. Repeal provisions.
- Sec. 1404. Effective date.
- Sec. 1405. Clerical amendments to title 10, United States Code.

TITLE XV—GENERAL PROVISIONS

PART A—DEFENSE FINANCIAL MATTERS

- Sec. 1501. Transfer authority.

PART B—PROVISIONS RELATING TO SPECIFIC PROGRAMS

- Sec. 1511. Chemical Warfare Review Commission.
- Sec. 1512. Restriction on the use of funds for the B-1B bomber aircraft program.
- Sec. 1513. Configuration of the FFG-7 class guided missile frigate.
- Sec. 1514. Prohibition against using funds appropriated for the Advanced Technology Bomber and the Advanced Cruise Missile programs for any other purpose.

PART C—MISCELLANEOUS DEFENSE REPORTING REQUIREMENTS

- Sec. 1521. Extension of time for report of the Commission established by the Military Justice Act of 1983.

- Sec. 1522. Study of foreign sales and procurement of defense articles.
- Sec. 1523. Report on use of Air Force air refueling fleet.
- Sec. 1524. Study by the Secretary of Defense of current and potential exploitation of foreign technology by the Department of Defense.
- Sec. 1525. Report on Americans unaccounted for or missing in Indochina.
- Sec. 1526. Report on safety in the Army.
- Sec. 1527. Report on enhanced military career opportunities for nonphysician health-care providers.

PART D—MISCELLANEOUS DEFENSE-RELATED MATTERS

- Sec. 1531. Exemption from authority to induct under the Military Selective Service Act any person whose mother was killed in line of duty.
- Sec. 1532. Prohibition of unauthorized uses of Marine Corps insignia.
- Sec. 1533. Improved readiness and training of the Civil Air Patrol through provision of certain additional Federal services.
- Sec. 1534. Participation of members of the Armed Forces in international sports activities.
- Sec. 1535. Instruction of foreign officers at the Uniformed Services University of the Health Sciences.
- Sec. 1536. Commission on Merchant Marine and Defense.
- Sec. 1537. Department of Defense air traffic controllers.
- Sec. 1538. Sale of ammunition for avalanche-control purposes.
- Sec. 1539. Supplemental information to the environmental impact statement of the Navy on the proposed transfer of certain personnel.
- Sec. 1540. Authorization for Secretary of Defense to transport humanitarian relief supplies to countries in Central America.

PART E—OTHER MISCELLANEOUS MATTERS

- Sec. 1541. Survivors of the Glomar Java Sea.
- Sec. 1542. Policy regarding the furnishing of food and medical supplies to Afghanistan.
- Sec. 1543. Reaffirmation of United States policy toward Cuba.
- Sec. 1544. Report on use of Cuban and Russian nickel in defense procurements.

TITLE XVI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

- Sec. 1600. Short title.

PART A—NATIONAL SECURITY PROGRAMS AUTHORIZATIONS

- Sec. 1601. Operating expenses.
- Sec. 1602. Plant and capital equipment.

PART B—RECURRING GENERAL PROVISIONS

- Sec. 1621. Reprograming.
- Sec. 1622. Limits on general plant projects.
- Sec. 1623. Limits on construction projects.
- Sec. 1624. Fund transfer authority.
- Sec. 1625. Authority for construction design.
- Sec. 1626. Authority for emergency construction design.
- Sec. 1627. Funds available for all national security programs of the Department of Energy.
- Sec. 1628. Adjustments for pay increases.
- Sec. 1629. Availability of funds.

PART C—SPECIAL PROGRAM PROVISIONS

- Sec. 1631. Contractor liability for injury or loss of property arising out of atomic weapons testing programs.
- Sec. 1632. Cost-effective funding of nuclear weapons.
- Sec. 1633. Review of the Inertial Confinement Fusion Program.
- Sec. 1634. Naval Nuclear Propulsion Program.
- Sec. 1635. Authorization for production of the 155-millimeter artillery-fired, atomic projectile.

TITLE XVII—UNITED STATES INSTITUTE OF PEACE

- Sec. 1701. Short title.
- Sec. 1702. Declaration of findings and purposes.
- Sec. 1703. Definitions.
- Sec. 1704. Establishment of the Institute.
- Sec. 1705. Powers and duties.
- Sec. 1706. Board of directors.

- Sec. 1707. Officers and employees.
- Sec. 1708. Procedures and records.
- Sec. 1709. Independence and limitations.
- Sec. 1710. Funding.
- Sec. 1711. Dissolution or liquidation.
- Sec. 1712. Reporting requirement and requirement to hold hearings.

TITLE I—PROCUREMENT

AUTHORIZATION OF APPROPRIATIONS, ARMY

SEC. 101. (a)(1) Funds are hereby authorized to be appropriated for fiscal year 1985 for procurement for the Army as follows:

- For aircraft, \$3,852,200,000.
- For missiles, \$3,260,000,000.
- For weapons and tracked combat vehicles, \$4,838,600,000.
- For ammunition, \$2,338,900,000.
- For other procurement, \$5,457,700,000.
- For Army National Guard equipment, \$50,000,000.

(2) There are hereby authorized to be transferred to, and merged with, amounts appropriated for procurement for the Army for fiscal year 1985 pursuant to the authorization of appropriations in paragraph (1), to the extent provided in appropriation Acts—

(A) \$30,000,000 for procurement of aircraft to be derived from amounts appropriated for fiscal year 1984 for procurement of aircraft for the Army remaining available for obligation;

(B) \$13,000,000 for procurement of missiles to be derived from amounts appropriated for fiscal year 1984 for procurement of missiles for the Army remaining available for obligation;

(C) \$60,500,000 for procurement of weapons and tracked combat vehicles to be derived from amounts available for fiscal year 1983 for procurement of weapons and tracked combat vehicles for the Army remaining available for obligation resulting from the sale of M48A5 tanks under a letter of offer issued pursuant to section 21(a)(1) of the Arms Export Control Act that would otherwise be deposited in the Special Defense Acquisition Fund;

(D) \$197,300,000 for procurement of weapons and tracked combat vehicles to be derived from amounts appropriated for fiscal year 1984 for procurement of weapons and tracked combat vehicles for the Army remaining available for obligation;

(E) \$44,000,000 for procurement of ammunition to be derived from amounts appropriated for fiscal year 1984 for procurement of ammunition for the Army remaining available for obligation; and

(F) \$18,000,000 for other procurement to be derived from amounts appropriated for fiscal year 1984 for other procurement for the Army remaining available for obligation.

(b) The Secretary of the Army may enter into multiyear contracts in accordance with section 2306(h) of title 10, United States Code, for the purchase of UH-60A aircraft, EH-60A aircraft, M-1 tanks or subsystems, TOW missiles, 5-ton trucks, Bushmaster Vehicle Rapid-fire weapon systems, and shop equipment contact maintenance vehicles, and for the execution of the CH-47D aircraft modernization program. Such contracts may include an unfunded cancellation ceiling. If funds are not made available for the continuation of such a contract in subsequent fiscal years, the contract shall be cancelled and the costs of cancellation shall be paid as provided in section 2306(h)(5) of title 10, United States Code.

(c) Effective on October 1, 1984, the provisions of section 794 of the Department of Defense Appropriation Act, 1984 (Public Law 98-212), shall not apply to the procurement of EH-60A and UH-60A aircraft under a multiyear contract.

Effective date.

97 Stat. 1454.

(d) None of the funds appropriated pursuant to the authorizations of appropriations in subsection (a) may be used for the purpose of entering into a contract for the production and assembly of the Division Air Defense System until—

- (1) initial production testing of such system is completed;
- (2) the Secretary of Defense reports the results of such testing to the appropriate committees of Congress; and
- (3) a period of 30 days has elapsed after the day on which those committees receive that report.

(e) Not later than February 1, 1985, the Secretary of the Army shall select a contractor for the supply of 120-millimeter mortars necessary to meet the requirements of the Army. The selection shall be made from among companies that are existing production sources for such mortars.

(f) None of the funds appropriated pursuant to the authorizations of appropriations in subsection (a) may be used for the construction in foreign shipyards of logistics support vessels.

Prohibition.

AUTHORIZATION OF APPROPRIATIONS, NAVY AND MARINE CORPS

SEC. 102. (a) AIRCRAFT.—(1) Funds are hereby authorized to be appropriated for fiscal year 1985 for procurement of aircraft for the Navy in the amount of \$11,053,200,000.

(2) There is hereby authorized to be transferred to, and merged with, amounts appropriated for procurement of aircraft for the Navy for fiscal year 1985 pursuant to the authorization of appropriations in paragraph (1), to the extent provided in appropriation Acts, \$54,400,000 to be derived from amounts appropriated for fiscal year 1984 for procurement of aircraft for the Navy remaining available for obligation.

(b) **WEAPONS.**—(1) Funds are hereby authorized to be appropriated for fiscal year 1985 in the total amount of \$4,444,800,000 for procurement of weapons (including missiles and torpedoes) for the Navy as follows:

- For missile programs, \$3,493,400,000.
- For the MK-48 torpedo program, \$212,900,000.
- For the MK-46 torpedo program, \$256,000,000.
- For the MK-60 torpedo program, \$128,500,000.
- For the MK-30 mobile target program, \$21,300,000.
- For the MK-38 minimobile target program, \$2,500,000.
- For the antisubmarine rocket (ASROC) program, \$25,900,000.
- For the modification of torpedoes and related equipment, \$32,200,000.
- For the torpedo support equipment program, \$96,000,000.
- For the MK-15 close-in weapon system program, \$163,900,000.
- For the MK-75 76-millimeter gun mount program, \$10,900,000.
- For other weapons, \$68,300,000.

The sum of the amounts authorized for facilities and contract support under this subsection is reduced by \$12,000,000 in order to meet the total amount authorized to be appropriated set forth at the beginning of this paragraph.

(2) There is hereby authorized to be transferred to, and merged with amounts appropriated for procurement of weapons for the Navy for fiscal year 1985 pursuant to the authorization of appropriations in paragraph (1) to the extent provided in appropriation Acts, \$20,000,000 to be derived from amounts appropriated for fiscal year 1984 for procurement of weapons for the Navy remaining for obligation.

(c) SHIPBUILDING AND CONVERSION.—(1) Funds are hereby authorized to be appropriated for fiscal year 1985 in the total amount of \$12,153,400,000 for shipbuilding and conversion for the Navy as follows:

For the Trident submarine program, \$1,708,200,000.

For the SSN-688 nuclear attack submarine program, \$2,880,000,000.

For the aircraft carrier service life extension program (SLEP), \$764,500,000.

For the CG-47 Aegis cruiser program, \$3,150,000,000.

For the DDG-51 guided missile destroyer program, \$1,173,900,000.

For the LSD-41 landing ship dock program, \$489,500,000.

For the LHD-1 amphibious assault ship program, \$39,200,000.

For the LPD-4 amphibious transport dock service life extension program, \$15,000,000.

For the MCM-1 mine countermeasures ship program, \$349,500,000.

For the TAO-187 fleet oiler program, \$562,600,000.

For the TAGOS ocean surveillance ship program, \$129,900,000.

For the TAGS ocean survey ship program, \$245,000,000.

For the strategic sealift ready reserve program, \$31,000,000.

For the TACS auxiliary crane ship program, \$44,000,000.

For the TAVB aviation logistics support ship program, \$42,800,000.

For the LCAC landing craft air cushion program, \$230,100,000.

For service craft and landing craft, \$93,100,000.

For outfitting and post delivery, \$383,600,000.

The sum of the amounts authorized for programs under this subsection is reduced by \$178,500,000 in order to meet the total amount authorized to be appropriated set forth at the beginning of this paragraph.

(2) There are hereby authorized to be transferred to, and merged with, amounts appropriated for shipbuilding and conversion for the Navy for fiscal year 1985 pursuant to the authorizations of appropriations in paragraph (1), to the extent provided in appropriation Acts, amounts appropriated for fiscal years before fiscal year 1985 for shipbuilding and conversion for the Navy and remaining available for obligation in the total amount of \$70,000,000 as follows:

(A) For the Trident submarine program, \$40,000,000 shall be derived from funds appropriated for fiscal year 1983 for the FFG-7 guided missile frigate program and shall be available only for an x-band phased array radar.

(B) For the naval nuclear reactor training program, \$30,000,000 of which—

(i) \$10,000,000 shall be derived from funds appropriated for fiscal year 1982 for the CVN aircraft carrier program; and

(ii) \$20,000,000 shall be derived from funds appropriated for fiscal year 1983 for the CVN aircraft carrier program.

(3) There are hereby authorized to be transferred to, and merged with, amounts appropriated for shipbuilding and conversion for the Navy for fiscal year 1984, to the extent provided in appropriation Acts, amounts appropriated for fiscal years before fiscal year 1985 for shipbuilding and conversion for the Navy and remaining available for obligation \$336,200,000 for the battleship reactivation program, to be derived from funds appropriated for fiscal year 1983 for the CVN aircraft carrier program.

(d) **OTHER PROCUREMENT, NAVY.**—(1) Funds are hereby authorized to be appropriated for fiscal year 1985 for other procurement for the Navy in the amount of \$5,266,300,000, of which—

(A) \$775,100,000 is available only for the ship support equipment program;

(B) \$1,778,800,000 is available only for the communications and electronics equipment program; and

(C) \$1,137,600,000 is available only for the ordnance support equipment program.

(2) There is hereby authorized to be transferred to, and merged with amounts appropriated for other procurement for the Navy for fiscal year 1985 pursuant to the authorization of appropriations in paragraph (1) to the extent provided in appropriation Acts, \$85,000,000 to be derived from amounts appropriated for fiscal year 1984 for other procurement for the Navy remaining for obligation.

(e) **PROCUREMENT, MARINE CORPS.**—Funds are hereby authorized to be appropriated for fiscal year 1985 for procurement for the Marine Corps (including missiles, tracked combat vehicles, and other weapons) in the amount of \$1,890,700,000.

(f) **NAVY AND MARINE CORPS RESERVE.**—Funds are hereby authorized to be appropriated for fiscal year 1985 in the total amount of \$20,000,000 for Navy Reserve equipment and \$20,000,000 for Marine Corps Reserve equipment.

(g) **MULTIYEAR CONTRACTS.**—The Secretary of the Navy may enter into multiyear contracts in accordance with section 2306(h) of title 10, United States Code, for the purchase of CH-53E aircraft and AN/SSQ-36 sonobuoys. Such contracts may include an unfunded cancellation ceiling. If funds are not made available for the continuation of such a contract in subsequent fiscal years, the contract shall be cancelled and the costs of cancellation shall be paid as provided in section 2306(h)(5) of title 10, United States Code.

(h) **DDG-51 DESTROYER PROGRAM.**—None of the funds appropriated pursuant to the authorization of appropriations in subsection (c) for the DDG-51 guided missile destroyer program may be obligated or expended until the Secretary of the Navy certifies to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives that the lead ship in that program is capable of being equipped with a Rankine-Cycle Energy Recovery (RACER) system without rearrangement of ship spaces and equipment or other major modification to the ship.

(i) **COMMON AIRCRAFT EJECTION SEAT.**—Notwithstanding any other provision of law, the Secretary of the Navy may establish and maintain an alternative source for the procurement of a common aircraft ejection seat for the F/A-18 aircraft, the T-45 aircraft, the

F-14D aircraft, and the A-6E upgrade aircraft. A business concern may be considered as such alternative source regardless of the country in which the business concern is based.

AUTHORIZATION OF APPROPRIATIONS, AIR FORCE

SEC. 103. (a)(1) Funds are hereby authorized to be appropriated for fiscal year 1985 for procurement for the Air Force as follows:

For aircraft, \$26,101,700,000.

For missiles, \$8,605,300,000.

For other procurement, \$8,724,000,000.

For Air National Guard equipment, \$20,000,000.

(2)(A) There are hereby authorized to be transferred to, and merged with, amounts appropriated for procurement of aircraft for the Air Force for fiscal year 1985 pursuant to the authorization of appropriations in paragraph (1), to the extent provided in appropriation Acts—

(i) \$99,000,000 to be derived from amounts available for fiscal years 1983, 1984, and 1985 for procurement of aircraft for the Air Force remaining available for obligation resulting from the sale of aircraft under a letter of offer issued pursuant to section 21(a)(1) of the Arms Export Control Act that would otherwise be deposited in the Special Defense Acquisition Fund;

(ii) \$206,700,000 to be derived from amounts appropriated for fiscal year 1984 for procurement of aircraft for the Air Force remaining available for obligation; and

(iii) \$144,800,000 to be derived from amounts appropriated for fiscal year 1983 for procurement of aircraft for the Air Force remaining for obligation from the C-19 program.

(3) There is hereby authorized to be transferred to, and merged with, amounts appropriated for procurement of missiles for the Air Force for fiscal year 1985 pursuant to the authorization of appropriations in paragraph (1), to the extent provided in appropriation Acts, \$15,000,000 to be derived from amounts appropriated for fiscal year 1984 for procurement of missiles for the Air Force remaining for obligation.

(4) There is hereby authorized to be transferred to, and merged with, amounts appropriated for other procurement for the Air Force for fiscal year 1985 pursuant to the authorization of appropriations in paragraph (1), to the extent provided in appropriation Acts, \$14,500,000 to be derived from amounts appropriated for fiscal year 1984 for other procurement for the Air Force remaining for obligation.

(b) The Secretary of the Air Force may not make a contract for the procurement of aircraft engines unless the amount under the contract for any warranty required by section 797 of the Department of Defense Appropriation Act, 1983 (as contained in section 101(c) of Public Law 97-377), section 794 of the Department of Defense Appropriation Act, 1984 (Public Law 98-212), or section 2403 of title 10, United States Code (as added by section 1234), does not exceed 10 percent of the total contract price.

(c) The Secretary of the Air Force may enter into a multiyear contract for the purchase of F-16 aircraft in accordance with section 2306(h) of title 10, United States Code. Such contract may include an unfunded cancellation ceiling. In the event funds are not made available for the continuation of such contract in subsequent fiscal years, the contract shall be cancelled and the costs of cancellation

22 USC 2761.

96 Stat. 1833.

97 Stat. 1454.

Post, p. 2601.

shall be paid as provided in section 2306(h)(5) of title 10, United States Code.

(d) The Secretary of the Air Force shall acquire four additional used commercial passenger aircraft to be used to augment national security airlift operations. Such aircraft shall be acquired using amounts which were appropriated for fiscal year 1983 for procurement of equipment for the Air National Guard and which remain available for obligation.

AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES

SEC. 104. Funds are hereby authorized to be appropriated for fiscal year 1985 for the defense agencies in the amount of \$1,180,200,000.

AUTHORIZATION OF APPROPRIATIONS FOR CERTAIN NATO COOPERATIVE PROGRAMS

SEC. 105. (a) Funds are hereby authorized to be appropriated for fiscal year 1985 for activities of the Under Secretary of Defense for Research and Engineering for acquisition in connection with cooperative programs of the North Atlantic Treaty Organization as follows:

For acquisition of the Patriot missile system for the Federal Republic of Germany, \$150,000,000.

For acquisition of point air defense of United States airbases in the Federal Republic of Germany, \$65,000,000.

For acquisition of point air defense of United States airbases and other critical United States military facilities in Italy, \$15,000,000.

For acquisition of point air defense for ground-launched cruise missile bases in Europe, \$10,000,000.

For acquisition of point air defense of United States airbases in Turkey, \$10,000,000.

(b) None of the amounts appropriated pursuant to the authorizations in subsection (a) may be obligated—

(1) for implementation of a cooperative program until the Secretary of Defense submits to the Committees on Armed Services of the Senate and House of Representatives a copy of each government-to-government agreement relating to that program; or

(2) for acquisitions in connection with a NATO cooperative program in which the financial obligations of the United States exceed the collective financial obligations of European countries in connection with such program.

EXTENSION OF AUTHORITY PROVIDED SECRETARY OF DEFENSE IN CONNECTION WITH THE NATO AIRBORNE WARNING AND CONTROL SYSTEM (AWACS) PROGRAM

SEC. 106. Effective on October 1, 1984, section 103(a) of the Department of Defense Authorization Act, 1982 (Public Law 97-86; 95 Stat. 1100), is amended by striking out “fiscal year 1984” each place it appears and inserting in lieu thereof “fiscal year 1985”.

Effective date.

LIMITATION ON WAIVERS OF COST-RECOVERY REQUIREMENTS UNDER
ARMS EXPORT CONTROL ACT

22 USC 2761. SEC. 107. The authority of the President under section 21(e)(2) of
97 Stat. 1450. the Arms Export Control Act may be exercised without regard to
the limitation imposed by section 762A of the Department of
Defense Appropriation Act, 1984 (Public Law 98-212).

WAIVER OF LIMITATION ON FOREIGN MILITARY SALES PROGRAM

22 USC 2751 SEC. 108. The Arms Export Control Act shall be administered as if
note. section 743A of the Department of Defense Appropriation Act, 1984
97 Stat. 1446. (Public Law 98-212; 96 Stat. 1858), had not been enacted into law.

TRANSFER OF CERTAIN MILITARY EQUIPMENT OR DATA TO FOREIGN
COUNTRIES

97 Stat. 1450. SEC. 109. Section 765(c) of the Department of Defense Appropria-
tion Act, 1984 (Public Law 98-212), is hereby repealed.

POLICY CONCERNING ACQUISITION OF ADDITIONAL MX MISSILES

SEC. 110. (a) Subject to subsections (b) and (c), of the funds appro-
priated pursuant to the authorization of appropriations in section
103 for procurement of missiles for the Air Force, \$2,500,000,000
may be used for the MX missile program, including acquisition of
not more than 21 additional operational MX missiles.

(b) Except as provided in subsection (c), none of the \$2,500,000,000
described in subsection (a) may be obligated for the procurement of
additional operational MX missiles unless—

President of U.S.
Report.

(1) after March 1, 1985, the President submits to Congress a
report described in subsection (e);

(2) a joint resolution approving the obligation of those funds is
enacted as provided for in this section; and

(3) a second joint resolution is enacted as provided for in the
Department of Defense Appropriation Act, 1985 (or in a joint
resolution providing funds for the Department of Defense for
fiscal year 1985), further approving the obligation of those
funds.

(c) Of the \$2,500,000,000 described in subsection (a), \$1,000,000,000
may be obligated only for—

(1) procurement related to the deployment of the 21 MX
missiles for which funds were authorized and appropriated for
fiscal year 1984;

(2) advance procurement of parts and materials for the MX
missile program and for the maintenance of the MX missile
program contractor base; and

(3) spare parts for the MX missile program.

(d)(1) For the purpose of subsection (b)(2), "joint resolution" means
only a joint resolution introduced after the date on which the report
of the President under subsection (b)(1) is received by Congress the
matter after the resolving clause of which is as follows: "That
subject to the enactment (after the enactment of this joint resolu-
tion) of a joint resolution further approving the obligation of such
funds, the Congress approves the obligation of funds appropriated
for fiscal year 1985 for the procurement of additional operational
MX missiles (in addition to the funds previously authorized to be
obligated).".

(2) A resolution described in paragraph (1) introduced in the House of Representatives shall be referred to the Committee on Armed Services of the House of Representatives. A resolution described in paragraph (1) introduced in the Senate shall be referred to the Committee on Armed Services of the Senate. Such a resolution may not be reported before the 8th day after its introduction.

(3) If the committee to which is referred a resolution described in paragraph (1) has not reported such resolution (or an identical resolution) at the end of 15 calendar days after its introduction or at the end of the first day after there has been reported to the House involved a joint resolution approving the further obligation of funds for the procurement of operational MX missiles as provided for in the Department of Defense Appropriation Act, 1985 (or in a joint resolution providing funds for the Department of Defense for fiscal year 1985), whichever is earlier, such committee shall be deemed to be discharged from further consideration of such resolution and such resolution shall be placed on the appropriate calendar of the House involved.

(4)(A) When the committee to which a resolution is referred has reported, or has been deemed to be discharged (under paragraph (3)) from further consideration of, a resolution described in paragraph (1), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution, and all points of order against the resolution (and against consideration of the resolution) are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

(B) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

(C) Immediately following the conclusion of the debate on a resolution described in paragraph (1), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

(D) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in paragraph (1) shall be decided without debate.

(5) If, before the passage by one House of a resolution of that House described in paragraph (1), that House receives from the other House a resolution described in paragraph (1), then the following procedures shall apply:

(A) The resolution of the other House shall not be referred to a committee.

(B) With respect to a resolution described in paragraph (1) of the House receiving the resolution—

(i) the procedure in that House shall be the same as if no resolution had been received from the other House; but

(ii) the vote on final passage shall be on the resolution of the other House.

(6) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in paragraph (1), and it supercedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

Report.
President of U.S.

(e) A report under subsection (b)(1) shall include—

(1) a statement that the President has determined that further acquisition of operational missiles under the MX missile program is in the national security interest of the United States and is consistent with United States arms control policy;

(2) findings of the President concerning the effect of the acquisition and deployment of such missiles on the vulnerability of the United States land-based intercontinental ballistic missile force;

(3) a discussion of the basing mode for the MX missile (and related improvements in silo-hardening technology) and of proposals for the basing mode for the small, single-warhead intercontinental ballistic missile; and

(4) to the extent not covered under paragraphs (1) through (3), the assessment of the President submitted pursuant to subsection (g)(2).

(f) Obligation for the MX missile program of funds appropriated for fiscal year 1985 is subject to section 1231 of the Department of Defense Authorization Act, 1984 (Public Law 98-94; 97 Stat. 693).

(g)(1) Section 1231(e) of the Department of Defense Authorization Act, 1984 (Public Law 98-94; 97 Stat. 694), is amended—

(A) by striking out “the Committees on Armed Services of the Senate and House of Representatives” and inserting in lieu thereof “Congress”;

(B) by striking out “the date of the enactment of this Act” and inserting in lieu thereof “September 24, 1983,”;

(C) by striking out “and” at the end of clause (B);

(D) by striking out the period at the end of clause (C) and inserting in lieu thereof “; and”; and

(E) by adding at the end thereof the following new clause:
“(D) the progress of efforts to develop more survivable basing modes for the MX and other intercontinental missiles, including a new small mobile intercontinental ballistic missile.”.

Supra.

(2) The first assessment under section 1231(e) of the Department of Defense Authorization Act, 1984, submitted after the date of the enactment of this Act shall be submitted as part of the report described in subsection (e) (rather than coincident with any request

for funds for the procurement of MX missiles submitted to Congress before the submission of that report).

PROHIBITION OF SPENDING FUNDS FOR BINARY CHEMICAL MUNITIONS

SEC. 111. None of the funds appropriated pursuant to authorizations of appropriations in this title may be used for procurement of binary chemical munitions, including advanced procurement of long-lead components or for the establishment of a production base for such munitions.

STRATEGIC WEAPONS LOADER

SEC. 112. None of the funds appropriated to the Department of Defense may be obligated or expended for procurement of a new strategic weapons loader to meet the performance requirements for the B-1B bomber aircraft or the Advanced Technology Bomber aircraft until a contractor for such weapons loader has been determined after a competition.

FOREIGN MILITARY SALES OF AIR NATIONAL GUARD OA-37 AIRCRAFT

SEC. 113. It is the sense of Congress—

(1) that the Air Force should, at the earliest practicable date, provide modern replacement aircraft for those Air National Guard units currently using OA-37 Dragonfly aircraft in order to fulfill Forward Air Controller (FAC) mission of the Air National Guard; and

(2) that the United States should not sell or otherwise provide to any foreign country any OA-37 aircraft currently assigned to an Air National Guard unit unless the unit to which such aircraft is assigned is in the process of converting to the use of a more modern aircraft or unless the OA-37 aircraft to be sold or otherwise provided to a foreign country has been replaced with an OA-37 from the stocks of the Air Force.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. (a) Funds are hereby authorized to be appropriated for fiscal year 1985 for the use of the Armed Forces for research, development, test, and evaluation in amounts as follows:

For the Army, \$4,546,675,000.

For the Navy (including the Marine Corps), \$9,409,596,000.

For the Air Force, \$13,547,311,000.

For the Defense Agencies, \$4,577,681,000, of which \$59,000,000 is authorized for the activities of the Director of Test and Evaluation.

(b) There is hereby authorized to be transferred to, and merged with, amounts appropriated for research and development for the Navy for fiscal year 1985 pursuant to the authorization of appropriations in subsection (a), to the extent provided in appropriation Acts, \$13,000,000 to be derived from amounts appropriated for fiscal year 1984 for research and development for the Navy remaining available for obligation.

(c) In addition to the funds authorized to be appropriated in subsection (a), there are authorized to be appropriated for fiscal year 1985 such additional sums as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law for civilian employees of the Department of Defense whose compensation is provided for by funds authorized to be appropriated in subsection (a).

PROVISIONS RELATING TO ARMY PROGRAMS

Energy.
Motor vehicles. SEC. 202. (a)(1) Of the amount authorized in section 201 for the Army, the sum of \$1,300,000 is available only for—

- (A) the purchase of new methanol cars;
- (B) establishing the reliability and durability of such vehicles in laboratory and fleet tests;
- (C) testing a percentage of the methanol fleet in cold weather environments; and
- (D) resolving related support functions for the safe and efficient storage, distribution, and the use of neat methanol fuel for such vehicles.

Report. (2) Not later than September 30, 1985, the Secretary of the Army shall submit to the Committee on Armed Services of the Senate and House of Representatives a report on the progress of the methanol fuel program described in paragraph (1).

(b)(1) The Secretary of the Army shall proceed with the competitive development of a Joint Tactical Missile System having the following design goals:

- (A) A maximum range of 200 kilometers.
- (B) A payload at maximum range of 1,000 pounds.

(2) In the development of the Joint Tactical Missile System, the Secretary of the Army shall make maximum use of proven missile system technology with the objective of completing the competitive full-scale engineering development of the system by July 1, 1987.

Report. (3) Not later than January 1 of 1985, 1986, and 1987, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the progress of the development of the system referred to in paragraph (1).

LIMITATIONS ON FUNDS FOR THE NAVY

SEC. 203. (a) Of the amount authorized in section 201 for the Navy (including the Marine Corps)—

(1) \$45,000,000 is available only for continued development of the Rankine-Cycle Energy Recovery (RACER) system to ensure compatibility of the RACER system with all ships of the DDG-51 class, including the lead ship;

(2) \$25,016,000 is available only for the development of a derivative of the Navy SH-60 helicopter for the aircraft carrier inner-zone anti-submarine warfare helicopter mission;

(3) \$37,795,000 is available only for the Mark 92 fire control system;

(4) \$30,000,000 is available only for advanced submarine technology initiatives to enhance the effectiveness of the Navy new design attack submarine designated SSN-X and subsequent submarines;

(5) \$42,422,000 is available only for continued development of the low cost anti-radiation guidance and control system for the

High-Speed Anti-Radiation Missile (HARM) and other delivery vehicles;

(6) \$6,000,000 is available only for the development of the rotary engine for Army, Navy, and Marine Corps applications;

(7) \$26,603,000 is available only for the development of the Vertical Launch Anti-Submarine Rocket system; and

(8) \$2,500,000 is available only for the development of the Submarine Laser Communication System.

(b) Of the amount authorized in section 201 for the Navy, not more than \$100,000,000 may be obligated or expended for research and development of the new design submarine and its associated programs and projects unless and until the Secretary of the Navy provides to the Committees on Armed Services of the Senate and House of Representatives written certification that, based on current national intelligence estimates approved by the Director of Central Intelligence, the new design attack submarine will be capable under operational conditions of engaging the known Soviet submarine threat.

LIMITATIONS ON FUNDS FOR THE AIR FORCE

SEC. 204. Of the amount authorized in section 201 for the Air Force—

(1) \$129,285,000 is available only for development of the C-17 cargo transport aircraft;

(2) \$2,000,000 is available only to complete test and evaluation of the C-5 cargo transport aircraft; and

(3) \$4,000,000 is available only for continued development of the low cost anti-radiation guidance and control system for the High-Speed Anti-Radiation Missile (HARM) and other delivery vehicles.

POLICY GOVERNING THE TEST OF ANTI-SATELLITE WARHEADS

SEC. 205. Section 1235 of the Department of Defense Authorization Act, 1984 (Public Law 98-94; 97 Stat. 695), is amended to read as follows:

President of U.S.
10 USC 139 note.

“POLICY GOVERNING THE TEST OF ANTI-SATELLITE WARHEADS

“SEC. 1235. (a) Notwithstanding any other provision of law, none of the funds appropriated pursuant to an authorization contained in this or any other Act may be obligated or expended to test against an object in space the miniature homing vehicle (MHV) anti-satellite warhead launched from an F-15 aircraft unless the President determines and certifies to Congress—

“(1) that the United States is endeavoring, in good faith, to negotiate with the Soviet Union a mutual and verifiable agreement with the strictest possible limitations on anti-satellite weapons consistent with the national security interests of the United States;

“(2) that, pending agreement on such strict limitations, testing against objects in space of the F-15 launched miniature homing vehicle anti-satellite warhead by the United States is necessary to avert clear and irrevocable harm to the national security;

“(3) that such testing would not constitute an irreversible step that would gravely impair prospects for negotiations on anti-satellite weapons; and

23 UST 3435.

“(4) that such testing is fully consistent with the rights and obligations of the United States under the Anti-Ballistic Missile Treaty of 1972 as those rights and obligations exist at the time of such testing.

Prohibition.

“(b) During fiscal year 1985, funds appropriated for the purpose of testing the F-15 launched miniature homing vehicle anti-satellite warhead may not be used to conduct more than two successful tests of that warhead against objects in space.

“(c) The limitation on the expenditure of funds provided by subsection (a) shall cease to apply 15 calendar days after the date of the receipt by Congress of the certification referred to in subsection (a).”.

LIMITATION ON FUNDS FOR THE DEFENSE AGENCIES

SEC. 206. Of the amount authorized in section 201 for the Defense Agencies—

(1) \$35,000,000 is available only for the Strategic Laser Communication Technology program; and

(2) \$10,000,000 is available only for the application of free electron laser technology for medical research.

IMPLEMENTATION OF LAW TO ESTABLISH INDEPENDENT DIRECTOR OF OPERATIONAL TEST AND EVALUATION

SEC. 207. Of the amount appropriated for the activities of the Director of Test and Evaluation of the Department of Defense pursuant to the authorization of appropriations in section 201 (including activities relating to foreign weapons evaluation), not more than \$20,000,000 may be obligated or expended until—

(1) the President appoints, by and with the advice and consent of the Senate, an individual to be the Director of Operational Test and Evaluation of the Department of Defense; and

(2) the Secretary of Defense establishes within the Department of Defense the organizational structure for the Office of the Director of Operational Test and Evaluation, as provided for under section 136a of title 10, United States Code.

97 Stat. 684.

TITLE III—OPERATION AND MAINTENANCE

AUTHORIZATION OF APPROPRIATIONS

SEC. 301. (a) ARMY.—Funds are hereby authorized to be appropriated for fiscal year 1985 in the total amount of \$18,626,623,000 for expenses, not otherwise provided for, for the operation and maintenance of the Army as follows:

(1) For general purpose forces, \$6,531,066,000.

(2) For intelligence and communications, \$1,189,739,000.

(3) For central supply and maintenance, \$5,350,590,000.

(4) For training, medical, and other general personnel activities, \$4,149,964,000.

(5) For administration, \$1,212,090,000.

(6) For support of other nations, \$193,174,000.

(b) **NAVY.**—Funds are hereby authorized to be appropriated for fiscal year 1985 in the total amount of \$25,449,923,000 for expenses, not otherwise provided for, for the operation and maintenance of the Navy and the Marine Corps as follows:

- (1) For strategic forces, \$2,257,821,000.
- (2) For general purpose forces, \$12,062,668,000.
- (3) For intelligence and communications, \$1,122,038,000.
- (4) For airlift and sealift, \$561,526,000.
- (5) For central supply and maintenance, \$6,397,666,000.
- (6) For training, medical, and other general personnel activities, \$2,356,457,000.
- (7) For administration, \$689,235,000.
- (8) For support of other nations, \$2,512,000.

(c) **MARINE CORPS.**—Funds are hereby authorized to be appropriated for fiscal year 1985 in the total amount of \$1,648,169,000 for expenses, not otherwise provided for, for the operation and maintenance of the Marine Corps as follows:

- (1) For general purpose forces, \$904,152,000.
- (2) For central supply and maintenance, \$395,425,000.
- (3) For training, medical, and other general personnel activities, \$238,574,000.
- (4) For administration, \$110,018,000.

(d) **AIR FORCE.**—Funds are hereby authorized to be appropriated for fiscal year 1985 in the total amount of \$19,528,869,000 for expenses, not otherwise provided for, for the operation and maintenance of the Air Force as follows:

- (1) For strategic forces, \$3,175,540,000.
- (2) For general purpose forces, \$4,021,426,000.
- (3) For intelligence and communications, \$2,155,522,000.
- (4) For airlift and sealift, \$1,267,807,000.
- (5) For central supply and maintenance, \$6,299,250,000.
- (6) For training, medical, and other general personnel activities, \$2,042,959,000.
- (7) For administration, \$558,323,000.
- (8) For support of other nations, \$8,042,000.

(e) **DEFENSE AGENCIES.**—Funds are hereby authorized to be appropriated for fiscal year 1985 in the total amount of \$7,127,752,000 for expenses, not otherwise provided for, for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments) as follows:

- (1) For general purpose forces, \$324,227,000.
- (2) For intelligence and communications, \$2,530,570,000.
- (3) For central supply and maintenance, \$1,644,460,000.
- (4) For training, medical, and other general personnel activities, \$2,163,411,000.
- (5) For administration, \$465,084,000.

(f) **ARMY RESERVE.**—Funds are hereby authorized to be appropriated for fiscal year 1985 in the total amount of \$724,900,000 for expenses, not otherwise provided for, for the operation and maintenance of the Army Reserve as follows:

- (1) For mission forces, \$408,274,000.
- (2) For depot maintenance, \$8,656,000.
- (3) For other support, \$307,970,000.

(g) **NAVAL RESERVE.**—Funds are hereby authorized to be appropriated for fiscal year 1985 in the total amount of \$833,681,000 for expenses, not otherwise provided for, for the operation and maintenance of the Naval Reserve as follows:

- (1) For mission forces, \$480,651,000.
- (2) For depot maintenance, \$149,426,000.
- (3) For other support, \$203,604,000.

(h) **MARINE CORPS RESERVE.**—Funds are hereby authorized to be appropriated for fiscal year 1985 in the total amount of \$58,642,000 for expenses, not otherwise provided for, for the operation and maintenance of the Marine Corps Reserve as follows:

- (1) For mission forces, \$29,106,000.
- (2) For depot maintenance, \$1,665,000.
- (3) For other support, \$27,871,000.

(i) **AIR FORCE RESERVE.**—Funds are hereby authorized to be appropriated for fiscal year 1985 in the total amount of \$872,661,000 for expenses, not otherwise provided for, for the operation and maintenance of the Air Force Reserve as follows:

- (1) For mission forces, \$569,230,000.
- (2) For depot maintenance, \$154,212,000.
- (3) For other support, \$149,219,000.

(j) **ARMY NATIONAL GUARD.**—Funds are hereby authorized to be appropriated for fiscal year 1985 in the total amount of \$1,437,743,000 for expenses, not otherwise provided for, for the operation and maintenance of the Army National Guard as follows:

- (1) For training operations, \$228,535,000.
- (2) For logistic support, \$1,080,770,000.
- (3) For headquarters and command support, \$117,429,000.
- (4) For medical support, \$11,009,000.

(k) **AIR NATIONAL GUARD.**—Funds are hereby authorized to be appropriated for fiscal year 1985 in the total amount of \$1,814,248,000 for expenses, not otherwise provided for, for the operation and maintenance of the Air National Guard as follows:

- (1) For mission forces, \$1,339,637,000.
- (2) For depot maintenance, \$350,793,000.
- (3) For other support, \$123,818,000.

(l) **NATIONAL BOARD FOR THE PROMOTION OF RIFLE PRACTICE, ARMY.**—There is hereby authorized to be appropriated for fiscal year 1985 the total amount of \$914,000 for expenses of the Secretary of the Army, upon the recommendation of the National Board for the Promotion of Rifle Practice, under section 4308 of title 10, United States Code, and the expenses of the Secretary of the Army under sections 4309 and 4313 of such title.

(m) **CLAIMS, DEFENSE.**—There is hereby authorized to be appropriated for fiscal year 1985 the total amount of \$157,900,000 for payment, not otherwise provided for, of claims authorized by law to be paid by the Department of Defense (except for civil functions).

(n) **COURT OF MILITARY APPEALS, DEFENSE.**—There is hereby authorized to be appropriated for fiscal year 1985 the amount of \$3,416,000 for salaries and expenses for the United States Court of Military Appeals.

GENERAL AUTHORIZATION OF APPROPRIATIONS FOR PAY RAISES, FUEL COSTS, AND INFLATION ADJUSTMENTS

SEC. 302. There are authorized to be appropriated for fiscal year 1985, in addition to the amounts authorized to be appropriated in section 301, such sums as may be necessary—

- (1) for increases in salary, pay, retirement, and other employee benefits authorized by law for civilian employees of the

Department of Defense whose compensation is provided for by funds authorized to be appropriated in section 301;

(2) for unbudgeted increases in fuel costs; and

(3) for increases as the result of inflation in the cost of activities authorized by section 301.

AUTHORIZATION OF APPROPRIATIONS FOR WORKING-CAPITAL FUNDS

SEC. 303. Funds are hereby authorized to be appropriated for fiscal year 1985 to provide capital for working-capital funds of the Department of Defense in amounts as follows:

For the Army Stock Fund, \$366,448,000.

For the Navy Stock Fund, \$473,007,000.

For the Marine Corps Stock Fund, \$34,908,000.

For the Air Force Stock Fund, \$631,793,000.

For the Defense Stock Fund, \$130,700,000.

CONTINGENCY FUNDS FOR THE UNIFIED AND SPECIFIED COMMANDS

SEC. 304. The Secretary of Defense may make available to the Joint Chiefs of Staff, out of any funds appropriated pursuant to the authorizations contained in section 301 for the Army, Navy, Marine Corps, and Air Force, such sums as may be necessary to meet unforeseen and contingent requirements of the unified and specified commands of the Armed Forces.

SALE OF ARTICLES MANUFACTURED BY CERTAIN ARSENALS; ASSET CAPITALIZATION PROGRAM

SEC. 305. Section 2208 of title 10, United States Code, is amended—

(1) by redesignating subsection (i) as subsection (k); and

(2) by inserting after subsection (h) the following new subsections:

“(i)(1) Regulations under subsection (h) may authorize an article manufactured by a working-capital funded Department of the Army arsenal that manufactures large caliber cannons, gun mounts, or recoil mechanisms to be sold to a person outside the Department of Defense if—

“(A) the article is sold to a United States manufacturer, assembler, or developer (i) for use in developing new products, or (ii) for incorporation into items to be sold to, or to be used in a contract with, an agency of the United States or a friendly foreign government;

“(B) the purchaser is determined by the Department of Defense to be qualified to carry out the proposed work involving the article to be purchased;

“(C) the article is not readily available from a commercial source in the United States; and

“(D) the sale is to be made on a basis that does not interfere with performance of work by the arsenal for the Department of Defense or for a contractor of the Department of Defense.

“(2) Services related to an article sold under this subsection may also be sold to the purchaser if the services are to be performed in the United States for the purchaser.

“(3) Nothing in this subsection shall be construed to affect the application of the export controls provided for in section 38 of the

22 USC 2778.

Arms Export Control Act to items which incorporate or are produced through the use of an article sold under this subsection.

“(j) The Secretary of Defense shall provide that of the total amount of payments received in a fiscal year by funds established under this section for industrial-type activities, not less than 3 percent during fiscal year 1985, not less than 4 percent during fiscal year 1986, and not less than 5 percent during fiscal year 1987 shall be used for the acquisition of capital equipment for such activities.”.

ADMINISTRATIVE TRANSITION PROVISION FOR NAVY STOCK FUND MANAGEMENT CHANGE

SEC. 306. (a) In the management of the Navy Stock Fund established under section 2208 of title 10, United States Code, the Secretary of the Navy may provide for a withdrawal credit to be made by the stock fund to the current applicable appropriation accounts of an activity of the Navy in connection with the acquisition by that activity from the stock fund of supplies described in subsection (b). The amount of any such credit shall be the amount of the charge of the stock fund to the activity for the supplies.

(b) Subsection (a) applies in the case of the acquisition by an activity of the Navy from the Navy Stock Fund of supplies—

(1) that are aircraft components (or that are used in connection with aviation activities) that are repairable only at a repair depot; and

(2) that are capitalized into the Navy Stock Fund as a result of the management change effective on April 1, 1985, relating to depot-level repairable assets and that are charged to an activity of the Navy that is a customer of the Navy Stock Fund.

(c) A withdrawal credit may be made under this section without regard to the last sentence of section 2208(g) of title 10, United States Code.

LIMITATION ON CONTRACTING-OUT CORE LOGISTICS FUNCTIONS

Defense and
national
security.
10 USC 2304
note.

SEC. 307. (a)(1) It is essential for the national defense that Department of Defense activities maintain a logistics capability (including personnel, equipment, and facilities) to ensure a ready and controlled source of technical competence and resources necessary to ensure effective and timely response to a mobilization, national defense contingency situations, and other emergency requirements.

(2) The Secretary of Defense shall identify those logistics activities that are necessary to maintain the logistics capability described in paragraph (1).

(b)(1) Except as provided in paragraph (2), performance of a logistics activity identified by the Secretary under subsection (a)(2) may not be contracted for performance by non-Government personnel under the procedures and requirements of Office of Management and Budget Circular A-76 or any successor administrative regulation or policy (hereinafter in this section referred to as “OMB Circular A-76”).

Waiver.

(2) The Secretary of Defense may waive paragraph (1) in the case of any logistics activity and provide that performance of such activity shall be considered for conversion to contractor performance in accordance with OMB Circular A-76. Any such waiver shall be made under regulations prescribed by the Secretary and shall be based on a determination by the Secretary that Government per-

Regulations.

formance of the activity is no longer required for national defense reasons. Such regulations shall include criteria for determining whether Government performance of a logistics activity identified under subsection (a)(2) is no longer required for national defense reasons.

(3) A waiver under paragraph (2) may not take effect until—

Report.

(A) the Secretary has submitted a report on the waiver to the Committees on Armed Services of the Senate and House of Representatives; and

(B) a period of 20 days of continuous session of Congress or 40 calendar days has passed after the receipt of the report by those committees.

(4) For purposes of paragraph (3)(B), the continuity of a session of Congress is broken only by an adjournment sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of such 30-day period.

(c) Identification of logistics activities that are necessary to maintain the logistics capability described in subsection (a)(1) shall be completed, and a report describing those activities (including a detailed specification or listing) shall be submitted to the Committees on Armed Services of the Senate and House of Representatives, not later than April 1, 1985.

Report.

LIMITATION ON CONSULTING AND RELATED SERVICES

SEC. 308. Of the funds appropriated to or for the use of the Department of Defense for fiscal year 1985 pursuant to an authorization contained in this Act or any other law, not more than \$1,302,599,000 may be obligated or expended for consultants, studies and analyses, management support contracts, and contract systems and technical engineering.

RESTRICTION ON REDUCTION IN PORTS OF ORIGIN FOR CERTAIN CARGO CARRIED ON VESSELS OF THE MILITARY SEALIFT COMMAND

SEC. 309. (a)(1) Except as provided in subsection (b), funds appropriated to the Department of Defense pursuant to an authorization of appropriations in this Act may not be used to carry out a permanent consolidation or reduction, to a number less than the base number, in the number of ports at which cargo shipments originate that—

(A) are shipments of breakbulk cargo;

(B) are carried through the Panama Canal on vessels operated by or for the Military Sealift Command; and

(C) have a destination at a port on the Pacific Ocean outside the continental United States.

(2) For the purposes of paragraph (1), the base number is the number of ports which were being used to originate cargo shipments described in paragraph (1) as of January 1, 1984.

(b) The limitation in subsection (a) shall cease to apply with respect to a proposed consolidation or reduction 30 days after the date on which Congress receives a report from the Secretary of Defense describing the proposed consolidation or reduction, but not before February 1, 1985.

Expiration
date.

SENSE OF CONGRESS CONCERNING INTRODUCTION OF UNITED STATES
ARMED FORCES INTO CENTRAL AMERICA FOR COMBAT

50 USC 1541
note.
President of U.S.

El Salvador.

SEC. 310. (a) The Congress makes the following findings:

(1) The President has stated that there is no need to introduce United States Armed Forces into Central America for combat and that he has no intention of doing so.

(2) The President of El Salvador has stated that there is no need for United States Armed Forces to conduct combat operations in El Salvador and that he has no intention of asking that they do so.

(3) The possibility of the introduction of United States Armed Forces into Central America for combat raises very grave concern in the Congress and the American people.

(b) It is the sense of Congress that—

(1) United States Armed Forces should not be introduced into or over the countries of Central America for combat; and

(2) if circumstances change from those present on the date of the enactment of this Act and the President believes that those changed circumstances require the introduction of United States Armed Forces into or over a country of Central America for combat, the President should consult with Congress before any decision to so introduce United States Armed Forces and any such introduction of United States Armed Forces must comply with the War Powers Resolution.

50 USC 1541
note.

TITLE IV—PERSONNEL AUTHORIZATIONS

PART A—ACTIVE FORCES

AUTHORIZATION OF END STRENGTHS

SEC. 401. The Armed Forces are authorized strengths for active duty personnel as of September 30, 1985, as follows:

- (1) The Army, 780,800.
- (2) The Navy, 571,300.
- (3) The Marine Corps, 198,300.
- (4) The Air Force, 602,070.

EXTENSION OF QUALITY CONTROL ON ENLISTMENTS INTO THE ARMY

97 Stat. 629.

SEC. 402. Effective on October 1, 1984, section 302(a) of the Department of Defense Authorization Act, 1981 (10 U.S.C. 520 note), is amended by striking out "October 1, 1983" and "September 30, 1984" and inserting in lieu thereof "October 1, 1984" and "September 30, 1985", respectively.

PART B—RESERVE FORCES

AUTHORIZATION OF AVERAGE STRENGTHS FOR SELECTED RESERVE

10 USC 261 note.

SEC. 411. (a) For fiscal year 1985 the Selected Reserve of the reserve components of the Armed Forces shall be programed to attain average strengths of not less than the following:

- (1) The Army National Guard of the United States, 435,117.
- (2) The Army Reserve, 284,073.
- (3) The Naval Reserve, 124,100.
- (4) The Marine Corps Reserve, 44,300.

(5) The Air National Guard of the United States, 105,438.

(6) The Air Force Reserve, 72,900.

(7) The Coast Guard Reserve, 12,500.

(b) The average strength prescribed by subsection (a) for the Selected Reserve of any reserve component shall be proportionately reduced by (1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at any time during the fiscal year, and (2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at any time during the fiscal year. Whenever such units or such individual members are released from active duty during any fiscal year, the average strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be proportionately increased by the total authorized strength of such units and by the total number of such individual members.

(c) The Secretary of the Air Force shall use the personnel strength for the Air National Guard of the United States authorized by subsection (a) to establish and maintain in the Air National Guard of the United States during fiscal year 1985 not less than 91 flying units.

AUTHORIZATION OF END STRENGTHS FOR MEMBERS ON ACTIVE DUTY IN
SUPPORT OF THE RESERVE COMPONENTS

SEC. 412. (a) Within the average strengths prescribed in section 411, the reserve components of the Armed Forces and the National Guard are authorized, as of September 30, 1985, the following number of Reserves to be serving on full-time active duty or, in the case of members of the National Guard, full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components or the National Guard:

(1) The Army National Guard and the Army National Guard of the United States, 20,583.

(2) The Army Reserve, 10,700.

(3) The Naval Reserve, 15,210.

(4) The Marine Corps Reserve, 1,129.

(5) The Air National Guard and the Air National Guard of the United States, 7,024.

(6) The Air Force Reserve, 623.

(b) Upon a determination by the Secretary of Defense that such action is in the national interest, the end strengths prescribed by subsection (a) may be increased by a total of not more than the number equal to 2 percent of the total end strengths prescribed.

INCREASE IN NUMBER OF CERTAIN PERSONNEL AUTHORIZED TO BE ON
ACTIVE DUTY IN SUPPORT OF THE RESERVE COMPONENTS

SEC. 413. (a) The table in section 517(b) of title 10, United States Code, is amended to read as follows:

"Grade	Army	Navy	Air Force	Marine Corps
E-9	517	156	87	9
E-8	2,295	381	455	74".

10 USC 524.

(b) The table in section 524(a) of such title is amended to read as follows:

"Grade	Army	Navy	Air Force	Marine Corps
Major or lieutenant commander	2,261	823	471	100
Lieutenant colonel or commander	1,121	520	293	50
Colonel or Navy captain	345	177	172	25".

Effective date.
10 USC 517 note.

(c) The amendments made by subsections (a) and (b) shall take effect on October 1, 1984.

**CLARIFICATION OF STATUS OF MEMBERS OF THE NATIONAL GUARD
PERFORMING FULL-TIME DUTY**

SEC. 414. (a)(1) Section 101 of title 10, United States Code, is amended—

(A) by adding at the end of paragraph (22) the following new sentence: "It does not include full-time National Guard duty.";

(B) by inserting "or full-time National Guard duty" after "active duty" in paragraph (24); and

(C) by adding at the end thereof the following new paragraph:
"(42) 'Full-time National Guard duty' means training or other duty, other than inactive duty, performed by a member of the Army National Guard of the United States or the Air National Guard of the United States in the member's status as a member of the National Guard of a State or territory, the Commonwealth of Puerto Rico, or the District of Columbia under section 316, 502, 503, 504, or 505 of title 32 for which the member is entitled to pay from the United States or for which the member has waived pay from the United States."

10 USC 517.

(2) Section 517(b) of such title is amended—

(A) by inserting "(other than for training) or on full-time National Guard duty under the authority of section 502(f) of title 32 (other than for training)" after "on active duty";

(B) by striking out "of the armed forces" and inserting in lieu thereof "or the National Guard"; and

(C) by striking out "prescribed for the grade and the armed force" and inserting in lieu thereof "for that grade and armed force".

10 USC 523.

(3) Section 523(b)(1) of such title is amended—

(A) by striking out "or section 502 or 503 of title 32" in clause (C);

(B) by striking out "or" at the end of clause (D);

(C) by striking out the period at the end of clause (E) and inserting in lieu thereof "; or"; and

(D) by adding at the end thereof the following:

"(F) on full-time National Guard duty."

10 USC 524.

(4)(A) Subsection (a) of section 524 of such title is amended—

- (i) by inserting “or full-time National Guard duty” after “active duty” the first place it appears; and
 - (ii) by inserting “or full-time National Guard duty (other than for training) under section 502(f) of title 32” after “of this title”.
- (B)(i) The heading of such section is amended to read as follows:
- “§ 524. Authorized strengths: reserve officers on active duty or on full-time National Guard duty for administration of the reserves or the National Guard in grades of major, lieutenant colonel, and colonel and Navy grades of lieutenant commander, commander, and captain”.**
- (ii) The item relating to such section in the table of sections at the beginning of chapter 32 of such title to read as follows:
- “524. Authorized strengths: reserve officers on active duty or on full-time National Guard duty for administration of the reserves or the National Guard in grades of major, lieutenant colonel, and colonel and Navy grades of lieutenant commander, commander, and captain.”.
- (5) Section 641(1) of such title is amended—
- (A) by striking out “or under section 502 or 503 of title 32” in clause (C);
 - (B) by striking out “or” at the end of clause (E);
 - (C) by striking out the period at the end of the clause (F) and inserting in lieu thereof “; or”; and
 - (D) by adding at the end thereof the following:
“(G) on full-time National Guard duty.”.
- (6) Section 976(a)(1) is amended by striking out “or (B)” and inserting in lieu thereof “, (B) a member of the National Guard who is serving on full-time National Guard duty, or (C)”.
- (7)(A) Section 3686(2) of such title is amended to read as follows:
- “(2) full-time National Guard duty performed by a member of the Army National Guard of the United States shall be deemed to be active duty in Federal service as a Reserve of the Army, except that for purposes of title 38 such duty shall be considered to be active duty for training; and”.
- (B) Section 8686(2) of such title is amended to read as follows:
- “(2) full-time National Guard duty performed by a member of the Air National Guard of the United States shall be deemed to be active duty in Federal service as a Reserve of the Air Force, except that for purposes of title 38 such duty shall be considered to be active duty for training; and”.
- (b)(1) Section 101 of title 32, United States Code, is amended—
- (A) by adding at the end of paragraph (12) the following new sentence: “It does not include full-time National Guard duty.”; and
 - (B) by adding at the end thereof the following new paragraph:
“(19) ‘Full-time National Guard duty’ means training or other duty, other than inactive duty, performed by a member of the Army National Guard of the United States or the Air National Guard of the United States in the member’s status as a member of the National Guard of a State or territory, the Commonwealth of Puerto Rico, or the District of Columbia under section 316, 502, 503, 504, or 505 of this title for which the member is entitled to pay from the United States or for which the member has waived pay from the United States.”.
- (2)(A) Section 335 of such title is repealed.
- (B) The table of sections at the beginning of chapter 3 of such title is amended by striking out the item relating to section 335.

10 USC 641.

10 USC 976.

10 USC 3686.

10 USC 8686.

32 USC 316,
502-505.Repeal.
97 Stat. 632.

(c) Section 101(18) of title 37, United States Code, is amended by inserting “full-time National Guard duty,” after “annual training duty,”.

PART C—MILITARY TRAINING

AUTHORIZATION OF MILITARY TRAINING STUDENT LOADS

SEC. 421. (a) For fiscal year 1985, the components of the Armed Forces are authorized average military training student loads as follows:

- (1) The Army, 76,920.
- (2) The Navy, 69,116.
- (3) The Marine Corps, 21,186.
- (4) The Air Force, 46,592.
- (5) The Army National Guard of the United States, 18,338.
- (6) The Army Reserve, 15,994.
- (7) The Naval Reserve, 3,389.
- (8) The Marine Corps Reserve, 3,941.
- (9) The Air National Guard of the United States, 2,990.
- (10) The Air Force Reserve, 2,099.

Ante, p. 2516.

(b) The average military training student loads authorized in subsection (a) shall be adjusted consistent with the personnel strengths authorized in parts A and B of this title. Such adjustment shall be apportioned among the Army, the Navy, the Marine Corps, and the Air Force and the reserve components in such manner as the Secretary of Defense shall prescribe.

REDUCTION IN NUMBER OF STUDENTS REQUIRED TO BE IN A UNIT OF THE JUNIOR RESERVE OFFICERS' TRAINING CORPS FOR THE UNIT TO BE MAINTAINED

SEC. 422. Section 2031(b) of title 10, United States Code, is amended—

(1) by striking out clause (1) and inserting in lieu thereof the following:

“(1) the number of physically fit students in such unit who are at least 14 years of age and are citizens or nationals of the United States is not less than (A) 10 percent of the number of students enrolled in the institution who are at least 14 years of age, or (B) 100, whichever is less;”;

(2) by striking out “and” at the end of clause (3);

(3) by striking out the period at the end of clause (4) and inserting in lieu thereof “; and”; and

(4) by adding at the end thereof the following new clause:

“(5) the unit meets such other requirements as may be established by the Secretary of the military department concerned.”.

TITLE V—DEFENSE PERSONNEL MANAGEMENT

PART A—CIVILIAN PERSONNEL

WAIVER OF CIVILIAN PERSONNEL CEILINGS FOR FISCAL YEAR 1985

SEC. 501. (a) The provisions of section 138(c)(2) of title 10, United States Code, shall not apply with respect to fiscal year 1985 or with respect to the appropriation of funds for that year.

(b) During fiscal year 1985, the civilian personnel of the Department of Defense may not be managed on the basis of any end-

strength, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an "end-strength") on the number of such personnel who may be employed on the last day of such fiscal year.

(c) Not later than March 1, 1985, the Secretary of Defense and the Director of the Office of Management and Budget shall each submit to the Committees on Armed Services of the Senate and House of Representatives a report on the experience of the Department of Defense during fiscal year 1985 (to the date of the report) concerning the management of civilian personnel of the Department without a congressionally imposed civilian end strength and with a statutory prohibition on the management during that fiscal year of such civilian personnel by end strength. Each such report shall include the views of the Secretary or Director, as appropriate, with respect to the desirability of managing such personnel in such a manner.

Report.

CIVILIAN PERSONNEL CEILINGS ON INDUSTRIALLY-FUNDED ACTIVITIES DURING FISCAL YEAR 1984

SEC. 502. In computing the authorized strength for civilian personnel prescribed in section 601(a) of the Department of Defense Authorization Act, 1984 (Public Law 98-94; 97 Stat. 632), any increase during fiscal year 1984 in the number of civilian personnel of industrially-funded activities of the Department of Defense in excess of the number of civilian personnel employed in such activities on September 30, 1982, shall not be counted.

PART B—OFFICER PERSONNEL

TEMPORARY INCREASE IN THE NUMBER OF GENERAL AND FLAG OFFICERS AUTHORIZED TO BE ON ACTIVE DUTY

SEC. 511. (a) During fiscal year 1985, the number of officers of the Air Force authorized under section 525(b)(1) of title 10, United States Code, to be serving on active duty in the grade of general is increased by one.

10 USC 525 note.

(b) During fiscal year 1985, the number of officers of the Navy authorized under section 525(b)(2) of title 10, United States Code, to be serving on active duty in a grade above rear admiral is increased by three. None of the additional officers in grades above rear admiral by reason of this subsection may be in the grade of admiral.

(c) During fiscal year 1985, the number of officers of the Marine Corps authorized under section 525(b)(1) of title 10, United States Code, to be serving on active duty in grades above major general is increased by one, plus an additional one during any period of that fiscal year that an officer of the Marine Corps is serving as the Commander-in-Chief of the United States Central Command. An additional officer in a grade above major general by reason of this subsection may not be in the grade of general.

AUTHORITY TO CONSIDER FOR PROMOTION CERTAIN ARMY RESERVE BRIGADIER GENERALS

SEC. 512. Section 3364(e) of title 10, United States Code, is amended by adding at the end thereof the following new sentence: "However, the Secretary may waive the preceding sentence and any other provision of this subtitle relating to the required status of officers eligible to be considered for promotion in order to permit consider-

ation for promotion to the reserve grade of major general of an officer in the reserve grade of brigadier general—

10 USC 3375.

“(1) who is in an inactive status pursuant to a transfer to the inactive status list under section 3375(2) of this title and who has been on that list for less than one year; or

“(2) who has been in an active status for less than one year, if the officer was returned to that status from a transfer to the inactive status list under section 3375(2) of this title.”.

**AUTHORITY TO RETAIN IN ACTIVE STATUS UNTIL AGE 60 UP TO 10 ARMY
RESERVE BRIGADIER GENERALS**

SEC. 513. Section 3851 of title 10, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (d) and by striking out “of this section” in such subsection; and

(2) by inserting after subsection (b) the following new subsection:

“(c) Notwithstanding subsections (a) and (b), the Secretary of the Army may authorize the retention in an active status until age 60 of an officer in the reserve grade of brigadier general who would otherwise be removed from an active status under this section, except that not more than 10 officers may be retained under this subsection at any time.”.

**EXTENSION OF AUTHORITY FOR THE TEMPORARY PROMOTION OF
CERTAIN NAVY LIEUTENANTS**

97 Stat. 629.

SEC. 514. Section 5721(f) of title 10, United States Code, is amended by striking out “September 30, 1984” and inserting in lieu thereof “September 30, 1986”.

**REPEAL OF FOUR-YEAR LIMITATION ON PERIOD AN OFFICER MAY BE
ASSIGNED TO THE ARMY STAFF OR THE AIR STAFF**

Effective date.

SEC. 515. Effective on October 1, 1984, sections 3031(d) and 8031(d) of title 10, United States Code, are repealed.

**PART C—AMENDMENTS TO PROVISIONS OF LAW ENACTED BY THE
DEFENSE OFFICER PERSONNEL MANAGEMENT ACT**

**RETENTION IN GRADE OF OFFICERS APPOINTED IN RESERVES UPON
SEPARATING FROM ACTIVE DUTY**

97 Stat. 666.

SEC. 521. (a) Section 3359 of title 10, United States Code, is amended—

(1) by striking out “subsection (b)” in subsection (a) and inserting “subsections (b) and (c)”;

(2) by adding at the end thereof the following new subsection:

“(c) Under regulations prescribed by the Secretary concerned, a person who is originally appointed as a reserve officer of the Army and who is a former commissioned officer may be appointed in the reserve grade equivalent to the grade held by that person when discharged or separated and may be credited with time in that grade for promotion purposes equal to the time in grade held by that person when discharged or separated.”.

97 Stat. 666.

(b) Section 8359 of such title is amended—

(1) by striking out “subsection (b)” in subsection (a) and inserting “subsections (b) and (c)”; and

(2) by adding at the end thereof the following new subsection:

“(c) Under regulations prescribed by the Secretary concerned, a person who is originally appointed as a reserve officer of the Air Force and who is a former commissioned officer may be appointed in the reserve grade equivalent to the grade held by that person when discharged or separated and may be credited with time in that grade for promotion purposes equal to the time in grade held by that person when discharged or separated.”.

(c)(1) Under regulations prescribed by the Secretary of the military department concerned, a reserve officer of the Army or Air Force originally appointed after September 14, 1981, who at the time of that appointment was a former commissioned officer and who was appointed in a reserve grade lower than the grade held by that person when discharged may be appointed in the reserve grade equivalent to the officer's former grade.

10 USC 3559
note.

(2) An original reserve appointment in the Army or the Air Force of a person who (at the time of the appointment) was a former commissioned officer which (A) was made during the period beginning on September 15, 1981, and ending on the day before the date of the enactment of this Act, and (B) was made in a grade formerly held by that person shall be considered to have been a valid appointment at the time made, and any officer who received such an appointment is entitled to all the rights, privileges, and benefits of the grade to which appointed as of the original date of that appointment.

INCREASE IN LIMITATION ON NUMBER OF REGULAR OFFICERS IN THE
NAVY, AIR FORCE, AND MARINE CORPS

SEC. 522. Section 522 of title 10, United States Code, is amended by striking out “48,000”, “69,425”, and “13,000” and inserting in lieu thereof “55,000”, “80,000”, and “17,000”, respectively.

CLARIFICATION OF SENIOR GENERAL AND FLAG OFFICERS
CONTINUATION IN GRADE DURING A CHANGE IN STATUS

SEC. 523. Section 601(b) of title 10, United States Code, is amended to read as follows:

“(b) An officer who is appointed to the grade of general, admiral, lieutenant general, or vice admiral for service in a position of importance and responsibility designated to carry that grade shall continue to hold that grade—

“(1) while serving in that position of importance and responsibility;

“(2) while under orders transferring him to another position designating to carry one of those grades, beginning on the day his assignment to the first position is terminated and ending on the day before the day on which he assumes the second position;

“(3) while hospitalized, beginning on the day of the hospitalization and ending on the day he is discharged from the hospital, but not for more than 180 days; and

“(4) while awaiting retirement, beginning on the day he is relieved from the position designated to carry one of those grades and ending on the day before his retirement, but not for more than 90 days.”.

AUTHORITY TO USE MEANS OTHER THAN BOARDS TO DECIDE WHETHER
AN OFFICER SHOULD BE REQUIRED TO SHOW CAUSE FOR RETENTION

SEC. 524. (a) Section 618(b)(2) of title 10, United States Code, is amended to read as follows:

“(2) If the report of a selection board names an officer as having a record which indicates that the officer should be required to show cause for his retention on active duty, the Secretary concerned may provide for the review of the record of that officer as provided for under regulations prescribed under section 1181 of this title.”

10 USC 1181.

(b)(1) Section 1181 of such title is amended to read as follows:

Regulations.

“§1181. Authority to establish procedures to consider the separation of officers for substandard performance of duty and for certain other reasons

“(a) Subject to such limitations as the Secretary of Defense may prescribe, the Secretary of the military department concerned shall prescribe, by regulation, procedures for the review at any time of the record of any commissioned officer (other than a commissioned warrant officer or a retired officer) of the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps to determine whether such officer shall be required, because his performance of duty has fallen below standards prescribed by the Secretary of Defense, to show cause for his retention on active duty.

“(b) Subject to such limitations as the Secretary of Defense may prescribe, the Secretary of the military department concerned shall prescribe, by regulation, procedures for the review at any time of the record of any commissioned officer (other than a commissioned warrant officer or a retired officer) of the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps to determine whether such officer should be required, because of misconduct, because of moral or professional dereliction, or because his retention is not clearly consistent with the interests of national security, to show cause for his retention on active duty.”

(2) The item relating to section 1181 in the table of sections at the beginning of chapter 60 of such title is amended to read as follows:

“1181. Authority to establish procedures to consider the separation of officers for substandard performance of duty and for certain other reasons.”

Effective date.
10 USC 1181
note.

(3) The amendments made by paragraphs (1) and (2) shall take effect on the first day of the first month that begins more than 60 days after the date of the enactment of this Act, but shall not apply to any case in which, before that date, a board of officers has been ordered to convene under the provisions of section 1181 of title 10, United States Code, as in effect before that date.

Supra.

REMOVAL FROM FURTHER CONSIDERATION FOR PROMOTION OF OFFICERS
IN PAY GRADE O-2 WHO HAVE TWICE FAILED OF SELECTION FOR PRO-
MOTION

SEC. 525. (a) Subsection (b) of section 619 of title 10, United States Code, is amended—

(1) by striking out “An officer” and inserting in lieu thereof “(1) Except as provided in paragraph (2), an officer”; and

(2) by adding at the end thereof the following new paragraph:
“(2) Paragraph (1) does not apply to a regular officer who is ineligible for promotion for promotion under section 631(c) of this title or to a reserve officer who has failed of selection for promotion

to the grade of captain or, in the case of an officer of the Navy, lieutenant for the second time.”.

(b) Subsection (c)(2) of such section is amended—

(1) by striking out “and” at the end of clause (B);

(2) by striking out the period at the end of clause (C) and inserting in lieu thereof “; and”; and

(3) by adding at the end thereof the following new clause:

“(D) may, by regulation, preclude from consideration by a selection board by which he would otherwise be eligible to be considered, an officer who has an established separation date that is within 90 days after the date the board is convened.”.

(c) Section 631 of such title is amended by adding at the end thereof the following new subsection: 10 USC 631.

“(c) An officer who is subject to discharge under subsection (a)(1) is not eligible for further consideration for promotion.”.

DETERMINATION OF DATE OF RANK FOR OFFICERS WHOSE PROMOTIONS ARE DELAYED ADMINISTRATIVELY

SEC. 526. Paragraphs (1) and (2) of section 624(d) of title 10, United States Code, are each amended by striking out the period at the end and inserting in lieu thereof “, unless the Secretary concerned determines that the officer was unqualified for promotion for any part of the delay. If the Secretary makes such a determination, the Secretary may adjust such date of rank, effective date of pay and allowances, and position on the active-duty list as the Secretary considers appropriate under the circumstances.”.

SPECIAL SELECTION BOARDS FOR WARRANT OFFICERS

SEC. 527. (a) Subsections (a)(1) and (b)(1) of section 628 of title 10, United States Code, are amended by striking out “(composed in accordance with section 612 of this title)” and inserting in lieu thereof “(composed in accordance with section 612 of this title or, in the case of a warrant officer, composed in accordance with section 558 of this title and regulations prescribed by the Secretary of the military department concerned)”.

(b) Section 641 of such title is amended by striking out “(other than section 640)” and inserting in lieu thereof “(other than section 640 and, in the case of warrant officers, section 628)”. 10 USC 641.

AUTHORITY TO DISCHARGE RESERVE SECOND LIEUTENANTS AND ENSIGNS FOUND NOT QUALIFIED FOR PROMOTION

SEC. 528. (a) Section 1005 of title 10, United States Code, is amended—

(1) by striking out “A reserve commissioned officer, other than a commissioned warrant officer,” and inserting in lieu thereof “(a) Except as provided in subsection (b), a reserve commissioned officer”;

(2) by striking out the comma after “any other provision of law”; and

(3) by adding at the end thereof the following new subsection:

“(b) Subsection (a) does not prevent the discharge or transfer from an active status of—

“(1) a commissioned warrant officer; or

“(2) an officer on the active-duty list who is found not qualified for promotion to the grade of first lieutenant, in the case of

an officer of the Army, Air Force, or Marine Corps, or lieutenant (junior grade), in the case of an officer of the Navy.”.

10 USC 3819. (b) Section 3819 of such title is amended—

(1) by inserting “(a)” before “Except as provided”;

(2) by inserting “and not on the active-duty list” after “in an active status”; and

(3) by adding at the end thereof the following new subsection:

“(b) Except as provided by section 1006 of this title, each second lieutenant of the Army Reserve who is on the active-duty list of the Army and is found not qualified for promotion to the reserve grade of first lieutenant shall be discharged from his reserve appointment not later than the end of the 18-month period beginning on the date on which he is first found not qualified for promotion to that grade, unless he is promoted to that grade before the end of that period.”.

10 USC 6389. (c) Section 6389 of such title is amended by adding at the end thereof the following new subsection:

“(g) An officer in an active status in the Naval Reserve in the permanent grade of ensign who is found not qualified for promotion to the grade of lieutenant (junior grade), and an officer in an active status in the Marine Corps Reserve in the permanent grade of second lieutenant who is found not qualified for promotion to the grade of first lieutenant, may (unless he is sooner promoted) be eliminated from an active status.”.

10 USC 8819. (d) Section 8819 of such title is amended by adding at the end thereof the following new subsection:

“(c) Except as provided by section 1006 of this title, each second lieutenant of the Air Force Reserve who is on the active-duty list of the Air Force and is found not qualified for promotion to the reserve grade of first lieutenant shall be discharged from his reserve appointment not later than the end of the 18-month period beginning on the date on which he is first found not qualified for promotion to that grade, unless he is promoted to that grade before the end of that period.”.

NAVY LIMITED DUTY OFFICERS

SEC. 529. (a) Section 619(d)(2) of title 10, United States Code, is amended by striking out “Navy or” and “lieutenant commander or”.

10 USC 633. (b) Section 633 of such title is amended by striking out “Except an officer of the Navy and Marine Corps who is an officer designated for limited duty (to whom section 5596(e) or 6383 of this title applies)” and inserting in lieu thereof “Except an officer of the Navy designated for limited duty to whom section 5596(e) of this title applies and an officer of the Marine Corps designated for limited duty to whom section 5596(e) or section 6383 of this title applies”.

10 USC 6383. (c)(1) Subsection (a) of section 6383 of such title is amended by striking out “each regular officer of the Navy or Marine Corps” and inserting in lieu thereof “each regular officer of the Navy who is an officer designated for limited duty and who is serving in a grade below the grade of commander and each regular officer of the Marine Corps who is an officer”.

(2) Subsection (d) of such section is amended by striking out “Each” and inserting in lieu thereof “Except as provided in subsection (i), each”.

(3) Subsection (i) of such section is amended—

(A) by inserting “or the discharge under subsection (d)” after “the retirement under subsection (a) or (b)”; and

(B) by striking out the second sentence and inserting in lieu thereof the following: "An officer whose retirement is deferred under this subsection and who is not subsequently promoted may not be continued on active duty beyond 20 years active commissioned service, if in the grade of lieutenant or captain, beyond 24 years active commissioned service, if in the grade of lieutenant commander or major, or beyond 28 years active commissioned service, if in the grade of lieutenant colonel, or beyond age 62, whichever is earlier."

APPOINTMENT IN PERMANENT GRADE OF CERTAIN LIMITED DUTY
OFFICERS SERVING IN HIGHER TEMPORARY GRADES

SEC. 530. Section 616 of the Defense Officer Personnel Management Act (10 U.S.C. 611 note) is amended by adding at the end thereof the following new subsection:

"(c) An officer of the Navy or Marine Corps who on September 15, 1981, was an officer designated for limited duty under section 5589 of title 10, United States Code, and who on the date of the enactment of this subsection is serving in a temporary grade above the grade of lieutenant, in the case of an officer of the Navy, or captain, in the case of an officer of the Marine Corps, may be reappointed under section 5589 of title 10, United States Code (as in effect on or after September 15, 1981), in the same permanent grade and with the same date of rank held by that officer on the active-duty list immediately before such reappointment if he is otherwise eligible for appointment under that section."

DETERMINATION OF SEVERANCE PAY IN CERTAIN CASES

SEC. 531. Section 631 of the Defense Officer Personnel Management Act (10 U.S.C. 611 note) is amended—

(1) by striking out "the day before the effective date of this Act" each place it appears and inserting in lieu thereof "September 14, 1981,";

(2) by striking out "on or" in subsection (a)(2);

(3) by striking out the period at the end of subsection (a) and inserting in lieu thereof ", unless (in the case of a member discharged or released on or after the date of the enactment of the Department of Defense Authorization Act, 1985) the Secretary concerned determines that the conditions under which the member is discharged or separated do not warrant such pay.";

(4) by striking out "to whom subsection (a) applies is" in subsection (b) and inserting in lieu thereof "who is entitled to receive a readjustment payment or severance pay under subsection (a) is also"; and

(5) by striking out "a readjustment payment or" in subsection (b) and inserting in lieu thereof "the readjustment payment and".

Ante, p. 2492.

CONSIDERATION FOR PROMOTION OF CERTAIN RETIRED OFFICERS WHO
LATER SERVE ON ACTIVE DUTY

SEC. 532. (a) Title VI of the Defense Officer Personnel Management Act (10 U.S.C. 611 note) is amended by adding at the end of part C the following new section:

**“SAVINGS PROVISION FOR PROMOTION CONSIDERATION OF CERTAIN
RETIRED OFFICERS**

“SEC. 639. Notwithstanding sections 619, 620, and 641(4) of title 10, United States Code, a retired officer serving on active duty on the date of the enactment of this section who on September 14, 1981, was on active duty as a retired officer recalled to active duty and who—

“(1) was eligible for consideration for promotion on that date; and

“(2) has served continuously on active duty since that date, may be considered for promotion (under regulations prescribed by the Secretary of the military department concerned) by a selection board that convenes after the date of the enactment of this section as if he had been placed on the active-duty list pursuant to section 621 of this Act.”.

10 USC 611 note.

(b) The table of contents in section 1(b) of such Act is amended by inserting after the item relating to section 638 the following new item:

“Sec. 639. Savings provision for promotion consideration of certain retired officers.”

TECHNICAL AMENDMENTS

SEC. 533. (a) Paragraph (1) of section 645 of title 10, United States Code, is amended—

(1) in subparagraph (A), by inserting “(other than after having been placed on that list after a selection from below the promotion zone)” after “to that grade” in clauses (i)(II) and (ii)(II); and

(2) in subparagraph (B)—

(A) by inserting “in the promotion zone” after “the junior officer”; and

(B) by striking out “in the promotion zone” after “higher grade”.

10 USC 680.

(b) Section 680(b)(3) of such title is amended by inserting “, separation pay,” after “retired pay”.

10 USC 3964,
8964.

(c) Sections 3964 and 8964 of such title are amended by striking out “temporary”.

10 USC 4336.

(d)(1) Subsections (a) and (b) of section 4336 of such title are amended by striking out “when a regular officer” in the second sentence and all that follows through “grade of colonel,” and inserting in lieu thereof “on which he would have been promoted had he been selected for promotion from among officers in the promotion zone,”.

10 USC 9336.

(2) Subsections (a) and (b) of section 9336 of such title are amended by striking out “when a regular officer” in the second sentence and all that follows through “grade of colonel,” and inserting in lieu thereof “on which he would have been promoted had he been selected for promotion from among officers in the promotion zone,”.

10 USC 5891.

(e) Section 5891(c) of such title is amended by striking out “a lineal list” both places it appears and inserting in lieu thereof “the active-duty list”.

Repeal.

10 USC 6482.

(f)(1) Section 6482 of such title is repealed.

(2) The table of sections at the beginning of chapter 575 of such title is amended by striking out the item relating to section 6482.

(g) Section 404(c)(1)(B) of title 37, United States Code, is amended by inserting “separation pay or” before “severance pay” and before “readjustment pay”.

PART D—OFFICER TRAINING PROGRAMS

CLARIFICATION OF AUTHORITY TO ORDER CERTAIN CADETS AND
MIDSHIPMEN TO ACTIVE DUTY

SEC. 541. (a) Section 4348(a) of title 10, United States Code, is amended—

(1) by striking out “, unless sooner separated,” in the matter preceding clause (1);

(2) by inserting “unless sooner separated from the Academy,” in clause (1) before “complete the”; and

(3) by inserting “, unless sooner separated from the service,” in clause (2) before “serve” and in clause (3) before “remain”.

(b) Section 6959(a) of such title is amended—

10 USC 6959.

(1) by striking out “, unless sooner separated,” in the matter preceding clause (1);

(2) by inserting “unless sooner separated from the Naval Academy,” in clause (1) before “complete the”; and

(3) by inserting “, unless sooner separated from the naval service,” in clause (2) before “serve” and in clause (3) before “remain”.

(c) Section 9348(a) of title 10, United States Code, is amended—

10 USC 9348.

(1) by striking out “, unless sooner separated,” in the matter preceding clause (1);

(2) by inserting “unless sooner separated from the Academy,” in clause (1) before “complete the”; and

(3) by inserting “, unless sooner separated from the service,” in clause (2) before “serve” and in clause (3) before “remain”.

(d) The amendments made by this section shall apply with respect to agreements entered into under section 4348, 6959, or 9348 of title 10, United States Code, before, on, or after the date of the enactment of this Act.

Effective date
10 USC 4348
note.

EXTENSION OF MILITARY SERVICE OBLIGATION OF SERVICE ACADEMY
AND ROTC CADETS AND MIDSHIPMEN

SEC. 542. (a) Section 2107(b)(5) of title 10, United States Code, is amended—

(1) by striking out the semicolon in subclause (A)(i) and inserting in lieu thereof “or before such other date, not beyond the eighth anniversary of the midshipman’s date of rank, that the Secretary of Defense may prescribe;” and

(2) by striking out “the sixth anniversary” in subclause (C)(ii) and inserting in lieu thereof “at least the sixth anniversary and, at the discretion of the Secretary of Defense, up to the eighth anniversary”.

(b) Section 4348(a)(3) of such title is amended by striking out “the sixth anniversary” and inserting in lieu thereof “at least the sixth anniversary and, at the direction of the Secretary of Defense, up to the eighth anniversary”.

10 USC 4348.

(c) Section 6959(a)(3) of such title is amended by striking out “the sixth anniversary” and inserting in lieu thereof “at least the sixth anniversary and, at the direction of the Secretary of Defense, up to the eighth anniversary”.

10 USC 6959.

(d) Section 9348(a)(3) of such title is amended by striking out “the sixth anniversary” and inserting in lieu thereof “at least the sixth

10 USC 9348.

anniversary and, at the direction of the Secretary of Defense, up to the eighth anniversary”.

ELIGIBILITY FOR ADVANCED TRAINING IN SENIOR ROTC PROGRAM

SEC. 543. (a) Section 2104 of title 10, United States Code, is amended—

- (1) by striking out “, who have at least two academic years remaining at such educational institution” in subsection (a); and
- (2) by striking out subsection (b)(6) and inserting in lieu thereof the following:

“(6) either—

“(A) complete successfully—

“(i) the first two years of a four-year Senior Reserve Officers’ Training Corps course; or

“(ii) field training or a practice cruise of not less than six weeks’ duration which is prescribed by the Secretary concerned as a preliminary requirement for admission to the advanced course; or

“(B) at the discretion of the Secretary concerned, agree in writing to complete field training or a practice cruise, as prescribed by the Secretary concerned, within two years after admission to the advanced course.”.

Effective date.
10 USC 2104
note.

- (b) The amendments made by subsection (a) do not constitute authority for the enactment of new budget authority for a fiscal year beginning before October 1, 1984.

PART E—MISCELLANEOUS

WOMEN IN THE ARMED FORCES

10 USC 8251
note.

SEC. 551. (a) The Secretary of the Air Force shall provide that of all persons originally enlisting in the Regular Air Force during the period beginning on October 1, 1986, and ending on September 30, 1988—

(1) not less than 19 percent of those enlisting during fiscal year 1987 shall be women; and

(2) not less than 22 percent of those enlisting during fiscal year 1988 shall be women.

Study.
Report.

(b) The Secretary of Defense shall study the propensity of young women to serve in the military and shall submit a report to Congress with the Secretary’s review and analysis of that propensity not later than six months after the date of the enactment of this Act.

RESERVE FORCES READINESS

Study.
10 USC 261 note.

SEC. 552. (a)(1) The Secretary of Defense shall conduct a review of the various systems used to measure the readiness of reserve units of the Armed Forces and shall implement a measurement system for the active and reserve components of the Armed Forces to provide an objective and uniform evaluation of the readiness of all units of the Armed Forces. The measurement system should be designed to produce information adequate to provide comparisons concerning the readiness of all units. The system for evaluation of the readiness of a unit of an active component should incorporate the performance of any unit of a reserve component affiliated with the active component unit, including the effect of the reserve component unit on the mobilization capability of the active component unit.

(2) Not later than March 31, 1985, the Secretary shall submit a report to the Committees on Armed Services of the Senate and House of Representatives describing the results of the review under paragraph (1) and the measurement system implemented in accordance with that paragraph.

Report.

(b)(1) The Secretary of Defense, acting through the Assistant Secretary of Defense for Reserve Affairs, shall conduct a study to evaluate the feasibility of allocating equipment to units of reserve components based on a measure of effectiveness of such units. The study should consider the effects of allocating equipment by comparing units with similar deployment times and similar capabilities in terms of training and equipment rather than by comparing all reserve component units with each other. The study should be integrated with an evaluation of the system for measuring unit effectiveness to be implemented in accordance with subsection (a).

Study.
10 USC 261 note.

(2) As part of the report under subsection (a)(2), the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the study carried out under paragraph (1).

Report.

(c) It is the sense of Congress that the number of members of the Army Reserve and of the Army National Guard assigned to full-time manning duty should be increased to 14 percent of the total membership of the Army Reserve and of the Army National Guard, respectively, by fiscal year 1989.

10 USC 261 note.

(d)(1)(A) The Secretary of Defense, acting through the Assistant Secretary of Defense for Reserve Affairs, shall conduct a study of the benefits of a longer training program for certain units of the reserve components and shall conduct a test of such a program. The test program should begin at the earliest realistic date.

Study.
10 USC 261 note.

(B) In developing training programs for the reserve components, the Secretary shall give increased attention to innovative training technologies, techniques, and schedules that recognize the limitations on time and the geographic dispersion of the reserve components.

(2) Not later than March 31, 1985, the Secretary shall submit a report to the Committees on Armed Services of the Senate and House of Representatives describing the study under paragraph (1).

Report.

(e) The Secretary of Defense shall conduct at least one major mobilization exercise each year. The exercise should be as comprehensive and as realistic as possible and should include the participation of associated active component and reserve component units. The Secretary shall develop a plan by June 30, 1985, to test periodically each active component and reserve component unit based in the United States and all interactions of such units, as well as the sustainment of the forces mobilized as part of the exercise, with the objective of permitting an evaluation of the adequacy of resource allocation and planning.

10 USC 261 note.

(f)(1) In order to encourage members of the Armed Forces whose military service obligation is expiring and who do not choose to reenlist or otherwise extend their service on active duty or in active elements of reserve components to remain in the Armed Forces as members of the Individual Ready Reserve, the Secretary of Defense shall consider making greater use of the authority provided under section 308h of title 37, United States Code, to pay bonuses to persons reenlisting for periods of not less than three years in the Individual Ready Reserve.

97 Stat. 663.
37 USC 308h
note.

- 37 USC 308h. (2) Such section is amended by striking out the period at the end of subsection (b) and inserting in lieu thereof "and shall be paid in equal annual increments."
- 10 USC 261 note. (g) This section does not apply to the Coast Guard.

PRECEDENCE OF AWARD OF PURPLE HEART

SEC. 553. (a) Chapter 57 of title 10, United States Code, is amended by adding at the end thereof the following new section:

Regulations.
10 USC 1127.

"§ 1127. Precedence of the award of the Purple Heart

"In prescribing regulations establishing the order of precedence of awards and decorations authorized to be displayed on the uniforms of members of the armed forces, the Secretary of the military department concerned shall accord the Purple Heart a position of precedence, in relation to other awards and decorations authorized to be displayed, not lower than that immediately following the lowest position accorded any award or decoration for valor."

(b) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item: "1127. Precedence of the award of the Purple Heart."

STUDY OF MILITARY REGULATIONS WITH REGARD TO RELIGIOUS PRACTICES

SEC. 554. (a) In order to promote the free expression of religion by members of the Armed Forces to the greatest extent possible consistent with the requirements of military discipline, the Secretary of Defense shall form a study group to examine ways to minimize the potential conflict between the interests of members of the Armed Forces in abiding by their religious tenets and the military interest in maintaining discipline.

(b) The study group shall consist of eight members appointed by the Secretary of Defense, of whom—

(1) one shall be appointed from members of each of the four Armed Forces under the jurisdiction of the Secretary of Defense upon the recommendation of the respective Secretaries of the military departments;

(2) three shall be appointed upon the recommendation of the Armed Forces Chaplain Board; and

(3) one shall be appointed upon the recommendation of the Assistant Secretary of Defense for Manpower, Installations, and Logistics.

The Secretary of Defense shall designate one of the members to serve as chairman of the study group.

(c) In carrying out its functions under subsection (a), the study group shall make the maximum effort to ascertain the views of the broadest spectrum of religious organizations and to use the research and intellectual resources of specialists outside the Government through receipt of written or oral presentations to the study group.

Report.

(d) Not later than February 1, 1985, the study group shall submit to the Secretary of Defense a report containing its findings and recommendations. Not later than 20 days after receiving that report, the Secretary of Defense shall submit to Congress a copy of the report, together with the Secretary's comments on the report, and shall issue appropriate implementing policy to the Secretaries of the military departments. Such implementing policy shall require

that any change in regulations required by reason of that implementing policy be issued by the Secretaries of the military departments not later than 30 days after the date of the issuance of that implementing policy.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

PART A—BASIC PAY AND ALLOWANCES

MILITARY PAY RAISE FOR FISCAL YEAR 1985

SEC. 601. (a) Any adjustment required by section 1009 of title 37, United States Code, in elements of the compensation of members of the uniformed services to become effective during fiscal year 1985 shall not be made.

37 USC 1009 note.

(b)(1) Except as provided in paragraph (2), the rates of basic pay and basic allowances for subsistence for members of the uniformed services are increased by 4 percent effective on January 1, 1985.

Effective date.

(2) The increase in rates of basic pay and basic allowances for subsistence provided for in paragraph (1) shall not apply to enlisted members in pay grade E-1 with less than 4 months active duty.

BASIC ALLOWANCE FOR QUARTERS AND VARIABLE HOUSING ALLOWANCE

SEC. 602. (a)(1) Effective on January 1, 1985, the rates of the basic allowance for quarters authorized by section 403(a)(1) of title 37, United States Code, are as follows:

Effective date.
37 USC 403 note.

"Pay Grade	Without Dependents		
	Full Rate	Partial Rate ¹	With Dependents
Commissioned officers:			
O-10.....	\$537.30	\$50.70	\$660.90
O-9.....	537.30	50.70	660.90
O-8.....	537.30	50.70	660.90
O-7.....	537.30	50.70	660.90
O-6.....	493.20	39.60	599.40
O-5.....	465.30	33.00	552.30
O-4.....	426.60	26.70	504.90
O-3.....	345.30	22.20	420.90
O-2.....	278.10	17.70	360.90
O-1.....	238.50	13.20	323.70
Warrant officers:			
W-4.....	391.20	25.20	453.90
W-3.....	330.30	20.70	405.90
W-2.....	297.00	15.90	379.50
W-1.....	251.40	13.80	330.90
Enlisted members:			
E-9.....	315.30	18.60	429.90
E-8.....	292.20	15.30	400.50
E-7.....	249.30	12.00	372.60
E-6.....	221.40	9.90	337.80
E-5.....	204.90	8.70	300.30
E-4.....	177.60	8.10	259.50
E-3.....	172.50	7.80	238.50
E-2.....	146.40	7.20	238.50
E-1.....	133.50	6.90	238.50 ¹

¹"Payable to a member without dependents who under section 403 (b) or (c) of title 37, United States Code, is not entitled to receive a basic allowance for quarters."

(2) During the period beginning on January 1, 1985, and ending on the date on which any change is made by law in any of the rates of basic allowance for quarters for members of the uniformed services prescribed in paragraph (1), the rate of the basic allowance for quarters authorized by section 403(a)(1) of title 37, United States Code, which is payable to a member of the uniformed services who is entitled to that allowance on or after January 1, 1985, and before the date of any such change and who was entitled to that allowance on December 31, 1984, shall not be less than the rate of the basic allowance for quarters that was in effect for that member on December 31, 1984 (unless the member holds a lower grade than he held on that date or has had a change in dependent status from a "with dependents" status to a "without dependents" status).

Prohibition.

(b)(1) During the period beginning on October 1, 1984, and ending on January 1, 1985, the Secretary of a military department may not pay a variable housing allowance under section 403(a)(2) of title 37, United States Code, except in accordance with the limitations on such payments applicable during fiscal year 1984 under the provisions of sections 786 and 792 of the Department of Defense Appropriation Act, 1984 (Public Law 98-212).

97 Stat. 1453,
1454.
97 Stat. 637.
37 USC 403 note.

(2) Section 906 of the Department of Defense Authorization Act, 1984 (Public Law 98-94), is amended by striking out "fiscal year 1984" and inserting in lieu thereof "the period beginning on October 1, 1983, and ending on January 1, 1985".

(c)(1) Subsection (a) of section 403 of title 37, United States Code, is amended by striking out "(1)" after "(a)" and by striking out paragraph (2).

(2) The heading of such section is amended to read as follows:

"§ 403. Basic allowance for quarters".

(d)(1) Chapter 7 of title 37, United States Code, is amended by inserting after section 403 the following new section:

37 USC 403a.

"§ 403a. Variable housing allowance

"(a)(1) Except as provided in subsection (b) of this section, a member of a uniformed service entitled to basic allowance for quarters is entitled to a variable housing allowance under this section whenever assigned to duty in an area of the United States which is a high housing cost area with respect to that member. A member with dependents who is assigned to an unaccompanied tour of duty outside the United States is entitled to a variable housing allowance while serving that tour of duty for any period during which the member's dependents reside in an area of the United States where, if the member were assigned to duty in that area, the member would be entitled to receive a variable housing allowance.

"(2) In the case of a member with dependents—

"(A) who is assigned to duty inside the United States the location or the circumstances of which make it necessary that his dependents reside at another location; and

"(B) whose dependents reside in an area of the United States where, if the member were assigned to duty in that area, the member would be entitled to receive a variable housing allowance at a rate other than the rate to which the member is entitled (if at all) in the area of his duty assignment,

the member may be paid a variable housing allowance as if he were assigned to duty in the area in which his dependents reside if the

Secretary concerned determines (under regulations prescribed under subsection (e) of this section) that it would be inequitable to base the member's entitlement to, and amount of, variable housing allowance on the area to which the member is assigned.

“(3) In the case of a member with dependents—

“(A) who is assigned to an unaccompanied tour of duty in Alaska or Hawaii; and

“(B) who would, if his duty station were outside the United States, be entitled to a family separation allowance under section 427(a) of this title,

37 USC 427.

the member may be paid a variable housing allowance at the rate applicable to a member without dependents serving in the same grade and at the same location. Payment of a variable housing allowance under this paragraph shall be in addition to any allowance or per diem to which the member otherwise may be entitled under this title.

“(b) A member of a uniformed service is not entitled to a variable housing allowance—

“(1) in the case of a member who makes a change in permanent duty station, for the number of days that travel is authorized between permanent duty stations (under regulations prescribed under subsection (e) of this section);

“(2) in the case of a member with dependents, if the member (A) is assigned to unaccompanied personnel housing of the United States (or an unaccompanied personnel housing facility under the jurisdiction of a uniformed service) appropriate to his grade, rank, or rating and adequate for himself, and (B) is authorized the basic allowance for quarters at the rate established for a member with dependents solely by reason of a court order requiring the member to pay support for dependents; or

“(3) in the case of a member of a reserve component, while on active duty under a call or order to active duty specifying a period of less than 140 days.

“(c)(1) The monthly amount of a variable housing allowance under this section for a member of a uniformed service with respect to an area is the difference between (A) the median monthly cost of housing in that area for members of the uniformed services serving in the same pay grade as that member, and (B) 80 percent of the median monthly cost of housing in the United States for members of the uniformed services serving in the same pay grade as that member.

“(2) The rates of variable housing allowance shall be reduced as necessary to comply with subsection (d) of this section.

“(3) The effective date of any adjustment in rates of variable housing allowance because of a redetermination of median monthly costs of housing under this subsection shall be the same as the effective date of the next increase after such redetermination in the basic allowances for quarters.

Effective date.

“(4) For the purposes of this section, an area shall be considered to be a high housing cost area with respect to a member of a uniformed service whenever the median monthly cost of housing in that area for members of the uniformed services serving in the same pay grade as that member exceeds 80 percent of the median monthly cost of housing in the United States for members of the uniformed services serving in the same pay grade as that member.

“(5) Any reduction required under paragraph (2) of this subsection and any determination of median monthly costs of housing under this subsection shall be made under regulations prescribed under subsection (e) of this section.

“(d)(1) The total amount that may be paid for a fiscal year for the variable housing allowance authorized members of the uniformed services by this section is the product of—

“(A) the total amount authorized to be paid for such allowance for the preceding fiscal year (as adjusted under paragraph (3) of this subsection); and

“(B) a fraction—

“(i) the numerator of which is the military housing cost index for October of the preceding fiscal year; and

“(ii) the denominator of which is the military housing cost index for October of the fiscal year before the preceding fiscal year.

“(2) The military housing cost index is the housing component of the Consumer Price Index (as determined by the Bureau of Labor Statistics of the Department of Labor), as adjusted under regulations prescribed under subsection (e) of this section. Such regulations may assign weights to the elements of that housing component other than those assigned by the Secretary of Labor in order more appropriately to reflect the distribution of elements of housing costs of members of the uniformed services.

“(3) In making a determination under paragraph (1) of this subsection for a fiscal year, the amount authorized to be paid for the preceding fiscal year for the variable housing allowance shall be adjusted to reflect changes during the year for which the determination is made in the number, grade distribution, and dependency status of members of the uniformed services entitled to variable housing allowance from the number of such members during the preceding fiscal year. Adjustments under this paragraph shall be made in accordance with regulations prescribed under subsection (e) of this section.

“(e) The President may prescribe regulations for the administration of this section.”.

(2) The table of sections at the beginning of such chapter is amended by striking out the item relating to section 403 and inserting in lieu thereof the following:

“403. Basic allowance for quarters.

“403a. Variable housing allowance.”.

(3) Section 7572(b)(1)(B) of title 10, United States Code, is amended by striking out “section 403” and inserting in lieu thereof “section 403a”.

(e) Section 405 of title 37, United States Code, is amended—

(1) by inserting “(a)” before “Without regard to”;

(2) by designating the third sentence as subsection (b) and by inserting “for a member who is on duty outside of the United States” in such sentence after “under this section”;

(3) by inserting after such sentence the following new sentence: “A station housing allowance may not be prescribed under this section for a member who is on duty in Hawaii or Alaska.”; and

(4) by designating the last sentence as subsection (c).

(f)(1) Except as provided in paragraph (2), the amendments made by this section shall take effect on January 1, 1985.

(2) A member who on December 31, 1984, is assigned to a permanent duty station in Alaska or Hawaii and is entitled on that date to a station housing allowance under section 405 of title 37, United States Code, shall, until he departs that station as a result of a permanent change of duty station, be entitled to receive that allowance as if the amendment made by subsection (d) had not been enacted and shall not be entitled to a variable housing allowance under section 403a of this title (as added by subsection (c)).

Ante, p. 2536.

Ante, p. 2534.

(3) For the period beginning on January 1, 1985, and ending on September 30, 1985, the limitation applicable under subsection (d)(1) of section 403a of title 37, United States Code (as added by subsection (d)), on the total amount that may be paid during a fiscal year for the variable housing allowance authorized members of the uniformed services by that section shall be 15 percent of the median annual costs of housing in the United States for members of the uniformed services as measured during fiscal year 1984. In determining for the purposes of clause (A) of such subsection the total amount authorized to be paid for such allowance for fiscal year 1985, such amount shall be determined as if the amendments made by this section took effect on October 1, 1984.

Effective date.

REIMBURSEMENT FOR ACCOMMODATIONS IN PLACE OF QUARTERS

SEC. 603. (a) Section 7572(b)(3) of title 10, United States Code, is amended—

97 Stat. 640.

(1) by striking out “and” after “fiscal year 1983,”; and

(2) by inserting “, and \$1,421,000 for fiscal year 1985” after “fiscal year 1984”.

(b) Section 3 of Public Law 96-357 (10 U.S.C. 7572 note) is amended by striking out “September 30, 1984” and inserting in lieu thereof “September 30, 1985”.

97 Stat. 640.

CLARIFICATION OF AUTHORITY TO DENY CERTAIN MEMBERS WITHOUT DEPENDENTS RIGHT TO ELECT TO RECEIVE BASIC ALLOWANCE FOR QUARTERS RATHER THAN OCCUPY MILITARY QUARTERS

SEC. 604. (a) Section 403(j)(2) of title 37, United States Code, is amended by striking out “military discipline” and inserting in lieu thereof “a training mission, military discipline.”

(b) The amendment made by subsection (a) shall apply only with respect to members making an election under section 403(b) of title 37, United States Code, after September 30, 1984.

Effective date.
37 USC 403 note.

COMMUTATION OF RATIONS FOR RESERVISTS ON INACTIVE DUTY TRAINING WHO ARE UNABLE TO OBTAIN RATIONS IN KIND

SEC. 605. Effective on October 1, 1984, section 402(b) of title 37, United States Code, is amended by adding at the end thereof the following new sentence: “The Secretary concerned may provide an enlisted member who could be provided rations in kind under the preceding sentence with a commutation when rations in kind are not available.”

Effective date.

FORFEITURE OF ACCRUED LEAVE BY CERTAIN MEMBERS WHO SERVE ON ACTIVE DUTY LESS THAN SIX MONTHS

SEC. 606. (a) Section 501(e) of title 37, United States Code, is amended—

(1) by inserting “(1)” after “(e)”; and

(2) by adding at the end thereof the following new paragraph:

“(2) The Secretary concerned may require that a member of a uniformed service who is discharged before completing six months of active duty because of a failure to serve satisfactorily (as determined by the Secretary concerned) forfeit all accrued leave to his credit at the time of his discharge.”

Effective date.
37 USC 501 note.

(b) The amendments made by subsection (a) shall apply in the case of members of the uniformed service (as defined in section 101(3) of title 37, United States Code) who enlist or are commissioned on or after the date of the enactment of this Act.

DENIAL OF CREDIT FOR TIME SPENT IN A DELAYED ENLISTMENT PROGRAM FOR PURPOSES OF COMPUTATION OF BASIC PAY

SEC. 607. (a) Section 205 of title 37, United States Code, is amended by adding at the end thereof the following new subsection:

“(e) Notwithstanding subsection (a) of this section, a period served by a member of a uniformed service in a reserve component under an enlistment under section 511 of title 10 before the member—

10 USC 511.

“(1) begins service on active duty under subsection (b) of that section, or

“(2) begins an initial period of active duty for training under subsection (d) of that section, may not be counted under this section.”

Effective date.
37 USC 205 note.

(b) The amendment made by subsection (a) shall apply to persons who enlist under section 511 of title 10, United States Code, on or after the first day of the third calendar month which begins after the date of the enactment of this Act.

PART B—TRAVEL AND TRANSPORTATION

EMERGENCY MEDICAL TRANSPORTATION FOR DEPENDENTS OF MEMBERS STATIONED IN ALASKA OR HAWAII

SEC. 611. Effective on October 1, 1984, section 1040(a) of title 10, United States Code, is amended by inserting “or in Alaska or Hawaii” after “outside the United States”.

TRANSPORTATION INCIDENT TO EMERGENCY LEAVE FOR MEMBERS WHOSE RESIDENCES ARE IN POSSESSIONS OF THE UNITED STATES

SEC. 612. (a)(1) Section 411d of title 37, United States Code, is amended to read as follows:

“§ 411d. Travel and transportation allowances: transportation incident to personal emergencies for certain members and dependents

“(a) Under uniform regulations prescribed by the Secretaries concerned, transportation in accordance with subsection (b) of this section may be provided for a member of a uniformed service and for dependents of that member authorized to reside at the member's duty station (or authorized to reside at another location and receive a station allowance) incident to emergency leave granted for reasons of a personal emergency (or in the case of transportation provided only for a dependent, under circumstances involving a personal emergency similar to the circumstances for which emergency leave could be granted a member).

“(b)(1) In the case of a member stationed outside the continental United States and the dependents of such a member, transportation under this section may be provided from the international airport nearest the location of the member and dependents at the time notification of the personal emergency is received or the international airport nearest the member’s permanent duty station (and if the member’s dependents reside at another overseas location and receive a station allowance, from that location)—

“(A) to the international airport in the continental United States closest to the international airport from which the member and his dependents departed; or

“(B) to an airport in Alaska, Hawaii, the Commonwealth of Puerto Rico, any possession of the United States, or any other location outside the continental United States, as determined by the Secretary concerned.

“(2) In the case of a member whose domicile is outside the continental United States and who is stationed in the continental United States and the dependents of such a member, transportation under this section may be provided from the international airport in the continental United States nearest the location of the member and dependents at the time notification of the personal emergency is received or the international airport nearest the member’s permanent duty station to an international airport in Alaska, Hawaii, the Commonwealth of Puerto Rico, a possession of the United States, or any other location outside the continental United States, as determined by the Secretary concerned.

“(3) In the case of a member stationed outside the continental United States whose dependents reside in the continental United States, transportation under this section may be provided for the member as described in paragraph (1) of this subsection and for the dependents as described in paragraph (2) of this subsection.

“(4) Whenever transportation is provided under this section, return transportation may be provided to the international airport from which the member or dependent departed or the international airport nearest the member’s duty station.

“(c) Transportation under this section may be authorized only upon a determination that, considering the nature of the personal emergency involved, Government transportation is not reasonably available. The cost of transportation authorized under this section for a member, or the dependents of a member, may not exceed the cost of Government-procured commercial air travel between the applicable locations described in subsection (b) of this section.

“(d) In this section, ‘continental United States’ means the 48 contiguous States and the District of Columbia.”

(2) The item relating to such section in the table of sections at the beginning of chapter 7 of such title is amended to read as follows:

“411d. Travel and transportation allowances: transportation incident to personal emergencies for certain members and dependents.”

(b) The amendment made by subsection (a)(1) shall apply with respect to transportation begun after September 30, 1984.

Effective date.
37 USC 411d
note.

TRAVEL PAY FOR CERTAIN RESERVE COMPONENT INSTRUCTORS

SEC. 613. (a) Section 404(a) of title 37, United States Code, is amended—

(1) by striking out “and” at the end of clause (3);

(2) by striking out the period at the end of clause (4) and inserting in lieu thereof “; and”; and

(3) by adding at the end the following new clause:

“(5) when not on active duty, if assigned to a Reserve school, and attending a reserve training meeting for the purpose of performing duties as an instructor at such meeting, if such meeting is 100 or more miles from the site at which the member would attend paid drills of the Reserve school to which he is assigned.”.

Effective date.
37 USC 404 note.

(b) The amendments made by subsection (a) shall apply with respect to travel performed after September 30, 1984.

TRANSPORTATION BETWEEN RESIDENCE AND PLACE OF WORK FOR SENIOR DEFENSE OFFICIALS

SEC. 614. (a) Chapter 157 of title 10, United States Code, is amended by adding at the end thereof the following new section:

10 USC 2637.

“§ 2637. Transportation between residence and place of work for senior defense officials

“Passenger motor vehicles of the United States may be used to provide transportation between the residences and places of work or employment of the Deputy Secretary of Defense, the Under Secretaries of Defense, and the members of the Joint Chiefs of Staff.”.

(b) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

“2637. Transportation between residence and place of work for senior defense officials.”.

PART C—SPECIAL AND INCENTIVE PAYS

EXTENSION OF ENLISTMENT AND REENLISTMENT BONUS AUTHORITIES FOR ACTIVE FORCES

97 Stat. 55.

SEC. 621. (a) Sections 308(g), 308a(c), and 308f(c) of title 37, United States Code, are amended by striking out “September 30, 1984” and inserting in lieu thereof “September 30, 1987”.

37 USC 308.

(b) Section 308 of such title is amended—

(1) by striking out “\$20,000” in subsection (a)(1) and inserting in lieu thereof “\$30,000”; and

(2) in subsection (b)—

(A) by inserting “(1)” after “(b)”; and

(B) by adding at the end thereof the following:

“(2) Of the bonuses paid under this section to members of a uniformed service during a fiscal year, not more than 10 percent may exceed \$20,000.”.

EXTENSION OF SPECIAL PAY FOR CERTAIN AVIATION CAREER OFFICERS

SEC. 622. (a) Effective on October 1, 1984, section 301b of title 37, United States Code, is amended—

(1) by striking out paragraph (2) of subsection (e) and inserting in lieu thereof the following:

“(2) During the period beginning on October 1, 1984, and ending on September 30, 1985, only agreements executed by officers of the Navy may be accepted under this section.”; and

(2) by striking out "September 30, 1984" in subsections (e)(3) and (f) and inserting in lieu thereof "September 30, 1985".

(b) Not later than February 1, 1985, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a written report on the adequacy of the incentive pay for aviation career officers provided for in section 301a of title 37, United States Code, to meet the recruiting and retention needs of each of the Armed Forces and on the relationship, if any, between that incentive pay and the special pay for certain Navy pilots provided for in section 301b of such title, as amended by subsection (a) of this section. The Secretary shall include in the report such recommendations for legislation regarding aviation career incentive and special pay as the Secretary considers appropriate.

Report.

Ante, p. 2540.

SPECIAL PAY FOR SEA DUTY AND SPECIAL SKILLS FOR ENLISTED MEMBERS

SEC. 623. (a) The table relating to rates of special pay for enlisted members in section 305a(b) of title 37, United States Code, is amended to read as follows:

"ENLISTED MEMBERS"

"Pay grade	Years of sea duty								
	1 or Less	Over 1	Over 2	Over 3	Over 4	Over 5	Over 6	Over 7	Over 8
E-4	\$50	\$60	\$125	\$160	\$175	\$175	\$175	\$175	\$175
E-5	60	70	140	175	185	190	205	220	220
E-6	125	135	170	190	210	215	225	235	245
E-7	135	145	215	235	255	260	265	265	270
E-8	165	180	225	255	265	270	280	285	290
E-9	175	195	235	265	280	290	310	310	310

Pay grade	Years of sea duty							
	Over 9	Over 10	Over 11	Over 12	Over 13	Over 14	Over 16	Over 18
E-4	\$175	\$175	\$175	\$175	\$175	\$175	\$175	\$175
E-5	220	220	220	220	220	220	220	220
E-6	255	265	265	280	295	310	325	340
E-7	275	280	300	310	330	350	370	390
E-8	300	310	310	320	340	360	380	400
E-9	310	320	330	350	370	390	410	410".

(b)(1) Section 307 of such title is amended to read as follows: 37 USC 307.

"§ 307. Special pay: special duty assignment pay for enlisted members"

"(a) An enlisted member who is entitled to basic pay and is performing duties which have been designated under subsection (b) of this section as extremely difficult or as involving an unusual degree of responsibility in a military skill may, in addition to other pay or allowances to which he is entitled, be paid special duty assignment pay at a monthly rate not to exceed \$275.

“(b) The Secretary concerned shall determine which enlisted members under his jurisdiction are to be paid special duty assignment pay under subsection (a) of this section. He shall also designate those skills within each armed force under his jurisdiction for which special duty assignment pay is authorized and shall prescribe the criteria under which members of that armed force are eligible for special duty assignment pay in each skill. He may increase, decrease, or abolish such pay for any skill.

Regulations.

“(c) This section shall be administered under regulations prescribed by the Secretary of Defense for the armed forces under his jurisdiction and by the Secretary of Transportation for the Coast Guard when the Coast Guard is not operating as a service in the Navy.”.

(2) The item relating to such section 307 in the table of sections at the beginning of chapter 5 of such title is amended to read as follows:

“307. Special pay: special duty assignment pay for enlisted members.”.

37 USC 307 note.

(3) A member of the uniformed services who, on September 30, 1984, was entitled to special pay under section 307 of title 37, United States Code, as in effect on such date, may continue to be paid the special pay authorized by such section as though the amendments made by this subsection had not been made. However, a member may not be paid the special pay authorized by such section as in effect on September 30, 1984, and the special pay authorized by such section as amended by this section.

Ante, p. 2541.

Prohibition.

Effective date.
37 USC 305a
note.

(c) The amendments made by this section shall take effect on October 1, 1984.

ELIMINATION OF CERTAIN CATEGORIES OF INCENTIVE PAY FOR HAZARDOUS DUTY

SEC. 624. (a) Section 301 of title 37, United States Code, is amended—

(1) in subsection (a), by striking out clauses (3) and (5) and redesignating clause (4) as clause (3) and clauses (6) through (13) as clauses (4) through (11), respectively;

(2) in subsection (c)(1), by striking out “(10), (11), or (12)” and inserting in lieu thereof “or (10),”; and

(3) in subsection (c)(2), by striking out “(13)” and inserting in lieu thereof “(11)”.

37 USC 301 note.

(b) A member of the uniformed services who is entitled on the day before the date of the enactment of this Act to receive incentive pay under section 301(a)(5) (for the performance of duty involving intimate contact with persons afflicted with leprosy) shall continue to be entitled to such pay under such section as in effect on that day so long as the member continues (without a break) to be assigned to perform such duties on and after that day.

Supra.

PART D—HEALTH CARE MATTERS

EXTENSION OF MEDICAL AND DENTAL CARE FOR RESERVES AND NATIONAL GUARD

SEC. 631. (a)(1) Section 1074a of title 10, United States Code, is amended to read as follows:

“§ 1074a. Medical and dental care: members on duty other than active duty; injuries, diseases and illnesses incident to duty

“(a) Under joint regulations prescribed by the Secretary of Defense, the Secretary of Transportation, and the Secretary of Health and Human Services, the following persons are entitled to the benefits described in subsection (b):

“(1) Each member of a uniformed service who contracts a disease or becomes ill in line of duty while on active duty for a period of 30 days or less, or while traveling to or from that duty.

“(2) Each member of the National Guard who contracts a disease or becomes ill in line of duty while on full-time National Guard duty, or while traveling to or from that duty.

“(3) Each member of a uniformed service who contracts a disease or becomes ill in line of duty while on inactive duty training under circumstances in which it is determined that the disease or illness was contracted or aggravated as an incident of that inactive duty training.

“(4) Each member of a uniformed service who incurs or aggravates an injury while traveling directly to or from the place at which he is to perform, or has performed, inactive duty training, unless the injury is incurred or aggravated as a result of the member’s own gross negligence or misconduct.

“(b) A person described in subsection (a) is entitled to—

“(1) the medical and dental care appropriate for the treatment of his injury, disease, or illness until the resulting disability cannot be materially improved by further hospitalization or treatment; and

“(2) subsistence during hospitalization.”

(2) The item relating to such section in the table of sections at the beginning of chapter 55 of such title is amended to read as follows:

“1074a. Medical and dental care: members on duty other than active duty; injuries, diseases, and illnesses incident to duty.”

(b) Section 6148 of such title, relating to certain benefits of members of the Naval Reserve and Marine Corps Reserve, is amended by striking out subsection (d).

10 USC 6148.

(c) The amendments made by this section shall apply only with respect to injuries incurred or aggravated and diseases or illnesses contracted or aggravated after September 30, 1984.

10 USC 1074a note.

ENHANCED BENEFITS COVERAGE UNDER CHAMPUS

SEC. 632. (a)(1) Section 1079(a) of title 10, United States Code, is amended by striking out clause (3) and inserting in lieu thereof the following:

“(3) not more than one eye examination may be provided to a patient in any calendar year;”

(2) Section 1086(a) of such title is amended by adding at the end thereof the following new sentence: “However, eye examinations may not be provided under such plans for persons covered by subsection (c).”

10 USC 1086.

(3) The amendments made by this subsection shall apply only to health care furnished after September 30, 1984.

10 USC 1079 note.

(b) The Secretary of Defense, in consultation with the Secretary of Health and Human Services, shall conduct demonstration projects under section 1092 of title 10, United States Code, for the purpose of

10 USC 1092 note.

97 Stat 650.

evaluating the cost-effectiveness of chiropractic care. In the conduct of such demonstration projects, chiropractic care (including manual manipulation of the spine and other routine chiropractic procedures authorized under joint regulations prescribed by the Secretary of Defense and the Secretary of Health and Human Services and not otherwise prohibited by law) may be provided as appropriate under chapter 55 of title 10, United States Code.

10 USC 1071 *et seq.*

AUTHORITY TO PROVIDE DENTAL CARE TO CERTAIN DEPENDENTS IN
FACILITIES OF THE UNIFORMED SERVICES

SEC. 633. (a) Section 1077(a) of title 10, United States Code, is amended—

(1) by striking out clauses (10), (11), and (12) and inserting in lieu thereof the following:

“(10) Dental care.”; and

(2) by redesignating clauses (13) and (14) as clauses (11) and (12), respectively.

Effective date.
10 USC 1077
note.

(b) The amendments made by subsection (a) shall take effect on July 1, 1985.

STUDY OF USE BY CHAMPUS OF MEDICARE PROSPECTIVE PAYMENT
SYSTEM

SEC. 634. (a) The Congress finds that—

(1) costs of providing medical care under the program administered by the Department of Defense known as the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) have escalated rapidly in recent years;

(2) new and innovative methods for control and containment of costs under the CHAMPUS program must be explored; and

(3) the adoption for the CHAMPUS program of a prospective payment system for inpatient hospital services like that used by Department of Health and Human Services under title XVIII of the Social Security Act for the Medicare program could provide significant savings for the CHAMPUS program.

42 USC 1395.

(b) The Secretary of Defense and the Secretary of Health and Human Services shall jointly study the possible effects of the adoption for the CHAMPUS program of a prospective payment system for inpatient hospital services such as that used by the Department of Health and Human Service for the Medicare program. The study shall address—

(1) the advisability and feasibility of requiring by law that a hospital participate in the CHAMPUS program as a condition of participating in Medicare and whether such a requirement is needed in order to ensure adequate participation by hospitals in the CHAMPUS program if a prospective payment system were to be adopted for the CHAMPUS program; and

(2) the changes that might be expected if such a system were adopted in the CHAMPUS patient workload and the CHAMPUS aggregate payment levels to various segments of the provider community (including private, public, non-profit, and teaching facilities).

Report.

(c) Not later than February 28, 1985, the Secretaries shall submit a report to the Committees on Armed Services and Finance of the Senate and the Committees on Armed Services and Ways and

Means of the House of Representatives of their findings under the study under subsection (b). The report shall include—

(1) such recommendations for changes in the CHAMPUS system of reimbursement as the Secretaries consider appropriate; and

(2) the recommendations of the Secretaries on the need for and appropriateness of a requirement by law relating to hospital participation in the CHAMPUS and Medicare programs such as that described in subsection (b)(1).

PART E—BENEFITS FOR SURVIVORS AND FORMER SPOUSES

ELIMINATION OF CERTAIN SOCIAL SECURITY OFFSETS FROM THE SURVIVOR BENEFIT PLAN

SEC. 641. (a) Section 1451(a)(3) of title 10, United States Code, is amended—

(1) by striking out “would be entitled” in the first sentence and inserting in lieu thereof “is entitled”; and

(2) by striking out the period at the end of the second sentence and inserting in lieu thereof the following: “or to the extent that the benefit to which the beneficiary is entitled is based on the beneficiary’s own earnings or self-employment.”.

(b) The amendments made by subsection (a) shall apply only in the case of payments of annuities payable for periods that begin on or after September 30, 1985.

Effective date.
10 USC 1451
note.

AUTHORITY TO INITIATE PAYMENTS UNDER SURVIVOR ANNUITY PROGRAMS WHEN THE PARTICIPANT IS MISSING

SEC. 642. (a)(1) Section 1437 of title 10, United States Code, is amended—

(A) by striking out “subsection (b)” in subsection (a) and inserting in lieu thereof “subsections (b) and (c).”; and

(B) by adding at the end thereof the following new subsection:

“(c)(1) Upon application of the beneficiary of a member entitled to retired or retainer pay whose retired or retainer pay has been suspended because the member has been determined to be missing, the Secretary concerned may determine for purposes of this subchapter that the member is presumed dead. Any such determination shall be made in accordance with regulations prescribed under section 1444(a) of this title. The Secretary concerned may not make a determination for purposes of this subchapter that a member is presumed dead unless he finds—

10 USC 1444.

“(A) that the member has been missing for at least 30 days; and

“(B) that the circumstances under which the member is missing would lead a reasonably prudent person to conclude that the member is dead.

“(2) Upon a determination under paragraph (1) with respect to a member, an annuity otherwise payable under this subchapter shall be paid as if the member died on the date as of which the retired or retainer pay of the member was suspended.

“(3)(A) If, after a determination under paragraph (1), the Secretary concerned determines that the member is alive, any annuity being paid under this subchapter by reason of this subsection shall be promptly terminated and the total amount of any annuity pay-

ments made by reason of this subsection shall constitute a debt to the United States which (notwithstanding section 144 of this title) may be collected or offset—

- 38 USC 301 *et seq.*
- “(i) from any retired or retainer pay otherwise payable to the member;
 - “(ii) if the member is entitled to compensation under chapter 11 of title 38, from that compensation; or
 - “(iii) if the member is entitled to any other payment from the United States, from that payment.

“(B) If the member dies before the full recovery of the amount of annuity payments described in subparagraph (A) has been made by the United States, the remaining amount of such annuity payments may be collected from the member’s beneficiary under this subchapter if that beneficiary was the recipient of the annuity payments made by reason of this subsection.”.

- 10 USC 1440. (2) Section 1440 of such title is amended by striking out “No” and inserting in lieu thereof “Except as provided in section 1437(c)(3) of this title, no”.

- 10 USC 1450. (b) Section 1450 of such title is amended—

(1) by striking out “An” in subsection (i) and inserting in lieu thereof “Except as provided in subsection (l), an”; and

(2) by adding at the end thereof the following new subsection:

- 10 USC 1331 *et seq.*
- “(l)(1) Upon application of the beneficiary of a participant in the plan whose retired or retainer pay has been suspended on the basis that the participant is missing (or of a participant in the plan who would be eligible for retired pay under chapter 67 of this title but for the fact that he is under 60 years of age and whose retired pay, if he were entitled to retired pay, would be suspended on the basis that he is missing), the Secretary concerned may determine for purposes of this subchapter that the participant is presumed dead. Any such determination shall be made in accordance with regulations prescribed under section 1455 of this title. The Secretary concerned may not make a determination for purposes of this subchapter that a participant is presumed dead unless he finds—

“(A) that the participant has been missing for at least 30 days; and

“(B) that the circumstances under which the participant is missing would lead a reasonably prudent person to conclude that the participant is dead.

“(2) Upon a determination under paragraph (1) with respect to a participant in the Plan, an annuity otherwise payable under the provision of this subchapter shall be paid as if the participant died on the date as of which the retired or retainer pay of the participant was suspended.

“(3)(A) If, after a determination under paragraph (1), the Secretary concerned determines that the participant is alive, any annuity being paid under this subchapter by reason of this subsection shall be terminated and the total amount of any annuity payments made by reason of this subsection shall constitute a debt to the United States which (notwithstanding subsection (h)) may be collected or offset—

- 38 USC 301 *et seq.*
- “(i) from any retired or retainer pay otherwise payable to the participant;
 - “(ii) if the participant is entitled to compensation under chapter 11 of title 38, from that compensation; or
 - “(iii) if the participant is entitled to any other payment from the United States, from that payment.

“(B) If the participant dies before the full recovery of the amount of annuity payments described in subparagraph (A) has been made by the United States, the remaining amount of such annuity payments may be collected from his beneficiary under the Plan if that beneficiary was the recipient of the annuity payments made by reason of this subsection.”.

CLARIFICATION OF AUTHORITY TO ENFORCE CERTAIN COURT ORDERS IN CONNECTION WITH THE PAYMENT OF RETIRED OR RETAINER PAY TO FORMER SPOUSES

SEC. 643. (a) Subsection (a)(2)(C) of section 1408 of title 10, United States Code, is amended by inserting “in the case of a division of property,” before “specifically provides for”.

(b) Subsection (b)(1)(C) of such section is amended by inserting “, if possible,” after “include”.

(c)(1) The first sentence of paragraph (1) of subsection (d) of such section is amended to read as follows: “After effective service on the Secretary concerned of a court order providing for the payment of child support or alimony or, with respect to a division of property, specifically providing for the payment of an amount of the disposable retired or retainer pay from a member to the spouse or a former spouse of the member, the Secretary shall make payments (subject to the limitations of this section) from the disposable retired or retainer pay of the member to the spouse or former spouse in an amount sufficient to satisfy the amount of child support and alimony set forth in the court order and, with respect to a division of property, in the amount of disposable retired or retainer pay specifically provided for in the court order.”.

Child support.
Alimony.

(2) The first sentence of paragraph (5) of such subsection is amended by striking out “disposable retired or retainer pay” the first place it appears and all that follows through “any part” and inserting in lieu thereof “child support or alimony or the payment of an amount of disposable retired or retainer pay as the result of the court’s treatment of such pay under subsection (c) as property of the member and his spouse, the Secretary concerned shall pay (subject to the limitations of this section) from the disposable retired or retainer pay of the member to the spouse or former spouse of the member, any part”.

(d)(1) Paragraph (2) of subsection (e) of such section is amended by striking out “from the disposable retired or retainer pay of a member, such pay” and inserting in lieu thereof “, the disposable retired or retainer pay of the member”.

(2) Paragraph (3)(A) of such subsection is amended—

(A) by striking out “from the disposable retired or retainer pay”;

(B) by striking out “the least amount of disposable retired or retainer pay” in clause (i) and inserting in lieu thereof “from the member’s disposable retired or retainer pay the least amount”; and

(C) by striking out “of retired or retainer pay” in clause (ii)(I).

(3) The first sentence of paragraph (4)(A) of such subsection is amended—

(A) by striking out “the retired or retainer pay of”; and

(B) by striking out “such court orders and legal process shall be satisfied” and inserting in lieu thereof “satisfaction of such

court orders and legal process from the retired or retainer pay of the member shall be”.

(4) The first sentence of paragraph (5) of such subsection is amended—

(A) by striking out “of disposable retired or retainer pay” both places it appears; and

(B) by striking out “such pay” and inserting in lieu thereof “disposable retired or retainer pay”.

(e) The amendments made by this section shall apply with respect to court orders for which effective service (as described in section 1408(b)(1) of title 10, United States Code, as amended by subsection (b) of this section) is made on or after the date of the enactment of this Act.

Effective date.
10 USC 1408
note.

CLARIFICATION OF AUTHORITY TO ELECT FORMER SPOUSES AS BENEFICIARIES UNDER THE SURVIVOR BENEFIT PLAN

SEC. 644. Section 1450(f) of title 10, United States Code, is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph (3):

“(3)(A) If a person described in paragraph (2) or (3) of section 1448(b) of this title enters, incident to a proceeding of divorce, dissolution, or annulment, into a voluntary written agreement to elect under section 1448(b) of this title to provide an annuity to a former spouse and such agreement has been incorporated in or ratified or approved by a court order, and such person then fails or refuses to make such an election, such person shall be deemed to have made such an election if the Secretary concerned receives a written request, in such manner as the Secretary shall prescribe, from the former spouse concerned requesting that such an election be deemed to have been made and receives a copy of the court order, regular on its face, which incorporates, ratifies, or approves the voluntary written agreement of such person.

“(B) An election may not be deemed to have been made under subparagraph (A) in the case of any person unless the Secretary concerned receives a request from the former spouse of the person before October 1, 1985, or within one year of the date of the court order involved, whichever is later.

“(C) An election deemed to have been made under subparagraph (A) shall become effective on the first day of the first month which begins after the date of the court order involved.”.

MISCELLANEOUS RIGHTS AND BENEFITS FOR FORMER SPOUSES

SEC. 645. (a) Section 1072(2) of title 10, United States Code, is amended—

(1) by striking out “and” at the end of clause (E);

(2) by striking out the period at the end of clause (F) and inserting in lieu thereof “; and”; and

(3) by adding at the end thereof the following new clause:

“(G) a person who (i) is the unremarried former spouse of a member or former member who performed at least 20 years of service which is creditable in determining the member or former member’s eligibility for retired or retainer pay, or equivalent pay, and on the date of the final

decree of divorce, dissolution, or annulment before April 1, 1985, had been married to the member or former member for a period of at least 20 years, at least 15 of which, but less than 20 of which, were during the period the member or former member performed service creditable in determining the member or former member's eligibility for retired or retainer pay, and (ii) does not have medical coverage under an employer-sponsored health plan."

(b) Section 1006(d) of the Uniformed Services Former Spouses' Protection Act (title X of Public Law 97-252; 96 Stat. 738) is amended—

10 USC 1408
note.

(1) by striking out "only if" and inserting in lieu thereof "whether"; and

(2) by striking out "dated on or after" and all that follows through the end of the sentence and inserting in lieu thereof "dated before, on, or after February 1, 1983."

(c) A person who would qualify as a dependent under section 1072(2)(G) of title 10 (as added by subsection (a)) but for the fact that the person's final decree of divorce, dissolution, or annulment is dated on or after April 1, 1985, shall be considered to be a dependent under such section during the two-year period beginning on the date of such final decree.

10 USC 1072
note
Ante, p. 2548.

(d) The amendments made by subsections (a), (b), and (c) shall be effective on January 1, 1985, and shall apply with respect to health care furnished on or after that date.

Effective date.
10 USC 1072
note.

PART F—MISCELLANEOUS

LEGAL ASSISTANCE PROGRAMS

SEC. 651. (a) Chapter 53 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 1044. Legal assistance

10 USC 1044.

"(a) Subject to the availability of legal staff resources, the Secretary concerned may provide legal assistance in connection with their personal civil legal affairs to—

"(1) members of the armed forces under his jurisdiction who are on active duty;

"(2) members and former members under his jurisdiction entitled to retired or retainer pay or equivalent pay; and

"(3) dependents of members and former members described in clauses (1) and (2).

"(b) Under such regulations as may be prescribed by the Secretary concerned, the Judge Advocate General (as defined in section 801(1) of this title) under the jurisdiction of the Secretary is responsible for the establishment and supervision of legal assistance programs under this section.

"(c) This section does not authorize legal counsel to be provided to represent a member or former member of the armed forces, or the dependent of a member or former member, in a legal proceeding if the member or former member can afford legal fees for such representation without undue hardship.

"(d) The Secretary concerned shall define 'dependent' for the purposes of this section."

(b) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"1044. Legal assistance."

LIMITATION ON TRANSPORTATION OF MOTOR VEHICLES THROUGH GUAM

SEC. 652. (a) Regulations of the Department of Defense providing for transportation at Government expense of motor vehicles owned by members of the Armed Forces incident to a permanent change of duty station may not authorize the transportation at Government expense from Guam during any month of more than 100 motor vehicles that are owned by members of the Armed Forces who are making permanent changes of duty station from locations outside the United States (other than in Guam) and who are using Guam as an alternate port of shipment.

Effective date.
Termination
date.

(b) Subsection (a) shall apply with respect to the transportation of motor vehicles during the period beginning with the month after the month in which this Act is enacted and ending with September 1985. After that period transportation of motor vehicles from Guam under the circumstances described in subsection (a) may be provided at Government expense only as specifically authorized by law after the date of the enactment of this Act.

Report.

(c) Not later than February 15, 1985, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report with respect to the transportation through Guam of motor vehicles owned by members of the Armed Forces. The report shall include—

Japan.

(1) a description of the nature and extent of the burden imposed on members of the Armed Forces by assignment to Japan because they may not (under Japanese law) take into Japan a motor vehicle not manufactured for use in Japan;

(2) a review of alternative programs that could be provided to alleviate the burden of assignment to Japan described in clause (1), including a review of the existing policy to which the limitation in subsection (a) is applicable under which a member of the Armed Forces making a permanent change of station from Japan may purchase a motor vehicle through Guam; and

(3) an analysis of the impact on Guam (including the economy of Guam) of the termination of such policy.

PERSONAL VEHICLES OF UNITED STATES MILITARY PERSONNEL IN JAPAN

SEC. 653. (a) The Congress finds that—

(1) the Government of Japan does not permit members of the Armed Forces of the United States to take their motor vehicles into Japan for their personal use while assigned to a duty station in Japan unless such vehicles are modified to satisfy certain requirements of the Government of Japan;

(2) as a result of the restriction referred to in clause (1), members of the Armed Forces typically need to sell their personal motor vehicles before departing the United States to report to a duty station in Japan, to purchase vehicles in Japan for personal use while stationed in Japan, to sell such purchased vehicles before departing Japan to return to the United States, and to purchase vehicles in the United States upon the return;

(3) members of the Armed Forces incur a substantial financial burden in connection with the repeated sale and replacement of personal vehicles;

(4) the United States permits members of the Armed Forces of foreign nations to bring unmodified vehicles into the United

States for their personal use while assigned to duty stations in the United States; and

(5) the United States provides a substantial contribution to the defense of Japan and the waters surrounding Japan.

(b) Considering the findings set out in subsection (a), it is the sense of the Congress that the President, acting through the Secretary of Defense and the Secretary of State, should enter into negotiations with the Government of Japan for the purpose of obtaining the agreement of such government not to require the modification of the Personal motor vehicles of members of the Armed Forces of the United States brought into Japan for their personal use while stationed in Japan.

President of U.S.
International
agreement.

(c) Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense and the Secretary of State shall transmit to the Congress a written report relating to the matters described in subsection (a). The report shall include—

Report.

(1) a description of any negotiations carried out with the Government of Japan; and

(2) a description of the other actions the Government of the United States can reasonably take to obtain an agreement described in subsection (b).

AUTHORITY FOR VOLUNTARY WITHHOLDING OF STATE INCOME TAXES FROM RETIRED AND RETAINER PAY

SEC. 654. (a) Chapter 53 of title 10, United States Code, is amended by adding after section 1044 (as added by section 651) the following new section:

Ante, p. 2549.

“§ 1045. Voluntary withholding of State income tax from retired or retainer pay

10 USC 1045.

“(a) The Secretary concerned shall enter into an agreement under this section with any State within 120 days of a request for agreement from the proper State official. The agreement shall provide that the Secretary concerned shall withhold State income tax from the monthly retired or retainer pay of any member or former member entitled to such pay who voluntarily requests such withholding in writing. The amounts withheld during any calendar quarter shall be retained by the Secretary concerned and disbursed to the States during the month following that calendar quarter.

“(b) A member or former member may request that the State designated for withholding be changed and that the withholdings be remitted in accordance with such change. A member or former member also may revoke any request of such member or former member for withholding. Any request for a change in the State designated and any revocation is effective on the first day of the month after the month in which the request or revocation is processed by the Secretary concerned, but in no event later than on the first day of the second month beginning after the day on which the request or revocation is received by the Secretary concerned.

“(c) A member or former member may have in effect at any time only one request for withholding under this section and may not have more than two such requests in effect during any one calendar year.

“(d)(1) This section does not give the consent of the United States to the application of a statute that imposes more burdensome requirements on the United States than on employers generally or

that subjects the United States or any member or former member entitled to retired or retainer pay to a penalty or liability because of this section.

Prohibition.

“(2) The Secretary concerned may not accept pay from a State for services performed in withholding State income taxes from retired or retainer pay.

“(3) Any amount erroneously withheld from retired or retainer pay and paid to a State by the Secretary concerned shall be repaid by the State in accordance with regulations prescribed by the Secretary concerned.

“(e) In this section:

“(1) ‘State’ means any State, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

“(2) ‘Secretary concerned’ includes the Secretary of Health and Human Services with respect to the commissioned corps of the Public Health Service and the Secretary of Commerce with respect to the commissioned corps of the National Oceanic and Atmospheric Administration.”.

(b) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 1044 (as added by section 651) the following new item:

“1045. Voluntary withholding of State income tax from retired or retainer pay.”.

RECOMPUTATION OF RETIRED PAY OF CERTAIN RECALLED RETIREES

10 USC 1402
note.

SEC. 655. (a) Notwithstanding the second sentence of footnote 1 of the table contained in section 1402(a) of title 10, United States Code (relating to recomputation of retired pay to reflect later active duty), in the case of a member of the Armed Forces who—

(1) was voluntarily called or ordered to active duty during the period beginning on October 1, 1963, and ending on September 30, 1971;

(2) was at the time of such call or order entitled to retired pay or retainer pay;

(3) served on such active duty under such call or order for a continuous period of at least two years; and

(4) was released from such active duty before October 1, 1973, the retired or retainer pay of such member shall be recomputed, as provided in subsection (b), under the rates of basic pay in effect at the time of that release from active duty.

(b) The retired or retainer pay of a member of the Armed Forces described in subsection (a) shall be the amount determined under section 1402(a) of title 10, United States Code (as modified with respect to such member by subsection (a)), and increased by the amount by which the member's retired or retainer pay would have been increased during the period beginning on the date of the member's release from active duty referred to in subsection (a)(4) and ending on the day before the day on which this section becomes effective had subsection (a) applied in the case of the member at the time of that release from active duty.

Effective date.

(c) This section shall apply only with respect to retired pay and retainer pay payable for months beginning after September 30, 1984, or on or after the date of the enactment of this Act, whichever is later.

DELAY OF EFFECTIVE DATE FOR FEE FOR VETERINARY SERVICES

SEC. 656. Section 1033 of the Department of Defense Authorization Act, 1984 (Public Law 98-94; 97 Stat. 672), is amended by striking out "October 1, 1984" and inserting in lieu thereof "October 1, 1985".

10 USC 133 note.

TITLE VII—EDUCATIONAL ASSISTANCE PROGRAMS**SHORT TITLE**

SEC. 701. This title may be cited as the "Veterans' Educational Assistance Act of 1984".

Veterans'
Educational
Assistance Act of
1984.
38 USC 101 note.

NEW EDUCATIONAL ASSISTANCE PROGRAM

SEC. 702. (a)(1) Title 38, United States Code, is amended by inserting before chapter 31 the following new chapter:

"CHAPTER 30—ALL-VOLUNTEER FORCE EDUCATIONAL ASSISTANCE PROGRAM**"SUBCHAPTER I—PURPOSES; DEFINITIONS**

"Sec.

"1401. Purposes.

"1402. Definitions.

"SUBCHAPTER II—BASIC EDUCATIONAL ASSISTANCE

"1411. Basic educational assistance entitlement for service on active duty.

"1412. Basic educational assistance entitlement for service in the Selected Reserve.

"1413. Duration of basic educational assistance.

"1414. Payment of basic educational assistance.

"1415. Amount of basic educational assistance.

"1416. Inservice enrollment in a program of education.

"SUBCHAPTER III—SUPPLEMENTAL EDUCATIONAL ASSISTANCE

"1421. Supplemental educational assistance for additional service.

"1422. Amount of supplemental educational assistance.

"1423. Payment of supplemental educational assistance under this chapter.

"SUBCHAPTER IV—TIME LIMITATION FOR USE OF ELIGIBILITY AND ENTITLEMENT; GENERAL AND ADMINISTRATIVE PROVISIONS

"1431. Time limitation for use of eligibility and entitlement.

"1432. Limitation on educational assistance for certain individuals.

"1433. Bar to duplication of educational assistance benefits.

"1434. Program administration.

"1435. Allocation of administration and of program costs.

"1436. Reporting requirement.

"Subchapter I—Purposes; Definitions**"§ 1401. Purposes**

38 USC 1401.

"The purposes of this chapter are—

"(1) to provide a new educational assistance program to assist in the readjustment of members of the Armed Forces to civilian life after their separation from military service;

"(2) to promote and assist the All-Volunteer Force program and the Total Force Concept of the Armed Forces by establishing a new program of educational assistance based upon service on active duty or a combination of service on active duty and in the Selected Reserve (including the National Guard) to aid in

the recruitment and retention of highly qualified personnel for both the active and reserve components of the Armed Forces; and

“(3) to give special emphasis to providing educational assistance benefits to aid in the retention of personnel in the Armed Forces.

38 USC 1402.

“§ 1402. Definitions

“For the purposes of this chapter—

“(1) The term ‘basic educational assistance’ means educational assistance provided under subchapter II of this chapter.

“(2) The term ‘supplemental educational assistance’ means educational assistance provided under subchapter III of this chapter.

“(3) The term ‘program of education’ has the meaning given such term in section 1652(b) of this title.

38 USC 1652.

“(4) The term ‘Selected Reserve’ means the Selected Reserve of the Ready Reserve of any of the reserve components (including the Army National Guard of the United States and the Air National Guard of the United States) of the Armed Forces, as required to be maintained under section 268(b) of title 10.

10 USC 268.

“(5) The term ‘Secretary’ means the Secretary of Defense with respect to members of the Armed Forces under the jurisdiction of the Secretary of a military department and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy.

“(6) The term ‘active duty’ does not include any period during which an individual (A) was assigned full time by the Armed Forces to a civilian institution for a course of education which was substantially the same as established courses offered to civilians, (B) served as a cadet or midshipman at one of the service academies, or (C) served under the provisions of section 511(d) of title 10 pursuant to an enlistment in the Army National Guard or the Air National Guard, or as a Reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve.

10 USC 511.

“Subchapter II—Basic Educational Assistance

38 USC 1411.

“§ 1411. Basic educational assistance entitlement for service on active duty

“(a) Except as provided in subsection (c) of this section each individual—

“(1) who—

“(A) during the period beginning on July 1, 1985, and ending on June 30, 1988, first becomes a member of the Armed Forces or first enters on active duty as a member of the Armed Forces and—

“(i) who (I) serves at least three years of continuous active duty in the Armed Forces, or (II) in the case of an individual whose initial period of active duty is less than three years, serves at least two years of continuous active duty in the Armed Forces; or

“(ii) who serves in the Armed Forces and is discharged or released from active duty (I) for a service-connected disability or for hardship, or (II) for the convenience of the Government, in the case of an indi-

vidual who completed not less than 20 months of active duty, if the initial obligated period of active duty of the individual was less than three years, or in the case of an individual who completed not less than 30 months of active duty if the initial obligated period of active duty of the individual was at least three years; or

“(B) as of December 31, 1989, is eligible for educational assistance benefits under chapter 34 of this title and without a break in service on active duty since December 31, 1976, and—

38 USC 1651
et seq.

“(i) after June 30, 1985, serves at least three years of continuous active duty in the Armed Forces; or

“(ii) after June 30, 1985, is discharged or released from active duty (I) for a service-connected disability or for hardship, or (II) for the convenience of the Government, if the individual completed not less than 30 months of active duty after that date;

“(2) who, before completion of the service described in clause (1) of this subsection, has received a secondary school diploma (or an equivalency certificate); and

“(3) who, after completion of the service described in clause (1) of this subsection—

“(A) is discharged from service with an honorable discharge, is placed on the retired list, is transferred to the Fleet Reserve or Fleet Marine Corps Reserve, or is placed on the temporary disability retired list;

“(B) continues on active duty; or

“(C) is released from active duty for further service in a reserve component of the Armed Forces after service on active duty characterized by the Secretary concerned as honorable service;

is entitled to basic educational assistance under this chapter.

“(b) The basic pay of any individual described in subsection (a)(1)(A) of this section who does not make an election under subsection (c)(1) of this section shall be reduced by \$100 for each of the first 12 months that such individual is entitled to such pay. Amounts withheld from basic pay under this subsection shall revert to the Treasury.

“(c)(1) An individual described in subsection (a)(1)(A) of this section may make an election not to receive educational assistance under this chapter. Any such election shall be made at the time the individual initially enters on active duty as a member of the Armed Forces. Any individual who makes such an election is not entitled to educational assistance under this chapter.

“(2) An individual who after December 31, 1976, receives a commission as an officer in the Armed Forces upon graduation from the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, or the Coast Guard Academy or upon completion of a program of educational assistance under section 2107 of title 10 is not eligible for educational assistance under this section.

10 USC 2107.

“§ 1412. Basic educational assistance entitlement for service in the Selected Reserve

38 USC 1412.

“(a) Except as provided in subsection (c) of this section, each individual—

“(1) who—

“(A) during the period beginning on July 1, 1985, and ending on June 30, 1988, first becomes a member of the Armed Forces or first enters on active duty as a member of the Armed Forces and—

“(i) serves at least two years of continuous active duty in the Armed Forces characterized by the Secretary concerned as honorable service; and

“(ii) subject to subsection (b) of this section and after completion of the service on active duty described in subclause (i) of this clause, serves at least four years of continuous duty in the Selected Reserve during which the individual participates satisfactorily in training as required by the Secretary concerned; or

“(B) as of December 31, 1989, is eligible for educational assistance under chapter 34 of this title and without a break in service on active duty since December 31, 1976, and—

“(i) after June 30, 1985, serves at least two years of continuous active duty in the Armed Forces characterized by the Secretary concerned as honorable service; and

“(ii) after June 30, 1985, subject to subsection (b) of this section and after completion of such two years of service, serves at least four continuous years in the Selected Reserve during which the individual participates satisfactorily in training as prescribed by the Secretary concerned;

“(2) who, before completion of the service described in clause (1) of this subsection, has received a secondary school diploma (or an equivalency certificate); and

“(3) who, after completion of the service described in clause (1) of this subsection—

“(A) is discharged from service with an honorable discharge, is placed on the retired list, or is transferred to the Standby Reserve or an element of the Ready Reserve other than the Selected Reserve after service in the Selected Reserve characterized by the Secretary concerned as honorable service; or

“(B) continues on active duty or in the Selected Reserve; is entitled to basic educational assistance under this chapter.

“(b)(1) The requirement of four years of service under clauses (1)(A)(ii) and (1)(B)(ii) of subsection (a) of this section is not applicable to an individual who is discharged or released from service in the Selected Reserve for a service-connected disability, for hardship, or (in the case of an individual discharged or released after three and one-half years of service) for the convenience of the Government.

“(2) Continuity of service of a member in the Selected Reserve for purposes of such clauses shall not be considered to be broken—

“(A) by any period of time (not to exceed a maximum period prescribed by the Secretary concerned by regulation) during which the member is not able to locate a unit of the Selected Reserve of the member's Armed Force that the member is eligible to join or that has a vacancy; or

“(B) by any other period of time (not to exceed a maximum period prescribed by the Secretary concerned by regulation) during which the member is not attached to a unit of the

Selected Reserve that the Secretary concerned, pursuant to regulations, considers to be inappropriate to consider for such purpose.

“(c) The basic pay of any individual described in subsection (a)(1)(A) of this section who does not make an election under subsection (d)(1) of this section shall be reduced by \$100 for each of the first 12 months that such individual is entitled to such pay. Amounts withheld from basic pay under this paragraph shall revert to the Treasury.

“(d)(1) An individual described in subsection (a)(1)(A) of this section may make an election not to receive educational assistance under this chapter. Any such election shall be made at the time the individual initially enters on active duty as a member of the Armed Forces. Any individual who makes such an election is not entitled to educational assistance under this chapter.

“(2) An individual who after December 31, 1976, receives a commission as an officer in the Armed Forces upon graduation from the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, or the Coast Guard Academy or upon completion of a program of educational assistance under section 2107 of title 10 is not eligible for educational assistance under this section.

10 USC 2107.

“§ 1413. Duration of basic educational assistance

38 USC 1413.

“(a)(1) Subject to section 1795 of this title and except as provided in paragraph (2) of this subsection, each individual entitled to basic educational assistance under section 1411 of this title is entitled to 36 months of educational assistance benefits under this chapter (or the equivalent thereof in part-time educational assistance).

Ante, p. 2554.

“(2) In the case of an individual described in section 1411(a)(1)(A)(ii)(I) of this title who is not also described in section 1411(a)(1)(A)(i) of this title or an individual described in section 1411(a)(1)(B)(ii)(I) of this title who is not also described in section 1411(a)(1)(B)(i) of this title, the individual is entitled to one month of educational assistance benefits under this chapter for each month of active duty served by such individual.

“(b) Subject to section 1795 of this title and subsection (c) of this section, each individual entitled to basic educational assistance under section 1412 of this title is entitled to (1) one month of educational assistance benefits under this chapter for each month of active duty served by such individual, and (2) one month of educational assistance benefits under this chapter for each four months served by such individual in the Selected Reserve (other than any month in which the individual served on active duty).

Ante, p. 2555

“(c) No individual may receive basic educational assistance benefits under this chapter for a period in excess of 36 months (or the equivalent thereof in part-time educational assistance).

“§ 1414. Payment of basic educational assistance

38 USC 1414.

“The Administrator shall pay to each individual entitled to basic educational assistance who is pursuing an approved program of education a basic educational assistance allowance to help meet, in part, the expenses of such individual's subsistence, tuition, fees, supplies, books, equipment, and other educational costs.

“§ 1415. Amount of basic educational assistance

38 USC 1415.

“(a) Subject to section 1432 of this title and except as otherwise provided in subsections (b) and (c) of this section, a basic educational assistance allowance under this subchapter shall be paid—

Post, p. 2561.

“(1) at the monthly rate of \$300 for an approved program of education pursued on a full-time basis; or

Regulations.

“(2) at an appropriately reduced rate, as determined under regulations which the Administrator shall prescribe, for an approved program of education pursued on less than a full-time basis.

Ante, p. 2554.

“(b) In the case of an individual entitled to an educational assistance allowance under section 1411 of this title and whose initial obligated period of active duty is two years, a basic educational assistance allowance under this chapter shall be paid—

“(1) at the monthly rate of \$250 for an approved program of education pursued on a full-time basis; or

Regulations.

“(2) at an appropriately reduced rate, as determined under regulations which the Administrator shall prescribe, for an approved program of education pursued on less than a full-time basis.

Regulations.

“(c) In the case of an individual who has a skill or specialty designated by the Secretary concerned as a skill or specialty in which there is a critical shortage of personnel or for which it is difficult to recruit, the Secretary concerned, pursuant to regulations to be prescribed by the Secretary, may increase the rate of the basic educational assistance allowance applicable to such individual to such rate in excess of the rate prescribed under subsections (a) and (b) of this section as the Secretary considers appropriate, but the amount of any such increase may not exceed \$400 per month.

38 USC 1651
et seq.

“(d)(1) Subject to paragraph (2) of this subsection, in the case of an individual who on December 31, 1989, was entitled to educational assistance under chapter 34 of this title, the rate of the basic educational assistance allowance applicable to such individual under this chapter shall be increased by the amount equal to one-half of the educational assistance allowance that would be applicable to such individual under such chapter 34 (as of the time the assistance under this chapter is provided and based on the rates in effect on December 31, 1989) if such chapter were in effect.

“(2) The number of months for which the rate of the basic educational assistance allowance applicable to an individual is increased under paragraph (1) of this subsection may not exceed the number of months of entitlement to educational assistance under chapter 34 of this title that the individual had remaining on December 31, 1989.

38 USC 1416.

“§ 1416. Inservice enrollment in a program of education

Ante, p. 2555.
Ante, p. 2554

“A member of the Armed Forces who has completed at least two years of service on active duty after June 30, 1985, has continued on active duty or in the Selected Reserve without a break in service (except as described in section 1412(b)(2) of this title), and who but for section 1411(a)(1) or 1412(a)(1) of this title would be eligible for basic educational assistance may receive educational assistance under this chapter for enrollment in an approved program of education while continuing to perform the duty described in section 1411(a)(1) or 1412(a)(1) of this title.

“Subchapter III—Supplemental Educational Assistance

38 USC 1421.

“§ 1421. Supplemental educational assistance for additional service

Regulations.

“(a) The Secretary concerned, pursuant to regulations to be prescribed by the Secretary, may provide for the payment of supplemental educational assistance under this subchapter to any individual eligible for basic educational assistance under section 1411 of this title who—

“(1) serves five or more consecutive years of active duty in the Armed Forces in addition to the years of active duty counted under section 1411(a)(1) of this title without a break in such service; and

“(2) after completion of the service described in clause (1) of this subsection—

“(A) is discharged from service with an honorable discharge, is placed on the retired list, is transferred to the Fleet Reserve or Fleet Marine Corps Reserve, or is placed on the temporary disability retired list;

“(B) continues on active duty without a break in service; or

“(C) is released from active duty for further service in a reserve component of the Armed Forces after service on active duty characterized by the Secretary concerned as honorable service.

“(b) The Secretary concerned, pursuant to regulations to be prescribed by the Secretary, may provide for the payment of supplemental educational assistance under this subchapter to any individual eligible for basic educational assistance under section 1412 of this title who—

Regulations.

“(1) serves two or more consecutive years of active duty in the Armed Forces in addition to the years of active duty counted under section 1412(a)(1) of this title and four or more consecutive years of duty in the Selected Reserve in addition to the years of duty in the Selected Reserve counted under such section without a break in service; and

Ante, p. 2555.

“(2) after completion of the service described in clause (1) of this subsection—

“(A) is discharged from service with an honorable discharge, is placed on the retired list, is transferred to the Fleet Reserve or Fleet Marine Corps Reserve, or is placed on the temporary disability retired list; or

“(B) continues on active duty or in the Selected Reserve.

“(c) Continuity of service of a member in the Selected Reserve for purposes of subsection (b)(1) of this section shall not be considered to be broken—

“(1) by any period of time (not to exceed a maximum period prescribed by the Secretary concerned by regulation) during which the member is not able to locate a unit of the Selected Reserve of his Armed Force that the member is eligible to join or that has a vacancy; or

“(2) by any other period of time (not to exceed a maximum period prescribed by the Secretary concerned by regulation) during which the member is not attached to a unit of the Selected Reserve that the Secretary concerned, pursuant to regulations, considers to be inappropriate to consider for such purpose.

“(d) A period of active duty or duty in the Selected Reserve that occurs before the period of duty by which the individual concerned qualifies for basic educational assistance may not be counted for purposes of this section.

“§ 1422. Amount of supplemental educational assistance

38 USC 1422.

“(a) Subject to section 1432 of this title and except as otherwise provided under subsection (b) of this section, supplemental educational assistance under section 1421 of this title shall be paid—

Post, p. 2561.

“(1) at a monthly rate of \$300 for an approved program of education pursued on a full-time basis; or

Ante, p. 2558.

“(2) at an appropriately reduced rate, as determined under regulations which the Administrator shall prescribe, for an approved program of education pursued on less than a full-time basis.

“(b) In the case of a member of the Armed Forces for whom the Secretary concerned has provided for the payment of supplemental educational assistance who has a skill or specialty designated by the

Regulations.

Secretary concerned, pursuant to regulations to be prescribed by the Secretary, as a skill or specialty in which there is a critical shortage of personnel, the Secretary concerned, pursuant to such regulations, may increase the rate of the supplemental educational assistance allowance applicable to such individual to such rate in excess of the rate prescribed under subsection (a) of this section as the Secretary concerned considers appropriate, but the amount of any such increase may not exceed \$300 per month.

38 USC 1423.

“§ 1423. Payment of supplemental educational assistance under this subchapter

“The Administrator shall increase the monthly basic educational assistance allowance paid to an individual who is entitled to supplemental educational assistance under this subchapter by the monthly amount of the supplemental educational assistance to which the individual is entitled.

“Subchapter IV—Time Limitation for Use of Eligibility and Entitlement; General and Administrative Provisions

“§ 1431. Time limitation for use of eligibility and entitlement

38 USC 1431.

“(a) Except as provided in subsections (b) through (d) of this section, the period during which an individual entitled to educational assistance under this chapter may use such individual’s entitlement expires at the end of the 10-year period beginning on (1) the date of such individual’s last discharge or release from active duty, or (2) the last day on which such individual becomes entitled to such assistance, whichever is later.

“(b) In the case of any eligible individual who has been prevented, as determined by the Administrator, from pursuing a program of education under subchapter II or III of this chapter within the 10-year period prescribed by subsection (a) of this section because such individual had not met the nature of discharge requirement of such subchapter before (1) the nature of such individual’s discharge or release was changed by appropriate authority, or (2) with respect to educational assistance under subchapter II of this chapter, the Administrator determined, under regulations prescribed by the Administrator, that such discharge or release was under conditions described in section 1411(a)(3) or 1412(a)(3) of this title, such 10-year period shall not run during the period of time that such individual was so prevented from pursuing such program of education.

Ante, pp. 2554,
2555.

“(c) In the case of an individual eligible for educational assistance under the provisions of this chapter who, after such individual’s last discharge or release from active duty, was detained by a foreign government or power, the 10-year period described in subsection (a) of this section shall not run (1) while such individual is so detained, or (2) during any period immediately following such individual’s release from such detention during which such individual is hospitalized at a military, civilian, or Veterans’ Administration medical facility.

“(d) In the case of an individual eligible for educational assistance under this chapter—

“(1) who was prevented from pursuing such individual’s chosen program of education before the expiration of the 10-year period for use of entitlement under this chapter otherwise applicable under this section because of a physical or mental disability which was not the result of the individual’s own willful misconduct, and

Regulations.

“(2) who applies for an extension of such 10-year period within one year after (A) the last day of such period, or (B) the

last day on which such individual was so prevented from pursuing such program, whichever is later, such 10-year period shall not run with respect to such individual during the period of time that such individual was so prevented from pursuing such program and such 10-year period will again begin running on the first day following such individual's recovery from such disability on which it is reasonably feasible, as determined under regulations which the Administrator shall prescribe, for such individual to initiate or resume pursuit of a program of education with educational assistance under this chapter.

"(e)(1) If an individual eligible for educational assistance under this chapter is enrolled under this chapter in an educational institution regularly operated on the quarter or semester system and the period of such individual's entitlement under this chapter would, under this section, expire during a quarter or semester, such period shall be extended to the end of such quarter or semester.

"(2) If an individual eligible for educational assistance under this chapter is enrolled under this chapter in an educational institution regularly operated on the quarter or semester system and the period of such individual's entitlement under this chapter would, under this section, expire after a major portion of the course is completed, such period shall be extended to the end of the course or for 12 weeks, whichever is the lesser period of extension.

"1432. Limitation on educational assistance for certain individuals

38 USC 1432.

"(a) In the case of an individual entitled to educational assistance under this chapter who is pursuing a program of education—

"(1) while on active duty; or

"(2) on less than a half-time basis,

the amount of the monthly educational assistance allowance payable to such individual under this chapter is the amount determined under subsection (b) of this section.

"(b) The amount of the educational assistance allowance payable to an individual described in subsection (a) of this section is the lesser of (1) the amount of the educational assistance allowance otherwise payable to such individual under this chapter, or (2) the established charges for tuition and fees that the educational institution involved requires similarly circumstanced nonveterans enrolled in the same program to pay.

"§ 1433. Bar to duplication of educational assistance benefits

38 USC 1433.

"(a)(1) An individual entitled to educational assistance under a program established by this chapter who is also eligible for educational assistance under a program under chapter 31, 34, or 35 of this title or under chapter 106 or 107 of title 10 may not receive assistance under both programs concurrently but shall elect (in such form and manner as the Administrator may prescribe) under which program to receive educational assistance.

38 USC 1500 *et seq.*; 1651 *et seq.*; 1700 *et seq.*, *post*, p. 2564; 10 USC 2141 *et seq.*

"(2) An individual entitled to educational assistance under chapter 34 of this title may not receive assistance under this chapter before January 1, 1990.

38 USC 1651 *et seq.*

"(b) A period of service counted for purposes of repayment under section 902 of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2141 note), of an education loan may not also be counted

for purposes of entitlement to educational assistance under this chapter.

Post, p. 2564.
Ante, p. 2555.

“(c) An individual who is entitled to educational assistance under chapter 106 of title 10 may not also receive educational assistance under this chapter based on entitlement under section 1412 of this title.

38 USC 1434.

“§ 1434. Program administration

38 USC 1770,
1780.

“(a) Except as otherwise provided in this chapter, the provisions of sections 1663, 1670, 1671, 1673, 1674, 1676, 1682(g), and 1683 of this title and the provisions of subchapters I and II of chapter 36 of this title (with the exception of sections 1777, 1780(a)(5), 1780(b), 1786, 1787, and 1792 of such chapter) shall be applicable to the provision of educational assistance under this chapter. The term ‘eligible veteran’, as used in those provisions, shall be deemed to include an individual who is eligible for educational assistance under this chapter.

“(b) An educational assistance allowance for any period may not be paid to an individual enrolled in or pursuing a program of education under this chapter until the Administrator has received—

“(1) from such individual a certification as to such individual’s actual attendance during such period; and

“(2) from the educational institution a certification, or an endorsement of the individual’s certificate, that such individual was enrolled in and pursuing a program of education during such period.

Regulations.

“(c) Regulations prescribed by the Secretary of Defense under this chapter shall be uniform for the Armed Forces under the jurisdiction of the Secretary of a military department.

38 USC 1435.

“§ 1435. Allocation of administration and of program costs

“(a) Except to the extent otherwise specifically provided in this chapter, the educational assistance programs established by this chapter shall be administered by the Veterans’ Administration.

Ante, p. 2554.

“(b)(1) Except to the extent provided in paragraph (2) of this subsection, payments for entitlement earned under subchapter II of this chapter shall be made from funds appropriated to, or otherwise available to, the Veterans’ Administration for the payment of readjustment benefits.

Ante, p. 2557.

“(2) Payments for entitlement earned under subchapter II of this chapter that is established under section 1415(c) of this title at a rate in excess of the rate prescribed under section 1415(a) of this title shall, to the extent of that excess, be made from the Department of Defense Education Benefits Fund established under section 2006 of title 10 or from appropriations made to the Department of Transportation, as appropriate.

Post, p. 2568.

“(c) Payments for educational assistance provided under subchapter III of this chapter shall be made from the Department of Defense Education Benefits Fund established under section 2006 of title 10 or from appropriations made to the Department of Transportation, as appropriate.

“(d) Funds for the payment by the Administrator of benefits under this chapter that are to be paid from the Department of Defense Education Benefits Fund shall be transferred to the Veterans’ Administration from such Fund as necessary and in accordance with agreements entered into under section 2006 of title 10 by the Administrator, the Secretary of Defense, and the Secretary of the

Treasury. Funds for the payment by the Administrator of benefits under this chapter that are to be paid from appropriations made to the Department of Transportation shall be transferred to the Veterans' Administration as necessary. The Administrator and the Secretary of Transportation shall enter into an agreement for the manner in which such transfers are to be made.

“§ 1436. Reporting requirement

38 USC 1436.

“(a) The Secretary of Defense and the Administrator shall submit to the Congress at least once every two years separate reports on the operation of the program provided for in this chapter.

“(b) The Secretary shall include in each report submitted under this section—

“(1) information indicating (A) the extent to which the benefit levels provided under this chapter are adequate to achieve the purposes of inducing individuals to enter and remain in the Armed Forces and of providing an adequate level of financial assistance to help meet the cost of pursuing a program of education, and (B) whether it is necessary for the purposes of maintaining adequate levels of well-qualified active-duty personnel in the Armed Forces to continue to offer the opportunity for educational assistance under this chapter to individuals who have not yet entered active-duty service; and

“(2) such recommendations for administrative and legislative changes regarding the provision of educational assistance to members of the Armed Forces and veterans, and their dependents, as the Secretary considers appropriate.

“(c) The Administrator shall include in each report submitted under this section—

“(1) information concerning the level of utilization of educational assistance and of expenditures under this chapter; and

“(2) such recommendations for administrative and legislative changes regarding the provision of educational assistance to members of the Armed Forces and veterans, and their dependents, as the Administrator considers appropriate.

“(d)(1) The first report by the Secretary of Defense under this section shall be submitted not later than January 1, 1986.

“(2) The first report by the Administrator under this section shall be submitted not later than January 1, 1988.”.

(2) The tables of chapters at the beginning of such title and at the beginning of part III of such title are each amended by inserting above the item relating to chapter 31 the following new item:

“30. All-Volunteer Force Educational Assistance Program..... 1401”.

(b) Subchapter III of chapter 30 of title 38, United States Code, as added by subsection (a), shall take effect on July 1, 1986.

(c) Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the desirability and the feasibility of permitting members of the Armed Forces entitled to educational assistance under chapter 30 of title 38, United States Code (as added by subsection (a)), to transfer entitlement to such assistance to dependents of such members.

Effective date.
38 USC 1421
note.

Ante, p. 2553.

**COORDINATION WITH OTHER VETERANS' EDUCATION AND TRAINING
PROGRAMS**

SEC. 703. (a) Section 1508(f)(1) of title 38, United States Code, is amended—

(1) in subparagraph (A)—

(A) by inserting “30 or” before “34” the first place it appears; and

(B) by striking out “chapter 34” the second place it appears and inserting in lieu thereof “either chapter 30 or chapter 34”; and

(2) in subparagraph (B), by inserting “30 or” before “34”.

38 USC 1673.

(b) The third sentence of section 1673(d)(1) of such title is amended by inserting “30,” after “or chapter”.

Ante, p. 41.

(c) Section 1781 is amended—

(1) in subsection (a)—

(A) by inserting “30,” after “chapter” the first place it appears;

(B) by striking out “36,” and inserting in lieu thereof “36 of this title or 106 or 107 of title 10,”; and

(C) by striking out the comma after “chapter 31”; and

(2) by inserting “30,” in subsection (b)(1) after “Chapters”.

Ante, p. 41.

(d) Section 1795(a) is amended—

(1) by inserting “30,” in clause (4) after “Chapters”; and

(2) by striking out “Chapter 107” in clause (5) and inserting in lieu thereof “Chapters 106 and 107”.

SUSPENSION OF RIGHT TO ENROLL IN CHAPTER 32 PROGRAM

38 USC 1621
note.
38 USC 1601
et seq.

SEC. 704. No individual on active duty in the Armed Forces may initially enroll in the educational assistance program provided for in chapter 32 of title 38, United States Code, during the period beginning on July 1, 1985, and ending on June 30, 1988.

**REVISION OF EDUCATIONAL ASSISTANCE PROGRAM FOR THE SELECTED
RESERVE**

SEC. 705. (a)(1) Chapter 106 of title 10, United States Code, is amended to read as follows:

**“CHAPTER 106—EDUCATIONAL ASSISTANCE FOR
MEMBERS OF THE SELECTED RESERVE**

“Sec.

“2131. Educational assistance program: establishment; amount.

“2132. Eligibility for educational assistance.

“2133. Time limitation for use of entitlement.

“2134. Termination of assistance.

“2135. Failure to participate satisfactorily; penalties.

“2136. Administration of program.

“2137. Reports to Congress.

“2138. Savings provision.

“§ 2131. Educational assistance program: establishment; amount 10 USC 2131.

“(a) To encourage membership in units of the Selected Reserve of the Ready Reserve, the Secretary of each military department, under regulations prescribed by the Secretary of Defense, and the Secretary of Transportation, under regulations prescribed by the Secretary with respect to the Coast Guard when it is not operating as a service in the Navy, shall establish and maintain a program to provide educational assistance to members of the Selected Reserve of the Ready Reserve of the armed forces under the jurisdiction of the Secretary concerned who agree to remain members of the Selected Reserve for a period of not less than six years.

“(b) Each educational assistance program established under subsection (a) shall provide for payment by the Secretary concerned to each person entitled to educational assistance under this chapter who is pursuing a program of education and educational assistance allowance at the following rates:

“(1) \$140 per month for each month of full-time pursuit of a program of education;

“(2) \$105 per month for each month of three-quarter-time pursuit of a program of education; and

“(3) \$70 per month for each month of half-time pursuit of a program of education.

“(c)(1) Educational assistance may only be provided under this chapter for pursuit of a program of education at an institution of higher learning and may not be provided to a person after the person has completed a course of instruction required for the award of a baccalaureate degree or the equivalent evidence of completion of study.

“(2) Subject to section 1795 of title 38, the maximum number of months of educational assistance that may be provided to any person under this chapter is 36. 38 USC 1795.

“§ 2132. Eligibility for educational assistance 10 USC 2132.

“(a) A person who—

“(1) during the period beginning on July 1, 1985, and ending on June 30, 1988—

“(A) enlists, reenlists, or extends an enlistment as a Reserve for service in the Selected Reserve for a period of not less than six years; or

“(B) is appointed as, or is serving as, a reserve officer and agrees to serve in the Selected Reserve for a period of not less than six years in addition to any other period of obligated service in the Selected Reserve to which the person may be subject; and

“(2) before completing initial active duty for training has received a secondary school diploma (or an equivalency certificate);

is entitled to educational assistance under section 2131 of this title. *Supra.*

“(b) Educational assistance may not be provided to a member under this chapter until the member—

“(1) has completed the initial period of active duty for training required of the member; and

“(2) has completed 180 days of service in the Selected Reserve.

“(c) Each person who becomes entitled to educational assistance under subsection (a) shall at the time the person becomes so entitled be given a statement in writing summarizing the provisions of this

Infra. chapter and stating clearly and prominently the substance of sections 2134 and 2135 of this title as such sections may apply to the person.

Ante, pp. 2553, 2555. “(d) A person who is entitled to educational assistance under chapter 30 of title 38 based on section 1412 of that title may not also be provided educational assistance under this chapter.

10 USC 2133. **“§ 2133. Time limitation for use of entitlement**

“(a) Except as provided in subsection (b), the period during which a person entitled to educational assistance under this section may use such person’s entitlement expires (1) at the end of the 10-year period beginning on the date on which such person becomes entitled to such assistance, or (2) on the date the person is separated from the Selected Reserve, whichever occurs first.

Ante, p. 2560. “(b)(1) The provisions of section 1431(e) of title 38 shall apply to the period of entitlement prescribed by subsection (a).

“(2) The provisions of section 1431(d) of title 38 shall apply to the period of entitlement prescribed by subsection (a) in the case of a disability incurred in or aggravated by service in the Selected Reserve.

10 USC 2134. **“§ 2134. Termination of assistance**

“Educational assistance may not be provided under this chapter—

10 USC 2107. “(1) to a member receiving financial assistance under section 2107 of this title as a member of the Senior Reserve Officers’ Training Corps program; or

“(2) to a member who fails to participate satisfactorily in required training as a member of the Selected Reserve.

10 USC 2135. **“§ 2135. Failure to participate satisfactorily; penalties**

“(a)(1) A member of the Selected Reserve of the Ready Reserve of an armed force who fails to participate satisfactorily in required training as a member of the Selected Reserve during a term of enlistment or other period of obligated service that created entitlement of the member to educational assistance under this chapter shall, at the option of the Secretary concerned—

Ante, p. 2565. “(A) be ordered to active duty for a period of two years or the period of obligated service the person has remaining under section 2132 of this title, whichever is less; or

“(B) be required to refund to the United States an amount determined under subsection (b).

“(2) The Secretary concerned may waive the requirements of paragraph (1), or may reduce the amount of any refund under clause (B) of such paragraph, in the case of any individual member when the Secretary determines that the failure to participate satisfactorily was due to reasons beyond the control of the member.

“(3) Any refund by a member under this section shall not affect the period of obligation of such member to serve as a Reserve in the Selected Reserve.

“(b)(1) The amount of a refund under subsection (a) shall be the amount equal to the product of—

“(A) the number of months of obligated service remaining under the agreement entered into under section 2132(a)(3) divided by the original number of months of such obligation; and

“(B) the total amount of educational assistance provided to the member under this chapter,

as increased by interest determined under paragraph (2).

“(2) The amount computed under paragraph (1) shall bear interest at the rate equal to the highest rate being paid by the United States on the day on which the refund is determined to be due for securities having maturities of 90 days or less and shall accrue from the day on which the member is first notified of the amount due to the United States as a refund under this section.

“§ 2136. Administration of program

10 USC 2136.

“(a) Educational assistance under this chapter shall be provided through the Veterans’ Administration, under agreements to be entered into by the Secretary of Defense, and by the Secretary of Transportation, with the Administrator of Veterans’ Affairs. Such agreements shall include administrative procedures to ensure the prompt and timely transfer of funds from the Secretary concerned to the Veterans’ Administration for the making of payments under this chapter.

“(b) Except as otherwise provided in this chapter, the provisions of sections 1663, 1670, 1671, 1673, 1674, 1676, 1682(g), and 1683 of chapter 34 of title 38 and the provisions of subchapters I and II of chapter 36 of such title (with the exception of sections 1780(a)(5), 1780(b), 1786, 1787(b)(1), and 1792) shall be applicable to the provision of educational assistance under this chapter. The term ‘eligible veteran’, as used in those provisions, shall be deemed for the purpose of the application of those provisions to this chapter to refer to a person eligible for educational assistance under this chapter.

38 USC 1770,
1780.

“§ 2137. Reports to Congress

10 USC 2137.

“The Secretary of Defense shall submit to the Congress a report not later than December 15 of each year concerning the operation of the educational assistance program established by this chapter during the preceding fiscal year. Each such report shall include the number of members of the Selected Reserve of the Ready Reserve of each armed force receiving, and the number entitled to receive, educational assistance under this chapter during the preceding fiscal year.

“§ 2138. Savings provision

10 USC 2138.

“A member who entered into an agreement under this chapter before July 1, 1985, shall continue to be eligible for educational assistance in accordance with the terms of such agreement and of this chapter as in effect before such date.”

(2) The items relating to such chapter in the table of chapters at the beginning of subtitle A of such title, and in the table of chapters at the beginning of part III of such subtitle, are amended to read as follows:

“106. Educational Assistance for Members of the Selected Reserve..... 2131”.

(b) The amendments made by this section shall take effect on July 1, 1985, and shall apply only to members of the Armed Forces who qualify for educational assistance under chapter 106 of title 10, United States Code, as amended by subsection (a), on or after such date.

Effective date.
10 USC 2131
note.
Ante, p. 2564.

ACCRUAL FUNDING OF DEPARTMENT OF DEFENSE LIABILITIES

SEC. 706. (a)(1) Chapter 101 of title 10, United States Code, is amended by adding at the end thereof the following new section:

10 USC 2006. **“§ 2006. Department of Defense Education Benefits Fund**

“(a) There is established on the books of the Treasury a fund to be known as the Department of Defense Education Benefits Fund (hereinafter in this section referred to as the ‘Fund’), which shall be administered by the Secretary of the Treasury. The Fund shall be used for the accumulation of funds in order to finance Department of Defense education liabilities on an actuarially sound basis.

“(b) In this section:

“(1) ‘Department of Defense education liabilities’ means liabilities of the Department of Defense for benefits under chapter 30 of title 38 and for benefits under chapter 106 of this title.

Ante, pp. 2553,
2564.

“(2) ‘Normal cost’, with respect to any period of time, means the total of the following:

“(A) The present value of the future benefits payable from the Fund for amounts attributable to increased amounts of educational assistance authorized under section 1415(c) of title 38 to persons who were not on active duty on July 1, 1985, and who during such period enter on active duty.

Ante, p. 2557.

“(B) The present value of the future benefits payable from the Fund for amounts attributable to educational assistance authorized under subchapter III of chapter 30 of title 38 to persons who were not on active duty on July 1, 1985, and who during such period—

Ante, p. 2558.

“(i) enter a fourth year of active duty, in the case of persons eligible for basic educational assistance under section 1411 of such title; or

Ante, p. 2554.

“(ii) enter a period of service that will establish entitlement to such educational assistance under section 1421(b) of such title, in the case of persons eligible for basic educational assistance under section 1412 of such title.

Ante, p. 2558.

“(C) The present value of the future benefits payable from the Fund for educational assistance under chapter 106 of this title to persons who during such period become entitled to such assistance.

Ante, p. 2555.

Ante, p. 2564.

“(c) There shall be deposited into the Fund the following, which shall constitute the assets of the Fund:

“(1) Amounts paid into the Fund by the Secretary of Defense under subsection (g).

“(2) Any amount appropriated to the Fund.

“(3) Any return on investment of the assets of the Fund.

“(d) The Secretary of the Treasury shall transfer from the Fund to the Administrator of Veterans’ Affairs such amounts as may be necessary to enable the Administrator to make required payments of Department of Defense education liabilities. The Secretary of the Treasury, the Secretary of Defense, and the Administrator shall enter into an agreement as to how and when, and the amounts in which, such transfers shall be made. Except for investments under subsection (h), amounts in the Fund may not be used for any purpose other than transfers as described in this subsection.

“(e)(1)(A) There is established in the Department of Defense a Department of Defense Education Benefits Board of Actuaries (hereinafter in this section referred to as the ‘Board’). The Board shall consist of three members, who shall be appointed by the Secretary of Defense from among qualified professional actuaries who are members of the Society of Actuaries.

Department of
Defense
Education
Benefits Board of
Actuaries,
establishment.

“(B)(i) Except as provided in clause (ii), the members of the Board shall serve for a term of fifteen years, except that a member of the Board appointed to fill a vacancy occurring before the end of the term for which his predecessor was appointed shall only serve until the end of such term. A member may serve after the end of his term until his successor has taken office. A member of the Board may be removed by the Secretary of Defense for misconduct or failure to perform functions vested in the Board, and for no other reason.

“(ii) Of the members of the Board who are first appointed under this paragraph, one each shall be appointed for terms ending five, ten, and fifteen years, respectively, after the date of appointment, as designated by the Secretary of Defense at the time of appointment.

“(C) A member of the Board who is not otherwise an employee of the United States is entitled to receive pay at the daily equivalent of the annual rate of basic pay of the highest rate of basic pay then currently being paid under the General Schedule of subchapter III of chapter 53 of title 5, for each day the member is engaged in the performance of duties vested in the Board and is entitled to travel expenses, including a per diem allowance, in accordance with section 5703 of title 5.

5 USC 5331.

“(2) The Board shall report to the Secretary of Defense annually on the actuarial status of the Fund and shall furnish its advice and opinion on matters referred to it by the Secretary.

5 USC 5703.
Report.

“(3) The Board shall review valuations of the Fund under subsection (f) and report periodically, not less than once every four years, to the President and Congress on the status of the Fund and shall recommend such changes as in the Board’s judgment are necessary to protect the public interest and maintain the Fund on a sound actuarial basis.

Report.

“(4) The Secretary shall keep, or cause to be kept, such records as necessary for determining the actuarial status of the Fund.

Records.

“(f)(1) The Secretary of Defense shall carry out periodic actuarial valuations of the educational programs described in subsection (b)(1).

“(2) Based on the most recent such valuation, the Secretary of Defense shall estimate the normal cost for the next fiscal year.

“(3) If at the time of any such valuation there has been a change in benefits under an education program described in subsection (b)(1) that has been made since the last such valuation and that increases or decreases the present value of benefits payable from the Fund, the Secretary of Defense shall determine an amortization methodology and schedule for the liquidation of the unfunded liability (or negative unfunded liability) thus created such that the present value of the sum of the amortization payments equals the increase or decrease in the present value of such benefits.

“(4) If at the time of any such valuation the Secretary of Defense determines that, based upon changes in actuarial assumptions since the last valuation, there has been an actuarial gain or loss to the Fund, the Secretary shall determine an amortization methodology and schedule for the liquidation of such gain or loss through an

increase or decrease in the payments that would otherwise be made to the Fund.

President of U.S. (5) Based on the determinations under paragraphs (2), (3), and (4) the Secretary of Defense shall determine the amount needed to be appropriated to the Department of Defense for the next fiscal year for payments to be made to the Fund under subsection (g). The President shall include not less than the full amount so determined in the budget transmitted to Congress for the next fiscal year under section 1105 of title 31. The President may comment and make recommendations concerning any such amount.

(6) All determinations under this subsection shall be made using methods and assumptions approved by the Board of Actuaries (including assumptions of interest rates and inflation) and in accordance with generally accepted actuarial principles and practices.

(g)(1) The Secretary of Defense shall pay into the Fund each month the amount that, based upon the most recent actuarial valuation of the education programs described in subsection (b)(1), is equal to the actual total normal cost for the preceding month.

(2) The Secretary of Defense shall pay into the Fund at the beginning of each fiscal year (or as soon thereafter as appropriations are available for such purpose) the sum of the following:

(A) The amount of the payment for that year, if any, for the amortization of any liability to the Fund resulting from a change in benefits, as determined by the Secretary of Defense under subsection (f)(3).

(B) The amount of the payment for that year, if any, for the amortization of any actuarial gain or loss to the Fund, as determined by the Secretary of Defense under subsection (f)(4).

(3) Amounts paid into the Fund under this subsection shall be paid from appropriations available for the pay of members of the armed forces under the jurisdiction of the Secretary of a military department.

Securities.

(h) The Secretary of the Treasury shall invest such portion of the Fund as is not in the judgment of the Secretary required to meet current withdrawals. Such investments shall be in public debt securities with maturities suitable to the needs of the Fund, as determined by the Secretary, and bearing interest at rates determined by the Secretary, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities. The income on such investments shall be credited to and form a part of the Fund."

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"2006. Department of Defense Education Benefits Fund."

10 USC 2006
note.
Ante, p. 2568.

(b) The first payment into the Department of Defense Education Benefits Fund under section 2006 of title 10, United States Code, as added by subsection (a), shall be made not later than three months after the Board of Actuaries determines the amounts needed to be paid into the Fund for that portion of fiscal year 1985 beginning on July 1, 1985. The first payment shall be made in a lump sum equal to the total of the amounts that would have been paid to the Fund each month between July 1, 1985, and the time such first payment is made.

EDUCATIONAL LEAVE OF ABSENCE FOR MEMBERS OF THE ARMED FORCES

SEC. 707. (a)(1) Chapter 40 of title 10, United States Code, relating to leave, is amended by adding at the end thereof the following new section:

“§ 708. Educational leave of absence

10 USC 708.

“(a) Under such regulations as the Secretary of Defense may prescribe after consultation with the Secretary of Transportation and subject to subsection (b), the Secretary concerned may grant to any eligible member (as defined in subsection (e)) a leave of absence for a period of not to exceed two years for the purpose of permitting the member to pursue a program of education.

“(b)(1) A member may not be granted a leave of absence under this section unless—

“(A) in the case of an enlisted member, the member agrees in writing to extend his current enlistment after completion (or other termination) of the program of education for which the leave of absence was granted for a period of two months for each month of the period of the leave of absence; and

“(B) in the case of an officer, the member agrees to serve on active duty after completion (or other termination) of the program of education for which the leave of absence was granted for a period (in addition to any other period of obligated service on active duty) of two months for each month of the period of the leave of absence.

“(2) A member may not be granted a leave of absence under this section until he has completed any extension of enlistment or reenlistment, or any period of obligated service, incurred by reason of any previous leave of absence granted under this section.

“(c)(1) While on a leave of absence under this section, a member shall be paid basic pay but may not receive basic allowance for quarters or basic allowance for subsistence or any other pay and allowances to which he would otherwise be entitled for such period.

“(2) A period during which a member is on a leave of absence under this section shall be counted for the purposes of computing the amount of the member's basic pay, for the purpose of determining the member's eligibility for retired pay, and for the purpose of determining the member's time in grade for promotion purposes, but may not be counted for the purposes of completion of the term of enlistment of the member (in the case of an enlisted member) or for purposes of section 1421 of title 38, relating to entitlement to supplemental educational assistance.

Ante, p. 2558.

“(d)(1) In time of war, or of national emergency declared by the President or the Congress after the date of the enactment of this section, the Secretary concerned may cancel any leave of absence granted under this section.

“(2) The Secretary concerned may cancel a leave of absence granted to a member under this section if the Secretary determines that the member is not satisfactorily pursuing the program of education for which the leave was granted.

“(e) In this section, ‘eligible member’ means a member of the armed forces on active duty who is eligible for basic educational assistance under chapter 30 of title 38 and who—

Ante, p. 2553.

“(1) in the case of an enlisted member, has completed at least one term of enlistment and has reenlisted; and

“(2) in the case of an officer, has completed the officer’s initial period of obligated service on active duty.”.

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

“708. Educational leave of absence.”.

Effective date.
10 USC 708 note.

(b) Section 708 of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 1985.

PRESEPARATION COUNSELING

SEC. 708. (a)(1) Chapter 53 of title 10, United States Code, is amended by adding after section 1045 (as added by section 654) the following new section:

10 USC 1046.

“§ 1046. Preseparation counseling requirement

“Upon the discharge or release from active duty of a member of the armed forces, the Secretary concerned shall provide for individual counseling of that member. That counseling shall include a discussion of the educational assistance benefits to which the member is entitled because of the member’s service in the armed forces and an explanation of the procedures for and advantages of affiliating with the Selected Reserve. A notation of the provision of such counseling, signed by the member, shall be placed in the service record of each member receiving such counseling.”.

(2) The table of sections at the beginning of that chapter is amended by adding after the item relating to section 1045 (as added by section 654) the following new item:

“1046. Preseparation counseling requirement.”.

Effective date.
10 USC 1046
note.

(b) Section 1046 of title 10, United States Code, as added by subsection (a), shall take effect on July 1, 1985.

EXTENSION OF PILOT DEPARTMENT OF DEFENSE EDUCATIONAL ASSISTANCE LOAN REPAYMENT PROGRAM

97 Stat. 672.

SEC. 709. Section 902(g) of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2141 note), is amended by striking out “October 1, 1984” and inserting in lieu thereof “October 1, 1986”.

TITLE VIII—CIVIL DEFENSE

AUTHORIZATION OF APPROPRIATIONS

50 USC app.
2251–2297.

SEC. 801. There is hereby authorized to be appropriated for fiscal year 1985 to carry out the provisions of the Federal Civil Defense Act of 1950 (50 U.S.C. App. 251 et seq.) the sum of \$190,000,000.

REPEAL OF LIMITATION ON AMOUNTS THAT MAY BE APPROPRIATED FOR CERTAIN PURPOSES

SEC. 802. Section 408 of the Federal Civil Defense Act of 1950 (50 U.S.C. App. 2260) is amended by striking out “: *Provided further*” and all that follows through “\$47,000,000 per annum”.

TITLE IX—NATIONAL DEFENSE STOCKPILE

TERMINATION OF PREVIOUS DISPOSAL AUTHORITY

SEC. 901. (a) Any authority provided by law before the date of the enactment of this Act to enter into contracts for the disposal of materials in the National Defense Stockpile established by section 3 of the Strategic and Critical Materials Stock Piling Act (hereinafter in this title referred to as "the Act") (50 U.S.C. 98b) shall expire on September 30, 1984.

Contracts.
50 USC 98d note.

AUTHORIZATIONS FOR DISPOSAL

SEC. 902. Effective on October 1, 1984, the President is authorized to dispose of the following quantities of materials currently held in the National Defense Stockpile in accordance with the provisions of the Act, such quantities having been determined to be excess to the current requirements of the stockpile:

Effective date.
President of U.S.
50 USC 98d note.

- (1) 3,200 short tons of antimony.
- (2) 5,600 short tons of asbestos, chrysotile.
- (3) 7,500,000 carats of diamond stones.
- (4) 51,210 short dry tons of manganese dioxide battery natural.
- (5) 292,000 short dry tons of metallurgical grade manganese.
- (6) 5,000 flasks of mercury.
- (7) 500,000 pounds of mercuric oxide.
- (8) 1,000,000 pounds of mica, muscovite film first and second qualities.
- (9) 1,000,000 pounds of mica, muscovite splittings.
- (10) 50,000 pounds of mica, phlogopite splittings.
- (11) 167 short tons of mica block and lump.
- (12) 100,000 pounds of quartz crystals.
- (13) 10,000,000 troy ounces of silver.
- (14) 125,000 pounds of talc, block and lump.
- (15) 50,000 pounds of thorium nitrate.
- (16) 20,000 long tons of tin.
- (17) 2,400,000 pounds of tungsten contained in ores.
- (18) 4,200 long tons of vegetable tannin, chestnut.
- (19) 20,000 long tons of vegetable tannin, quebracho.

RESTRICTIONS ON BALANCE IN STOCKPILE TRANSACTION FUND

SEC. 903. (a) Section 5(b)(2) of the Act (50 U.S.C. 98d(b)(2)) is amended—

- (1) by striking out "a balance" the first place it appears and inserting in lieu thereof "an unobligated balance"; and
 - (2) by striking out "\$1,000,000,000" and all that follows through the end and inserting in lieu thereof "\$250,000,000".
- (b) Effective on October 1, 1986, section 5(b)(2) of the Act is amended by striking out "\$250,000,000" and inserting in lieu thereof "\$100,000,000".

Effective date.

STOCKPILE REPORT

SEC. 904. Not later than January 31, 1985, the President shall submit to Congress a report respecting the National Defense Stockpile. The report shall include—

President of U.S.

- (1) a plan for attaining the goals of the stockpile specified in section 3(b)(2) of the Act over a three-year period;

(2) an analysis as to the appropriateness of placing all aspects of the management and operation of the stockpile under a single authority, such as the Secretary of Defense;

(3) an analysis of the adequacy of existing legal authority to barter surplus and excess material of the Government and excess real property of the Department of Defense for strategic and critical materials for the stockpile;

(4) an analysis of why existing barter authority has not been used more aggressively in procuring strategic and critical materials to meet stockpile goals; and

(5) a draft of such legislation as may be required to carry out any recommendations respecting such plans and analyses.

DEPOSIT OF FUNDS ACCRUING FROM NAVAL PETROLEUM RESERVES

50 USC 98h note.

SEC. 905. There shall be deposited into the National Defense Stockpile Transaction Fund established under section 9 of the Act (50 U.S.C. 98h) 30 percent of all money accruing to the United States during fiscal year 1985 from lands in the naval petroleum and oil shale reserves (less amounts spent for exploration, development and operation of those reserves and related expenses during that period). Moneys deposited into the Fund under this subsection shall be deemed to have been covered into the Fund under section 9(b) of the Act.

TITLE X—MATTERS RELATING TO NATO AND OTHER ALLIES

SENSE OF CONGRESS RELATING TO INCREASE IN DEFENSE SPENDING BY UNITED STATES ALLIES

22 USC 1928 note.

SEC. 1001. It is the sense of Congress that the President—

(1) should call on the pertinent member nations of the North Atlantic Treaty Organization to meet or exceed their pledges for an annual increase in defense spending during fiscal years 1984 and 1985 of at least 3 percent real growth; and

Japan.

(2) should call on Japan to further increase its defense spending during fiscal years 1984 and 1985; in furtherance of increased unity, equitable sharing of the common defense burden, and international stability.

IMPROVEMENTS TO NATO CONVENTIONAL CAPABILITY

22 USC 1928 note.

SEC. 1002. (a) The Congress finds—

(1) that the North Atlantic Treaty Organization (NATO) should improve its conventional defense capability so as to lengthen the period of time that Western Europe can be defended by conventional forces without the necessity of resorting to the early use of nuclear weapons in the event of a non-nuclear attack on any NATO member country;

(2) that fulfillment by NATO member nations of their goals and commitments to increase defense spending, improve conventional sustainability, and provide support facilities in Western Europe for rapid reinforcements from the United States is crucial to accomplishing that objective; and

(3) that an increase over current United States military personnel levels in European member nations of NATO can be

justified only if these goals and commitments are substantially met by NATO member nations (other than the United States).

(b) The Congress urges the President and the Secretary of Defense to continue to encourage member nations of NATO (other than the United States) to work expeditiously to fulfill the following commitments they have undertaken: Congress.

(1) To achieve and maintain an annual increase in their defense spending of at least 3 percent, after inflation.

(2) To acquire a 30-day supply of air and ground munitions among those NATO members which have committed forces to the Northern, Center, and Southern Regions.

(3) To construct the number of minimum essential and emergency operating facilities and semihardened aircraft shelters in Western Europe required by NATO Ministerial Guidance to support, under NATO/SHAPE standards, as a minimum, the annual commitment of United States reinforcing tactical aircraft.

(c)(1) After September 30, 1985, none of the funds appropriated pursuant to an authorization contained in this Act or any other Act enacted after the date of the enactment of this Act may be used to support an end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of NATO at any level exceeding a permanent ceiling of 326,414. Prohibition.

(2) If the Secretary of Defense certifies to the Congress in writing during any fiscal year after fiscal year 1985 that during the previous fiscal year the member nations of NATO (other than the United States) have undertaken significant measures to improve their conventional defense capacity consistent with the goals set forth in subsection (b) which contributes to lengthening the time period between an armed attack on any NATO country and the time the Supreme Allied Commander, Europe, would have to request the release and use of nuclear weapons, the Congress would give strong consideration to authorizing an increase in the permanent ceiling prescribed in paragraph (1) for fiscal years after such fiscal year.

(d)(1) Not later than April 1, 1985, and each year thereafter, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the status, as of January 1 of the year in which the report is submitted, of the following matters: Report.

(A) The number of days of supply of the ground and aerial munitions in hand or on order of the member nations of NATO (other than the United States) which have committed forces to the Northern, Center, and Southern Regions.

(B) The number of facilities and semihardened aircraft shelters completed or under construction as they relate to the United States commitment of reinforcing aircraft in the United States Defense Planning Questionnaire (DPQ) Response of the previous year.

(2)(A) Beginning with the budget submitted to Congress for fiscal year 1986, but not later than April 1, 1985, and each year thereafter, the Secretary of Defense shall submit to Congress a report on the status and cost of the United States commitment to NATO as reflected in the DPQ Response and in the defense budget request. The report shall be an annual update of the Department of Defense Report entitled "United States Expenditures in Support of NATO", first submitted to the Congress in June 1984 pursuant to section Report.

1107 of the Department of Defense Authorization Act, 1984 (Public Law 98-94; 97 Stat. 677). In addition to the information required by that section, each such report shall include information which specifically identifies those items in the Secretary of Defense's procurement budget request that are in support of United States forces committed to or earmarked for NATO.

(B) In addition to the requirements of subparagraph (A), the Secretary of Defense shall include in the report an assessment of the performance of the members of NATO (other than the United States) in the following areas:

- (i) Allied contributions to the common defense.
- (ii) Improvement in sustainability and support for United States reinforcing tactical aircraft.
- (iii) Meeting NATO force goals.
- (iv) Increasing NATO infrastructure funding.
- (v) Improvements in air base defenses.
- (vi) Increasing trained manpower levels, particularly reserves.
- (vii) Increasing war reserve material.
- (viii) Improving NATO's ability to neutralize enemy follow-on forces, including use of emerging technologies.
- (ix) Improvements in mine/counter mine capability.
- (x) Improvements in offensive counter air capability.

(C) The requirement under clause (i) of subparagraph (B) is satisfied in any year by the submission of the report required by section 1003(c) for that year.

Infra.

(e)(1) The Congress finds that a viable "two-way street" of defense procurement improves NATO interoperability and therefore is important to overall improvements in conventional defense.

(2) In addition to any funds appropriated pursuant to the authorization contained in this Act for the activities of the Director of Operational Test and Evaluation, Defense, the Director may use an additional amount, not to exceed \$50,000,000, to acquire certain types of weapons, subsystems, and munitions of European NATO manufacture for side-by-side testing with comparable United States manufactured items. Such additional amount shall be derived from any funds appropriated pursuant to an authorization contained in this Act. Items that may be acquired under this paragraph include submunitions and dispensers, anti-tank and anti-armor guided missiles, mines, runway-cratering devices, torpedoes, mortar systems, light armored vehicles, and high-velocity anti-tank guns.

Prohibition.

(f)(1) This section shall not apply in the event of a declaration of war or an armed attack on any NATO member country.

Waiver.

(2) This section may be waived by the President if he declares an emergency and immediately informs the Congress of his action and the reasons therefor.

REPORT ON ALLIED CONTRIBUTIONS TO THE COMMON DEFENSE

International
agreements.
Japan.
22 USC 1928
note.
63 Stat. 2241.

11 UST 1632.

SEC. 1003. (a) In recognition of the increasing military threat faced by the Western World and in view of the growth, relative to the United States, in the economic strength of Japan, Canada, and a number of Western European countries which has occurred since the signing of the North Atlantic Treaty on April 4, 1949, and the Mutual Cooperation and Security Treaty between Japan and the United States on January 19, 1960, it is the sense of the Congress that—

- (1) the burdens of mutual defense now assumed by some of the countries allied with the United States under those agreements are not commensurate with their economic resources;

(2) since May 1978, when each member nation of the North Atlantic Treaty Organization (NATO) agreed to increase real defense spending annually in the range of 3 percent, most NATO members, except for the United States, have failed to meet the 3 percent real growth commitment consistently;

(3) since May 1981, when the Government of Japan established its policy to defend the air and sea lines of communication out to 1,000 nautical miles from the coast of Japan, progress to develop the necessary self-defense capabilities to fulfill that pledge has been extremely disappointing;

(4) Japan is the ally of the United States with the greatest potential for improving its self-defense capabilities and should, therefore, rapidly increase its annual defense spending to the levels required to fulfill that pledge and to enable Japan to be capable of an effective conventional self-defense capability by 1990, including the capability to carry out its 1,000-mile defense policy, a development that would be consonant not only with Japan's current prominent position in the family of nations but also with its unique sensibilities on the issues of war and peace, sensibilities that are recognized and respected by the people of the United States; and

(5) the continued unwillingness of such countries to increase their contributions to the common defense to more appropriate levels will endanger the vitality, effectiveness, and cohesion of the alliances between those countries and the United States.

(b) It is further the sense of the Congress that the President should seek from each signatory country (other than the United States) of the two treaties referred to in subsection (a) acceptance of international security responsibilities and an agreement to make contributions to the common defense which are commensurate with the economic resources of such country, including, when appropriate, an increase in host nation support.

President of U.S.

(c) The Secretary of Defense shall submit to the Congress each year, not later than March 1, a classified report containing—

Report.

(1) a comparison of the fair and equitable shares of the mutual defense burdens of these alliances that should be borne by the United States, by other member nations of NATO, and by Japan, based upon economic strength and other relevant factors, and the actual defense efforts of each nation together with an explanation of disparities that currently exist and their impact on mutual defense efforts;

(2) a description of efforts by the United States and the efforts of other members of the alliances to eliminate any existing disparities;

(3) projected estimates of the real growth in defense spending for the fiscal year in which the report is submitted for each NATO member nation;

(4) a description of the defense-related initiatives undertaken by each NATO member nation within the real growth in defense spending of such nation in the fiscal year immediately preceding the fiscal year in which the report is submitted;

(5) an explanation of those instances in which the commitments to real growth in defense spending have not been realized and a description of efforts being made by the United States to ensure fulfillment of these important NATO commitments;

(6) a description of the activities of each NATO member and Japan to enhance the security and stability of the Southwest

Asia region and to assume additional missions for their own defense as the United States allocates additional resources to the mission of protecting Western interests in world areas not covered by the system of Western Alliances; and

(7) a description of what additional actions the executive branch plans to take should the efforts by the United States referred to in clauses (2) and (5) fail, and, in those instances where such additional actions do not include consideration of the repositioning of American troops, a detailed explanation as to why such repositioning is not being so considered.

Report.

Confidentiality.

(d) The Secretary of Defense shall also submit to the Congress not more than 30 days after the submission of the report required under subsection (a) an unclassified report containing the matters set forth in clauses (1) through (7) of such subsection.

NATO SEASPARROW COOPERATIVE PROGRAM

SEC. 1004. The Secretary of the Navy is authorized to continue participation, in accordance with current operating procedures, in the North Atlantic Treaty Organization SEASPARROW Surface Missile System Cooperative Consortium, as described in the Memorandum of Understanding between the United States, Denmark, Norway, Italy, the Netherlands, Belgium, Canada, Greece, and Federal Republic of Germany, signed by the United States on June 6, 1968, and the Memorandum of Understanding between the same countries, signed by the United States on May 20, 1977.

29 UST 1103.

PROCUREMENT OF COMMUNICATIONS SUPPORT AND RELATED SUPPLIES AND SERVICES

SEC. 1005. (a) Chapter 141 of title 10, United States Code, is amended by adding at the end thereof the following new section:

International
agreements.
10 USC 2401a.

“§ 2401a. Procurement of communications support and related supplies and services

“(a) As an alternative means of obtaining communications support and related supplies and services, the Secretary of Defense, subject to the approval of the Secretary of State, may enter into an arrangement with the Minister of Defense or other appropriate official of any allied country or with the North Atlantic Treaty Organization (NATO), under which, in return for being provided communications support and related supplies and services, the United States would agree to provide to such country or NATO an equivalent value of communications support and related supplies and services.

“(b) Any arrangement entered into under this section shall require that any accrued credits and liabilities resulting from an unequal exchange of communications support and related supplies and services during the term of such arrangement would be liquidated by direct payment to the party having provided the greater amount of communications support and related supplies and services. Payments received by the United States shall be credited to the appropriation from which such communications support and related supplies and services have been provided.

Records.

“(c) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives copies of all documents evidencing an arrangement entered into

under subsection (a) not later than 45 days after entering into such an arrangement.

“(d) In this section, ‘allied country’ means—

“(1) a country that is a member of the North Atlantic Treaty Organization, or

“(2) Australia, New Zealand, Japan, or the Republic of Korea.”.

(b) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

“2401a. Procurement of communications support and related supplies and services.”.

POLICY ON ARMAMENTS COOPERATION WITH NATO MEMBER COUNTRIES

SEC. 1006. Not later than May 1, 1985, the Secretary of Defense shall transmit to Congress a report setting forth a comprehensive proposal by which the United States and other North Atlantic Treaty Organization member countries may achieve the objectives described in section 1122(b) of the Department of Defense Authorization Act, 1983 (Public Law 97-252; 96 Stat. 755).

Report.

22 USC 1928
note.

AUTHORITY OF SECRETARY OF DEFENSE IN CONNECTION WITH COOPERATIVE AGREEMENTS ON AIR DEFENSE IN CENTRAL EUROPE

SEC. 1007. (a) During fiscal year 1985, the Secretary of Defense may carry out the European air defense agreements. In carrying out those agreements during that year, the Secretary—

Federal Republic
of Germany.

(1) may provide without monetary charge to the Federal Republic of Germany articles and services as specified in the agreements; and

(2) may accept from the Federal Republic of Germany (in return for the articles and services provided under paragraph (1)) articles and services as specified in the agreements.

(b) In connection with the administration of the European air defense agreements during fiscal year 1985, the Secretary of Defense may—

Waiver.

(1) waive any surcharge for administrative services otherwise chargeable under section 21(e)(1)(A) of the Arms Export Control Act (22 U.S.C. 2761(e)(1)(A));

(2) waive any charge not otherwise waived for services associated with contract administration for the sale under the Arms Export Control Act of Patriot air defense missile fire units to the Federal Republic of Germany contemplated in the agreements;

22 USC 2751
note.

(3) use, to the extent contemplated in the agreements, the NATO Maintenance and Supply Agency (A) for the supply of logistic support in Europe for the Patriot missile system, and (B) for the acquisition of such logistic support, to the extent that the Secretary determines that the procedures of that agency governing such supply and acquisition are appropriate;

(4) share, to the extent contemplated in the agreements, the costs of set-up charges of facilities for use by that agency to perform depot-level support of Patriot missile fire units in Europe; and

(5) deliver to the Federal Republic of Germany one Patriot missile fire unit configured for training, to be purchased by the Federal Republic of Germany under the Arms Export Control Act as contemplated in the agreements, without regard to the

requirement in section 22 of that Act (22 U.S.C. 2762) for payment in advance of delivery for any purchase under that Act.

22 USC 2761. (c) Notwithstanding the rate required to be charged under section 21 of the Arms Export Control Act for services furnished by the United States, in the case of the 14 Patriot missile fire units which the Federal Republic of Germany purchases from the United States under that Act as contemplated in the European air defense agreements, the rate charged by the Secretary of Defense for packing, crating, handling, and transportation services associated with that purchase may not exceed the established Department of Defense rate for such services.

International agreements. (d) For the purposes of this section, the term "European air defense agreements" means (1) the agreement entitled "Agreement between the Secretary of Defense of the United States of America and the Minister of Defense of the Federal Republic of Germany on Cooperative Measures for Enhancing Air Defense for Central Europe", signed on December 6, 1983, and (2) the agreement entitled "Agreement between the Secretary of Defense of the United States of America and the Federal Minister of Defense of the Federal Republic of Germany in implementation of the 6 December 1983 Agreement on Cooperative Measures for Enhancing Air Defense for Central Europe", signed on July 12, 1984.

Contracts. (e) The authority of the Secretary of Defense to enter into contracts under the European air defense agreements is available only to the extent that appropriated funds are otherwise available for that purpose.

TITLE XI—MATTERS RELATING TO ARMS CONTROL

REPORT ON STRATEGIC NUCLEAR SUBMARINE FORCE

SEC. 1101. Not later than April 1, 1985, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the survivability of the United States strategic nuclear ballistic missile submarine force. The report shall address whether there are grounds for adjusting, in short or long-range terms, strategic force plans of the United States based on any vulnerability or potential vulnerability of such force. The report shall also examine the feasibility and desirability of enhancing the survivability of such force through measures that would affect antisubmarine warfare, including the nature of the patrols and the rules of engagement of attack submarines and the nature of the patrols and the rules of engagement of ballistic missile submarines.

ANNUAL REPORT ON STRATEGIC DEFENSE PROGRAMS

10 USC 139 note. SEC. 1102. At the time of the submission by the Secretary of Defense to the Congress of his annual budget presentation materials for each fiscal year beginning with fiscal year 1986 and ending with fiscal year 1990 (but not later than March 15 of the calendar year in which such fiscal year begins), the Secretary of Defense shall transmit to the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives and the Committee on Armed Services and the Committee on Foreign Relations of the Senate a report on the programs that constitute the Strategic

Defense Initiative and other programs, if any, relating to defense against strategic ballistic missiles. Each such report shall include—

(1) details of all programs and projects included in the Strategic Defense Initiative or relating to defense against strategic ballistic missiles;

(2) a clear definition of the objectives of the Strategic Defense Initiative;

(3) an explanation of the relationship between each such objective and each program and project associated with the Strategic Defense Initiative or defense against strategic ballistic missiles;

(4) the status of consultations with other member nations of the North Atlantic Treaty Organization, Japan, and other appropriate allies concerning research being conducted in the Strategic Defense Initiative program;

(5) a statement of any anticipated impact on the anti-ballistic missile treaty;

(6) consideration of a process by which Congress could review Soviet countermeasures to specific Strategic Defense Initiative programs and evaluate the adequacy of such programs to respond to such countermeasures;

(7) details on the funding of programs, projects, and tasks for the Strategic Defense Initiative, including—

(A) prior and current year funding levels for all such programs, projects, and tasks in the Strategic Defense Initiative budgetary presentation materials;

(B) the amount requested to be appropriated for such programs, projects, and tasks for the fiscal year for which the budget is submitted; and

(C) the amount programmed to be requested for the following fiscal year.

REPORT ON THEATER NUCLEAR WEAPONS AND FORCE STRUCTURE

SEC. 1103. Not later than January 19, 1985, the President shall submit to Congress a report setting forth reasons why the United States should or should not initiate a long-term program for the renovation of the North Atlantic Treaty Organization (NATO) nuclear deterrent in a manner designed to reduce pressures for early first use of tactical nuclear weapons and to substantially reduce the theater nuclear arsenal to types and numbers of weapons whose characteristics make for a more stable and credible force. The report (in addition to any other matter covered) should specifically address the following issues:

President of U.S.

(1) Whether NATO should not eliminate its reliance on short-range battlefield nuclear weapons (such as the atomic demolition bomb and 155-millimeter and 8-inch nuclear artillery rounds), the exposure of which to early loss from enemy action promotes pressures for early use.

(2) Whether NATO should not refurbish its nuclear deterrent by designing and deploying specific dedicated nuclear launchers of a range which permits the coverage of all potential targets from locations in the rear of the European NATO territory in the territory of the Warsaw Pact short of the territory of the Soviet Union, thereby reducing pressure from enemy action for early first use of nuclear weapons.

49 Stat. 3000

(3) Whether NATO should not, as a consequence of a change in policy described in paragraph (2), eliminate its inventory of dual-capable nuclear/conventional weapons in order to allow early use of artillery, aircraft, and surface-to-surface missiles for conventional missions rather than causing them to be withheld for possible nuclear use.

(4) Whether NATO should not place control and operation of tactical nuclear weapons in a single specialized command established for that purpose so that all other NATO force elements could be free to concentrate on pursuing conventional military missions with maximum efficiency.

REPORT ON WITHDRAWAL OF TACTICAL NUCLEAR WARHEADS FROM EUROPE

President of U.S. SEC. 1104. The President shall submit a report to Congress not later than 90 days after the final decision is made (based upon the recommendations of the Supreme Allied Commander, Europe) regarding the net reduction to be made by the United States in the number of tactical nuclear warheads in the territory of North Atlantic Treaty Organization European member nations pursuant to the decision of the Nuclear Planning Group of the North Atlantic Treaty Organization of October 17, 1983. The report shall—

(1) specify the types of warheads to be withdrawn in accordance with that decision, the number of each such warhead to be withdrawn, the schedule for the withdrawal, and the rationale for the selection of the particular warheads to be withdrawn; and

(2) any changes in force structure to be made resulting from the changes in the tactical nuclear warheads positioned in Europe.

REPORT ON UNITED STATES COUNTERFORCE CAPABILITY

President of U.S. SEC. 1105. (a) Not later than April 15, 1985, the President shall submit to Congress a report discussing the required strategic counterforce capability consistent with existing United States policy.

Intercontinental ballistic missiles. (b) The report under subsection (a) shall be developed taking into consideration current and proposed United States intercontinental ballistic missiles having an accuracy on the order of the MX missile (including specifically the MX missile, the D-5 Trident missile, and the small single-warhead missile) intended to be procured for United States strategic force modernization and the rationale for the overall counterforce capability that would be attained as a cumulative result of those procurements. The President shall include in the report a specific definition of what United States counterforce capability would constitute a so-called "first-strike capability" against the Soviet Union.

(c) The report shall also include an assessment of corresponding Soviet counterforce and first-strike capabilities.

TRANSMITTAL TO CONGRESS OF REPORT ON SOVIET COMPLIANCE WITH ARMS CONTROL AGREEMENTS

President of U.S. SEC. 1106. (a) Not later than 30 days after the date of the enactment of this Act, the President shall transmit to Congress the text of the report by the General Advisory Committee on Arms Control of the Arms Control and Disarmament Agency entitled "A Quarter

Century of Soviet Compliance Practices Under Arms Control Commitments: 1958-1983 (U)", dated November 1983. If the President determines that that report contains material the release of which to Congress would compromise United States intelligence sources, methods of intelligence gathering, or the national security of the United States, the President may furnish the text of such report after deleting or modifying such compromising material.

Public
information.
Confidentiality.

(b) Not later than 60 days after the date of the enactment of this Act, the President shall transmit to Congress an unclassified version of the report described in subsection (a).

President of U.S.

REPORT ON NUCLEAR WINTER FINDINGS AND POLICY IMPLICATIONS

SEC. 1107. (a) The Secretary of Defense shall participate in any comprehensive study of the atmospheric, climatic, environmental, and biological consequences of nuclear war and the implications that such consequences have for the nuclear weapons strategy and policy, the arms control policy, and the civil defense policy of the United States.

Study.

(b) Not later than March 1, 1985, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives an unclassified report suitable for release to the public, together with classified addenda (if required), concerning the subject described in subsection (a). The Secretary shall include in such report the following:

Public
information.
Confidentiality.

(1) A detailed review and assessment of the current scientific studies and findings on the atmospheric, climatic, environmental, and biological consequences of nuclear explosions and nuclear exchanges.

(2) A thorough evaluation of the implications that such studies and findings have on (A) the nuclear weapons policy of the United States, especially with regard to strategy, targeting, planning, command, control, procurement, and deployment, (B) the nuclear arms control policy of the United States, and (C) the civil defense policy of the United States.

(3) A discussion of the manner in which the results of such evaluation of policy implications will be incorporated into the nuclear weapons, arms control, and civil defense policies of the United States.

(4) An analysis of the extent to which current scientific findings on the consequences of nuclear explosions are being studied, disseminated, and used in the Soviet Union.

SENSE OF THE CONGRESS RELATING TO THE ESTABLISHMENT OF NUCLEAR RISK REDUCTION CENTERS IN THE UNITED STATES AND THE SOVIET UNION

SEC. 1108. (a) The Congress makes the following findings:

(1) An increasing number of scenarios (including misjudgment, miscalculation, misunderstanding, possession of nuclear arms by a terrorist group or a State sponsored threat) could precipitate a sudden increase in tensions and the risk of a nuclear confrontation between the United States and the Soviet Union, situations that neither side anticipates, intends, or desires.

President of U.S.
Communications
and
telecommunica-
tions.

(2) There has been a steady proliferation throughout the world of the knowledge, equipment, and materials necessary to fabricate nuclear weapons.

(3) Such proliferation of nuclear capabilities suggests an increasing potential for nuclear terrorism, the cumulative risk of which, considering potential terrorist groups and other threats over a period of years into the future, may be great.

(4) Current communications links represent equipment of the 1960's and as such are relatively outdated and limited in their capabilities.

(5) The President, responding to congressional initiatives, proposed the establishment of additional and improved communications links between the United States and the Soviet Union and other measures to reduce the risk of nuclear confrontation, and has initiated discussions at a working level with the Soviet Union pertaining to—

(A) the addition of a high speed facsimile capability to the direct communication link (hotline);

(B) the creation of a joint military communications link between the Department of Defense and the Soviet Defense Ministry; and

(C) the establishment by the Governments of the United States and Soviet Union of high-rate data communication links between each nation and its embassy in the other nation's capital.

(6) The establishment of nuclear risk reduction centers in Washington and Moscow could reduce the risk of increased tensions and nuclear confrontations, thereby enhancing the security of both the United States and the Soviet Union.

(7) These centers could serve a variety of functions, including—

(A) discussing procedures to be followed in the event of possible incidents involving the use of nuclear weapons by third parties;

(B) maintaining close contact during nuclear threats or incidents precipitated by third parties;

(C) exchanging information on a voluntary basis concerning events that might lead to the acquisition of nuclear weapons, materials, or equipment by subnational groups;

(D) exchanging information about United States-Union of Soviet Socialist Republics military activities which might be misunderstood by the other party during periods of mounting tensions; and

(E) establishing a dialog about nuclear doctrines, forces, and activities.

(8) The continuing and routine implementation of these various activities could be facilitated by the establishment within each Government of facilities, organizations, and bureaucratic relationships designated for these purposes, such as risk reduction centers, and by the appointment of individuals responsible to the respective head of state with responsibilities to manage such centers.

(b) The Congress—

(1) commends the President for his announced support for the confidence building measures described in subsection (a) and his initiation of negotiations which have occurred; and

(2) urges the President to pursue negotiations on these measures with the Government of the Soviet Union and to add to these negotiations the establishment of nuclear risk reduction centers in both nations to be operated under the direction of the appropriate diplomatic and defense authorities.

SENSE OF CONGRESS REGARDING A REPORT TO CONGRESS ON CERTAIN VERIFICATION PROGRAMS RELATING TO BIOLOGICAL AND CHEMICAL WEAPONS

SEC. 1109. (a) The Congress makes the following findings:

(1) The Iran-Iraq war has recently demonstrated a marked increase in the proliferation of technology on the production of chemical weapons and an increase in the willingness of nations to use such weapons in armed conflict.

Iran-Iraq war.

(2) The President's Report to Congress on Soviet Arms Control Noncompliance concluded that the Soviet Union has refused to respond adequately to United States concerns about the transfer or use by the Soviet Union of lethal chemical warfare agents in Laos, Kampuchea, and Afghanistan and United States concerns about adherence by the Soviet Union to the 1972 Biological and Toxin Weapons Convention.

President of U.S.

(3) Experts at the recent annual meeting of the American Association for the Advancement of Science and at the First World Congress on New Compounds in Biological and Chemical Warfare held at Ghent, Belgium, emphasized that better verification of the use of chemical weapons and of the development of biological and toxin weapons was essential to strengthen the 1972 Biological and Toxin Weapons Convention and the Geneva Protocol of 1925.

26 UST 583.

26 UST 571.

(4) The 1972 Biological and Toxin Weapons Convention is scheduled for review in 1985.

(5) The United States is anxious to promote and strengthen adherence to the Geneva Protocol of 1925 and the 1972 Biological and Chemical Weapons Convention and is vigorously pursuing a comprehensive, verifiable, international agreement to ban chemical weapons.

(6) Any comprehensive agreement intended to ban the production, storage, and transfer of chemical weapons must provide for effective measures of verification and enforcement and in order for the 1972 Biological and Toxin Weapons Convention to be effective, compliance with the terms of the convention must be verifiable; and

(7) The Congress must be well informed regarding existing and planned programs for verifying compliance with the 1972 Biological and Toxin Weapons Convention and with a chemical weapons ban agreement.

(b) It is the sense of Congress that the President should submit to the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate and to the Committee on Foreign Affairs and the Permanent Select Committee on Intelligence of the House of Representatives a comprehensive report identifying and evaluating—

(1) existing and planned programs to support verification requirements necessary to determine compliance with the 1972 Biological and Toxin Weapons Convention and a chemical weapons ban; and

26 UST 583.

(2) the budget resources necessary to support verification requirements necessary to determine compliance with the 1972 Biological and Toxin Weapons Convention and a chemical weapons ban.

(c) The President is requested to submit the report referred to in subsection (b) to the committees referred to in such subsection not later than December 31, 1984.

SENSE OF CONGRESS EXPRESSING SUPPORT FOR UNITED STATES TO
PURSUE OUTSTANDING ARMS CONTROL COMPLIANCE

SEC. 1110. (a) The Congress makes the following findings:

(1) It is a vital security objective of the United States to limit the Soviet nuclear threat against the United States and its allies.

President of U.S.

(2) The President has declared that "as for existing strategic arms agreements, we will refrain from actions which undercut them so long as the Soviet Union shows equal restraint".

(3) The United States has legitimate concerns about certain Soviet actions and behavior relevant to limitations and other provisions of existing strategic arms agreements.

President of U.S.

(4) The President has declared that "the United States will continue to press compliance issues with the Soviet Union through diplomatic channels, and to insist upon explanations, clarifications, and corrective actions".

(5) The President has also declared that "the United States is continuing to carry out its obligations under relevant agreements".

(6) It would be detrimental to the security interests of the United States and its allies and to international peace and stability for the last remaining limitations on strategic offensive nuclear weapons to break down or lapse before replacement by a new strategic arms control agreement between the United States and the Soviet Union.

(7) The continuation of existing restraints on strategic offensive nuclear arms would provide an atmosphere more conducive to achieving an agreement significantly reducing the levels of nuclear arms.

(8) The Soviet Union has not agreed to a date for resumption of the nuclear arms talks in Geneva, and it is incumbent on the Soviet Union to return to the negotiating table.

(9) A termination of existing restraints on strategic offensive nuclear weapons could make the resumption of negotiations more difficult.

(10) Both sides have, to date, abided by important numerical and other limits contained in existing strategic offensive arms agreements, including dismantling operational missile-firing submarines and remaining within the ceilings on multiple-warhead missile launchers and other related limits.

(11) It is in the interest of the United States and its allies for the Soviet Union to continue to dismantle older missile-firing submarines as new ones are deployed and to continue to remain at or below a level of 820 launchers of intercontinental ballistic missiles with multiple independently targeted reentry vehicles, 1,200 launchers of intercontinental ballistic missiles with multiple independently targeted reentry vehicles and submarine launched ballistic missiles, and 1,320 launchers of interconti-

mental ballistic missiles with multiple independently targeted reentry vehicles and submarine launched ballistic missiles and heavy bombers equipped with air launched cruise missiles, and other related limits in existing strategic offensive arms agreements.

(b) In view of these findings, it is the sense of Congress that—

(1) the United States should vigorously pursue with the Soviet Union the resolution of concerns over compliance with existing strategic and other arms control agreements and should seek corrective actions, where appropriate, through the Standing Consultative Commission and other available diplomatic channels;

(2) the United States should, through December 31, 1985, continue to pursue its stated policy to refrain from undercutting the provisions of existing strategic offensive arms agreements so long as the Soviet Union refrains from undercutting the provisions of those agreements, or until a new strategic offensive arms agreement is concluded;

(3) the President should provide a report to the Congress in both classified and unclassified forms reflecting additional findings regarding Soviet adherence to such a no-undercut policy, by February 15, 1985;

(4) the President shall provide to Congress on or before June 1, 1985, a report that—

(A) describes the implications of the United States Ship Alaska's sea trials, both with and without the concurrent dismantling of older launchers of missiles with multiple independently targeted reentry vehicles, for the current United States no-undercut policy on strategic arms and United States security interests more generally;

(B) assesses possible Soviet political, military, and negotiating responses to the termination of the United States no-undercut policy;

(C) reviews and assesses Soviet activities with respect to existing strategic offensive arms agreements; and

(D) makes recommendations regarding the future of United States interim restraint policy; and

(5) the President should carefully consider the impact of any change to this current policy regarding existing strategic offensive arms agreements on the long-term security interests of the United States and its allies and should consult with the Congress before making any change in current policy.

President of U.S.
Report.
Confidentiality.

President of U.S.
Report.

POLICY ON THE STATUS OF CERTAIN TREATIES TO PREVENT NUCLEAR TESTING

SEC. 1111. (a) The Senate makes the following findings:

(1) The United States is committed in the Limited Test Ban Treaty of 1963 and in the Non-Proliferation Treaty of 1968 to seek to achieve the discontinuance of all test explosions of nuclear weapons for all time.

(2) A comprehensive test ban treaty would promote the security of the United States by constraining the United States-Soviet nuclear arms competition and by strengthening efforts to prevent the proliferation of nuclear weapons.

(3) The Threshold Test Ban Treaty was signed in 1974 and the Peaceful Nuclear Explosions Treaty was signed in 1976, and

14 UST 1313.
21 UST 483.

both have yet to be considered by the full Senate for its advice and consent to ratification.

(4) The entry into force of the Peaceful Nuclear Explosions Treaty and the Threshold Test Ban Treaty will ensure full implementation of significant new verification procedures and so make completion of a comprehensive test ban treaty more probable.

(5) A comprehensive test ban treaty must be adequately verifiable, and significant progress has been made in methods for detection of underground nuclear explosions by seismological and other means.

(6) At present, negotiations are not being pursued by the United States and the Soviet Union toward completion of a comprehensive test ban treaty.

(7) The past five administrations have supported the achievement of a comprehensive test ban treaty.

President of U.S.
Report.

(b) It is the sense of the Senate that at the earliest possible date, the President should—

(1) request advice and consent of the Senate to ratification (with a report containing any plans the President may have to negotiate supplemental verification procedures, or if the President believes it necessary, any understanding or reservation on the subject of verification which should be attached to the treaty) of the Threshold Test Ban and Peaceful Nuclear Explosions Treaties, signed in 1974 and 1976, respectively; and

(2) propose to the Soviet Union the immediate resumption of negotiations toward conclusion of a verifiable comprehensive test ban treaty.

(c) In accordance with international law, the United States shall have no obligation to comply with any bilateral arms control agreement with the Soviet Union that the Soviet Union is violating.

Defense
Procurement
Reform Act of
1984.

TITLE XII—PROCUREMENT POLICY REFORM AND OTHER PROCUREMENT MATTERS

PART A—SHORT TITLE AND CONGRESSIONAL FINDINGS

SHORT TITLE

10 USC 2301
note.

SEC. 1201. This title may be cited as the “Defense Procurement Reform Act of 1984”.

CONGRESSIONAL FINDINGS AND POLICY

Contracts.
10 USC 2301
note.

SEC. 1202. The Congress finds that recent disclosures of excessive payments by the Department of Defense for replenishment parts have undermined confidence by the public and Congress in the defense procurement system. The Secretary of Defense should make every effort to reform procurement practices relating to replenishment parts. Such efforts should, among other matters, be directed to the elimination of excessive pricing of replenishment spare parts and the recovery of unjustified payments. Specifically, the Secretary should—

(1) direct that officials in the Department of Defense refuse to enter into contracts unless the proposed prices are fair and reasonable;

(2) continue and accelerate ongoing efforts to improve defense contracting procedures in order to encourage effective competition and assure fair and reasonable prices;

(3) direct that replenishment parts be acquired in economic order quantities and on a multiyear basis whenever feasible, practicable, and cost effective;

(4) direct that standard or commercial parts be used whenever such use is technically acceptable and cost effective;

(5) vigorously continue reexamination of policies relating to acquisition, pricing, and management of replenishment parts and of technical data related to such parts; and

(6) ensure that persons that have developed products or processes offered or to be offered for sale to the public are not required, as a condition for the procurement of such products or processes by the Department of Defense, to provide to the United States technical data relating to the design, development, or manufacture of such products or processes (except for such data as may be necessary for the United States to operate and maintain the product or use the process if obtained by the United States as an element of performance under the contract).

PART B—AMENDMENTS TO CHAPTER 137 OF TITLE 10, UNITED STATES CODE

DEFINITIONS

SEC. 1211. Section 2302 of title 10, United States Code, is amended by adding at the end thereof the following new paragraphs:

“(4) ‘Technical data’ means recorded information (regardless of the form or method of the recording) of a scientific or technical nature (including computer software documentation) relating to supplies procured by an agency. Such term does not include computer software or financial, administrative, cost or pricing, or management data or other information incidental to contract administration.

“(5) ‘Major system’ means a combination of elements that will function together to produce the capabilities required to fulfill a mission need. The elements may include hardware, equipment, software or any combination thereof, but excludes construction or other improvements to real property. A system shall be considered a major system if (A) the Department of Defense is responsible for the system and the total expenditures for research, development, test, and evaluation for the system are estimated to be more than \$75,000,000 (based on fiscal year 1980 constant dollars) or the eventual total expenditure for procurement of more than \$300,000,000 (based on fiscal year 1980 constant dollars); (B) a civilian agency is responsible for the system and total expenditures for the system are estimated to exceed \$750,000 (based on fiscal year 1980 constant dollars) or the dollar threshold for a ‘major system’ established by the agency pursuant to Office of Management and Budget (OMB) Circular A-109, entitled ‘Major Systems Acquisitions’, whichever is greater; or (C) the system is designated a ‘major system’ by the head of the agency responsible for the system.”.

PUBLICATION OF PROPOSED REGULATIONS

SEC. 1212. (a) Chapter 137 of title 10, United States Code, is amended by inserting after section 2303 the following new section:

Effective date.
Federal
Register,
publication.
Post, p. 3077.
10 USC 2303a.

“§ 2303a. Publication of proposed regulations

“(a) Except as provided in subsection (d), a procurement policy, regulation, procedure, or form (including amendments or modification thereto) that (1) has a significant effect beyond the internal operating procedures of the agency issuing the procurement policy, regulation, procedure, or form, or (2) has a significant cost or administrative impact on contractors or offerors may not take effect until 30 days after the procurement policy, regulation, procedure, or form is published for public comment in the Federal Register pursuant to subsection (b).

“(b) Subject to subsection (c), the head of the agency shall cause to be published in the Federal Register a notice of the proposed procurement policy, regulation, procedure, or form and provide for a public comment period for receiving and considering the views of all interested parties on such proposal. The length of such comment period may not be less than 30 days.

“(c) Any notice of a proposed procurement policy, regulation, procedure, or form prepared for publication in the Federal Register shall include—

“(1) in a format required for publication in the Federal Register, the text of the proposal or, if it is impracticable to publish the full text of the proposal, a summary of the proposal and a statement specifying the name and address of the officer or employee of the executive agency from whom the full text may be obtained; and

“(2) a request for interested parties to submit comments on the proposal and shall include the name and address of the officer or employee of the Government designated to receive such comments.

“(d)(1) The requirements of subsections (a) and (b) may be waived by the officer of the agency authorized to issue a procurement policy, regulation, procedure, or form if circumstances make compliance with such requirements impracticable.

“(2) A procurement policy, regulation, procedure, or form with respect to which the requirements of subsections (a) and (b) are waived under paragraph (1) shall be effective on a temporary basis if—

“(A) a notice of such procurement policy, regulation, procedure, or form is published in the Federal Register and includes a statement that the procurement policy, regulation, procedure, or form is temporary; and

“(B) provision is made for a public comment period of 30 days beginning on the date on which the notice is published.

After considering the comments received, the head of the agency waiving the requirements of subsections (a) and (b) under paragraph (1) may issue the final procurement policy, regulation, procedure, or form.”.

(b) The amendment made by subsection (a) shall take effect with respect to procurement policies, regulations, procedures, or forms first proposed to be issued by an agency on or after the date which is 30 days after the date of enactment of this Act.

Effective date.
10 USC 2303a
note.

PLANNING FOR PROCUREMENT OF SUPPLIES AND FOR FUTURE
COMPETITION

SEC. 1213. (a) Section 2305 of title 10, United States Code, is amended by adding at the end thereof the following new subsections: Contracts.

“(c) The Secretary of Defense shall ensure that before a contract for the delivery of supplies to the Department of Defense is entered into—

“(1) when the appropriate officials of the Department are making an assessment of the most advantageous source for acquisition of the supplies (considering quality, price, delivery, and other factors), there is a review of the availability and cost of each item of supply—

“(A) through the supply system of the Department of Defense; and

“(B) under standard Government supply contracts, if the item is in a category of supplies defined under regulations of the Secretary of Defense as being potentially available under a standard Government supply contract; and

“(2) there is a review of both the procurement history of the item and a description of the item, including, when necessary for an adequate description of the item, a picture, drawing, diagram, or other graphic representation of the item.

“(d)(1)(A) The Secretary of Defense shall ensure that, in preparing a solicitation for the award of a development contract for a major system, the head of an agency consider requiring in the solicitation that an offeror include in its offer proposals described in subparagraph (B). In determining whether to require such proposals, the head of the agency shall give due consideration to the purposes for which the system is being procured and the technology necessary to meet the system's required capabilities. If such proposals are required, the head of the agency shall consider them in evaluating the offeror's price.

“(B) The proposals that the head of an agency is to consider requiring in a solicitation for the award of a development contract are the following:

“(i) Proposals to incorporate in the design of the major system items which are currently available within the supply system of the Federal agency responsible for the major system, available elsewhere in the national supply system, or commercially available from more than one source.

“(ii) With respect to items that are likely to be required in substantial quantities during the system's service life, proposals to incorporate in the design of the major system items which the United States will be able to acquire competitively in the future.

“(2)(A) The Secretary of Defense shall ensure that, in preparing a solicitation for the award of a production contract for a major system, the head of an agency consider requiring in the solicitation that an offeror include in its offer proposals described in subparagraph (B). In determining whether to require such proposals, the head of the agency shall give due consideration to the purposes for which the system is being procured and the technology necessary to meet the system's required capabilities. If such proposals are required, the head of the agency shall consider them in evaluating the offeror's price.

“(B) The proposals that the head of an agency is to consider requiring in a solicitation for the award of a production contract are proposals identifying opportunities to ensure that the United States will be able to obtain on a competitive basis items procured in connection with the system that are likely to be reprocurd in substantial quantities during the service life of the system. Proposals submitted in response to such requirement may include the following:

“(i) Proposals to provide to the United States the right to use technical data to be provided under the contract for competitive reprourement of the item, together with the cost to the United States, if any, of acquiring such technical data and the right to use such data.

“(ii) Proposals for the qualification or development of multiple sources of supply for the item.

“(3) If the head of an agency is making a noncompetitive award of a development contract or a production contract for a major system, the factors specified in paragraphs (1) and (2) to be considered in evaluating an offer for a contract may be considered as objectives in negotiating the contract to be awarded.”.

(b) The amendment made by subsection (a) shall take effect at the end of the 180-day period beginning on the date of the enactment of this Act.

Effective date.
10 USC 2305
note.

DELEGATION OF CERTAIN PROCUREMENT FUNCTIONS

Contracts.
Ante, p. 1194.

SEC. 1214. Section 2311 of title 10, United States Code, is amended—

(1) by inserting “(a)” before “Except as provided in”; and
(2) by adding at the end thereof the following new subsection:

“(b)(1) The head of a procuring activity of an agency named in section 2303 of this title may delegate (subject to his direction) to any general or flag officer, to any civilian officer or employee serving in a position in grade GS-16 or above under the General Schedule (or in a comparable or higher position under another schedule), or to the head of a contracting office any authority of the head of the procuring activity to enter into a contract (or to approve the authority to enter into a contract) that is a sole-source contract or that results from an unsolicited proposal.

5 USC 5332.

“(2) Any report required to be submitted by the head of an agency to Congress concerning contracts (or negotiations for contracts) above a certain dollar threshold that are sole-source contracts or that result from unsolicited proposals and that are entered into without the approval of certain officials of the procuring activity concerned need not specify a contract or negotiation above the stated amount if the head of the procuring activity, his deputy, or a person to whom authority was delegated under paragraph (1) approved the authority to enter into the contract.”.

PERSONNEL EVALUATIONS TO INCLUDE EMPHASIS ON COMPETITION AND COST SAVINGS

SEC. 1215. Chapter 137 of title 10, United States Code, is amended by adding at the end thereof the following new section:

“§ 2317. Encouragement of competition and cost savings

10 USC 2317.

“The Secretary of Defense shall establish procedures to ensure that personnel appraisal systems of the Department of Defense give appropriate recognition to efforts to increase competition and achieve cost savings in areas relating to contracts covered by this chapter.”.

IMPROVED PROCUREMENT PROCEDURES

SEC. 1216. (a) Chapter 137 of title 10, United States Code, is amended by adding after section 2317 (as added by section 1215 of this Act) the following new sections:

“§ 2318. Advocates for competition

10 USC 2318.

“(a)(1) In addition to the advocates for competition established or designated pursuant to section 20(a) of the Office of Federal Procurement Policy Act, the Secretary of Defense shall designate an officer or employee of the Defense Logistics Agency to serve as the advocate for competition of the agency.

Ante, p. 1195.

“(2) The advocate for competition of the Defense Logistics Agency shall carry out the responsibilities and functions provided for in sections 20(b) and 20(c) of the Office of Federal Procurement Policy Act.

“(b) Each advocate for competition of an agency named in section 2303(a) of this title shall be a general or flag officer if a member of the armed forces or a grade GS-16 or above under the General Schedule (or in a comparable or higher position under another schedule), if a civilian employee and shall be designated to serve for a minimum of two years.

5 USC 5332.

“(c) Each advocate for competition of an agency of the Department of Defense shall transmit to the Secretary of Defense a report describing his activities during the preceding year. The report of each advocate for competition shall be included in the annual report of the Secretary of Defense required by section 21 of the Office of Federal Procurement Policy Act, in the form in which it was submitted to the Secretary.

Report.

Ante, p. 1195.**“§ 2319. Encouragement of new competitors**Contracts.
10 USC 2319.

“(a) In this section, ‘qualification requirement’ means a requirement for testing or other quality assurance demonstration that must be completed by an offeror before award of a contract.

“(b) Except as provided in subsection (c), the head of the agency shall, before establishing a qualification requirement—

“(1) prepare a written justification stating the necessity for establishing the qualification requirement and specify why the qualification requirement must be demonstrated before contract award;

“(2) specify in writing and make available to a potential offeror upon request all requirements which a prospective offeror, or its product, must satisfy in order to become qualified, such requirements to be limited to those least restrictive to meet the purposes necessitating the establishment of the qualification requirement;

“(3) specify an estimate of the costs of testing and evaluation likely to be incurred by a potential offeror in order to become qualified;

“(4) ensure that a potential offeror is provided, upon request and on a reimbursable basis, a prompt opportunity to demonstrate its ability to meet the standards specified for qualification

using qualified personnel and facilities of the agency concerned or of another agency obtained through interagency agreement, or under contract, or other methods approved by the agency (including use of approved testing and evaluation services not provided under contract to the agency);

“(5) if testing and evaluation services are provided under contract to the agency for the purposes of clause (4), provide to the extent possible that such services be provided by a contractor who is not expected to benefit from an absence of additional qualified sources and who shall be required in such contract to adhere to any restriction on technical data asserted by the potential offeror seeking qualification; and

“(6) ensure that a potential offeror seeking qualification is promptly informed as to whether qualification is attained and, in the event qualification is not attained, is promptly furnished specific information why qualification was not attained.

“(c)(1) Subsection (b) of this section does not apply with respect to a qualification requirement established by statute or administrative action before the date of the enactment of the Defense Procurement Reform Act of 1984 unless such requirement is a qualified products list.

Ante, p. 2588.

Waiver.

“(2)(A) Except as provided in subparagraph (B), if it is unreasonable to specify the standards for qualification which a prospective offeror or its product must satisfy, a determination to that effect shall be submitted to the advocate for competition of the procuring activity responsible for the purchase of the item subject to the qualification requirement. After considering any comments of the advocate for competition reviewing such determination, the head of the purchasing office may waive the requirements of clauses (2) through (6) of subsection (b) for up to two years with respect to the item subject to the qualification requirement.

“(B) The waiver authority provided in this paragraph does not apply with respect to a qualified products list.

“(3) A potential offeror may not be denied the opportunity to submit and have considered an offer for a contract solely because the potential offeror (A) is not on a qualified bidders list, qualified manufacturers list, or qualified products list, or (B) has not been identified as meeting a qualification requirement established after the date of the enactment of the Defense Procurement Reform Act of 1984 if the potential offeror can demonstrate to the satisfaction of the contracting officer that the potential offeror or its product meets the standards established for qualification or can meet such standards before the date specified for award of the contract.

“(4) Nothing contained in this subsection requires the referral of an offer to the Small Business Administration pursuant to section 8(b)(7) of the Small Business Act if the basis for the referral is a challenge by the offeror to either the validity of the qualification requirement or the offeror's compliance with such requirement.

15 USC 637.

“(5) The head of an agency need not delay a proposed procurement in order to comply with subsection (b) or in order to provide a potential offeror with an opportunity to demonstrate its ability to meet the standards specified for qualification.

“(6) The requirements of subsection (b) also apply before enforcement of any qualified products list, qualified manufacturers list, or qualified bidders list.

“(d)(1) If the number of qualified sources or qualified products available to compete actively for an anticipated future requirement is fewer than two actual manufacturers or the products of two actual manufacturers, respectively, the head of the agency concerned shall—

“(A) periodically publish notice in the Commerce Business Daily soliciting additional sources or products to seek qualification, unless the contracting officer determines that such publication would compromise national security; and

“(B) bear the cost of conducting the specified testing and evaluation (excluding the costs associated with producing the item or establishing the production, quality control, or other system to be tested and evaluated) for a small business concern or a product manufactured by a small business concern which has met the standards specified for qualification and which could reasonably be expected to compete for a contract for that requirement, but such costs may be borne only if the head of the agency determines that such additional qualified sources or products are likely to result in cost savings from increased competition for future requirements sufficient to amortize the costs incurred by the agency within a reasonable period of time considering the duration and dollar value of anticipated future requirements.

“(2) The head of an agency shall require a prospective contractor requesting the United States to bear testing and evaluation costs under paragraph (1)(B) to certify as to its status as a small business concern under section 3 of the Small Business Act.

15 USC 632.

“(e) Within seven years after the establishment of a qualification requirement under subsection (b) or within seven years following an agency's enforcement of a qualified products list, qualified manufacturers list, or qualified bidders list, any such qualification requirement shall be examined and revalidated in accordance with the requirements of subsection (b). The preceding sentence does not apply in the case of a qualification requirement for which a waiver is in effect under subsection (c)(2).

“(f) Except in an emergency as determined by the head of the agency, whenever the head of the agency determines not to enforce a qualification requirement for a solicitation, the agency may not thereafter enforce that qualification requirement unless the agency complies with the requirements of subsection (b).

“§ 2320. Rights in technical data

Contracts.
Regulations.
10 USC 2320.

“(a) The legitimate proprietary interest of the United States and of a contractor in technical or other data shall be defined in regulations prescribed as part of the single system of Government-wide procurement regulations as defined in section 4(4) of the Office of Federal Procurement Policy Act. Such regulations may not impair any right of the United States or of any contractor with respect to patents or copyrights or any other right in technical data otherwise established by law. The following factors shall be considered in prescribing such regulations:

Ante, p. 1195.
Patents and
trademarks.
Copyrights.

“(1) Whether the technical data was developed—

“(A) exclusively with Federal funds;

“(B) exclusively at private expense; or

“(C) in part with Federal funds and in part at private expense.

35 USC 200.

“(2) The statement of congressional policy and objectives in section 200 of title 35, the statement of purposes in section 2(b) of the Small Business Innovation Development Act of 1982 (Public Law 97-219; 15 U.S.C. 638 note), and the declaration of policy in section 2 of the Small Business Act (15 U.S.C. 631).

“(3) The interest of the United States in increasing competition and lowering costs by developing and locating alternative sources of supply and manufacture.

Ante, p. 2588.

“(4) The policy set forth in section 1202(6) of the Defense Procurement Reform Act of 1984.

10 USC 2303.

“(b) Regulations prescribed under subsection (a) shall require that, whenever practicable, a contract for supplies or services entered into by an agency named in section 2303 of this title contain appropriate provisions relating to technical data, including provisions—

“(1) defining the respective rights of the United States and the contractor or subcontractor (at any tier) regarding any technical data to be delivered under the contract;

“(2) specifying the technical data, if any, to be delivered under the contract and delivery schedules for such delivery;

“(3) establishing or referencing procedures for determining the acceptability of technical data to be delivered under the contract;

“(4) establishing separate contract line items for the technical data, if any, to be delivered under the contract;

“(5) to the maximum practicable extent, identifying, in advance of delivery, technical data which is to be delivered with restrictions on the right of the United States to use such data;

“(6) requiring the contractor to revise any technical data delivered under the contract to reflect engineering design changes made during the performance of the contract and affecting the form, fit, and function of the items specified in the contract and to deliver such revised technical data to an agency within a time specified in the contract;

“(7) requiring the contractor to furnish written assurance at the time the technical data is delivered or is made available that the technical data is complete and accurate and satisfies the requirements of the contract concerning technical data;

“(8) establishing remedies to be available to the United States when technical data required to be delivered or made available under the contract is found to be incomplete or inadequate or to not satisfy the requirements of the contract concerning technical data; and

“(9) authorizing the head of the agency to withhold payments under the contract (or exercise such other remedies as the head of the agency considers appropriate) during any period if the contractor does not meet the requirements of the contract pertaining to the delivery of technical data.

Ante, p. 2591.

“(c) Nothing in this section or in section 2305(d) of this title prohibits the Secretary of Defense from prescribing standards for determining whether a contract entered into by the Department of Defense shall provide for a time to be specified in the contract after which the United States shall have the right to use (or have used) for any purpose of the United States all technical data required to be delivered to the United States under the contract or providing for such a period of time (not to exceed 7 years) as a negotiation objective.

“(d) The Secretary of Defense shall by regulation establish programs which provide domestic business concerns an opportunity to purchase or borrow replenishment parts from the United States for the purpose of design replication or modification, to be used by such concerns in the submission of subsequent offers to sell the same or like parts to the United States. Nothing in this subsection limits the authority of the head of an agency to impose restrictions on such a program related to national security considerations, inventory needs of the United States, the improbability of future purchases of the same or like parts, or any additional restriction otherwise required by law.

Business and
industry.

“§ 2321. Validation of proprietary data restrictions

Contracts.
10 USC 2321.

“(a) A contract for supplies or services entered into by the Department of Defense which provides for the delivery of technical data shall provide that—

“(1) a contractor or subcontractor at any tier shall be prepared to furnish to the contracting officer a written justification for any restriction asserted by the contractor or subcontractor on the right of the United States to use such technical data; and

“(2) the contracting officer may review the validity of any restriction asserted by the contractor or by a subcontractor under the contract on the right of the United States to use technical data furnished to the United States under the contract if the contracting officer determines that reasonable grounds exist to question the current validity of the asserted restriction and that the continued adherence to the asserted restriction by the United States would make it impracticable to procure the item competitively at a later time.

“(b) If after such review the contracting officer determines that a challenge to the asserted restriction is warranted, the contracting officer shall provide written notice to the contractor or subcontractor asserting the restriction. Such notice shall—

“(1) state the grounds for challenging the asserted restriction; and

“(2) require a response within 60 days justifying the current validity of the asserted restriction.

“(c) If a contractor or subcontractor asserting a restriction subject to this section submits to the contracting officer a written request, showing the need for additional time to comply with the requirement to justify the current validity of the asserted restriction, additional time to adequately permit the submission of such justification shall be provided by the contracting officer as appropriate. If a party asserting a restriction receives notices of challenges to restrictions on technical data from more than one contracting officer, and notifies each contracting officer of the existence of more than one challenge, the contracting officer initiating the first in time challenge, after consultation with the party asserting the restriction and the other contracting officers, shall formulate a schedule of responses to each of the challenges that will afford the party asserting the restriction with an equitable opportunity to respond to each such challenge.

“(d)(1) Upon a failure by the contractor or subcontractor to submit any response under subsection (b), the contracting officer shall issue a decision pertaining to the validity of the asserted restriction.

“(2) After review of any justification submitted in response to the notice provided pursuant to subsection (b), the contracting officer

shall, within 60 days of receipt of any justification submitted, issue a decision or notify the party asserting the restriction of the time within which a decision will be issued.

Claims.

“(e) If a claim pertaining to the validity of the asserted restriction is submitted in writing to a contracting officer by a contractor or subcontractor at any tier, such claim shall be considered a claim within the meaning of the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.).

“(f)(1) If, upon final disposition, the contracting officer’s challenge to the restriction on the right of the United States to use such technical data is sustained—

“(A) the restriction on the right of the United States to use the technical data shall be cancelled; and

“(B) if the asserted restriction is found not to be substantially justified, the contractor or subcontractor, as appropriate, shall be liable to the United States for payment of the cost to the United States of reviewing the asserted restriction and the fees and other expenses (as defined in section 2412(d)(2)(A) of title 28) incurred by the United States in challenging the asserted restriction, unless special circumstances would make such payment unjust.

“(2) If, upon final disposition, the contracting officer’s challenge to the restriction on the right of the United States to use such technical data is not sustained—

“(A) the United States shall continue to be bound by the restriction; and

“(B) the United States shall be liable for payment to the party asserting the restriction for fees and other expenses (as defined in section 2412(d)(2)(A) of title 28) incurred by the party asserting the restriction in defending the asserted restriction if the challenge by the United States is found not to be made in good faith.

10 USC 2322.

“§ 2322. Limitation on small business set-asides

“(a) The head of an agency may not authorize a procurement to be set-aside for participation only by small business concerns in the case of a procurement under the Foreign Military Sales Program, if the foreign purchaser specifies the sources qualified to meet the requirement and only one of those sources is a small business concern.

Expiration date.

“(b) This section expires two years after the effective date of this section.

10 USC 2323.

“§ 2323. Commercial pricing for supplies

“(a) Except in the case of an offer submitted with a written statement under subsection (b)(2) and except as provided in subsection (c), a contract entered into using other than competitive procedures by an agency named in section 2303(a) of this title for the purchase of items that are offered for sale to the public may not result in a price to the United States that exceeds the lowest price at which such items are sold by the contractor to the public.

“(b) A person who submits an offer to such an agency for the supply of items that it offers for sale to the public (1) shall certify in the offer that the price offered is not more than its lowest commercial price for the items, or (2) shall submit with the offer a written

statement specifying the amount of the difference between its lowest commercial price for the items and the price offered and providing a justification for that difference.

“(c) Subsections (a) and (b) do not apply to a contract if the contracting officer determines that the use of the price otherwise required by subsection (a) for such contract is not appropriate because of—

“(1) national security considerations; or

“(2) differences in quantities, quality, delivery, or other terms and conditions of the contract from commercial contract terms.”.

(b) Within 60 days after the date the regulations required by section 2320(a) of title 10, United States Code (as added by subsection (a)), are prescribed, the Secretary of Defense, the Administrator of General Services, and the Administrator of the National Aeronautics and Space Administration shall submit to Congress a joint report describing in detail how those regulations give consideration to the factors specified for consideration in that subsection.

Ante, p. 2593.

(c)(1) Section 2318 of title 10, United States Code (as added by subsection (a)), shall take effect on April 1, 1985.

Effective dates.
10 USC 2318
note.
10 USC 2319
note.

(2) Sections 2319, 2320, and 2321 of title 10, United States Code (as added by subsection (a)), shall apply with respect to solicitations issued after the end of the one-year period beginning on the date of the enactment of this Act.

(3) Section 2322 of title 10, United States Code (as added by subsection (a)), shall take effect at the end of the 90-day period beginning on the date of the enactment of this Act.

10 USC 2322
note.

(4) Section 2323 of title 10, United States Code (as added by subsection (a)), shall take effect at the end of the 180-day period beginning on the date of the enactment of this Act.

10 USC 2323
note.

CLERICAL AMENDMENTS

SEC. 1217. The table of sections at the beginning of chapter 137 of title 10, United States Code, is amended—

(1) by inserting after the item relating to section 2303 the following new item:

“2303a. Publication of proposed regulations.”; and

(2) by adding at the end thereof the following new items:

“2317. Encouragement of competition and cost savings.

“2318. Advocates for competition.

“2319. Encouragement of new competition.

“2320. Rights in technical data.

“2321. Validation of proprietary data restrictions.

“2322. Limitation on small business set-asides.

“2323. Commercial pricing for supplies.”.

PART C—AMENDMENTS TO CHAPTER 141 OF TITLE 10, UNITED STATES CODE

IDENTIFICATION OF SOURCES OF SUPPLIES

SEC. 1231. (a) Section 2384 of title 10, United States Code, is amended to read as follows:

Contracts	<p>“§ 2384. Supplies: identification of supplier and sources</p> <p>“(a) The Secretary of Defense shall require that the contractor under a contract with the Department of Defense for the furnishing of supplies to the United States shall mark or otherwise identify supplies furnished under the contract with the identity of the contractor, the national stock number for the supplies furnished (if there is such a number), and the contractor’s identification number for the supplies.</p>
Regulations.	<p>“(b) The Secretary of Defense shall prescribe regulations requiring that, whenever practicable, each contract requiring the delivery of supplies shall require that the contractor identify—</p> <p>“(1) the actual manufacturer or producer of the item or of all sources of supply of the contractor for that item;</p> <p>“(2) the national stock number of the item (if there is such a number) and the identification number of the actual manufacturer or producer of the item or of each source of supply of the contractor for the item; and</p> <p>“(3) the source of any technical data delivered under the contract.</p> <p>“(c) Identification of supplies and technical data under this section shall be made in the manner and with respect to the supplies prescribed by the Secretary of Defense.”.</p>
Effective date. 10 USC 2384 note.	<p>(b) The amendment made by subsection (a) shall take effect at the end of the one-year period beginning on the date of the enactment of this Act.</p>

REVISION OF LONG-TERM LEASE OR CHARTER AUTHORITY

97 Stat. 679.	<p>SEC. 1232. (a)(1) Subsection (c) of section 2401 of title 10, United States Code, is amended—</p> <p>(A) by inserting “(1)” after “(c)”; (B) by redesignating clauses (1) and (2) as clauses (A) and (B), respectively; and (C) by adding at the end thereof the following new paragraph:</p>
97 Stat. 614.	<p>“(2) Funds appropriated to the Department of Defense pursuant to an authorization contained in the Department of Defense Authorization Act, 1984 (Public Law 98-94), or in any other law enacted after September 24, 1983, may not be used to indemnify any person under the terms of a contract entered into under this section—</p> <p>“(A) for any amount paid or due by any person to the United States for any liability arising under the Internal Revenue Code of 1954; or</p>
26 USC 1 <i>et seq.</i>	<p>“(B) to pay any attorneys’ fees in connection with such contract.”.</p>
10 USC 2401 note.	<p>(2) Subsection (f) of such section is amended by striking out the second sentence. The guidelines required to be issued under that subsection shall be issued not later than October 31, 1984.</p> <p>(b) Section 1202(c)(1) of the Department of Defense Authorization Act, 1984 (Public Law 98-94; 97 Stat. 681), is amended by striking out “fiscal year 1985,” and inserting in lieu thereof “each of fiscal years 1985, 1986, and 1987,”.</p>

ECONOMIC ORDER QUANTITIES

SEC. 1233. (a) Chapter 141 of title 10, United States Code, is amended by inserting after section 2384 the following new section:

“§ 2384a. Supplies: economic order quantities

10 USC 2384a.

“(a)(1) An agency referred to in section 2303(a) of this title shall procure supplies in such quantity as (A) will result in the total cost and unit cost most advantageous to the United States, where practicable, and (B) does not exceed the quantity reasonably expected to be required by the agency.

“(2) The Secretary of Defense shall take paragraph (1) into account in approving rates of obligation of appropriations under section 2204 of this title.

“(b) Each solicitation for a contract for supplies shall, if practicable, include a provision inviting each offeror responding to the solicitation to state an opinion on whether the quantity of the supplies proposed to be procured is economically advantageous to the United States and, if applicable, to recommend a quantity or quantities which would be more economically advantageous to the United States. Each such recommendation shall include a quotation of the total price and the unit price for supplies procured in each recommended quantity.”.

(b) The amendment made by subsection (a) shall take effect at the end of the 180-day period beginning on the date of the enactment of this Act.

Effective date.
10 USC 2384a
note.

ADDITIONAL MISCELLANEOUS PROCUREMENT PROVISIONS

SEC. 1234. (a) Chapter 141 of title 10, United States Code, as amended by section 1005, is amended by adding at the end thereof the following new sections:

“§ 2402. Prohibition of contractors limiting subcontractor sales directly to the United States

10 USC 2402.

“(a) Each contract for the purchase of supplies or services made by the Department of Defense shall provide that the contractor will not—

“(1) enter into any agreement with a subcontractor under the contract that has the effect of unreasonably restricting sales by the subcontractor directly to the United States of any item or process (including computer software) made or furnished by the subcontractor under the contract (or any follow-on production contract); or

“(2) otherwise act to restrict unreasonably the ability of a subcontractor to make sales to the United States described in clause (1).

“(b) This section does not prohibit a contractor from asserting rights it otherwise has under law.

“§ 2403. Major weapon systems: contractor guarantees

10 USC 2403.

“(a) In this section:

“(1) ‘Weapon system’ means items that can be used directly by the armed forces to carry out combat missions and that cost more than \$100,000 or for which the eventual total procurement cost is more than \$10,000,000. Such term does not include commercial items sold in substantial quantities to the general public.

“(2) ‘Prime contractor’ means a party that enters into an agreement directly with the United States to furnish part or all of a weapon system.

“(3) ‘Design and manufacturing requirements’ means structural and engineering plans and manufacturing particulars, including precise measurements, tolerances, materials, and finished product tests for the weapon system being produced.

“(4) ‘Essential performance requirements’, with respect to a weapon system, means the operating capabilities or maintenance and reliability characteristics of the system that are determined by the Secretary of Defense to be necessary for the system to fulfill the military requirement for which the system is designed.

“(5) ‘Component’ means any constituent element of a weapon system.

“(6) ‘Mature full-scale production’ means the manufacture of all units of a weapon system after the manufacture of the first one-tenth of the eventual total production or the initial production quantity of such system, whichever is less.

“(7) ‘Initial production quantity’ means the number of units of a weapon system contracted for in the first year of full-scale production.

Ante, p. 2589.

“(8) ‘Head of an agency’ has the meaning given that term in section 2302 of this title.

“(b) Except as otherwise provided in this section, the head of an agency may not after January 1, 1985, enter into a contract for the production of a weapon system unless each prime contractor for the system provides the United States with written guarantees that—

“(1) the item provided under the contract will conform to the design and manufacturing requirements specifically delineated in the production contract (or in any amendment to that contract);

“(2) the item provided under the contract, at the time it is delivered to the United States, will be free from all defects in materials and workmanship;

“(3) the item provided under the contract will conform to the essential performance requirements of the item as specifically delineated in the production contract (or in any amendment to that contract); and

“(4) if the item provided under the contract fails to meet the guarantee specified in clause (1), (2), or (3), the contractor will at the election of the Secretary of Defense or as otherwise provided in the contract—

“(A) promptly take such corrective action as may be necessary to correct the failure at no additional cost to the United States; or

“(B) pay costs reasonably incurred by the United States in taking such corrective action.

Prohibition.

“(c) The head of the agency concerned may not require guarantees under subsection (b) from a prime contractor for a weapon system, or for a component of a weapon system, that is furnished by the United States to the contractor.

Waiver.

“(d) Subject to subsection (e)(1), the Secretary of Defense may waive part or all of subsection (b) in the case of a weapon system, or component of a weapon system, if the Secretary determines—

“(1) that the waiver is necessary in the interest of national defense; or

“(2) that a guarantee under that subsection would not be cost-effective.

The Secretary may not delegate authority under this subsection to any person who holds a position below the level of Assistant Secretary of Defense or Assistant Secretary of a military department.

Prohibition.

“(e)(1) Before making a waiver under subsection (d) with respect to a weapon system that is a major defense acquisition program for the purpose of section 139a of this title, the Secretary of Defense shall notify the Committees on Armed Services and on Appropriations of the Senate and House of Representatives in writing of his intention to waive any or all of the requirements of subsection (b) with respect to that system and shall include in the notice an explanation of the reasons for the waiver.

10 USC 139a.

“(2) Not later than February 1 of each year, the Secretary of Defense shall submit to the committees specified in paragraph (1) a report identifying each waiver made under subsection (d) during the preceding calendar year for a weapon system that is not a major defense acquisition program for the purpose of section 139a of this title and shall include in the report an explanation of the reasons for the waivers.

Report.

“(f) The requirement for a guarantee under subsection (b)(3) applies only in the case of a contract for a weapon system that is in mature full-scale production. However, nothing in this section prohibits the head of the agency concerned from negotiating a guarantee similar to the guarantee described in that subsection for a weapon system not yet in mature full-scale production. When a contract for a weapon system not yet in mature full-scale production is not to include the full guarantee described in subsection (b)(3), the Secretary shall comply with the notice requirements of subsection (e).

“(g) Nothing in this section prohibits the head of the agency concerned from—

“(1) negotiating the specific details of a guarantee, including reasonable exclusions, limitations and time duration, so long as the negotiated guarantee is consistent with the general requirements of this section;

“(2) requiring that components of a weapon system furnished by the United States to a contractor be properly installed so as not to invalidate any warranty or guarantee provided by the manufacturer of such component to the United States;

“(3) reducing the price of any contract for a weapon system or other defense equipment to take account of any payment due from a contractor pursuant to subclause (B) of subsection (b)(4);

“(4) in the case of a dual source procurement, exempting from the requirements of subsection (b)(3) an amount of production by the second source contractor equivalent to the first one-tenth of the eventual total production by the second source contractor; and

“(5) using written guarantees to a greater extent than required by this section, including guarantees that exceed those in clauses (1), (2), and (3) of subsection (b) and guarantees that provide more comprehensive remedies than the remedies specified under clause (4) of that subsection.

“(h)(1) The Secretary of Defense shall prescribe such regulations as may be necessary to carry out this section.

Regulations.

“(2) This section does not apply to the Coast Guard or to the National Aeronautics and Space Administration.

10 USC 2404. **“§ 2404. Acquisition of petroleum: authority to waive contract procedures**

“(a) The Secretary of Defense may, for any purchase of petroleum, waive the application of any provision of law prescribing procedures to be followed in the formation of contracts, prescribing terms and conditions to be included in contracts, or regulating the performance of contracts if the Secretary determines—

“(1) that petroleum market conditions have adversely affected (or will in the near future adversely affect) the acquisition of petroleum by the Department of Defense; and

“(2) the waiver will expedite or facilitate the acquisition of petroleum for Government needs.

“(b) A waiver under subsection (a) may be made with respect to a particular contract or with respect to classes of contracts. Such a waiver that is applicable to a contract for the purchase of petroleum may also be made applicable to a subcontract under that contract.

“(c) The Secretary of Defense may acquire petroleum by exchange of petroleum or petroleum derivatives.

“(d) The Secretary of Defense shall notify the Congress within 10 days of the date on which any waiver is made under this section and of the reasons for the necessity of exercising such waiver.

“(e) In this section, ‘petroleum’ means natural or synthetic crude, blends of natural or synthetic crude, and products refined or derived from natural or synthetic crude or from such blends.

10 USC 2405. **“§ 2405. Limitation on adjustment of shipbuilding contracts**

“(a) The Secretary of a military department may not adjust any price under a shipbuilding contract entered into after December 7, 1983, for an amount set forth in a claim, request for equitable adjustment, or demand for payment under the contract (or incurred due to the preparation, submission, or adjudication of any such claim, request, or demand) arising out of events occurring more than 18 months before the submission of the claim, request, or demand.

“(b) For the purposes of subsection (a), a claim, request, or demand shall be considered to have been submitted only when the contractor has provided the certification required by section 6(c)(1) of the Contract Disputes Act of 1978 (41 U.S.C. 605(c)(1)) and the supporting data for the claim, request, or demand.”

(b)(1) Effective on January 1, 1985, section 794 of the Department of Defense Appropriation Act, 1984 (Public Law 98-212; 97 Stat. 1454), is repealed.

(2) Effective on the date of the enactment of this Act, section 787 of the Department of Defense Appropriation Act, 1984 (Public Law 98-212; 97 Stat. 1453), is repealed.

(c) Section 2402 of title 10, United States Code (as added by subsection (a)), shall take effect at the end of the 180-day period beginning on the date of the enactment of this Act.

Effective dates.
Repeals.
10 USC 2304
note.
10 USC 2304
note.

10 USC 2402
note.

CLERICAL AMENDMENTS

SEC. 1235. The table of sections at the beginning of chapter 141 of title 10, United States Code, is amended—

(1) by striking out the item relating to section 2384 and inserting in lieu thereof the following:

“2384. Supplies: identification of supplier and sources.

“2384a. Supplies: economic order quantities.”; and

(2) by adding at the end thereof the following new item:

“2402. Prohibition of contractors limiting subcontractor sales directly to the United States.

“2403. Major weapon systems: contractor guarantees.

“2404. Acquisition of petroleum: authority to waive contract procedures.

“2405. Limitation on adjustment of shipbuilding contracts.”.

PART D—OTHER PROCUREMENT PROVISIONS

COOPERATIVE AGREEMENTS FOR PROCUREMENT TECHNICAL ASSISTANCE

SEC. 1241. (a)(1) Title 10, United States Code, is amended by inserting after chapter 141 the following new chapter:

“CHAPTER 142—PROCUREMENT TECHNICAL ASSISTANCE COOPERATIVE AGREEMENT PROGRAM

“Sec.

“2411. Definitions.

“2412. Purposes.

“2413. Cooperative agreements.

“2414. Limitation.

“2415. Distribution.

“2416. Regulations.

“§ 2411. Definitions

10 USC 2411.

“In this chapter:

“(1) ‘Eligible entity’ means a State (as defined in section 6302(5) of title 31), a local government (as defined in section 6302(2) of that title), or a private, nonprofit organization that enters into a cooperative agreement with the Secretary under this chapter to furnish procurement technical assistance to business entities and to defray at least one-half of the costs of furnishing such assistance.

“(2) ‘Secretary’ means the Secretary of Defense acting through the Director of the Defense Logistics Agency.

“§ 2412. Purposes

10 USC 2412.

“The purposes of the program authorized by this chapter are—

“(1) to increase Department of Defense assistance for eligible entities furnishing procurement technical assistance to business entities; and

“(2) to assist eligible entities in the payment of the costs of establishing and carrying out new procurement technical assistance programs and maintaining existing procurement technical assistance programs.

“§ 2413. Cooperative agreements

10 USC 2413.

“(a) The Secretary may, in accordance with the provisions of this chapter, enter into cooperative agreements with eligible entities to carry out the purposes of this chapter.

“(b) In entering into cooperative agreements under subsection (a), the Secretary shall assure that at least one procurement technical assistance program is carried out in each Department of Defense contract administration services region during each fiscal year.

10 USC 2414. **“§ 2414. Limitation**

“The value of the assistance furnished by the Department of Defense to any eligible entity to carry out a procurement technical assistance program pursuant to a cooperative agreement under this chapter during any fiscal year may not exceed \$150,000.

10 USC 2415. **“§ 2415. Distribution**

Ante, p. 2605.

“(a)(1) During a fiscal year specified in paragraph (2), the Secretary shall reserve the applicable percentage prescribed in paragraph (2), out of funds appropriated to carry out this chapter in such fiscal year, for the purpose of furnishing assistance pursuant to cooperative agreements entered into under section 2413 of this title with eligible entities which have carried out a procurement technical assistance program before such fiscal year. The Secretary may use the remainder of such funds during such fiscal year for the purpose of furnishing assistance pursuant to cooperative agreements entered into under such section with eligible entities which have not carried out a procurement technical assistance program before such fiscal year.

“(2) For the purposes of paragraph (1), the applicable percentage during fiscal year 1985 is 50 percent and during fiscal year 1986 is 75 percent.

“(b) During any fiscal year after fiscal year 1986, the Secretary shall allocate assistance under this chapter in accordance with such cooperative agreements as the Secretary enters into pursuant to section 2413 of this title.

10 USC 2416. **“§ 2416. Regulations**

“The Secretary of Defense shall prescribe regulations to carry out this chapter.”.

(2) The table of chapters at the beginning of subtitle A of such title and at the beginning of part IV of such subtitle are each amended by inserting after the item relating to chapter 141 the following new item:

“142. Procurement Technical Assistance Cooperative Agreement Program..... 2411”.

Appropriation
authorizations.

(b)(1) There are authorized to be appropriated \$2,000,000 for fiscal year 1985 to be available for the purpose of furnishing assistance to carry out procurement technical assistance programs pursuant to cooperative agreements under chapter 142 of title 10, United States Code (as added by subsection (a)).

Ante, p. 2605.

(2) There are authorized to be appropriated for fiscal year 1985 such additional sums as are necessary to defray the expenses of administering the provisions of such chapter during such fiscal year, including the expenses related to the employment of any additional personnel necessary to administer such provisions.

**REVISION OF REQUIREMENTS FOR SELECTED ACQUISITION REPORTS AND
UNIT COST REPORTS**

SEC. 1242. (a) Section 139a of title 10, United States Code, is amended—

(1) in subsection (a)(3)—

(A) by striking out “procurement funds appropriated” and inserting in lieu thereof “funds programed to be available for obligation for procurement”; and

(B) by striking out “of funds appropriated” and inserting in lieu thereof “of funds programed to be available for obligation”;

(2) by inserting “and that is in excess of \$2,000,000” after “dollar amount” in subsection (a)(4);

(3) in subsection (b)(2), by striking out “there has been no” and all that follows and inserting in lieu thereof “during the period since that report there has been—

“(A) less than a 5 percent change in total program cost; and

“(B) less than a three-month delay in any program schedule milestone shown in the Selected Acquisition Report.”;

(4) in subsection (f)—

(A) by striking out “30” the first place it appears and inserting in lieu thereof “60”;

(B) by striking out “30” the second place it appears and inserting in lieu thereof “45”; and

(C) by striking out the second sentence and inserting in lieu thereof the following: “A preliminary report shall be submitted for each annual Selected Acquisition Report within 30 days of the date on which the President submits the Budget to Congress.”; and

(5) by adding at the end thereof the following new subsection:

“(g) The requirements of this section with respect to a major defense acquisition program shall cease to apply after 90 percent of the items to be delivered to the United States under the program (shown as the total quantity of items to be purchased under the program in the most recent Selected Acquisition Report) have been delivered or 90 percent of planned expenditures under the program have been made.”.

(b)(1) Subsection (a) of section 139b of title 10, United States Code, is amended by adding at the end thereof the following new paragraph:

“(4) ‘Baseline Report’, with respect to a unit cost report that is submitted under this section to the Secretary concerned on a major defense acquisition program, means—

“(A) the most recent unit cost report submitted under subsection (e)(2)(B)(ii) with respect to the program, if that report was submitted for the second, third, or fourth quarter of the preceding fiscal year;

“(B) if no report was submitted under subsection (e)(2)(B)(ii) with respect to the program during that three-quarter period, the most recent unit cost report submitted under subsection (e)(1) with respect to the program, if that report was submitted during that three-quarter period; and

“(C) if no report was submitted with respect to the program under subsection (e)(1) or (e)(2)(B)(ii) during that three-quarter period, the baseline Selected Acquisition Report.”.

(2) Subsection (b) of such section is amended—

(A) by striking out “not more than 7 days”;

(B) by inserting after the first sentence the following new sentence: “Each report for the first quarter of a fiscal year shall be submitted not more than 7 days after the date on which the President transmits the Budget to Congress for the following fiscal year, and each report for other quarters shall be submitted not more than 7 days after the end of that quarter.”; and

Report.

Expiration date.

Reports.

(C) by striking out “baseline Selected Acquisition Report” in paragraph (3) and inserting in lieu thereof “Baseline Report”.

(3) Clauses (A) and (B) of subsection (c)(1) of such section are amended by striking out “baseline Selected Acquisition Report” and inserting in lieu thereof “Baseline Report”.

(4)(A) Paragraphs (1) and (2) of subsection (d) of such section are amended by striking out “baseline Selected Acquisition Report” and inserting in lieu thereof “Baseline Report”.

(B) Paragraph (3)(B) of such subsection is amended—

(i) by striking out “additional funds may not be obligated in connection with such program” and inserting in lieu thereof “funds appropriated for military construction, for research, development, test, and evaluation, and for procurement may not be obligated for a major contract under the program”; and

(ii) by striking out “but less than 25 percent” in subclause (i).

(5) Subsection (e) of such section is amended—

(A) in paragraph (1)—

(i) by striking out “subsection (d)(3)(B)” and inserting in lieu thereof “subsection (d)(3)(B)(i)”; and

(ii) by inserting “more than” before “15 percent”;

(B) in paragraph (2)—

(i) by striking out “subsection (d)(3)(B)” and inserting in lieu thereof “subsection (d)(3)(B)(ii)”; and

(ii) by inserting “more than” before “25 percent”;

(iii) by inserting in clause (A) “and the Secretary concerned submits to Congress, before the end of the 30-day period referred to in subsection (d)(3)(B)(i), a report containing the information described in subsection (g)” after “acquisition program”; and

(iv) by striking out “such subsection” in clause (B) and inserting in lieu thereof “subsection (d)(3)(B)(ii)”; and

(C) by striking out “in the case of” in paragraph (3) and all that follows and inserting in lieu thereof “at the end of a period of 30 days of continuous session of Congress (as determined under section 7307(b)(2) of this title) beginning on the date—

“(A) on which Congress receives the report of the Secretary concerned under paragraph (1) or (2)(B)(ii) with respect to that program, in the case of a determination of a more than 15 percent increase (as determined in subsection (d)); or

“(B) on which Congress has received both the report of the Secretary concerned under paragraph (1) or (2)(B)(ii) and the certification of the Secretary of Defense under paragraph (2)(B)(i) with respect to that program, in the case of a more than 25 percent increase (as determined under subsection (d)).”.

(6) Subsection (g)(1) of such section is amended—

(A) by striking out clause (I) and inserting in lieu thereof the following:

“(I) The type of the Baseline Report (under subsection (a)(4)) and the date of the Baseline Report.”; and

(B) in clause (K), by inserting “and the procurement unit cost for the succeeding fiscal year expressed in constant base-year dollars and in current year dollars” after “current dollars”.

DURATION OF ASSIGNMENT OF PROGRAM MANAGERS FOR MAJOR
PROGRAMS

SEC. 1243. (a) The tour of duty of an officer of the Armed Forces assigned after the date of the enactment of this Act as a program manager of a major defense acquisition program (as defined in section 139a(a) of title 10, United States Code) shall be (1) not less than four years, or (2) until completion of a major program milestone (as defined in regulations prescribed by the Secretary of Defense).

10 USC 139a
note.

(b) The Secretary of the military department concerned may waive the length of the tour of duty prescribed in subsection (a). Such authority may not be delegated.

Waiver.
Prohibition.

AUTHORITY TO WAIVE COMPLIANCE WITH CERTAIN REQUIREMENTS PRO-
VIDED FOR IN REGULATIONS RELATING TO PRICES OF SPARE PARTS
AND REPLACEMENT EQUIPMENT

SEC. 1244. Section 1215(b) of the Department of Defense Authorization Act, 1984 (Public Law 98-94; 10 U.S.C. 2452 note), is amended—

(1) by inserting “(1)” after “(b)”; and

(2) by adding at the end thereof the following new paragraph:

“(2) The Secretary may provide in such regulations for the waiver of the prohibition in subsection (a)(1) and compliance with the requirements of subsection (a)(2) in the case of a purchase of any spare part or replacement equipment made or to be made through competitive procedures.”.

REGULATIONS FOR ALLOCATING OVERHEAD TO PARTS TO WHICH THE
PRIME CONTRACTOR HAS ADDED LITTLE VALUE

SEC. 1245. Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe by regulation the manner in which the Department of Defense negotiates prices for supplies to be obtained through the use of procedures other than competitive procedures, as defined in section 4(6) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(6)). Such revision shall specify the incurred overhead a contractor may appropriately allocate to such supplies and shall require the contractor to identify those supplies which it did not manufacture or to which it did not contribute significant value. Nothing in this section requires the submission of cost or pricing data not otherwise required by law.

Ante, p. 1195.

PART E—TEMPORARY PROVISIONS, REPORTS, AND EFFECTIVE DATES

REPORT ON IMPLEMENTATION OF CERTAIN RECOMMENDATIONS OF THE
GRACE COMMISSION

SEC. 1251. Not later than March 31, 1985, the Secretary of Defense shall submit to Congress a report assessing the recommendations of the President's Private Sector Survey on Cost Control (commonly referred to as the “Grace Commission”) concerning—

(1) the system of making progress payments to defense contractors to offset high interest rates and inflation; and

(2) modernization of automated data processing systems in order to achieve more effective control of Department of Defense supply inventories.

PLANS FOR MANAGEMENT OF TECHNICAL DATA AND COMPUTER
CAPABILITY IMPROVEMENTS

10 USC 139 note.

SEC. 1252. (a)(1) Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall develop a plan for an improved system for the management of technical data relating to any major system of the Department of Defense. At a minimum, the management plan shall address procedures for—

(A) indexing, storing, and updating items of technical data in a system;

(B) developing, to the maximum extent practicable, a centralized system to identify the repository within the department responsible for technical data relating to an item and the extent of the data on file in that repository with respect to that item; and

(C) assuring that those parties otherwise entitled to receive technical data will have timely access to complete and current technical data.

(2) Not later than 5 years after the date of the enactment of this Act, the Secretary shall complete implementation of the management plan required to be developed by paragraph (1).

Report.

(3) Not later than 18 months after the date of the enactment of this Act, the Comptroller General of the United States shall transmit to Congress a report evaluating the plan developed by the Secretary of Defense under paragraph (1).

(b) Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall transmit to the Committees on Armed Services of the Senate and House of Representatives a plan to improve substantially the computer capability of each of the military departments and of the Defense Logistics Agency to store and access rapidly data that is needed for the efficient procurement of supplies. The plan shall provide for a computer data base that includes price and procurement history, item identification, sources of supply, and other relevant information. The plan shall specify a schedule for the implementation of the improvements, the projected cost of implementation of the improvements, and such other recommendations as the Secretary of Defense considers appropriate to accomplish the improvements.

REPORT ON USE OF INDEPENDENT COST ESTIMATES FOR MAJOR DEFENSE
ACQUISITION PROGRAMS

SEC. 1253. Not later than May 1, 1985, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the continued use of independent cost estimates in the planning, programing, budgeting, and selection process for major defense acquisition programs in the Department of Defense. Such report shall be a follow-on to the report required by section 1203(c) of the Department of Defense Authorization Act, 1984 (Public Law 98-94; 10 U.S.C. 1039 note), and shall include an overall assessment of the extent to which such estimates were adopted by the Department of Defense in making decisions on the fiscal year 1986 budget and a general explanation of why such estimates might have been modified or rejected. The Secretary shall also include in the report a statement as to whether adequate personnel and financial resources have been allocated at all levels of the Department of Defense to those organizations or

97 Stat. 683.
10 USC 139c
note.

offices charged with developing or assessing independent estimates of the costs of major defense acquisition programs.

ONE-YEAR EXTENSION OF TEST PROGRAM TO AUTHORIZE PRICE
DIFFERENTIALS TO RELIEVE ECONOMIC DISLOCATIONS

SEC. 1254. (a) Effective on October 1, 1984, section 1109 of the Department of Defense Authorization Act, 1983 (10 U.S.C. 2392 note), is amended—

Effective dates.
97 Stat. 683.

(1) by striking out “fiscal years 1983 and 1984” each place it appears and inserting in lieu thereof “fiscal years 1983, 1984, and 1985”; and

(2) by striking out “and April 15, 1984,” in the first sentence of subsection (b) and inserting in lieu thereof “, April 15, 1984, and April 15, 1985”.

(b) Effective as of October 1, 1982, such section is amended by striking out “section 2892” and inserting in lieu thereof “section 2392”.

TITLE XIII—DEPARTMENT OF DEFENSE ORGANIZATION
AND MANAGEMENT MATTERS

JOINT CHIEFS OF STAFF REORGANIZATION

SEC. 1301. (a)(1) Subsection (a) of section 124 of title 10, United States Code, is amended by striking out “shall” in clause (2).

(2) Subsection (c) of such section is amended—

(A) by inserting “(1)” after “(c)”; and

(B) by adding at the end thereof the following new paragraph:

“(2) Subject to the authority, direction, and control of the Secretary, the Chairman acts as the spokesman for the commanders of the combatant commands on operational requirements.”.

(b) Section 142(b)(2) of such title is amended—

10 USC 142.

(1) by striking out “and assist” and inserting in lieu thereof “(including any subject for the agenda recommended by the Joint Chiefs of Staff), assist”; and

(2) by striking out “practicable” and inserting in lieu thereof “practicable, and determine when issues under consideration shall be decided”.

(c)(1) Subsection (a) of section 143 of title 10, United States Code, is amended to read as follows:

“(a)(1) There is under the Joint Chiefs of Staff a Joint Staff consisting of not more than 400 officers selected by the Chairman of the Joint Chiefs of Staff. The Joint Staff shall be selected in approximately equal numbers from—

“(A) the Army;

“(B) the Navy and the Marine Corps; and

“(C) the Air Force.

“(2) Selection of officers of an armed force to serve on the Joint Staff shall be made by the Chairman from a list of officers submitted by that armed force. Each officer whose name is submitted shall be among those officers considered to be the most outstanding officers of that armed force. The Chairman may specify the number of officers to be included on any such list.

“(3) The tenure of the members of the Joint Staff is subject to the approval of the Chairman of the Joint Chiefs of Staff.”.

(2) Subsection (b) of such section is amended by striking out the second and third sentences.

(3) Such section is further amended by adding at the end thereof the following new subsection:

Prohibition.

“(e) An officer who is assigned or detailed to duty on the Joint Staff may not serve for a tour of duty of more than four years. An officer completing a tour of duty with the Joint Staff may not be assigned or detailed to duty on the Joint Staff within two years after relief from that duty except with the approval of the Secretary. This subsection does not apply in time of war declared by Congress or in time of national emergency declared by the President.”.

(d)(1) Chapter 36 of title 10, United States Code, is amended by adding at the end thereof the following new section:

10 USC 646.

“§ 646. Consideration of performance as a member of the Joint Staff

“The Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, shall ensure that officer personnel policies of the Army, Navy, Air Force, and Marine Corps concerning promotion, retention, and assignment give appropriate consideration to the performance of an officer as a member of the Joint Staff.”.

(2) The table of sections at the beginning of subchapter V of such chapter is amended by adding at the end thereof the following new item:

“646. Consideration of performance as a member of the Joint Staff.”.

REDUCTION IN HEADQUARTERS STAFFS

SEC. 1302. (a) Not later than September 30, 1985, the Secretary of Defense shall reduce the total number of military and civilian personnel assigned to duty in the agencies of the Department of Defense and the military departments to perform management headquarters activities or management headquarters support activities by a number that is at least 2 percent below the total number of personnel requested by the President for fiscal year 1985 to perform such activities.

(b) The number of military and civilian personnel assigned to the Office of the Secretary of Defense as of September 30, 1985, may not exceed 1,730. However, if the Secretary of Defense determines that such action is necessary in the national interest, the Secretary may increase the number specified in the limitation in the preceding sentence, but such number may not be increased by more than 2 percent. The Secretary shall promptly notify the Congress of any exercise of such authority.

(c) Any reduction in military or civilian personnel assigned to perform management headquarters activities or management headquarters support activities in the National Security Agency/Central Security Service, the Defense Intelligence Agency, the Organization of the Joint Chiefs of Staff, or the Naval Intelligence Command may not be included for the purposes of complying with the requirements of subsection (a).

(d) For purposes of this section, the terms “management headquarters activities” and “management headquarters support activities” have the same meanings as prescribed for such terms in Department of Defense Directive 5100.73 entitled “Department of Defense Management Headquarters and Headquarters Support”, dated March 12, 1981.

REPORT ON SIZE OF SERVICE SECRETARIATS

SEC. 1303. Not later than December 15, 1984, the Secretary of Defense shall submit a report to Congress on the reasons for the disparity in size among the Offices of the Secretaries of the military departments and particularly on the reasons for the size of the Office of the Secretary of the Navy compared to the size of the Office of the Secretary of the Army and of the Secretary of the Air Force. For the purposes of this section, the Office of a Secretary of a military department includes the Secretary, the Under Secretary, the Assistant Secretaries of the military department, their staffs, and other elements of the executive parts of the military department.

IMPLEMENTATION OF CERTAIN PERSONNEL POLICIES

SEC. 1304. No funds appropriated to the Department of Defense may be used before July 1, 1985, to comply with the regulation of the Office of Personnel Management referred to as Basic Installment 311 of the Federal Personnel Manual (issued by the Office of Personnel Management on January 6, 1984), concerning personnel suitability, personnel security, personnel investigations, and suitability disqualification actions.

Prohibition.

EXPANSION OF AUTHORITY FOR COLLECTION OF DEBTS FROM MEMBERS
OF THE ARMED FORCES

SEC. 1305. Section 1007(c) of title 37, United States Code, is amended by striking out "an enlisted member of the Army or the Air Force" and inserting in lieu thereof "a member of the armed forces".

INCREASED COAST GUARD MEMBERSHIP ON THE RESERVE FORCES POLICY
BOARD

SEC. 1306. Section 175(b) of title 10, United States Code, is amended by striking out "an officer of the Regular Coast Guard or the Coast Guard Reserve" and inserting in lieu thereof "two officers of the Coast Guard, regular or reserve,".

LIMITATION ON USE OF FUNDS FOR CONDUCTING POLYGRAPH
EXAMINATIONS; REPORT

SEC. 1307. (a) None of the funds appropriated pursuant to an authorization of appropriations contained in this or any other Act may be used for the purpose of implementing any revision of Department of Defense Directive 5210.48, dated October 6, 1975, relating to polygraph examinations and examiners except for the conduct of a test program involving not more than 3,500 persons.

(b) Not later than December 31, 1985, the Secretary of Defense shall transmit to the Committees on Armed Services of the Senate and the House of Representatives a report on the use of polygraph examinations administered by or for the Department of Defense during the fiscal year 1985. The report shall include the number of polygraph examinations conducted, a description of the purposes and results of such examinations, and an explanation of the uses made of the results of the examinations, as well as detailed reports

on those cases in which more than two examinations were needed to attempt to resolve discrepancies.

(c) This section does not apply—

(1) in the case of any individual assigned to, or detailed to, the Central Intelligence Agency or to any expert or consultant under a contract with the Central Intelligence Agency;

(2) in the case of any individual employed by, assigned to, or detailed to, the National Security Agency, any expert or consultant under a contract with the National Security Agency, or any employee of a contractor of the National Security Agency; or

(3) in the case of any individual applying for a position in the National Security Agency.

Expiration date.

(d) The provisions of subsection (a) shall expire on September 30, 1985.

TITLE XIV—CODIFICATION OF CERTAIN RECURRING AND PERMANENT PROVISIONS OF LAW

AMENDMENTS TO TITLE 10, UNITED STATES CODE

SEC. 1401. (a)(1) Chapter 31 of title 10, United States Code, is amended by adding at the end thereof the following new section:

10 USC 520b.

“§ 520b. Applicants for enlistment: authority to use funds for the issue of authorized articles

“Funds appropriated to the Department of Defense may be used for the issue of authorized articles to applicants for enlistments.”.

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

“520b. Applicants for enlistments: authority to use funds for the issue of authorized articles.”.

(b)(1) Chapter 48 of such title is amended by adding at the end thereof the following new section:

10 USC 956.

“§ 956. Deserters, prisoners, members absent without leave: expenses and rewards

“Funds appropriated to the Department of Defense may be used for the following purposes:

“(1) Expenses for the apprehension and delivery of deserters, prisoners, and members absent without leave, including the payment of rewards, in an amount not to exceed \$75, for the apprehension of any such person.

“(2) Expenses of prisoners confined in nonmilitary facilities.

“(3) Payment of a gratuity of not to exceed \$25 to each prisoner upon release from confinement in a military or contract prison facility.

“(4) The issue of authorized articles to prisoners and other persons in military custody.

“(5) Under such regulations as the Secretary concerned may prescribe, expenses incident to the maintenance, pay, and allowances of prisoners of war, other persons in the custody of the Army, Navy, or Air Force whose status is determined by the Secretary concerned to be similar to prisoners of war, and persons detained in the custody of the Army, Navy, or Air Force pursuant to Presidential proclamation.”.

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

“956. Deserters, prisoners, members absent without leave: expenses and rewards.”.

(c)(1) Chapter 49 of such title is amended by adding at the end thereof the following new sections:

“§ 979. Prohibition on loan and grant assistance to persons convicted of certain crimes 10 USC 979.

“Funds appropriated to the Department of Defense may not be used to provide a loan, a guarantee of a loan, or a grant to any person who has been convicted by a court of general jurisdiction of any crime which involves the use of (or assisting others in the use of) force, trespass, or the seizure of property under the control of an institution of higher education to prevent officials or students of the institution from engaging in their duties or pursuing their studies.

“§ 980. Limitation on use of humans as experimental subjects 10 USC 980.

“Funds appropriated to the Department of Defense may not be used for research involving a human being as an experimental subject unless—

“(1) the informed consent of the subject is obtained in advance; or

“(2) in the case of research intended to be beneficial to the subject, the informed consent of the subject or a legal representative of the subject is obtained in advance.

“§ 981. Limitation on number of enlisted aides 10 USC 981.

“(a) Subject to subsection (b), the total number of enlisted members that may be assigned or otherwise detailed to duty as enlisted aides on the personal staffs of officers of the Army, Navy, Marine Corps, Air Force, and Coast Guard (when operating as a service of the Navy) during a fiscal year is the number equal to the sum of (1) four times the number of officers serving on active duty at the end of the preceding fiscal year in the grade of general or admiral, and (2) two times the number of officers serving on active duty at the end of the preceding fiscal year in the grade of lieutenant general or vice admiral.

“(b) Not more than 300 enlisted members may be assigned to duty at any time as enlisted aides for officers of the Army, Navy, Air Force, and Marine Corps.”.

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new items:

“979. Prohibition on loan and grant assistance to persons convicted of certain crimes.

“980. Limitation on use of humans as experimental subjects.

“981. Limitation on number of enlisted aides.”.

(d)(1) Chapter 53 of such title is amended by adding after section 1046 (as added by section 708) the following new sections:

“§ 1047. Allowance for civilian clothing 10 USC 1047.

“The Secretary of the military department concerned may furnish civilian clothing, at a cost of not more than \$40, to an enlisted member who is—

“(1) discharged for misconduct or unsuitability or under conditions other than honorable;

“(2) sentenced by a civil court to confinement in a prison;

“(3) interned or discharged as an alien enemy; or
 “(4) discharged before completion of recruit training under honorable conditions for dependency, hardship, minority, or disability or for the convenience of the Government.

10 USC 1048. **“§ 1048. Gratuity payment to persons discharged for fraudulent enlistment**

“The Secretary concerned may pay a gratuity of not to exceed \$25 to a person discharged for fraudulent enlistment.

10 USC 1049. **“§ 1049. Subsistence: miscellaneous persons**

“The following persons may be provided subsistence at the expense of the United States:

- “(1) Enlisted members while sick in hospitals.
- “(2) Applicants for enlistment and selective service registrants called for induction.
- “(3) Prisoners.
- “(4) Civilian employees, as authorized by law.
- “(5) Supernumeraries, when necessitated by emergent military circumstances.

10 USC 1050. **“§ 1050. Latin American cooperation: payment of personnel expenses**

“The Secretary of a military department may pay the travel, subsistence, and special compensation of officers and students of Latin American countries and other expenses that the Secretary considers necessary for Latin American cooperation.”.

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 1046 (as added by section 708) the following new items:

- “1047. Allowance for civilian clothing.
- “1048. Gratuity payment to persons discharged for fraudulent enlistment.
- “1049. Subsistence: miscellaneous persons.
- “1050. Latin American cooperation: payment of personnel expenses.”.

Repeal. (3)(A) Section 7208 of such title is repealed.

10 USC 7208. (B) The table of sections at the beginning of chapter 631 is amended by striking out the item relating to section 7208.

10 USC 1074. (e)(1) Section 1074 of such title is amended by adding at the end thereof the following new subsection:

“(c) Funds appropriated to a military department may be used to provide medical and dental care to persons entitled to such care by law or regulations, including the provision of such care (other than elective private treatment) in private facilities for members of the armed forces.”.

(2)(A) Chapter 55 of such title is amended by inserting after section 1074a the following new section:

10 USC 1074b. **“§ 1074b. Medical care: authority to provide a wig**

“A person entitled to medical care under this chapter who has alopecia resulting from the treatment of a malignant disease may be furnished a wig if the person has not previously been furnished one at the expense of the United States.”.

(B) The table of sections at the beginning of such chapter is amended by inserting below the item relating to item 1074 the following new item:

“1074b. Medical care: authority to provide a wig.”.

(3) Section 1077(b) of such title is amended by adding at the end thereof the following new paragraph: 10 USC 1077.

“(3) The elective correction of minor dermatological blemishes and marks or minor anatomical anomalies.”.

(4)(A) Section 1079(a) of such title is amended—

97 Stat. 648.

(i) by striking out “and” at the end of clause (5);

(ii) by striking out the period at the end of clause (6) and inserting in lieu thereof a semicolon; and

(iii) by adding after clause (6) the following new clauses:

“(7) services in connection with nonemergency inpatient hospital care may not be provided if such services are available at a facility of the uniformed services located within a 40-mile radius of the residence of the patient, except that such services may be provided in any case in which another insurance plan or program pays for at least 75 percent of the services;

“(8) services of pastoral counselors, family and child counselors, or marital counselors may not be provided unless the patient has been referred to the counselor by a medical doctor for treatment of a specific problem with the results of that treatment to be communicated back to the medical doctor who made the referral;

“(9) special education may not be provided, except when provided as secondary to the active psychiatric treatment on an institutional inpatient basis;

“(10) therapy or counseling for sexual dysfunctions or sexual inadequacies may not be provided;

“(11) treatment of obesity may not be provided if obesity is the sole or major condition treated;

“(12) surgery which improves physical appearance but is not expected to significantly restore functions (including mammary augmentation, face lifts, and sex gender changes) may not be provided, except that—

“(A) breast reconstructive surgery following a mastectomy may be provided;

“(B) reconstructive surgery to correct serious deformities caused by congenital anomalies or accidental injuries may be provided; and

“(C) neoplastic surgery may be provided;

“(13) any service or supply which is not medically or psychologically necessary to prevent, diagnose, or treat a mental or physical illness, injury, or bodily malfunction as assessed or diagnosed by a physician, dentist, clinical psychologist, optometrist, podiatrist, certified nurse-midwife, certified nurse practitioner, or certified clinical social worker, as appropriate, may not be provided, except as authorized in clause (4); and

“(14) the prohibition contained in section 1077(b)(3) of this title shall not apply in the case of a member or former member of the uniformed services.”. *Supra.*

(B) Paragraph (2) of section 1079(h) of such title is amended by striking out the second sentence and inserting in lieu thereof the following: “The Secretary of Defense shall adjust the base period as frequently as he considers appropriate.”. 10 USC 1079.

(5)(A) Chapter 55 of such title is further amended by adding at the end thereof the following new section:

10 USC 1093.

“§ 1093. Restriction on use of funds for abortions

“Funds available to the Department of Defense may not be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.”.

(B) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

“1093. Restriction on use of funds for abortions.”.

(f)(1) Chapter 81 of such title is amended by adding at the end thereof the following new section:

10 USC 1589.

“§ 1589. Prohibition on payment of lodging expenses when adequate Government quarters are available

“(a) Funds available to the Department of Defense (including funds in any working-capital fund) may not be used to pay the lodging expenses of a civilian employee of the Department of Defense while such employee is on official business away from his designated post of duty or, in the case of a person referred to in section 5703 of title 5, while such person is away from his home or regular place of duty, when adequate Government quarters are available but are not occupied by such employee or person.

5 USC 5703.

“(b) Subsection (a) does not apply during a fiscal year to an employee whose duties can be expected to require official travel during more than one-half of the number of the basic administrative work weeks during that fiscal year.”.

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new items:

“1589. Prohibition on payment of lodging expenses when adequate Government quarters are available.”.

(g)(1) Chapter 101 of such title is amended by adding after section 2006 (as added by section 706(a)(1)) the following new sections:

10 USC 2007.

“§ 2007. Limitation on payment of tuition for off-duty training or education

“(a) The Secretary of a military department may not pay more than 75 percent of the charges of an educational institution for the tuition or expenses of a member of the armed forces enrolled in such institution for education or training during his off-duty periods, except that—

“(1) in the case of an enlisted member in the pay grade of E-5 or higher with less than 14 years' service, not more than 90 percent of the charges may be paid;

“(2) in the case of a member enrolled in a high school completion program, all of the charges may be paid; and

“(3) in the case of a commissioned officer, no part of the charges may be paid unless the officer agrees to remain on active duty for a period of at least two years after the completion of the training or education.

“(b) The limitation in subsection (a) does not apply to the Program for Afloat College Education.

10 USC 2008.

“§ 2008. Authority to use funds for certain educational purposes

“Funds appropriated to the Department of Defense may be used to carry out section 10 of the Act of September 23, 1950 (20 U.S.C. 640), relating to impact aid authorization.

“§ 2009. Military colleges: female students

10 USC 2009.

“(a) Under regulations prescribed by the Secretary of Defense, any college or university designated by the Secretary of Defense as a military college shall, as a condition of maintaining such designation, provide that qualified female undergraduate students enrolled in such college or university be eligible to participate in military training at such college or university.

“(b) Regulations prescribed under subsection (a) may not require a college or university, as a condition of maintaining its designation as a military college or for any other purpose, to require female undergraduate students enrolled in such college or university to participate in military training.”.

Prohibition.

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2006 (as added by section 706(a)(2)) the following new items:

“2007. Limitation on payment of tuition for off-duty training or education.

“2008. Authority to use funds for certain educational purposes.

“2009. Military colleges: female students.”.

(h) Section 2104(b) of such title is amended—

10 USC 2104.

(1) by striking out “and” at the end of clause (5);

(2) by striking out the period at the end of clause (6) and inserting in lieu thereof “; and”; and

(3) by inserting after clause (6) the following new clause:

“(7) execute a certificate of loyalty in such form as the Secretary of Defense prescribes or take a loyalty oath as prescribed by the Secretary.”.

(i)(1) Chapter 147 of such title is amended by adding at the end thereof the following new section:

“§ 2484. Commissary stores: expenses

10 USC 2484.

“(a) Except to the extent authorized in regulations prescribed by the Secretary of a military department and approved by the Secretary of Defense and except as provided in subsection (b), funds available to the Department of Defense may not be used to pay, in connection with the operation of any commissary store—

“(1) the cost of purchases (including commercial transportation in the United States to the place of sale) and the cost of maintenance of operating equipment and supplies;

“(2) the actual or estimated cost of utilities furnished by the United States;

“(3) the actual or estimated cost of shrinkage, spoilage, and pilferage of merchandise under the control of the commissary store; or

“(4) costs incurred in connection with obtaining the face value amount of manufacturer or vendor cents-off discount coupons by the commissary store (or other entity acting on behalf of the commissary store).

“(b) Appropriated funds may be used to pay any costs described in subsection (a) but only to the extent that appropriation accounts used to pay such costs are reimbursed for the payment of such costs, including, in the case of any costs incurred in connection with discount coupons referred to in subsection (a)(4), all fees or moneys received for handling or processing such coupons. The sales prices in commissary stores shall be adjusted to the extent necessary to provide sufficient gross revenues from the sales of such stores to make such reimbursements. Such adjustments shall be made under

regulations prescribed by the Secretary of the military department concerned and approved by the Secretary of Defense.

“(c) Under regulations prescribed by the Secretary of Defense, utilities may be furnished without cost to a commissary store outside the United States or in Alaska or Hawaii.

Transportation.

“(d) Transportation outside the United States may be furnished in connection with the operation of commissary stores outside the United States.”.

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

“2484. Commissary stores: expenses.”.

(j)(1) Chapter 157 of such title is amended by adding after section 2637 (as added by section 614) the following new sections:

10 USC 2638.

“§ 2638. Transportation of civilian clothing of enlisted members

“The Secretary of the military department concerned may provide for the transportation of the civilian clothing of any person entering the armed forces as an enlisted member to the member’s home of record.

10 USC 2639.

“§ 2639. Transportation to and from school for certain minor dependents

“Funds appropriated to the Department of Defense may be used to provide minor dependents of members of the armed forces and of civilian officers and employees of the Department of Defense with transportation to and from primary and secondary schools if the schools attended by the dependents are not accessible by regular means of transportation.”.

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2637 (as added by section 614) the following new items:

“2638. Transportation of civilian clothing of enlisted members.

“2639. Transportation to and from school for certain minor dependents.”.

10 USC 7204.

(3)(A) Section 7204(a) of such title is amended—

(i) by striking out “may—” and inserting in lieu thereof “may”;

(ii) by striking out “(1)”;

(iii) by redesignating subclauses (A), (B), (C), and (D) as clauses (1), (2), (3), and (4), respectively;

(iv) by striking out “; and” at the end of clause (1) and inserting in lieu thereof a period; and

(v) by striking out clause (2).

10 USC 7204.

(B) The heading of section 7204 of such title is amended to read as follows:

“§ 7204. Schools near naval activities: financial aid”.

(B) The item relating to such section in the table of sections at the beginning of chapter 631 of such title is amended to read as follows:

“7204. Schools near naval activities: financial aid.”.

AMENDMENTS TO TITLE 37, UNITED STATES CODE

SEC. 1402. (a) Section 206 of title 37, United States Code, is amended by adding at the end thereof the following new subsection:

“(e) A member of the National Guard or of a reserve component of the uniformed services may not be paid under this section for more than four periods of equivalent training, instruction, duty, or appropriate duties performed during a fiscal year instead of the member’s regular period of instruction or regular period of appropriate duty during that fiscal year.”.

National
Guard.
Uniformed
services.

(b)(1) Chapter 5 of such title is amended by inserting after section 306 the following new section:

“§ 306a. Special pay: members assigned to international military headquarters

37 USC 306a.

“Not more than nine members of the armed forces, including members detailed to international military headquarters, may be paid pay and allowances at rates referred to in section 625(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2385(d)).”.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 306 the following new item:

“306a. Special pay: members assigned to international military headquarters.”.

(c) Section 404 of such title is amended by adding at the end thereof the following new subsection:

37 USC 404.

“(g) In the case of an enlisted member who is in a travel status and not entitled to receive per diem in lieu of subsistence for any day (or portion of a day) because the member is furnished meals in a Government mess, the member may not be paid a basic allowance for subsistence for such day (or portion of such day) that the member is furnished meals in a Government mess.”.

Prohibition.

REPEAL PROVISIONS

SEC. 1403. (a)(1) Section 706 of the Department of Defense Appropriation Act, 1984 (Public Law 98-212; 97 Stat. 1437), is repealed.

10 USC 138 note.

(2) Section 735 of such Act (97 Stat. 1444) is amended by striking out “medical and dental care of personnel entitled thereto by law or regulation (including charges of private facilities for care of military personnel, except elective private treatment);”.

10 USC 138 note.

(b) Section 809 of the Department of Defense Appropriation Authorization Act, 1979 (Public Law 95-485; 92 Stat. 1623), is repealed.

10 USC 2102

(c) Section 820 of the Department of Defense Appropriation Authorization Act, 1976 (Public Law 94-106; 89 Stat. 544), is repealed.

note.

EFFECTIVE DATE

SEC. 1404. The amendments made by sections 1401, 1402, and 1403 take effect on October 1, 1985.

10 USC 520b
note.

CLERICAL AMENDMENTS TO TITLE 10, UNITED STATES CODE

SEC. 1405. Title 10, United States Code, is amended as follows:

(1) Section 125(a) is amended by striking out “section 401 of title 50” and inserting in lieu thereof “section 2 of the National Security Act of 1947 (50 U.S.C. 401)”.

(2) Section 138(g) is amended by inserting “(22 U.S.C. 2795 et seq.)” after “chapter 5 of the Arms Export Control Act”.

(3) Section 139 is amended—

(A) by striking out “thirty” both places it appears and inserting in lieu thereof “30”; and

10 USC 175.

(B) by striking out “ninety” and inserting in lieu thereof “90”.

(4) Section 175(c) is amended by inserting a comma after “Reserve Affairs”.

(5) Section 177(a)(1) is amended by striking out “sec. 29-1001” and inserting in lieu thereof “sec. 29-501”.

(6) Section 191(a) is amended by striking out “such use in” and inserting in lieu thereof “such use is”.

(7)(A) Section 264 is amended by striking out “Reserve components” in subsection (b) and inserting in lieu thereof “reserve components”.

(B) The heading of such section is amended to read as follows:

“§ 264. Reserve affairs: designation of general or flag officer of each armed force; personnel and logistic support for Reserves”.

(C) The item relating to such section in the table of sections at the beginning of chapter 11 is amended to read as follows:

“264. Reserve affairs: designation of general or flag officer of each armed force; personnel and logistic support for Reserves.”.

(8) Section 280 is amended by striking out “5597,”.

(9) Section 374(a)(3) is amended by striking out “(19 U.S.C. 1202)”.

(10) Section 378 is amended by striking out “prior to the enactment of this chapter” and inserting in lieu thereof “before December 1, 1981”.

(11) Section 630(2) is amended by striking out “eighteen-month” and inserting in lieu thereof “18-month”.

(12) Section 633 is amended by striking out “twenty-eight” and inserting in lieu thereof “28”.

(13) Sections 634 and 635 are amended by striking out “thirty” and inserting in lieu thereof “30”.

(14) Section 636 is amended by striking out “thirty-five” and inserting in lieu thereof “35”.

(15) Section 637(a) is amended—

(A) by striking out “twenty” in paragraph (2) and inserting in lieu thereof “20”; and

(B) by striking out “twenty-four” in paragraph (3) and inserting in lieu thereof “24”.

(16) Section 673c(b)(1) is amended by inserting “of this title” after “or 673b”.

(17) Section 680(a)(2)(D) is amended by striking out “Reserve Officer” and inserting in lieu thereof “reserve officer”.

(18) Section 701(g) is amended—

(A) by striking out “sixty-day” and inserting in lieu thereof “60-day”;

(B) by striking out “ninety-day” and inserting in lieu thereof “90-day”; and

(C) by striking out “one hundred and fifty” both places it appears and inserting in lieu thereof “150”.

(19)(A) Section 1034 is amended by striking out “member of Congress” and inserting in lieu thereof “Member of Congress”.

(B)(i) The heading of such section is amended to read as follows:

97 Stat. 670.

“§ 1034. Communicating with a Member of Congress”.

(ii) The item relating to such section in the table of sections at the beginning of chapter 53 is amended to read as follows:

“1034. Communicating with a Member of Congress.”.

(20) Section 1035(b) is amended—

10 USC 1035.

(A) by striking out “per centum” and inserting in lieu thereof “percent”;

(B) by striking out “Act” and inserting in lieu thereof “subsection”; and

(C) by striking out “ninety” and inserting in lieu thereof “90”.

(21) Section 1040(a) is amended by striking out “thirty” and inserting in lieu thereof “30”.

(22) The heading of section 1077 is amended by striking out the semicolon and inserting in lieu thereof a colon.

(23) Section 1079(e) is amended by striking out the period at the end of the matter preceding clause (1) and inserting in lieu thereof “as follows”:

(24) Section 1087(b)(2) is amended by inserting “(42 U.S.C. 1395c et seq.)” after “the Social Security Act.”

(25) Section 1216(b) is amended by striking out “of this section”.

(26) Section 1401a(f) is amended by striking out “prior to the effective date of this subsection” and inserting in lieu thereof “before October 7, 1975”.

(27) Section 1464(c) is amended by striking out “section 1466” and inserting in lieu thereof “section 1465(c)”.

97 Stat. 645.

(28) Section 1465(c)(1) is amended by striking out “(A)”.

97 Stat. 646.

(29) Section 1586 is amended—

(A) in subsection (b)—

(i) by striking out “thirty” and inserting in lieu thereof “30”;

(ii) by striking out “of this section” after “subsection (c)”;

(iii) by striking out “of this subsection”;

(B) in subsection (c)—

(i) by striking out “thirty” and inserting in lieu thereof “30”;

(ii) by striking out “ninety days” both places it appears and inserting in lieu thereof “90 days”;

(iii) by striking out “ninety-day” in paragraph (5) and inserting in lieu thereof “90-day”;

(iv) by striking out “of this subsection” each place it appears in paragraphs (3), (4), and (5);

(v) by striking out “such” in paragraph (5); and

(vi) in paragraph (6)—

(I) by striking out “of this subsection” after “paragraph (1)”;

(II) by striking out “of this subsection,” after “as applicable”;

(C) by striking out “of this section” in subsections (d), (e)(1), and (g)(1); and

(D) by striking out “of this subsection” in subsection (e)(2).

10 USC 2002.

(30) Section 2002(b) is amended by striking out “For the purposes of this section, the word” and inserting in lieu thereof “In this section,”.

(31) The item relating to section 2003 in the table of sections at the beginning of chapter 101 is amended by striking out the semicolon and inserting in lieu thereof a colon.

(32) Section 2031(a) is amended by striking out “the date of enactment of this section” and inserting in lieu thereof “October 13, 1964”.

(33) Section 2107(b) is amended by aligning the second sentence flush with the left margin.

(34) Section 2233 is amended—

(A) by striking out “subsection (c) of this section” in subsection (a) and inserting in lieu thereof “to subsection (c)”; and

(B) by striking out “or Territory, Puerto Rico, or the District of Columbia” both places it appears in the second sentence of subsection (b).

(35) Section 2381(c) is amended—

(A) by striking out “section 486 of title 40” and inserting in lieu thereof “section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)”; and

(B) by striking out “section 481(a) of that title” and inserting in lieu thereof “section 201(a) of that Act (40 U.S.C. 481(a))”.

(36) The heading of section 2394a is amended to read as follows:

“§ 2394a. Procurement of energy systems using renewable forms of energy”.

(37) Section 2577(a)(1) is amended by striking out “puposes” and inserting in lieu thereof “purposes”.

(38) Section 2668(a)(10) is amended by striking out “section 961 of title 43” and inserting in lieu thereof “the Act of March 4, 1911 (43 U.S.C. 961)”.

(39) Section 2672a is amended—

(A) by designating the first sentence as subsection (a);

(B) by striking out “operation” in such sentence and inserting in lieu thereof “operational”;

(C) by designating the second sentence as subsection (b); and

(D) in the fourth sentence—

(i) by striking out “provision will” and inserting in lieu thereof “section shall”; and

(ii) by striking out “Armed Services Committees” and inserting in lieu thereof “Committees on Armed Services”.

(40) Section 2675(b) is amended by striking out “thirty” and inserting in lieu thereof “30”.

(41) Section 2687 is amended—

(A) by striking out “one thousand” in subsection (a)(2) and inserting in lieu thereof “1,000”;

(B) by inserting “(42 U.S.C. 4321 et seq.)” in subsection

(b)(2) after “National Environmental Policy Act of 1969”;

(C) by striking out “sixty” in subsection (b)(4) and inserting in lieu thereof “60”; and

(D) by striking out “three hundred” in subsection (d)(1)(B) and inserting in lieu thereof “300”.

(42)(A) The heading of section 2734a is amended to read as follows: 10 USC 2734a.

“§ 2734a. Property loss; personal injury or death: incident to non-combat activities of armed forces in foreign countries; international agreements”.

(B) The item relating to such section in the table of sections at the beginning of chapter 163 is amended to read as follows:

“2734a. Property loss; personal injury or death: incident to noncombat activities of armed forces in foreign countries; international agreements.”.

(43) Section 2777(c) is amended by striking out “of this section”.

(44) Section 2822(b)(3) is amended by striking out “section 2833” and inserting in lieu thereof “section 2832”.

(45)(A) Section 2857(b)(1) is amended by striking out “use of” and all that follows through “the potential for” and inserting in lieu thereof “use of such forms of energy has the potential for”.

(B) The amendment made by subparagraph (A) shall take effect as if it had been included in the amendments made by section 801 of Public Law 97-321.

10 USC 2857
note.

(46) Section 3579(a) is amended by striking out “subsection (c)” and inserting in lieu thereof “subsection (b)”.

(47) Section 5897(b)(5) is amended by striking out the semicolon at the end and inserting in lieu thereof a period.

(48) The item relating to chapter 661 in the table of chapters at the beginning of subtitle C is amended to read as follows:

“661. Accountability and Responsibility 7861”.

(49) Section 7227(a) is amended—

(A) by striking out “routine” both places it appears and inserting in lieu thereof “Routine”;

(B) by striking out “miscellaneous” and inserting in lieu thereof “Miscellaneous”;

(C) by striking out the semicolons at the end of clauses (1) and (2) and inserting in lieu thereof periods; and

(D) by striking out “; and” at the end of clause (3) and inserting in lieu thereof a period.

(50) Section 7421(b) is amended by striking out “naval petroleum reserves numbered 1 and 2” and inserting in lieu thereof “Naval Petroleum Reserves Numbered 1 and 2”.

(51) Section 7422(b) is amended by striking out “of this section”.

(52) Sections 7426(a), 7431(b)(1), and 7431(c) are amended by inserting “of this title” after “section 7422(c)”.

(53) Section 7430 is amended—

(A) by striking out “of this section” in subsection (d)(4);
(B) subsection (g)(2)—

(i) by striking out “thirty days” and inserting in lieu thereof “30 days”; and

(ii) by striking out “thirty day” and inserting in lieu thereof “30-day”; and

(C) by striking out “of this section” both places it appears in subsection (1)(4).

(54) Section 7572(b)(1)(B) is amended by striking out “on-board” and inserting in lieu thereof “on board”.

10 USC 8851.

(55) Section 8851(c) is amended by striking out “of this section”.

(56)(A) Sections 2127(b), 2388(c), and 6154 are amended by striking out “section 3324 (a) and (b)” and inserting in lieu thereof “subsections (a) and (b) of section 3324”.

(B) Section 7522(b) is amended by striking out “Section 3324 (a) and (b) of title 31 does” and inserting in lieu thereof “Subsections (a) and (b) of section 3324 of title 31 do”.

(57) Section 9512(b)(1) is amended by inserting “App.” after “49 U.S.C.”.

TITLE XV—GENERAL PROVISIONS

PART A—DEFENSE FINANCIAL MATTERS

TRANSFER AUTHORITY

SEC. 1501. (a)(1) Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this Act between any such authorizations (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations that the Secretary of Defense may transfer under the authority of this section may not exceed \$2,000,000,000.

(b) The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for higher priority items than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) The Secretary of Defense shall promptly notify Congress of transfers made under the authority of this section.

Ante, p. 2510.

(d) Transfers between paragraphs of a subsection of section 301 may be made without regard to the requirements of this section.

PART B—PROVISIONS RELATING TO SPECIFIC PROGRAMS

Establishment.

CHEMICAL WARFARE REVIEW COMMISSION

Report.

SEC. 1511. (a) The President shall establish a bipartisan commission to be known as the “Chemical Warfare Review Commission”. The Commission shall review the overall adequacy of the chemical warfare posture of the United States with particular emphasis on the question of whether the United States should produce binary chemical munitions, and shall report its findings and recommendations to the President not later than April 1, 1985. In developing its recommendations, the Commission shall consider—

(1) the relationship of chemical stockpile modernization by the United States with the ultimate goal of the United States of achieving a multilateral, comprehensive, and verifiable ban on chemical weapons;

(2) the adequacy of the existing United States stockpile of unitary chemical weapons in providing a credible deterrent to

use by the Soviet Union of chemical weapons against United States and allied forces;

(3) whether the binary chemical modernization program proposed by the Department of Defense is adequate to support United States national security policy by posing a credible deterrent to chemical warfare; and

(4) the ability of defensive measures alone to meet the Soviet chemical warfare threat and the adequacy of funding for current and projected defensive measure programs.

(b) The President shall submit to Congress the report of the Commission, together with the President's comments on the report, not later than April 1, 1985.

President of U.S.
Report.

RESTRICTION ON THE USE OF FUNDS FOR THE B-1B BOMBER AIRCRAFT PROGRAM

SEC. 1512. None of the funds appropriated pursuant to an authorization contained in this Act may be obligated or expended for the conduct of research, design, demonstration, development, or procurement of more than 100 B-1B bomber aircraft (including any derivative or modified version of such aircraft) unless the Secretary of Defense first notifies the Committees on Armed Services of the Senate and House of Representatives of the specific purpose for which the funds are proposed to be used and the amount proposed to be expended for that purpose.

CONFIGURATION OF THE FFG-7 CLASS GUIDED MISSILE FRIGATE

SEC. 1513. The Secretary of the Navy may determine the configuration of the FFG-7 class guided missile frigate for which funds were appropriated in the Department of Defense Appropriation Act, 1984 (Public Law 98-212; 97 Stat. 1421), without regard to the provisions relating to the design of that frigate in the paragraph in title IV of that Act under the heading "SHIPBUILDING AND CONVERSION, NAVY".

PROHIBITION AGAINST USING FUNDS APPROPRIATED FOR THE ADVANCED TECHNOLOGY BOMBER AND THE ADVANCED CRUISE MISSILE PROGRAMS FOR ANY OTHER PURPOSE

SEC. 1514. (a) It is the sense of Congress that—

(1) the capabilities inherent in the technologies associated with the Advanced Technology Bomber program and the Advanced Cruise Missile program are a critical national security asset for maintaining an adequate and credible deterrent posture;

(2) such technologies and programs should be developed as rapidly as feasible in order to produce and deploy advanced systems which will complicate the military planning of the Soviet Union and as a consequence enhance the deterrent posture of the United States;

(3) such technologies and programs should be funded at the levels authorized in this Act; and

(4) all the funds appropriated for such programs should be fully used for such programs.

(b) None of the funds appropriated pursuant to an authorization of appropriations in this Act to carry out the Advanced Technology

Bomber program or the Advanced Cruise Missile program may be used for any other purpose.

PART C—MISCELLANEOUS DEFENSE REPORTING REQUIREMENTS

EXTENSION OF TIME FOR REPORT OF THE COMMISSION ESTABLISHED BY THE MILITARY JUSTICE ACT OF 1983

10 USC 867 note.
10 USC 867.

SEC. 1521. Section 9(b)(4) of the Military Justice Act of 1983 (Public Law 98-209; 97 Stat. 1404) is amended by striking out “the first day of the ninth calendar month that begins after the date of the enactment of this Act” and inserting in lieu thereof “December 15, 1984”.

STUDY OF FOREIGN SALES AND PROCUREMENT OF DEFENSE ARTICLES

Commerce and
trade.

SEC. 1522. (a)(1) The Secretary of Defense, in consultation with the heads of other appropriate Federal agencies, shall carry out a study to assess how the adequacy of the industrial base of the United States in the event of a war or national emergency is affected—

(A) by procurement by the Department of Defense of defense articles that are produced outside the United States or that are assembled from components, or fabricated from materials, produced outside the United States; and

(B) by sales by the Department of Defense or commercial manufacturers of defense articles manufactured in the United States to purchasers outside the United States.

(2) For the purposes of this section, the term “foreign-component defense article” means a defense article—

(A) that was produced outside the United States;

(B) that was assembled from over 50 percent components, or fabricated from over 50 percent materials, produced outside the United States; or

(C) that contains a major component that was produced outside the United States.

(b) The study under subsection (a) shall assess the effects of restrictions on the procurement of foreign-component defense articles on the overall United States balance of trade, on the balance of trade in defense articles, on treaties currently in effect, on the budgetary cost of national defense, on existing memoranda of understanding, on United States military alliances, and on efforts to increase the rationalization, standardization, and interoperability of articles used by North Atlantic Treaty Organization forces.

(c) Restrictions to be considered for the purposes of subsection (b) shall include—

(1) a prohibition on procurement of foreign-component defense articles;

(2) a prohibition on procurement of a defense article (or a major component of a defense article) from a foreign source unless there is also a domestic producer of the article;

(3) a prohibition on procurement of defense articles (and major components of defense articles) from a country with which the United States has an unfavorable balance of trade in defense articles; and

(4) a prohibition on procurement of a defense article (or a major component of a defense article) from a foreign source of

more than 50 percent of the total quantity of the defense article (or major component) to be procured.

(d) The study under subsection (a) shall consider circumstances and requirements under a war or national emergency of both a brief duration and a long duration.

(e) A report of the study under subsection (a) shall be submitted to the Committees on Armed Services of the Senate and House of Representatives not later than October 15, 1985.

Report.

REPORT ON USE OF AIR FORCE AIR REFUELING FLEET

SEC. 1523. Not later than March 1, 1985, the Secretary of the Air Force shall submit to the appropriate committees of Congress a report analyzing the planned operational use of the Air Force's air refueling fleet throughout the remainder of the 1980's. This study shall include the planned use of the air refueling fleet for the Single Integrated Operational Plan (SIOP) and shall consider the growing number of potential contingency operations throughout the global spectrum of conflict to include multiple and simultaneous global threats.

Study.

STUDY BY THE SECRETARY OF DEFENSE OF CURRENT AND POTENTIAL EXPLOITATION OF FOREIGN TECHNOLOGY BY THE DEPARTMENT OF DEFENSE

SEC. 1524. (a)(1) The Secretary of Defense shall conduct a comprehensive study on how the Department of Defense can most effectively benefit from technology obtained from both cooperative and noncooperative foreign sources. In carrying out the study, the Secretary shall specifically consider—

(A) the existing and any planned organizational changes within the Department of Defense with respect to the office or offices responsible for collecting and disseminating foreign technology;

(B) whether additional funding is needed, and could be used in a cost-effective manner, for the collection of foreign technology by the various elements of the Department of Defense responsible for collecting and disseminating that technology; and

(C) an evaluation of the effectiveness of the current programs of the Department of Defense for collecting and disseminating foreign technology.

(2) Not later than March 1, 1985, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing the results of the study conducted under paragraph (1), together with such comments and recommendations as the Secretary considers appropriate. The Secretary shall also submit to such committees, at the same time as the report referred to in the preceding sentence is submitted, an unclassified report on the matters described in paragraph (1).

Report.

(b) The Secretary of the Army may not transfer any of the functions now performed by the Foreign Science and Technology Center of the Material Development and Readiness Command of the Army to any other Office or agency within the Army until after the day on which the report referred to in subsection (a)(2) is received by the Committees on Armed Services of the Senate and House of Representatives.

REPORT ON AMERICANS UNACCOUNTED FOR OR MISSING IN INDOCHINA

Lao People's
Democratic
Republic.
Socialist
Republic of
Vietnam.
President of U.S.

SEC. 1525. (a) The Congress finds that—

(1) the President has declared that the issue of the 2,483 Americans missing or otherwise unaccounted for in Indochina is an issue of the highest national priority and has initiated high level discussions with the Governments of the Lao People's Democratic Republic and the Socialist Republic of Vietnam on the issue;

(2) the Congress, on a bipartisan basis, fully supports these initiatives and realizes that the fullest possible accounting of those Americans can only be achieved with the cooperation of those governments;

(3) the Government of the Lao People's Democratic Republic has recently taken positive actions to assist the United States Government in resolving the status of those missing Americans; and

(4) the Government of the Socialist Republic of Vietnam has pledged to cooperate with the Government of the United States in resolving this humanitarian issue, separate from other issues dividing the two countries.

(b) The Congress strongly urges the President—

(1) to ensure that officials of the United States Government conscientiously and fully carry out the pledge of the President to commit the full resources of the United States Government to resolve the issue of the 2,483 Americans still missing or otherwise unaccounted for in Indochina;

(2) to pursue vigorously all reports concerning sightings of live Americans who may be among those missing or otherwise unaccounted for in Indochina;

(3) to work to achieve the fullest possible accounting of all Americans missing or otherwise unaccounted for in Indochina;

(4) to seek the immediate return of the remains of all Americans who have died in Indochina and whose remains have not been returned; and

(5) to make every effort to secure the further cooperation of the Lao People's Democratic Republic and the Socialist Republic of Vietnam in resolving this humanitarian issue of fundamental importance.

(c) The Congress calls upon the Socialist Republic of Vietnam and the Lao People's Democratic Republic to accelerate cooperation with the United States in achieving the fullest possible accounting for Americans still missing in Indochina.

(d) Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report detailing actions being taken by the United States Government described in subsection (b).

President of U.S.
Report.

REPORT ON SAFETY IN THE ARMY

SEC. 1526. Not later than the end of the one-year period beginning on the date of the enactment of this Act, the Secretary of the Army shall submit to the Committees on Armed Services of the Senate and House of Representatives a report describing current and planned programs related to safety of personnel in the Army. The report shall include safety involving training exercises and safety in the operation of Army equipment.

**REPORT ON ENHANCED MILITARY CAREER OPPORTUNITIES FOR NON-
PHYSICIAN HEALTH-CARE PROVIDERS**

SEC. 1527. Not later than March 15, 1985, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report describing and evaluating a plan to enhance the military career opportunities of non-physician providers of health care.

PART D—MISCELLANEOUS DEFENSE-RELATED MATTERS

EXEMPTION FROM AUTHORITY TO INDUCT UNDER THE MILITARY SELECTIVE SERVICE ACT ANY PERSON WHOSE MOTHER WAS KILLED IN LINE OF DUTY

SEC. 1531. Section 6(o) of the Military Selective Service Act (50 U.S.C. App. 456(o)) is amended by inserting “or the mother” after “the father” in clauses (1) and (2).

PROHIBITION OF UNAUTHORIZED USES OF MARINE CORPS INSIGNIA

SEC. 1532. (a)(1) Part IV of subtitle C of title 10, United States Code, is amended by adding at the end thereof the following new chapter:

“CHAPTER 663—NAMES AND INSIGNIA

“Sec.

“7881. Unauthorized use of Marine Corps insignia.

“§ 7881. Unauthorized use of Marine Corps insignia

10 USC 7881.

“(a) The seal, emblem, and initials of the United States Marine Corps shall be deemed to be insignia of the United States.

“(b) No person may, except with the written permission of the Secretary of the Navy, use or imitate the seal, emblem, name, or initials of the United States Marine Corps in connection with any promotion, goods, services, or commercial activity in a manner reasonably tending to suggest that such use is approved, endorsed, or authorized by the Marine Corps or any other component of the Department of Defense.

“(c) Whenever it appears to the Attorney General of the United States that any person is engaged or is about to engage in an act or practice which constitutes or will constitute conduct prohibited by subsection (b), the Attorney General may initiate a civil proceeding in a district court of the United States to enjoin such act or practice. Such court may, at any time before final determination, enter such restraining orders or prohibitions, or take such other action as is warranted, to prevent injury to the United States or to any person or class of persons for whose protection the action is brought.”.

Law
enforcement.

(2) The table of chapters at the beginning of such subtitle, and the table of chapters at the beginning of part IV of such subtitle, are amended by inserting after the item relating to chapter 661 the following new item:

“663. Names and Insignia 7881”.

(b) The amendments made by subsection (a) shall not affect rights that vested before the date of the enactment of this Act.

10 USC 7881
note.

IMPROVED READINESS AND TRAINING OF THE CIVIL AIR PATROL
THROUGH PROVISION OF CERTAIN ADDITIONAL FEDERAL SERVICES

SEC. 1533. (a) Subsection (b) of section 9441 of title 10, United States Code, relating to support of the Civil Air Patrol by the Air Force, is amended—

- (1) by striking out “and” at the end of clause (7);
- (2) by striking out the period at the end of clause (8) and inserting in lieu thereof “; and”; and
- (3) by adding at the end thereof the following new clauses:
 - “(9) authorize the payment of expenses of placing into serviceable condition a major item of equipment furnished to the Civil Air Patrol under clause (1);
 - “(10) authorize the purchase with funds appropriated to the Air Force of such major items of equipment as the Secretary considers needed by the Civil Air Patrol to carry out its missions; and
 - “(11) furnish articles of the Air Force uniform to Civil Air Patrol cadets without cost to such cadets.”.

(b)(1) Chapter 909 of such title is amended by adding at the end thereof the following new section:

10 USC 9442.

“§ 9442. Assistance by other agencies

“The Secretary of the Air Force may arrange for the use by the Civil Air Patrol of such facilities and services under the jurisdiction of the Secretary of the Army, the Secretary of the Navy, or the head of any other department or agency of the United States as the Secretary of the Air Force considers to be needed by the Civil Air Patrol to carry out its mission. Any such arrangement shall be made under regulations prescribed by the Secretary of the Air Force with the approval of the Secretary of Defense and shall be subject to the agreement of the other military department or other department or agency of the United States furnishing the facilities or services.”.

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item: “9442. Assistance by other agencies.”.

Effective date.
10 USC 9441
note.

(c) The amendments made by this section shall take effect on October 1, 1984.

PARTICIPATION OF MEMBERS OF THE ARMED FORCES IN INTERNATIONAL
SPORTS ACTIVITIES

SEC. 1534. Section 717 of title 10, United States Code, relating to participation by members of the armed forces in international sports, is amended—

- (1) by striking out the semicolon at the end of subsection (a)(1) and inserting in lieu thereof “and qualifying events and preparatory competition for those games;”;
- (2) by striking out “that competition” in subsection (a)(2) and inserting in lieu thereof “that competition, and qualifying events and preparatory competition for that competition”;
- (3) by striking out “(c), (d), and (e)” in subsection (b) and inserting in lieu thereof “(c) and (d)”;
- (4) by striking out “Not more than \$800,000” in subsection (c) and inserting in lieu thereof “(1) Not more than \$3,000,000”;

(5) by striking out “(d)” before “Not more than \$100,000” and inserting in lieu thereof “(2)”;

(6) by striking out “March 14, 1955” both places it appears and inserting in lieu thereof “October 1, 1980”; and

(7) by redesignating subsection (e) as subsection (d).

INSTRUCTION OF FOREIGN OFFICERS AT THE UNIFORMED SERVICES
UNIVERSITY OF THE HEALTH SCIENCES

SEC. 1535. Section 2114 of title 10, United States Code, is amended by adding at the end thereof the following new subsection:

“(e)(1) The Board, upon approval of the Secretary of Defense, may enter into agreements with foreign military medical schools for reciprocal education programs under which students at the University receive specialized military medical instruction at the foreign military medical school and military medical personnel of the country of such medical school receive specialized military medical instruction at the University. Any such agreement may be made on a reimbursable basis or a nonreimbursable basis.

“(2) Not more than 40 persons at any one time may receive instruction at the University under this subsection. Attendance of such persons at the University may not result in a decrease in the number of students enrolled in the University. Subsection (b) does not apply to students receiving instruction under this subsection.

“(3) The Dean of the University, with the approval of the Secretary of Defense, shall determine the countries from which persons may be selected to receive instruction under this subsection and the number of persons that may be selected from each country. The Dean may establish qualifications and methods of selection and shall select those persons who will be permitted to receive instruction at the University. The qualifications established shall be comparable to those required of United States citizens.

“(4) Each foreign country from which a student is permitted to receive instruction at the University under this subsection shall reimburse the United States for the cost of providing such instruction, unless such reimbursement is waived by the Secretary of Defense. The Secretary of Defense shall prescribe the rates for reimbursement under this paragraph.

Reimbursement.

“(5) Except as the Dean determines, a person receiving instruction at the University under this subsection is subject to the same regulations governing attendance, discipline, discharge, and dismissal as a student enrolled in the University. The Secretary may prescribe regulations with respect to access to classified information by a person receiving instruction under this subsection that differ from the regulations that apply to a student enrolled in the University.”.

Confidentiality.
Regulations.

COMMISSION ON MERCHANT MARINE AND DEFENSE

SEC. 1536. (a) There is hereby established a commission to be known as the Commission on Merchant Marine and Defense (hereinafter in this section referred to as the “Commission”).

Establishment.
46 USC app.
1120 note.

(b) The Commission shall study problems relating to transportation of cargo and personnel for national defense purposes in time of war or national emergency, the capability of the United States merchant marine to meet the need for such transportation, and the adequacy of the shipbuilding mobilization base of the United States

Study.
Transportation

Reports.

to meet the needs of naval and merchant ship construction in time of war or national emergency. Based on the results of the study, the Commission shall make such specific recommendations, including recommendations for legislative action, action by the executive branch, and action by the private sector, as the Commission considers appropriate to foster and maintain a United States merchant marine capable of meeting national security requirements. The recommendations of the Commission shall be provided in the reports of the Commission due on September 30, 1985, and September 30, 1986, under subsection (g).

(c)(1) The Commission shall be composed of seven members, as follows:

(A) The Secretary of the Navy (or his delegate), who shall be the chairman of the Commission.

(B) The Administrator of the Maritime Administration (or his delegate).

(C) Five members appointed by the President, by and with the advice and consent of the Senate, from among individuals of recognized stature and distinction who by reason of their background, experience, and knowledge in the fields of merchant ship operations, shipbuilding and its supporting industrial base, maritime labor, and defense matters are particularly suited to serve on the Commission.

(2) A vacancy in the Commission shall be filled in the manner in which the original appointment was made. Appointments may be made under paragraph (1)(C) without regard to section 5311(b) of title 5, United States Code. Members appointed under such paragraph shall be appointed for the life of the Commission.

(3) Four members of the Commission shall constitute a quorum, but a lesser number may hold hearings. The Commission shall meet at the call of the chairman.

(d) Members of the Commission appointed under subsection (c)(1)(C) may each be paid at a rate equal to the daily equivalent of the rate of basic pay payable for level IV of the Executive Schedule for each day (including travel time) during which they are engaged in the actual performance of the business of the Commission. Other members of the Commission shall receive no additional pay, allowances, or benefits by reason of their service on the Commission.

(e)(1) The Commission may (without regard to section 5311(b) of title 5, United States Code) appoint an executive director, who shall be paid at a rate not to exceed the rate of basic pay payable for level IV of the Executive Schedule.

(2) The Commission may appoint such additional staff as it considers appropriate. Such personnel shall be paid at a rate not to exceed the rate of basic pay payable for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code.

(3) The executive director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the executive branch and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

5 USC 5101
et seq., 5331.

(4) The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(f)(1) The Secretary of the Navy and the Administrator of the Maritime Administration may detail personnel under their jurisdic-

tion to the Commission to assist the Commission in carrying out its duties under this section.

(2) The Secretary of the Navy and the Administrator of the Maritime Administration may provide to the Commission such administrative support services as the Commission may require.

(g) Not later than June 30, 1985, and June 30, 1986, the Commission shall submit to the President and to Congress a report containing its findings of fact and its conclusions. Not later than September 30, 1985, and September 30, 1986, the Commission, based upon those findings and conclusions, shall prepare a report containing the recommendations of the Commission as specified in subsection (b) and shall submit the report to the President and Congress. Each such report shall be prepared without any prior review or approval by any official of the executive branch (other than the members and staff of the Commission).

(h) The Commission shall cease to exist 90 days after the date on which the final report of the Commission under subsection (g) is submitted to the President and the Congress.

(i) There is authorized to be appropriated for fiscal years 1985, 1986, and 1987, a total of \$1,500,000 to carry out this section. Any amount appropriated under this subsection shall remain available until September 30, 1987.

Reports.

Termination date.

Appropriation authorization.

DEPARTMENT OF DEFENSE AIR TRAFFIC CONTROLLERS

SEC. 1537. (a) Section 4109(c) of title 5, United States Code, is amended by inserting "and the Secretary of Defense may pay an individual training to be an air traffic controller of the Department of Defense," after "of such Administration,".

(b) Section 5532(f) of such title is amended—

5 USC 5532.

(1) in paragraph (1) by inserting "or of the Secretary of Defense" after "Administrator, Federal Aviation Administration,"; and

(2) in paragraph (2)—

(A) by inserting "or the Secretary of Defense" after "Administrator, Federal Aviation Administration,"; and

(B) by inserting "or such Secretary, respectively" before the period.

(c)(1) Subsection (a) of section 5546a of such title is amended—

5 USC 5546a.

(A) by inserting "and the Secretary of Defense (hereafter in this section referred to as the 'Secretary')" after "referred to as the 'Administrator'";

(B) in paragraph (1) by inserting "or the Department of Defense" after "Federal Aviation Administration" and by inserting "or the Secretary" after "by the Administrator"; and

(C) in paragraph (2) by inserting "or the Department of Defense" after "Federal Aviation Administration" and by inserting "or the Secretary" after "determined by the Administrator".

(2) Subsection (c)(1) of such section is amended—

(A) by inserting "or the Secretary" after "Administrator" both places it appears; and

(B) by inserting "or the Department of Defense" after "Federal Aviation Administration";

(3) Subsection (d) of such section is amended—

(A) in paragraph (1) by inserting "or the Secretary" after "Administrator" both places it appears and inserting "or the

Department of Defense" after "Federal Aviation Administration"; and

(B) in paragraph (2) by inserting "or the Department of Defense" after "Federal Aviation Administration".

(4) Subsection (e)(1) of such section is amended—

(A) by inserting "or the Secretary" after "Administrator"; and

(B) by inserting "or the Department of Defense" after "Federal Aviation Administration".

(5) Subsection (f) of such section is amended—

(A) in paragraph (1) by inserting "or the Secretary" after "Administrator" and by inserting "or the Department of Defense" after "Federal Aviation Administration"; and

(B) in paragraph (2) by inserting "and the Secretary" after "Administrator".

(6)(A) The heading of such section is amended by inserting at the end thereof "and the Department of Defense".

(B) The item relating to section 5546a in the analysis of chapter 55 of such title is amended by inserting "and the Department of Defense" before the period.

5 USC 5547.

(d) Section 5547 of such title is amended by inserting "or the Department of Defense" after "Federal Aviation Administration".

5 USC 8344.

(e) Section 8344(h)(1) of such title is amended by inserting "or the Secretary of Defense" after "Administrator, Federal Aviation Administration,".

Effective date.

5 USC 4109 note.

(f) The amendments made by this section shall take effect on October 1, 1984.

SALE OF AMMUNITION FOR AVALANCHE-CONTROL PURPOSES

SEC. 1538. (a)(1) Chapter 441 of title 10, United States Code, is amended by adding at the end thereof the following new section:

Contracts.

10 USC 4657.

"§ 4657. Sale of ammunition for avalanche-control purposes

"Subject to the needs of the Army, the Secretary of the Army may sell ammunition for military weapons which are used for avalanche-control purposes to any State (or entity of a State) or to any other non-Federal entity that has been authorized by a State to use those weapons in that State for avalanche-control purposes. Sales of ammunition under this section shall be on a reimbursable basis and shall be subject to the condition that the ammunition be used only for avalanche-control purposes."

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"4657. Sale of ammunition for avalanche-control purposes."

Effective date.

10 USC 4657

note.

(b) Section 4657 of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 1984.

SUPPLEMENTAL INFORMATION TO THE ENVIRONMENTAL IMPACT STATEMENT OF THE NAVY ON THE PROPOSED TRANSFER OF CERTAIN PERSONNEL

SEC. 1539. In addition to any other requirement regarding an environmental impact statement prepared by the Secretary of the Navy in connection with the 1981 Navy master plan to vacate leased space by transferring military and civilian personnel of the Department of the Navy from Arlington County, Virginia, to the Washing-

ton Navy Yard in Washington, District of Columbia, the Secretary of the Navy shall also prepare as a supplement to such impact statement a detailed analysis with respect to the following matters:

- (1) The socio-economic impact on the area from which the transfer is proposed to be made.
- (2) The impact of the proposed transfer on the traffic capacity of bridges over the Potomac River and the Anacostia River.
- (3) The impact of the proposed transfer on shuttle requirements of the Department of Defense.
- (4) The overall impact of the proposed transfer on the area from which the transfer is proposed to be made and on the area to which the transfer is proposed to be made, taking into consideration all other planned moves of personnel by the Navy to the Washington Navy Yard and by all other agencies of the Government.
- (5) The impact of such proposed transfer, and all other planned transfers to the Washington Navy Yard, on both present and potential parking capacity in the vicinity of such facility.
- (6) The impact of the proposed transfer on communications and security requirements of the Navy.
- (7) The impact of the proposed transfer on supporting and servicing contractors and the impact that the movement of such contractors will likely have on public and private facilities in the area from which they move and the area to which they move.

**AUTHORIZATION FOR SECRETARY OF DEFENSE TO TRANSPORT
HUMANITARIAN RELIEF SUPPLIES TO COUNTRIES IN CENTRAL AMERICA**

SEC. 1540. (a) Notwithstanding any other provision of law, during fiscal year 1985, the Secretary of Defense may transport on a space available basis, at no charge, to any country in Central America goods and supplies which have been furnished by a nongovernmental source and which are intended for humanitarian assistance.

(b)(1) The President shall institute procedures, including complete inspection prior to acceptance for transport, for determining that—

President of U.S.

- (A) the transport of any goods and supplies transported under this section is consistent with foreign policy objectives;
- (B) the goods and supplies to be transported are suitable for humanitarian purposes and are in usable condition;
- (C) there is a legitimate humanitarian need for such goods and supplies;
- (D) the goods and supplies will in fact be used for humanitarian purposes; and
- (E) there are adequate arrangements for the distribution of such goods and supplies in the country of destination.

(2) Goods and supplies determined not to meet the criteria of paragraph (1) may not be transported under this section.

Prohibition.

(3) It shall be the responsibility of the donor to ensure that goods or supplies to be transported under this section are suitable for transport.

(c) Goods and supplies transported under this section may be distributed by an agency of the United States Government, a foreign government, or international organization, or a private nonprofit relief organization. The Secretary of Defense may not accept any goods or supplies for transportation under this section unless verifi-

cation of adequate arrangements has been received in advance for distribution of such goods and supplies.

(d) Goods or supplies transported under this section may not be distributed, directly or indirectly, to any individual, group, or organization engaged in military or paramilitary activity.

Report.

(e) No later than 90 days after the date of the enactment of this section, and every 60 days thereafter, the Secretary of State shall report to the Congress concerning the origin, contents, destination, and disposition of all goods and supplies transported under this section.

PART E—OTHER MISCELLANEOUS MATTERS

SURVIVORS OF THE GLOMAR JAVA SEA

Vessels.

SEC. 1541. (a) The Congress finds that—

(1) on October 26, 1983, the United States registered oil drilling ship Glomar Java Sea was reported missing during stormy weather at its drilling site 60 miles off Hainan Island in the South China Sea and was found sunken near its drilling site on November 1, 1983;

(2) no evidence has been found of 46 of the 81 crewmen, including citizens of the United States, or of the lifeboats which, reportedly, were launched from the Glomar Java Sea, despite an intensive cooperative search involving United States military search and rescue aircraft and commercial vessels;

Vietnam.

(3) the Chairman of the United States Coast Guard Marine Board of Investigation has concluded that it is possible that crewmembers of the Glomar Java Sea survived and drifted into waters near the coast of Vietnam; and

(4) the Government of Vietnam has refused to allow an independent search for the possible survivors to be conducted in waters within 20 miles of such coast.

(b) Considering the findings set out in subsection (a), it is the sense of the Congress that the President should, through all appropriate bilateral and multilateral channels, continue and accelerate the effort to obtain the cooperation of the Government of Vietnam in ascertaining the fate or locations of the 46 crewmen of the sunken United States registered vessel Glomar Java Sea.

POLICY REGARDING THE FURNISHING OF FOOD AND MEDICAL SUPPLIES TO AFGHANISTAN

SEC. 1542. (a) The Congress finds—

(1) that after more than four years of occupation by the military forces of the Soviet Union, the freedom-loving people of Afghanistan continue bravely to resist the oppression of the Soviet Union;

(2) that the current Soviet Union offensive has resulted in great suffering and destruction in Afghanistan and has intensified the Soviet policy which targets civilian populations; and

(3) that this "scorched earth" policy of the Soviet Union, which has resulted in the destruction of crops, food supplies, farms, hospitals, and other public buildings in Afghanistan, has been a desperate attempt on the part of the Soviet Union to subdue the population of that country or to force the depopulation of certain areas which the occupying forces of the Soviet Union are unable to control.

(b) It is, therefore, the sense of Congress that the free world should take all appropriate steps to ensure that the people of Afghanistan have food and medical supplies adequate to sustain themselves as they struggle to regain their freedom.

REAFFIRMATION OF UNITED STATES POLICY TOWARD CUBA

SEC. 1543. (a) It is the policy of the Government of the United States to continue in its relations with the Government of Cuba the policy set forth in the joint resolution entitled "Joint resolution expressing the determination of the United States with respect to the situation in Cuba", approved by the President on October 3, 1962 (Public Law 87-733; 76 Stat. 697).

(b) Nothing in this section shall be deemed to change or otherwise affect the standards and procedures provided in the National Security Act of 1947, the Foreign Assistance Act of 1961, or the War Powers Resolution. This section does not constitute the statutory authorization for introduction of United States Armed Forces contemplated by the War Powers Resolution.

50 USC 401 note,
22 USC 2151
note.
50 USC 1541
note.

REPORT ON USE OF CUBAN AND RUSSIAN NICKEL IN DEFENSE PROCUREMENTS

SEC. 1544. Not later than April 1, 1985, the Secretary of Defense shall submit to Congress a report on the effects on the national security of the United States of procurement by the Department of Defense of products containing nickel produced in Cuba or the Soviet Union. The report shall be prepared after consultation with the Secretaries of Commerce, the Interior, and the Treasury.

TITLE XVI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

SHORT TITLE

SEC. 1600. This title may be cited as the "Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1985".

Department of
Energy National
Security and
Military
Applications of
Nuclear Energy
Authorization
Act of 1985.

PART A—NATIONAL SECURITY PROGRAMS AUTHORIZATIONS

OPERATING EXPENSES

SEC. 1601. Funds are authorized to be appropriated to the Department of Energy for fiscal year 1985 for operating expenses incurred in carrying out national security programs (including scientific research and development in support of the Armed Forces, strategic and critical materials necessary for the common defense, and military applications of nuclear energy and related management and support activities) as follows:

- (1) For naval reactors development, \$426,400,000.
- (2) For weapons activities, \$3,364,130,000, to be allocated as follows:
 - (A) For research and development, \$805,625,000.
 - (B) For weapons testing, \$532,000,000.
 - (C) For the defense inertial confinement fusion program, \$154,750,000, of which—

- (i) \$92,700,000 shall be used for glass laser experiments;
- (ii) \$42,100,000 shall be used for gas laser experiments;
- (iii) \$19,200,000 shall be used for pulsed power experiments; and
- (iv) \$750,000 shall be used for supporting research.
- (D) For production and surveillance, \$1,810,900,000.
- (E) For program direction, \$60,855,000.
- (3) For verification and control technology, \$73,700,000, of which \$3,200,000 shall be used for program direction.
- (4) For defense nuclear materials production, \$1,407,090,000, to be allocated as follows:
 - (A) For uranium enrichment, \$142,800,000.
 - (B) For production reactor operations, \$551,235,000.
 - (C) For processing of defense nuclear materials, \$379,770,000.
 - (D) For special isotope separation, \$60,000,000.
 - (E) For supporting services, \$252,985,000.
 - (F) For program direction, \$20,300,000.
- (5) For defense nuclear waste and byproduct management, \$358,700,000, to be allocated as follows:
 - (A) For interim waste management, \$240,400,000.
 - (B) For long-term waste management technology, \$90,400,000.
 - (C) For terminal waste storage, \$25,800,000.
 - (D) For program direction, \$2,100,000.
- (6) For nuclear materials safeguards and security technology development program, \$58,000,000, of which \$7,600,000 shall be used for program direction.
- (7) For security investigations, \$34,000,000.

PLANT AND CAPITAL EQUIPMENT

SEC. 1602. Funds are authorized to be appropriated to the Department of Energy for fiscal year 1985 for plant and capital equipment (including planning, construction, acquisition, and modification of facilities, land acquisition related thereto, and acquisition and fabrication of capital equipment not related to construction) necessary for national security programs as follows:

- (1) For naval reactors development:
 - Project 85-N-101, general plant projects, various locations, \$2,000,000.
 - Project 82-N-111, materials facility, Savannah River, South Carolina, \$40,000,000, for a total project authorization of \$165,000,000.
 - Project 81-T-112, modifications and additions to prototype facilities, various locations, \$6,000,000, for a total project authorization of \$110,000,000.
- (2) For weapons activities:
 - Project 85-D-101, general plant projects, various locations, \$29,600,000.
 - Project 85-D-111, general plant projects, various locations, \$30,200,000.
 - Project 85-D-102, nuclear weapons research, development, and testing facilities revitalization, phase I, various locations, \$35,400,000.

Project 85-D-103, safeguards and security enhancements, Lawrence Livermore National Laboratory and Sandia National Laboratories, Livermore, California, \$4,700,000.

Project 85-D-104, test devices assembly building, Los Alamos National Laboratory, Los Alamos, New Mexico, \$800,000.

Project 85-D-105, combined device assembly facility, Nevada Test Site, Nevada, \$3,000,000.

Project 85-D-106, hardened radiography facility, site 300, Lawrence Livermore National Laboratory, Livermore, California, \$800,000.

Project 85-D-112, enriched uranium recovery improvements, Y-12 Plant, Oak Ridge, Tennessee, \$4,500,000.

Project 85-D-113, powerplant and steam distribution system, Pantex Plant, Amarillo, Texas, \$4,500,000.

Project 85-D-114, safeguards vaults, Y-12 Plant, Oak Ridge, Tennessee, \$3,100,000.

Project 85-D-115, renovate plutonium building utility systems, Rocky Flats Plant, Golden, Colorado, \$2,900,000.

Project 85-D-121, air and water pollution control facilities, Y-12 Plant, Oak Ridge, Tennessee, \$5,000,000.

Project 85-D-122, safeguards and site security upgrade, Mound Facility, Miamisburg, Ohio, \$2,700,000.

Project 85-D-123, safeguards and site security upgrade, phase I, Pantex Plant, Amarillo, Texas, \$1,000,000.

Project 85-D-124, safeguards and site security upgrade, Rocky Flats, Golden, Colorado, \$1,000,000.

Project 85-D-125, tactical bomb production facilities, various locations, \$10,000,000.

Project 84-D-102, radiation-hardened integrated circuit laboratory, Sandia National Laboratories, Albuquerque, New Mexico, \$20,000,000, for a total project authorization of \$22,000,000.

Project 84-D-103, hardened central guard force facility, Los Alamos National Laboratory, Los Alamos, New Mexico, \$5,600,000, for a total project authorization of \$6,200,000.

Project 84-D-104, nuclear materials storage facility, Los Alamos National Laboratory, Los Alamos, New Mexico, \$6,500,000, for a total project authorization of \$7,200,000.

Project 84-D-105, safeguards and security upgrades, phase I, Los Alamos National Laboratory, Los Alamos, New Mexico, \$10,100,000, for a total project authorization of \$15,100,000.

Project 84-D-106, security system upgrade, Sandia National Laboratories, Albuquerque, New Mexico, \$2,300,000, for a total project authorization of \$3,800,000.

Project 84-D-107, nuclear testing facilities revitalization, various locations, \$21,900,000, for a total project authorization of \$35,400,000.

Project 84-D-112, TRIDENT II warhead production facilities, various locations, \$60,700,000, for a total project authorization of \$80,000,000.

Project 84-D-114, consolidated manufacturing facility, Rocky Flats Plant, Golden, Colorado, \$18,100,000, for a total project authorization of \$42,200,000.

Project 84-D-115, electrical system expansion, Pantex Plant, Amarillo, Texas, \$10,000,000, for a total project authorization of \$11,500,000.

Project 84-D-117, inert assembly and test facility, Pantex Plant, Amarillo, Texas, \$11,700,000, for a total project authorization of \$13,200,000.

Project 84-D-119, railroad track replacement and upgrade, Pantex Plant, Amarillo, Texas, \$6,800,000, for a total project authorization of \$7,600,000.

Project 84-D-120, explosive component test facility, Mound Facility, Miamisburg, Ohio, \$16,900,000, for a total project authorization of \$20,000,000.

Project 84-D-121, safeguards and site security upgrading, Rocky Flats Plant, Golden, Colorado, \$11,200,000, for a total project authorization of \$21,200,000.

Project 84-D-124, environmental improvements, Y-12 Plant, Oak Ridge, Tennessee, \$21,400,000, for a total project authorization of \$29,000,000.

Project 84-D-211, safeguards and site security upgrading, Y-12 Plant, Oak Ridge, Tennessee, \$8,000,000, for a total project authorization of \$15,500,000.

Project 84-D-212, safeguards and site security upgrade, Pinellas Plant, Florida, \$2,700,000, for a total project authorization of \$3,700,000.

Project 83-D-199, buffer land acquisition, Lawrence Livermore National Laboratory and Sandia National Laboratories, Livermore, California, \$7,000,000, for a total project authorization of \$17,000,000.

Project 82-D-107, utilities and equipment restoration, replacement and upgrade, phase III, various locations, \$165,000,000, for a total project authorization of \$570,400,000.

Project 82-D-111, interactive graphics systems, various locations, \$6,800,000, for a total project authorization of \$20,000,000.

Project 82-D-144, simulation technology laboratory, Sandia National Laboratories, Albuquerque, New Mexico, \$11,500,000, for a total project authorization of \$23,700,000.

Project 82-D-150, weapons materials research and development facility, Lawrence Livermore National Laboratory, Livermore, California, \$16,800,000, for a total project authorization of \$27,200,000.

Project 81-D-101, particle beam fusion accelerator-II, Sandia National Laboratories, Albuquerque, New Mexico, \$3,500,000, for a total project authorization of \$45,650,000.

Project 81-D-115, missile X warhead production facilities, various locations, \$20,900,000, for a total project authorization of \$125,000,000.

Project 81-D-120, control of effluents and pollutants, Y-12 Plant, Oak Ridge, Tennessee, \$1,400,000, for a total project authorization of \$7,800,000.

Project 81-D-134, earthquake damage restoration, Sandia National Laboratories, Livermore, California, \$4,900,000, for a total project authorization of \$8,600,000.

Project 79-7-0, universal pilot plant, Pantex Plant, Amarillo, Texas, \$3,800,000, for a total project authorization of \$15,900,000.

(3) For verification and control technology:

Project 85-D-171, space science laboratory, Los Alamos, New Mexico, \$1,000,000.

(4) For materials production:

Project 85-D-131, general plant projects, various locations, \$30,000,000.

Project 85-D-132, plant engineering and design, various locations, \$2,000,000.

Project 85-D-136, components protection system, 100-N area, Richland, Washington, \$3,300,000.

Project 85-D-137, vault safety special nuclear material inventory system, Richland, Washington, \$2,500,000.

Project 85-D-139, fuel processing restoration, Idaho Fuels Processing Facility, Idaho National Engineering Laboratory, Idaho, \$10,000,000.

Project 85-D-140, productivity and radiological improvements, Feed Materials Productions Center, Fernald, Ohio, \$6,000,000.

Project 85-D-142, fuel tube facilities, fuel preparation area, Savannah River, South Carolina, \$8,000,000.

Project 85-D-145, uranyl nitrate to oxide conversion facility, Savannah River, South Carolina, \$1,800,000.

Project 84-D-130, modification processing facility substations, Savannah River, South Carolina, \$200,000, for a total project authorization of \$5,800,000.

Project 84-D-134, safeguards and security improvements, Plantwide, Savannah River, South Carolina, \$14,900,000, for a total project authorization of \$26,900,000.

Project 84-D-136, enriched uranium conversion facility modifications, Y-12 Plant, Oak Ridge, Tennessee, \$8,000,000, for a total project authorization of \$12,400,000.

Project 84-D-137, facility security systems upgrade, Idaho Fuels Processing Facility (IFPF), Idaho National Engineering Laboratory, Idaho, \$8,000,000, for a total project authorization of \$10,000,000.

Project 83-D-146, water pollution control, Feed Materials Production Center, Fernald, Ohio, \$4,100,000, for a total project authorization of \$9,500,000.

Project 83-D-147, pollution discharge elimination, Savannah River, South Carolina, \$2,150,000, for a total project authorization of \$8,650,000.

Project 83-D-148, nonradioactive hazardous waste management, Savannah River, South Carolina, \$11,500,000, for a total project authorization of \$19,000,000.

Project 83-D-180, facility storage modifications, various locations, \$6,500,000, for a total project authorization of \$15,800,000.

Project 82-D-124, restoration of production capabilities, phases II, III, IV, and V, various locations, \$68,800,000, for a total project authorization of \$300,634,000.

Project 82-D-128, plant perimeter security systems upgrade, Idaho Fuels Processing Plant, Idaho National Engineering Laboratory, Idaho, \$400,000, for a total project authorization of \$5,400,000.

Project 82-D-136, fuel processing facilities upgrade, Idaho Fuels Processing Facility, Idaho National Engineering Laboratory, Idaho, \$1,000,000, for a total project authorization of \$46,000,000.

Project 82-D-201, special plutonium recovery facilities, JB-Line, Savannah River, South Carolina, \$24,400,000, for a total project authorization of \$61,400,000.

(5) For defense waste and byproducts management:

Project 85-D-156, general plant projects, interim waste operations and long-term waste management technology, various locations, \$23,645,000.

Project 85-D-157, seventh calcined solids storage facility, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho, \$7,000,000.

Project 85-D-158, central warehouse upgrade, Richland, Washington, \$700,000.

Project 85-D-159, new waste transfer facilities, H Area, Savannah River, South Carolina, \$11,000,000.

Project 85-D-160, test reactor area security system upgrade, Idaho National Engineering Laboratory (INEL), Idaho, \$2,000,000.

Project 83-D-157, additional radioactive waste storage facilities, Richland, Washington, \$3,155,000, for a total project authorization of \$53,155,000.

Project 81-T-105, defense waste processing facility, Savannah River, South Carolina, \$230,500,000, for a total project authorization of \$432,500,000.

Project 77-13-f, waste isolation pilot plant, Delaware Basin, Southeast, New Mexico, \$51,100,000, for a total project authorization of \$394,200,000.

(6) For capital equipment not related to construction—

(A) for naval reactors development, \$22,500,000;

(B) for weapons activities, \$241,850,000;

(C) for inertial confinement fusion, \$9,500,000;

(D) for verification and control technology, \$2,000,000;

(E) for materials production, \$117,660,000;

(F) for defense waste and byproducts management, \$35,771,000; and

(G) for nuclear safeguards and security, \$4,700,000.

PART B—RECURRING GENERAL PROVISIONS

REPROGRAMING

Limitations.

SEC. 1621. (a) Except as otherwise provided in this title—

(1) no amount appropriated pursuant to this title may be used for any program in excess of 105 percent of the amount authorized for that program by this title or \$10,000,000 more than the amount authorized for that program by this title, whichever is the lesser, and

(2) no amount appropriated pursuant to this title may be used for any program which has not been presented to, or requested of, the Congress,

unless a period of thirty calendar days (not including any day on which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after receipt by the appropriate committees of Congress of notice from the Secretary of Energy (hereinafter in this part referred to as the "Secretary") containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or unless each such committee before the expiration of such period has transmitted to the Secretary written notice to the effect that such committee has no objection to the proposed action.

(b) In no event may the total amount of funds obligated pursuant to this title exceed the total amount authorized to be appropriated by this title. Prohibition.

LIMITS ON GENERAL PLANT PROJECTS

SEC. 1622. (a) The Secretary may carry out any construction project under the general plant projects provisions authorized by this title if the total estimated costs of the construction project does not exceed \$1,000,000.

(b) If at any time during the construction of any general plant project authorized by this title, the estimated cost of the project is revised because of unforeseen cost variations and the revised cost of the project exceeds \$1,000,000, the Secretary shall immediately furnish a complete report to the appropriate committees of Congress explaining the reasons for the cost variation. Report.

(c) In no event may the total amount of funds obligated to carry out all general plant projects authorized by this title exceed the total amount authorized to be appropriated for such projects by this title. Prohibition.

LIMITS ON CONSTRUCTION PROJECTS

SEC. 1623. (a) Whenever the current estimated cost of a construction project which is authorized by section 302 of this title, or which is in support of national security programs of the Department of Energy and was authorized by any previous Act, exceeds by more than 25 percent the higher of (1) the amount authorized for the project, or (2) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to the Congress, construction may not be started or additional obligations incurred in connection with the project above the total estimated cost, as the case may be, unless a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three days to a day certain) has passed after receipt by the appropriate committees of the Congress of written notice from the Secretary containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of the action, or unless each committee before the expiration of such period has notified the Secretary it has no objection to the proposed action.

(b) Subsection (a) shall not apply to any construction project which has a current estimated cost of less than \$5,000,000.

FUND TRANSFER AUTHORITY

SEC. 1624. To the extent specified in appropriation Acts, funds appropriated pursuant to this title may be transferred to other agencies of the Government for the performance of the work for which the funds were appropriated, and funds so transferred may be merged with the appropriations of the agency to which the funds are transferred.

AUTHORITY FOR CONSTRUCTION DESIGN

SEC. 1625. (a)(1) Within the amounts authorized by this title for plant engineering and design, the Secretary may carry out advance planning and construction designs (including architectural and engineering services) in connection with any proposed construction

project if the total estimated cost for such planning and design does not exceed \$2,000,000.

(2) In any case in which the total estimated cost for such planning and design exceeds \$300,000, the Secretary shall notify the appropriate committees of Congress in writing of the details of such project at least thirty days before any funds are obligated for design services for such project.

(b) In any case in which the total estimated cost for advance planning and construction design in connection with any construction project exceeds \$2,000,000, funds for such design must be specifically authorized by law.

AUTHORITY FOR EMERGENCY CONSTRUCTION DESIGN

SEC. 1626. In addition to the advance planning and construction design authorized by section 302, the Secretary may perform planning and design utilizing available funds for any Department of Energy defense activity construction project whenever the Secretary determines that the design must proceed expeditiously in order to meet the needs of national defense or to protect property or human life.

FUNDS AVAILABLE FOR ALL NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY

SEC. 1627. Subject to the provisions of appropriation Acts, amounts appropriated pursuant to this title for management and support activities and for general plant projects are available for use, when necessary, in connection with all national security programs of the Department of Energy.

ADJUSTMENTS FOR PAY INCREASES

SEC. 1628. Appropriations authorized by this title for salary, pay, retirement, or other benefits for Federal employees may be increased by such amounts as may be necessary for increases in such benefits authorized by law.

AVAILABILITY OF FUNDS

SEC. 1629. When so specified in an appropriation Act, amounts appropriated for Department of Energy defense programs may remain available until expended.

PART C—SPECIAL PROGRAM PROVISIONS

CONTRACTOR LIABILITY FOR INJURY OR LOSS OF PROPERTY ARISING OUT OF ATOMIC WEAPONS TESTING PROGRAMS

Claims.
42 USC 2212.
46 USC 781-790.

SEC. 1631. (a)(1) The remedy against the United States provided by sections 1346(b) and 2672 of title 28, United States Code, or by the Act of March 9, 1920 (46 U.S.C. 741-752 and 781-790), as appropriate, for injury, loss of property, personal injury, or death shall apply to any civil action for injury, loss of property, personal injury, or death due to exposure to radiation based on acts or omissions by a contractor in carrying out an atomic weapons testing program under a contract with the United States.

(2) The remedies referred to in paragraph (1) shall be exclusive of any other civil action or proceeding for the purpose of determining

civil liability arising from any act or omission of the contractor without regard to when the act or omission occurred. The employees of a contractor referred to in paragraph (1) shall be considered to be employees of the Federal Government, as provided in section 2671 of title 28, United States Code, for the purposes of any such civil action or proceeding; and the civil action or proceeding shall proceed in the same manner as any action against the United States filed pursuant to section 1346(b) of such title and shall be subject to the limitations and exceptions applicable to those actions.

28 USC 1346.

(b) A contractor against whom a civil action or proceeding described in subsection (a) is brought shall promptly deliver all processes served upon that contractor to the Attorney General of the United States. Upon certification by the Attorney General that the suit against the contractor is within the provisions of subsection (a), a civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States for the district and division embracing the place wherein it is pending and the proceedings shall be deemed a tort action brought against the United States under the provisions of section 1346(b), 2401(b), or 2402, or sections 2671 through 2680 of title 28, United States Code. For purposes of removal, the certification by the Attorney General under this subsection establishes contractor status conclusively.

(c) The provisions of this section shall apply to any action now pending or hereafter commenced which is an action within the provisions of subsection (a) of this section. Notwithstanding section 2401(b) of title 28, United States Code, if a civil action or proceeding pending on the date of enactment of this section is dismissed because the plaintiff in such action or proceeding did not file an administrative claim as required by section 2672 of that title, the plaintiff in that action or proceeding shall have 30 days from the date of the dismissal or two years from the date upon which the claim accrued, whichever is later, to file an administrative claim, and any claim or subsequent civil action or proceeding shall thereafter be subject to the provisions of section 2401(b) of title 28, United States Code.

28 USC 2672.

(d) For purposes of this section, the term "contractor" includes a contractor or cost reimbursement subcontractor of any tier participating in the conduct of the United States atomic weapons testing program for the Department of Energy (or its predecessor agencies, including the Manhattan Engineer District, the Atomic Energy Commission, and the Energy Research and Development Administration). Such term also includes facilities which conduct or have conducted research concerning health effects of ionizing radiation in connection with the testing under contract with the Department of Energy (or any of its predecessor agencies).

Research and
development.
Hazardous
materials.

COST-EFFECTIVE FUNDING OF NUCLEAR WEAPONS

SEC. 1632. (a) The President shall establish a Blue Ribbon Task Group to examine the procedures used by the Department of Defense and the Department of Energy in establishing requirements for, and in providing resources for, the research, development, testing, production, surveillance, and retirement of nuclear weapons. The Task Group shall recommend any needed change in such procedures in accordance with subsection (e).

President of U.S.
Blue Ribbon
Task Group,
establishment.

(b)(1) The Task Group shall consist of seven members, qualified for service by reasons of experience and education. The President shall appoint three members and shall designate one of those members to act as chairman of the Task Group. The Chairman and ranking minority members of the Committees on Armed Services of the Senate and House of Representatives shall each appoint one member.

(2) None of the members may be an employee of the Department of Defense or the Department of Energy.

President of U.S.

(c) Within 90 days of the date of the enactment of this Act, the President shall submit to the Committees on Armed Services of the Senate and House of Representatives (1) the names of the persons appointed by him to the Task Group, together with the qualifications of each such person to serve on the Task Group, and (2) a detailed plan for completing the report required by subsection (e).

President of U.S.

(d) The President shall ensure that the Task Group has complete and timely access to employees and records of the Department of Energy and the Department of Defense pertaining to procedures referred to in subsection (a).

Report.

(e) Within 270 days of the date of the enactment of this Act, the Task Group shall submit to the President and the Committees on Armed Services of the Senate and House of Representatives a report containing its findings and recommendations. Such report shall include any additional or dissenting views that any member of the Task Group may wish to submit. The report shall (in addition to any other matters) include recommendations in the following areas:

(1) Ways to improve coordination between the Department of Energy and the Department of Defense to ensure cost-effective implementation of weapon activities and materials production.

(2) Cost-effective improvements that can be made in budgeting and management procedures that affect weapon activities and materials productions.

(3) Whether the Department of Defense should assume the responsibility for funding current Department of Energy weapon activities and materials production programs.

REVIEW OF THE INERTIAL CONFINEMENT FUSION PROGRAM

President of U.S.
Technical
Review Group on
Inertial
Confinement
Fusion,
establishment.

SEC. 1633. (a)(1) Within 30 days after the date of the enactment of this Act, the President shall establish a review body to be known as the Technical Review Group on Inertial Confinement Fusion (hereinafter in this section referred to as the "Technical Review Group").

(2) It shall be the function of the group to review thoroughly the accomplishments, management, goals, and anticipated contributions of the defense inertial confinement fusion program.

(3) The President shall appoint to serve on the Technical Review Group only persons who, because of recent training and experience in the scientific disciplines associated with the development and testing of nuclear weapons, are most qualified to make findings of fact and recommendations to the Congress and the President concerning that program.

Reports.

(b) The Technical Review Group shall submit to the President and the Committees on Armed Services of the Senate and House of Representatives written reports containing the results of its review, together with such recommendations regarding priorities for future work in the inertial confinement fusion program as it determines appropriate, as follows:

(1) A first interim report shall be submitted before February 1, 1985.

(2) A second interim report shall be submitted before June 1, 1985.

(3) A final report shall be submitted before May 1, 1986.

(c) Upon the submission of its final report, the Technical Review Group shall cease to exist.

Termination
date.

NAVAL NUCLEAR PROPULSION PROGRAM

SEC. 1634. The provisions of Executive Order Numbered 12344, dated February 1, 1982, pertaining to the Naval Nuclear Propulsion Program, shall remain in force until changed by law.

42 USC 7158
note.
3 CFR, 1982
Comp., p. 128.

AUTHORIZATION FOR PRODUCTION OF THE 155-MILLIMETER ARTILLERY-FIRED, ATOMIC PROJECTILE

SEC. 1635. (a) In addition to the amounts otherwise authorized to be appropriated in this title, there is authorized to be appropriated to the Secretary of Energy for fiscal years beginning after September 30, 1984, \$50,000,000 for the construction of facilities necessary to produce the 155-millimeter artillery-fired, atomic projectile (Project 82-D-109).

(b) In the case of the 155-millimeter atomic-fired artillery projectile (W-82) and the 8-inch atomic-fired artillery projectile (W-79), the following conditions shall be complied with:

(1) The total number of both such warheads produced may not exceed 925.

(2) The total amount spent for the production of both such warheads after the date of the enactment of this Act may not exceed \$1,100,000,000.

(3) No such warhead produced after the date of the enactment of this Act may be produced in the enhanced radiation version.

(4) In producing such warheads, special emphasis shall be placed upon improvements in the safety, security, range, and survivability of such warheads.

(5) Replacement of obsolete atomic-fired artillery projectiles now in Europe with such improved warheads shall be carried out within the nuclear stockpile limits agreed to by NATO Defense Ministers at Montebello, Canada, in October 1983, which required the withdrawal of 1,400 tactical nuclear warheads from the European stockpile in addition to the 1,000 warheads withdrawn in 1980.

(c) No action may be taken to implement this section until the Secretary of Defense submits a plan for the implementation of this section to the Committees on Armed Services of the Senate and House of Representatives.

TITLE XVII—UNITED STATES INSTITUTE OF PEACE

United States
Institute of
Peace Act.

SHORT TITLE

SEC. 1701. This title may be cited as the “United States Institute of Peace Act”.

22 USC 4601
note.

DECLARATION OF FINDINGS AND PURPOSES

SEC. 1702. (a) The Congress finds and declares that—

22 USC 4601.

(1) a living institution embodying the heritage, ideals, and concerns of the American people for peace would be a significant response to the deep public need for the Nation to develop fully a range of effective options, in addition to armed capacity, that can leash international violence and manage international conflict;

(2) people throughout the world are fearful of nuclear war, are divided by war and threats of war, are experiencing social and cultural hostilities from rapid international change and real and perceived conflicts over interests, and are diverted from peace by the lack of problem-solving skills for dealing with such conflicts;

(3) many potentially destructive conflicts among nations and peoples have been resolved constructively and with cost efficiency at the international, national, and community levels through proper use of such techniques as negotiation, conciliation, mediation, and arbitration;

(4) there is a national need to examine the disciplines in the social, behavioral, and physical sciences and the arts and humanities with regard to the history, nature, elements, and future of peace processes, and to bring together and develop new and tested techniques to promote peaceful economic, political, social, and cultural relations in the world;

(5) existing institutions providing programs in international affairs, diplomacy, conflict resolution, and peace studies are essential to further development of techniques to promote peaceful resolution of international conflict, and the peacemaking activities of people in such institutions, government, private enterprise, and voluntary associations can be strengthened by a national institution devoted to international peace research, education and training, and information services;

(6) there is a need for Federal leadership to expand and support the existing international peace and conflict resolution efforts of the Nation and to develop new comprehensive peace education and training programs, basic and applied research projects, and programs providing peace information;

(7) the Commission on Proposals for the National Academy of Peace and Conflict Resolution, created by the Education Amendments of 1978, recommended establishing an academy as a highly desirable investment to further the Nation's interest in promoting international peace;

(8) an institute strengthening and symbolizing the fruitful relation between the world of learning and the world of public affairs, would be the most efficient and immediate means for the Nation to enlarge its capacity to promote the peaceful resolution of international conflicts; and

(9) the establishment of such an institute is an appropriate investment by the people of this Nation to advance the history, science, art, and practice of international peace and the resolution of conflicts among nations without the use of violence.

(b) It is the purpose of this title to establish an independent, nonprofit, national institute to serve the people and the Government through the widest possible range of education and training, basic and applied research opportunities, and peace information services on the means to promote international peace and the resolution of conflicts among the nations and peoples of the world without recourse to violence.

DEFINITIONS

SEC. 1703. As used in this title, the term—

22 USC 4602.

(1) "Institute" means the United States Institute of Peace established by this title; and

(2) "Board" means the Board of Directors of the Institute.

ESTABLISHMENT OF THE INSTITUTE

SEC. 1704. (a) There is hereby established the United States Institute of Peace.

22 USC 4603.

(b) The Institute is an independent nonprofit corporation and an organization described in section 170(c)(2)(B) of the Internal Revenue Code of 1954. The Institute does not have the power to issue any shares of stock or to declare or pay any dividends.

Corporation.
26 USC 170.
Securities.

(c) As determined by the Board, the Institute may establish, under the laws of the District of Columbia, a legal entity which is capable of receiving, holding, and investing public funds for purposes in furtherance of the Institute under this title. The Institute may designate such legal entity as the "Endowment of the United States Institute for Peace".

Endowment of
the United
States Institute
of Peace,
designation.

(d) The Institute is liable for the acts of its directors, officers, employees, and agents when acting within the scope of their authority.

(e)(1) The Institute has the sole and exclusive right to use and to allow or refuse others the use of the terms "United States Institute of Peace", "Jennings Randolph Program for International Peace", and "Endowment of the United States Institute of Peace" and the use of any official United States Institute of Peace emblem, badge, seal, and other mark of recognition or any colorable simulation thereof. No powers or privileges hereby granted shall interfere or conflict with established or vested rights secured as of September 1, 1981.

Prohibition.

(2) Notwithstanding any other provision of this title, the Institute may use "United States" or "U.S." or any other reference to the United States Government or Nation in its title or in its corporate seal, emblem, badge, or other mark of recognition or colorable simulation thereof in any fiscal year only if there is an authorization of appropriations for the Institute for such fiscal year provided by law.

POWERS AND DUTIES

SEC. 1705. (a) The Institute may exercise the powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act consistent with this title, except for section 5(o) of the District of Columbia Nonprofit Corporation Act (D.C. Code, sec. 29-1005(o)).

22 USC 4604.

(b) The Institute, acting through the Board, may—

(1) establish a Jennings Randolph Program for International Peace and appoint, for periods up to two years, scholars and leaders in peace from the United States and abroad to pursue scholarly inquiry and other appropriate forms of communication on international peace and conflict resolution and, as appropriate, provide stipends, grants, fellowships, and other support to the leaders and scholars;

(2) enter into formal and informal relationships with other institutions, public and private, for purposes not inconsistent with this title;

(3) conduct research and make studies, particularly of an interdisciplinary or of a multidisciplinary nature, into the causes of war and other international conflicts and the elements of peace among the nations and peoples of the world, including peace theories, methods, techniques, programs, and systems, and into the experiences of the United States and other nations in resolving conflicts with justice and dignity and without violence as they pertain to the advancement of international peace and conflict resolution, placing particular emphasis on realistic approaches to past successes and failures in the quest for peace and arms control and utilizing to the maximum extent possible United States Government documents and classified materials from the Department of State, the Department of Defense, the Arms Control and Disarmament Agency, and the intelligence community;

(4) develop programs to make international peace and conflict resolution research, education, and training more available and useful to persons in government, private enterprise, and voluntary associations, including the creation of handbooks and other practical materials;

(5) provide, promote, and support peace education and research programs at graduate and postgraduate levels;

(6) conduct training, symposia, and continuing education programs for practitioners, policymakers, policy implementers, and citizens and noncitizens directed to developing their skills in international peace and conflict resolution;

(7) develop, for publication or other public communication, and disseminate, the carefully selected products of the Institute;

(8) establish a clearinghouse and other means for disseminating information, including classified information that is properly safeguarded, from the field of peace learning to the public and to government personnel with appropriate security clearances;

(9) recommend to the Congress the establishment of a United States Medal of Peace to be awarded under such procedures as the Congress may determine, except that no person associated with the Institute may receive the United States Medal of Peace; and

(10) secure directly, upon request of the president of the Institute to the head of any Federal department or agency and in accordance with section 552 of title 5, United States Code (relating to freedom of information), information necessary to enable the Institute to carry out the purposes of this title if such release of the information would not unduly interfere with the proper functioning of a department or agency, including classified information if the Institute staff and members of the Board who have access to such classified information obtain appropriate security clearances from the Department of Defense and the Department of State.

(c) The Institute may undertake extension and outreach activities under this title by making grants and entering into contracts with institutions of postsecondary, community, secondary, and elementary education (including combinations of such institutions), with public and private educational, training, or research institutions

Medals and
decorations.

Public
information.

Grants.
Contracts.
Schools and
colleges.
State and local
governments.

(including the American Federation of Labor-the Congress of Industrial Organizations) and libraries, and with public departments and agencies (including State and territorial departments of education and of commerce). No grant may be made to an institution unless it is a nonprofit or official public institution, and at least one-fourth of the Institute's annual appropriations shall be paid to such nonprofit and official public institutions. A grant or contract may be made to—

(1) initiate, strengthen, and support basic and applied research on international peace and conflict resolution;

(2) promote and advance the study of international peace and conflict resolution by educational, training, and research institutions, departments, and agencies;

(3) educate the Nation about and educate and train individuals in peace and conflict resolution theories, methods, techniques, programs, and systems;

(4) assist the Institute in its publication, clearinghouse, and other information services programs;

(5) assist the Institute in the study of conflict resolution between free trade unions and Communist-dominated organizations in the context of the global struggle for the protection of human rights; and

(6) promote the other purposes of this title.

(d) The Institute may respond to the request of a department or agency of the United States Government to investigate, examine, study, and report on any issue within the Institute's competence, including the study of past negotiating histories and the use of classified materials. Study.

(e) The Institute may enter into contracts for the proper operation of the Institute.

(f) The Institute may fix the duties of its officers, employees, and agents, and establish such advisory committees, councils, or other bodies, as the efficient administration of the business and purposes of the Institute may require.

(g)(1) Except as provided in paragraphs (2) and (3), the Institute may obtain grants and contracts, including contracts for classified research for the Department of State, the Department of Defense, the Arms Control and Disarmament Agency, and the intelligence community, and receive gifts and contributions from government at all levels. Grants.
Contracts.
Confidentiality.
Gifts and
property.

(2) The Institute may not accept any gift, contribution, or grant from, or enter into any contract with, a foreign government, any agency or instrumentality of such government, any international organization, or any foreign national, except that the Institute may accept the payment of tuition by foreign nationals for instruction provided by the Institute. For purposes of this paragraph, the term—

(A) "foreign national" means—

(i) a natural person who is a citizen of a foreign country or who owes permanent allegiance to a foreign country; and

(ii) a corporation or other legal entity in which natural persons who are nationals of a foreign country own, directly or indirectly, more than 50 percent of the outstanding capital stock or other beneficial interest in such legal entity; and

(B) "person" means a natural person, partnership, association, other unincorporated body, or corporation.

Prohibition.
Ante, p. 2651.

(3) Notwithstanding any other provision of this title, the Institute and the legal entity described in section 1704(c) may not obtain any grant or contract or receive any gift or contribution from any private agency, organization, corporation or other legal entity, institution, or individual.

(h) The Institute may charge and collect subscription fees and develop, for publication or other public communication, and disseminate, periodicals and other materials.

(i) The Institute may charge and collect fees and other participation costs from persons and institutions participating in the Institute's direct activities authorized in subsection (b).

(j) The Institute may sue and be sued, complain, and defend in any court of competent jurisdiction.

(k) The Institute may adopt, alter, use, and display a corporate seal, emblem, badge, and other mark of recognition and colorable simulations thereof.

(l) The Institute may do any and all lawful acts and things necessary or desirable to carry out the objectives and purposes of this title.

Prohibition.
Congress.
State and local
governments.

(m) The Institute shall not itself undertake to influence the passage or defeat of any legislation by the Congress of the United States or by any State or local legislative bodies, or by the United Nations, except that personnel of the Institute may testify or make other appropriate communication when formally requested to do so by a legislative body, a committee, or a member thereof.

(n) The Institute may obtain administrative support services from the Administrator of General Services on a reimbursable basis.

BOARD OF DIRECTORS

22 USC 4605.

SEC. 1706. (a) The powers of the Institute shall be vested in a Board of Directors unless otherwise specified in this title.

(b) The Board shall consist of fifteen voting members as follows:

(1) The Secretary of State (or if the Secretary so designates, another officer of the Department of State who was appointed with the advice and consent of the Senate).

(2) The Secretary of Defense (or if the Secretary so designates, another officer of the Department of Defense who was appointed with the advice and consent of the Senate).

(3) The Director of the Arms Control and Disarmament Agency (or if the Director so designates, another officer of that Agency who was appointed with the advice and consent of the Senate).

(4) The president of the National Defense University (or if the president so designates, the vice president of the National Defense University).

(5) Eleven individuals appointed by the President, by and with the advice and consent of the Senate.

(c) Not more than eight voting members of the Board (including members described in paragraphs (1) through (4) of subsection (b)) may be members of the same political party.

(d)(1) Each individual appointed to the Board under subsection (b)(5) shall have appropriate practical or academic experience in peace and conflict resolution efforts of the United States.

(2) Officers and employees of the United States Government may not be appointed to the Board under subsection (b)(5).

(e)(1) Members of the Board appointed under subsection (b)(5) shall be appointed to four year terms, except that—

(A) the term of six of the members initially appointed shall be two years, as designated by the President at the time of their nomination;

(B) a member may continue to serve until his or her successor is appointed; and

(C) a member appointed to replace a member whose term has not expired shall be appointed to serve the remainder of that term.

(2) The terms of the members of the Board initially appointed under subsection (b)(5) shall begin on January 20, 1985, and subsequent terms shall begin upon the expiration of the preceding term, regardless of when a member is appointed to fill that term.

(3) The President may not nominate an individual for appointment to the Board under subsection (b)(5) prior to January 20, 1985, but shall submit the names of eleven nominees for initial Board membership under subsection (b)(5) not later than ninety days after that date. If the Senate rejects such a nomination or if such a nomination is withdrawn, the President shall submit the name of a new nominee within fifteen days.

President of U.S.

(4) An individual appointed as a member of the Board under subsection (b)(5) may not be appointed to more than two terms on the Board.

(f) A member of the Board appointed under subsection (b)(5) may be removed by the President—

(1) in consultation with the Board, for conviction of a felony, malfeasance in office, persistent neglect of duties, or inability to discharge duties;

(2) upon the recommendation of eight voting members of the Board; or

(3) upon the recommendation of a majority of the members of the Committee on Foreign Affairs and the Committee on Education and Labor of the House of Representatives and a majority of the members of the Committee on Foreign Relations and the Committee on Labor and Human Resources of the Senate.

A recommendation made in accordance with paragraph (2) may be made only pursuant to action taken at a meeting of the Board, which may be closed pursuant to the procedures of subsection (h)(3). Only members who are present may vote. A record of the vote shall be maintained. The President shall be informed immediately by the Board of the recommendation.

Record.

(g) No member of the Board may participate in any decision, action, or recommendation with respect to any matter which directly and financially benefits the member or pertains specifically to any public body or any private or nonprofit firm or organization with which the member is then formally associated or has been formally associated within a period of two years, except that this subsection shall not be construed to prohibit an ex officio member of the Board from participation in actions of the Board which pertain specifically to the public body of which that member is an officer.

(h) Meetings of the Board shall be conducted as follows:

(1) The President shall stipulate by name the nominee who shall be the first Chairman of the Board. The first Chairman shall serve for a term of three years. Thereafter, the Board shall elect a Chairman every three years from among the directors

President of U.S.

appointed by the President under subsection (b)(5) and may elect a Vice Chairman if so provided by the Institute's bylaws.

(2) The Board shall meet at least semiannually, at any time pursuant to the call of the Chairman or as requested in writing to the Chairman by at least five members of the Board. A majority of the members of the Board shall constitute a quorum for any Board meeting.

(3) All meetings of the Board shall be open to public observation and shall be preceded by reasonable public notice. Notice in the Federal Register shall be deemed to be reasonable public notice for purposes of the preceding sentence. In exceptional circumstances, the Board may close those portions of a meeting, upon a majority vote of its members present and with the vote taken in public session, which are likely to disclose information likely to affect adversely any ongoing peace proceeding or activity or to disclose information or matters exempted from public disclosure pursuant to subsection (c) of section 552b of title 5, United States Code.

(i) A director appointed by the President under subsection (b)(5) shall be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day during which the director is engaged in the performance of duties as a member of the Board.

(j) While away from his home or regular place of business in the performance of duties for the Institute, a director shall be allowed travel expenses, including a per diem in lieu of subsistence, not to exceed the expenses allowed persons employed intermittently in Government service under section 5703(b) of title 5, United States Code.

OFFICERS AND EMPLOYEES

22 USC 4606.

SEC. 1707. (a) The Board shall appoint the president of the Institute and such other officers as the Board determines to be necessary. The president of the Institute shall be a nonvoting ex officio member of the Board. All officers shall serve at the pleasure of the Board. The president shall be appointed for an explicit term of years. Notwithstanding any other provision of law limiting the payment of compensation, the president and other officers appointed by the Board shall be compensated at rates determined by the Board, but no greater than that payable for level I of the Executive Schedule under chapter 53 of title 5, United States Code.

5 USC 5312.

Ante, p. 2651.

(b) Subject to the provisions of section 1705(g)(3), the Board shall authorize the president and any other officials or employees it designates to receive and disburse public moneys, obtain and make grants, enter into contracts, establish and collect fees, and undertake all other activities necessary for the efficient and proper functioning of the Institute.

(c) The president, subject to Institute's bylaws and general policies established by the Board, may appoint, fix the compensation of, and remove such employees of the Institute as the president determines necessary to carry out the purposes of the Institute. In determining employee rates of compensation, the president shall be governed by the provisions of title 5, United States Code, relating to classification and General Schedule pay rates.

5 USC 5332.

(d)(1) The president may request the assignment of any Federal officer or employee to the Institute by an appropriate department,

Public
availability.
Federal
Register,
publication.

agency, or congressional official or Member of Congress and may enter into an agreement for such assignment, if the affected officer or employee agrees to such assignment and such assignment causes no prejudice to the salary, benefits, status, or advancement within the department, agency, or congressional staff of such officer or employee.

(2) The Secretary of State, the Secretary of Defense, the Director of the Arms Control and Disarmament Agency, and the Director of Central Intelligence each may assign officers and employees of his respective department or agency, on a rotating basis to be determined by the Board, to the Institute if the affected officer or employee agrees to such assignment and such assignment causes no prejudice to the salary, benefits, status, or advancement within the respective department or agency of such officer or employee.

(e) No officer or full-time employee of the Institute may receive any salary or other compensation for services from any source other than the Institute during the officer's or employee's period of employment by the Institute, except as authorized by the Board.

(f)(1) Officers and employees of the Institute shall not be considered officers and employees of the Federal Government except for purposes of the provisions of title 28, United States Code, which relate to Federal tort claims liability, and the provisions of title 5, United States Code, which relate to compensation and benefits, including the following provisions: chapter 51 (relating to classification); subchapters I and III of chapter 53 (relating to pay rates); subchapter I of chapter 81 (relating to compensation for work injuries); chapter 83 (relating to civil service retirement); chapter 87 (relating to life insurance); and chapter 89 (relating to health insurance). The Institute shall make contributions at the same rates applicable to agencies of the Federal Government under the provisions of title 5 referred to in this section.

28 USC 2671 *et seq.*

5 USC 5101 *et seq.*, 5301, 5331, 8101, 8301 *et seq.*, 8901 *et seq.*

(2) No Federal funds shall be used to pay for private fringe benefit programs. The Institute shall not make long-term commitments to employees that are inconsistent with rules and regulations applicable to Federal employees.

Prohibitions.

(g) No part of the financial resources, income, or assets of the Institute or of any legal entity created by the Institute shall inure to any agent, employee, officer, or director or be distributable to any such person during the life of the corporation or upon dissolution or final liquidation. Nothing in this section may be construed to prevent the payment of reasonable compensation for services or expenses to the directors, officers, employees, and agents of the Institute in amounts approved in accordance with the provisions of this title.

(h) The Institute shall not make loans to its directors, officers, employees, or agents, or to any legal entity created by the Institute. A director, officer, employee, or agent who votes for or assents to the making of a loan or who participates in the making of a loan shall be jointly and severally liable to the Institute for the amount of the loan until repayment thereof.

PROCEDURES AND RECORDS

SEC. 1708. (a) The Institute shall monitor and evaluate and provide for independent evaluation if necessary of programs supported in whole or in part under this title to ensure that the provisions of this title and the bylaws, rules, regulations, and guidelines promulgated pursuant to this title are adhered to.

22 USC 4607.

(b) The Institute shall prescribe procedures to ensure that grants, contracts, and financial support under this title are not suspended unless the grantee, contractor, or person or entity receiving financial support has been given reasonable notice and opportunity to show cause why the action should not be taken.

(c) In selecting persons to participate in Institute activities, the Institute may consider a person's practical experience or equivalency in peace study and activity as well as other formal requirements.

Records.

Report.

(d) The Institute shall keep correct and complete books and records of account, including separate and distinct accounts of receipts and disbursements of Federal funds. The Institute's annual financial report shall identify the use of such funding and shall present a clear description of the full financial situation of the Institute.

Records.

(e) The Institute shall keep minutes of the proceedings of its Board and of any committees having authority under the Board.

(f) The Institute shall keep a record of the names and addresses of its Board members; copies of this title, of any other Acts relating to the Institute, and of all Institute bylaws, rules, regulations, and guidelines; required minutes of proceedings; a record of all applications and proposals and issued or received contracts and grants; and financial records of the Institute. All items required by this subsection may be inspected by any Board member or the member's agent or attorney for any proper purpose at any reasonable time.

Audit.

(g) The accounts of the Institute shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants, certified or licensed by a regulatory authority of a State or other political subdivision of the United States on or before December 31, 1970. The audit shall be conducted at the place or places where the accounts of the Institute are normally kept. All books, accounts, financial records, files, and other papers, things, and property belonging to or in use by the Institute and necessary to facilitate the audit shall be made available to the person or persons conducting the audit, and full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians shall be afforded to such person or persons.

Report.

(h) The Institute shall provide a report of the audit to the President and to each House of Congress no later than six months following the close of the fiscal year for which the audit is made. The report shall set forth the scope of the audit and include such statements, together with the independent auditor's opinion of those statements, as are necessary to present fairly the Institute's assets and liabilities, surplus or deficit, with reasonable detail, including a statement of the Institute's income and expenses during the year, including a schedule of all contracts and grants requiring payments in excess of \$5,000 and any payments of compensation, salaries, or fees at a rate in excess of \$5,000 per year. The report shall be produced in sufficient copies for the public.

(i) The Institute and its directors, officers, employees, and agents shall be subject to the provisions of section 552 of title 5, United States Code (relating to freedom of information).

INDEPENDENCE AND LIMITATIONS

SEC. 1709. (a) Nothing in this title may be construed as limiting the authority of the Office of Management and Budget to review and submit comments on the Institute's budget request at the time it is transmitted to the Congress. 22 USC 4608.

(b) No political test or political qualification may be used in selecting, appointing, promoting, or taking any other personnel action with respect to any officer, employee, agent, or recipient of Institute funds or services or in selecting or monitoring any grantee, contractor, person, or entity receiving financial assistance under this title.

FUNDING

SEC. 1710. (a) For the purpose of carrying out this title (except for paragraph (9) of section 1705(b)), there are authorized to be appropriated \$6,000,000 for the fiscal year 1985 and \$10,000,000 for the fiscal year 1986. Moneys appropriated for the fiscal year 1985 shall remain available to the Institute through the fiscal year 1986. 22 USC 4609.

(b) The Board of Directors may transfer to the legal entity authorized to be established under section 1704(c) any funds not obligated or expended from appropriations to the Institute for a fiscal year, and such funds shall remain available for obligation or expenditure for the purposes of such legal entity without regard to fiscal year limitations. Any use by such legal entity of appropriated funds shall be reported to each House of the Congress and to the President of the United States. Report.

(c) Any authority provided by this title to enter into contracts shall be effective for a fiscal year only to such extent or in such amounts as are provided in appropriation Acts. Contracts.

DISSOLUTION OR LIQUIDATION

SEC. 1711. Upon dissolution or final liquidation of the Institute or of any legal entity created pursuant to this title, all income and assets of the Institute or other legal entity shall revert to the United States Treasury. 22 USC 4610.

REPORTING REQUIREMENT AND REQUIREMENT TO HOLD HEARINGS

SEC. 1712. Beginning two years after the date of enactment of this title, and at intervals of two years thereafter, the Chairman of the Board shall prepare and transmit to the Congress and the President a report detailing the progress the Institute has made in carrying out the purposes of this title during the preceding two-year period. The President shall prepare and transmit to the Congress within a reasonable time after the receipt of such report the written comments and recommendations of the appropriate agencies of the United States with respect to the contents of such report and their recommendations with respect to any legislation which may be required concerning the Institute. After receipt of such report by the Congress, the Committee on Foreign Affairs and the Committee on 22 USC 4611.
President of U.S.
Congress.

Education and Labor of the House of Representatives and the Committee on Foreign Relations and the Committee on Labor and Human Resources of the Senate shall hold hearings to review the findings and recommendations of such report and the written comments received from the President.

Approved October 19, 1984.

LEGISLATIVE HISTORY—H.R. 5167 (S. 2723):

HOUSE REPORTS: No. 98-691 (Comm. on Armed Services) and No. 98-1080 (Comm. of Conference).

SENATE REPORT No. 98-500 accompanying S. 2723 (Comm. on Armed Services).
CONGRESSIONAL RECORD, Vol. 130 (1984):

May 15-17, 23, 24, 30, 31, considered and passed House.

June 7, 8, 11-15, 18-20, S. 2723 considered in Senate; H.R. 5167, amended, passed in lieu.

Sept. 26, House agreed to conference report.

Sept. 27, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 42 (1984):
Oct. 19, Presidential statement.

Public Law 98-526
98th Congress

An Act

To direct the Secretary of Agriculture to convey certain National Forest System lands to Craig County, Virginia.

Oct. 19, 1984
[H.R. 5183]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of Agriculture shall, upon receipt by the Secretary of an amount equal to the fair market value of the real property described in subsection (b), convey by quitclaim deed to Craig County, Virginia, all right, title, and interest of the United States in such described real property.

Real property.

(b) The National Forest System land referred to in subsection (a) is located in Craig County, Virginia, and is described as:

Tract J-26A, containing 52.00 acres, acquired from G. W. Layman and F. H. Dame by deed dated February 17, 1936, recorded in Book 2, page 35, Craig County, Virginia, the recording date being March 9, 1936.

Approved October 19, 1984.

LEGISLATIVE HISTORY—H.R. 5183:

HOUSE REPORT No. 98-860 (Comm. on Agriculture).

SENATE REPORT No. 98-630 (Comm. on Agriculture, Nutrition, and Forestry).

CONGRESSIONAL RECORD, Vol. 130 (1984):

June 25, considered and passed House.

Oct. 4, considered and passed Senate.

Public Law 98-527
98th Congress

An Act

Oct. 19, 1984
[H.R. 5603]

Developmental
Disabilities Act
of 1984.
42 USC 6000
note.

Developmental
Disabilities
Assistance and
Bill of Rights
Act.

42 USC 6000
note.

42 USC 6000.

To revise and extend programs for persons with developmental disabilities.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Developmental Disabilities Act of 1984".

SEC. 2. Title I of the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 is amended to read as follows:

**"TITLE I—PROGRAMS FOR PERSONS WITH
DEVELOPMENTAL DISABILITIES**

"PART A—GENERAL PROVISIONS

"SHORT TITLE

"SEC. 100. This title may be cited as the 'Developmental Disabilities Assistance and Bill of Rights Act'.

"FINDINGS AND PURPOSES

"SEC. 101. (a) The Congress finds that—

"(1) there are more than two million persons with developmental disabilities in the United States;

"(2) individuals with disabilities occurring during their developmental period are more vulnerable and less able to reach an independent level of existence than other handicapped individuals who generally have had a normal developmental period on which to draw during the rehabilitation process;

"(3) persons with developmental disabilities often require specialized lifelong services to be provided by many agencies in a coordinated manner in order to meet the persons' needs;

"(4) generic service agencies and agencies providing specialized services to disabled persons tend to overlook or exclude persons with developmental disabilities in their planning and delivery of services; and

"(5) it is in the national interest to strengthen specific programs, especially programs that reduce or eliminate the need for institutional care, to meet the needs of persons with developmental disabilities.

"(b)(1) It is the overall purpose of this title to assist States to (A) assure that persons with developmental disabilities receive the care, treatment, and other services necessary to enable them to achieve their maximum potential through increased independence, productivity, and integration into the community, and (B) establish and operate a system which coordinates, monitors, plans, and evaluates services which ensures the protection of the legal and human rights of persons with developmental disabilities.

"(2) The specific purposes of this title are—

“(A) to assist in the provision of comprehensive services to persons with developmental disabilities, with priority to those persons whose needs are not otherwise met under the Rehabilitation Act of 1973 or other health, education, or welfare programs; 29 USC 701 note.

“(B) to assist States in appropriate planning activities;

“(C) to make grants to States and public and private, non-profit agencies to establish model programs, to demonstrate innovative habilitation techniques, and to train professional and paraprofessional personnel with respect to providing services to persons with developmental disabilities; Grants.

“(D) to make grants to university affiliated facilities to assist them in administering and operating demonstration facilities for the provision of services to persons with developmental disabilities and interdisciplinary training programs for personnel needed to provide specialized services for these persons; and Grants.

“(E) to make grants to support a system in each State to protect the legal and human rights of all persons with developmental disabilities. Grants.

“DEFINITIONS

“SEC. 102. For purposes of this title:

42 USC 6001.

“(1) The term ‘State’ includes Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the District of Columbia.

“(2) The term ‘facility for persons with developmental disabilities’ means a facility, or a specified portion of a facility, designed primarily for the delivery of one or more services to persons with one or more developmental disabilities.

“(3) The terms ‘nonprofit facility for persons with developmental disabilities’ and ‘nonprofit private institution of higher learning’ mean, respectively, a facility for persons with developmental disabilities and an institution of higher learning which are owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual. The term ‘nonprofit private agency or organization’ means an agency or organization which is such a corporation or association or which is owned and operated by one or more of such corporations or associations.

“(4) The term ‘construction’ includes construction of new buildings, acquisition, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings (including medical, transportation, and recreation facilities); including architect’s fees, but excluding the cost of offsite improvements and the cost of the acquisition of land.

“(5) The term ‘cost of construction’ means the amount found by the Secretary to be necessary for the construction of a project.

“(6) The term ‘title’, when used with reference to a site for a project, means a fee simple, or such other estate or interest (including a leasehold on which the rental does not exceed 4 per centum of the value of the land) as the Secretary finds sufficient to assure for a period of not less than fifty years undisturbed use and possession for the purposes of construction and operation of the project.

“(7) The term ‘developmental disability’ means a severe, chronic disability of a person which—

“(A) is attributable to a mental or physical impairment or combination of mental and physical impairments;

“(B) is manifested before the person attains age twenty-two;

“(C) is likely to continue indefinitely;

“(D) results in substantial functional limitations in three or more of the following areas of major life activity: (i) self-care, (ii) receptive and expressive language, (iii) learning, (iv) mobility, (v) self-direction, (vi) capacity for independent living, and (vii) economic self-sufficiency; and

“(E) reflects the person’s need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated.

“(8) The term ‘independence’ means the extent to which persons with developmental disabilities exert control and choice over their own lives.

“(9) The term ‘productivity’ means—

“(A) engagement in income-producing work by a person with developmental disabilities which is measured through improvements in income level, employment status, or job advancement, or

“(B) engagement by a person with developmental disabilities in work which contributes to a household or community.

“(10) The term ‘integration’ means—

“(A) the—

“(i) use by persons with developmental disabilities of the same community resources that are used by and available to other citizens, and

“(ii) participation by persons with developmental disabilities in the same community activities in which nonhandicapped citizens participate, together with regular contact with nonhandicapped citizens, and

“(B) the residence by persons with developmental disabilities in homes or in home-like settings which are in proximity to community resources, together with regular contact with nonhandicapped citizens in their communities.

“(11)(A) The term ‘services for persons with developmental disabilities’ means—

“(i) priority services; and

“(ii) any other specialized services or special adaptations of generic services for persons with developmental disabilities, including diagnosis, evaluation, treatment, personal care, day care, domiciliary care, special living arrangements, training, education, sheltered employment, recreation and socialization, counseling of the person with such disability and the family of such person, protective and other social and sociolegal services, information and referral services, follow-along services, nonvocational social-developmental services, transportation services necessary to assure delivery of services to persons with developmental disabilities, and services to promote and coordinate activities to prevent developmental disabilities.

“(B) The term ‘service activities’ includes, with respect to a priority service or a service described in subparagraph (A)(ii)—

“(i) the provision of specialized services in the area which respond to unmet needs of persons with developmental disabilities;

“(ii) model service programs in the area;

“(iii) activities to increase the capacity of agencies to provide services in the area;

“(iv) the coordination of the provision of services in the area with the provision of other services;

“(v) outreach to individuals for the provision of services in the area;

“(vi) the training of personnel, including parents of persons with developmental disabilities, professionals, and volunteers, to provide services in the area; and

“(vii) similar activities designed to expand the use and availability of services in the area.

“(C) The term ‘priority services’ means alternative community living arrangement services, employment related activities, child development services, and case management services.

“(D) The term ‘alternative community living arrangement services’ means such services as will assist persons with developmental disabilities in developing or maintaining suitable residential arrangements in the community, including in-house services (such as personal aides and attendants and other domestic assistance and supportive services), family support services, foster care services, group living services, respite care, recreation and socialization services, and staff training, placement, and maintenance services.

“(E) The term ‘employment related activities’ means such services as will increase the independence, productivity, or integration of a person with developmental disabilities in work settings, including such services as employment preparation and vocational training leading to supported employment, incentive programs for employers who hire persons with developmental disabilities, services to assist transition from special education to employment, and services to assist transition from sheltered work settings to supported employment settings or competitive employment.

“(F) The term ‘supported employment’ means paid employment which—

“(i) is for persons with developmental disabilities for whom competitive employment at or above the minimum wage is unlikely and who, because of their disabilities, need intensive ongoing support to perform in a work setting;

“(ii) is conducted in a variety of settings, particularly worksites in which persons without disabilities are employed; and

“(iii) is supported by any activity needed to sustain paid work by persons with disabilities, including supervision, training, and transportation.

“(G) The term ‘child development services’ means such services as will assist in the prevention, identification, and alleviation of developmental disabilities in children, including early intervention services, counseling and training of parents, early identification of developmental disabilities, and diagnosis and evaluation of such developmental disabilities.

“(H) The term ‘case management services’ means such services to persons with developmental disabilities as will assist them in gaining access to needed social, medical, educational, and other services. Such term includes—

“(i) follow-along services which ensure, through a continuing relationship, lifelong if necessary, between an agency or provider and a person with a developmental disability and the person’s immediate relatives or guardians, that the changing needs of the person and the family are recognized and appropriately met; and

“(ii) coordination services which provide to persons with developmental disabilities support, access to (and coordination of) other services, information on programs and services, and monitoring of the persons’ progress.

“(12) The term ‘satellite center’ means a public or private nonprofit entity which—

“(A)(i) is affiliated with one or more university affiliated facilities;

“(ii) functions as a community or regional extension of such university affiliated facility or facilities in the delivery of services to persons with developmental disabilities, and their families, who reside in geographical areas where adequate services are not otherwise available; and

“(iii) may engage in the activities described in subparagraph (A), (B), or (C) of paragraph (13); or

“(B) is affiliated with one or more university affiliated facilities and which provides for at least—

“(i) interdisciplinary training for personnel concerned with the provision of direct or indirect services to persons with developmental disabilities; and

“(ii) dissemination of findings relating to the provision of services to persons with developmental disabilities.

“(13) The term ‘university affiliated facility’ means a public or nonprofit facility which is associated with, or is an integral part of, a college or university and which provides for at least the following activities:

“(A) Interdisciplinary training for personnel concerned with developmental disabilities which is conducted at the facility and through outreach activities.

“(B) Demonstration of—

“(i) exemplary services relating to persons with developmental disabilities in settings which are integrated in the community; and

“(ii) technical assistance to generic and specialized agencies to provide services to increase the independence, productivity, and integration into the community of persons with developmental disabilities, such as the development and improvement of quality assurance mechanisms.

“(C)(i) Dissemination of findings relating to the provision of services under subparagraph (B) of this paragraph, and (ii) providing researchers and government agencies sponsoring service-related research with information on the needs for further service-related research which would provide data and information that will assist in increasing the

independence, productivity, and integration into the community of persons with developmental disabilities.

“(14) The term ‘Secretary’ means the Secretary of Health and Human Services.

“(15) The term ‘State Planning Council’ means a State Planning Council established under section 124.

Post, p. 2675.

“FEDERAL SHARE

“SEC. 103. (a) The Federal share of all projects in a State supported by an allotment to the State under part B may not exceed 75 percent of the aggregate necessary costs of all such projects, as determined by the Secretary, except that in the case of projects located in urban or rural poverty areas, the Federal share of all such projects may not exceed 90 percent of the aggregate necessary costs of such projects, as determined by the Secretary.

Prohibition.
42 USC 6002.
Post, p. 2670.

“(b) The Federal share of any project to be provided through grants under part D may not exceed 75 percent of the necessary cost of such project, as determined by the Secretary, except that if the project is located in an urban or rural poverty area, the Federal share may not exceed 90 percent of the project’s necessary costs as so determined.

Prohibition.
Post, p. 2681.

“(c) The non-Federal share of the cost of any project assisted by a grant or allotment under this title may be provided in kind.

“(d) For the purpose of determining the Federal share with respect to any project, expenditures on that project by a political subdivision of a State or by a nonprofit private entity shall, subject to such limitations and conditions as the Secretary may by regulation prescribe, be deemed to be expenditures by such State in the case of a project under part B or by a university affiliated facility or a satellite center, as the case may be, in the case of a project assisted under part D.

“RECORDS AND AUDIT

“SEC. 104. (a) Each recipient of assistance under this title shall keep such records as the Secretary shall prescribe, including (1) records which fully disclose (A) the amount and disposition by such recipient of the proceeds of such assistance, (B) the total cost of the project or undertaking in connection with which such assistance is given or used, and (C) the amount of that portion of the cost of the project or undertaking supplied by other sources, and (2) such other records as will facilitate an effective audit.

42 USC 6003.

“(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients of assistance under this title that are pertinent to such assistance.

“RECOVERY

“SEC. 105. If any facility with respect to which funds have been paid under part B or D shall, at any time within twenty years after the completion of construction—

42 USC 6004.

“(1) be sold or transferred to any person, agency, or organization which is not a public or nonprofit private entity, or

“(2) cease to be a public or other nonprofit facility for persons with developmental disabilities,

the United States shall be entitled to recover from either the transferor or the transferee (or, in the case of a facility which has ceased to be a public or other nonprofit facility for persons with developmental disabilities, from the owners thereof) an amount bearing the same ratio to the then value (as determined by the agreement of the parties or by action brought in the district court of the United States for the district in which the facility is situated) of so much of such facility as constituted an approved project or projects, as the amount of the Federal participation bore to the cost of the construction of such project or projects. Such right of recovery shall not constitute a lien upon such facility prior to judgment. The Secretary, in accordance with regulations prescribed by the Secretary, may, upon finding good cause therefor, release the applicant or other owner from the obligation to continue such facility as a public or other nonprofit facility for persons with developmental disabilities.

"STATE CONTROL OF OPERATIONS

42 USC 6005. "SEC. 106. Except as otherwise specifically provided, nothing in this title shall be construed as conferring on any Federal officer or employee the right to exercise any supervision or control over the administration, personnel, maintenance, or operation of any facility for persons with developmental disabilities with respect to which any funds have been or may be expended under this title.

"REPORTS

42 USC 6006. "SEC. 107. (a) By January 1 of each year, the State Planning Council of each State shall prepare and transmit to the Secretary a report concerning activities carried out during the preceding fiscal year with funds paid to the State under part B for such fiscal year. Each such report shall be in a form prescribed by the Secretary by regulation and shall contain—

Post, p. 2670. "Post, p. 2670. (1) a description of such activities and the accomplishments resulting from such activities;

(2) a comparison of such accomplishments with the goals, objectives, and proposed activities specified by the State in the State plan submitted under section 122 for such fiscal year; and

(3) an accounting of the manner in which funds paid to a State under part B for a fiscal year were expended.

Post, p. 2679. (b) By January 1 of each year, each protection and advocacy system established in a State pursuant to part C shall prepare and transmit to the Secretary a report which describes the activities, accomplishments, and expenditures of the system during the preceding fiscal year.

(c)(1) By April 1 of each year the Secretary shall prepare and transmit to the President, the Congress, and the National Council on the Handicapped a report which describes—

(A) the activities and accomplishments of programs supported under parts B, C, D, and E of this title; and

(B) the progress made in States in improving the independence, productivity, and integration into the community of persons with developmental disabilities and any activities or services needed to improve such independence, productivity, and integration.

(2) In preparing the report required by this subsection, the Secretary shall use and include information submitted to the Secre-

Post, pp. 2670, 2679, 2681, 2683.

tary in the reports required under subsections (a) and (b) of this section.

“RESPONSIBILITIES OF THE SECRETARY

“SEC. 108. (a) The Secretary, not later than one hundred eighty days after the date of enactment of any Act amending the provisions of this title, shall promulgate such regulations as may be required for the implementation of such amendments.

Regulations.
42 USC 6007.

“(b) Within ninety days after the date of enactment of the Developmental Disabilities Act of 1984, the Secretary of Health and Human Services and the Secretary of Education shall establish an interagency committee composed of representatives of the Administration for Developmental Disabilities of the Department of Health and Human Services, the Office of Special Education and Rehabilitative Services of the Department of Education, the Department of Labor, and such other Federal departments and agencies as the Secretary of Health and Human Services and the Secretary of Education consider appropriate. Such interagency committee shall meet regularly to coordinate and plan activities conducted by Federal departments and agencies for persons with developmental disabilities.

Interagency
committee,
establishment.

“EMPLOYMENT OF HANDICAPPED INDIVIDUALS

“SEC. 109. As a condition of providing assistance under this title, the Secretary shall require that each recipient of such assistance take affirmative action to employ and advance in employment qualified handicapped individuals on the same terms and conditions required with respect to the employment of such individuals by the provisions of the Rehabilitation Act of 1973 which govern employment (1) by State rehabilitation agencies and rehabilitation facilities, and (2) under Federal contracts and subcontracts.

42 USC 6008.

29 USC 701 note.

“RIGHTS OF THE DEVELOPMENTALLY DISABLED

“SEC. 110. Congress makes the following findings respecting the rights of persons with developmental disabilities:

42 USC 6009.

“(1) Persons with developmental disabilities have a right to appropriate treatment, services, and habilitation for such disabilities.

“(2) The treatment, services, and habilitation for a person with developmental disabilities should be designed to maximize the developmental potential of the person and should be provided in the setting that is least restrictive of the person’s personal liberty.

“(3) The Federal Government and the States both have an obligation to assure that public funds are not provided to any institutional or other residential program for persons with developmental disabilities that—

“(A) does not provide treatment, services, and habilitation which is appropriate to the needs of such persons; or

“(B) does not meet the following minimum standards:

“(i) Provision of a nourishing, well-balanced daily diet to the persons with developmental disabilities being served by the program.

“(ii) Provision to such persons of appropriate and sufficient medical and dental services.

“(iii) Prohibition of the use of physical restraint on such persons unless absolutely necessary and prohibition of the use of such restraint as a punishment or as a substitute for a habilitation program.

“(iv) Prohibition on the excessive use of chemical restraints on such persons and the use of such restraints as punishment or as a substitute for a habilitation program or in quantities that interfere with services, treatment, or habilitation for such persons.

“(v) Permission for close relatives of such persons to visit them at reasonable hours without prior notice.

“(vi) Compliance with adequate fire and safety standards as may be promulgated by the Secretary.

“(4) All programs for persons with developmental disabilities should meet standards which are designed to assure the most favorable possible outcome for those served, and—

Housing.

“(A) in the case of residential programs serving persons in need of comprehensive health-related, habilitative, or rehabilitative services, which are at least equivalent to those standards applicable to intermediate care facilities for the mentally retarded promulgated in regulations of the Secretary on January 17, 1974 (39 Fed. Reg. pt. II), as appropriate when taking into account the size of the institutions and the service delivery arrangements of the facilities of the programs;

45 CFR 234,
248-250.

Housing.

“(B) in the case of other residential programs for persons with developmental disabilities, which assure that care is appropriate to the needs of the persons being served by such programs, assure that the persons admitted to facilities of such programs are persons whose needs can be met through services provided by such facilities, and assure that the facilities under such programs provide for the humane care of the residents of the facilities, are sanitary, and protect their rights; and

“(C) in the case of nonresidential programs, which assure the care provided by such programs is appropriate to the persons served by the programs.

The rights of persons with developmental disabilities described in findings made in this section are in addition to any constitutional or other rights otherwise afforded to all persons.

“PART B—FEDERAL ASSISTANCE FOR PLANNING AND SERVICE ACTIVITIES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES

“PURPOSE

42 USC 6021.

“SEC. 121. The purpose of this part is to provide payments to States to plan for, and to conduct, activities which will increase and support the independence, productivity, and integration into the community of persons with developmental disabilities.

“STATE PLANS

42 USC 6022.

“SEC. 122. (a) Any State desiring to take advantage of this part must have a State plan submitted to and approved by the Secretary under this section.

"(b) In order to be approved by the Secretary under this section, a State plan for the provision of services for persons with developmental disabilities must meet the following requirements:

"(1)(A) The plan must provide for the establishment of a State Planning Council, in accordance with section 124, for the assignment to the Council of personnel in such numbers and with such qualifications as the Secretary determines to be adequate to enable the Council to carry out its duties under this title, and for the identification of the personnel so assigned.

Post, p. 2675.

"(B) The plan must designate the State agency or agencies which shall administer or supervise the administration of the State plan and, if there is more than one such agency, the portion of such plan which each will administer (or the portion the administration of which each will supervise).

"(C) The plan must provide that each State agency designated under subparagraph (B) will keep such records and afford such access thereto as the Secretary or the State Planning Council finds necessary.

"(D) The plan must provide for such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of and accounting for funds paid to the State under this part.

"(2) The plan must—

"(A) set out the specific objectives to be achieved under the plan and a listing of the programs and resources to be used to meet such objectives;

"(B) set forth the non-Federal share that will be required in carrying out each such objective and program;

"(C) describe (and provide for the review annually and revision of the description not less often than once every three years) (i) the extent and scope of services being provided, or to be provided, to persons with developmental disabilities under such other State plans for federally assisted State programs as the State conducts relating to education for the handicapped, vocational rehabilitation, public assistance, medical assistance, social services, maternal and child health, crippled children's services, and comprehensive health and mental health, and under such other plans as the Secretary may specify, and (ii) how funds allotted to the State in accordance with section 125 will be used to complement and augment rather than duplicate or replace services for persons with developmental disabilities who are eligible for Federal assistance under such other State programs;

Post, p. 2676.

"(D) for each fiscal year, assess and describe the extent and scope of the priority services being or to be provided under the plan in the fiscal year; and

"(E) establish a method for the periodic evaluation of the plan's effectiveness in meeting the objectives described in subparagraph (A).

"(3) The plan must contain or be supported by assurances satisfactory to the Secretary that—

"(A) the funds paid to the State under section 125 will be used to make a significant contribution toward strengthening services for persons with developmental disabilities through agencies in the various political subdivisions of the State;

"(B) part of such funds will be made available by the State to public or nonprofit private entities;

“(C) not more than 25 percent of such funds will be allocated to the agency or agencies designated under section 122(b)(1)(B) for the provision of services by such agency or agencies;

Post, p. 2676.

“(D) such funds paid to the State under section 125 will be used to supplement and to increase the level of funds that would otherwise be made available for the purposes for which Federal funds are provided and not to supplant such non-Federal funds; and

“(E) there will be reasonable State financial participation in the cost of carrying out the State plan.

“(4)(A) The plan must provide for the examination not less often than once every three years of the provision, and the need for the provision, in the State of the four priority services.

“(B) The plan must provide for the development, not later than the second year in which funds are provided under the plan after the date of the enactment of the Developmental Disabilities Act of 1984, and the timely review and revision of, a comprehensive statewide plan to plan, financially support, coordinate, and otherwise better address, on a statewide and comprehensive basis, unmet needs in the State for the provision of services for persons with developmental disabilities as follows:

“(i)(I) Except as provided in subclause (II), the plan shall provide for the provision of at least one but not more than two priority services.

“(II) In fiscal year 1987, the plan may provide for the provision of three priority services.

Post, p. 2679.

“(ii) For any fiscal year after fiscal year 1986 for which the total appropriations under section 130 are at least \$50,250,000, the plan shall provide for the provision of employment related activities among the priority services to be provided under the plan.

“(iii) At the option of the State, the plan may provide for the provision of one or more additional services for persons with developmental disabilities from the services described in section 102(11)(A)(ii).

Ante, p. 2663.
Regulations.

“(C) Notwithstanding the requirements of subparagraph (B), upon the application of a State, the Secretary, pursuant to regulations which the Secretary shall prescribe, may permit the portion of the funds which must otherwise be expended under the State plan for service activities in a limited number of services to be expended for service activities in additional services if the Secretary determines that the expenditures of the State on service activities in the initially specified services has reasonably met the need for those services in the State in comparison to the extent to which the need for such additional services has been met in such State. Such additional areas shall, to the maximum extent feasible, be areas within the priority services.

“(D) The plan must be developed after consideration of the data collected by the State education agency under section 618(b)(3) of the Education of the Handicapped Act.

20 USC 1418.
Funds.

“(E)(i) The plan must provide that not less than 65 percent of the amount available to the State under section 125 will be expended for service activities in the priority services.

“(ii) The plan must provide that the remainder of the amount available to the State from allotments under section 125 (after making the expenditures required by clause (i) of this paragraph) shall be used for service activities for persons with developmental

disabilities, and the planning, coordination, and administration of, and the advocacy for, the provision of such services.

“(F) The plan must provide that special financial and technical assistance shall be given to agencies or entities providing services for persons with developmental disabilities who are residents of geographical areas designated as urban or rural poverty areas.

Rural areas.
Urban areas.

“(5)(A)(i) The plan must provide that services furnished, and the facilities in which they are furnished, under the plan for persons with developmental disabilities will be in accordance with standards prescribed by the Secretary in regulations.

“(ii) The plan must provide satisfactory assurances that buildings used in connection with the delivery of services assisted under the plan will meet standards adopted pursuant to the Act of August 12, 1968 (known as the Architectural Barriers Act of 1968).

42 USC 4152
note.

“(B) The plan must provide that services are provided in an individualized manner consistent with the requirements of section 123 (relating to habilitation plans).

Post, p. 2674.

“(C) The plan must contain or be supported by assurances satisfactory to the Secretary that the human rights of all persons with developmental disabilities (especially those persons without familial protection) who are receiving treatment, services, or habilitation under programs assisted under this part will be protected consistent with section 110 (relating to rights of the developmentally disabled).

Ante, p. 2669.
Minorities.

“(D) The plan must provide assurances that the State has undertaken affirmative steps to assure the participation in programs under this title of individuals generally representative of the population of the State, with particular attention to the participation of members of minority groups.

“(E) The plan must provide assurances that the State will provide the State Planning Council with a copy of each annual survey report and plan of corrections for cited deficiencies prepared pursuant to section 1902(a)(31)(B) of the Social Security Act with respect to any intermediate care facility for the mentally retarded in such State within 30 days after the completion of each such report or plan.

Report.

42 USC 1396a.

“(6)(A) The plan must provide for the maximum utilization of all available community resources including volunteers serving under the Domestic Volunteer Service Act of 1973 and other appropriate voluntary organizations, except that such volunteer services shall supplement, and shall not be in lieu of, services of paid employees.

Volunteer
services.
42 USC 4951
note.

“(B) The plan must provide for fair and equitable arrangements (as determined by the Secretary after consultation with the Secretary of Labor) to protect the interests of employees affected by actions under the plan to provide alternative community living arrangement services, including arrangements designed to preserve employee rights and benefits and to provide training and retraining of such employees where necessary and arrangements under which maximum efforts will be made to guarantee the employment of such employees.

“(7) The plan also must contain such additional information and assurances as the Secretary may find necessary to carry out the provisions and purposes of this part.

“(c) The Secretary shall approve any State plan and any modification thereof which complies with the provisions of subsection (b). The Secretary shall not finally disapprove a State plan except after reasonable notice and opportunity for a hearing to the State.

“(d)(1) At the request of any State, a portion of any allotment or allotments of such State under this part for any fiscal year shall be

available to pay one-half (or such smaller share as the State may request) of the expenditures found necessary by the Secretary for the proper and efficient administration of the State plan approved under this section; except that not more than 5 per centum of the total of the allotments of such State for any fiscal year, or \$50,000, whichever is less, shall be available for the total expenditures for such purpose by all of the State agencies designated under subsection (b)(1)(B) for the administration or supervision of the administration of the State plan. Payments under this paragraph may be made in advance or by way of reimbursement, and in such installments, as the Secretary may determine.

“(2) Any amount paid under paragraph (1) to any State for any fiscal year shall be paid on condition that there shall be expended from the State sources for such year for administration of the State plan approved under this section not less than the total amount expended for such purposes from such sources during the previous fiscal year.

“HABILITATION PLANS

42 USC 6023.

“SEC. 123. (a) The Secretary shall require as a condition to a State's receiving an allotment under this part that the State provide the Secretary satisfactory assurances that each program (including programs of any agency, facility, or project) which receives funds from the State's allotment under this part (1) has in effect for each developmentally disabled person who receives services from or under the program a habilitation plan meeting the requirements of subsection (b), and (2) provides for an annual review, in accordance with subsection (c), of each such plan.

“(b) A habilitation plan for a person with developmental disabilities shall meet the following requirements:

“(1) The plan shall be in writing.

“(2) The plan shall be developed jointly by (A) a representative or representatives of the program primarily responsible for delivering or coordinating the delivery of services to the person for whom the plan is established, (B) such person, and (C) where appropriate, such person's parents or guardian or other representative.

“(3) The plan shall contain a statement of the long-term habilitation goals for the person and the intermediate habilitation objectives relating to the attainments of such goals. Such goals should include the increase or support of independence, productivity, and integration into the community for the person. Such objectives shall be stated specifically and in sequence and shall be expressed in behavioral or other terms that provide measurable indices of progress. The plan shall (A) describe how the objectives will be achieved and the barriers that might interfere with the achievement of them, (B) state an objective criteria and an evaluation procedure and schedule for determining whether such objectives and goals are being achieved, and (C) provide for a program coordinator who will be responsible for the implementation of the plan.

“(4) The plan shall contain a statement (in readily understandable form) of specific habilitation services to be provided, shall identify each agency which will deliver such services, shall describe the personnel (and their qualifications) necessary for the provision of such services, and shall specify the date of the

initiation of each service to be provided and the anticipated duration of each such service.

“(5) The plan shall specify the role and objectives of all parties to the implementation of the plan.

“(c) Each habilitation plan shall be reviewed at least annually by the agency primarily responsible for the delivery of services to the person for whom the plan was established or responsible for the coordination of the delivery of services to such person. In the course of the review, such person and the person’s parents or guardian or other representative shall be given an opportunity to review such plan and to participate in its revision.

“STATE PLANNING COUNCILS

“SEC. 124. (a)(1) Each State which receives assistance under this part shall establish a State Planning Council which will serve as an advocate for persons with developmental disabilities. The members of the State Planning Council of a State shall be appointed by the Governor of the State from among the residents of that State. The Governor of each State shall make appropriate provisions for the rotation of membership on the Council of that State. Each State Planning Council shall at all times include in its membership representatives of the principal State agencies (including the State agency that administers funds provided under the Rehabilitation Act of 1973, the State agency that administers funds provided under the Education of the Handicapped Act, and the State agency that administers funds provided under title XIX of the Social Security Act for persons with developmental disabilities), higher education training facilities, each university affiliated facility or satellite center in the State, the State protection and advocacy system established under section 142, local agencies, and nongovernmental agencies and private nonprofit groups concerned with services to persons with developmental disabilities in that State.

Establishment.
42 USC 6024.

29 USC 701 note.
20 USC 871.

42 USC 1396.

Post, p. 2679.

“(2) At least one-half of the membership of each such Council shall consist of persons who—

“(A) are persons with developmental disabilities or parents or guardians of such persons, or

“(B) are immediate relatives or guardians of persons with mentally impairing developmental disabilities,

who are not employees of a State agency which receives funds or provides services under this part, who are not managing employees (as defined in section 1126(b) of the Social Security Act) of any other entity which receives funds or provides services under this part, and who are not persons with an ownership or control interest (within the meaning of section 1124(a)(3) of the Social Security Act) with respect to such an entity.

42 USC 1320a-5.

42 USC 1320a-3.

“(3) Of the members of the Council described in paragraph (2)—

“(A) at least one-third shall be persons with developmental disabilities, and

“(B)(i) at least one-third shall be individuals described in subparagraph (B) of paragraph (2), and (ii) at least one of such individuals shall be an immediate relative or guardian of an institutionalized person with a developmental disability.

“(b) Each State Planning Council shall—

“(1) develop jointly with the State agency or agencies designated under section 122(b)(1)(B) the State plan required by this

Ante, p. 2670.

Ante, p. 2670.

part, including the specification of services under section 122(b)(4)(B);

"(2) monitor, review, and evaluate, not less often than annually, the implementation of such State plan;

"(3) to the maximum extent feasible, review and comment on all State plans in the State which relate to programs affecting persons with developmental disabilities; and

Reports.

"(4) submit to the Secretary, through the Governor, such periodic reports on its activities as the Secretary may reasonably request, and keep such records and afford such access thereto as the Secretary finds necessary to verify such reports.

"STATE ALLOTMENTS

42 USC 6025.

"SEC. 125. (a)(1) For each fiscal year, the Secretary shall, in accordance with regulations and this paragraph, allot the sums appropriated for such year under section 130 among the States on the basis of—

"(A) the population,

"(B) the extent of need for services for persons with developmental disabilities, and

"(C) the financial need,

of the respective States. Sums allotted to the States under this section shall be used in accordance with approved State plans under section 122 for the provision under such plans of services for persons with developmental disabilities.

"(2) Adjustments in the amounts of State allotments based on subparagraphs (A), (B), and (C) of paragraph (1) may be made not more often than annually. The Secretary shall notify States of any adjustment made not less than six months before the beginning of the fiscal year in which such adjustment is to take effect.

"(3)(A) Except as provided in paragraph (4), for any fiscal year the allotment under paragraph (1)—

"(i) to each of American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands may not be less than \$100,000, and

"(ii) to any other State may not be less than the greater of \$250,000, or the amount of the allotment (determined without regard to subsection (d)) received by the State for the fiscal year ending September 30, 1984.

"(B) Notwithstanding subparagraph (A), if the aggregate of the amounts to be allotted to each State pursuant to subparagraph (A) in any fiscal year exceeds the total amount appropriated under section 130 for such fiscal year, the amount to be allotted to a State for such fiscal year shall be an amount which bears the same ratio to the amount which is to be allotted to the State pursuant to such subparagraph as the total amount appropriated under section 130 for such fiscal year bears to the total of the amount required to be appropriated under such section for allotments to provide each State with the allotment required by such subparagraph.

"(4) In any case in which amounts appropriated under section 130 for a fiscal year exceed \$47,000,000, the allotment under paragraph (1) for such fiscal year—

"(A) to each of American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, or the

Trust Territory of the Pacific Islands may not be less than \$160,000; and

“(B) to each of the several States, Puerto Rico, or the District of Columbia, may not be less than \$300,000.

“(5) In determining, for purposes of paragraph (1)(B), the extent of need in any State for services for persons with developmental disabilities, the Secretary shall take into account the scope and extent of the services described, pursuant to section 122(b)(2)(C), in the State plan of the State.

Ante, p. 2670.

“(b) Whenever the State plan approved in accordance with section 122 provides for participation of more than one State agency in administering or supervising the administration of designated portions of the State plan, the State may apportion its allotment among such agencies in a manner which, to the satisfaction of the Secretary, is reasonably related to the responsibilities assigned to such agencies in carrying out the purposes of the State plan. Funds so apportioned to State agencies may be combined with other State or Federal funds authorized to be spent for other purposes, provided the purposes of the State plan will receive proportionate benefit from the combination.

“(c) Whenever the State plan approved in accordance with section 122 provides for cooperative or joint effort between States or between or among agencies, public or private, in more than one State, portions of funds allotted to one or more such cooperating States may be combined in accordance with the agreements between the agencies involved.

“(d) The amount of an allotment to a State for a fiscal year which the Secretary determines will not be required by the State during the period for which it is available for the purpose for which allotted shall be available for reallocation by the Secretary from time to time, on such date or dates as the Secretary may fix (but not earlier than thirty days after the Secretary has published notice of the intention of the Secretary to make such reallocation in the Federal Register), to other States with respect to which such a determination has not been made, in proportion to the original allotments of such States for such fiscal year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use during such period; and the total of such reductions shall be similarly reallocated among the States whose proportionate amounts were not so reduced. Any amount so reallocated to a State for a fiscal year shall be deemed to be a part of its allotment under subsection (a) for such fiscal year.

“PAYMENTS TO THE STATES FOR PLANNING, ADMINISTRATION AND SERVICES

“SEC. 126. From each State's allotments for a fiscal year under section 125, the State shall be paid the Federal share of the expenditures, other than expenditures for construction, incurred during such year under its State plan approved under this part. Such payments shall be made from time to time in advance on the basis of estimates by the Secretary of the sums the State will expend under the State plan, except that such adjustments as may be necessary shall be made on account of previously made underpayments or overpayments under this section.

42 USC 6026.
Ante, p. 2676.

“WITHHOLDING OF PAYMENTS FOR PLANNING, ADMINISTRATION AND SERVICES

42 USC 6027.

“SEC. 127. Whenever the Secretary, after reasonable notice and opportunity for hearing to the State Planning Council and the appropriate State agency designated pursuant to section 122(b)(1) finds that—

Ante, p. 2670.

“(1) there is a failure to comply substantially with any of the provisions required by section 122 to be included in the State plan; or

Ante, p. 2676.

“(2) there is a failure to comply substantially with any regulations of the Secretary which are applicable to this part, the Secretary shall notify such State Council and agency or agencies that further payments will not be made to the State under section 125 (or, in the discretion of the Secretary, that further payments will not be made to the State under section 125 for activities in which there is such failure), until the Secretary is satisfied that there will no longer be such failure. Until the Secretary is so satisfied, the Secretary shall make no further payment to the State under section 125, or shall limit further payment under section 125 to such State to activities in which there is no such failure.

“NONDUPLICATION

42 USC 6028.

“SEC. 128. In determining the amount of any State’s Federal share of the expenditures incurred by it under a State plan approved under section 122, there shall be disregarded (1) any portion of such expenditures which are financed by Federal funds provided under any provision of law other than section 125, and (2) the amount of any non-Federal funds required to be expended as a condition of receipt of such Federal funds.

“APPEALS BY STATES

42 USC 6029.

Supra.

“SEC. 129. If any State is dissatisfied with the Secretary’s action under section 122(c) or section 127, such State may appeal to the United States court of appeals for the circuit in which such State is located, by filing a petition with such court within sixty days after such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary, or any officer designated by the Secretary for that purpose. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary based the action, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record, the Secretary may modify or set aside the order of the Secretary. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of the fact and may modify the previous action of the Secretary, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in

section 1254 of title 28, United States Code. The commencement of proceedings under this section shall not, unless so specifically ordered by the court, operate as a stay of the Secretary's action.

“AUTHORIZATION OF APPROPRIATIONS

“SEC. 130. For allotments under section 125, there are authorized to be appropriated \$50,250,000 for fiscal year 1985, \$53,400,000 for fiscal year 1986, and \$56,500,000 for fiscal year 1987.

42 USC 6030.
Ante, p. 2676.

“PART C—PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS

“PURPOSE

“SEC. 141. It is the purpose of this part to provide for allotments to support a system in each State to protect the legal and human rights of persons with developmental disabilities in accordance with section 142.

42 USC 6041.

“SYSTEM REQUIRED

“SEC. 142. (a) In order for a State to receive an allotment under part B—

42 USC 6042.

“(1) the State must have in effect a system to protect and advocate the rights of persons with developmental disabilities;

“(2) such system must—

“(A) have the authority to pursue legal, administrative, and other appropriate remedies to ensure the protection of the rights of such persons who are receiving treatment, services, or habilitation within the State and to provide information on and referral to programs and services addressing the needs of persons with developmental disabilities;

“(B) not be administered by the State Planning Council;

“(C) be independent of any agency which provides treatment, services, or habilitation to persons with developmental disabilities; and

“(D) except as provided in subsection (b), be able to obtain access to the records of a person with developmental disabilities who resides in a facility for persons with developmental disabilities if—

“(i) a complaint has been received by the system from or on behalf of such person; and

“(ii) such person does not have a legal guardian or the State or the designee of the State is the legal guardian of such person;

“(3) the State must provide assurances to the Secretary that funds allotted to the State under this section will be used to supplement and increase the level of funds that would otherwise be made available for the purposes for which Federal funds are provided and not to supplant such non-Federal funds;

“(4) the State must provide assurances to the Secretary that such system will be provided with a copy of each annual survey report and plan of corrections for cited deficiencies made pursuant to section 1902(a)(31)(B) of the Social Security Act with respect to any intermediate care facility for the mentally retarded in the State within 30 days after the completion of each such report or plan; and

Report.

42 USC 1396a.

“(5) the State must provide assurances satisfactory to the Secretary that the agency implementing the system will not be redesignated unless there is good cause for the redesignation and unless notice has been given of the intention to make such redesignation to persons with developmental disabilities or their representatives.

“(b) Prior to October 1, 1986, the provisions of paragraph (2)(D) of subsection (a) shall not apply to any State in which the laws of the State prohibit the system required under such subsection from obtaining access to the records of a person with developmental disabilities under the conditions described in such paragraph.

Infra.

Ante, p. 2676.

“(c)(1) To assist States in meeting the requirements of subsection (a), the Secretary shall allot to the States the amounts appropriated under section 143. Allotments and reallootments of such sums shall be made on the same basis as the allotments and reallootments are made under the first sentence of subsection (a)(1) and subsection (d) of section 125, except that in any case in which—

“(A) the total amount appropriated under section 143 for a fiscal year is at least \$11,000,000—

“(i) the allotment of each of American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands for such fiscal year shall not be less than \$80,000; and

“(ii) the allotment to each of the several States, Puerto Rico, and the District of Columbia for such fiscal year shall not be less than \$150,000; or

“(B) the total amount appropriated under section 143 for a fiscal year is less than \$11,000,000, the allotment to each State (other than Guam, the Commonwealth of the Northern Mariana Islands, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands) shall not be less than \$50,000.

Prohibition.

“(2) A State may use not more than 5 percent of any allotment under this subsection for the costs of monitoring the administration of the system required under subsection (a).

“(3) Notwithstanding paragraph (1), if the aggregate of the amounts of the allotments to be made in accordance with such paragraph for any fiscal year exceeds the total of the amounts appropriated for such allotments under section 143, the amount of a State's allotment for such fiscal year shall bear the same ratio to the amount otherwise determined under such paragraph as the total of the amounts appropriated for that year under section 143 bears to the aggregate amount required to make an allotment to each of the States in accordance with paragraph (1).

“AUTHORIZATION OF APPROPRIATIONS

42 USC 6043.

Ante, p. 2679.

“SEC. 143. For allotments under section 142, there are authorized to be appropriated \$13,750,000 for fiscal year 1985, \$14,600,000 for fiscal year 1986, and \$15,500,000 for fiscal year 1987. The provisions of section 1913 of title 18, United States Code, shall be applicable to all moneys authorized under the provisions of this section.

"PART D—UNIVERSITY AFFILIATED FACILITIES**"PURPOSE**

"SEC. 151. The purpose of this part is to provide for grants to university affiliated facilities to assist in the provision of interdisciplinary training, the conduct of service demonstration programs, and the dissemination of information which will increase and support the independence, productivity, and integration into the community of persons with developmental disabilities.

Grants.
42 USC 6061.

"GRANT AUTHORITY

"SEC. 152. (a) From appropriations under section 154, the Secretary shall make grants to university affiliated facilities to assist in the administration and operation of the activities described in section 102(13).

42 USC 6062.
Post, p. 2683.

"(b) The Secretary may make one or more grants to a university affiliated facility receiving a grant under subsection (a) to support one or more of the following activities:

Ante, p. 2663.

"(1) Conducting—

"(A) a study of the feasibility of establishing a university affiliated facility or a satellite center in an area not served by a university affiliated facility, including an assessment of the needs of the area for such a facility or center; or

"(B) a study of the ways in which such university affiliated facility, singly or jointly with other university affiliated facilities which have received a grant under subsection (a), can assist in establishing one or more satellite centers which would be located in areas not served by a university affiliated facility.

A study under subparagraph (A) or subparagraph (B) shall be carried out in consultation with the State Planning Council for the State in which the university affiliated facility conducting the study is located and the State Planning Council for the State in which the university affiliated facility or satellite center would be established.

"(2) Provision of service-related training to parents of persons with developmental disabilities, professionals, volunteers, or other personnel to enable such parents, professionals, volunteers, or personnel to provide services to increase or maintain the independence, productivity, and integration into the community of persons with developmental disabilities.

"(3) Conducting an applied research program designed to produce more efficient and effective methods (A) for the delivery of services to persons with developmental disabilities, and (B) for the training of professionals, paraprofessionals, and parents who provide these services.

Research and
development.

The amount of a grant under paragraph (1) may not exceed \$25,000.

Prohibition.

"(c) The Secretary may make grants to pay part of the costs of establishing satellite centers and may make grants to satellite centers to pay part of their administration and operation costs. A satellite center which receives a grant under this section may engage in the activities described in subparagraph (A), (B), or (C) of section 102(13).

"(d)(1) The Secretary may not make a grant under subsection (c) for the fiscal year ending on September 30, 1985, to a satellite center

Prohibition.

- Ante*, p. 2670. which has not received a grant under such subsection or section 121(c) (as such section was in effect prior to October 1, 1984) unless—
- “(A) a study assisted under subsection (b)(1)(A) of this section has established the feasibility of establishing or operating such center, except that such study shall not be required to contain an assessment of the need for such center in the area in which such center will be located; or
- “(B) a study assisted under section 121(b)(1) (as in effect prior to October 1, 1984) has established the feasibility of establishing or operating such center.
- Prohibition. “(2) The Secretary may not make a grant under subsection (a) or subsection (c) for a fiscal year beginning after September 30, 1985, to a university affiliated facility or a satellite center which has not received a grant under this section or section 121 (as such section was in effect prior to October 1, 1984) unless—
- “(A) a study assisted under subsection (b)(1)(A) has been conducted with respect to such facility or center by a university affiliated facility; and
- “(B) such study has established the feasibility of establishing or operating such facility or center.

“APPLICATIONS

- 42 USC 6063. “SEC. 153. (a) Not later than six months after the date of the enactment of the Developmental Disabilities Act of 1984, the Secretary shall establish by regulation standards for university affiliated facilities. Such standards shall reflect the special needs of persons with developmental disabilities who are of various ages, and shall include performance standards relating to each of the activities described in section 102(13).
- Ante*, p. 2663.
Ante, p. 2681. “(b) No grants may be made under section 152 unless an application therefor is submitted to, and approved by, the Secretary. Such an application shall be submitted in such form and manner, and contain such information, as the Secretary may require. Such an application shall be approved by the Secretary only if the application contains or is supported by reasonable assurances that—
- “(1) the making of the grant will (A) not result in any decrease in the use of State, local, and other non-Federal funds for services for persons with developmental disabilities and for training of persons to provide such services, which funds would (except for such grant) be made available to the applicant, and (B) be used to supplement and, to the extent practicable, increase the level of such funds;
- “(2)(A) the applicant’s facility is in full compliance with the standards established under subsection (a), or
- “(B)(i) the applicant is making substantial progress toward bringing the facility into compliance with such standards, and (ii) the facility will, not later than three years after the date of approval of the initial application or the date standards are promulgated under subsection (a), whichever is later, fully comply with such standards; and
- Human rights. “(3) the human rights of all persons with developmental disabilities (especially those persons without familial protection) who are receiving treatment, services, or habilitation under programs assisted under this part will be protected consistent with section 110 (relating to rights of the developmentally disabled).

“(c) The Secretary shall establish such a process for the review of applications for grants under section 152 as will ensure, to the maximum extent feasible, that each Federal agency that provides funds for the direct support of the applicant’s facility reviews the application.

Ante, p. 2681.

“(d)(1) If the total amount appropriated under section 154 for a fiscal year is at least \$8,500,000, the amount of any grant under section 152(a) to a university affiliated facility shall not be less than \$175,000 for such fiscal year and the amount of any grant under section 152(c) to a satellite center shall not be less than \$75,000 for such fiscal year.

Infra.

“(2) If the total amount appropriated under section 154 is less than \$8,500,000, the amount of any grant under section 152(a) to a university affiliated facility shall not be less than \$150,000 for such fiscal year and the amount of any grant under section 152(c) to a satellite center shall not be less than \$75,000 for such fiscal year.

“AUTHORIZATION OF APPROPRIATIONS

“SEC. 154. For the purpose of making grants under section 152, there are authorized to be appropriated \$9,000,000 for fiscal year 1985, \$9,600,000 for fiscal year 1986, and \$10,100,000 for fiscal year 1987.

42 USC 6064.

“PART E—SPECIAL PROJECT GRANTS

“PURPOSE

“SEC. 161. The purpose of this part is to provide for grants for demonstration projects to increase and support the independence, productivity, and integration into the community of persons with developmental disabilities.

42 USC 6081.

“GRANT AUTHORITY

“SEC. 162. (a) The Secretary may make grants to public or non-profit private entities for—

42 USC 6082.

“(1) demonstration projects—

“(A) which are conducted in more than one State,

“(B) which involve the participation of two or more Federal departments or agencies, or

“(C) which are otherwise of national significance, and which hold promise of expanding or otherwise improving services to persons with developmental disabilities (especially those who are multihandicapped or disadvantaged, including Native Americans, Native Hawaiians, and other underserved groups); and

“(2) technical assistance and demonstration projects (including research, training, and evaluation in connection with such projects) which hold promise of expanding or otherwise improving protection and advocacy services relating to the State protection and advocacy system described in section 142.

Ante, p. 2679.

Projects for the evaluation and assessment of the quality of services provided persons with developmental disabilities which meet the requirements of subparagraphs (A), (B), and (C) of paragraph (1) may be included as projects for which grants are authorized under such paragraph.

“(b) No grant may be made under subsection (a) unless an application therefor has been submitted to, and approved by, the Secretary.

Prohibition.

Human rights

Ante, p. 2670.*Ante*, p. 2669.

Such application shall be in such form, submitted in such manner, and contain such information as the Secretary shall by regulation prescribe. The Secretary may not approve such an application unless each State in which the applicant's project will be conducted has a State plan approved under section 122, and unless the application provides assurances that the human rights of all persons with developmental disabilities (especially those persons without familial protection) who are receiving treatment, services, or habilitation under projects assisted under this part will be protected consistent with section 110 (relating to the rights of the developmentally disabled). The Secretary shall provide to the State Planning Council for each State in which an applicant's project will be conducted an opportunity to review the application for such project and to submit its comments on the application.

"(c) Payments under grants under subsection (a) may be made in advance or by way of reimbursement and at such intervals and on such conditions, as the Secretary finds necessary. The amount of any grant under subsection (a) shall be determined by the Secretary.

"AUTHORIZATION OF APPROPRIATIONS

42 USC 6083.

"SEC. 163. To carry out this part, there are authorized to be appropriated \$2,700,000 for fiscal year 1985, \$2,800,000 for fiscal year 1986, and \$3,100,000 for fiscal year 1987."

STUDY ON INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED

Report.

SEC. 3. (a) Within six months after the date of enactment of this Act, the Secretary of Health and Human Services shall prepare and transmit to the Congress a report containing—

42 USC 1396.

(1) recommendations for improving services for mentally retarded persons and persons with developmental disabilities provided under an approved State plan under title XIX of the Social Security Act so that the manner in which such services are provided will increase the independence, productivity, and integration into the community of mentally retarded persons and persons with developmental disabilities;

42 USC 1396n.

(2) recommendations for services provided for mentally retarded persons and persons with developmental disabilities under waivers granted under section 1915(c) of the Social Security Act so that the manner in which such services are provided can be improved to increase the independence, productivity, and integration into the community of mentally retarded persons and persons with developmental disabilities; and

(3) comments by each of the officials specified in clauses (2) through (4) of subsection (b) on the recommendations included in the report pursuant to paragraph (1), including comments concerning the effect of such recommendations, if implemented, on programs carried out by such officials.

(b) The Secretary, in preparing the report required by subsection (a), shall consult with—

(1) the Administrator of the Health Care Financing Administration of the Department of Health and Human Services (or the designee of the Administrator);

(2) the Commissioner of the Administration for Developmental Disabilities of the Department of Health and Human Services (or the designee of the Commissioner);

(3) the Chairman of the National Council on the Handicapped (or the designee of the Chairman); and

(4) the Assistant Secretary of Education for Special Education and Rehabilitative Services (or the designee of the Assistant Secretary).

Approved October 19, 1984.

LEGISLATIVE HISTORY—H.R. 5603:

HOUSE REPORTS: No. 98-826 (Comm. on Energy and Commerce) and No. 98-1074 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 130 (1984):

June 11, considered and passed House.

June 28, considered and passed Senate, amended.

Oct. 3, House agreed to conference report.

Oct. 4, Senate agreed to conference report.

Public Law 98-528
98th Congress

An Act

Oct. 19, 1984

[H.R. 5618]

To amend title 38, United States Code, to revise and improve Veterans' Administration health programs and to improve security and law enforcement at Veterans' Administration facilities; and for other purposes.

Veterans'
Health Care Act
of 1984.
38 USC 101 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE

SECTION 1. (a) This Act may be cited as the "Veterans' Health Care Act of 1984".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—HEALTH PROGRAMS

SECURITY AND LAW ENFORCEMENT AT VETERANS' ADMINISTRATION
FACILITIES

38 USC 218.

SEC. 101. (a)(1) Section 218 is amended to read as follows:

"§ 218. Security and law enforcement on property under the jurisdiction of the Veterans' Administration

Regulations.

"(a)(1) The Administrator shall prescribe regulations to provide for the maintenance of law and order and the protection of persons and property on land and in buildings under the jurisdiction of the Veterans' Administration and not under the control of the Administrator of General Services (hereinafter in this section referred to as 'Veterans' Administration property').

"(2) Such regulations shall include—

"(A) rules for conduct on Veterans' Administration property; and

"(B) the penalties, within the limits specified in paragraph (3) of this subsection, for violations of such rules.

Penalties.

"(3) Whoever violates any rule prescribed under paragraph (2)(A) of this subsection shall be fined not more than \$500 or imprisoned not more than six months (or such lesser amount or period of time as the Administrator prescribes in the regulations prescribed under this subsection), or both.

"(4) The rules prescribed under clause (A) of paragraph (2) of this subsection, together with the penalties for violations of such rules, shall be posted conspicuously on property to which they apply.

"(5) The Administrator shall consult with the Attorney General before prescribing regulations under this subsection.

"(b)(1) Veterans' Administration employees who are Veterans' Administration police officers shall enforce Federal laws and the

rules prescribed under subsection (a)(2)(A) of this section on Veterans' Administration property. Subject to regulations prescribed under paragraph (2) of this subsection, a Veterans' Administration police officer may make arrests on Veterans' Administration property for a violation of any Federal law or of any such rule.

"(2) The Administrator shall prescribe regulations with respect to Veterans' Administration police officers. Such regulations shall include—

Regulations.

"(A) policies with respect to the exercise by Veterans' Administration police officers of the enforcement and arrest authorities provided by paragraph (1) of this subsection;

"(B) the scope and duration of training that is required for Veterans' Administration police officers, with particular emphasis on dealing with situations involving patients; and

"(C) rules limiting the carrying and use of weapons by Veterans' Administration police officers.

"(3) The Administrator shall consult with the Attorney General before prescribing regulations under clause (A) of paragraph (2) of this subsection.

"(4) Rates of basic pay for Veterans' Administration police officers may be increased by the Administrator under section 4107(g) of this title.

"(c)(1) The Administrator may pay an allowance under this subsection for the purchase of uniforms to any Veterans' Administration police officer who is required to wear a prescribed uniform in the performance of official duties.

"(2) The amount of the allowance that the Administrator may pay under this subsection—

"(A) may be based on estimated average costs or actual costs;

"(B) may vary by geographic regions; and

"(C) except as provided in paragraph (3) of this paragraph, may not exceed \$200 in a fiscal year for any police officer.

"(3)(A) The amount of an allowance under this subsection may be increased to an amount up to \$400 for not more than one fiscal year in the case of any Veterans' Administration police officer. In the case of a person who is appointed as a Veterans' Administration police officer on or after the date on which the Administrator initially exercises the authority granted by this paragraph, an allowance in an amount established under this paragraph shall be paid at the beginning of such person's employment as such an officer. In the case of any other Veterans' Administration police officer, an allowance in an amount established under this paragraph shall be paid upon the request of the officer.

"(B) A police officer who resigns as a police officer less than one year after receiving an allowance in an amount established under this paragraph shall repay to the Veterans' Administration a pro rata share of the amount paid, based on the number of months the officer was actually employed as such an officer during the twelve-month period following the date on which such officer began such employment or the date on which the officer submitted a request for such allowance, as the case may be.

"(4) An allowance may not be paid to a Veterans' Administration police officer under this subsection and under section 5901 of title 5 for the same fiscal year.

"(d) The Administrator shall furnish Veterans' Administration police officers with such weapons and related equipment as the Administrator determines to be necessary and appropriate.

“(e) With the permission of the head of the agency concerned, the Administrator may use the facilities and services of Federal, State, and local law enforcement agencies when it is economical and in the public interest to do so.”.

38 USC 218 note.

(2) The provisions of section 218 of title 38, United States Code, other than clause (2) of subsection (a) of such section, as in effect on the day before the date of the enactment of this Act shall remain in effect until the date on which the Administrator of Veterans' Affairs prescribes the regulations required to be prescribed by subsections (a) and (b) of such section as amended by subsection (a) of this section.

(3) The item relating to such section in the table of sections at the beginning of chapter 3 of such title is amended to read as follows:

“218. Security and law enforcement on property under the jurisdiction of the Veterans' Administration.”.

97 Stat. 1001.
38 USC 4107.

(b) Section 4107(g) is amended—

(1) in paragraph (1)—

(A) by striking out “or” at the end of clause (A);

(B) by striking out the comma and inserting in lieu thereof a semicolon and “or” at the end of subclause (iv) of clause (B); and

(C) by inserting after clause (B) the following new clause:

“(C) of employees who are Veterans' Administration police officers providing services under section 218 of this title,”;

(2) by striking out “health-care” each place it appears in paragraphs (2)(A) and (4); and

(3) by inserting “or (C)” after “(B)” in paragraph (4).

Report.

(c) Not later than one hundred and eighty days after the date of the enactment of this Act, the Administrator of Veterans' Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the implementation of the amendments made by this section. The report shall include (1) the regulations prescribed under section 218 of title 38, United States Code, as amended by subsection (a), and (2) a description of the methodology to be used to determine how the authority provided in the amendments made by subsection (b) is to be exercised.

COMPTROLLER GENERAL REPORT ON MEDICAL PERSONNEL STAFFING LEVELS

Report.
38 USC 5010.

SEC. 102. Section 5010(a)(4)(C) is amended to read as follows: “(C) Whenever the Director of the Office of Management and Budget is required to submit a certification under subparagraph (B) of this paragraph, the Comptroller General shall submit to the appropriate committees of the Congress a report stating the Comptroller General's opinion as to whether the Director has complied with the requirements of that subparagraph. The Comptroller General shall submit the report not later than fifteen days after the end of the period specified in such subparagraph for the Director to submit the certification.”.

CONTRACT HEALTH CARE IN PUERTO RICO AND THE VIRGIN ISLANDS

97 Stat. 730.
38 USC 601.
38 USC 601 note.

SEC. 103. (a) Section 601(4)(C)(v) is amended by striking out “September 30, 1984” and inserting in lieu thereof “September 30, 1985”.

(b) Any action by the Administrator of Veterans' Affairs in entering into a contract applicable to the period beginning on October 1,

1984, and ending on the date of the enactment of this Act for the provision of care described in subclause (v) of section 601(4)(C) of title 38, United States Code, and any waiver described in that subclause made by the Administrator that is applicable to that period, is hereby ratified with respect to that period.

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR GERIATRIC
RESEARCH, EDUCATION, AND CLINICAL ACTIVITIES

SEC. 104. Section 4101(f)(3) is amended by striking out the first sentence and inserting in lieu thereof the following: "There are authorized to be appropriated such sums as may be necessary for the support of the research and education activities of the centers established pursuant to paragraph (1) of this subsection." 38 USC 4101.

ACQUISITION OF PROPERTIES FOR USE AS STATE VETERANS' HOMES

SEC. 105. Subchapter III of chapter 81 is amended as follows:

(1) Section 5032 is amended by inserting "(or to acquire facilities to be used as State home facilities)" after "State home facilities". 38 USC 5032.

(2) Section 5034 is amended by inserting "or acquired" after "constructed" each place it appears. 38 USC 5034.

(3) Section 5035 is amended— 38 USC 5035.

(A) by inserting "(or acquisition of a facility to be used as a State home facility)" in the first sentence of subsection (a) after "State home facilities";

(B) by inserting "(or of the estimated cost of facility acquisition and construction)" in clause (1) of subsection (a) after "cost of construction";

(C) by inserting "(or for facility acquisition and construction of the project)" in clause (6) of subsection (a) after "construction of the project";

(D) by striking out "sections 276a through 276a-5 of title 40" in clause (8) of subsection (a) and inserting in lieu thereof "the Act of March 3, 1931 (40 U.S.C. 276a—276a-5)";

(E) by striking out "and" at the end of clause (7), by striking out the period at the end of clause (8) and inserting in lieu thereof a comma and "and", and by inserting after clause (8) the following new clause:

"(9) in the case of a project for acquisition of a facility, reasonable assurance that the estimated total cost of acquisition of the facility and of any expansion, remodeling, and alteration of the acquired facility will not be greater than the estimated cost of construction of an equivalent new facility.";

(F) by inserting "(or of the estimated cost of facility acquisition and construction)" in clause (2) of subsection (b) after "cost of construction";

(G) by striking out "the construction of" in clause (4) of subsection (b) and inserting in lieu thereof "the carrying out of"; and

(H) in subsection (d)(1)—

(i) by inserting "(or of the estimated cost of facility acquisition and construction)" in the first sentence after "cost of construction";

(ii) by striking out "constructed" in the second sentence and inserting in lieu thereof "carried out";

(iii) by striking out “construction” in the third sentence and inserting in lieu thereof “the project”; and
 (iv) by striking out “the construction of” in the fourth sentence.

38 USC 5036.

(4) Section 5036 is amended—

(A) by striking out “for construction” after “completion of any project”;

(B) by inserting “acquisition,” after “in the case of the”;

(C) by striking out “value of such construction” and inserting in lieu thereof “value of such project”;

(D) by striking out “for such construction” after “assistance provided for”; and

(E) by striking out “twenty” both places it appears and inserting in lieu thereof “20”.

38 USC 5037.

(5) Section 5037 is amended by inserting “or acquired” after “constructed”.

COORDINATION OF VETERANS' ADMINISTRATION HEALTH-CARE SERVICES WITH STATE AND LOCAL PROGRAMS

38 USC 220.

SEC. 106. (a) Section 220 is amended—

(1) by inserting “(a)” before “The Administrator”; and

(2) by adding at the end the following new subsection:

“(b) The Administrator shall seek to achieve the effective coordination of the provision, under laws administered by the Veterans' Administration, of benefits and services (and information about such benefits and services) with appropriate programs (and information about such programs) conducted by State and local governmental agencies and by private entities at the State and local level. In carrying out this subsection, the Administrator shall place special emphasis on veterans who are sixty-five years of age or older.”.

(b)(1) The heading of such section is amended to read as follows:

“§ 220. Coordination and promotion of other programs affecting veterans and their dependents”.

(2) The item relating to such section in the table of sections at the beginning of chapter 3 is amended to read as follows:

“220. Coordination and promotion of other programs affecting veterans and their dependents.”.

MEDICAL AND REHABILITATIVE DEVICES

38 USC 617.

SEC. 107. Section 617 is amended—

(1) by inserting “(a)” before “The Administrator”; and

(2) by adding at the end the following new subsection:

“(b) The Administrator may furnish devices for assisting in overcoming the handicap of deafness (including telecaptioning television decoders) to any veteran who is profoundly deaf and is entitled to compensation on account of hearing impairment.”.

AUTHORITY TO ADJUST RATES OF PAY FOR CERTAIN PSYCHOLOGISTS

97 Stat. 1000.

38 USC 4104.

SEC. 108. Section 4104 is amended—

(1) by inserting “(other than those described in paragraph (3))” after “psychologists” in paragraph (2); and

(2) by striking out “Certified” in paragraph (3) and inserting in lieu thereof “Clinical or counseling psychologists who hold

diplomas as diplomates in psychology from an accrediting authority approved by the Administrator, certified”.

WAIVER OF MANDATORY REDUCTIONS IN MILITARY RETIRED PAY FOR
CERTAIN PHYSICIANS

SEC. 109. Section 4107 is amended by adding at the end the following new subsection: 38 USC 4107.

“(i) The Administrator may authorize an exception to the restrictions in subsections (a), (b), and (c) of section 5532 of title 5 if necessary to meet special or emergency employment needs which result from a severe shortage of well-qualified candidates in physician positions which otherwise cannot be readily met.”.

POST-TRAUMATIC-STRESS DISORDER

SEC. 110. (a)(1) The Chief Medical Director of the Veterans' Administration may designate special programs within the Department of Medicine and Surgery for the diagnosis and treatment of post-traumatic-stress disorder (hereinafter in this section referred to as “PTSD”). 38 USC 612A note.

(2) The Chief Medical Director shall direct (A) that (in addition to providing diagnostic and treatment services for PTSD) Veterans' Administration programs designated under paragraph (1) (hereinafter in this section referred to as “designated PTSD programs”) carry out activities to promote the education and training of health-care personnel (including health-care personnel not working for the Veterans' Administration or the Federal Government) in the causes, diagnosis, and treatment of PTSD, and (B) that (when appropriate) the provision of treatment services under such program be coordinated with the provision of readjustment counseling services under section 612A of title 38, United States Code.

(b)(1) The Chief Medical Director shall establish in the Department of Medicine and Surgery a Special Committee on Post-Traumatic-Stress Disorder (hereinafter in this section referred to as the “Special Committee”). The Chief Medical Director shall appoint qualified employees of the Department to serve on the Special Committee.

Special
Committee on
Post-Traumatic-
Stress Disorder,
establishment.

(2) The Special Committee shall assess, and carry out a continuing assessment of, the capacity of the Veterans' Administration to provide diagnostic and treatment services for PTSD to veterans eligible for health care furnished by the Veterans' Administration.

(3) The Special Committee shall also advise the Chief Medical Director regarding the development of policies, the provision of guidance, and the coordination of services for the diagnosis and treatment of PTSD (A) in designated PTSD programs, (B) in inpatient psychiatric programs and outpatient mental health programs other than designated PTSD programs, and (C) in readjustment counseling programs of the Veterans' Administration.

(4) The Special Committee shall also make recommendations to the Chief Medical Director for guidance with respect to PTSD regarding—

- (A) appropriate diagnostic and treatment methods;
- (B) referral for and coordination of followup care;
- (C) the evaluation of PTSD treatment programs;
- (D) the conduct of research concerning such diagnosis and treatment (taking into account the provisions of subsection (c));

(E) special programs of education and training for employees of the Department of Medicine and Surgery and the Department of Veterans' Benefits (also taking into account such provisions);

(F) the appropriate allocation of resources for all such activities; and

(G) any specific steps that should be taken to improve such diagnosis and treatment and to correct any deficiencies in the operations of designated PTSD programs.

National Center
on Post-
Traumatic-
Stress Disorder,
establishment.

(c) The Chief Medical Director shall establish and operate in the Department of Medicine and Surgery a National Center on Post-Traumatic-Stress Disorder. The National Center (1) shall carry out and promote the training of health care and related personnel in, and research into, the causes and diagnosis of PTSD and the treatment of veterans for PTSD, and (2) shall serve as a resource center for, and promote and seek to coordinate the exchange of information regarding, all research and training activities carried out by the Veterans' Administration, and by other Federal and non-Federal entities, with respect to PTSD.

(d) The Chief Medical Director shall regularly compile and publish the results of research that has been conducted relating to PTSD.

Report.

(e)(1) Not later than March 1, 1985, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the implementation of this section. The report shall include the following:

(A) A list of the members of the Special Committee.

(B) A list of all designated PTSD programs and other programs providing treatment for PTSD, together with a description of the resources that have been allocated for the development and operation of each such program, a description of the education and training that has been provided for Veterans' Administration health-care personnel in such programs and elsewhere within the Veterans' Administration in the diagnosis and treatment of PTSD, and specification of the funding that has been allocated to each such program and elsewhere within the Veterans' Administration to support research relating to PTSD.

(C) The assessment of the Chief Medical Director of the Veterans' Administration, after consultation with the Special Committee, regarding the capability of the Veterans' Administration to meet the needs for inpatient and outpatient PTSD diagnosis and treatment (both through designated PTSD programs and otherwise) of veterans who served in the Republic of Vietnam during the Vietnam era, former prisoners of war, and other veterans eligible for health care from the Veterans' Administration and the efficacy of the treatment so provided, as well as a description of the results of any evaluations that have been made of PTSD treatment programs.

(D) The plans of the Special Committee for further assessments of the capability of the Veterans' Administration to diagnose and treat veterans with PTSD.

(E) The recommendations made by the Special Committee to the Chief Medical Director and the views of the Chief Medical Director on such recommendations.

(F) A summary of the results of research conducted by the Veterans' Administration relating to PTSD.

(G) A description of the steps taken, plans made (and a timetable for their execution), and resources to be applied to implement subsections (b) and (c).

(H) The assessment of the Administrator of the capacity of the Veterans' Administration to meet in all geographic areas of the United States the needs described in subparagraph (C) and any plans and timetable for increasing that capacity (including the costs of such action).

(2) Not later than February 1, 1986, and February 1 of each of the three following years, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing information updating the reports submitted under this subsection before the submission of such report.

Report.

ALCOHOL AND DRUG TREATMENT AND REHABILITATION GUIDELINES

SEC. 111. Not later than six months after the date of the enactment of this Act, the Administrator of Veterans' Affairs (1) shall issue guidelines for the treatment and rehabilitation of veterans for alcohol or drug dependence or abuse disabilities under chapter 17 of title 38, United States Code, in facilities over which the Administrator has direct jurisdiction, and (2) shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report (including a copy of such guidelines) on the implementation of this section.

Report.

38 USC 601 *et seq.*

TITLE II—REPORTS

REPORT ON VETERANS' ADMINISTRATION PROGRAMS FOR TERMINALLY ILL VETERANS

SEC. 201. (a) Not later than September 30, 1985, the Administrator of Veterans' Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on programs of the Veterans' Administration to furnish palliative care, supportive counseling, and other medical services to terminally ill veterans and, pursuant to section 601(6)(B) of title 38, United States Code, supportive counseling to members of such veterans' families.

(b) The report required by subsection (a) shall include the following:

(1) A review of Veterans' Administration policies and guidelines on the provision of care, counseling, and services described in subsection (a).

(2) A review of the care, counseling, and services furnished, including the treatment modalities used and services furnished by the Veterans' Administration.

(3) An analysis and a comparison of the care, counseling, and services furnished with respect to terminally ill veterans in hospice and other Veterans' Administration programs, including a comparison of the routine and ancillary services, of the duration of inpatient and outpatient treatment and hospital-based home care, and of the cost of care furnished in such programs.

(4) An explanation of how the care, counseling, and services described in subsection (a) are or will be included in the overall plans of the Veterans' Administration for providing health care to older veterans in the future and the extent to which plans to furnish hospice care are included in such plans.

(5) A review of any steps taken to arrange for the exchange of information between Veterans' Administration facilities providing the care, counseling, and services described in subsection (a) and non-Veterans' Administration facilities providing similar care, counseling, and services.

VETERANS RESIDING IN REMOTE GEOGRAPHIC AREAS

SEC. 202. (a) The Congress makes the following findings:

(1) Many veterans with service-connected disabilities and other veterans eligible for certain health-care services from the Veterans' Administration, within the limits of Veterans' Administration facilities, reside in areas of the United States that are geographically remote from health-care facilities over which the Administrator of Veterans' Affairs has direct jurisdiction.

(2) For many such veterans such health-care facilities are geographically inaccessible and for many other such veterans the inconvenience of travel to such facilities discourages them from seeking health-care services from the Veterans' Administration.

(3) A study conducted by the Administrator of eligible veterans residing in remote areas and the use by those veterans of Veterans' Administration health-care services would provide useful information on the feasibility and appropriateness of alternative approaches to furnishing health-care services to such veterans.

Study.

(b)(1) The Administrator shall carry out a study to develop information about veterans who reside in remote areas and are eligible for health-care services from the Veterans' Administration and to develop alternative approaches that could be adopted to furnish such veterans with such services. In carrying out the study, the Administrator shall develop the following information:

(A) To the maximum extent feasible, statistics on the number of eligible veterans who, during fiscal year 1985—

(i) reside less than fifty miles from the nearest Veterans' Administration medical facility,

(ii) reside between fifty miles and one hundred miles from the nearest Veterans' Administration medical facility,

(iii) reside between one hundred miles and two hundred miles from the nearest Veterans' Administration medical facility, and

(iv) reside more than two hundred miles from the nearest Veterans' Administration medical facility.

(B) Statistics, shown by each group of veterans described in clause (A), on the numbers of eligible veterans who, during fiscal year 1985—

(i) use Veterans' Administration medical facilities,

(ii) receive inpatient care in such facilities (including the typical lengths of stay of such veterans in such facilities),

(iii) receive outpatient care from such facilities, and

(iv) receive followup health-care services from such facilities.

(C) Such additional statistics and such additional information as the Administrator considers appropriate.

(D) Breakdowns of the statistics described in clauses (A) and (B) with respect to age, service connection, and financial need regarding the applicable veteran populations.

(2) Not later than January 1, 1986, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a full report on the study under paragraph (1). The report shall include—

Reports.

(A) the statistics and breakdown developed and information gathered under that paragraph;

(B) the Administrator's findings on the extent of the need for the Veterans' Administration to increase health-care services in remote areas; and

(C) the Administrator's findings and recommendations regarding the advantages and disadvantages of the Veterans' Administration contracting for and making other arrangements for the furnishing of health-care services to eligible veterans in remote areas.

(3) Not later than July 1, 1986, the Administrator shall submit to such committees a report describing an experimental program that could feasibly be carried out through projects in five remote areas, selected on the basis of the information and findings included in the report under paragraph (2), to demonstrate alternative approaches for the Veterans' Administration to furnish health-care services to eligible veterans in remote areas. The report shall include a description of the health-care services, and a detailed breakdown of the costs for them, that could be furnished under such an experimental program to such veterans in each such area, along with the recommendations (and the reasons therefor) of the Administrator regarding whether any such project should be carried out and such recommendations for legislative or administrative action as the Administrator considers appropriate in light of the information contained in the report.

TITLE III—MISCELLANEOUS

MODIFICATION OF REVERSIONARY INTEREST IN CERTAIN LAND, LOS ANGELES, CALIFORNIA

SEC. 301. (a) The Administrator of Veterans' Affairs shall execute such legal documents as are necessary to permit the use of the real property described in subsection (b) (or any portion of such property) for educational or cultural purposes in addition to the use of such property as a research and medical center and for allied purposes. The Administrator may carry out the preceding sentence subject to such terms and conditions as the Administrator requires in order to protect the interests of the United States.

Real property.

(b) The real property referred to in subsection (a) is the property transferred to the State of California for the use of the University of California by a quitclaim deed dated December 10, 1948, executed by the Administrator of Veterans' Affairs under the Act entitled "An Act to authorize the Administrator of Veterans' Affairs to transfer a portion of the Veterans' Administration center at Los Angeles, California, to the State of California for the use of the University of California", approved June 19, 1948 (62 Stat. 559), and recorded in the land records of the County of Los Angeles, California, at page 307 of book 29032.

(c) Any document executed to carry out subsection (a) of this section shall provide that the property involved shall revert to the United States if it ceases to be used as a research and medical center or for educational or cultural purposes.

NAMING OF VETERANS' ADMINISTRATION MEDICAL CENTERS

SEC. 302. (a) The Veterans' Administration Medical Center in Murfreesboro, Tennessee, shall after the date of the enactment of this Act be known and designated as the "Alvin C. York Veterans' Administration Medical Center". Any reference to such medical center in any law, regulation, map, document, record, or other paper of the United States shall after such date be deemed to be a reference to the Alvin C. York Veterans' Administration Medical Center.

(b) The Veterans' Administration Medical Center in Milwaukee, Wisconsin, shall after the date of the enactment of this Act be known and designated as the "Clement J. Zablocki Veterans' Administration Medical Center". Any reference to such medical center in any law, regulation, map, document, record, or other paper of the United States shall after such date be deemed to be a reference to the Clement J. Zablocki Veterans' Administration Medical Center.

Approved October 19, 1984.

LEGISLATIVE HISTORY—H.R. 5618 (S. 2514):

HOUSE REPORT No. 98-779 (Comm. on Veterans' Affairs).

CONGRESSIONAL RECORD, Vol. 130 (1984):

May 21, considered and passed House.

Aug. 9, considered and passed Senate, amended, in lieu of S. 2514.

Oct. 2, House concurred in Senate amendments with amendments.

Oct. 3, Senate concurred in House amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 42 (1984):

Oct. 19, Presidential statement.

Public Law 98-529
98th Congress

An Act

To remove an impediment to oil and gas leasing of certain Federal lands in Corpus Christi, Texas, and Port Hueneme, California, and for other purposes.

Oct. 19, 1984
[H.R. 5787]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding section 3 of the Mineral Leasing Act for Acquired Lands (30 U.S.C. 352), the fact that acquired lands are incorporated into and a part of the city of Corpus Christi, Texas, or the city of Port Hueneme, California, shall not prevent the leasing of such lands: *Provided*, That prior to any such leasing the Department of the Interior must do a detailed reevaluation to determine if the lands are within a known geologic structure, by the Secretary of the Interior for oil or gas exploration and extraction, and such lands shall be available for such leasing as if they were not in an incorporated city, except that no such leasing activity shall proceed without the permission of the appropriate city.

Approved October 19, 1984.

LEGISLATIVE HISTORY—H.R. 5787:

HOUSE REPORT No. 98-1047, Pt. 1 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 130 (1984):
Sept. 24, considered and passed House.
Oct. 5, considered and passed Senate.

Public Law 98-530
98th Congress

An Act

Oct. 19, 1984
[H.R. 6206]

Relating to the water rights of the Ak-Chin Indian Community.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. The Congress hereby finds and declares that—

(1) the Department of the Interior and the Ak-Chin Indian Community executed on September 23, 1983, an agreement entitled "Agreement in Principle for Revised Ak-Chin Water Settlement", wherein the parties agreed to revisions of the Act of July 28, 1978 (Public Law 95-328; 92 Stat. 409);

(2) the main purpose of the Agreement in Principle is to accomplish a prompt and economical fulfillment of the intent of that Act;

92 Stat. 411.

(3) section 3 of that Act requires that the Secretary of the Interior (hereinafter referred to as the "Secretary") as soon as possible but not later than twenty-five years after the date of the enactment of that Act, deliver to the Ak-Chin Indian Reservation a permanent supply of water to fulfill the Ak-Chin Indian Community's entitlement to eighty-five thousand acre-feet of water;

92 Stat. 409.

(4) section 2 of that Act requires that the Secretary deliver an interim supply of water until the permanent supply is acquired and delivered to the Reservation;

(5) the Secretary proposed to the Community, subject to the approval of Congress, to deliver the permanent supply not later than January 1, 1988, except that the Community, as a consideration, agree to certain modifications in the quantities of water to be delivered as the permanent supply and to release him from his obligation to deliver an interim supply;

(6) in order to establish January 1, 1988, as the date certain for the delivery of a permanent supply, the Community agreed to—

(A) the reduced deliveries of the permanent supply under certain conditions;

(B) the Secretary's proposals regarding the interim supply; and

(C) certain other proposals of the Secretary;

and executed the Agreement in Principle; and

(7) the provisions contained in this Act conform to the purposes of that Agreement and the consideration embodied in it.

Central Arizona
Project.

SEC. 2. (a) As soon as possible but not later than January 1, 1988, the Secretary shall deliver annually a permanent water supply from the main project works of the Central Arizona Project to the southeast corner of the Ak-Chin Indian Reservation of not less than seventy-five thousand acre-feet of surface water suitable for agricultural use except as otherwise provided under subsections (b) and (c).

(b) In any year in which sufficient surface water is available, the Secretary shall deliver such additional quantity of water as is

requested by the Community not to exceed ten thousand acre-feet. The Secretary shall be required to carry out the obligation referred to in this subsection only if he determines that there is sufficient capacity available in the main project works of the Central Arizona Project to deliver such additional quantity.

(c) In time of shortage, if the aggregate supply of water referred to in subsection (f) is not sufficient to deliver seventy-five thousand acre-feet, the Secretary may deliver a lesser quantity but in no event less than seventy-two thousand acre-feet. For the purposes of this Act, the term "time of shortage" means a calendar year for which the Secretary determines that a shortage exists pursuant to section 301(b) of the Colorado River Basin Project Act of September 30, 1968 (Public Law 90-537), such that there is not sufficient Central Arizona Project water in that year to supply up to a limit of three hundred nine thousand eight hundred and twenty-eight acre-feet of water for Indian uses, and up to a limit of five hundred ten thousand acre-feet of water for non-Indian municipal and industrial uses.

43 USC 1501

(d) The Secretary shall be deemed to have satisfied his obligation to deliver water under this section only if such water is delivered at flow rates which meet the seasonal requirements for agricultural use on the Reservation. Such rates shall not exceed three hundred cubic feet per second.

(e) To meet the obligations of the Secretary to deliver water under this Act, the Secretary shall design, construct, operate, maintain, and replace, at no cost to the Community, such facilities, including any aqueduct and appurtenant pumping facilities, powerplants and electric power transmission facilities, which may be necessary.

(f) The water supply referred to in subsections (a) and (c) shall consist of the aggregate of the following—

(1) First, a permanent supply of no more or less than fifty thousand acre-feet of surface water per annum to be diverted from the Colorado River of the three hundred thousand acre-feet of water heretofore authorized by the Act of July 30, 1947 (61 Stat. 628), for beneficial consumptive use on lands of the Yuma Mesa Division of the Gila Project. Water referred to in this paragraph and in subsection (g)(1) shall have equal priority. Furthermore, these provisions shall not affect the relative priorities among themselves of water users in Arizona, Nevada, and California which are senior to diversions for the Central Arizona Project as fully set out in section 301(b) of Public Law 90-537.

43 USC 1501.

(2) Such Central Arizona Project water allocated to the Community and referred to in the "Notice of Final Water Allocations to Indians and non-Indian Water Users and Related Decisions" (48 Fed. Reg. 12446, March 24, 1983) as is necessary to fulfill the Secretary's water delivery obligations. Delivery of such Central Arizona Project water shall be as provided in the December 11, 1980, Central Arizona Project water delivery contract between the United States and the Ak-Chin Indian Community, except as otherwise provided by this Act and any contract executed pursuant to this Act.

Notwithstanding any other provision of this Act, nothing in paragraph (1) of this subsection shall enlarge or diminish the authority of the Secretary under existing law. Nothing in section 4 or any other provision of this Act shall reduce the Secretary's obligation to deliver to the Ak-Chin Reservation a permanent supply of fifty

Gila Project.

thousand acre-feet of surface water per annum as well as the water referred to in paragraph (2) of this subsection.

(g)(1) The limitation in the first section of the Act of July 30, 1947 (61 Stat. 628) on the annual beneficial consumptive use in the Yuma Mesa Division of the Gila Project of no more than three hundred thousand acre-feet of Colorado River water shall be deemed to be a limitation of no more than two hundred and fifty thousand acre-feet, effective as provided in section 4 of this Act.

(2) Such two hundred and fifty thousand acre-feet of water shall not be used to irrigate more than thirty-seven thousand one hundred and eighty-seven acres of land in the Yuma Mesa Division, specifically: six thousand five hundred and eighty-seven acres in the North Gila Valley Irrigation District; ten thousand six hundred acres in the Yuma Irrigation District; and twenty thousand acres in the Yuma Mesa Irrigation and Drainage District. Additional land in the Yuma Mesa Irrigation and Drainage District may be irrigated if there is a corresponding reduction in the irrigated acreage in the other districts so that at no time are more than thirty-seven thousand one hundred and eighty-seven acres being irrigated in the Yuma Mesa Division.

(3) Pursuant to appropriations, the Secretary shall pay—

(A) \$5,400,000 to the Yuma Mesa Irrigation and Drainage District for the purpose of replacement, rehabilitation, and repair of the water delivery system within the Yuma Mesa Irrigation and Drainage District, including water pumping facilities; and

(B) \$2,000,000 to the Yuma Mesa Irrigation and Drainage District, \$1,000,000 to the Yuma Irrigation District, and \$1,000,000 to the North Gila Valley Irrigation District, for the purpose of on-farm and district water conservation and drainage measures.

Such funds shall not be used as non-Federal contributions in connection with any other Federal programs requiring cost-sharing. None of the payments to be made by the Secretary to said districts under this subsection shall be treated as supplemental or additional benefits or reimbursable to the United States.

Contracts with
U.S.

(4) The Secretary is authorized and directed to amend the repayment contracts, as amended, between the United States and said districts to conform to the provisions of this Act and to provide that all remaining repayment obligations owing to the United States on the date of the enactment of this Act are discharged. The Secretary is authorized at the request of the districts or any one of them to issue a certificate acknowledging that the lands in the requesting district are free of the ownership and full cost pricing provisions of Federal reclamation law. Such certificate shall be in a form suitable for entry in the land records of Yuma County, Arizona. Amendments to the districts' contracts relating to items other than those covered by this Act shall not be made without the consent of the irrigation districts.

(5) The Secretary shall be required to carry out his obligations in paragraphs (3) and (4) only if the Yuma Mesa Irrigation and Drainage District, the North Gila Valley Irrigation District, and the Yuma Irrigation District execute amendatory contracts necessary to carry out the provisions of this subsection, including specifically a waiver and release of any and all claims to the annual beneficial consumptive use of Colorado River water in excess of two hundred

fifty thousand acre-feet as provided in paragraph (1) of this subsection.

(h)(1) If the facilities required to deliver water to the Ak-Chin Reservation as provided in this section are not completed by January 1, 1988, the Secretary shall pay damages measured by the replacement cost of water not delivered in that calendar year up to a limit of thirty-five thousand acre-feet. In addition and to mitigate the effects occasioned by the failure to deliver said water, the Secretary shall pay all operation, maintenance and replacement costs of on-reservation wells to produce up to forty thousand acre-feet of water in that year for use by the Community.

(2) Commencing January 1, 1989, the Secretary shall pay damages measured by the replacement cost of water not delivered under subsection (a) or (c) as appropriate, up to a limit of seventy-five thousand or seventy-two thousand acre-feet of water, irrespective of whether the facilities to deliver water to the Ak-Chin Reservation have been completed.

(i) In any year in which the Ak-Chin Indian Community requests additional water under subsection (b) and such water and associated canal capacity are available, if the Secretary fails to deliver that quantity of additional water, in addition to any damages which he is required to pay under subsection (h), he shall pay damages in an amount measured by the agricultural water service operation, maintenance, and replacement costs for the Central Arizona Project in effect during that year, plus 20 per centum, of such additional quantity of water as is not delivered.

(j) The Ak-Chin Indian Community shall have the right to devote the permanent water supply provided for by this Act to any use, including but not limited to agricultural, municipal, industrial, commercial, mining or recreational use.

(k) The water referred to in subsection (f)(1) shall be for the exclusive use and benefit of the Ak-Chin Indian Community, except that whenever the aggregate water supply referred to in subsection (f) exceeds the quantity necessary to meet the obligations of the Secretary under this Act, the Secretary shall allocate on an interim basis to the Central Arizona Project any of the water referred to in subsection (f) which is not required for delivery to the Ak-Chin Indian Reservation under this Act.

SEC. 3. (a) The obligation of the Secretary to acquire and deliver to the Community an interim water supply from 1984 through 1987 under section 2 of the Act of July 28, 1978 (Public Law 95-328) shall be deemed to be fully discharged once—

92 Stat. 409.

(1) within sixty days of enactment of appropriations, the Secretary pays to the Community \$1,400,000 in a lump sum grant for economic development in fiscal year 1986;

(2) the Secretary of the Treasury, within thirty days after the date of enactment of this Act, has paid to the Community \$15,000,000 for general community purposes as provided in Public Law 98-396;

Ante, p. 1369.

(3) within sixty days after the date of enactment of this Act the Secretary has provided to the Community grants for economic development purposes of \$2,000,000 from funds provided in Public Law 98-396 for the permanent water supply; and

(4) the Secretary has amended those repayment contracts between the United States and the Community to provide that all repayment obligations owing to the United States are discharged.

The Secretary is hereby authorized and directed to take such actions needed to amend the contracts referred to in paragraph (4).

(b) To carry out the purposes of this section the Ak-Chin Indian Community shall have the complete discretion to use and expend the funds referred to in this section.

SEC. 4. The provisions of sections 2 (f)(1) and (g) of this Act shall not take effect until—

(1) the amendatory contracts authorized by section 2(g) of this Act have been duly ratified and approved by each of the districts and executed by the United States; and

(2) the funds authorized to be paid to the districts by section 2(g)(3) of this Act have been appropriated and transferred to the districts.

92 Stat. 411.

SEC. 5. (a) The obligations of the Secretary under section 3 of the Act of July 28, 1978 (92 Stat. 409; Public Law 95-328), shall terminate upon the enactment of this Act. If the Secretary fails to acquire the water supply referred to in section 2(f)(1) of this Act by January 1, 1988, the Secretary shall be obligated—

(1) to deliver annually to the southeast corner of the Ak-Chin Indian Reservation eighty-five thousand acre-feet of water suitable for irrigation beginning January 1, 1988; and

(2) to provide as soon as possible, but not later than January 1, 2003, for the permanent delivery of such water.

(b) Failure to deliver water as specified in this section shall render the United States liable for damages measured by the replacement cost of water not delivered.

Management
plan.

SEC. 6. The Secretary shall establish a water management plan for the Ak-Chin Indian Reservation which, except as is necessary to be consistent with the provisions of this Act, will have the same effect as any management plan developed under Arizona law.

Appropriation
authorization.

SEC. 7. (a) There is hereby authorized to be appropriated the sum of \$1,000,000 for payment to the fund referred to in subsection (b). Subject to appropriations, the Secretary shall pay a sum of \$1,000,000 to such fund.

(b) No portion of the sum referred to in subsection (a) shall be paid unless—

(1) the Central Arizona Water Conservation District establishes a fund to be administered by the District for voluntary acquisition or conservation of water from sources within the State of Arizona for use in central Arizona in years when water supplies are reduced; and

(2) the Central Arizona Water Conservation District has contributed the sum of not less than \$1,000,000 to such fund: *Provided*, That if the contribution of not less than \$1,000,000 by the District to such fund has not been fully paid as provided in this section within two years of the date of enactment of this Act, the authorization for appropriation and payment of the sum referred to in subsection (a) shall terminate.

Severability.

(c) If the provisions of this section are for any reason not implemented as herein provided, the other sections of this Act shall remain unaffected thereby.

SEC. 8. Nothing in this Act shall be construed to enlarge or diminish the authority of the Secretary with regard to the Colorado River.

SEC. 9. No authority under this Act to enter into contracts or to make payments shall be effective except to the extent and in such amounts as provided in advance in appropriations Acts. Any provi-

sion of this Act which, directly or indirectly, authorizes the enactment of new budget authority shall be effective only for fiscal years beginning after September 30, 1985.

SEC. 10. (a) Section 311 of the Southern Arizona Water Rights Settlement Act of 1982 (96 Stat. 1283) is amended to read as follows:

“SEC. 311. The provisions of section 2415 of title 28, United States Code, shall apply to any action relating to water rights of the Papago Indian Tribe or of any member of such Tribe which is brought—

“(1) by the United States for, or on behalf of, such Tribe or member of such Tribe, or

“(2) by such Tribe.”.

(b) The amendment made by this section shall not apply with respect to any action filed prior to the date of enactment of this Act.

Approved October 19, 1984.

LEGISLATIVE HISTORY—H.R. 6206:

HOUSE REPORT No. 98-1026 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 130 (1984):

Sept. 17, considered and passed House.

Sept. 25, considered and passed Senate, amended.

Oct. 2, House concurred in Senate amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 42 (1984):

Oct 19, Presidential statement.

Public Law 98-531
98th Congress

An Act

Oct. 19, 1984
[H.R. 6216]

To amend the Bankruptcy Amendments and Federal Judgeship Act of 1984 to make technical corrections with respect to the retirement of certain bankruptcy judges, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Bankruptcy Amendments and Federal Judgeship Act of 1984 is amended—

Repeal.
Ante, p. 392.

- (1) by striking out section 552, and
- (2) by redesignating section 553 as section 552.

SEC. 2. (a) Subparagraphs (A) and (B) of section 8331(22) of title 5, United States Code, are amended to read as follows:

“(A) who is serving as a United States bankruptcy judge on March 31, 1984;

“(B) whose service as United States bankruptcy judge at any time in the period beginning on October 1, 1979, and ending on July 10, 1984, is terminated by reason of death or disability; or”.

(b) Subsection (l) of section 8336 of title 5, United States Code, as so designated by section 1256(b)(1) of the Defense Department Authorization Act, 1984 (Public Law 98-94; 97 Stat. 701), is redesignated as subsection (m).

(c) Section 8339(n) of title 5, United States Code, is amended by striking out “March 31, 1979, and before the date of the enactment of the Bankruptcy Amendments and Federal Judgeship Act of 1984” and inserting in lieu thereof “as a referee in bankruptcy and”.

Effective dates.
5 USC 8331 note.

SEC. 3. (a) Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on July 10, 1984.

(b) The amendments made by section 2 shall take effect on March 31, 1984.

Approved October 19, 1984.

LEGISLATIVE HISTORY—H.R. 6216:

CONGRESSIONAL RECORD, Vol. 130 (1984):

Oct. 1, considered and passed House.

Oct. 4, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 42 (1984):

Oct. 19, Presidential statement.

Public Law 98-532
98th Congress

An Act

To prevent disruption of the structure and functioning of the Government by
ratifying all reorganization plans as a matter of law.

Oct. 19, 1984
[H.R. 6225]

*Be it enacted by the Senate and House of Representatives of the
United States of America in Congress assembled,*

SECTION 1. The Congress hereby ratifies and affirms as law each reorganization plan that has, prior to the date of enactment of this Act, been implemented pursuant to the provisions of chapter 9 of title 5, United States Code, or any predecessor Federal reorganization statute.

Government
organization and
employees.
5 USC 906 note.

5 USC 901 *et seq.*

SEC. 2. Any actions taken prior to the date of enactment of this Act pursuant to a reorganization plan that is ratified and affirmed by section 1 shall be considered to have been taken pursuant to a reorganization expressly approved by Act of Congress.

5 USC 906 note.

Approved October 19, 1984.

LEGISLATIVE HISTORY—H.R. 6225:

HOUSE REPORT No. 98-1104 (Comm. on Government Operations).
CONGRESSIONAL RECORD, Vol. 130 (1984):

Oct. 1, considered and passed House.
Oct. 4, considered and passed Senate.

Public Law 98-533
98th Congress

An Act

Oct. 19, 1984

[H.R. 6311]

To combat international terrorism.

1984 Act to
Combat
International
Terrorism.18 USC 3071
note.*Be it enacted by the Senate and House of Representatives of the
United States of America in Congress assembled,*

SHORT TITLE

SECTION 1. This Act may be cited as the “1984 Act to Combat
International Terrorism”.TITLE I—REWARDS FOR INFORMATION ON
INTERNATIONAL TERRORISM

AUTHORITY OF THE ATTORNEY GENERAL

SEC. 101. (a) Title 18 of the United States Code is amended by
adding the following new chapter after chapter 203:**“CHAPTER 204—REWARDS FOR INFORMATION
CONCERNING TERRORIST ACTS**

“Sec.

“3071. Information for which rewards authorized.

“3072. Determination of entitlement; maximum amount; Presidential approval; con-
clusiveness.

“3073. Protection of identity.

“3074. Exception of governmental officials.

“3075. Authorization for appropriations.

“3076. Eligibility for witness security program.

“3077. Definitions.

18 USC 3071.

“§ 3071. Information for which rewards authorized“With respect to acts of terrorism primarily within the territorial
jurisdiction of the United States, the Attorney General may reward
any individual who furnishes information—“(1) leading to the arrest or conviction, in any country, of any
individual or individuals for the commission of an act of terror-
ism against a United States person or United States property;
or“(2) leading to the arrest or conviction, in any country, of any
individual or individuals for conspiring or attempting to commit
an act of terrorism against a United States person or property;
or“(3) leading to the prevention, frustration, or favorable resolu-
tion of an act of terrorism against a United States person or
property.

“§ 3072. Determination of entitlement; maximum amount; Presidential approval; conclusiveness 18 USC 3072.

“The Attorney General shall determine whether an individual furnishing information described in section 3071 is entitled to a reward and the amount to be paid. A reward under this section may be in an amount not to exceed \$500,000. A reward of \$100,000 or more may not be made without the approval of the President or the Attorney General personally. A determination made by the Attorney General or the President under this chapter shall be final and conclusive, and no court shall have power or jurisdiction to review it.

“§ 3073. Protection of identity 18 USC 3073.

“Any reward granted under this chapter shall be certified for payment by the Attorney General. If it is determined that the identity of the recipient of a reward or of the members of the recipient's immediate family must be protected, the Attorney General may take such measures in connection with the payment of the reward as deemed necessary to effect such protection.

“§ 3074. Exception of governmental officials 18 USC 3074.

“No officer or employee of any governmental entity who, while in the performance of his or her official duties, furnishes the information described in section 3071 shall be eligible for any monetary reward under this chapter.

“§ 3075. Authorization for appropriations 18 USC 3075.

“There are authorized to be appropriated, without fiscal year limitation, \$5,000,000 for the purpose of this chapter.

“§ 3076. Eligibility for witness security program 18 USC 3076.

“Any individual (and the immediate family of such individual) who furnishes information which would justify a reward by the Attorney General under this chapter or by the Secretary of State under section 36 of the State Department Basic Authorities Act of 1956 may, in the discretion of the Attorney General, participate in the Attorney General's witness security program authorized under title V of the Organized Crime Control Act of 1970.

Post, p. 2708.

18 USC note
prec. 3481.

18 USC 3077.

“§ 3077. Definitions

“As used in this chapter, the term—

“(1) ‘act of terrorism’ means an activity that—

“(A) involves a violent act or an act dangerous to human life that is a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; and

“(B) appears to be intended—

“(i) to intimidate or coerce a civilian population;

“(ii) to influence the policy of a government by intimidation or coercion; or

“(iii) to affect the conduct of a government by assassination or kidnapping.

“(2) ‘United States person’ means—

“(A) a national of the United States as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

“(B) an alien lawfully admitted for permanent residence in the United States as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20));

“(C) any person within the United States;

“(D) any employee or contractor of the United States Government, regardless of nationality, who is the victim or intended victim of an act of terrorism by virtue of that employment;

“(E) a sole proprietorship, partnership, company, or association composed principally of nationals or permanent resident aliens of the United States; and

“(F) a corporation organized under the laws of the United States, any State, the District of Columbia, or any territory or possession of the United States, and a foreign subsidiary of such corporation.

“(3) ‘United States property’ means any real or personal property which is within the United States or, if outside the United States, the actual or beneficial ownership of which rests in a United States person or any Federal or State governmental entity of the United States.

“(4) ‘United States’—

“(A) when used in a geographical sense, includes Puerto Rico and all territories and possessions of the United States; and

“(B) when used in the context of section 3073 shall have the meaning given to it in the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

“(5) ‘State’ includes any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other possession or territory of the United States.

“(6) ‘government entity’ includes the Government of the United States, any State or political subdivision thereof, any foreign country, and any state, provincial, municipal, or other political subdivision of a foreign country.

“(7) ‘Attorney General’ means the Attorney General of the United States or that official designated by the Attorney General to perform the Attorney General’s responsibilities under this chapter.”

(b) The chapter analysis of part II of title 18, United States Code, is amended by adding after the item relating to chapter 203 the following new item:

“204. Rewards for information concerning terrorists acts..... 3071”.

AUTHORITY OF THE SECRETARY OF STATE

22 USC 2651
note.

SEC. 102. The State Department Basic Authorities Act of 1956 is amended by redesignating existing section 36 as section 37 and by inserting the following new section 36 after section 35:

22 USC 2708.

“SEC. 36. (a) The Secretary of State may pay a reward to any individual who furnishes information—

“(1) leading to the arrest or conviction, in any country, of any individual for the commission of an act of international terrorism, or

“(2) leading to the arrest or conviction, in any country, of any individual for conspiring or attempting to commit an act of international terrorism, or

“(3) leading to the prevention, frustration, or favorable resolution of an act of international terrorism,

if the act of international terrorism is against a United States person or United States property and is primarily outside the territorial jurisdiction of the United States.

“(b) A reward under this section may not exceed \$500,000. A reward of \$100,000 or more may not be made without the approval of the President or the Secretary of State personally.

“(c) Before making a reward under this section in a matter over which there is Federal criminal jurisdiction, the Secretary of State shall advise and consult with the Attorney General.

“(d) Any reward granted under this section shall be certified for payment by the Secretary of State. If the Secretary determines that the identity of the recipient of a reward or of the members of the recipient’s immediate family must be protected, the Secretary may take such measures in connection with the payment of the reward as he deems necessary to effect such protection.

“(e) An officer or employee of any governmental entity who, while in the performance of his or her official duties, furnishes information described in subsection (a) shall not be eligible for a reward under this section.

“(f) There are authorized to be appropriated, without fiscal year limitation, \$5,000,000 for use in paying rewards under this section. Additional funds to pay rewards under this section shall be authorized to be appropriated in the annual authorizing legislation for the Department of State.”.

Appropriation
authorization.

TITLE II—INTERNATIONAL COOPERATION

INCREASING INTERNATIONAL COOPERATION TO COMBAT TERRORISM

SEC. 201. (a) The President is urged to seek more effective international cooperation in combatting international terrorism, including—

(1) severe punishment for acts of terrorism which endanger the lives of diplomatic staff, military personnel, other government personnel, or private citizens; and

(2) extradition of all terrorists and their accomplices to the country where the terrorist incident occurred or whose citizens were victims of the incident.

(b) High priority should also be given to negotiations leading to the establishment of a permanent international working group which would combat international terrorism by—

(1) promoting international cooperation among countries;

(2) developing new methods, procedures, and standards to combat international terrorism;

(3) negotiating agreements for exchanges of information and intelligence and for technical assistance; and

(4) examining the use of diplomatic immunity and diplomatic facilities to further international terrorism.

This working group should have subgroups on appropriate matters, including law enforcement and crisis management.

TITLE III—SECURITY OF UNITED STATES MISSIONS ABROAD

ADVISORY PANEL ON SECURITY OF UNITED STATES MISSIONS ABROAD

Report.

SEC. 301. In light of continued terrorist incidents and given the ever increasing threat of international terrorism directed at United States missions and diplomatic personnel abroad, the Congress believes that it is imperative that the Department of State review its approach to providing security against international terrorism. Not later than February 1, 1985, the Secretary of State shall report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives on the findings and recommendations of the Advisory Panel on Security of United States Missions Abroad.

SECURITY ENHANCEMENT AT UNITED STATES MISSIONS ABROAD

Appropriation
authorization.

SEC. 302. (a) In addition to amounts otherwise authorized to be appropriated, there are authorized to be appropriated, without fiscal year limitation—

(1) \$350,963,000 for the Department of State for “Administration of Foreign Affairs”, and

(2) \$5,315,000 for the United States Information Agency, which amounts shall be for security enhancement at United States missions abroad.

Reports.

(b) Not later than February 1, 1985, the Secretary of State and the Director of the United States Information Agency shall each report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives on how their respective agencies have allocated the funds authorized to be appropriated by this section.

STATE DEPARTMENT BASIC AUTHORITIES

22 USC 2669.

SEC. 303. (a) Section 2 of the State Department Basic Authorities Act of 1956 is amended—

(1) in paragraph (c)—

(A) by striking out “aliens” and inserting in lieu thereof “individuals or organizations”, and

(B) by inserting immediately before the semicolon at the end of the paragraph “, and individuals employed by contract to perform such services shall not by virtue of such employment be considered to be employees of the United States Government”; and

(2) by striking out “and” at the end of paragraph (e), by striking out the period at the end of paragraph (f) and inserting in lieu thereof a semicolon, and by adding at the end of the section the following new paragraphs:

“(g) obtain services as authorized by section 3109 of title 5, United States Code, at a rate not to exceed the maximum rate payable for GS-18 under section 5332 of such title 5; and

“(h) directly procure goods and services in the United States or abroad, solely for use by United States Foreign Service posts abroad when the Secretary of State, in accordance with guidelines established in consultation with the Administrator of General Services, determines that use of the Federal Supply Service or otherwise applicable Federal goods and services ac-

Procurement.

quisition authority would not meet emergency overseas security requirements determined necessary by the Secretary, taking into account overseas delivery, installation, maintenance, or replacement requirements, except that the authority granted by this paragraph shall cease to be effective when the amendment made by section 2711 of the Competition in Contracting Act of 1984 takes effect and thereafter procurement by the Secretary of State for the purposes described in this paragraph shall be in accordance with section 303(c)(2) of the Federal Property and Administrative Services Act of 1949.”

Ante, p. 1175.

(b) Section 11 of such Act is amended to read as follows:

41 USC 253.

22 USC 2678.

“SEC. 11. Notwithstanding section 1344(a) of title 31, United States Code, the Deputy Secretary of State is authorized to use Government-owned vehicles for security purposes for travel between his or her residence and places where official functions are performed.”

(c) Section 32 of such Act is amended by adding at the end thereof the following new sentence: “The authorities available to the Secretary of State under this section with respect to the Department of State shall be available to the Director of the United States Information Agency and the Director of the United States International Development Cooperation Agency with respect to their respective agencies, except that the authority of clause (2) shall be available with respect to those agencies only in the case of members of the Foreign Service and employees of the agency who are performing security-related functions abroad.”

22 USC 2704.

DANGER PAY

SEC. 304. In recognition of the current epidemic of worldwide terrorist activity and the courage and sacrifice of employees of United States agencies overseas, civilian as well as military, it is the sense of Congress that the provisions of section 5928 of title 5, United States Code, relating to the payment of danger pay allowance, should be more extensively utilized at United States missions abroad.

5 USC 5928 note.

Approved October 19, 1984.

LEGISLATIVE HISTORY—H.R. 6311 (S. 3037):

CONGRESSIONAL RECORD, Vol. 130 (1984):

Oct. 1, considered and passed House.

Oct. 5, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 42 (1984):

Oct. 19, Presidential statement.

Public Law 98-534
98th Congress

Joint Resolution

Oct. 19, 1984
[H.J. Res. 482]

Authorizing the Law Enforcement Officers Memorial Fund to establish a memorial in the District of Columbia or its environs.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Law Enforcement Officers Memorial Fund is authorized to establish the National Law Enforcement Heroes Memorial on Federal land in the District of Columbia or its environs to honor law enforcement officers who die in the line of duty.

(b) In carrying out subsection (a), the Fund shall be responsible for preparation of the design and plans for the memorial, which shall be subject to the approval of the Secretary of the Interior, the Commission of Fine Arts, and the National Capital Planning Commission.

SEC. 2. The Secretary of the Interior—

(1) with the approval of the Commission of Fine Arts and the National Capital Planning Commission, shall select a site for the memorial;

(2) shall not permit construction of the memorial to begin unless the Secretary determines that sufficient amounts are available for completion of the memorial in accordance with the approved design and plans; and

(3) shall be responsible for maintenance of the memorial after completion of construction.

SEC. 3. The United States shall not pay any expense of the establishment of the memorial.

Expiration date.

SEC. 4. The authority to establish the memorial under this resolution shall expire at the end of the five-year period beginning on the date of the enactment of this resolution, unless construction of the memorial begins during that period.

Approved October 19, 1984.

LEGISLATIVE HISTORY—H.J. Res. 482 (S.J. Res. 235):

HOUSE REPORT No. 98-1084 (Comm. on House Administration).

SENATE REPORT No. 98-528 accompanying S.J. Res. 235 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 130 (1984):

Oct. 1, considered and passed House.

Oct. 5, considered and passed Senate.

Public Law 98-535
98th Congress

Joint Resolution

Providing for reappointment of Anne Legendre Armstrong as a citizen regent of the Smithsonian Institution.

Oct. 19, 1984
[H.J. Res. 551]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the vacancy on the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, occurring by reason of the expiration of the term of Anne Legendre Armstrong of Texas, is filled by reappointment of the incumbent for a term of six years, effective May 10, 1984.

Approved October 19, 1984.

LEGISLATIVE HISTORY—H.J. Res. 551:

HOUSE REPORT No. 98-1014 (Comm. on House Administration).
SENATE REPORT No. 98-644 (Comm. on Rules and Administration).
CONGRESSIONAL RECORD, Vol. 130 (1984):
Sept. 17, considered and passed House.
Oct. 4, considered and passed Senate.

Public Law 98-536
98th Congress

Joint Resolution

Oct. 19, 1984
[H.J. Res. 552]

Providing for reappointment of A. Leon Higginbotham, Junior, as a citizen regent of the Smithsonian Institution.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the vacancy on the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, occurring by reason of the expiration of the term of A. Leon Higginbotham, Junior, of Pennsylvania, is filled by reappointment of the incumbent for a term of six years, effective May 11, 1984.

Approved October 19, 1984.

LEGISLATIVE HISTORY—H.J. Res. 552:

HOUSE REPORT No. 98-1013 (Comm. on House Administration).

SENATE REPORT No. 98-645 (Comm. on Rules and Administration).

CONGRESSIONAL RECORD, Vol. 130 (1984):

Sept. 17, considered and passed House.

Oct. 4, considered and passed Senate.

Public Law 98-537
98th Congress

Joint Resolution

Authorizing the Kahlil Gibran Centennial Foundation to establish a memorial in the District of Columbia or its environs.

Oct. 19, 1984

[H.J. Res. 580]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Kahlil Gibran Centennial Foundation is authorized to establish a memorial on Federal land in the District of Columbia or its environs to honor the Lebanese-American poet and artist, Kahlil Gibran.

(b) In carrying out subsection (a), the Foundation shall be responsible for preparation of the design and plans for the memorial, which shall be subject to the approval of the Secretary of the Interior, the Commission of Fine Arts, and the National Capital Planning Commission.

SEC. 2. The Secretary of the Interior—

(1) with the approval of the Commission of Fine Arts and the National Capital Planning Commission, shall select a site for the memorial;

(2) shall not permit construction of the memorial to begin unless the Secretary determines that sufficient amounts are available for completion of the memorial in accordance with the approved design and plans; and

(3) shall be responsible for maintenance of the memorial after completion of construction.

SEC. 3. The United States shall not pay any expense of the establishment of the memorial.

SEC. 4. The authority to establish the memorial under this resolution shall expire at the end of the five-year period beginning on the date of the enactment of this resolution, unless construction of the memorial begins during that period.

Expiration date.

Approved October 19, 1984.

LEGISLATIVE HISTORY—H.J. Res. 580:

HOUSE REPORT No. 98-1051 (Comm. on House Administration).

SENATE REPORT No. 98-640 (Comm. on Rules and Administration).

CONGRESSIONAL RECORD, Vol. 130 (1984):

Sept. 24, considered and passed House.

Oct. 4, considered and passed Senate

Public Law 98-538
98th Congress

Joint Resolution

Oct. 19, 1984
[H.J. Res. 638]

Designating October 1984 as "National Head Injury Awareness Month".

Whereas an estimated four hundred and fifty thousand to seven hundred thousand people require hospitalization each year for head injuries;

Whereas an estimated one hundred thousand of these victims die as a result of head injuries;

Whereas approximately fifty thousand head injury victims, more than two-thirds of whom are under the age of thirty, suffer permanent brain damage that prevents them from returning to schools, jobs, or normal lifestyles;

Whereas the effects of head injuries are emotionally and financially devastating to families;

Whereas there is a serious lack of facilities designed to care for the special needs of the head injured; and

Whereas long-term medical research on brain injured patients is incomplete: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1984 is designated "National Head Injury Awareness Month". The President is requested to issue a proclamation calling on the people of the United States to observe that month with appropriate programs and activities.

Approved October 19, 1984.

LEGISLATIVE HISTORY—H.J. Res. 638 (S.J. Res. 352):

CONGRESSIONAL RECORD, Vol. 130 (1984):

Oct. 2, considered and passed House.

Oct. 5, considered and passed Senate.

Public Law 98-539
98th Congress

Joint Resolution

Designating February 16, 1985, as "Lithuanian Independence Day".

Oct. 19, 1984
[H.J. Res. 655]

Whereas February 16, 1985, marks the sixty-seventh anniversary of the restoration of independence to the more than 700 year old Lithuanian state;

Whereas Lithuania was recognized as a free and independent nation by the entire free world;

Whereas a free Lithuania existed until she was by force and fraud occupied and illegally annexed by the Soviet Union in 1940;

Whereas the United States opposes tyranny and injustice in all forms and supports the cause of a free Lithuania;

Whereas all Americans of Lithuanian descent protest the Soviet presence in the land of their ancestors; and

Whereas the oppressed people currently living in Lithuania, who still aspire to exercise their right for self-government, should keep the flame of freedom forever burning in their hearts: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President shall issue a proclamation designating February 16, 1985, as "Lithuanian Independence Day" and calling on the people of the United States to celebrate such day with appropriate ceremonies and activities.

Approved October 19, 1984.

LEGISLATIVE HISTORY—H.J. Res. 655:

CONGRESSIONAL RECORD, Vol. 130 (1984):

Oct. 5, considered and passed House and Senate

Public Law 98-540
98th Congress

An Act

Oct. 24, 1984

[S. 864]

To amend the Volunteers in the Parks Act of 1969, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 4 of the Volunteers in the Parks Act of 1969 (84 Stat. 472; 16 U.S.C. 18j) as amended is further amended by striking out “\$250,000” and substituting “\$1,000,000”. The amendment made by this subsection shall apply with respect to fiscal years beginning after September 30, 1984.

16 USC 18g.

(b) Section 1 of such Act is amended by adding the following at the end thereof: “In accepting such services of individuals or volunteers, the Secretary shall not permit the use of volunteers in hazardous duty or law enforcement work or in policymaking processes, or to displace any employee: *Provided*, That the services of individuals whom the Secretary determines are skilled in performing hazardous activities may be accepted.

SEC. 2. Section 307 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2766; 43 U.S.C. 1737) is amended by adding at the end thereof the following new subsections:

“(d) The Secretary may recruit, without regard to the civil service classification laws, rules, or regulations, the services of individuals contributed without compensation as volunteers for aiding in or facilitating the activities administered by the Secretary through the Bureau of Land Management.

“(e) In accepting such services of individuals as volunteers, the Secretary—

“(1) shall not permit the use of volunteers in hazardous duty or law enforcement work, or in policymaking processes or to displace any employee; and

“(2) may provide for services or costs incidental to the utilization of volunteers, including transportation, supplies, lodging, subsistence, recruiting, training, and supervision.

“(f) Volunteers shall not be deemed employees of the United States except for the purposes of the tort claims provisions of title 28, United States Code, and subchapter 1 of chapter 81 of title 5, United States Code, relating to compensation for work injuries.

5 USC 8101.

“(g) Effective with fiscal years beginning after September 30, 1984, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of subsection (d), but not more than \$250,000 may be appropriated for any one fiscal year.”.

43 USC 1457a
note.

SEC. 3. (a) The Congress finds that—

(1) the public lands administered by the National Park Service, the Bureau of Land Management, and the United States Fish and Wildlife Service contain valuable wildlife, scenery, natural and historic features, and other resources;

(2) the Congress has specified the duties and responsibilities of the National Park Service, the Bureau of Land Management, and the United States Fish and Wildlife Service to balance the

conservation and protection of these public lands and resources with permitted uses in ways Congress has found to be appropriate for each of the various land areas;

(3) the National Park Service, the Bureau of Land Management, and the United States Fish and Wildlife Service are currently under congressional mandates to maintain sufficient visitor and recreational services in our national parks, campgrounds, and wildlife refuges;

(4) the Congress has authorized the National Park Service, the Bureau of Land Management, and the United States Fish and Wildlife Service to contract for the provision of certain facilities, accommodations, and services by non-Federal entities, but with certain limitations that reflect the values and appropriate management policies of the various conservation areas, parks, wildlife refuges, and other public lands;

(5) expansion of the contracting authority of the managers of these conservation areas, parks, wildlife refuges, and lands should be considered only after careful study of the existing management mandates and contracting authorities; and

(6) management and regulation of natural resources on Federal lands are inherently Government functions and should be performed by Federal employees.

(b)(1)(A) The provisions of Office of Management and Budget Circular A-76 and any similar provisions in any other order or directive shall not apply to activities conducted by the National Park Service, United States Fish and Wildlife Service, and the Bureau of Land Management which involve ten full time equivalents (FTE) or less.

(B) For fiscal years 1985 through and including 1988, no contracts, for activities conducted by the National Park Service, United States Fish and Wildlife Service, or the Bureau of Land Management which have been subject to the provisions of Office of Management and Budget Circular A-76 or any similar provision in any other order or directive, shall be entered into by the United States until funds have been specifically provided therefore by an Act of Congress.

(2) Nothing in this section shall prevent the National Park Service, United States Fish and Wildlife Service, and the Bureau of Land Management from entering into contracts for services and materials under provisions of law and rules, regulations, orders, and policies other than the circular referred to in paragraph (1) or any similar order or directive.

SEC. 4. (a) Beginning in fiscal year 1985, the National Park Service shall implement a maintenance management system into the maintenance and operations programs of the National Park System. For purposes of this section the term "maintenance management system" means a system that contains but is not limited to the following elements:

16 USC 1a-8.

(1) a work load inventory of assets including detailed information that quantifies for all assets (including but not limited to buildings, roads, utility systems, and grounds that must be maintained) the characteristics affecting the type of maintenance work performed;

(2) a set of maintenance tasks that describe the maintenance work in each unit of the National Park System;

(3) a description of work standards including frequency of maintenance, measurable quality standard to which assets

should be maintained, methods for accomplishing work, required labor, equipment and material resources, and expected worker production for each maintenance task;

(4) a work program and performance budget which develops an annual work plan identifying maintenance needs and financial resources to be devoted to each maintenance task;

(5) a work schedule which identifies and prioritizes tasks to be done in a specific time period and specifies required labor resources;

(6) work orders specifying job authorizations and a record of work accomplished which can be used to record actual labor and material costs; and

(7) reports and special analyses which compare planned versus actual accomplishments and costs and can be used to evaluate maintenance operations.

(b) The National Park Service shall transmit to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, at the end of each fiscal year, a copy of a report summarizing the status of implementation of a maintenance management system until such a system has been implemented.

The report shall incorporate the following information:

(1) the number of units in the National Park System that have implemented a maintenance management system during the period;

(2) contract costs versus management efficiencies achieved;

(3) the total amount of dollars spent on contracts for services; and

(4) estimation of the total value of benefits achieved through greater management efficiency.

Approved October 24, 1984.

LEGISLATIVE HISTORY—S. 864:

HOUSE REPORT No. 98-960 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 98-208 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD:

Vol. 129 (1983): Sept. 15, considered and passed Senate.

Vol. 130 (1984): Aug. 6, considered and passed House, amended.

Oct. 3, Senate concurred in House amendment with an amendment.

Oct. 4, House concurred in Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 43 (1984):

Oct. 24, Presidential statement.

Public Law 98-541
98th Congress

An Act

To provide for the restoration of the fish and wildlife in the Trinity River Basin, California, and for other purposes.

Oct. 24, 1984

[H.R. 1438]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Conservation.
Fish and fishing.
Wildlife.

FINDINGS

SECTION 1. The Congress finds that—

(1) the construction of the Trinity River division of the Central Valley project in California, authorized by the Act of August 12, 1955 (69 Stat. 719), has substantially reduced the streamflow in the Trinity River Basin thereby contributing to damage to pools, spawning gravels, and rearing areas and to a drastic reduction in the anadromous fish populations and a decline in the scenic and recreational qualities of such river system;

(2) the loss of land areas inundated by two reservoirs constructed in connection with such project has contributed to reductions in the populations of deer and other wildlife historically found in the Trinity River Basin;

(3) the Act referred to in paragraph (1) of this section directed the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") to take appropriate actions to ensure the preservation and propagation of such fish and wildlife and additional authority was conferred on the Secretary under the Act approved September 4, 1980 (94 Stat. 1062), to take certain actions to mitigate the impact on fish and wildlife of the construction and operation of the Trinity River division;

(4) activities other than those related to the project including, but not limited to, inadequate erosion control and fishery harvest management practices, have also had significant adverse effects on fish and wildlife populations in the Trinity River Basin and are of such a nature that the cause of any detrimental impact on such populations cannot be attributed solely to such activities or to the project;

(5) a fish and wildlife management program has been developed by an existing interagency advisory group called the Trinity River Basin Fish and Wildlife Task Force; and

(6) the Secretary requires additional authority to implement a basin-wide fish and wildlife management program in order to achieve the long-term goal of restoring fish and wildlife populations in the Trinity River Basin to a level approximating that which existed immediately before the start of the construction of the Trinity River division.

TRINITY RIVER BASIN FISH AND WILDLIFE MANAGEMENT PROGRAM

SEC. 2. (a) Subject to subsection (b), the Secretary shall formulate and implement a fish and wildlife management program for the Trinity River Basin designed to restore the fish and wildlife populations in such basin to the levels approximating those which existed immediately before the start of the construction referred to in section 1(1) and to maintain such levels. The program shall include the following activities:

(1) The design, construction, operation, and maintenance of facilities to—

(A) rehabilitate fish habitats in the Trinity River between Lewiston Dam and Weitchpec;

(B) rehabilitate fish habitats in tributaries of such river below Lewiston Dam and in the south fork of such river; and

(C) modernize and otherwise increase the effectiveness of the Trinity River Fish Hatchery.

(2) The establishment of a procedure to monitor (A) the fish and wildlife stock on a continuing basis, and (B) the effectiveness of the rehabilitation work.

(3) Such other activities as the Secretary determines to be necessary to achieve the long-term goal of the program.

(b)(1) The Secretary shall use the program described in section 1(5) of this Act as a basis for the management program to be formulated under subsection (a) of this section. In formulating and implementing such management program, the Secretary shall be assisted by an advisory group called the Trinity River Basin Fish and Wildlife Task Force established under section 3.

(2) In order to facilitate the implementation of those activities under the management program over which the Secretary does not have jurisdiction, the Secretary shall undertake to enter into a memorandum of agreement with those Federal, State, and local agencies, and the Indian tribe, represented on the Task Force established under section 3. The memorandum of agreement should specify those management program activities for which the respective signatories to the agreement are primarily responsible and should contain such commitments and arrangements between and among the signatories as may be necessary or appropriate to ensure the coordinated implementation of the program.

(3) To the extent not provided for under a memorandum of agreement entered into under paragraph (2), the Secretary shall coordinate the activities undertaken under such management program with the activities of State and local agencies, and the activities of other Federal agencies, which have responsibilities for managing public lands and natural resources within the Trinity River Basin.

Establishment.

TRINITY RIVER BASIN FISH AND WILDLIFE TASK FORCE

SEC. 3. (a) There is established the Trinity River Basin Fish and Wildlife Task Force (hereinafter in this Act referred to as the "Task Force") which shall be composed of fourteen members as follows:

(1) One officer or employee of the California Department of Fish and Game to be appointed by the administrative head of such department.

(2) One officer or employee of the California Department of Water Resources to be appointed by the administrative head of such department.

(3) One member or employee of the California Water Resources Control Board to be appointed by such board.

(4) One officer or employee of the California Department of Forestry to be appointed by the administrative head of such department.

(5) One officer or employee of the United States Fish and Wildlife Service to be appointed by the Secretary.

(6) One officer or employee of the United States Bureau of Reclamation to be appointed by the Secretary.

(7) One officer or employee of the United States Bureau of Land Management to be appointed by the Secretary.

(8) One officer or employee of the United States Bureau of Indian Affairs to be appointed by the Secretary.

(9) One officer or employee of the United States Forest Service to be appointed by the Secretary of Agriculture.

(10) One officer or employee of the United States Soil Conservation Service to be appointed by the Secretary of Agriculture.

(11) One officer or employee of the United States National Marine Fisheries Service to be appointed by the Secretary of Commerce.

(12) One individual to be appointed by the board of supervisors of Humboldt County, California.

(13) One individual to be appointed by the board of supervisors of Trinity County, California.

(14) One individual to be appointed by the Hoopa Tribe of the Hoopa Valley Indian Reservation, California.

Any vacancy on the Task Force shall be filled in the manner in which the original appointment was made.

(b) If any member of the Task Force who was appointed to the Task Force as an officer or employee of a United States department or agency or as an officer or employee of a California State department or board leaves such office or employment, he may continue as a member of the Task Force for not longer than the end of the fourteen-day period beginning on the date he leaves such office or employment.

(c)(1) Members of the Task Force who are full-time officers or employees of the United States shall receive no additional pay, allowances, or benefits by reason of their service on the Task Force.

(2) No moneys authorized to be appropriated under this Act may be used to pay any member of the Task Force for service on the Task Force or to reimburse any agency or governmental unit for the pay of any such member for such service.

AUTHORIZATION OF APPROPRIATIONS

SEC. 4. (a) Subject to subsection (b), there are authorized to be appropriated—

(1) after fiscal year 1985, and to remain available until October 1, 1995, for design and construction under the management program formulated under section 2(a), \$33,000,000, adjusted appropriately to reflect any increase or decrease in the engineering cost indexes applicable to the types of construction involved between (A) the month of May 1982, and (B) the date of enactment of any appropriation for such construction; and

(2) for the cost of operations, maintenance, and monitoring under that management program, \$2,400,000 for each of the fiscal years in the ten-year period beginning on October 1, 1985.

(b) No moneys appropriated under subsection (a) may be expended, and no moneys may be expended for carrying out Grass Valley Creek activities, after September 30, 1984, until the Secretary receives assurances satisfactory to him that—

(1) the State of California and the counties of Humboldt and Trinity in California will pay during each fiscal year (on the basis of such shares as the State and the counties mutually agree upon) to the Treasury of the United States an amount equal to 15 per centum of the total amount of money that is expended during that year (A) from appropriations made under subsection (a), and (B) for carrying out Grass Valley Creek activities; and

(2) the public utilities, water districts, and other direct purchasers of water and power from the Trinity River division of the Central Valley project referred to in section 1(1) will pay (on the basis of such shares as are determined by the Secretary) to the Treasury of the United States, within such period of time and in such increments as are satisfactory to the Secretary, an amount equal to 50 per centum of the total amount of money that is expended (A) from appropriations made under subsection (a), and (B) for carrying out Grass Valley Creek activities.

(c) No moneys appropriated under subsection (a) may be expended for any construction described in section 2(a)(1)(A) below the confluence of Grass Valley Creek and the Trinity River until the construction of the debris dam referred to in subsection (d)(1) is completed.

(d) For purposes of this section, the term "Grass Valley Creek activities" means the following activities authorized by the Act of September 4, 1980 (94 Stat. 1062):

(1) The construction of the Grass Valley Creek debris dam.

(2) The construction, operation, and maintenance of the sand dredging system in Grass Valley Creek.

Approved October 24, 1984.

LEGISLATIVE HISTORY—H.R. 1438:

HOUSE REPORT No. 98-1035, Pt. 1 (Comm. on Merchant Marine and Fisheries).

SENATE REPORT No. 98-647 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD, Vol. 130 (1984):

Sept. 24, considered and passed House.

Oct. 4, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 43 (1984):

Oct. 24, Presidential statement.

Public Law 98-542
98th Congress

An Act

To require the Administrator of Veterans' Affairs to prescribe regulations regarding the determination of service connection of certain disabilities of veterans who were exposed to dioxin in the Republic of Vietnam while performing active military, naval, or air service or to radiation from nuclear detonations while performing such service, to provide interim benefits for certain disabilities and deaths, and for other purposes.

Oct. 24, 1984
[H.R. 1961]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Veterans' Dioxin and Radiation Exposure Compensation Standards Act".

Veterans' Dioxin
and Radiation
Exposure
Compensation
Standards Act.
38 USC 354 note.

FINDINGS

SEC. 2. The Congress makes the following findings:

38 USC 354 note.

(1) Veterans who served in the Republic of Vietnam during the Vietnam era and veterans who participated in atmospheric nuclear tests or the American occupation of Hiroshima or Nagasaki, Japan, are deeply concerned about possible long-term health effects of exposure to herbicides containing dioxin or to ionizing radiation.

(2) There is scientific and medical uncertainty regarding such long-term adverse health effects.

(3) In section 102 of Public Law 97-22, the Congress responded to that uncertainty by authorizing priority medical care at Veterans' Administration facilities for any disability of a veteran who may have been so exposed (even though there is insufficient medical evidence linking such disability with such exposure) unless the disability is found to have resulted from a cause other than the exposure.

(4) The Congress has further responded to that medical and scientific uncertainty by requiring, in section 307 of Public Law 96-151 and section 601 of Public Law 98-160, the conduct of thorough epidemiological studies of the health effects experienced by veterans in connection with exposure both to herbicides containing dioxin and (if not determined to be scientifically infeasible) to radiation, and by requiring in Public Law 97-414, the development of radioepidemiological tables setting forth the probabilities of causation between various cancers and exposure to radiation.

38 USC 219 note.
97 Stat. 1006.
38 USC 219 note.

21 USC 301 note.

(5) There is some evidence that chloracne, porphyria cutanea tarda, and soft tissue sarcoma are associated with exposure to certain levels of dioxin as found in some herbicides and that most types of leukemia, malignancies of the thyroid, female breast, lung, bone, liver, and skin, and polycythemia vera are associated with exposure to certain levels of ionizing radiation.

(6) As of the date of the enactment of this Act, there are sixty-six federally sponsored research projects being conducted relating to herbicides containing dioxin, at a cost to the Federal Government in excess of \$130,000,000 and, as of 1981, federally sponsored research projects relating to ionizing radiation were costing the Federal Government more than \$115,000,000.

(7) The initial results of one project—an epidemiological study, conducted by the United States Air Force School of Aerospace Medicine, of the health status of the "Ranch Hand" veterans who carried out the loading and aerial spraying of herbicides containing dioxin in Vietnam and in the process came into direct skin contact with such herbicides in their most concentrated liquid form—were released on February 24, 1984, and contained the conclusion "that there is insufficient evidence to support a cause and effect relationship between herbicide exposure and adverse health in the Ranch Hand group at this time".

(8) The "film badges" which were originally issued to members of the Armed Forces in connection with the atmospheric nuclear test program have previously constituted a primary source of dose information for veterans (and survivors of veterans) filing claims for Veterans' Administration disability compensation or dependency and indemnity compensation in connection with exposure to radiation.

(9) These film badges often provide an incomplete measure of radiation exposure, since they were not capable of recording inhaled, ingested, or neutron doses (although the Defense Nuclear Agency currently has the capability to reconstruct individual estimates of such doses), were not issued to most of the participants in nuclear tests, often provided questionable readings because they were shielded during the detonation, and were worn for only limited periods during and after each nuclear detonation.

(10) Standards governing the reporting of dose estimates in connection with radiation-related claims for Veterans' Administration disability compensation vary among the several branches of the Armed Forces, and no uniform minimum standards exist.

(11) The Veterans' Administration has not promulgated permanent regulations setting forth specific guidelines, standards, and criteria for the adjudication of claims for Veterans' Administration disability compensation based on exposure to herbicides containing dioxin or to ionizing radiation.

(12) Such claims (especially those involving health effects with long latency periods) present adjudicatory issues which are significantly different from issues generally presented in claims based upon the usual types of injuries incurred in military service.

(13) It has always been the policy of the Veterans' Administration and is the policy of the United States, with respect to individual claims for service connection of diseases and disabilities, that when, after consideration of all evidence and material of record, there is an approximate balance of positive and negative evidence regarding the merits of an issue material to the determination of a claim, the benefit of the doubt in resolving each such issue shall be given to the claimant.

PURPOSE

SEC. 3. The purpose of this Act is to ensure that Veterans' Administration disability compensation is provided to veterans who were exposed during service in the Armed Forces in the Republic of Vietnam to a herbicide containing dioxin or to ionizing radiation in connection with atmospheric nuclear tests or in connection with the American occupation of Hiroshima or Nagasaki, Japan, for all disabilities arising after that service that are connected, based on sound scientific and medical evidence, to such service (and that Veterans' Administration dependency and indemnity compensation is provided to survivors of those veterans for all deaths resulting from such disabilities).

38 USC 354 note.

REQUIREMENT IN TITLE 38, UNITED STATES CODE, RELATING TO REGULATIONS

SEC. 4. Section 354(a) of title 38, United States Code, is amended—

(1) by striking out the comma after "disabilities" and inserting in lieu thereof "(1)"; and

(2) by inserting before the period a comma and "and (2) the provisions required by section 5 of the Veterans' Dioxin and Radiation Exposure Compensation Standards Act".

REQUIREMENT FOR AND CONTENT OF REGULATIONS

SEC. 5. (a) In carrying out the responsibilities of the Administrator of Veterans' Affairs under section 354(a)(2) of title 38, United States Code, and in order to promote consistency in claims processing and decisions, the Administrator shall prescribe regulations to—

38 USC 354 note.

(1) establish guidelines and (where appropriate) standards and criteria for the resolution of claims for benefits under laws administered by the Veterans' Administration where the criteria for eligibility for a benefit include a requirement that a death or disability be service connected and the claim of service connection is based on a veteran's exposure during service—

(A) in the Republic of Vietnam during the Vietnam era to a herbicide containing dioxin, or

(B) in connection with such veteran's participation in atmospheric nuclear tests or with the American occupation of Hiroshima or Nagasaki, Japan, prior to July 1, 1946, to ionizing radiation from the detonation of a nuclear device; and

(2) ensure that, with respect to those claims, the policy of the United States described in section 2(13) is carried out.

(b)(1)(A) The guidelines required to be established in regulations prescribed under this section shall include guidelines governing the evaluation of the findings of scientific studies relating to the possible increased risk of adverse health effects of exposure to herbicides containing dioxin or of exposure to ionizing radiation. Those guidelines shall require that, in the evaluation of those studies, the Administrator shall take into account whether the results are statistically significant, are capable of replication, and withstand peer review.

(B) The evaluations described in subparagraph (A) shall be made by the Administrator of Veterans' Affairs after receiving the advice of the appropriate panel of the Scientific Council of the Veterans' Advisory Committee on Environmental Hazards (established under

Federal
Register,
publication.

section 6). Those evaluations shall be published in the notice section of the Federal Register.

(C) The standards and criteria required to be established in regulations prescribed under this section shall include provisions governing the use in the adjudication of individual claims of the Administrator's evaluations made under subparagraph (B).

(2)(A)(i) In prescribing regulations under this section, the Administrator (after receiving the advice of the Advisory Committee and of the appropriate panel of the Scientific Council of the Veterans' Advisory Committee on Environmental Hazards regarding the diseases described in subparagraph (B)) shall make determinations, based on sound medical and scientific evidence, with respect to each disease described in subparagraph (B) as to whether service connection shall, subject to division (ii) of this subparagraph, be granted in the adjudication of individual cases. In making determinations regarding such diseases, the Administrator shall give due regard to the need to maintain the policy of the United States with respect to the resolution of contested issues as set forth in section 2(13). The Administrator shall set forth in such regulations such determinations, with any specification (relating to exposure or other relevant matter) of limitations on the circumstances under which service connection shall be granted, and shall implement such determinations in accordance with such regulations.

(ii) If the Administrator makes a determination, pursuant to this subparagraph, that service connection shall be granted in the case of a disease described in subparagraph (B), the Administrator shall specify in such regulations that, in the adjudication of individual cases, service connection shall not be granted where there is sufficient affirmative evidence to the contrary or evidence to establish that an intercurrent injury or disease which is a recognized cause of the described disease has been suffered between the date of separation from service and the onset of such disease or that the disability is due to the veteran's own willful misconduct.

(iii) With regard to each disease described in subparagraph (B), the Administrator shall include in the regulations prescribed under this section provisions specifying the factors to be considered in adjudicating issues relating to whether or not service connection should be granted in individual cases and the circumstances governing the granting of service connection for such disease.

(B) The diseases referred to in subparagraph (A) are those specified in section 2(5) and any other disease with respect to which the Administrator finds (after receiving and considering the advice of the appropriate panel of the Scientific Council established under section 6(d)(2)) that there is sound scientific or medical evidence indicating—

(i) a connection to exposure to a herbicide containing dioxin, in the case of a veteran who was exposed to that herbicide during such veteran's service in the Republic of Vietnam during the Vietnam era, or

(ii) a connection to exposure to ionizing radiation, in the case of a veteran who was exposed to ionizing radiation in connection with such veteran's participation in an atmospheric nuclear test or with the American occupation of Hiroshima or Nagasaki, Japan, before July 1, 1946.

(3) The regulations prescribed under this section shall include—

(A) specification of the maximum period of time after exposure to such herbicide or ionizing radiation for the development of those diseases; and

(B) a requirement that a claimant filing a claim based upon a veteran's exposure to a herbicide containing dioxin or to ionizing radiation from the detonation of a nuclear device may not be required to produce evidence substantiating the veteran's exposure during active military, naval, or air service if the information in the veteran's service records and other records of the Department of Defense is not inconsistent with the claim that the veteran was present where and when the claimed exposure occurred.

(c)(1) The Administrator of Veterans' Affairs shall develop the regulations required by this section (and any amendment to those regulations) through a public review and comment process in accordance with the provisions of section 553 of title 5, United States Code. That process may include consideration by the Administrator of the recommendations of the Veterans' Advisory Committee on Environmental Hazards and the Scientific Council thereof (established under section 6) with respect to the proposed regulations, and that process shall include consideration by the Administrator of the recommendations of the Committee and the Council with respect to the final regulations and proposed and final amendments to such regulations. The period for public review and comment shall be completed not later than ninety days after the proposed regulations or proposed amendments are published in the Federal Register.

Federal
Register,
publication.

(2)(A) Not later than one hundred and eighty days after the date of the enactment of this Act, the Administrator shall develop and publish in the Federal Register a proposed version of the regulations required to be prescribed by this section.

(B) Not later than three hundred days after the date of the enactment of this Act, the Administrator shall publish in the Federal Register the final regulations (together with explanations of the bases for the guidelines, standards, and criteria contained therein) required to be prescribed by this section.

ADVISORY COMMITTEE ON ENVIRONMENTAL HAZARDS

SEC. 6. (a) The advisory committee referred to in subsections (b) and (c) of section 5, to be known as the Veterans' Advisory Committee on Environmental Hazards (hereinafter in this section referred to as the "Committee") shall consist of fifteen members appointed by the Administrator of Veterans' Affairs after requesting and considering recommendations from veteran organizations, including—

38 USC 354 note.

(1) eleven individuals (of whom none may be members of the Armed Forces on active duty or employees of the Veterans' Administration or the Department of Defense and not more than three may be employees of other Federal departments or agencies), appointed, after requesting and considering the recommendations of the heads of Federal entities with particular expertise in biomedical and environmental science, including—

(A) three individuals who are recognized medical or scientific authorities in fields pertinent to understanding the health effects of exposure to dioxin;

(B) three individuals who are recognized medical or scientific authorities in fields pertinent to understanding the health effects of exposure to ionizing radiation; and

(C) five individuals who are recognized medical or scientific authorities in fields, such as epidemiology and other scientific disciplines, pertinent to determining and assessing the health effects of exposure to dioxin or ionizing radiation in exposed populations; and

(2) four individuals from the general public, including at least one disabled veteran, having a demonstrated interest in and experience relating to veterans' concerns regarding exposure to dioxin or ionizing radiation.

(b) The Committee shall include, as *ex officio*, nonvoting members, the Chief Medical Director and the Chief Benefits Director of the Veterans' Administration, or their designees.

(c) The Committee shall submit to the Administrator any recommendations it considers appropriate for administrative or legislative action.

(d)(1) The eleven members of the Committee described in subsection (a)(1) shall, in addition to serving as members of the Committee, constitute a Scientific Council of the Committee (hereinafter in this section referred to as the "Council").

(2) The Council shall be divided into (A) an eight-member panel with responsibility for evaluating scientific studies relating to possible adverse health effects of exposure to dioxin, and (B) an eight-member panel with responsibility for evaluating scientific studies relating to possible adverse health effects of exposure to ionizing radiation.

Reports.

(3) The Council shall make findings and evaluations regarding pertinent scientific studies and shall submit to the Committee and the Administrator directly periodic reports on such findings and evaluations.

(e) The Administrator shall designate one of the members to chair the Committee and another member to chair the Council.

(f) The Administrator shall determine the terms of service and pay and allowances of members of the Committee, except that a term of service of any member may not exceed three years. The Administrator may reappoint any member for additional terms of service.

(g) The Administrator shall provide administrative support services and fiscal support for the Committee.

NUCLEAR RADIATION MATTERS INVOLVING OTHER AGENCIES

38 USC 354 note.

SEC. 7. (a) In connection with the duties of the Director of the Defense Nuclear Agency, as Department of Defense Executive Agent for the Nuclear Test Personnel Review Program, relating to the preparation of radiation dose estimates with regard to claims for Veterans' Administration disability compensation and dependency and indemnity compensation under chapters 11 and 13, respectively, of title 38, United States Code—

38 USC 301 *et seq.*, 401 *et seq.*

(1) the Secretary of Defense shall prescribe guidelines (and any amendment to those guidelines) through a public review and comment process in accordance with the provisions of section 553 of title 5, United States Code—

(A) specifying the minimum standards governing the preparation of radiation dose estimates in connection with claims for such compensation,

(B) making such standards uniformly applicable to the several branches of the Armed Forces, and

(C) requiring that each such estimate furnished to the Veterans' Administration and to any veteran or survivor include information regarding all material aspects of the radiation environment to which the veteran was exposed and which form the basis of the claim, including inhaled, ingested, and neutron doses; and

(2) the Secretary of Health and Human Services, through the Director of the National Institutes of Health, shall—

(A) conduct a review of the reliability and accuracy of scientific and technical devices and techniques (such as "whole body counters") which may be useful in determining previous radiation exposure;

(B) submit to the Administrator of Veterans' Affairs and the Committees on Veterans' Affairs of the House of Representatives and the Senate, not later than July 1, 1985, a report regarding the results of such review, including information concerning the availability of such devices and techniques, the categories of exposed individuals as to whom use of such devices and techniques may be appropriate, and the reliability and accuracy of dose estimates which may be derived from such devices and techniques; and

Report.

(C) enter into an interagency agreement with the Administrator of Veterans' Affairs for the purpose of assisting the Administrator in identifying agencies or other entities capable of furnishing services involving the use of such devices and techniques.

(b) The Administrator of Veterans' Affairs, in resolving material differences between a radiation dose estimate, from a credible source, submitted by a veteran or survivor and a radiation dose estimate prepared and transmitted by the Director of the Defense Nuclear Agency, shall provide for the preparation of a radiation dose estimate by an independent expert, who shall be selected by the Director of the National Institutes of Health and who shall not be affiliated with the Defense Nuclear Agency, and the Administrator shall provide for the consideration of such independent estimate in connection with the adjudication of the claim for Veterans' Administration compensation.

AMENDMENTS TO REGULATIONS

SEC. 8. (a) Paragraph (3) of section 307(b) of the Veterans' Health Programs Extension and Improvement Act of 1979 (38 U.S.C. 219 note) is amended to read as follows:

"(3) Immediately after the submission of each report under paragraph (2), the Administrator, based on the results described in such report and the comments and recommendations included therein and any other available pertinent information, shall evaluate the need for any amendments to regulations, prescribed pursuant to section 5 of the Veterans' Dioxin and Radiation Exposure Compensation Standards Act, for the resolution of claims for service connection based on the exposure specified in subsection (a)(1)(A) of such

Ante, p. 2727.

Federal
Register,
publication.

section. To the extent that the Administrator determines that any amendments to such regulations are needed, the Administrator, not later than 90 days after such submission, shall develop and publish in the Federal Register, for public review and comment, proposed amendments to such regulations.”

38 USC 219 note.

(b) Paragraph (5) of section 601(a) of the Veterans’ Health Care Amendments of 1983 (Public Law 98-160; 97 Stat. 1007) is amended by redesignating subparagraph (B) as subparagraph (C) and inserting after subparagraph (A) the following new subparagraph (B):

“(B) Immediately after the submission of each report under subparagraph (A), the Administrator, based on the results described in such report and the comments and recommendations included therein and any other available pertinent information, shall evaluate the need for any amendments to regulations, prescribed pursuant to section 5 of the Veterans’ Dioxin and Radiation Exposure Compensation Standards Act, for the resolution of claims for service connection based on the exposure specified in subsection (a)(1)(B) of such section. To the extent that the Administrator determines that any amendments to such regulations are needed, the Administrator, not later than 90 days after such submission, shall develop and publish in the Federal Register, for public review and comment, proposed amendments to such regulations.”

Ante, p. 2727.

Federal
Register,
publication.

INTERIM BENEFITS FOR DISABILITY OR DEATH IN CERTAIN CASES

38 USC 354 note.

SEC. 9. (a)(1) In the case of a veteran—

(A) who served in the active military, naval, or air service in the Republic of Vietnam during the Vietnam era; and

(B) who has a disease described in subsection (b) that became manifest within one year after the date of the veteran’s most recent departure from the Republic of Vietnam during that service,

the Administrator shall (except as provided in subsection (c)) pay a monthly disability benefit to the veteran in accordance with this section.

(2) If a veteran described in paragraph (1) dies from the disease, the Administrator shall pay a monthly death benefit to the survivors of the veteran in accordance with this section.

(b) The diseases referred to in subsection (a) are chloracne and porphyria cutanea tarda.

(c) Benefits may not be paid under this section with respect to a disease occurring in a veteran—

(1) where there is affirmative evidence that the disease was not incurred by the veteran during service in the Republic of Vietnam during the Vietnam era;

(2) where there is affirmative evidence to establish that an intercurrent injury or disease which is a recognized cause of the disease was suffered by the veteran between the date of the veteran’s most recent departure from the Republic of Vietnam during active military, naval, or air service and the onset of the disease; or

(3) if the Administrator determines, based on evidence in the veteran’s service records and other records of the Department of Defense, that the veteran was not exposed to dioxin during active military, naval, or air service in the Republic of Vietnam during the Vietnam era.

(d)(1) A disability benefit payable to a veteran under this section for a disease described in subsection (b) shall be paid at the rate at which compensation would be payable under chapter 11 of title 38, United States Code, to that veteran for the disability resulting from that disease if the disability were determined to be service-connected.

38 USC 301 *et seq.*

(2) A death benefit payable under this section to the survivors of a veteran shall be paid to such survivors based upon the eligibility requirements (other than the requirement that death be the result of a service-connected or compensable disability) and at the rates that are applicable to dependency and indemnity compensation under chapter 13 of that title.

38 USC 401 *et seq.*

(e) A benefit may not be paid under this section with respect to a disease or the death of a veteran for any month for which compensation is payable to that veteran for that disease under chapter 11 of title 38, United States Code, or for which dependency and indemnity compensation is payable for that death under chapter 13 of such title.

(f) A disease establishing eligibility for a disability or death benefit under this section shall be treated for purposes of all other laws of the United States (other than chapters 11 and 13 of title 38, United States Code) as if such disease were service connected. The receipt of a disability benefit under this section shall be treated for purposes of all other laws of the United States as if such benefit were compensation under chapter 11 of such title, and the receipt of a death benefit under this section shall be treated for purposes of all other laws of the United States as if such benefit were dependency and indemnity compensation under chapter 13 of title 38, United States Code.

(g) For the purposes of this section:

(1) The term "Administrator" means the Administrator of Veterans' Affairs.

(2) The term "Vietnam era" means the period beginning on August 5, 1964, and ending on May 7, 1975.

(3) The term "veteran" has the meaning given that term in paragraph (2) of section 101 of title 38, United States Code, and includes a person who died in the active military, naval, or air service.

(4) The terms "service-connected" and "active military, naval, or air service" have the meanings given those terms in paragraphs (16) and (24), respectively, of section 101 of title 38, United States Code.

Effective date.

(h)(1) This section takes effect as of October 1, 1984. No benefit may be paid under this section for a period before that date.

(2) No benefit may be paid under this section for a period after September 30, 1986.

Approved October 24, 1984.

LEGISLATIVE HISTORY—H.R. 1961 (S. 1651):

HOUSE REPORT No. 98-592 (Comm. on Veterans' Affairs).

CONGRESSIONAL RECORD, Vol. 130 (1984):

Jan. 30, considered and passed House.

May 22, considered and passed Senate, amended.

Oct. 3, House concurred in Senate amendments with amendments.

Oct. 4, Senate concurred in House amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 43 (1984):

Oct. 24, Presidential statement.

Public Law 98-543
98th Congress

An Act

To amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans and of dependency and indemnity compensation for surviving spouses and children of veterans, to increase the rates of subsistence and educational assistance allowances for veterans pursuing vocational rehabilitation programs under chapter 31 of such title and for veterans and eligible persons pursuing programs of education or training under chapter 34, 35, or 36 of such title, to increase the opportunities for vocational rehabilitation of certain veterans receiving disability compensation, and to provide vocational training opportunities for certain veterans receiving pension; and for other purposes.

Oct. 24, 1984

[H.R. 5688]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE

SECTION 1. (a) This Act may be cited as the “Veterans’ Benefits Improvement Act of 1984”.

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

Veterans’
Benefits
Improvement
Act of 1984.
38 USC 101 note.

TITLE I—DISABILITY COMPENSATION AND DEPENDENCY
AND INDEMNITY COMPENSATION

PART A—RATE INCREASES

DISABILITY COMPENSATION

SEC. 101. (a) Section 314 is amended—

Ante, p. 37.

- (1) by striking out “\$64” in subsection (a) and inserting in lieu thereof “\$66”;
- (2) by striking out “\$118” in subsection (b) and inserting in lieu thereof “\$122”;
- (3) by striking out “\$179” in subsection (c) and inserting in lieu thereof “\$185”;
- (4) by striking out “\$258” in subsection (d) and inserting in lieu thereof “\$266”;
- (5) by striking out “\$364” in subsection (e) and inserting in lieu thereof “\$376”;
- (6) by striking out “\$459” in subsection (f) and inserting in lieu thereof “\$474”;
- (7) by striking out “\$579” in subsection (g) and inserting in lieu thereof “\$598”;
- (8) by striking out “\$671” in subsection (h) and inserting in lieu thereof “\$692”;
- (9) by striking out “\$755” in subsection (i) and inserting in lieu thereof “\$779”;
- (10) by striking out “\$1,255” in subsection (j) and inserting in lieu thereof “\$1,295”;

(11) by striking out "\$1,559" and "\$2,185" in subsection (k) and inserting in lieu thereof "\$1,609" and "\$2,255", respectively;

(12) by striking out "\$1,559" in subsection (l) and inserting in lieu thereof "\$1,609";

(13) by striking out "\$1,719" in subsection (m) and inserting in lieu thereof "\$1,774";

(14) by striking out "\$1,954" in subsection (n) and inserting in lieu thereof "\$2,017";

(15) by striking out "\$2,185" each place it appears in subsections (o) and (p) and inserting in lieu thereof "\$2,255";

(16) by striking out "\$938" and "\$1,397" in subsection (r) and inserting in lieu thereof "\$968" and "\$1,442", respectively;

(17) by striking out "\$1,404" in subsection (s) and inserting in lieu thereof "\$1,449"; and

(18) by striking out "\$271" in subsection (t) and inserting in lieu thereof "\$280".

38 USC 314 note.

(b) The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

38 USC note
prec. 101.

38 USC 301 et
seq.

ADDITIONAL COMPENSATION FOR DEPENDENTS

Ante, p. 38.

SEC. 102. Section 315(1) is amended—

(1) by striking out "\$77" in clause (A) and inserting in lieu thereof "\$79";

(2) by striking out "\$128" and "\$41" in clause (B) and inserting in lieu thereof "\$132" and "\$42", respectively;

(3) by striking out "\$52" and "\$41" in clause (C) and inserting in lieu thereof "\$54" and "\$42", respectively;

(4) by striking out "\$62" in clause (D) and inserting in lieu thereof "\$64";

(5) by striking out "\$139" in clause (E) and inserting in lieu thereof "\$143"; and

(6) by striking out "\$116" in clause (F) and inserting in lieu thereof "\$120".

CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS

Ante, p. 38.

SEC. 103. Section 362 is amended by striking out "\$338" and inserting in lieu thereof "\$349".

DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES

Ante, p. 38.

SEC. 104. (a) Subsection (a) of section 411 is amended to read as follows:

"(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the person upon whose death entitlement is predicated, at monthly rates set forth in the following table:

Pay grade	Monthly rate	Pay grade	Monthly rate
E-1	\$476	W-4	\$682
E-2	490	O-1	602
E-3	502	O-2	621
E-4	535	O-3	665
E-5	549	O-4	703
E-6	561	O-5	775
E-7	589	O-6	873
E-8	621	O-7	944
E-9	¹ 649	O-8	1,035
W-1	602	O-9	1,111
W-2	626	O-10	² 1,217
W-3	644		

¹ If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be \$700.

² If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be \$1,305."

(b) Subsection (b) of such section is amended by striking out "\$53" and inserting in lieu thereof "\$55".

(c) Subsection (c) of such section is amended by striking out "\$139" and inserting in lieu thereof "\$143".

(d) Subsection (d) of such section is amended by striking out "\$68" and inserting in lieu thereof "\$70".

DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 105. Section 413 is amended—

Ante, p. 39.

(1) by striking out "\$233" in clause (1) and inserting in lieu thereof "\$240";

(2) by striking out "\$334" in clause (2) and inserting in lieu thereof "\$345";

(3) by striking out "\$432" in clause (3) and inserting in lieu thereof "\$446"; and

(4) by striking out "\$432" and "\$87" in clause (4) and inserting in lieu thereof "\$446" and "\$90", respectively.

SUPPLEMENTAL DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 106. Section 414 is amended—

Ante, p. 39.

(1) by striking out "\$139" in subsection (a) and inserting in lieu thereof "\$143";

(2) by striking out "\$233" in subsection (b) and inserting in lieu thereof "\$240"; and

(3) by striking out "\$118" in subsection (c) and inserting in lieu thereof "\$122".

EFFECTIVE DATE

SEC. 107. Sections 101 through 106 shall take effect on December 1, 1984. 38 USC 314 note.

PART B—COMPENSATION PROGRAM AMENDMENTS

TRIAL WORK PERIOD AND VOCATIONAL REHABILITATION PILOT PROJECT

SEC. 111. (a)(1) Subchapter VI of chapter 11 is amended by adding at the end the following new section:

38 USC 363.

“§ 363. Temporary program for trial work periods and vocational rehabilitation for certain veterans with total disability ratings

“(a)(1) The disability rating of a qualified veteran who begins to engage in a substantially gainful occupation during the program period may not be reduced on the basis of the veteran having secured and followed a substantially gainful occupation unless the veteran maintains such an occupation for a period of 12 consecutive months.

“(2) For purposes of this section:

“(A) The term ‘qualified veteran’ means a veteran who has a service-connected disability, or service-connected disabilities, not rated as total but who has been awarded a rating of total disability by reason of inability to secure or follow a substantially gainful occupation as a result of such disability or disabilities.

“(B) The term ‘program period’ means the period beginning on February 1, 1985, and ending on January 31, 1989.

“(b) During the program period, the Administrator shall make counseling services described in section 1504(a)(2) of this title and placement and postplacement services described in section 1504(a)(5) of this title available to each qualified veteran (whether or not the veteran is participating in a vocational rehabilitation program under chapter 31 of this title).

38 USC 1500 *et seq.*

“(c)(1)(A) Except as provided in paragraph (4) of this subsection, in the case of each award during the program period of a rating of total disability described in subsection (a)(2)(A) of this section to a veteran, the Administrator shall provide to the veteran, at the time that notice of the award is provided to the veteran, a statement providing—

“(i) notice of the provisions of this section;

“(ii) information explaining the purposes and availability of and eligibility for, and the procedures for pursuing, a vocational rehabilitation program under chapter 31 of this title; and

“(iii) a summary description of the scope of services and assistance available under that chapter.

“(B) After providing the notice required under subparagraph (A) of this paragraph to a veteran, the Administrator shall arrange as promptly as is practical for the veteran to be provided an evaluation in order to make a determination as to whether the achievement of a vocational goal by the veteran is reasonably feasible. Such evaluation shall include a personal interview of the veteran by a Veterans' Administration employee who is trained in vocational counseling. The Administrator shall provide the veteran with reasonable notice of the schedule for the evaluation.

“(2) If the veteran fails, for reasons other than those beyond the veteran's control, to participate in an evaluation under paragraph (1)(B) of this subsection in the manner required by the Administrator in order to make the determination described in that paragraph, the Administrator shall reduce the veteran's disability rating to the

rating that would be applicable to the veteran but for the determination of the veteran's inability to secure or follow a substantially gainful occupation. Any such reduction shall remain in effect for the duration of such failure.

"(3)(A) If, after completion of an evaluation under paragraph (1)(B) of this subsection, the Administrator determines that achievement of a vocational goal by the veteran is reasonably feasible, the Administrator shall formulate an individualized written plan of vocational rehabilitation for the veteran under chapter 31 of this title.

38 USC 1500 *et seq.*

"(B) If the Administrator determines that the veteran has failed to pursue (or to continue to pursue) the vocational rehabilitation program described in such plan, the Administrator shall provide the veteran with notice that, if the veteran fails, for reasons other than those beyond the veteran's control, to initiate or resume pursuit of such program within 60 days after the Administrator provided such notice (or such longer period as the Administrator determines is the shortest period within which it is reasonably feasible for the veteran to initiate or resume pursuit), the Administrator will provide for the results of the evaluation to be considered in the next scheduled review of the veteran's eligibility for a rating of total disability based on inability to secure or follow a substantially gainful occupation. Unless the veteran initiates or resumes such pursuit within such 60 days (or such longer period, if applicable), the Administrator shall provide for such results to be so considered.

"(4) This subsection does not apply with respect to a veteran as to whom the Administrator determines that an evaluation of vocational rehabilitation potential or achievement of a vocational goal is not reasonably feasible."

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"363. Temporary program for trial work periods and vocational rehabilitation for certain veterans with total disability ratings."

(b)(1) Not later than April 1, 1985, the Administrator of Veterans' Affairs shall provide to each veteran described in paragraph (2) a statement providing—

38 USC 363 note.

(A) information explaining the provisions of section 363(b) of title 38, United States Code (as added by subsection (a)(1));

(B) information explaining the purposes and availability of and eligibility for, and the procedures for pursuing, a vocational rehabilitation program under chapter 31 of such title; and

(C) a summary description of the scope of services and assistance available under that chapter.

(2)(A) A veteran to whom a statement is to be provided under paragraph (1) is a veteran who has a service-connected disability, or service-connected disabilities, not rated as total but who, as of January 31, 1985, has been awarded a rating of total disability by reason of a determination of inability to secure or follow a substantially gainful occupation as a result of such disability or disabilities.

(B) Notice under paragraph (1) need not be provided to a veteran who has a rating of total disability described in subparagraph (A) which is protected by the first sentence of section 110 of title 38, United States Code.

(c) Not later than April 15, 1988, the Administrator of Veterans' Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the results of the

Report.
38 USC 363 note.

implementation of section 363 of title 38, United States Code (as added by subsection (a)(1)), during the three-year period beginning on February 1, 1985. The report shall include—

(1) information regarding—

(A) the number of veterans with a disability rating of total based on inability to secure or follow a substantially gainful occupation who during such period followed a substantially gainful occupation for a period of twelve consecutive months and the work experience of those veterans and their disability ratings after completing such twelve-month period and (if known) the number of veterans with such a rating who during the period covered by the report followed a substantially gainful occupation but did not maintain employment in it for a period of twelve consecutive months,

(B) the number of veterans who during the period covered by the report were provided with evaluations under subsection (b) of such section,

(C) the number of veterans provided such evaluations for whom a plan of vocational rehabilitation was formulated pursuant to such subsection,

(D) the number of veterans for whom such a plan was formulated who elected, and who did not elect, to pursue a vocational rehabilitation program,

(E) the extent to which those veterans who elected to pursue such a program completed the program, and

(F) the subsequent work experience and disability ratings of the veterans who were provided such evaluations;

(2) a tabulation of the reasons given by such veterans for not electing to pursue such a program by those who did not elect to pursue such a program; and

(3) the Administrator's assessment of the value (including the cost-effectiveness) and effect of such implementation and any recommendations of the Administrator for administrative and legislative action based on such results and assessment.

TECHNICAL AMENDMENT

38 USC 335.

SEC. 112. (a) Section 335 is amended by striking out “50 per centum” and inserting in lieu thereof “30 percent”.

Effective date.

38 USC 335 note.

(b) The amendment made by subsection (a) shall take effect as of October 1, 1978.

TITLE II—VETERANS' REHABILITATION, EDUCATION, AND EMPLOYMENT PROGRAMS

PART A—RATE INCREASES

RATES OF REHABILITATION SUBSISTENCE ALLOWANCES FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES

38 USC 1508.

SEC. 201. The table contained in section 1508(b) is amended to read as follows:

"Column I"	Column II	Column III	Column IV	Column V
Type of program	No dependents	One dependent	Two dependents	More than two dependents
Institutional training:				The amount in column IV, plus the following for each dependent in excess of two:
Full-time.....	\$310	\$384	\$452	\$33
Three-quarter time.	233	288	339	25
Half-time.....	155	193	227	17
Farm cooperative, apprentice, or other on-job training:				
Full-time.....	271	327	377	24
Extended evaluation:				
Full-time.....	310	384	452	33
Independent living training:				
Full-time.....	310	384	452	33
Three-quarter time.	233	288	339	25
Half-time.....	155	193	227	17".

RATES OF GI BILL EDUCATIONAL ASSISTANCE FOR VIETNAM-ERA VETERANS

SEC. 202. Chapter 34 is amended as follows:

(1) The table contained in paragraph (1) of section 1682(a) is 38 USC 1682. amended to read as follows:

"Column I"	Column II	Column III	Column IV	Column V
Type of program	No dependents	One dependent	Two dependents	More than two dependents
Institutional training:				The amount in column IV, plus the following for each dependent in excess of two:
Full-time.....	\$376	\$448	\$510	\$32
Three-quarter time.	283	336	383	24
Half-time.....	188	224	255	17
Cooperative.....	304	355	404	23".

(2) Section 1682(b) is amended by striking out "\$342" and inserting in lieu thereof "\$376".

(3) The table contained in section 1682(c) is amended to read as follows:

"Column I"	Column II	Column III	Column IV	Column V
Basis	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Full-time	\$304	\$355	\$404	\$23
Three-quarter time	228	266	303	18
Half-time	152	178	202	12".

38 USC 1692.

(4) Section 1692(b) is amended by striking out "\$76" and "\$911" and inserting in lieu thereof "\$84" and "\$1,008", respectively.

RATES OF EDUCATIONAL ASSISTANCE FOR SURVIVORS AND DEPENDENTS

SEC. 203. Chapter 35 is amended—

38 USC 1732.

(1) by striking out "\$276" in section 1732(b) and inserting in lieu thereof "\$304"; and

38 USC 1742.

(2) by striking out "\$342", "\$108", "\$108", and "\$11.44" in section 1742(a) and inserting in lieu thereof "\$376", "\$119", "\$119", and "\$12.58", respectively.

RATES OF TRAINING ALLOWANCES FOR APPRENTICESHIP OR OTHER ON-JOB TRAINING

SEC. 204. Chapter 36 is amended as follows:

38 USC 1786.

(1) Section 1786(a)(2) is amended by striking out "\$342" and inserting in lieu thereof "\$376".

38 USC 1787.

(2) The table contained in section 1787(b)(1) is amended to read as follows:

"Column I"	Column II	Column III	Column IV	Column V
Periods of training	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
First 6 months	\$274	\$307	\$336	\$14
Second 6 months	205	239	267	14
Third 6 months	136	171	198	14
Fourth and any succeeding 6-month periods.	68	101	131	14".

38 USC 1798.

(3) Section 1798(b)(3) is amended by striking out "\$342" and inserting in lieu thereof "\$376".

EFFECTIVE DATE

SEC. 205. The amendments made by this part shall take effect as of October 1, 1984. 38 USC 1508 note.

PART B—VETERANS' EMPLOYMENT PROGRAMS

EXTENSION AND REVISION OF VETERANS READJUSTMENT APPOINTMENT PROGRAM

SEC. 211. (a) Subsection (a) of section 2014 is amended— 38 USC 2014.

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end the following new paragraph:

"(2) For the purposes of this section, the term 'agency' means a department, agency, or instrumentality in the executive branch."

(b) Subsection (b) of such section is amended—

(1) in paragraph (1)—

(A) by striking out "GS-7" in clause (A) and inserting in lieu thereof "GS-9";

(B) by striking out "and" at the end of clause (B);

(C) by striking out the period at the end of clause (C) and inserting in lieu thereof a semicolon and "and"; and

(D) by adding at the end the following new clause:

"(D) a veteran given an appointment under the authority of this subsection whose employment under the appointment is terminated within one year after the date of such appointment shall have the same right to appeal that termination to the Merit Systems Protection Board as a career or career-conditional employee has during the first year of employment."; and

(2) in paragraph (2), by striking out "September 30, 1984" and inserting in lieu thereof "September 30, 1986".

(c) Subsection (c) of such section is amended—

(1) by striking out "department, agency, and instrumentality in the executive branch" and inserting in lieu thereof "agency"; and

(2) by striking out "such department, agency, or instrumentality" and inserting in lieu thereof "such agency".

(d) Subsections (d) and (e) of such section are amended to read as follows:

"(d) The Office of Personnel Management shall be responsible for the review and evaluation of the implementation of this section and the activities of each agency to carry out the purpose and provisions of this section. The Office shall periodically obtain (on at least an annual basis) information on the implementation of this section by each agency and on the activities of each agency to carry out the purpose and provisions of this section. The information obtained shall include specification of the use and extent of appointments made by each agency under subsection (b) of this section and the results of the plans required under subsection (c) of this section.

"(e)(1) The Office of Personnel Management shall submit to the Congress annually a report on activities carried out under this section. Each such report shall include the following information with respect to each agency: Report.

"(A) The number of appointments made under subsection (b) of this section since the last such report and the grade levels in which such appointments were made.

“(B) The number of individuals receiving appointments under such subsection whose appointments were converted to career or career-conditional appointments, or whose employment under such an appointment has terminated, since the last such report, together with a complete listing of categories of causes of appointment terminations and the number of such individuals whose employment has terminated falling into each such category.

“(C) The number of such terminations since the last such report that were initiated by the agency involved and the number of such terminations since the last such report that were initiated by the individual involved.

“(D) A description of the education and training programs in which individuals appointed under such subsection are participating at the time of such report.

“(2) Information shown for an agency under clauses (A) through (D) of paragraph (1) of this subsection—

“(A) shall be shown for all veterans; and

“(B) shall be shown separately (i) for veterans of the Vietnam era who are entitled to disability compensation under the laws administered by the Veterans’ Administration or whose discharge or release from active duty was for a disability incurred or aggravated in line of duty, and (ii) for other veterans.”.

EXTENSION OF EMERGENCY VETERANS’ JOB TRAINING ACT PROGRAM

29 USC 1721
note.

SEC. 212. (a) Section 5(b)(3)(A) of the Emergency Veterans’ Job Training Act of 1983 (Public Law 98-77; 97 Stat. 445) is amended by striking out “60 days” and inserting in lieu thereof “90 days”.

29 USC 1721
note.

(b) Section 16 of such Act is amended by striking out “September 30, 1986” and inserting in lieu thereof “September 30, 1987”.

29 USC 1721
note.

(c) The text of section 17 of such Act is amended to read as follows:
“SEC. 17. Assistance may not be paid to an employer under this Act—

“(1) on behalf of a veteran who initially applies for a program of job training under this Act after February 28, 1985; or

“(2) for any such program which begins after September 1, 1985.”.

TITLE III—OTHER BENEFIT RATE INCREASES AND PROGRAM IMPROVEMENTS

VOCATIONAL TRAINING AND HEALTH-CARE ELIGIBILITY PROTECTION FOR PENSION RECIPIENTS

SEC. 301. (a)(1) Subchapter II of chapter 15 is amended by adding at the end the following new sections:

38 USC 524.

“§ 524. Temporary program of vocational training for certain new pension recipients

“(a)(1) Subject to paragraph (3) of this subsection, in the case of a veteran under the age of 50 who is awarded pension during the program period, the Administrator shall determine whether the achievement of a vocational goal by the veteran is reasonably feasible. Any such determination shall be made only after evaluation of the veteran’s potential for rehabilitation, and any such evaluation shall include a personal interview of the veteran by a

Veterans' Administration employee who is trained in vocational counseling. If the veteran fails, for reasons other than those beyond the veteran's control, to participate in the evaluation in the manner required by the Administrator in order to make such determination, the Administrator shall suspend the veteran's pension for the duration of such failure.

"(2) Subject to paragraph (3) of this subsection, if a veteran who is 50 years of age or older and who is awarded pension during the program period applies for vocational training under this section and the Administrator makes a preliminary finding on the basis of information in the application that, with the assistance of a vocational training program under subsection (d) of this section, the veteran has a good potential for achieving employment, the Administrator shall provide the veteran with an evaluation in order to determine whether the achievement of a vocational goal by the veteran is reasonably feasible. Any such evaluation shall include a personal interview by a Veterans' Administration employee trained in vocational counseling.

"(3) Not more than 2,500 veterans may be given evaluations under this subsection during any 12-month period beginning on February 1 of a year.

"(4) For the purposes of this section, the term 'program period' means the period beginning on February 1, 1985, and ending on January 31, 1989.

"(b)(1) If the Administrator, based upon an evaluation under subsection (a) of this section, determines that the achievement of a vocational goal by a veteran is reasonably feasible, the veteran shall be offered and may elect to pursue a vocational training program under this subsection. If the veteran elects to pursue such a program, the program shall be designed in consultation with the veteran in order to meet the veteran's individual needs and shall be set forth in an individualized written plan of vocational rehabilitation of the kind described in section 1507 of this title.

"(2)(A) Subject to subparagraph (B) of this paragraph, a vocational training program under this subsection shall consist of vocationally oriented services and assistance of the kind provided under chapter 31 of this title and such other services and assistance of the kind provided under that chapter as are necessary to enable the veteran to prepare for and participate in vocational training or employment.

38 USC 1500 *et seq.*

"(B) A vocational training program under this subsection—

"(i) may not exceed 24 months unless, based on a determination by the Administrator that an extension is necessary in order for the veteran to achieve a vocational goal identified (before the end of the first 24 months of such program) in the written plan formulated for the veteran, the Administrator grants an extension for a period not to exceed 24 months;

"(ii) may not include the provision of any loan or subsistence allowance or any automobile adaptive equipment of the kind provided under chapter 39 of this title; and

"(iii) may include a program of education at an institution of higher learning (as defined in sections 1652(b) and 1652(f), respectively, of this title) only in a case in which the Administrator determines that the program involved is predominantly vocational in content.

38 USC 1901 *et seq.*

"(3) When a veteran completes a vocational training program under this subsection, the Administrator may provide the veteran with counseling of the kind described in section 1504(a)(2) of this

title, placement and postplacement services of the kind described in section 1504(a)(5) of this title, and training of the kind described in section 1504(a)(6) of this title during a period not to exceed 18 months beginning on the date of such completion.

“(4) A veteran may not begin pursuit of a vocational training program under this subsection after the later of (A) January 31, 1989, or (B) the end of a reasonable period of time, as determined by the Administrator, following either the evaluation of the veteran under subsection (a)(1) of this section or the award of pension to the veteran as described in subsection (a)(2) of this section. Any determination by the Administrator of such a reasonable period of time shall be made pursuant to regulations which the Administrator shall prescribe.

Infra.

“(c) Notwithstanding subsection (c) of section 525 of this title, a veteran who pursues a vocational training program under subsection (b) of this section shall have the benefit of the provisions of subsection (a) of section 525 of this title beginning at such time as the veteran’s entitlement to pension is terminated by reason of income from work or training (as defined in subsection (b) of that section).

“(d) Payments by the Administrator for education, training, and other services and assistance under subsection (b) of this section (other than the services of Veterans’ Administration employees) shall be made from the Veterans’ Administration appropriations account from which payments for pension are made.

38 USC 525.

“§ 525. Temporary protection of health-care eligibility

“(a) In the case of a veteran whose entitlement to pension under section 521 of this title is terminated during the program period by reason of income from work or training, the veteran shall retain for a period of three years beginning on the date of such termination all eligibility for care and services under such chapter that the veteran would have had if the veteran’s entitlement to pension had not been terminated. Care and services for which such a veteran retains eligibility include, when applicable, drugs and medicines under section 612(h) of this title and special priority with respect to such care and services under section 612(i)(5) of this title.

“(b) For the purposes of this section:

“(1) The term ‘terminated by reason of income from work or training’ means terminated as a result of the veteran’s receipt of earnings from activity performed for remuneration or gain, but only if the veteran’s annual income from sources other than such earnings would, taken alone, not result in the termination of the veteran’s pension.

“(2) The term ‘program period’ means the period beginning on February 1, 1985, and ending on January 31, 1989.”.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 523 the following new items:

“524. Temporary vocational training for certain new pension recipients.

“525. Temporary protection of health-care eligibility.”.

Report.

38 USC 524 note.

(b) Not later than April 15, 1988, the Administrator of Veterans’ Affairs shall submit to the Committees on Veterans’ Affairs of the Senate and House of Representatives a report on the results of the implementation of sections 524 and 525 of title 38, United States Code (as added by subsection (a)(1)), during the period beginning on

February 1, 1985, and ending on January 31, 1988. The report shall include—

(1) information regarding—

(A) the number of veterans who during the period covered by the report were provided with evaluations under paragraphs (1) and (2) of subsection (a) of such section 524,

(B) the number of such veterans for whom a vocational goal was determined to be feasible,

(C) the number of such veterans who elected, and who did not elect, to pursue a vocational training program under subsection (b) of that section,

(D) the extent to which those veterans who elected to pursue such a program completed the program,

(E) the subsequent work and pension-eligibility experience of the veterans who were provided with such evaluations, shown according to their participation in and completion of vocational training programs, and

(F) the number of veterans who received the benefit of such section 525;

Ante, p. 2746.

(2) a tabulation of the reasons given by such veterans for not electing to pursue such a program by those for whom a vocational goal was determined to be reasonably feasible but who did not elect to pursue such program; and

(3) the Administrator's assessment of the value (including the cost-effectiveness) and effect of such implementation and any recommendations of the Administrator for administrative and legislative action based on such results and assessment.

REPORT ON MEDICAL EXAMINATIONS OF CERTAIN PENSION RECIPIENTS

SEC. 302. (a) Not later than twenty-eight months after the date of the enactment of this Act, the Administrator of Veterans' Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing a statistical tabulation of the results of the medical examinations conducted under subsection (b)(1)(A) and the determinations made under subsection (b)(1)(B).

38 USC 521 note.

(b)(1) The Administrator—

(A) shall provide for the selection of a sampling of the class of pension recipients described in paragraph (3) to undergo, and each recipient in such sampling shall undergo, a medical examination of the kind provided a veteran under 65 years of age who is applying for pension under section 521 of title 38, United States Code; and

(B) shall determine what, if any, percentage rating would be applicable to the recipient under the schedule of ratings adopted pursuant to section 355 of such title.

(2) The sampling of pension recipients selected under paragraph (1)(A) shall be selected in a manner that is statistically valid for the purpose of estimating the disability ratings of all recipients in the class described in paragraph (3).

(3) The class of pension recipients referred to in paragraphs (1) and (2) are those individuals who, during the two-year period beginning on the date of the enactment of this Act, are awarded pension under section 521 of title 38, United States Code, by reason of being considered, under section 502(a) of such title, to be permanently and

totally disabled by reason of being 65 years of age or older or becoming unemployable after age 65.

PARTICIPATION IN THERAPEUTIC OR REHABILITATIVE ACTIVITIES

38 USC 618.

SEC. 303. Section 618 is amended by adding at the end the following new subsection:

“(f) Neither a veteran’s participation in an activity carried out under this section nor a veteran’s receipt of remuneration as a result of such participation may be considered as a basis for the denial or discontinuance of a rating of total disability for purposes of compensation or pension based on the veteran’s inability to secure or follow a substantially gainful occupation as a result of disability.”.

SPECIALLY ADAPTED HOUSING ASSISTANCE

38 USC 802.

SEC. 304. (a) Section 802 is amended—

(1) in subsection (a), by striking out “\$32,500” and inserting in lieu thereof “\$35,500”; and

(2) in subsection (b), by striking out “\$5,000” and inserting in lieu thereof “\$6,000”.

Effective date.

38 USC 802 note.

(b) The amendments made by subsection (a) shall take effect on January 1, 1985.

AUTOMOBILE AND ADAPTIVE EQUIPMENT ASSISTANCE

38 USC 1902.

SEC 305. (a) Section 1902(a) is amended by striking out “\$4,400” and inserting in lieu thereof “\$5,000”.

38 USC 1903.

(b) Subsection (c) of section 1903 is amended to read as follows:

“(c)(1) An eligible person shall not be entitled to adaptive equipment under this chapter for more than two automobiles or other conveyances at any one time or (except as provided in paragraph (2) of this subsection) during any four-year period.

“(2) In a case in which the four-year limitation in paragraph (1) of this subsection precludes an eligible person from being entitled to adaptive equipment under this chapter, if the Administrator determines that, due to circumstances beyond the control of such person, one of the automobiles or other conveyances for which adaptive equipment was provided to such person during the applicable four-year period is no longer available for the use of such person, the Administrator may provide adaptive equipment to such person for an additional automobile or other conveyance during such period. Provision of adaptive equipment under this paragraph is within the discretion of the Administrator. Any action to provide adaptive equipment under this paragraph shall be made pursuant to regulations which the Administrator shall prescribe.”.

Effective date.

38 USC 1903

note.

(c)(1) The amendments made by this section shall take effect on January 1, 1985.

38 USC 1901 *et seq.*

(2) In the case of a person who during the four-year period ending on December 31, 1984, was provided adaptive equipment under chapter 39 of title 38, United States Code, for an automobile or other conveyance and who has such automobile or other conveyance available for use on the date of the enactment of this Act, the first four-year period applicable to such person under subsection (c) of section 1903 of such title (as amended by subsection (a)) shall begin on the most recent date before January 1, 1985, on which such person was provided such equipment.

TITLE IV—MISCELLANEOUS PROVISIONS

REPEAL OF ANNUAL REPORTING REQUIREMENT

SEC 401. Section 1796 is amended by striking out subsection (d). 38 USC 1796.

SUSPENSION OF COMPENSATION AND PENSION PAYMENTS TO CERTAIN
INSTITUTIONALIZED VETERANS; WAIVER

SEC. 402. (a) Section 3203(b)(1) is amended— 97 Stat. 1010.

(1) by designating the first and second sentences as subparagraphs (A) and (B), respectively; 38 USC 3203.

(2) in subparagraph (A), as so designated—

(A) by striking out the comma after “treatment” in the first sentence and inserting in lieu thereof “or”;

(B) by striking out “by reason of mental illness”; and

(C) by inserting “(excluding the value of the veteran’s home unless there is no reasonable likelihood that the veteran will again reside in such home),” after “the veteran’s estate”; and

(3) by adding at the end the following new subparagraph:
“(C) The Administrator may waive the discontinuance under this paragraph of payments to a veteran with respect to not more than 60 days of care of the veteran during any calendar year if the Administrator determines that the waiver is necessary in order to avoid a hardship for the veteran. Any such waiver shall be made pursuant to regulations which the Administrator shall prescribe.”. Waiver.

(b) The Administrator shall prescribe regulations under subparagraph (C) of section 3203(b)(1) of title 38, United States Code (as added by subsection (a)), not later than 60 days after the date of the enactment of this Act. Regulations.
38 USC 3203
note.

Approved October 24, 1984.

LEGISLATIVE HISTORY—H.R. 5688 (S. 2736):

HOUSE REPORT No. 98-828 (Comm. on Veterans’ Affairs).

SENATE REPORT No. 98-604 accompanying S. 2736 (Comm. on Veterans’ Affairs).

CONGRESSIONAL RECORD, Vol. 130 (1984):

June 18, considered and passed House.

Oct. 2, S. 2736 considered and passed Senate; H.R. 5688, amended, passed in lieu.

Oct. 5, House concurred in Senate amendments with an amendment.

Oct. 9, Senate concurred in House amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 43 (1984):

Oct. 24, Presidential statement.

Public Law 98-544
98th Congress

An Act

Oct. 24, 1984
[H.R. 6027]

To clarify the application of the Clayton Act to the official conduct of local governments, and for other purposes.

Local
Government
Antitrust Act of
1984.
15 USC 1 note.
15 USC 34.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “Local Government Antitrust Act of 1984”.

SEC. 2. For purposes of this Act—

(1) the term “local government” means—

(A) a city, county, parish, town, township, village, or any other general function governmental unit established by State law, or

(B) a school district, sanitary district, or any other special function governmental unit established by State law in one or more States,

(2) the term “person” has the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(A)), but does not include any local government as defined in paragraph (1) of this section, and

(3) the term “State” has the meaning given it in section 4G(2) of the Clayton Act (15 U.S.C. 15g(2)).

15 USC 35.

SEC. 3. (a) No damages, interest on damages, costs, or attorney’s fees may be recovered under section 4, 4A, or 4C of the Clayton Act (15 U.S.C. 15, 15a, or 15c) from any local government, or official or employee thereof acting in an official capacity.

(b) Subsection (a) shall not apply to cases commenced before the effective date of this Act unless the defendant establishes and the court determines, in light of all the circumstances, including the stage of litigation and the availability of alternative relief under the Clayton Act, that it would be inequitable not to apply this subsection to a pending case. In consideration of this section, existence of a jury verdict, district court judgment, or any stage of litigation subsequent thereto, shall be deemed to be prima facie evidence that subsection (a) shall not apply.

15 USC 36.

SEC. 4. (a) No damages, interest on damages, costs or attorney’s fees may be recovered under section 4, 4A, or 4C of the Clayton Act (15 U.S.C. 15, 15a, or 15c) in any claim against a person based on any official action directed by a local government, or official or employee thereof acting in an official capacity.

(b) Subsection (a) shall not apply with respect to cases commenced before the effective date of this Act.

SEC. 5. Section 510 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1985 (Public Law 98-411), is repealed.

Repeal.

Ante, p. 1574.

SEC. 6. This Act shall take effect thirty days before the date of the enactment of this Act.

Effective date.
15 USC 34 note.

Approved October 24, 1984.

LEGISLATIVE HISTORY—H.R. 6027 (S. 1578):

HOUSE REPORTS: No. 98-965 (Comm. on the Judiciary).

No. 98-1158 (Comm. of Conference).

SENATE REPORT No. 98-593 accompanying S. 1578 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 130 (1984):

Aug. 8, considered and passed House.

Oct. 4, considered and passed Senate, amended.

Oct. 11, House and Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 40, No. 43 (1984):

Oct. 24, Presidential statement.

Public Law 98-545
98th Congress

An Act

Oct. 25, 1984
[S. 2583]

To authorize United States participation in the Office International de la Vigne et du Vin (the International Office of the Vine and Wine).

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized to maintain membership of the United States in the Office International de la Vigne et du Vin (the International Office of the Vine and Wine).

Approved October 25, 1984.

LEGISLATIVE HISTORY—S. 2583:

SENATE REPORT No. 98-602 (Comm. on Foreign Relations).
CONGRESSIONAL RECORD, Vol. 130 (1984):
Sept. 26, considered and passed Senate.
Oct. 10, considered and passed House.

Public Law 98-546
98th Congress

An Act

To designate the lock and dam on the Warrior River in Hale County, Alabama, as the
“Armistead I. Selden Lock and Dam”.

Oct. 25, 1984

[S. 2947]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the lock and dam on the Warrior River in Hale County, Alabama, commonly known as the Warrior Lock and Dam, shall hereafter be known and designated as the “Armistead I. Selden Lock and Dam”. Any reference in a law, map, regulation, document, or paper of the United States to such lock and dam shall be held to be a reference to the “Armistead I. Selden Lock and Dam”.

Dams.
Rivers and
harbors.

Approved October 25, 1984.

LEGISLATIVE HISTORY—S. 2947 (H.R. 5489):

SENATE REPORT No. 98-649 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 130 (1984):

Oct. 4, considered and passed Senate.

Oct. 10, H.R. 5489 considered and passed House; S. 2947 passed in lieu.

Public Law 98-547
98th Congress

An Act

Oct. 25, 1984

[H.R. 6257]

To amend the Motor Vehicle and Information Cost Savings Act to impede those motor vehicle thefts which occur for purposes of dismantling the vehicles and reselling the major parts by requiring passenger motor vehicles and major replacement parts to have identifying numbers or symbols, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Motor Vehicle
Theft Law
Enforcement Act
of 1984.

SHORT TITLE; TABLE OF CONTENTS

15 USC 1901
note.

SECTION 1. (a) This Act may be cited as the "Motor Vehicle Theft Law Enforcement Act of 1984".

(b) The table of contents for this Act follows:

Sec. 1. Short title; table of contents.

Sec. 2. Purpose.

TITLE I—IMPROVED IDENTIFICATION FOR PASSENGER MOTOR VEHICLES
AND PARTS

Sec. 101. Motor vehicle theft prevention standard.

Sec. 102. Report regarding theft prevention systems.

TITLE II—ANTIFENCING MEASURES

Sec. 201. Motor vehicle identification numbers; forfeitures.

Sec. 202. Definition of securities.

Sec. 203. Sale or receipt of stolen motor vehicles.

Sec. 204. Trafficking in certain motor vehicles, motor vehicle parts, or motor vehicle components.

Sec. 205. Definition of racketeering activity.

TITLE III—IMPORTATION AND EXPORTATION MEASURES

Sec. 301. Amendment to title 18, United States Code.

Sec. 302. Amendment to Tariff Act of 1930.

PURPOSE

15 USC 2021
note.

SEC. 2. It is the purpose of this Act—

(1) to provide for the identification of certain motor vehicles and their major replacement parts to impede motor vehicle theft;

(2) to augment the Federal criminal penalties imposed upon persons trafficking in stolen motor vehicles;

(3) to encourage decreases in premiums charged consumers for motor vehicle theft insurance; and

(4) to reduce opportunities for exporting or importing stolen motor vehicles and off-highway mobile equipment.

TITLE I—IMPROVED IDENTIFICATION FOR PASSENGER
MOTOR VEHICLES AND PARTS

MOTOR VEHICLE THEFT PREVENTION STANDARD

SEC. 101. (a) The Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 and following) is amended by adding at the end the following new title:

“TITLE VI—THEFT PREVENTION

“DEFINITIONS

“SEC. 601. For purposes of this title:

15 USC 2021.

“(1) The term ‘passenger motor vehicle’ does not include any multipurpose passenger vehicle (including any vehicle commonly known as a ‘passenger van’).

“(2) The term ‘line’ means a name which a manufacturer applies to a group of motor vehicle models of the same make which have the same body or chassis, or otherwise are similar in construction or design.

“(3) The term ‘existing line’ means any line introduced into commerce before the beginning of the 2-year period specified in section 603(a)(1)(A).

“(4) The term ‘new line’ means any line introduced into commerce on or after the beginning of the 2-year period specified in section 603(a)(1)(A).

“(5) The term ‘first purchaser’ means first purchaser for purposes other than resale.

“(6) The term ‘covered major part’ means any major part selected in accordance with sections 602(d)(1)(B) and 603 for coverage by the vehicle theft prevention standard issued under section 602.

“(7) The term ‘major part’ means—

“(A) the engine;

“(B) the transmission;

“(C) each door allowing entrance or egress to the passenger compartment;

“(D) the hood;

“(E) the grille;

“(F) each bumper;

“(G) each front fender;

“(H) the deck lid, tailgate, or hatchback (whichever is present);

“(I) rear quarter panels;

“(J) the trunk floor pan;

“(K) the frame or, in the case of a unitized body, the supporting structure which serves as the frame; and

“(L) any other part of a passenger motor vehicle which the Secretary, by rule, determines is comparable in design or function to any of the parts listed in subparagraphs (A) through (K).

“(8) The term ‘major replacement part’ means any major part—

“(A) which is not installed in or on a motor vehicle at the time of its delivery to the first purchaser, and

“(B) the equitable or legal title to which has not been transferred to any first purchaser.

“(9) The term ‘model year’ has the meaning given such term under section 501(12) of this Act.

“(10) The term ‘vehicle theft prevention standard’ means a minimum performance standard for the identification of—

“(A) major parts of new motor vehicles, and

“(B) major replacement parts, by inscribing or affixing numbers or symbols to such parts.

“THEFT PREVENTION STANDARD

Regulations.
15 USC 2022.

“SEC. 602. (a) The Secretary shall by rule promulgate, in accordance with this section, a vehicle theft prevention standard which conforms to the requirements of this title and which applies with respect to—

“(1) the covered major parts which are installed by manufacturers into passenger motor vehicles in lines designated under section 603 as high theft lines; and

“(2) the major replacement parts for the major parts described in paragraph (1).

“(b) The standard under this section shall be practicable, and shall provide relevant objective criteria.

“(c)(1) Not later than 3 months after the date of the enactment of this title, the Secretary shall prescribe and publish a proposed vehicle theft prevention standard.

“(2) As soon as practicable after the 30th day following the publication of the proposed standard under paragraph (1), but not later than 6 months after such date of enactment, the Secretary shall promulgate a final rule establishing such a standard.

“(3) The Secretary may, for good cause, extend the 3-month and 6-month periods under paragraphs (1) and (2) if the Secretary publishes the reasons therefor. Either such period may not, in the aggregate, be extended by more than 5 months.

“(4) Such standard shall take effect not earlier than 6 months after the date such final rule is prescribed, except that the Secretary may prescribe an earlier effective date if the Secretary—

“(A) finds, for good cause shown, that the earlier date is in the public interest, and

“(B) publishes the reasons for such finding.

“(5) The standard may apply only with respect to—

“(A) major parts which are installed by the motor vehicle manufacturer in any passenger motor vehicle which has a model year designation later than the calendar year in which such standard takes effect, and

“(B) major replacement parts manufactured after such standard takes effect.

“(d)(1) In the case of major parts installed by the motor vehicle manufacturer, the standard under this section may not require—

“(A) any part to have more than a single identification, and

“(B) any motor vehicle to have identification of more than 14 of its major parts.

“(2) In the case of major replacement parts, the standard under this section may not require—

“(A) identification of any part which is not designed as a replacement for a major part required to be identified under such standard, and

“(B) the inscribing or affixing of any identification other than a symbol identifying the manufacturer and a common symbol identifying the part as a major replacement part.

“(e) Nothing in this title shall be construed to grant authority to require any person to keep records or make reports, except as expressly provided in sections 603(c), 605(b), 606(a), and 612.

“DESIGNATION OF HIGH THEFT VEHICLE LINES AND PARTS

“SEC. 603. (a)(1) For purposes of the standard under section 602, the following motor vehicle lines are high theft lines: 15 USC 2023.

“(A) passenger motor vehicles of any line which is determined under subsection (b) to have had a new passenger motor vehicle theft rate in the 2 calendar years immediately preceding the year in which the final standard is promulgated which exceeds the median theft rate for all new passenger motor vehicle thefts in such 2-year period;

“(B) passenger motor vehicles of any line initially introduced into commerce in the United States at any time after the beginning of the 2-year period specified in subparagraph (A) which is determined under paragraph (2) to be likely to have a theft rate exceeding such median theft rate; and

“(C) passenger motor vehicles of any line which is below the median theft rate (in the case of existing lines) or which is likely to be below the median theft rate (in the case of new lines) if the major parts contained in such vehicles are determined under paragraph (2) to be interchangeable with the majority of the major parts which are subject to the standard and which are contained in the motor vehicles of a line subject to the standard pursuant to subparagraph (A) or (B); except that such standard shall not apply to such major parts of any line specified by this paragraph if all the passenger motor vehicles of lines—

“(i) which are or are likely to be below the median theft rate, and

“(ii) which contain parts which are interchangeable with the major parts of the line involved,

account (in the case of existing lines) or the Secretary determines are likely to account (in the case of new lines) for more than 90 percent of the total annual production of all lines of that manufacturer which contain those interchangeable parts.

“(2) The specific lines, and the major parts of the vehicles within such lines, which are to be subject to the standard may be selected by agreement between that manufacturer and the Secretary. If the manufacturer and the Secretary disagree as to such selection, the Secretary shall select such lines and parts, after notice to the manufacturer and opportunity for written comment, and subject to the confidentiality requirements of this title.

“(3) Notwithstanding paragraph (1), of those passenger motor vehicle lines initially introduced by a manufacturer into commerce in the United States before the effective date of the standard, no more than 14 of the lines of any manufacturer shall be selected as high theft lines under paragraph (1) (A) and (B). Any such selection shall be made under paragraph (2) within one year after the date of the enactment of the Motor Vehicle Theft Law Enforcement Act of 1984.

“(4) The Secretary shall prescribe reasonable procedures designed to assure that, to the maximum extent practicable, any selection

Ante, p. 2754.

under paragraph (2) or (3) is made at least 6 months before the first applicable model year beginning after such selection.

“(5) A manufacturer shall not be required to begin to comply with the standard pursuant to any selection made under paragraph (2) or (3) for a model year beginning earlier than 6 months after the date of selection.

15 USC 2001.

“(b)(1) For purposes of subsection (a), the theft rate for passenger motor vehicles of a line shall be determined by a fraction, the numerator of which is the number of new passenger motor vehicle thefts for that line during the 2 calendar years specified in subsection (a)(1)(A), and the denominator of which is the sum of the respective production volumes of all passenger motor vehicles of that line (as reported to the Environmental Protection Agency under title V of this Act) which are of the 2 model years having the same model-year designations as the 2 calendar years specified in subsection (a)(1)(A) and which are distributed for sale in commerce within the United States.

“(2) For purposes of subsection (a), the median theft rate for all new passenger motor vehicle thefts during such 2-year period is that theft rate midway between the highest and the lowest theft rates determined under paragraph (1). If there is an even number of theft rates determined under paragraph (1), the median theft rate is the arithmetic average of the two adjoining theft rates midway between the highest and the lowest of such theft rates.

Public
availability.

“(3) Immediately upon enactment of this title, and periodically thereafter, the Secretary, in consultation with the Director of the Federal Bureau of Investigation, shall obtain from the most reliable source or sources accurate and timely theft and recovery data and publish such data for review and comment. To the greatest extent possible, the Secretary shall utilize theft data reported by Federal, State, or local police. After such publication and opportunity for comment, the Secretary shall utilize the theft data to determine the median theft rate under this subsection. The Secretary and such Director shall take such actions as may be necessary to improve the accuracy, reliability, and timeliness of such data, including ensuring that vehicles represented as stolen are in fact stolen.

“(4) In calculating the median theft rate, the Secretary shall take into account the theft rate of lines which are exempted by reason of the 14-line limitation in subsection (a)(3).

“(5) As used in this section, the term ‘new passenger motor vehicle thefts’, when used with respect to any calendar year, refers to those thefts in the United States in such year which are of passenger motor vehicles with the same model-year designation as that calendar year.

“(c) The Secretary shall, by rule, require each manufacturer to provide information necessary to select pursuant to subsection (a)(2) the high theft lines and the major parts to be subject to the standard.

“(d) Except as provided in section 605, the Secretary may not render the standard inapplicable to any line which at any time has been subject to the standard.

“COST LIMITATION

15 USC 2024.

“SEC. 604. (a) The standard under section 602 may not—

“(1) impose costs upon any manufacturer of motor vehicles to comply with such standard in excess of \$15 per motor vehicle, or

“(2) impose costs upon any manufacturer of major replacement parts to comply with such standard in excess of such reasonable lesser amount per major replacement part as the Secretary specifies in such standard.

“(b) In the case of any manufacturer engaged in identifying engines or transmissions on the effective date of this title in a manner which substantially complies with the requirements of the theft prevention standard promulgated under section 602—

“(1) the costs of identifying engines and transmissions shall not be taken into account in calculating such manufacturer’s costs under subsection (a); and

“(2) the manufacturer shall not be required, pursuant to the standard or any subsequent modification, to conform to any identification system for engines and transmissions which imposes greater costs on the manufacturer than are incurred under the identification system used by the manufacturer on such effective date.

“(c)(1) At the beginning of each calendar year commencing on or after January 1, 1985, as there becomes available necessary data from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall certify to the Secretary and publish in the Federal Register the percentage difference between the price index for the 12 months preceding the beginning of such calendar year and the price index for the base period. Effective for model years beginning in such calendar year, the amounts specified under subsections (a) (1) and (2) shall be adjusted by such percentage difference.

Federal
Register,
publication.

“(2) For purposes of paragraph (1)—

“(A) The term ‘base period’ means calendar year 1984.

“(B) The term ‘price index’ means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics.

“EXEMPTION FOR VEHICLES EQUIPPED WITH ANTITHEFT DEVICES

“SEC. 605. (a)(1) Any manufacturer may petition the Secretary for an exemption from the application of any of the requirements of the vehicle theft prevention standard under section 602 for any line or lines of passenger motor vehicles which are equipped as standard equipment with an antitheft device which the Secretary determines is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the requirements of such standard.

15 USC 2025.

“(2) For the initial model year to which such standard applies, the Secretary may not grant an exemption for more than 2 lines of any manufacturer. For each subsequent model year, the Secretary may grant exemption for not more than 2 additional lines of any manufacturer, and such exemption shall not affect the validity of the exemption of any line previously exempted under this paragraph.

“(3) For purposes of paragraph (1), the term ‘standard equipment’ means equipment which is installed in a vehicle at the time it is delivered from the manufacturer and which is not an accessory or other item which the first purchaser customarily has the option to have installed.

“(b) Any such petition shall be filed with the Secretary not later than 8 months before the commencement of production for the first model year covered by the petition. Such petition shall include—

“(1) a detailed description of such device,

“(2) the reasons for the manufacturer’s conclusion that such device will be effective in reducing and deterring theft of motor vehicles, and

“(3) such additional information as the Secretary determines may be reasonably required to make the determination specified in subsection (a)(1).

“(c) Such determination shall be made, based upon substantial evidence, within 120 days after the date of filing of such petition. The Secretary may approve such petition in whole or in part. If the Secretary fails to make such determination within such time period, the petition shall be considered approved, and the manufacturer shall be exempt from the application of such standard for the subsequent model year.

“(d) Nothing in this section shall preclude the Secretary from rescinding any such exemption for any model year after the model year in which such rescission occurs if the Secretary determines that such device has not been as effective in reducing and deterring motor vehicle theft as compliance with the requirements of the standard under section 602, except that such rescission shall not be effective until at least 6 months after the manufacturer receives written notice from the Secretary of such rescission.

“(e) As used in this section, the term ‘antitheft device’ means a device to reduce or deter theft which is in addition to the theft-deterrent devices required by Federal motor vehicle safety standard numbered 114 (49 CFR 571.114) which the manufacturer believes will be effective in reducing or deterring theft of motor vehicles, and which does not utilize any signaling device which is reserved by a provision of any State law for use on police, emergency, or official vehicles, or on school buses.

“DETERMINATION OF COMPLIANCE OF MANUFACTURER

15 USC 2026.

“SEC. 606. (a) Every manufacturer of any motor vehicle any part of which is subject to the standard under section 602, and any manufacturer of major replacement parts subject to such standard, shall—

“(1) establish and maintain such records, make such reports, and provide such items and information as the Secretary may reasonably require to enable the Secretary to determine whether such manufacturer has acted or is acting in compliance with this title and such standard, and

“(2) upon request of an officer or employee duly designated by the Secretary, permit such officer or employee to inspect (A) vehicles and major parts which are subject to such standard, and (B) appropriate books, papers, records, and documents relevant to determining whether such manufacturer has acted or is acting in compliance with this title and any motor vehicle theft prevention standard promulgated pursuant to this title; such manufacturer shall make available all such items and information in accordance with such reasonable rules as the Secretary may prescribe.

“(b) For purposes of enforcing this title, officers or employees duly designated by the Secretary, upon presenting appropriate credentials and a written notice to the owner, operator, or agent in charge, may enter and inspect any facility in which motor vehicles containing major parts subject to such standard, or major replacement parts subject to such standard, are manufactured, held for introduc-

tion into interstate commerce, or are held for sale after such introduction. Each such inspection shall be conducted at reasonable times and in a reasonable manner and shall be commenced and completed with reasonable promptness.

"(c)(1) Every manufacturer of a motor vehicle subject to the standard promulgated under section 602, and every manufacturer of any major replacement part subject to such standard, shall furnish at the time of delivery of such vehicle or part a certification that such vehicle or replacement part conforms to the applicable motor vehicle theft prevention standard. Such certification shall accompany such vehicle or replacement part until delivery to the first purchaser. The Secretary may issue rules prescribing the manner and form of such certification.

"(2) Paragraph (1) shall not apply to any motor vehicle or major replacement part—

"(A) which is intended solely for export,

"(B) which is so labeled or tagged on the vehicle or replacement part itself and on the outside of the container, if any, until exported, and

"(C) which is exported.

"(d) If a manufacturer obtains knowledge that (1) the identification applied, to conform to the standard under section 602, to any major part installed by the manufacturer in a motor vehicle during its assembly, or to any major replacement part manufactured by the manufacturer, contains an error, and (2) such motor vehicle or major replacement part has been distributed in interstate commerce, the manufacturer shall furnish notification of such error to the Secretary.

"PROHIBITED ACTS

"SEC. 607. (a) No person shall—

15 USC 2027.

"(1) manufacture for sale, sell, offer for sale, or introduce or deliver for introduction in interstate commerce, or import into the United States—

"(A) any motor vehicle subject to the standard under section 602, or

"(B) any major replacement part subject to such standard,

which is manufactured on or after the date the standard under section 602 takes effect under this title for such vehicle or major replacement part unless it is in conformity with such standard;

"(2) fail to comply with any rule prescribed by the Secretary under this title;

"(3) fail to keep specified records or refuse access to or copying of records, or fail to make reports or provide items or information, or fail or refuse to permit entry or inspection, as required by this title; or

"(4) fail to—

"(A) furnish certification required by section 606(c), or

"(B) issue a certification required by section 606(c) if such person knows, or in the exercise of due care has reason to know, that such certification is false or misleading in a material respect.

"(b) Subsection (a)(1) shall not apply to any person who establishes that he did not have reason to know in the exercise of due care that the vehicle or major replacement part is not in conformity with an applicable theft prevention standard.

“ENFORCEMENT PROVISIONS

- 15 USC 2028. “SEC. 608. (a)(1) Whoever violates section 607(a) may be assessed a civil penalty of not to exceed \$1,000 for each violation. The failure of more than one part of a single motor vehicle to conform to an applicable motor vehicle theft prevention standard shall constitute only a single violation.
- Courts, U.S. “(2) Any such penalty shall be assessed by the Secretary and collected in a civil action brought by the Attorney General of the United States. Any such civil penalty may be compromised by the Secretary. In determining the amount of such penalty, or the amount agreed upon in compromise, the appropriateness of such penalty to the size of the business of the person charged and the gravity of the violation shall be considered.
- “ (3) The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owed by the United States to the person charged.
- “ (4) The maximum civil penalty shall not exceed \$250,000 for any related series of violations.
- “ (b)(1) Upon petition by the Attorney General on behalf of the United States, the United States district courts shall have jurisdiction, for cause shown and subject to the provisions of rule 65 (a) and (b) of the Federal Rules of Civil Procedure, to restrain violations of this title, or to restrain the sale, offer for sale, or the introduction or delivery for introduction in interstate commerce, or the importation into the United States, of—
- 18 USC app. “ (A) any passenger motor vehicle containing a major part, or
- “ (B) any major replacement part,
- which is subject to the standard under section 602 and is determined, before the sale of such vehicle or such major replacement part to a first purchaser, not to conform to such standard. Whenever practicable, the Secretary shall give notice to any person against whom an action for injunctive relief is contemplated and afford the person an opportunity to present his views, and except in the case of a knowing and willful violation, shall afford the person reasonable opportunity to achieve compliance. The failure to give such notice and afford such opportunity shall not preclude the granting of appropriate relief.
- “ (2) In any proceeding for criminal contempt for violation of an injunction or restraining order issued under this subsection, which violation also constitutes a violation of this title, trial shall be by the court, or, upon demand of the accused, by a jury. Such trial shall be conducted in accordance with the practice and procedure applicable in the case of proceedings subject to the provisions of rule 42(b) of the Federal Rules of Criminal Procedure.
- “ (3) Actions under paragraph (1) and under subsection (a) may be brought in the district wherein any act or transaction constituting the violation occurred, or in the district wherein the defendant is found or is an inhabitant or transacts business, and process in such cases may be served in any other district in which the defendant is an inhabitant or wherever the defendant may be found.
- “ (4) In any actions brought under paragraph (1) and under subsection (a), subpoenas for witnesses who are required to attend a United States district court may run into any other district.

“CONFIDENTIALITY OF INFORMATION

“SEC. 609. All information reported to, or otherwise obtained by, the Secretary or the Secretary’s representative under this title which contains or relates to a trade secret or other matter referred to in section 1905 of title 18, United States Code, or in section 552(b)(4) of title 5, United States Code, shall be considered confidential for the purpose of the applicable section of this title, except that such information may be disclosed to other officers or employees concerned with carrying out this title or when relevant in any proceeding under this title (other than a proceeding under section 603(a) (2) or (3) of this title). Nothing in this section shall authorize the withholding of information by the Secretary or any officer or employee under the Secretary’s control from any committee of the Congress. 15 USC 2029.

“JUDICIAL REVIEW

“SEC. 610. Any person who may be adversely affected by any provision of any standard or other rule under this title may obtain judicial review of such standard or rule in accordance with section 504. Nothing in this section shall preclude the availability to any person of other remedies provided by law in the case of any standard, rule, or other action under this title. 15 USC 2030.

“COORDINATION WITH STATE AND LOCAL LAW

“SEC. 611. Whenever a vehicle theft prevention standard established under section 602 is in effect, no State or political subdivision of a State shall have any authority either to establish, or to continue in effect, with respect to any motor vehicle, or major replacement part, any vehicle theft prevention standard which is not identical to such vehicle theft prevention standard. 15 USC 2031.

“INSURANCE REPORTS AND INFORMATION

“SEC. 612. (a)(1) In order to— 15 USC 2032.

“(A) prevent or discourage the theft of motor vehicles, particularly those vehicles which are stolen for the removal of certain parts,

“(B) prevent or discourage the sale and distribution in interstate commerce of used parts that are removed from such vehicles, and

“(C) help reduce the cost to consumers of comprehensive insurance coverage for motor vehicles, each insurer of such coverage (or their designated agents) shall provide to the Secretary the information required by this subsection. Such information shall be provided annually, beginning 2 years after the date of the enactment of this section.

“(2) Such information shall include—

“(A) the thefts and recoveries (in whole or in part) of motor vehicles;

“(B) the number of vehicles which have been recovered intact;

“(C) the rating rules and plans, such as loss data and rating characteristics, used by such insurers to establish premiums for comprehensive insurance coverage for motor vehicles, including the basis for such premiums, and premium penalties for motor vehicles considered by such insurers as more likely to be stolen;

“(D) the actions taken by such insurers to reduce such premiums, including changes in rate levels for automobile comprehensive coverages, due to a reduction in thefts of motor vehicles;

“(E) the actions taken by such insurers to assist in deterring or reducing thefts of motor vehicles; and

“(F) such other information as the Secretary may require to administer this title and to make the report and findings required by this title.

The information on thefts and recoveries of such vehicles shall include an explanation about how such information is obtained by the insurer, the accuracy and timeliness of such information, and the use made of such information, including the extent to which such information is reported, including the frequency of such reporting, to national, public, and private entities, such as the Federal Bureau of Investigation and State and local police.

“(3) For purposes of this section, the term ‘insurer’ includes any person which has a fleet of 20 or more motor vehicles (other than any governmental entity) which are used primarily for rental or lease and which are not covered by theft insurance policies issued by insurers of passenger motor vehicles.

“(4) The Secretary shall exempt from the requirements of this section, for one or more years, any insurer if the Secretary determines that such insurer should be exempted because—

“(A) the cost of preparing and furnishing reports and information is excessive in relation to the size of the business of the insurer, and

“(B) such reports and information will not significantly contribute to carrying out the purposes of this title.

Regulations.

“(5)(A) Subject to subparagraph (B), the Secretary shall, by rule, exempt from the requirements of this section small insurers if the Secretary finds that such exemption will not significantly affect the validity or usefulness of the information collected and compiled under this section, nationally or State-by-State.

“(B) The Secretary may not, under subparagraph (A), exempt any person who is considered an insurer under this section solely by reason of paragraph (3).

“(C)(i) Subject to clause (ii), for purposes of this paragraph, the term ‘small insurer’ means any insurer whose premiums for motor vehicle insurance issued directly or through any affiliate, including any pooling arrangement established under State law or regulation for the issuance of motor vehicle insurance, account for less than one percent of the total premiums for all forms of motor vehicle insurance issued by insurers within the United States. The regulations under this paragraph shall provide that eligibility as a small insurer shall be based on the most recent calendar year for which adequate data is available, and that, once attained, such eligibility shall continue without further demonstration of qualification for one or more years, as the Secretary considers appropriate.

“(ii) For purposes of the reporting requirements under this section for an insurer’s operations within any State, the term ‘small insurer’ shall not include any insurer whose premiums for motor vehicle insurance issued directly or through any affiliate, including any pooling arrangement described in clause (i), account for 10 percent or more of the total premiums for all forms of motor vehicle insurance issued by insurers within such State.

Public
information.

“(b) The information obtained by the Secretary under this section shall be periodically compiled and (subject to section 552 of title 5,

United States Code) published by the Secretary in a form that will be helpful to the public, including Federal, State, and local police, and Congress.

“(c) The Secretary shall consult with such State and insurance regulatory agencies and other agencies and associations, both public and private, as the Secretary deems appropriate.

“(d) If, in paying claims pursuant to adjustment or negotiations between the insurer and the insured for any stolen motor vehicle, any insurer reduces such payment by the amount of the value, salvage or otherwise, of any part subject to the standard which is recovered and such reduction is not made at the express election of the insured, the insurer shall promptly report such action in writing to the Secretary.

“(e) The information required by this section shall be furnished in such form as the Secretary shall prescribe by regulation or otherwise.

“(f) For purposes of this section, the term ‘motor vehicle’ includes trucks, multipurpose passenger vehicles, and motorcycles.

“VOLUNTARY VEHICLE IDENTIFICATION STANDARDS

“SEC. 613. (a) The Secretary may, by rule, promulgate a vehicle theft prevention standard under which any person may elect to inscribe or affix an identifying number or symbol on major parts of any motor vehicle manufactured or owned by such person for purposes of section 511 of title 18, United States Code and related provisions. Such standard may include provisions for registration of such identification with the Secretary or any person designated by the Secretary.

15 USC 2033.

“(b) The standard under this section shall be practicable, and shall provide relevant objective criteria.

“(c) Compliance with such standard shall be voluntary, and any failure to comply shall not be subject to penalty or enforcement under this title.

“(d) Compliance with such standard shall not relieve any manufacturer of any requirement under the standard under section 602.

“3-YEAR AND 5-YEAR STUDIES REGARDING MOTOR VEHICLE THEFT

“SEC. 614. (a)(1) Not later than 3 years after the date of the enactment of this title, the Secretary shall submit a report to the Congress which includes the information and legislative recommendations required under paragraphs (2) and (3).

Report.
15 USC 2034.

“(2) The report required by this subsection shall include—

“(A) data on the number of trucks, multipurpose passenger vehicles, and motorcycles, stolen and recovered annually, compiled by model, make, and line for all such motor vehicles distributed for sale in interstate commerce;

“(B) information on the extent to which trucks, multipurpose passenger vehicles, and motorcycles, stolen annually are dismantled to recover parts or are exported;

“(C) a description of the market for such stolen parts;

“(D) information concerning the premiums charged by insurers of comprehensive insurance coverage of trucks, multipurpose passenger vehicles, or motorcycles, including any increase in such premiums charged because any such motor vehicle is a likely candidate for theft; and

“(E) an assessment of whether the identification of parts of trucks, multipurpose passenger vehicles, and motorcycles is likely to have (i) a beneficial impact in decreasing the rate of theft of such vehicles; (ii) improve the recovery rate of such vehicles; (iii) decrease the trafficking in stolen parts of such vehicles; (iv) stem the export and import of such stolen vehicles or parts; or (v) benefits which exceed the cost of such identification.

“(3) The report under this subsection shall recommend to Congress whether, and to what extent, the identification of trucks, multipurpose passenger vehicles, and motorcycles should be required by statute.

Report.

“(b)(1) Not later than 5 years after the promulgation of the standard required by this title, the Secretary shall submit a report to the Congress which includes the information and legislative recommendations required under paragraphs (2) and (3).

“(2) The report required by this subsection shall include—

“(A) information about the methods and procedures used by public and private entities for collecting, compiling, and disseminating information concerning the theft and recovery of motor vehicles, including classes thereof, and about the reliability, accuracy, and timeliness of such information, and how such information can be improved;

“(B) data on the number of motor vehicles stolen and recovered annually, compiled by the class of vehicle, model, make, and line for all such motor vehicles distributed for sale in interstate commerce;

“(C) information on the extent to which motor vehicles stolen annually are dismantled to recover parts or are exported;

“(D) a description of the market for such stolen parts;

“(E) information concerning the costs to manufacturers, as well as to purchasers of passenger motor vehicles, in complying with the standard promulgated under this title, as well as the identification of the beneficial impacts of the standard and the monetary value of any such impacts, and the extent to which such monetary value is greater than the costs;

“(F) information concerning the experience of Federal, State, and local officials in making arrests and successfully prosecuting persons for violations of the provisions of law set forth in titles II and III of the Motor Vehicle Theft Law Enforcement Act of 1984, in preventing or reducing the number, and rate of, thefts of motor vehicles that are dismantled for parts subject to this title, and in preventing or reducing the availability of used parts that are stolen from motor vehicles subject to this title;

“(G) information concerning the premiums charged by insurers of comprehensive insurance coverage of motor vehicles subject to this title, including any increase in such premiums charged because a motor vehicle is a likely candidate for theft, and the extent to which such insurers have reduced for the benefit of consumers such premiums as a result of this title or have foregone premium increases as a result of this title;

“(H) information concerning the adequacy and effectiveness of Federal and State laws aimed at preventing the distribution and sale of used parts that have been removed from stolen motor vehicles and the adequacy of systems available to enforcement personnel for tracing parts to determine if they have been stolen from a motor vehicle;

“(I) an assessment of whether the identification of parts of other classes of motor vehicles is likely to have (i) a beneficial impact in decreasing the rate of theft of such vehicles; (ii) improve the recovery rate of such vehicles; (iii) decrease the trafficking in stolen parts of such vehicles; (iv) stem the export and import of such stolen vehicles, parts, or components; or (v) benefits which exceed the costs of such identification; and

“(J) other pertinent and reliable information available to the Secretary concerning the impact, including the beneficial impact, of this title and titles II and III of the Motor Vehicle Theft Law Enforcement Act of 1984 on law enforcement, consumers, and manufacturers.

Post, pp. 2768, 2771.

“(3) The report submitted under this subsection to the Congress shall include recommendations for (A) continuing the standard established by this title without change, (B) modifying this title to cover more or fewer lines of passenger motor vehicles, (C) modifying this title to cover other classes of motor vehicles, or (D) terminating the standard for all future motor vehicles. The report may include, as appropriate, legislative and administrative recommendations.

“(c)(1) The reports under subsections (a) and (b) shall each be based on (A) the information reported under this title by insurers of motor vehicles and manufacturers of such vehicles and major replacement parts, (B) information provided by the Federal Bureau of Investigation, (C) experience obtained in the implementation, administration, and enforcement of this title, (D) experience gained by the Government under titles II and III of the Motor Vehicle Theft Law Enforcement Act of 1984, and (E) any other reliable and relevant information available to the Secretary.

Report.

“(2) In preparing each such report, the Secretary shall consult with the Attorney General of the United States and with State and local law enforcement officials, as appropriate.

“(3) The report under subsection (b) shall (A) cover a period of at least four years subsequent to the promulgation of the standard required by this title, and (B) reflect any information, as appropriate, from the report under subsection (a) updated from the time of such report.

“(4) At least 90 days before submitting each such report to Congress, the Secretary shall publish the proposed report for public review and for an opportunity for written comment of at least 45 days. The Secretary shall consider such comments in preparing the final report and shall include a summary of such comments with the final report.”.

Public availability.

(b) Section 2 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901) is amended by inserting “and except as provided in section 601 of this Act” immediately after “title V”.

REPORT REGARDING THEFT PREVENTION SYSTEMS

SEC. 102. (a) The Secretary of Transportation, not later than one year after the date of the enactment of this Act, shall submit a report to the Congress regarding security devices and systems which are designed to deter individuals from entering a locked motor vehicle and starting the motor vehicle for the purpose of stealing the motor vehicle.

(b) The report required in subsection (a) shall contain—

(1) a determination by the Secretary of whether a Federal standard regarding security devices and systems can be devised

which does not result in the compromising of motor vehicle theft prevention devices and systems in the process of demonstrating compliance with such standard;

(2) a determination by the Secretary of whether the purposes of theft prevention would be better served by such a standard or whether owners of motor vehicles used primarily in areas having high crime rates should be encouraged to equip their vehicles with security devices or systems; and

(3) a description of the costs and effectiveness of such devices and systems.

(c) The report required in subsection (a) also may include an examination and review of any matters relating to motor vehicle theft prevention which the Secretary of Transportation considers appropriate to examine and review. The Secretary shall prepare such report after consulting with the Attorney General of the United States. Such report shall include recommendations for such legislative or administrative action as the Secretary considers necessary or appropriate.

TITLE II—ANTIFENCING MEASURES

MOTOR VEHICLE IDENTIFICATION NUMBERS; FORFEITURES

SEC. 201. (a) Chapter 25 of title 18, United States Code, is amended by adding at the end the following new sections:

18 USC 511.

“§ 511. Altering or removing motor vehicle identification numbers

“(a) Whoever knowingly removes, obliterates, tampers with, or alters an identification number for a motor vehicle, or motor vehicle part, shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

“(b)(1) Subsection (a) of this section does not apply to a removal, obliteration, tampering, or alteration by a person specified in paragraph (2) of this subsection (unless such person knows that the vehicle or part involved is stolen).

“(2) The persons referred to in paragraph (1) of this subsection are—

“(A) a motor vehicle scrap processor or a motor vehicle demolisher who complies with applicable State law with respect to such vehicle or part;

“(B) a person who repairs such vehicle or part, if the removal, obliteration, tampering, or alteration is reasonably necessary for the repair; and

“(C) a person who restores or replaces an identification number for such vehicle or part in accordance with applicable State law.

“(c) As used in this section, the term—

“(1) ‘identification number’ means a number or symbol that is inscribed or affixed for purposes of identification under the National Traffic and Motor Vehicle Safety Act of 1966, or the Motor Vehicle Information and Cost Savings Act;

“(2) ‘motor vehicle’ has the meaning given that term in section 2 of the Motor Vehicle Information and Cost Savings Act;

“(3) ‘motor vehicle demolisher’ means a person, including any motor vehicle dismantler or motor vehicle recycler, who is engaged in the business of reducing motor vehicles or motor

15 USC 1381
note.
15 USC 1901
note.

15 USC 1901.

vehicle parts to metallic scrap that is unsuitable for use as either a motor vehicle or a motor vehicle part;

“(4) ‘motor vehicle scrap processor’ means a person—

“(A) who is engaged in the business of purchasing motor vehicles or motor vehicle parts for reduction to metallic scrap for recycling;

“(B) who, from a fixed location, uses machinery to process metallic scrap into prepared grades; and

“(C) whose principal product is metallic scrap for recycling;

but such term does not include any activity of any such person relating to the recycling of a motor vehicle or a motor vehicle part as a used motor vehicle or a used motor vehicle part.

“§ 512. Forfeiture of certain motor vehicles and motor vehicle parts 18 USC 512.

“(a) If an identification number for a motor vehicle or motor vehicle part is removed, obliterated, tampered with, or altered, such vehicle or part shall be subject to seizure and forfeiture to the United States unless—

“(1) in the case of a motor vehicle part, such part is attached to a motor vehicle and the owner of such motor vehicle does not know that the identification number has been removed, obliterated, tampered with, or altered;

“(2) such motor vehicle or part has a replacement identification number that—

“(A) is authorized by the Secretary of Transportation under the National Traffic and Motor Vehicle Safety Act of 1966; or

“(B) conforms to applicable State law;

15 USC 1381
note.

“(3) such removal, obliteration, tampering, or alteration is caused by collision or fire or is carried out as described in section 511(b) of this title; or

“(4) such motor vehicle or part is in the possession or control of a motor vehicle scrap processor who does not know that such identification number was removed, obliterated, tampered with, or altered in any manner other than by collision or fire or as described in section 511(b) of this title.

“(b) All provisions of law relating to—

“(1) the seizure and condemnation of vessels, vehicles, merchandise, and baggage for violation of customs laws, and procedures for summary and judicial forfeiture applicable to such violations;

“(2) the disposition of such vessels, vehicles, merchandise, and baggage or the proceeds from such disposition;

“(3) the remission or mitigation of such forfeiture; and

“(4) the compromise of claims and the award of compensation to informers with respect to such forfeiture;

shall apply to seizures and forfeitures under this section, to the extent that such provisions are not inconsistent with this section. The duties of the collector of customs or any other person with respect to seizure and forfeiture under such provisions shall be performed under this section by such persons as may be designated by the Attorney General.

“(c) As used in this section, the terms ‘identification number’, ‘motor vehicle’, and ‘motor vehicle scrap processor’ have the meanings given those terms in section 511 of this title.”.

(b) The table of sections for chapter 25 of title 18, United States Code, is amended by adding at the end the following new items:

"511. Altering or removing motor vehicle identification numbers.

"512. Forfeiture of certain motor vehicles and motor vehicle parts."

DEFINITION OF SECURITIES

SEC. 202. Section 2311 of title 18, United States Code, is amended in the fifth definition by inserting after "voting-trust certificate;" the following: "valid or blank motor vehicle title;"

SALE OR RECEIPT OF STOLEN MOTOR VEHICLES

SEC. 203. Section 2313 of title 18, United States Code, is amended—

(1) by inserting "possesses," after "receives,"; and

(2) by striking out "moving as, or which is a part of, or which constitutes interstate or foreign commerce," and inserting in lieu thereof "which has crossed a State or United States boundary after being stolen,".

TRAFFICKING IN CERTAIN MOTOR VEHICLES OR MOTOR VEHICLE PARTS

SEC. 204. (a) Chapter 113 of title 18, United States Code, is amended by adding at the end the following new section:

18 USC 2320.

"§ 2320. Trafficking in certain motor vehicles or motor vehicle parts

"(a) Whoever buys, receives, possesses, or obtains control of, with intent to sell or otherwise dispose of, a motor vehicle or motor vehicle part, knowing that an identification number for such motor vehicle or part has been removed, obliterated, tampered with, or altered, shall be fined not more than \$20,000 or imprisoned not more than ten years, or both.

"(b) Subsection (a) does not apply if the removal, obliteration, tampering, or alteration—

"(1) is caused by collision or fire; or

"(2) is not a violation of section 511 of this title.

"(c) As used in this section, the terms 'identification number' and 'motor vehicle' have the meaning given those terms in section 511 of this title."

Ante, p. 2768.

(b) The table of sections for chapter 113 of title 18, United States Code, is amended by adding at the end the following new item: "2320. Trafficking in certain motor vehicles or motor vehicle parts."

DEFINITION OF RACKETEERING ACTIVITY

SEC. 205. Section 1961(1) of title 18, United States Code, is amended—

(1) by inserting "sections 2312 and 2313 (relating to interstate transportation of stolen motor vehicles)," after "section 1955 (relating to the prohibition of illegal gambling businesses),"; and

(2) by inserting "section 2320 (relating to trafficking in certain motor vehicles or motor vehicle parts)," after "sections 2314 and 2315 (relating to interstate transportation of stolen property),".

TITLE III—IMPORTATION AND EXPORTATION MEASURES

AMENDMENTS TO TITLE 18, UNITED STATES CODE

SEC. 301. (a) Chapter 27 of title 18, United States Code, is amended by adding at the end the following new section:

“§ 553. Importation or exportation of stolen motor vehicles, off-highway mobile equipment, vessels, or aircraft 18 USC 553.

“(a) Whoever knowingly imports, exports, or attempts to import or export—

“(1) any motor vehicle, off-highway mobile equipment, vessel, aircraft, or part of any motor vehicle, off-highway mobile equipment, vessel, or aircraft, knowing the same to have been stolen; or

“(2) any motor vehicle or off-highway mobile equipment or part of any motor vehicle or off-highway mobile equipment, knowing that the identification number of such motor vehicle, equipment, or part has been removed, obliterated, tampered with, or altered;

shall be fined not more than \$15,000 or imprisoned not more than five years, or both.

“(b) Subsection (a)(2) shall not apply if the removal, obliteration, tampering, or alteration—

“(1) is caused by collision or fire; or

“(2) is not a violation of section 511 of this title.

“(c) As used in this section, the term—

“(1) ‘motor vehicle’ has the meaning given that term in section 2 of the Motor Vehicle Information and Cost Savings Act;

“(2) ‘off-highway mobile equipment’ means any self-propelled agricultural equipment, self-propelled construction equipment, and self-propelled special use equipment, used or designed for running on land but not on rail or highway;

“(3) ‘vessel’ has the meaning given that term in section 401 of the Tariff Act of 1930 (19 U.S.C. 1401);

“(4) ‘aircraft’ has the meaning given that term in section 101 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301); and

“(5) ‘identification number’—

“(A) in the case of a motor vehicle, has the meaning given that term in section 511 of this title; and

“(B) in the case of any other vehicle or equipment covered by this section, means a number or symbol assigned to the vehicle or equipment, or part thereof, by the manufacturer primarily for the purpose of identifying such vehicle, equipment, or part.”.

(b) The table of sections for chapter 27 of title 18, United States Code, is amended by adding at the end the following new item:

“553. Importation or exportation of stolen motor vehicles, off-highway mobile equipment, vessels, or aircraft.”.

AMENDMENT TO TARIFF ACT OF 1930

SEC. 302. Part V of title IV of the Tariff Act of 1930 (19 U.S.C. 1581 et seq.) is amended by adding at the end thereof the following new section:

19 USC 1627.

"SEC. 627. UNLAWFUL IMPORTATION OR EXPORTATION OF CERTAIN VEHICLES AND EQUIPMENT; INSPECTIONS.

"(a)(1) Whoever knowingly imports, exports, or attempts to import or export—

"(A) any motor vehicle, off-highway mobile equipment, vessel, aircraft, or part of any motor vehicle, off-highway mobile equipment, vessel or aircraft, knowing the same to have been stolen; or

"(B) any motor vehicle or off-highway mobile equipment, or part of any motor vehicle or off-highway mobile equipment, knowing that the identification number has been removed, obliterated, tampered with, or altered;

shall be subject to a civil penalty in an amount determined by the Secretary, not to exceed \$10,000 for each violation.

"(2) Any violation of this subsection shall make such motor vehicle, off-highway mobile equipment, vessel, aircraft, or part thereof subject to seizure and forfeiture under this Act.

"(3) The provisions of paragraph (1)(B) shall not apply in the case of any vehicle, equipment, or part, if the removal, obliteration, tampering with, or alteration of the identification number for such vehicle, equipment, or part—

"(A) was caused by any collision or fire which results in damage to that portion of such vehicle, equipment, or part on which such identification number is displayed; or

"(B) was carried out in accordance with the provisions of section 511(b) of title 18, United States Code.

Regulations.

"(b) The Secretary shall prescribe regulations under which a person attempting to export any used motor vehicle or any used off-highway mobile equipment shall present to the appropriate customs officer both the vehicle or equipment, as the case may be, and a document describing such vehicle or equipment, as the case may be, which includes the vehicle or equipment identification number, as the case may be, before lading if the vehicle or equipment, as the case may be, is to be transported by vessel or aircraft, or before export if the vehicle or equipment, as the case may be, is to be transported by rail, highway, or under its own power. Failure to comply with such regulations of the Secretary shall subject such person to a civil penalty of not more than \$500 for each violation.

"(c) For purposes of this section—

"(1) the term 'motor vehicle' includes any automobile, truck, bus, motorcycle, or motor home, but such term does not include any off-highway mobile equipment;

"(2) the term 'off-highway mobile equipment' means self-propelled agricultural equipment, self-propelled construction equipment, and self-propelled special use equipment, used or designed for running on land but not on rail or highway;

"(3) the term 'aircraft' has the meaning given it in section 101(5) of the Federal Aviation Act of 1958 (49 U.S.C. 1301(5));

"(4) the term 'used' refers to any motor vehicle or off-highway mobile equipment the equitable or legal title to which has been transferred by a manufacturer, distributor, or dealer to an ultimate purchaser;

"(5) the term 'ultimate purchaser' means the first person, other than a dealer purchasing in his capacity as a dealer, who in good faith purchases a motor vehicle or off-highway mobile equipment for purposes other than resale; and

“(6) the term ‘identification number’ has the meaning given such term in section 553(b)(5) of title 18, United States Code.

“(d) Customs officers may cooperate and exchange information concerning motor vehicles, off-highway mobile equipment, vessels, or aircraft, either before exportation or after exportation or importation, with such Federal, State, local, and foreign law enforcement or governmental authorities, and with such organizations engaged in theft prevention activities, as may be designated by the Secretary.”.

Approved October 25, 1984.

LEGISLATIVE HISTORY—H.R. 6257 (S. 1400):

HOUSE REPORT No. 98-1087, Pt. 1 (Comm. on Energy and Commerce).

SENATE REPORT No. 98-478 accompanying S. 1400 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 130 (1984):

Oct. 1, considered and passed House.

Oct. 4, considered and passed Senate.

Public Law 98-548
98th Congress

An Act

Oct. 26, 1984

[H.R. 5271]

To extend the Wetlands Loan Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

That the first section of the Act entitled "An Act to promote the conservation of migratory waterfowl by the acquisition of wetlands and other essential waterfowl habitat, and for other purposes", approved October 4, 1961, is amended by striking out "September 30, 1984," and inserting in lieu thereof "September 30, 1986,".

16 USC 715k-3.

SEC. 102. Section 3 of such Act of October 4, 1961, is amended by striking out "October 1, 1984," each place it appears therein and inserting in lieu thereof "October 1, 1986,".

16 USC 715k-5.

TITLE II—TO ESTABLISH THE CONNECTICUT COASTAL
NATIONAL WILDLIFE REFUGE

FINDINGS AND PURPOSES

16 USC 668dd
note.

SEC. 201. (a) FINDINGS.—The Congress finds that—

(1) Chimon Island, off the coast of Norwalk, is the most important heron rookery in Connecticut and contains one of the three largest wading bird colonies in the Northeast United States;

(2) Milford Point, a narrow ten-acre tombolo, is one of the few remaining nesting sites in Connecticut for the piping plover;

(3) Falkner's Island supports the only significant breeding population of the roseate tern in Connecticut and the only major population of the common tern; and

(4) Sheffield Island is an excellent potential nesting habitat for heron.

(b) PURPOSES.—The purposes for which the Connecticut Coastal National Wildlife Refuge is established are—

(1) to enhance the populations of herons, egrets, terns, and other shore and wading birds within the refuge;

(2) to encourage natural diversity of fish and wildlife species within the refuge;

(3) to provide for the conservation and management of all fish and wildlife, within the refuge;

(4) to fulfill the international treaty obligations of the United States respecting fish and wildlife; and

(5) to provide opportunities for scientific research, environmental education, and fish and wildlife-oriented recreation.

DEFINITIONS

SEC. 202. As used in sections 201 through 205 of this Act—

(1) The term “refuge” means the Connecticut Coastal National Wildlife Refuge.

(2) The term “Secretary” means the Secretary of the Interior.

(3) The term “selection area” means the lands and waters of Chimon Island, Milford Point, Falkner’s Island, and Sheffield Island in the State of Connecticut.

ESTABLISHMENT OF REFUGE

SEC. 203. (a) SELECTION.—(1) Within ninety days after the effective date of this Act, the Secretary shall—

Public
availability.
Federal
Register,
publication.

(A) designate approximately one hundred and forty-five acres of land and waters within the selection area as land which the Secretary considers appropriate for the refuge;

(B) prepare a detailed map depicting the boundaries of the land designated under subparagraph (A), which map shall be on file and available for public inspection at offices of the United States Fish and Wildlife Service, and publish notice in the Federal Register of such availability.

(2) The Secretary may make such minor revisions in the boundaries designated under paragraph (1)(B) of this subsection as may be appropriate to carry out the purpose of this Act or to facilitate the acquisition of property within the refuge.

(b) ACQUISITION.—(1) Except as provided in paragraph (2), the Secretary shall acquire (by donation, purchase with donated or appropriated funds, or exchange) lands, waters, or interests therein within the boundaries designated under subsection (a)(1)(B).

(2) The Secretary of the department in which the Coast Guard is operating shall transfer jurisdiction over Falkner’s Island, Connecticut, to the Department of the Interior; except that the Coast Guard shall remain responsible for the operation and maintenance of the lighthouse on the island.

(c) ESTABLISHMENT.—The Secretary shall establish the national wildlife refuge, by publication of a notice to that effect in the Federal Register, whenever sufficient property has been acquired under this section to constitute an area that can be effectively managed as a national wildlife refuge.

Federal
Register,
publication.

ADMINISTRATION

SEC. 204. The Secretary shall administer all lands, waters, and interests therein, acquired under section 203 of this Act in accordance with the provisions of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-668ee). The Secretary may utilize such additional statutory authority as may be available to him for the conservation and development of wildlife and natural resources, the development of outdoor recreation opportunities, and interpretive education as he deems appropriate to carry out the purposes of the refuge.

AUTHORIZATION OF APPROPRIATIONS

SEC. 205. There is authorized to be appropriated to the Department of the Interior \$2,500,000 from funds not otherwise appropriated from the Land and Water Conservation Fund for the acquisition of lands for the refuge, which sums shall remain available until expended.

TITLE III—TO ESTABLISH THE ATCHAFALAYA NATIONAL
WILDLIFE REFUGE

DECLARATION OF FINDINGS AND PURPOSES

16 USC 668dd
note.

SEC. 301. (a) FINDINGS.—The Congress finds that—

(1) thousands of acres of bottomland hardwoods are being cleared each year in the Mississippi River Delta;

(2) these forested wetlands represent one of the most valuable and productive wildlife habitat types in the United States and have extremely high recreational value for hunters, fishermen, trappers, birdwatchers, nature photographers, and others, and

(3) the Atchafalaya area is a bottomland hardwood swamp which provides habitat for a diversity of wildlife, including herons, egrets, and other wading birds; mallards, wood ducks, and countless waterfowl; black bears, deer, bobcat, muskrat, and other mammals; a large population of alligators; and the Louisiana crawfish, as well as bass, catfish, and other fish.

(b) PURPOSES.—The purposes for which the Atchafalaya National Wildlife Refuge is established are—

(1) to provide for the conservation and management of all fish and wildlife within the refuge;

(2) to fulfill the international treaty obligations of the United States with respect to fish and wildlife; and

(3) to provide opportunities for scientific research, environmental education, and fish and wildlife-oriented recreation, including hunting, fishing and trapping, birdwatching, nature photography, and others.

DEFINITIONS

SEC. 302. As used in sections 301 through 305 of this Act—

(1) The term “Refuge” means Atchafalaya National Wildlife Refuge.

(2) The term “Secretary” means the Secretary of the Interior.

(3) The term “Selection area” means those lands and waters that are depicted on the map dated September 21, 1984, on file with the United States Fish and Wildlife Service which are not owned by the State of Louisiana and which are available from willing sellers.

ESTABLISHMENT OF REFUGE

SEC. 303. (a)(1) SELECTION.—Within one hundred and eighty days after the effective date of this Act, the Secretary shall—

(A) designate with the concurrence of the State of Louisiana land and waters within the selection area as land which the Secretary and the State of Louisiana consider appropriate for the refuge;

(B) prepare a detailed map with the concurrence of the State of Louisiana, depicting the boundaries of the land designated under subparagraph (A), which map shall be on file and available for public inspection at offices of the United States Fish and Wildlife Service, and publish notice in the Federal Register of such availability.

(2) The Secretary may make such minor revisions in the boundaries designated under paragraph (1)(B) of this subsection as may be

appropriate to carry out the purpose of this Act or to facilitate the acquisition of property within the refuge.

(b) ACQUISITION.—The Secretary shall acquire with funds provided under Public Law 98-396, the lands, waters, or interests therein within the boundaries designated under subsection (a)(1)(B). The Secretary is authorized to include in any transfer of property to the United States, pursuant to this Act, language requiring the United States, in the event that such property is no longer required for fish and wildlife conservation and prior to any subsequent sale, exchange, other transfer of the property acquired, to first offer such property to the vendors, their heirs, successors or assigns, at the same price then being offered by any third party, which price shall in no event be less than the current fair market value.

Public lands.
Ante, p. 1369.

(c) ESTABLISHMENT.—The Secretary shall establish the National Wildlife Refuge, by publication of a notice to that effect in the Federal Register, whenever sufficient property has been acquired under this section to constitute an area that can be effectively managed as a national wildlife refuge.

Federal
Register,
publication.

ADMINISTRATION

SEC. 304. The Secretary shall administer all lands, waters, and interests therein, acquired under section 303 of this Act in accordance with the provisions of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-668ee). The Secretary may utilize such additional statutory authority as may be available to him for the conservation and development of wildlife and natural resources, the development of outdoor recreation opportunities, and interpretive education as he deems appropriate to carry out the purposes of the refuge: *Provided, however*, That the Secretary shall enter into a cooperative agreement with the State of Louisiana to provide for management of the refuge by the State in a manner that is consistent with the responsibilities of the Secretary as the primary Administrator of the refuge and the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-668ee).

SEC. 305. The refuge shall be treated as a fee area for purposes of applying section 401 of the Act commonly referred to as the Refuge Revenue Sharing Act (16 U.S.C. 715s).

EFFECTIVE DATE

Effective date. SEC. 306. This Act shall take effect October 1, 1984, or on the date of its enactment, whichever date is later.

Approved October 26, 1984.

LEGISLATIVE HISTORY—H.R. 5271:

HOUSE REPORT No. 98-705 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 130 (1984):

Sept. 24, considered and passed House.
Oct. 3, considered and passed Senate, amended.
Oct. 4, House concurred in Senate amendments.

Public Law 98-549
98th Congress

An Act

To amend the Communications Act of 1934 to provide a national policy regarding cable television.

Oct. 30, 1984

[S. 66]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Cable
Communications
Policy Act of
1984.

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. (a) This Act may be cited as the “Cable Communications Policy Act of 1984”.

47 USC 609 note.

(b) The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Amendment of Communications Act of 1934.

“TITLE VI—CABLE COMMUNICATIONS

“PART I—GENERAL PROVISIONS

“Sec. 601. Purposes.

“Sec. 602. Definitions.

“PART II—USE OF CABLE CHANNELS AND OWNERSHIP RESTRICTIONS

“Sec. 611. Cable channels for public, educational, or governmental use.

“Sec. 612. Cable channels for commercial use.

“Sec. 613. Ownership restrictions.

“PART III—FRANCHISING AND REGULATION

“Sec. 621. General franchise requirements.

“Sec. 622. Franchise fees.

“Sec. 623. Regulation of rates.

“Sec. 624. Regulation of services, facilities, and equipment.

“Sec. 625. Modification of franchise obligations.

“Sec. 626. Renewal.

“Sec. 627. Conditions of sale.

“PART IV—MISCELLANEOUS PROVISIONS

“Sec. 631. Protection of subscriber privacy.

“Sec. 632. Consumer protection.

“Sec. 633. Unauthorized reception of cable service.

“Sec. 634. Equal employment opportunity.

“Sec. 635. Judicial proceedings.

“Sec. 636. Coordination of Federal, State, and local authority.

“Sec. 637. Existing franchises.

“Sec. 638. Criminal and civil liability.

“Sec. 639. Obscene programming.”

Sec. 3. Jurisdiction.

Sec. 4. Pole attachments.

Sec. 5. Unauthorized reception of certain communications.

Sec. 6. Technical and conforming amendments.

Sec. 7. Support of activities of the United States Telecommunications Training Institute.

Sec. 8. Telecommunications Policy Study Commission.

Sec. 9. Effective date.

AMENDMENT OF COMMUNICATIONS ACT OF 1934

SEC. 2. The Communications Act of 1934 is amended by inserting after title V the following new title:

“TITLE VI—CABLE COMMUNICATIONS

“PART I—GENERAL PROVISIONS

“PURPOSES

47 USC 521.

“SEC. 601. The purposes of this title are to—

“(1) establish a national policy concerning cable communications;

“(2) establish franchise procedures and standards which encourage the growth and development of cable systems and which assure that cable systems are responsive to the needs and interests of the local community;

“(3) establish guidelines for the exercise of Federal, State, and local authority with respect to the regulation of cable systems;

“(4) assure that cable communications provide and are encouraged to provide the widest possible diversity of information sources and services to the public;

“(5) establish an orderly process for franchise renewal which protects cable operators against unfair denials of renewal where the operator’s past performance and proposal for future performance meet the standards established by this title; and

“(6) promote competition in cable communications and minimize unnecessary regulation that would impose an undue economic burden on cable systems.

“DEFINITIONS

47 USC 522.

“SEC. 602. For purposes of this title—

“(1) the term ‘affiliate’, when used in relation to any person, means another person who owns or controls, is owned or controlled by, or is under common ownership or control with, such person;

“(2) the term ‘basic cable service’ means any service tier which includes the retransmission of local television broadcast signals;

“(3) the term ‘cable channel’ or ‘channel’ means a portion of the electromagnetic frequency spectrum which is used in a cable system and which is capable of delivering a television channel (as television channel is defined by the Commission by regulation);

“(4) the term ‘cable operator’ means any person or group of persons (A) who provides cable service over a cable system and directly or through one or more affiliates owns a significant interest in such cable system, or (B) who otherwise controls or is responsible for, through any arrangement, the management and operation of such a cable system;

“(5) the term ‘cable service’ means—

“(A) the one-way transmission to subscribers of (i) video programming, or (ii) other programming service, and

“(B) subscriber interaction, if any, which is required for the selection of such video programming or other programming service;

“(6) the term ‘cable system’ means a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within a community, but such term does not include (A) a facility that serves only to retransmit the television signals of 1 or more television broadcast stations; (B) a facility that serves only subscribers in 1 or more multiple unit dwellings under common ownership, control, or management, unless such facility or facilities uses any public right-of-way; (C) a facility of a common carrier which is subject, in whole or in part, to the provisions of title II of this Act, except that such facility shall be considered a cable system (other than for purposes of section 621(c)) to the extent such facility is used in the transmission of video programming directly to subscribers; or (D) any facilities of any electric utility used solely for operating its electric utility systems;

“(7) the term ‘Federal agency’ means any agency of the United States, including the Commission;

“(8) the term ‘franchise’ means an initial authorization, or renewal thereof (including a renewal of an authorization which has been granted subject to section 626), issued by a franchising authority, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement, or otherwise, which authorizes the construction or operation of a cable system;

“(9) the term ‘franchising authority’ means any governmental entity empowered by Federal, State, or local law to grant a franchise;

“(10) the term ‘grade B contour’ means the field strength of a television broadcast station computed in accordance with regulations promulgated by the Commission;

“(11) the term ‘other programming service’ means information that a cable operator makes available to all subscribers generally;

“(12) the term ‘person’ means an individual, partnership, association, joint stock company, trust, corporation, or governmental entity;

“(13) the term ‘public, educational, or governmental access facilities’ means—

“(A) channel capacity designated for public, educational, or governmental use; and

“(B) facilities and equipment for the use of such channel capacity;

“(14) the term ‘service tier’ means a category of cable service or other services provided by a cable operator and for which a separate rate is charged by the cable operator;

“(15) the term ‘State’ means any State, or political subdivision, or agency thereof; and

“(16) the term ‘video programming’ means programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

“PART II—USE OF CABLE CHANNELS AND CABLE OWNERSHIP
RESTRICTIONS

“CABLE CHANNELS FOR PUBLIC, EDUCATIONAL, OR GOVERNMENTAL USE

47 USC 531.

“SEC. 611. (a) A franchising authority may establish requirements in a franchise with respect to the designation or use of channel capacity for public, educational, or governmental use only to the extent provided in this section.

“(b) A franchising authority may in its request for proposals require as part of a franchise, and may require as part of a cable operator’s proposal for a franchise renewal, subject to section 626, that channel capacity be designated for public, educational, or governmental use, and channel capacity on institutional networks be designated for educational or governmental use, and may require rules and procedures for the use of the channel capacity designated pursuant to this section.

“(c) A franchising authority may enforce any requirement in any franchise regarding the providing or use of such channel capacity. Such enforcement authority includes the authority to enforce any provisions of the franchise for services, facilities, or equipment proposed by the cable operator which relate to public, educational, or governmental use of channel capacity, whether or not required by the franchising authority pursuant to subsection (b).

“(d) In the case of any franchise under which channel capacity is designated under subsection (b), the franchising authority shall prescribe—

“(1) rules and procedures under which the cable operator is permitted to use such channel capacity for the provision of other services if such channel capacity is not being used for the purposes designated, and

“(2) rules and procedures under which such permitted use shall cease.

“(e) Subject to section 624(d), a cable operator shall not exercise any editorial control over any public, educational, or governmental use of channel capacity provided pursuant to this section.

“(f) For purposes of this section, the term ‘institutional network’ means a communication network which is constructed or operated by the cable operator and which is generally available only to subscribers who are not residential subscribers.

“CABLE CHANNELS FOR COMMERCIAL USE

47 USC 532.

“SEC. 612. (a) The purpose of this section is to assure that the widest possible diversity of information sources are made available to the public from cable systems in a manner consistent with growth and development of cable systems.

“(b)(1) A cable operator shall designate channel capacity for commercial use by persons unaffiliated with the operator in accordance with the following requirements:

“(A) An operator of any cable system with 36 or more (but not more than 54) activated channels shall designate 10 percent of such channels which are not otherwise required for use (or the use of which is not prohibited) by Federal law or regulation.

“(B) An operator of any cable system with 55 or more (but not more than 100) activated channels shall designate 15 percent of

such channels which are not otherwise required for use (or the use of which is not prohibited) by Federal law or regulation.

“(C) An operator of any cable system with more than 100 activated channels shall designate 15 percent of all such channels.

“(D) An operator of any cable system with fewer than 36 activated channels shall not be required to designate channel capacity for commercial use by persons unaffiliated with the operator, unless the cable system is required to provide such channel capacity under the terms of a franchise in effect on the date of the enactment of this title.

“(E) An operator of any cable system in operation on the date of the enactment of this title shall not be required to remove any service actually being provided on July 1, 1984, in order to comply with this section, but shall make channel capacity available for commercial use as such capacity becomes available until such time as the cable operator is in full compliance with this section.

“(2) Any Federal agency, State, or franchising authority may not require any cable system to designate channel capacity for commercial use by unaffiliated persons in excess of the capacity specified in paragraph (1), except as otherwise provided in this section.

“(3) A cable operator may not be required, as part of a request for proposals or as part of a proposal for renewal, subject to section 626, to designate channel capacity for any use (other than commercial use by unaffiliated persons under this section) except as provided in sections 611 and 637, but a cable operator may offer in a franchise, or proposal for renewal thereof, to provide, consistent with applicable law, such capacity for other than commercial use by such persons.

“(4) A cable operator may use any unused channel capacity designated pursuant to this section until the use of such channel capacity is obtained, pursuant to a written agreement, by a person unaffiliated with the operator.

“(5) For the purposes of this section—

“(A) the term ‘activated channels’ means those channels engineered at the headend of the cable system for the provision of services generally available to residential subscribers of the cable system, regardless of whether such services actually are provided, including any channel designated for public, educational, or governmental use; and

“(B) the term ‘commercial use’ means the provision of video programming, whether or not for profit.

“(6) Any channel capacity which has been designated for public, educational, or governmental use may not be considered as designated under this section for commercial use for purpose of this section.

“(c)(1) If a person unaffiliated with the cable operator seeks to use channel capacity designated pursuant to subsection (b) for commercial use, the cable operator shall establish, consistent with the purpose of this section, the price, terms, and conditions of such use which are at least sufficient to assure that such use will not adversely affect the operation, financial condition, or market development of the cable system.

“(2) A cable operator shall not exercise any editorial control over any video programming provided pursuant to this section, or in any other way consider the content of such programming, except that an

operator may consider such content to the minimum extent necessary to establish a reasonable price for the commercial use of designated channel capacity by an unaffiliated person.

"(3) Any cable system channel designated in accordance with this section shall not be used to provide a cable service that is being provided over such system on the date of the enactment of this title, if the provision of such programming is intended to avoid the purpose of this section.

Courts, U S

"(d) Any person aggrieved by the failure or refusal of a cable operator to make channel capacity available for use pursuant to this section may bring an action in the district court of the United States for the judicial district in which the cable system is located to compel that such capacity be made available. If the court finds that the channel capacity sought by such person has not been made available in accordance with this section, or finds that the price, terms, or conditions established by the cable operator are unreasonable, the court may order such system to make available to such person the channel capacity sought, and further determine the appropriate price, terms, or conditions for such use consistent with subsection (c), and may award actual damages if it deems such relief appropriate. In any such action, the court shall not consider any price, term, or condition established between an operator and an affiliate for comparable services.

"(e)(1) Any person aggrieved by the failure or refusal of a cable operator to make channel capacity available pursuant to this section may petition the Commission for relief under this subsection upon a showing of prior adjudicated violations of this section. Records of previous adjudications resulting in a court determination that the operator has violated this section shall be considered as sufficient for the showing necessary under this subsection. If the Commission finds that the channel capacity sought by such person has not been made available in accordance with this section, or that the price, terms, or conditions established by such system are unreasonable under subsection (c), the Commission shall, by rule or order, require such operator to make available such channel capacity under price, terms, and conditions consistent with subsection (c).

"(2) In any case in which the Commission finds that the prior adjudicated violations of this section constitute a pattern or practice of violations by an operator, the Commission may also establish any further rule or order necessary to assure that the operator provides the diversity of information sources required by this section.

"(3) In any case in which the Commission finds that the prior adjudicated violations of this section constitute a pattern or practice of violations by any person who is an operator of more than one cable system, the Commission may also establish any further rule or order necessary to assure that such person provides the diversity of information sources required by this section.

"(f) In any action brought under this section in any Federal district court or before the Commission, there shall be a presumption that the price, terms, and conditions for use of channel capacity designated pursuant to subsection (b) are reasonable and in good faith unless shown by clear and convincing evidence to the contrary.

"(g) Notwithstanding sections 621(c) and 623(a), at such time as cable systems with 36 or more activated channels are available to 70 percent of households within the United States and are subscribed to by 70 percent of the households to which such systems are available, the Commission may promulgate any additional rules

necessary to provide diversity of information sources. Any rules promulgated by the Commission pursuant to this subsection shall not preempt authority expressly granted to franchising authorities under this title.

“(h) Any cable service offered pursuant to this section shall not be provided, or shall be provided subject to conditions, if such cable service in the judgment of the franchising authority is obscene, or is in conflict with community standards in that it is lewd, lascivious, filthy, or indecent or is otherwise unprotected by the Constitution of the United States.

“OWNERSHIP RESTRICTIONS

“SEC. 613. (a) It shall be unlawful for any person to be a cable operator if such person, directly or through 1 or more affiliates, owns or controls, the licensee of a television broadcast station and the predicted grade B contour of such station covers any portion of the community served by such operator’s cable system. 47 USC 533

“(b)(1) It shall be unlawful for any common carrier, subject in whole or in part to title II of this Act, to provide video programming directly to subscribers in its telephone service area, either directly or indirectly through an affiliate owned by, operated by, controlled by, or under common control with the common carrier. 47 USC 201.

“(2) It shall be unlawful for any common carrier, subject in whole or in part to title II of this Act, to provide channels of communications or pole line conduit space, or other rental arrangements, to any entity which is directly or indirectly owned by, operated by, controlled by, or under common control with such common carrier, if such facilities or arrangements are to be used for, or in connection with, the provision of video programming directly to subscribers in the telephone service area of the common carrier.

“(3) This subsection shall not apply to any common carrier to the extent such carrier provides telephone exchange service in any rural area (as defined by the Commission).

“(4) In those areas where the provision of video programming directly to subscribers through a cable system demonstrably could not exist except through a cable system owned by, operated by, controlled by, or affiliated with the common carrier involved, or upon other showing of good cause, the Commission may, on petition for waiver, waive the applicability of paragraphs (1) and (2) of this subsection. Any such waiver shall be made in accordance with section 63.56 of title 47, Code of Federal Regulations (as in effect September 20, 1984) and shall be granted by the Commission upon a finding that the issuance of such waiver is justified by the particular circumstances demonstrated by the petitioner, taking into account the policy of this subsection.

“(c) The Commission may prescribe rules with respect to the ownership or control of cable systems by persons who own or control other media of mass communications which serve the same community served by a cable system.

“(d) Any State or franchising authority may not prohibit the ownership or control of a cable system by any person because of such person’s ownership or control of any media of mass communications or other media interests.

“(e)(1) Subject to paragraph (2), a State or franchising authority may hold any ownership interest in any cable system.

“(2) Any State or franchising authority shall not exercise any editorial control regarding the content of any cable service on a

cable system in which such governmental entity holds ownership interest (other than programming on any channel designated for educational or governmental use), unless such control is exercised through an entity separate from the franchising authority.

“(f) This section shall not apply to prohibit any combination of any interests held by any person on July 1, 1984, to the extent of the interests so held as of such date, if the holding of such interests was not inconsistent with any applicable Federal or State law or regulations in effect on that date.

“(g) For purposes of this section, the term ‘media of mass communications’ shall have the meaning given such term under section 309(i)(3)(C)(i) of this Act.

47 USC 309.

“PART III—FRANCHISING AND REGULATION

“GENERAL FRANCHISE REQUIREMENTS

47 USC 541.

“SEC. 621. (a)(1) A franchising authority may award, in accordance with the provisions of this title, 1 or more franchises within its jurisdiction.

“(2) Any franchise shall be construed to authorize the construction of a cable system over public rights-of-way, and through easements, which is within the area to be served by the cable system and which have been dedicated for compatible uses, except that in using such easements the cable operator shall ensure—

“(A) that the safety, functioning, and appearance of the property and the convenience and safety of other persons not be adversely affected by the installation or construction of facilities necessary for a cable system;

“(B) that the cost of the installation, construction, operation, or removal of such facilities be borne by the cable operator or subscriber, or a combination of both; and

“(C) that the owner of the property be justly compensated by the cable operator for any damages caused by the installation, construction, operation, or removal of such facilities by the cable operator.

“(3) In awarding a franchise or franchises, a franchising authority shall assure that access to cable service is not denied to any group of potential residential cable subscribers because of the income of the residents of the local area in which such group resides.

“(b)(1) Except to the extent provided in paragraph (2), a cable operator may not provide cable service without a franchise.

“(2) Paragraph (1) shall not require any person lawfully providing cable service without a franchise on July 1, 1984, to obtain a franchise unless the franchising authority so requires.

“(c) Any cable system shall not be subject to regulation as a common carrier or utility by reason of providing any cable service.

“(d)(1) A State or the Commission may require the filing of informational tariffs for any intrastate communications service provided by a cable system, other than cable service, that would be subject to regulation by the Commission or any State if offered by a common carrier subject, in whole or in part, to title II of this Act. Such informational tariffs shall specify the rates, terms, and conditions for the provision of such service, including whether it is made available to all subscribers generally, and shall take effect on the date specified therein.

47 USC 201.

“(2) Nothing in this title shall be construed to affect the authority of any State to regulate any cable operator to the extent that such operator provides any communication service other than cable service, whether offered on a common carrier or private contract basis.

“(3) For purposes of this subsection, the term ‘State’ has the meaning given it in section 3(v).

47 USC 153.

“(e) Nothing in this title shall be construed to affect the authority of any State to license or otherwise regulate any facility or combination of facilities which serves only subscribers in one or more multiple unit dwellings under common ownership, control, or management and which does not use any public right-of-way.

“FRANCHISE FEES

“SEC. 622. (a) Subject to the limitation of subsection (b), any cable operator may be required under the terms of any franchise to pay a franchise fee.

47 USC 542.

“(b) For any twelve-month period, the franchise fees paid by a cable operator with respect to any cable system shall not exceed 5 percent of such cable operator’s gross revenues derived in such period from the operation of the cable system. For purposes of this section, the 12-month period shall be the 12-month period applicable under the franchise for accounting purposes. Nothing in this subsection shall prohibit a franchising authority and a cable operator from agreeing that franchise fees which lawfully could be collected for any such 12-month period shall be paid on a prepaid or deferred basis; except that the sum of the fees paid during the term of the franchise may not exceed the amount, including the time value of money, which would have lawfully been collected if such fees had been paid per annum.

“(c) A cable operator may pass through to subscribers the amount of any increase in a franchise fee, unless the franchising authority demonstrates that the rate structure specified in the franchise reflects all costs of franchise fees and so notifies the cable operator in writing.

“(d) In any court action under subsection (c), the franchising authority shall demonstrate that the rate structure reflects all costs of the franchise fees.

“(e) Any cable operator shall pass through to subscribers the amount of any decrease in a franchise fee.

“(f) A cable operator may designate that portion of a subscriber’s bill attributable to the franchise fee as a separate item on the bill.

“(g) For the purposes of this section—

“(1) the term ‘franchise fee’ includes any tax, fee, or assessment of any kind imposed by a franchising authority or other governmental entity on a cable operator or cable subscriber, or both, solely because of their status as such;

“(2) the term ‘franchise fee’ does not include—

“(A) any tax, fee, or assessment of general applicability (including any such tax, fee, or assessment imposed on both utilities and cable operators or their services but not including a tax, fee, or assessment which is unduly discriminatory against cable operators or cable subscribers);

“(B) in the case of any franchise in effect on the date of the enactment of this title, payments which are required by the franchise to be made by the cable operator during the

term of such franchise for, or in support of the use of, public, educational, or governmental access facilities;

“(C) in the case of any franchise granted after such date of enactment, capital costs which are required by the franchise to be incurred by the cable operator for public, educational, or governmental access facilities;

“(D) requirements or charges incidental to the awarding or enforcing of the franchise, including payments for bonds, security funds, letters of credit, insurance, indemnification, penalties, or liquidated damages; or

“(E) any fee imposed under title 17, United States Code.

“(h)(1) Nothing in this Act shall be construed to limit any authority of a franchising authority to impose a tax, fee, or other assessment of any kind on any person (other than a cable operator) with respect to cable service or other communications service provided by such person over a cable system for which charges are assessed to subscribers but not received by the cable operator.

“(2) For any 12-month period, the fees paid by such person with respect to any such cable service or other communications service shall not exceed 5 percent of such person’s gross revenues derived in such period from the provision of such service over the cable system.

“(i) Any Federal agency may not regulate the amount of the franchise fees paid by a cable operator, or regulate the use of funds derived from such fees, except as provided in this section.

“REGULATION OF RATES

47 USC 543.

“Sec. 623. (a) Any Federal agency or State may not regulate the rates for the provision of cable service except to the extent provided under this section. Any franchising authority may regulate the rates for the provision of cable service, or any other communications service provided over a cable system to cable subscribers, but only to the extent provided under this section.

“(b)(1) Within 180 days after the date of the enactment of this title, the Commission shall prescribe and make effective regulations which authorize a franchising authority to regulate rates for the provision of basic cable service in circumstances in which a cable system is not subject to effective competition. Such regulations may apply to any franchise granted after the effective date of such regulations. Such regulations shall not apply to any rate while such rate is subject to the provisions of subsection (c).

“(2) For purposes of rate regulation under this subsection, such regulations shall—

“(A) define the circumstances in which a cable system is not subject to effective competition; and

“(B) establish standards for such rate regulation.

“(3) The Commission shall periodically review such regulations, taking into account developments in technology, and may amend such regulations, consistent with paragraphs (1) and (2), to the extent the Commission determines necessary.

“(c) In the case of any cable system for which a franchise has been granted on or before the effective date of this title, until the end of the 2-year period beginning on such effective date, the franchising authority may, to the extent provided in a franchise—

“(1) regulate the rates for the provision of basic cable service, including multiple tiers of basic cable service;

“(2) require the provision of any service tier provided without charge (disregarding any installation or rental charge for equipment necessary for receipt of such tier); or

“(3) regulate rates for the initial installation or the rental of 1 set of the minimum equipment which is necessary for the subscriber's receipt of basic cable service.

“(d) Any request for an increase in any rate regulated pursuant to subsection (b) or (c) for which final action is not taken within 180 days after receipt of such request by the franchising authority shall be deemed to be granted, unless the 180-day period is extended by mutual agreement of the cable operator and the franchising authority.

“(e)(1) In addition to any other rate increase which is subject to the approval of a franchising authority, any rate subject to regulation pursuant to this section may be increased after the effective date of this title at the discretion of the cable operator by an amount not to exceed 5 percent per year if the franchise (as in effect on the effective date of this title) does not specify a fixed rate or rates for basic cable service for a specified period or periods which would be exceeded if such increase took effect.

“(2) Nothing in this section shall be construed to limit provisions of a franchise which permits a cable operator to increase any rate at the operator's discretion; however, the aggregate increases per year allowed under paragraph (1) shall be reduced by the amount of any increase taken such year under such franchise provisions.

“(f) Nothing in this title shall be construed as prohibiting any Federal agency, State, or a franchising authority, from—

“(1) prohibiting discrimination among customers of basic cable service, or

“(2) requiring and regulating the installation or rental of equipment which facilitates the reception of basic cable service by hearing impaired individuals.

“(g) Any State law in existence on the effective date of this title which provides for any limitation or preemption of regulation by any franchising authority (or the State or any political subdivision or agency thereof) of rates for cable service shall remain in effect during the 2-year period beginning on such effective date, to the extent such law provides for such limitation or preemption. As used in this section, the term ‘State’ has the meaning given it in section 3(v).

“(h) Not later than 6 years after the date of the enactment of this title, the Commission shall prepare and submit to the Congress a report regarding rate regulation of cable services, including such legislative recommendations as the Commission considers appropriate. Such report and recommendations shall be based on a study of such regulation which the Commission shall conduct regarding the effect of competition in the marketplace.

47 USC 153.
Report

“REGULATION OF SERVICES, FACILITIES, AND EQUIPMENT

“SEC. 624. (a) Any franchising authority may not regulate the services, facilities, and equipment provided by a cable operator except to the extent consistent with this title.

47 USC 544.

“(b) In the case of any franchise granted after the effective date of this title, the franchising authority, to the extent related to the establishment or operation of a cable system—

“(1) in its request for proposals for a franchise (including requests for renewal proposals, subject to section 626), may establish requirements for facilities and equipment, but may not establish requirements for video programming or other information services; and

“(2) subject to section 625, may enforce any requirements contained within the franchise—

“(A) for facilities and equipment; and

“(B) for broad categories of video programming or other services.

“(c) In the case of any franchise in effect on the effective date of this title, the franchising authority may, subject to section 625, enforce requirements contained within the franchise for the provision of services, facilities, and equipment, whether or not related to the establishment or operation of a cable system.

“(d)(1) Nothing in this title shall be construed as prohibiting a franchising authority and a cable operator from specifying, in a franchise or renewal thereof, that certain cable services shall not be provided or shall be provided subject to conditions, if such cable services are obscene or are otherwise unprotected by the Constitution of the United States.

“(2)(A) In order to restrict the viewing of programming which is obscene or indecent, upon the request of a subscriber, a cable operator shall provide (by sale or lease) a device by which the subscriber can prohibit viewing of a particular cable service during periods selected by that subscriber.

Effective date.

“(B) Subparagraph (A) shall take effect 180 days after the effective date of this title.

“(e) The Commission may establish technical standards relating to the facilities and equipment of cable systems which a franchising authority may require in the franchise.

“(f)(1) Any Federal agency, State, or franchising authority may not impose requirements regarding the provision or content of cable services, except as expressly provided in this title.

“(2) Paragraph (1) shall not apply to—

“(A) any rule, regulation, or order issued under any Federal law, as such rule, regulation, or order (i) was in effect on September 21, 1983, or (ii) may be amended after such date if the rule, regulation, or order as amended is not inconsistent with the express provisions of this title; and

“(B) any rule, regulation, or order under title 17, United States Code.

“MODIFICATION OF FRANCHISE OBLIGATIONS

47 USC 545.

“SEC. 625. (a)(1) During the period a franchise is in effect, the cable operator may obtain from the franchising authority modifications of the requirements in such franchise—

“(A) in the case of any such requirement for facilities or equipment, including public, educational, or governmental access facilities or equipment, if the cable operator demonstrates that (i) it is commercially impracticable for the operator to comply with such requirement, and (ii) the proposal by the cable operator for modification of such requirement is appropriate because of commercial impracticability; or

“(B) in the case of any such requirement for services, if the cable operator demonstrates that the mix, quality, and level of

services required by the franchise at the time it was granted will be maintained after such modification.

“(2) Any final decision by a franchising authority under this subsection shall be made in a public proceeding. Such decision shall be made within 120 days after receipt of such request by the franchising authority, unless such 120 day period is extended by mutual agreement of the cable operator and the franchising authority.

“(b)(1) Any cable operator whose request for modification under subsection (a) has been denied by a final decision of a franchising authority may obtain modification of such franchise requirements pursuant to the provisions of section 635.

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“(2) In the case of any proposed modification of a requirement for facilities or equipment, the court shall grant such modification only if the cable operator demonstrates to the court that—

“(A) it is commercially impracticable for the operator to comply with such requirement; and

“(B) the terms of the modification requested are appropriate because of commercial impracticability.

“(3) In the case of any proposed modification of a requirement for services, the court shall grant such modification only if the cable operator demonstrates to the court that the mix, quality, and level of services required by the franchise at the time it was granted will be maintained after such modification.

“(c) Notwithstanding subsections (a) and (b), a cable operator may, upon 30 days' advance notice to the franchising authority, rearrange, replace, or remove a particular cable service required by the franchise if—

“(1) such service is no longer available to the operator; or

“(2) such service is available to the operator only upon the payment of a royalty required under section 801(b)(2) of title 17, United States Code, which the cable operator can document—

“(A) is substantially in excess of the amount of such payment required on the date of the operator's offer to provide such service, and

“(B) has not been specifically compensated for through a rate increase or other adjustment.

“(d) Notwithstanding subsections (a) and (b), a cable operator may take such actions to rearrange a particular service from one service tier to another, or otherwise offer the service, if the rates for all of the service tiers involved in such actions are not subject to regulation under section 623.

“(e) A cable operator may not obtain modification under this section of any requirement for services relating to public, educational, or governmental access.

“(f) For purposes of this section, the term ‘commercially impracticable’ means, with respect to any requirement applicable to a cable operator, that it is commercially impracticable for the operator to comply with such requirement as a result of a change in conditions which is beyond the control of the operator and the nonoccurrence of which was a basic assumption on which the requirement was based.

“RENEWAL

“Sec. 626. (a) During the 6-month period which begins with the 36th month before the franchise expiration, the franchising authority may on its own initiative, and shall at the request of the cable

47 USC 546.

operator, commence proceedings which afford the public in the franchise area appropriate notice and participation for the purpose of—

“(1) identifying the future cable-related community needs and interests; and

“(2) reviewing the performance of the cable operator under the franchise during the then current franchise term.

“(b)(1) Upon completion of a proceeding under subsection (a), a cable operator seeking renewal of a franchise may, on its own initiative or at the request of a franchising authority, submit a proposal for renewal.

“(2) Subject to section 624, any such proposal shall contain such material as the franchising authority may require, including proposals for an upgrade of the cable system.

“(3) The franchising authority may establish a date by which such proposal shall be submitted.

“(c)(1) Upon submittal by a cable operator of a proposal to the franchising authority for the renewal of a franchise, the franchising authority shall provide prompt public notice of such proposal and, during the 4-month period which begins on the completion of any proceedings under subsection (a), renew the franchise or, issue a preliminary assessment that the franchise should not be renewed and, at the request of the operator or on its own initiative, commence an administrative proceeding, after providing prompt public notice of such proceeding, in accordance with paragraph (2) to consider whether—

“(A) the cable operator has substantially complied with the material terms of the existing franchise and with applicable law;

“(B) the quality of the operator's service, including signal quality, response to consumer complaints, and billing practices, but without regard to the mix, quality, or level of cable services or other services provided over the system, has been reasonable in light of community needs;

“(C) the operator has the financial, legal, and technical ability to provide the services, facilities, and equipment as set forth in the operator's proposal; and

“(D) the operator's proposal is reasonable to meet the future cable-related community needs and interests, taking into account the cost of meeting such needs and interests.

“(2) In any proceeding under paragraph (1), the cable operator shall be afforded adequate notice and the cable operator and the franchise authority, or its designee, shall be afforded fair opportunity for full participation, including the right to introduce evidence (including evidence related to issues raised in the proceeding under subsection (a)), to require the production of evidence, and to question witnesses. A transcript shall be made of any such proceeding.

“(3) At the completion of a proceeding under this subsection, the franchising authority shall issue a written decision granting or denying the proposal for renewal based upon the record of such proceeding, and transmit a copy of such decision to the cable operator. Such decision shall state the reasons therefor.

“(d) Any denial of a proposal for renewal shall be based on one or more adverse findings made with respect to the factors described in subparagraphs (A) through (D) of subsection (c)(1), pursuant to the record of the proceeding under subsection (c). A franchising authority may not base a denial of renewal on a failure to substantially

comply with the material terms of the franchise under subsection (c)(1)(A) or on events considered under subsection (c)(1)(B) in any case in which a violation of the franchise or the events considered under subsection (c)(1)(B) occur after the effective date of this title unless the franchising authority has provided the operator with notice and the opportunity to cure, or in any case in which it is documented that the franchising authority has waived its right to object, or has effectively acquiesced.

“(e)(1) Any cable operator whose proposal for renewal has been denied by a final decision of a franchising authority made pursuant to this section, or has been adversely affected by a failure of the franchising authority to act in accordance with the procedural requirements of this section, may appeal such final decision or failure pursuant to the provisions of section 635.

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“(2) The court shall grant appropriate relief if the court finds that—

“(A) any action of the franchising authority is not in compliance with the procedural requirements of this section; or

“(B) in the event of a final decision of the franchising authority denying the renewal proposal, the operator has demonstrated that the adverse finding of the franchising authority with respect to each of the factors described in subparagraphs (A) through (D) of subsection (c)(1) on which the denial is based is not supported by a preponderance of the evidence, based on the record of the proceeding conducted under subsection (c).

“(f) Any decision of a franchising authority on a proposal for renewal shall not be considered final unless all administrative review by the State has occurred or the opportunity therefor has lapsed.

“(g) For purposes of this section, the term ‘franchise expiration’ means the date of the expiration of the term of the franchise, as provided under the franchise, as it was in effect on the date of the enactment of this title.

“(h) Notwithstanding the provisions of subsections (a) through (g) of this section, a cable operator may submit a proposal for the renewal of a franchise pursuant to this subsection at any time, and a franchising authority may, after affording the public adequate notice and opportunity for comment, grant or deny such proposal at any time (including after proceedings pursuant to this section have commenced). The provisions of subsections (a) through (g) of this section shall not apply to a decision to grant or deny a proposal under this subsection. The denial of a renewal pursuant to this subsection shall not affect action on a renewal proposal that is submitted in accordance with subsections (a) through (g).

“CONDITIONS OF SALE

“Sec. 627. (a) If a renewal of a franchise held by a cable operator is denied and the franchising authority acquires ownership of the cable system or effects a transfer of ownership of the system to another person, any such acquisition or transfer shall be—

47 USC 547.

“(1) at fair market value, determined on the basis of the cable system valued as a going concern but with no value allocated to the franchise itself, or

“(2) in the case of any franchise existing on the effective date of this title, at a price determined in accordance with the

franchise if such franchise contains provisions applicable to such an acquisition or transfer.

“(b) If a franchise held by a cable operator is revoked for cause and the franchising authority acquires ownership of the cable system or effects a transfer of ownership of the system to another person, any such acquisition or transfer shall be—

“(1) at an equitable price, or

“(2) in the case of any franchise existing on the effective date of this title, at a price determined in accordance with the franchise if such franchise contains provisions applicable to such an acquisition or transfer.

“PART IV—MISCELLANEOUS PROVISIONS

“PROTECTION OF SUBSCRIBER PRIVACY

47 USC 551.

“SEC. 631. (a)(1) At the time of entering into an agreement to provide any cable service or other service to a subscriber and at least once a year thereafter, a cable operator shall provide notice in the form of a separate, written statement to such subscriber which clearly and conspicuously informs the subscriber of—

“(A) the nature of personally identifiable information collected or to be collected with respect to the subscriber and the nature of the use of such information;

“(B) the nature, frequency, and purpose of any disclosure which may be made of such information, including an identification of the types of persons to whom the disclosure may be made;

“(C) the period during which such information will be maintained by the cable operator;

“(D) the times and place at which the subscriber may have access to such information in accordance with subsection (d); and

“(E) the limitations provided by this section with respect to the collection and disclosure of information by a cable operator and the right of the subscriber under subsections (f) and (h) to enforce such limitations.

In the case of subscribers who have entered into such an agreement before the effective date of this section, such notice shall be provided within 180 days of such date and at least once a year thereafter.

“(2) For purposes of this section, the term ‘personally identifiable information’ does not include any record of aggregate data which does not identify particular persons.

“(b)(1) Except as provided in paragraph (2), a cable operator shall not use the cable system to collect personally identifiable information concerning any subscriber without the prior written or electronic consent of the subscriber concerned.

“(2) A cable operator may use the cable system to collect such information in order to—

“(A) obtain information necessary to render a cable service or other service provided by the cable operator to the subscriber; or

“(B) detect unauthorized reception of cable communications.

“(c)(1) Except as provided in paragraph (2), a cable operator shall not disclose personally identifiable information concerning any subscriber without the prior written or electronic consent of the subscriber concerned.

“(2) A cable operator may disclose such information if the disclosure is—

“(A) necessary to render, or conduct a legitimate business activity related to, a cable service or other service provided by the cable operator to the subscriber;

“(B) subject to subsection (h), made pursuant to a court order authorizing such disclosure, if the subscriber is notified of such order by the person to whom the order is directed; or

“(C) a disclosure of the names and addresses of subscribers to any cable service or other service, if—

“(i) the cable operator has provided the subscriber the opportunity to prohibit or limit such disclosure, and

“(ii) the disclosure does not reveal, directly or indirectly, the—

“(I) extent of any viewing or other use by the subscriber of a cable service or other service provided by the cable operator, or

“(II) the nature of any transaction made by the subscriber over the cable system of the cable operator.

“(d) A cable subscriber shall be provided access to all personally identifiable information regarding that subscriber which is collected and maintained by a cable operator. Such information shall be made available to the subscriber at reasonable times and at a convenient place designated by such cable operator. A cable subscriber shall be provided reasonable opportunity to correct any error in such information.

“(e) A cable operator shall destroy personally identifiable information if the information is no longer necessary for the purpose for which it was collected and there are no pending requests or orders for access to such information under subsection (d) or pursuant to a court order.

“(f)(1) Any person aggrieved by any act of a cable operator in violation of this section may bring a civil action in a United States district court.

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“(2) The court may award—

“(A) actual damages but not less than liquidated damages computed at the rate of \$100 a day for each day of violation or \$1,000, whichever is higher;

“(B) punitive damages; and

“(C) reasonable attorneys' fees and other litigation costs reasonably incurred.

“(3) The remedy provided by this section shall be in addition to any other lawful remedy available to a cable subscriber.

“(g) Nothing in this title shall be construed to prohibit any State or any franchising authority from enacting or enforcing laws consistent with this section for the protection of subscriber privacy.

“(h) A governmental entity may obtain personally identifiable information concerning a cable subscriber pursuant to a court order only if, in the court proceeding relevant to such court order—

“(1) such entity offers clear and convincing evidence that the subject of the information is reasonably suspected of engaging in criminal activity and that the information sought would be material evidence in the case; and

“(2) the subject of the information is afforded the opportunity to appear and contest such entity's claim.

"CONSUMER PROTECTION

47 USC 552.

"SEC. 632. (a) A franchising authority may require, as part of a franchise (including a franchise renewal, subject to section 626), provisions for enforcement of—

"(1) customer service requirements of the cable operator; and

"(2) construction schedules and other construction-related requirements of the cable operator.

"(b) A franchising authority may enforce any provision, contained in any franchise, relating to requirements described in paragraph (1) or (2) of subsection (a), to the extent not inconsistent with this title.

"(c) Nothing in this title shall be construed to prohibit any State or any franchising authority from enacting or enforcing any consumer protection law, to the extent not inconsistent with this title.

"UNAUTHORIZED RECEPTION OF CABLE SERVICE

47 USC 553.

"SEC. 633. (a)(1) No person shall intercept or receive or assist in intercepting or receiving any communications service offered over a cable system, unless specifically authorized to do so by a cable operator or as may otherwise be specifically authorized by law.

"(2) For the purpose of this section, the term 'assist in intercepting or receiving' shall include the manufacture or distribution of equipment intended by the manufacturer or distributor (as the case may be) for unauthorized reception of any communications service offered over a cable system in violation of subparagraph (1).

Crimes and misdemeanors

"(b)(1) Any person who willfully violates subsection (a)(1) shall be fined not more than \$1,000 or imprisoned for not more than 6 months, or both.

"(2) Any person who violates subsection (a)(1) willfully and for purposes of commercial advantage or private financial gain shall be fined not more than \$25,000 or imprisoned for not more than 1 year, or both, for the first such offense and shall be fined not more than \$50,000 or imprisoned for not more than 2 years, or both, for any subsequent offense.

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"(c)(1) Any person aggrieved by any violation of subsection (a)(1) may bring a civil action in a United States district court or in any other court of competent jurisdiction.

"(2) The court may—

"(A) grant temporary and final injunctions on such terms as it may deem reasonable to prevent or restrain violations of subsection (a)(1);

"(B) award damages as described in paragraph (3); and

"(C) direct the recovery of full costs, including awarding reasonable attorneys' fees to an aggrieved party who prevails.

"(3)(A) Damages awarded by any court under this section shall be computed in accordance with either of the following clauses:

"(i) the party aggrieved may recover the actual damages suffered by him as a result of the violation and any profits of the violator that are attributable to the violation which are not taken into account in computing the actual damages; in determining the violator's profits, the party aggrieved shall be required to prove only the violator's gross revenue, and the violator shall be required to prove his deductible expenses and the elements of profit attributable to factors other than the violation; or

- “(ii) the party aggrieved may recover an award of statutory damages for all violations involved in the action, in a sum of not less than \$250 or more than \$10,000 as the court considers just.
- “(B) In any case in which the court finds that the violation was committed willfully and for purposes of commercial advantage or private financial gain, the court in its discretion may increase the award of damages, whether actual or statutory under subparagraph (A), by an amount of not more than \$50,000.
- “(C) In any case where the court finds that the violator was not aware and had no reason to believe that his acts constituted a violation of this section, the court in its discretion may reduce the award of damages to a sum of not less than \$100.
- “(D) Nothing in this title shall prevent any State or franchising authority from enacting or enforcing laws, consistent with this section, regarding the unauthorized interception or reception of any cable service or other communications service.

“EQUAL EMPLOYMENT OPPORTUNITY

“SEC. 634. (a) This section shall apply to any corporation, partnership, association, joint-stock company, or trust engaged primarily in the management or operation of any cable system. 47 USC 554.

“(b) Equal opportunity in employment shall be afforded by each entity specified in subsection (a), and no person shall be discriminated against in employment by such entity because of race, color, religion, national origin, age, or sex.

“(c) Any entity specified in subsection (a) shall establish, maintain, and execute a positive continuing program of specific practices designed to ensure equal opportunity in every aspect of its employment policies and practices. Under the terms of its program, each such entity shall—

“(1) define the responsibility of each level of management to ensure a positive application and vigorous enforcement of its policy of equal opportunity, and establish a procedure to review and control managerial and supervisory performance;

“(2) inform its employees and recognized employee organizations of the equal employment opportunity policy and program and enlist their cooperation;

“(3) communicate its equal employment opportunity policy and program and its employment needs to sources of qualified applicants without regard to race, color, religion, national origin, age, or sex, and solicit their recruitment assistance on a continuing basis;

“(4) conduct a continuing program to exclude every form of prejudice or discrimination based on race, color, religion, national origin, age, or sex, from its personnel policies and practices and working conditions; and

“(5) conduct a continuing review of job structure and employment practices and adopt positive recruitment, training, job design, and other measures needed to ensure genuine equality of opportunity to participate fully in all its organizational units, occupations, and levels of responsibility.

“(d)(1) Not later than 270 days after the effective date of this section, and after notice and opportunity for hearing, the Commission shall prescribe rules to carry out this section. Regulations.

“(2) Such rules shall specify the terms under which an entity specified in subsection (a) shall, to the extent possible— Minorities
Women.

“(A) disseminate its equal opportunity program to job applicants, employees, and those with whom it regularly does business;

“(B) use minority organizations, organizations for women, media, educational institutions, and other potential sources of minority and female applicants, to supply referrals whenever jobs are available in its operation;

“(C) evaluate its employment profile and job turnover against the availability of minorities and women in its franchise area;

“(D) undertake to offer promotions of minorities and women to positions of greater responsibility;

“(E) encourage minority and female entrepreneurs to conduct business with all parts of its operation; and

“(F) analyze the results of its efforts to recruit, hire, promote, and use the services of minorities and women and explain any difficulties encountered in implementing its equal employment opportunity program.

Report.

“(3) Such rules also shall require an entity specified in subsection (a) with more than 5 full-time employees to file with the Commission an annual statistical report identifying by race and sex the number of employees in each of the following full-time and part-time job categories:

“(A) officials and managers;

“(B) professionals;

“(C) technicians;

“(D) sales persons;

“(E) office and clerical personnel;

“(F) skilled craft persons;

“(G) semiskilled operatives;

“(H) unskilled laborers; and

“(I) service workers.

Public
availability.

The report shall include the number of minorities and women in the relevant labor market for each of the above categories. The statistical report shall be available to the public at the central office and at every location where more than 5 full-time employees are regularly assigned to work.

“(4) The Commission may amend such rules from time to time to the extent necessary to carry out the provisions of this section. Any such amendment shall be made after notice and opportunity for comment.

“(e)(1) On an annual basis, the Commission shall certify each entity described in subsection (a) as in compliance with this section if, on the basis of information in the possession of the Commission, including the report filed pursuant to subsection (d)(3), such entity was in compliance, during the annual period involved, with the requirements of subsections (b), (c), and (d).

Investigations.

“(2) The Commission shall, periodically but not less frequently than every five years, investigate the employment practices of each entity described in subsection (a), in the aggregate, as well as in individual job categories, and determine whether such entity is in compliance with the requirements of subsections (b), (c), and (d), including whether such entity's employment practices deny or abridge women and minorities equal employment opportunities. As part of such investigation, the Commission shall review whether the entity's reports filed pursuant to subsection (d)(3) accurately reflect employee responsibilities in the reported job classifications.

“(f)(1) If the Commission finds after notice and hearing that the entity involved has willfully or repeatedly without good cause failed to comply with the requirements of this section, such failure shall constitute a substantial failure to comply with this title. The failure to obtain certification under subsection (e) shall not itself constitute the basis for a determination of substantial failure to comply with this title. For purposes of this paragraph, the term ‘repeatedly’, when used with respect to failures to comply, refers to 3 or more failures during any 7-year period.

“(2) Any person who is determined by the Commission, through an investigation pursuant to subsection (e) or otherwise, to have failed to meet or failed to make best efforts to meet the requirements of this section, or rules under this section, shall be liable to the United States for a forfeiture penalty of \$200 for each violation. Each day of a continuing violation shall constitute a separate offense. Any entity defined in subsection (a) shall not be liable for more than 180 days of forfeitures which accrued prior to notification by the Commission of a potential violation. Nothing in this paragraph shall limit the forfeiture imposed on any person as a result of any violation that continues subsequent to such notification. In addition, any person liable for such penalty may also have any license under this Act for cable auxiliary relay service suspended until the Commission determines that the failure involved has been corrected. Whoever knowingly makes any false statement or submits documentation which he knows to be false, pursuant to an application for certification under this section shall be in violation of this section.

“(3) The provisions of paragraphs (3) and (4), and the last 2 sentences of paragraph (2), of section 503(b) shall apply to forfeitures under this subsection.

“(4) The Commission shall provide for notice to the public and appropriate franchising authorities of any penalty imposed under this section.

“(g) Employees or applicants for employment who believe they have been discriminated against in violation of the requirements of this section, or rules under this section, or any other interested person, may file a complaint with the Commission. A complaint by any such person shall be in writing, and shall be signed and sworn to by that person. The regulations under subsection (d)(1) shall specify a program, under authorities otherwise available to the Commission, for the investigation of complaints and violations, and for the enforcement of this section.

“(h)(1) For purposes of this section, the term ‘cable operator’ includes any operator of any satellite master antenna television system, including a system described in section 602(6)(A).

“(2) Such term does not include any operator of a system which, in the aggregate, serves fewer than 50 subscribers.

“(3) In any case in which a cable operator is the owner of a multiple unit dwelling, the requirements of this section shall only apply to such cable operator with respect to its employees who are primarily engaged in cable telecommunications.

“(i)(1) Nothing in this section shall affect the authority of any State or any franchising authority—

“(A) to establish or enforce any requirement which is consistent with the requirements of this section, including any requirement which affords equal employment opportunity protection for employees;

“(B) to establish or enforce any provision requiring or encouraging any cable operator to conduct business with enterprises which are owned or controlled by members of minority groups (as defined in section 309(i)(3)(C)(ii)) or which have their principal operations located within the community served by the cable operator; or

“(C) to enforce any requirement of a franchise in effect on the effective date of this title.

“(2) The remedies and enforcement provisions of this section are in addition to, and not in lieu of, those available under this or any other law.

“(3) The provisions of this section shall apply to any cable operator, whether operating pursuant to a franchise granted before, on, or after the date of the enactment of this section.

“JUDICIAL PROCEEDINGS

Courts, U.S.
47 USC 555.

“SEC. 635. (a) Any cable operator adversely affected by any final determination made by a franchising authority under section 625 or 626 may commence an action within 120 days after receiving notice of such determination, which may be brought in—

“(1) the district court of the United States for any judicial district in which the cable system is located; or

“(2) in any State court of general jurisdiction having jurisdiction over the parties.

“(b) The court may award any appropriate relief consistent with the provisions of the relevant section described in subsection (a).

“COORDINATION OF FEDERAL, STATE, AND LOCAL AUTHORITY

47 USC 556.

“SEC. 636. (a) Nothing in this title shall be construed to affect any authority of any State, political subdivision, or agency thereof, or franchising authority, regarding matters of public health, safety, and welfare, to the extent consistent with the express provisions of this title.

“(b) Nothing in this title shall be construed to restrict a State from exercising jurisdiction with regard to cable services consistent with this title.

“(c) Except as provided in section 637, any provision of law of any State, political subdivision, or agency thereof, or franchising authority, or any provision of any franchise granted by such authority, which is inconsistent with this Act shall be deemed to be preempted and superseded.

47 USC 153.

“(d) For purposes of this section, the term ‘State’ has the meaning given such term in section 3(v).

“EXISTING FRANCHISES

47 USC 557

“SEC. 637. (a) The provisions of—

“(1) any franchise in effect on the effective date of this title, including any such provisions which relate to the designation, use, or support for the use of channel capacity for public, educational, or governmental use, and

“(2) any law of any State (as defined in section 3(v)) in effect on the date of the enactment of this section, or any regulation promulgated pursuant to such law, which relates to such designation, use or support of such channel capacity,

shall remain in effect, subject to the express provisions of this title, and for not longer than the then current remaining term of the franchise as such franchise existed on such effective date.

“(b) For purposes of subsection (a) and other provisions of this title, a franchise shall be considered in effect on the effective date of this title if such franchise was granted on or before such effective date.

“CRIMINAL AND CIVIL LIABILITY

“SEC. 638. Nothing in this title shall be deemed to affect the criminal or civil liability of cable programmers or cable operators pursuant to the Federal, State, or local law of libel, slander, obscenity, incitement, invasions of privacy, false or misleading advertising, or other similar laws, except that cable operators shall not incur any such liability for any program carried on any channel designated for public, educational, governmental use or on any other channel obtained under section 612 or under similar arrangements. 47 USC 558.

“OBSCENE PROGRAMMING

“SEC. 639. Whoever transmits over any cable system any matter which is obscene or otherwise unprotected by the Constitution of the United States shall be fined not more than \$10,000 or imprisoned not more than 2 years, or both.” 47 USC 559.

JURISDICTION

SEC. 3. (a)(1) Section 2(a) of the Communications Act of 1934 is amended by adding at the end thereof the following: “The provisions of this Act shall apply with respect to cable service, to all persons engaged within the United States in providing such service, and to the facilities of cable operators which relate to such service, as provided in title VI.” 47 USC 152.

(2) Section 2(b) of such Act is amended by inserting after “section 301” the following: “and title VI”.

Ante, p. 2780.

(b) The provisions of this Act and amendments made by this Act shall not be construed to affect any jurisdiction the Federal Communications Commission may have under the Communications Act of 1934 with respect to any communication by wire or radio (other than cable service, as defined in section 602(5) of such Act) which is provided through a cable system, or persons or facilities engaged in such communications. 47 USC 521 note.

47 USC 609.

POLE ATTACHMENTS

SEC. 4. Section 224(c) of the Communications Act of 1934 is amended by adding at the end thereof the following new paragraph: 47 USC 224.

“(3) For purposes of this subsection, a State shall not be considered to regulate the rates, terms, and conditions for pole attachments—

“(A) unless the State has issued and made effective rules and regulations implementing the State’s regulatory authority over pole attachments; and

“(B) with respect to any individual matter, unless the State takes final action on a complaint regarding such matter—

“(i) within 180 days after the complaint is filed with the State, or

“(ii) within the applicable period prescribed for such final action in such rules and regulations of the State, if the

prescribed period does not extend beyond 360 days after the filing of such complaint.”.

UNAUTHORIZED RECEPTION OF CERTAIN COMMUNICATIONS

47 USC 605.

SEC. 5. (a) Section 705 of the Communications Act of 1934 (as redesignated by section 6) is amended by inserting “(a)” after the section designation and by adding at the end thereof the following new subsections:

“(b) The provisions of subsection (a) shall not apply to the interception or receipt by any individual, or the assisting (including the manufacture or sale) of such interception or receipt, of any satellite cable programming for private viewing if—

“(1) the programming involved is not encrypted; and

“(2)(A) a marketing system is not established under which—

“(i) an agent or agents have been lawfully designated for the purpose of authorizing private viewing by individuals, and

“(ii) such authorization is available to the individual involved from the appropriate agent or agents; or

“(B) a marketing system described in subparagraph (A) is established and the individuals receiving such programming has obtained authorization for private viewing under that system.

“(c) For purposes of this section—

“(1) the term ‘satellite cable programming’ means video programming which is transmitted via satellite and which is primarily intended for the direct receipt by cable operators for their retransmission to cable subscribers;

“(2) the term ‘agent’, with respect to any person, includes an employee of such person;

“(3) the term ‘encrypt’, when used with respect to satellite cable programming, means to transmit such programming in a form whereby the aural and visual characteristics (or both) are modified or altered for the purpose of preventing the unauthorized receipt of such programming by persons without authorized equipment which is designed to eliminate the effects of such modification or alteration;

“(4) the term ‘private viewing’ means the viewing for private use in an individual’s dwelling unit by means of equipment, owned or operated by such individual, capable of receiving satellite cable programming directly from a satellite; and

“(5) the term ‘private financial gain’ shall not include the gain resulting to any individual for the private use in such individual’s dwelling unit of any programming for which the individual has not obtained authorization for that use.

Crimes and
misdemeanors.

“(d)(1) Any person who willfully violates subsection (a) shall be fined not more than \$1,000 or imprisoned for not more than 6 months, or both.

“(2) Any person who violates subsection (a) willfully and for purposes of direct or indirect commercial advantage or private financial gain shall be fined not more than \$25,000 or imprisoned for not more than 1 year, or both, for the first such conviction and shall be fined not more than \$50,000 or imprisoned for not more than 2 years, or both, for any subsequent conviction.

“(3)(A) Any person aggrieved by any violation of subsection (a) may bring a civil action in a United States district court or in any other court of competent jurisdiction. Courts, U.S.

“(B) The court may—

“(i) grant temporary and final injunctions on such terms as it may deem reasonable to prevent or restrain violations of subsection (a);

“(ii) award damages as described in subparagraph (C); and

“(iii) direct the recovery of full costs, including awarding reasonable attorneys’ fees to an aggrieved party who prevails.

“(C)(i) Damages awarded by any court under this section shall be computed, at the election of the aggrieved party, in accordance with either of the following subclauses;

“(I) the party aggrieved may recover the actual damages suffered by him as a result of the violation and any profits of the violator that are attributable to the violation which are not taken into account in computing the actual damages; in determining the violator’s profits, the party aggrieved shall be required to prove only the violator’s gross revenue, and the violator shall be required to prove his deductible expenses and the elements of profit attributable to factors other than the violation; or

“(II) the party aggrieved may recover an award of statutory damages for each violation involved in the action in a sum of not less than \$250 or more than \$10,000, as the court considers just.

“(ii) In any case in which the court finds that the violation was committed willfully and for purposes of direct or indirect commercial advantage or private financial gain, the court in its discretion may increase the award of damages, whether actual or statutory, by an amount of not more than \$50,000.

“(iii) In any case where the court finds that the violator was not aware and had no reason to believe that his acts constituted a violation of this section, the court in its discretion may reduce the award of damages to a sum of not less than \$100.

“(4) The importation, manufacture, sale, or distribution of equipment by any person with the intent of its use to assist in any activity prohibited by subsection (a) shall be subject to penalties and remedies under this subsection to the same extent and in the same manner as a person who has engaged in such prohibited activity.

“(5) The penalties under this subsection shall be in addition to those prescribed under any other provision of this title.

“(6) Nothing in this subsection shall prevent any State, or political subdivision thereof, from enacting or enforcing any laws with respect to the importation, sale, manufacture, or distribution of equipment by any person with the intent of its use to assist in the interception or receipt of radio communications prohibited by subsection (a).

“(e) Nothing in this section shall affect any right, obligation, or liability under title 17, United States Code, any rule, regulation, or order thereunder, or any other applicable Federal, State, or local law.”.

(b) The amendments made by subsection (a) shall take effect on the effective date of this Act.

Effective date.
47 USC 605 note.

TECHNICAL AND CONFORMING AMENDMENTS

47 USC 601-610. SEC. 6. (a) Title VI of the Communications Act of 1934 (as in effect before the enactment of this Act) is redesignated as title VII, and sections 601 through 610 are redesignated as sections 701 through 710, respectively.

47 USC 309. (b)(1) Section 309(h) of the Communications Act of 1934 is amended by striking out "section 606" and inserting in lieu thereof "section 706".

(2) Section 2511 of title 18, United States Code, is amended—

(A) in subsection (2)(e), by striking out "section 605 or 606" and inserting in lieu thereof "section 705 or 706"; and

(B) in subsection (2)(f), by striking out "section 605" and inserting in lieu thereof "section 705".

(3) Section 105(f)(2)(C) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805(f)(2)(C)) is amended by striking out "section 605" and inserting in lieu thereof "section 705".

SUPPORT OF ACTIVITIES OF THE UNITED STATES TELECOMMUNICATIONS TRAINING INSTITUTE

SEC. 7. Nothing in this Act, the Communications Act of 1934, or any other Act, shall be construed to preclude the Federal Communications Commission or the National Telecommunications and Information Administration within the Department of Commerce from participation (including use of staff and other appropriate resources) in support of any activities of the United States Telecommunications Training Institute.

TELECOMMUNICATIONS POLICY STUDY COMMISSION

SEC. 8. Title VII of the Communications Act of 1934 (as redesignated by section 6 of this Act) is amended by adding at the end thereof the following new section:

"TELECOMMUNICATIONS POLICY STUDY COMMISSION

Establishment
47 USC 611.

"SEC. 711. (a) There is hereby established the Telecommunications Policy Study Commission (hereinafter in this section referred to as the 'Commission') which shall—

"(1) compare various domestic telecommunications policies of the United States and other nations, including the impact of all such policies on the regulation of interstate and foreign commerce, and

Report.

"(2) prepare and transmit a written report thereon to the Congress, the President, and the Federal Communications Commission.

"(b)(1) Such Commission shall be composed of the chairman and ranking minority members of the Committee on Commerce, Science, and Transportation and the Communications Subcommittee of the Senate and the Committee on Energy and Commerce and the Telecommunications, Consumer Protection and Finance Subcommittee of the House of Representatives (or delegates of such chairmen or members appointed by them from among members of such committees).

"(2) The chairmen of such committees (or their delegates) shall be co-chairmen of the Commission.

“(c)(1) The report under subsection (a)(2) shall be submitted not later than December 1, 1987. Such report shall contain the results of all Commission studies and investigations under this section.

“(2) The Commission shall cease to exist—

“(A) on December 1, 1987, if the report is not submitted in accordance with paragraph (1) on the date specified therein; or

“(B) on such date (but not later than May 1, 1988) as may be determined by the Commission, by order, if the report is submitted in accordance with paragraph (1) on the date specified in such paragraph.

“(d)(1) The members of the Commission who are not officers or employees of the United States, while attending conferences or meetings of the Commission or while otherwise serving at the request of the chairmen, shall be entitled to receive compensation at a rate not in excess of the maximum rate of pay for grade GS-18, as provided in the General Schedule under section 5332 of title 5 of the United States Code, including traveltime, and while away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently.

“(2) The Commission may appoint and fix the pay of such staff as it deems necessary.

“(e)(1) In conducting its activities, the Commission may enter into contracts to the extent it deems necessary to carry out its responsibilities, including contracts with nongovernmental entities that are competent to perform research or investigations in areas within the Commission’s responsibilities.

Contracts with
U.S.

“(2) The Commission is authorized to hold public hearings, forums, and other meetings to enable full public participation.

“(f) The heads of the departments, agencies, and instrumentalities of the executive branch of the Federal Government shall cooperate with the Commission in carrying out this section and shall furnish to the Commission such information as the Commission deems necessary to carry out this section, in accordance with otherwise applicable law.

“(g) There are authorized to be appropriated such sums as may be appropriated to carry out this section for a period of three fiscal years.

Appropriation
authorization.

“(h) Activities authorized by this section may be carried out only with funds and to the extent approved in appropriation Acts.

“(i) Nothing in this section shall be construed to affect any proceedings by, or activities of, the Federal Communications Commission, except that the Federal Communications Commission shall consider submissions by the Commission submitted pursuant to subsection (a)(2).”.

EFFECTIVE DATE

47 USC 521 note. SEC. 9. (a) Except where otherwise expressly provided, the provisions of this Act and the amendments made thereby shall take effect 60 days after the date of enactment of this Act.

47 USC 543 note. (b) Nothing in section 623 or 624 of the Communications Act of 1934, as added by this Act, shall be construed to allow a franchising authority, or a State or any political subdivision of a State, to require a cable operator to restore, retier, or reprice any cable service which was lawfully eliminated, retiered, or repriced as of September 26, 1984.

Approved October 30, 1984.

LEGISLATIVE HISTORY—S. 66 (H.R. 4103):

HOUSE REPORT No. 98-934 accompanying H.R. 4103 (Comm. on Energy and Commerce).

SENATE REPORT No. 98-67 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD:

Vol. 129 (1983): June 13, 14, considered and passed Senate.

Vol. 130 (1984): Oct 1, H.R. 4103 considered and passed House; S. 66, amended, passed in lieu.

Oct. 11, Senate concurred in House amendments with amendments; House concurred in Senate amendments.

Public Law 98-550
98th Congress

An Act

To designate certain national forest system lands in the State of Wyoming for inclusion in the National Wilderness Preservation System, to release other forest lands for multiple use management, to withdraw designated wilderness areas in Wyoming from minerals activity, and for other purposes.

Oct. 30, 1984

[S. 543]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—SHORT TITLE, FINDINGS AND PURPOSES

SHORT TITLE

SEC. 101. This Act may be cited as “The Wyoming Wilderness Act of 1984”.

DECLARATION OF FINDINGS AND PURPOSES

SEC. 102. (a) The Congress finds that—

(1) certain areas of undeveloped national forest lands in the State of Wyoming possess outstanding natural characteristics giving them high values as wilderness and will, if properly preserved, be an enduring resource of wilderness for the benefit of the American people;

(2) review and evaluation of roadless and undeveloped lands in the National Forest System of Wyoming have identified those areas which, on the basis of their landform, ecosystem, associated wildlife, and location, will help to fulfill the National Forest System’s share of a quality National Wilderness Preservation System; and

(3) review and evaluation of roadless and undeveloped lands in the National Forest System in Wyoming have also identified those areas which should be specially managed, deserve further study, or which should be available for multiple uses other than wilderness, subject to the Forest Service’s land management planning process and the provisions of this Act.

(b) The purposes of this Act are to—

(1) designate certain National Forest System lands in Wyoming for inclusion in the National Wilderness Preservation System in order to preserve the wilderness character of the land and to protect watersheds and wildlife habitat, preserve scenic and historic resources, and promote scientific research, primitive recreation, solitude, physical and mental challenge, and inspiration for the benefit of all of the American people; and

(2) insure that certain National Forest System lands in the State of Wyoming be made available for uses other than wilderness in accordance with applicable national forest laws and planning procedures and the provisions of this Act.

The Wyoming
Wilderness Act
of 1984.
National
Wilderness
Preservation
System.
National Forest
System.

TITLE II—ADDITIONS TO THE NATIONAL WILDERNESS
PRESERVATION SYSTEM

SEC. 201. (a) In furtherance of the purposes of the Wilderness Act (78 Stat. 890), the following National Forest System lands in the State of Wyoming, as generally depicted on maps appropriately referenced herein, are hereby designated as wilderness, and, therefore, as components of the National Wilderness Preservation System:

16 USC 1131
note.

16 USC 1132
note.

16 USC 1132
note.

16 USC 1132
note.

16 USC 1132
note.

16 USC 1132
note.

16 USC 1132
note.

16 USC 1132
note.

16 USC 1132
note.

(1) certain lands in the Bighorn National Forest, which comprise approximately one hundred ninety-five thousand five hundred acres as generally depicted on a map entitled "Cloud Peak Wilderness Area—Proposed", dated September 1984, and which shall be known as the Cloud Peak Wilderness;

(2) certain lands in the Shoshone National Forest, which comprise approximately one hundred and one thousand nine hundred and ninety-one acres, as generally depicted on a map entitled "Popo Agie Wilderness Area—Proposed", dated September 1982, and which shall be known as the Popo Agie Wilderness;

(3) subject to valid existing rights and reasonable access to exercise such rights, certain lands in the Bridger-Teton National Forest, which comprise approximately two hundred eighty-seven thousand acres, as generally depicted on a map entitled "Gros Ventre Wilderness Area—Proposed", dated September 1984, and which shall be known as the Gros Ventre Wilderness;

(4) certain lands in the Bridger-Teton National Forest, which comprise approximately fourteen thousand acres, as generally depicted on a map entitled, "Winegar Hole Wilderness Area—Proposed", dated September 1984, and which shall be known as the Winegar Hole Wilderness;

(5) certain lands in the Targhee National Forest which comprise approximately one hundred sixteen thousand five hundred and thirty-five acres as generally depicted on a map entitled, "Jedediah Smith Wilderness Area—Proposed", dated September 1984, and which shall be known as the Jedediah Smith Wilderness;

(6) subject to section 201(c) of this Act, certain lands in the Medicine Bow National Forest which comprise approximately thirty-one thousand three hundred acres as generally depicted on a map entitled, "Huston Park Wilderness Area—Proposed", dated September 1984, and which shall be known as the Huston Park Wilderness;

(7) subject to section 201(c) of this Act, certain lands in the Medicine Bow National Forest which comprise approximately ten thousand four hundred acres as generally depicted on a map entitled, "Encampment River Wilderness Area—Proposed", dated September 1984, and which shall be known as the Encampment River Wilderness;

(8) subject to section 201(c) of this Act, certain lands in the Medicine Bow and Routt National Forests of Wyoming and Colorado, which comprise approximately twenty-three thousand acres as generally depicted on a map entitled, "Platte River Wilderness Area—Proposed", dated September 1984, and which shall be known as the Platte River Wilderness;

(9) certain lands in the Bridger-Teton National Forest, which comprise approximately twenty-eight thousand one hundred and fifty-six acres as generally depicted on a map entitled, "Corridor Addition to the Teton Wilderness Area—Proposed", dated September 1982, and which are hereby incorporated in and which shall be deemed a part of the Teton Wilderness as designated by Public Law 88-577;

16 USC 1131
note.

(10) certain lands in the Bridger-Teton National Forest which comprise approximately thirty-six thousand acres as generally depicted on maps entitled, "Silver Creek Addition to the Bridger Wilderness—Proposed", and "Newfork Lake Addition to the Bridger Wilderness—Proposed", dated September 1984, and which are hereby incorporated in and which shall be deemed a part of the Bridger Wilderness as designated by Public Law 88-577;

(11) certain lands in the Shoshone National Forest, which comprise approximately six thousand four hundred and ninety-seven acres, as generally depicted on a map entitled, "Glacier Addition to the Fitzpatrick Wilderness—Area Proposed", dated September 1982, which are hereby incorporated in and which shall be deemed a part of the Fitzpatrick Wilderness as designated by Public Law 94-557 and Public Law 94-567: *Provided*, That within the area referred to in this subparagraph, occasional motorized access for administrative purposes and related activities as determined necessary by the Secretary for habitat management, trapping, transporting and proper management of the area's bighorn sheep population may be allowed;

16 USC 1132
note.

(12) certain lands in the Shoshone National Forest, which comprise approximately ten thousand acres, as generally depicted on a map entitled, "South Fork Addition to the Washakie Wilderness—Proposed", dated September 1984, and which are hereby incorporated in and which shall be deemed a part of the Washakie Wilderness as designated by Public Law 92-476; and

16 USC 1132
note.

(13) certain lands in the Shoshone National Forest, which comprise approximately twenty-three thousand seven hundred and fifty acres, as generally depicted on a map entitled, "High Lakes Addition to the Absaroka-Beartooth Wilderness—Proposed", dated September 1984, and which are hereby incorporated in and which shall be deemed a part of the Absaroka-Beartooth Wilderness as designated by Public Law 95-249.

16 USC 1132
note.

(b) The previous classification of each of the following is hereby abolished: the Cloud Peak Primitive Area, the Popo Agie Primitive Area, and the Glacier Primitive Area.

(c) The designation and continued existence of the Huston Park, Encampment River, Platte River and Savage Run Wildernesses shall not, under any Federal law, in any way impair or affect any present or future water rights for, and shall not prevent, impair, or in any way affect construction, operation or maintenance of, the Stage II or Stage III water development projects as presently defined in Wyoming Statutes, section 41-2-204(a) (iii) and (iv) (1984 Cum. Supp.), (Wyoming Laws 1979, ch. 126, sec. 1), or any subsequent modification thereof, including the water rights required therefor, to the extent that such modification provides for the diversion and transportation of water in the Little Snake River Basin for storage or use in said basin or in Wyoming east of the Continental Divide. No term or condition shall be imposed on any permit, license, right-

of-way or other authorization for said projects on the basis of any present or future wilderness characteristics, wilderness designations, or wilderness studies or evaluations of lands in the Medicine Bow National Forest or in Natrona, Sweetwater, or Carbon Counties in Wyoming.

LEGAL DESCRIPTION AND WILDERNESS BOUNDARIES

SEC. 202. As soon as practicable after the enactment of this Act, a map and a legal description of each area described in titles II and III shall be filed with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and each such map and description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in each such legal description and map may be made. Each such map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

Public
availability.

APPLICATION OF THE WILDERNESS ACT OF 1964

SEC. 203. Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary in accordance with the provisions of this Act and the Wilderness Act, except that any reference in the provisions of the Wilderness Act to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

Effective date.

16 USC 1131
note.

TITLE III—WILDERNESS STUDY AREAS

SEC. 301. (a) In furtherance of the purposes of the Wilderness Act, the Secretary of Agriculture shall, upon revision of the initial land management plans for the Bridger-Teton, Targhee, and Shoshone National Forests required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, review the following lands as to their suitability for preservation as wilderness:

16 USC 1600
note.

(1) certain lands in the Bridger-Teton and Targhee National Forests of Wyoming, which comprise approximately one hundred and thirty-five thousand eight hundred and forty acres, as generally depicted on a map entitled "Palisades Wilderness Study Area—Proposed", dated September 1984, and which shall be known as the Palisades Wilderness Study Area;

(2) certain lands in the Bridger-Teton National Forest, which comprise approximately thirty thousand acres, as generally depicted on a map entitled "Shoal Creek Wilderness Study Area—Proposed", dated September 1984, and which shall be known as the Shoal Creek Wilderness Study Area; and

(3) certain lands in the Shoshone National Forest of Wyoming, which comprise approximately fourteen thousand seven hundred acres, as generally depicted on a map entitled "High Lakes Wilderness Study Area—Proposed", dated September 1984, and which shall be known as the High Lakes Wilderness Study Area.

Reports.

(b) Subsequent to such review the Secretary shall submit his reports and findings to the President and the President shall submit

his recommendations to the Congress within three years of the date of receipt of the Secretary's report.

(c) Subject to valid existing rights and reasonable access to exercise such rights, until Congress determines otherwise, the Palisades, High Lakes and Shoal Creek Wilderness Study Areas shall be administered by the Secretary of Agriculture so as to maintain their presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System: *Provided, That—*

(1) with respect to oil and gas exploration and development activities, the Palisades Wilderness Study Area shall be administered under reasonable conditions to protect the environment according to the laws and regulations generally applicable to nonwilderness lands within the National Forest System;

(2) subject to valid existing rights, the Palisades Wilderness Study Area as designated by this Act is hereby withdrawn from all forms of appropriation under the mining laws;

(3) the provisions of section 308 of the Interior Department Appropriations Act for fiscal year 1984 (Public Law 98-146) or similar provisions which may hereafter be enacted concerning oil and gas leasing, exploration and development in further planning or wilderness study areas shall not apply to the Palisades Wilderness Study Area; and

(4) within the Palisades, High Lakes and Shoal Creek Wilderness Study Areas, snowmobiling shall continue to be allowed in the same manner and degree as was occurring prior to the date of enactment of this Act.

Petroleum and petroleum products.

97 Stat. 951.

TITLE IV—RELEASE OF LANDS FOR MULTIPLE USE MANAGEMENT

ADMINISTRATIVE AND CONGRESSIONAL REVIEW OF ROADLESS AREAS

SEC. 401. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of national forest roadless areas in Wyoming and the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to national forest lands in States other than Wyoming, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Wyoming;

(2) with respect to the national forest lands in the State of Wyoming which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d) except those lands remaining in wilderness study upon enactment of this Act and subject to section 301, that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1976 (Public Law 94-588) to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preserva-

Conservation.

16 USC 1600 note.

tion System and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time, the Secretary finds that conditions in a unit have significantly changed;

(3) areas in the State of Wyoming reviewed in such final environmental statement or referred to in subsection (d) and not designated wilderness or wilderness study upon enactment of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976: *Provided*, That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans;

(4) in the event that revised land management plans in the State of Wyoming are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976, and other applicable law; and

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of National Forest System lands in the State of Wyoming for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

(d) The provisions of this section shall also apply to:

(1) National Forest System roadless areas or portions thereof in the State of Wyoming identified by unit plans listed at the end of this subparagraph, which are not designated as wilderness by this Act:

National Forest	Unit Plan
Bridger-Teton	Union Pass
Bridger-Teton	Big Piney
Bridger-Teton	Spread Creek
Bridger-Teton	North Gros Ventre
Targhee	West Slope-Tetons
Targhee	Island Park
Medicine Bow	Huston Park
Medicine Bow	Savage Run
Shoshone	Beartooth Plateau

(2) that portion of the Beartooth-High Lakes Area not included in wilderness or wilderness study by this Act; and

(3) national forest roadless lands in the State of Wyoming which are less than five thousand acres in size.

(e) The provisions of this section shall not apply to the area referred to in section 5 of Public Law 92-476 (86 Stat. 792) and generally known as the Dunoir Special Management Unit, which shall continue to be managed pursuant to Public Law 92-476.

16 USC 1132
note.

TITLE V—MISCELLANEOUS PROVISIONS

GRAZING IN WILDERNESS AREAS

SEC. 501. The Secretary of Agriculture is directed to review all policies, practices, and regulations of the Department of Agriculture regarding livestock grazing in national forest wilderness areas in the State of Wyoming in order to insure that such policies, practices, and regulations fully conform with and implement the intent of Congress regarding grazing in such areas, as such intent is expressed in the Wilderness Act, as interpreted by Public Law 98-406.

Animals.

16 USC 1131
note.
Ante, p. 1485.

STATE WATER ALLOCATION AUTHORITY

SEC. 502. As provided in section 4(d)(6) of the Wilderness Act, except as provided in section 201(c) of this Act, nothing in this Act shall constitute an express or implied claim or denial on the part of the Federal Government as to exemption from Wyoming water laws.

STATE FISH AND WILDLIFE AUTHORITY

SEC. 503. As provided in section 4(d)(7) of the Wilderness Act, nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State of Wyoming with respect to wildlife and fish in the national forests in Wyoming.

16 USC 1133.

PROHIBITION ON BUFFER ZONES

SEC. 504. Congress does not intend that the designation of wilderness areas in the State of Wyoming lead to the creation of protective perimeters or buffer zones around each wilderness area. The fact that nonwilderness activities or uses can be seen or heard from within any wilderness area shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

PROTECTION OF ARCHAEOLOGICAL RESOURCES

SEC. 505. (a) Within the areas described in sections 201 and 301, and within any previously-designated components of the National Wilderness Preservation System in the State of Wyoming, and in furtherance of the purposes of the Wilderness Act, section 6 of the National Forest Management Act, the Archaeological Resources and Protection Act, and the Historic Preservation Act, the Secretary shall cooperate with the Secretary of the Interior and with agencies and institutions of the State of Wyoming, in conducting a cultural resources management program.

16 USC 1604,
470aa note, 470
note.

(b) Such program shall have as its purpose the protection of archaeological sites and interpretation of such sites for the public benefit and knowledge, and compliance with all Federal and State

historic and cultural resource preservation statutes, regulations, guidelines, and standards, insofar as these activities are compatible with the purposes for which the affected lands were designated as wilderness or special management areas.

Provisions held
invalid.

SEC. 506. If any provision of this Act or the application thereof is held invalid, the remainder of the Act and the application thereof shall not be affected thereby.

Approved October 30, 1984.

LEGISLATIVE HISTORY—S. 543:

SENATE REPORT No. 98-54 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD:

Vol. 129 (1983): Apr. 13, considered and passed Senate.

Vol. 130 (1984): Oct. 2, considered and passed House, amended.

Oct. 3, Senate concurred in House amendment.

Public Law 98-551
98th Congress

An Act

To revise and extend provisions of the Public Health Service Act relating to health promotion and disease prevention, to provide for the establishment of centers for research and demonstrations concerning health promotion and disease prevention, and for other purposes.

Oct. 30, 1984
[S. 771]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “Health Promotion and Disease Prevention Amendments of 1984”.

SEC. 2. (a)(1) Section 1701(a) of the Public Health Service Act (42 U.S.C. 300u(a)) is amended—

Health
Promotion and
Disease
Prevention
Amendments of
1984.
42 USC 201 note.
Education.

(A) by striking out “and” after the semicolon in paragraph (8);
(B) by striking out the period at the end of paragraph (9) and inserting in lieu thereof a semicolon and “and”;

(C) by inserting after paragraph (9) the following new paragraph:

“(10) establish in the Office of the Assistant Secretary for Health an Office of Disease Prevention and Health Promotion, which shall—

Office of Dis-
ease Prevention
and Health
Promotion,
establishment.

“(A) coordinate all activities within the Department which relate to disease prevention, health promotion, preventive health services, and health information and education with respect to the appropriate use of health care;

“(B) coordinate such activities with similar activities in the private sector;

“(C) establish a national information clearinghouse to facilitate the exchange of information concerning matters relating to health information and health promotion, preventive health services, and education in the appropriate use of health care, to facilitate access to such information, and to assist in the analysis of issues and problems relating to such matters; and

“(D) support projects, conduct research, and disseminate information relating to preventive medicine, health promotion, and physical fitness and sports medicine.”;

(D) by striking out “and with health planning and resource development activities undertaken under titles XV and XVI” in the last sentence; and

42 USC 300k-1,
300q.

(E) by adding at the end thereof the following: “The Secretary shall appoint a Director for the Office of Disease Prevention and Health Promotion established pursuant to paragraph (10) of this subsection. The Secretary shall administer this title in cooperation with health care providers, educators, voluntary organizations, businesses, and State and local health agencies in order to encourage the dissemination of health information and health promotion activities.”.

(2) Section 1701(b) of such Act is amended to read as follows:

“(b) To carry out this title, there are authorized to be appropriated \$9,000,000 for the fiscal year ending September 30, 1985, \$9,500,000 for the fiscal year ending September 30, 1986, and \$10,000,000 for the fiscal year ending September 30, 1987.”

(b) Paragraph (6) of section 1704 of such Act (42 U.S.C. 300u-3(6)) is repealed.

(c) Sections 1706, 1707, 1708, 1709, and 1710 of such Act (42 U.S.C. 300u-5, 300u-6, 300u-7, 300u-8, and 300u-9) are repealed.

(d) Title XVII of such Act is amended by adding at the end thereof the following new sections:

**“CENTERS FOR RESEARCH AND DEMONSTRATION OF HEALTH PROMOTION
AND DISEASE PREVENTION**

42 USC 300u-5.
Grants.

“SEC. 1706. (a) The Secretary shall make grants or enter into contracts with academic health centers for the establishment, maintenance, and operation of centers for research and demonstration with respect to health promotion and disease prevention. Centers established, maintained, or operated under this section shall undertake research and demonstration projects in health promotion, disease prevention, and improved methods of appraising health hazards and risk factors, and shall serve as demonstration sites for the use of new and innovative research in public health techniques to prevent chronic diseases.

“(b) Each center established, maintained, or operated under this section shall—

“(1) be located in an academic health center with—

“(A) a multidisciplinary faculty with expertise in public health and which has working relationships with relevant groups in such fields as medicine, psychology, nursing, social work, education and business;

“(B) graduate training programs relevant to disease prevention;

“(C) a core faculty in epidemiology, biostatistics, social sciences, behavioral and environmental health sciences, and health administration;

“(D) a demonstrated curriculum in disease prevention;

“(E) a capability for residency training in public health or preventive medicine; and

“(F) such other qualifications as the Secretary may prescribe;

“(2) conduct—

“(A) health promotion and disease prevention research, including retrospective studies and longitudinal prospective studies in population groups and communities;

“(B) demonstration projects for the delivery of services relating to health promotion and disease prevention to defined population groups using, as appropriate, community outreach and organization techniques and other methods of educating and motivating communities; and

Study.

“(C) evaluation studies on the efficacy of demonstration projects conducted under subparagraph (B) of this paragraph.

Study.

The design of any evaluation study conducted under subparagraph (C) shall be established prior to the commencement of the demonstration project under subparagraph (B) for which the evaluation will be conducted.

“(c)(1) During fiscal year 1985, the Secretary shall make grants or enter into contracts for the establishment of three centers under this section. During fiscal year 1986, the Secretary shall make grants and enter into contracts for the establishment of five centers under this section and the maintenance and operation of the three centers established under this section in fiscal year 1985. During fiscal year 1987, the Secretary shall make grants and enter into contracts for the establishment of five centers under this section and the operation and maintenance of the eight centers established under this section in fiscal years 1985 and 1986.

Contracts with
U.S.

“(2)(A) In making grants and entering into contracts under this section, the Secretary shall provide for an equitable geographical distribution of centers established, maintained, and operated under this section and for the distribution of such centers among areas containing a wide range of population groups which exhibit incidences of diseases which are most amenable to preventive intervention.

Contracts with
U.S.

“(B) The Secretary, through the Director of the Centers for Disease Control and in consultation with the Director of the National Institutes of Health, shall establish procedures for the appropriate peer review of applications for grants and contracts under this section by peer review groups composed principally of non-Federal experts.

Contracts with
U.S.

“(d) For purposes of this section, the term ‘academic health center’ means a school of medicine, a school of osteopathy, or a school of public health, as such terms are defined in section 701(4).

“(e) To carry out this section, there are authorized to be appropriated \$3,000,000 for the fiscal year ending September 30, 1985, \$8,000,000 for the fiscal year ending September 30, 1986, and \$13,000,000 for the fiscal year ending September 30, 1987.”

Appropriation
authorization.

SEC. 3. Subsection (a) of section 338G of the Public Health Service Act (42 U.S.C. 254r(a)) is amended by inserting “clinical psychologists,” after “pharmacists,”.

SEC. 4. (a) Section 526(a)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bb(a)(2)) is amended by striking out “which occurs so infrequently in the United States that” and inserting in lieu thereof “which (A) affects less than 200,000 persons in the United States, or (B) affects more than 200,000 in the United States and for which”.

(b) Section 5(b)(2) of the Orphan Drug Act (21 U.S.C. 360ee(b)(2)) is amended by striking out “which occurs so infrequently in the United States that” and inserting in lieu thereof “which (A) affects less than 200,000 persons in the United States, or (B) affects more than 200,000 in the United States and for which”.

SEC. 5. (a) Section 305 of the Public Health Service Act (42 U.S.C. 242c) is amended—

(1) by striking out “National Center for Health Services Research” and inserting in lieu thereof “National Center for Health Services Research and Health Care Technology Assessment”;

(2) in subsection (b), by striking out “and” at the end of paragraph (3), by striking out the period at the end of paragraph (4) and inserting in lieu thereof “; and”, and by adding after paragraph (4) the following:

“(5) the safety, efficacy, effectiveness, cost effectiveness, economic, and social impacts of health care technologies.”; and

Science and
technology.

Grants.
Contracts with
U.S.
Science and
technology.

National
Advisory Council
on Health Care
Technology
Assessment,
establishment.

(3) by redesignating subsection (e) as subsection (i) and by adding after subsection (d) the following:

"(e)(1) The Center shall advise the Secretary respecting health care technology issues and make recommendations with respect to whether specific health care technologies should be reimbursable under federally financed health programs.

"(2) In making recommendations respecting health care technologies, the Center shall consider the safety, efficacy, and effectiveness, and, as appropriate, the cost-effectiveness and appropriate uses of the technology.

"(3) In carrying out its responsibilities under this section respecting health care technologies, the Center shall cooperate and consult with the National Institutes of Health, the Food and Drug Administration, and any other interested Federal departments or agencies.

"(f)(1) The Secretary, acting through the Center, shall undertake and support (by grant or contract) research regarding technology diffusion, methods to assess health care technology, and specific health care technologies.

"(2) Any grant or contract under paragraph (1), the direct cost of which will exceed \$50,000, may be made or entered into only after consultation with the National Advisory Council on Health Care Technology Assessment.

"(g)(1) There is established the National Advisory Council on Health Care Technology Assessment (hereinafter in this section referred to as the 'Council'). The Council shall advise the Secretary and the Director of the Center with respect to the performance of the health care technology assessment functions prescribed by this section. The Council shall assist the Director in developing criteria and methods to be used by the Center in making health care technology coverage recommendations.

"(2) The Council shall consist of—

"(A) the Director of the National Institutes of Health, the Chief Medical Director of the Veterans' Administration, the Assistant Secretary for Health and Environment of the Department of Defense, the head of the Centers for Disease Control, the head of the Health Care Financing Administration, and such other Federal officials as the Secretary may specify, who shall be ex officio members, and

"(B) twelve voting members appointed by the Secretary.

"(3) The Secretary shall make appointments to the Council as follows:

"(A) The Secretary shall appoint six members of the Council from individuals who are distinguished in the fields of medicine, engineering, and science (including social science) and shall appoint four members from individuals who are distinguished in the fields of law, ethics, economics, and management. Of the members appointed under this subparagraph—

"(i) at least two shall be physicians,

"(ii) two shall be selected from individuals who represent business entities engaged in development or production of medical technology,

"(iii) one shall be selected from individuals who represent hospital administrators, and

"(iv) one shall be selected from individuals who represent health insurance companies or self-insured employers.

“(B) The Secretary shall appoint two members from members of the general public who represent the interest of consumers of health care.

“(4)(A) Each appointed member of the Council shall be appointed for a term of three years, except that—

“(i) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

“(ii) of the members first appointed after the date of the enactment of this subsection, four shall be appointed for a term of three years, four shall be appointed for a term of two years, and four shall be appointed for a term of one year, as designated by the Secretary at the time of appointment.

Appointed members may be appointed for additional terms and may serve after the expiration of their terms until their successors have taken office.

“(B) Members of the Council who are not officers or employees of the United States shall receive for each day they are engaged in the performance of the functions of the Council compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule, including traveltime; and all members, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

5 USC 5332 note.

“(5) The Council shall annually elect one of its appointed members to serve as Chairman until the next election.

“(6) The Council shall meet at the call of the Chairman, but not less often than three times a year.

“(7) The Director of the Center shall (A) designate a member of the staff of the Center to act as Executive Secretary of the Council, and (B) make available to the Council such staff, information, and other assistance as it may require to carry out its functions.

“(h) In each fiscal year, seven and one-half percent of the amount made available under section 2113 for such fiscal year for evaluations shall be made available to the Assistant Secretary for Health to conduct or support (by both grants and contracts) through the Center, evaluations of health services and health care technology which evaluations are not being conducted or supported under this section or section 304.”

Contracts with
U.S.
Grants.
97 Stat. 176.

(b) Subsection (i) of such section (as so redesignated) is amended by striking out “subsections (b), (c), and (d) of”.

(c)(1) Section 304 of such Act (42 U.S.C. 242b) is amended by striking out “National Center for Health Services Research” each place it occurs and inserting in lieu thereof “National Center for Health Services Research and Health Care Technology Assessment”.

(2) Such section is amended by striking out “, the National Center for Health Statistics, and the National Center for Health Care Technology” each place it occurs and inserting in lieu thereof “and the National Center for Health Statistics”.

(3) Such section is amended by striking out “, the National Center for Health Statistics, or the National Center for Health Care Technology” and inserting in lieu thereof “or the National Center for Health Statistics”.

(4) The heading for such section is amended by striking out “and Health Care Technology” and inserting in lieu thereof “, and Health Care Technology Assessment”.

42 USC 242c.

SEC. 6. Section 305(c) is amended—

(1) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(2) by inserting “(1)” before “The”; and

(3) by adding at the end thereof the following new paragraph:

“(2) In carrying out this section, the Secretary shall assist State and local health agencies through a user liaison program and a technical assistance program.”

SEC. 7. (a)(1) The first sentence of paragraph (1) of section 308(i) of such Act (42 U.S.C. 242m(i)) is amended by striking out “and” after “1983,” and by inserting before the period a comma and the following: “\$20,500,000 for the fiscal year ending September 30, 1985, \$22,750,000 for the fiscal year ending September 30, 1986, and \$24,750,000 for the fiscal year ending September 30, 1987”.

(2) The second sentence of such paragraph is amended (A) by inserting after “Research” the following: “and Health Care Technology Assessment”, and (B) by striking out “and at least 5 per centum of such amount or \$1,000,000, whichever is less, shall be available only for dissemination activities directly undertaken through such Center” and inserting in lieu thereof “and at least 10 per centum of such amount or \$1,500,000, whichever is less, shall be available only for the user liaison program and the technical assistance program referred to in section 305(c)(2) and for dissemination activities directly undertaken through such Center”.

(3) Such paragraph is amended by adding after the second sentence the following: “For health care technology assessment activities undertaken under subsections (b)(5), (e), (f), and (g) of section 305 the Secretary shall obligate from funds appropriated under this paragraph not less than \$3,000,000 for the fiscal year ending September 30, 1985, \$3,500,000 for the fiscal year ending September 30, 1986, and \$4,000,000 for the fiscal year ending September 30, 1987. For grants under section 309 the Secretary shall obligate from funds appropriated under this paragraph not less than \$500,000 for the fiscal year ending September 30, 1985, \$750,000 for the fiscal year ending September 30, 1986, and \$750,000 for the fiscal year ending September 30, 1987.”

(4) The last sentence of such paragraph is amended by striking out “for each” through “1984,” and inserting in lieu thereof “for any fiscal year”.

(b) Paragraph (2) of such section is amended by striking out “and” after “1983,” and by inserting before the period a comma and the following: “\$47,000,000 for the fiscal year ending September 30, 1985, \$49,000,000 for the fiscal year ending September 30, 1986, and \$52,000,000 for the fiscal year ending September 30, 1987”.

SEC. 8. Section 309 of the Public Health Service Act (42 U.S.C. 242n) is amended to read as follows:

“COUNCIL ON HEALTH CARE TECHNOLOGY

Grants.

“SEC. 309. (a)(1) In accordance with this section, the Secretary shall make grants for the planning, development, establishment, and operation of a Council on Health Care Technology. The Council shall comply with the provisions of this section.

“(2)(A) The Secretary shall make an initial grant under paragraph (1) to the National Academy of Sciences for the planning, development, and establishment of the Council with the membership prescribed by subsection (d)(1). The amount of such grant may not exceed \$500,000 and may be made for not more than two-thirds of the cost of the planning, development, and establishment of the Council.

“(B) The Secretary may not make a grant for the operation of the Council unless the application submitted to the Secretary for the grant contains written assurances from the applicant that the applicant will expend from non-Federal sources for the operation of the Council an amount equal to at least twice the amount of the grant applied for.

“(b) The purposes of the Council shall include—

“(1) promoting the development and application of appropriate health care technology assessments; and

“(2) the review of existing health care technologies in order to identify obsolete or inappropriately used health care technologies.

“(c)(1) The Council shall—

“(A) serve as a clearinghouse for information on health care technologies and health care technology assessment;

“(B) collect and analyze data concerning specific health care technologies;

“(C) identify needs in the assessment of specific health care technologies and research on assessment methodologies;

“(D) develop and evaluate criteria and methodologies for health care technology assessment;

“(E) promote education, training, and technical assistance in the use of health care technology assessment methodologies and results; and

“(F) stimulate, coordinate, and commission assessments of health care technologies.

“(2) No funds from any grant made by the Secretary under this section for the planning, development, and establishment of the Council may be used to conduct any assessment of a health care technology.

“(d)(1) For purposes of a grant for the planning, development, and establishment of the Council, the Council shall be composed of:

“(A) At least ten members appointed by the National Academy of Sciences from individuals who have education, training, experience, or expertise relating to the quality and cost-effectiveness of health care technologies and who are representatives of organizations of health professionals, hospitals, and other health care providers, health care insurers, employers, consumers, and manufacturers of products for health care.

“(B) Three members appointed by the Secretary of Health and Human Services.

“(C) The Director of the Office of Technology Assessment, who shall be an ex officio member.

“(2) Any vacancy in the Council shall not affect its power and, for purposes of a grant for the planning, development, and establishment of the Council, shall be filled in the manner prescribed by paragraph (1).

“(f) The President of the National Academy of Science shall designate one of the members appointed to the initial Council under subsection (d)(1)(A) as Chairman of the Council for a one-year term.

Science and
technology.

Thereafter, the members of the Council shall elect one of its members as Chairman for such terms as may be determined by the Council.

Report.

“(g) The recipient of a grant under subsection (a) shall submit an annual report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate on the Council’s activities.

“(h) No grant may be made under this section unless an application is submitted to the Secretary in such form and containing such information as the Secretary shall prescribe.”.

Approved October 30, 1984.

LEGISLATIVE HISTORY—S. 771:

SENATE REPORT No. 98-158 (Comm. on Labor and Human Resources).

CONGRESSIONAL RECORD:

Vol. 129 (1983): Sept. 21, considered and passed Senate.

Vol. 130 (1984): Oct. 9, considered and passed House, amended.

Oct. 11, Senate concurred in House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 44 (1984):

Oct. 30, Presidential statement.

Public Law 98-552
98th Congress

An Act

To authorize Douglas County of the State of Nevada to transfer certain land to a private owner.

Oct. 30, 1984
[S. 1160]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding the Act entitled "An Act to authorize acquisition or use of public lands by States, counties, or municipalities for recreational purposes", approved June 14, 1926 (43 U.S.C. 869 et seq.), or the provisions of any patent granted pursuant to such Act by the United States concerning the real property described in section 2, the United States releases any reversionary interest in such real property, and Douglas County of the State of Nevada is authorized to transfer such real property to any private person.

Real property.

SEC. 2. The real property authorized to be transferred in the first section is the lot, piece or parcel of land lying along and adjoining the Virginia and Truckee Railroad right-of-way in the Town of Minden, Nevada, described as follows: Beginning at a point on the northerly side of the State Highway right-of-way line, north 63 degrees 25 minutes west, 146 feet from the southeast corner of the wool warehouse lot, said point of beginning further described as bearing north 58 degrees 58 minutes 40 seconds west, 855.32 feet from the established Town Monument of the said Town of Minden; thence north 63 degrees 25 minutes west, along the Highway right-of-way line 60 feet to a point; thence north 26 degrees 35 minutes east, 55 feet, to a point; thence south 63 degrees 25 minutes east, parallel with the railroad spur track, 60 feet to a point; thence south 26 degrees 35 minutes west, 55 feet, to the point of beginning; all within section 29, township 13 north, range 20 east, Mount Diablo Meridian, Nevada, containing 3,300 square feet.

Real property.

SEC. 3. The Secretary of the Interior, in connection with Federal resource protection and the Federal administration of the use and occupancy of lands and waters within a water resource development project under his jurisdiction, is authorized to cooperate with the regulatory and law enforcement officials of any State or political subdivision thereof in the enforcement of the laws or ordinances of such State or political subdivision. Such cooperation may include the reimbursement of a State or its political subdivision for expenditures incurred in connection with such resource protection and administration. For purposes of complying with section 401 of the Congressional Budget Act of 1974, the authorization provided under this section is subject to the availability of appropriations.

Water.
Law
enforcement.
42 USC
1962d-19.

2 USC 651.

SEC. 4. The Secretary of Energy, acting through the Alaska Power Administration, is authorized and directed to enter into an agreement with respect to the Eklutna Lake hydropower project in accordance with provisions of the Act of July 31, 1950, as amended (64 Stat. 382), the last sentence of the first paragraph of section 1 of which is amended to read as follows: "The water of Eklutna Lake and its tributaries which are required for the operation of the

Eklutna Lake
project, Alaska.
Energy.
Water.

48 USC 312.

Eklutna project are reserved for that purpose: *Provided*, That a portion of the waters so reserved may be diverted from Eklutna Lake for public water supply purposes, if compensation for reduced electric energy production due to such diversions is made as required by the February 1984 agreement between the Municipality of Anchorage and the Alaska Power Administration.”.

Approved October 30, 1984.

LEGISLATIVE HISTORY—S. 1160:

SENATE REPORT No. 98-620 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 130 (1984):

Sept. 26, considered and passed Senate.
Oct. 4, considered and passed House, amended.
Oct. 10, Senate concurred in House amendment.

Public Law 98-553
98th Congress

An Act

To authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, and section 305 of the Energy Reorganization Act of 1974.

Oct. 30, 1984

[S. 1291]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—AUTHORIZATION OF APPROPRIATIONS FOR
FISCAL YEARS 1984 AND 1985

SEC. 101. There are hereby authorized to be appropriated to the Nuclear Regulatory Commission in accordance with the provisions of section 261 of the Atomic Energy Act of 1954 and section 305 of the Energy Reorganization Act of 1974, for the fiscal years 1984 and 1985 to remain available until expended, \$466,800,000 for fiscal year 1984 and \$460,000,000 for fiscal year 1985.

42 USC 2017.

42 USC 5875.

SEC. 102. (a) The sums authorized to be appropriated in this Act for fiscal years 1984 and 1985 shall be allocated as follows:

(1) not more than \$91,490,000 for fiscal year 1984 and \$87,140,000 for fiscal year 1985, may be used for "Nuclear Reactor Regulation", of which an amount not to exceed \$1,000,000 is authorized each such fiscal year to be used to accelerate the effort in gas-cooled thermal reactor preapplication review;

(2) not more than \$70,910,000 for fiscal year 1984 and \$74,770,000 for fiscal year 1985, may be used for "Inspection and Enforcement";

(3) not more than \$36,280,000 for fiscal year 1984 and \$35,710,000 for fiscal year 1985, may be used for "Nuclear Material Safety and Safeguards";

(4) not more than \$199,740,000 for fiscal year 1984 and \$193,290,000 for fiscal year 1985, may be used for "Nuclear Regulatory Research", of which an amount not to exceed \$2,600,000 is authorized each such fiscal year to be used to accelerate the effort in gas-cooled thermal reactor safety research;

(5) not more than \$27,520,000 for fiscal year 1984 and \$27,470,000 for fiscal year 1985, may be used for "Program Technical Support";

(6) not more than \$40,860,000 for fiscal year 1984 and \$41,620,000 for fiscal year 1985, may be used for "Program Direction and Administration".

(b) The Nuclear Regulatory Commission may use not more than 1 per centum of the amounts authorized to be appropriated under paragraph 102(a)(4) to exercise its authority under section 31 a. of the Atomic Energy of 1954 (42 U.S.C. 2051(a)) to enter into grants and cooperative agreements with universities pursuant to such paragraph. Grants made by the Commission shall be made in accordance

Grants.

with the Federal Grant and Cooperative Agreement Act of 1977 (41 U.S.C. 501 et seq.) and other applicable law.

(c) Any amount appropriated for a fiscal year to the Nuclear Regulatory Commission pursuant to any paragraph of subsection 102(a) for purposes of the program referred to in such paragraph, may be reallocated by the Commission for use in a program referred to in any other paragraph of such subsection, or for use in any other activity within a program, except that the amount available from appropriations for such fiscal year for use in any program or specified activity may not, as a result of reallocations made under this subsection, be increased or reduced by more than \$500,000 unless—

(1) a period of thirty calendar days (excluding any day in which either House of Congress is not in session because of an adjournment of more than three calendar days to a day certain or an adjournment sine die) passes after the receipt, by the Committee on Energy and Commerce and the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Environment and Public Works of the Senate, of notice submitted by the Commission containing a full and complete statement of the reallocation proposed to be made and the facts and circumstances relied upon in support of such proposed reallocation; or

(2) each such committee, before the expiration of such period, transmits to the Commission a written notification that such committee does not object to such proposed reallocation.

31 USC 3302.

SEC. 103. Moneys received by the Nuclear Regulatory Commission for the cooperative nuclear research program and the material access authorization program may be retained and used for salaries and expenses associated with such programs, notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484), and shall remain available until expended.

SEC. 104. From amounts appropriated to the Nuclear Regulatory Commission pursuant to this title, the Commission may transfer to other agencies of the Federal Government sums for salaries and expenses for the performance by such agencies of activities for which such appropriations of the Commission are made. Any sums so transferred may be merged with the appropriation of the agency to which such sums are transferred.

SEC. 105. Notwithstanding any other provisions of this Act, no authority to make payments under this Act shall be effective except to such extent or in such amounts as are provided in advance in appropriation Acts.

Report.
Prohibition.

SEC. 106. (a) No funds authorized to be appropriated under this Act may be used to carry out any policy or program for the decentralization or regionalization of any Nuclear Regulatory Commission authorities regarding commercial nuclear powerplant licensing until sixty legislative days after the date on which the Commission submits to the Congress a report evaluating the effect of such policy or program on nuclear reactor safety: *Provided, however,* That the prohibition contained in this subsection shall not apply to any personnel assigned to the field, or to activities in which they were engaged, on or before September 22, 1983. The report shall include—

(1) a detailed description of the authorities to be transferred, the reason for such transfer, and an assessment of the effect of such transfer on nuclear reactor safety;

(2) an analysis of all comments submitted to the Commission regarding the effect on nuclear reactor safety which would result from carrying out the policy or program proposed by the Commission; and

(3) an evaluation of the results, including the advantages and disadvantages, of the pilot program conducted under subsection (b).

(b) Notwithstanding the prohibition contained in subsection (a), the Commission is authorized to conduct a pilot program for the purpose of evaluating the concept of delegating authority to regional offices for issuance of specific types of operating reactor licensing actions and for the purpose of addressing the issues identified in paragraphs (a)(1)–(3) of this section.

SEC. 107. (a) Of the amounts authorized to be appropriated under this Act for the fiscal years 1984 and 1985, such sums as may be necessary are authorized to be used by the Nuclear Regulatory Commission for—

(1) the acquisition (by purchase, lease, or otherwise) and installation of equipment to be used for the small test prototype nuclear data link program or for any other program for the collection and transmission to the Commission of data from licensed nuclear reactors during abnormal conditions at such reactors; and

(2) a full and complete analysis of—

(A) the appropriate role of the Commission during abnormal conditions at a nuclear reactor licensed by the Commission;

(B) the information which should be available to the Commission to enable the Commission to fulfill such role and to carry out other related functions;

(C) various alternative means of assuring that such information is available to the Commission in a timely manner; and

(D) any changes in existing Commission authority necessary to enhance the Commission response to abnormal conditions at a nuclear reactor licensed by the Commission:

Provided, however, That no funds shall be available under this Act for the acquisition and installation of any equipment for the collection and transmission to the Commission of data from licensed nuclear reactors during abnormal conditions at such reactors, or for the analysis of such equipment, unless such acquisition and analysis includes, as one of the alternatives considered, a fully automated electronic nuclear data link. The small test prototype referred to in paragraph (1) may be used by the Commission in carrying out the study and analysis under paragraph (2). Such analysis shall include a cost-benefit analysis of each alternative examined under subparagraph (C).

SEC. 108. Of the amounts authorized to be appropriated under this Act, the Nuclear Regulatory Commission may use such sums as may be necessary, in the absence of a State or local emergency preparedness plan which has been approved by the Federal Emergency Management Agency, to issue an operating license (including a temporary operating license under section 192 of the Atomic Energy Act of 1954, as amended) for a nuclear power reactor, if it determines that there exists a State, local, or utility plan which provides reasonable assurance that public health and safety is not endangered by operation of the facility concerned.

42 USC 2133.

42 USC 2134.

SEC. 109. Notwithstanding the second sentence of section 103 d. and the second sentence of section 104 d. of the Atomic Energy Act of 1954, as amended, the Nuclear Regulatory Commission is hereby authorized to transfer Facility Operating License numbered R-81 to a United States entity or corporation owned or controlled by a foreign corporation if the Commission—

(1) finds that such transfer would not be inimical to the common defense and security or to the health and safety of the public; and

(2) includes in such license, as transferred, such conditions as the Commission deems necessary to ensure that such foreign corporation cannot direct the actions of the licensee in ways that would be inimical to the common defense and security or the health and safety of the public.

Approved October 30, 1984.

LEGISLATIVE HISTORY—S. 1291 (S. 2846) (H.R. 2510):

HOUSE REPORTS: No. 98-103, Pt. 1 (Comm. on Interior and Insular Affairs) and Pt. 2 (Comm. on Energy and Commerce) both accompanying H.R. 2510.

SENATE REPORTS: No. 98-118 (Comm. on Environment and Public Works); No. 98-546 (Comm. on Environment and Public Works); No. 98-579 (Comm. on Energy and Natural Resources) both accompanying S. 2846.

CONGRESSIONAL RECORD, Vol. 130 (1984):

Oct. 10, considered and passed Senate.

Oct. 11, considered and passed House.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 44 (1984):

Oct. 30, Presidential statement.

Public Law 98-554
98th Congress

An Act

To provide for exemptions, based on safety concerns, from certain length and width limitations for commercial motor vehicles, and for other purposes.

Oct. 30, 1984

[S. 2217]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

Tandem Truck
Safety Act of
1984.

SHORT TITLE

SEC. 101. This title may be cited as the “Tandem Truck Safety Act of 1984”.

49 USC app. 2301
note.

EXEMPTION FROM LENGTH REQUIREMENTS

SEC. 102. Section 411 of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2311) is amended by adding at the end thereof the following new subsection:

“(i)(1) If the Governor of a State, after making the consultations specified in paragraph (2) of this subsection, determines that any specific segment of the National System of Interstate and Defense Highways is not capable of safely accommodating motor vehicles having the lengths set forth in subsection (a) of this section or motor vehicle combinations described in subsection (c) of this section, the Governor may notify the Secretary of such determination and request that the Secretary exempt such segment from one or both of such subsections.

“(2) Before making such notification, the Governor shall consult with units of local government within the State in which the specific segment of such System is located, as well as the Governor of any State adjacent to that State that might be directly affected by such exemption. As part of such consultations, consideration shall be given to any potential alternative route that—

“(A) can safely accommodate motor vehicles having the lengths set forth in subsection (a) of this section or motor vehicle combinations described in subsection (c) of this section; and

“(B) serves the area in which such segment is located.

“(3) The Governor shall transmit with such notification specific evidence of safety problems that supports such determination and the results of consultation regarding any alternative route under paragraph (2) of this subsection.

“(4)(A) If the Secretary determines, upon request by a Governor under paragraph (1) of this subsection or on the Secretary’s own initiative, that any segment of the National System of Interstate and Defense Highways is not capable of safely accommodating motor vehicles having the lengths set forth in subsection (a) of this section or motor vehicle combinations described in subsection (c) of this section, the Secretary shall exempt such segment from one or both of such subsections. Before making such determination, the

Secretary shall consider any possible alternative route that serves the area in which such segment is located.

“(B) The Secretary shall make such determination within a period of 120 days after the date of receipt of notification from a Governor under paragraph (1) of this subsection or the date on which the Secretary initiates action under this paragraph, as the case may be, with respect to such segment. If the Secretary determines that such determination will not be made within such time period, the Secretary shall immediately notify the Congress and shall furnish the reasons for the delay, information regarding the resources assigned, and the projected completion date, for any such determination.

“(C) The Secretary shall make such determination only after affording interested parties notice and the opportunity for comment. Any exemption granted by the Secretary under this paragraph before the date on which final rules are issued under subsection (a) of this section shall be included as part of such final rules. Any such exemption granted on or after such date shall be published as a revision of such rules.”.

EXEMPTION FROM WIDTH REQUIREMENTS

SEC. 103. Section 416 of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2316) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following new subsection:

“(e)(1) If the Governor of a State, after making the consultations specified in paragraph (2) of this subsection, determines that any specific segment of the National System of Interstate and Defense Highways is not capable of safely accommodating motor vehicles having the width set forth in subsection (a) of this section, the Governor may notify the Secretary of such determination and request that the Secretary exempt such segment from such subsection for the purpose of allowing the State to impose a width limitation of less than 102 inches for vehicles (other than buses) on such segment.

“(2) Before making such notification, the Governor shall consult with units of local government within the State in which the specific segment of such System is located, as well as the Governor of any State adjacent to that State that might be directly affected by such exemption. As part of such consultations, consideration shall be given to any potential alternative route that—

“(A) can safely accommodate motor vehicles having the width set forth in subsection (a) of this section;

“(B) serves the area in which such segment is located.

“(3) The Governor shall transmit with such notification specific evidence of safety problems that supports such determination and the results of consultation regarding any alternative route under paragraph (2) of this subsection.

“(4)(A) If the Secretary determines, upon request by a Governor under paragraph (1) of this subsection or on the Secretary's own initiative, that any segment of the National System of Interstate and Defense Highways is not capable of safely accommodating motor vehicles having the width set forth in subsection (a) of this section, the Secretary shall exempt such segment from such subsection for the purpose of allowing the State to impose a width limitation of less than 102 inches for vehicles (other than buses) on such segment. Before making such determination, the Secretary shall

consider any possible alternative route that serves the area in which such segment is located.

“(B) The Secretary shall make such determination within a period of 120 days after the date of receipt of notification from a Governor under paragraph (1) of this subsection or the date on which the Secretary initiates action under this paragraph, as the case may be, with respect to such segment. If the Secretary determines that such determination will not be made within such time period, the Secretary shall immediately notify the Congress and shall furnish the reasons for the delay, information regarding the resources assigned, and the projected completion date, for any such determination.

“(C) The Secretary shall make such determination only after affording interested parties notice and the opportunity for comment. Any exemption granted by the Secretary under this paragraph before the date on which final rules are issued under subsection (a) of this section shall be included as part of such final rules. Any such exemption granted on or after such date shall be published as a revision of such rules.”.

CONFORMING AMENDMENTS

SEC. 104. (a) Section 411(a) of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2311(a)) is amended—

(1) by striking out “No” and inserting in lieu thereof “Except as provided in subsection (i) of this section, no”;

(2) by inserting “(other than a segment exempted under subsection (i) of this section)” after “Highways”; and

(3) by striking out “Secretary,” and inserting in lieu thereof “Secretary of Transportation (hereinafter in this part referred to as the ‘Secretary’).”.

(b) Section 411(c) of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2311(c)) is amended by inserting “(other than a segment exempted under subsection (i) of this section)” after “Highways”.

(c) Section 412 of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2312) is amended by inserting “(other than any segment thereof which is exempted under section 411(i) or 416(e) of this title)” after “Highway System”.

(d) Section 416(a) of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2316(a)) is amended—

(1) by striking out “No” and inserting in lieu thereof “Except as provided in subsection (e) of this section, no”; and

(2) by inserting “(other than a segment exempted under subsection (e) of this section)” after “Highways”.

(e) Section 416(d) of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2316(d)) is amended—

(1) by inserting “(other than a segment exempted under subsection (e) of this section)” after “Highways”; and

(2) by striking out “, with traffic lanes designed to be a width of twelve feet or more”.

DESIGNATION OF HIGHWAYS SUBJECT TO WIDTH LIMITATION

SEC. 105. Section 416(a) of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2316(a)) is amended—

(1) by inserting after “more” the second place it appears the following: “, or any other qualifying Federal-aid Primary

System highway designated by the Secretary if the Secretary determines that such designation is consistent with highway safety"; and

(2) by adding at the end of such section the following new sentence: "After the date of the enactment of this sentence, any Federal-aid highway (other than any Interstate highway) which was not designated under this subsection on June 5, 1984, may be designated under this subsection only with the agreement of the Governor of the State in which the highway is located.".

REASONABLE ACCESS

SEC. 106. Section 412 of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2312) is amended—

(1) by inserting "(a)" after "Sec. 412."; and

(2) by striking out the period at the end thereof and inserting in lieu thereof the following: "and for any truck tractor-semi-trailer combination in which the semitrailer has a length not to exceed 28½ feet and which generally operates as part of a vehicle combination described in section 411(c) of this Act.

"(b) Nothing in this section shall be construed as preventing any State or local government from imposing any reasonable restriction, based on safety considerations, on any truck tractor-semi-trailer combination in which the semitrailer has a length not to exceed 28½ feet and which generally operates as part of a vehicle combination described in section 411(c) of this Act.".

Ante, p. 2831.

Motor Carrier
Safety Act of
1984.

TITLE II

SHORT TITLE

49 USC app. 2501
note.

SEC. 201. This title may be cited as the "Motor Carrier Safety Act of 1984".

PURPOSES

49 USC app.
2501.

SEC. 202. The purposes of this title are to promote the safe operation of commercial motor vehicles, to minimize dangers to the health of operators of commercial motor vehicles and other employees whose employment directly affects motor carrier safety, and to assure increased compliance with traffic laws and with the commercial motor vehicle safety and health rules, regulations, standards, and orders issued pursuant to this Act.

FINDINGS

49 USC app.
2502.

SEC. 203. The Congress finds that—

(1) it is in the public interest to enhance commercial motor vehicle safety and thereby to reduce highway fatalities, injuries, and property damage;

(2) improved, more uniform commercial motor vehicle safety measures and strengthened enforcement would reduce the number of fatalities and injuries and the level of property damage related to commercial motor vehicle operations;

(3) enhanced protection of the health of commercial motor vehicle operators is in the public interest; and

(4) interested State governments can provide valuable assistance to the Federal Government in assuring that commercial motor vehicle operations are conducted safely and healthfully.

DEFINITIONS

SEC. 204. For purposes of this title, the term—

49 USC app.
2503.

(1) “commercial motor vehicle” means any self-propelled or towed vehicle used on highways in interstate commerce to transport passengers or property—

(A) if such vehicle has a gross vehicle weight rating of 10,001 or more pounds;

(B) if such vehicle is designed to transport more than 15 passengers, including the driver; or

(C) if such vehicle is used in the transportation of materials found by the Secretary to be hazardous for the purposes of the Hazardous Materials Transportation Act (49 U.S.C. App. 1801-1812) and are transported in a quantity requiring placarding under regulations issued by the Secretary under such Act;

(2) “employee” means—

(A) an operator of a commercial motor vehicle (including an independent contractor while in the course of operating a commercial motor vehicle);

(B) a mechanic;

(C) a freight handler; and

(D) any individual other than an employer;

who is employed by an employer and who in the course of his or her employment directly affects commercial motor vehicle safety, but such term does not include an employee of the United States, any State, or any political subdivision of a State who is acting within the course of such employment;

(3) “employer” means any person engaged in a business affecting interstate commerce who owns or leases a commercial motor vehicle in connection with that business, or assigns employees to operate it, but such term does not include the United States, any State, or any political subdivision of a State;

(4) “interstate commerce” means trade, traffic, or transportation in the United States which is between a place in a State and a place outside of such State (including a place outside of the United States) or is between two places in a State through another State or a place outside of the United States;

(5) “intrastate commerce” means any trade, traffic, or transportation in any State which is not described in paragraph (4);

(6) “person” means any individual, partnership, association, corporation, business trust, and any other organized group of individuals;

(7) “regulation” includes any rule, standard, and order;

(8) “Safety Panel” means the Commercial Motor Vehicle Safety Regulatory Review Panel established under section 209 of this Act;

(9) “Secretary” means the Secretary of Transportation;

(10) “State” means a State of the United States and the District of Columbia and, for purposes of sections 206, 207, 208, 210, and 218, includes a political subdivision of a State;

(11) “State law” includes any law enacted or adopted by a political subdivision of a State;

(12) “State regulation” includes any regulation issued by a political subdivision of a State; and

(13) “United States” means the 50 States and the District of Columbia.

DUTIES

49 USC app.
2504.

SEC. 205. Each employer and employee shall comply with regulations pertaining to commercial motor vehicle safety issued by the Secretary under this title which are applicable to his or her own actions and conduct.

FEDERAL REGULATIONS

49 USC app.
2505.

SEC. 206. (a) Not later than 18 months after the date of the enactment of this Act, the Secretary shall issue regulations pertaining to commercial motor vehicle safety. Such regulation shall establish minimum Federal safety standards for commercial motor vehicles and shall, at a minimum, ensure that—

(1) commercial motor vehicles are safely maintained, equipped, loaded, and operated;

(2) the responsibilities imposed upon operators of commercial motor vehicles do not impair their ability to operate such vehicles safely;

(3) the physical condition of operators of commercial motor vehicles is adequate to enable them to operate such vehicles safely; and

(4) the operation of commercial motor vehicles does not have deleterious effects on the physical condition of such operators.

(b) The Secretary shall not eliminate or modify any existing motor carrier safety rule pertaining exclusively to the maintenance, equipment, loading or operation (including routing regulations) of vehicles carrying materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act (49 U.S.C. App. 1801-1812) unless and until an equivalent or more stringent regulation has been promulgated under the Hazardous Materials Transportation Act.

(c)(1) All regulations under this section shall be issued in accordance with section 553 of title 5, United States Code (without regard to sections 556 and 557 of such title), except that the time periods specified in this subsection shall apply to the issuance of such regulations.

(2) Before issuing such regulations, the Secretary shall, to the extent practicable and consistent with the purposes of this Act, consider (A) costs and benefits, and (B) State laws and regulations pertaining to commercial motor vehicle safety in order to minimize unnecessary preemption of such State laws and regulations under this Act.

(d) If the Secretary determines that any proceeding initiated to issue any regulation under this section will not be completed within 18 months after the date of the enactment of this Act, the Secretary shall immediately notify the Congress and shall furnish the reasons for the delay, information regarding the resources assigned, and the projected completion date for any such proceeding. The Secretary shall transmit to the Congress current data regarding the information specified in the preceding sentence at the end of every 60-day period thereafter during which any such proceeding remains incomplete.

(e) If the Secretary does not issue regulations pertaining to commercial motor vehicle safety in accordance with this section, regulations pertaining to commercial motor vehicle safety which the Secretary issued before such date of enactment and in effect on such

date of enactment shall, for purposes of this title, be deemed to be regulations issued by the Secretary under this section.

(f) After notice and an opportunity for comment, the Secretary may waive, in whole or in part, application of any regulation issued under this section with respect to any person or class of persons if the Secretary determines that such waiver is not contrary to the public interest and is consistent with the safe operation of commercial motor vehicles. Under this subsection, the Secretary shall waive application of the regulations issued under this section with respect to schoolbuses, as defined in section 102(14) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1391(14)), unless the Secretary determines that making such regulations applicable to such schoolbuses is necessary for public safety taking into account all Federal and State laws applicable to such schoolbuses. Any waiver authorized under this subsection shall be published in the Federal Register, together with the reasons for such waiver.

(g) Any final agency action taken under this section shall be subject to judicial review under chapter 7 of title 5, United States Code.

5 USC 701 *et seq.*

(h) Section 3102 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

“(d) Before prescribing or revising any requirement under this section, the Secretary shall consider the costs and benefits of such requirement.”.

SUBMISSION OF STATE REGULATIONS FOR REVIEW

SEC. 207. (a) Any State which enacts, adopts, issues, or has in effect any law or regulation pertaining to commercial motor vehicle safety and is interested in having in effect and enforcing such law or regulation after the last day of the 60-month period beginning on the date of the enactment of this Act shall, before the last day of the 6-month period beginning on such date of enactment, submit to the Secretary and the Safety Panel a copy of such law or regulation.

49 USC app.
2506.

(b) Any State which enacts, adopts, or issues any law or regulation pertaining to commercial motor vehicle safety after the last day of the 6-month period beginning on the date of the enactment of this Act shall (immediately after such enactment, adoption, or issuance) submit to the Secretary and the Safety Panel a copy of such law or regulation.

(c) Not later than 60 days after the date of the enactment of this Act, the Secretary shall issue initial guidelines to assist the States in compiling and submitting State laws and regulations and other information under this section.

(d) As soon as practicable but not later than such time as the Safety Panel may establish, any State which submits a law or regulation under this section to the Safety Panel—

(1) shall indicate, in writing, to the Safety Panel if such law or regulation—

- (A) has the same effect as;
- (B) is less stringent than; or
- (C) additional to or more stringent than;

any regulation issued by the Secretary under section 6; and
(2) shall submit to the Safety Panel such other information as the Safety Panel or the Secretary may require to carry out the objectives of this title.

(e) If any State fails to submit any State law or regulation pertaining to commercial motor vehicle safety in accordance with this section, the Safety Panel shall analyze the laws and regulations of such State and determine which of such State's laws and regulations pertain to commercial motor vehicle safety.

REVIEW AND PREEMPTION OF STATE REGULATIONS

49 USC app.
2507.

SEC. 208. (a) After the last day of the 60-month period beginning on the date of the enactment of this Act, no State may have in effect or enforce with respect to commercial motor vehicles any State law or regulation pertaining to commercial motor vehicle safety which the Secretary finds under this section may not be in effect and enforced.

(b)(1) Not later than 18 months after the date of the enactment of this Act and annually thereafter, the Safety Panel shall analyze the laws and regulations of each State and determine which of such laws and regulations pertain to commercial motor vehicle safety.

(2) Within 12 months after the date on which the Secretary issues any regulation under section 206 or within 12 months after the date on which a State law or regulation is determined under paragraph (1) to pertain to commercial motor vehicle safety, whichever is later, the Safety Panel—

(A) shall determine if such law or regulation—

(i) has the same effect as;

(ii) is less stringent than; or

(iii) is additional to or more stringent than;

the regulation issued by the Secretary under section 206; and

(B) shall determine with respect to any State law or regulation which is determined under subparagraph (A) to be additional to or more stringent than the regulation issued by the Secretary under section 206 if—

(i) there is no safety benefit associated with such State law or regulation;

(ii) such State law or regulation is incompatible with the regulation issued by the Secretary under section 206; or

(iii) enforcement of such State law or regulation would be an undue burden on interstate commerce; and

(C) shall notify the Secretary of the determinations made under this subsection with respect to such State law or regulation.

Regulations. (c)(1) The Secretary shall review each State law and regulation pertaining to commercial motor vehicle safety. Within 18 months after the date the Secretary is notified by the Safety Panel of a determination regarding a State law or regulation under subsection (b), the Secretary (A) shall conduct a rulemaking proceeding to determine in accordance with the provisions of this subsection whether or not such law or regulation may be in effect and enforced with respect to commercial motor vehicles, and (B) shall issue a final rule in such rulemaking proceeding.

(2) If the Secretary finds that the State law or regulation has the same effect as a regulation issued by the Secretary under section 206, the State law or regulation may be in effect and enforced with respect to commercial motor vehicles after the last day of the 60-month period beginning on the date of the enactment of this Act.

(3) If the Secretary finds that the State law or regulation is less stringent than a regulation issued by the Secretary under section

206, the State law or regulation shall not have effect and be enforced with respect to commercial motor vehicles after the last day of the 60-month period beginning on the date of the enactment of this Act.

(4) If the Secretary finds that the State law or regulation is additional to or more stringent than a regulation issued by the Secretary under section 206, the State law or regulation may be in effect and enforced with respect to commercial motor vehicles after the last day of the 60-month period beginning on the date of the enactment of this Act; except that if the Secretary finds that—

(A) there is no safety benefit associated with such State law or regulation;

(B) such State law or regulation is incompatible with the regulation issued by the Secretary under section 6; or

(C) enforcement of such State law or regulation would be an undue burden on interstate commerce;

such State law or regulation shall not have effect and be enforced with respect to commercial motor vehicles after the last day of such 60-month period.

(5)(A) In making any determination with respect to any State law or regulation under this subsection, the Secretary shall give great weight to the corresponding determination made by the Safety Panel with respect to such State law or regulation under subsection (b).

(B) In determining under paragraph (4) whether or not a law or regulation of a State will unduly burden interstate commerce, the Secretary may consider the effect upon interstate commerce of implementation of such law or regulation along with implementation of all similar laws and regulations of other States.

(d)(1) Any person (including any State) may petition the Secretary for a waiver from a determination of the Secretary that a State law or regulation may not be in effect and enforced under this section. The Secretary shall grant such waiver, as expeditiously as possible, if such person demonstrates to the satisfaction of the Secretary that such waiver is not contrary to the public interest and is consistent with the safe operation of commercial motor vehicles.

(2) The decision to grant or deny a petition for a waiver submitted under this subsection shall only be made after the Secretary has afforded the petitioner an opportunity for a hearing on the record.

(e) The Secretary may consolidate rulemaking proceedings under this section if the Secretary determines that such consolidation will not adversely affect any party to any of such proceedings.

(f) Not later than 10 days after making a determination under subsection (c) that a State law or regulation may not be in effect and enforced, the Secretary shall notify, in writing, such State of such determination.

(g)(1) Not later than 60 days after the Secretary makes a determination under subsection (c) with respect to a State law or regulation or grants or denies a petition for a waiver under subsection (d), any person (including any State) adversely affected by such determination or the grant or denial of such petition may file, with the United States court of appeals for the District of Columbia or for the circuit in which such person resides or has his principal place of business a petition for judicial review of such determination or the grant or denial of such petition.

(2) Upon the filing of a petition under paragraph (1) of this subsection, the court shall have jurisdiction to review in accordance with chapter 7 of title 5, United States Code, such determination or

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5 USC 701 *et seq*

the grant or denial of the petition for such waiver and to grant appropriate relief, including interim relief, as provided in such chapter.

(3) The judgment of the court affirming or setting aside, in whole or in part, any such determination or the grant or denial of the petition for such waiver shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28, United States Code.

(4) The remedies provided for in this subsection shall be in addition to and not in lieu of any other remedies provided by law.

(h) The Secretary may extend, for an additional period not to exceed 12 months, the 60-month period referred to in section 207(a) and subsections (a) and (c) of this section.

(i) After the last day of the 48-month period beginning on the date of the enactment of this Act, the Secretary, on his or her own initiative or on petition of any interested person (including any State), may initiate a rulemaking proceeding to review under this section any State law or regulation pertaining to commercial motor vehicle safety.

COMMERCIAL MOTOR VEHICLE SAFETY REGULATORY REVIEW PANEL

49 USC app.
2508.

SEC. 209. (a) As soon as practicable after the date of enactment of this Act, the Secretary shall establish a panel to analyze and review State laws and regulations under sections 207 and 208 of this Act. The panel established under this section shall be known as the "Commercial Motor Vehicle Safety Regulatory Review Panel".

(b) The Safety Panel shall—

(1) carry out those duties designated to be carried out by the Safety Panel under sections 207 and 208 of this Act;

(2) conduct a study—

(A) to evaluate the need, if any, for any additional Federal assistance to the States to enable the States to enforce the regulations issued by the Secretary under section 206; and

(B) to determine other methods of furthering the objectives of this title; and

(3) make recommendations to the Secretary based on the results of such study.

(c) The Safety Panel shall be composed of 15 members as follows:

(1) The Secretary or his or her delegate.

(2) Seven individuals appointed by the Secretary from among persons who represent the interests of States and political subdivisions thereof and whose names have been submitted to the Secretary by the Committee on Commerce, Science, and Transportation of the Senate or the Committee on Public Works and Transportation of the House of Representatives.

(3) Seven individuals appointed by the Secretary from among persons who represent the interests of business, consumer, labor, and safety groups and whose names have been submitted to the Secretary by the Committee on Commerce, Science, and Transportation of the Senate or the Committee on Public Works and Transportation of the House of Representatives.

The Secretary shall select the individuals to be appointed under this subsection on the basis of their knowledge, expertise, or experience regarding commercial motor vehicle safety. Half of such appointments shall be made from names submitted by the Committee on

Commerce, Science, and Transportation of the Senate, and the other half of such appointments, from names submitted by the Committee on Public Works and Transportation of the House of Representatives. Each of such committees shall submit to the Secretary the names of twenty individuals qualified to serve on the Safety Panel.

(d)(1) A vacancy in the Safety Panel shall not affect its powers but shall be filled in the manner in which the original appointment was made.

(2) Eight members of the Safety Panel shall constitute a quorum, but the Council may establish a lesser number as a quorum for the purpose of holding hearings, taking testimony, and receiving evidence.

(3) The Chairman of the Safety Panel shall be the Secretary.

(4) The Safety Panel shall meet at the call of the Chairman or a majority of its members.

(5) Members of the Safety Panel shall be appointed for a term of seven years.

(6) Members of the Safety Panel shall serve without pay, except that they shall receive per diem and travel expenses in accordance with section 5703 of title 5, United States Code.

(e) Upon request of the Safety Panel, the Secretary shall detail such of the personnel of the Department of Transportation to the Safety Panel as may be necessary to assist the Safety Panel in carrying out its duties under this title.

(f) Upon request of the Safety Panel, the Secretary shall provide such office space, supplies, equipment, and other support services to the Safety Panel and its staff as may be necessary for the Safety Panel to carry out its duties under this title.

(g) The Safety Panel or any member authorized by the Safety Panel may, for the purpose of carrying out the duties of the Safety Panel under this title, hold such hearings, sit and act at such time and places, take such testimony, and take such other actions as the Safety Panel or such member may deem advisable to carry out the duties of the Safety Panel under this title. Any member of the Safety Panel may administer oaths or affirmations to witnesses appearing before the Safety Panel or before such member.

(h) Subject to such rules as the Safety Panel may prescribe, the Chairman of the Safety Panel may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

INSPECTION

SEC. 210. (a) Upon the instruction of a duly authorized State or Federal enforcement official, each commercial motor vehicle shall be required to pass an inspection of all safety equipment required under part 393 of subchapter B of chapter III of title 49, Code of Federal Regulations.

49 USC app.
2509.

(b) The Secretary shall, by rule, establish Federal standards for inspections of commercial motor vehicles and retention by employers of records of such inspections. Such standards shall provide for annual or more frequent inspections of commercial motor vehicles unless the Secretary finds that another inspection system is as effective as an annual or more frequent inspection system. For purposes of this title, such standards shall be deemed to be regulations issued by the Secretary under section 206.

Regulations.

(c) Not later than 60 days after the date of the enactment of this Act, the Secretary shall initiate a rulemaking to afford interested

Federal
Register,
publication.
Effective date.

49 USC app.
2302.

parties an opportunity to comment on such part 393 and the inspection and retention procedures established pursuant to subsection (b) of this section. Amendments to the regulations shall be issued and published in the Federal Register not later than one year after such rulemaking is initiated. The amended regulations shall become effective on the date on which they are published in the Federal Register.

(d)(1) Except as provided in paragraph (2), nothing in section 402 of the Surface Transportation Assistance Act of 1982 or section 208 or any other provision of this title shall be construed as—

(A) preventing any State or voluntary group of States from imposing more stringent standards for use in their own periodic roadside inspection programs of commercial motor vehicles;

(B) preventing any State from having in effect and enforcing a program for inspection of commercial motor vehicles which the Secretary determines is as effective as the Federal standards established under subsection (b);

(C) preventing any State from having in effect and enforcing a program for inspection of commercial motor vehicles which meets the requirements for membership in the Commercial Vehicle Safety Alliance as such requirements were in effect on the date of the enactment of this Act; and

(D) requiring any State which has in effect and is enforcing a program described in subparagraph (B) or (C) to enforce any Federal standard established under subsection (b) or to adopt any provision pertaining to inspection of commercial motor vehicles in addition to such program in order to comply with such Federal standards.

(2) If, after notice and an opportunity for a hearing, the Secretary determines that any State which has in effect and is enforcing a program described in paragraph (1)(C) of this subsection is not enforcing such program in a manner which achieves the objectives of this section, and if, after making such determination, the Secretary provides such State with a six month period in which to improve the enforcement of such program to achieve the objectives of this section, the Federal standards established under subsection (b) shall preempt such program with respect to the inspection of commercial motor vehicles in such State and such program shall not be in effect and enforced with respect to such vehicles.

(e) A periodic inspection of a commercial motor vehicle in accordance with the Federal standards established under subsection (b) or in accordance with a program described in subparagraph (B) or (C) of subsection (d)(1) which is in effect and being enforced shall be recognized as adequate in every State for the period of such inspection. The provisions of this subsection shall not be deemed to prohibit a State from making random inspections of commercial motor vehicles.

(f) The Federal standards established under subsection (b) shall have no effect and shall not be enforced with respect to the inspection of commercial motor vehicles in any State which has in effect and is enforcing a program described in subparagraph (B) or (C) of subsection (d)(1) if the Secretary determines that such Federal standards not having effect and being enforced with respect to such inspection is in the public interest and consistent with public safety.

POWERS OF THE SECRETARY

SEC. 211. (a) The Secretary may conduct, directly or indirectly, such studies and such development, demonstration, and training activities as the Secretary considers appropriate to develop regulations authorized to be issued under section 206 of this title, to design and develop improved enforcement procedures and technologies, and to familiarize affected persons with such regulations.

49 USC app.
2510.

(b) In carrying out the Secretary's functions under this title, the Secretary is authorized to perform such acts (including conducting investigations and inspections; compiling statistics; making reports; issuing subpoenas; requiring production of documents, records, and property; taking depositions; holding hearings; prescribing record-keeping and reporting requirements; and carrying out and contracting for studies, development, testing, evaluation, and training) as the Secretary determines necessary to carry out the provisions of this title, or regulations issued pursuant to section 402 of the Surface Transportation Assistance Act of 1982 (49 U.S.C. 2302). The Secretary may delegate to a State which is receiving a grant under such section such functions respecting the enforcement (including investigations) of the provisions of this title and regulations issued under this title as the Secretary determines appropriate to carry out such provisions and regulations.

(c) To carry out the Secretary's inspection and investigation functions under subsection (b) of this section, the Secretary or the Secretary's agent shall, as appropriate, consult with employers and employees and their duly authorized representatives, and shall offer them a right of accompaniment.

DUTY TO INVESTIGATE COMPLAINTS; PROTECTION OF COMPLAINANTS

SEC. 212. (a) The Secretary shall timely investigate any nonfrivolous written complaint alleging that a substantial violation of any regulation issued under this title is occurring or has occurred within the preceding 60 days. The complainant shall be timely notified of findings resulting from such investigation. The Secretary shall not be required to conduct separate investigations of duplicative complaints.

49 USC app.
2511.

(b) Notwithstanding the provisions of section 552 of title 5, United States Code, the Secretary shall not disclose the identity of complainants unless it is determined that such disclosure is necessary to prosecute a violation. If disclosure becomes necessary, the Secretary shall take every practical measure within the Secretary's authority to assure that the complainant is not subject to harassment, intimidation, disciplinary action, discrimination, or financial loss as a result of such disclosure.

Confidentiality.

PENALTIES

SEC. 213. (a) Section 507 of title 49, United States Code, is amended—

(1) by redesignating subsections (c) and (d), and any references thereto, as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following new subsection:

“(c) The Attorney General, at the request of the Secretary, may bring an action in an appropriate district court of the United States for equitable relief to redress a violation by any person of a provi-

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Ante, p. 2832.

sion of section 3102 of this title or the Motor Carrier Safety Act of 1984, or an order or regulation issued under such section or Act. Such district court shall have jurisdiction to determine any such action and may grant such relief as is necessary or appropriate, including mandatory or prohibitive injunctive relief, interim equitable relief, and punitive damages.”.

(b) Section 521(b) of title 49, United States Code, is amended to read as follows:

49 USC 3102.

“(b)(1) If the Secretary finds that a violation of section 3102 of this title or the Motor Carrier Safety Act of 1984, or a violation of a regulation issued under such section or Act, has occurred, the Secretary shall issue a written notice to the violator. Such notice shall describe with reasonable particularity the nature of the violation found and the provision which has been violated. The notice shall fix a reasonable time for abatement of the violation, specify the proposed civil penalty, if any, and suggest actions which might be taken in order to abate the violation. The notice shall indicate that the violator may, within 15 days of service, notify the Secretary of the violator’s intention to contest the matter. In the event of a contested notice, the Secretary shall afford such violator an opportunity for a hearing, pursuant to section 554 of title 5, following which the Secretary shall issue an order affirming, modifying, or vacating the notice of violation.

“(2) Except as otherwise provided in this subsection, any person who is determined by the Secretary, after notice and opportunity for a hearing, to have committed an act which is a violation of a recordkeeping requirement issued by the Secretary pursuant to section 3102 of this title or the Motor Carrier Safety Act of 1984 shall be liable to the United States for a civil penalty not to exceed \$500 for each offense. Each day of a violation shall constitute a separate offense, except that the total of all civil penalties assessed against any violator for all offenses relating to any single violation shall not exceed \$2,500. If the Secretary determines that a serious pattern of safety violations, other than recordkeeping requirements, exists or has occurred, the Secretary may assess a civil penalty not to exceed \$1,000 for each offense; except that the maximum fine for each such pattern of safety violations shall not exceed \$10,000. If the Secretary determines that a substantial health or safety violation exists or has occurred which could reasonably lead to, or has resulted in, serious personal injury or death, the Secretary may assess a civil penalty not to exceed \$10,000 for each offense. Notwithstanding any other provision of this section, except for recordkeeping violations, no civil penalty shall be assessed under this section against an employee for a violation unless the Secretary determines that such employee’s actions constituted gross negligence or reckless disregard for safety, in which case such employee shall be liable for a civil penalty not to exceed \$1,000. The amount of any civil penalty, and a reasonable time for abatement of the violation, shall by written order be determined by the Secretary, taking into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the violator, the degree of culpability, history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice and public safety may require. In each case, the assessment shall be calculated to induce further compliance.

“(3) The Secretary may require any violator served with a notice of violation to post a copy of such notice or statement of such notice

in such place or places and for such duration as the Secretary may determine appropriate to aid in the enforcement of section 3102 of this title or the Motor Carrier Safety Act of 1984, as the case may be.

“(4) Such civil penalty may be recovered in an action brought by the Attorney General on behalf of the United States in the appropriate district court of the United States or, before referral to the Attorney General, such civil penalty may be compromised by the Secretary.

49 USC 3102.
Ante, p. 2832.
Courts, U.S.

“(5)(A) If, upon inspection or investigation, the Secretary determines that a violation of section 3102 of this title or the Motor Carrier Safety Act of 1984 or a regulation issued under such section or Act, or combination of such violations, poses an imminent hazard to safety, the Secretary shall order a vehicle or employee operating such vehicle out of service, or order an employer to cease all or part of the employer's commercial motor vehicle operations. In making any such order, the Secretary shall impose no restriction on any employee or employer beyond that required to abate the hazard. Subsequent to the issuance of the order, opportunity for review shall be provided in accordance with section 554 of title 5, except that such review shall occur not later than 10 days after issuance of such order.

“(B) In this paragraph, ‘imminent hazard’ means any condition of vehicle, employee, or commercial motor vehicle operations which is likely to result in serious injury or death if not discontinued immediately.

“(6) Any person who knowingly and willfully violates any provision of section 3102 of this title, the Motor Carrier Safety Act of 1984, or a regulation issued under such section or Act shall, upon conviction, be subject for each offense for a fine not to exceed \$25,000 or imprisonment for a term not to exceed one year, or both, except that, if such violator is an employee, the violator shall only be subject to penalty if, while operating a commercial motor vehicle, the violator's activities have led or could have led to death or serious injury, in which case the violator shall be liable, upon conviction, for a fine not to exceed \$2,500.

“(7) The Secretary shall issue regulations establishing penalty schedules designed to induce timely compliance for persons failing to comply promptly with the requirements set forth in any notices and orders under this subsection.

Regulations.

“(8) Any aggrieved person who, after a hearing, is adversely affected by a final order issued under this section may, within 30 days, petition for review of the order in the United States Court of Appeals in the circuit wherein the violation is alleged to have occurred or where the violator has his principal place of business or residence, or in the United States Court of Appeals for the District of Columbia Circuit. Review of the order shall be based on a determination of whether the Secretary's findings and conclusions were supported by substantial evidence, or were otherwise not in accordance with law. No objection that has not been urged before the Secretary shall be considered by the court, unless reasonable grounds existed for failure or neglect to do so. The commencement of proceedings under this subsection shall not, unless ordered by the court, operate as a stay of the order of the Secretary.

Courts, U.S.

“(9) All penalties and fines collected under this section shall be deposited into the Highway Trust Fund (other than the Mass Transit Account).

"(10) In any action brought under this section, process may be served without regard to the territorial limits of the district of the State in which the action is brought.

18 USC app.

"(11) In any proceeding for criminal contempt for violation of an injunction or restraining order issued under this section, trial shall be by the court, or, upon demand of the accused, by a jury, conducted in accordance with the provisions of rule 42(b) of the Federal Rules of Criminal Procedure.

"(12) The provisions of this subsection shall not affect any provision of the Hazardous Materials Transportation Act (49 U.S.C. App. 1801-1812) or any regulation promulgated by the Secretary under such Act.

Ante, p. 2833.

"(13) As used in this subsection, the terms 'commercial motor vehicle', 'employee', 'employer', and 'State' have the meaning such terms have under section 4 of the Motor Carrier Safety Act of 1984."

(c) Section 526 of title 49, United States Code, is amended—

(1) by inserting after "chapter" the first place it appears the following: " , section 3102 of this title, or the Motor Carrier Safety Act of 1984"; and

(2) by inserting after "chapter" the second and third places it appears the following: "or such section or Act".

Study.
49 USC 521 note.

(d) The Secretary shall conduct a study of the effectiveness of the civil and criminal penalties established by the amendments made by this section in deterring violations of the commercial motor vehicle safety regulations issued under this title and in effectively prosecuting such violations when they occur. Such study shall examine the effectiveness of penalties in effect before the date of enactment of this Act in comparison to the penalties established by the amendments made by by this title. Such study shall also investigate the need for, and make recommendations concerning, increased fine levels for civil and criminal penalties, and the need for additional categories of civil and criminal penalties to deter further, and prosecute effectively, violations of such commercial motor vehicle safety regulations. The Secretary shall submit to Congress a report on the findings of this study, together with legislative recommendations, not later than 2 years after the date of enactment of this Act.

Report.

LITIGATION AUTHORITY

49 USC
app. 2313.

SEC. 214. Section 413 of Surface Transportation Assistance Act of 1982 (49 U.S.C. 2313) is amended by striking "The Secretary, or, on" and inserting in lieu thereof "On".

CERTIFICATION OF SAFETY FITNESS

Regulations.
49 USC app.
2512

SEC. 215. (a) The Secretary, in cooperation with the Interstate Commerce Commission, shall by rule, after notice and opportunity for comment, establish a procedure to determine the safety fitness of owners and operators of commercial motor vehicles, including persons seeking new or additional operating authority as motor carriers under sections 10922 and 10923 of title 49, United States Code. Such procedure shall include—

(1) specific initial and continuing requirements to be met by such persons to prove safety fitness;

(2) a means of determining whether such persons meet the safety fitness requirements specified under paragraph (1); and

(3) specific time deadlines for action by the Department of Transportation and the Interstate Commerce Commission in making fitness determinations.

(b) Not later than one year after the date of the enactment of this Act, the Secretary shall submit to Congress a copy of the procedure established under subsection (a) of this section.

(c) The rules adopted under this section shall supersede all Federal rules regarding safety fitness and safety rating of motor carriers in effect on the date of enactment of this Act.

(d) Notwithstanding any other provision of law, the Interstate Commerce Commission (1) shall find any applicant for authority to operate as a motor carrier to be unfit if the applicant does not meet the safety fitness requirements established under subsection (a) of this section, and (2) shall deny such application.

HEAVY TRUCK STUDY

SEC. 216. (a) The Secretary shall undertake a comprehensive study of safety characteristics of heavy trucks, the unique problems related to heavy trucks, and the manner in which such trucks are driven. Such study shall include an examination of the handling, braking, stability, and crashworthiness of heavy trucks, and an examination of the programs and needs of enforcement agencies to assure compliance with traffic laws by commercial motor vehicle drivers. In carrying out such study, the Secretary shall consult with truck manufacturers, employee representatives, truck operators, and other interested parties. Not later than September 30, 1986, the Secretary shall submit to the Congress a report on the findings of such study.

49 USC app.
2513.

Report.

(b) There are authorized to be appropriated for fiscal years 1986 and 1987 such sums as may be necessary to conduct the study required under subsection (a) of this section.

Appropriation
authorization.

TRUCK OCCUPANT PROTECTION

SEC. 217. (a) The Secretary shall make a full investigation and study of crash protection for truck occupants. Such study shall examine potential and known hazards to truck occupants and means of improving truck-occupant safety. Such study shall also include potential performance standards, if any, to be met by truck manufacturers. In carrying out such study, the Secretary shall consult with truck manufacturers, employee representatives, truck operators, and other interested parties. The Secretary shall submit to Congress a report on the findings of this investigation and study not later than two years after the date of the enactment of this Act.

Study.
49 USC app.
2514.

Report.

(b) There are authorized to be appropriated for fiscal years 1986 and 1987 such sums as may be necessary to undertake the study required by subsection (a) of this section.

Appropriation
authorization.

STUDY OF SAFETY PERFORMANCE OF COMMERCIAL MOTOR VEHICLES

SEC. 218. (a) The Secretary shall conduct a study of the safety performance of commercial motor vehicles. The study shall examine the effectiveness of individual State regulations governing the operations of such vehicles in promoting safety. Such study shall also investigate the need to subject such operations, in whole or in part, to the commercial motor vehicle safety regulations issued under this title. The Secretary shall submit to Congress a report on the find-

49 USC app.
2515.

Report

ings of the investigation and study conducted under this subsection not later than two years after the date of the enactment of this Act.

(b) For purposes of this subsection, the term "commercial motor vehicle" means any self-propelled or towed vehicle used on highways in intrastate commerce to transport passengers or property if such vehicle is described in subparagraph (A), (B), or (C) of section 204(1) of this Act.

STUDY OF SAFETY-RELATED DEVICES

49 USC app.
2516.

Report.

Appropriation
authorization.

SEC. 219. (a) The Secretary shall conduct a study of the effectiveness of existing regulations regarding emergency warning devices required to be carried on buses, trucks, truck-tractors, and motor-driven vehicles which are involved in emergency situations. Such study shall also investigate the potential costs and benefits of requiring passenger automobile operators to carry emergency warning devices, and shall examine the relative benefits of various types of warning devices in enhancing highway safety. The Secretary shall submit to the Congress a report containing the findings of this study not later than 18 months after the date of the enactment of this Act.

(b) There are authorized to be appropriated for fiscal years 1986 and 1987 such sums as may be necessary to undertake the study required by this section.

SAFETY STUDY; FEDERAL COORDINATION

49 USC app.
2517.

SEC. 220. (a) The Secretary, in consultation with the Director of the National Institute for Occupational Safety and Health and the Secretary of Labor, shall undertake a study of significant health hazards to which employees engaged in the operation of commercial motor vehicles are exposed, and shall develop such materials and information as are necessary to enable such employees to carry out their employment in a place and manner free from recognized hazards that are causing or are likely to cause death or serious physical harm. The study shall include findings regarding the most appropriate method for regulating and protecting the health of operators of commercial motor vehicles. The findings of such study shall be submitted to the Congress within one year after the date of the enactment of this Act.

(b) The Secretary shall coordinate the activities of Federal agencies to ensure adequate protection of the safety and health of operators of commercial motor vehicles. The Secretary shall attempt to minimize paperwork burdens to assure maximum coordination and to avoid overlap and the imposition of undue burdens on persons subject to regulations under this title.

RELATIONSHIP TO OTHER LAW

49 USC app.
2518.

SEC. 221. Except as provided in section 206(b), the provisions of this title and the regulations issued under this title shall not affect any provision of the Hazardous Materials Transportation Act (49 U.S.C. App. 1801-1812) or any regulation issued by the Secretary under such Act.

AMENDMENT TO THE MOTOR CARRIER ACT OF 1980

SEC. 222. (a) Section 30(b)(3) of the Motor Carrier Act of 1980 (49 U.S.C. 10927 note) is amended—

(1) by striking out “and” at the end of clause (A); and
(2) by striking out the period at the end of such section and inserting in lieu thereof the following: “, and (C) in the case of any farm vehicle transporting any such material or substance in interstate commerce other than in bulk, the Secretary, by regulation, may reduce such amount if the Secretary finds that such reduction will not adversely affect public safety.”.

(b) Section 30(g) of such Act is amended by redesignating paragraphs (1), (2), and (3) as paragraphs (2), (3), and (4), respectively, and inserting before paragraph (2), as so redesignated, the following new paragraph:

49 USC 10927
note.

“(1) ‘farm vehicle’ means any vehicle which (A) is designed or adapted and used exclusively for agricultural purposes, (B) is operated by a motor private carrier (as such term is defined under section 10102 of title 49, United States Code), and (C) is only incidentally operated on highways;”.

SPLASH AND SPRAY SUPPRESSANT DEVICES

SEC. 223. Section 414(b) of the Surface Transportation Assistance Act of 1982 (49 U.S.C. 2314(b)) is amended—

49 USC app.
2314.

(1) in paragraph (2) by striking out “two years after the date of the enactment of this title,” and inserting in lieu thereof “one year after the date on which the standards are established under paragraph (1) of this subsection,”; and

(2) in paragraph (3) by striking out “five years after the date of the enactment of this title,” and inserting in lieu thereof “four years after the date on which the standards are established under paragraph (1) of this subsection,”.

FOREIGN BUS CARRIER FINANCIAL RESPONSIBILITY REQUIREMENTS

SEC. 224. Section 18(d) of the Bus Regulatory Reform Act of 1982 (49 U.S.C. 10927 note) is amended—

(1) by striking out “(d) Financial” and inserting in lieu thereof “(d)(1) Subject to paragraph (2) of this subsection, financial”; and

(2) by adding at the end thereof the following new paragraph:
“(2)(A) Any person domiciled in any contiguous foreign country who provides transportation by motor vehicle to which any of the minimal levels of financial responsibility established under this section apply shall have evidence of such financial responsibility in such motor vehicle at any time such person is providing such transportation.

“(B) The Secretary of Transportation and the Secretary of the Treasury shall deny entry into the United States of any motor vehicle in which there is not evidence of financial responsibility required to be in such vehicle by subparagraph (A) of this paragraph.”.

EXTENSION OF MORATORIUM ON CERTIFICATION OF FOREIGN MOTOR CARRIERS

SEC. 225. (a) Section 10922(l)(1) of title 49, United States Code, is amended by striking out “two-year” each place it appears and inserting in lieu thereof “four-year”.

(b) The second sentence of such section is amended by inserting after "such moratorium" the following: "or impose such a moratorium".

Effective date.
49 USC 10922
note.

(c) The amendments made by this section shall take effect on September 19, 1984.

CERTIFICATES OF REGISTRATION FOR FOREIGN MOTOR CARRIERS

SEC. 226. (a)(1) Subchapter II of chapter 105 of title 49, United States Code, is amended by adding at the end thereof the following new section:

49 USC 10530.

"§ 10530. Certificates of registration for certain foreign carriers

"(a) In this section—

"(1) 'registrable year' means the six-month period beginning July 1, 1985, and ending December 31, 1985, calendar year 1986, and each calendar year thereafter.

"(2) 'foreign motor carrier' means a motor carrier of property—

49 USC 10922.

49 USC 10923.

"(A) which does not hold a certificate issued under section 10922 of this title or a permit issued under section 10923 of this title; and

"(B)(i) which is domiciled in any contiguous foreign country; or

"(ii) which is owned or controlled by persons of any contiguous foreign country and is not domiciled in the United States.

"(3) 'foreign motor private carrier' means a motor private carrier—

"(A) which is domiciled in any contiguous foreign country; or

"(B) which is owned or controlled by persons of any contiguous foreign country and is not domiciled in the United States.

49 USC 10526.

"(4) 'exempt items' means items described in paragraphs (4), (6), (11), (12), (13), and (15) of section 10526(a) of this subchapter and items transported under paragraph (5) of such section.

49 USC 10521.

"(5) 'interstate transportation' means transportation described in section 10521(a) of this subchapter and transportation in the United States exempt from the jurisdiction of the Commission under section 10526(b)(1) of this subchapter.

"(b)(1) Except as provided in this section, no foreign motor carrier may provide interstate transportation of exempt items in any registrable year unless the Commission has issued to the carrier a certificate of registration under this section authorizing the carrier to provide such transportation in such year.

"(2) Except as provided in this section, no foreign motor private carrier may provide interstate transportation of property (including exempt items) in any registrable year unless the Commission has issued to the carrier a certificate of registration under this section authorizing the carrier to provide such transportation in such year.

49 USC 10321.

5 USC 551.

"(c) Without regard to subchapter II of chapter 103 of this title and subchapter II of chapter 5 of title 5, the Commission shall issue a certificate of registration to any foreign motor carrier authorizing the carrier to provide interstate transportation of exempt items in any registrable year, and to any foreign motor private carrier

authorizing the carrier to provide interstate transportation of property (including exempt items) in any registrable year, if—

“(1) the Commission finds that the carrier is fit, willing, and able—

“(A) to provide the transportation to be authorized by the certificate; and

“(B) to comply with this subtitle and regulations of the Commission; and

“(2) the carrier demonstrates to the satisfaction of the Commission that the carrier has paid (or will pay in a timely manner) all taxes imposed by section 4481 of the Internal Revenue Code of 1954 on any motor vehicle which such carrier operated in the United States in the most recent taxable period (as such term is defined under section 4482(c) of such Code) ending before the first day of such registrable year.

26 USC 4481.

26 USC 4482.

“(d) A foreign motor carrier and a foreign motor private carrier must file an application with the Commission for a certificate of registration under this section to provide interstate transportation. The Commission may approve any part of the application or deny the application. The application must—

“(1) be under oath;

“(2) contain such information as the Commission may require by regulation; and

“(3) be filed with the Commission at such times as the Commission may require by regulation.

“(e) The requirement that foreign motor carriers and foreign motor private carriers issued certificates of registration under this section be fit, willing, and able means—

“(1) safety fitness; and

“(2) proof of minimum financial responsibility—

“(A) under section 30 of the Motor Carrier Act of 1980, in the case of a foreign motor carrier or foreign motor private carrier which provides transportation in the United States of an item referred to in subsection (b)(1) of such section; and

Ante, p. 2846.

“(B) under the laws of the State or States in which the carrier is operating, in the case of a foreign motor private carrier which provides interstate transportation in the United States of property (other than an item referred to in such subsection).

“(f) Each certificate of registration issued under this section shall specify the transportation to be provided under the certificate.

“(g)(1) Any motor vehicle which is used to provide transportation under a certificate of registration issued under this section shall have a copy of such certificate in such motor vehicle at any time such vehicle is being used to provide such transportation.

“(2) The Commission, the Secretary of Transportation, and the Secretary of the Treasury shall deny entry into the United States of any motor vehicle in which there is not a copy of the certificate of registration required to be in such vehicle by paragraph (1) of this subsection.

“(h) When a certificate of registration is issued under this section, the Commission may prescribe such conditions on the transportation to be provided under the certificate as may be necessary to carry out the objectives of this section.

“(i)(1) Subject to paragraph (3) of this subsection, this section shall not apply with respect to any contiguous foreign country with

respect to which a moratorium is not in effect under section 10922(l) of this title on the effective date of this section.

President of U.S.

“(2) The President of the United States may waive the requirements of this section with respect to any contiguous foreign country if the President determines that such waiver is in the national interest and notifies, in writing, the Congress of such waiver before the date on which such waiver is to take effect. In any case in which the requirements of this section apply with respect to a contiguous foreign country which substantially prohibits grants of authority to persons from the United States to provide transportation by motor vehicle for compensation in such foreign country, such waiver shall not take effect before the 60th day following the date on which the Congress is notified of such waiver.

“(3) The President of the United States may, by order, make the requirements of this section applicable with respect to any contiguous foreign country if—

“(A) the President determines that making such requirements so applicable is in the national interest; and

“(B) the President—

“(i) notifies, in writing, the Congress of the issuance of such order; and

“(ii) has published a copy of such order in the Federal Register;

at least 30 days before such order takes effect.”

(2) The analysis for subchapter II of chapter 105 of title 49, United States Code, is amended by adding at the end thereof the following:

“10530. Certificates of registration for certain foreign carriers.”

(b)(1) The first sentence of section 10922(l)(1) of title 49, United States Code, is amended—

(A) by striking out “or any permit” and inserting in lieu thereof “any permit”; and

(B) by inserting after “contract carrier,” the following: “or any certificate of registration under section 10530 of this title to any motor carrier of property or motor private carrier,”

49 USC 10922

(2) Section 10922(l)(2) of such title is amended by inserting “(A)” after “(2)” and by adding at the end thereof the following new subparagraph:

“(B)(i) Subject to the provisions of this subparagraph, during a moratorium imposed under paragraph (1) of this subsection with respect to any contiguous foreign country or political subdivision thereof, the Commission may issue certificates of registration under section 10530 of this subtitle to motor carriers of property and motor private carriers domiciled in such country or political subdivision and to motor carriers of property and motor private carriers owned or controlled by persons of such country or political subdivision.

“(ii) Subject to clause (iv) of this subparagraph, if the person to be issued the certificate of registration during the moratorium is a motor carrier of property domiciled in the foreign country or political subdivision or is a motor carrier of property owned or controlled by persons of the foreign country or political subdivision, such certificate may only authorize such carrier to provide transportation of exempt items in a municipality in the United States which is adjacent to the foreign country or political subdivision, in contiguous municipalities in the United States any one of which is adjacent to the foreign country or political subdivision, or in a zone in the

Ante, p. 2848.

Federal
Register,
publication

United States that is adjacent to, and commercially a part of, the municipality or municipalities.

“(iii) Subject to clause (v) of this subsection, if the person to be issued the certificate of registration during the moratorium is a motor private carrier domiciled in the foreign country or political subdivision or is a motor private carrier owned or controlled by persons of the foreign country or political subdivision, such certificate may only authorize such carrier to provide transportation of property (including exempt items) in a municipality in the United States which is adjacent to the foreign country or political subdivision, in contiguous municipalities in the United States any one of which is adjacent to the foreign country or political subdivision, or in a zone in the United States that is adjacent to, and commercially a part of, the municipality or municipalities.

“(iv) If the person to be issued the certificate of registration during the moratorium is a motor carrier of property domiciled in the foreign country or political subdivision and owned or controlled by persons of the United States, such certificate may only authorize such carrier to provide interstate transportation of exempt items.

“(v) If the person to be issued the certificate of registration during the moratorium is a motor private carrier domiciled in the foreign country or political subdivision and owned or controlled by persons of the United States, such certificate may only authorize such carrier to provide interstate transportation of property (including exempt items).

“(vi) In this subparagraph, the terms ‘exempt items’ and ‘interstate transportation’ have the meanings such terms have under section 10530(a) of this title.”

Ante, p. 2848.

(c)(1) Section 10322(a) of title 49, United States Code, is amended by inserting “10530,” after “10525(c).”

(2) The first sentence of section 10927(a)(1) of such title is amended—

49 USC 10927.

(A) by inserting “and a certificate of registration to a motor carrier or motor private carrier under section 10530 of this title” after “10923 of this title”;

(B) by striking out “or section 18” and inserting in lieu thereof “section 18”; and

(C) by inserting before the period at the end of such sentence “, or the laws of the State or States in which the carrier is operating, in the case of a motor private carrier”.

(3) Section 10927(a)(2) of such title is amended by inserting “and a foreign motor private carrier (as such term is defined under section 10530(a)(3) of this title)” after “A motor carrier”.

49 USC 11701.

(4) Section 11701 of such title is amended—

(A) in subsection (a) by inserting after the second sentence the following new sentence: “If the Commission finds that a motor private carrier is violating section 10530 of this subtitle, the Commission shall take appropriate action to compel compliance with such section.”; and

Ante, p. 2848.

(B) by striking out the period at the end of the first sentence in subsection (b) and inserting in lieu thereof “or a motor carrier or motor private carrier providing transportation under a certificate of registration issued under section 10530 of this title.”

(5) Section 11702(a)(4) of such title is amended by inserting before the semicolon at the end thereof the following: “or by a motor

49 USC 11702.

carrier or motor private carrier providing transportation under a certificate of registration issued under section 10530 of this title”.

49 USC 11901

(6) Section 11901(g) of such title is amended—

(A) by inserting “or transportation provided under a certificate of registration issued under section 10530 of this title” after “chapter 105 of this title”;

(B) by striking out “, or (4)” and inserting in lieu thereof “, (4)”;

(C) by inserting “or (5) does not comply with section 10530 of this title,” before “is liable to”.

49 USC 11914

(7) Section 11914(b) of such title is amended—

(A) by striking out “this title,” and inserting in lieu thereof “this title”;

(B) by inserting after “1966,” the following: “or a condition of a certificate of registration issued under section 10530 of this title.”.

Effective date.
49 USC 10530
note.

(d) The amendments made by this section shall take effect May 1, 1985, except that the Interstate Commerce Commission may issue before such date such regulations as may be necessary to carry out the amendments made by this section beginning on such date.

TECHNICAL AMENDMENTS

SEC. 227. (a)(1) Section 11901 of title 49, United States Code, is amended—

(A) in subsection (g) by striking out “(h)” and inserting in lieu thereof “(i)”;

(B) by redesignating the subsection beginning “(h)(1) Any person required” and subsections (i), (j), and (k), and any references thereto, as subsections (i), (j), (k), and (l), respectively;

(C) in subsection (j)(1), as redesignated by subparagraph (A), by inserting “of” after “paragraph (3)”;

(D) in subsection (l)(2), as redesignated by subparagraph (A), by striking out “(i)(1), or (j)” and inserting in lieu thereof “(i), (j)(1), or (k)”.

49 USC 10934.

(2) Section 10934(c) of such title is amended by striking out “11901(j)” each place it appears and inserting in lieu thereof “11901(k)”.

49 USC 11348.

(3) Section 11348(a) of such title is amended by striking out “(k)(1)” and inserting in lieu thereof “(l)(1)”.

(4) Section 2342(5) of title 28, United States Code, is amended by striking out “11901(i)(2)” and inserting in lieu thereof “11901(j)(2)”.

(b)(1) Chapter 107 of title 49, United States Code, is amended by redesignating the second section 10734, and any references thereto, as section 10735.

(2) The analysis for such chapter is amended by striking out “10734. Household” and inserting in lieu thereof “10735. Household”.

(c) Section 10526(a) of title 49, United States Code, is amended by redesignating the second paragraph (14), and any references thereto, as paragraph (15).

EMPLOYEE PROTECTION

49 USC app.
2301.

SEC. 228. (a) Paragraph (2) of section 401 of the Surface Transportation Assistance Act of 1982 is amended by striking out “, nor does” and all that follows through the semicolon at the end of such paragraph and inserting in lieu thereof a semicolon.

(b) The amendment made by subsection (a) shall take effect on the last day of the two year period beginning on the date of the enactment of this Act.

Effective date.
49 USC app. 2301
note.

(c) The Secretary, in consultation with the Secretary of Labor, shall conduct a study to determine whether or not part A of title IV of the Surface Transportation Assistance Act of 1982 should be amended to provide protection to individuals employed by a commercial motor carrier engaged in the transportation of passengers. Not later than twelve months after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of such study.

Study.
49 USC app. 2301
note.

Report.

LIMITATION ON AUTHORITY

SEC. 229. (a) Nothing in this title confers authority on the Secretary to (1) establish Federal traffic safety regulations, or (2) preempt State traffic regulations; except that the Secretary may establish or maintain such Federal regulations to the extent that the subject matter of such regulations is, on the date of the enactment of this Act, regulated under parts 390 to 399 of title 49 of the Code of Federal Regulations.

49 USC app.
2519.

(b) Nothing in this title confers authority on the Secretary to regulate the manufacture of commercial motor vehicles for any purpose, including fuel economy, safety, or emission control.

OVERSIGHT

SEC. 230. The appropriate authorizing committees of the Congress shall conduct periodic oversight hearings on the effects of this title no less often than annually for the first five years following the date of enactment of this Act, to ensure that this Act is being implemented according to congressional intent and the purposes of this title.

49 USC app.
2520.

Approved October 30, 1984.

LEGISLATIVE HISTORY—S. 2217:

SENATE REPORT No. 98-505 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 130 (1984):

Oct. 2, considered and passed Senate.

Oct. 11, considered and passed House, amended; Senate concurred in House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 44 (1984):

Oct. 30, Presidential statement.

Public Law 98-555
98th Congress

An Act

Oct. 30, 1984
[S. 2301]

To revise and extend programs for the provision of health services and preventive health services, and for other purposes.

Preventive
Health
Amendments of
1984.

42 USC 201 note.

42 USC 201 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Preventive Health Amendments of 1984".

(b) Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

SEC. 2. (a) Section 317(j)(1) (42 U.S.C. 247b(j)(1)) is amended—

(1) by striking out "immunize children against immunizable diseases" and inserting in lieu thereof "immunize individuals against vaccine-preventable diseases", and

(2) by striking out "and" after "1983," and by inserting before the period a comma and the following: "\$52,000,000 for the fiscal year ending September 30, 1985, \$59,000,000 for the fiscal year ending September 30, 1986, and \$65,000,000 for the fiscal year ending September 30, 1987".

(b) Section 317(j)(2) is amended by striking out "and" after "1983," and by inserting before the period a comma and the following: "\$8,000,000 for the fiscal year ending September 30, 1985, \$9,000,000 for the fiscal year ending September 30, 1986, and \$10,000,000 for the fiscal year ending September 30, 1987".

SEC. 3. (a) The first sentence of section 318(d)(1) (42 U.S.C. 247c(d)(1)) is amended by striking out "and" after "1983," and by inserting before the period a comma and the following: "\$57,000,000 for the fiscal year ending September 30, 1985, \$62,500,000 for the fiscal year ending September 30, 1986, and \$68,000,000 for the fiscal year ending September 30, 1987".

(b)(1) Subsection (a) of section 318 is amended by striking out "research" and all that follows in such section and inserting in lieu thereof the following: "research in, and training and public health programs for, the prevention and control of sexually transmitted diseases."

(2) Subsection (b) of section 318 is amended to read as follows:

"(b) The Secretary may make grants to States, political subdivisions of States, and any other public and nonprofit private entity for—

"(1) research into the prevention and control of sexually transmitted diseases;

"(2) demonstration projects for the prevention and control of sexually transmitted diseases;

"(3) public information and education programs for the prevention and control of such diseases, and

"(4) education, training, and clinical skills improvement activities in the prevention and control of such diseases for health professionals (including allied health personnel)."

Grants.

(3) Subsection (c) of section 318 is amended by inserting "and" at the end of paragraph (3), by striking out paragraph (4), and by redesignating paragraph (5) as paragraph (4). 42 USC 247c.

(4) The second sentence of section 318(d)(1) is amended by striking out "5 per centum" and inserting in lieu thereof "10 per centum".

(5)(A) Section 318 is amended by redesignating subsections (d) through (f) as subsections (e) through (g) and by adding after subsection (c) the following new subsection:

"(d) The Secretary, acting through the Director of the Centers for Disease Control, may make grants to public and nonprofit private entities for information and education programs on, and for the diagnosis, prevention, and control of, acquired immune deficiency syndrome. The authority to make grants under this section for acquired immune deficiency syndrome is not the exclusive authority to make grants under this Act for acquired immune deficiency syndrome."

Grants.
Acquired
immune
deficiency
syndrome.

(B) Subsection (e)(1) of section 318 (as so redesignated) is amended—

(i) by striking out "(b) and (c)" in the first sentence and inserting in lieu thereof "(b), (c), and (d)",

(ii) by striking out "(b) or (c)" in the second sentence and inserting in lieu thereof "(b), (c), or (d)", and

(iii) by adding at the end the following: "If the appropriations under the first sentence for fiscal year 1985 exceed \$50,000,000, one-half of the amount in excess of \$50,000,000 shall be made available for grants under subsection (d); if the appropriations under the first sentence for fiscal year 1986 exceed \$52,500,000, one-half of the amount in excess of \$52,500,000 shall be made available for such grants; and if the appropriations under the first sentence for fiscal year 1987 exceed \$55,000,000, one-half of the amount in excess of \$55,000,000 shall be made available for such grants."

(6)(A) Section 318 is amended by striking out "venereal disease" each place it occurs and inserting in lieu thereof "sexually transmitted diseases".

(B) The heading for such section 318 is amended by striking out "VENEREAL DISEASE" and inserting in lieu thereof "SEXUALLY TRANSMITTED DISEASES AND ACQUIRED IMMUNE DEFICIENCY SYNDROME".

(C) Section 318 is amended by striking out the subsection (g) which was in effect on the day before the date of enactment of this Act.

SEC. 4. (a) Section 1901(a) (42 U.S.C. 300w(a)) is amended by striking out "and" after "1983," and by inserting before the period a comma and the following: "\$98,500,000 for the fiscal year ending September 30, 1985, \$98,500,000 for the fiscal year ending September 30, 1986, and \$98,500,000 for the fiscal year ending September 30, 1987".

(b) Section 1901(b) is amended by striking out "\$3,000,000" and inserting in lieu thereof "\$3,500,000".

SEC. 5. (a) Section 1905(c) (42 U.S.C. 300w-4) is amended by striking out paragraphs (2) and (4) and redesignating paragraphs (3) and (5) through (8) as paragraphs (2) through (6), respectively.

(b) Section 1906(a)(1)(B) (42 U.S.C. 300w-5) is amended by striking out "activities of the State under this part" and inserting in lieu thereof "preventive health and preventive health services programs in the State assisted by funds from allotments under this part, including a summary of the services which were provided, the

providers of such services, and the individuals who received such services”.

42 USC 300w-5.
Public
information.

(c) Section 1906 is amended by adding at the end the following:
“(d) The Secretary, in consultation with appropriate national organizations, shall develop model criteria and forms for the collection of data and information with respect to services provided under this part to enable States to share uniform data and information with respect to the provision of such services.”.

42 USC 300w-4.

(d) Subsection (e) of section 1905 is repealed.

SEC. 6. (a) Section 339(a)(5) (42 U.S.C. 255(a)(5)) is amended by striking out “and” after “1983,” and by inserting before the period a comma and “September 30, 1985, September 30, 1986, and September 30, 1987”.

(b) Section 339(b)(5) is amended by striking out “and” after “1983,” and by inserting before the period a comma and “September 30, 1985, September 30, 1986, and September 30, 1987”.

SEC. 7. Part A of title XIX is amended by inserting after section 1909 (42 U.S.C. 300w-8) the following new section:

“EMERGENCY MEDICAL SERVICES FOR CHILDREN

Grants.
42 USC 300w-9.

“SEC. 1910. (a) For activities in addition to the activities which may be carried out by States under section 1904(a)(1)(F), the Secretary may make grants to not more than four States in any fiscal year to support a program of demonstration projects in such States for the expansion and improvement of emergency medical services for children who need treatment for trauma or critical care. Any grant made under this subsection shall be for a one-year period.

“(b) The Secretary may renew a grant made under subsection (a) for one additional one-year period only if the Secretary determines that renewal of such grant will provide significant benefits through the collection, analysis, and dissemination of information or data which will be useful to other States.

Appropriation
authorization.

“(c) To carry out this section, there are authorized to be appropriated \$2,000,000 for fiscal year 1985 and for each of the two succeeding fiscal years.”.

SEC. 8. Part A of title XIX (as amended by section 7 of this Act) is amended by adding at the end the following new section:

"STATE PLANNING GRANTS

"SEC. 1910A. (a) The Secretary may make grants to assist States to— 42 USC 300w-10.

"(1) develop long range plans to achieve the goals, objectives, and priorities established by the Secretary pursuant to title XVII;

"(2) identify particular needs within States for services and activities that may be conducted with payments made under allotments under section 1902; and

"(3) determine the progress of States in achieving the goals, objectives, and priorities described in paragraph (1) and, to the extent feasible, use scientifically valid measures to make such determinations.

"(b) To carry out this section, there are authorized to be appropriated \$5,000,000 for fiscal year 1985 and for each of the two succeeding fiscal years." Appropriation authorization.

SEC. 9. Section 1001 (42 U.S.C. 300) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) The Secretary, at the request of a recipient of a grant under subsection (a), may reduce the amount of such grant by the fair market value of any supplies or equipment furnished the grant recipient by the Secretary. The amount by which any such grant is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment on which the reduction of such grant is based. Such amount shall be deemed as part of the grant and shall be deemed to have been paid to the grant recipient."

Approved October 30, 1984.

LEGISLATIVE HISTORY—S. 2301 (H.R. 5538):

HOUSE REPORT No. 98-1063 accompanying H.R. 5538 (Comm. on Energy and Commerce).

SENATE REPORT No. 98-393 (Comm. on Labor and Human Resources).

CONGRESSIONAL RECORD, Vol. 130 (1984):

Sept. 28, considered and passed Senate.

Oct. 1, H.R. 5538 considered and passed House; S. 2301, amended, passed in lieu.

Oct. 9, Senate concurred in House amendment with an amendment; House concurred in Senate amendment.

Public Law 98-556
98th Congress

An Act

Oct. 30, 1984

[S. 2499]

To authorize the appropriation of funds for certain maritime programs for fiscal year 1985.

Maritime
Appropriation
Authorization
Act for Fiscal
Year 1985.
Department of
Transportation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Maritime Appropriation Authorization Act for Fiscal Year 1985".

SEC. 2. Funds are authorized to be appropriated without fiscal year limitation as the appropriation Act may provide for the use of the Department of Transportation for fiscal year 1985 as follows:

(1) for payment of obligations incurred for operating-differential subsidy, not to exceed \$377,750,000;

(2) for expenses necessary for research and development activities, not to exceed \$10,000,000; and

(3) for expenses necessary for operations and training activities, not to exceed \$80,807,000, including not to exceed—

(A) \$42,550,000 for maritime education and training expenses, including not to exceed \$21,940,000 for maritime training at the Merchant Marine Academy at Kings Point, New York, \$16,200,000 for financial assistance to State maritime academies (of which \$5,000,000 shall be for the conversion of the vessel Santa Mercedes for use as a suitable training vessel), \$3,000,000 for fuel oil assistance to State maritime academy training vessels, and \$1,410,000 for expenses necessary for additional training;

(B) \$9,111,000 for national security support capabilities, including not to exceed \$7,506,000 for reserve fleet expenses, and \$1,605,000 for emergency planning/operations; and

(C) \$29,146,000 for other operations and training expenses.

SEC. 3. Funds are authorized to be appropriated for the use of the Federal Maritime Commission, in the amount of \$12,292,000 for fiscal year 1985.

Federal
Maritime
Commission.

Approved October 30, 1984.

LEGISLATIVE HISTORY—S. 2499:

SENATE REPORT No. 98-445 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 130 (1984):

Oct. 11, considered and passed Senate and House.

Public Law 98-557
98th Congress

An Act

Oct. 30, 1984
[S. 2526]

To authorize appropriations for the Coast Guard for fiscal years 1985 and 1986, and for other purposes.

Coast Guard
Authorization
Act of 1984.
Uniformed
services.
Vessels.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Coast Guard Authorization Act of 1984".

AUTHORIZATION OF FUNDS

SEC. 2. Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal years 1985 and 1986 as follows:

(1) For the operation and maintenance of the Coast Guard, including expenses related to the Capehart housing debt reduction, \$1,800,000,000 for fiscal year 1985 and \$1,950,000,000 for fiscal year 1986; and for increases in salary, pay, and other employee benefits authorized by law, and for the full amount of fixed costs associated with operation of five Coast Guard polar icebreaking vessels manned by Coast Guard military personnel, such sums as may be necessary for each such fiscal year.

Aleutian Islands.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto, \$580,000,000 for fiscal year 1985 (of which \$30,000,000 shall be for design, survey, acquisition and construction of a search and rescue facility in Western Alaska to serve the Aleutian Islands) and \$680,000,000 for fiscal year 1986 (of which \$30,000,000 shall be for construction of such facility).

(3) For research, development, test, and evaluation, \$35,000,000 for fiscal year 1985 and \$38,000,000 for fiscal year 1986.

(4) For the alteration or removal of bridges over navigable waters of the United States, constituting obstructions to navigation, \$8,700,000 for fiscal year 1985, and such sums as may be necessary for expenses of the Coast Guard for such purposes for fiscal year 1986.

(5) For retired pay including the payment of obligations therefor otherwise chargeable to lapsed appropriations for this purpose, and payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and for payments for medical care of retired personnel and their dependents under the Dependents' Medical Care Act, such sums as may be necessary for fiscal years 1985 and 1986.

70 Stat. 250.

PERSONNEL LEVELS

SEC. 3. Notwithstanding any other provision of law, the Coast Guard's full-time equivalent strength levels for fiscal years 1985 and 1986 shall be maintained as follows:

(1) For active duty military personnel, not less than 39,150 for fiscal years 1985 and 1986, which shall not include members of the Ready Reserve called to active duty under the authority of section 712 of title 14, United States Code, or Public Health Service officers on active duty with the Coast Guard.

(2) For civilian employees of the Coast Guard, not less than 5,484 for fiscal years 1985 and 1986.

MILITARY TRAINING

SEC. 4. For fiscal years 1985 and 1986, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 3,500 student-years.

(2) For flight training, 118 student-years.

(3) For professional training in military and civilian institutions, 556 student-years.

(4) For officer acquisition, 1,038 student-years.

TRANSFER OF FUNDS

SEC. 5. (a) Whenever the Secretary of the department in which the Coast Guard is operating determines it to be in the national interest, the Secretary may transfer not to exceed 5 percent of the funds appropriated for the purposes described in paragraph (1) or (2) of section 2 of this Act for use for any purpose described in any paragraph of section 2, except that the total available for the purposes for which the funds are transferred shall not be increased by more than 10 percent as a result of the transfer.

(b) No transfer of funds may occur under subsection (a) of this section until 15 days after the Secretary has provided written notification to the Chairman of the Committee on Commerce, Science, and Transportation of the Senate and the Chairman of the Committee on Merchant Marine and Fisheries of the House of Representatives stating the reasons for the determination and a description of the purposes for which the funds proposed to be transferred will be used.

Effective date.

POLAR ICEBREAKING

SEC. 6. (a) It is the sense of the Congress that the United States has important security, economic, and environmental interests in developing and maintaining a fleet of icebreaking vessels capable of operating effectively and independently in the heavy ice regions of the Arctic and Antarctic.

(b) The Secretary of the department in which the Coast Guard is operating shall prepare design and construction plans for the purchase of at least 2 new polar icebreaking vessels to be operational by the conclusion of fiscal year 1990, and shall provide detailed reports to the Congress describing the status of those plans in January 1985 and January 1986. In preparing such plans, the Secretary shall consult with other interested Federal agencies for the purpose of ensuring that all appropriate military, scientific, economic, and environmental interests are taken into account.

Reports.

ALCOHOL USE BY BOATERS

- 97 Stat. 508. SEC. 7. (a) Section 2302 of title 46, United States Code, is amended by redesignating subsection (c) as subsection (d) and inserting immediately after subsection (b) the following:
- “(c) An individual who is intoxicated when operating a vessel, as determined under standards prescribed by the Secretary by regulation, shall be—
- “(1) liable to the United States Government for a civil penalty of not more than \$1,000; or
- “(2) fined not more than \$5,000, imprisoned for not more than one year, or both.”
- 97 Stat. 536. (b)(1) Section 6101(b) of title 46, United States Code, is amended by Report. adding at the end thereof the following: “Each report filed under this section shall include information as to whether the use of alcohol contributed to the casualty.”
- 97 Stat. 536. (2) Section 6102(a) of title 46, United States Code, is amended by inserting immediately before the period at the end thereof the following: “, including information and statistics concerning the number of casualties in which the use of alcohol contributed to the casualty”.
- Ante*, p. 1013. (3) Section 13102(c)(4) of title 46, United States Code, is amended by inserting immediately after “program” the following: “, that includes the dissemination of information concerning the hazards of operating a vessel when under the influence of alcohol”.

RECREATIONAL BOATING SAFETY AMENDMENTS

- 97 Stat. 531. SEC. 8. (a) Section 4307(a)(1)(A) of title 46, United States Code, is amended—
- (1) by inserting “(i)” immediately after “(A)”;
- (2) by striking “or” at the end of clause (i), as so redesignated by paragraph (1) of this subsection, and inserting in lieu thereof “and”; and
- (3) by adding at the end thereof the following:
- “(ii) it does not contain a defect which has been identified, in any communication to such person by the Secretary or the manufacturer of that vessel, equipment or component, as creating a substantial risk of personal injury to the public; or”.
- 97 Stat. 534. (b) Section 4311(b)(1) of title 46, United States Code, is amended by inserting “defect or the” immediately before “nonconformity”.
- (c) Section 4311(f)(1) of title 46, United States Code, is amended by inserting “or that the person was not advised by the Secretary or the manufacturer of that vessel, equipment or component that the vessel, equipment or component contains a defect which creates a substantial risk of personal injury to the public” immediately before the semicolon.

RESCUE SWIMMING PROGRAM

- 14 USC 88 note. SEC. 9. The Secretary of the department in which the Coast Guard is operating shall use such sums as are necessary, from amounts appropriated for the operation and maintenance of the Coast Guard, to establish a helicopter rescue swimming program for the purpose of training selected Coast Guard personnel in rescue swimming skills.

LIFESAVING EQUIPMENT ON PASSENGER FERRIES

SEC. 10. The Secretary of the department in which the Coast Guard is operating shall proceed vigorously with efforts to develop improved lifesaving equipment for use on passenger ferries. 14 USC 92 note.

SAN FRANCISCO VTS

SEC. 11. (a) Of the funds authorized to be appropriated by paragraph (1) of section 2 of this Act, such sums as are necessary shall be used to maintain in full operation the vessel traffic service (VTS) system in San Francisco, California, throughout fiscal years 1985 and 1986.

(b) None of the funds authorized to be appropriated by this Act may be used to develop or issue a request for proposals to contract any function or activity involved in operating the vessel traffic service (VTS) system in San Francisco, California, which is, on the date of enactment of this Act, performed by Coast Guard personnel.

(c) None of the funds authorized to be appropriated by this Act may be used to hire, train, or otherwise utilize civilian personnel to replace Coast Guard military personnel involved in operating the vessel traffic service (VTS) system in San Francisco, California, until the Coast Guard has conducted a study in accordance with this subsection and has submitted the results of such study to the Congress. Such study shall identify the costs, efficiencies, and benefits, if any, that would accrue to the Federal Government, the Coast Guard, the ports, the Navy, and other users of the vessel traffic service (VTS) system in San Francisco, California, from the use of civilian personnel in that system. Study.

LONG RANGE SEARCH AND SURVEILLANCE AIRCRAFT

SEC. 12. (a) Of the amounts authorized to be appropriated by paragraphs (1) and (2) of section 2 of this Act, such sums as are necessary shall be used to procure, maintain, and operate a fleet of not less than twenty-seven long-range search and surveillance aircraft for use by the Coast Guard.

(b) The Secretary of the department in which the Coast Guard is operating is encouraged to conduct the research, development, test and evaluation necessary for an electronic surveillance system, capable of producing and documenting images for search and rescue or law enforcement purposes, for the long range search and surveillance aircraft of the Coast Guard.

PROTECTION OF SEAMEN

SEC. 13. (a) Chapter 21 of title 46, United States Code, is amended by adding at the end thereof the following:

“§ 2114. Protection of seamen against discrimination

46 USC 2114.

“(a) An owner, charterer, managing operator, agent, master, or individual in charge of a vessel may not discharge or in any manner discriminate against a seaman because the seaman in good faith has reported or is about to report to the Coast Guard that the seaman believes that a violation of this subtitle, or a regulation issued under this subtitle, has occurred.

“(b) A seaman discharged or otherwise discriminated against in violation of this section may bring an action in an appropriate

district court of the United States. In that action, the court may order any appropriate relief, including—

“(1) restraining violations of this section; and

“(2) reinstatement to the seaman’s former position with back pay.”.

(b) The analysis of chapter 21 of title 46, United States Code, is amended by adding at the end thereof the following:

“2114. Protection of seamen against discrimination.”.

CONTRACTING FOR SERVICES PERFORMED BY THE COAST GUARD

SEC. 14. (a) The Secretary of the department in which the Coast Guard is operating is encouraged to identify those functions and services presently performed by Coast Guard personnel which are not inherently governmental in nature, and which may be performed with equal effectiveness and at lower cost under contract to the private sector.

(b) None of the funds authorized to be appropriated by this Act may be used—

(1) to issue any contract that would have the effect, either by itself or in combination with other contracting proposals, of causing a deterioration in the overall ability of the Coast Guard to carry out its missions in behalf of the security, safety, and economic and environmental well-being of the United States; or

(2) to issue a request for proposals to contract out any function or activity which is, on the date of enactment of this Act, performed by civilian employees or members of the Coast Guard, unless a period of thirty days in which either the Senate or House of Representatives is in session has expired after the Secretary has submitted in writing to the President of the Senate, the Speaker of the House of Representatives, the Chairman of the Committee on Commerce, Science, and Transportation of the Senate, and the Chairman of the Committee on Merchant Marine and Fisheries of the House of Representatives a full and complete statement (including relevant supporting studies) concerning the proposed contracting and the reasons therefor.

(c) Prior to the beginning of fiscal years 1985 and 1986, the Secretary shall submit to the Congress a list of functions or activities for which the Secretary expects to submit notifications required by subsection (b)(2) of this section during that fiscal year.

(d) The requirements of subsection (b)(2) of this section do not apply to contracts for functions or activities which are performed by three or fewer Coast Guard personnel.

LEGAL EQUITY FOR WOMEN

SEC. 15. (a)(1) Section 371 of title 14, United States Code, is amended—

(A) by striking “male” both places it appears in the second sentence of subsection (a);

(B) in subsection (c)(1)—

(i) by striking “he agrees in writing that, upon his” and inserting in lieu thereof “the person agrees in writing that, upon”; and

(ii) by striking “he will” and inserting in lieu thereof “the person will”; and

(C) by striking “he has the consent of his parent or guardian to his agreement” in subsection (c)(2) and inserting in lieu thereof “the person has the consent of the person’s parent or guardian to the agreement”.

(2) The first sentence of section 487 of such title is amended by striking “widows” and inserting in lieu thereof “surviving spouses”. 14 USC 487.

(3)(A) The following sections of such title are amended by striking “enlisted man” each place it appears and inserting in lieu thereof “enlisted member”: 353, 354, 355, 357, 359, 360, 361, 362, 365, 366, 367, 370, 421, 423, and 424.

(B) The following sections of such title are amended by striking “enlisted men” each place it appears and inserting in lieu thereof “enlisted members”: 41, 211(a)(2), 212(a)(2), 213(a)(1), 214, 357, 432(c), 478(d), and 480.

(C) The following sections of such title are amended by striking “Enlisted men” each place it appears and inserting in lieu thereof “Enlisted members”: 41, 352, 367, 478(a), 481, and 482.

(D) The following sections of such title are amended by striking “officers and enlisted men” each place it appears and inserting in lieu thereof “members”: 92(b), 144(a), 145(a)(2), 148, 149, 487, and 832.

(E) Section 149 of such title is amended by striking “Officers and enlisted men” and inserting in lieu thereof “Members”.

(F) Section 351(a) of such title is amended by striking “men” and inserting in lieu thereof “persons”.

(G) Section 361 of such title is amended by striking “the man” and inserting in lieu thereof “the member”.

(H) Sections 192 and 483 of such title are amended by striking “commissioned officer, warrant officer, or enlisted man” each place it appears and inserting in lieu thereof “member”.

(I) Section 488 of such title is amended by striking “officers and men” and inserting in lieu thereof “members”.

(4)(A)(i) The heading of section 149 of such title is amended to read as follows:

“§ 149. Detail of members to assist foreign governments”.

(ii) The item relating to such section in the analysis of chapter 7 of such title is amended as follows:

“149. Detail of members to assist foreign governments.”.

(B)(i) The heading of section 360 of such title is amended to read as follows:

“§ 360. Recall to active duty with consent of member”.

(ii) The item relating to such section in the analysis of chapter 11 of such title is amended to read as follows:

“360. Recall to active duty with consent of member.”.

(C)(i) The heading of section 361 of such title is amended to read as follows:

“§ 361. Relief of retired enlisted member promoted while on active duty”.

(ii) The item relating to such section in the analysis of chapter 11 of such title is amended to read as follows:

14 USC 487.

“361. Relief of retired enlisted member promoted while on active duty.”.

(D)(i) The heading of section 487 of such title is amended to read as follows:

“§ 487. Procurement and sale of stores to members and civilian employees”.

(ii) The item relating to such section in the analysis of chapter 13 of such title is amended to read as follows:

“487. Procurement and sale of stores to members and civilian employees.”.

(E)(i) The heading preceding section 350 in such title is amended to read as follows:

“ENLISTED MEMBERS”

(ii) The heading preceding the item relating to section 350 in the analysis of chapter 11 of such title is amended to read as follows:

“ENLISTED MEMBERS”

(b)(1) The first section of the Act of August 19, 1950 (33 U.S.C. 771) is amended—

(A) by striking “he” in clause (1) and inserting in lieu thereof “that employee”;

(B) by amending clause (2) to read as follows:

“(2) the surviving spouse of the former employee was married to the former employee prior to the retirement of the former employee from the Lighthouse Service and has not remarried—”; and

(C) by striking “such widow, so long as she” in the material after clause (2) and inserting in lieu thereof “the surviving spouse, so long as the surviving spouse”.

(2) Section 2 of such Act (33 U.S.C. 772) is amended—

(A) by amending clause (2) to read as follows:

“(2) the surviving spouse of the employee has not since remarried.”; and

(B) by striking “such widow, so long as she” in the material after clause (2) and inserting in lieu thereof “the surviving spouse, so long as the surviving spouse”.

COASTAL AND INLAND NAVIGATION SAFETY

Mississippi
River.

SEC. 16. (a) Subsection (e) of Public Law 96-380 (33 U.S.C. 1231a(e)) is amended by striking “five years from the date of enactment of this Act” and inserting in lieu thereof “on September 30, 1990”.

(b)(1) Rule 24(i) of the Inland Navigational Rules, enacted by section 2 of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2024(i)), is amended by inserting “(except below the Huey P. Long Bridge on the Mississippi River)” immediately after “Western Rivers”.

(2) Section 5 of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2073) is amended—

(A) by amending the second sentence in subsection (c) to read as follows: “Members of the Council, while away from their home or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.”; and

(B) by striking “5 years from the date of enactment of this Act” in subsection (d) and inserting in lieu thereof “on September 30, 1990”.

(c) Rule 14 of the Inland Navigational Rules, enacted by section 2 of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2014), is amended—

(1) in subsection (a), by striking “When” and inserting in lieu thereof “Unless otherwise agreed, when”; and

(2) by adding at the end thereof the following:

“(d) Notwithstanding paragraph (a) of this Rule, a power-driven vessel operating on the Great Lakes, Western Rivers, or waters specified by the Secretary, and proceeding downbound with a following current shall have the right-of-way over an upbound vessel, shall propose the manner of passage, and shall initiate the maneuvering signals prescribed by Rule 34(a)(i), as appropriate.”.

Great Lakes.
Western Rivers.

COAST GUARD MANAGEMENT AND EFFICIENCY

SEC. 17. (a) Section 971(b) of title 10, United States Code, is amended—

(1) by striking “and” at the end of clause (1);

(2) by striking the period at the end of clause (2) and inserting in lieu thereof “; and”; and

(3) by adding at the end thereof the following:

“(3) no officer of the Coast Guard may be credited with service as a midshipman at the United States Naval Academy or as a cadet at the United States Military Academy, United States Air Force Academy, or United States Coast Guard Academy.”.

(b)(1) Section 257 of title 14, United States Code, is amended by adding at the end thereof the following:

“(e) An officer whose involuntary retirement or separation is deferred under section 295 of this title is not eligible for consideration for promotion to the next higher grade during the period of that deferment.”.

Infra.

(2)(A) Chapter 11 of such title is amended by inserting immediately after section 294 the following:

“§ 295. Deferment of retirement or separation for medical reasons

14 USC 295.

“(a) Subject to subsection (b), the Secretary may defer the retirement or separation of a commissioned officer, other than a commissioned warrant officer, if the evaluation of the physical condition of the officer and determination of the officer’s entitlement to retirement or separation for physical disability require hospitalization, medical observation, or other physical disability processing that cannot be completed before the date on which the officer would otherwise be retired or separated.

“(b) A deferment under subsection (a)—

“(1) may only be made with the consent of the officer involved; and

“(2) if the Secretary receives written notice from the officer withdrawing that consent, shall end not later than the end of the sixty-day period beginning on the date the Secretary receives that notice.”.

(B) The analysis of such chapter is amended by inserting immediately after the item relating to section 294 the following:

“295. Deferment of retirement or separation for medical reasons.”.

14 USC 647.

(3)(A) Section 647 of such title is amended by striking “\$25,000” and inserting in lieu thereof “\$100,000”.

14 USC 647 note.

(B) The amendment made by subparagraph (A) of this paragraph shall apply to all claims considered, ascertained, adjusted, determined, compromised or settled on or after the date of enactment of this Act.

(4) Section 367 of such title is amended—

(A) by striking “(a)” before “Under regulations”;

(B) by striking “person detained” and inserting in lieu thereof “member detained”; and

(C) by striking “(1) of this subsection” and inserting in lieu thereof “clause (1)”.

(c) Section 1114 of title 18, United States Code, is amended by striking “any officer or enlisted man of the Coast Guard,” and inserting in lieu thereof “any member of the Coast Guard, any employee of the Coast Guard assigned to perform investigative, inspection or law enforcement functions.”.

(d) Section 402(d) of title 37, United States Code, is amended by inserting “and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy” immediately after “Secretary of Defense”.

(e)(1) Subsection (a) of section 3732 of the Revised Statutes of the United States (41 U.S.C. 11) is amended—

(A) by striking “except in the War and Navy Departments” and inserting in lieu thereof “except in the Department of Defense and in the Department of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy”; and

(B) by striking “or transportation” and inserting in lieu thereof “, transportation, or medical and hospital supplies”.

(2) Subsection (b) of such section is amended by inserting “and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy” immediately after “The Secretary of Defense”.

41 USC 11.

(3) The first proviso under the heading “MEDICAL DEPARTMENT” in the Act entitled “An Act making appropriations for the support of the Army for the fiscal year ending June thirteenth, nineteen hundred and seven”, approved June 12, 1906 (34 Stat. 255), is repealed.

(f)(1) Section 911 of the Military Construction Authorization Act, 1982 (42 U.S.C. 248c) is amended—

(A) by striking “and the Secretary of Health and Human Services” each place it appears and inserting in lieu thereof “, the Secretary of Health and Human Services, and the Secretary of Transportation when the Coast Guard is not operating as a service in the Navy”; and

(B) by inserting “the Secretary of Transportation when the Coast Guard is not operating as a service in the Navy,” immediately before “and the appropriate officials”.

97 Stat. 698.

(2) Section 1252 of the Department of Defense Authorization Act, 1984 (42 U.S.C. 248d) is amended—

(A) by striking “and the Secretary of Health and Human Services” each place it appears and inserting in lieu thereof “, the Secretary of Health and Human Services, and the Secretary of Transportation when the Coast Guard is not operating as a service in the Navy”; and

(B) by inserting “and the Secretary of Transportation when the Coast Guard is not operating as a service in the Navy” immediately after “with the Secretary of Health and Human Services” each place it appears.

(g)(1) The first section of the Act of March 23, 1906 (33 U.S.C. 491), popularly known as the “Bridge Act of 1906”, is amended—

(A) by striking “and Chief of Engineers for their approval, nor until they” and inserting in lieu thereof “for the Secretary’s approval, nor until the Secretary”;

(B) by striking “by the Chief of Engineers and”;

(C) by striking “of the Chief of Engineers and”;

(D) by striking “of Transportation” the second and third place it appears.

(2) Section 502(b) of the General Bridge Act of 1946 (33 U.S.C. 525(b)) is amended—

(A) by striking “the Chief of Engineers and”; and

(B) by striking “they” both places it appears and inserting in lieu thereof “the Secretary”.

REPEAL OF DUPLICATE TANKERMAN MANNING REQUIREMENT

SEC. 18. Section 8703(b) of title 46, United States Code, relating to tankerman manning requirements, is repealed.

INCLUSION OF SECRETARY OF TRANSPORTATION IN CERTAIN MEDICAL MATTERS

SEC. 19. Chapter 55 of title 10, United States Code, is amended—

(1) in section 1072—

(A) by striking all after “by” through “may be,” in paragraph (2)(D)(iii) and inserting in lieu thereof “the administering Secretary”; and

(B) by adding at the end thereof the following:

“(3) ‘Administering Secretaries’ means the Secretaries of executive departments specified in section 1073 of this title as having responsibility for administering this chapter.”;

(2) in section 1073, by striking all after “jurisdiction,” through “Navy, and” and inserting in lieu thereof “the Secretary of Transportation shall administer this chapter for the Coast Guard when the Coast Guard is not operating as a service in the Navy, and the Secretary of Health and Human Services shall administer this chapter”;

(3) in section 1074, by striking “Secretary of Defense and the Secretary of Health and Human Services” each place it appears and inserting in lieu thereof “administering Secretaries”;

(4) in section 1074a(a), by striking “Secretary of Defense and the Secretary of Health and Human Services” and inserting in lieu thereof “administering Secretaries”;

(5) in section 1076 (b) and (d), by striking “the Secretary of Defense and the Secretary of Health and Human Services” and inserting in lieu thereof “the administering Secretaries”;

(6) in section 1078 (a) and (b), by striking “the Secretary of Health and Human Services” and inserting in lieu thereof “the other administering Secretaries”;

(7) in section 1079—

(A) by striking “the Secretary of Defense and the Secretary of Health and Human Services” each place it appears

and inserting in lieu thereof “the administering Secretaries”; and

97 Stat. 648.

(B) by striking “with the Secretary of Health and Human Services” in subsections (a), (h)(2), and (k) and inserting in lieu thereof “with the other administering Secretaries”;

(8) in section 1080, by striking “the Secretary of Health and Human Services” and inserting in lieu thereof “the other administering Secretaries”;

(9) in section 1081, by striking “the Secretary of Defense or the Secretary of Health and Human Services” and inserting in lieu thereof “the appropriate administering Secretary”;

(10) in section 1083, by striking “the Secretary of Health and Human Services” and inserting in lieu thereof “the other administering Secretaries”;

(11) in section 1084—

(A) by striking “the Secretary of Defense or the Secretary of Health and Human Services” and inserting in lieu thereof “an administering Secretary”; and

(B) by striking “he” and inserting in lieu thereof “the administering Secretary”;

(12) by amending the text of section 1085 to read as follows: “If a member or former member of a uniformed service under the jurisdiction of one executive department (or a dependent of such a member or former member) receives inpatient medical or dental care in a facility under the jurisdiction of another executive department, the appropriation for maintaining and operating the facility furnishing the care shall be reimbursed at rates established by the President to reflect the average cost of providing the care.”;

(13) in section 1086—

(A) by striking “the Secretary of Health and Human Services” in subsection (a) and inserting in lieu thereof “the other administering Secretaries”; and

(B) by striking “the Secretary of Defense and the Secretary of Health and Human Services” in subsection (e) and inserting in lieu thereof “the administering Secretaries”; and

97 Stat. 650.

(14) in section 1092(a)(1), by striking “Secretary of Health and Human Services” and inserting in lieu thereof “other administering Secretaries”.

CUTTER AVAILABILITY

SEC. 20. Throughout fiscal years 1985 and 1986, there shall be available for service at all times on the Atlantic and Gulf Coasts of the United States not less than, in the aggregate, thirty high and medium endurance Coast Guard cutters.

COAST GUARD REPRESENTATION ON RESERVE FORCES POLICY BOARD

SEC. 21. Section 175(b) of title 10, United States Code, is amended to read as follows:

“(b) Whenever the Coast Guard is not operating as a service in the Navy, the Secretary of Transportation may designate two officers of the Coast Guard, Regular or Reserve, to serve as voting members of the Board.”.

EXPOSURE SUITS

SEC. 22. (a)(1) Chapter 31 of title 46, United States Code, is amended by adding at the end thereof the following:

“§ 3102. Exposure suits

46 USC 3102.

“(a) The Secretary shall by regulation require exposure suits on vessels designated by the Secretary that operate in the Atlantic Ocean north of thirty-two degrees North latitude or south of thirty-two degrees South latitude and in all other waters north of thirty-five degrees North latitude or south of thirty-five degrees South latitude. The Secretary may not exclude a vessel from designation under this section only because that vessel carries other lifesaving equipment.

Regulations.
Atlantic Ocean.

“(b) The Secretary shall establish standards for an exposure suit required by this section, including standards to guarantee adequate thermal protection, buoyance, and flotation stability.

“(c)(1) The owner, charterer, managing operator, agent, master, or individual in charge of a vessel violating this section or a regulation prescribed under this section is liable to the United States Government for a civil penalty of not more than \$5,000. The vessel also is liable in rem for the penalty.

“(2) The owner, charterer, managing operator, agent, master, or individual in charge of a vessel violating this section or a regulation prescribed under this section may be fined not more than \$25,000, imprisoned for not more than 5 years, or both.”.

(2) The analysis of chapter 31 of title 46, United States Code, is amended by inserting immediately after the item relating to section 3101 the following:

“3102. Exposure suits.”.

(b) Section 3102 of title 46, United States Code (as added by subsection (a) of this section), does not limit the authority of the Secretary of the department in which the Coast Guard is operating to prescribe regulations requiring exposure suits on vessels not required by section 3102 to have exposure suits.

46 USC 3102
note.

(c) The regulations prescribed under section 3102 of title 46, United States Code (as added by subsection (a) of this section), shall be effective not later than 60 days after the date of enactment of this Act.

Regulations.
Effective date.
46 USC 3102
note.

(d) Not later than six months after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall submit a report to the Congress evaluating the benefits and disadvantages of extending the regulations prescribed under section 3102 of title 46, United States Code (as added by subsection (a) of this section) to require exposure suits on designated vessels operating in all waters north of thirty-one degrees North latitude or south of thirty-one degrees South latitude.

Report.

VESSEL FIRE RESPONSE CAPABILITY

SEC. 23. (a) The Secretary of the department in which the Coast Guard is operating shall make a grant to the Maritime Fire and Safety Association, a nonprofit organization incorporated in the State of Oregon. Such grant shall be used for a demonstration project to develop a fire response capability for vessels through the acquisition of equipment and supplies and through training of fire

Grants.

response personnel. The Secretary shall ensure that funds made available by such grant are used for such purposes.

(b) For purposes of subsection (a) of this section, there are authorized to be appropriated not to exceed \$349,000 for fiscal year 1985, not to exceed \$160,000 for fiscal year 1986, and not to exceed \$103,000 for fiscal year 1987.

CADET PREAPPOINTMENT TRAVEL EXPENSES

SEC. 24. (a) Chapter 9 of title 14, United States Code, is amended by inserting immediately after section 181 the following:

14 USC 181a.

“§ 181a. Cadet applicants; preappointment travel to Academy

“The Secretary is authorized to expend appropriated funds for selective preappointment travel to the Academy for orientation visits of cadet applicants.”.

(b) The table of sections at the beginning of such chapter is amended by inserting immediately after the item relating to section 181 the following:

“181a. Cadet applicants; preappointment travel to Academy.”.

COMMODORE AND REAR ADMIRAL RESERVE POSITIONS

SEC. 25. (a)(1) Section 42(b) of title 14, United States Code, is amended by striking “.375” both places it appears and inserting in lieu thereof “.375”.

(2) Section 290 of such title is amended by striking “Board” in the fourth sentence and inserting in lieu thereof “Boards”.

(3) The table of sections at the beginning of chapter 13 of such title is amended by striking the item relating to section 462a.

(4) Section 724 of such title is amended—

(A) by inserting “(1)” immediately after “(b)”;

(B) by striking the last sentence; and

(C) by adding at the end thereof the following:

“(2) The authorized number of Reserve Officers in an active status not on active duty in the grades of commodore and rear admiral is a total of two. However, the Secretary of the department in which the Coast Guard is operating may authorize an additional number of Reserve officers not on active duty in the grades of commodore and rear admiral as necessary in order to meet planned mobilization requirements.”.

(b)(1) The matter in the table in section 201(a) of title 37, United States Code, under the heading “Navy, Coast Guard, and National Oceanic and Atmospheric Administration” and in the columns for O-8 and O-7 is amended to read as follows:

“Rear admiral

“Commodore”.

(2)(A) The heading of section 202 of such title is amended to read as follows:

“§ 202. Pay grade: retired Coast Guard commodores”.

(B) The item relating to section 202 in the table of sections at the beginning of chapter 3 of such title is amended to read as follows:

“202. Pay grade: retired Coast Guard commodores.”.

(c) The matter in the table in section 741(a) of title 10, United States Code, under the heading “Navy and Coast Guard” is amended—

(1) by striking “Rear admiral (Navy) and Rear admiral (upper half) (Coast Guard)” and inserting in lieu thereof “Rear admiral”; and

(2) by striking “Commodore (Navy) and Rear admiral (lower half) (Coast Guard)” and inserting in lieu thereof “Commodore”.

ASSOCIATE DEPUTY SECRETARY OF TRANSPORTATION

SEC. 26. (a) Section 102 of title 49, United States Code, is amended by redesignating subsection (d) as subsection (e) and inserting immediately after subsection (c) the following:

“(d) The Department has an Associate Deputy Secretary appointed by the President, by and with the advice and consent of the Senate. The Associate Deputy Secretary shall carry out powers and duties prescribed by the Secretary.”.

(b) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following: “Associate Deputy Secretary, Department of Transportation.”.

(c) Notwithstanding any other provision of law, until April 15, 1985, the position created by subsection (a) of this section may be held by a person named by the President alone from among qualified individuals.

49 USC 102 note.

FLAT RATE PER DIEM TEST

SEC. 28. (a) Before October 1, 1986, the Secretary of the department in which the Coast Guard is operating may test a flat rate per diem allowances system for military travel allowances.

(b) Such flat rate per diem allowances shall be an amount determined by the Secretary to be sufficient to meet normal and necessary expenses in the area in which travel is performed, but such allowances may not be more than \$75 for each day in the continental United States.

(c) The test authorized by this section may not begin before the Committees on Commerce, Science, and Transportation and Armed Services of the Senate and the Committees on Merchant Marine and Fisheries and Armed Services of the House of Representatives are notified of the test.

IMPROVEMENTS IN SHIPPING LAWS ADMINISTERED BY THE COAST GUARD

SEC. 29. (a) Section 7101(e)(3) of title 46, United States Code, is amended to read as follows:

“(3) has a thorough physical examination each year while holding the license, except that this requirement does not apply to an individual who will serve as a pilot only on a vessel of less than 1,600 gross tons;”.

(b) Section 8101(g) of title 46, United States Code, is amended by striking “or part B of this subtitle applies” and inserting in lieu thereof “applies or which is subject to inspection under chapter 33 of this title”.

(c) Section 8301(a) of title 46, United States Code, is amended—

(1) by inserting “(except the Great Lakes)” immediately after “lakes”; and

97 Stat. 550.

- (2) by striking “to which part B of this subtitle applies” and inserting in lieu thereof “subject to inspection under chapter 33 of this title”.
- 97 Stat. 550. (d) Section 8301(a)(1) of title 46, United States Code, is amended by inserting “propelled by machinery or carrying passengers” immediately after “vessels”.
- 97 Stat. 553. (e) Section 8501(a) of title 46, United States Code, is amended by striking “part” and inserting in lieu thereof “subtitle”.
- (f)(1) Section 8502(a) of title 46, United States Code, is amended to read as follows:
- 97 Stat. 539. “(a) Except as provided in subsection (g) of this section, a coastwise seagoing vessel shall be under the direction and control of a pilot licensed under section 7101 of this title if the vessel is—
- “(1) not sailing on register;
 - “(2) underway;
 - “(3) not on the high seas; and
 - “(4)(A) propelled by machinery and subject to inspection under Part B of this subtitle; or
 - “(B) subject to inspection under chapter 37 of this title.”.
- 97 Stat. 553. (2) Section 8502 of title 46, United States Code, is amended by adding at the end thereof the following:
- “(g) The Secretary shall designate by regulation the areas of the approaches to and waters of Prince William Sound, Alaska, on which a vessel subject to this section is not required to be under the direction and control of a pilot licensed under section 7101 of this title.”.
- (3)(A) Chapter 85 of title 46, United States Code, is amended by adding at the end thereof the following:
- 46 USC 8503. **“§ 8503. Federal pilots authorized**
- “(a) The Secretary may require a pilot licensed under section 7101 of this title on a self-propelled vessel when a pilot is not required by State law and the vessel is—
- “(1) engaged in foreign commerce; and
 - “(2) operating on the navigable waters of the United States.
- “(b) A requirement prescribed under subsection (a) of this section is terminated when the State having jurisdiction over the area involved—
- “(1) establishes a requirement for a State licensed pilot; and
 - “(2) notifies the Secretary of that fact.
- Saint Lawrence Seaway. “(c) For the Saint Lawrence Seaway, the Secretary may not delegate the authority under this section to an agency except the Saint Lawrence Seaway Development Corporation.
- “(d) A person violating this section or a regulation prescribed under this section is liable to the United States Government for a civil penalty of not more than \$25,000. Each day of a continuing violation is a separate violation. The vessel also is liable in rem for the penalty.
- “(e) A person that knowingly violates this section or a regulation prescribed under this section shall be fined not more than \$50,000, imprisoned for not more than five years, or both.”.
- (B) The analysis of chapter 85 of title 46, United States Code, is amended by inserting immediately after the item relating to section 8502 the following:
- “8503. Federal pilots authorized.”.

(g) Section 7 of the Ports and Waterways Safety Act (33 U.S.C. 1226) is repealed. Repeal.

(h) Section 10 of the Ports and Waterways Safety Act (33 U.S.C. 1229) is amended by striking “6, and 7” and inserting in lieu thereof “and 6”.

LOGBOOK REQUIREMENT

SEC. 30. Section 11301(a) of title 46, United States Code, is amended to read as follows: 97 Stat. 581.

“(a) Except a vessel on a voyage from a port in the United States to a port in Canada, a vessel of the United States shall have an official logbook if the vessel is—

“(1) on a voyage from a port in the United States to a foreign port; or

“(2) of at least 100 gross tons and is on a voyage between a port of the United States on the Atlantic Ocean and on the Pacific Ocean.”.

TRENT RIVER RAILROAD BRIDGE

SEC. 31. Notwithstanding any other provision of law, the Trent River Railroad Bridge, mile 0.0, in New Bern, North Carolina, is deemed an unreasonable obstruction to navigation. New Bern, N.C.

AMENDMENTS TO THE COASTWISE LOAD LINE ACT

SEC. 32. (a) Section 1(b) of the Act of August 27, 1935 (46 App. U.S.C. 88(b)), popularly known as the “Coastwise Load Line Act, 1935”, is amended to read as follows:

“(b) This Act does not apply to—

“(1) a fish tender vessel of not more than 500 gross tons—

“(A) constructed, under construction, or contracted to be constructed as a vessel of this type before January 1, 1980; or

“(B) converted for use as a vessel of this type before January 1, 1983; and

“(2) a fish processing vessel of not more than 5,000 gross tons, except a vessel constructed after August 15, 1974, or converted for use as a vessel of this type after January 1, 1983.”.

(b) Section 2 of such Act (46 App. U.S.C. 88a) is amended to read as follows:

“SEC. 2. (a) For vessels to which this Act applies, the Secretary of the department in which the Coast Guard is operating shall establish by regulation load lines and marks indicating the maximum depth to which these vessels may be loaded safely.

“(b) In prescribing regulations under this Act, the Secretary shall consider the age, condition, character, design, and construction of a vessel to which this Act applies, including subdivision and stability characteristics.

“(c) This Act applies to the Great Lakes, except that the Secretary may establish special operating regulations for barges operating close to shore between Calumet Harbor, Illinois, and Burns Harbor, Indiana, that exempt these barges from the load line and marking requirements of this section.

“(d) The Secretary may not establish on any vessel a load line that is above the actual line of safety.”.

Regulations.

Regulations.
Calumet Harbor,
Ill.
Burns Harbor,
Ind.

TECHNICAL AMENDMENTS REGARDING COMMERCIAL FISHING INDUSTRY
VESSELS

SEC. 33. (a) Section 4502(b)(3) of title 46, United States Code, is amended by striking "the exemption" and inserting in lieu thereof "this chapter".

(b) Section 4503 of title 46, United States Code, is amended by striking "shall be deemed" and inserting in lieu thereof "is deemed".

(c) Section 8104 (k) and (l) of title 46, United States Code, is amended by striking "may" and inserting in lieu thereof "shall".

Ante, pp. 445,
449.

(d) Section 402(13) of the Act of July 17, 1984 (Public Law 98-364) is amended by striking "Section 10101(a)" and inserting in lieu thereof "Section 10101".

SAILING SCHOOL VESSELS

SEC. 34. (a) Section 2101 of title 46, United States Code, is amended:

(1) in clause (21)(B), by inserting "or a sailing school vessel" immediately after "vessel" the first time it appears; and

(2) in clause (27), by striking all after "by sail" and inserting in lieu thereof "and may include—

"(A) any subject related to that operation and to the sea, including seamanship, navigation, oceanography, other nautical and marine sciences, and maritime history and literature; and

"(B) only when in conjunction with a subject referred to in subclause (A) of this clause, instruction in mathematics and language arts skills to sailing school students having learning disabilities."

46 USC app.
446b.

(b) Section 206 of the Sailing School Vessels Act of 1982 (46 App. U.S.C. 446(b)) is amended by inserting "section 11101(a)-(c) of title 46, United States Code," immediately before "and".

COMPENSATION OF COMMANDANT OF THE COAST GUARD

SEC. 35. (a) Footnote 2 of the table entitled "COMMISSIONED OFFICERS" in section 101(b)(1) of the Uniformed Services Pay Act of 1981 (Public Law 97-60; 95 Stat. 990) is amended—

37 USC 1009
note.

(1) by striking "or"; and

(2) by inserting "or Commandant of the Coast Guard," immediately after "Corps,".

(b) The first sentence of footnote 4 of the table in section 1401 of title 10, United States Code, is amended—

(1) by striking "or"; and

(2) by inserting "or Commandant of the Coast Guard," immediately after "Corps,".

(c) The amendments made by this section shall become effective on October 1, 1984.

Effective date.
10 USC 1401
note.

Approved October 30, 1984.

LEGISLATIVE HISTORY—S. 2526:

SENATE REPORT No. 98-454 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 130 (1984):

Oct. 5, considered and passed Senate.

Oct. 9, considered and passed House.

Public Law 98-558
98th Congress

An Act

Oct. 30, 1984
[S. 2565]

To extend programs under the Head Start Act, and for other purposes.

Human Services
Reauthorization
Act.
42 USC 9801
note.
Children and
youth.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Human Services Reauthorization Act".

TITLE I—HEAD START

TECHNICAL AMENDMENT

42 USC 9832.

SEC. 101. Section 637(2) of the Head Start Act is amended by inserting "the Commonwealth of" before "the Northern Mariana Islands".

AUTHORIZATION OF APPROPRIATIONS

42 USC 9834.

SEC. 102. Section 639 of the Head Start Act is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 639. There are authorized to be appropriated for carrying out the provisions of this subchapter \$1,093,030,000 for fiscal year 1985, and \$1,221,000,000 for fiscal year 1986."

RESERVATION OF FUNDS FOR TRAINING AND TECHNICAL ASSISTANCE

42 USC 9835.

SEC. 103. (a) Section 640(a)(2)(C) of the Head Start Act is amended by inserting before the semicolon the following: "as described in section 648 of this subchapter, in an amount for each fiscal year which is not less than the amount expended for training and technical assistance activities under this clause for fiscal year 1982".

(b) Section 640(a)(2) of the Head Start Act is amended by adding at the end thereof the following new flush sentences: "The minimum reservation contained in clause (C) of this paragraph shall not apply in any fiscal year in which the appropriation for the program authorized by this subchapter is less than the amount appropriated for fiscal year 1984. No funds reserved under this paragraph may be combined with funds appropriated under any other Act if the purpose of combining funds is to make a single discretionary grant or a single discretionary payment, unless such funds appropriated under this subchapter are separately identified in such grant or payment and are used for the purposes of this subchapter."

DESIGNATION OF HEAD START AGENCIES

42 USC 9836.

SEC. 104. (a) Section 641(a) of the Head Start Act is amended by inserting after "agency" the second time it appears ", within a community,".

(b) Section 641(c) of the Head Start Act is amended—

(1) by striking out “, except that” in the matter preceding clause (1) and inserting in lieu thereof “unless”;

(2) by striking out “shall, before giving such priority, determine” in clause (1) and inserting in lieu thereof “makes a finding”;

(3) by striking out “meets” in clause (1) and inserting in lieu thereof “fails to meet”; and

(4) by inserting “except that” before “if” in clause (2).

(c) Section 641 of the Head Start Act is amended by redesignating subsection (d) as subsection (f) and by inserting after subsection (c) the following new subsections: 42 USC 9836.

“(d) If there is no Head Start agency as described in subsection (c)(2), and no existing Head Start program serving a community, then the Secretary may designate a Head Start agency from among qualified applicants in such community. Any such designation shall be governed by the program and fiscal requirements, criteria, and standards applicable on September 1, 1983, to then existing Head Start agencies.

“(e) The provisions of subsections (c) and (d) shall be applied by the Secretary in the distribution of any additional appropriations made available under this subchapter during any fiscal year as well as to initial designations of Head Start agencies.”.

PARTICIPATION IN HEAD START PROGRAMS

SEC. 105. (a) Section 645(a) of the Head Start Act is amended by adding at the end thereof the following: “During the period beginning on the date of the enactment of the Human Services Reauthorization Act and ending on October 1, 1986, and unless specifically authorized in any statute of the United States enacted after such date of enactment, the Secretary may not make any change in the method, as in effect on April 25, 1984, of calculating income used to prescribe eligibility for the participation of persons in the Head Start programs assisted under this subchapter if such change would result in any reduction in, or exclusion from, participation of persons in any of such programs.”. 42 USC 9840.

(b) Section 645 of the Head Start Act is amended by adding at the end thereof the following new subsection:

“(c) Each Head Start program operated in a community may provide more than one year of Head Start services to children from age 3 to the age of compulsory school attendance in the State in which the Head Start program is located.”.

TECHNICAL ASSISTANCE AND TRAINING

SEC. 106. Section 648 of the Head Start Act is amended— 42 USC 9843.

(1) by striking out “may” and inserting in lieu thereof “shall”; and

(2) by inserting before the period at the end thereof a comma and the following: “including a centralized child development training and national assessment program which may be administered at the State or local level leading to recognized credentials for such personnel, and resource access projects for personnel of handicapped children”.

RESEARCH, DEMONSTRATION, AND PILOT PROJECTS

42 USC 9844. SEC. 107. Section 649 of the Head Start Act is amended by adding at the end thereof the following new subsection:

“(c) No funds appropriated under this subchapter may be combined with funds appropriated under any other Act if the purpose of combining funds is to make a single discretionary grant or a single discretionary payment, unless such funds appropriated under this subchapter are separately identified in such grant or payment and are used for the purposes of this title.”.

EVALUATION

42 USC 9846. SEC. 108. The second sentence of section 651(b) of the Head Start Act is amended to read as follows: “Any revisions in such standards shall not result in the elimination of nor any reduction in the scope or types of health, education, parental involvement, social or other services required to be provided under the standards in effect on November 2, 1978.”.

STATE GRANTS FOR DEPENDENT CARE PLANNING AND DEVELOPMENT

SEC. 109. Chapter 8 of title VI of the Omnibus Budget Reconciliation Act of 1981, relating to community services programs, is amended by inserting at the end thereof the following new subchapter:

“Subchapter D—Grants to States for Planning and Development of Dependent Care Programs and for Other Purposes

“AUTHORIZATION OF APPROPRIATIONS

42 USC 9871. “SEC. 670A. For the purpose of allotments to States to carry out the activities described in section 670D, there are authorized to be appropriated \$20,000,000 for each of the fiscal years 1985 and 1986.

“ALLOTMENTS

42 USC 9872. “SEC. 670B. (a) From the amounts appropriated under section 670A for each fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to the total amount appropriated under such section for such fiscal year as the population of the State bears to the population of all States, except that no State may receive less than \$50,000 in each fiscal year.

“(b) For the purpose of the exception contained in subsection (a), the term ‘State’ does not include Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

“PAYMENTS UNDER ALLOTMENTS TO STATES

42 USC 9873. “SEC. 670C. The Secretary shall make payments, as provided by section 6503(a) of title 31, United States Code, to each State from its allotments under section 670B from amounts appropriated under section 670A.

“USE OF ALLOTMENTS

42 USC 9874. “SEC. 670D. (a) Subject to the provisions of subsections (c) and (d), amounts paid to a State under section 670C from its allotment under

section 670B for fiscal year 1985 and fiscal year 1986 may be used for the planning, development, establishment, expansion, or improvement by the States, directly or by grant or contract with public or private entities, of State and local resource and referral systems to provide information concerning the availability, types, costs, and locations of dependent care services. The information provided by any such system shall include—

“(1) the types of dependent care services available, including services provided by individual homes, religious organizations, community organizations, employers, private industry, and public and private institutions;

“(2) the costs of available dependent care services;

“(3) the locations in which dependent care services are provided;

“(4) the forms of transportation available to such locations;

“(5) the hours during which such dependent care services are available;

“(6) the dependents eligible to enroll for such dependent care services; and

“(7) any resource and referral system planned, developed, established, expanded, or improved with amounts paid to a State under this subchapter.

In carrying out clause (7) of the previous sentence, no information shall be included with respect to any dependent care services which are not provided in compliance with the laws of the State and localities in which such services are provided.

“(b)(1) Subject to the provisions of subsections (c) and (d), amounts paid to a State under section 670C from its allotment under section 670B for fiscal year 1985 and fiscal year 1986 may be used for the planning, development, establishment, expansion, or improvement by the States, directly, or by grant or contract, with public agencies or private nonprofit organizations of programs to furnish school-age child care services before and after school in public or private school facilities or in community centers in communities where school facilities are not available.

“(2) The State, with respect to the uses of funds described in paragraph (1) of this subsection shall—

“(A) provide assurances, in the case of an applicant that is not a State or local educational agency, that the applicant has or will enter into an agreement with the State or local educational agency, institution of higher education or community center containing provisions for—

“(i) the use of facilities for the provision of before or after school child care services (including such use during holidays and vacation periods),

“(ii) the restrictions, if any, on the use of such space, and

“(iii) the times when the space will be available for the use of the applicant;

“(B) provide an estimate of the costs of the establishment of the child care service program in the facilities;

“(C) provide assurances that the parents of school-age children will be involved in the development and implementation of the program for which assistance is sought under this Act;

“(D) provide assurances that the applicant is able and willing to seek to enroll racially, ethnically, and economically diverse as well as handicapped school-age children in the child care service program for which assistance is sought under this Act;

“(E) provide assurances that the child care program is in compliance with State and local licensing laws and regulations governing day care services for school-age children to the extent that such regulations are appropriate to the age group served; and

“(F) provide such other assurances as the Governor may reasonably require to carry out the provisions of this Act.”
“(c) Of the allotment to each State in each fiscal year—

“(1) 40 percent shall be available for the activities described in subsection (a);

“(2) 60 percent shall be available for the activities described in subsection (b).

“(d) A State may not use amounts paid to it under this subchapter to—

“(1) pay the costs of operation of any resource and referral system or before or after school child care program established, expanded, or improved under subsection (a);

“(2) make cash payments to intended recipients of dependent care services including child care services;

“(3) subsidize the direct provision of dependent care services including child care services;

“(4) pay for construction or renovation; or

“(5) satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds.

“(e)(1) The Federal share of any project supported under this subchapter shall be not more than 75 percent.

“(2) Not more than 10 percent of the allotment of each State under this subchapter may be available for the cost of administration.

“(f) Projects supported under this section to plan, develop, establish, expand, or improve a State or local resource and referral system or before or after school child care program shall not duplicate any services, which prior to the date of enactment of this subchapter, are provided by the State or locality which will be served by such system.

“(g) The Secretary may provide technical assistance to States in planning and operating activities to be carried out under this subchapter.

“APPLICATION AND DESCRIPTION OF ACTIVITIES; REQUIREMENTS

42 USC 9875.

“SEC. 670E. (a)(1) In order to receive an allotment under section 670B, each State shall submit an application to the Secretary. Each such application shall be in such form and submitted by such date as the Secretary shall require.

“(2) Each application required under paragraph (1) for an allotment under section 670B shall contain assurances that the State will meet the requirements of subsection (b).

“(b) As part of the annual application required by subsection (a), the chief executive officer of each State shall—

“(1) certify that the State agrees to use the funds allotted to it under section 670B in accordance with the requirements of this subchapter; and

“(2) certify that the State agrees that Federal funds made available under section 670C for any period will be so used as to supplement and increase the level of State, local, and other non-Federal funds that would in the absence of such Federal funds

be made available for the programs and activities for which funds are provided under that section and will in no event supplant such State, local, and other non-Federal funds.

The Secretary may not prescribe for a State the manner of compliance with the requirements of this subsection.

“(c) The chief executive officer of a State shall, as part of the application required by subsection (a), also prepare and furnish the Secretary (in accordance with such form as the Secretary shall provide) with a description of the intended use of the payments the State will receive under section 670C, including information on the programs and activities to be supported. The description shall be made public within the State in such manner as to facilitate comment from any person (including any Federal or other public agency) during development of the description and after its transmittal. The description shall be revised (consistent with this section) until September 30, 1987, as may be necessary to reflect substantial changes in the programs and activities assisted by the State under this subchapter, and any revision shall be subject to the requirements of the preceding sentence.

“(d) Except where inconsistent with the provisions of this subchapter, the provisions of section 1903(b), paragraphs (1) through (5) of section 1906(a), and sections 1906(b), 1907, 1908, and 1909 of the Public Health Service Act shall apply to this subchapter in the same manner as such provisions apply to part A of title XIX of such Act.

42 USC 300w-2.

42 USC 300w-5-
300w-8.
42 USC 300w.

“REPORT

“SEC. 670F. Within three years after the date of enactment of this subchapter, the Secretary shall prepare and transmit to the Senate Committee on Labor and Human Resources and the House Committee on Education and Labor a report concerning the activities conducted by the States with amounts provided under this subchapter.

42 USC 9876.

“DEFINITIONS

“SEC. 670G. For purposes of this subchapter—

42 USC 9877.

“(1) the term ‘community center’ means facilities operated by nonprofit community-based organizations for the provision of recreational, social, or educational services to the general public;

“(2) the term ‘dependent’ means—

“(A) an individual who has not attained the age of 17 years;

“(B) an individual who has attained the age of 55 years;

or

“(C) a person with a developmental disability;

“(3) the term ‘developmental disability’ has the same meaning as in section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act;

42 USC 6001.

“(4) the term ‘equipment’ has the same meaning given that term by section 198(a)(8) of the Elementary and Secondary Education Act of 1965;

20 USC 2854.

“(5) the term ‘institution of higher education’ has the same meaning given that term under section 1201(a) of the Higher Education Act of 1965;

20 USC 1141.

- 20 USC 2854. “(6) the term ‘local educational agency’ has the same meaning given that term under section 198(a)(10) of the Elementary and Secondary Education Act of 1965;
- “(7) the term ‘school-age children’ means children aged five through thirteen;
- “(8) the term ‘school facilities’ means classrooms and related facilities used for the provision of education;
- “(9) the term ‘Secretary’ means the Secretary of Health and Human Services;
- “(10) the term ‘State’ means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands; and
- “(11) the term ‘State educational agency’ has the meaning given that term under section 198(a)(17) of the Elementary and Secondary Education Act of 1965.”
- 20 USC 2854.

TITLE II—COMMUNITY SERVICES BLOCK GRANT

AUTHORIZATION OF APPROPRIATIONS

- 42 USC 9901. SEC. 201. Section 672(b) of the Community Services Block Grant Act (hereinafter in this title referred to as the “Act”) is amended by adding at the end thereof the following new sentence: “There is authorized to be appropriated \$400,000,000 for the fiscal year 1985, and \$415,000,000 for the fiscal year 1986, to carry out the provisions of this subtitle.”.

DEFINITIONS

- 42 USC 9902. SEC. 202. (a)(1) The second sentence of section 673(1) of the Act is amended to read as follows: “The term ‘eligible entity’ also includes any limited purpose agency designated under title II of the Economic Opportunity Act of 1964 for fiscal year 1981 which served the general purposes of a community action agency under title II of such Act, unless such designated agency lost its designation under title II of such Act as a result of a failure to comply with the provisions of such Act, any grantee which received financial assistance under section 222(a)(4) of the Economic Opportunity Act of 1964 in fiscal year 1981, and any organization to which a State which applied for and received a waiver from the Secretary under Public Law 98-139 made a grant under this Act in fiscal year 1984.”.
- 42 USC 2781. (2) Section 673(1) of the Act is amended by adding at the end thereof the following two sentences: “In any geographic area of a State not presently served by an eligible entity, the Governor of the State may decide to serve such a new area by—
- 42 USC 2809. “(A) requesting an existing eligible entity which is located and provides services in an area contiguous to the new area to serve the new area;
- 97 Stat. 871. “(B) if no existing eligible entity is located and provides services in an area contiguous to the new area, requesting the eligible entity located closest to the area to be served or an existing eligible entity serving an area within reasonable proximity of the new area to provide services in the new area; or
- Supra.* “(C) where no existing eligible entity requested to serve the new area decides to do so, designating any existing eligible entity, any organization which has a board meeting the require-

ments of section 675(c)(3) or any political subdivision of the State to serve the new area. The Governor's designation of an organization which has a board meeting the requirements of section 675(c)(3) or a political subdivision of the State to serve the new area shall qualify such organization as an eligible entity under this Act." 42 USC 9904.

(b) Section 673(2) of the Act is amended by inserting at the end thereof the following new sentence: "Whenever the State determines that it serves the objectives of the block grant established by this subtitle the State may revise the poverty line to not to exceed 125 percent of the official poverty line otherwise applicable under this paragraph." 42 USC 9902.

APPLICATIONS AND REQUIREMENTS

SEC. 203. (a)(1) Section 675(c)(2)(A)(i) of the Act is amended by striking "1982 only" and inserting in lieu thereof "1985 and for each subsequent fiscal year". 42 USC 9904.

(2) Section 675(c)(2)(A)(i) of the Act is amended by inserting before the semicolon a comma and the following: "except that no more than 7 percent of the funds available for this subclause shall be granted to organizations which were not eligible entities during the previous fiscal year".

(3) Section 675(c)(2)(A) of the Act is amended—

(A) by striking out "(i)"; and

(B) by striking out division (ii).

(4) Section 675(c)(2)(B) of the Act is amended by inserting after "than" the following: "the greater of \$55,000 or".

(5) Section 675(c)(5) of the Act is amended—

(A) by striking out "or the energy" and inserting in lieu thereof "the energy", and

(B) by inserting "or the Temporary Emergency Food Assistance Act of 1983" before the semicolon.

(b) Section 675 of the Act is amended—

(1) by striking out "and" at the end of clause (9);

(2) by striking out the period at the end of clause (10) and inserting in lieu thereof a semicolon and the word "and"; and

(3) by adding at the end thereof the following new clause:

"(11) provide assurances that any community action agency or migrant and seasonal farmworker organization which received funding in the previous fiscal year under this Act will not have its present or future funding terminated under this Act unless after notice, and opportunity for hearing on the record, the State determines that cause existed for such termination subject to review by the Secretary as provided in section 676A."

(c) Section 675 is amended by adding at the end thereof the following new subsection:

"(i)(1) For purposes of determining compliance with this subchapter the Secretary shall conduct, in several States in each fiscal year, evaluations of the uses made of funds received under this subchapter by such States.

"(2) The results of such evaluations shall be submitted annually to the chairman of the Committee on Education and Labor of the House of Representatives and the chairman of the Committee on Labor and Human Resources of the Senate."

(d) The Act is amended by inserting after section 676 the following new section:

Post, p. 2286.

“TERMINATION OF FUNDING REVIEW

- 42 USC 9905a. “SEC. 676A. The Secretary shall upon request review any termination of funding to a community action agency or migrant and seasonal farmworker organization protected by a State’s assurance under section 675(c)(11). Such review shall be conducted promptly and shall be based upon the record and no determination shall become effective until a finding by the Secretary confirming the State’s finding of cause.”.

DISCRETIONARY PROGRAM

- 42 USC 9910. SEC. 204. (a)(1) The matter preceding clause (1) of section 681(a) of the Act is amended by striking out “public and other organizations and agencies” both times it appears and inserting in lieu thereof “public agencies and private nonprofit organizations”.
- (2) Section 681(a) of the Act is amended—
- (A) by striking out “and” at the end of clause (1);
 - (B) by striking out the period at the end of clause (2) and inserting in lieu thereof a semicolon and the word “and”; and
 - (C) by adding at the end thereof the following new clause: “(3) training and technical assistance to aid States in carrying out their responsibilities under this subchapter.”.
- (b) Section 681(a) of the Act is amended by adding at the end thereof the following new flush sentence: “In addition, grants, loans, and guarantees made pursuant to this subsection may be made to a private nonprofit organization applying jointly with a business concern.”.

WITHHOLDING

- 42 USC 9908. SEC. 205. (a) Section 679(b) of the Act is amended—
- (1) in paragraph (2) by striking out “he” and inserting in lieu thereof “the Secretary”, and
 - (2) in paragraph (3) by striking out “may” and inserting in lieu thereof “shall”.
- (b) Section 679 of the Act is amended by striking out subsection (d).

COMMUNITY FOOD AND NUTRITION PROGRAM

SEC. 206. The Act is amended by inserting after section 681 the following new section:

“COMMUNITY FOOD AND NUTRITION

- 42 USC 9910a. “SEC. 681A. (a) The Secretary may through grants to public and private nonprofit agencies, provide for community-based, local, and statewide programs—
- “(1) to coordinate existing private and public food assistance resources, whenever such coordination is determined to be inadequate, to better serve low-income populations;
 - “(2) to assist low-income communities to identify potential sponsors of child nutrition programs and to initiate new programs in underserved or unserved areas; and
 - “(3) to develop innovative approaches at the State and local level to meet the nutrition needs of low-income people.
- “(b) There is authorized to be appropriated \$2,500,000 for each of the fiscal years 1985 and 1986 to carry out the provisions of this section.”.

Appropriation
authorization.

CONSTRUCTION

SEC. 207. Notwithstanding any other provision of law the provisions of section 675(c)(2) of the Act made by the amendments contained in paragraphs (1), (2), and (3) of section 203 of this Act shall apply to the funds appropriated for the Act for fiscal year 1985.

42 USC 9904
note.
Ante, p. 2885.

TITLE III—FOLLOW THROUGH

AUTHORIZATION OF APPROPRIATIONS

SEC. 301. Section 663(a)(1) of the Follow Through Act is amended to read as follows:

42 USC 9862.

“(1) There is authorized to be appropriated for carrying out the purposes of this subchapter \$10,000,000 for the fiscal year 1985 and \$7,500,000 for the fiscal year 1986.”.

REPEALER

SEC. 302. Section 670 of the Follow Through Act is amended by striking out “1984” and inserting in lieu thereof “1986”.

42 USC 9861
note.

TITLE IV—WEATHERIZATION PROGRAM

STATE ELECTION OF LIHEAP INCOME ELIGIBILITY LEVEL

Energy.

SEC. 401. Section 412(7) of the Energy Conservation in Existing Buildings Act of 1976 (42 U.S.C. 6862(7)) is amended by striking out “or” before the beginning of clause (B), by striking out the period at the end of the paragraph and inserting in lieu thereof a comma, and by adding at the end of the paragraph “or (C) if a State elects, is the basis for eligibility for assistance under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621), provided that such basis is at least 125 percent of the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget.”.

NEW TECHNOLOGY AND ELIMINATION OF A RULEMAKING REQUIREMENT

SEC. 402. Section 412(9) of the Energy Conservation in Existing Buildings Act of 1976 (42 U.S.C. 6862(9)) is amended by—

(1) amending paragraph (B) to read as follows:

“(B) furnace efficiency modifications, including, but not limited to—

“(i) replacement burners, furnaces, or boilers or any combination thereof;

“(ii) devices for minimizing energy loss through heating system, chimney, or venting devices; and

“(iii) electrical or mechanical furnace ignition systems which replace standing gas pilot lights;”;

(2) striking out “by rule” in paragraph (G).

MAXIMUM EXPENSES

SEC. 403. Section 415 of the Energy Conservation in Existing Buildings Act of 1976 (42 U.S.C. 6865) is amended—

(1) by striking out the first sentence in subsection (a) and inserting in lieu thereof: “An average of at least forty percent of the funds provided in a State under this part for weatherization

materials, labor, and related matters described in subsection (c) shall be spent for weatherization materials.”; and

(2) by amending subsection (c) to read as follows:

“(c)(1) The expenditure of financial assistance provided under this part for labor, weatherization materials, and related matters shall not exceed an average of \$1,600 per dwelling unit weatherized in that State. Labor, weatherization materials, and related matter includes, but is not limited to—

“(A) the appropriate portion of the cost of tools and equipment used to install weatherization materials for a dwelling unit;

“(B) the cost of transporting labor, tools, and materials to a dwelling unit;

“(C) the cost of having onsite supervisory personnel; and

“(D) the cost of making incidental repairs to a dwelling unit if such repairs are necessary to make the installation of weatherization materials effective.

“(2) Dwelling units partially weatherized under this part or under other Federal programs during the period September 30, 1975, through September 30, 1979, may receive further financial assistance for weatherization under this part.”.

PERFORMANCE FUND

42 USC 6865.

SEC. 404. Section 415 of the Energy Conservation in Existing Buildings Act of 1976 (42 U.S.C. 6862) is amended by adding at the end thereof the following new subsection:

“(d) Beginning in fiscal year 1986, not less than 5 percent and no more than 15 percent of the amount appropriated under this part for each fiscal year shall be allotted by the Secretary to a performance fund, which shall be available only to provide financial assistance under this part to those States which the Secretary determines to have demonstrated the best performance during the previous fiscal year in providing weatherization assistance. The Secretary shall make such determination on the basis of such information as may be available to the Secretary, to include, but not be limited to, the percentage of eligible dwelling units within the State which have been weatherized using low-income weatherization assistance program funds during the relevant reporting period. In assessing the quality of the weatherization assistance provided, the Secretary shall consider comparable energy savings data supplied by the States.”.

TITLE V—HIGHER EDUCATION AND RESEARCH PROJECT

CENTER FOR EXCELLENCE IN EDUCATION AUTHORIZED

Indiana
University.

SEC. 501. (a) The Secretary of Education (hereinafter in this section referred to as the “Secretary”) is authorized in accordance with the provisions of this title, to provide financial assistance to Indiana University located in Bloomington, Indiana, to pay the Federal share of the cost of the construction, and related costs, including renovation costs, for the Center for Excellence in Education facility at Indiana University, to be used as a national research and training resource for individuals who intend to become exemplary elementary and secondary school teachers and administrators.

(b)(1) No financial assistance may be made under this title unless an application is made at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(2) For the purpose of this section, the Federal share of the cost of the Center for Excellence in Education facility at the Indiana University should not exceed 50 percent.

(c) There are authorized to be appropriated such sums, not to exceed \$6,000,000, as may be necessary to carry out the provisions of this section. Funds appropriated pursuant to this title shall remain available until September 30, 1987.

Appropriation
authorization.

RESEARCH CENTERS

SEC. 502. (a)(1) The Secretary of Health and Human Services (hereinafter in this section referred to as the "Secretary") is authorized, in accordance with the provisions of this section, to provide financial assistance to the University of Utah located in Salt Lake City, Utah, to pay the Federal share of the cost of the establishment and operation (including construction, and related costs, including renovation costs) of a center for research on the health effects of nuclear energy and other new energy technologies.

Health.
Energy.
University of
Utah.

(2)(A) No financial assistance may be made under this subsection unless an application is made at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(B) For the purpose of this subsection, the Federal share of the cost of the center shall not exceed 50 percent.

(3) There are authorized to be appropriated such sums, not to exceed \$4,000,000, as may be necessary to carry out the provisions of this subsection. Funds appropriated pursuant to this subsection shall remain available until September 30, 1987.

Appropriation
authorization.

(b)(1) The Secretary shall, through the National Cancer Institute, establish or support at least one clinic or health facility for cancer screening and research in St. George, Utah. Such clinic shall be affiliated with a health science center capable of providing clinical, research, and interdisciplinary technical assistance to such clinic or facility, and shall make its services accessible to the preponderance of the residents of the areas that have received the greatest fallout from the Nevada nuclear tests.

St. George, Utah,
cancer screening
center.

(2) There are authorized to be appropriated such sums, not to exceed \$6,000,000, as may be necessary to carry out the provisions of this subsection. Funds appropriated pursuant to this subsection shall remain available until September 30, 1987.

Appropriation
authorization.

TITLE VI—LOW-INCOME HOME ENERGY ASSISTANCE

AUTHORIZATION OF APPROPRIATIONS

SEC. 601. Section 2602(b) of the Low-Income Home Energy Assistance Act of 1981 (hereinafter in this title referred to as the "Act") is amended to read as follows:

42 USC 8621.

"(b) There is authorized to be appropriated to carry out the provisions of this title \$2,140,000,000 for the fiscal year 1985, and \$2,275,000,000 for the fiscal year 1986."

DEFINITION

42 USC 8622.

SEC. 602. (a) Section 2603(1) of the Act is amended—

(1) by striking out “intervention”; and

(2) by inserting before the period “and other household energy-related emergencies”.

(b) Section 2603(4) of the Act is amended to read as follows:

“(4) The term ‘poverty level’ means, with respect to a household in any State, the income poverty line as prescribed and revised at least annually pursuant to section 673(2) of the Community Services Block Grant Act, as applicable to such State.”.

Ante, p. 2885.

ENERGY CRISIS INTERVENTION

42 USC 8623.

SEC. 603. (a) Section 2604(c) of the Act is amended—

(1) by inserting after “reserved” the following: “until March 15 of each program year”; and

(2) by adding at the end thereof the following new sentence: “The program for which funds are reserved by this subsection shall be administered by public or nonprofit entities which have experience in administering energy crisis programs under the Low-Income Energy Assistance Act of 1980, or under this Act, experience in assisting low-income individuals in the area to be served, and the capacity to undertake a timely and effective energy crisis intervention program.”.

(b) Section 2604(d)(1) of the Act is amended by striking out “otherwise be paid” and inserting in lieu thereof “otherwise be payable”.

(c) Section 2604(e) of the Act is repealed.

(d) Section 2604(f) of the Act is amended by striking out “its allotment” and inserting in lieu thereof “the funds payable to it”.

STATE ALLOTMENTS

42 USC 8623.

SEC. 604. (a) Section 2604(a)(2) is amended to read as follows:

“(2) For purposes of paragraph (1), for fiscal year 1985 and thereafter, a State’s allotment percentage is the percentage which expenditures for home energy by low-income households in that State bears to such expenditures in all States, except that States which thereby receive the greatest proportional increase in allotments by reason of the application of this paragraph from the amount they received pursuant to Public Law 98-139 shall have their allotments reduced to the extent necessary to ensure that—

97 Stat. 871.

“(A)(i) no State for fiscal year 1985 shall receive less than the amount of funds the State received in fiscal year 1984; and

“(ii) no State for fiscal year 1986 and thereafter shall receive less than the amount of funds the State would have received in fiscal year 1984 if the appropriations for this title for fiscal year 1984 had been \$1,975,000,000, and

“(B) any State whose allotment percentage out of funds available to States from a total appropriation of \$2,250,000,000 would be less than 1 percent, shall not, in any year when total appropriations equal or exceed \$2,250,000,000, have its allotment percentage reduced from the percentage it would receive from a total appropriation of \$2,140,000,000.”.

(b) Section 2604(a) is amended by adding at the end thereof the following new paragraph:

“(4) For the purpose of this section, the Secretary shall determine the expenditure for home energy by low-income households on the basis of the most recent satisfactory data available to the Secretary.”.

APPLICATIONS AND REQUIREMENTS

SEC. 605. (a)(1) Section 2605(b)(1) of the Act is amended by striking out “subsection” and inserting in lieu thereof “section”. 42 USC 8624.

(2) Subclause (B) of section 2605(b)(2) of the Act is amended by inserting after the semicolon and flush to the margin of subclause (B) the following: “except that no household may be excluded from eligibility under this subclause for payments under this title for fiscal year 1986 and thereafter if the household has an income which is less than 110 percent of the poverty level for such State for such fiscal year”.

(3) Section 2605(b)(5) is amended by inserting before the semicolon a comma and the following: “except that the State may not differentiate in implementing this section between the households described in clause (2)(A) and (2)(B) of this subsection”.

(4) Section 2605(b)(7)(C) is amended by striking out “any differently” and inserting in lieu thereof “adversely”.

(5) Section 2605(b)(8) of the Act is amended by inserting after “that” the following: “(A) the State will not exclude households described in clause (2)(B) of this subsection from receiving home energy assistance benefits under clause (2), and (B)”.

(6) Section 2605(b)(9)(A) of the Act is amended to read as follows:

“(A) the State may use for planning and administering the use of funds under this title an amount not to exceed 10 percent of the funds payable to such State under this title for a fiscal year and not transferred pursuant to section 2604(f) for use under another block grant; and”.

42 USC 8623.

(7) Section 2605(b)(10) of the Act is amended by striking out “every year” and inserting in lieu thereof “every two years”.

(8) Section 2605(b) of the Act is amended—

(A) by striking out “and” at the end of clause (12);

(B) by striking out the period at the end of clause (13) and inserting in lieu thereof a semicolon; and

(C) by adding at the end thereof the following new clauses:

“(14) describe the procedures by which households in the State are identified as eligible to participate under this title and the manner in which the State determines benefit levels;

“(15) describe the amount that the State will reserve in accordance with section 2604(c) in each fiscal year for energy crisis intervention activities together with the administrative procedures (A) for designating an emergency, (B) for determining the assistance to be provided in any such emergency, and (C) for the use of funds reserved under such section for the purposes under this title in the event any portion of the amount so reserved is not expended for emergencies.

Ante, p. 2890.

“(16) describe energy usage and the average cost of home energy in the State, identified by type of fuel and by region of the State; and

“(17) cooperate with the Secretary with respect to data collecting and reporting under section 2610.”.

42 USC 8629.

(9) Section 2605(b) is amended by adding at the end thereof the following new sentence: “The Secretary shall issue regulations to Regulations.

prevent waste, fraud, and abuse in the programs assisted by this title.”.

42 USC 8624.

(b)(1) Section 2605(c)(1) of the Act is amended to read as follows:

“(c)(1) As part of the annual application required in subsection (a), the chief executive officer of each State shall prepare and furnish to the Secretary, in such format as the Secretary may require, a plan which—

“(A) describes how the State will carry out the assurances required under subsection (b);

“(B) contains estimates of the amount of funds the State will use for each of the programs under such plan;

“(C) describes the eligibility requirements to be used by the State for each type of assistance to be provided under this title;

“(D) describes weatherization and other energy-related home repair the State will provide under subsection (k); and

“(E) contains any other information determined by the Secretary to be appropriate for purposes of this title.

The chief executive officer may revise any plan prepared under this paragraph and shall furnish the revised plan to the Secretary.”.

(2) Section 2605(c)(2) of the Act is amended—

(A) by inserting “and each substantial revision thereof” after “Each plan prepared under paragraph (1)”, and

(B) by striking out the period at the end thereof and inserting in lieu thereof “or substantial revision.”.

(c) Section 2605(d) of the Act is amended to read as follows:

“(d) The State shall expend funds in accordance with the State plan under this title or in accordance with revisions applicable to such plan.”.

(d) Section 2605(e) of the Act is amended to read as follows:

Audits.

“(e) Each State shall, in carrying out the requirements of subsection (b)(10), obtain financial and compliance audits of any funds which the State receives under this title. Such audits shall be made public within the State on a timely basis. The audits shall be conducted at least every two years by an organization or person independent of any agency administering activities under this title. The audits shall be conducted in accordance with the Comptroller General’s standards for audit of governmental organizations, programs, activities, and functions. Within 30 days after completion of each audit, the chief executive officer of the State shall submit a copy of the audit to the legislature of the State and to the Secretary.”.

(e) Section 2605(f) of the Act is amended by inserting before the comma the first time it appears the following: “unless enacted in express limitation of this paragraph”.

(f) Section 2605(h) of the Act is amended by inserting “(but not less frequently than every three years)” after “time” the second place it appears.

PAYMENTS TO STATES

42 USC 8626.

SEC. 606. (a)(1) The second sentence of section 2607(b)(2)(A) of the Act is amended by inserting “or the amount payable to” after “of”.

(2) Section 2607(b)(2)(A) of the Act is amended by inserting after the first sentence thereof the following: “Such request shall include a statement of the reasons that the amount allotted to such State for a fiscal year will not be used by such State during such fiscal year and a description of the types of assistance to be provided with the amount held available for the following fiscal year.”.

(b)(1)(A) The first sentence of section 2607(b)(2)(B) of the Act is amended by striking out “25 percent” and inserting in lieu thereof “15 percent”. 42 USC 8626.

(B) The first sentence of section 2607(b)(2)(B) of the Act is further amended by striking out “allotted to such State for such prior fiscal year” and inserting in lieu thereof “payable to such State for such prior fiscal year and not transferred pursuant to section 2604(f)”.

(2) The second sentence of section 2607(b)(2)(B) of the Act is amended by striking out “allotted to a State” and inserting in lieu thereof “payable to a State but not transferred by the State”.

(c) Section 2607(b)(2) of the Act is amended by adding at the end thereof the following new subparagraph:

“(C) The Secretary shall reallocate amounts made available under this paragraph for the fiscal year following the fiscal year of the original allotment in accordance with paragraph (1) of this subsection.”.

STUDIES

SEC. 607. (a) Section 2610(a)(2) of the Act is amended—

42 USC 8629.

(1) by inserting “amount,” before “cost”; and

(2) by adding at the end thereof the following: “for households eligible for assistance under this title”.

(b) Section 2610(a) of the Act is amended by—

(1) striking out “and” at the end of clause (4);

(2) redesignating clause (5) as clause (6); and

(3) inserting after clause (4) the following new clause:

“(5) the number of households which received such assistance and include one or more individuals who are 60 years or older or handicapped; and”.

(c) Section 2610(a) of the Act is amended by adding at the end thereof the following new flush sentence: “Nothing in this subsection may be construed to require the Secretary to collect data which has been collected and made available to the Secretary by any other agency of the Federal Government.”

(d) Section 2610(b) of the Act is amended to read as follows:

Report.

“(b) The Secretary shall, no later than June 30 of each fiscal year, submit a report to the Congress containing a detailed compilation of the data under subsection (a) with respect to the prior fiscal year.”.

TECHNICAL AMENDMENT

SEC. 608. Section 2608(b)(2) of the Act is amended by striking out “he” and inserting in lieu thereof “the Secretary”.

42 USC 8627.

EFFECTIVE DATES

SEC. 609. (a) Except as provided in subsections (b), (c), and (d), the amendments made by this title shall take effect on the date of enactment of this Act.

42 USC 8621
note.

(b) The amendments made by section 605 shall take effect on the first day of the first fiscal year beginning after the date of the enactment of this Act.

(c) The amendments made by section 606 shall apply to amounts held available for fiscal years beginning after September 30, 1985.

(d) The amendment made by section 607 shall apply to data collected and compiled after the date of the enactment of this Act. Section 2610 of the Act as in effect before the date of the enactment

42 USC 8629.

42 USC 8629.

of this Act shall apply with respect to the report submitted under such section 2610 for fiscal year 1984.

TITLE VII—POSTSECONDARY EDUCATION SCHOLARSHIP PROGRAM

AMENDMENT TO TITLE V OF THE HIGHER EDUCATION ACT OF 1965

SEC. 701. Title V of the Higher Education Act of 1965 is amended by inserting after part D the following new parts E and F:

“PART E—CARL D. PERKINS SCHOLARSHIP PROGRAM

“DECLARATION OF PURPOSE; AUTHORIZATION OF APPROPRIATIONS

20 USC 1119d.

“SEC. 561. (a) It is the purpose of this part to make available, through grants to the States, scholarships during fiscal years 1986 through 1990 to a maximum of ten thousand individuals who are outstanding high school graduates and who demonstrate an interest in teaching, in order to enable and encourage those individuals to pursue teaching careers in education at the elementary or secondary level. Such scholarships shall be referred to as ‘Carl D. Perkins Scholarships’.

“(b) There are authorized to be appropriated \$20,000,000 for fiscal year 1986, \$21,000,000 for fiscal year 1987, \$22,000,000 for fiscal year 1988, and \$23,000,000 for fiscal year 1989, for Carl D. Perkins Scholarships to eligible students under this part.

“ALLOCATION AMONG STATES

20 USC 1119d-1.

“SEC. 562. (a) From the sums appropriated pursuant to section 561 for any fiscal year, the Secretary shall allocate to any State an amount which bears as nearly as possible the same ratio to such sums as the number of persons in that State bears to the number of persons in all States.

“(b) For the purpose of this section, the number of persons in a State and in all States shall be determined by the most recently available data from the United States Census Bureau.

“GRANT APPLICATIONS

20 USC 1119d-2.

“SEC. 563. (a) The Secretary is authorized to make grants to States in accordance with the provisions of this part. In order to receive a grant under this part, a State shall submit an application at such time or times, in such manner, and containing such information as the Secretary may prescribe by regulation. Such application shall set forth a program of activities for carrying out the purposes set forth in section 561(a) in such detail as will enable the Secretary to determine the degree to which such program will accomplish such purposes and such other policies, procedures, and assurances as the Secretary may require by regulation.

“(b) The Secretary shall approve an application only if the application—

“(1) describes the selection criteria and procedures to be used by the State in the selection of scholarships under this part which satisfy the provisions of this part;

20 USC 1070c.

“(2) designates the State agency which administers the program under subpart 3 of part A of title IV, relating to State

student incentive grants, or the State agency with which the Secretary has an agreement under section 428(b);

20 USC 1078.

“(3) describes the outreach effort the State agency intends to use to publicize the availability of Carl D. Perkins Scholarships to high school students in the State;

“(4) provides assurances that each recipient eligible under section 565(b) of this part who receives a Carl D. Perkins Scholarship shall enter into an agreement with the State agency under which the recipient shall—

“(A) within the ten-year period after completing the post-secondary education for which the Carl D. Perkins Scholarship was awarded, teach, for a period of not less than two years for each year for which assistance was received, in a public elementary or secondary school in any State, in a public education program in any State, or in a private nonprofit school located and serving students in a district eligible for assistance pursuant to chapter 1 of the Education Consolidation and Improvement Act of 1981, or, on a full-time basis, handicapped children or children with limited English proficiency in a private nonprofit school, except that, in the case of individuals who teach in a school serving large numbers or high concentrations of economically disadvantaged students, or who teach children with limited English proficiency or handicapped children, the requirements of this subparagraph shall be reduced by one-half;

20 USC 3801.

“(B) provide the State agency evidence of compliance with section 566 of this part as required by the State agency; and

“(C) repay all or part of a Carl D. Perkins Scholarship received under section 564 of this part plus interest and, if applicable, reasonable collection fees, in compliance with regulations issued by the Secretary under section 567 of this part, in the event that the conditions of clause (A) are not complied with, except as provided for in section 568 of this part;

“(5) provides that the agreement entered into with recipients shall fully disclose the terms and conditions under which assistance under this part is provided and under which repayment may be required. Such disclosure shall include—

“(A) a description of the procedures required to be established under paragraph (6); and

“(B) a description of the appeals procedures required to be established under paragraph (7) under which a recipient may appeal a determination of noncompliance with any provision under this part;

“(6) provides for procedures under which a recipient of assistance received under this part who teaches for less than the period required under paragraph (4)(A) will have the repayment requirements reduced or eliminated consistent with the provisions of sections 567 and 568 of this part;

“(7) provides for appeals procedures under which a recipient may appeal any determination of noncompliance with any provision under this part;

“(8) provides assurances that the State agency shall make particular efforts to attract students from low-income backgrounds or who express a willingness or desire to teach in

schools having less than average academic results or serving large numbers of economically disadvantaged students; and

“(9) provides assurances that Carl D. Perkins Scholarships will be awarded without regard to sex, race, handicapping condition, creed, or economic background.

“(c) The selection criteria and procedures to be used by the State shall reflect the present and projected teacher needs of the State, including the demand for and supply of elementary teachers in the State, the demand for and supply of secondary teachers in the State, and the demand for teachers with training in specific academic disciplines in the State.

“(d) In developing the selection criteria and procedures to be used by the State, the State shall solicit the views of State and local educational agencies, private educational institutions, and other interested parties. Such views—

“(1) shall be solicited by means of (A) written comments; and (B) publication of proposed selection criteria and procedures in final form for implementation; and

“(2) may be solicited by means of (A) public hearings on the teaching needs of elementary and secondary schools in the State (including the number of new teachers needed, the expected supply of new teachers, and the shortages in the State of teachers with training in specific academic disciplines); or (B) such other methods as the State may determine to be appropriate to gather information on such needs.

“AMOUNT AND DURATION OF AND RELATION TO OTHER ASSISTANCE

20 USC 1119d-3. “SEC. 564. (a) Subject to subsection (c), each Carl D. Perkins Scholar shall receive a \$5,000 scholarship for each academic year of postsecondary education for study in preparation to become an elementary or secondary teacher. No individual shall receive scholarship assistance for more than four years of postsecondary education, as determined by the State agency.

Prohibition. “(b) Notwithstanding the provisions of title IV of this Act, scholarship funds awarded pursuant to this part shall be considered in determining eligibility for student assistance under title IV of this Act.

20 USC 1070. “(c) Carl D. Perkins Scholarship assistance awarded by the statewide panel established pursuant to section 565 to any individual in any given year, when added to assistance received under title IV of this Act, shall not exceed the cost of attendance, as defined under section 482(d), at the institution the individual is attending. If the amount of the Carl D. Perkins Scholarship assistance and assistance received under title IV of this Act, exceeds the cost of attendance, the Carl D. Perkins Scholarship shall be reduced by an amount equal to the amount by which the combined awards exceed the cost of attendance.

20 USC 1089. “(d) No individual shall receive an award under the Carl D. Perkins Scholarship established under this part, in any academic year, which shall exceed the cost of attendance, as defined under section 482(d), at the institution the individual is attending.

Prohibition. “SELECTION OF CARL D. PERKINS SCHOLARS

20 USC 1119d-4. “SEC. 565. (a) Carl D. Perkins Scholars shall be selected by a seven-member statewide panel appointed by the chief State elected offi-

cial, acting in consultation with the State educational agency, or by an existing grant agency or panel designated by the chief State elected official and approved by the Secretary of Education. The statewide panel shall be representative of school administrators, teachers, and parents.

“(b) Selections of Carl D. Perkins Scholars shall be made from students who have graduated or who are graduating from high school and who rank in the top 10 per centum of their graduating class. The State educational agency shall make applications available to high schools in the State and in other locations convenient to applicants, parents, and others. The statewide panel shall develop criteria and procedures for the selection of Carl D. Perkins Scholars. Such criteria may include the applicant’s high school grade point average, involvement in extracurricular activities, financial need, and expression of interest in teaching as expressed in an essay written by the applicant. The panel may also require the applicant to furnish letters of recommendation from teachers and others.

“SCHOLARSHIP CONDITIONS

“SEC. 566. Recipients of scholarship assistance under this part shall continue to receive such scholarship payments only during such periods that the State agency finds that the recipient is (A) enrolled as a full-time student in an accredited postsecondary institution; (B) pursuing a course of study leading to teacher certification; and (C) maintaining satisfactory progress as determined by the postsecondary institution the recipient is attending.

20 USC 1119d-5.

“SCHOLARSHIP REPAYMENT PROVISIONS

“SEC. 567. Recipients found by the State agency to be in noncompliance with the agreement entered into under section 563(b)(4) of this part shall be required to repay a pro rata amount of the scholarship awards received, plus interest and, where applicable, reasonable collection fees, on a schedule and at a rate of interest to be prescribed by the Secretary by regulations issued pursuant to this part.

20 USC 1119d-6.

“EXCEPTIONS TO REPAYMENT PROVISIONS

“SEC. 568. (a) A recipient shall not be considered in violation of the agreement entered into pursuant to section 563(b)(4)(C) if the recipient (1) returns to a full-time course of study related to the field of teaching at an eligible institution; (2) is serving, not in excess of three years, as a member of the armed services of the United States; (3) is temporarily totally disabled for a period of time not to exceed three years as established by sworn affidavit of a qualified physician; (4) is unable to secure employment for a period not to exceed twelve months by reason of the care required by a spouse who is disabled; (5) is seeking and unable to find full-time employment for a single period not to exceed twelve months; (6) is seeking and unable to find full-time employment as a teacher in a public elementary or secondary school or a public education program; or (7) satisfies the provisions of additional repayment exceptions that may be prescribed by the Secretary in regulations issued pursuant to this part.

20 USC 1119d-7.

“(b) A recipient shall be excused from repayment of any scholarship assistance received under this part if the recipient becomes

permanently totally disabled as established by sworn affidavit of a qualified physician.

"FEDERAL ADMINISTRATION OF STATE PROGRAMS; JUDICIAL REVIEW

20 USC 1119d-8.

"SEC. 569. (a) The Secretary shall not finally disapprove any application for a State program submitted under section 563, or any modification thereof, without first affording the State agency submitting the program reasonable notice and opportunity for a hearing.

"(b) Whenever the Secretary, after reasonable notice and opportunity for hearing to the State agency administering a State program approved under this part, finds—

"(1) that the State program has been so changed that it no longer complies with the provisions of this part, or

"(2) that in the administration of the program there is a failure to comply substantially with any such provisions, the Secretary shall notify such State agency that the State will not be regarded as eligible to participate in the program under this part until the Secretary is satisfied that there is no longer any such failure to comply.

"(c)(1) If any State is dissatisfied with the Secretary's final action under subsection (b) (1) or (2), such State may appeal to the United States court of appeals for the circuit in which such State is located. The summons and notice of appeal may be served at any place in the United States. The Secretary shall forthwith certify and file in the court the transcript of the proceedings and the record on which the action was based.

"(2) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify any previous action, and shall certify to the court the transcript and record of further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(3) The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"PART F—NATIONAL TALENTED TEACHER FELLOWSHIP PROGRAM

"DECLARATION OF PURPOSE

20 USC 1119e.

"SEC. 571. It is the purpose of this part to establish a national fellowship program for outstanding teachers.

"AUTHORIZATION OF APPROPRIATIONS; ALLOCATION AMONG STATES

20 USC 1119e-1.

"SEC. 572. There are authorized to be appropriated \$1,000,000 for fiscal year 1986, \$2,000,000 for fiscal year 1987, \$3,000,000 for fiscal year 1988, and \$4,000,000 for fiscal year 1989, for fellowships to outstanding teachers under this part. Not more than 2½ per centum of these funds shall be used for purposes of administering this part.

“TALENTED TEACHER FELLOWSHIPS

“SEC. 573. (a)(1) Except as provided under paragraph (3), sums available for the purpose of this part shall be used to award one national teacher fellowship to a public or private school teacher teaching in each congressional district of each State, and in the District of Columbia, and the Commonwealth of Puerto Rico; and one such fellowship in Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

20 USC 1119e-2.

“(2) Fellowship awards may not exceed the average national salary of public school teachers in the most recent year for which satisfactory data are available, as determined by the Secretary. Talented teacher fellows may not receive an award for two consecutive years. Subject to the repayment provisions of section 576, talented teacher fellows shall be required to return to a teaching position in their current school district or private school system for at least two years following the fellowship award.

Prohibition.

“(3) If the appropriation under section 572 is not sufficient to provide the number of fellowships required by paragraph (1) at the level required under paragraph (2), the Secretary shall determine and publish an alternative distribution of fellowships which will permit fellowship awards at that level and which is geographically equitable. The Secretary shall send a notice of such determination to each of the statewide panels established under section 574.

“(b) Talented teacher fellows may use such awards for such projects for improving public education as the Secretary may approve, including (1) sabbaticals for study or research directly associated with the objectives of this part, or academic improvement; (2) consultation with or assistance to other school districts or private school systems; (3) development of special innovative programs; or (4) model teacher programs and staff development.

“SELECTION OF TALENTED TEACHER FELLOWSHIPS

“SEC. 574. Recipients of talented teacher fellowship in each State shall be selected (in accordance with section 575) by a seven-member statewide panel appointed by the chief State elected official, acting in consultation with the State educational agency, or by an existing panel designated by the chief State elected official and approved by the Secretary of Education. The statewide panel shall be representative of school administrators, teachers, parents, and institutions of higher education.

20 USC 1119e-3.

“EVALUATION OF APPLICATIONS

“SEC. 575. (a) An applicant for talented teacher fellowship assistance shall submit proposals for projects under section 573(b), and shall indicate the extent to which the applicant wishes to continue current teaching duties. The applicant shall submit such proposals to the local education agency for comment prior to submission to the statewide panel (appointed under section 574) for the State within which the project is to be conducted. In evaluating proposals, such statewide panel shall consult with the local education agency, requesting two recommendations from teaching peers; a recommendation from the principal; and a recommendation of the superintendent on the quality of the proposal and its benefit to the local education agency; and any other criteria for awarding fellowships as

20 USC 1119e-4.

is considered appropriate by such statewide panel. Selection of fellows shall be made in accordance with regulations prescribed by the Secretary of Education.

“(b) Announcement of awards shall be made in a public ceremony.

“FELLOWSHIP REPAYMENT PROVISIONS

20 USC 1119e-5. “SEC. 576. Repayment of the award shall be made to the Federal Government in the case of fraud or gross noncompliance.”.

MATH SCIENCE TECHNICAL AMENDMENT

Ante, p. 1301. SEC. 702. Section 711 of the Education for Economic Security Act is amended by striking out “(a)” and by striking out subsection (b) of such section.

TITLE VIII—FEDERAL MERIT SCHOLARSHIPS

AMENDMENT TO THE HIGHER EDUCATION ACT OF 1965

SEC. 801. (a) Part A of title IV of the Higher Education Act of 1965 (hereafter in this title referred to as “the Act”) is amended by redesignating subpart 6 as subpart 7 and by inserting after subpart 5 the following new subpart:

“Subpart 6—Federal Merit Scholarships

“STATEMENT OF PURPOSE

20 USC 1070d-31. “SEC. 419A. It is the purpose of this subpart to establish a Federal Merit Scholarship Program to promote student excellence and achievement and to recognize exceptionally able students who show promise of continued excellence.

“DEFINITION

20 USC 1070d-32. “SEC. 419B. For the purpose of this subpart—
“(1) the term ‘secondary school’ has the same meaning given that term under section 198(a)(7) of the Elementary and Secondary Education Act of 1965; and
20 USC 2854. “(2) the term ‘State’ means each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

“SCHOLARSHIPS AUTHORIZED

Grants.
20 USC 1070d-33. “SEC. 419C. (a) The Secretary is authorized, in accordance with the provisions of this subpart, to make grants to States to enable the States to award scholarships to individuals who have demonstrated outstanding academic achievement and who show promise of continued academic achievement.

“(b) Scholarships under this section shall be awarded for a period of one academic year for the first year of study at an institution of higher education.

“(c) A student awarded a scholarship under this subpart may attend any institution of higher education.

"ALLOCATION AMONG STATES

"SEC. 419D. From the sums appropriated pursuant to section 419K for any fiscal year, the Secretary shall allocate to each State having an agreement under section 419E— 20 USC 1070d-34.

"(1) \$1,500 multiplied by the number of individuals in the State eligible for merit scholarships pursuant to section 419G(b), plus

"(2) \$10,000, plus 5 percent of the amount to which a State is eligible under clause (1) of this section.

"AGREEMENTS

"SEC. 419E. The Secretary shall enter into an agreement with each State desiring to participate in the merit scholarship program authorized by this subpart. Each such agreement shall include provisions designed to assure that— 20 USC 1070d-35.

"(1) the State educational agency will administer the merit scholarship program authorized by this subpart in the State;

"(2) the State educational agency will comply with the eligibility and selection provisions of this subpart;

"(3) the State educational agency will conduct outreach activities to publicize the availability of Federal merit scholarships to all eligible students in the State, with particular emphasis on activities designed to assure that students from low-income and moderate-income families have access to the information on the opportunity for full participation in the merit scholarship program authorized by this subpart;

"(4) the State educational agency will pay to each individual in the State who is awarded a merit scholarship under this subpart \$1,500 at an awards ceremony in accordance with section 419I; and

"(5) the State educational agency will use the amount of the allocation described in clause (2) of section 419D for administrative expenses, including the conduct of the awards ceremony required by section 419I.

"ELIGIBILITY OF MERIT SCHOLARS

"SEC. 419F. (a) Each student awarded a scholarship under this subpart shall be a graduate of a public or private secondary school or have the equivalent of a certificate of graduation as recognized by the State in which the student resides and must have been admitted for enrollment at an institution of higher education. 20 USC 1070d-36.

"(b) Each student awarded a scholarship under this subpart must demonstrate outstanding academic achievement and show promise of continued academic achievement.

"SELECTION OF MERIT SCHOLARS

"SEC. 419G. (a) The State educational agency is authorized to establish the criteria for the selection of merit scholars under this subpart. 20 USC 1070d-37.

"(b) The State educational agency shall adopt selection procedures which are designed to assure that ten individuals will be selected from among residents of each congressional district in a State (and in the case of the District of Columbia and the Commonwealth of

Puerto Rico not to exceed ten individuals will be selected in such district or Commonwealth).

“(c) In carrying out its responsibilities under subsections (a) and (b), the State educational agency shall consult with school administrators, school boards, teachers, counselors, and parents.

“STIPENDS AND SCHOLARSHIP CONDITIONS

20 USC 1070d-38. “SEC. 419H. (a) Each student awarded a merit scholarship under this subpart shall receive a stipend of \$1,500 for the academic year of study for which the scholarship is awarded.

“(b) The State educational agency shall establish procedures to assure that a merit scholar awarded a scholarship under this subpart pursues a course of study at an institution of higher education.

“AWARDS CEREMONY

20 USC 1070d-39. “SEC. 419I. (a) The State educational agency shall make arrangements to award merit scholarships under this subpart at a place in each State which is convenient to the individuals selected to receive such scholarships. To the extent possible, the award shall be made by Members of the Senate and Members of the House of Representatives (by the Delegate in the case of the District of Columbia and the Resident Commissioner in the case of the Commonwealth of Puerto Rico) who represent the State, Commonwealth, or District, as the case may be, from which the individuals come.

“(b) The selection process shall be completed, and the awards made prior to the end of each secondary academic year.

“CONSTRUCTION OF NEEDS PROVISIONS

20 USC 1070d-40. “SEC. 419J. Nothing in this subpart, or any other Act, shall be construed to permit the receipt of a merit scholarship under this subpart to be counted for any needs test in connection with the awarding of any grant or the making of any loan under this Act or any other provision of Federal law relating to educational assistance.

“AUTHORIZATION OF APPROPRIATIONS

20 USC 1070d-41. “SEC. 419K. There are authorized to be appropriated \$8,000,000 for each of fiscal years 1986, 1987, and 1988 to carry out the provisions of this subpart.”.

20 USC 1070e. (b)(1) Section 419 of the Act is redesignated as section 420.

20 USC 1070e-1. (2) Section 420 of the Act is redesignated as section 420A.

Leadership in
Educational
Administration
Development
Act of 1984.

TITLE IX—LEADERSHIP IN EDUCATIONAL ADMINISTRATION

SHORT TITLE; PURPOSE

20 USC 4201. SEC. 901. (a) This title may be cited as the “Leadership in Educational Administration Development Act of 1984”.

(b) It is the purpose of this title to improve the level of student achievement in elementary and secondary schools through the enhancement of the leadership skills of school administrators by establishing technical assistance centers for each State to promote the development of the leadership skills of elementary and secondary

school administrators with particular emphasis upon increasing access for minorities and women to administrative positions.

(c) It is the intention of Congress that contractors seeking to establish technical assistance and training centers should design programs which upgrade the skills of elementary and secondary school administrators in—

(1) enhancing the schoolwide learning environment by assessing the school climate, setting clear goals for improvement, and devising strategies for completing manageable projects with measurable objectives;

(2) evaluating the school curriculum in order to assess its effectiveness in meeting academic goals;

(3) developing skills in instructional analysis to improve the quality of teaching through classroom observation and supervision;

(4) mastering and implementing objective techniques for evaluating teacher performance; and

(5) improving communication, problem-solving, student discipline, time-management, and budgetary skills.

AUTHORIZATION OF APPROPRIATIONS

SEC. 902. (a) There are authorized to be appropriated to carry out this title for fiscal year 1985 and each succeeding fiscal year ending prior to October 1, 1990, such sums as may be necessary but not to exceed \$20,000,000 in any fiscal year.

20 USC 4202.

(b) Of the amount appropriated pursuant to subsection (a) for any fiscal year, the Secretary shall make available such amount, not less than \$150,000 for each State, as may be necessary for establishing and operating a technical assistance center in each State.

TECHNICAL ASSISTANCE CENTERS

SEC. 903. (a) The Secretary shall, subject to the availability of funds pursuant to section 902, enter into contracts with local educational agencies, intermediate school districts, State educational agencies, institutions of higher education, private management organizations, or nonprofit organizations (or consortium of such entities) for the establishment and operation of training centers in each State in accordance with the requirements of this section and section 904.

20 USC 4203.

(b) Each contract entered into under subsection (a) shall require the contractor—

(1) to make the services of the technical assistance center available to school administrators from any of the local educational agencies located within the State served by that contractor;

(2) to collect information on school leadership skills;

(3) to assess the leadership skills of individual participants based on established effective leadership criteria;

(4) to conduct training programs on leadership skills for new school administrators and to conduct training seminars on leadership skills for practicing school administrators, with particular emphasis on women and minority administrators;

(5) to operate consulting programs to provide within school districts advice and guidance on leadership skills;

(6) to maintain training curricula and materials on leadership skills drawing on expertise in business, academia, civilian and military governmental agencies, and existing effective schools;

(7) to conduct programs which—

(A) make available executives from business, scholars from various institutions of higher education, and practicing school administrators; and

(B) offer internships in business, industry, and effective school districts to school administrators, for the purpose of promoting improved leadership skills of such administrators;

(8) to disseminate information on leadership skills associated with effective schools; and

(9) to establish model administrator projects.

(c) In making a selection among applicants for any contract under this section, the Secretary shall take into account whether the applicant, if selected, would be able to operate its programs in a manner which would emphasize development of leadership skills identified by graduate schools of management and graduate schools of education.

GENERAL CRITERIA FOR CONTRACTS

20 USC 4204.

SEC. 904. (a) The following criteria shall apply to each contract:

(1) The contract shall assure the involvement of private sector managers and executives in the conduct of such programs.

(2) The contract shall contain assurances of an ongoing organizational commitment to carrying out the purposes of this title through (A) obtaining matching funds for such programs in cash or in kind at least equal in amount to the amount of funds provided under this title, (B) making inkind contributions to such programs, (C) demonstrating a commitment to continue to operate such programs after expiration of funding under this title, and (D) organizing a policy advisory committee including (but not limited to) representatives from business, private foundations, and local and State educational agencies.

(3) The contract shall demonstrate the level of development of human relations skills which its programs will instill by (A) identifying the credentials of the staff responsible for such development; (B) describing the manner in which such skills will be developed; and (C) describing the manner in which the program deals with human relations issues facing education administrators.

(4) The contract shall establish a system for the evaluation of the programs conducted.

(b) Each contract shall be for a term of three years. Such contract shall not be renewable, except that a single three-year extension may be granted if the contractor agrees to maintain the programs with assistance under this title reduced by one-half.

REGULATIONS

20 USC 4205.

SEC. 905. The Secretary is authorized to prescribe such regulations as may be necessary to carry out this title.

DEFINITIONS

20 USC 4206.

SEC. 906. For the purposes of this title—

(1) the term "Secretary" means the Secretary of Education;
 (2) the term "institution of higher education" has the meaning provided by section 1201 of the Higher Education Act of 1965;

20 USC 1141.

(3) the term "school administrator" means a principal, assistant principal, district superintendent, and other local school administrators;

(4) the term "local educational agency" has the meaning provided by section 595 of the Education Consolidation and Improvement Act of 1981; and

20 USC 3875.

(5) the term "leadership skills" includes, but is not limited to, managerial, administrative, evaluative, communication and disciplinary skills and related techniques.

TITLE X—NATIVE AMERICAN PROGRAMS

SHORT TITLE

SEC. 1001. This title may be cited as the "Native American Programs Act Amendments of 1984".

Native
American
Programs Act
Amendments of
1984.
42 USC 2991
note.

DISTRIBUTION OF FINANCIAL ASSISTANCE

SEC. 1002. (a) Section 803(a) of the Native American Programs Act of 1974 is amended by adding at the end thereof the following: "Every determination made with respect to a request for financial assistance under this section shall be made without regard to whether the agency making such request serves, or the project to be assisted is for the benefit of, Indians who are not members of a federally recognized tribe. To the greatest extent practicable, the Secretary shall ensure that each project to be assisted under this title is consistent with the priorities established by the agency which receives such assistance."

42 USC 2991b.

(b) Section 803(c) of the Native American Programs Act of 1974 is amended—

(1) by inserting "(1)" after "(c)", and

(2) by adding at the end thereof the following new paragraph:
 "(2) No project may be disapproved for assistance under this title solely because the agency requesting such assistance is an Indian organization in a nonreservation area or serves Indians in a nonreservation area."

ADMINISTRATION OF PROGRAMS

SEC. 1003. Section 812 of the Native American Programs Act of 1974 is amended to read as follows:

42 USC 2992b.

"ADMINISTRATION; DELEGATION OF AUTHORITY

"SEC. 812. (a)(1) The general administration of the programs authorized by this Act shall remain within the Department of Health and Human Services and, notwithstanding any authority under any other law, may not be transferred outside of such Department.

"(2) The Secretary shall continue to administer grants under section 803 through the Administration for Native Americans. The Commissioner of such Administration may not delegate outside of the Administration the functions, powers, and duties of the Commissioner to carry out such section.

42 USC 2991b.

“(b)(1) Except as provided in subsection (a)(2), the Secretary may delegate only to the heads of agencies within the Department of Health and Human Services any of the functions, powers, and duties of the Secretary under this title and may authorize the redelegation only within such Department of such functions, powers, and duties by the heads of such agencies.

42 USC 2991b.

“(2) Funds appropriated to carry out this title, other than section 803, may be transferred between such agencies if such funds are used for the purposes for which they are authorized and appropriated.

“(c) Nothing in this section shall be construed to prohibit inter-agency funding agreements made between the Administration for Native Americans and other agencies of the Federal Government for the development and implementation of specific grants or projects.”.

DEFINITIONS

SEC. 1004. Section 813 of the Native American Programs Act of 1974 is amended—

42 USC 2992c.

(1) in paragraph (3) by striking out the period and inserting in lieu thereof “; and”, and

(2) by adding at the end thereof the following new paragraph:

“(4) ‘Secretary’ means the Secretary of Health and Human Services.”.

EXPENDITURE OF AVAILABLE FUNDS

SEC. 1005. Section 814 of the Native American Programs Act of 1974 is amended—

42 USC 2992d.

(1) by striking out “1981” and inserting in lieu thereof “1986”,

(2) by inserting “(a)” after “Sec. 814.”, and

(3) by adding at the end thereof the following new subsection:

“(b) Not less than 90 per centum of the funds made available to carry out the provisions of this title for a fiscal year shall be expended to carry out section 803(a) for such fiscal year.”.

Ante, p. 2905.

Approved October 30, 1984.

LEGISLATIVE HISTORY—S. 2565:

SENATE REPORT No. 98-484 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD, Vol. 130 (1984):

Oct. 4, considered and passed Senate.

Oct. 9, considered and passed House.

Public Law 98-559
98th Congress

An Act

To amend the Hazardous Materials Transportation Act to authorize appropriations for fiscal years 1985 and 1986, and for other purposes.

Oct. 30, 1984
[S. 2706]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 109(d) of the Hazardous Materials Transportation Act (49 U.S.C. App. 1808(d)) is amended—

(1) by inserting “(1)” immediately before “The Secretary”;

(2) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively; and

(3) by adding at the end thereof the following new paragraph:

“(2) Nothing in this subsection shall be construed to limit the authority of the Secretary to enter into a contract with a private entity for use of a supplemental reporting system and data center operated and maintained by such entity.”.

(b)(1) Section 109(e) of such Act (49 U.S.C. App. 1808(e)) is amended by striking out “May 1” and inserting in lieu thereof “June 15”.

(2) The amendment made by paragraph (1) shall take effect October 1, 1984.

Effective date.

SEC. 2. Section 115 of the Hazardous Materials Transportation Act (49 U.S.C. App. 1812) is amended to read as follows:

49 USC app. 1808
note.

“AUTHORIZATION FOR APPROPRIATIONS

“SEC. 115. There is authorized to be appropriated to carry out the provisions of this title not to exceed \$7,500,000 for the fiscal year ending September 30, 1985, and \$8,000,000 for the fiscal year ending September 30, 1986.”.

SEC. 3. The Hazardous Materials Transportation Act (49 U.S.C. App. 1801-1812) is amended by adding at the end thereof the following new section:

“EVALUATION OF TRAINING PROGRAMS FOR INCIDENT PREVENTION AND RESPONSE

“SEC. 116. (a) EVALUATION.—The Secretary and the Director of the Federal Emergency Management Agency (hereinafter in this section referred to as the ‘Director’), in coordination with other Federal, State, and local agencies with responsibilities relating to transportation of hazardous materials (including but not limited to the Environmental Protection Agency, the Department of Energy, and the Nuclear Regulatory Commission), shall each evaluate—

49 USC app.
1813.

“(1) programs conducted by Federal, State, and local agencies and private organizations which provide training to shippers, carriers, inspectors, and enforcement personnel involved in the transportation of hazardous materials with respect to compliance with and enforcement of rules, regulations, standards, and orders promulgated by the Secretary under the authority of this title;

“(2) programs conducted by Federal, State, and local agencies and private organizations which provide training to agencies or organizations responsible for responding to incidents involving transportation of hazardous materials; and

“(3) planning programs conducted by Federal, State, and local agencies and private organizations for responding to incidents involving transportation of hazardous materials.

Report.

“(b) REPORT.—Not later than five months after the date of the enactment of this section, the Secretary and the Director shall each submit an interim report to the Congress on the results of their respective evaluations under subsection (a). Not later than 10 months after the date of the enactment of this section, the Secretary and the Director shall complete such evaluations and submit the results of such evaluations to the Congress. Such reports shall include, but not be limited to—

“(1) a description of existing planning programs for responding to incidents involving transportation of hazardous materials;

“(2) a description of Federal, State, and (to the extent feasible) local training programs for responding to incidents involving transportation of hazardous materials and for compliance with and enforcement of rules, regulations, standards, and orders promulgated by the Secretary under the authority of this title;

“(3) the amounts of funds expended per fiscal year in fiscal years 1980, 1981, 1982, 1983, and 1984 by Federal and State agencies on training programs described in paragraph (2); and

“(4) recommendations concerning methods of funding such training programs, including but not limited to methods which assure long-term funding for such programs.”.

Approved October 30, 1984.

LEGISLATIVE HISTORY—S. 2706:

SENATE REPORT No. 98-479 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 130 (1984):

June 15, considered and passed Senate.

Oct 11, considered and passed House, amended; Senate concurred in House amendment.

Public Law 98-560
98th Congress

An Act

To name the Federal Building in Elkins, West Virginia, the “Jennings Randolph Federal Center”.

Oct. 30, 1984

[S. 3021]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Post Office and Federal Building located at the corner of Randolph Avenue and Third Street, Elkins, West Virginia, shall hereafter be known and designated as the “Jennings Randolph Federal Center”. Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the “Jennings Randolph Federal Center”.

Public buildings
and grounds.

SEC. 2. The effective date of this Act shall be January 5, 1985.

Effective date.

Approved October 30, 1984.

LEGISLATIVE HISTORY—S. 3021 (H.R. 6324):

SENATE REPORT No. 98-650 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 130 (1984):

Oct. 4, considered and passed Senate.

Oct. 11, H.R. 6324 considered and passed House; S. 3021 passed in lieu.

Public Law 98-561
98th Congress

An Act

Oct. 30, 1984
[S. 3034]

To grant a Federal charter to the National Society, Daughters of the American Colonists.

Corporation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

CHARTER

36 USC 2901.

SECTION 1. National Society, Daughters of the American Colonists, organized and incorporated under the laws of the District of Columbia in 1921, is hereby recognized as such and is granted a charter.

POWERS

36 USC 2902.

SEC. 2. National Society, Daughters of the American Colonists (hereinafter referred to as the "corporation") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State or States in which it is incorporated and subject to the laws of such State or States.

OBJECTS AND PURPOSES OF CORPORATION

36 USC 2903.

SEC. 3. The objects and purposes for which the corporation is organized shall be those provided in its articles of incorporation and shall include a continuing commitment, on a national basis, to—

(1) conduct research with respect to the history and deeds of the American colonists, and record and publish the results of such research;

(2) publish the memoirs of American colonists;

(3) erect memorials to commemorate the history and deeds of the American colonists;

(4) promote respect and admiration for the institutions, laws, and flag of the United States;

(5) engage in mutual improvement and educational activities; and

(6) establish scholarships to assist needy and deserving students and to promote the improvement of educational institutions, engage in volunteer service and make contributions to veterans hospitals, and perform such other charitable activities including the national presidents' projects as may be provided by the articles of incorporation or bylaws of the society.

SERVICE OF PROCESS

36 USC 2904.

SEC. 4. With respect to service of process, the corporation shall comply with the laws of the States in which it is incorporated and those States in which it carries on its activities in furtherance of its corporate purposes.

MEMBERSHIP

SEC. 5. Eligibility for membership in the corporation and the rights and privileges of members shall, except as provided in this Act, be as provided in the constitution and bylaws of the corporation, and terms of membership and requirements for holding office within the corporation shall not be discriminatory on the basis of race, color, religion, or national origin. 36 USC 2905.

BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES

SEC. 6. The board of directors of the corporation and the responsibilities thereof shall be as provided in the articles of incorporation or bylaws of the corporation and in conformity with the laws of the State or States in which it is incorporated. 36 USC 2906.

OFFICERS OF CORPORATION

SEC. 7. The officers of the corporation, and the election of such officers shall be as is provided in the articles of incorporation or bylaws of the corporation and in conformity with the laws of the State or States wherein it is incorporated. 36 USC 2907.

RESTRICTIONS

SEC. 8. (a) No part of the income or assets of the corporation shall inure to any member, officer, or director of the corporation or be distributed to any such person during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual necessary expenses in amounts approved by the board of directors. 36 USC 2908.

(b) The corporation shall not make any loan to any officer, director, or employee of the corporation.

(c) The corporation and any officer and director of the corporation, acting as such officer or director, shall not contribute to, support, or otherwise participate in any political activity or in any manner attempt to influence legislation.

(d) The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

(e) The corporation shall not claim congressional approval or Federal Government authority for any of its activities.

(f) The corporation shall retain and maintain its status as a corporation organized and incorporated under the laws of the State or States wherein it is incorporated.

EXCLUSIVE RIGHT TO NAME, EMBLEMS, SEALS, AND BADGES

SEC. 9. Subject to established or vested rights, the corporation shall have the sole and exclusive right to have and to use, in carrying out its purposes, the name National Society, Daughters of the American Colonists and any emblem, seal, or badge adopted or used by the corporation. 36 USC 2909.

LIABILITY

SEC. 10. The corporation shall be liable for the acts of its officers and agents when acting within the scope of their authority. 36 USC 2910.

BOOKS AND RECORDS; INSPECTION

36 USC 2911.

SEC. 11. The corporation shall keep correct and complete books and records of account and shall keep minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors. The corporation shall keep at its principal office a record of the names and addresses of all members having the right to vote. All books and records of such corporation may be inspected by any member having the right to vote, or by any agent or attorney of such member, for any proper purpose, at any reasonable time. Nothing in this section shall be construed to contravene any applicable State law.

AUDIT OF FINANCIAL TRANSACTIONS

SEC. 12. The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end thereof the following:

"(66) National Society, Daughters of the American Colonists".

ANNUAL REPORT

36 USC 2912.

SEC. 13. The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as is the report of the audit required by section 11 of this Act. The report shall not be printed as a public document.

RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER

36 USC 2913.

SEC. 14. The right to alter, amend, or repeal this Act is expressly reserved to the Congress.

DEFINITION OF "STATE"

36 USC 2914.

SEC. 15. For purposes of this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

TAX-EXEMPT STATUS

SEC. 16. The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1954. If the corporation fails to maintain such status, the charter granted hereby shall expire.

36 USC 2915.

26 USC 1
et seq.

TERMINATION

SEC. 17. If the corporation shall fail to comply with any of the restrictions or provisions of this Act, the charter granted hereby shall expire.

36 USC 2916.

Approved October 30, 1984.

LEGISLATIVE HISTORY—S. 3034 (H.R. 1881):

CONGRESSIONAL RECORD, Vol. 130 (1984):

Oct. 4, H.R. 1881 considered and passed House.

Oct. 10, S. 3034 considered and passed Senate and House.

Public Law 98-562
98th Congress

Joint Resolution

Oct. 30, 1984
[S.J. Res. 236]

Relating to cooperative East-West ventures in space.

Whereas the United States and the Soviet Union could soon find themselves in an arms race in space, which is in the interest of no one;

Whereas the prospect of an arms race in space between the United States and the Soviet Union has aroused worldwide concern expressed publicly by the governments of many countries;

Whereas the 1972-1975 Apollo-Soyuz project involving the United States and the Soviet Union and culminating with a joint docking in space was successful, thus proving the practicability of a joint space effort;

Whereas, shortly after the completion of the Apollo-Soyuz project, and intended as a followup to it, the United States and the Soviet Union signed an agreement to examine the feasibility of a Shuttle-Salyut program and an international space platform program, but that initiative was allowed to lapse;

Whereas the United States signed a five-year space cooperation agreement with the Soviet Union in 1972, renewed it in 1977, then chose not to renew it in 1982;

Whereas the United States recently proposed to the Soviet Union that the two Nations conduct a joint simulated space rescue mission;

Whereas the Soviet Union has not yet responded to the substance of this proposal; and

Whereas the opportunities offered by space for prodigious achievements in virtually every field of human endeavor, leading ultimately to the colonization of space in the cause of advancing human civilization, would probably be lost irretrievably were space to be made into yet another East-West battleground: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President should—

(1) endeavor, at the earliest practicable date, to renew the 1972-1977 agreement between the United States and the Soviet Union on space cooperation for peaceful purposes;

(2) continue energetically to gain Soviet agreement to the recent United States proposal for a joint simulated space rescue mission; and

(3) seek to initiate talks with the Government of the Soviet Union, and with other governments interested in space activities, to explore further opportunities for cooperative East-West ventures in space including cooperative ventures in such areas as space medicine and space biology, planetary science, manned and unmanned space exploration.

Approved October 30, 1984.

LEGISLATIVE HISTORY—S.J. Res. 236:

CONGRESSIONAL RECORD, Vol. 130 (1984):

Oct. 10, considered and passed Senate.

Oct. 11, considered and passed House, amended; Senate concurred in House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 44 (1984):

Oct. 30, Presidential statement.

Public Law 98-563
98th Congress

An Act

Oct. 30, 1984
[H.R. 89]

To permit the transportation of passengers between Puerto Rico and other United States ports on foreign-flag vessels when United States flag service for such transportation is not available.

46 USC app.
289c.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) notwithstanding any other provision of law, passengers may be transported on passenger vessels not qualified to engage in the coastwise trade between ports in Puerto Rico and other ports in the United States, directly or by way of a foreign port, except as otherwise provided in this Act.

Termination.

(b)(1) Upon a showing to the Secretary of Transportation, by the vessel owner or charterer, that service aboard a United States passenger vessel qualified to engage in the coastwise trade is being offered or advertised pursuant to a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation (46 App. U.S.C. 817e) from the Federal Maritime Commission for service in the coastwise trade between ports in Puerto Rico and other ports in the United States, the Secretary shall notify the owner or operator of each vessel transporting passengers under authority of this Act that he shall, within 270 days after notification, terminate all such service. Coastwise privileges granted to every owner or operator under this Act shall expire on the 270th day following the Secretary's notification.

(2) Upon a showing to the Secretary, by the vessel owner or charterer, that service aboard a United States passenger vessel not qualified to engage in the coastwise trade is being offered or advertised pursuant to a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation (46 App. U.S.C. 817e) from the Federal Maritime Commission for service in the coastwise trade between ports in Puerto Rico and other ports in the United States, the Secretary shall notify the owner or operator of each foreign-flag vessel transporting passengers under authority of this Act that he shall, within 270 days after notification, terminate all such service. Coastwise privileges granted to every owner or operator of a foreign-flag vessel transporting passengers under authority of this Act shall expire on the 270th day following the Secretary's notification.

(c) If, at the expiration of the 270-day period specified in subsections (b)(1) and (b)(2) of this Act, the vessel that has been offering or advertising service pursuant to a certificate described in either of those subsections has not entered the coastwise passenger trade between ports in Puerto Rico and other ports in the United States, then the termination of service required by either of those subsections shall not be required until 90 days following the entry into that trade by the United States vessel.

(d) Any coastwise privileges granted in this Act that expire under subsection (b)(1) or (b)(2) shall be reinstated upon a determination by the Secretary that the service on which the expiration of the privileges was based is no longer available.

(e) For the purposes of subsections (b)(1) and (b)(2), the term "passenger vessel" means any vessel of similar size or offering service comparable to any other vessel transporting passengers under authority of this Act.

Approved October 30, 1984.

LEGISLATIVE HISTORY—H.R. 89:

HOUSE REPORT No. 98-733 (Comm. on Merchant Marine and Fisheries).

SENATE REPORT No. 98-658 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 130 (1984):

May 14, 15, considered and passed House.

Oct. 11, considered and passed Senate, amended; House concurred in Senate amendment.

Public Law 98-564
98th Congress

An Act

Oct. 30, 1984
[H.R. 597]

To amend sections 2733, 2734, and 2736 of title 10, United States Code, and section 715 of title 32, United States Code, to increase the maximum amount of a claim against the United States that may be paid administratively under those sections and to allow increased delegation of authority to settle and pay certain of those claims, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 2733 of title 10, United States Code, is amended as follows:

(1) Subsection (a) is amended by striking out “chief legal officer” and “\$25,000” and inserting in lieu thereof “Chief Counsel” and “\$100,000”, respectively.

(2) Subsection (d) is amended to read as follows:

“(d) If the Secretary concerned considers that a claim in excess of \$100,000 is meritorious, and the claim otherwise is payable under this section, the Secretary may pay the claimant \$100,000 and report any meritorious amount in excess of \$100,000 to the Comptroller General for payment under section 1304 of title 31.”

31 USC 1304.

(3) Subsection (g) is amended to read as follows:

“(g) Under regulations prescribed by the Secretary concerned, an officer or employee under the jurisdiction of the Secretary may settle a claim that otherwise would be payable under this section in an amount not to exceed \$25,000. A decision of the officer or employee who makes a final settlement decision under this section may be appealed by the claimant to the Secretary concerned or an officer or employee designated by the Secretary for that purpose.”

SEC. 2. Section 2734 of title 10, United States Code, is amended as follows:

(1) Subsection (a) is amended by amending that part of the subsection that precedes paragraph (1) to read as follows:

“(a) To promote and to maintain friendly relations through the prompt settlement of meritorious claims, the Secretary concerned, or an officer or employee designated by the Secretary, may appoint, under such regulations as the Secretary may prescribe, one or more claims commissions, each composed of one or more officers or employees or combination of officers or employees of the armed forces, to settle and pay in an amount not more than \$100,000, a claim against the United States for—”

(2) Subsection (a) is further amended in the last sentence by inserting “or employee” after “An officer”.

(3) Subsection (c) is amended to read as follows:

“(c) The Secretary concerned may appoint any officer or employee under the jurisdiction of the Secretary to act as an approval authority for claims determined to be allowable under subsection (a) in an amount in excess of \$10,000.”

(4) Subsection (d) is amended to read as follows:

“(d) If the Secretary concerned considers that a claim in excess of \$100,000 is meritorious, and the claim otherwise is payable under this section, the Secretary may pay the claimant \$100,000 and report

any meritorious amount in excess of \$100,000 to the Comptroller General for payment under section 1304 of title 31.”

31 USC 1304.

SEC. 3. Section 2736(a) of title 10, United States Code, is amended by striking out “\$1,000” and inserting in lieu thereof “\$10,000”.

SEC. 4. Section 715 of title 32, United States Code, is amended as follows:

(1) Subsection (a) is amended by striking out “\$25,000” and inserting in lieu thereof “\$100,000”.

(2) Subsection (d) is amended to read as follows:

“(d) If the Secretary concerned considers that a claim in excess of \$100,000 is meritorious, and the claim otherwise is payable under this section, the Secretary may pay the claimant \$100,000 and report any meritorious amount in excess of \$100,000 to the Comptroller General for payment under section 1304 of title 31.”

31 USC 1304.

(3) Subsection (f) is amended to read as follows:

“(f) Under regulations prescribed by the Secretary concerned, an officer or employee under the jurisdiction of the Secretary may settle a claim that otherwise would be payable under this section in an amount not to exceed \$25,000. A decision of the officer or employee who makes a final settlement decision under this section may be appealed by the claimant to the Secretary concerned or an officer or employee designated by the Secretary for that purpose.”

Approved October 30, 1984.

LEGISLATIVE HISTORY—H.R. 597:

HOUSE REPORT No. 98-407 (Comm. on the Judiciary).

CONGRESSIONAL RECORD:

Vol. 129 (1983): Oct. 24, considered and passed House.

Vol. 130 (1984): Oct. 11, considered and passed Senate.

Public Law 98-565
98th Congress

An Act

Oct. 30, 1984

[H.R. 1095]

To grant a Federal charter to the 369th Veterans' Association.

Corporation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

CHARTER

36 USC 3001.

SECTION 1. The 369th Veterans' Association, a nonprofit corporation organized under the laws of the State of New York, is hereby recognized as such and is granted a charter.

POWERS

36 USC 3002.

SEC. 2. 369th Veterans' Association (hereinafter referred to as the "corporation") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State or States in which it is incorporated and subject to the laws of such State or States.

OBJECTS AND PURPOSES OF CORPORATION

36 USC 3003.

SEC. 3. The objects and purposes of the corporation are those provided in its articles of incorporation and shall include—

(1) to promote the principles of friendship and good will among its members;

(2) to engage in all forms of social and civic endeavors that will tend to enhance the welfare of its members, and to inculcate in them the true principles of good citizenship; and

(3) to memorialize, individually and collectively, the patriotic services of its members in the several units of the 369th antiaircraft artillery group and other units in the Armed Forces of the United States.

SERVICE OF PROCESS

36 USC 3004.

SEC. 4. With respect to service of process, the corporation shall comply with the laws of the States in which it is incorporated and those States in which it carries on its activities in furtherance of its corporate purposes.

MEMBERSHIP

36 USC 3005.

SEC. 5. Eligibility for membership in the corporation and the rights and privileges of members shall, except as provided in this Act, be as provided in the constitution and bylaws of the corporation, and terms of membership and requirements for holding office within the corporation shall not be discriminatory on the basis of race, color, religion, or national origin.

BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES

SEC. 6. The board of directors of the corporation and the responsibilities thereof shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State or States in which it is incorporated. 36 USC 3006.

OFFICERS OF CORPORATION

SEC. 7. The officers of the corporation, and the election of such officers shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State or States wherein it is incorporated. 36 USC 3007.

RESTRICTIONS

SEC. 8. (a) No part of the income or assets of the corporation shall inure to any member, officer, or director of the corporation or be distributed to any such person during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual necessary expenses in amounts approved by the board of directors. 36 USC 3008.

(b) The corporation shall not make any loan to any officer, director, or employee of the corporation.

(c) The corporation and any officer and director of the corporation, acting as such officer or director, shall not contribute to, support or otherwise participate in any political activity or in any manner attempt to influence legislation.

(d) The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

(e) The corporation shall not claim congressional approval or Federal Government authority for any of its activities.

LIABILITY

SEC. 9. The corporation shall be liable for the acts of its officers and agents when acting within the scope of their authority. 36 USC 3009.

BOOKS AND RECORDS; INSPECTION

SEC. 10. The corporation shall keep correct and complete books and records of accounts and shall keep minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors. The corporation shall keep at its principal office a record of the names and addresses of all members having the right to vote. All books and records of such corporation may be inspected by any member having the right to vote, or by any agency or attorney of such member, for any proper purpose, at any reasonable time. Nothing in this section shall be construed to contravene any applicable State law. 36 USC 3010.

AUDIT OF FINANCIAL TRANSACTIONS

SEC. 11. The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end thereof the following:

"(65) 369th Veterans' Association".

ANNUAL REPORT

- 36 USC 3011. **SEC. 12.** The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as is the report of the audit required by section 11 of this Act. The report shall not be printed as a public document.

RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER

- 36 USC 3012. **SEC. 13.** The right to alter, amend, or repeal this Act is expressly reserved to the Congress.

DEFINITION OF "STATE"

- 36 USC 3013. **SEC. 14.** For purposes of this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

TAX-EXEMPT STATUS

- 36 USC 3014. **SEC. 15.** The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code. If the corporation fails to maintain such status, the charter granted hereby shall expire.

EXCLUSIVE RIGHT TO NAME, EMBLEMS, SEALS, AND BADGES

- 36 USC 3015. **SEC. 16.** The corporation shall have the sole and exclusive right to use the name "369th Veterans' Association", and such seals, emblems, and badges as the corporation may lawfully adopt. Nothing in this section shall be construed to interfere or conflict with established or vested rights.

TERMINATION

- 36 USC 3016. **SEC. 17.** If the corporation shall fail to comply with any of the restrictions or provisions of this Act the charter granted hereby shall expire.

Approved October 30, 1984.

LEGISLATIVE HISTORY—H.R. 1095:

HOUSE REPORT No. 98-490 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:

Vol. 129 (1983): Nov. 14, considered and passed House.

Vol. 130 (1984): Oct. 10, considered and passed Senate, amended; House concurred in Senate amendments.

Public Law 98-566
98th Congress

An Act

To require the Secretary of the Treasury to coin and sell a national medal in honor of the members and former members of the Armed Forces of the United States who served in the Vietnam conflict.

Oct. 30, 1984

[H.R. 1870]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Vietnam
Veterans
National Medal
Act.

SHORT TITLE

SECTION 1. This Act may be cited as the “Vietnam Veterans National Medal Act”.

FINDINGS

SEC. 2. The Congress hereby finds—

(1) that it is in the national interest to issue a national medal honoring the courage and dedication of the men and women who served in the Armed Forces of the United States in the Vietnam conflict;

(2) that the men and women who served in the Armed Forces of the United States in the Vietnam conflict made sacrifices that deserve recognition by the United States; and

(3) that the issuance of a national medal is a fitting and suitable way for the United States to express its thanks and gratitude to those members and former members of the Armed Forces of the United States who served in the Vietnam conflict.

COINAGE OF MEDALS

SEC. 3. (a) The Secretary of the Treasury shall design, coin, and sell a medal in honor of the members and former members of the Armed Forces of the United States who served in the Vietnam conflict.

(b) The Secretary shall offer such medals for sale in a manner designed to elicit as much public response as possible.

(c) Such medals shall be sold at a price sufficient to cover the cost of such medals, including labor, materials, dies, use of machinery, and marketing and overhead expenses.

DESIGN OF MEDAL

SEC. 4. (a) The Secretary shall encourage and consider the submission of designs for the medal from Vietnam veterans, medallic artists, and other interested parties.

(b) In selecting a design for the medal, the Secretary shall solicit and consider the views of bona fide organizations which are comprised, in whole or in part, of Vietnam veterans and which represent the views of Vietnam veterans.

(c) The Secretary shall not coin medals of any design which has not been approved by the Commission of Fine Arts.

SEC. 5. The medals provided for in this Act are national medals for purposes of section 5111 of title 31, United States Code.

Approved October 30, 1984.

LEGISLATIVE HISTORY—H.R. 1870:

CONGRESSIONAL RECORD:

Vol. 129 (1983): Oct. 17, 18, considered and passed House.

Vol. 130 (1984): Oct. 9, considered and passed Senate.

Public Law 98-567
98th Congress

An Act

To establish an interagency committee and a technical study group on cigarette safety.

Oct. 30, 1984
[H.R. 1880]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “Cigarette Safety Act of 1984”.

SEC. 2. (a) There is established the Interagency Committee on Cigarette and Little Cigar Fire Safety (hereinafter in this Act referred to as the “Interagency Committee”) which shall consist of—

- (1) the Chairman of the Consumer Product Safety Commission, who shall be the Chairman of the Interagency Committee;
- (2) the United States Fire Administrator in the Federal Emergency Management Agency, who shall be the Vice Chairman of the Interagency Committee; and
- (3) the Assistant Secretary of Health in the Department of Health and Human Services.

(b) The Interagency Committee shall direct, oversee, and review the work of the Technical Study Group on Cigarette and Little Cigar Fire Safety (established under section 3) conducted under section 4 and shall make such policy recommendations to the Congress as it deems appropriate. The Interagency Committee may retain and contract with such consultants as it deems necessary to assist the Study Group in carrying out its functions under section 4. The Interagency Committee may request the head of any Federal department or agency to detail any of the personnel of the department or agency to assist the Interagency Committee or the Study Group in carrying out its responsibilities. The authority of the Interagency Committee to enter into contracts shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.

(c) For the purpose of carrying out section 4, the Interagency Committee or the Study Group, with the advice and consent of the Interagency Committee, may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Interagency Committee or the Study Group considers appropriate.

SEC. 3. (a) There is established the Technical Study Group on Cigarette and Little Cigar Fire Safety (hereinafter in this Act referred to as the “Study Group”) which shall consist of—

- (1) one scientific or technical representative each from the Consumer Product Safety Commission, the Center for Fire Research of the National Bureau of Standards, the National Cancer Institute, the Federal Trade Commission, and the Federal Emergency Management Agency, the appointment of whom shall be made by the heads of those agencies;
- (2) four scientific or technical representatives appointed by the Chairman of the Interagency Committee, by and with the

Cigarette
Safety Act
of 1984.
15 USC 2054
note.
Establishment.
15 USC 2054
note

Contracts with
U.S.

Establishment.
15 USC 2054
note.

advice and consent of the Interagency Committee, from a list of individuals submitted by the Tobacco Institute;

(3) two scientific or technical representatives appointed by the Chairman of the Interagency Committee, by and with the advice and consent of the Interagency Committee, who are selected from lists of individuals submitted by the following organizations: the American Burn Association, the American Public Health Association, and the American Medical Association;

(4) two scientific or technical representatives appointed by the Chairman of the Interagency Committee, by and with the advice and consent of the Interagency Committee, who are selected from lists of individuals submitted by the following organizations: the National Fire Protection Association, the International Association of Fire Chiefs, the International Association of Fire Fighters, the International Society of Fire Service Instructors, and the National Volunteer Fire Council; and

(5) one scientific or technical representative appointed by the Chairman of the Interagency Committee, by and with the advice and consent of the Interagency Committee, from lists of individuals submitted by the Business and Institutional Furniture Manufacturers Association and one scientific or technical representative appointed by the Chairman, by and with the advice and consent of the Interagency Committee, from lists of individuals submitted by the American Furniture Manufacturers Association.

(b) The persons appointed to serve on the Study Group may designate, with the advice and consent of the Interagency Committee, from among their number such persons to serve as team leaders, coordinators, or chairpersons as they deem necessary or appropriate to carry out the Study Group's functions under section 4.

Study.
15 USC 2054
note.

SEC. 4. The Study Group shall undertake, subject to oversight and review by the Interagency Committee, such studies and other activities as it considers necessary and appropriate to determine the technical and commercial feasibility, economic impact, and other consequences of developing cigarettes and little cigars that will have a minimum propensity to ignite upholstered furniture or mattresses. Such activities include identification of the different physical characteristics of cigarettes and little cigars which have an impact on the ignition of upholstered furniture and mattresses, an analysis of the feasibility of altering any pertinent characteristics to reduce ignition propensity, and an analysis of the possible costs and benefits, both to the industry and the public, associated with any such product modification.

Reports.
15 USC 2054
note.

SEC. 5. The Interagency Committee shall submit one year after the date of enactment of this Act a status report to the Senate and the House of Representatives describing the activities undertaken under section 4 during the preceding year. The Interagency Committee shall submit a final technical report, prepared by the Study Group, to the Senate and the House of Representatives not later than thirty months after the date of enactment of this Act. The Interagency Committee shall provide to the Congress, within sixty days after the submission of the final technical report, any policy recommendations the Interagency Committee deems appropriate. The Interagency Committee and the Study Group shall terminate one month

Termination.

after submission of the policy recommendations prescribed by this section.

SEC. 6. (a) Any information provided to the Interagency Committee or to the Study Group under section 4 which is designated as trade secret or confidential information shall be treated as trade secret or confidential information subject to section 552(b)(4) of title 5, United States Code, and section 1905 of title 18, United States Code, and shall not be revealed, except as provided under subsection (b). No member of the Study Group or Interagency Committee, and no person assigned to or consulting with the Study Group, shall disclose any such information to any person who is not a member of, assigned to, or consulting with, the Study Group or Interagency Committee unless the person submitting such information specifically and in writing authorizes such disclosure.

Confidentiality.
15 USC 2054
note.

(b) Subsection (a) does not authorize the withholding of any information from any duly authorized subcommittee or committee of the Congress, except that if a subcommittee or committee of the Congress requests the Interagency Committee to provide such information, the Chairman of the Interagency Committee shall notify the person who provided the information of such a request in writing.

(c) The Interagency Committee shall, on the vote of a majority of its members, adopt reasonable procedures to protect the confidentiality of trade secret and confidential information, as defined in this section.

SEC. 7. As used in this Act, the terms "cigarettes" and "little cigars" have the meanings given such terms by section 3 of the Federal Cigarette Labeling and Advertising Act.

15 USC 2054
note.

Approved October 30, 1984.

LEGISLATIVE HISTORY—H.R. 1880 (S. 1935):

HOUSE REPORT No. 98-917 (Comm. on Energy and Commerce).

SENATE REPORT No. 98-597 accompanying S. 1935 (Comm. on Governmental Affairs)

CONGRESSIONAL RECORD, Vol. 130 (1984):

Aug. 6, considered and passed House

Sept. 21, considered and passed Senate, amended, in lieu of S. 1935

Oct. 1, House concurred in Senate amendment with an amendment.

Oct. 4, Senate concurred in House amendment.

Public Law 98-568
98th Congress

An Act

Oct. 30, 1984
[H.R. 2645]

To amend the Act of August 15, 1978, regarding the Chattahoochee River National Recreation Area in the State of Georgia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 101 of the Act of August 15, 1978, entitled "An Act to authorize the establishment of the Chattahoochee River National Recreation Area in the State of Georgia, and for other purposes" (Public Law 95-344; 16 U.S.C. 460ii) is amended by adding the following at the end thereof: "For purposes of facilitating Federal technical and other support to State and local governments to assist State and local efforts to protect the scenic, recreational, and natural values of a 2,000 foot wide corridor adjacent to each bank of the Chattahoochee River and its impoundments in the 48-mile segment referred to above, such corridor is hereby declared to be an area of national concern."

16 USC 460ii.

(b) Section 101 of such Act is amended—

(1) by striking out "numbered CHAT-20,000, and dated July 1976" and substituting "numbered CHAT-20,003, and dated September 1984"; and

(2) by striking out "six thousand three hundred acres" and substituting "approximately 6,800 acres".

16 USC 460ii-1.

(c) Section 102 of such Act is amended by adding the following at the end thereof:

Public lands.

"(f)(1) The Secretary shall exchange those federally owned lands identified on the map referenced in section 101 of this Act as 'exchange lands' for non-Federal lands which are within the boundaries of the recreation area. The values of the lands exchanged under this subsection shall be equal, or shall be equalized in the same manner as provided in section 206 of the Federal Land Policy and Management Act of 1976.

Federal
Register,
publication.
Report.

"(2) At three year intervals after the date of the enactment of this subsection, the Secretary shall publish in the Federal Register a progress report on the land exchanges which have taken place and the exchanges which are likely to take place under the authority of this subsection. Such report shall identify the lands which are unsuitable for exchange pursuant to such authority.

Termination.

"(3) Effective on the date ten years after the date of the enactment of this subsection, the exchange authority of paragraph (1) shall terminate. The exchange lands identified under paragraph (1) which have not been exchanged prior to such date shall be retained in Federal ownership as a part of the recreation area.

"(4) The Secretary shall publish a revision of the boundary map referred to in section 101 to exclude from the boundaries of the recreation area any exchange lands which are used to acquire non-Federal lands under paragraph (3)."

16 USC 460ii-3.

(d) Section 104 of such Act is amended by adding the following at the end thereof:

“(d)(1) Notwithstanding any other authority of law, any department, agency, or instrumentality of the United States or of the State of Georgia, or any other entity which may construct any project recommended in the study entitled ‘Metropolitan Atlanta Water Resources Management Study, Georgia: Report of Chief of Engineers,’ dated June 1, 1982, which directly adversely impacts any lands within the authorized recreation boundaries of the Bowman’s Island tract as shown on the map numbered and dated CHAT-20,003, September 1984, which were in Federal ownership as of September 1, 1984, shall, upon request by the Secretary, mitigate such adverse impacts. It is expressly provided that use of or adverse impact upon any other lands within the recreation area as result of any such project shall not require mitigation. Mitigation required by this paragraph shall be provided by payment to the United States of a sum not to exceed \$3,200,000. The mitigation funds paid pursuant to this paragraph shall be utilized by the Secretary for the acquisition of replacement lands. Such replacement lands shall be acquired only after consultation with the Governor of Georgia.

Public lands.

“(2) In acquiring replacement lands under paragraph (1) priority shall be given to acquisition of lands within the recreation area boundary and those lands within or adjacent to the 2,000 foot wide corridor referred to in section 101. Any lands acquired pursuant to this subsection lying outside the boundaries of the recreation area shall, upon acquisition, be included within the recreation area and transferred to the Secretary for management under this Act. The Secretary shall publish a revised boundary map to include any lands added to the recreation area pursuant to this subsection.

“(3) If lands as described in paragraph (2) are not available for acquisition, other lands within the State of Georgia may be acquired as replacement lands under paragraph (1) if such lands are transferred to the State of Georgia for permanent management for public outdoor recreation.”

(e)(1) Section 105(a) of such Act is amended by striking out “\$72,900,000” and substituting “\$79,400,000” and by adding the following at the end thereof: “For purposes of section 7(a)(3) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9(a)(3)), the statutory ceiling on appropriations under this subsection shall be deemed to be a statutory ceiling contained in a provision of law enacted prior to the convening of the Ninety-sixth Congress.”.

16 USC 460ii-4.

(2) Section 105(c) of such Act is amended by striking out “three years” and substituting “seven years”.

(3) Section 105 of such Act is further amended by adding the following new subsection at the end thereof:

“(d)(1) Whenever any Federal department, agency, or instrumentality proposes to undertake any action, or provide Federal assistance for any action, or issue any license or permit for an action within the corridor referred to in section 101 which may have a direct and adverse effect on the natural or cultural resources of the recreation area, the head of such department, agency, or instrumentality shall—

“(A) promptly notify the Secretary of the action at the time it is planning the action, preparing an environmental assessment regarding the action, or preparing an environmental impact statement under the National Environmental Policy Act of 1969 for the action;

42 USC 4321 note.

“(B) provide the Secretary a reasonable opportunity to comment and make recommendations regarding the effect of the

Federal action on the natural and cultural resources of the recreation area; and

“(C) notify the Secretary of the specific decisions made in respect to the comments and recommendations of the Secretary. The requirements of this subsection shall be carried out in accordance with procedures established by the Federal agency responsible for undertaking or approving the Federal action. These procedures may utilize the procedures developed by such Agency pursuant to the National Environmental Policy Act.

42 USC 4321
note.

“(2) Following receipt of notification pursuant to paragraph (1)(A), the Secretary, after consultation with the Governor of Georgia, shall make such comments and recommendations as the Secretary deems appropriate pursuant to paragraph (1)(B) as promptly as practicable in accordance with the notifying agency’s procedures established pursuant to paragraph (1)(A). In any instance in which the Secretary does not provide comments and recommendations under paragraph (1)(B), the Secretary shall notify in writing, the appropriate committees of Congress.

“(3) Following receipt of the notifying agency’s decisions pursuant to paragraph (1)(C), the Secretary shall submit to the appropriate committees of Congress, including the authorizing committees with primary jurisdiction for the program under which the proposed action is being taken, a copy of the notifying agency’s specific decisions made pursuant to paragraph (1)(C), along with a copy of the comments and recommendations made pursuant to paragraph (1)(B).

“(4) In any instance in which the Secretary has not been notified of a Federal agency’s proposed action within the corridor, and on his or her own determination finds that such action may have a significant adverse effect on the natural or cultural resources of the recreation area, the Secretary shall notify the head of such Federal agency in writing. Upon such notification by the Secretary, such agency shall promptly comply with the provisions of subparagraphs (A), (B), and (C) of paragraph (1) of this subsection.

“(5) Each agency or instrumentality of the United States conducting Federal action upon federally owned lands or waters which are administered by the Secretary and which are located within the authorized boundary of the recreation area shall not commence such action until such time as the Secretary has concurred in such action.

“(6) The following Federal actions which constitute a major and necessary component of an emergency action shall be exempt from the provisions of this subsection—

“(A) those necessary for safeguarding of life and property;

“(B) those necessary to respond to a declared state of disaster;

“(C) those necessary to respond to an imminent threat to national security; and

“(D) those that the Secretary has determined to be not inconsistent with the general management plan for the recreation area.

Actions which are part of a project recommended in the study entitled ‘Metropolitan Atlanta Water Resources Management Study, Georgia: Report of Chief of Engineers’, dated June 1, 1982, and any Federal action which pertains to the control of air space, which is regulated under the Clean Air Act, or which is required for maintenance or rehabilitation of existing structures or facilities shall also be exempt from the provisions of this subsection.”.

(f) Title I of such Act is amended by adding the following at the end thereof:

"Sec. 106. (a) There is hereby established the Chattahoochee River National Recreation Area Advisory Commission (hereinafter in this Act referred to as the 'Advisory Commission') to advise the Secretary regarding the management and operation of the area, protection of resources with the recreation area, and the priority of lands to be acquired within the recreation area. The Advisory Commission shall be composed of the following thirteen voting members appointed by the Secretary:

Chattahoochee
River National
Recreation Area
Advisory
Commission,
establishment,
16 USC 460ii-5.

"(1) four members appointed from among individuals recommended by local governments—

"(A) one of whom shall be recommended by the Board of County Commissioners of Forsyth County;

"(B) one of whom shall be recommended by the Board of County Commissioners of Fulton County;

"(C) one of whom shall be recommended by the Board of County Commissioners of Cobb County; and

"(D) one of whom shall be recommended by the Board of County Commissioners of Gwinnett County;

"(2) one member appointed from among individuals recommended by the Governor of Georgia;

"(3) one member appointed from among individuals recommended by the Atlanta Regional Commission;

"(4) four members appointed from among individuals recommended by a coalition of citizens public interest groups, recreational users, and environmental organizations concerned with the protection and preservation of the Chattahoochee River;

"(5) one member appointed from among individuals recommended by the Business Council of Georgia or by a local chamber of commerce in the vicinity of the recreation area; and

"(6) two members who represent the general public, at least one of whom shall be a resident of one of the counties referred to in paragraph (1).

In addition, the Park Superintendent for the recreation area shall serve as a nonvoting member of the Advisory Commission. The Advisory Commission shall designate one of its members as Chairman.

"(b)(1) Except as provided in paragraph (2), members of the Advisory Commission shall serve for terms of three years. Any voting member of the Advisory Commission may be reappointed for one additional three-year term.

"(2) The members first appointed under paragraph (1) shall serve for a term of one year. The members first appointed under paragraphs (2), (3), (5), and (6) shall serve for a term of two years.

"(c) The Advisory Commission shall meet on a regular basis. Notice of meetings and agenda shall be published in local newspapers which have a distribution which generally covers the area affected by the park. Commission meetings shall be held at locations and in such a manner as to insure adequate public involvement.

"(d) Members of the Commission shall serve without compensation as such, but the Secretary may pay expenses reasonably incurred in carrying out their responsibilities under this Act on vouchers signed by the Chairman.

"(e) The Advisory Commission shall terminate on the date ten years after the date of the enactment of this subsection."

Effective date.
16 USC 460ii
note.

SEC. 2. Any provision of any amendment made by this Act which, directly or indirectly, authorizes the enactment of new budget authority described in section 402(a) of the Congressional Budget Act of 1974 shall be effective only for fiscal years beginning after September 30, 1984.

Approved October 30, 1984.

LEGISLATIVE HISTORY—H.R. 2645:

HOUSE REPORT No. 98-607 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 98-633 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 130 (1984):
Mar. 5, considered and passed House.
Oct. 3, considered and passed Senate, amended.
Oct. 4, House concurred in Senate amendments.

Public Law 98-569
98th Congress

An Act

To amend the Colorado River Basin Salinity Control Act to authorize certain additional measures to assure accomplishment of the objectives of title II of such Act, and for other purposes.

Oct. 30, 1984

[H.R. 2790]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section 201(b) of the Colorado River Basin Salinity Control Act (43 U.S.C. 1591(b)), hereinafter referred to as the "Act", is amended by adding at the end thereof the following new sentence: "In determining the relative priority of implementing additional units or new self-contained portions of units authorized by section 202, the Secretary or the Secretary of Agriculture, as the case may be, shall give preference to those additional units or new self-contained portions of units which reduce salinity of the Colorado River at the least cost per unit of salinity reduction."

SEC. 2. (a) Section 202 of the Act (43 U.S.C. 1592) is amended by inserting "(a)" after "SEC. 202."

(b) Section 202(a) of such Act, as amended by subsection (a), is amended—

(1) in paragraph (1) by inserting before the period at the end thereof the following: ", and consisting of measures to replace incidental fish and wildlife values foregone";

(2) in the second sentence of paragraph (2) by inserting "replacing canals and laterals with pipe," after "canals and laterals," and by inserting "implementing other measures to reduce salt contributions from the Grand Valley to the Colorado River, and implementing measures to replace incidental fish and wildlife values foregone." after "efficient facilities";

(3) in the third sentence of paragraph (2) by inserting ", or portion thereof," after "Grand Valley unit", by striking out "agencies" and inserting in lieu thereof "non-Federal entities", by inserting ", or portions thereof," after "water distribution systems", and by striking out "all obligations" and inserting in lieu thereof "the obligations specified in subsection (b)(2)";

(4) in paragraph (2) by striking out the fourth, fifth, and sixth sentences;

(5) by striking out paragraph (3) and by redesignating paragraph (4) as paragraph (3);

(6) in paragraph (3) (as redesignated) by deleting the period at the end thereof and inserting ", and consisting of measures to replace incidental fish and wildlife values foregone."; and

(7) by adding at the end thereof the following new paragraphs:

"(4) Stage I of the Lower Gunnison Basin unit, Colorado, consisting of measures and all necessary appurtenant and associated works to reduce seepage from canals and laterals in the Uncompahgre Valley, and consisting of measures to replace incidental fish and wildlife values foregone, essentially as described in the feasibility report and final environmental statement dated February 10, 1984. Prior to initiation of construction

Conservation
Water.
Fish and fishing.
Wildlife

Contracts with
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of stage I of the Lower Gunnison Basin unit, or of a portion of stage I, the Secretary shall enter into contracts through which the non-Federal entities owning, operating, and maintaining the water distribution systems, or portions thereof, in the Uncompahgre Valley, singly or in concert, will assume the obligations specified in subsection (b)(2) relating to the continued operation and maintenance of the unit's facilities.

"(5) Portions of the McElmo Creek unit, Colorado, as components of the Dolores participating project, Colorado River Storage project, authorized by Public Law 90-537 and Public Law 84-485, consisting of all measures and all necessary appurtenant and associated works to reduce seepage only from the Towaoc-Highline combined canal, Rocky Ford laterals, Lone Pine lateral, and Upper Hermana lateral, and consisting of measures to replace incidental fish and wildlife values foregone. The Dolores participating project shall have salinity control as a project purpose insofar as these specific facilities are concerned: *Provided*, That the costs of construction and replacement of these specific facilities shall be allocated by the Secretary to salinity control and irrigation only after consultation with the State of Colorado, the Montezuma Valley Irrigation District, Colorado, and the Dolores Water Conservancy District, Colorado: *And provided further*, That such allocation of costs to salinity control will include only the separable and specific costs of these specific facilities and will not include any joint costs of any other facilities of the Dolores participating project. Repayment of costs allocated to salinity control shall be subject to this Act. Repayment of costs allocated to irrigation shall be subject to the Acts which authorized the Dolores participating project, the Reclamation Act of 1902, and Acts amendatory and supplementary thereto. Prior to initiation of construction of these specific facilities, or a portion thereof, the Secretary shall enter into contracts through which the non-Federal entities owning, operating, and maintaining the water distribution systems, or portions thereof, in the Montezuma Valley, singly or in concert, will assume the obligations specified in subsection (b)(2) relating to the continued operation and maintenance of the unit's facilities."

43 USC 1501
note.
43 USC 620 note.

43 USC 371 note
Contracts with
U.S.

Ante, p. 2933

(c) Section 202 of such Act is further amended by inserting at the end thereof the following new subsections:

"(b) In implementing the units authorized to be constructed pursuant to subsection (a), the Secretary shall carry out the following directions:

Reports.

"(1) As reports are completed describing final implementation plans for the unit, or any portion thereof, authorized by paragraph (5) of subsection (a), and prior to expenditure of funds for related construction activities, the Secretary shall submit such reports to the appropriate committees of the Congress and to the governors of the Colorado River Basin States.

"(2) Non-Federal entities shall be required by the Secretary to contract for the long-term operation and maintenance of canal and lateral systems constructed pursuant to activities provided for in subsection (a): *Provided*, That the Secretary shall reimburse such non-Federal entities for the costs of such operation and maintenance to the extent the costs exceed the expenses that would have been incurred by them in the thorough and timely operation and maintenance of their canal and lateral

systems absent the construction of a unit, said expenses to be determined by the Secretary after consultation with the involved non-Federal entities. The operation and maintenance for which non-Federal entities shall be responsible shall include such repairing and replacing of a unit's facilities as are associated with normal annual maintenance activities in order to keep such facilities in a condition which will assure maximum reduction of salinity inflow to the Colorado River. These non-Federal entities shall not be responsible, nor incur any costs, for the replacement of a unit's facilities, including measures to replace incidental fish and wildlife values foregone. The term replacement shall be defined for the purposes of this title as a major modification or reconstruction of a completed unit, or portion thereof, which is necessitated, through no fault of the non-Federal entity or entities operating and maintaining a unit, by design or construction inadequacies or by normal limits on the useful life of a facility. The Secretary is authorized to provide continuing technical assistance to non-Federal entities to assure the effective and efficient operation and maintenance of a unit's facilities.

"(3) The Secretary may, under authority of this title, and limited to the purposes of this Act, fund through a grant or contract, for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts, a non-Federal entity to organize private canal and lateral owners into formal organizations with which the Secretary may enter into a grant or contract to construct, operate, and maintain a unit's facilities.

Grants.
Contracts with
U.S.

"(4) In implementing the units authorized to be constructed pursuant to paragraphs (1), (2), (3), (4), and (5) of subsection (a), the Secretary shall comply with procedural and substantive State water laws.

Ante, p. 2933.

"(5) The Secretary may, under authority of this title and limited to the purposes of this Act, fund through a grant or contract, for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts, a non-Federal entity to operate and maintain measures to replace incidental fish and wildlife values foregone.

Grants.
Contracts with
U.S.

"(6) In implementing the units authorized to be constructed pursuant to subsection (a), the Secretary shall implement measures to replace incidental fish and wildlife values foregone concurrently with the implementation of a unit's, or a portion of a unit's, related features.

"(c)(1) The Secretary of Agriculture may establish a voluntary cooperative salinity control program with landowners to improve on-farm water management and reduce watershed erosion on non-Federal lands and on lands under the control of the Department of Agriculture for the purpose of assisting in meeting the objectives of this title.

"(2) In carrying out such program, the Secretary of Agriculture shall—

"(A) identify salt-source areas and determine the salt load resulting from irrigation and watershed management practices;

"(B) develop, in consultation with the public and affected governmental interests, plans for implementing measures that will reduce the salt load of the Colorado River by improving on-farm irrigation water management including improvement of

related laterals and by improving watershed erosion management practices, such measures to include voluntary replacement of incidental fish and wildlife values foregone;

Contracts with
U.S.

“(C) provide technical and cost-sharing assistance for the voluntary implementation of plans through contracts and agreements with individuals or groups of owners and operators of farms, ranches, and other lands as well as with local governmental and nongovernmental entities such as irrigation districts and canal companies, except that a portion of the costs of implementing such plans shall be shared by the participants on the basis of benefits received and other appropriate factors, as determined by the Secretary of Agriculture, and except that such contracts and agreements shall provide for continuing operation and maintenance of measures installed under this subsection, including measures to replace incidental fish and wildlife values foregone, without additional cost-sharing assistance;

“(D) provide continuing technical assistance for irrigation water management as well as monitoring and evaluation of changes in salt contributions to the Colorado River to determine program effectiveness;

“(E) carry out related research, demonstration, and education activities; and

Contracts with
U.S.

“(F) in entering into contracts or agreements pursuant to section 202(c)(2)(C), require a minimum of 30 per centum cost-sharing contribution from individuals or groups of owners and operators of farms, ranches, and other lands as well as from local governmental and nongovernmental entities such as irrigation districts and canal companies, unless the Secretary finds in his discretion that such cost-sharing requirement would result in a failure to proceed with needed on-farm measures.

Reports.

“(3) The measures to be implemented in any particular salt source area shall be described in reports issued by the Secretary of Agriculture. Copies of the reports are to be submitted to—

“(A) the committees on Agriculture and Appropriations of the House of Representatives and the committees on Agriculture, Nutrition and Forestry and Appropriations of the Senate;

43 USC 1594.

“(B) members of the advisory council established by section 204(a) of this title; and

“(C) the Governor of any State where measures are to be implemented.

Prohibition.

No funds for implementation of proposed measures undertaken pursuant to this subsection may be expended until the expiration of sixty days after submission of the report of the Secretary of Agriculture.

“(4) The Secretary of Agriculture may use existing agencies as well as the services and facilities of the Commodity Credit Corporation to carry out the provisions of this subsection. The Secretary of Agriculture, in addition, may authorize participating agencies to utilize grants or cooperative agreements with conservation districts, local governmental agencies, colleges and universities, or others as appropriate to carry out the activities identified in this subsection. There is hereby authorized to be appropriated annually, to be available until expended, such funds as may be necessary to carry out the provisions of this subsection: *Provided*, That no disbursement shall be made by the Commodity Credit Corporation unless it

Appropriation
authorization.

has received funds to cover the amount thereof from appropriations available for the purpose of carrying out this Act.

“(5) The Secretary of Agriculture shall submit a report to Congress by January 1, 1988, and at each five-year interval thereafter, concerning the operation of the program authorized by this subsection. Such report shall contain an evaluation of the operation of such program and may include recommendations for such additional legislation as may be necessary to solve identified salinity problems in areas designated by the Secretary of Agriculture and may include recommendations to utilize new technology and research related to such problems.”.

Report.

SEC. 3. Section 203(b) of the Act (43 U.S.C. 1593(b)) is amended by—

(1) striking out the period at the end of paragraph (2) and inserting in lieu thereof a semicolon; and

(2) inserting at the end thereof the following new paragraphs:

“(3) to develop a comprehensive program for minimizing salt contributions to the Colorado River from lands administered by the Bureau of Land Management and submit a report which describes the program and recommended implementation actions to the Congress and to the members of the advisory council established by section 204(a) of this title by July 1, 1987;

43 USC 1594.

“(4) to undertake feasibility investigations of saline water use and disposal opportunities, including measures and all necessary appurtenant and associated works, to demonstrate saline water use technology and to beneficially use and dispose of saline and brackish waters of the Colorado River Basin in joint ventures with current and future industrial water users, using, but not limited to, the concepts generally described in the Bureau of Reclamation Special Report of September 1981, entitled “Saline water use and disposal opportunities”; and

“(5) to undertake advance planning activities on the Sinbad Valley Unit, Colorado, as described in the Bureau of Land Management Salinity Status Report, covering the period 1978-1979 and dated February 1980.”.

SEC. 4. (a) Section 205(a) of the Act (43 U.S.C. 1595(a)) is amended by inserting “(a)” after “section 202” and by inserting after “total costs” the following: “(excluding costs borne by non-Federal participants pursuant to section 202(c)(2)(C)) of the on-farm measures authorized by section 202(c), of all measures to replace incidental fish and wildlife values foregone, and”.

(b) Section 205(a)(1) of such Act is amended by inserting before “shall be nonreimbursable.” the words “authorized by section 202(a) (1), (2), and (3), including 75 per centum of the total costs of construction, operation, and maintenance of the associated measures to replace incidental fish and wildlife values foregone, 70 per centum of the total costs of construction, operation, maintenance, and replacement of each unit, or separable feature thereof authorized by section 202(a) (4) and (5), including 70 per centum of the total costs of construction, operation, and maintenance of the associated measures to replace incidental fish and wildlife values foregone, and 70 per centum of the total costs of implementation of the on-farm measures authorized by section 202(c), including 70 per centum of the total costs of the associated measures to replace incidental fish and wildlife values foregone.”. Section 205(a)(1) of such Act is further amended by adding at the end thereof “The total costs remain-

Ante, p. 2933

Ante, p. 2934.

ing after these allocations shall be reimbursable as provided for in paragraphs (2), (3), (4), and (5), of section 205(a)".

48 USC 1595.

(c) Section 205(a)(2) of such Act is amended by striking "Twenty-five per centum" and inserting in lieu thereof "The reimbursable portion".

(d) Section 205(a)(3) of such Act is amended to read as follows:

Ante, p. 2933.

"(3) Costs of construction and replacement of each unit or separable feature thereof authorized by sections 202(a) (1), (2), and (3) and costs of construction of measures to replace incidental fish and wildlife values foregone, when such measures are a part of the units authorized by sections 202(a) (1), (2), and (3), allocated to the upper basin and to the lower basin under section 205(a)(2) of this title shall be repaid within a fifty-year period or within a period equal to the estimated life of the unit, separable feature thereof, or replacement, whichever is less, without interest from the date such unit, separable feature, or replacement is determined by the Secretary to be in operation."

(e) Section 205(a) of such Act is amended by inserting at the end thereof the following new paragraphs:

"(4)(i) Costs of construction and replacement of each unit or separable feature thereof authorized by sections 202(a) (4) and (5), costs of construction of measures to replace incidental fish and wildlife values foregone, when such measures are a part of the on-farm measures authorized by section 202(c) or of the units authorized by sections 202(a) (4) and (5), and costs of implementation of the on-farm measures authorized by section 202(c) allocated to the upper basin and to the lower basin under section 205(a)(2) of this title shall be repaid as provided in subparagraphs (ii) and (iii), respectively, of this paragraph.

"(ii) Costs allocated to the upper basin shall be repaid with interest within a fifty-year period, or within a period equal to the estimated life of the unit, separable feature thereof, replacement, or on-farm measure, whichever is less, from the date such unit, separable feature thereof, replacement, or on-farm measure is determined by the Secretary or the Secretary of Agriculture to be in operation.

"(iii) Costs allocated to the lower basin shall be repaid without interest as such costs are incurred to the extent that money is available from the Lower Colorado River Basin development fund to repay costs allocated to the lower basin. If in any fiscal year the money available from the Lower Colorado River Basin development fund for such repayment is insufficient to repay the costs allocated to the lower basin, as provided in the preceding sentence, the deficiency shall be repaid with interest as soon as money becomes available in the fund for repayment of those costs.

"(iv) The interest rates used pursuant to this Act shall be determined by the Secretary of the Treasury, taking into consideration average market yields on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the reimbursement period during the month preceding the date of enactment of the Act entitled "An Act to amend the Colorado River Basin Salinity Control Act to authorize certain additional measures to assure accomplishment of the objectives of title II of such Act, and for other purposes" for costs outstanding at that date, or, in the case of costs incurred subsequent to enactment of such Act, during the month preceding the fiscal year in which the costs are incurred.

"(5) Costs of operation and maintenance of each unit or separable feature thereof authorized by section 202(a) and of measures to

replace incidental fish and wildlife values foregone allocated to the upper basin and to the lower basin under section 205(a)(2) of this title shall be repaid without interest in the fiscal year next succeeding the fiscal year in which such costs are incurred. In the event that revenues are not available to repay the portion of operation and maintenance costs allocated to the Upper Colorado River Basin fund and to the Lower Colorado River Basin development fund in the year next succeeding the fiscal year in which such costs are incurred, the deficiency shall be repaid with interest calculated in the same manner as provided in section 205(a)(4)(iv). Any reimbursement due non-Federal entities pursuant to section 202(b)(2) shall be repaid without interest in the fiscal year next succeeding the fiscal year in which such operation and maintenance costs are incurred.”

Ante, p. 2934.

(f)(1) Section 205(b)(1) of such Act is amended by inserting “authorized by section 202(a), costs of construction, operation, and maintenance of measures to replace incidental fish and wildlife values foregone, and costs of implementation of the on-farm measures authorized by section 202(c),” before “allocated for repayment”.

43 USC 1595.

(2) Section 403(g)(2) of the Lower Colorado River Basin Project Act (43 U.S.C. 1543(g)) is amended by inserting “the costs of measures to replace incidental fish and wildlife values foregone, and the costs of on-farm measures” before “payable from”.

(g) Section 205(c) of the Act is amended by inserting “authorized by section 202(a), costs of construction, operation, and maintenance of measures to replace incidental fish and wildlife values foregone, and costs of implementation of the on-farm measures authorized by section 202(c)” before “allocated for”.

(h) Section 5(d)(5) of the Colorado River Storage Project Act (43 U.S.C. 620d(d)(5)) is amended by inserting “, the costs of measures to replace incidental fish and wildlife values foregone, and the costs of the on-farm measures” before “payable”.

(i) Section 205(e) of the Act is amended by—

(1) striking out “of construction, operation, maintenance, and replacement of units”;

(2) inserting “to the Upper Colorado River Basin Fund” after “allocated”;

(3) inserting “, section 205(a)(4) and section 205(a)(5)” after “section 205(a)(3)”; and

(4) inserting “, for the construction, operation, and maintenance of measures to replace incidental fish and wildlife values foregone, and for the implementation of on-farm measures” after “salinity control units”.

SEC. 5. (a) Section 208(a) of the Act (43 U.S.C. 1598) is amended by striking out “and not then if disapproved by said committees,”.

(b)(1) The second sentence of section 208(b) of the Act is amended by inserting “(a) or (b)” after “section 202”.

(2) Section 208(b) of the Act is amended by inserting after the second sentence thereof the following new sentence: “The funds authorized to be appropriated by this section may be used for construction of any or all of the works or portions thereof and for other purposes authorized in subsection (a), including measures as provided for in subsection (b) of section 202 of this title.”.

SEC. 6. The amendments made by this Act shall take effect upon enactment of this Act.

Effective date.
43 USC 1591
note.

2 USC 651.

SEC. 7. For purposes of complying with section 401 of the Congressional Budget Act of 1974, the authorization provided under this Act is subject to the availability of appropriations.

Approved October 30, 1984.

LEGISLATIVE HISTORY—H.R. 2790:

HOUSE REPORT No. 98-1018 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 130 (1984):

Oct. 2, considered and passed House.
Oct. 5, considered and passed Senate, amended.
Oct. 9, House concurred in Senate amendments.

Public Law 98-570
98th Congress

An Act

To amend title I of the Reclamation Project Authorization Act of 1972 in order to provide for the establishment of the Russell Lakes Waterfowl Management Area as a replacement for the authorized Mishak National Wildlife Refuge, and for other purposes.

Oct. 30, 1984

[H.R. 2823]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title I of the Reclamation Project Authorization Act of 1972 (Public Law 92-514; 86 Stat. 964), as amended by Public Law 96-375 (94 Stat. 1507), is amended as follows:

National
Wildlife Refuge
System.

(1) Section 101 is amended by striking out “establishing the Mishak National Wildlife Refuge and furnishing a water supply for the operation of the Mishak National Wildlife Refuge and the Alamosa National Wildlife Refuge and for conservation and development of other fish and wildlife resources” and inserting in lieu thereof “establishing the Russell Lakes Waterfowl Management Area and furnishing a water supply for the Russell Lakes Waterfowl Management Area by purchase of required lands with appurtenant water rights and a partial water supply for the operation of the Blanca Wildlife Habitat Area and Alamosa National Wildlife Refuge essentially as shown in the Revised Fish and Wildlife Coordination Act Report for the San Luis Valley project, dated June 1982”.

43 USC 615aaa.

(2) Section 101 is amended by inserting “, and as modified by the plans essentially as shown in the Revised Fish and Wildlife Coordination Act Report for the San Luis Valley project, dated June 1982” after “November 1979”.

(3) Section 104(b)(2) is amended to read as follows:

43 USC 615ddd.

“(2) To maintain the Alamosa National Wildlife Refuge and the Blanca Wildlife Habitat Area: *Provided*, That the amount of project salvaged water delivered to the Alamosa National Wildlife Refuge and the Blanca Wildlife Habitat Area shall not exceed five thousand three hundred acre-feet annually.”.

43 USC 615eee.

(4) Section 105 is amended by striking out “project plan” and inserting in lieu thereof “Revised Fish and Wildlife Coordination Act Report for the San Luis Valley project, dated June 1982”.

(5) Section 105 is amended by adding at the end thereof a new sentence to read: “Private lands required for permanent project facilities may, at the option of the United States, be acquired by fee title.”.

Approved October 30, 1984.

LEGISLATIVE HISTORY—H.R. 2823:

HOUSE REPORT No. 98-1020, Pt. 1 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 130 (1984):

Oct. 1, considered and passed House.
Oct. 10, considered and passed Senate.

Public Law 98-571
98th Congress

An Act

To direct the Secretary of Agriculture to convey, for certain specified consideration, to the Sabine River Authority approximately thirty-one thousand acres of land within the Sabine National Forest to be used for the purposes of the Toledo Bend project, Louisiana and Texas, and for other purposes.

Oct. 30, 1984

[H.R. 3150]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Not later than one hundred and eighty days after the date of enactment of this Act, the Secretary of Agriculture shall convey, in exchange for the land and other consideration specified in section 2, to the Sabine River Authority of Texas lands owned by the United States in the Sabine National Forest in and adjacent to the Toledo Bend Reservoir, located in Louisiana and Texas, as generally depicted on a map dated August 1984 on file in the office of the Chief, Forest Service, United States Department of Agriculture, as follows:

Public lands.
National Forest
System.

(a) approximately thirty-one thousand acres of such lands which are inundated and below an elevation of one hundred and seventy-two feet mean sea level;

(b) that portion of Recreational Site No. 5 consisting of approximately eleven acres of such lands, not subject to inundation, which are heavily developed for recreational use and lie above one hundred and seventy-five feet mean sea level; and

(c) approximately one hundred and seven acres of such lands in the flood plain which are at an elevation of one hundred and seventy-two feet mean sea level or higher but not higher than one hundred and seventy-five feet mean sea level and which after the conveyance of lands described in clauses (a) and (b) of this section would no longer be immediately adjacent to land owned by the United States in the Sabine National Forest.

SEC. 2. In exchange for the conveyance of those lands described in section 1, the Sabine River Authority of Texas shall (a) convey, by quitclaim deed, to the United States those lands in the flood plain comprising approximately five hundred and eighty-six acres, as generally depicted on a map dated August 1984 on file in the office of the Chief, Forest Service, United States Department of Agriculture, which are at an elevation of one hundred and seventy-two feet mean sea level or higher but not higher than one hundred and seventy-five feet mean sea level and which lie on the shoreline of the Toledo Bend Reservoir and are immediately adjacent to land owned by the United States in the Sabine National Forest and (b) deposit with the Secretary the sum of \$650,000.

Petroleum and
petroleum
products.

SEC. 3. In the deed of exchange for the lands described in section 1, the Secretary of Agriculture shall convey all right, title, and interest to such lands except that the Secretary shall reserve for the United States any subsurface rights that it owns, including, but not limited to, oil and gas, and shall provide that title in the lands described in section 1(a) shall revert in the United States upon failure by the Sabine River Authority of Texas to use the lands for project purposes. Any lands so reverted in the United States shall be included in and shall resume their previous status as National Forest System lands.

SEC. 4. (a) The Federal Energy Regulatory Commission shall waive the charges required to be paid under section 10(e) of the Federal Power Act (16 U.S.C. 803(e)) for the use of any interest of the United States in lands described in section 1 which are part of the Toledo Bend Project (Federal Energy Commission licensed Project No. 2305) if, after the date of the enactment of this Act, the Commission determines (pursuant to section 24 of the Federal Power Act (16 U.S.C. 818)) that—

(1) such interest in lands will be conveyed pursuant to this Act by the United States directly to the licensee for that project (subject to any restrictions and reservations established by the Commission pursuant to such section 24),

(2) the Federal agency conveying such interest in lands has notified the Commission that, upon such conveyance, the United States will have received the fair market value established by section 2 for such conveyance, and

(3) such fair market value includes the full value of the waiver authorized under this section during the remaining term of the license, as determined by the Commission after taking into account prior determinations by the Commission pursuant to Opinion No. 78 of the Commission dated March 18, 1980, that the payment of such license fees are subject to annual waiver pursuant to the second proviso of such section 10(e) to the extent that power generated, transmitted, or distributed by the project is sold to the public without profit and any such similar waivers reasonably anticipated by the Commission during such remaining term.

(b) If the Federal Energy Regulatory Commission does not determine, under subsection (a)(3), that the fair market value established in section 2 includes the full value of the waiver authorized under subsection (a)(3), conveyances otherwise required in sections 1 and 2 of this Act shall not be made.

SEC. 5. The exchange provided for under this Act shall be considered an exchange under the Act of December 4, 1967, as amended (16 U.S.C. 484a), notwithstanding the acreages involved, and the sums deposited with the Secretary of Agriculture under section 2 shall be handled in the same manner as sums deposited with the Secretary under that Act.

Approved October 30, 1984.

LEGISLATIVE HISTORY—H.R. 3150:

CONGRESSIONAL RECORD, Vol. 130 (1984):

Oct. 2, considered and passed House.

Oct. 10, considered and passed Senate.

Public Law 98-572
98th Congress

An Act

Oct. 30, 1984
[H.R. 3331]

To authorize the exchange of certain lands between the Bureau of Land Management and the city of Los Angeles for purposes of the Santa Monica Mountains National Recreation Area.

Public lands.
16 USC 460kk.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 507(c)(2) of the National Parks and Recreation Act of 1978 (92 Stat. 3501) is amended by—

(1) inserting “(A)” after “(2)”;

(2) striking out “Any” in the third sentence thereof and substituting “Except as provided in subparagraph (B), any”; and

(3) adding the following new subparagraphs at the end thereof:

“(B) The Secretary shall negotiate, and carry out, and exchange with the city of Los Angeles (acting through its department of water and power) of certain federally owned lands managed by the Bureau of Land Management in the vicinity of the Haiwee Reservoir in Inyo County for certain lands owned by the city of Los Angeles which are associated with the Upper Franklin Reservoir in the city of Los Angeles. Lands acquired by the Secretary pursuant to such exchange shall be transferred without cost to the administrative jurisdiction of the National Park Service for inclusion within the recreation area. The Secretary shall include in such exchange a provision for an easement to be granted to the city of Los Angeles for the existing water pipeline associated with the Upper Franklin Reservoir and for the city of Los Angeles to provide for replacement water to maintain the water elevations of the Franklin Reservoir to the current levels. The values of lands exchanged under this provision shall be equal, or shall be equalized, in the same manner as provided in section 206 of the Federal Land Policy and Management Act of 1976.

43 USC 1716.

“(C) The city shall assume full responsibility for the protection of cultural resources and shall develop a cultural resource management program for the public lands to be transferred to the city in the vicinity of the Haiwee Reservoir. The program shall be developed in consultation with the Secretary of the Interior, the California State Historic Preservation Officer, and the Advisory Council on Historic Preservation.”.

Cultural
programs.
Historic
preservation.

Approved October 30, 1984.

LEGISLATIVE HISTORY—H.R. 3331:

HOUSE REPORT No. 98-884 (Comm. on Interior and Insular Affairs).

CONGRESSIONAL RECORD, Vol. 130 (1984):

Aug. 2, considered and passed House.

Oct. 5, considered and passed Senate, amended.

Oct. 9, House concurred in Senate amendments.

Public Law 98-573
98th Congress

An Act

Oct. 30, 1984

[H.R. 3398]

To amend the trade laws, authorize the negotiation of trade agreements, extend trade preferences, change the tariff treatment with respect to certain articles and for other purposes.

Trade and Tariff
Act of 1984.
19 USC 1654
note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act with the following table of contents may be cited as the "Trade and Tariff Act of 1984":

TITLE I—TARIFF SCHEDULES AMENDMENTS

Subtitle A—Reference to Tariff Schedules

Sec. 101. Reference.

Subtitle B—Permanent Changes in Tariff Treatment

- Sec. 111. Coated textile fabrics.
- Sec. 112. Warp knitting machines.
- Sec. 113. Certain gloves.
- Sec. 114. Pet toys.
- Sec. 115. Water chestnuts and bamboo shoots.
- Sec. 116. Gut for use in manufacture of sterile surgical sutures.
- Sec. 117. Orange juice products.
- Sec. 118. Reimportation of certain articles originally imported duty free.
- Sec. 119. Geophysical equipment.
- Sec. 120. Scrolls or tablets used in religious observances.
- Sec. 121. Steel pipes and tubes used in lampposts.
- Sec. 122. Wearing apparel.
- Sec. 123. Recently developed dairy products.
- Sec. 124. Telecommunications product classification.
- Sec. 125. Fresh asparagus.
- Sec. 126. Chipper knife steel.
- Sec. 127. Implementation of customs convention on containers, 1972.

Subtitle C—Temporary Changes in Tariff Treatment

- Sec. 131. Fresh, chilled, or frozen brussels sprouts.
- Sec. 132. β -naphthol.
- Sec. 133. 4-chloro-3-methylphenol.
- Sec. 134. Tetraamino biphenyl.
- Sec. 135. 6-amino-1-naphthol-3-sulfonic acid.
- Sec. 136. DSA.
- Sec. 137. Guanidines.
- Sec. 138. Certain antibiotics.
- Sec. 139. Acetylsulfaguanidine.
- Sec. 140. Fenridazon-potassium.
- Sec. 141. Uncompounded allyl resins.
- Sec. 142. Sulfamethazine.
- Sec. 143. Sulfaguanidine.
- Sec. 144. Terfenadine.
- Sec. 145. Sulfathizole.
- Sec. 146. Sulfaguinoxaline and sulfanilamide.
- Sec. 147. Dicyclomine hydrochloride and mepenzolate bromide.
- Sec. 148. Amiodarone.
- Sec. 149. Desipramine hydrochloride.
- Sec. 150. Clomiphene citrate.
- Sec. 151. Yttrium bearing materials and compounds.
- Sec. 152. Tartaric acid and chemicals.
- Sec. 153. Certain mixtures of magnesium chloride and magnesium nitrate.
- Sec. 154. Nicotine resin complex.

- Sec. 155. Rifampin.
- Sec. 156. Lactulose.
- Sec. 157. Iron-dextran complex.
- Sec. 158. Natural graphite.
- Sec. 159. Zinc.
- Sec. 160. Certain diamond tool blanks.
- Sec. 161. Clock radios.
- Sec. 162. Lace-braiding machines.
- Sec. 163. Certain magnetron tubes.
- Sec. 164. Narrow fabric looms.
- Sec. 165. Umbrella frames.
- Sec. 166. Crude feathers and down.
- Sec. 167. Canned corned beef.
- Sec. 168. Hovercraft skirts.
- Sec. 169. Disposable surgical drapes and sterile gowns.
- Sec. 170. MXDA.
- Sec. 171. 4,4'-Bis(α,α -dimethylbenzyl) diphenylamine.
- Sec. 172. Flecainide acetate.
- Sec. 173. Caffeine.
- Sec. 174. Watch crystals.
- Sec. 175. Unwrought lead.
- Sec. 176. Flat knitting machines.
- Sec. 177. Certain menthol feedstocks.
- Sec. 178. 2-methyl-4-chlorophenol.
- Sec. 179. Unwrought alloys of cobalt.
- Sec. 180. Circular knitting machines.
- Sec. 181. o-Benzyl-p-chlorophenol.
- Sec. 182. Certain benzenoid chemicals.
- Sec. 183. m-Toluic acid.

Subtitle D—Technical Amendments

- Sec. 191. Technical and conforming amendments.

Subtitle E—Effective Dates

- Sec. 195. Effective dates.

TITLE II—CUSTOMS AND MISCELLANEOUS AMENDMENTS

Subtitle A—Amendments to the Tariff Act of 1930

- Sec. 201. Reference.
- Sec. 202. Drawback.
- Sec. 203. Public disclosure of certain manifest information.
- Sec. 204. Virgin Islands excursion vessels.
- Sec. 205. Unlawful importation or exportation of certain vehicles.
- Sec. 206. Increase in amount for informal entry of goods.
- Sec. 207. Certain country of origin marking requirements.
- Sec. 208. Equipments and repairs of certain vessels exempt from duties.
- Sec. 209. Articles returned from space.
- Sec. 210. Date of liquidation or reliquidation.
- Sec. 211. Operation of certain duty-free sales enterprises.
- Sec. 212. Customs brokers.
- Sec. 213. Seizures and forfeitures.
- Sec. 214. Effective dates.

Subtitle B—Small Business Trade Assistance

- Sec. 221. Establishment of trade remedy assistance office in the United States International Trade Commission.

Subtitle C—Miscellaneous Provisions

- Sec. 231. Foreign trade zone provisions.
- Sec. 232. Denial of deduction for certain foreign advertising expenses.
- Sec. 233. Certain relics and curios.
- Sec. 234. Modification of duties on certain articles used in civil aviation.
- Sec. 235. Products of Caribbean Basin countries entered in Puerto Rico.
- Sec. 236. User fee for customs services at certain small airports.
- Sec. 237. Notification of certain actions by the United States Customs Service.
- Sec. 238. Columbia-Snake Customs District.
- Sec. 239. Reliquidation of certain mass spectrometer systems.
- Sec. 240. Max Planck Institute for Radioastronomy.

- Sec. 241. Duty-free entry for research equipment for North Dakota State University, Fargo, North Dakota.
- Sec. 242. Duty-free entry for pipe organ for the Crystal Cathedral, Garden Grove, California.
- Sec. 243. Duty-free entry for scientific equipment for the Ellis Fischel State Cancer Hospital, Columbia, Missouri.
- Sec. 244. Duty-free entry of organs imported for the use of Trinity Cathedral of Cleveland, Ohio.
- Sec. 245. Sense of Congress regarding possible EEC action on corn gluten.
- Sec. 246. Study on honey imports.
- Sec. 247. Copper imports.
- Sec. 248. Disapproval of Presidential determinations under section 203 of the Trade Act of 1974.
- Sec. 249. Section 201 criteria.
- Sec. 250. Hogs and pork products from Canada.
- Sec. 251. Copyright protection of computer software.

TITLE III—INTERNATIONAL TRADE AND INVESTMENT

- Sec. 301. Short title; amendment of Trade Act of 1974.
- Sec. 302. Statement of purposes.
- Sec. 303. Analysis of foreign trade barriers.
- Sec. 304. Amendments to title III of the Trade Act of 1974.
- Sec. 305. Negotiating objectives with respect to international trade in services and investment and high technology industries.
- Sec. 306. Provisions relating to international trade in services.
- Sec. 307. Negotiating authority with respect to foreign direct investment.
- Sec. 308. Negotiation of agreements concerning high technology industries.

TITLE IV—TRADE WITH ISRAEL

- Sec. 401. Negotiation of trade agreements to reduce trade barriers.
- Sec. 402. Criteria for duty-free treatment of articles.
- Sec. 403. Application of certain other trade law provisions.
- Sec. 404. Fast track procedures for perishable articles.
- Sec. 405. Construction of title.

TITLE V—GENERALIZED SYSTEM OF PREFERENCES RENEWAL

- Sec. 501. Short title; statement of purpose.
- Sec. 502. Consideration of a beneficiary developing country's competitiveness in extending preferences.
- Sec. 503. Amendments relating to the beneficiary developing country designation criteria.
- Sec. 504. Regulations; articles which may not be designated as eligible articles.
- Sec. 505. Limitations on preferential treatment.
- Sec. 506. Extension of the generalized system of preferences and reports.
- Sec. 507. Agricultural exports of beneficiary developing countries.
- Sec. 508. Effective date.

TITLE VI—TRADE LAW REFORM

- Sec. 601. Reference.
- Sec. 602. Sales for importation.
- Sec. 603. Waiver of verification.
- Sec. 604. Termination or suspension of investigation.
- Sec. 605. Final determination of critical circumstances.
- Sec. 606. Simultaneous investigations.
- Sec. 607. Countervailing duties apply on country-wide basis.
- Sec. 608. Conditional payment of countervailing duties.
- Sec. 609. Initiation of antidumping duty investigations.
- Sec. 610. Duties of customs officers.
- Sec. 611. Reviews and determinations.
- Sec. 612. Definitions and special rules.
- Sec. 613. Upstream subsidies.
- Sec. 614. Reseller's price taken into account in determining purchase price.
- Sec. 615. Foreign market value.
- Sec. 616. Hearings.
- Sec. 617. Subsidies discovered during proceeding.
- Sec. 618. Verification of information.
- Sec. 619. Records of ex parte meetings; release of confidential information.
- Sec. 620. Sampling and averaging in determining United States price and foreign market value.
- Sec. 621. Interest.

- Sec. 622. Drawbacks.
- Sec. 623. Elimination of interlocutory appeals.
- Sec. 624. Adjustments study.
- Sec. 625. Industrial targeting studies.
- Sec. 626. Effective dates.

TITLE VII—AUTHORIZATION OF APPROPRIATIONS FOR CUSTOMS AND TRADE AGENCIES

- Sec. 701. United States International Trade Commission.
- Sec. 702. United States Customs Service.
- Sec. 703. Office of the United States Trade Representative.

TITLE VIII—ENFORCEMENT AUTHORITY FOR THE NATIONAL POLICY FOR THE STEEL INDUSTRY

- Sec. 801. Short title.
- Sec. 802. Findings and purposes.
- Sec. 803. Sense of Congress regarding the national policy for the steel industry.
- Sec. 804. Definitions.
- Sec. 805. Enforcement authority.
- Sec. 806. Effective period of title.
- Sec. 807. Department of Labor worker assistance plan.
- Sec. 808. Effective date.

TITLE IX—ELIMINATION OF BARRIERS TO INTERNATIONAL TRADE IN UNITED STATES WINE

- Sec. 901. Short title.
- Sec. 902. Congressional findings and purposes.
- Sec. 903. Definitions.
- Sec. 904. Designation of major wine trading countries.
- Sec. 905. Actions to reduce or eliminate tariff and nontariff barriers affecting
United States wine.
- Sec. 906. Required consultations.
- Sec. 907. United States wine export promotion.

TITLE I—TARIFF SCHEDULES AMENDMENTS

Subtitle A—Reference to Tariff Schedules

SEC. 101. REFERENCE.

Whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a schedule, item, headnote or other provision, the reference shall be considered to be made to a schedule, item, headnote or other provision of the Tariff Schedules of the United States (19 U.S.C. 1202).

Subtitle B—Permanent Changes in Tariff Treatment

SEC. 111. COATED TEXTILE FABRICS.

(a) Headnote 5 of schedule 3 is amended to read as follows:
“5. (a) Except as otherwise provided in subsection (b) of this headnote, for the purposes of parts 5, 6, and 7 of this schedule and parts 1 (except subpart A), 4, and 12 of schedule 7, in determining the classification of any article which is wholly or in part of a fabric coated or filled, or laminated, with nontransparent rubber or plastics (which fabric is provided for in part 4C of this schedule), the fabric shall be regarded not as a textile material but as being wholly of rubber or plastics to the extent that (as used in the article) the nontransparent rubber or plastics forms either the outer surface of such article or the only exposed surface of such fabric.

“(b) Any fabric described in part 4C of this schedule shall be classified under part 4C whether or not also described elsewhere in the schedules.”.

(b) The headnotes to subpart C of part 4 of schedule 3 are amended—

(1) by striking out clause (vii) in headnote 1; and

(2) by inserting “or value” after “quantities” in headnote 2(c).

(c) Part 12 of schedule 7 is amended by inserting immediately after headnote 1 the following new headnote:

“2. This part does not cover fabrics, coated or filled, or laminated, with rubber or plastics provided for in part 4C of schedule 3.”.

SEC. 112. WARP KNITTING MACHINES.

(a) Subpart E of part 4 of schedule 6 is amended by striking out item 670.20 and inserting in lieu thereof the following new items with article descriptions at the same indentation level as the article description in item 670.19:

“	670.20	Warp knitting machines.....	Free		40% ad val.	
	670.21	Other.....	5.6% ad val.	4.7% ad val.	40% ad val.	”.

(b) Item 912.14 of the Appendix is repealed.

(c)(1) The rate of duty in column numbered 1 for item 670.21 (as added by subsection (a)) shall be subject to all staged rate reductions for item 670.20 that were proclaimed by the President before the date of the enactment of this Act.

(2) Whenever the rate of duty specified in column numbered 1 for such item 670.21 is reduced to the same level as the corresponding rate of duty specified in the column entitled “LDDC” for such item, or to a lower level, the rate of duty in such “LDDC” column shall be deleted.

SEC. 113. CERTAIN GLOVES.

Subpart C of part 1 of schedule 7 is amended—

(1) by amending headnote 1—

(A) by striking out “and” at the end of paragraph (a),

(B) by striking out the period at the end of paragraph (b) and inserting “; and”, and

(C) by adding at the end thereof the following new paragraph:

“(c) the term ‘with fourchettes’ includes only gloves which, at a minimum, have fourchettes extending from fingertip to fingertip between each of the four fingers.”; and

(2) by amending item 705.85 by striking out “textile fabric” and “or sidewalls”.

SEC. 114. PET TOYS.

Subpart A of part 13 of schedule 7 is amended by inserting immediately after item 790.55 the following new item:

“	790.57	Toys for pets, of textile materials.....	8.5% ad val.		80% ad val.	”.
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SEC. 115. WATER CHESTNUTS AND BAMBOO SHOOTS.

(a) Items 903.45, 903.50, and 903.55 are repealed.

(b) Subpart A of part 8 of schedule 1 is amended as follows:

(1) Item 137.84 is amended by striking out “25% ad val.” in column 1 and inserting in lieu thereof “Free”.

(2) Item 138.40 is amended by striking out “17.5% ad val.” in column 1 and inserting in lieu thereof “Free”.

(c) Subpart C of part 8 of schedule 1 is amended as follows:

(1) Item 141.70 is amended by striking out “7% ad val.” in column 1 and inserting in lieu thereof “Free”.

(2) Item 141.78 is amended by striking out “8.1% ad val.” in column 1, and inserting in lieu thereof “Free”.

SEC. 116. GUT FOR USE IN MANUFACTURE OF STERILE SURGICAL SUTURES.

(a) Subpart C of part 13 of schedule 7 is amended by striking out item 792.22 and inserting in lieu thereof the following new items with the article description at the same indentation level as the article description in item 792.20:

“	792.24	If imported for use in the manufacture of sterile surgical sutures.....	5.4% ad val.	3.5% ad val.	40% ad val.	”.
	792.26	Other.....	11.2% ad val.	7.7% ad val.	40% ad val.	

(b)(1) The rate of duty in column numbered 1 for item 792.24 (as added by subsection (a)) shall be subject to any staged rate reductions for item 495.10 which are proclaimed by the President before the date of the enactment of this Act.

(2) Whenever, after the application of paragraph (1), the rate of duty provided for item 792.24 in the column numbered 1 is not greater than the rate of duty provided for such item in the column designated “LDDC”, no rate of duty shall be provided for such item in the column designated “LDDC”.

(c) The rate of duty in column numbered 1 for item 792.26 (as added by subsection (a)) shall be subject to the same staged rate reductions that were proclaimed by the President before the date of the enactment of this Act for item 792.22.

SEC. 117. ORANGE JUICE PRODUCTS.

Subpart A of part 12 of schedule 1 is amended—

(1) by inserting after item 165.25 the following new items and the superior heading thereto, with such superior heading at the same indentation level as the article description “Lime” in item 165.25:

“	165.27	Orange: Not concentrated and not made from a juice having a degree of concentration of 1.5 or more (as determined before correction to the nearest 0.5 degree)	20¢ per gal.		70¢ per gal.	”.
	165.29	Other	35¢ per gal.		70¢ per gal.	

(2) by redesignating items 165.30 and 165.35 as items 165.32 and 165.36, respectively.

SEC. 118. REIMPORTATION OF CERTAIN ARTICLES ORIGINALLY IMPORTED DUTY FREE.

Item 801.00 is amended—

(1) by inserting “or which were previously entered free of duty pursuant to the Caribbean Basin Economic Recovery Act or title V of the Trade Act of 1974” after “previous importation”; and

97 Stat. 384.
19 USC 2701
note.
19 USC 2461.

(2) by striking out "lease to a foreign manufacturer" in clause (1) and inserting in lieu thereof "lease or similar use agreements".

SEC. 119. GEOPHYSICAL EQUIPMENT.

Part 1 of schedule 8 is amended by inserting in numerical sequence the following new item with the article description at the same indentation level as "Exhibition" in item 802.10:

"	802.50	Rendition of geophysical or contracting services in connection with the exploration for, or the extraction or development of, natural resources	Free	Free	"
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SEC. 120. SCROLLS OR TABLETS USED IN RELIGIOUS OBSERVANCES.

Part 4 of schedule 8 is amended—

(1) by striking out "and 854.30" in headnote 1 and inserting in lieu thereof "854.30, and 854.40"; and

(2) by inserting in numerical sequence the following:

"	854.40	Scrolls or tablets of wood or paper, commonly known as Gohenzon, imported for use in public or private religious observances, whether or not any of the foregoing is imported for the use of a religious institution.....	Free	Free	"
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SEC. 121. STEEL PIPES AND TUBES USED IN LAMPPOSTS.

(a) Subpart F of part 3 of schedule 6 is amended by inserting after item 653.37 the following new item with the same indentation as "Of brass" in item 653.37:

"	653.38	Tapered steel pipes and tubes chiefly used as parts of illuminating articles.....	11.9% ad val.	7.6% ad val.	45% ad val.	"
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(b)(1) Notwithstanding any other provision of law, any reduction authorized under section 101 of the Trade Act of 1974 (19 U.S.C. 2111) in the rate of duty provided in any rate column for item 653.39 which takes effect after the date of enactment of this Act shall apply to the rate of duty provided in the corresponding column for item 653.38.

(2) Whenever, after the application of paragraph (1), the rate of duty provided for item 653.38 in the column numbered 1 is not greater than the rate of duty provided for such item in the column designated "LDDC", no rate of duty shall be provided for such item in the column designated "LDDC".

SEC. 122. WEARING APPAREL.

The headnotes for part 6 of schedule 3 are amended by adding at the end thereof the following new headnote:

"(3)(a) Except as provided in (b) of this headnote, each garment is to be separately classified under the appropriate tariff item, even if

“	707.90	Optical fibers, whether or not in bundles, cables or otherwise put up, with or without connectors and whether mounted or not mounted.....	13.1% ad val.	8.4% ad val.	65% ad val.	”
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and

(B) by redesignating items 708.09 and 708.29 as 708.10 and 708.30, respectively.

(3) Subpart A of part 3 of schedule 8 is amended by striking out the superior heading to item 837.00 and inserting in lieu thereof the following: “Articles for the National Aeronautics and Space Administration and articles (other than communications satellites and parts thereof) imported to be launched into space under launch services agreements with the National Aeronautics and Space Administration:”.

(4) Subpart B of part 3 of schedule 8 is amended by striking out the superior heading to item 842.10 and inserting in lieu thereof the following: “Upon the request of the Department of State, articles (other than communications satellites and parts thereof) which are the property of a foreign government or of a public international organization:”.

(b)(1) The rate of duty in column numbered 1 of the Schedules (as added or redesignated by subsection (a)) for each item set forth below in the column headed “A” in the table under paragraph (3) shall be subject to all staged rate reductions for the corresponding item set forth below in the column headed “B” in such table which were proclaimed by the President before the date of the enactment of this Act.

(2) Whenever the rate of duty specified in column numbered 1 of the Schedules for each item set forth below in the column headed “A” in the table under paragraph (3) is reduced to the same level, or to a lower level, as the corresponding rate of duty specified in the column entitled “LDDC” of the Schedules for such item, the rate of duty in such “LDDC” column shall be deleted.

(3) The table referred to in paragraphs (1) and (2) is as follows:

(A)	(B)
684.65	684.64
684.66	684.64
684.67	684.64
684.90	685.10
684.94	685.13
685.00	685.16
685.04	685.18
685.06	685.20
685.08	685.22
685.12	685.23
685.14	685.24
685.16	685.24
685.22	685.26
685.36	685.33
685.37	685.34
685.38	685.36
685.39	685.40
685.48	685.50
685.49	685.50
688.17	688.15
688.18	688.15
688.41	688.43
688.42	688.43
707.90	708.29
708.10	708.09
708.30	708.29

(c) Subsection (a) of section 322 of the Tariff Act of 1930 (19 U.S.C. 1322(a)) is amended by adding at the end thereof the following new sentence: "The authority delegated to the Secretary by this subsection shall not extend to communications satellites and components and parts thereof."

SEC. 125. FRESH ASPARAGUS.

Subpart A of part 8 of schedule 1 is amended by adding before the superior heading to items 135.10 through 135.17 (and at equivalent indentation with such heading and items) the following new items:

"	135.03	Asparagus: If fresh or chilled; entered during the period from September 15 to November 15, inclusive, in any year; and transported to the United States				
	135.05	by air..... Other	5% ad val. 25% ad val.		50% ad val. 50% ad val.	".

SEC. 126. CHIPPER KNIFE STEEL.

Effective with respect to articles entered, or withdrawn from warehouse for consumption—

(3) Paragraphs (1) and (2) of section 126 of the bill are amended to read as follows:

(1) on or after April 1, 1985—

(A) item 606.93 is amended by striking out "8.3% ad val. + additional duties (see headnote 4)" and inserting in lieu thereof "2% ad val.",

(B) such item 606.93 is further amended by striking out "6% ad val. + additional duties (see headnote 4)" in the LDDC column, and

(C) item 911.29 of the Appendix is repealed; and

(2) on or after April 1, 1986, item 606.93 is amended by striking out "2% ad val." and inserting in lieu thereof "Free".

SEC. 127. IMPLEMENTATION OF CUSTOMS CONVENTION ON CONTAINERS, 1972.

(a) Subpart C of part 1 of schedule 8 is amended—

(1) by amending headnote 1 to such subpart by inserting "accessories and equipment" immediately before the period at the end thereof; and

(2) by amending the article description for item 808.00 by striking out "and repair components" and all that follows thereafter and inserting in lieu thereof "repair components for containers of foreign production which are instruments of international traffic, and accessories and equipment for such containers, whether the accessories and equipment are imported with a container to be reexported separately or with another container, or imported separately to be reexported with a container."

(b) Subsection (a) of section 322 of the Tariff Act of 1930 (19 U.S.C. 1322(a)) is amended by striking out "granted the customary exceptions" and inserting in lieu thereof "excepted".

Supra.

Subtitle D—Technical Amendments**SEC. 191. TECHNICAL AND CONFORMING AMENDMENTS.**

19 USC 1202.

(a) The schedules are further amended as follows:

(1) Headnote 9(a) of the general headnotes is amended by striking out “warehouse, for consumption” and inserting in lieu thereof “warehouse for consumption,”.

(2) The superior heading to items 346.05 and 346.10 and the superior heading to items 346.15 through 346.24 are each amended by striking out “Fabric” and inserting in lieu thereof “Fabrics”.

(3) The article description for item 535.13 is amended by aligning the indentation of that description with that of the article description for item 535.12.

(4) Headnote 1(ii) to subpart D of part 6 of schedule 6 is amended by striking out “5(e)” and inserting in lieu thereof “5(g)”.

(5) Item 642.34 is amended by striking out “12% ad val.” and inserting in lieu thereof “10% ad val.”.

(6) Headnote 6 to subpart E of part 2 of schedule 7 is amended—

(A) by striking out “through (h)” in paragraph (a) and inserting in lieu thereof “through (ij)”;

(B) by striking out “paragraph (c)” in paragraph (b) and inserting in lieu thereof “paragraph (d)”;

(C) by striking out “paragraph (d)” in subparagraph (d)(ii)(I) and inserting in lieu thereof “paragraph (e)”;

(D) by redesignating paragraph (i) as paragraph (ij).

(7) Item 737.73 is amended by inserting a comma immediately after “ware”.

(8) The article description for each of items 745.41 and 745.42 is amended by aligning the indentation of that description with that of the article description for item 745.34.

(9) The article description for each of items 870.50, 870.55, and 870.60 is amended by aligning the indentation of that description with that of the article description for item 870.25.

(b) The Appendix is amended as follows:

(1) The article description for item 903.25 is amended to read as follows: “Culled carrots, fresh or chilled, in immediate containers each holding more than 100 pounds (provided for in item 135.42, part 8A, schedule 1), if entered for consumption during the period from August 15 in any year to the 15th day of the following February, inclusive”.

(2) Item 906.10 is amended by striking out “386.09” and inserting in lieu thereof “386.13”.

(3) The article description for item 906.12 is amended—

(A) by aligning the indentation of that description with that of the article description for item 906.10; and

(B) by inserting “, part 6F,” after “383.50”.

(4) The article description for item 907.00 is amended to read as follows: “p-Hydroxybenzoic acid (provided for in item 404.42, part 1B, schedule 4)”.

(5) The article description for item 907.01 is amended to read as follows: “Triphenyl phosphate (provided for in item 409.34, part 1C, schedule 4)”.

(6) The article description for item 907.14 is amended to read as follows: "Mixtures of 3-ethylbiphenyl (m-ethylbiphenyl) and 4-ethylbiphenyl (p-ethylbiphenyl) (provided for in item 407.16, part 1B, schedule 4)".

(7) The article description for item 907.15 is amended to read as follows: "1,1-Bis(4-chlorophenyl)-2,2,2-trichloroethanol (Dicofol) (provided for in item 408.28, part 1C, schedule 4)".

(8) Item 912.30 is amended by striking out "737.21,".

(c) The Educational, Scientific, and Cultural Materials Importation Act of 1982 (Public Law 97-446, 19 U.S.C. 1202 note) is amended as follows:

(1) Section 162 is amended by inserting a comma after "Architectural" in the article description for item 273.52 (as set forth in paragraph (2) of such section).

(2) Section 163(c) is amended—

(A) by striking out "headnote 2 as headnote 1," in paragraph (1) and inserting in lieu thereof "headnotes 2 and 3 as headnotes 1 and 2, respectively,"; and

(B) by striking out "models) and wall charts of an educational, scientific or cultural character," and inserting in lieu thereof "models), globes, and wall charts of an educational, scientific or cultural character;" in the article description for item 870.35 (as set forth in paragraph (3) of such section).

(3) Section 165 is amended—

(A) by redesignating items 870.50, 870.55, and 870.60 (as set forth in subsection (b)(1) of such section) as items 870.65, 870.66, and 870.67, respectively;

(B) by aligning the indentation of the article description of item 870.67 (as redesignated by paragraph (1)) with the indentation of "Articles for the blind:" immediately preceding items 870.65 and 870.66 (as so redesignated);

(C) by amending headnote 2 of part 7 of schedule 8 (as set forth in subsection (b)(2) of such section)—

(i) by redesignating it as headnote 3; and

(ii) by striking out "870.50, 870.55, and 870.60—" and inserting in lieu thereof "870.65, 870.66, and 870.67—".

(d) Section 504 of the Tariff Act of 1930 (19 U.S.C. 1504) is amended—

(1) by striking out ", his consignee, or agent" in subsection (a) and inserting in lieu thereof "of record";

(2) by striking out ", his consignee, or agent" and ", consignee, or his agent" in subsection (b) and inserting in lieu thereof "of record";

(3) by striking out "or consignee" each place it appears in subsection (c) and inserting in lieu thereof "of record"; and

(4) by striking out ", his consignee, or agent" in subsection (d) and inserting in lieu thereof "of record".

(e) Headnote 3(a)(i) of the general headnotes and rules of interpretation is amended by striking out "of schedule 7, part 2, subpart E, and except as provided in headnote 4 of schedule 7, part 7, subpart A" and inserting in lieu thereof "of subpart E of part 2 of schedule 7, and except as provided in headnote 3 of subpart A of part 7 of schedule 7".

19 USC 1202.

Subtitle E—Effective Dates

SEC. 195. EFFECTIVE DATES.

19 USC 1322
note.

(a) Except as provided in section 126 and in subsections (b) and (c), the amendments made by subtitles B, C, and D shall apply with respect to articles entered on or after the 15th day after the date of the enactment of this Act.

19 USC 1322
note.

(b)(1) The amendment made by sections 117 and 124 shall apply with respect to articles entered on or after January 1, 1985.

(2) The amendments made by section 127 shall apply with respect to articles entered on or after a date to be proclaimed by the President which shall be consonant with the entering into force for the United States of the Customs Convention on Containers, 1972.

29 UST 3707.
19 USC 1514.

(c)(1) Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the customs officer concerned on or before the 90th day after the date of the enactment of this Act the entry of any article described in paragraph (2) shall be treated as provided in such paragraph.

(2)(A) In the case of the application of any amendment made by section 133, 141, 145, 152, 159, 161, 166, 168, 173, 175, 176, or 191 (a) or (b) to any entry—

(i) which was made after the applicable date and before the 15th day after the date of the enactment of this Act; and

(ii) with respect to which there would have been no duty or a lesser duty if the amendment made by such section applied to such entry;

such entry shall be liquidated or reliquidated as though such entry had been made on the 15th day after the date of the enactment of this Act.

(B) For purposes of subparagraph (A), the term “applicable date” means—

(i) in the case of section 191 (a) or (b), January 12, 1983,

(ii) in the case of sections 168, 175, and 176, June 30, 1983,

(iii) in the case of section 173, December 31, 1983,

(iv) in the case of sections 133, 152, 159, and 166, June 30, 1984,

(v) in the case of section 145, January 1, 1984, and

(vi) in the case of sections 141 and 161, September 30, 1984.

(C) In the case of the application of any amendment made by section 140 or 153 to any entry—

(1) that was made before the 15th day after the date of the enactment of this Act;

(2) that was unliquidated, or the liquidation of which was not final, on such 15th day; and

(3) with respect to which there would have been no duty if the amendment made by such section applied to such entry;

such entry shall be liquidated as though the entry had been made on such 15th day.

19 USC 1322
note.

(d) For purposes of this section—

(1) The term “entered” means entered, or withdrawn from warehouse for consumption in the customs territory of the United States.

(2) The term “entry” includes any withdrawal from warehouse.

TITLE II—CUSTOMS AND MISCELLANEOUS AMENDMENTS

Subtitle A—Amendments to the Tariff Act of 1930

SEC. 201. REFERENCE.

Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a title, subtitle, part, section, or other provision, the reference shall be considered to be made to a title, subtitle, part, section, or other provision of the Tariff Act of 1930 (19 U.S.C. 1202 et seq.).

SEC. 202. DRAWBACK.

Section 313 of the Tariff Act of 1930 (19 U.S.C. 1313) is amended—

(1) by amending subsection (j)—

(A) by redesignating paragraph (2) as paragraph (4), and

(B) by inserting after paragraph (1) the following new paragraphs:

“(3) If there is, with respect to imported merchandise on which was paid any duty, tax, or fee imposed under Federal law because of its importation, any other merchandise (whether imported or domestic) that—

“(A) is fungible with such imported merchandise;

“(B) is, before the close of the three-year period beginning on the date of importation of the imported merchandise, either exported or destroyed under Customs supervision;

“(C) before such exportation or destruction—

“(i) is not used within the United States, and

“(ii) is in the possession of the party claiming drawback under this paragraph; and

“(D) is in the same condition at the time of exportation or destruction as was the imported merchandise at the time of its importation;

then upon the exportation or destruction of such other merchandise the amount of each such duty, tax, and fee paid regarding the imported merchandise shall be refunded as drawback, but in no case may the total drawback on the imported merchandise, whether available under this paragraph or any other provision of law or any combination thereof, exceed 99 percent of that duty, tax, or fee.

“(4) Packaging material that is imported for use in packaging or repackaging imported merchandise to which paragraph (1) applies shall be eligible under the same conditions provided in such paragraph for refund, as drawback, of 99 per centum of any duty, tax, or fee imposed under Federal law on the importation of such material.”; and

(2) by redesignating subsections (k) and (l) as subsections (l) and (m), respectively; and

(3) by inserting after subsection (j) the following new subsection:

“(k) For purposes of subsections (a) and (b), the use of any domestic merchandise acquired in exchange for imported merchandise of the same kind and quality shall be treated as the use of such imported merchandise if no certificate of delivery is issued with respect to such imported merchandise.”.

SEC. 203. PUBLIC DISCLOSURE OF CERTAIN MANIFEST INFORMATION.

Section 431 (19 U.S.C. 1431) is amended—

(1) by striking out the period at the end of the paragraph designated as “Third” in subsection (a) and inserting in lieu thereof “; and the names of the shippers of such merchandise.”; and

(2) by adding at the end thereof the following new subsection:

Public
availability.

“(c)(1) Except as provided in subparagraph (2), the following information, when contained in such manifest, shall be available for public disclosure:

“(A) The name and address of each importer or consignee and the name and address of the shipper to such importer or consignee, unless the importer or consignee has made a biennial certification, in accordance with procedures adopted by the Secretary of the Treasury, claiming confidential treatment of such information.

“(B) The general character of the cargo.

“(C) The number of packages and gross weight.

“(D) The name of the vessel or carrier.

“(E) The port of loading.

“(F) The port of discharge.

“(G) The country or origin of the shipment.

“(2) The information listed in paragraph (1) shall not be available for public disclosure if—

“(A) the Secretary of the Treasury makes an affirmative finding on a shipment-by-shipment basis that disclosure is likely to pose a threat of personal injury or property damage; or

“(B) the information is exempt under the provisions of section 552(b)(1) of title 5 of the United States Code.

“(3) The Secretary of the Treasury, in order to allow for the timely dissemination and publication of the information listed in paragraph (1), shall establish procedures to provide access to manifests. Such procedures shall include provisions for adequate protection against the public disclosure of information not available for public disclosure from such manifests.”.

SEC. 204. VIRGIN ISLANDS EXCURSION VESSELS.

Section 441(3) (19 U.S.C. 1441(3)) is amended to read as follows:

“(3) Vessels carrying passengers on excursion from the United States Virgin Islands to the British Virgin Islands and returning, and licensed yachts or undocumented American pleasure vessels not engaged in trade: *Provided*, That such vessels do not in any way violate the customs or navigation laws of the United States and have not visited any hovering vessel: *Provided further*, That the master of any such vessel which has on board any article required by law to be entered shall be required to report such article to the appropriate customs officer within twenty-four hours after arrival.”.

SEC. 205. UNLAWFUL IMPORTATION OR EXPORTATION OF CERTAIN VEHICLES.

Part V of title IV (19 U.S.C. 1581 et seq.) is amended by adding at the end thereof the following new section:

19 USC 1627a.

“SEC. 627. UNLAWFUL IMPORTATION OR EXPORTATION OF CERTAIN VEHICLES; INSPECTIONS.

“(a)(1) Whoever knowingly imports, exports, or attempts to import or export—

“(A) Any stolen self-propelled vehicle, vessel, aircraft, or part of a self-propelled vehicle, vessel, or aircraft; or

“(B) any self-propelled vehicle or part of a self-propelled vehicle from which the identification number has been removed, obliterated, tampered with, or altered; shall be subject to a civil penalty in an amount determined by the Secretary, not to exceed \$10,000 for each violation.

“(2) Any violation of this subsection shall make such self-propelled vehicle, vessel, aircraft, or part thereof subject to seizure and forfeiture under this Act.

“(b) A person attempting to export a used self-propelled vehicle shall present, pursuant to regulations prescribed by the Secretary, to the appropriate customs officer both the vehicle and a document describing such vehicle which includes the vehicle identification number, before lading if the vehicle is to be transported by vessel or aircraft, or before export if the vehicle is to be transported by rail, highway, or under its own power. Failure to comply with the regulations of the Secretary shall subject such person to a civil penalty of not more than \$500 for each violation.

“(c) For purposes of this section—

“(1) the term ‘self-propelled vehicle’ includes any automobile, truck, tractor, bus, motorcycle, motor home, self-propelled agricultural machinery, self-propelled construction equipment, self-propelled special use equipment, and any other self-propelled vehicle used or designed for running on land but not on rail;

“(2) the term ‘aircraft’ has the meaning given it in section 101(5) of the Federal Aviation Act of 1958 (49 U.S.C. 1301(5));

“(3) the term ‘used’ refers to any self-propelled vehicle the equitable or legal title to which has been transferred by a manufacturer, distributor, or dealer to an ultimate purchaser; and

“(4) the term ‘ultimate purchaser’ means the first person, other than a dealer purchasing in his capacity as a dealer, who in good faith purchases a self-propelled vehicle for purposes other than resale.

“(d) Customs officers may cooperate and exchange information concerning motor vehicles, off-highway mobile equipment, vessels, or aircraft, either before exportation or after exportation or importation, with such Federal, State, local, and foreign law enforcement or governmental authorities, and with such organizations engaged in theft prevention activities, as may be designated by the Secretary.”.

49 USC app.
1301.

SEC. 206. INCREASE IN AMOUNT FOR INFORMAL ENTRY OF GOODS.

Paragraph (1) of section 498 (19 U.S.C. 1498(1)) is amended—

(1) by striking out “\$250” and inserting in lieu thereof “\$1,250”; and

(2) by inserting before the semicolon at the end thereof: “, except that this paragraph does not apply to articles valued in excess of \$250 classified in—

“(A) schedule 3,

“(B) parts 1, 4A, 7B, 12A, 12D, and 13B of schedule 7, and

“(C) parts 2 and 3 of the Appendix,

of the Tariff Schedules of the United States, or to any other article for which formal entry is required without regard to value.”.

SEC. 207. CERTAIN COUNTRY OF ORIGIN MARKING REQUIREMENTS.

Section 304 (19 U.S.C. 1304) is amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (f), (g), and (h), respectively;

(2) by inserting immediately after subsection (b) the following new subsections:

“(c) **MARKING OF CERTAIN PIPE AND FITTINGS.**—No exception may be made under subsection (a)(3) with respect to pipes of iron, steel, or stainless steel, to pipe fittings of steel, stainless steel, chrome-moly steel, or cast and malleable iron each of which shall be marked with the English name of the country of origin by means of die stamping, cast-in-mold lettering, etching, or engraving.

“(d) **MARKING OF COMPRESSED GAS CYLINDERS.**—No exception may be made under subsection (a)(3) with respect to compressed gas cylinders designed to be used for the transport and storage of compressed gases whether or not certified prior to exportation to have been made in accordance with the safety requirements of sections 178.36 through 178.68 of title 49, Code of Federal Regulations, each of which shall be marked with the English name of the country of origin by means of die stamping, molding, etching, raised lettering, or an equally permanent method of marking.

“(e) **MARKING OF CERTAIN MANHOLE RINGS OR FRAMES, COVERS, AND ASSEMBLIES THEREOF.**—No exception may be made under subsection (a)(3) with respect to manhole rings or frames, covers, and assemblies thereof each of which shall be marked on the top surface with the English name of the country of origin by means of die stamping, cast-in-mold lettering, etching, or engraving.”; and

(3) by striking out “subsection (c)” in subsection (g) (as so redesignated) and inserting in lieu thereof “subsection (f)”.

SEC. 208. EQUIPMENTS AND REPAIRS OF CERTAIN VESSELS EXEMPT FROM DUTIES.

Section 466(e) (19 U.S.C. 1466(e)) is amended to read as follows:

“(e)(1) In the case of any vessel referred to in subsection (a) that arrives in a port of the United States two years or more after its last departure from a port in the United States, the duties imposed by this section shall apply only with respect to—

“(A) fish nets and netting, and

“(B) other equipments and parts thereof, repair parts and materials purchased, or repairs made, during the first six months after the last departure of such vessel from a port of the United States.

“(2) If such vessel is designed and used primarily for transporting passengers or property, paragraph (1) shall not apply if the vessel departed from the United States for the sole purpose of obtaining such equipments, parts, materials, or repairs.”.

SEC. 209. ARTICLES RETURNED FROM SPACE.

(a) Part III of title IV (19 U.S.C. 1481 et seq.) is amended by adding the following new section:

19 USC 1484a.

“SEC. 484a. ARTICLES RETURNED FROM SPACE NOT TO BE CONSTRUED AS IMPORTATION.

“The return of articles from space shall not be considered an importation, and an entry of such articles shall not be required, if:

“(1) such articles were previously launched into space from the customs territory of the United States aboard a spacecraft

operated by, or under the control of, United States persons and owned—

“(A) wholly by United States persons, or

“(B) in substantial part by United States persons, or

“(C) by the United States;

“(2) such articles were maintained or utilized while in space solely on board such spacecraft or aboard another spacecraft which meets the requirements of paragraph (1) (A) through (C) of this section; and

“(3) such articles were returned to the customs territory directly from space aboard such spacecraft or aboard another spacecraft which meets the requirements of paragraph (1) (A) through (C) of this section;

without regard to whether such articles have been advanced in value or improved in condition by any process of manufacture or other means while in space.”.

(b) Headnote 5 of the general headnotes of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended— 19 USC 1202.

(A) by striking out “media; and” in subdivision (e) and inserting in lieu thereof “media,”;

(B) by adding after subdivision (e) the following new subdivision:

“(f) articles returned from space within the purview of section 484a of the Tariff Act of 1930; and”; and

(C) by redesignating subdivision (f) as subdivision (g).

Ante, p. 2976.

SEC. 210. DATE OF LIQUIDATION OR RELIQUIDATION.

(a) Section 505 of the Tariff Act of 1930 (19 U.S.C. 1505) is amended by adding at the end thereof the following new subsection:

“(c) Duties determined to be due upon liquidation or reliquidation shall be due 15 days after the date of that liquidation or reliquidation, and unless payment of the duties is received by the appropriate customs officer within 30 days after that date, shall be considered delinquent and bear interest from the 15th day after the date of liquidation or reliquidation at a rate determined by the Secretary of the Treasury.”.

(b) Section 520 of the Tariff Act of 1930 (19 U.S.C. 1520) is amended by adding at the end thereof the following new subsection:

“(d) If a determination is made to reliquidate an entry as a result of a protest filed under section 514 of this Act or an application for relief made under subsection (c)(1) of this section, or if reliquidation is ordered by an appropriate court, interest shall be allowed on any amount paid as increased or additional duties under section 505(c) of this Act at the annual rate established pursuant to that section and determined as of the 15th day after the date of liquidation or reliquidation. The interest shall be calculated from the date of payment to the date of (1) the refund, or (2) the filing of a summons under section 2632 of title 28, United States Code, whichever occurs first.”.

SEC. 211. OPERATION OF CERTAIN DUTY-FREE SALES ENTERPRISES.

Section 555 of the Tariff Act of 1930 (19 U.S.C. 1555) is amended—

(1) by striking out “Buildings” in the first sentence thereof and inserting in lieu thereof “(a) Subject to subsection (b), buildings”; and

(2) by inserting at the end thereof the following:

“(b) If a State or local governmental authority, incident to its jurisdiction over any airport, seaport, or other exit point facility, requires that a concession or other form of approval be obtained from that authority with respect to the operation of a duty-free sales enterprise under which merchandise is delivered to such facility for exportation, merchandise incident to such operation may not be withdrawn from a bonded warehouse and transferred to such facility unless the operator of the duty-free sales enterprise demonstrates to the Secretary of the Treasury that the concession or approval required for the enterprise has been obtained. For purposes of this subsection, the term ‘duty-free sales enterprise’ means an entity that sells, in less than wholesale quantities, duty-free or tax-free merchandise that is delivered from a bonded warehouse to an airport, seaport, or point of exit from the United States for exportation by, or on behalf of, individuals departing from the United States.”.

SEC. 212. CUSTOMS BROKERS.

(a) Section 641 (19 U.S.C. 1641) is amended to read as follows:

“SEC. 641. CUSTOMS BROKERS.

“(a) **DEFINITIONS.**—As used in this section:

“(1) The term ‘customs broker’ means any person granted a customs broker’s license by the Secretary under subsection (b).

“(2) The term ‘customs business’ means those activities involving transactions with the Customs Service concerning the entry and admissibility of merchandise, its classification and valuation, the payment of duties, taxes, or other charges assessed or collected by the Customs Service upon merchandise by reason of its importation, or the refund, rebate, or drawback thereof.

“(3) The term ‘Secretary’ means the Secretary of the Treasury.

“(b) **CUSTOM BROKER’S LICENSES.**—

“(1) **IN GENERAL.**—No person may conduct customs business (other than solely on behalf of that person) unless that person holds a valid customs broker’s license issued by the Secretary under paragraph (2) or (3).

“(2) **LICENSES FOR INDIVIDUALS.**—The Secretary may grant an individual a customs broker’s license only if that individual is a citizen of the United States. Before granting the license, the Secretary may require an applicant to show any facts deemed necessary to establish that the applicant is of good moral character and qualified to render valuable service to others in the conduct of customs business. In assessing the qualifications of an applicant, the Secretary may conduct an examination to determine the applicant’s knowledge of customs and related laws, regulations and procedures, bookkeeping, accounting, and all other appropriate matters.

“(3) **LICENSES FOR CORPORATIONS, ETC.**—The Secretary may grant a customs broker’s license to any corporation, association, or partnership that is organized or existing under the laws of any of the several States of the United States if at least one officer of the corporation or association, or one member of the partnership, holds a valid customs broker’s license granted under paragraph (2).

“(4) DUTIES.—A customs broker shall exercise responsible supervision and control over the customs business that it conducts.

“(5) LAPSE OF LICENSE.—The failure of a customs broker that is licensed as a corporation, association, or partnership under paragraph (3) to have, for any continuous period of 120 days, at least one officer of the corporation or association, or at least one member of the partnership, validly licensed under paragraph (2) shall, in addition to causing the broker to be subject to any other sanction under this section (including paragraph (6)), result in the revocation by operation of law of its license.

“(6) PROHIBITED ACTS.—Any person who intentionally transacts customs business, other than solely on the behalf of that person, without holding a valid customs broker’s license granted to that person under this subsection shall be liable to the United States for a monetary penalty not to exceed \$10,000 for each such transaction as well as for each violation of any other provision of this section. This penalty shall be assessed in the same manner and under the same procedures as the monetary penalties provided for in subsection (d)(2)(A).

“(c) CUSTOMS BROKER’S PERMITS.—

“(1) IN GENERAL.—Each person granted a customs broker’s license under subsection (b) shall—

“(A) be issued a permit, in accordance with regulations prescribed under this section, for each customs district in which that person conducts customs business; and

“(B) except as provided in paragraph (2), regularly employ in each customs district for which a permit is so issued at least one individual who is licensed under subsection (b)(2) to exercise responsible supervision and control over the customs business conducted by that person in that district.

“(2) EXCEPTION.—If a person granted a customs broker’s license under subsection (b) can demonstrate to the satisfaction of the Secretary that—

“(A) he regularly employs in the region in which that district is located at least one individual who is licensed under subsection (b)(2), and

“(B) that sufficient procedures exist within the company for the person employed in that region to exercise responsible supervision and control over the customs business conducted by that person in that district,

the Secretary may waive the requirement in paragraph (1)(B).

“(3) LAPSE OF PERMIT.—The failure of a customs broker granted a permit under paragraph (1) to employ, for any continuous period of 180 days, at least one individual who is licensed under subsection (b)(2) within the district or region (if paragraph (2) applies) for which a permit was issued shall, in addition to causing the broker to be subject to any other sanction under this section (including any in subsection (d)), result in the revocation by operation of law of the permit.

“(d) DISCIPLINARY PROCEEDINGS.—

“(1) GENERAL RULE.—The Secretary may impose a monetary penalty in all cases with the exception of the infractions described in clause (iii) of subparagraph (B) of this subsection, or revoke or suspend a license or permit of any customs broker, if it is shown that the broker—

“(A) has made or caused to be made in any application for any license or permit under this section, or report filed with the Customs Service, any statement which was, at the time and in light of the circumstances under which it was made, false or misleading with respect to any material fact, or has omitted to state in any such application or report any material fact which was required to be stated therein;

“(B) has been convicted at any time after the filing of an application for license under subsection (b) of any felony or misdemeanor which the Secretary finds—

“(i) involved the importation or exportation of merchandise;

“(ii) arose out of the conduct of its customs business;

or

“(iii) involved larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, or misappropriation of funds;

“(C) has violated any provision of any law enforced by the Customs Service or the rules or regulations issued under any such provision;

“(D) has counseled, commanded, induced, procured, or knowingly aided or abetted the violations by any other person of any provision of any law enforced by the Customs Service, or the rules or regulations issued under any such provision;

“(E) has knowingly employed, or continues to employ, any person who has been convicted of a felony, without written approval of such employment from the Secretary; or

“(F) has, in the course of its customs business, with intent to defraud, in any manner willfully and knowingly deceived, misled or threatened any client or prospective client.

“(2) PROCEDURES.—

“(A) MONETARY PENALTY.—Unless action has been taken under subparagraph (B), the appropriate customs officer shall serve notice in writing upon any customs broker to show cause why the broker should not be subject to a monetary penalty not to exceed \$30,000 in total for a violation or violations of this section. The notice shall advise the customs broker of the allegations or complaints against him and shall explain that the broker has a right to respond to the allegations or complaints in writing within 30 days of the date of the notice. Before imposing a monetary penalty, the customs officer shall consider the allegations or complaints and any timely response made by the customs broker and issue a written decision. A customs broker against whom a monetary penalty has been issued under this section shall have a reasonable opportunity under section 618 to make representations seeking remission or mitigation of the monetary penalty. Following the conclusion of any proceeding under section 618, the appropriate customs officer shall provide to the customs broker a written statement which sets forth the final determination and the findings of fact and conclusions of law on which such determination is based.

“(B) **REVOCATION OR SUSPENSION.**—The appropriate customs officer may, for good and sufficient reason, serve notice in writing upon any customs broker to show cause why a license or permit issued under this section should not be revoked or suspended. The notice shall be in the form of a statement specifically setting forth the grounds of the complaint, and shall allow the customs broker 30 days to respond. If no response is filed, or the appropriate customs officer determines that the revocation or suspension is still warranted, he shall notify the customs broker in writing of a hearing to be held within 15 days, or at a later date if the broker requests an extension and shows good cause therefor, before an administrative law judge appointed pursuant to section 3105 of title 5, United States Code, who shall serve as the hearing officer. If the customs broker waives the hearing, or the broker or his designated representative fails to appear at the appointed time and place, the hearing officer shall make findings and recommendations based on the record submitted by the parties. At the hearing, the customs broker may be represented by counsel, and all proceedings, including the proof of the charges and the response thereto shall be presented with testimony taken under oath and the right of cross-examination accorded to both parties. A transcript of the hearing shall be made and a copy will be provided to the appropriate customs officer and the customs broker; they shall thereafter be provided reasonable opportunity to file a post-hearing brief. Following the conclusion of the hearing, the hearing officer shall transmit promptly the record of the hearing along with his findings of fact and recommendations to the Secretary for decision. The Secretary will issue a written decision, based solely on the record, setting forth his findings of fact and the reasons for his decision. Such decision may provide for the sanction contained in the notice to show cause or any lesser sanction authorized by this subsection, including a monetary penalty not to exceed \$30,000, than was contained in the notice to show cause.

“(3) **SETTLEMENT AND COMPROMISE.**—The Secretary may settle and compromise any disciplinary proceeding which has been instituted under this subsection according to the terms and conditions agreed to by the parties, including but not limited to the reduction of any proposed suspension or revocation to a monetary penalty.

“(4) **LIMITATION OF ACTIONS.**—Notwithstanding section 621, no proceeding under this subsection or subsection (b)(6) shall be commenced unless such proceeding is instituted by the appropriate service of written notice within 5 years from the date the alleged violation was committed; except that if the alleged violation consists of fraud, the 5-year period of limitation shall commence running from the time such alleged violation was discovered.

19 USC 1621.

“(e) **JUDICIAL APPEAL.**—

“(1) **IN GENERAL.**—A customs broker, applicant, or other person directly affected may appeal any decision of the Secretary denying or revoking a license or permit under subsection (b) or (c), or revoking or suspending a license or permit or imposing a monetary penalty in lieu thereof under subsection

(d)(2)(B), by filing in the Court of International Trade, within 60 days after the issuance of the decision or order, a written petition requesting that the decision or order be modified or set aside in whole or in part. A copy of the petition shall be transmitted promptly by the clerk of the court to the Secretary or his designee. In cases involving revocation or suspension of a license or permit or imposition of a monetary penalty in lieu thereof under subsection (d)(2)(B), after receipt of the petition, the Secretary shall file in court the record upon which the decision or order complained of was entered, as provided in section 2635(d) of title 28, United States Code.

“(2) CONSIDERATION OF OBJECTIONS.—The court shall not consider any objection to the decision or order of the Secretary, or to the introduction of evidence or testimony, unless that objection was raised before the hearing officer in suspension or revocation proceedings unless there were reasonable grounds for failure to do so.

“(3) CONCLUSIVENESS OF FINDINGS.—The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive.

“(4) ADDITIONAL EVIDENCE.—If any party applies to the court for leave to present additional evidence and the court is satisfied that the additional evidence is material and that reasonable grounds existed for the failure to present the evidence in the proceedings before the hearing officer, the court may order the additional evidence to be taken before the hearing officer and to be presented in a manner and upon the terms and conditions prescribed by the court. The Secretary may modify the findings of facts on the basis of the additional evidence presented. The Secretary shall then file with the court any new or modified findings of fact which shall be conclusive if supported by substantial evidence, together with a recommendation, if any, for the modification or setting aside of the original decision or order.

“(5) EFFECT OF PROCEEDINGS.—The commencement of proceedings under this subsection shall, unless specifically ordered by the court, operate as a stay of the decision of the Secretary except in the case of a denial of a license or permit.

“(6) FAILURE TO APPEAL.—If an appeal is not filed within the time limits specified in this section, the decision by the Secretary shall be final and conclusive. In the case of a monetary penalty imposed under subsection (d)(2)(B) of this section, if the amount is not tendered within 60 days after the decision becomes final, the license shall automatically be suspended until payment is made to the Customs Service.

“(f) REGULATIONS BY THE SECRETARY.—The Secretary may prescribe such rules and regulations relating to the customs business of customs brokers as the Secretary considers necessary to protect importers and the revenue of the United States, and to carry out the provisions of this section, including rules and regulations governing the licensing of or issuance of permits to customs brokers, the keeping of books, accounts, and records by customs brokers, and documents and correspondence, and the furnishing by customs brokers of any other information relating to their customs business to any duly accredited officer or employee of the United States Customs Service.

“(g) TRIENNIAL REPORTS BY CUSTOMS BROKERS.—

“(1) IN GENERAL.—On February 1, 1985, and on February 1 of each third year thereafter, each person who is licensed under subsection (b) shall file with the Secretary of the Treasury a report as to—

“(A) whether such person is actively engaged in business as a customs broker; and

“(B) the name under, and the address at, which such business is being transacted.

“(2) SUSPENSION AND REVOCATION.—If a person licensed under subsection (b) fails to file the required report by March 1 of the reporting year, the license is suspended, and may be thereafter revoked subject to the following procedures:

“(A) The Secretary shall transmit written notice of suspension to the licensee no later than March 31 of the reporting year.

“(B) If the licensee files the required report within 60 days of receipt of the Secretary’s notice, the license shall be reinstated.

“(C) In the event the required report is not filed within the 60-day period, the license shall be revoked without prejudice to the filing of an application for a new license.

“(h) FEES AND CHARGES.—The Secretary may prescribe reasonable fees and charges to defray the costs of the Customs Service in carrying out the provisions of this section, including, but not limited to, a fee for licenses issued under subsection (b) and fees for any test administered by him or under his direction; except that no separate fees shall be imposed to defray the costs of an individual audit or of individual disciplinary proceedings of any nature.”

(b) Title 28, United States Code, is amended as follows:

(1) Section 1581(g) is amended to read as follows:

“(g) The Court of International Trade shall have exclusive jurisdiction of any civil action commenced to review—

“(1) any decision of the Secretary of the Treasury to deny a customs broker’s license under section 641(b) (2) or (3) or (c) of the Tariff Act of 1930, or to deny a customs broker’s permit under section 641(c)(1) of such Act, or to revoke a license or permit under section 641(b)(5) or (c)(2) of such Act; and

Ante, p. 2978.

“(2) any decision of the Secretary of the Treasury to revoke or suspend a customs broker’s license or permit, or impose a monetary penalty in lieu thereof, under section 641(d)(2)(B) of the Tariff Act of 1930.”

(2) Section 1582(1) is amended to read as follows:

“(1) to recover a civil penalty under section 592, 641(a)(1)(C), 641(d)(2)(A), 704(i)(2), or 734(i)(2) of the Tariff Act of 1930;”

(3) Section 2631(g) is amended to read as follows:

“(g)(1) A civil action to review any decision of the Secretary of the Treasury to deny a customs broker’s license under section 641(b) (2) or (3) of the Tariff Act of 1930, or to deny a customs broker’s permit under section 641(c)(1) of such Act, or to revoke such license or permit under section 641(b)(5) or (c)(2) of such Act, may be commenced in the Court of International Trade by the person whose license or permit was denied or revoked.

19 USC 1592,
1641, 1671,
1673c.

“(2) A civil action to review any decision of the Secretary of the Treasury to revoke or suspend a customs broker’s license or permit or impose a monetary penalty in lieu thereof under section 641(d)(2)(B) of the Tariff Act of 1930 may be commenced in the Court

of International Trade by the person against whom the decision was issued.”

28 USC 2636.

(4) Section 2636(h) is amended to read as follows:

Ante, p. 2978.

“(h) A civil action contesting the denial or revocation by the Secretary of the Treasury of a customs broker’s license or permit under subsection (b) or (c) of section 641 of the Tariff Act of 1930, or the revocation or suspension of such license or permit or the imposition of a monetary penalty in lieu thereof by such Secretary under section 641(d) of such Act, is barred unless commenced in accordance with the rules of the Court of International Trade within sixty days after the date of the entry of the decision or order of such Secretary.”

(5) Section 2640(a)(5) is amended to read as follows:

“(5) Civil actions commenced to review any decision of the Secretary of the Treasury under section 641 of the Tariff Act of 1930, with the exception of decisions under section 641(d)(2)(B), which shall be governed by subdivision (d) of this section.”

(6) Section 2643 is amended by adding the following new subsection:

“(e) In any proceeding involving assessment or collection of a monetary penalty under section 641(b)(6) or 641(d)(2)(A) of the Tariff Act of 1930, the court may not render judgment in an amount greater than that sought in the initial pleading of the United States, and may render judgment in such lesser amount as shall seem proper and just to the court.”

(7) The Tariff Act of 1930 is further amended—

19 USC 1564.

(A) by adding the following sentence at the end of section 564: “The provisions of this section shall apply to licensed customs brokers who otherwise possess a lien for the purposes stated above upon the merchandise under the statutes or common law, or by order of any court of competent jurisdiction, of any State.”; and

19 USC 1520.

(B) by adding the following at the end of section 520(a):
“(4) **PRIOR TO LIQUIDATION.**—Prior to the liquidation of an entry, whenever it is ascertained that excess duties, fees, charges, or exactions have been deposited or paid by reason of clerical error.”.

SEC. 213. SEIZURES AND FORFEITURES.

(a) The Tariff Act of 1930 is amended as follows:

(1) Section 602 (19 U.S.C. 1602) is amended by inserting “aircraft,” after “vehicle,”.

(2) The sentence beginning “All vessels,” in section 605 (19 U.S.C. 1605) is amended by inserting “aircraft,” after “vehicles,” the first place it appears.

(3) Section 606 (19 U.S.C. 1606) is amended by inserting “aircraft,” after “vehicle,”.

(4) Section 607 (19 U.S.C. 1607) is amended to read as follows:

“SEC. 607. SEIZURE; VALUE \$100,000 OR LESS, PROHIBITED MERCHANDISE, TRANSPORTING CONVEYANCES.

“(a) If—

“(1) the value of such seized vessel, vehicle, aircraft, merchandise, or baggage does not exceed \$100,000;

“(2) such seized merchandise is merchandise the importation of which is prohibited; or

“(3) such seized vessel, vehicle, or aircraft was used to import, export, transport, or store any controlled substance; the appropriate customs officer shall cause a notice of the seizure of such articles and the intention to forfeit and sell or otherwise dispose of the same according to law to be published for at least three successive weeks in such manner as the Secretary of the Treasury may direct. Written notice of seizure together with information on the applicable procedures shall be sent to each party who appears to have an interest in the seized article.

“(b) As used in this section, the term ‘controlled substance’ has the meaning given that term in section 102 of the Controlled Substances Act (21 U.S.C. 802).”

(5) Section 608 (19 U.S.C. 1608) is amended—

(A) in the sentence beginning “Any person”, by inserting “aircraft,” after “vehicle,”; and

(B) in the sentence beginning “Upon the filing”, by inserting after “penal sum of” the following: “\$2,500 or 10 percent of the value of the claimed property, whichever is lower, but not less than”.

(6) Section 609 (19 U.S.C. 1609) is amended—

(A) by striking out “If no” and inserting in lieu thereof “(a) If no”;

(B) by inserting “aircraft,” after “vehicle,”;

(C) by inserting after “according to law, and” the following: “(except as provided in subsection (b) of this section)”;

and

(D) by adding at the end the following new subsection:

“(b) During the period beginning on the date of the enactment of this subsection and ending on September 30, 1987, the appropriate customs officer shall deposit the proceeds of sale (after deducting such expenses) in the Customs Forfeiture Fund.”

(7) Section 610 (19 U.S.C. 1610) is amended—

(A) by striking out “VALUE MORE THAN \$10,000” in the section heading and inserting in lieu thereof “JUDICIAL FORFEITURE PROCEEDINGS”; and

(B) by striking out “If the value of any vessel, vehicle, merchandise, or baggage so seized is greater than \$10,000,” and inserting in lieu thereof “If any vessel, vehicle, aircraft, merchandise, or baggage is not subject to section 607 of this Act,”.

(8) Section 611 (19 U.S.C. 1611) is amended by inserting “aircraft,” after “vehicle,” each place it appears.

(9) Section 612 (19 U.S.C. 1612) is amended—

(A) by inserting “aircraft,” after “vehicle,” each place it appears;

(B) in the sentence beginning “Whenever it appears”—

(i) by striking out “Whenever” and inserting in lieu thereof “(a) Whenever”;

(ii) by striking out “the value of”; and

(iii) by striking out “as determined under section 606 of this Act, does not exceed \$10,000” and inserting in lieu thereof “is subject to section 607 of this Act”;

(C) in the sentence beginning “If such value”—

(i) by striking out “such value of”; and

(ii) by striking out “exceeds \$10,000” and inserting in lieu thereof “is not subject to section 607 of this Act,”; and

(D) by adding at the end the following new subsection:
 “(b) If the expense of keeping the vessel, vehicle, aircraft, merchandise, or baggage is disproportionate to the value thereof, and such value is less than \$1,000, such officer may proceed forthwith to order destruction or other appropriate disposition of such property, under regulations prescribed by the Secretary of the Treasury.”.

(10) Section 613 (19 U.S.C. 1613) is amended—

(A) by inserting “aircraft,” after “vehicle,” in the sentence beginning “Except as” in subsection (a);

(B) by striking out “with the Treasurer of the United States as a customs or navigation fine” and inserting in lieu thereof “in the general fund of the Treasury of the United States” in paragraph (3) of the sentence beginning “If no” in subsection (a); and

(C) by amending subsection (b) by inserting after “and (2) of this section” the following: “or subsection (a)(1), (a)(3), or (a)(4) of section 613A of this Act”.

Infra.

(11) Part V of title IV (19 U.S.C. 1581 et seq.) is amended by adding after section 613 the following new section:

19 USC 1613b. “SEC. 613A. CUSTOMS FORFEITURE FUND.

“(a) There is established in the Treasury of the United States a fund to be known as the Customs Forfeiture Fund (hereinafter in this section referred to as the ‘fund’), which shall be available to the United States Customs Service, subject to appropriation, during the period beginning on the date of the enactment of this section and ending on September 30, 1987. The fund shall be available with respect to seizures and forfeitures by the United States Customs Service under any law enforced or administered by it for payment (to the extent that such payment is not reimbursed under section 524 of this Act)—

19 USC 1524.

“(1) of all proper expenses of the seizure or the proceedings of forfeiture and sale (not otherwise recovered under section 613(a)), including, but not limited to, expenses of inventory, security, maintaining the custody of the property, advertising and sale, and if condemned by the court and a bond for such costs was not given, the costs as taxed by the court;

19 USC 1613.

“(2) of awards of compensation to informers under section 619 of this Act;

19 USC 1619.

“(3) for satisfaction of—

“(A) liens for freight, charges, and contributions in general average, notice of which has been filed with the appropriate customs officer according to law; and

“(B) other liens against forfeited property;

“(4) of amounts authorized by law with respect to remission and mitigation;

“(5) for equipping for law enforcement functions of forfeited vessels, vehicles, and aircraft retained as provided by law for official use by the United States Customs Service; and

Ante, p. 2985.

“(6) of claims of parties in interest to property disposed of under section 612(b) of this Act, in the amounts applicable to such claims at the time of seizure.

In addition to the purposes described in paragraphs (1) through (6), the fund shall be available for purchases by the United States Customs Service of evidence of (A) smuggling of controlled substances, and (B) violations of the currency and foreign transaction reporting requirements of chapter 53 of title 31, United States Code,

31 USC 5301
et seq.

if there is a substantial probability that the violations of these requirements are related to the smuggling of controlled substances.

“(b)(1) Payment under paragraphs (3) and (4) of subsection (a) of this section shall not exceed the value of the property at the time of the seizure.

“(2) Amounts under subsection (a) of this section shall be available, at the discretion of the Commissioner of Customs, to reimburse the applicable appropriation for expenses incurred by the Coast Guard for a purpose specified in such subsection.

“(c) There shall be deposited in the fund during the period beginning on the date of the enactment of this section, and ending on September 30, 1987, all proceeds from forfeiture under any law enforced or administered by the United States Customs Service (after reimbursement of expenses under section 524 of this Act) and all earnings on amounts invested under subsection (d) of this section.

19 USC 1524.

“(d) Amounts in the fund which are not currently needed for the purposes of this section shall be invested in obligations of, or guaranteed by, the United States.

Securities.

“(e) Not later than four months after the end of each fiscal year, the Commissioner of Customs shall transmit to the Congress a report on receipts and disbursements with respect to the fund for such year.

Report.

“(f)(1) There are authorized to be appropriated from the fund for each of the four fiscal years beginning with fiscal year 1984, not more than \$10,000,000.

Appropriation
authorization.

“(2) At the end of each of the first three of such four fiscal years, any amount in the fund in excess of \$10,000,000 shall be deposited in the general fund of the Treasury. At the end of the last of such four fiscal years, any amount in the fund shall be deposited in the general fund of the Treasury, and the fund shall cease to exist.”.

(12) Section 614 (19 U.S.C. 1614) is amended by inserting “aircraft,” after “vehicle,” each place it appears.

(13) Section 615 (19 U.S.C. 1615) is amended—

(A) in the matter before the proviso, by inserting “aircraft,” after “vehicle,” each place it appears; and

(B) in paragraph (1) of the proviso, by striking out “vessel or vehicle” and inserting in lieu thereof “vessel, vehicle, or aircraft”.

(14) Part V of title IV (19 U.S.C. 1581 et seq.), as amended by paragraph (11), is further amended by adding after section 615 the following new section:

“SEC. 616. TRANSFER OF FORFEITED PROPERTY.

19 USC 1616a.

“(a) The Secretary of the Treasury may discontinue forfeiture proceedings under this Act in favor of forfeiture under State law. If a complaint for forfeiture is filed under this Act, the Attorney General may seek dismissal of the complaint in favor of forfeiture under State law.

“(b) If forfeiture proceedings are discontinued or dismissed under this section—

“(1) the United States may transfer the seized property to the appropriate State or local official; and

“(2) notice of the discontinuance or dismissal shall be provided to all known interested parties.

“(c) The Secretary of the Treasury may transfer any property forfeited under this Act to any State or local law enforcement

agency which participated directly in the seizure or forfeiture of the property.

“(d) The United States shall not be liable in any action relating to property transferred under this section if such action is based on an act or omission occurring after the transfer.”.

(15) Section 619 (19 U.S.C. 1619) is amended—

(A) by inserting “aircraft,” after “vehicle,” each place it appears, and

(B) by striking out “\$50,000” each place it appears and inserting in lieu thereof “\$250,000”.

(16) The sentence beginning “Whenever any” in section 618 (19 U.S.C. 1618) is amended by inserting “aircraft,” after “vehicle,” each place it appears.

(17) Part V of title IV (19 U.S.C. 1581 et seq.), as amended by paragraphs (11) and (13), is further amended by adding after section 588 the following new section:

19 USC 1589a.

“SEC. 589. ENFORCEMENT AUTHORITY OF CUSTOMS OFFICERS.

“Subject to the direction of the Secretary of the Treasury, an officer of the customs may—

“(1) carry a firearm;

“(2) execute and serve any order, warrant, subpoena, summons, or other process issued under the authority of the United States;

“(3) make an arrest without a warrant for any offense against the United States committed in the officer's presence or for a felony, cognizable under the laws of the United States committed outside the officer's presence if the officer has reasonable grounds to believe that the person to be arrested has committed or is committing a felony; and

“(4) perform any other law enforcement duty that the Secretary of the Treasury may designate.”.

26 USC 7607.

(b)(1) Section 7607 of the Internal Revenue Code of 1954 is repealed.

(2) The table of sections for subchapter A of chapter 78 of the Internal Revenue Code of 1954 is amended by striking out the item relating to section 7607.

19 USC 1304
note.

SEC. 214. EFFECTIVE DATES.

(a) For purposes of this section, the term “15th day” means the 15th day after the date of the enactment of this Act.

(b) Except as provided in subsections (c), (d), and (e), the amendments made by this title shall take effect on the 15th day.

(c)(1) The amendment made by section 204 shall apply with respect to vessels returning from the British Virgin Islands on or after the 15th day.

(2) The amendments made by section 207 shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day; except for such of those articles that, on or before the 15th day, had been taken on board for transit to the customs territory of the United States.

(3)(A) The amendment made by section 208 shall apply with respect to entries made in connection with arrivals of vessels on or after the 15th day.

(B) Upon request therefor filed with the customs officer concerned on or before the 90th day after the date of the enactment of this Act, any entry in connection with the arrival of a vessel used primarily for transporting passengers or property—

- (i) made before the 15th day but not liquidated as of January 1, 1983, or
 - (ii) made before the 15th day but which is the subject of an action in a court of competent jurisdiction on September 19, 1983, and
 - (iii) with respect to which there would have been no duty if the amendment made by section 208 applied to such entry, shall, notwithstanding the provisions of section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, be liquidated or reliquidated as though such entry had been made on the 15th day.
- (4) The amendments made by section 209 shall apply with respect to articles launched into space from the customs territory of the United States on or after January 1, 1985.
- (5)(A) The amendment made by section 210(a) shall take effect on the 30th day after the date of the enactment of this Act.
- (B) The amendment made by section 210(b) shall apply with respect to determinations made or ordered on or after the date of the enactment of this Act.
- (d)(1) The amendments made by section 212 shall take effect upon the close of the 180th day following the date of the enactment of this Act with the following exceptions:
- (A) Section 641(c)(1)(B) and section 641(c)(2) of the Tariff Act of 1930, as added by such section, shall take effect three years after the date of the enactment of this Act.
 - (B) The amendments made to the Tariff Act of 1930 by subsection (c) of section 212 shall take effect on such date of enactment.
- (2) A license in effect on the date of enactment of this Act under section 641 of the Tariff Act of 1930 (as in effect before such date of enactment) shall continue in force as a license to transact customs business as a customs broker, subject to all the provisions of section 212 and such licenses shall be accepted as permits for the district or districts covered by that license.
- (3) Any proceeding for revocation or suspension of a license instituted under section 641 of the Tariff Act of 1930 before the date of the enactment of this Act shall continue and be governed by the law in effect at the time the proceeding was instituted.
- (4) If any provision of section 212 or its application to any person or circumstances is held invalid, it shall not affect the validity of the remaining provisions or their application to any other person or circumstances.
- (e) The amendments made by section 213 shall take effect October 15, 1984.

Subtitle B—Small Business Trade Assistance

SEC. 221. ESTABLISHMENT OF TRADE REMEDY ASSISTANCE OFFICE IN THE UNITED STATES INTERNATIONAL TRADE COMMISSION.

Part 2 of title II of the Tariff Act of 1930 (19 U.S.C. 1330-1341) is amended by inserting after section 338 the following new section:

“SEC. 339. TRADE REMEDY ASSISTANCE OFFICE.

19 USC 1339.

“(a) There is established in the Commission a Trade Remedy Assistance Office which shall provide full information to the public, upon request, concerning—

“(1) remedies and benefits available under the trade laws, and

“(2) the petition and application procedures, and the appropriate filing dates, with respect to such remedies and benefits.

“(b) Each agency responsible for administering a trade law shall provide technical assistance to eligible small businesses to enable them to prepare and file petitions and applications (other than those which, in the opinion of the agency, are frivolous) to obtain the remedies and benefits that may be available under that law.

“(c) For purposes of this section—

“(1) The term ‘eligible small business’ means any business concern which, in the agency’s judgment, due to its small size, has neither adequate internal resources nor financial ability to obtain qualified outside assistance in preparing and filing petitions and applications for remedies and benefits under trade laws. In determining whether a business concern is an ‘eligible small business’, the agency may consult with the Small Business Administration, and shall consult with any other agency that has provided assistance under subsection (b) to that business concern. An agency decision regarding whether a business concern is an eligible small business for purposes of this section is not reviewable by any other agency or by any court.

“(2) The term ‘trade laws’ means—

“(A) chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq., relating to relief caused by import competition);

“(B) chapters 2 and 3 of such title II (relating to adjustment assistance for workers and firms);

“(C) chapter 1 of title III of the Trade Act of 1974 (19 U.S.C. 2411 et seq., relating to relief from foreign import restrictions and export subsidies);

“(D) title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq., relating to the imposition of countervailing duties and antidumping duties);

“(E) section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862, relating to the safeguarding of national security); and

“(F) section 337 of the Tariff Act of 1930 (19 U.S.C. 1337, relating to unfair practices in import trade).”

(b) Section 339 of the Tariff Act of 1930 (as added by subsection (a)) shall take effect on the 90th day after the date of the enactment of this Act.

Subtitle C—Miscellaneous Provisions

SEC. 231. FOREIGN TRADE ZONE PROVISIONS.

(a)(1) The Congress finds that a delicate balance of the interests of the bicycle industry and the bicycle component parts industry has been reached through repeated revision of the Tariff Schedules of the United States so as to allow duty free import of those categories of bicycle component parts which are not manufactured domestically. The Congress further finds that this balance would be destroyed by exempting otherwise dutiable bicycle component parts from the customs laws of the United States through granting foreign trade zone status to bicycle manufacturing and assembly plants in the United States and that the preservation of such balance is in the public interest and in the interest of the domestic bicycle industry.

(2) Section 3 of the Act of June 18, 1934 (commonly known as the Foreign Trade Zones Act (19 U.S.C. 81c)), is amended—

19 USC 2271 et
seq., 2341 et seq.

Effective date.
19 USC 1339
note.

Bicycle
components.

(A) by inserting “(a)” immediately before the first word thereof;

(B) by redesignating paragraphs (a) and (b) as paragraphs (1) and (2), respectively; and

(C) by adding at the end thereof the following new subsection:

“(b) The exemption from the customs laws of the United States provided under subsection (a) shall not be available before June 30, 1986, to bicycle component parts unless such parts are reexported from the United States, whether in the original package, as components of a completely assembled bicycle, or otherwise.”.

(3) The amendments made by paragraph (2) shall take effect on the fifteenth day after the date of the enactment of this Act.

Effective date.
19 USC 81c note.

(b)(1) Section 15 of such Act of June 18, 1934 (19 U.S.C. 81c) is amended by adding at the end thereof the following new subsection:

“(e) Tangible personal property imported from outside the United States and held in a zone for the purpose of storage, sale, exhibition, repackaging, assembly, distribution, sorting, grading, cleaning, mixing, display, manufacturing, or processing, and tangible personal property produced in the United States and held in a zone for exportation, either in its original form or as altered by any of the above processes, shall be exempt from State and local ad valorem taxation.”.

(2) The amendment made by paragraph (1) shall take effect on January 1, 1983.

Effective date.
19 USC 81c note.

SEC. 232. DENIAL OF DEDUCTION FOR CERTAIN FOREIGN ADVERTISING EXPENSES.

(a) Section 162 of the Internal Revenue Code of 1954 (relating to trade or business expenses) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

26 USC 162.

“(j) CERTAIN FOREIGN ADVERTISING EXPENSES.—

“(1) IN GENERAL.—No deduction shall be allowed under subsection (a) for any expenses of an advertisement carried by a foreign broadcast undertaking and directed primarily to a market in the United States. This paragraph shall apply only to foreign broadcast undertakings located in a country which denies a similar deduction for the cost of advertising directed primarily to a market in the foreign country when placed with a United States broadcast undertaking.

“(2) BROADCAST UNDERTAKING.—For purposes of paragraph (1), the term ‘broadcast undertaking’ includes (but is not limited to) radio and television stations.”.

(b) The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

Effective date.
26 USC 162 note.

SEC. 233. CERTAIN RELICS AND CURIOS.

Section 925 of title 18, United States Code, is amended by inserting at the end thereof the following:

“(e) Notwithstanding any other provision of this title, the Secretary shall authorize the importation of, by any licensed importer, the following:

Firearms.

“(1) All rifles and shotguns listed as curios or relics by the Secretary pursuant to section 921(a)(13), and

18 USC 921.

“(2) All handguns, listed as curios or relics by the Secretary pursuant to section 921(a)(13), provided that such handguns are

generally recognized as particularly suitable for or readily adaptable to sporting purposes.”.

SEC. 234. MODIFICATION OF DUTIES ON CERTAIN ARTICLES USED IN CIVIL AVIATION.

(a) The President may proclaim modifications in the rate of duty column numbered 1 and in the article descriptions, including the superior headings thereto, for the articles provided for in the following items in the Tariff Schedules of the United States (19 U.S.C. 1202) in order to provide duty-free coverage comparable to the expanded coverage provided by all other signatories to the Agreement on Trade in Civil Aircraft pursuant to the extension of the Annex to the Agreement on Trade in Civil Aircraft on October 6, 1983, and recorded in the decision of the Committee on March 22, 1984, if such articles are certified for use in civil aircraft in accordance with headnote 3 to schedule 6, part 6, subpart C of such Schedules:

646.95	680.95	708.05
660.85	681.01	708.07
660.97	681.15	708.09
661.06	681.18	708.21
661.10	681.21	708.23
661.15	681.24	708.25
661.20	682.05	708.27
661.35	683.05	708.29
680.59	683.07	711.77
680.61	683.15	711.78
680.62	708.01	711.98
680.92	708.03	711.49.

- 19 USC 2135. (b) For purposes of section 125 of the Trade Act of 1974, the duty-free treatment, if any, proclaimed under subsection (a) shall be considered to be trade agreement obligations entered into under the Trade Act of 1974 of benefit to foreign countries or instrumentalities.
- 19 USC 2101.

SEC. 235. PRODUCTS OF CARIBBEAN BASIN COUNTRIES ENTERED IN PUERTO RICO.

Subsection (a) of section 213 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703) is amended by adding at the end thereof the following new paragraph:

- 19 USC 1311. “(3) Notwithstanding section 311 of the Tariff Act of 1930, the products of a beneficiary country which are imported directly from such country into Puerto Rico may be entered under bond for processing or use in manufacturing in Puerto Rico. No duty shall be imposed on the withdrawal from warehouse of the product of such processing or manufacturing if, at the time of such withdrawal, such product meets the requirements of paragraph (1)(B).”.

SEC. 236. USER FEE FOR CUSTOMS SERVICES AT CERTAIN SMALL AIRPORTS.

- 19 USC 58b. (a) The Secretary of the Treasury shall make customs services available and charge a fee for the use of such customs services at—
- (1) the airport located at Lebanon, New Hampshire, and
 - (2) any other airport designated by the Secretary of the Treasury under subsection (c).

(b) The fee which is charged under subsection (a) shall be paid by each person using the customs services at the airport and shall be in an amount equal to the expenses incurred by the Secretary of the Treasury in providing the customs services which are rendered to such person at such airport (including the salary and expenses of individuals employed by the Secretary of the Treasury to provide such customs services).

(c) The Secretary of the Treasury may designate 4 airports under this subsection. An airport may be designated under this subsection only if—

(1) the Secretary of the Treasury has made a determination that the volume or value of business cleared through such airport is insufficient to justify the availability of customs services at such airport, and

(2) the governor of the State in which such airport is located approves such designation.

(d) Any person who, after notice and demand for payment of any fee charged under subsection (a), fails to pay such fee shall be guilty of a misdemeanor and if convicted thereof shall pay a fine that does not exceed an amount equal to 200 percent of such fee.

(e) Fees collected by the Secretary of the Treasury under subsection (a) with respect to the provision of services at an airport shall be deposited in an account within the Treasury of the United States that is specially designated for such airport. The funds in such account shall only be available, as provided by appropriation Acts, for expenditures relating to the provision of customs services at such airport (including expenditures for the salaries and expenses of individuals employed to provide such services).

SEC. 237. NOTIFICATION OF CERTAIN ACTIONS BY THE UNITED STATES CUSTOMS SERVICE.

(a) The Commissioner of Customs shall notify the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives at least 90 days prior to initiating any major field reorganization or consolidation or taking any other action which would—

(1) result in a significant reduction in force of employees other than by means of attrition;

(2) eliminate or relocate any district, regional, or border office of the United States Customs Service; or

(3) significantly reduce the number of employees assigned to any district, regional, or border office of the United States Customs Service.

(b) The provisions of this section shall not apply after September 30, 1985.

Effective dates.

(c) The amendment made by subsection (a) shall take effect after the effective date of any provision of law enacted by the 98th Congress that would, but for this section, limit the authority of the Commissioner of Customs to reorganize or consolidate any district, regional, or border office of the Service.

SEC. 238. COLUMBIA-SNAKE CUSTOMS DISTRICT.

The Commissioner of the United States Customs Service shall establish a customs district that shall—

19 USC 2 note.

(1) be known as the Columbia-Snake Customs District;

(2) have headquarters at Portland, Oregon; and

(3) consist of the following areas:

- (A) The State of Oregon.
- (B) That part of the State of Idaho below 47 latitude.
- (C) The following counties in the State of Washington:
 - Adams,
 - Asotin,
 - Benton,
 - Clark,
 - Columbia,
 - Cowlitz,
 - Franklin,
 - Garfield,
 - Klickitat,
 - Skamania,
 - Wahkiakum,
 - Walla Walla, and
 - Whitman.
- (D) That area of Pacific County, State of Washington, south of a line that would be in effect if the northern boundary of Wahkiakum County were extended westward to the Pacific Ocean.

The ports of entry for Columbia-Snake Customs District are those ports of entry that were within the areas described in paragraph (3) on the date of the enactment of this Act; except that Boise, Idaho, is an additional port of entry for that District.

SEC. 239. RELIQUIDATION OF CERTAIN MASS SPECTROMETER SYSTEMS.

19 USC 1514,
1520.

Notwithstanding sections 514 and 520 of the Tariff Act of 1930 and any other provision of law, the Secretary of the Treasury is authorized to reliquidate within six months of the date of enactment of this Act the entry of 2 mass spectrometer systems—

(1) which were imported into the United States for the use of Montana State University, Bozeman, Montana, and

(2) with respect to which applications were filed with the International Trade Administration of the Department of Commerce for duty-free entry of scientific instruments that were assigned the docket numbers 82-00323 and 83-108 (described in 47 Federal Register 41409 and 48 Federal Register 13214, respectively),

if the Secretary of Commerce finds that these systems are eligible to enter free of duty pursuant to headnote 6 of part 4 of schedule 8 of the Tariff Schedules of the United States.

SEC. 240. MAX PLANCK INSTITUTE FOR RADIOASTRONOMY.

(a)(1) The Secretary of the Treasury is authorized and directed to admit free of duty any article provided by the Max Planck Institute for Radioastronomy of the Federal Republic of Germany to the joint astronomical project being undertaken by the Steward Observatory of the University of Arizona and the Max Planck Institute for the construction, installation, and operation of a sub-mm telescope in the State of Arizona if—

(A) such article is an instrument or apparatus (within the meaning of headnote 6(a) of part 4 of schedule 8 of the Tariff Schedules of the United States (19 U.S.C. 1202)), and

(B) no instruments or apparatus of equivalent scientific value for the purposes for which such article is intended to be used is being manufactured in the United States.

(2) For purposes of paragraph 1(B), scientific testing equipment provided by the Max Planck Institute and necessary for aligning, calibrating, or otherwise testing an instrument or apparatus shall be considered to be part of such instrument or apparatus.

(b) The University of Arizona or the Max Planck Institute shall submit to the United States Customs Service and to the International Trade Administration descriptions of the articles sought to be admitted free of duty containing sufficient detail to allow the United States Customs Service to determine whether subsection (a)(1)(A) is satisfied and the International Trade Administration to determine whether subsection (a)(1)(B) is satisfied. The descriptions may be submitted in a single or in several submissions to each agency, as the University of Arizona or the Max Planck Institute deem appropriate during the course of the project. The United States Customs Service and the International Trade Administration are directed to make their respective determinations under this section within ninety days of the date the agency receives a sufficient submission of information with respect to any article.

(c) The Secretary of the Treasury is authorized and directed to readmit free of duty any article admitted free of duty under subsection (a) and subsequently returned to the Federal Republic of Germany for repair, replacement, or modification.

(d) The Secretary of the Treasury is authorized and directed to admit free of duty any repair components for articles admitted free of duty under subsection (a).

(e) If any article admitted free of duty under subsection (a) is used for any purpose other than the joint project described in subsection (a)(1) within five years after being entered, duty on the article shall be assessed in accordance with the procedures established in headnote 1 of part 4 of schedule 8 (19 U.S.C. 1202).

(f) The provisions of subsection (a) shall apply with respect to articles entered for consumption after the day which is 15 days after the date of enactment of this Act and before November 1, 1993.

Effective date.

SEC. 241 DUTY-FREE ENTRY FOR RESEARCH EQUIPMENT FOR NORTH DAKOTA STATE UNIVERSITY, FARGO, NORTH DAKOTA.

The research equipment that was imported for the use of North Dakota State University, Fargo, North Dakota, and entered on September 15, 1983, under entry number 83-116431-9, at Seattle, Washington, shall be considered to have been admitted free of duty as of the date of such entry. If the liquidation of such entry has become final, the Secretary of the Treasury shall reliquidate such entry and make the appropriate refund of any duty paid on such equipment.

SEC. 242. DUTY-FREE ENTRY FOR PIPE ORGAN FOR THE CRYSTAL CATHEDRAL GARDEN GROVE, CALIFORNIA.

The pipe organ which was imported for the use of the Crystal Cathedral of Garden Grove, California, and entered in six shipments between April 30, 1981, and April 8, 1982, at Los Angeles, California, shall be considered to have been admitted free of duty as of the date of each such entry. If the liquidation of any such entry has become final, the Secretary of the Treasury shall reliquidate each such entry and make the appropriate refund of any duty paid on such organ.

SEC. 243. DUTY-FREE ENTRY FOR SCIENTIFIC EQUIPMENT FOR THE ELLIS FISCHEL STATE CANCER HOSPITAL, COLUMBIA, MISSOURI.

19 USC 1654.

Notwithstanding any provision of the Tariff Act of 1930 or any other provisions of the law to the contrary, the Secretary of the Treasury shall reliquidate, as duty free, the entries numbered 220286 (dated November 7, 1975) and 235380 (dated January 23, 1976) made at Chicago, Illinois, and covering scientific equipment for the use of the Ellis Fischel Cancer Hospital, Columbia, Missouri, in accordance with the decision of the Department of Commerce in docket numbered 76-00199-33-00530.

SEC. 244. DUTY-FREE ENTRY OF ORGANS IMPORTED FOR THE USE OF TRINITY CATHEDRAL OF CLEVELAND, OHIO.

The organs made by Flentrop Orgel Bouw, the Netherlands, that were imported for the use of Trinity Cathedral of Cleveland, Ohio, and entered during 1973-1978 shall be considered to have been admitted free of duty on the dates of entry. If the liquidation of any such entry has become final, the Secretary of the Treasury, if request therefor is filed with the appropriate customs officer within 180 days after the date of the enactment of this Act, shall reliquidate the entry and make the appropriate refund of any duty paid.

SEC. 245. SENSE OF CONGRESS REGARDING POSSIBLE EEC ACTION ON CORN GLUTEN.

Whereas—

(1) the European Council of Ministers has directed the Commission of the European Community (EC) to initiate consultations with the United States and other interested parties under article XXVIII of the General Agreement on Tariffs and Trade (GATT) for the purpose of imposing tariff or tariff quota restrictions on imports of nongrain feed ingredients, including corn gluten feed;

(2) the EC has considered proposals to impose a domestic consumption tax on vegetable fats and oils, which would undermine the intention of the duty-free binding on certain corn and soybean products imported from the United States;

(3) the EC has bound in the GATT that it will impose no import duties on soybeans, soybean meal, corn gluten feed, and other corn by-products, and such zero-tariff bindings were agreed to in return for United States trade concessions to the EC during previous rounds of trade negotiations;

(4) the EC has not demonstrated sound economic justification for restrictions on the import of nongrain feed ingredients and such restrictions would only shift the financial burden of EC Common Agricultural Policy (CAP) reform from the EC to other countries, with negligible improvement in the current EC budget situation;

(5) action by the EC to breach a negotiated concession would severely erode the basic GATT principle of comparative advantage and set a dangerous precedent which could threaten other previously negotiated concessions and serve as a precursor to restrictions on the import of soybeans and soybean products; and

(6) the official position of the United States, as stated by the Secretary of Agriculture, is that there is strong support for the EC efforts to balance the Agricultural budget, but that the

United States will oppose any efforts to limit its exports of corn gluten feed to the EC;
it is the sense of Congress that—

(A) the President should continue to firmly oppose the imposition of any restriction on European Community imports of nongrain feed ingredients, including corn gluten, and should support the current duty-free binding on such products;

(B) the President should continue to rigorously oppose any European Community proposals which would violate the intent of the existing duty-free binding in the General Agreement on Tariffs and Trade on soybeans and soybean products and reaffirm the United States conviction that the imposition of a consumption tax on vegetable fats and oils by the European Community would represent a restraint of trade; and

(C) if unilateral action is taken by the European Community to restrict or inhibit the importation of either nongrain feed ingredients, including corn gluten feed, or vegetable fats and oils, including soybean products, the United States should act immediately to restrict European Community imports of at least the aggregate value of the reduced and potentially reduced United States export products.

SEC. 246. STUDY ON HONEY IMPORTS.

(a) The Senate finds that—

(1) in 1976 the International Trade Commission found that honey imports threatened serious injury to the domestic honey industry and recommended action to control honey imports,

(2) the domestic honey industry is essential for production of many agricultural crops,

(3) a significant part of our total diet is dependent directly or indirectly on insect pollination, and

(4) it is imperative that the domestic honey bee industry be maintained at a level sufficient to provide crop pollination.

(b) It is the sense of the Senate that the Secretary of Agriculture should promptly request the President to call for an International Trade Commission investigation of honey imports, under section 22 of the Agriculture Adjustment Act.

7 USC 624.

SEC. 247. COPPER IMPORTS.

(a) The Congress finds that—

(1) the United States International Trade Commission unanimously found that the United States copper producing industry is being seriously injured by copper imports;

(2) worldwide copper prices are at record low levels;

(3) foreign copper producers have increased their copper production in spite of depressed world prices in an effort to meet their external debt obligations;

(4) United States copper production has been reduced by over forty percent and over half of the work force has been laid off;

(5) continuation of the current depressed world price for copper threatens severe economic distress for less developed countries which are dependent on copper exports as their major source of foreign exchange;

(6) the competitiveness of United States copper producers could be enhanced through the investment which could be generated if worldwide copper prices returned to more historically representative levels; and

(7) a balanced reduction in foreign copper production which raises marginally the world price for copper would not disadvantage domestic fabricators by creating a two-tier pricing system.

(b) It is the sense of Congress that the President should negotiate with the principal foreign copper-producing countries to conclude voluntary restraint agreements with those governments for the purpose of effecting a balanced reduction of total annual foreign copper production for a period of between three and five years in order to—

(1) allow the price of copper on international markets to rise modestly to levels which will permit the remaining copper operations located in the United States to attract needed capital, and

(2) achieve a secure domestic supply of copper.

Report.

(c) It is the further sense of the Congress that the President should submit a report to Congress, within twelve months of the date of enactment of this Act, explaining—

(1) the results of his negotiations; or

(2) why he felt it was inappropriate or unnecessary to undertake such negotiations.

SEC. 248. DISAPPROVAL OF PRESIDENTIAL DETERMINATIONS UNDER SECTION 203 OF THE TRADE ACT OF 1974.

(a)(1) Section 203(c)(1) of the Trade Act of 1974 (19 U.S.C. 2253(c)(1)) is amended to read as follows:

19 USC 2251. “(1) If the President reports under subsection (b) that he is taking action which differs from the action recommended by the Commission under section 201(d)(1)(A), or that he will not provide import relief, the action recommended by the Commission shall take effect (as provided in paragraph (2)) upon enactment of a joint resolution described in section 152(a)(1)(A) within the 90-day period beginning on the date on which the document referred to in subsection (b) is transmitted to the Congress.”

19 USC 2252.

(2) Section 203(c)(2) of the Trade Act of 1974 (19 U.S.C. 2253(c)(2)) is amended—

(A) by striking out “adoption of such resolution” and inserting in lieu thereof “enactment of the joint resolution referred to in paragraph (1)”, and

(B) by striking out “section 201(b)” and inserting in lieu thereof “section 201(d)”.

(b) Section 152(a)(1)(A) of the Trade Act of 1974 (19 U.S.C. 2192(a)(1)(A)) is amended by striking out “concurrent resolution” and inserting in lieu thereof “joint resolution”.

(c) Section 330(d)(4) of the Tariff Act of 1930 (19 U.S.C. 1330(d)(4)) is amended by striking out “the concurrent resolution described in such section 152” and inserting in lieu thereof “the joint resolution described in such section 152(a)(1)(A)”.

SEC. 249. SECTION 201 CRITERIA.

Section 201(b) of the Trade Act of 1974 (19 U.S.C. 2251(b)) is amended—

(1) by amending paragraph (2)—

(A) by inserting “(whether maintained by domestic producers, importers, wholesalers, or retailers)” after “inventory” in subparagraph (B),

(B) by striking out “and” at the end of subparagraph (B),

(C) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof “; and”, and

(D) by adding at the end thereof the following:

“(D) the presence or absence of any factor which the Commission is required to evaluate in subparagraphs (A) and (B) shall not necessarily be dispositive of whether an article is being imported into the United States in such increased quantities as to be a substantial cause of serious injury or threat of serious injury to the domestic industry.”; and

(2) by adding at the end thereof the following new paragraph:

“(7) For purposes of this section, the term ‘significant idling of productive facilities’ includes the closing of plants or the underutilization of production capacity.”.

SEC. 250. HOGS AND PORK PRODUCTS FROM CANADA.

The pork industry contributes \$9,000,000,000 annually to the United States economy;

Over four hundred and fifty thousand United States farmers produce pork for domestic and foreign markets;

United States imports of live hogs from Canada averaged one hundred thousand animals each year between 1970 and 1974, yet since 1981, such imports have increased yearly from one hundred and forty-six thousand head to an estimated more than one million head in 1984;

The adverse economic effect of the recent surge in imports of Canadian hogs and pork products on United States pork producers has been estimated to be in excess of \$500,000,000 in 1982 and 1983, and approximately \$300,000,000 during the first five months of 1984;

The Canadian Government provides price support for hogs at a level equal to 90 per centum of the previous five-year average market price, indexed for changes in cash costs of production of hogs, which represented a payment of \$6.54 per head to Canadian pork producers last year, and all but one provincial government of Canada also provide direct production assistance to support Canadian pork producers; and

It is essential that the administration act immediately to address the threat to the United States pork production industry caused by the dramatic increase in imports of hogs and pork products from Canada.

It is the sense of the Senate that the President should direct appropriate members of the administration, including the United States Trade Representative, the Secretary of Agriculture, and the Secretary of Commerce, to aggressively pursue discussions with the Canadian Government directed toward resolving this situation and use all available authorities in an effort to protect the economic viability of the United States pork industry and to promote free and fair trade.

SEC. 251. COPYRIGHT PROTECTION OF COMPUTER SOFTWARE.

Since the development of computer software and other information technologies is increasingly important to economic growth and productivity in the United States and other nations;

Since the United States is the world leader in the technological development of computer software and in the production and sale of computer software;

Since the United States has since 1964 considered computer software a work of authorship protected by copyright and this form

of intellectual property right protection has served to encourage continuing research, development, and innovation of computer software;

Since copyright protection is afforded computer software by most industrialized nations including Japan, the Netherlands, France, the Federal Republic of Germany, the United Kingdom, South Africa, Hungary, Taiwan, and Australia;

Since Japan is reviewing a proposal to abandon copyright protection of software and to adopt a system that rejects the principle that software is a work of authorship;

Since Japan is reviewing a proposal that also provides broadly for the compulsory licensing of software; and

Since the enactment by Japan of such a proposal could prompt the adoption of similar proposals by other nations currently considering this question, with serious adverse effects on the existing international order for the protection of intellectual property rights: Now, therefore, be it

Declared that it is the sense of the Congress that—

(1) copyright protection is an essential form of intellectual property right protection for computer software;

(2) any proposal to abandon copyright protection of software or to provide a new system of legal protection that incorporates compulsory licensing of software would (A) disserve the goal of promoting continuing development and innovation in computer software; (B) undermine the international consensus that computer software is a work of authorship protected by copyright; (C) result in economic harm to the computer software industry of the United States, and also of Japan and of other nations; and (D) contribute to increasing trade tensions among the nations of the world; and

(3) if a nation withdraws copyright protection of software or provides for broad compulsory licensing of software, it would be in the interests of the United States and other nations to seek appropriate relief, including that provided under the Universal Copyright Convention, to ensure the just protection of intellectual property rights and the promotion of free and fair trade.

International
Trade and
Investment Act.

TITLE III—INTERNATIONAL TRADE AND INVESTMENT

SEC. 301. SHORT TITLE; AMENDMENT OF TRADE ACT OF 1974.

(a) This title may be cited as the “International Trade and Investment Act”.

(b) Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Trade Act of 1974.

SEC. 302. STATEMENT OF PURPOSES.

The purposes of this title are—

(1) to foster the economic growth of, and full employment in, the United States by expanding competitive United States exports through the achievement of commercial opportunities in foreign markets substantially equivalent to those accorded by the United States;

19 USC 2101
note.

19 USC 2101.

19 USC 2102
note.

- (2) to improve the ability of the President—
 - (A) to identify and to analyze barriers to (and restrictions on) United States trade and investment, and
 - (B) to achieve the elimination of such barriers and restrictions;
- (3) to encourage the expansion of—
 - (A) international trade in services through the negotiation of agreements (both bilateral and multilateral) which reduce or eliminate barriers to international trade in services, and
 - (B) United States service industries in foreign commerce; and
- (4) to enhance the free flow of foreign direct investment through the negotiation of agreements (both bilateral and multilateral) which reduce or eliminate the trade distortive effects of certain investment-related measures.

SEC. 303. ANALYSIS OF FOREIGN TRADE BARRIERS.

(a) Title I (19 U.S.C. 2111 et seq.) is amended by adding at the end thereof the following new chapter:

“CHAPTER 8—BARRIERS TO MARKET ACCESS

“SEC. 181. ACTIONS CONCERNING BARRIERS TO MARKET ACCESS.

19 USC 2241.

“(a) **NATIONAL TRADE ESTIMATES.—**

“(1) **IN GENERAL.—**Not later than the date on which the initial report is required under subsection (b)(1), the United States Trade Representative, through the interagency trade organization established pursuant to section 242(a) of the Trade Expansion Act of 1962 shall—

19 USC 1872.

“(A) identify and analyze acts, policies, or practices which constitute significant barriers to, or distortions of—

“(i) United States exports of goods or services (including agricultural commodities; and property protected by trademarks, patents, and copyrights exported or licensed by United States persons), and

“(ii) foreign direct investment by United States persons, especially if such investment has implications for trade in goods or services; and

“(B) make an estimate of the trade-distorting impact on United States commerce of any act, policy, or practice identified under subparagraph (A).

“(2) **CERTAIN FACTORS TAKEN INTO ACCOUNT IN MAKING ANALYSIS AND ESTIMATE.—**In making any analysis or estimate under paragraph (1), the Trade Representative shall take into account—

“(A) the relative impact of the act, policy, or practice on United States commerce;

“(B) the availability of information to document prices, market shares, and other matters necessary to demonstrate the effects of the act, policy, or practice;

“(C) the extent to which such act, policy, or practice is subject to international agreements to which the United States is a party; and

“(D) any advice given through appropriate committees established pursuant to section 135.

19 USC 2155.

“(3) ANNUAL REVISIONS AND UPDATES.—The Trade Representative shall annually revise and update the analysis and estimate under paragraph (1).

“(b) REPORT TO CONGRESS.—

Ante, p. 3000.

“(1) IN GENERAL.—On or before the date which is one year after the date of the enactment of the International Trade and Investment Act, and each year thereafter, the Trade Representative shall submit the analysis and estimate under subsection (a) to the Committee on Finance of the Senate and to the Committee on Ways and Means of the House of Representatives.

“(2) REPORTS TO INCLUDE INFORMATION WITH RESPECT TO ACTION BEING TAKEN.—The Trade Representative shall include in each report submitted under paragraph (1) information with respect to any action taken (or the reasons for no action taken) to eliminate any act, policy, or practice identified under subsection (a), including, but not limited to—

“(A) any action under section 301, or

“(B) negotiations or consultations with foreign governments.

“(3) CONSULTATION WITH CONGRESS ON TRADE POLICY PRIORITIES.—The Trade Representative shall keep the committees described in paragraph (1) currently informed with respect to trade policy priorities for the purposes of expanding market opportunities.

“(c) ASSISTANCE OF OTHER AGENCIES.—

“(1) FURNISHING OF INFORMATION.—The head of each department or agency of the executive branch of the Government, including any independent agency, is authorized and directed to furnish to the Trade Representative or to the appropriate agency, upon request, such data, reports, and other information as is necessary for the Trade Representative to carry out his functions under this section.

“(2) RESTRICTIONS ON RELEASE OR USE OF INFORMATION.—Nothing in this subsection shall authorize the release of information to, or the use of information by, the Trade Representative in a manner inconsistent with law or any procedure established pursuant thereto.

“(3) PERSONNEL AND SERVICES.—The head of any department, agency, or instrumentality of the United States may detail such personnel and may furnish such services, with or without reimbursement, as the Trade Representative may request to assist in carrying out his functions.”.

(b) The table of contents for title I is amended by adding at the end thereof the following:

“CHAPTER 8—BARRIERS TO MARKET ACCESS

“Sec. 181. Actions concerning barriers to market access.”.

SEC. 304. AMENDMENTS TO TITLE III OF THE TRADE ACT OF 1974.

(a) Section 301(a) (19 U.S.C. 2411(a)) is amended to read as follows:

“(a) DETERMINATIONS REQUIRING ACTION.—

President of U.S.

“(1) IN GENERAL.—If the President determines that action by the United States is appropriate—

“(A) to enforce the rights of the United States under any trade agreement; or

“(B) to respond to any act, policy, or practice of a foreign country or instrumentality that—

“(i) is inconsistent with the provisions of, or otherwise denies benefits to the United States under, any trade agreement, or

“(ii) is unjustifiable, unreasonable, or discriminatory and burdens or restricts United States commerce;

the President shall take all appropriate and feasible action within his power to enforce such rights or to obtain the elimination of such act, policy, or practice.

“(2) SCOPE OF ACTION.—The President may exercise his authority under this section with respect to any goods or sector—

“(A) on a nondiscriminatory basis or solely against the foreign country or instrumentality involved, and

“(B) without regard to whether or not such goods or sector were involved in the act, policy, or practice identified under paragraph (1).”

(b) Section 301(b) (19 U.S.C. 2411(b)) is amended—

(1) by striking out “and” at the end of paragraph (1);

(2) by inserting “, notwithstanding any other provision of law,” before “fees” in paragraph (2); and

(3) by striking out “products” in paragraph (2) and inserting in lieu thereof “goods”.

(c) Section 301 is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

“(c) ADDITIONAL ACTIONS ON SERVICES.—

“(1) IN GENERAL.—Notwithstanding any other provision of law governing any service sector access authorization, and in addition to the authority conferred in subsection (b), the President may—

“(A) restrict, in the manner and to the extent the President deems appropriate, the terms and conditions of any such authorization, or

“(B) deny the issuance of any such authorization.

“(2) AFFECTED AUTHORIZATIONS.—Actions under paragraph (1) shall apply only with respect to service sector access authorizations granted, or applications therefor pending, on or after the date on which—

“(A) a petition is filed under section 302(a), or

“(B) a determination to initiate an investigation is made by the United States Trade Representative (hereinafter in this chapter referred to as the ‘Trade Representative’) under section 302(c).

Infra.

“(3) CONSULTATION.—Before the President takes action under subsection (b) or (c) involving the imposition of fees or other restrictions on the services of a foreign country, the Trade Representative shall, if the services involved are subject to regulation by any agency of the Federal Government or of any State, consult, as appropriate, with the head of the agency concerned.”

(d)(1) Section 302 (19 U.S.C. 2412) is amended to read as follows:

“SEC. 302. INITIATION OF INVESTIGATIONS BY UNITED STATES TRADE REPRESENTATIVE.

“(a) FILING OF PETITION.—

Ante, p. 3002.

Federal
Register,
publication.

“(1) **IN GENERAL.**—Any interested person may file a petition with the United States Trade Representative (hereinafter in this chapter referred to as the “Trade Representative”) requesting the President to take action under section 301 and setting forth the allegations in support of the request.

“(2) **REVIEW OF ALLEGATIONS.**—The Trade Representative shall review the allegations in the petition and, not later than forty-five days after the date on which he received the petition, shall determine whether to initiate an investigation.

“(b) **DETERMINATIONS REGARDING PETITIONS.**—

“(1) **NEGATIVE DETERMINATION.**—If the Trade Representative determines not to initiate an investigation with respect to a petition, he shall inform the petitioner of the reasons therefor and shall publish notice of the determination, together with a summary of such reasons, in the Federal Register.

“(2) **AFFIRMATIVE DETERMINATION.**—If the Trade Representative determines to initiate an investigation with respect to a petition, he shall initiate an investigation regarding the issues raised. The Trade Representative shall publish a summary of the petition in the Federal Register and shall, as soon as possible, provide opportunity for the presentation of views concerning the issues, including a public hearing—

“(A) within the thirty-day period after the date of the determination (or on a date after such period if agreed to by the petitioner) if a public hearing within such period is requested in the petition; or

“(B) at such other time if a timely request therefor is made by the petitioner or by any interested person.

“(c) **DETERMINATION TO INITIATE BY MOTION OF TRADE REPRESENTATIVE.**—

“(1) **DETERMINATION TO INITIATE.**—If the Trade Representative determines with respect to any matter that an investigation should be initiated in order to advise the President concerning the exercise of the President’s authority under section 301, the Trade Representative shall publish such determination in the Federal Register and such determination shall be treated as an affirmative determination under subsection (b)(2).

“(2) **CONSULTATION BEFORE INITIATION.**—The Trade Representative shall, before making any determination under paragraph (1), consult with appropriate committees established pursuant to section 135.”

19 USC 2155.

19 USC 2171.

(2)(A) Section 141(d) is amended—

(i) by striking out “and” at the end of paragraph (6),

(ii) by striking out the period at the end of paragraph (7) and inserting in lieu thereof a semicolon and “and”, and

(iii) by adding at the end thereof the following new paragraph:

“(8) provide, where authorized by law, copies of documents to persons at cost, except that any funds so received shall be credited to, and be available for use from, the account from which expenditures relating thereto were made.”

(B) Section 303 (19 U.S.C. 2413) is amended—

(i) by striking out “with respect to a petition”;

(ii) by inserting “or the determination of the Trade Representative under section 302(c)(1)” after “in the petition”; and

(iii) by inserting “(if any)” after “petitioner”.

Ante, p. 3003.

(C) Section 304 (19 U.S.C. 2414) is amended by striking out “issues raised in the petition” and inserting in lieu thereof “matters under investigation” in paragraph (1) of subsection (a).

(D) The item relating to section 302 in the table of contents is amended to read as follows:

“Sec. 302. Initiation of Investigations by United States Trade Representative.”.

(e) Section 303 (19 U.S.C. 2413) is amended—

(1) by inserting “(a) IN GENERAL.—” before “On”; and

(2) by adding at the end thereof the following new subsection:

“(b) DELAY OF REQUEST FOR CONSULTATIONS FOR UP TO 90 DAYS.—

“(1) IN GENERAL.—Notwithstanding the provisions of subsection (a)—

“(A) the United States Trade Representative may delay for up to 90 days any request for consultations under subsection (a) for the purpose of verifying or improving the petition to ensure an adequate basis for consultation, and

“(B) if such consultations are delayed by reason of subparagraph (A), each time limitation under section 304 shall be extended for the period of such delay.

“(2) NOTICE AND REPORT.—The Trade Representative shall—

“(A) publish notice of any delay under paragraph (1) in the Federal Register, and

“(B) report to Congress on the reasons for such delay in the report required by section 306.”.

(f)(1) Paragraph (1) of section 301(e) (19 U.S.C. 2411(e)), as redesignated by subsection (c) of this section, is amended to read as follows:

“(1) COMMERCE.—The term ‘commerce’ includes, but is not limited to—

“(A) services (including transfers of information) associated with international trade, whether or not such services are related to specific goods, and

“(B) foreign direct investment by United States persons with implications for trade in goods or services.”.

(2) Section 301(e) (19 U.S.C. 2411(e)), as redesignated by subsection (c) of this section, is amended by adding at the end thereof the following new paragraphs:

“(3) UNREASONABLE.—The term ‘unreasonable’ means any act, policy, or practice which, while not necessarily in violation of or inconsistent with the international legal rights of the United States, is otherwise deemed to be unfair and inequitable. The term includes, but is not limited to, any act, policy, or practice which denies fair and equitable—

“(A) market opportunities;

“(B) opportunities for the establishment of an enterprise;

or

“(C) provision of adequate and effective protection of intellectual property rights.

“(4) UNJUSTIFIABLE.—

“(A) IN GENERAL.—The term ‘unjustifiable’ means any act, policy, or practice which is in violation of, or inconsistent with, the international legal rights of the United States.

“(B) CERTAIN ACTIONS INCLUDED.—The term ‘unjustifiable’ includes, but is not limited to, any act, policy, or practice described in subparagraph (A) which denies

19 USC 2414.

Federal
Register,
publication.

19 USC 2416.

national or most-favored-nation treatment, the right of establishment, or protection of intellectual property rights.

“(5) **DEFINITION OF DISCRIMINATORY.**—The term ‘discriminatory’ includes, where appropriate, any act, policy, or practice which denies national or most-favored-nation treatment to United States goods, services, or investment.

“(6) **SERVICE SECTOR ACCESS AUTHORIZATION.**—The term ‘service sector access authorization’ means any license, permit, order, or other authorization, issued under the authority of Federal law, that permits a foreign supplier of services access to the United States market in a service sector concerned.”.

(3) Section 301(e) (19 U.S.C. 2411(e)), as redesignated by subsection (c) of this section, is amended by striking out the heading and inserting in lieu thereof:

“(e) **DEFINITIONS; SPECIAL RULE FOR VESSEL CONSTRUCTION SUBSIDIES.**—For purposes of this section—”.

(g) Section 305 of the Trade Act of 1974 (19 U.S.C. 2415) is amended by adding at the end thereof the following new subsection:

“(c) **CERTAIN BUSINESS INFORMATION NOT MADE AVAILABLE.**—

“(1) **IN GENERAL.**—Except as provided in paragraph (2), and notwithstanding any other provision of law (including section 552 of title 5, United States Code), no information requested and received by the Trade Representative in aid of any investigation under this chapter shall be made available to any person if—

“(A) the person providing such information certifies that—

“(i) such information is business confidential,

“(ii) the disclosure of such information would endanger trade secrets or profitability, and

“(iii) such information is not generally available;

“(B) the Trade Representative determines that such certification is well-founded; and

“(C) to the extent required in regulations prescribed by the Trade Representative, the person providing such information provides an adequate nonconfidential summary of such information.

“(2) **USE OF INFORMATION.**—The Trade Representative may—

“(A) use such information, or make such information available (in his own discretion) to any employee of the Federal Government for use, in any investigation under this chapter, or

“(B) may make such information available to any other person in a form which cannot be associated with, or otherwise identify, the person providing the information.”.

SEC. 305. NEGOTIATING OBJECTIVES WITH RESPECT TO INTERNATIONAL TRADE IN SERVICES AND INVESTMENT AND HIGH TECHNOLOGY INDUSTRIES.

(a)(1) Chapter 1 of title I is amended by inserting immediately after section 104 the following new section:

“SEC. 104A. NEGOTIATING OBJECTIVES WITH RESPECT TO TRADE IN SERVICES, FOREIGN DIRECT INVESTMENT, AND HIGH TECHNOLOGY PRODUCTS.

“(a) TRADE IN SERVICES.—

“(1) IN GENERAL.—Principal United States negotiating objectives under section 102 shall be—

Confidentiality.

19 USC 2114a.

19 USC 2112.

“(A) to reduce or to eliminate barriers to, or other distortions of, international trade in services (particularly United States service sector trade in foreign markets), including barriers that deny national treatment and restrictions on the establishment and operation in such markets; and

“(B) to develop internationally agreed rules, including dispute settlement procedures, which—

“(i) are consistent with the commercial policies of the United States, and

“(ii) will reduce or eliminate such barriers or distortions and help ensure open international trade in services.

“(2) DOMESTIC OBJECTIVES.—In pursuing the objectives described in paragraph (1), United States negotiators shall take into account legitimate United States domestic objectives including, but not limited to, the protection of legitimate health or safety, essential security, environmental, consumer or employment opportunity interests and the laws and regulations related thereto.

“(b) FOREIGN DIRECT INVESTMENT.—

“(1) IN GENERAL.—Principal United States negotiating objectives under section 102 shall be—

19 USC 2112.

“(A) to reduce or to eliminate artificial or trade-distorting barriers to foreign direct investment, to expand the principle of national treatment, and to reduce unreasonable barriers to establishment; and

“(B) to develop internationally agreed rules, including dispute settlement procedures, which—

“(i) will help ensure a free flow of foreign direct investment, and

“(ii) will reduce or eliminate the trade distortive effects of certain investment related measures.

“(2) DOMESTIC OBJECTIVES.—In pursuing the objectives described in paragraph (1), United States negotiators shall take into account legitimate United States domestic objectives including, but not limited to, the protection of legitimate health or safety, essential security, environmental, consumer or employment opportunity interests and the laws and regulations related thereto.

“(c) HIGH TECHNOLOGY PRODUCTS.—Principal United States negotiating objectives shall be—

“(1) to obtain and preserve the maximum openness with respect to international trade and investment in high technology products and related services;

“(2) to obtain the elimination or reduction of, or compensation for, the significantly distorting effects of foreign government acts, policies, or practices identified in section 181, with particular consideration given to the nature and extent of foreign government intervention affecting United States exports of high technology products or investments in high technology industries, including—

Ante, p. 3001.

“(A) foreign industrial policies which distort international trade or investment;

“(B) measures which deny national treatment or otherwise discriminate in favor of domestic high technology industries;

“(C) measures which fail to provide adequate and effective means for foreign nationals to secure, exercise, and enforce exclusive rights in intellectual property (including trademarks, patents, and copyrights);

“(D) measures which impair access to domestic markets for key commodity products; and

“(E) measures which facilitate or encourage anticompetitive market practices or structures;

“(3) to obtain commitments that official policy of foreign countries or instrumentalities will not discourage government or private procurement of foreign high technology products and related services;

“(4) to obtain the reduction or elimination of all tariffs on, and other barriers to, United States exports of high technology products and related services;

“(5) to obtain commitments to foster national treatment;

“(6) to obtain commitments to—

“(A) foster the pursuit of joint scientific cooperation between companies, institutions or governmental entities of the United States and those of the trading partners of the United States in areas of mutual interest through such measures as financial participation and technical and personnel exchanges, and

“(B) ensure that access by all participants to the results of any such cooperative efforts should not be impaired; and

“(7) to provide effective minimum safeguards for the acquisition and enforcement of intellectual property rights and the property value of proprietary data.

“(d) **DEFINITION OF BARRIERS AND OTHER DISTORTIONS.**—For purposes of subsection (a), the term ‘barriers to, or other distortions of, international trade in services’ includes, but is not limited to—

“(1) barriers to establishment in foreign markets, and

“(2) restrictions on the operation of enterprises in foreign markets, including—

“(A) direct or indirect restrictions on the transfer of information into, or out of, the country or instrumentality concerned, and

“(B) restrictions on the use of data processing facilities within or outside of such country or instrumentality.”.

(2) The table of contents for chapter 1 of title I is amended by inserting after the item relating to section 104 the following new item:

“Sec. 104A. Negotiating objectives with respect to trade in services, foreign direct investment, and high technology products.”.

19 USC 2114b.

SEC. 306. PROVISIONS RELATING TO INTERNATIONAL TRADE IN SERVICES.

(a)(1) The Secretary of Commerce shall establish a service industries development program designed to—

(A) develop, in consultation with other Federal agencies as appropriate, policies regarding services that are designed to increase the competitiveness of United States service industries in foreign commerce;

(B) develop a data base for assessing the adequacy of Government policies and actions pertaining to services, including, but

not limited to, data on trade, both aggregate and pertaining to individual service industries;

(C) collect and analyze, in consultation with appropriate agencies, information pertaining to the international operations and competitiveness of United States service industries, including information with respect to—

(i) policies of foreign governments toward foreign and United States service industries;

(ii) Federal, State, and local regulation of both foreign and United States suppliers of services, and the effect of such regulation on trade;

(iii) the adequacy of current United States policies to strengthen the competitiveness of United States service industries in foreign commerce, including export promotion activities in the service sector;

(iv) tax treatment of services, with particular emphasis on the effect of United States taxation on the international competitiveness of United States firms and exports;

(v) treatment of services under international agreements of the United States;

(vi) antitrust policies as such policies affect the competitiveness of United States firms; and

(vii) treatment of services in international agreements of the United States;

(D) conduct a program of research and analysis of service-related issues and problems, including forecasts and industrial strategies; and

(E) conduct sectoral studies of domestic service industries.

(2) For purposes of the collection and analysis required by paragraph (1), and for the purpose of any reporting the Department of Commerce makes under paragraph (3), such collection and reporting shall distinguish between income from investment and income from noninvestment services.

(3) On not less than a biennial basis beginning in 1986, the Secretary shall prepare a report which analyzes the information collected under paragraph (1). Such report shall be submitted to the Congress and to the President by not later than the date that is 120 days after the close of the period covered by the report.

Report.

(4) The Secretary of Commerce shall carry out the provisions of this subsection from funds otherwise made available to him which may be used for such purposes.

(5) For purposes of this section, the term “services” means economic activities whose outputs are other than tangible goods. Such term includes, but is not limited to, banking, insurance, transportation, communications and data processing, retail and wholesale trade, advertising, accounting, construction, design and engineering, management consulting, real estate, professional services, entertainment, education, health care, and tourism.

(b)(1) The International Investment Survey Act of 1976 (Public Law 94-472; 22 U.S.C. 3101, et seq.) is hereby redesignated the “International Investment and Trade in Services Survey Act”.

(2)(A) Subsection (a) of section 2 of the International Investment and Trade in Services Survey Act (22 U.S.C. 3301) is amended—

(i) by striking out “and” at the end of paragraph (6);

(ii) by inserting “and trade in services” after “international investment” in paragraph (7);

(iii) by redesignating paragraph (7) as paragraph (9); and

International
Investment and
Trade in
Services Survey
Act.
22 USC 3101
note.

(iv) by inserting after paragraph (6) the following new paragraphs:

“(7) United States service industries engaged in interstate and foreign commerce account for a substantial part of the labor force and gross national product of the United States economy, and such commerce is rapidly increasing;

“(8) international trade and services is an important issue for international negotiations and deserves priority in the attention of governments, international agencies, negotiators, and the private sector; and”.

22 USC 3101.

(B) Subsection (b) of section 2 of such Act is amended—

(i) by inserting “and United States foreign trade in services, whether directly or by affiliates, including related information necessary for assessing the impact of such investment and trade,” after “international investment” the first place it appears; and

(ii) by inserting “and trade in services” after “international investment” the second place it appears.

(C) Subsection (c) of section 2 of such Act is amended by striking out “or United States investment abroad” and inserting in lieu thereof “, United States investment abroad, or trade in services”.

(3) Paragraph (3) of section 4(a) of such Act (22 U.S.C. 3103(a)(3)) is amended—

(A) by inserting “Finance” after “to the Committees on”, and

(B) by striking out “the Committee on Foreign Affairs” and inserting in lieu thereof “the Committees on Ways and Means, Energy and Commerce, and Foreign Affairs”.

(4)(A) Subsection (a) of section 4 of such Act (22 U.S.C. 3103(a)) is amended—

(i) by striking out “presentation relating to international investment” in paragraph (3) and inserting in lieu thereof “presentation”;

(ii) by inserting “and trade in services” after “international investment” each place it appears in paragraphs (1), (2), and (3);

(iii) by striking out “and” at the end of paragraph (3);

(iv) by redesignating paragraph (4) as paragraph (5); and

(v) by inserting after paragraph (3) the following new paragraph:

“(4) conduct (not more frequently than once every five years and in addition to any other surveys conducted pursuant to paragraphs (1) and (2)) benchmark surveys with respect to trade in services between unaffiliated United States persons and foreign persons; and”.

(B) Subparagraph (C) of section 4(b)(2) of such Act is amended by inserting “(including trade in both goods and services)” after “regarding trade”.

(C) Subsection (f) of section 4 of such Act is amended by inserting “and trade in services” after “international investment”.

(5) Subsection (b) of section 5 of such Act (22 U.S.C. 3104) is amended by striking out “international investment” each place it appears.

19 USC 2114c.

(c)(1)(A) The United States Trade Representative, through the interagency trade organization established pursuant to section 242(a) of the Trade Expansion Act of 1962 or any subcommittee thereof, shall, in conformance with this Act and other provisions of law, develop (and coordinate the implementation of) United States policies concerning trade in services.

19 USC 1872.

(B) In order to encourage effective development, coordination, and implementation of United States policies on trade in services—

(i) each department or agency of the United States responsible for the regulation of any service sector industry shall, as appropriate, advise and work with the United States Trade Representative concerning matters that have come to the department's or agency's attention with respect to—

(I) the treatment afforded United States service sector interest in foreign markets; or

(II) allegations of unfair practices by foreign governments or companies in a service sector; and

(ii) the Department of Commerce, together with other appropriate agencies as requested by the United States Trade Representative, shall provide staff support and other assistance for negotiations on service-related issues by the United States Trade Representatives and the domestic implementation of service-related agreements.

(C) Nothing in this paragraph shall be construed to alter any existing authority or responsibility with respect to any specific service sector.

(2)(A) The President shall, as he deems appropriate—

President of U.S.

(i) consult with State governments on issues of trade policy, including negotiating objectives and implementation of trade agreements, affecting the regulatory authority of non-Federal governments, or their procurement of goods and services;

(ii) establish one or more intergovernmental policy advisory committees on trade which shall serve as a principal forum in which State and local governments may consult with the Federal Government with respect to the matters described in clause (i); and

(iii) provide to State and local governments and to United States service industries, upon their request, advice, assistance, and (except as may be otherwise prohibited by law) data, analyses, and information concerning United States policies on international trade in services.

(B) Section 135 (19 U.S.C. 2155) is amended—

(i) by inserting “and the non-Federal governmental sector” after “private sector” in subsection (a),

(ii) by adding at the end of subsection (c) the following new paragraph:

“(3) The President—

“(A) may establish policy advisory committees representing non-Federal governmental interests to provide, where the President finds it necessary, policy advice—

“(i) on matters referred to in subsection (a), and

“(ii) with respect to implementation of trade agreements, and

“(B) shall include as members of committees established under subparagraph (A) representatives of non-Federal governmental interests if he finds such inclusion appropriate after consultation by the United States Trade Representative with such representatives.”;

(iii) by inserting “or non-Federal government” after “private” each place it appears in subsections (g) and (j);

(iv) by inserting “government,” before “labor” in subsection (j); and

(v) by adding at the end thereof the following new subsection:

“(n) **NON-FEDERAL GOVERNMENT DEFINED.**—The term ‘non-Federal government’ means—

“(1) any State, territory, or possession of the United States, or the District of Columbia, or any political subdivision thereof, or

“(2) any agency or instrumentality of any entity described in paragraph (1).”; and

(vi) by inserting “or Public” after “Private” in the heading thereof.

(C)(i) Section 104(c) (19 U.S.C. 2114(c)) is amended by inserting “or non-Federal governmental” after “private”.

(ii) Section 303 (19 U.S.C. 2413) and section 304(b)(2) (19 U.S.C. 2414(b)(2)) are each amended by striking out “private sector”.

(iii) The table of sections for chapter 3 of title I is amended by inserting “and public” after “private” in the item relating to section 135.

SEC. 307. NEGOTIATING AUTHORITY WITH RESPECT TO FOREIGN DIRECT INVESTMENT.

(a) Paragraph (3) of section 102(g) (19 U.S.C. 2112(g)(3)) is amended to read as follows:

“(3) the term ‘international trade’ includes—

“(A) trade in both goods and services, and

“(B) foreign direct investment by United States persons, especially if such investment has implications for trade in goods and services.”.

19 USC 2114d.

(b)(1) If the United States Trade Representative, with the advice of the committee established by section 242 of the Trade Expansion of 1962 (19 U.S.C. 1872), determines that action by the United States is appropriate to respond to any export performance requirements of any foreign country or instrumentality that adversely affect the economic interests of the United States, then the United States Trade Representative shall seek to obtain the reduction and elimination of such export performance requirements through consultations and negotiations with the foreign country or instrumentality concerned.

(2) In addition to the action referred to in subsection (1), the United States Trade Representative may impose duties or other import restrictions on the products or services of such foreign country or instrumentality for such time as he determines appropriate, including the exclusion from entry into the United States of products subject to such requirements.

(3) Nothing in paragraph (2) or paragraph (3) shall apply to any products or services with respect to which—

(A) any foreign direct investment (including a purchase of land or facilities) has been made directly or indirectly by any United States person before the date of enactment of this Act, or

(B) any written commitment relating to a foreign direct investment that is binding on the date of enactment of this Act has been made directly or indirectly by any United States person.

(4) Whenever the international obligations of the United States and actions taken under paragraph (2) make compensation necessary or appropriate, compensation may be provided by the United States Trade Representative subject to the limitations and conditions contained in section 123 of the Trade Act of 1974 (19 U.S.C.

2133) for providing compensation for actions taken under section 203 of that Act.

Ante, p. 3003.

SEC. 308. NEGOTIATION OF AGREEMENTS CONCERNING HIGH TECHNOLOGY INDUSTRIES.

(a) The President may enter into such bilateral or multilateral agreements as may be necessary or appropriate to achieve the objectives of this section and the negotiating objectives under section 104A(c) of the Trade Act of 1974.

19 USC 2114e.

(b)(1) Chapter 2 of title I is amended by inserting at the end thereof the following new section:

Ante, p. 3006.

“SEC. 128. MODIFICATION AND CONTINUANCE OF TREATMENT WITH RESPECT TO DUTIES ON HIGH TECHNOLOGY PRODUCTS.

19 USC 2138.

“(a) In order to carry out any agreement concluded as a result of the negotiating objectives under section 104A(c), the President may proclaim, subject to the provisions of chapter 3—

19 USC 2151
et seq.

“(1) such modification, elimination, or continuance of any existing duty, duty-free, or excise treatment, or

“(2) such additional duties,
as he deems appropriate.

“(b) The President shall exercise his authority under subsection (a) only with respect to the following items listed in the Tariff Schedules of the United States (19 U.S.C. 1202):

“(1) Transistors (provided for in item 587.70, part 5, schedule 6).

“(2) Diodes and rectifiers (provided for in item 687.72, part 5, schedule 6).

“(3) Monolithic integrated circuits (provided for in item 687.74, part 5, schedule 6).

“(4) Other integrated circuits (provided for in item 687.77, part 5, schedule 6).

“(5) Other components (provided for in item 687.81, part 5, schedule 6).

“(6) Parts of semiconductors (provided for in item 687.85, part 5, schedule 6).

“(7) Parts of automatic data-processing machines and units thereof (provided for in item 676.52, part 4G, schedule 6) other than parts incorporating a cathode ray tube.

“(c) **TERMINATION.**—The President may exercise his authority under this section only during the 5-year period beginning on the date of the enactment of the International Trade and Investment Act.”.

(2) The table of contents of chapter 1 of title I is amended by adding at the end thereof the following new item:

“Sec. 128. Modification and continuance of treatment with respect to duties on high technology products.”.

TITLE IV—TRADE WITH ISRAEL

SEC. 401. NEGOTIATION OF TRADE AGREEMENTS TO REDUCE TRADE BARRIERS.

(a) Subsection (b) of section 102 of the Trade Act of 1974 (19 U.S.C. 2112(b)) is amended—

(1) by striking out “Whenever” and inserting in lieu thereof “(1) Whenever”, and

(2) by adding at the end thereof the following new paragraphs:
 “(2)(A) Trade agreements that provide for the elimination or reduction of any duty imposed by the United States may be entered into under paragraph (1) only with Israel.

“ (B) The negotiation of any trade agreement entered into under paragraph (1) with Israel that provides for the elimination or reduction of any duty imposed by the United States shall take fully into account any product that benefits from a discriminatory preferential tariff arrangement between Israel and a third country if the tariff preference on such product has been the subject of a challenge by the United States Government under the authority of section 301 of the Trade Act of 1974 and the General Agreement on Tariffs and Trade.

19 USC 2411.
 TIAS 1700.

“ (C) Notwithstanding any other provision of this section, the requirements of subsections (c) and (e)(1) shall not apply to any trade agreement entered into under paragraph (1) with Israel that provides for the elimination or reduction of any duty imposed by the United States.

“ (3) Notwithstanding any other provision of law, no trade benefit shall be extended to any country by reason of the extension of any trade benefit to another country under a trade agreement entered into under paragraph (1) with such other country.

“ (4)(A) Notwithstanding paragraph (2), a trade agreement that provides for the elimination or reduction of any duty imposed by the United States may be entered into under paragraph (1) with any country other than Israel if—

“ (i) such country requested the negotiation of such an agreement, and

“ (ii) the President, at least 60 days prior to the date notice is provided under subsection (e)(1)—

“ (I) provides written notice of such negotiations to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, and

“ (II) consults with such committees regarding the negotiation of such agreement.

19 USC 2191.

“ (B) The provisions of section 151 shall not apply to an implementing bill (within the meaning of section 151(b)) if—

“ (i) such implementing bill contains a provision approving of any trade agreement which—

“ (I) is entered into under this section with any country other than Israel, and

“ (II) provides for the elimination or reduction of any duty imposed by the United States, and

“ (ii) either—

“ (I) the requirements of subparagraph (A) were not met with respect to the negotiation of such agreement, or

“ (II) the Committee on Finance of the Senate or the Committee on Ways and Means of the House of Representatives disapproved of the negotiation of such agreement before the close of the 60-day period which begins on the date notice is provided under subsection (A)(ii)(I) with respect to the negotiation of such agreement.

“ (C) The 60-day period described in subparagraphs (A)(ii) and (B)(ii)(II) shall be computed without regard to—

“ (i) the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die, and

- “(ii) any Saturday and Sunday, not excluded under clause (i), when either House of Congress is not in session.”.
- (b) Paragraph (1) of section 102(g) of the Trade Act of 1974 (19 U.S.C. 2112(g)) is amended to read as follows:
- “(1) the term ‘barrier’ includes—
- “(A) the American selling price basis of customs evaluation as defined in section 402 or 402a of the Tariff Act of 1930, as appropriate, and
- “(B) any duty or other import restriction;”.
- (c)(1) Section 102 of the Trade Act of 1974 (19 U.S.C. 2112) is amended by striking out “Nontariff” in the heading.
- (2) The table of contents of the Trade Act of 1974 is amended by striking out “Nontariff” in the item relating to section 102.

SEC. 402. CRITERIA FOR DUTY-FREE TREATMENT OF ARTICLES.

19 USC 2112
note.

Ante, p. 3013.

(a)(1) Any trade agreement entered into with Israel under section 102(b)(1) of the Trade Act of 1974 may provide for the reduction or elimination of any duty imposed by the United States with respect to any article only if—

- (A) that article is the growth, product, or manufacture of Israel or is a new or different article of commerce that has been grown, produced, or manufactured in Israel;
- (B) that article is imported directly from Israel into the customs territory of the United States; and
- (C) the sum of—

- (i) the cost of value of the materials produced in Israel, plus
- (ii) the direct costs of processing operations performed in Israel,

is not less than 35 percent of the appraised value of such article at the time it is entered.

If the cost or value of materials produced in the customs territory of the United States is included with respect to an article to which this subsection applies, an amount not to exceed 15 percent of the appraised value of the article at the time it is entered that is attributable to such United States cost or value may be applied toward determining the percentage referred to in subparagraph (C).

(2) No article may be considered to be an eligible Israeli article by virtue of having merely undergone—

- (A) simple combining or packaging operations; or
- (B) mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article.

(b) As used in this section, the phrase “direct costs of processing operations” includes, but is not limited to—

- (1) all actual labor costs involved in the growth, production, manufacture, or assembly of the specific merchandise, including fringe benefits, on-the-job training and the cost of engineering, supervisory, quality control, and similar personnel; and
- (2) dies, molds, tooling, and depreciation on machinery and equipment which are allocable to the specific merchandise.
- Such phrase does not include costs which are not directly attributable to the merchandise concerned, or are not costs of manufacturing the product, such as (A) profit, and (B) general expenses of doing business which are either not allocable to the specific merchandise or are not related to the growth, production, manufacture, or assembly of the merchandise, such as administrative salaries, casualty

and liability insurance, advertising, and salesmen's salaries, commissions or expenses.

(c) **REGULATIONS.**—The Secretary of the Treasury, after consultation with the United States Trade Representative, shall prescribe such regulations as may be necessary to carry out this section.

19 USC 2112
note.

SEC. 403. APPLICATION OF CERTAIN OTHER TRADE LAW PROVISIONS.

Ante, p. 3013.

19 USC 2253,
1862.

19 USC 2251.

(a) **SUSPENSION OF DUTY-FREE TREATMENT.**—The President may by proclamation suspend the reduction or elimination of any duty provided under any trade agreement provision entered into with Israel under the authority of section 102(b)(1) of the Trade Act of 1974 with respect to any article and may proclaim a duty rate for such article if such action is proclaimed under section 203 of the Trade Act of 1974 or section 232 of the Trade Expansion Act of 1962.

(b) **ITC REPORTS.**—In any report by the United States International Trade Commission (hereinafter referred to in this title as the "Commission") to the President under section 201(d)(1) of the Trade Act of 1974 regarding any article for which a reduction or elimination of any duty is provided under a trade agreement entered into with Israel under section 102(b)(1) of the Trade Act of 1974, the Commission shall state whether and to what extent its findings and recommendations apply to such an article when imported from Israel.

(c) For purposes of subsections (a) and (c) of section 203 of the Trade Act of 1974, the suspension of the reduction or elimination of a duty under subsection (a) shall be treated as an increase in duty.

(d) No proclamation which provides solely for a suspension referred to in subsection (a) with respect to any article shall be made under subsections (a) and (c) of section 203 of the Trade Act of 1974 unless the Commission, in addition to making an affirmative determination with respect to such article under section 201(b) of the Trade Act of 1974, determines in the course of its investigation under that section that the serious injury (or threat thereof) substantially caused by imports to the domestic industry producing a like or directly competitive article results from the reduction or elimination of any duty provided under any trade agreement provision entered into with Israel under section 102(b)(1) of the Trade Act of 1974.

(e)(1) Any proclamation issued under section 203 of the Trade Act of 1974 that is in effect when an agreement with Israel is entered into under section 102(b)(1) of the Trade Act of 1974 shall remain in effect until modified or terminated.

(2) If any article is subject to import relief at the time an agreement is entered into with Israel under section 102(b)(1) of the Trade Act of 1974, the President may reduce or terminate the application of such import relief to the importation of such article before the otherwise scheduled date on which such reduction or termination would occur pursuant to the criteria and procedures of subsections (h) and (i) of section 203 of the Trade Act of 1974.

19 USC 2112
note.

SEC. 404. FAST TRACK PROCEDURES FOR PERISHABLE ARTICLES.

(a) If a petition is filed with the Commission under the provisions of section 201 of the Trade Act of 1974 regarding a perishable product which is subject to any reduction or elimination of a duty imposed by the United States under a trade agreement entered into with Israel under section 102(b)(1) of the Trade Act of 1974 and alleges injury from imports of that product, then the petition may

also be filed with the Secretary of Agriculture with a request that emergency relief be granted under subsection (c) with respect to such article.

(b) Within 14 days after the filing of a petition under subsection (a)—

(1) if the Secretary of Agriculture has reason to believe that a perishable product from Israel is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing a perishable product like or directly competitive with the imported product and that emergency action is warranted, he shall advise the President and recommend that the President take emergency action; or

(2) the Secretary of Agriculture shall publish a notice of his determination not to recommend the imposition of emergency action and so advise the petitioner.

(c) Within 7 days after the President receives a recommendation from the Secretary of Agriculture to take emergency action under subsection (b), he shall issue a proclamation withdrawing the reduction or elimination of duty provided to the perishable product under any trade agreement provision entered into under section 102(b)(1) of the Trade Act of 1974 or publish a notice of his determination not to take emergency action.

President of U.S.

Ante, p. 3013.

(d) The emergency action provided under subsection (c) shall cease to apply—

(1) upon the proclamation of import relief under section 202(a)(1) of the Trade Act of 1974;

19 USC 2252.

(2) on the day the President makes a determination under section 203(b)(2) of such Act not to impose import relief;

19 USC 2253.

(3) in the event of a report of the Commission containing a negative finding, on the day the Commission's report is submitted to the President; or

(4) whenever the President determines that because of changed circumstances such relief is no longer warranted.

(e) For purposes of this section, the term "perishable product" means any—

(1) live plant provided for in subpart A of part 6 of schedule 1 of the Tariff Schedules of the United States (19 U.S.C. 1202, hereinafter referred to as the "TSUS");

(2) vegetable provided for in schedule 1, part 8, of the TSUS;

(3) fresh mushroom provided for in item 144.10 of the TSUS;

(4) edible nut or fruit provided for in schedule 1, part 9, of the TSUS;

(5) fresh cut flower provided for in items 192.17, 192.18, and 192.21 of the TSUS; and

(6) concentrated citrus fruit provided for in items 165.25 and 165.35 of the TSUS.

(f) No trade agreement entered into with Israel under section 102(b)(1) of the Trade Act of 1974 shall affect fees imposed under section 22 of the Agricultural Adjustment Act (7 U.S.C. 624).

SEC. 406. CONSTRUCTION OF TITLE.

19 USC 2112
note.

Neither the taking effect of any trade agreement provision entered into with Israel under section 102(b)(1), nor any proclamation issued to implement any such provision, may affect in any manner, or to any extent, the application to any Israeli articles of section 232 of the Trade Expansion Act of 1962, section 337 of title

19 USC 1862.

19 USC 1337,
1671.
19 USC 2251 *et*
seq., 2411 *et seq.*

Generalized
System of
Preferences
Renewal Act of
1984.

19 USC 2101
note.

19 USC 2461
note.

VII of the Tariff Act of 1930, chapter 1 of title II and chapter 1 of title III of the Trade Act of 1974, or any other provision of law under which relief from injury caused by import competition or by unfair import trade practices may be sought.

TITLE V—GENERALIZED SYSTEM OF PREFERENCES RENEWAL

SECTION 501. SHORT TITLE; STATEMENT OF PURPOSE.

(a) This title may be cited as the “Generalized System of Preferences Renewal Act of 1984”.

(b) The purpose of this title is to—

(1) promote the development of developing countries, which often need temporary preferential advantages to compete effectively with industrialized countries;

(2) promote the notion that trade, rather than aid, is a more effective and cost-efficient way of promoting broad-based sustained economic development;

(3) take advantage of the fact that developing countries provide the fastest growing markets for United States exports and that foreign exchange earnings from trade with such countries through the Generalized System of Preferences can further stimulate United States exports;

(4) allow for the consideration of the fact that there are significant differences among developing countries with respect to their general development and international competitiveness;

(5) encourage the providing of increased trade liberalization measures, thereby setting an example to be emulated by other industrialized countries;

(6) recognize that a large number of developing countries must generate sufficient foreign exchange earnings to meet international debt obligations;

(7) promote the creation of additional opportunities for trade among the developing countries;

(8) integrate developing countries into the international trading system with its attendant responsibilities in a manner commensurate with their development;

(9) encourage developing countries—

(A) to eliminate or reduce significant barriers to trade in goods and services and to investment,

(B) to provide effective means under which foreign nationals may secure, exercise, and enforce exclusive intellectual property rights, and

(C) to afford workers internationally recognized worker rights; and

(10) address the concerns listed in the preceding paragraphs in a manner that—

(A) does not adversely affect United States producers and workers, and

(B) conforms to the international obligations of the United States under the General Agreement on Tariffs and Trade.

TIAS 1700.

SEC. 502. CONSIDERATION OF A BENEFICIARY DEVELOPING COUNTRY'S COMPETITIVENESS IN EXTENDING PREFERENCES.

Section 501 of the Trade Act of 1974 (19 U.S.C. 2461) is amended—

- (1) by inserting “through the expansion of their exports” before the semicolon at the end of paragraph (1);
- (2) by striking out “and” at the end of paragraph (2);
- (3) by striking out the period at the end of paragraph (3) and inserting in lieu thereof “; and”; and
- (4) by adding at the end thereof the following new paragraph:
“(4) the extent of the beneficiary developing country’s competitiveness with respect to eligible articles.”.

SEC. 503. AMENDMENTS RELATING TO THE BENEFICIARY DEVELOPING COUNTRY DESIGNATION CRITERIA.

(a) Section 502(a) of the Trade Act of 1974 (19 U.S.C. 2462(a)) is amended by adding at the end thereof the following new paragraph:

“(4) For purposes of this title, the term ‘internationally recognized worker rights’ includes—

“(A) the right of association;

“(B) the right to organize and bargain collectively;

“(C) a prohibition on the use of any form of forced or compulsory labor;

“(D) a minimum age for the employment of children; and

“(E) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.”.

(b) Section 502(b) of the Trade Act of 1974 (19 U.S.C. 2462(b)) is amended—

(1) by striking out “Hungary” in the list of countries preceding paragraph (1);

(2) by inserting “, including patents, trademarks, or copyrights” after “control of such property” in paragraph (4) (A) and (B);

(3) by inserting “, including patents, trademarks, or copyrights” after “control of such property” in paragraph (4)(C);

(4) by striking out “and” at the end of paragraph (6);

(5) by striking out the period at the end of paragraph (7) and inserting in lieu thereof “; and”; and

(6) by inserting after paragraph (7) the following new paragraph:

“(8) if such country has not taken or is not taking steps to afford internationally recognized worker rights to workers in the country (including any designated zone in that country).”; and

(7) by striking out “and (7)” in the unnumbered paragraph at the end of the subsection and inserting in lieu thereof “(7), and (8)”.

(c) Section 502(c) of the Trade Act of 1974 (19 U.S.C. 2462) is amended—

(1) by striking out “and” at the end of paragraph (3);

(2) by striking out the period at the end of paragraph (4) and of inserting in lieu thereof the following: “and the extent to which such country has assured the United States that it will refrain from engaging in unreasonable export practices;”, and

(3) by adding at the end thereof the following new paragraphs:

“(5) the extent to which such country is providing adequate and effective means under its laws for foreign nationals to secure, to exercise, and to enforce exclusive rights in intellectual property, including patents, trademarks, and copyrights;

“(6) the extent to which such country has taken action to—

“(A) reduce trade distorting investment practices and policies (including export performance requirements); and
 “(B) reduce or eliminate barriers to trade in services; and
 “(7) whether or not such country has taken or is taking steps to afford to workers in that country (including any designated zone in that country) internationally recognized worker rights.”.

SEC. 504. REGULATIONS; ARTICLES WHICH MAY NOT BE DESIGNATED AS ELIGIBLE ARTICLES.

(a) Section 503(b) of the Tariff Act of 1930 (19 U.S.C. 2463(b)) is amended by inserting “, after consulting with the United States Trade Representative,” immediately after “The Secretary of the Treasury” in the last sentence thereof.

(b) Section 503(c)(1)(E) of the Trade Act of 1974 (19 U.S.C. 2463(c)(1)(E)) is amended to read as follows:

“(E) footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel which were not eligible articles for purposes of this title on April 1, 1984.”.

SEC. 505. LIMITATIONS ON PREFERENTIAL TREATMENT.

(a) Section 504(a) of the Trade Act of 1974 (19 U.S.C. 2464) is amended—

(1) by striking out “The President” and inserting in lieu thereof “(1) The President”; and

(2) by adding at the end thereof the following new paragraph:

President of U.S.
Report.

“(2) The President shall, as necessary, advise the Congress and, by no later than January 4, 1988, submit to the Congress a report on the application of sections 501 and 502(c), and the actions the President has taken to withdraw, to suspend, or to limit the application of duty-free treatment with respect to any country which has failed to adequately take the actions described in section 502(c).”.

Ante, p. 3019.

(b) Section 504 (c) and (d) of the Trade Act of 1974 (19 U.S.C. 2464 (c) and (d)) are amended to read as follows:

“(c)(1) Subject to paragraphs (2) through (7) and subsection (d), whenever the President determines that any country—

“(A) has exported (directly or indirectly) to the United States during a calendar year a quantity of an eligible article having an appraised value in excess of an amount which bears the same ratio to \$25,000,000 as the gross national product of the United States for the preceding calendar year (as determined by the Department of Commerce) bears to the gross national product of the United States for calendar year 1974; or

“(B) has exported (either directly or indirectly) to the United States a quantity of any eligible article equal to or exceeding 50 percent of the appraised value of the total imports of such article into the United States during any calendar year;

then, not later than July 1 of the next calendar year, such country shall not be treated as a beneficiary developing country with respect to such article.

“(2)(A) Not later than January 4, 1987, and periodically thereafter, the President shall conduct a general review of eligible articles based on the considerations described in section 501 or 502(c).

“(B) If, after any review under subparagraph (A), the President determines that this subparagraph should apply because a beneficiary developing country has demonstrated a sufficient degree of competitiveness (relative to other beneficiary developing countries)

with respect to any eligible article, then paragraph (1) shall be applied to such country with respect to such article by substituting—

“(i) ‘1984’ for ‘1974’ in subparagraph (A), and

“(ii) ‘25 percent’ for ‘50 percent’ in subparagraph (B).

“(3)(A) Not earlier than January 4, 1987, the President may waive the application of this subsection with respect to any eligible article of any beneficiary developing country if, before July 1 of the calendar year beginning after the calendar year for which a determination described in paragraph (1) was made with respect to such eligible article, the President—

“(i) receives the advice of the International Trade Commission on whether any industry in the United States is likely to be adversely affected by such waiver,

“(ii) determines, based on the considerations described in sections 501 and 502(c) and the advice described in clause (i), that such waiver is in the national economic interest of the United States, and

“(iii) publishes the determination described in clause (ii) in the Federal Register.

“(B) In making any determination under subparagraph (A), the President shall give great weight to—

“(i) the extent to which the beneficiary developing country has assured the United States that such country will provide equitable and reasonable access to the markets and basic commodity resources of such country, and

“(ii) the extent to which such country provides adequate and effective means under its law for foreign nationals to secure, to exercise, and to enforce exclusive rights in intellectual property, including patent, trademark, and copyright rights.

“(C) Any waiver granted pursuant to this paragraph shall remain in effect until the President determines that such waiver is no longer warranted due to changed circumstances.

“(D)(i) The President may not exercise the waiver authority provided under subparagraph (A) with respect to a quantity of eligible articles entered in any calendar year which exceeds an aggregate value equal to 30 percent of the total value of all articles which entered duty-free under this title during the preceding calendar year.

“(ii) The President may not exercise the waiver authority provided under subparagraph (A) with respect to a quantity of eligible articles entered from any beneficiary developing country during any calendar year beginning after 1984 which exceeds 15 percent of the total value of all articles that have entered duty-free under this title during the preceding calendar year if for the preceding calendar year such beneficiary developing country—

“(I) had a per capita gross national product (calculated on the basis of the best available information, including that of the World Bank) of \$5,000 or more; or

“(II) had exported (either directly or indirectly) to the United States a quantity of articles that was duty-free under this title that had an appraised value of more than 10 percent of the total imports of all articles that entered duty-free under this title during that year.

“(iii) There shall be counted against the limitations imposed under clauses (i) and (ii) for any calendar year only that quantity of any eligible article of any country that—

Ante, pp. 3018, 3019.

Federal Register, publication.

“(I) entered duty-free under this title during such calendar year; and

“(II) is in excess of the quantity of that article that would have been so entered during such calendar year if the 1974 limitation applied under paragraph (1)(A) and the 50 percent limitation applied under paragraph (1)(B).

Federal
Register,
publication.

“(4) Except in any case to which paragraph (2)(B) applies, the President may waive the application of this subsection if, before July 1 of the calendar year beginning after the calendar year for which a determination described in paragraph (1) was made, the President determines and publishes in the Federal Register that, with respect to such country—

“(A) there has been an historical preferential trade relationship between the United States and such country,

“(B) there is a treaty or trade agreement in force covering economic relations between such country and the United States, and

“(C) such country does not discriminate against, or impose unjustifiable or unreasonable barriers to, United States commerce.

“(5) A country which is no longer treated as a beneficiary developing country with respect to an eligible article by reason of this subsection may be redesignated a beneficiary developing country with respect to such article, subject to the provisions of sections 501 and 502, if imports of such article from such country did not exceed the limitations in paragraph (1) (after application of paragraph (2)) during the preceding calendar year.

Ante, pp. 3018,
3019.

“(6)(A) This subsection shall not apply to any beneficiary developing country which the President determines, based on the considerations described in sections 501 and 502(c), to be a least-developed beneficiary developing country.

“(B) The President shall—

“(i) make a determination under subparagraph (A) with respect to each beneficiary developing country before July 4, 1985, and periodically thereafter, and

“(ii) notify the Congress at least 60 days before any such determination becomes final.

“(7) For purposes of this subsection, the term ‘country’ does not include an association of countries which is treated as one country under section 502(a)(3), but does include a country which is a member of any such association.

“(d)(1) Subsection (c)(1)(B) (after application of subsection (c)(2)) shall not apply with respect to any eligible article if a like or directly competitive article is not produced in the United States on January 3, 1985.

“(2) The President may disregard subsection (c)(1)(B) with respect to any eligible article if the appraised value of the total imports of such article into the United States during the preceding calendar year is not in excess of an amount which bears the same ratio to \$5,000,000 as the gross national product of the United States for that calendar year (as determined by the Department of Commerce) bears to the gross national product of the United States for calendar year 1979.”

(c) Section 504 (19 U.S.C. 2464) is amended by adding at the end thereof the following new subsection:

“(f)(1) If the President determines that the per capita gross national product (calculated on the basis of the best available infor-

mation, including that of the World Bank) of any beneficiary developing country for any calendar year (hereafter in this subsection referred to as the 'determination year') after 1984, exceeds the applicable limit for the determination year—

"(A) subsection (c)(1)(B) shall be applied for the 2-year period beginning on July 1 of the calendar year succeeding the determination year by substituting '25 percent' for '50 percent', and

"(B) such country shall not be treated as a beneficiary developing country under this title after the close of such 2-year period.

"(2)(A) For purposes of this subsection, the term 'applicable limit' means the sum of—

"(i) \$8,500, plus

"(ii) 50 percent of the amount determined under subparagraph (B) for the determination year.

"(B) The amount determined under this subparagraph for the determination year is an amount equal to—

"(i) \$8,500, multiplied by

"(ii) the percentage determined by dividing—

"(I) the excess, if any, of the gross national product of the United States (as determined by the Secretary of Commerce) for the determination year over the gross national product of the United States for 1984, by

"(II) the gross national product for 1984."

SEC. 506. EXTENSION OF THE GENERALIZED SYSTEM OF PREFERENCES AND REPORTS.

(a) Section 505 of the Trade Act of 1974 (19 U.S.C. 2465) is amended to read as follows:

"SEC. 505. TERMINATION OF DUTY-FREE TREATMENT AND REPORTS.

"(a) No duty-free treatment provided under this title shall remain in effect after July 4, 1993.

"(b) On or before January 4, 1990, the President shall submit to the Congress a full and complete report regarding the operation of this title.

"(c) The President shall submit an annual report to the Congress on the status of internationally recognized worker rights within each beneficiary developing country."

(b) CONFORMING AMENDMENT.—The table of contents of the Trade Act of 1974 is amended by striking out the item relating to section 505 and inserting in lieu thereof the following:

"Sec. 505. Termination of duty-free treatment and reports."

SEC. 507. AGRICULTURAL EXPORTS OF BENEFICIARY DEVELOPING COUNTRIES.

(a) Title V of the Trade Act of 1974 (19 U.S.C. 2461 et seq.) is further amended by adding at the end thereof the following new section:

"SEC. 506. AGRICULTURAL EXPORTS OF BENEFICIARY DEVELOPING COUNTRIES.

"The appropriate agencies of the United States shall assist beneficiary developing countries to develop and implement measures designed to assure that the agricultural sectors of their economies are not directed to export markets to the detriment of the production of foodstuffs for their citizenry."

Reports.

19 USC 2466.

(b) The table of contents of such Act of 1974 is amended by adding after the item relating to item 505 the following:

"Sec. 506. Agricultural exports of beneficiary developing countries."

19 USC 2461
note.

SEC. 508. EFFECTIVE DATE.

The amendments made by this title shall take effect on January 4, 1985.

TITLE VI—TRADE LAW REFORM

SEC. 601. REFERENCE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a title, subtitle, part, section, or other provision, the reference shall be considered to be made to a title, subtitle, part, section, or other provision of the Tariff Act of 1930 (19 U.S.C 1202 et seq.).

SEC. 602. SALES FOR IMPORTATION.

(a)(1) Section 701(a) (19 U.S.C. 1671(a)) is amended—

(A) by inserting ", or sold (or likely to be sold) for importation," after "imported" in paragraph (1);

(B) by inserting "or by reason of sales (or the likelihood of sales) of that merchandise for importation" immediately after "by reason of imports of that merchandise" in paragraph (2); and

(C) by adding at the end thereof the following new sentence: "For purposes of this subsection and section 705(b)(1), a reference to the sale of merchandise includes the entering into of any leasing arrangement regarding the merchandise that is equivalent to the sale of the merchandise."

19 USC 1671d.

(2) Section 705(b)(1) (19 U.S.C. 1671(b)(1)) is amended by inserting ", or sales (or the likelihood of sales) for importation," immediately after "by reason of imports".

(b) Section 731 (19 U.S.C. 1673) is amended—

(1) by inserting "or by reason of sales (or the likelihood of sales) of that merchandise for importation" immediately after "by reason of imports of that merchandise" in paragraph (2), and

Infra.

(2) by adding at the end thereof the following new sentence: "For purposes of this section and section 735(b)(1), a reference to the sale of foreign merchandise includes the entering into of any leasing arrangement regarding the merchandise that is equivalent to the sale of the merchandise."

(c) Section 735(b)(1) (19 U.S.C. 1673d(b)(1)) is amended by adding ", or sales (or the likelihood of sales) for importation," after "by reason of imports".

SEC. 603. WAIVER OF VERIFICATION.

Section 703(b) (19 U.S.C. 1671b(b)) is amended by adding at the end thereof the following new paragraph:

"(3) **PRELIMINARY DETERMINATION UNDER WAIVER OF VERIFICATION.**—Within 55 days after the initiation of an investigation the administering authority shall cause an official designated for such purpose to review the information concerning the case received during the first 50 days of the investigation, and, if

there appears to be sufficient information available upon which the determination can reasonably be based, to disclose to the petitioner and any interested party, then a party to the proceedings that requests such disclosure, all available nonconfidential information and all other information which is disclosed pursuant to section 777. Within 3 days (not counting Saturdays, Sundays, or legal public holidays) after such disclosure, the petitioner and each party which is an interested party described in subparagraph (C), (D), (E), or (F) of section 771(9) to whom such disclosure was made may furnish to the administering authority an irrevocable written waiver of verification of the information received by the authority, and an agreement that it is willing to have a determination made on the basis of the record then available to the authority. If a timely waiver and agreement have been received from the petitioner and each party which is an interested party described in subparagraph (C), (D), (E), or (F) of section 771(9) to whom the disclosure was made, and the authority finds that sufficient information is then available upon which the preliminary determination can reasonably be based, a preliminary determination shall be made on an expedited basis on the basis of the record established during the first 50 days after the investigation was initiated.”

Post, p. 3038.

Post, p. 3033.

SEC. 604. TERMINATION OR SUSPENSION OF INVESTIGATION.

(a) Section 704 (19 U.S.C. 1671c) is amended—

(1) by amending subsection (a) to read as follows:

“(a) **TERMINATION OF INVESTIGATION UPON WITHDRAWAL OF PETITION.**—

“(1) **IN GENERAL.**—Except as provided in paragraphs (2) and (3), an investigation under this subtitle may be terminated by either the administering authority or the Commission, after notice to all parties to the investigation, upon withdrawal of the petition by the petitioner or by the administering authority if the investigation was initiated under section 702(a).

19 USC 1671a.

“(2) **SPECIAL RULES FOR QUANTITATIVE RESTRICTION AGREEMENTS.**—

“(A) **IN GENERAL.**—Subject to subparagraphs (B) and (C), the administering authority may not terminate an investigation under paragraph (1) by accepting, with the government of the country in which the subsidy practice is alleged to occur, an understanding or other kind of agreement to limit the volume of imports into the United States of the merchandise that is subject to the investigation unless the administering authority is satisfied that termination on the basis of that agreement is in the public interest.

“(B) **PUBLIC INTEREST FACTORS.**—In making a decision under subparagraph (A) regarding the public interest, the administering authority shall take into account—

“(i) whether, based upon the relative impact on consumer prices and the availability of supplies of the merchandise, the agreement would have a greater adverse impact on United States consumers than the imposition of countervailing duties;

“(ii) the relative impact on the international economic interests of the United States; and

“(iii) the relative impact on the competitiveness of the domestic industry producing the like merchandise,

including any such impact on employment and investment in that industry.

“(C) **PRIOR CONSULTATIONS.**—Before making a decision under subparagraph (A) regarding the public interest, the administering authority shall, to the extent practicable, consult with—

“(i) potentially affected consuming industries; and

“(ii) potentially affected producers and workers in the domestic industry producing the like merchandise, including producers and workers not party to the investigation.

“(3) **LIMITATION ON TERMINATION BY COMMISSION.**—The Commission may not terminate an investigation under paragraph (1) before a preliminary determination is made by the administering authority under section 703(b).”;
Ante, p. 3024.

(2) by amending subsection (d)—

(A) by adding at the end of paragraph (1) the following:
 “In applying subparagraph (A) with respect to any quantitative restriction agreement under subsection (c), the administering authority shall take into account, in addition to such other factors as are considered necessary or appropriate, the factors set forth in subsection (a)(2)(B) (i), (ii), and (iii) as they apply to the proposed suspension and agreement, after consulting with the appropriate consuming industries, producers, and workers referred to in subsection (a)(2)(C) (i) and (ii).”

(B) by striking out paragraph (2), and

(C) by redesignating paragraph (3) as paragraph (2);

(3) by amending subsection (e)(3), by striking out “all parties to the investigation” and inserting in lieu thereof “all interested parties described in section 771(9)”;
Post, p. 3033.

(4) by amending subsection (i)(1)—

(A) by striking out “and” at the end of subparagraph (C),

(B) by redesignating subparagraph (D) as subparagraph (E), and

(C) by inserting immediately after subparagraph (C) the following new subparagraph:

“(D) if it considers the violation to be international, notify the Commissioner of Customs who shall take appropriate action under paragraph (2), and”; and

(5) by adding at the end thereof the following new subsection:

“(k) **TERMINATION OF INVESTIGATIONS INITIATED BY ADMINISTERING AUTHORITY.**—The administering authority may terminate any investigation initiated by the administering authority under section 702(a) after providing notice of such termination to all parties to the investigation.”
 19 USC 1671a.

(b) Section 734 (19 U.S.C. 1673c) is amended—

(1) by amending subsection (a) to read as follows:

“(a) **TERMINATION OF INVESTIGATION UPON WITHDRAWAL OF PETITION.**—

“(1) **IN GENERAL.**—Except as provided in paragraphs (2) and (3), an investigation under this subtitle may be terminated by either the administering authority or the Commission, after notice to all parties to the investigation, upon withdrawal of the petition by the petitioner or by the administering authority if the investigation was initiated under section 732(a).
Post, p. 3030.

“(2) **SPECIAL RULES FOR QUANTITATIVE RESTRICTION AGREEMENTS.**—

“(A) **IN GENERAL.**—Subject to subparagraphs (B) and (C), the administering authority may not terminate an investigation under paragraph (1) by accepting an understanding or other kind of agreement to limit the volume of imports into the United States of the merchandise that is subject to the investigation unless the administering authority is satisfied that termination on the basis of that agreement is in the public interest.

“(B) **PUBLIC INTEREST FACTORS.**—In making a decision under subparagraph (A) regarding the public interest the administering authority shall take into account—

“(i) whether, based upon the relative impact on consumer prices and the availability of supplies of the merchandise, the agreement would have a greater adverse impact on United States consumers than the imposition of antidumping duties;

“(ii) the relative impact on the international economic interests of the United States; and

“(iii) the relative impact on the competitiveness of the domestic industry producing the like merchandise, including any such impact on employment and investment in that industry.

“(C) **PRIOR CONSULTATIONS.**—Before making a decision under subparagraph (A) regarding the public interest, the administering authority shall, to the extent practicable, consult with—

“(i) potentially affected consuming industries; and

“(ii) potentially affected producers and workers in the domestic industry producing the like merchandise, including producers and workers not party to the investigation.

“(3) **LIMITATION ON TERMINATION BY COMMISSION.**—The Commission may not terminate an investigation under paragraph (1) before a preliminary determination is made by the administering authority under section 733(b).”;

19 USC 1673b.

(2) by amending subsection (d) to read as follows:

“(d) **ADDITIONAL RULES AND CONDITIONS.**—The administering authority may not accept an agreement under subsection (b) or (c) unless—

“(1) it is satisfied that suspension of the investigation is in the public interest, and

“(2) effective monitoring of the agreement by the United States is practicable.”;

(3) by amending subsection (e)(3) by striking out “all parties to the investigation” and inserting in lieu thereof “all interested parties described in section 771(9)”;

Post, p. 3033.

(4) by amending subsection (i)(1)—

(A) by striking out “and” at the end of subparagraph (C),

(B) by redesignating subparagraph (D) as subparagraph (E), and

(C) by inserting immediately after subparagraph (C) the following new subparagraph:

“(D) if it considers the violation to be intentional, notify the Commissioner of Customs who shall take appropriate action under paragraph (2), and”; and

(5) by adding at the end thereof the following new subsection:

Post, p. 3030.

“(k) TERMINATION OF INVESTIGATION INITIATED BY ADMINISTERING AUTHORITY.—The administering authority may terminate any investigation initiated by the administering authority under section 732(a) after providing notice of such termination to all parties to the investigation.”.

SEC. 605. FINAL DETERMINATION OF CRITICAL CIRCUMSTANCES.

19 USC 1671b.

(a)(1) Section 705(a)(2) (19 U.S.C. 1671d(a)(2)) is amended by adding at the end thereof the following new sentence: “Such findings may be affirmative even though the preliminary determination under section 703(e)(1) was negative.”.

(2) Section 705(c) is amended by adding at the end thereof the following new paragraph:

“(4) EFFECT OF AFFIRMATIVE DETERMINATION UNDER SUBSECTION (a)(2).—If the determination of the administering authority under subsection (a)(2) is affirmative, then the administering authority shall—

Ante, p. 3024.

“(A) in cases where the preliminary determinations by the administering authority under sections 703(b) and 703(e)(1) were both affirmative, continue the retroactive suspension of liquidation and the posting of a cash deposit, bond, or other security previously ordered under section 703(e)(2);

“(B) in cases where the preliminary determination by the administering authority under section 703(b) was affirmative, but the preliminary determination under section 703(e)(1) was negative, shall modify any suspension of liquidation and security requirement previously ordered under section 703(d) to apply to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the date on which suspension of liquidation was first ordered; or

“(C) in cases where the preliminary determination by the administering authority under section 703(b) was negative, shall apply any suspension of liquidation and security requirement ordered under subsection 705(c)(1)(B) to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the date on which suspension of liquidation is first ordered.”.

(3) Section 705(c)(3)(A) is amended by inserting “paragraph (4) or” after “under”.

19 USC 1673b.

(b)(1) Section 735(a)(3) (19 U.S.C. 1673d(a)(3)) is amended by adding at the end thereof the following new sentence: “Such findings may be affirmative even though the preliminary determination under section 733(e)(1) was negative.”.

(2) Section 735(c) is amended by adding at the end thereof the following new paragraph:

“(4) EFFECT OF AFFIRMATIVE DETERMINATION UNDER SUBSECTION (a)(3).—If the determination of the administering authority under subsection (a)(3) is affirmative, then the administering authority shall—

“(A) in cases where the preliminary determinations by the administering authority under sections 733(b) and 733(e)(1) were both affirmative, continue the retroactive suspension of liquidation and the posting of a cash deposit,

bond, or other security previously ordered under section 733(e)(2);

19 USC 1673b.

“(B) in cases where the preliminary determination by the administering authority under section 733(b) was affirmative, but the preliminary determination under section 733(e)(1) was negative, shall modify any suspension of liquidation and security requirement previously ordered under section 733(d) to apply to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the date on which suspension of liquidation was first ordered; or

“(C) in cases where the preliminary determination by the administering authority under section 733(b) was negative, shall apply any suspension of liquidation and security requirement ordered under subsection 735(c)(1)(B) to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the date on which suspension of liquidation is first ordered.”

(3) Section 735(c)(3)(A) is amended by inserting “paragraph (4) or” after “under”.

19 USC 1673d.

SEC. 606. SIMULTANEOUS INVESTIGATIONS.

Section 705(a)(1) (19 U.S.C. 1671d(a)(1)) is amended to read as follows:

“(1) IN GENERAL.—Within 75 days after the date of the preliminary determination under section 703(b), the administering authority shall make a final determination of whether or not a subsidy is being provided with respect to the merchandise; except that when an investigation under this subtitle is initiated simultaneously with an investigation under subtitle B, which involves imports of the same class or kind of merchandise from the same or other countries, the administering authority, if requested by the petitioner, shall extend the date of the final determination under this paragraph to the date of the final determination of the administering authority in such investigation initiated under subtitle B.”

Ante, p. 3024.

19 USC 1673.

SEC. 607. COUNTERVAILING DUTIES APPLY ON COUNTRY-WIDE BASIS.

Section 706(a) (19 U.S.C. 1671e(a)) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) by adding after paragraph (1) the following new paragraph:

“(2) shall presumptively apply to all merchandise of such class or kind exported from the country investigated, except that if—

“(A) the administering authority determines there is a significant differential between companies receiving subsidy benefits, or

“(B) a State-owned enterprise is involved, the order may provide for differing countervailing duties.”

SEC. 608. CONDITIONAL PAYMENT OF COUNTERVAILING DUTIES.

Subtitle A of title VII is amended by adding at the end thereof the following new section:

19 USC 1671h.

“SEC. 709. CONDITIONAL PAYMENT OF COUNTERVAILING DUTY.

“(a) **IN GENERAL.**—For all entries, or withdrawals from warehouse, for consumption of merchandise subject to a countervailing duty order on or after the date of publication of such order, no customs officer may deliver merchandise of that class or kind to the person by whom or for whose account it was imported unless that person complies with the requirement of subsection (b) and deposits with the appropriate customs officer an estimated countervailing duty in an amount determined by the administering authority.

“(b) **IMPORTER REQUIREMENTS.**—In order to meet the requirements of this subsection, a person shall—

“(1) furnish, or arrange to have furnished, to the appropriate customs officer such information as the administering authority deems necessary for ascertaining any countervailing duty to be imposed under this subtitle,

“(2) maintain and furnish to the customs officer such records concerning such merchandise as the administering authority, by regulation, requires, and

“(3) pay, or agree to pay on demand, to the customs officer the amount of countervailing duty imposed under this subtitle on that merchandise.”.

SEC. 609. INITIATION OF ANTIDUMPING DUTY INVESTIGATIONS.

Section 732(a) (19 U.S.C. 1673a(a)) is amended to read as follows:

“(a) **INITIATION BY ADMINISTERING AUTHORITY.**—

“(1) **IN GENERAL.**—An antidumping duty investigation shall be commenced whenever the administering authority determines, from information available to it, that a formal investigation is warranted into the question of whether the elements necessary for the imposition of a duty under section 731 exist.

“(2) **CASES INVOLVING PERSISTENT DUMPING.**—

“(A) **MONITORING.**—The administering authority may establish a monitoring program with respect to imports of a class or kind of merchandise from any additional supplier country for a period not to exceed one year if—

“(i) more than one antidumping order is in effect with respect to that class or kind of merchandise;

“(ii) in the judgment of the administering authority there is reason to believe or suspect an extraordinary pattern of persistent injurious dumping from one or more additional supplier countries; and

“(iii) in the judgment of the administering authority this extraordinary pattern is causing a serious commercial problem for the domestic industry.

“(B) If during the period of monitoring referred to in subparagraph (A), the administering authority determines that there is sufficient information to commence a formal investigation under this subsection regarding an additional supplier country, the administering authority shall immediately commence such an investigation.

“(C) **DEFINITION.**—For purposes of this paragraph, the term ‘additional supplier country’ means a country regarding which no antidumping investigation is currently pending, and no antidumping duty order is currently in effect, with respect to imports of the class or kind of merchandise covered by subparagraph (A).

19 USC 1673.

“(D) EXPEDITIOUS ACTION.—The administering authority and the Commission, to the extent practicable, shall expedite proceedings under this subtitle undertaken as a result of a formal investigation commenced under subparagraph (B).”

SEC. 610. DUTIES OF CUSTOMS OFFICERS.

- (a) Subtitle B of title VII is amended by striking out section 739.
- (b) The table of contents for such subtitle is amended by striking out

“Sec. 739. Duties of customs officers.”.

SEC. 611. REVIEWS AND DETERMINATIONS.

- (a) Subtitle C (19 U.S.C. 1675) is amended—

- (1) by amending the subtitle heading to read as follows:

Repeal.

19 USC 1673h.

**“Subtitle C—Reviews; Other Actions Regarding
Agreements**

“CHAPTER 1—REVIEW OF AMOUNT OF DUTY AND AGREEMENTS OTHER THAN QUANTITATIVE RESTRICTION AGREEMENTS”;

- (2) by amending section 751—

19 USC 1675.

- (A) by inserting “if a request for such a review has been received and” immediately before “after publication of notice” in that part of paragraph (1) of subsection (a) that precedes subparagraph (A); and

- (B) by amending subsection (b)(1)—

- (i) by striking out “704 or 734” and inserting in lieu thereof “704 (other than a quantitative restriction agreement described in subsection (a)(2) or (c)(3)) or 734 (other than a quantitative restriction agreement described in subsection (a)(2))”;

- (ii) by striking out “, or 735(b),” and inserting in lieu thereof “, 735(b), 762(a)(1), or 762(a)(2),” and

- (iii) by adding at the end of subsection (b)(1) the following: “During an investigation by the Commission, the party seeking revocation of an antidumping order shall have the burden of persuasion with respect to whether there are changed circumstances sufficient to warrant revocation of the antidumping order.”; and

- (3) by adding “The administering authority shall not revoke, in whole or in part, a countervailing duty order or terminate a suspended investigation on the basis of any export taxes, duties, or other charges levied on the export of merchandise to the United States specifically intended to offset the subsidy received.” after the first sentence of subsection (c);

- (4) by adding at the end thereof the following new chapter:

**“CHAPTER 2—CONSULTATIONS AND DETERMINATIONS
REGARDING QUANTITATIVE RESTRICTION AGREEMENTS**

“SEC. 761. REQUIRED CONSULTATIONS.

19 USC 1676.

“(a) AGREEMENTS IN RESPONSE TO SUBSIDIES.—Within 90 days after the administering authority accepts a quantitative restriction agree-

President of U.S.

Ante, p. 3025.

ment under section 704 (a)(2) or (c)(3), the President shall enter into consultations with the government that is party to the agreement for purposes of—

“(1) eliminating the subsidy completely, or

“(2) reducing the net subsidy to a level that eliminates completely the injurious effect of exports to the United States of the merchandise.

“(b) **MODIFICATION OF AGREEMENTS ON BASIS OF CONSULTATIONS.**—At the direction of the President, the administering authority shall modify a quantitative restriction agreement as a result of consultations entered into under subsection (a).

“(c) **SPECIAL RULE REGARDING AGREEMENTS UNDER SECTION 704(c)(3).**—This chapter shall cease to apply to a quantitative restriction agreement described in section 704(c)(3) at such time as that agreement ceases to have force and effect under section 704(f) or violation is found under section 704(i).

19 USC 1676a.

“**SEC. 762. REQUIRED DETERMINATIONS.**

“(a) **IN GENERAL.**—Before the expiration date, if any, of a quantitative restriction agreement accepted under section 704(a)(2) or 704(c)(3) (if suspension of the related investigation is still in effect)—

“(1) the administering authority shall, at the direction of the President, initiate a proceeding to determine whether any subsidy is being provided with respect to the merchandise subject to the agreement and, if being so provided, the net subsidy; and

“(2) if the administering authority initiates a proceeding under paragraph (1), the Commission shall determine whether imports of the merchandise of the kind subject to the agreement will, upon termination of the agreement, materially injure, or threaten with material injury, an industry in the United States or materially retard the establishment of such an industry.

“(b) **DETERMINATIONS.**—The determinations required to be made by the administering authority and the Commission under subsection (a) shall be made under such procedures as the administering authority and the Commission, respectively, shall by regulation prescribe, and shall be treated as final determinations made under section 705 for purposes of judicial review under section 516A. If the determinations by each are affirmative, the administering authority shall—

“(1) issue a countervailing duty order under section 706 effective with respect to merchandise entered on and after the date on which the agreement terminates; and

“(2) order the suspension of liquidation of all entries of merchandise subject to the order which are entered, or withdrawn from warehouse for consumption, on or after the date of publication of the order in the Federal Register.

“(c) **HEARINGS.**—The determination proceedings required to be prescribed under subsection (b) shall provide that the administering authority and the Commission must, upon the request of any interested party, hold a hearing in accordance with section 774 on the issues involved.”

(b) The table of contents for subtitle C of title VII is amended to read as follows:

Ante, pp. 3024, 3028, 3029.

Post, p. 3040.

Ante, p. 3029.

Post, p. 3037.

"Subtitle C—Reviews; Other Actions Regarding Agreements

"Chapter 1—REVIEW OF AMOUNT OF DUTY AND AGREEMENTS OTHER
THAN QUANTITATIVE RESTRICTION AGREEMENTS

"Sec. 751. Administrative review of determinations.

"Chapter 2—CONSULTATIONS AND DETERMINATIONS REGARDING
QUANTITATIVE RESTRICTION AGREEMENTS

"Sec. 761. Required consultations

"Sec. 762. Required determinations."

(c) 104(b)(2) of the Trade Agreements Act of 1979 (19 U.S.C. 1671, note) is amended by adding at the end thereof the following new sentence: "A negative determination by the Commission under this paragraph shall not be based, in whole or in part, on any export taxes, duties, or other charges levied on the export of merchandise to the United States specifically intended to offset the subsidy received."

SEC. 612. DEFINITIONS AND SPECIAL RULES.

(a) Section 771 (19 U.S.C. 1677) is amended as follows:

(1) Paragraph (4)(A) is amended by inserting before the period at the end thereof the following: "; except that in the case of wine and grape products subject to investigation under this title, the term also means the domestic producers of the principal raw agricultural product (determined on either a volume or value basis) which is included in the like domestic product, if those producers allege material injury, or threat of material injury, as a result of imports of such wine and grape products".

(2) Paragraph (7) is amended—

(A) by inserting the following new clause at the end of subparagraph (C):

"(iv) CUMULATION.—For purposes of clauses (i) and (ii), the Commission shall cumulatively assess the volume and effect of imports from two or more countries of like products subject to investigation if such imports compete with each other and with like products of the domestic industry in the United States market."; and

(B) by inserting after subparagraph (E) the following new subparagraph:

"(F) THREAT OF MATERIAL INJURY.—

"(i) IN GENERAL.—In determining whether an industry in the United States is threatened with material injury by reason of imports (or sales for importation) of any merchandise, the Commission shall consider, among other relevant economic factors—

"(I) If a subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the subsidy is an export subsidy inconsistent with the Agreement),

"(II) any increase in production capacity or existing unused capacity in the exporting country likely to result in a significant increase in imports of the merchandise to the United States,

"(III) any rapid increase in United States market penetration and the likelihood that the penetration will increase to an injurious level,

“(IV) the probability that imports of the merchandise will enter the United States at prices that will have a depressing or suppressing effect on domestic prices of the merchandise,

“(V) any substantial increase in inventories of the merchandise in the United States,

“(VI) the presence of underutilized capacity for producing the merchandise in the exporting country,

“(VII) any other demonstrable adverse trends that indicate the probability that the importation (or sale for importation) of the merchandise (whether or not it is actually being imported at the time) will be the cause of actual injury, and

“(VIII) the potential for product-shifting if production facilities owned or controlled by the foreign manufacturers, which can be used to produce products subject to investigation(s) under section 701 or 731 or to find orders under section 706 or 736, are also used to produce the merchandise under investigation.

19 USC 1671,
1673.
19 USC 1671e,
1673e.

“(ii) BASIS FOR DETERMINATION.—Any determination by the Commission under this title that an industry in the United States is threatened with material injury shall be made on the basis of evidence that the threat of material injury is real and that actual injury is imminent. Such a determination may not be made on the basis of mere conjecture or supposition.”

(3) Paragraph (9) is amended—

(A) by striking out “and” at the end of subparagraph (D);

(B) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof “, and”; and

(C) by adding at the end thereof the following new subparagraph:

“(F) an association, a majority of whose members is composed of interested parties described in subparagraph (C), (D), or (E) with respect to a like product.”

(4) Paragraph (14) is amended by striking out “at wholesale” and inserting in lieu thereof “in commercial quantities”.

(5) Paragraph (17) is amended by striking out “wholesale quantities” each place it appears in the heading and the text and inserting in lieu thereof commercial quantities”.

(b)(1) Section 514(a) (19 U.S.C. 1514(a)) is amended by striking out “771(9) (C), (D), and (E) of this Act.” and inserting in lieu thereof “771(9) (C), (D), (E), and (F) of this Act.”.

(2) Sections 704 (g)(2) and (h)(1) and 734 (g)(2) and (h)(1) (19 U.S.C. 1671c (g)(2) and (h)(1) and 1673c (g)(2) and (h)(1)) are each amended by striking out “(C), (D), or (E)” and inserting in lieu thereof “(C), (D), (E), and (F)”.

(3) Section 2631(k)(2) of title 28, United States Code, is amended—

(A) by striking out “and” at the end of subparagraph (C),

(B) by striking out the period at the end of subparagraph (D), and inserting in lieu thereof “, and”, and

(C) by adding at the end thereof the following new subparagraph:

“(E) an association composed of members who represent parties-at-interest described in subparagraph (B), (C), or (D).”.

SEC. 613. UPSTREAM SUBSIDIES.

(a) Subtitle D of title VII is amended by adding after section 771 the following new section:

“SEC. 771A. UPSTREAM SUBSIDIES.

19 USC 1677-1.

“(a) DEFINITION.—The term ‘upstream subsidy’ means any subsidy described in section 771(5)(B) (i), (ii), or (iii) by the government of a country that—

19 USC 1677.

“(1) is paid or bestowed by that government with respect to a product (hereafter referred to as an ‘input product’) that is used in the manufacture or production in that country of merchandise which is the subject of a countervailing duty proceeding;

“(2) in the judgment of the administering authority bestows a competitive benefit on the merchandise; and

“(3) has a significant effect on the cost of manufacturing or producing the merchandise.

In applying this subsection, an association of two or more foreign countries, political subdivisions, dependent territories, or possessions of foreign countries organized into a customs union outside the United States shall be treated as being one country if the subsidy is provided by the customs union.

“(b) DETERMINATION OF COMPETITIVE BENEFIT.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the administering authority shall decide that a competitive benefit has been bestowed when the price for the input product referred to in subsection (a)(1) for such use is lower than the price that the manufacturer or producer of merchandise which is the subject of a countervailing duty proceeding would otherwise pay for the product in obtaining it from another seller in an arms-length transaction.

“(2) ADJUSTMENTS.—If the administering authority has determined in a previous proceeding that a subsidy is paid or bestowed on the input product that is used for comparison under paragraph (1), the administering authority may (A) where appropriate, adjust the price that the manufacturer or producer of merchandise which is the subject of such proceeding would otherwise pay for the product to reflect the effects of the subsidy, or (B) select in lieu of that price a price from another source.

“(c) INCLUSION OF AMOUNT OF SUBSIDY.—If the administering authority decides, during the course of a countervailing duty proceeding that an upstream subsidy is being or has been paid or bestowed regarding the merchandise under investigation, the administering authority shall include in the amount of any countervailing duty imposed on the merchandise an amount equal to the amount of the competitive benefit referred to in subparagraph (1)(B), except that in no event shall the amount be greater than the amount of subsidization determined with respect to the upstream product.”

(b) Section 701 of the Tariff Act of 1930 (19 U.S.C. 1671) is further amended by adding at the end thereof the following new subsection:

“(g) Whenever the administering authority has reasonable grounds to believe or suspect that an upstream subsidy, as defined in section 771A(a)(1), is being paid or bestowed, the administering authority shall investigate whether an upstream subsidy has in fact been paid or bestowed, and if so, shall include the amount of the upstream subsidy as provided in section 771A(a)(3).”

Supra.

(c) Section 703 of the Tariff Act of 1930 (19 U.S.C. 1617b) is further amended by adding at the end thereof the following new subsection:

“(h) TIME PERIOD WHERE UPSTREAM SUBSIDIZATION INVOLVED.—

Ante, p. 3024.

19 USC 1671a.

“(1) **IN GENERAL.**—Whenever the administering authority concludes prior to a preliminary determination under section 703(b), that there is a reasonable basis to believe or suspect that an upstream subsidy is being bestowed, the time period within which a preliminary determination must be made shall be extended to 250 days after the filing of a petition under section 702(b) or commencement of an investigation under section 702(a) (310 days in cases declared extraordinarily complicated under section 703(c)), if the administering authority concludes that such additional time is necessary to make the required determination concerning upstream subsidization.

“(2) **EXCEPTIONS.**—Whenever the administering authority concludes, after a preliminary determination under section 703(b), that there is a reasonable basis to believe or suspect that an upstream subsidy is being bestowed—

Ante, pp. 3029, 3028.

“(A) in cases in which the preliminary determination was negative, the time period within which a final determination must be made shall be extended to 165 days under section 705(a)(1) or 225 days under section 705(a)(2), as appropriate; or

“(B) in cases in which the preliminary determination is affirmative, the determination concerning upstream subsidization—

Ante, p. 3031.

“(i) need not be made until the conclusion of the first annual review under section 751 of any eventual Countervailing Duty Order, or, at the option of the petitioner, or

Ante, p. 3029.

“(ii) will be made in the investigation and the time period within which a final determination must be made shall be extended to 165 days under section 705(a)(2), as appropriate, except that the suspension of liquidation ordered in the preliminary determination shall terminate at the end of 120 days from the date of publication of that determination and not be resumed unless and until the publication of a Countervailing Duty Order under section 706(a).

There may be an extension of time for the making of a final determination under this subsection only if the administering authority determines that such additional time is necessary to make the required determination concerning upstream subsidization.”.

(b) The table of contents for title VII is amended by inserting after the entry for section 771 the following:

“Sec. 771A. Upstream subsidies.”.

SEC. 614. RESELLER'S PRICE TAKEN INTO ACCOUNT IN DETERMINING PURCHASE PRICE.

Section 772(b) (19 U.S.C. 1677a(b)) is amended by inserting “a reseller or” after “date of importation, from”.

SEC. 615. FOREIGN MARKET VALUE.

Section 773 (19 U.S.C. 1677b) is amended—

(1) by striking out “time of exportation of such merchandise to the United States” and inserting in lieu thereof “time such

merchandise is first sold within the United States by the person for whom (or for whose account) the merchandise is imported to any other person who is not described in subsection (e)(3) with respect to such person" in subsection (a)(1);

(2) by striking out "wholesale quantities" each place it appears in the heading and the text and inserting in lieu thereof "commercial quantities"; and

(3) by adding at the end thereof the following new subsection:

"(g) EXPORTATION FROM AN INTERMEDIATE COUNTRY.—If—

"(1) a reseller purchases the merchandise from the manufacturer or producer of the merchandise,

"(2) the manufacturer or producer of the merchandise does not know (at the time of the sale to such reseller) the country to which such reseller intends to export the merchandise,

"(3) the merchandise is exported by, or on behalf of, such reseller to a country other than the United States,

"(4) the merchandise enters the commerce of such country but is not substantially transformed in such country, and

"(5) the merchandise is subsequently exported to the United States,

such country shall be treated, for purposes of this section, as the country from which the merchandise was exported."

SEC. 616. HEARINGS.

Section 774(a) (19 U.S.C. 1677c(a)) is amended to read as follows:

"(a) INVESTIGATION HEARINGS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the administering authority and the Commission shall each hold a hearing in the course of an investigation upon the request of any party to the investigation before making a final determination under section 705 or 735.

"(2) EXCEPTION.—If investigations are initiated under subtitle A and subtitle B regarding the same merchandise from the same country within 6 months of each other (but before a final determination is made in either investigation), the holding of a hearing by the Commission in the course of one of the investigations shall be treated as compliance with paragraph (1) for both investigations, unless the Commission considers that special circumstances require that a hearing be held in the course of each of the investigations. During any investigation regarding which the holding of a hearing is waived under this paragraph, the Commission shall allow any party to submit such additional written comment as it considers relevant."

Ante, pp. 3024,
3028, 3029.

19 USC 1671,
1673.

SEC. 617. SUBSIDIES DISCOVERED DURING PROCEEDING.

Section 775 (19 U.S.C. 1677d) is amended by striking out "investigation" each place it appears in the text and in the heading and inserting in lieu thereof "proceeding".

SEC. 618. VERIFICATION OF INFORMATION.

Section 776(a) (19 U.S.C. 1677e(a)) is amended to read as follows:

"(a) GENERAL RULE.—The administering authority shall verify all information relied upon in making—

"(1) a final determination in an investigation,

"(2) a revocation under section 751(c), and

"(3) a review and determination under section 751(a), if—

Ante, p. 3031.

Ante, p. 3033.

“(A) verification is timely requested by an interested party as defined in section 771(9) (C), (D), (E), or (F), and

“(B) no verification was made under this paragraph during the 2 immediately preceding reviews and determinations under that section of the same order, finding, or notice, except that this clause shall not apply if good cause for verification is shown.

In publishing notice of any action referred to in paragraph (1), (2), or (3), the administering authority shall report the methods and procedures used to verify such information. If the administering authority is unable to verify the accuracy of the information submitted, it shall use the best information available to it as the basis for its action, which may include, in actions referred to in paragraph (1), the information submitted in support of the petition.”.

SEC. 619. RECORDS OF EX PARTE MEETINGS; RELEASE OF CONFIDENTIAL INFORMATION.

Section 777 (19 U.S.C. 1677f) is amended—

(1) by amending paragraph (3) of subsection (a) to read as follows:

“(3) **EX PARTE MEETINGS.**—The administering authority and the Commission shall maintain a record of any ex parte meeting between—

“(A) interested parties or other persons providing factual information in connection with a proceeding, and

“(B) the person charged with making the determination, or any person charged with making a final recommendation to that person, in connection with that proceeding, if information relating to that proceeding was presented or discussed at such meeting. The record of such an ex parte meeting shall include the identity of the persons present at the meeting, the date, time, and place of the meeting, and a summary of the matters discussed or submitted. The record of the ex parte meeting shall be included in the record of the proceeding.”;

(2) by striking out “submitted” in the first sentence of subsection (b) and inserting in lieu thereof “submitted, or an officer or employee of the United States Customs Service who is directly involved in conducting an investigation regarding fraud under this title”;

(3) by striking out the second sentence of subsection (b) and inserting in lieu thereof the following new sentence: “The administering authority and the Commission shall require that information for which confidential treatment is requested be accompanied by—

“(A) either—

“(i) a nonconfidential summary in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence, or

“(ii) a statement that the information is not susceptible to summary accompanied by a statement of the reasons in support of the contention, and

“(B) either—

“(i) a statement which permits the administering authority to release under administrative protective order, in accordance with subsection (c), the information submitted in confidence, or

“(ii) a statement that the information should not be released under administrative protective order.”; and
 (4) by inserting “(before or after receipt of the information requested)” after “application,” in subsection (c)(1)(A).

SEC. 620. SAMPLING AND AVERAGING IN DETERMINING UNITED STATES PRICE AND FOREIGN MARKET VALUE.

(a) Subtitle D of title VII (19 U.S.C. 1677a et seq.) is amended by adding immediately after section 777 the following new section:

“SEC. 777A. SAMPLING AND AVERAGING.

19 USC 1677f-1.

“(a) **IN GENERAL.**—For the purpose of determining United States price or foreign market value under sections 772 and 773, and for purposes of carrying out annual reviews under section 751, the administering authority may—

19 USC 1677a;
ante, p. 3036.
Ante, p. 3031.

“(1) use averaging or generally recognized sampling techniques whenever a significant volume of sales is involved or a significant number of adjustments to prices is required, and

“(2) decline to take into account adjustments which are insignificant in relation to the price or value of the merchandise.

“(b) **SELECTION OF SAMPLES AND AVERAGES.**—The authority to select appropriate samples and averages shall rest exclusively with the administering authority; but such samples and averages shall be representative of the transactions under investigation.”.

(b) Subsection (f) of section 773 (19 U.S.C. 1677b(f)) is repealed.

(c) The table of contents for title VII is amended by inserting after the entry for section 777 the following:

“Sec. 777A. Sampling and averaging.”.

SEC. 621. INTEREST.

Section 778 (19 U.S.C. 1677g) is amended to read as follows:

“SEC. 778. INTEREST ON CERTAIN OVERPAYMENTS AND UNDERPAYMENTS.

“(a) **GENERAL RULE.**—Interest shall be payable on overpayments and underpayments of amounts deposited on merchandise entered, or withdrawn from warehouse, for consumption on and after—

“(1) the date of publication of a countervailing or antidumping duty order under this title or section 303, or

“(2) the date of a finding under the Antidumping Act, 1921.

19 USC 1671;
ante, p. 1303.
 19 USC 160 note.

“(b) **RATE.**—The rate of interest payable under subsection (a) for any period of time is the rate of interest established under section 6621 of the Internal Revenue Code of 1954 for such period.”.

26 USC 6621.

SEC. 622. DRAWBACKS.

(a) Title VII is amended—

(1) by striking out section 740, and

(2) by adding at the end of subtitle D the following new section:

19 USC 1673i.

“SEC. 779. DRAWBACKS.

19 USC 1677h.

“For purposes of any law relating to the drawback of customs duties, countervailing duties and antidumping duties imposed by this title shall be treated as any other customs duties.”.

(b) The table of contents for such title is amended—

(1) by striking out

“Sec. 740. Antidumping duty treated as a regular duty for drawback purposes.”;

and

(2) by adding at the end thereof

“Sec. 779. Drawbacks.”.

SEC. 623. ELIMINATION OF INTERLOCUTORY APPEALS.

(a) Section 516A(a) (19 U.S.C. 1516a(a)) is amended as follows:

(1) Paragraph (1) is amended to read as follows:

“(1) **REVIEW OF CERTAIN DETERMINATIONS.**—Within 30 days after the date of publication in the Federal Register of—

19 USC 1671a,
1673a.

“(A) a determination by the administering authority, under 702(c) or 732(c) of this Act, not to initiate an investigation,

Ante, p. 3031.

“(B) a determination by the Commission, under section 751(b) of this Act, not to review a determination based upon changed circumstances, or

19 USC 1671b,
1673b.

“(C) a negative determination by the Commission, under section 703(a) or 733(a) of this Act, as to whether there is reasonable indication of material injury, threat of material injury, or material retardation,

an interested party who is a party to the proceeding in connection with which the matter arises may commence an action in the United States Court of International Trade by filing concurrently a summons and complaint, each with the content and in the form, manner, and style prescribed by the rules of that court, contesting any factual findings or legal conclusions upon which the determination is based.”.

(2) Paragraph (2)(A) is amended—

(A) by striking out “the date of publication in the Federal Register of” in the matter preceding clause (i); and

(B) by amending clauses (i) and (ii) to read as follows:

“(i) the date of publication in the Federal Register of—

“(I) notice of any determination described in clause (ii), (iii), (iv), or (v) of subparagraph (B), or

“(II) an antidumping or countervailing duty order based upon any determination described in clause (i) of subparagraph (B), or

“(ii) the date of mailing of a determination described in clause (vi) of subparagraph (B).”.

(3) Amend paragraph (2)(B) to read as follows:

“(B) **REVIEWABLE DETERMINATIONS.**—The determinations which may be contested under subparagraph (A) are as follows:

Ante, pp. 3024,
3028, 3029.

“(i) Final affirmative determinations by the administering authority and by the Commission under section 705 or 735 of this Act, including any negative part of such a determination (other than a part referred to in clause (ii)).

“(ii) A final negative determination by the administering authority or the Commission under section 705 or 735 of this Act, including, at the option of the appellant, any part of a final affirmative determination which specifically excludes any company or product.

“(iii) A final determination, other than a determination reviewable under paragraph (1), by the administer-

ing authority or the Commission under section 751 of this Act.

Ante, p. 3031.

“(iv) A determination by the administering authority, under section 704 or 734 of this Act, to suspend an antidumping duty or a countervailing duty investigation, including any final determination resulting from a continued investigation which changes the size of the dumping margin or net subsidy calculated, or the reasoning underlying such calculations, at the time the suspension agreement was concluded.

Ante, pp. 3025, 3026.

“(v) An injurious effect determination by the Commission under section 704(h) or 734(h) of this Act.

“(vi) A determination by the administering authority as to whether a particular type of merchandise is within the class or kind of merchandise described in an existing finding of dumping or antidumping or countervailing duty order.”.

(4) Redesignate paragraph (3) as paragraph (4) and after paragraph (2) insert the following:

“(3) EXCEPTION.—Notwithstanding the limitation imposed by paragraph (2)(A)(ii) of this subsection, a final affirmative determination by the administering authority under section 705 or 735 of this Act may be contested by commencing an action, in accordance with the provisions of paragraph (2)(A), within thirty days after the date of publication in the Federal Register of a final negative determination by the Commission under section 705 or 735 of this Act.”.

Ante, pp. 3024, 3028, 3029.

(b) Title 28, United States Code, is amended as follows:

(1) Section 2636 is amended—

(A) by amending subsection (c) to read as follows:

“(c) A civil action contesting a reviewable determination listed in section 516A of the Tariff Act of 1930 is barred unless commenced in accordance with the rules of the Court of International Trade within the time specified in such section.”; and

Ante, p. 3040.

(B) by striking out subsection (d) and redesignating subsections (e) through (i) as (d) through (h), respectively.

(2) Section 2647 is amended to read as follows:

“§ 2647. Precedence of cases

“The following civil actions in the Court of International Trade shall be given precedence, in the following order, over other civil actions pending before the Court, and shall be assigned for hearing at the earliest practicable date and expedited in every way:

“(1) First, a civil action involving the exclusion of perishable merchandise or the redelivery of such merchandise.

“(2) Second, a civil action commenced under section 515 of the Tariff Act of 1930 involving the exclusion or redelivery of merchandise.

19 USC 1515.

“(3) Third, a civil action commenced under section 516 or 516A of the Tariff Act of 1930.”.

19 USC 1516;
ante, p. 3040.

SEC. 624. ADJUSTMENTS STUDY.

The Secretary of Commerce shall undertake a study of the current practices that are applied in the making of adjustments to purchase prices and exporter's sales prices under section 772 (d) and (e) (19 U.S.C. 1677a (d) and (e)) and foreign market value and constructed

Ante, p. 3036. value under section 773 (19 U.S.C. 1677b) in determining antidumping duties. The study shall include, but not be limited to—

- (1) a review of the types of adjustments currently being made;
- (2) a review of private sector comments and recommendations regarding the subject that were made at congressional hearings during the first session of the Ninety-eighth Congress; and
- (3) the manner and extent to which such adjustments lead to inequitable results.

Report. Within one year after the date of the enactment of this Act, the Secretary of Commerce shall complete the study required under this section and shall submit to Congress a written report regarding the study and containing such recommendations as the Secretary deems appropriate regarding the need, and the means, for simplifying and modifying current practices in the making of such adjustments.

SEC. 625. INDUSTRIAL TARGETING STUDIES.

The Secretary of Commerce, the Secretary of Labor, the United States Trade Representative, and the Comptroller General of the United States shall each undertake, and submit to the Congress not later than June 1, 1985, a comprehensive study of the problem of foreign industrial targeting, whereby foreign governments adopt plans or schemes of coordinated activities to foster and benefit specific industries, and of the desirability or need to amend the United States trade laws in order to provide effective remedies for domestic industries against the adverse effects of such targeting. To the extent consistent with agency jurisdiction, such studies shall include, but are not limited to—

- (1) an analysis of—

(A) whether foreign industrial targeting should be considered as an unfair trade practice under United States law;

(B) whether current law, including the remedies under title VII of the Tariff Act of 1930, adequately address the subsidy element of foreign industrial policy measures; and

(C) the extent to which foreign industrial targeting practices are significantly affecting United States commerce; and

- (2) any recommended legislation considered necessary based on the study results.

19 USC 1671.
note.

SEC. 626. EFFECTIVE DATES.

(a) Except as provided in subsections (b) and (c), this Act, and the amendments made by it, shall take effect on the date of the enactment of this Act.

19 USC 1671,
1673.

(b)(1) The amendments made by sections 602, 609, 611, 612, and 620 shall apply with respect to investigations initiated by petition or by the administering authority under subtitles A and B of title VII of the Tariff Act of 1930 on or after such effective date.

(2) The amendments made by section 623 shall apply with respect to civil actions pending on, or filed on or after, the date of the enactment of this Act.

19 USC 1671.

(c)(1) No provision of title VII of the Tariff Act of 1930 shall be interpreted to prevent the refiling of a petition under section 702 or 732 of that title that was filed before the date of the enactment of this title, if the purpose of such refiling is to avail the petitioner of the amendment made by section 612(a)(1).

19 USC 1671a,
1673a.

(2) The amendment made by section 612(a)(1) shall not apply with respect to petitions filed (or refiled under paragraph (1)) under section 702 or 732 of the Tariff Act of 1930 after September 30, 1986.

19 USC 1671a,
1673a.

TITLE VII—AUTHORIZATION OF APPROPRIATIONS FOR CUSTOMS AND TRADE AGENCIES

SEC. 701. UNITED STATES INTERNATIONAL TRADE COMMISSION.

19 USC 1330.

The first sentence of paragraph (2) of section 330(e) of the Tariff Act of 1930 (19 U.S.C. 133(e)(2)) is amended to read as follows: "There are authorized to be appropriated to the Commission for necessary expenses (including the rental of conference rooms in the District of Columbia and elsewhere) for fiscal year 1985 not to exceed \$28,410,000; of which not to exceed \$2,500 may be used, subject to approval by the Chairman of the Commission, for reception and entertainment expenses."

19 USC 1330.

SEC. 702. UNITED STATES CUSTOMS SERVICE.

Section 301 of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075) is amended as follows:

(1) Subsection (b) is amended to read as follows:

"(b) There are authorized to be appropriated to the Department of the Treasury not to exceed \$686,399,000 for the salaries and expenses of the United States Customs Service for fiscal year 1985; of which (A) \$28,070,000 is for the operation and maintenance of the air interdiction program of the Service, and (B) not to exceed \$15,000,000 is for the implementation of the 'Operation EXODUS' program and any related program designed to enforce or monitor export controls under the Export Administration Act of 1979."

50 USC 2401
note.

(2) Subsection (d) is redesignated as subsection (e).

(3) The following new subsection is inserted immediately after subsection (c):

"(d) No part of any sum that is appropriated under subsection (b) for fiscal years after September 30, 1984, may be used for administrative expenses to pay any employee of the United States Customs Service overtime pay in an amount exceeding \$25,000; except that the Commissioner of Customs or his designee may waive this limitation in individual cases in order to prevent excessive costs or to meet emergency requirements of the Service."

SEC. 703. OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE.

Section 141(f)(1) of the Trade Act of 1974 (19 U.S.C. 2171(f)(1)) is amended—

(1) by striking out "\$11,100,000 for fiscal year 1983" and inserting in lieu thereof "\$14,179,000 for fiscal year 1985"; and

(2) by striking out "\$65,000" and inserting in lieu thereof "\$80,000".

TITLE VIII—ENFORCEMENT AUTHORITY FOR THE NATIONAL POLICY FOR THE STEEL INDUSTRY

Steel Import
Stabilization
Act.

SEC. 801. SHORT TITLE.

This title may be cited as the "Steel Import Stabilization Act".

19 USC 2253
note.

19 USC 2253
note.

SEC. 802. FINDINGS AND PURPOSES.

(a) The Congress finds that—

(1) the United States steel industry has a serious need to modernize its plant and equipment in order to enhance its international competitiveness, and needs increased capital investments to effect that modernization;

(2) the ability of the domestic steel industry to be internationally competitive is, and has been, impeded by the effects of the enormous Federal budget deficit, an overvalued dollar, and increasing trade deficits, as well as serious injury due to imports of, and subsidies, dumping, and the use of other unfair and restrictive foreign trade practices regarding steel products;

(3) the extensiveness of the unfair trade practices engaged in the international market regarding such products imposes unusually harsh burdens on the United States steel industry in combating those practices through the trade remedy laws;

(4) expeditious and effective action under the President's national policy for the steel industry, including more vigorous efforts by the Executive Branch to self-initiate and pursue remedies against those practices, is needed to eliminate the adverse effects of those unfair trade practices;

(5) import relief will be ineffective and will not serve the national economic interest unless the industry during the period of relief engages in serious efforts substantially to modernize and to improve its international competitiveness; and

(6) full and effective implementation of the national policy for the steel industry will substantially improve the economy and employment in both the steel and iron ore-producing sectors.

(b) The purposes of this title are—

(1) to supplement the authority of the President to achieve the goals of the national policy for the steel industry by granting enforcement powers regarding those bilateral arrangements that are entered into or undertaken for purposes of implementing that national policy; and

(2) to make the continuation of those powers subject to the condition that the steel industry undertake a comprehensive modernization of its plant and equipment.

19 USC 2253
note.

SEC. 803. SENSE OF CONGRESS REGARDING THE NATIONAL POLICY FOR THE STEEL INDUSTRY.

It is the sense of the Congress that—

(1) the President should, in conjunction with the authority granted under this title, implement the national policy for the steel industry in a manner to ensure that the foreign share of the United States market for steel products is commensurate with a level which would obtain under conditions of fair, unsubsidized competition; and it is further the sense of Congress that when this policy is fully implemented, it will result in a foreign share of the domestic market of 17.0 to 20.2 percent, subject to such modifications that changes in market conditions and the composition of the steel industry may require;

(2) the national policy for the steel industry should not be implemented in a manner contrary to the antitrust laws; and

(3) if the national policy for the steel industry does not produce satisfactory results within a reasonable period of time, the Congress will consider taking such legislative actions concerning steel and iron ore products as may be necessary or

appropriate to stabilize conditions in the domestic market for such products.

SEC. 804. DEFINITIONS.

19 USC 2253
note.

As used in this title—

(1) The term “bilateral arrangement” means any arrangement, agreement, or understanding (including, but not limited to, any surge control understanding or suspension agreement) entered into or undertaken, or previously entered into or undertaken, by the United States and any foreign country or customs union containing such quantitative limitations, restrictions, or other terms relating to the importation into, or exportation to, the United States of categories of steel products as may be necessary to implement the national policy for the steel industry.

(2) The term “national policy for the steel industry” means those actions and elements described in Executive Communication 4046, dated September 18, 1984 (printed as House Document 98-263).

(3) The term “steel industry” means producers in the United States of steel products.

SEC. 805. ENFORCEMENT AUTHORITY.

19 USC 2253
note.

(a) Subject to section 806, the President is authorized to carry out such actions as may be necessary or appropriate to enforce the quantitative limitations, restrictions, and other terms agreed to between the United States and steel-exporting nations as contained in bilateral arrangements. Such actions may include, but are not limited to, requirements that valid export licenses or other documentation issued by a foreign government be presented as a condition for the entry into the United States of steel products.

(b)(1) In connection with the provisions of the Arrangement on European Communities' Export of Pipes and Tubes to the United States of America, contained in an exchange of letters dated October 21, 1982, between representatives of the United States and the Commission of the European Communities, including any modification, clarification, extension, or successor agreement thereto (collectively referred to hereinafter as “the Arrangement”), the Secretary of Commerce is authorized to request the Secretary of the Treasury to take action pursuant to paragraph (2) of this subsection whenever he determines that—

(A) the level of exports of pipes and tubes to the United States from the European Communities is exceeding the average share of annual United States apparent consumption specified in the Arrangement, or

(B) distortion is occurring in the pattern of United States-European Communities trade within the pipe and tube sector taking into account the average share of annual United States apparent consumption accounted for by European Communities articles within product categories developed by the Secretary of Commerce.

Any request to the Secretary of the Treasury pursuant to this subsection by the Secretary of Commerce shall identify one or more categories of pipe and tube products with respect to which action under paragraph (2) is requested.

(2) At the request of the Secretary of Commerce pursuant to paragraph (1), the Secretary of the Treasury shall take such action

as may be necessary to ensure that the aggregate quantity of European Communities articles in each product category identified by the Secretary of Commerce in such request that are entered into the United States are in accordance with the terms of the Arrangement.

(3) Nothing in this subsection may be construed as prohibiting the Secretary of Commerce from permitting the importation of additional quantities of specific products in cases where the Secretary determines that conditions of short supply or emergency economic situations related to market demand exist; except that a short supply or emergency economic situation shall not be considered to exist solely because domestic producers are unwilling to supply products at prices below their costs of production (as determined by the Secretary of Commerce).

(c) For purposes of carrying out this title, the Secretary of the Treasury may provide by regulation for the terms and conditions under which steel products may be denied entry into the United States.

19 USC 2253
note.

SEC. 806. EFFECTIVE PERIOD OF TITLE.

(a) IN GENERAL.—Section 805 shall terminate—

(1) at the close of the fifth anniversary of the effective date of this title; or

(2) at the close of the first, second, third, or fourth anniversary of the effective date of this title, unless the President, before each such anniversary, submits to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate (in writing and together with the reasons therefor) an affirmative annual determination described in subsection (b).

(b)(1) An affirmative annual determination is a determination by the President that—

(A) the major companies of the steel industry, taken as a whole, have, during the 12-month period ending at the close of an anniversary referred to in subsection (a)(2)—

(i) committed substantially all of their net cash flow from steel product operations for purposes of reinvestment in, and modernization of, that industry through investment in modern plant and equipment, research and development, and other appropriate projects, such as working capital for steel operations and programs for the retraining of workers; and

(ii) taken sufficient action to maintain their international competitiveness, including action to produce price-competitive and quality-competitive products, to control costs of production, including employment costs, and to improve productivity; and

(B) each of the major companies committed for the applicable 12-month period not less than 1 percent of net cash flow to the retraining of workers; except that this requirement may be waived by the President with respect to a major company in noncompliance, if he finds unusual economic circumstances exist with respect to that company; and

(C) the enforcement authority provided under section 805 remains necessary to maintain the effectiveness of bilateral arrangements undertaken to eliminate unfair trade practices in the steel sector.

(2) For purposes of this subsection—

(A) the term “major company” means an enterprise whose raw steel production in the United States during 1983 exceeded 1,500,000 net tons.

(B) The term “net cash flow” means annual net (after-tax) income plus depreciation, depletion allowances, amortization, and changes in reserves minus dividends and payments on short-term and long-term debts and liabilities.

(3) For purposes of carrying out this subsection, the President shall take into account such information as may be available from the United States International Trade Commission and other appropriate sources relating to the modernization efforts of the steel industry.

SEC. 807. DEPARTMENT OF LABOR WORKER ASSISTANCE PLAN.

19 USC 2253
note.

Within 6 months after the effective date of this title, the Secretary of Labor shall prepare (in consultation with the Steel Advisory Committee established on November 3, 1983, by the Secretary of Commerce and the Secretary of Labor (48 F.R. 51165)) and submit to the Congress a proposed plan of action for assisting workers in communities that are adversely affected by imports of steel products; which assistance shall include retraining and relocation for former workers in the steel industry who will likely be unable to return to employment in that industry. The plan required under this section shall be based upon existing authorities for providing such assistance, but shall be accompanied by such recommendations for additional statutory authority as the Secretary of Labor considers necessary to carry out the purposes of the plan.

SEC. 808. EFFECTIVE DATE.

19 USC 2253
note.

This title shall take effect on October 1, 1984.

TITLE IX—WINE TRADE

Wine Equity and
Export Expansion
Act of 1984.
19 USC 2801
note.

SEC. 901. SHORT TITLE.

This title may be cited as the “Wine Equity and Export Expansion Act of 1984”.

SEC. 902. CONGRESSIONAL FINDINGS AND PURPOSES.

19 USC 2801.

(a) Congress finds that—

(1) there is a substantial imbalance in international wine trade resulting, in part, from the relative accessibility enjoyed by foreign wines to the United States market while the United States wine industry faces restrictive tariff and nontariff barriers in virtually every existing or potential foreign market;

(2) the restricted access to foreign markets and the continued low prices for United States wine and grape products adversely affect the economic position of our Nation’s winemakers and grape growers, as well as all other domestic sectors that depend upon wine production;

(3) the competitive position of United States wine in international trade has been weakened by foreign trade practices, high domestic interest rates, and unfavorable foreign exchange rates;

(4) wine consumption per capita is very low in many major non-wine producing markets and the demand potential for United States wine is significant; and

(5) the United States winemaking industry has the capacity and the ability to export substantial volumes of wine and an increase in United States wine exports will create new jobs, improve this Nation's balance of trade, and otherwise strengthen the national economy.

(b) The purposes of this title are—

(1) to provide wine consumers with the greatest possible choice of wines from wine-producing countries;

(2) to encourage the initiation of an export promotion program to develop, maintain, and expand foreign markets for United States wine; and

(3) to achieve greater access to foreign markets for United States wine and grape products through the reduction or elimination of tariff barriers and nontariff barriers to (or other distortions of) trade in wine.

19 USC 2802.

SEC. 903. DEFINITIONS.

For purposes of this title—

(1) The term “Committees” means the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(2) The term “grape product” means grapes and any product (other than wine) made from grapes, including, but not limited to, raisins and grape juice, whether or not concentrated.

(3) The term “major wine trading country” means any foreign country, or group of foreign countries, designated as such under section 904.

(4) The phrase “nontariff barrier to (or other distortion of)”, in the context of trade in United States wine, includes any measure implemented by the government of a major wine trading country that either gives a competitive advantage to the wine industry of that country or restricts the importation of United States wine into that country.

(5) The term “Trade Representative” means the United States Trade Representative.

(6) The term “United States wine” means wine produced within the customs territory of the United States.

(7) The term “wine” means any fermented alcoholic beverage that—

(A) is made from grapes or other fruit;

(B) contains not less than 0.5 percent alcohol by volume and not more than 24 percent alcohol by volume, including all dilutions and mixtures thereof by whatever process produced; and

(C) is for nonindustrial use.

19 USC 2803.

SEC. 904. DESIGNATION OF MAJOR WINE TRADING COUNTRIES.

(a) The Trade Representative shall designate as a major wine trading country each foreign country, or group of foreign countries represented as an economic union, that, in the judgment of the Trade Representative—

(1) is a potential significant market for United States wine; and

(2) maintains tariff barriers or nontariff barriers to (or other distortions of) trade in United States wine.

(b) In deciding, for purposes of subsection (a)(2), whether a foreign country or group of countries maintains nontariff barriers to (or

other distortions of) trade in United States wine, the Trade Representative shall take into account—

(1) the review and report required under section 854(a) of the Trade Agreements Act of 1979 (19 U.S.C. 2135 note);

(2) such relevant actions that may have been taken by that country or group since that review was conducted; and

(3) such information as may be submitted under section 906 by representatives of the wine and grape products industries in the United States, as well as other sources.

SEC. 905. ACTIONS TO REDUCE OR ELIMINATE TARIFF AND NONTARIFF BARRIERS AFFECTING UNITED STATES WINE.

19 USC 2804.

(a) The President shall direct the Trade Representative to enter into consultations with each major wine trading country to seek a reduction or elimination of that country's tariff barriers and nontariff barriers to (or other distortions of) trade in United States wine.

President of U.S.

(b)(1) the President shall notify each of the Committees regarding the extent and effect of the efforts undertaken since the submission of the report required under section 854(a) of the Trade Agreements Act of 1979, and during the 12-month period beginning on the date of the enactment of this Act, to expand opportunities in each major wine trading country for exports of United States wine. Such notification, which shall be in the form of a separate written report (that must be submitted within 30 days after the close of that 12-month period) for each major wine trading country, shall include—

Report.

(A) a description of each act, policy, and practice (and of its legal basis and operation) in that country that constitutes a tariff barrier or nontariff barrier to (or other distortion of) trade in United States wine (and that description shall be based upon an updating of the report that was submitted to the Congress under section 854(a) of the Trade Agreements Act of 1979);

19 USC 2135 note.

(B) an assessment of the extent to which each such act, policy, or practice is subject to international agreements to which the United States is a party;

(C) information with respect to any action taken, or proposed to be taken, under existing authority to eliminate or reduce each such act, policy, or practice, including, but not limited to—

(i) any action under the Trade Act of 1974, and

19 USC 2101.

(ii) any negotiation or consultation with any foreign government;

(D) if action referred to in subparagraph (C) was not taken, an explanation of the reasons therefore; and

(E) recommendations to the Congress of any additional legislative authority or other action which the President believes is necessary and appropriate to obtain the elimination or reduction of foreign tariff barriers or nontariff barriers to (or other distortions of) trade in United States wine.

(2) The reports required under paragraph (1) shall be developed and coordinated by the Trade Representative through the interagency trade organization established by section 242(a) of the Trade Expansion Act of 1962.

19 USC 1872.

(c) If the President, after taking into account information and advice received under subsections (a) and (b), section 906 or from other sources, determines that action is appropriate to respond to any act, policy, or practice of a major wine trading country constitutes a tariff barrier or nontariff barrier to (or other distortion of) trade in United States wine and—

(1) is inconsistent with the provisions of, or otherwise denies benefits to the United States under, any trade agreement; or
 (2) is unjustifiable, unreasonable, or discriminatory and burdens or restricts United States commerce;
 the President, shall take all appropriate and feasible action under the Trade Act of 1974 to enforce the rights of the United States under any such trade agreement or to obtain the elimination of such act, policy, or practice.

19 USC 2805. **SEC. 906. REQUIRED CONSULTATIONS.**

The Trade Representative shall consult with the Committees and with representatives of the wine and grape products industries in the United States—

(1) before identifying tariff barriers and nontariff barriers to (or other distortions of) trade in United States wine and designating major wine trading countries under section 904;

(2) in developing the reports required under section 905(b); and

(3) for purposes of determining whether action by the President is appropriate under any provision of the Trade Act of 1974 with respect to any act, policy, or practice referred to in section 905(b)(1).

19 USC 2806. **SEC. 907. UNITED STATES WINE EXPORT PROMOTION.**

In order to develop, maintain, and expand foreign markets for United States wine, the President is encouraged to—

(1) utilize, for the fiscal year ending September 30, 1985, the authority provided under section 135 of the Omnibus Budget Reconciliation Act of 1982 to make available sufficient funds to initiate, in cooperation with nongovernmental trade associations representative of United States wineries, an export promotion program for United States; and

(2) request, for each subsequent fiscal year, an appropriation for such a wine export promotion program that will not be at the expense of any appropriations requested for export promotion programs involving other agriculture commodities.

Approved October 30, 1984.

LEGISLATIVE HISTORY—H.R. 3398:

HOUSE REPORTS: No. 98-267 (Comm. on Ways and Means) and No. 98-1156 (Comm. of Conference).

SENATE REPORT No. 98-308 (Comm. on Finance).

CONGRESSIONAL RECORD:

Vol. 129 (1983): June 28, considered and passed House.

Vol. 130 (1984): Mar. 2, Sept. 17-20, considered and passed Senate, amended.

Oct. 3, House concurred in a Senate amendment and in others with amendments.

Oct. 9, House and Senate agreed to conference report.

Public Law 98-574
98th Congress

An Act

To designate various areas as components of the National Wilderness Preservation System in the national forests in the State of Texas.

Oct. 30, 1984

[H.R. 3788]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Texas Wilderness Act of 1984".

Texas
Wilderness
Act of 1984.
National
Wilderness
Preservation
System.
National Forest
System.

DESIGNATION OF WILDERNESS AREAS

SEC. 2. In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131-1136), the following lands in the State of Texas are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(1) certain lands in the Angelina National Forest, Texas, which comprise approximately five thousand four hundred acres, as generally depicted on a map entitled "Turkey Hill Wilderness—Proposed", dated March 1984, and which shall be known as the Turkey Hill Wilderness;

16 USC 1132
note.

(2) certain lands in the Angelina National Forest, Texas, which comprise approximately twelve thousand acres, as generally depicted on a map entitled "Upland Island Wilderness—Proposed", dated March 1984, and which shall be known as the Upland Island Wilderness;

16 USC 1132
note.

(3) certain lands in the Davy Crockett National Forest, Texas, which comprise approximately three thousand acres, as generally depicted on a map entitled "Big Slough Wilderness—Proposed", dated March 1984, and which shall be known as the Big Slough Wilderness;

16 USC 1132
note.

(4) certain lands in the Sabine National Forest, Texas, which comprise approximately nine thousand nine hundred and forty-six acres, as generally depicted on a map entitled "Indian Mounds Wilderness—Proposed", dated September 1984, and which shall be known as the Indian Mounds Wilderness; and

16 USC 1132
note.

(5) certain lands in the Sam Houston National Forest, Texas, which comprise approximately four thousand acres, as generally depicted on a map entitled "Little Lake Creek Wilderness—Proposed", dated March 1984, and which shall be known as the Little Lake Creek Wilderness.

16 USC 1132
note.

MAPS AND DESCRIPTIONS

SEC. 3. As soon as practicable after enactment of this Act, the Secretary of Agriculture shall file a map and legal description of each wilderness area designated by this Act with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and with the Committee on Agriculture, Nutrition, and Forestry of the United States Senate. Each such map and description shall have the same force and effect as if included in this Act, except that correction of clerical and

Public
availability.

typographical errors in each such map and description may be made by the Secretary. Each such map and description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

ADMINISTRATION OF WILDERNESS

16 USC 1131
note.

SEC. 4. (a) Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act.

(b) The Congress finds that the Indian Mounds and Upland Island Wilderness areas designated by this Act contain significant amounts of intermingled lands owned by the Temple-Eastex Incorporated and that in order to manage the wilderness in an efficient and effective manner it is in the public interest that these lands be owned by the Federal Government. Accordingly, the Secretary is encouraged to expeditiously acquire by exchange the intermingled lands owned by Temple-Eastex Incorporated. The lands acquired by the United States under the provisions of this section shall become parts of the Sabine and Angelina National Forests, respectively, and shall be administered in accordance with the laws, rules, and regulations applicable to the National Forest System and the National Wilderness Preservation System, as appropriate.

Contracts with
U.S.

(c) Any purchaser under an existing timber sale contract wholly or partially within the boundaries of the Indian Mounds, Upland Islands, or Little Lake Creek Wilderness areas designated by this Act shall be entitled, for a period of ninety days following the date of enactment of this Act, to enter into an agreement with the Secretary to mutually cancel the timber sale contract without payment of damages by either party if the contract is not in breach and if the purchaser has completed its contractual obligations to logical stopping points as determined by the Secretary after consultation with the purchaser: *Provided*, That upon satisfaction of all such contract requirements, moneys held by the Forest Service for payment of timber to be cut under the contract shall be returned to the purchaser with interest payable from the date the moneys were deposited with the Forest Service at the rate published for use under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611).

EFFECT OF RARE II

Conservation.

SEC. 5. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of National Forest System roadless areas in the State of Texas, and of the environmental impacts associated with alternative allocations of such areas.

Congress.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to National Forest System

lands in States other than Texas, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Texas;

(2) with respect to the National Forest System lands in the State of Texas which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d), that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time, the Secretary of Agriculture finds that conditions in a unit have significantly changed;

16 USC 1600
note.

(3) areas in the State of Texas reviewed in such final environmental statement or referenced in subsection (d) and not designated wilderness upon enactment of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976: *Provided*, That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans;

16 USC 1604.

(4) in the event that revised land management plans in the State of Texas are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law; and

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of National Forest System lands in the State of Texas for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

(d) The provisions of this section shall also apply to National Forest System roadless lands in the State of Texas which are less than five thousand acres in size.

Approved October 30, 1984.

LEGISLATIVE HISTORY—H.R. 3788:

HOUSE REPORT No. 98-730, Pt 1 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 98-614 (Comm. on Agriculture, Nutrition, and Forestry).
CONGRESSIONAL RECORD, Vol. 130 (1984):
 May 8, considered and passed House.
 Oct. 2, considered and passed Senate, amended.
 Oct. 4, House concurred in Senate amendment.

Public Law 98-575
98th Congress

An Act

To facilitate commercial space launches, and for other purposes.

Oct. 30, 1984

[H.R. 3942]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Commercial
Space
Launch Act.

SHORT TITLE

SECTION 1. This Act may be cited as the "Commercial Space Launch Act".

49 USC app. 2601
note.

FINDINGS

SEC. 2. The Congress finds and declares that—

49 USC app.
2601.

(1) the peaceful uses of outer space continue to be of great value and to offer benefits to all mankind;

(2) private applications of space technology have achieved a significant level of commercial and economic activity, and offer the potential for growth in the future, particularly in the United States;

(3) new and innovative equipment and services are being sought, created, and offered by entrepreneurs in telecommunications, information services, and remote sensing technology;

(4) the private sector in the United States has the capability of developing and providing private satellite launching and associated services that would complement the launching and associated services now available from the United States Government;

(5) the development of commercial launch vehicles and associated services would enable the United States to retain its competitive position internationally, thereby contributing to the national interest and economic well-being of the United States;

(6) provision of launch services by the private sector is consistent with the national security interests and foreign policy interests of the United States and would be facilitated by stable, minimal, and appropriate regulatory guidelines that are fairly and expeditiously applied; and

(7) the United States should encourage private sector launches and associated services and, only to the extent necessary, regulate such launches and services in order to ensure compliance with international obligations of the United States and to protect the public health and safety, safety of property, and national security interests and foreign policy interests of the United States.

PURPOSES

SEC. 3. It is therefore the purpose of this Act—

49 USC 2602.

(1) to promote economic growth and entrepreneurial activity through utilization of the space environment for peaceful purposes;

(2) to encourage the United States private sector to provide launch vehicles and associated launch services by simplifying and expediting the issuance and transfer of commercial launch licenses and by facilitating and encouraging the utilization of Government-developed space technology; and

(3) to designate an executive department to oversee and coordinate the conduct of commercial launch operations, to issue and transfer commercial launch licenses authorizing such activities, and to protect the public health and safety, safety of property, and national security interests and foreign policy interests of the United States.

DEFINITIONS

49 USC app.
2603.

SEC. 4. For purposes of this Act—

(1) “agency” means an executive agency as defined by section 105 of title 5, United States Code;

(2) “launch” means to place, or attempt to place, a launch vehicle and payload, if any, in a suborbital trajectory, in Earth orbit in outer space, or otherwise in outer space;

(3) “launch property” means propellants, launch vehicles and components thereof, and other physical items constructed for or used in the launch preparation or launch of a launch vehicle;

(4) “launch services” means those activities involved in the preparation of a launch vehicle and its payload for launch and the conduct of a launch;

(5) “launch site” means the location on Earth from which a launch takes place, as defined in any license issued or transferred by the Secretary under this Act, and includes all facilities located on a launch site which are necessary to conduct a launch;

(6) “launch vehicle” means any vehicle constructed for the purpose of operating in, or placing a payload in, outer space and any suborbital rocket;

(7) “payload” means an object which a person undertakes to place in outer space by means of a launch vehicle, and includes subcomponents of the launch vehicle specifically designed or adapted for that object;

(8) “person” means any individual and any corporation, partnership, joint venture, association, or other entity organized or existing under the laws of any State or any nation;

(9) “Secretary” means the Secretary of Transportation;

(10) “State”, and “United States” when used in a geographical sense, mean the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the United States Virgin Islands, Guam, and any other commonwealth, territory, or possession of the United States; and

(11) “United States citizen” means—

(A) any individual who is a citizen of the United States;

(B) any corporation, partnership, joint venture, association, or other entity organized or existing under the laws of the United States or any State; and

(C) any corporation, partnership, joint venture, association, or other entity which is organized or exists under the laws of a foreign nation, if the controlling interest (as defined by the Secretary in regulations) in such entity is

held by an individual or entity described in subparagraph (A) or (B).

GENERAL RESPONSIBILITIES OF THE SECRETARY AND OTHER AGENCIES

SEC. 5. (a) The Secretary shall be responsible for carrying out this Act, and in doing so shall—

49 USC app.
2604.

(1) encourage, facilitate, and promote commercial space launches by the private sector; and

(2) consult with other agencies to provide consistent application of licensing requirements under this Act and to ensure fair and equitable treatment for all license applicants.

(b) To the extent permitted by law, Federal agencies shall assist the Secretary, as necessary, in carrying out this Act.

REQUIREMENT OF LICENSE FOR PRIVATE SPACE LAUNCH OPERATIONS

SEC. 6. (a)(1) No person shall launch a launch vehicle or operate a launch site within the United States, unless authorized by a license issued or transferred under this Act.

49 USC app.
2605.

(2) No United States citizen described in subparagraph (A) or (B) of section 4(11) shall launch a launch vehicle or operate a launch site outside the United States, unless authorized by a license issued or transferred under this Act.

(3)(A) No United States citizen described in subparagraph (C) of section 4(11) shall launch a launch vehicle or operate a launch site at any place which is both outside the United States and outside the territory of any foreign nation, unless authorized by a license issued or transferred under this Act. The preceding sentence shall not apply with respect to a launch or operation of a launch site if there is an agreement in force between the United States and a foreign nation which provides that such foreign nation shall exercise jurisdiction over such launch or operation.

(B)(i) Except as provided in clause (ii) of this subparagraph, this Act shall not apply to the launch of a launch vehicle or the operation of a launch site in the territory of a foreign nation by a United States citizen described in subparagraph (C) of section 4(11).

(ii) If there is an agreement in force between the United States and a foreign nation which provides that the United States shall exercise jurisdiction over the launch of a launch vehicle or operation of a launch site in the territory of such nation by a United States citizen described in subparagraph (C) of section 4(11), no such United States citizen shall launch a launch vehicle or operate a launch site in the territory of such nation, unless authorized by a license issued or transferred under this Act.

International
agreements.

(b)(1) The holder of a launch license under this Act shall not launch a payload unless that payload complies with all requirements of Federal law that relate to the launch of a payload. The Secretary shall ascertain whether any license, authorization, or other permit required by Federal law for a payload which is to be launched has been obtained.

(2) If no payload license, authorization, or permit is required by any Federal law, the Secretary may take such action under this Act as the Secretary deems necessary to prevent the launch of a payload by a holder of a launch license under this Act if the Secretary determines that the launch of such payload would jeopardize the

public health and safety, safety of property, or any national security interest or foreign policy interest of the United States.

(c)(1) Except as provided in this Act, no person shall be required to obtain from any agency a license, approval, waiver, or exemption for the launch of a launch vehicle or the operation of a launch site.

(2) Nothing in this Act shall affect the authority of the Federal Communications Commission under the Communications Act of 1934 (47 U.S.C. 151 et seq.) or the authority of the Secretary of Commerce under the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4201 et seq.).

AUTHORITY TO ISSUE AND TRANSFER LICENSES

49 USC app.
2606.

SEC. 7. The Secretary may, consistent with the public health and safety, safety of property, and national security interests and foreign policy interests of the United States, issue or transfer a license for launching one or more launch vehicles or for operating one or more launch sites, or both, to an applicant who meets the requirements for a license under section 8 of this Act. Any license issued or transferred under this section shall be in effect for such period of time as the Secretary may specify, in accordance with regulations issued under this Act.

LICENSING REQUIREMENTS

49 USC app.
2607.

SEC. 8. (a)(1) All requirements of Federal law which apply to the launch of a launch vehicle or the operation of a launch site shall be requirements for a license under this Act for the launch of a launch vehicle or the operation of a launch site, respectively, except to the extent provided in paragraph (2).

(2) If the Secretary determines, in consultation with appropriate agencies, that any requirement of Federal law that would otherwise apply to the launch of a launch vehicle or the operation of a launch site is not necessary to protect the public health and safety, safety of property, and national security interests and foreign policy interests of the United States, the Secretary may by regulation provide that such requirement shall not be a requirement for a license under this Act.

(b) The Secretary may, with respect to launches and the operation of launch sites, prescribe such additional requirements as are necessary to protect the public health and safety, safety of property, and national security interests and foreign policy interests of the United States.

(c) The Secretary may, in individual cases, waive the application of any requirement for a license under this section if the Secretary determines that such waiver is in the public interest and will not jeopardize the public health and safety, safety of property, or any national security interest or foreign policy interest of the United States.

LICENSE APPLICATION AND APPROVAL

49 USC app.
2608.

SEC. 9. (a) Any person may apply to the Secretary for issuance or transfer of a license under this Act, in such form and manner as the Secretary may prescribe. The Secretary shall establish procedures and timetables to expedite review of applications under this section and to reduce regulatory burdens for applicants.

(b) The Secretary shall issue or transfer a license to an applicant if the Secretary determines in writing that the applicant complies and will continue to comply with the requirements of this Act and any regulation issued under this Act. The Secretary shall include in such license such conditions as may be necessary to ensure compliance with this Act, including an effective means of on-site verification that a launch or operation of a launch site conforms to representations made in the application for a license or transfer of a license. The Secretary shall make a determination on any application not later than 180 days after receipt of such application. If the Secretary has not made a determination within 120 days after receipt of such application, the Secretary shall inform the applicant of any pending issues and of actions required to resolve such issues.

(c) The Secretary, any officer or employee of the United States, or any person with whom the Secretary has entered into a contract under section 14(b) of this Act may not disclose any data or information under this Act which qualifies for exemption under section 552(b)(4) of title 5, United States Code, or is designated as confidential by the person or agency furnishing such data or information, unless the Secretary determines that the withholding of such data or information is contrary to the public or national interest.

SUSPENSION, REVOCATION, AND MODIFICATION OF LICENSES

SEC. 10. (a) The Secretary may suspend or revoke any license issued or transferred under this Act if the Secretary finds that the licensee has substantially failed to comply with any requirement of this Act, the license, or any regulation issued under this Act, or that the suspension or revocation is necessary to protect the public health and safety, safety of property, or any national security interest or foreign policy interest of the United States.

49 USC app.
2609.

(b) Upon application by the licensee or upon the Secretary's own initiative, the Secretary may modify a license issued or transferred under this Act, if the Secretary finds that the modification will comply with the requirements of this Act.

(c) Unless otherwise specified by the Secretary, any suspension, revocation, or modification by the Secretary under this section—

(1) shall take effect immediately; and

(2) shall continue in effect during any review of such action under section 12 of this Act.

(d) Whenever the Secretary takes any action under this section, the Secretary shall notify the licensee in writing of the Secretary's finding and the action which the Secretary has taken or proposes to take regarding such finding.

EMERGENCY ORDERS

SEC. 11. (a) The Secretary may terminate, prohibit, or suspend immediately the launch of a launch vehicle or the operation of a launch site which is licensed under this Act if the Secretary determines that such launch or operation is detrimental to the public health and safety, safety of property, or any national security interest or foreign policy interest of the United States.

Prohibition.
49 USC app.
2610.

(b) An order terminating, prohibiting, or suspending any launch or operation of a launch site licensed by the Secretary under this Act shall take effect immediately and shall continue in effect during any review of such order under section 12.

ADMINISTRATIVE AND JUDICIAL REVIEW

49 USC app.
2611.

SEC. 12. (a)(1) An applicant for a license and a proposed transferee of a license under this Act shall be entitled to a determination on the record after an opportunity for a hearing in accordance with section 554 of title 5, United States Code, of any decision of the Secretary under section 9(b) to issue or transfer a license with conditions or to deny the issuance or transfer of such license. An owner or operator of a payload shall be entitled to a determination on the record after an opportunity for a hearing in accordance with section 554 of title 5, United States Code, of any decision of the Secretary under section 6(b)(2) to prevent the launch of such payload.

(2) A licensee under this Act shall be entitled to a determination on the record after an opportunity for a hearing in accordance with section 554 of title 5, United States Code, of any decision of the Secretary—

(A) under section 10 to suspend, revoke, or modify a license; or

(B) under section 11 to terminate, prohibit, or suspend any launch or operation of a launch site licensed by the Secretary.

(b) Any final action of the Secretary under this Act to issue, transfer, deny the issuance or transfer of, suspend, revoke, or modify a license or to terminate, prohibit, or suspend any launch or operation of a launch site licensed by the Secretary or to prevent the launch of a payload shall be subject to judicial review as provided in chapter 7 of title 5, United States Code.

REGULATIONS

49 USC app.
2612.

SEC. 13. The Secretary may issue such regulations, after notice and comment in accordance with section 553 of title 5, United States Code, as may be necessary to carry out this Act.

MONITORING OF ACTIVITIES OF LICENSEES

49 USC app.
2613.

SEC. 14. (a) Each license issued or transferred under this Act shall require the licensee—

(1) to allow the Secretary to place Federal officers or employees or other individuals as observers at any launch site used by the licensee, at any production facility or assembly site used by a contractor of the licensee in the production or assembly of a launch vehicle, or at any site where a payload is integrated with a launch vehicle, in order to monitor the activities of the licensee or contractor at such time and to such extent as the Secretary considers reasonable and necessary to determine compliance with the license or to carry out the responsibilities of the Secretary under section 6(b) of this Act; and

(2) to cooperate with such observers in the performance of monitoring functions.

(b) The Secretary may, to the extent provided in advance by appropriation Acts, enter into a contract with any person to carry out subsection (a)(1) of this section.

USE OF GOVERNMENT PROPERTY

49 USC app.
2614.

SEC. 15. (a) The Secretary shall take such actions as may be necessary to facilitate and encourage the acquisition (by lease, sale, transaction in lieu of sale, or otherwise) by the private sector of

launch property of the United States which is excess or is otherwise not needed for public use and of launch services, including utilities, of the United States which are otherwise not needed for public use.

(b)(1) The amount to be paid to the United States by any person who acquires launch property or launch services, including utilities, shall be established by the agency providing the property or service, in consultation with the Secretary. In the case of acquisition of launch property by sale or transaction in lieu of sale, the amount of such payment shall be the fair market value. In the case of any other type of acquisition of launch property, the amount of such payment shall be an amount equal to the direct costs (including any specific wear and tear and damage to the property) incurred by the United States as a result of the acquisition of such launch property. In the case of any acquisition of launch services, including utilities, the amount of such payment shall be an amount equal to the direct costs (including salaries of United States civilian and contractor personnel) incurred by the United States as a result of the acquisition of such launch services.

(2) The Secretary may collect any payment for launch property or launch services, with the consent of the agency establishing such payment under paragraph (1).

(3) The amount of any payment received by the United States for launch property or launch services, including utilities, under this subsection shall be deposited in the general fund of the Treasury, and the amount of a payment for launch property (other than launch property which is excess) and launch services (including utilities) shall be credited to the appropriation from which the cost of providing such property or services was paid.

(c) The Secretary may establish requirements for liability insurance, hold harmless agreements, proof of financial responsibility, and such other assurances as may be needed to protect the United States and its agencies and personnel from liability, loss, or injury as a result of a launch or operation of a launch site involving Government facilities or personnel.

LIABILITY INSURANCE

SEC. 16. Each person who launches a launch vehicle or operates a launch site under a license issued or transferred under this Act shall have in effect liability insurance at least in such amount as is considered by the Secretary to be necessary for such launch or operation, considering the international obligations of the United States. The Secretary shall prescribe such amount after consultation with the Attorney General and other appropriate agencies.

49 USC app.
2615.

ENFORCEMENT AUTHORITY

SEC. 17. (a) The Secretary shall enforce this Act. The Secretary may delegate the exercise of any enforcement authority under this Act to any officer or employee of the Department of Transportation or, with the approval of the head of another agency, any officer or employee of such agency.

49 USC app.
2616.

(b) In carrying out this section, the Secretary may—

(1) make investigations and inquiries, and administer to or take from any person an oath, affirmation, or affidavit, concerning any matter relating to enforcement of this Act; and

(2) pursuant to any lawful process—

(A) enter at any reasonable time any launch site, production facility, or assembly site of a launch vehicle, or any site where a payload is integrated with a launch vehicle, for the purpose of inspecting any object which is subject to this Act and any records or reports required by the Secretary to be made or kept under this Act; and

(B) seize any such object, record, or report where there is probable cause to believe that such object, record, or report was used, is being used, or is likely to be used in violation of this Act.

PROHIBITED ACTS

49 USC app.
2617.

SEC. 18. It is unlawful for any person to violate a requirement of this Act, a regulation issued under this Act, or any term, condition, or restriction of any license issued or transferred by the Secretary under this Act.

CIVIL PENALTIES

49 USC app.
2618.

SEC. 19. (a) Any person who is found by the Secretary, after notice and opportunity to be heard on the record in accordance with section 554 of title 5, United States Code, to have committed any act prohibited by section 18 shall be liable to the United States for a civil penalty of not more than \$100,000 for each violation. Each day of a continuing violation shall constitute a separate violation. The amount of such civil penalty shall be assessed by the Secretary by written notice. The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section.

(b) If any person fails to pay a civil penalty assessed against such person after the penalty has become final or if such person appeals an order of the Secretary and the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall recover the civil penalty assessed in any appropriate district court of the United States.

(c) For purposes of conducting any hearing under this section, the Secretary may (1) issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, documents, and other records, (2) seek enforcement of such subpoenas in the appropriate district court of the United States, and (3) administer oaths and affirmations.

CONSULTATION

Defense and
national
security.
49 USC app.
2619.

SEC. 20. (a) The Secretary shall consult with the Secretary of Defense on all matters, including the issuance or transfer of each license, under this Act affecting national security. The Secretary of Defense shall be responsible for identifying and notifying the Secretary of those national security interests of the United States which are relevant to activities under this Act.

(b) The Secretary shall consult with the Secretary of State on all matters, including the issuance or transfer of each license, under this Act affecting foreign policy. The Secretary of State shall be responsible for identifying and notifying the Secretary of those foreign policy interests or obligations of the United States which are relevant to activities under this Act.

(c) The Secretary shall consult with other agencies, as appropriate, in order to carry out the provisions of this Act.

RELATIONSHIP TO OTHER LAWS AND INTERNATIONAL OBLIGATIONS

SEC. 21. (a) No State or political subdivision of a State may adopt or have in effect any law, rule, regulation, standard, or order which is inconsistent with the provisions of this Act. Nothing in this Act shall preclude a State or a political subdivision of a State from adopting or putting into effect any law, rule, regulation, standard, or order which is consistent with this Act and is in addition to or more stringent than any requirement of or regulation issued under this Act. The Secretary may, and is encouraged to, consult with the States to simplify and expedite the approval of space launch activities.

Prohibitions.
49 USC app.
2620.

(b) A launch vehicle or payload shall not, by reason of the launching of such vehicle or payload, be considered an export for purposes of any law controlling exports.

(c) Nothing in this Act shall apply to—

(1) any—

(A) launch or operation of a launch vehicle,

(B) operation of a launch site, or

(C) other space activity,

carried out by the United States on behalf of the United States;
or

(2) any planning or policies relating to any such launch, operation, or activity.

(d) The Secretary shall carry out this Act consistent with any obligation assumed by the United States in any treaty, convention, or agreement that may be in force between the United States and any foreign nation. In carrying out this Act, the Secretary shall consider applicable laws and requirements of any foreign nation.

REPORT ON LEGISLATION

SEC. 22. (a) Not later than the last day of each fiscal year ending after the date of enactment of this Act and before October 1, 1989, the Secretary shall submit to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report describing all activities undertaken under this Act, including a description of the process for the application for and approval of licenses under this Act and recommendations for legislation that may further commercial launches.

Report.
49 USC app.
2621.

(b) Not later than July 1, 1985, the Secretary shall submit to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report which identifies Federal statutes, treaties, regulations, and policies which may have an adverse effect on commercial launches and include recommendations on appropriate changes thereto.

SEVERABILITY

SEC. 23. If any provision of this Act, or the application of such provision to any person or circumstance, is held invalid, the remainder of this Act and the application of such provision to any other person or circumstance shall not be affected by such invalidation.

49 USC app.
2622.

AUTHORIZED APPROPRIATIONS

49 USC app.
2623.

SEC. 24. There are authorized to be appropriated to the Secretary \$4,000,000 for fiscal year 1985.

EFFECTIVE DATE

49 USC app. 2601
note.

SEC. 25. (a) Except for section 15 and the authority to issue regulations, this Act shall take effect 180 days after the date of enactment of this Act.

(b) Section 15 shall take effect on the date of enactment of this Act, except that nothing in this Act shall affect any agreement, including negotiations which are substantially completed, relating to the acquisition of launch property or launch services of the United States entered into on or before the date of enactment of this Act between the United States and any private party.

Regulations.

(c) Regulations to implement this Act shall be promulgated not later than 180 days after the date of enactment of this Act.

Approved October 30, 1984.

LEGISLATIVE HISTORY—H.R. 3942:

HOUSE REPORT No. 98-816 (Comm. on Science and Technology).

SENATE REPORT No. 98-656 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 130 (1984):

June 5, considered and passed House.

Oct. 9, considered and passed Senate, amended; House concurred in Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 44 (1984):

Oct. 30, Presidential statement.

Public Law 98-576
98th Congress

An Act

To provide that any Osage headright or restricted real estate or funds which is part of the estate of a deceased Osage Indian who did not possess a certificate of competency at the time of death shall be exempt from any estate or inheritance tax imposed by the State of Oklahoma.

Oct. 30, 1984
[H.R. 3971]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) any Osage headright or restricted real estate or funds which is part of the estate of a deceased Osage Indian with respect to whom—

Taxes.
25 USC 331 note.

(1) a certificate of competency had never been issued before the time of death, or

(2) a certificate of competency had been revoked by the Secretary of the Interior before the death of such Osage Indian, shall be exempt from any estate or inheritance tax imposed by the State of Oklahoma.

(b) Subsection (a) shall apply to the estate of any Osage Indian who dies on or after the date of the enactment of this Act.

SEC. 2. For purposes of this Act—

25 USC 331 note.

(1) the term “headright” means any right of any person to share in any royalties, rents, sales, or bonuses arising from the Osage mineral estate;

(2) the term “Osage mineral estate” means any right, title, or interest in any oil, gas, coal, or other mineral held by the United States in trust for the benefit of the Osage Tribe of Indians under section 3 of the Osage Tribe Allotment Act;

34 Stat. 543

(3) the term “restricted real estate or funds” means any real estate or fund held by an Osage Indian or by the Secretary of the Interior in trust for the benefit of such Indian which is subject to any restriction against alienation, or transfer by any other means, under any Act of Congress applicable to the Osage Tribe of Indians or applicable generally to Indians or any bands, tribes, or nations of Indians; and

(4) the term “Osage Tribe Allotment Act” means the Act approved June 28, 1906, and entitled “An Act for the division of the lands and funds of the Osage Indians in Oklahoma Territory, and for other purposes” (34 Stat. 539).

Approved October 30, 1984.

LEGISLATIVE HISTORY—H.R. 3971:

HOUSE REPORT No. 98-1114 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 130 (1984):

Oct. 2, considered and passed House.
Oct. 9, considered and passed Senate.

Public Law 98-577
98th Congress

An Act

Oct. 30, 1984
[H.R. 4209]

To amend the Small Business Act, the Federal Property and Administrative Services Act of 1949, and the Office of Federal Procurement Policy Act to enhance competition in Government procurement, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Small Business
and Federal
Procurement
Competition
Enhancement
Act of 1984.
41 USC 251 note.
Contracts, U.S.

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. This Act, together with the following table of contents, may be cited as the "Small Business and Federal Procurement Competition Enhancement Act of 1984".

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TITLE I—PURPOSES AND DEFINITIONS

- Sec. 101. Purposes.
- Sec. 102. Definitions.

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- Sec. 201. Planning for future competition.
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TITLE III—AMENDMENTS TO THE OFFICE OF FEDERAL PROCUREMENT
POLICY ACT

- Sec. 301. Technical data management.
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- Sec. 401. Certificate of competency.
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TITLE V—OTHER PROCUREMENT PROVISIONS

- Sec. 501. Regulations on overhead.
- Sec. 502. Personnel evaluations.
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- Sec. 504. Technical amendments to Competition in Contracting Act of 1984.
- Sec. 505. Repeal.

PURPOSES

41 USC 251 note.

SEC. 101. The purposes of this Act are to—
(1) eliminate procurement procedures and practices that unnecessarily inhibit full and open competition for contracts;

(2) promote the use of contracting opportunities as a means to expand the industrial base of the United States in order to ensure adequate responsive capability of the economy to the increased demands of the Government in times of national emergency; and

(3) foster opportunities for the increased participation in the competitive procurement process of small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals.

Disadvantaged persons.

DEFINITIONS

SEC. 102. Section 4 of the Office of Federal Policy Procurement Act is amended—

Ante, p. 1195.

(1) by striking out “and” at the end of paragraph (7);

(2) by striking out the period at the end of paragraph (8) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

“(9) the term ‘technical data’ means recorded information (regardless of the form or method of the recording) of a scientific or technical nature (including computer software documentation) relating to supplies procured by an agency. Such term does not include computer software or financial, administrative, cost or pricing, or management data or other information incidental to contract administration;

“(10)(A) the term ‘major system’ means a combination of elements that will function together to produce the capabilities required to fulfill a mission need, which elements may include hardware, equipment, software or any combination thereof, but excludes construction or other improvements to real property; and

“(B) a system shall be considered a major system if (i) the Department of Defense is responsible for the system and the total expenditures for research, development, test and evaluation for the system are estimated to be more than \$75,000,000 (based on fiscal year 1980 constant dollars) or the eventual total expenditure for procurement of more than \$300,000,000 (based on fiscal year 1980 constant dollars); (ii) a civilian agency is responsible for the system and total expenditures for the system are estimated to exceed \$750,000 (based on fiscal year 1980 constant dollars) or the dollar threshold for a ‘major system’ established by the agency pursuant to Office of Management and Budget (OMB) Circular A-109, entitled ‘Major Systems Acquisitions’, whichever is greater; or (iii) the system is designated a ‘major system’ by the head of the agency responsible for the system; and

“(11) the term ‘item’, ‘item of supply’, or ‘supplies’ means any individual part, component, subassembly, assembly, or subsystem integral to a major system, and other property which may be replaced during the service life of the system, and includes spare parts and replenishment spare parts, but does not include packaging or labeling associated with shipment or identification of an ‘item’.”.

TITLE II—AMENDMENTS TO THE FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949

PLANNING FOR FUTURE COMPETITION

Ante, p. 1179.

SEC. 201. (a) Section 303B of the Federal Property and Administrative Services Act of 1949 (hereafter in this title referred to as "the Act") is amended by adding at the end thereof the following new subsection:

Science and
technology.

"(f)(1)(A) In preparing a solicitation for the award of a development contract for a major system, the head of an agency shall consider requiring in the solicitation that an offeror include in its offer proposals described in subparagraph (B). In determining whether to require such proposals, the head of the agency shall give due consideration to the purposes for which the system is being procured and the technology necessary to meet the system's required capabilities. If such proposals are required, the head of the agency shall consider them in evaluating the offeror's price.

"(B) The proposals that the head of an agency is to consider requiring in a solicitation for the award of a development contract are the following:

"(i) Proposals to incorporate in the design of the major system items which are currently available within the supply system of the Federal agency responsible for the major system, available elsewhere in the national supply system, or commercially available from more than one source.

"(ii) With respect to items that are likely to be required in substantial quantities during the system's service life, proposals to incorporate in the design of the major system items which the United States will be able to acquire competitively in the future.

"(2)(A) In preparing a solicitation for the award of a production contract for a major system, the head of an agency shall consider requiring in the solicitation that an offeror include in its offer proposals described in subparagraph (B). In determining whether to require such proposals, the head of the agency shall give due consideration to the purposes for which the system is being procured and the technology necessary to meet the system's required capabilities. If such proposals are required, the head of the agency shall consider them in evaluating the offeror's price.

"(B) The proposals that the head of an agency is to consider requiring in a solicitation for the award of a production contract are proposals identifying opportunities to ensure that the United States will be able to obtain on a competitive basis items procured in connection with the system that are likely to be reprocurd in substantial quantities during the service life of the system. Proposals submitted in response to such requirement may include the following:

"(i) Proposals to provide to the United States the right to use technical data to be provided under the contract for competitive procurement of the item, together with the cost to the United States, if any, of acquiring such technical data and the right to use such data.

"(ii) Proposals for the qualification or development of multiple sources of supply for the item.

"(3) If the head of an agency is making a noncompetitive award of a development contract or a production contract for a major system,

the factors specified in paragraphs (1) and (2) to be considered in evaluating an offer for a contract may be considered as objectives in negotiating the contract to be awarded.”

(b) The amendment made by subsection (a) shall apply with respect to any solicitation issued more than 180 days after the date of the enactment of this Act.

Effective date.
41 USC 253b
note.

ENCOURAGING NEW COMPETITORS

SEC. 202. (a) Title III of the Act is amended by inserting after section 303C the following new section:

“ENCOURAGEMENT OF NEW COMPETITION

“SEC. 303D. (a) In this section, ‘qualification requirement’ means a requirement for testing or other quality assurance demonstration that must be completed by an offeror before award of a contract.

41 USC 253c.

“(b) Except as provided in subsection (c), the head of the agency shall, before enforcing any qualification requirement—

“(1) prepare a written justification stating the necessity for establishing the qualification requirement and specify why the qualification requirement must be demonstrated before contract award;

“(2) specify in writing and make available to a potential offeror upon request all requirements which a prospective offeror, or its product, must satisfy in order to become qualified, such requirements to be limited to those least restrictive to meet the purposes necessitating the establishment of the qualification requirement;

“(3) specify an estimate of the costs of testing and evaluation likely to be incurred by a potential offeror in order to become qualified;

“(4) ensure that a potential offeror is provided, upon request, a prompt opportunity to demonstrate at its own expense (except as provided in subsection (d)) its ability to meet the standards specified for qualification using qualified personnel and facilities of the agency concerned or of another agency obtained through interagency agreement, or under contract, or other methods approved by the agency (including use of approved testing and evaluation services not provided under contract to the agency);

“(5) if testing and evaluation services are provided under contract to the agency for the purposes of clause (4), provide to the extent possible that such services be provided by a contractor who is not expected to benefit from an absence of additional qualified sources and who shall be required in such contract to adhere to any restriction on technical data asserted by the potential offeror seeking qualification; and

“(6) ensure that a potential offeror seeking qualification is promptly informed as to whether qualification is attained and, in the event qualification is not attained, is promptly furnished specific information why qualification was not attained.

“(c)(1) Subsection (b) of this section does not apply with respect to a qualification requirement established by statute prior to the date of enactment of this section.

“(2) Except as provided in paragraph (3), if it is unreasonable to specify the standards for qualification which a prospective offeror or

its product must satisfy, a determination to that effect shall be submitted to the advocate for competition of the procuring activity responsible for the purchase of the item subject to the qualification requirement. After considering any comments of the advocate for competition reviewing such determination, the head of the procuring activity may waive the requirements of paragraphs (2) through (5) of subsection (b) for up to two years with respect to the item subject to the qualification requirement.

“(3) The waiver authority contained in paragraph (2) shall not apply with respect to any qualified products list.

“(4) A potential offeror may not be denied the opportunity to submit and have considered an offer for a contract solely because the potential offeror has not been identified as meeting a qualification requirement, if the potential offeror can demonstrate to the satisfaction of the contracting officer that the potential offeror or its product meets the standards established for qualification or can meet such standards before the date specified for award of the contract.

“(5) Nothing contained in this subsection requires the referral of an offer to the Small Business Administration pursuant to section 8(b)(7) of the Small Business Act if the basis for the referral is a challenge by the offeror to either the validity of the qualification requirement or the offeror's compliance with such requirement.

“(6) The head of an agency need not delay a proposed procurement in order to comply with subsection (b) or in order to provide a potential offeror with an opportunity to demonstrate its ability to meet the standards specified for qualification.

“(d)(1) If the number of qualified sources or qualified products available to compete actively for an anticipated future requirement is fewer than two actual manufacturers or the products of two actual manufacturers, respectively, the head of the agency concerned shall—

“(A) periodically publish notice in the Commerce Business Daily soliciting additional sources or products to seek qualification, unless the contracting officer determines that such publication would compromise national security; and

“(B) bear the cost of conducting the specified testing and evaluation (excluding the costs associated with producing the item or establishing the production, quality control, or other system to be tested and evaluated) for a small business concern or a product manufactured by a small business concern which has met the standards specified for qualification and which could reasonably be expected to compete for a contract for that requirement, but such costs may be borne only if the head of the agency determines that such additional qualified sources or products are likely to result in cost savings from increased competition for future requirements sufficient to offset (within a reasonable period of time considering the duration and dollar value of anticipated future requirements) the costs incurred by the agency.

“(2) The head of an agency shall require a prospective contractor requesting the United States to bear testing and evaluation costs under paragraph (1)(B) to certify as to its status as a small business concern under section 3 of the Small Business Act.

“(e) Within seven years after the establishment of a qualification requirement, the need for such qualification requirement shall be examined and the standards of such requirement revalidated in

Public
information.

accordance with the requirements of subsection (b). The preceding sentence does not apply in the case of a qualification requirement for which a waiver is in effect under subsection (c)(2).

“(f) Except in an emergency as determined by the head of the agency, whenever the head of the agency determines not to enforce a qualification requirement for a solicitation, the agency may not thereafter enforce that qualification requirement unless the agency complies with the requirements of subsection (b).”

(b) The amendment made by subsection (a) shall apply with respect to solicitations issued more than 180 days after the date of enactment of this Act.

Effective date.
41 USC 253c
note.

VALIDATION OF PROPRIETARY DATA RESTRICTIONS

SEC. 203. (a) Title III of the Act is amended by inserting after section 303D (as added by section 202 of this Act) the following new section:

“VALIDATION OF PROPRIETARY DATA RESTRICTIONS

“SEC. 303E. (a) A contract for property or services entered into by an executive agency which provides for the delivery of technical data, shall provide that—

Science and
technology.
41 USC 253d.

“(1) a contractor or subcontractor at any tier shall be prepared to furnish to the contracting officer a written justification for any restriction asserted by the contractor or subcontractor on the right of the United States to use such technical data; and

“(2) the contracting officer may review the validity of any restriction asserted by the contractor or by a subcontractor under the contract on the right of the United States to use technical data furnished to the United States under the contract if the contracting officer determines that reasonable grounds exist to question the current validity of the asserted restriction and that the continued adherence to the asserted restriction by the United States would make it impracticable to procure the item competitively at a later time.

“(b) If after such review the contracting officer determines that a challenge to the asserted restriction is warranted, the contracting officer shall provide written notice to the contractor or subcontractor asserting the restriction. Such notice shall state—

“(1) the grounds for challenging the asserted restriction; and

“(2) the requirement for a response within 60 days justifying the current validity of the asserted restriction.

“(c) If a contractor or subcontractor asserting a restriction subject to this section submits to the contracting officer a written request, showing the need for additional time to comply with the requirement to justify the current validity of the asserted restriction, additional time to adequately permit the submission of such justification shall be provided by the contracting officer as appropriate. If a party asserting a restriction receives notices of challenges to restrictions on technical data from more than one contracting officer, and notifies each contracting officer of the existence of more than one challenge, the contracting officer initiating the first in time challenge, after consultation with the party asserting the restriction and the other contracting officers, shall formulate a schedule of responses to each of the challenges that will afford the party asserting the restriction with an equitable opportunity to respond to each such challenge.

“(d)(1) Upon a failure by the contractor or subcontractor to submit any response under subsection (b), the contracting officer shall issue a decision pertaining to the validity of the asserted restriction.

“(2) If a justification is submitted in response to the notice provided pursuant to subsection (b), a contracting officer shall within 60 days of receipt of any justification submitted, issue a decision or notify the party asserting the restriction of the time within which a decision will be issued.

“(e) If a claim pertaining to the validity of the asserted restriction is submitted in writing to a contracting officer by a contractor or subcontractor at any tier, such claim shall be considered a claim within the meaning of the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.).

“(f)(1) If, upon final disposition, the contracting officer’s challenge to the restriction on the right of the United States to use such technical data is sustained—

“(A) the restriction on the right of the United States to use the technical data shall be cancelled; and

“(B) if the asserted restriction is found not to be substantially justified, the contractor or subcontractor, as appropriate, shall be liable to the United States for payment of the cost to the United States of reviewing the asserted restriction and the fees and other expenses (as defined in section 2412(d)(2)(A) of title 28) incurred by the United States in challenging the asserted restriction, unless special circumstances would make such payment unjust.

“(2) If, upon final disposition, the contracting officer’s challenge to the restriction on the right of the United States to use such technical data is not sustained—

“(A) the United States shall continue to be bound by the restriction; and

“(B) the United States shall be liable for payment to the party asserting the restriction for fees and other expenses (as defined in section 2412(d)(2)(A) of title 28) incurred by the party asserting the restriction in defending the asserted restriction if the challenge by the United States is found not to be made in good faith.”.

Effective date.
41 USC 253d
note.

(b) The amendment made by subsection (a) shall apply with respect to solicitations issued more than 60 days after the date of the enactment of this Act.

COMMERCIAL PRICING FOR SUPPLIES

SEC. 204. (a) Title III of the Act is further amended by inserting after section 303E (as added by section 203 of this Act) the following new section:

“COMMERCIAL PRICING FOR SUPPLIES

41 USC 253e.

“SEC. 303F. (a) Except in the case of an offer submitted with a written statement under subsection (b)(2) and except as provided in subsection (c), a contract entered into using other than competitive procedures by an executive agency for the purchase of items that are offered for sale to the public may not result in a price to the United States that exceeds the lowest price at which such items are sold by the contractor to the public.

“(b) A person who submits an offer to an executive agency for the supply of items that it offers for sale to the public (1) shall certify in

the offer that the price offered is not more than its lowest commercial price for the items, or (2) shall submit with the offer a written statement specifying the amount of the difference between its lowest commercial price for the items and the price offered, and providing a justification for that difference.

“(c) Subsections (a) and (b) do not apply to a contract if the contracting officer determines that the use of the price otherwise required by subsection (a) for such contract is not appropriate because of—

“(1) national security considerations; or

“(2) differences in quantities, quality, delivery, or other terms and conditions of the contract from commercial contract terms.”.

(b) The amendment made by subsection (a) shall take effect at the end of the 180-day period beginning on the date of the enactment of this Act.

Effective date.
41 USC 253e
note.

ECONOMIC ORDER QUANTITIES

SEC. 205. (a) Title III of the Act is further amended by inserting after section 303F (as added by section 204 of this Act) the following new section:

“ECONOMIC ORDER QUANTITIES

“SEC. 303G. (a) Each executive agency shall procure supplies in such quantity as (A) will result in the total cost and unit cost most advantageous to the United States, where practicable, and (B) does not exceed the quantity reasonably expected to be required by the agency.

41 USC 253f.

“(b) Each solicitation for a contract for supplies shall, if practicable, include a provision inviting each offeror responding to the solicitation to state an opinion on whether the quantity of the supplies proposed to be procured is economically advantageous to the United States and, if applicable, to recommend a quantity or quantities which would be more economically advantageous to the United States. Each such recommendation shall include a quotation of the total price and the unit price for supplies procured in each recommended quantity.”.

(b) The amendment made by subsection (a) shall take effect at the end of the 180-day period beginning on the date of the enactment of this Act.

Effective date.
41 USC 253f
note.

PROHIBITION OF CONTRACTORS LIMITING SUBCONTRACTOR SALES DIRECTLY TO THE UNITED STATES

SEC. 206. (a) Title III of the Act is further amended by inserting after section 303G (as added by section 205 of this Act) the following new section:

“PROHIBITION OF CONTRACTORS LIMITING SUBCONTRACTOR SALES DIRECTLY TO THE UNITED STATES

“SEC. 303H. (a) Each contract for the purchase of property or services made by an executive agency shall provide that the contractor will not—

41 USC 253g.

“(1) enter into any agreement with a subcontractor under the contract that has the effect of unreasonably restricting sales by the subcontractor directly to the United States of any item or

process (including computer software) made or furnished by the subcontractor under the contract (or any follow-on production contract); or

“(2) otherwise act to restrict unreasonably the ability of a subcontractor to make sales to the United States described in clause (1).

“(b) This section does not prohibit a contractor from asserting rights it otherwise has under law.”.

Effective date.
41 USC 253g
note.

(b) The amendment made by subsection (a) shall apply with respect to solicitations made more than 180 days after the date of the enactment of this Act.

CLERICAL AMENDMENT

SEC. 207. The table of contents of the Act is amended by inserting after the item relating to section 303C the following new items:

“Sec. 303D. Encouragement of new competition.

“Sec. 303E. Validation of proprietary data restrictions.

“Sec. 303F. Commercial pricing for supplies.

“Sec. 303G. Economic order quantities

“Sec. 303H. Prohibition of contractors limiting subcontractor sales directly to the United States.”.

TITLE III—AMENDMENTS TO THE OFFICE OF FEDERAL PROCUREMENT POLICY ACT

TECHNICAL DATA MANAGEMENT

SEC. 301. (a) The Office of Federal Procurement Policy Act (hereafter in this title referred to as “the Act”) is amended by redesignating section 21 as section 23 and by inserting after section 20 the following new section:

Ante, p. 1198.

“RIGHTS IN TECHNICAL DATA

Science and
technology.
41 USC 418a.

Copyrights.

41 USC 251.

“SEC. 21. (a) The legitimate proprietary interest of the United States and of a contractor in technical or other data shall be defined in regulations prescribed as part of the single system of Government-wide procurement regulations as defined in section 4(4) of this Act. Such regulations may not impair any right of the United States or of any contractor with respect to patents or copyrights or any other right in technical data otherwise established by law. Such regulations shall provide, with respect to executive agencies that are subject to the provisions of title III of the Federal Property and Administrative Services Act of 1949, that the United States may not require persons who have developed products or processes offered or to be offered for sale to the public as a condition for the procurement of such products or processes by the United States, to provide to the United States technical data relating to the design, development, or manufacture of such products or processes (except for such data as may be necessary for the United States to operate and maintain the product or use the process if obtained by the United States as an element of performance under the contract).

“(b)(1) Except as otherwise expressly provided by Federal statute, the regulations prescribed pursuant to subsection (a) shall provide, with respect to executive agencies that are subject to the provisions of title III of the Federal Property and Administrative Services Act of 1949, that the United States shall have unlimited rights in

technical data developed exclusively with Federal funds if delivery of such data—

“(A) was required as an element of performance under a contract; and

“(B) is needed to ensure the competitive acquisition of supplies or services that will be required in substantial quantities in the future.

“(2) Except as otherwise expressly provided by Federal statute, the regulations prescribed pursuant to subsection (a) shall provide, with respect to executive agencies that are subject to the provisions of title III of the Federal Property and Administrative Services Act of 1949, that the United States (and each agency thereof) shall have an unrestricted, royalty-free right to use, or to have its contractors use, for governmental purposes (excluding publication outside the Government) technical data developed exclusively with Federal funds.

41 USC 251.

“(3) The requirements of paragraphs (1) and (2) shall be in addition to and not in lieu of any other rights that the United States may have pursuant to law.

“(c) The following factors shall be considered in prescribing regulations pursuant to subsection (a):

“(1) Whether the technical data was developed—

“(A) exclusively with Federal funds;

“(B) exclusively at private expense; or

“(C) in part with Federal funds and in part at private expense.

“(2) The statement of congressional policy and objectives in section 200 of title 35, the statement of purposes in section 2(b) of the Small Business Innovation Development Act of 1982 (Public Law 97-219; 15 U.S.C. 638 note), and the declaration of policy in section 2 of the Small Business Act (15 U.S.C. 631).

“(3) The interest of the United States in increasing competition and lowering costs by developing and locating alternative sources of supply and manufacture.

“(d) Regulations prescribed under subsection (a) shall require that a contract for property or services entered into by an executive agency contain appropriate provisions relating to technical data, including provisions—

Regulations.

“(1) defining the respective rights of the United States and the contractor or subcontractor (at any tier) regarding any technical data to be delivered under the contract;

“(2) specifying the technical data, if any, to be delivered under the contract and delivery schedules for such delivery;

“(3) establishing or referencing procedures for determining the acceptability of technical data to be delivered under the contract;

“(4) establishing separate contract line items for the technical data, if any, to be delivered under the contract;

“(5) to the maximum practicable extent, identifying, in advance of delivery, technical data which is to be delivered with restrictions on the right of the United States to use such data;

“(6) requiring the contractor to revise any technical data delivered under the contract to reflect engineering design changes made during the performance of the contract and affecting the form, fit, and function of the items specified in the contract and to deliver such revised technical data to an agency within a time specified in the contract;

“(7) requiring the contractor to furnish written assurance at the time the technical data is delivered or is made available that the technical data is complete and accurate and satisfies the requirements of the contract concerning technical data;

“(8) establishing remedies to be available to the United States when technical data required to be delivered or made available under the contract is found to be incomplete or inadequate or to not satisfy the requirements of the contract concerning technical data; and

“(9) authorizing the head of the agency to withhold payments under the contract (or exercise such other remedies as the head of the agency considers appropriate) during any period if the contractor does not meet the requirements of the contract pertaining to the delivery of technical data.”

(b) Section 2320(a) of title 10, United States Code, is amended by striking out “in regulations prescribed as part” and inserting in lieu thereof “in regulations of the Department of Defense prescribed as part”.

(c) The amendment made by subsection (a) shall take effect on the date of enactment of this Act. The regulations required by such amendment shall be issued not later than July 1, 1985.

(d) Within 60 days after the date the regulations required by the amendment made by subsection (a) are prescribed, the Secretary of Defense, the Administrator of General Services, and the Administrator of the National Aeronautics and Space Administration shall submit to Congress a joint report describing in detail how those regulations give consideration to the factors specified for consideration in that section.

PUBLICATION OF PROPOSED REGULATIONS

SEC. 302. (a) The Act is further amended by inserting after section 21 (as added by section 301 of this Act) the following new section:

“PUBLICATION OF PROPOSED REGULATIONS

“SEC. 22. (a) Except as provided in subsection (d), no procurement policy, regulation, procedure, or form (including amendments or modifications thereto) relating to the expenditure of appropriated funds that has (1) a significant effect beyond the internal operating procedures of the agency issuing the procurement policy, regulation, procedure or form, or (2) a significant cost or administrative impact on contractors or offerors, may take effect until 30 days after the procurement policy, regulation, procedure, or form is published for public comment in the Federal Register pursuant to subsection (b).

“(b) Subject to subsection (c), the head of the agency shall cause to be published in the Federal Register a notice of the proposed procurement policy, regulation, procedure, or form and provide for a public comment period for receiving and considering the views of all interested parties on such proposal. The length of such comment period may not be less than 30 days.

“(c) Any notice of a proposed procurement policy, regulation, procedure, or form prepared for publication in the Federal Register shall include—

“(1) the text of the proposal or, if it is impracticable to publish the full text of the proposal, a summary of the proposal and a statement specifying the name, address, and telephone number

Effective date.
41 USC 418a
note.

Report.

Federal
Register,
publication.
41 USC 418b.

of the officer or employee of the executive agency from whom the full text may be obtained; and

“(2) a request for interested parties to submit comments on the proposal and shall include the name and address of the officer or employee of the Government designated to receive such comments.

“(d)(1) The requirements of subsections (a) and (b) may be waived by the officer authorized to issue a procurement policy, regulation, procedure, or form if urgent and compelling circumstances make compliance with such requirements impracticable.

“(2) A procurement policy, regulation, procedure, or form with respect to which the requirements of subsections (a) and (b) are waived under paragraph (1) shall be effective on a temporary basis if—

“(A) a notice of such procurement policy, regulation, procedure, or form is published in the Federal Register and includes a statement that the procurement policy, regulation, procedure, or form is temporary; and

“(B) provision is made for a public comment period of 30 days beginning on the date on which the notice is published.

After considering the comments received, the head of the agency waiving the requirements of subsections (a) and (b) under paragraph (1) may issue the final procurement policy, regulation, procedure, or form.”

(b) The procedures required by the amendment made by subsection (a) shall apply with respect to procurement policies, regulations, procedures, or forms that an agency issues in final form on or after the date which is 30 days after the date of enactment of this Act.

(c)(1) Section 2303a of title 10, United States Code, is repealed.

(2) The table of sections of chapter 137 of such title is amended by striking out the item pertaining to section 2303a.

Effective date.
41 USC 418b
note.

Ante, p. 2590.

PROCUREMENT NOTICES

SEC. 303. (a) Section 18 of the Office of Federal Procurement Policy Act is amended to read as follows:

“PROCUREMENT NOTICE

“SEC. 18. (a)(1) Except as provided in subsection (c)—

“(A) an executive agency intending to—

“(i) solicit bids or proposals for a contract for property or services for a price expected to exceed \$10,000; or

“(ii) place an order, expected to exceed \$10,000, under a basic agreement, basic ordering agreement, or similar arrangement,

shall furnish for publication by the Secretary of Commerce a notice described in subsection (b); and

“(B) an executive agency awarding a contract for property or services for a price exceeding \$25,000, or placing an order referred to in clause (A)(ii) exceeding \$25,000, shall furnish for publication by the Secretary of Commerce a notice announcing the award or order if there is likely to be any subcontract under such contract or order.

“(2) The Secretary of Commerce shall publish promptly in the Commerce Business Daily each notice required by paragraph (1).

41 USC 416.
Public
information.

“(3) Whenever an executive agency is required by paragraph (1)(A) to furnish a notice to the Secretary of Commerce, such executive agency may not—

“(A) issue the solicitation earlier than 15 days after the date on which the notice is published by the Secretary of Commerce; or

“(B) establish a deadline for the submission of all bids or proposals in response to the notice required by paragraph (1)(A) that—

“(i) in the case of an order under a basic agreement, basic ordering agreement, or similar arrangement, is earlier than the date 30 days after the date the notice required by paragraph (1)(A)(ii) is published;

“(ii) in the case of a solicitation for research and development, is earlier than the date 45 days after the date the notice required by paragraph (1)(A)(i) is published; or

“(iii) in any other case, is earlier than the date 30 days after the date the solicitation is issued.

“(b) Each notice of solicitation required by subsection (a)(1)(A) shall include—

“(1) an accurate description of the property or services to be contracted for, which description (A) shall not be unnecessarily restrictive of competition, and (B) shall include, as appropriate, the agency nomenclature, National Stock Number or other part number, and a brief description of the item's form, fit, or function, physical dimensions, predominant material of manufacture, or similar information that will assist a prospective contractor to make an informed business judgment as to whether a copy of the solicitation should be requested;

“(2) provisions that—

“(A) state whether the technical data required to respond to the solicitation will not be furnished as part of such solicitation, and identify the source in the Government, if any, from which the technical data may be obtained; and

“(B) state whether an offeror, its product, or service must meet a qualification requirement in order to be eligible for award, and, if so, identify the office from which the qualification requirement may be obtained;

“(3) the name, business address, and telephone number of the contracting officer;

“(4) a statement that all responsible sources may submit a bid, proposal, or quotation (as appropriate) which shall be considered by the agency; and

“(5) in the case of a procurement using procedures other than competitive procedures, a statement of the reason justifying the use of such procedures and the identity of the intended source.

“(c)(1) A notice is not required under subsection (a)(1) if—

“(A) the notice would disclose the executive agency's needs and the disclosure of such needs would compromise the national security;

“(B) the proposed procurement would result from acceptance of—

“(i) any unsolicited proposal that demonstrates a unique and innovative research concept and the publication of any notice of such unsolicited research proposal would disclose the originality of thought or innovativeness of the proposal

Research and
development.

or would disclose proprietary information associated with the proposal; or

“(ii) a proposal submitted under section 9 of the Small Business Act;

“(C) the procurement is made against an order placed under a requirements contract;

“(D) the procurement is made for perishable subsistence supplies; or

“(E) the procurement is for utility services, other than telecommunication services, and only one source is available.

Utilities.

“(2) The requirements of subsection (a)(1)(A) do not apply to any procurement under conditions described in paragraph (2), (3), (4), (5), or (7) of section 303(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)) or paragraph (2), (3), (4), (5), or (7) of section 2304(c) of title 10, United States Code.

“(3) The requirements of subsection (a)(1)(A) shall not apply in the case of any procurement for which the head of the executive agency makes a determination in writing, after consultation with the Administrator for Federal Procurement Policy and the Administrator of the Small Business Administration, that it is not appropriate or reasonable to publish a notice before issuing a solicitation.

“(d) An executive agency shall make available to any business concern, or the authorized representative of such concern, the complete solicitation package for any on-going procurement announced pursuant to a notice under subsection (e). An executive agency may require the payment of a fee, not exceeding the actual cost of duplication, for a copy of such package.”

Public information.

(b) The amendment made by subsection (a) shall take effect with respect to any solicitation issued after March 31, 1985.

Effective date.
41 USC 416 note.

(c) The provisions of the amendment made by subsection (a) of this section shall apply to the Tennessee Valley Authority only with respect to procurements to be paid from appropriated funds.

Tennessee Valley Authority
41 USC 416 note.

TITLE IV—AMENDMENTS TO THE SMALL BUSINESS ACT

CERTIFICATE OF COMPETENCY

SEC. 401. Section 8(b)(7)(C) of the Small Business Act (15 U.S.C. 637(b)(7)(C)) is amended by adding at the end thereof the following: “Notwithstanding the first sentence of this subparagraph, the Administration may not establish an exemption from referral or notification or refuse to accept a referral or notification from a Government procurement officer made pursuant to subparagraph (A) or (B) of this paragraph, but nothing in this paragraph shall require the processing of an application for certification if the small business concern to which the referral pertains declines to have the application processed.”

SMALL BUSINESS SUBCONTRACTING POLICY STATEMENTS

SEC. 402. (a) Section 8(d)(1) of the Small Business Act (15 U.S.C. 637(d)(1)) is amended by striking out the period at the end thereof and inserting in lieu thereof the following: “, including contracts and subcontracts for subsystems, assemblies, components, and related services for major systems. It is further the policy of the United States that its prime contractors establish procedures to ensure the timely payment of amounts due pursuant to the terms of

their subcontracts with small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals.”.

Disadvantaged
persons.

(b) Section 8(d)(3)(A) of the Small Business Act (15 U.S.C. 637(d)(3)(A)) is amended by striking out the period at the end thereof and inserting in lieu thereof the following: “, including contracts and subcontracts for subsystems, assemblies, components, and related services for major systems. It is further the policy of the United States that its prime contractors establish procedures to ensure the timely payment of amounts due pursuant to the terms of their subcontracts with small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals.”.

BREAKOUT PROCUREMENT CENTER REPRESENTATIVES

SEC. 403. (a) Section 15 of the Small Business Act (15 U.S.C. 644) is amended—

(1) by redesignating subsection (l) as subsection (m); and

(2) by inserting after subsection (k) the following new subsection:

“(1)(1) The Administration shall assign to each major procurement center a breakout procurement center representative with such assistance as may be appropriate. The breakout procurement center representative shall carry out the activities described in paragraph (2), and shall be an advocate for the breakout of items for procurement through full and open competition, whenever appropriate, while maintaining the integrity of the system in which such items are used, and an advocate for the use of full and open competition, whenever appropriate, for the procurement of supplies and services by such center. Any breakout procurement center representative assigned under this subsection shall be in addition to the representative referred to in subsection (k)(6).

“(2) In addition to carrying out the responsibilities assigned by the Administration, a breakout procurement center representative is authorized to—

“(A) attend any provisioning conference or similar evaluation session during which determinations are made as to whether requirements are to be procured through other than full and open competition and make recommendations with respect to such requirements to the members of such conference or session;

“(B) review, at any time, restrictions on competition previously imposed on items through acquisition method coding or similar procedures, and recommend to personnel of the appropriate activity the prompt reevaluation of such limitations;

“(C) review restrictions on competition arising out of restrictions on the rights of the United States in technical data, and, when appropriate, recommend that personnel of the appropriate activity initiate a review of the validity of such an asserted restriction;

“(D) obtain from any governmental source, and make available to personnel of the appropriate activity, unrestricted technical data necessary for the preparation of a competitive solicitation package for any item of supply or service previously procured noncompetitively due to the unavailability of such unrestricted technical data;

“(E) have access to the unclassified procurement records and other data of the procurement center;

“(F) receive unsolicited engineering proposals and, when appropriate (i) conduct a value analysis of such proposal to determine whether such proposal, if adopted, will result in lower costs to the United States without substantially impeding legitimate acquisition objectives and forward to personnel of the appropriate activity recommendations with respect to such proposal, or (ii) forward such proposals without analysis to personnel of the activity responsible for reviewing such proposals and who shall furnish the breakout procurement center representative with information regarding the disposition of any such proposal; and

“(G) review the systems that account for the acquisition and management of technical data within the procurement center to assure that such systems provide the maximum availability and access to data needed for the preparation of offers to sell to the United States those supplies to which such data pertain which potential offerors are entitled to receive.

“(3) A breakout procurement center representative is authorized to appeal a failure to act favorably on any recommendation made pursuant to paragraph (2). Such appeal shall be in writing, specifically reciting both the circumstances of the appeal and the basis of the recommendation. The appeal shall be decided by a person within the employ of the appropriate activity who is at least one supervisory level above the person who initially failed to act favorably on the recommendation. Such appeal shall be decided within 30 calendar days of its receipt.

Effective date.

“(4) The Administration shall assign and co-locate at least two small business technical advisers to each major procurement center in addition to such other advisers as may be authorized from time to time. The sole duties of such advisers shall be to assist the breakout procurement center representative for the center to which such advisers are assigned in carrying out the functions described in paragraph (2) and the representatives referred to in subsection (k)(6).

“(5)(A) The breakout procurement center representatives and technical advisers assigned pursuant to this subsection shall be—

“(i) full-time employees of the Administration; and

“(ii) fully qualified, technically trained, and familiar with the supplies and services procured by the major procurement center to which they are assigned.

“(B) In addition to the requirements of subparagraph (A), each breakout procurement center representative, and at least one technical adviser assigned to such representative, shall be an accredited engineer.

“(C) The Administration shall establish personnel positions for breakout procurement representatives and advisers assigned pursuant to this subsection, which are classified at a grade level of the General Schedule sufficient to attract and retain highly qualified personnel.

“(6) For purposes of this subsection, the term ‘major procurement center’ means a procurement center of the Department of Defense that awarded contracts for items other than commercial items totaling at least \$150,000,000 in the preceding fiscal year, and such other procurement centers as designated by the Administrator.”.

- 15 USC 644 note. (b)(1) The Administrator of the Small Business Administration and the Comptroller General of the United States shall jointly establish standards for measuring cost savings achieved through the efforts of breakout procurement center representatives and for measuring the extent to which competition has been increased as a result of such efforts. Thereafter, the Administrator shall annually prepare and submit to the Congress a report setting forth—
- Report. (A) the cost savings achieved during the year covered by such report through the efforts of breakout procurement center representatives;
- (B) an evaluation of the extent to which competition has been increased as a result of such efforts; and
- (C) such other information as the Administrator may deem appropriate.
- Report. (2) Within 180 days following the submission of the second annual report to Congress by the Administrator, the Comptroller General shall report to the Congress an evaluation of the Administration's adherence to the standards jointly established and the accuracy of the information the Administration has submitted to the Congress.

PROCUREMENT NOTICES

SEC. 404. (a) Section 8 of the Small Business Act (15 U.S.C. 637) is amended by striking out subsection (e) and inserting in lieu thereof the following new subsections:

“(e)(1) Except as provided in subsection (g)—

“(A) an executive agency intending to—

“(i) solicit bids or proposals for a contract for property or services for a price expected to exceed \$10,000; or

“(ii) place an order, expected to exceed \$10,000, under a basic agreement, basic ordering agreement, or similar arrangement,

shall furnish for publication by the Secretary of Commerce a notice described in subsection (b); and

“(B) an executive agency awarding a contract for property or services for a price exceeding \$25,000, or placing an order referred to in clause (A)(ii) exceeding \$25,000, shall furnish for publication by the Secretary of Commerce a notice announcing the award or order if there is likely to be any subcontract under such contract or order.

“(2) The Secretary of Commerce shall publish promptly in the Commerce Business Daily each notice required by paragraph (1).

“(3) Whenever an executive agency is required by paragraph (1)(A) to furnish a notice to the Secretary of Commerce, such executive agency may not—

Effective date. “(A) issue the solicitation earlier than 15 days after the date on which the notice is published by the Secretary of Commerce; or

“(B) establish a deadline for the submission of all bids or proposals in response to the notice required by paragraph (1)(A) that—

Effective date. “(i) in the case of an order under a basic agreement, basic ordering agreement, or similar arrangement, is earlier than the date 30 days after the date the notice required by paragraph (1)(A)(ii) is published;

“(ii) in the case of a solicitation for research and development, is earlier than the date 45 days after the date the notice required by paragraph (1)(A)(i) is published; or

Research and development.

“(iii) in any other case, is earlier than the date 30 days after the date the solicitation is issued.

“(f) Each notice of solicitation required by subsection (e)(1)(A) shall include—

“(1) an accurate description of the property or services to be contracted for, which description (A) shall not be unnecessarily restrictive of competition, and (B) shall include, as appropriate, the agency nomenclature, National Stock Number or other part number, and a brief description of the item's form, fit, or function, physical dimensions, predominant material of manufacture, or similar information that will assist a prospective contractor to make an informed business judgment as to whether a copy of the solicitation should be requested;

“(2) provisions that—

“(A) state whether the technical data required to respond to the solicitation will not be furnished as part of such solicitation, and identify the source in the Government, if any, from which the technical data may be obtained; and

“(B) state whether an offeror, its product, or service must meet a qualification requirement in order to be eligible for award, and, if so, identify the office from which a qualification requirement may be obtained;

“(3) the name, business address, and telephone number of the contracting officer;

“(4) a statement that all responsible sources may submit a bid, proposal, or quotation (as appropriate) which shall be considered by the agency; and

“(5) in the case of a procurement using procedures other than competitive procedures, a statement of the reason justifying the use of such procedures and the identity of the intended source.

“(g)(1) A notice is not required under subsection (a)(1) if—

“(A) the notice would disclose the executive agency's needs and the disclosure of such needs would compromise the national security;

“(B) the proposed procurement would result from acceptance of—

“(i) any unsolicited proposal that demonstrates a unique and innovative research concept and the publication of any notice of such unsolicited research proposal would disclose the originality of thought or innovativeness of the proposal or would disclose proprietary information associated with the proposal; or

“(ii) a proposal submitted under section 9 of this Act;

“(C) the procurement is made against an order placed under a requirements contract;

“(D) the procurement is made for perishable subsistence supplies; or

“(E) the procurement is for utility services, other than telecommunication services, and only one source is available.

“(2) The requirements of subsection (a)(1)(A) do not apply to any procurement under conditions described in paragraph (2), (3), (4), (5), or (7) of section 303(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)) or paragraph (2), (3), (4), (5), or (7) of section 2304(c) of title 10, United States Code.

Ante, p. 1175.

Ante, p. 1187.

“(3) The requirements of subsection (a)(1)(A) shall not apply in the case of any procurement for which the head of the executive agency makes a determination in writing, after consultation with the Administrator for Federal Procurement Policy and the Administrator of the Small Business Administration, that it is not appropriate or reasonable to publish a notice before issuing a solicitation.

“(h)(1) An executive agency may not award a contract using procedures other than competitive procedures unless—

“(A) except as provided in paragraph (2), a written justification for the use of such procedures has been approved—

“(i) in the case of a contract for an amount exceeding \$100,000 (but equal to or less than \$1,000,000), by the advocate for competition for the procuring activity (without further delegation);

“(ii) in the case of a contract for an amount exceeding \$1,000,000 (but equal to or less than \$10,000,000), by the head of the procuring activity or a delegate who, if a member of the Armed Forces, is a general or flag officer, or, if a civilian, is serving in a position in grade GS-16 or above under the General Schedule (or in a comparable or higher position under another schedule); or

“(iii) in the case of a contract for an amount exceeding \$10,000,000, by the senior procurement executive of the agency designated pursuant to section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3)) (without further delegation); and

“(B) all other requirements applicable to the use of such procedures under title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) or chapter 137 of title 10, United States Code, as appropriate, have been satisfied.

“(2) The same exceptions as are provided in section 303(f)(2) of the Federal Property and Administration Services Act of 1949 (41 U.S.C. 253(f)(2)) or section 2304(f)(2) of title 10, United States Code, shall apply with respect to the requirements of paragraph (1)(A) of this subsection in the same manner as such exceptions apply to the requirements of section 303(f)(1) of such Act or section 2304(f)(1) of such title, as appropriate.

“(i) An executive agency shall make available to any business concern, or the authorized representative of such concern, the complete solicitation package for any on-going procurement announced pursuant to a notice under subsection (e). An executive agency may require the payment of a fee, not exceeding the actual cost of duplication, for a copy of such package.

“(j) For purposes of this section, the term ‘executive agency’ has the meaning provided such term in section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1)).”

(b) The amendment made by subsection (a) shall take effect with respect to any solicitation for bids or proposals issued after March 31, 1985.

(c) The provisions of the amendment made by subsection (a) of this section shall apply to the Tennessee Valley Authority only with respect to procurements to be paid from appropriated funds.

Armed Forces.
Government
organization and
employees.

97 Stat. 1330.

97 Stat. 1326.
Ante, p. 1195.
Effective date.
15 USC 637
note.
Tennessee
Valley
Authority.
15 USC 637
note.

TITLE V—OTHER PROCUREMENT PROVISIONS

REGULATIONS ON OVERHEAD

SEC. 501. Not later than 180 days after the date of enactment of this Act the single system of Government-wide procurement regulations (as defined in section 4(4)) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(4)) shall be revised to include or amend, as appropriate, provisions relating to the manner in which each executive agency (as defined in section 4(1) of such Act (41 U.S.C. 403(1))) may negotiate prices for supplies to be obtained through the use of other than competitive procedures, as defined in section 4(b) of such Act (41 U.S.C. 403(b)). Such revision shall specify the incurred overhead a contractor may appropriately allocate to such supplies, and shall require the contractor to identify those supplies which it did not manufacture or to which it did not contribute significant value. Nothing in this subsection shall require the submission of cost or pricing data not otherwise required by law.

97 Stat. 1326.
Ante, p. 1195.

PERSONNEL EVALUATIONS

SEC. 502. The head of each executive agency that is subject to the provisions of title III of the Federal Property and Administrative Services Act of 1949 shall ensure, with respect to the employees of that agency whose primary duties and responsibilities pertain to the award of contracts subject to the provisions of this Act, that the performance appraisal system applicable to such employees affords appropriate recognition to, among other factors, efforts—

Government
organization
and
employees.
41 USC 414a.
41 USC 251.

(1) to increase competition and achieve cost savings through the elimination of procedures that unnecessarily inhibit full and open competition;

(2) to further the purposes of the Small Business and Federal Procurement Competition Enhancement Act of 1984 and the Defense Procurement Reform Act of 1984; and

(3) to further such other objectives and purposes of the Federal acquisition system as may be authorized by law.

REPORT ON PRIME CONTRACTORS QUALIFYING ADDITIONAL SOURCES

SEC. 503. Not later than July 1, 1985, the Administrator of the Office of Federal Procurement Policy shall submit to the Congress a report on the desirability and feasibility of various methods that may be used to qualify competitive sources for subsystems, assemblies, and components acquired as part of a major system established by an agency pursuant to Office of Management and Budget (OMB) Circular A-109 entitled "Major Systems Acquisitions" and likely to be reprocedured in substantial quantities during the system's service life. Such report shall discuss the desirability and feasibility of a contractual requirement that, in those situations where a prime contractor qualifies its subcontractors and suppliers, the prime contractor be required to—

(1) qualify at least two sources for each major subsystem, assembly, or component during the term of the contract; or

(2) furnish to the United States as a deliverable item under the contract, the qualification standards and processes employed by the prime contractor, so as to permit the United States to qualify additional sources for future competitive procurements.

TECHNICAL AMENDMENTS TO COMPETITION IN CONTRACTING ACT OF
1984

SEC. 504. (a)(1) Section 303(b) of the Federal Property and Administration Services Act of 1949 (41 U.S.C. 253) is amended by striking out paragraph (2) and inserting in lieu thereof the following:

“(2) An executive agency may provide for the procurement of property or services covered by this section using competitive procedures, but excluding other than small business concerns in furtherance of sections 9 and 15 of the Small Business Act (15 U.S.C. 639; 644).

“(3) A contract awarded pursuant to the competitive procedures referred to in paragraphs (1) and (2) shall not be subject to the justification and approval required by subsection (f)(1).”

41 USC 253.

(2) Section 303(f) of such Act is amended by striking out the last sentence of paragraph (2) and by inserting in lieu thereof the following: “The justification and approval required by paragraph (1) is not required in the case of a procurement permitted by subsection (c)(7) or in the case of a procurement conducted under—

“(A) the Act of June 25, 1938 (41 U.S.C. 46 et seq.), popularly referred to as the Wagner-O’Day Act; or

“(B) the authority of section 8(a) of the Small Business Act (15 U.S.C. 637).”

41 USC 259.

(3) Section 309(b) of such Act is amended—

(A) by striking out the period at the end of paragraph (3) and by inserting in lieu thereof a semicolon; and

(B) by adding at the end thereof the following new paragraphs:

“(4) procurements conducted in furtherance of section 15 of the Small Business Act (15 U.S.C. 644) as long as all responsible business concerns that are entitled to submit offers for such procurements are permitted to compete; and

“(5) a competitive selection of research proposals resulting from a general solicitation and peer review or scientific review (as appropriate) solicited pursuant to section 9 of the Small Business Act (15 U.S.C. 638).”

Ante, p. 1180.

(4) Section 309(c) of such Act is amended by striking out “and ‘responsible source’ have” and inserting in lieu thereof “, ‘responsible source’, ‘technical data’, ‘major system’, ‘item’, ‘item of supply’, and ‘supplies’ have”.

Ante, p. 1187.

(b)(1) Section 2304(b) of title 10, United States Code, is amended by striking out paragraph (2) and inserting in lieu thereof the following:

“(2) An executive agency may provide for the procurement of property or services covered by this section using competitive procedures, but excluding other than small business concerns in furtherance of sections 9 and 15 of the Small Business Act (15 U.S.C. 639; 644).

“(3) A contract awarded pursuant to the competitive procedures referred to in paragraphs (1) and (2) shall not be subject to the justification and approval required by subsection (f)(1).”

(2) Section 2304(f) of such title is amended by striking out the last sentence of paragraph (2) and by inserting in lieu thereof the following: “The justification and approval required by paragraph (1) is not required in the case of a procurement permitted by subsection (c)(7) or in the case of a procurement conducted under—

- “(A) the Act of June 25, 1938 (41 U.S.C. 46 et seq.), popularly referred to as the Wagner-O’Day Act; or
“(B) the authority of section 8(a) of the Small Business Act (15 U.S.C. 637).”
- (3) Section 2302(2) of such title is amended—
- (A) by striking out “and” at the end of subparagraph (B);
 - (B) by striking out the period at the end of paragraph (C) and by inserting in lieu thereof a semicolon; and
 - (C) by adding at the end thereof the following new subparagraphs:
 - “(D) procurements conducted in furtherance of section 15 of the Small Business Act (15 U.S.C. 644) as long as all responsible business concerns that are entitled to submit offers for such procurements are permitted to compete; and
 - “(E) a competitive selection of research proposals resulting from a general solicitation and peer review or scientific review (as appropriate) solicited pursuant to section 9 of the Small Business Act (15 U.S.C. 638).”
- Ante*, p. 1186.

REPEAL

SEC. 505. Section 2311 of title 10, United States Code (as amended by section 1214 of the Defense Procurement Reform Act of 1984), is amended—

- (1) by striking out “(a)” at the beginning of subsection (a); and
- (2) by striking out subsection (b).

Approved October 30, 1984.

LEGISLATIVE HISTORY—H.R. 4209 (S. 2489):

HOUSE REPORT No. 98-528 (Comm. on Small Business).

SENATE REPORT No. 98-523 accompanying S. 2489 (Comm. on Small Business).

CONGRESSIONAL RECORD, Vol. 130 (1984):

May 21, considered and passed House.

Aug. 7, considered and passed Senate, amended, in lieu of S. 2489.

Oct. 2, House agreed to Senate amendments with amendments.

Oct. 4, Senate concurred in House amendments.

Public Law 98-578
98th Congress

An Act

Oct. 30, 1984

[H.R. 4263]

To designate certain lands in the Cherokee National Forest, Tennessee, as wilderness areas, and to allow management of certain lands for uses other than wilderness.

Tennessee
Wilderness Act
of 1984.
National
Wilderness
Preservation
System.
National Forest
System.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Tennessee Wilderness Act of 1984".

DESIGNATION OF WILDERNESS AREAS

SEC. 2. In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131-1136), the following lands are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

16 USC 1132
note.

(1) certain lands in the Cherokee National Forest, Tennessee, which comprise approximately five thousand and fifty-five acres, as generally depicted on a map entitled "Big Frog Wilderness—Proposed", dated April 1984, and which shall be known as the Big Frog Wilderness;

16 USC 1132
note.

(2) certain lands in the Cherokee National Forest, Tennessee, which comprise approximately sixteen thousand acres, as generally depicted on a map entitled "Citico Creek Wilderness—Proposed", dated April 1984, and which shall be known as the Citico Creek Wilderness; and

16 USC 1132
note.

(3) certain lands in the Cherokee National Forest, Tennessee, which comprise approximately three thousand eight hundred and eighty-seven acres, as generally depicted on a map entitled "Bald River Gorge Wilderness—Proposed", dated April 1984, and which shall be known as the Bald River Gorge Wilderness.

MAPS AND DESCRIPTIONS

SEC. 3. As soon as practicable after enactment of this Act, the Secretary of Agriculture shall file a map and a legal description of each wilderness area designated by this Act with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and with the Committee on Agriculture, Nutrition, and Forestry of the United States Senate. Each such map and description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in each such map and description may be made by the Secretary. Each such map and description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

Public
availability.

ADMINISTRATION OF WILDERNESS

SEC. 4. Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that

16 USC 1131
note.

any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act.

16 USC 1131
note.

EFFECT OF RARE II

SEC. 5. (a) The Congress finds that—

Conservation.

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of National Forest System roadless areas in Monroe and Polk Counties, Tennessee, and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to National Forest System lands other than in Monroe and Polk Counties, Tennessee, such statement shall not be subject to judicial review with respect to National Forest System lands in Monroe and Polk Counties, Tennessee;

(2) with respect to the National Forest System lands in Monroe and Polk Counties, Tennessee, which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d), except those lands designated for wilderness study upon enactment of this Act, that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time, the Secretary of Agriculture finds that conditions in a unit have significantly changed;

16 USC 1600
note.

(3) areas in Monroe and Polk Counties, Tennessee, reviewed in such final environmental statement or referenced in subsection (d) and not designated as wilderness or for wilderness study upon enactment of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976: *Provided*, That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans; and

16 USC 1604.

(4) in the event that revised land management plans in Monroe and Polk Counties, Tennessee, are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be man-

16 USC 1600
note.

aged for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law.

16 USC 1604.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

(d) The provisions of this section shall also apply to National Forest System roadless lands in Monroe and Polk Counties, Tennessee, which are less than five thousand acres in size.

DESIGNATION OF WILDERNESS STUDY AREAS

16 USC 1131
note.

SEC. 6. (a) In furtherance of the purposes of the Wilderness Act, the following lands shall be reviewed by the Secretary of Agriculture as to their suitability for preservation as wilderness during preparation of the initial land management plan for the Cherokee National Forest pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended:

(1) certain lands in the Cherokee National Forest, which comprise approximately four thousand eight hundred acres, as generally depicted on a map entitled "Little Frog Wilderness Study Area—Proposed," dated April 1984, and which shall be known as the Little Frog Wilderness Study Area; and

(2) certain lands in the Cherokee National Forest which comprise approximately three thousand acres, as generally depicted on a map entitled "Big Frog Study Area," dated April 1984.

(b) Subject to valid existing rights, the Little Frog Wilderness Study Area designated by this section shall, until Congress determines otherwise, be administered by the Secretary so as to maintain its presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System.

Approved October 30, 1984.

LEGISLATIVE HISTORY—H.R. 4263:

HOUSE REPORT No. 98-714, Pt. I (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 98-615 (Comm. on Agriculture, Nutrition, and Forestry).

CONGRESSIONAL RECORD, Vol. 130 (1984):

Apr. 30, May 1, considered and passed House.

Oct. 2, considered and passed Senate, amended.

Oct. 4, House concurred in Senate amendments.

Public Law 98-579
98th Congress

An Act

To designate the Federal Building and United States Courthouse in Ocala, Florida, as the "Golden-Collum Memorial Federal Building and United States Courthouse".

Oct. 30, 1984
[H.R. 4354]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Building and United States Courthouse located at 207 Northwest Second Street, Ocala, Florida, is designated as the "Golden-Collum Memorial Federal Building and United States Courthouse". Any reference in a law, map, regulation, document, record, or other paper of the United States to that building shall be deemed to be a reference to the "Golden-Collum Memorial Federal Building and United States Courthouse".

Public buildings
and grounds.

Approved October 30, 1984.

LEGISLATIVE HISTORY—H.R. 4354:

HOUSE REPORT No. 98-933 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 130 (1984):

Aug. 9, considered and passed House.
Oct. 11, considered and passed Senate

Public Law 98-580
98th Congress

An Act

Oct. 30, 1984

[H.R. 4473]

To designate the Federal Archives and Records Center in San Bruno, California, as the "Leo J. Ryan Memorial Federal Archives and Records Center".

Public buildings
and grounds.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Archives and Records Center located at 1000 Commodore Drive in San Bruno, California, is designated as the "Leo J. Ryan Memorial Federal Archives and Records Center". Any reference in a law, map, regulation, document, record or other paper of the United States to that building shall be deemed to be a reference to the "Leo J. Ryan Memorial Federal Archives and Records Center".

Approved October 30, 1984.

LEGISLATIVE HISTORY—H.R. 4473:

CONGRESSIONAL RECORD:

Vol. 129 (1983): Nov. 18, considered and passed House.

Vol. 130 (1984): Oct. 10, considered and passed Senate.

Public Law 98-581
98th Congress

An Act

To authorize appropriations for the Office of Environmental Quality and the Council on Environmental Quality for fiscal years 1985 and 1986, and for other purposes.

Oct. 30, 1984
[H.R. 4585]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 205 of the Environmental Quality Improvement Act of 1970 (42 U.S.C. 4374(c)) is amended by adding at the end thereof the following new paragraph:

“(d) \$480,000 for each of the fiscal years ending September 30, 1985 and September 30, 1986.”.

SEC. 2. The Environmental Quality Improvement Act of 1970 (42 U.S.C. 4371-4374) is further amended by adding at the end thereof the following new section:

“OFFICE MANAGEMENT FUND

“SEC. 206. (a) There is established an Office of Environmental Quality Management Fund (hereinafter referred to as the ‘Fund’) to receive advance payments from other agencies or accounts that may be used solely to finance—

Establishment.
42 USC 4375.

“(1) study contracts that are jointly sponsored by the Office and one or more other Federal agencies; and

“(2) Federal interagency environmental projects (including task forces) in which the Office participates.

“(b) Any study contract or project that is to be financed under subsection (a) may be initiated only with the approval of the Director.

“(c) The Director shall promulgate regulations setting forth policies and procedures for operation of the Fund.”.

Regulations.

SEC. 3. Section 2(1) of the Act entitled “An Act to establish the Tensas River National Wildlife Refuge”, approved June 28, 1980 (19 U.S.C. 668dd note), is amended—

16 USC 668dd
note.

(1) by inserting “(A)” immediately after “includes”; and

(2) by inserting immediately before the period at the end thereof the following: “; and (B) any additional lands and waters, and interests therein, adjacent to the boundaries

depicted on that map that are considered appropriate for inclusion in the refuge by the Secretary”.

Approved October 30, 1984.

LEGISLATIVE HISTORY—H.R. 4585 (S. 2703):

HOUSE REPORT No. 98-702 (Comm. on Merchant Marine and Fisheries).

SENATE REPORT No. 98-474 accompanying S. 2703 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD, Vol. 130 (1984):

Apr. 30, May 1, considered and passed House.

June 21, considered and passed Senate, amended.

Aug 9, House concurred in Senate amendment with amendments.

Oct. 10, Senate concurred in House amendments.

Public Law 98-582
98th Congress

An Act

To designate the Federal Building and United States Courthouse at 1961 Stout Street, Denver, Colorado, as the "Byron G. Rogers Federal Building and United States Courthouse".

Oct. 30, 1984
[H.R. 4700]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Building and United States Courthouse at 1961 Stout Street, in Denver, Colorado, shall hereafter be known and designated as the "Byron G. Rogers Federal Building and United States Courthouse". Any reference in any law, map, regulation, document, record, or any other paper of the United States to such building shall be deemed to be a reference to the "Byron G. Rogers Federal Building and United States Courthouse".

Public buildings
and grounds.

SEC. 2. The Lowndesville Recreation Area, located within the Richard B. Russell Dam and Lake project, South Carolina and Georgia, shall hereafter be known and designated as the "Jim Rampey Recreation Area". Any reference in any law, map, regulation, document, record, or other paper of the United States to such recreation area shall be deemed to be a reference to such area as the "Jim Rampey Recreation Area".

Jim Rampey
Recreation Area.

Approved October 30, 1984.

LEGISLATIVE HISTORY—H.R. 4700:

HOUSE REPORT No. 98-625 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 130 (1984):

Apr. 2, considered and passed House.

Oct. 11, considered and passed Senate, amended; House concurred in Senate amendment.

Public Law 98-583
98th Congress

An Act

Oct. 30, 1984
[H.R. 4717]

To designate the Federal Building and United States Courthouse in Las Vegas, Nevada, as the "Foley Federal Building and United States Courthouse".

Public buildings
and grounds.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Building and United States Courthouse located at 300 Las Vegas Boulevard South, Las Vegas, Nevada, is designated as the "Foley Federal Building and United States Courthouse". Any reference in a law, map, regulation, document, record, or other paper of the United States to that building shall be deemed to be a reference to the "Foley Federal Building and United States Courthouse".

Approved October 30, 1984.

LEGISLATIVE HISTORY—H.R. 4717:

HOUSE REPORT No. 98-932 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 130 (1984):
Aug. 9, considered and passed House.
Oct. 11, considered and passed Senate.

Public Law 98-584
98th Congress

An Act

To recognize the organization known as the Women's Army Corps Veterans' Association.

Oct. 30, 1984
[H.R. 4966]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

CHARTER

SECTION 1. The Women's Army Corps Veterans' Association, a nonprofit corporation organized under the laws of the District of Columbia, is recognized as such and is granted a Federal charter.

Corporation.
36 USC 3101.

POWERS

SEC. 2. The Women's Army Corp Veterans' Association (hereinafter in this Act referred to as the "corporation"), shall have only those powers granted to it through its bylaws and articles of incorporation filed in the States in which it is incorporated, and subject to the laws of such States.

36 USC 3102.

OBJECTS AND PURPOSES OF CORPORATION

SEC. 3. The objects and purposes of the corporation are those provided in its articles of incorporation and shall include a continuing commitment on a national basis to—

36 USC 3103.

(1) promote the general welfare of all veterans, especially women veterans, who have served or are serving in the United States Army, the Army Reserve, and the Army National Guard;

(2) recognize outstanding women in college ROTC units throughout the United States; and

(3) provide services and support to patients in Veterans' Administration Hospitals throughout the United States.

SERVICE OF PROCESS

SEC. 4. With respect to service of process, the corporation shall comply with the laws of the States in which it is incorporated and in which it carries on activities in furtherance of its corporate purposes.

36 USC 3104.

MEMBERSHIP

SEC. 5. Eligibility for membership in the corporation and the rights and privileges of members shall be as provided in the constitution and bylaws of the corporation.

36 USC 3105.

BOARD OF DIRECTORS

SEC. 6. The board of directors of the corporation and the responsibilities thereof shall be as provided in the articles of incorporation of

36 USC 3106.

the corporation and in conformity with the laws of the States in which it is incorporated.

OFFICERS

36 USC 3107. SEC. 7. The officers of the corporation and the election of such officers shall be as provided in the articles of incorporation of the corporation and shall be in conformity with the laws of the States in which it is incorporated.

RESTRICTIONS ON CORPORATE POWERS

36 USC 3108. SEC. 8. (a) No part of the income or assets of the corporation may inure to any member, officer, or director of the corporation or be distributed to any such individual during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual and necessary expenses in amounts approved by the board of directors.

(b) The corporation may not make any loan to any officer, director, or employee of the corporation.

(c) Neither the corporation nor any officer or director thereof may contribute to, support, or otherwise participate in any political activity or attempt in any manner to influence legislation.

(d) The corporation shall have no power to issue any shares of stock or to declare or pay any dividends.

(e) The corporation shall not claim the approval or authorization of the Federal Government for any of its activities.

LIABILITY

36 USC 3109. SEC. 9. The corporation shall be liable for the acts of its officers and agents when acting within the scope of their authority.

BOOKS AND RECORDS; INSPECTION

36 USC 3110. SEC. 10. The corporation shall keep correct and complete books and records of accounts and shall keep minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors. The corporation shall keep at its principal office a record of the names and addresses of all members having the right to vote in any proceeding of the corporation. All books and records of such corporation may be inspected by any member having the right to vote in any corporation proceeding, or by any agent or attorney of such member, for any proper purpose at any reasonable time. Nothing in this section shall be construed to contravene any applicable State law.

AUDIT OF FINANCIAL TRANSACTIONS

SEC. 11. The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end thereof the following:

"(64) Women's Army Corps Veterans' Association."

ANNUAL REPORT

SEC. 12. The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as the report of the audit of the corporation required by section 2 of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101). The report shall not be printed as a public document. 36 USC 3111.

RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER

SEC. 13. The right to amend or repeal this Act is expressly reserved to the Congress. Congress.
36 USC 3112.

DEFINITION OF "STATE"

SEC. 14. For purposes of this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States. 36 USC 3113.

TAX-EXEMPT STATUS

SEC. 15. The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1954. If the corporation fails to maintain such status, the charter granted by this Act shall expire. 36 USC 3114.

TERMINATION

SEC. 16. If the corporation fails to comply with any of the restrictions or provisions of this Act, the charter granted by this Act shall expire. 36 USC 3115.

Approved October 30, 1984.

LEGISLATIVE HISTORY—H.R. 4966 (S. 2720):

CONGRESSIONAL RECORD, Vol. 130 (1984):

Sept. 26, considered and passed House.

Oct. 4, considered and passed Senate, amended.

Oct. 5, House concurred in Senate amendments.

Public Law 98-585
98th Congress

An Act

Oct. 30, 1984
[H.R. 5076]

To designate certain areas in the Allegheny National Forest as wilderness and recreation areas.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Pennsylvania Wilderness Act of 1984".

Pennsylvania
Wilderness Act
of 1984.
National
Wilderness
Preservation
System.
National Forest
System.
National parks,
monuments, etc.
16 USC 460qq
note.

FINDINGS

SEC. 2. The Congress finds and declares that—

- (1) there is an urgent need to identify and protect natural areas to meet the recreational needs of Americans;
- (2) certain lands within the Allegheny National Forest in Pennsylvania are worthy of inclusion in the National Wilderness Preservation System; and
- (3) certain other lands within the Allegheny National Forest are suitable for designation as a national recreational area.

PURPOSE

SEC. 3. It is the purpose of this Act to—

- (1) establish the Allegheny Islands Wilderness and the Hickory Creek Wilderness;
- (2) establish the Allegheny National Recreation Area so as to ensure the preservation and protection of the area's natural, scenic, scientific, historic, archaeological, ecological, educational, watershed, and wildlife values and to provide for the enhancement of recreational opportunities, particularly undeveloped recreational opportunities; and
- (3) ensure that any mineral exploration and development that takes place within the recreation area is done in an environmentally sound manner.

WILDERNESS DESIGNATIONS

SEC. 4. In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131-1136), the following lands in the State of Pennsylvania are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

- (1) certain lands in the Allegheny National Forest, Pennsylvania, which comprise approximately three hundred and sixty-eight acres, as generally depicted on a map entitled "Allegheny Islands Wilderness—Proposed", dated March 1984, composed of Crulls Island, Thompsons Island, R. Thompsons Island, Courson Island, King Island, Baker Island, and No Name Island, and which shall be known as the Allegheny Islands Wilderness; and
- (2) certain lands in the Allegheny National Forest, Pennsylvania, which comprise approximately nine thousand three hundred and thirty-seven acres as generally depicted on a map entitled "Hickory Creek Wilderness—Proposed", dated March

16 USC 1132
note.

16 USC 1132
note.

1984, and which shall be known as the Hickory Creek Wilderness.

ADMINISTRATION OF WILDERNESS

SEC. 5. (a) Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act.

16 USC 1131
note.

(b) As provided in section 4(d)(8) of the Wilderness Act, nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State of Pennsylvania with respect to wildlife and fish in the Allegheny National Forest in the State of Pennsylvania.

(c)(1) The Secretary is authorized to acquire by purchase, donation, or exchange, with donated or appropriated funds, such lands or interests in lands (including oil, gas, and other mineral interests and scenic easements) within the wilderness areas designated by this Act as the Secretary deems necessary to carry out the purposes of this Act. Such lands and interests in lands may be acquired only with the consent of the owner thereof.

(2) Not more than \$2,000,000 is authorized to be appropriated for the purpose of acquiring, in accordance with this subsection, lands and interests in lands in the wilderness areas designated by this Act.

Appropriation
authorization.

ALLEGHENY NATIONAL RECREATION AREA

SEC. 6. (a) In furtherance of the findings and purposes of this Act, certain lands in the Allegheny National Forest, Pennsylvania, which comprise approximately twenty-three thousand one hundred acres, as generally depicted on a map entitled "Allegheny National Recreation Area—Proposed", dated March 1984, are hereby designated as the Allegheny National Recreation Area (hereinafter in this Act referred to as the "national recreation area"). The Secretary of Agriculture may revise the boundaries of the national recreation area to correct errors or to include additional lands acquired adjacent to the area.

16 USC 460qq.

(b) The national recreation area shall be managed for the purposes of—

(1) outdoor recreation including, but not limited to, hunting, fishing, hiking, backpacking, camping, nature study, and the use of motorized and nonmotorized boats on the Allegheny Reservoir;

(2) the conservation of fish and wildlife populations and habitat;

(3) the protection of watersheds and the maintenance of free flowing streams and the quality of ground and surface waters in accordance with applicable law;

(4) the conservation of scenic, cultural, and other natural values of the area;

(5) allowing the development of privately owned oil, gas, and mineral resources subject to reasonable conditions prescribed by the Secretary under subsection (c) for the protection of the area; and

(6) minimizing, to the extent practicable, environmental disturbances caused by resource development, consistent with the exercise of private property rights.

(c) The Secretary shall administer the national recreation area in accordance with the purposes described in subsection (b) and the laws, rules, and regulations applicable to the National Forest System. Subject to valid existing rights, any activity associated with the exploration, development, or transportation of oil, gas, or other minerals shall be subject to such reasonable conditions as the Secretary may prescribe, and in accordance with the management plan described in subsection (d), to achieve the purposes, described in subsection (b), of the national recreation area. For any such activity, the Secretary shall require a plan of operations which shall include provisions for adequate reclamation, including, to the extent practicable, revegetation and rehabilitation after each phase of operations is completed.

(d) The Secretary shall prepare, and may from time to time amend, a management plan for the national recreation area. The plan may be prepared in conjunction with, or incorporated with, ongoing planning for the Allegheny National Forest in accordance with the National Forest Management Act of 1976. The initial management plan and significant amendments or revisions shall be accompanied by an environmental impact statement prepared in accordance with the National Environmental Policy Act of 1969.

(e) The Secretary shall permit hunting, fishing, and trapping within the boundaries of the national recreation area in accordance with applicable Federal and State laws except that the Secretary may designate zones where, and establish periods when, no hunting, fishing, or trapping shall be permitted for reasons of public safety, administration, or public use and enjoyment. Except in emergencies, any prohibitions or restrictions made pursuant to this subsection shall be put into effect only after consultation with the appropriate State fish and game department.

(f) Subject to valid existing rights, the minerals in all federally owned lands within the national recreation area designated by this Act are withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral leasing, including all laws pertaining to geothermal leasing, and all amendments thereto.

(g) Nothing in this section shall be construed to apply to or have any effect on any other management area of the National Forest System, including any wilderness area or any other national recreation area.

MAPS AND DESCRIPTIONS

SEC. 7. As soon as practicable after enactment of this Act, the Secretary of Agriculture shall file a map and a legal description of the national recreation area and of each wilderness area designated by this Act with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and with the Committee on Agriculture, Nutrition, and Forestry of the United States Senate. Each such map and description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in such maps and descriptions may be made by the Secretary. Each such map and description shall be on file and available for public inspection.

16 USC 1600
note.

42 USC 4321
note.

Mines and
mining.

16 USC 460qq
note.

Public
availability.

tion in the Office of the Chief of the Forest Service, Department of Agriculture.

EFFECT OF RARE II

SEC. 8. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

Conservation.

(2) the Congress has made its own review and examination of National Forest System roadless areas in the State of Pennsylvania, and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to National Forest System lands in States other than Pennsylvania, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Pennsylvania;

(2) with respect to the National Forest System lands in the State of Pennsylvania which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d), that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time, the Secretary of Agriculture finds that conditions in a unit have significantly changed;

16 USC 1600
note.

(3) areas in the State of Pennsylvania reviewed in such final environmental statement or referenced in subsection (d) and not designated as wilderness or for special management under section 6 of this Act upon enactment of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976: *Provided*, That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans; and

16 USC 1604.

(4) in the event that revised land management plans in the State of Pennsylvania are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be

16 USC 1600
note.

16 USC 1604.

required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

(d) The provisions of this section shall also apply to National Forest System roadless lands in the State of Pennsylvania which are less than five thousand acres in size.

BUFFER ZONES

SEC. 9. The Congress does not intend that the designation of a wilderness area under this Act lead to the creation of protective perimeters or buffer zones around such wilderness area. The fact that nonwilderness activities or uses can be seen or heard from areas within a wilderness shall not preclude such activities or uses up to the boundary of the wilderness area.

Approved October 30, 1984.

LEGISLATIVE HISTORY—H.R. 5076:

HOUSE REPORT No. 98-713, Pt. 1 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 98-616 (Comm. on Agriculture, Nutrition, and Forestry).
CONGRESSIONAL RECORD, Vol. 130 (1984):

May 1, considered and passed House.
Oct. 2, considered and passed Senate, amended.
Oct. 4, House agreed to Senate amendment.

Public Law 98-586
98th Congress

An Act

To designate certain national forest system lands in the State of Virginia as wilderness, and for other purposes.

Oct. 30, 1984

[H.R. 5121]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited the “Virginia Wilderness Act of 1984”.

DESIGNATION OF WILDERNESS AREAS

SEC. 2. In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131-1136), the following lands in the State of Virginia are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

Virginia
Wilderness Act
of 1984.
National
Wilderness
Preservation
System.
National Forest
System.

(1) certain lands in the Jefferson National Forest, Virginia, which comprise approximately six thousand three hundred and seventy-five acres, as generally depicted on a map entitled “Beartown Wilderness—Proposed”, dated February 1984, and which shall be known as the Beartown Wilderness;

16 USC 1132
note.

(2) certain lands in the Jefferson National Forest, Virginia, which comprise approximately five thousand five hundred and eighty acres, as generally depicted on a map entitled “Kimberling Creek Wilderness—Proposed”, dated February 1984, and which shall be known as the Kimberling Creek Wilderness;

16 USC 1132
note.

(3) certain lands in the Jefferson National Forest, Virginia, which comprise approximately five thousand seven hundred and thirty acres, as generally depicted on a map entitled “Lewis Fork Wilderness—Proposed”, dated February 1984, and which shall be known as the Lewis Fork Wilderness;

16 USC 1132
note.

(4) certain lands in the Jefferson National Forest, Virginia, which comprise approximately three thousand four hundred acres, as generally depicted on a map entitled “Little Dry Run Wilderness—Proposed”, dated February 1984, and which shall be known as the Little Dry Run Wilderness;

16 USC 1132
note.

(5) certain lands in the Jefferson National Forest, Virginia, which comprise approximately three thousand eight hundred and fifty-five acres, as generally depicted on a map entitled “Little Wilson Creek Wilderness—Proposed”, dated February 1984, and which shall be known as the Little Wilson Creek Wilderness;

16 USC 1132
note.

(6) certain lands in the Jefferson National Forest, Virginia, which comprise approximately eight thousand two hundred and fifty-three acres, as generally depicted on a map entitled “Mountain Lake Wilderness—Proposed”, dated February 1984, and which shall be known as the Mountain Lake Wilderness;

16 USC 1132
note.

(7) certain lands in the Jefferson National Forest, Virginia, which comprise approximately three thousand three hundred and twenty-six acres, as generally depicted on a map entitled “Peters Mountain Wilderness—Proposed”, dated February

16 USC 1132
note.

1984, and which shall be known as the Peters Mountain Wilderness;

16 USC 1132
note.

(8) certain lands in the Jefferson National Forest, Virginia, which comprise approximately two thousand four hundred and fifty acres, as generally depicted on a map entitled "Thunder Ridge Wilderness—Proposed", dated February 1984, and which shall be known as the Thunder Ridge Wilderness;

16 USC 1132
note.

(9) certain lands in the Jefferson National Forest, Virginia, which comprise approximately two hundred acres, as generally depicted on a map entitled "James River Face Wilderness Addition—Proposed", dated September 1984, and which are hereby incorporated in, and shall be deemed to be part of, the James River Face Wilderness as designated by Public Law 93-622;

16 USC 1132
note.

(10) certain lands in the George Washington National Forest, Virginia, which comprise approximately six thousand seven hundred and twenty-five acres, as generally depicted on a map entitled "Ramseys Draft Wilderness—Proposed", dated January 1984, and which shall be known as the Ramseys Draft Wilderness; and

16 USC 1132
note.

(11) certain lands in the George Washington National Forest, Virginia, which comprise approximately ten thousand and ninety acres, as generally depicted on a map entitled "Saint Mary's Wilderness—Proposed", dated January 1984, and which shall be known as the Saint Mary's Wilderness.

MAPS AND DESCRIPTIONS

SEC. 3. As soon as practicable after enactment of this Act, the Secretary of Agriculture shall file a map and a legal description of each wilderness area designated by this Act with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and with the Committee on Agriculture, Nutrition, and Forestry of the United States Senate. Each such map and description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in each such map and description may be made by the Secretary. Each such map and description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

Public
availability.

ADMINISTRATION OF WILDERNESS

SEC. 4. Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act.

16 USC 1131
note.

EFFECT OF RARE II

Conservation.

SEC. 5. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of National Forest System roadless areas in the State of Virginia

and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to National Forest System lands in States other than Virginia, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Virginia;

(2) with respect to the National Forest System lands in the State of Virginia which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d), except those lands designated for wilderness study upon enactment of this Act, that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time, the Secretary of Agriculture finds that conditions in a unit have significantly changed;

16 USC 1600
note.

(3) areas in the State of Virginia reviewed in such final environmental statement or referenced in subsection (d) and not designated as wilderness or for wilderness study upon enactment of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976: *Provided*, That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans;

16 USC 1604.

(4) in the event that revised land management plans in the State of Virginia are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law; and

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of National Forest System lands in the State of Virginia for the purpose of determining their

suitability for inclusion in the National Wilderness Preservation System.

16 USC 1604. (c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

(d) The provisions of this section shall also apply to National Forest System roadless lands in the State of Virginia which are less than five thousand acres in size.

DESIGNATION OF WILDERNESS STUDY AREAS

16 USC 1131
note.

SEC. 6. (a) In furtherance of the purposes of the Wilderness Act, the Secretary of Agriculture shall review, as to their suitability for preservation as wilderness, the following lands in the State of Virginia:

(1) certain lands in the George Washington National Forest, which comprise approximately nine thousand three hundred acres, as generally depicted on a map entitled "Rough Mountain Wilderness Study Area—Proposed", dated January 1984, and which shall be known as the Rough Mountain Wilderness Study Area;

(2) certain lands in the George Washington National Forest, which comprise approximately five thousand six hundred acres, as generally depicted on a map entitled "Rich Hole Wilderness Study Area—Proposed", dated January 1984, and which shall be known as the Rich Hole Wilderness Study Area;

(3) certain lands in the Jefferson National Forest, which comprise approximately five thousand eight hundred and seventy-five acres, as generally depicted on a map entitled "Barbours Creek Wilderness Study Area—Proposed", dated February 1984, and which shall be known as the Barbours Creek Wilderness Study Area; and

(4) certain lands in the Jefferson National Forest, which comprise approximately four thousand three hundred acres, as generally depicted on a map entitled "Shawvers Run Wilderness Study Area—Proposed", dated February 1984, and which shall be known as the Shawvers Run Wilderness Study Area.

(b) In carrying out the review required under this section, the Secretary shall give public notice at least sixty days in advance of any hearing or other public meeting concerning a study area.

(c) Subject to valid existing rights, the wilderness study areas designated by this section shall, until Congress determines otherwise, be administered by the Secretary so as to maintain their presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System.

Reports.

(d) The Secretary, in consultation with the Environmental Protection Agency and the State of Virginia, shall evaluate and report to Congress no later than two years after the date of enactment of this Act on the effects of the proposed industrial development site at Covington, Virginia, on air quality on the areas designated for wilderness study by this Act. The Secretary shall provide an interim report to the appropriate committees of Congress no later than one year after the date of enactment of this Act.

BUFFER ZONES

SEC. 7. Congress does not intend that designation of wilderness areas in the State of Virginia lead to the creation of protective perimeters or buffer zones around each wilderness area. The fact that nonwilderness activities or uses can be seen or heard from areas within the wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

Approved October 30, 1984.

LEGISLATIVE HISTORY—H.R. 5121:

HOUSE REPORT No. 98-712, Part 1 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 130 (1984):

May 8, considered and passed House.
Oct. 4, considered and passed Senate, amended.
Oct. 9, House concurred in Senate amendment.

Public Law 98-587
98th Congress

An Act

Oct. 30, 1984
[H.R. 5189]

To amend section 3056 of title 18, United States Code, to update the authorities of the United States Secret Service, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 3056 of title 18, United States Code, is amended to read as follows:

“§ 3056. Powers, authorities, and duties of United States Secret Service

“(a) Under the direction of the Secretary of the Treasury, the United States Secret Service is authorized to protect the following persons:

“(1) The President, the Vice President (or other officer next in the order of succession to the Office of President), the President-elect, and the Vice President-elect.

“(2) The immediate families of those individuals listed in paragraph (1).

“(3) Former Presidents and their spouses for their lifetimes, except that protection of a spouse shall terminate in the event of remarriage.

“(4) Children of a former President who are under 16 years of age.

“(5) Visiting heads of foreign states or foreign governments.

“(6) Other distinguished foreign visitors to the United States and official representatives of the United States performing special missions abroad when the President directs that such protection be provided.

“(7) Major Presidential and Vice Presidential candidates and, within 120 days of the general Presidential election, the spouses of such candidates. As used in this paragraph, the term ‘major Presidential and Vice Presidential candidates’ means those individuals identified as such by the Secretary of the Treasury after consultation with an advisory committee consisting of the Speaker of the House of Representatives, the minority leader of the House of Representatives, the majority and minority leaders of the Senate, and one additional member selected by the other members of the committee.

Crimes and
misdemeanors.

The protection authorized in paragraphs (2) through (7) may be declined.

“(b) Under the direction of the Secretary of the Treasury, the Secret Service is authorized to detect and arrest any person who violates—

“(1) section 508, 509, 510, 871, or 879 of this title or, with respect to the Federal Deposit Insurance Corporation, Federal land banks, and Federal land bank associations, section 213, 216, 433, 493, 657, 709, 1006, 1007, 1011, 1013, 1014, 1907, or 1909 of this title;

“(2) any of the laws of the United States relating to coins, obligations, and securities of the United States and of foreign governments; or

“(3) any of the laws of the United States relating to electronic fund transfer frauds, credit and debit card frauds, and false identification documents or devices; except that the authority conferred by this paragraph shall be exercised subject to the agreement of the Attorney General and the Secretary of the Treasury and shall not affect the authority of any other Federal law enforcement agency with respect to those laws.

“(c)(1) Under the direction of the Secretary of the Treasury, officers and agents of the Secret Service are authorized to—

“(A) execute warrants issued under the laws of the United States;

“(B) carry firearms;

“(C) make arrests without warrant for any offense against the United States committed in their presence, or for any felony cognizable under the laws of the United States if they have reasonable grounds to believe that the person to be arrested has committed or is committing such felony;

“(D) offer and pay rewards for services and information leading to the apprehension of persons involved in the violation or potential violation of those provisions of law which the Secret Service is authorized to enforce;

“(E) pay expenses for unforeseen emergencies of a confidential nature under the direction of the Secretary of the Treasury and accounted for solely on the Secretary's certificate; and

“(F) perform such other functions and duties as are authorized by law.

“(2) Funds expended from appropriations available to the Secret Service for the purchase of counterfeits and subsequently recovered shall be reimbursed to the appropriations available to the Secret Service at the time of the reimbursement.

“(d) Whoever knowingly and willfully obstructs, resists, or interferes with a Federal law enforcement agent engaged in the performance of the protective functions authorized by this section or by section 1752 of this title shall be fined not more than \$1,000 or imprisoned not more than one year, or both.”

(b) The table of contents of chapter 203 of title 18, United States Code, is amended by striking out the item relating to section 3056 and inserting in lieu thereof the following:

“3056. Powers, authorities, and duties of United States Secret Service.”

SEC. 2. The joint resolution entitled “Joint resolution to authorize the United States Secret Service to furnish protection to major presidential or vice presidential candidates”, approved June 6, 1968 (18 U.S.C. 3056 note), is repealed.

Repeal.

SEC. 3. (a) Section 879(b)(2) of title 18, United States Code, is amended by striking out “the first section of the joint resolution entitled ‘Joint resolution to authorize the United States Secret Service to furnish protection to major Presidential or Vice Presidential candidates’, approved June 6, 1968 (18 U.S.C. 3056 note)” and inserting in lieu thereof “subsection (a)(7) of section 3056 of this title”.

(b) Section 1752(f) of title 18, United States Code, is amended to read as follows:

“(f) As used in this section, the term ‘other person protected by the Secret Service’ means any person whom the United States Secret Service is authorized to protect under section 3056 of this title when such person has not declined such protection.”.

Approved October 30, 1984.

LEGISLATIVE HISTORY—H.R. 5189:

HOUSE REPORT No. 98-1001 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 130 (1984):
Sept. 17, considered and passed House.
Oct. 11, considered and passed Senate.

Public Law 98-588
98th Congress

An Act

To redesignate the Veterans' Administration Medical Center located in Poplar Bluff, Missouri, as the "John J. Pershing Veterans' Administration Medical Center".

Oct. 30, 1984

[H.R. 5252]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Veterans' Administration Medical Center in Poplar Bluff, Missouri, shall after the date of the enactment of this Act be known and designated as the "John J. Pershing Veterans' Administration Medical Center". Any reference to such medical center in any law, regulation, map, document, record, or other paper of the United States shall after such date be deemed to be a reference to the John J. Pershing Veterans' Administration Medical Center.

Public buildings
and grounds.

Approved October 30, 1984.

LEGISLATIVE HISTORY—H.R. 5252:

CONGRESSIONAL RECORD, Vol. 130 (1984): 3.

Oct. 3, considered and passed House.

Oct. 10, considered and passed Senate.

Public Law 98-589
98th Congress

An Act

Oct. 30, 1984
[H.R. 5323]

To designate the United States Courthouse Building in Hato Rey, Puerto Rico, as the
“Clemente Ruiz Nazario United States Courthouse”.

Public buildings
and grounds.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Courthouse Building located at Carlos Chardon Street, Hato Rey, Puerto Rico, shall hereafter be known and designated as the “Clemente Ruiz Nazario United States Courthouse”. Any reference in a law, map, regulation, document, record, or other paper of the United States to that courthouse shall be deemed to be a reference to the “Clemente Ruiz Nazario United States Courthouse”.

Approved October 30, 1984.

LEGISLATIVE HISTORY—H.R. 5323:

HOUSE REPORT No. 98-931 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 130 (1984):

Aug. 9, considered and passed House.

Oct. 11, considered and passed Senate.

Public Law 98-590
98th Congress

An Act

To enable honey producers and handlers to finance a nationally coordinated research, promotion, and consumer information program designed to expand their markets for honey.

Oct. 30, 1984
[H.R. 5358]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Honey Research,
Promotion, and
Consumer
Information Act.
7 USC 4601 note.

SHORT TITLE

SECTION 1. This Act may be cited as the “Honey Research, Promotion, and Consumer Information Act”.

FINDINGS AND DECLARATION OF POLICY

SEC. 2. The Congress finds that:

7 USC 4601.

(1) Honey is produced by many individual producers in every State in the United States.

(2) Honey and honey products move in large part in the channels of interstate and foreign commerce, and honey which does not move in such channels directly burdens or affects interstate commerce.

(3) In recent years, large quantities of low-cost, imported honey have been brought into the United States, replacing domestic honey in the normal trade channels.

(4) The maintenance and expansion of existing honey markets and the development of new or improved markets or uses are vital to the welfare of honey producers and those concerned with marketing, using, and processing honey, along with those engaged in general agricultural endeavors requiring bees for pollinating purposes.

(5) The honey production industry within the United States is comprised mainly of small- and medium-sized businesses.

(6) The development and implementation of coordinated programs of research, promotion, and consumer education necessary for the maintenance of markets and the development of new markets have been inadequate.

(7) Without cooperative action in providing for and financing such programs, honey producers, honey handlers, wholesalers, and retailers are unable to implement programs of research, promotion, and consumer education necessary to maintain and improve markets for these products.

(b)(1) It is, therefore, the purpose of this Act to authorize the establishment of an orderly procedure for the development and financing, through an adequate assessment, of an effective and coordinated program of research, promotion, and consumer education designed to strengthen the position of the honey industry in the marketplace and maintain, develop, and expand markets for honey and honey products.

Research and
development.
Marketing.

Commerce and
trade.

(2) Nothing in this Act may be construed to dictate quality standards for honey, provide for control of its production, or otherwise limit the right of the individual honey producer to produce honey. This Act treats foreign producers equitably, and nothing in this Act may be construed as a trade barrier to honey produced in foreign countries.

DEFINITIONS

7 USC 4602.

SEC. 3. As used in this Act:

(1) The term "honey" means the nectar and saccharine exudations of plants which are gathered, modified, and stored in the comb by honey bees.

(2) The term "honey products" means products produced, in whole or part, from honey.

(3) The term "Secretary" means the Secretary of Agriculture.

(4) The term "person" means any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity.

(5) The term "producer" means any person who produces honey in the United States for sale in commerce.

(6) The term "handler" means any person who handles honey.

(7) The term "handle" means to sell, package, or process honey.

(8) The term "importer" means any person who imports honey or honey products into the United States or who acts as an agent, broker, or consignee for any person or nation that produces honey outside of the United States for sale in the United States.

(9) The term "producer-packer" means any person who is both a producer and handler of honey.

(10) The term "promotion" means any action, including paid advertising, pursuant to this Act, to present a favorable image for honey or honey products to the public with the express intent of improving the competitive position and stimulating sales of honey or honey products.

(11) The term "research" means any type of research designed to advance the image, desirability, usage, marketability, production, or quality of honey or honey products.

(12) The term "consumer education" means any action to provide information on the usage and care of honey or honey products.

(13) The term "marketing" means the sale or other disposition in commerce of honey or honey products.

(14) The term "Committee" means the National Honey Nominations Committee provided for under section 7(b) of this Act.

(15) The term "Honey Board" means the board provided for under section 7(c) of this Act.

(16) The term "State association" means that organization of beekeepers in a State which is generally recognized as representing the beekeepers of that State.

(17) The term "State" means any of the several States, the District of Columbia and the Commonwealth of Puerto Rico.

HONEY RESEARCH, PROMOTION, AND CONSUMER INFORMATION ORDER

Imports.
7 USC 4603.

SEC. 4. To effectuate the declared policy of this Act, the Secretary shall, subject to the provisions of this Act, issue and, from time to

time, amend orders applicable to persons engaged in the production, sale, or handling of honey and honey products in the United States and the importation of honey and honey products into the United States.

NOTICE AND HEARING

SEC. 5. Whenever the Secretary has reason to believe that the issuance of an order will assist in carrying out the purpose of this Act, the Secretary shall provide due notice of and opportunity for a hearing upon a proposed order. Such hearing may be requested and a proposal for an order submitted by any organization or interested person affected by the provisions of this Act.

7 USC 4604.

FINDINGS AND ISSUANCE OF AN ORDER

SEC. 6. After notice of and opportunity for a hearing has been provided in accordance with section 5 of this Act, the Secretary shall issue an order if the Secretary finds, and sets forth in such order, that, upon the evidence introduced at such hearing, the issuance of such order and all the terms and conditions thereof will assist in carrying out the purpose of this Act.

7 USC 4605.

REQUIRED TERMS OF AN ORDER

SEC. 7. (a) Any order issued by the Secretary under this Act shall contain the terms and conditions described in this section and, except as provided in section 8 of this Act, no others.

7 USC 4606.

(b)(1) Such order shall provide for the establishment and appointment by the Secretary of a National Honey Nominations Committee which shall consist of not more than one member from each State, from nominations submitted by each State association. If a State association does not submit a nomination, the Secretary may provide for nominations from that State to be made in a different manner, except that if a State which is not one of the top twenty honey-producing States in the United States (as determined by the Secretary) does not submit a nomination, such State shall not be represented on the Committee.

National Honey
Nominations
Committee,
establishment.

(2) Members of the Committee shall serve for three-year terms with no member serving more than two consecutive three-year terms, except that the initial appointments to the Committee shall be staggered with an equal number of members appointed, to the maximum extent possible, to one-year, two-year, and three-year terms.

(3) The Committee shall select its Chairman by a majority vote.

(4) The members of the Committee shall serve without compensation but shall be reimbursed for their reasonable expenses incurred in performing their duties as members of the Committee.

(5) The Committee shall nominate the members and alternates of the Honey Board and submit such nominations to the Secretary. In making such nominations, the Committee shall meet annually, except that after the first annual meeting, when determined by the Chairman, the Committee may conduct its business by mail ballot in lieu of an annual meeting. In order to nominate members to the Honey Board, at least 50 per centum of the members from the twenty leading honey producing States must vote. A majority of the National Honey Nominations Committee shall constitute a quorum

Honey Board,
establishment.

for voting at an annual meeting. In the case of a mail ballot, votes must be received from a majority of the Committee.

(c)(1) The order described in subsection (a) shall provide for the establishment and appointment by the Secretary of a Honey Board in accordance with this subsection.

(2) The membership of the Honey Board shall consist of—

(A) seven members who are honey producers appointed from nominations submitted by the National Honey Nominations Committee, one from each of seven regions of the United States which shall be established by the Secretary on the basis of the production of honey in the different areas of the country;

(B) two members who are handlers of honey appointed from nominations submitted by the Committee from recommendations made by industry organizations representing handler interests;

(C) two members who are importers appointed from nominations submitted by the Committee from recommendations made by industry organizations representing importer interests;

(D) one member who is an officer or employee of a honey marketing cooperative appointed from nominations submitted by the Committee; and

(E) one member selected by the Secretary from the general public.

The Committee shall also nominate an alternate or alternates for each member of the Honey Board described in subparagraphs (A) through (D), and the Secretary shall appoint an alternate for the member described in subparagraph (E). Such alternates shall be appointed in the same manner as members are and shall serve only whenever the member is absent from a meeting or is disqualified.

(3) Members of the Honey Board shall serve for three-year terms with no member serving more than two consecutive three-year terms except that the initial appointments to the Honey Board shall be staggered with an equal number of members appointed, to the maximum extent possible, to one-year, two-year, and three-year terms.

(4) In the event any member of the Honey Board ceases to be a member of the category of members from which the member was appointed to the Honey Board, such person shall be automatically replaced by an alternate.

(5) The members of the Honey Board shall serve without compensation but shall be reimbursed for their reasonable expenses incurred in performing their duties as members of the Honey Board.

(6) The powers and duties of the Honey Board shall be to—

(A) administer any order, issued by the Secretary under this Act, in accordance with its terms and provisions and consistent with the provisions of this Act;

(B) prescribe rules and regulations to effectuate the terms and provisions of such an order;

(C) receive, investigate, and report to the Secretary, accounts of violations of such an order;

(D) make recommendations to the Secretary with respect to amendments which should be made to such order; and

(E) employ a manager and staff.

(d) The Honey Board shall prepare and submit to the Secretary, for the Secretary's approval, a budget (on a fiscal period basis) of its anticipated expenses and disbursements in the administration of the

order, including probable costs of research, promotion, and consumer information.

(e)(1) The Honey Board shall administer collection of the assessment provided for in this paragraph to finance the expenses described in subsections (d) and (f). For the first year in which the plan is in effect, the assessment rate shall be \$0.01 per pound, with payment to be made in the manner described in section 9. After the first year, the Honey Board may submit to the Secretary a request for an increase in the assessment rate not to exceed 0.5 cent per year, but at no time may the total assessment rate exceed \$0.04 per pound.

(2) A producer or producer-packer who produces, or handles, or produces and handles less than six thousand pounds of honey per year or an importer who imports less than six thousand pounds of honey per year shall be exempt from the assessment. In order to claim such an exemption, a person shall submit an application to the Honey Board stating that their production, handling, or importation of honey shall not exceed six thousand pounds for the year for which the exemption is claimed.

Exemptions.

(f) Funds collected by the Honey Board from the assessments shall be used by the Honey Board for financing research, promotion, and consumer information, other expenses as described in subsection (d), such other expenses for the administration, maintenance, and functioning of the Honey Board as may be authorized by the Secretary, any reserve established under section 8(5), and those administrative costs incurred by the Department of Agriculture pursuant to this Act after an order has been promulgated under this Act. The Secretary shall be reimbursed from assessments collected by the Honey Board for any expenses incurred for the conduct of referenda.

(g) No promotion funded with assessments collected under this Act may make any false or unwarranted claims on behalf of honey or its products or false or unwarranted statements with respect to the attributes or use of any competing product.

Claims.

(h) No funds collected through assessments authorized by this Act may, in any manner, be used for the purpose of influencing governmental policy or action, except for making recommendations to the Secretary as provided for in this Act.

Lobbying.

(i) The Honey Board shall develop and submit to the Secretary, for approval, plans for research, promotion, and consumer information. Any such plans or projects must be approved by the Secretary before becoming effective. The Honey Board may enter into contracts or agreements with the approval of the Secretary for the development and carrying out of research, promotion, and consumer information, and for the payment of the cost thereof with funds collected pursuant to this Act.

Research and development.
Marketing.

(j) The Honey Board shall maintain books and records and prepare and submit to the Secretary such reports from time to time as may be required for appropriate accounting with respect to the receipt and disbursement of funds entrusted to it and cause a complete audit report to be submitted to the Secretary at the end of each fiscal year.

Records.
Reports.

PERMISSIVE TERMS AND PROVISIONS

SEC. 8. On the recommendation of the Honey Board, and with the approval of the Secretary, an order issued pursuant to this Act may contain one or more of the following provisions:

7 USC 4607.

(1) Providing authority to exempt from the provisions of the order honey used for exporting and providing authority for the Honey Board to require satisfactory safeguards against improper use of such exemption.

(2) Providing that in a State with an existing marketing order with respect to honey, the objectives of which the Secretary determines are comparable to the program established under this Act, there shall be paid to the Honey Board as provided in section 9 that portion of the national assessment which is above the State assessment, if any, actually paid on such honey.

(3) Providing for authority to designate different handler payment and reporting schedules to recognize differences in marketing practices and procedures.

(4) Providing that the Honey Board may convene from time to time working groups drawn from producers, honey handlers, importers, exporters, members of the wholesale or retail outlets for honey, or other members of the public to assist in the development of research and marketing programs for honey.

(5) Providing for authority to accumulate reserve funds from assessments collected pursuant to this Act to permit an effective and continuous coordinated program of research, promotion, and consumer information, in years when the production and assessment income may be reduced, but the total reserve fund may not exceed the amount budgeted for one year's operation.

(6) Providing for the authority to use funds collected under this Act with the approval of the Secretary for the development and expansion of honey and honey product sales in foreign markets.

(7) Providing for terms and conditions incidental to, and not inconsistent with, the terms and conditions specified in this Act and necessary to effectuate the other provisions of such an order.

COLLECTION OF ASSESSMENTS; REFUNDS

7 USC 4608.

SEC. 9. (a) Except as provided by subsections (c), (d), and (e), the first handler of honey shall be responsible for the collection from the producer, and payment to the Honey Board, of assessments authorized by this Act.

Records.

(b) The first handler shall maintain a separate record on each producer's honey so handled, including honey owned by the handler.

Imports.

(c) The assessment on imported honey and honey products shall be paid by the importer at the time of entry into the United States and shall be remitted to the Honey Board.

(d) In any case in which a loan is made with respect to any honey under the Honey Loan Price Support Program, the Secretary shall provide that the assessment shall be deducted from the proceeds of the loan and that the amount of such assessment shall be forwarded to the Honey Board. When such loan is redeemed, the Secretary shall provide the producer with proof of payment of the assessment.

(e) Producer-packers shall pay to the Honey Board the assessment on the honey they produce.

Records.

(f) Handlers, importers, and producer-packers responsible for payment of assessments shall maintain and make available for inspection by the Secretary such books and records as are required by the order and file reports at the times, in the manner, and having the content prescribed by the order, so that information and data shall be made available to the Honey Board and to the Secretary which is

appropriate or necessary to the effectuation, administration, or enforcement of the Act or of any order or regulation issued pursuant to this Act.

(g) All information obtained pursuant to subsection (f) shall be kept confidential by all officers and employees of the Department of Agriculture and of the Honey Board. Only such information as the Secretary deems relevant shall be disclosed and only in a suit or administrative hearing brought at the request of the Secretary or to which the Secretary or any officer of the United States is a party involving the order with reference to which the information was furnished or acquired. Nothing in this section prohibits—

Confidentiality.

(1) issuance of general statements based upon the reports of a number of handlers subject to any order, if such statements do not identify the information furnished by any person; or

(2) the publication by direction of the Secretary, of the name of any person violating any order issued under this Act, together with a statement of the particular provisions of the order violated by such person.

(h) Any producer or importer may obtain a refund of the assessment collected from the producer or importer if demand is made within the time and in the manner prescribed by the Honey Board and approved by the Secretary; except that, during any year, the amount of refunds made to importers, as a percentage of total assessments collected from importers, shall not exceed the amount of refunds made to domestic producers, as a percentage of total assessments collected from such producers. Such refund shall be made by the Honey Board in June and December of each year.

PETITION AND REVIEW

SEC. 10. (a) Any person subject to an order may file, within a period prescribed by the Secretary, a written petition with the Secretary, stating that such order or any provision of such order or any obligation imposed in connection therewith is not in accordance with law and requesting a modification thereof or to be exempted therefrom. Such person shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations made by the Secretary. After such hearing, the Secretary shall make a ruling upon such petition which shall be final, if in accordance with law.

7 USC 4609.

(b) The district courts of the United States in any district in which such person is an inhabitant, or carries on business, are hereby vested with jurisdiction to review such ruling, provided a complaint for that purpose is filed within twenty days from the date of the entry of such ruling. Service of process in such proceedings may be had upon the Secretary by delivering to the Secretary a copy of the complaint. If the court determines that such ruling is not in accordance with law, it shall remand such proceedings to the Secretary with directions either (1) to make such ruling as the court shall determine to be in accordance with law, or (2) to take such further proceedings as, in its opinion, the law requires. The pendency of proceedings instituted pursuant to subsection (a) of this section shall not impede, hinder, or delay the United States or the Secretary from obtaining relief pursuant to section 11 of this Act.

ENFORCEMENT

Crimes and
misdemeanors.
7 USC 4610.

SEC. 11. (a) The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, any plan or regulation issued under this Act. The facts relating to any civil action authorized to be brought under this subsection shall be referred to the Attorney General for appropriate action. Nothing in this Act shall be construed as requiring the Secretary to refer to the Attorney General violations of this Act whenever the Secretary believes that the administration and enforcement of any such plan or regulation would be adequately served by administrative action under subsection (b) or suitable written notice or warning to any person committing such violations.

(b)(1) Any person who violates any provision of any plan or regulation issued by the Secretary under this Act, or who fails or refuses to pay, collect, or remit any assessment or fee duly required of such person thereunder, may be assessed a civil penalty by the Secretary of not less than \$500 nor more than \$5,000 for each such violation. Each violation shall be a separate offense. In addition to or in lieu of such civil penalty the Secretary may issue an order requiring such person to cease and desist from continuing such violations. No penalty shall be assessed or cease and desist order issued unless such person is given notice and opportunity for a hearing before the Secretary with respect to such violation, and the order of the Secretary assessing a penalty or imposing a cease and desist order shall be final and conclusive unless the affected person files an appeal from the Secretary's order with the appropriate United States court of appeals.

(2) Any person against whom a violation is found and a civil penalty assessed or cease and desist order issued under paragraph (1) may obtain review in the court of appeals of the United States for the circuit in which such person resides or carries on business or in the United States Court of Appeals for the District of Columbia Circuit by filing a notice of appeal in such court within thirty days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary. The Secretary shall promptly file in such court a certified copy of the record upon which such violation was found. The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence.

(3) Any person who fails to obey a cease and desist order after it has become final and unappealable, or after the appropriate court of appeals has entered a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary, after opportunity for a hearing and for judicial review under the procedures specified in paragraphs (1) and (2) of not more than \$500 for each offense, and each day during which such failure continues shall be deemed a separate offense.

(4) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court of appeals has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

Records.

REQUIREMENTS OF REFERENDUM

SEC. 12. For the purpose of ascertaining whether issuance of an order is approved or favored by producers and importers, the Secretary shall conduct a referendum among those producers and importers not exempt under section 7(e)(2) who, during a representative period determined by the Secretary, have been engaged in the production and importation of honey. No order issued pursuant to this Act shall be effective unless the Secretary determines that the issuance of such an order is approved or favored by not less than two-thirds of the producers and importers voting in such referendum or by a majority of the producers and importers voting in such referendum if such majority produced and imported not less than two-thirds of the honey produced and imported during the representative period. The ballots and other information or reports which reveal, or tend to reveal, the vote of any producer or importer of honey shall be held strictly confidential and shall not be disclosed.

47 USC 4611.

Confidentiality.

SUSPENSION AND TERMINATION

SEC. 13. (a) Whenever the Secretary finds that any order issued under this Act, or any provisions thereof, obstructs or does not tend to effectuate the declared purpose of this Act, the Secretary shall terminate or suspend the operation of such order or such provisions thereof.

7 USC 4612.

(b) Five years from the date on which the Secretary issues an order authorizing the collection of assessments on honey under provisions of this Act, and every five years thereafter, the Secretary shall conduct a referendum to determine if honey producers and importers favor the continuation, termination, or suspension of the order.

(c) The Secretary shall hold a referendum on the request of the Honey Board or when petitioned by 10 per centum or more of the honey producers and importers to determine if the honey producers and importers favor termination or suspension of the order.

(d) The Secretary shall terminate or suspend such order at the end of the marketing year whenever the Secretary determines that such

suspension or termination of the order is favored by a majority of those voting in a referendum and that the producers and importers comprising this majority produce and import more than 50 per centum of the volume of honey produced and imported by those voting in the referendum.

Approved October 30, 1984.

LEGISLATIVE HISTORY—H.R. 5358:

HOUSE REPORT No. 98-892 (Comm. on Agriculture).
CONGRESSIONAL RECORD, Vol. 130 (1984):

July 24, considered and passed House.

Oct. 4, considered and passed Senate.

Public Law 98-591
98th Congress

An Act

To designate the United States Post Office and Courthouse in Utica, New York, as the "Alexander Pirnie Federal Building".

Oct. 30, 1984

[H.R. 5402]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building at 10 Broad Street, Utica, New York, known as the United States Post Office and Courthouse, shall hereafter be known and designated as the "Alexander Pirnie Federal Building". Any reference in any law, map, regulation, document, record, or other paper of the United States to such building shall be deemed to be a reference to the "Alexander Pirnie Federal Building".

Public buildings
and grounds.

Approved October 30, 1984.

LEGISLATIVE HISTORY—H.R. 5402:

HOUSE REPORT No. 98-1012 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 130 (1984):
Sept. 18, considered and passed House.
Oct. 11, considered and passed Senate.

Public Law 98-592
98th Congress

An Act

Oct. 30, 1984
[H.R. 5716]

Providing for the conveyance of public lands, Seneca County, Ohio.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding the provisions of any other law, the Secretary of the Interior, subject to the terms and conditions set forth in sections 1-5 of this Act, may convey public lands in section 16, township 3 north, range 16 east, first principal meridian, Seneca County, Ohio, to citizens of the United States that claim title in good faith and in peaceful, adverse possession.

SECTION 1. The Secretary shall determine that such conveyance is in the public interest and will serve objectives which outweigh all public objectives and values which would be served by retaining such lands in Federal ownership and shall also determine that no other statutory authority exists whereby the Secretary may afford the appropriate relief.

SEC. 2. The Secretary may sell public land on a direct basis to a purported current title holder of record as evidenced by documents duly recorded in local government or State government offices. The Secretary shall appraise the land applied for on the basis of its fair market value at the time of appraisal. From this amount, the Secretary shall deduct the value of improvements or development by the applicant or his predecessors in interest in determining the price payable by the applicant. The Secretary may further discount the price payable based upon the equities of the applicant. Such equities may include but are not limited to:

- (a) the amount the applicant paid for the land,
- (b) length of time of chain of title,
- (c) longevity of the applicant's claim, and
- (d) payment of taxes on the land.

SEC. 3. Lands conveyed under this Act shall be described in accordance with the rectangular system of survey as reflected on the Federal plat of survey. In the event that an individual tract does not

conform to said survey, the Secretary is authorized to convey to a trustee acting on behalf of more than one claimant for purposes of conforming the legal description to said plat.

SEC. 4. In any conveyance made pursuant to this Act, the Secretary shall reserve to the United States all mineral deposits found at any time in the land and the right to prospect for, mine, and remove the same. Mines and
mining.

Approved October 30, 1984.

LEGISLATIVE HISTORY—H.R. 5716:

CONGRESSIONAL RECORD, Vol. 130 (1984):

Oct. 9, considered and passed House.

Oct. 11, considered and passed Senate.

Public Law 98-593
98th Congress

An Act

Oct. 30, 1984
[H.R. 5747]

To designate the Federal building in Oak Ridge, Tennessee, as the "Joe L. Evins Federal Building".

Public buildings
and grounds.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in recognition of Joe L. Evins, who was a distinguished Member of Congress and served the State of Tennessee for more than 30 years, the Federal Building located on Administration Road in Oak Ridge, Tennessee, is hereby designated as the "Joe L. Evins Federal Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to that building shall be deemed to be a reference to the "Joe L. Evins Federal Building".

Approved October 30, 1984.

LEGISLATIVE HISTORY—H.R. 5747:**HOUSE REPORT** No. 98-930 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 130 (1984):Aug. 9, considered and passed House.
Oct. 11, considered and passed Senate.

Public Law 98-594
98th Congress

An Act

To authorize two additional Assistant Secretaries for the Department of the Treasury.

Oct. 30, 1984
[H.R. 5832]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 301(e) of title 31, United States Code, is amended by striking out “5” and inserting in lieu thereof “7”.

(b) Section 5315 of title 5, United States Code, is amended by striking out “(5).” after “Assistant Secretaries of the Treasury” and inserting in lieu thereof “(7).”.

SEC. 2. During the fiscal year ending September 30, 1984, any payment or obligation pursuant to this Act may be made only to such extent or in such amounts as are provided in advance in appropriation Acts.

Approved October 30, 1984.

LEGISLATIVE HISTORY—H.R. 5832:

CONGRESSIONAL RECORD, Vol. 130 (1984):

Oct. 2, considered and passed House.

Oct. 11, considered and passed Senate.

Public Law 98-595
98th Congress

An Act

Oct. 30, 1984
[H.R. 5833]

To improve certain maritime programs of the Department of Transportation and the Department of Commerce.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title XI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271 et seq.) is amended as follows:

46 USC app.
1273.

46 USC app.
1295.

46 USC app.
1274.

Vessels.
Fish and fishing.

Commerce and
trade.

(1) in section 1103(e), after the last sentence, by adding: "Notwithstanding an assumption of an obligation by the Secretary under section 1105 (a) or (b) of this Act, the validity of the guarantee of an obligation made by the Secretary under this title is unaffected and the guarantee remains in full force and effect.";

(2) in section 1104, by striking subsection (a)(3) and substituting:

"(3) financing the purchase, reconstruction, or reconditioning of vessels or fishery facilities for which obligations were guaranteed under this title that, under the provisions of section 1105:

"(A) are vessels or fishery facilities for which obligations were accelerated and paid;

"(B) were acquired by the Fund; or

"(C) were sold at foreclosure instituted by the Secretary;"

(3) in section 1104(a)(5), by adding "or" at the end;

(4) in section 1104(a)(6), by striking "facilities; or" and substituting "facilities.";

(5) in section 1104, by striking subsection (a)(7);

(6) in section 1104, by striking subsection (d)(1) and substituting:

"(d)(1)(A) No commitment to guarantee, or guarantee of, an obligation shall be made by the Secretary of Transportation unless the Secretary finds that the property or project with respect to which the obligation will be executed will be economically sound. In making that determination, the Secretary shall consider—

"(i) the need in the particular segment of the maritime industry for new or additional capacity, including any impact on existing equipment for which a guarantee under this title is in effect;

"(ii) the market potential for the employment of the vessel over the life of the guarantee;

"(iii) projected revenues and expenses associated with employment of the vessel;

"(iv) any charters, contracts of affreightment, transportation agreements, or similar agreements or undertakings relevant to the employment of the vessel;

"(v) other relevant criteria; and

"(vi) for inland waterways, the need for technical improvements, including but not limited to increased fuel efficiency, or improved safety.

“(B) No commitment to guarantee, or guarantee of, an obligation shall be made by the Secretary of Commerce unless the Secretary finds, at or prior to the time such commitment is made or guarantee becomes effective, that the property or project with respect to which the obligation will be executed will be, in the Secretary’s opinion, economically sound and in the case of fishing vessels, that the purpose of the financing or refinancing is consistent with the wise use of the fisheries resources and with the development, advancement, management, conservation, and protection of the fisheries resources, or with the need for technical improvements including but not limited to increased fuel efficiency or improved safety.”;

(7) in section 1104(h), after the word “acceleration”, by adding “, assumption,”;

46 USC app.
1274.

(8) in section 1105(a), in the first sentence after the word “demand”, by adding: “(unless the Secretary shall, upon such terms as may be provided in the obligation or related agreements, prior to that demand, have assumed the obligor’s rights and duties under the obligation and agreements and shall have made any payments in default)”;

46 USC app.
1275.

(9) in section 1105, by striking subsection (b) and substituting:

“(b) In the event of a default under a mortgage, loan agreement, or other security agreement between the obligor and the Secretary, the Secretary may upon such terms as may be provided in the obligation or related agreement, either:

Loans.

“(1) assume the obligor’s rights and duties under the agreement, make any payment in default, and notify the obligee or the obligee’s agent of the default and the assumption by the Secretary; or

“(2) notify the obligee or the obligee’s agent of the default, and the obligee or the obligee’s agent shall have the right to demand at or before the expiration of such period as may be specified in the guarantee or related agreements, but not later than 60 days from the date of such notice, payment by the Secretary of the unpaid principal amount of said obligation and of the unpaid interest thereon. Within such period as may be specified in the guarantee or related agreements, but not later than 30 days from the date of such demand, the Secretary shall promptly pay to the obligee or the obligee’s agent the unpaid principal amount of said obligation and unpaid interest thereon to the date of payment.”;

(10) in section 1105(c), first sentence, after the word “payment”, by adding “or assumption”;

(11) in section 1105(e), by striking the last sentence and substituting: “In the event that the Secretary shall receive through the sale of property an amount of cash in excess of the unpaid principal amount of the obligation and unpaid interest on the obligation and the expenses of collection of those amounts, the Secretary shall pay the excess to the obligor.”; and

(12) in section 1104(e), by adding the following sentence at the end thereof: “Such regulations shall provide a formula for determining the creditworthiness of obligors under which the most creditworthy obligors pay a fee computed on the lowest allowable percentage and the least creditworthy obligors pay a fee which may be computed on the highest allowable percentage (the range of creditworthiness to be based on obligors which have actually issued guaranteed obligations).”.

SEC. 2. Section 214 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1124) is amended to read as follows:

“(a) For the purpose of any investigation which, in the opinion of the Secretary of Transportation, is necessary and proper in carrying out this Act, the Secretary may subpoena witnesses, administer oaths and affirmations, take evidence, and require the production of books, papers, or other documents that are relevant to the matter under investigation. The attendance of witnesses and the production of books, papers, or other documents may be required from any place in the United States or any territory, district, or possession thereof at any designated place of hearing. Witnesses summoned before the Secretary shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

“(b) Upon failure of any person to obey a subpoena issued by the Secretary, the Secretary may invoke the aid of any district court of the United States within the jurisdiction in which the person resides or carries on business in requiring the attendance and testimony of witnesses and the production of books, papers, or other documents. Any such court may issue an order requiring the person to appear before the Secretary, or an employee designated by the Secretary, there to produce books, papers, or other documents, if so ordered, or to give testimony relevant to the matter under investigation. A failure to obey an order of the court may be punished by the court as a contempt thereof. Process in such a case may be served in the judicial district in which the person resides or may be found.”.

SEC. 3. (a) The Shipping Act, 1916 (46 App. U.S.C. 801), is amended as follows:

(1) The first section is amended—

(A) by striking the definitions “common carrier by water” and “common carrier by water in foreign commerce”;

(B) in the definition “other person subject to this Act”, by striking “common carrier by water” in two places and substituting “common carrier by water in interstate commerce”; and

(C) in the definition “carrying on the business of forwarding”, by striking “from the United States, its Territories, or possessions to foreign countries, or”.

46 USC app. 815.

(2) The initial paragraph of section 16 is amended by striking “transportation by water” and substituting “transportation by water in interstate commerce”.

46 USC app. 820.

(3) Section 21(b) is amended by striking the period following “subject to this Act” and substituting a comma.

(b) The Shipping Act of 1984 (46 App. U.S.C. 1701), is amended as follows:

Ante, p. 70.

(1) Section 5(a) is amended by striking “in section 4” and substituting “in section 4 (a) or (b)”.

Ante, p. 80.

(2) Section 11(g) is amended by striking “section 10(c) (1) or (4)” and substituting “section 10(c) (1) or (3)”.

(3) The last sentence of section 15 is amended to read as follows: "Whoever fails to file a certificate required by the Commission under this subsection is liable to the United States for a civil penalty of not more than \$5,000 for each day the violation continues." *Ante*, p. 84.

Approved October 30, 1984.

LEGISLATIVE HISTORY—H.R. 5833:

HOUSE REPORT No. 98-888 (Comm. on Merchant Marine and Fisheries).

SENATE REPORT No. 98-652 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 130 (1984):

July 24, considered and passed House.

Oct. 10, considered and passed Senate, amended.

Oct. 11, House concurred in Senate amendments.

Public Law 98-596
98th Congress

An Act

Oct. 30, 1984

[H.R. 5846]

To amend title 18, United States Code, to improve collection and administration of criminal fines, and for other purposes.

Criminal Fine
Enforcement Act
of 1984.
18 USC 3611
note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Criminal Fine Enforcement Act of 1984".

SEC. 2. Section 3565 of title 18, United States Code, is amended—

(1) in the sentence beginning "In all criminal", by striking out "In" and inserting in lieu thereof "(a)(1) Except as provided in paragraph (2) of this subsection, in";

(2) in the sentence beginning "Where the judgment", by striking out "Where the" and all that follows through "is paid," and inserting in lieu thereof: "If the court finds by a preponderance of the information relied upon in imposing sentence that the defendant has the present ability to pay a fine or penalty, the judgment may direct imprisonment until the fine or penalty is paid, and"; and

(3) by adding at the end the following new matter:

"(2) A judgment imposing the payment of a fine or penalty shall, upon the filing of notice of lien in the manner in which a notice of tax lien would be filed under section 6323(f) of the Internal Revenue Code of 1954, be a lien in favor of the United States upon all property and rights of property belonging to the defendant, except with respect to properties or transactions specified in subsections (b), (c) or (d) of section 6323 of the Internal Revenue Code of 1954 for which a notice of tax lien properly filed on the same date would not be valid and except with respect to property that would be exempt from levy for taxes under section 6334(a) of the Code. Such lien shall be valid against any subsequent purchaser, holder of a security interest, mechanic's lienor or judgment creditor. A writ of execution may be issued with respect to any property or rights to property subject to such lien.

"(3) Such lien is valid against property referred to in paragraph (2) of this subsection if, but for such paragraph, applicable law would permit enforcement of the lien.

"(4) The effect of any execution, whether by attachment, garnishment, levy or other means, on salary, wages or other income payable to or receivable by a defendant shall be continuous from the date such execution is first made until the liability for the fine or penalty to which the execution relates is satisfied, the liability ceases to exist or becomes unenforceable, or the execution is released. Salaries, wages and other income shall be exempt from execution only to the extent of the exemptions from levy for taxes provided in section 6334(d) of the Internal Revenue Code of 1954.

"(5) For the purposes of any State or local law providing for the filing of a notice of a tax lien, a notice of lien for a judgment imposing the payment of a fine or penalty shall be considered a notice of lien for taxes payable to the United States. If such notice is

Law
enforcement.

Taxes.
26 USC 6323.

26 USC 6334.

not accepted for filing, the registration, recording, docketing, or indexing, of the judgment imposing payment of a fine or penalty in accordance with section 1962 of title 28, United States Code shall be considered for all purposes as the filing prescribed by this subsection.

“(b)(1) A judgment imposing the payment of a fine or penalty shall—

“(A) provide for immediate payment unless, in the interest of justice, the court specifies payment on a date certain or in installments;

“(B) include the name and address of the defendant, the docket number of the case, the amount of the fine, and the schedule of payments (if other than immediate payment is specified); and

“(C) if other than immediate payment is specified, require the defendant to notify the appropriate United States Attorney of any change in the name or address of the defendant.

“(2) If the judgment specifies other than immediate payment of a fine or penalty, the period provided for payment shall not exceed five years, excluding any period served by the defendant as imprisonment for the offense. The defendant shall pay interest on any amount payment of which is deferred under this paragraph. The interest shall be computed on the unpaid balance at the rate of 1.5 percent per month for each full calendar month for which such amount is unpaid.

“(3) If the judgment specifies other than immediate payment of a fine or penalty, and the defendant does not pay an amount due, at the discretion of the Attorney General, the entire unpaid balance shall be payable immediately.

“(c)(1) The defendant shall pay interest on any amount of a fine or penalty (other than a penalty under paragraph (2) of this subsection) that is past due. The interest shall be computed on the unpaid balance at the rate of 1.5 percent per month.

“(2) If an amount owed by a defendant as a fine or penalty is past due for more than 90 days, the defendant shall pay, in addition to any amount otherwise payable, a penalty equal to 25 percent of the amount past due.

“(d)(1) Except as provided in paragraph (2) of this subsection, the defendant shall pay to the Attorney General any amount due as a fine or penalty.

“(2) The Attorney General and the Director of the Administrative Office of the United States Courts may jointly provide by regulation that fines and penalties for specified categories of offenses shall be paid to the clerk of the court.

“(e) If a fine or penalty exceeds \$500, the clerk of the court shall furnish to the Attorney General a certified copy of the judgment.

“(f) If a fine or penalty is imposed on an organization, it is the duty of each individual authorized to make disbursements for the organization to make payment from assets of the organization. If a fine or penalty is imposed on a director, officer, employee, or agent of an organization, payment shall not be made, directly or indirectly, from assets of the organization, unless the court finds that such payment is expressly permissible under applicable State law.

“(g) When a fine or penalty is satisfied as provided by law, the Attorney General shall file with the court a notice of satisfaction of judgment if the defendant makes a written request to the Attorney General for such filing, or if the amount of the fine or penalty

exceeds \$500. Upon request of the defendant, the clerk shall furnish to the defendant a certified copy of the notice.

“(h) The obligation to pay a fine or penalty ceases upon the death of the defendant or the expiration of twenty years after the date of the entry of the judgment, whichever occurs earlier. The defendant and the Attorney General may agree in writing to extend such twenty-year period.”.

SEC. 3. Section 3569 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out “(a)” at the beginning of the subsection; and

(B) by striking out “thirty days” in the sentence beginning “When a poor”; and

(2) by striking out subsection (b).

SEC. 4. Section 3651 of title 18, United States Code, is amended in the paragraph beginning “The defendant’s”—

(1) by striking out “fine or other punishment” and inserting in lieu thereof “punishment (other than a fine)”; and

(2) by adding at the end the following new sentence: “If at the end of the period of probation, the defendant has not complied with a condition of probation, the court may nevertheless terminate proceedings against the defendant, but no such termination shall affect the defendant’s obligation to pay a fine imposed or made a condition of probation, and such fine shall be collected in the manner provided in section 3565 of this title.”.

SEC. 5. Section 3655 of title 18, United States Code, is amended by inserting after the paragraph beginning “He shall keep records” the following new paragraph:

“He shall report to the court any failure of a probationer under his supervision to pay an amount due as a fine or as restitution.”.

SEC. 6. (a) Chapter 229 of title 18, United States Code, is amended by adding at the end the following new sections:

18 USC 3621.

“§ 3621. Criminal default on fine

“(a) Whoever, having been sentenced to pay a fine or penalty, willfully does not pay an amount due—

“(1) in the case of an individual, shall be fined not more than the greater of \$100,000 or twice the unpaid balance of the fine or penalty, or imprisoned not more than one year, or both; and

“(2) in the case of a person other than an individual, shall be fined not more than the greater of \$250,000 or twice the unpaid balance of the fine or penalty.

“(b) It is a defense to a prosecution under subsection (a)(1) of this section that the individual was unable to make the payment because of such individual’s responsibility to provide necessities for such individual or other individuals financially dependent upon such individual. The defendant has the burden of establishing the defense under this subsection by a preponderance of the evidence.

18 USC 3622.

“§ 3622. Factors relating to imposition of fines

“(a) In determining whether to impose a fine and the amount of a fine, the court shall consider, in addition to other relevant factors—

“(1) the nature and circumstances of the offense;

“(2) the history and characteristics of the defendant;

“(3) the defendant’s income, earning capacity, and financial resources;

“(4) the burden that the fine will impose upon the defendant, any person who is financially dependent on the defendant, or any other person (including a government) that would be responsible for the welfare of any person financially dependent on the defendant, relative to the burden that alternative punishments would impose;

“(5) any pecuniary loss inflicted upon others as a result of the offense;

“(6) whether restitution is ordered and the amount of such restitution;

“(7) the need to deprive the defendant of illegally obtained gains from the offense;

“(8) whether the defendant can pass on to consumers or other persons the expense of the fine; and

“(9) if the defendant is an organization, the size of the organization and any measure taken by the organization to discipline any officer, director, employee, or agent of the organization responsible for the offense and to prevent a recurrence of such an offense.

“(b) If, as a result of a conviction, the defendant has the obligation to make restitution to a victim of the offense, the court shall impose a fine or penalty only to the extent that such fine or penalty will not impair the ability of the defendant to make restitution.

“§ 3623. Alternative fines

18 USC 3623.

“(a) An individual convicted of an offense may be fined not more than the greatest of—

“(1) the amount specified in the law setting forth the offense;

“(2) the applicable amount under subsection (c) of this section;

“(3) in the case of a felony, \$250,000;

“(4) in the case of a misdemeanor resulting in death, \$250,000;

or

“(5) in the case of a misdemeanor punishable by imprisonment for more than six months, \$100,000.

“(b) A person (other than an individual) convicted of an offense may be fined not more than the greatest of—

“(1) the amount specified in the law setting forth the offense;

“(2) the applicable amount under subsection (c) of this section;

“(3) in the case of a felony, \$500,000;

“(4) in the case of a misdemeanor resulting in death, \$500,000;

or

“(5) in the case of a misdemeanor punishable by imprisonment for more than six months, \$100,000.

“(c)(1) If the defendant derives pecuniary gain from the offense, or if the offense results in pecuniary loss to another person, the defendant may be fined not more than the greater of twice the gross gain or twice the gross loss, unless imposition of a fine under this subsection would unduly complicate or prolong the sentencing process.

“(2) Except as otherwise expressly provided, the aggregate of fines that a court may impose on a defendant at the same time for different offenses that arise from a common scheme or plan, and that do not cause separable or distinguishable kinds of harm or damage, is twice the amount imposable for the most serious offense.

18 USC 3624.

“§ 3624. Security for stayed fine

“If a sentence imposing a fine is stayed, the court shall, absent exceptional circumstances (as determined by the court)—

“(1) require the defendant to deposit, in the registry of the district court, any amount of the fine that is due;

“(2) require the defendant to provide a bond or other security to ensure payment of the fine; or

“(3) restrain the defendant from transferring or dissipating assets.”.

(b) The table of sections for chapter 229 of title 18, United States Code, is amended by inserting after the item relating to section 3620 the following new items:

“3621. Criminal default on fine.

“3622. Factors relating to imposition of fines.

“3623. Alternative fines.

“3624. Security for stayed fine.”.

SEC. 7. The sentence beginning “In every” in section 4209(a) of title 18, United States Code, is amended—

(1) by striking out “a condition” and inserting in lieu thereof “conditions”; and

(2) by inserting after “local crime” the following: “and, if a fine was imposed, that the parolee make a diligent effort to pay the fine in accordance with the judgment”.

SEC. 8. Section 1 of title 18, United States Code, is amended in paragraph (3)—

(1) by inserting after “which” the following: “, as set forth in the provision defining the offense,”; and

(2) by striking out “\$500” and inserting in lieu thereof “\$5,000 for an individual and \$10,000 for a person other than an individual”.

SEC. 9. Section 3579 of title 18, United States Code, is amended—

(1) in subsection (c), by striking out “Court” and inserting in lieu thereof “court”; and

(2) in subsection (f), by adding at the end the following new paragraph:

“(4) The order of restitution shall require the defendant to make restitution directly to the victim or other person eligible under this section, or to deliver the amount or property due as restitution to the Attorney General for transfer to such victim or person.”.

Effective date.
18 USC 1 note.

SEC. 10. The amendments made by sections 2 through 9 of this Act shall apply with respect to offenses committed after December 31, 1984.

18 USC app.

SEC. 11. (a) RULE 12.2 OF THE FEDERAL RULES OF CRIMINAL PROCEDURE IS AMENDED—

(1) by striking out “to a mental examination by a psychiatrist or other expert designated for this purpose in the order of the court” in subdivision (c) and inserting in lieu thereof “to an examination pursuant to 18 U.S.C. 4242”; and

(2) by striking out “mental condition” in subdivision (d) and inserting in lieu thereof “guilt”.

Ante, p. 2067.

(b) Section 404(b) and section 404(d) of chapter IV of title II of the joint resolution entitled “Joint resolution making continuing appropriations for the fiscal year 1985, and for other purposes”, H.J. Res. 648, Ninety-eighth Congress, are repealed.

Effective date.

(c) The amendments and repeals made by subsections (a) and (b) of this section shall apply on and after the enactment of the joint

resolution entitled "Joint resolution making continuing appropriations for the fiscal year 1985, and for other purposes", H.J. Res. 648, Ninety-eighth Congress.

SEC. 12. (a)(1) Title 18, United States Code, is amended by striking out chapter 228.

Repeal.
Ante, p. 2034.

(2) Section 3651 of title 18, United States Code, is amended by striking out the following paragraph:

"If the court has imposed and ordered execution of a fine and placed the defendant on probation, payment of the fine or adherence to the court-established installment schedule shall be a condition of the probation."

(3) Section 3651 of title 18, United States Code, as amended by paragraph (2) of this subsection, is further amended by striking out the last paragraph and inserting in lieu thereof the following:

"The defendant's liability for any fine or other punishment imposed as to which probation is granted, shall be fully discharged by the fulfillment of the terms and conditions of probation."

(4) The second paragraph of section 3655 of title 18, United States Code, is amended to read as follows:

"He shall keep informed concerning the conduct and condition of each probationer under his supervision and shall report thereon to the court placing such person on probation."

Report.

(5) The first sentence of section 4209(a) of title 18, United States Code, is amended by striking out "and, in a case" and all that follows through the end of the sentence and inserting in lieu thereof a period.

(6) Section 4214(b)(1) of title 18, United States Code, is amended by striking out "or a failure to pay a fine in default within thirty days after notification that it is in default" each place it appears.

(7)(A) Chapter 227 of title 18, United States Code, is amended by inserting after section 3564 the following:

"§ 3565. Collection and payment of fines and penalties

18 USC 3565.

"In all criminal cases in which judgment or sentence is rendered, imposing the payment of a fine or penalty, whether alone or with any other kind of punishment, such judgment, so far as the fine or penalty is concerned, may be enforced by execution against the property of the defendant in like manner as judgments in civil cases. Where the judgment directs imprisonment until the fine or penalty imposed is paid, the issue of execution on the judgment shall not discharge the defendant from imprisonment until the amount of the judgment is paid."

(B) The table of sections for chapter 227 of title 18, United States Code, is amended by striking out the item relating to section 3565 and inserting in lieu thereof the following:

"3565. Collection and payment of fines and penalties."

(8) Section 3569 of title 18, United States Code, is amended—

(A) by inserting "(a)" before "When a" at the beginning of the first paragraph; and

(B) by adding at the end the following:

"(b) Any such indigent prisoner in a Federal institution may, in the first instance, make his application to the warden of such institution, who shall have all the powers of a United States magistrate in such matters, and upon proper showing in support of the application shall administer the oath required by subsection (a) of

Prisoners.

this section, discharge the prisoner, and file his certificate to that effect in the records of the institution.

"Any such indigent prisoner, to whom the warden shall fail or refuse to administer the oath may apply to the nearest magistrate for the relief authorized by this section and the magistrate shall proceed de novo to hear and determine the matter."

Ante, p. 2034.

(9) Section 238(i) of chapter II of title II of the joint resolution entitled "Joint resolution making continuing appropriations for the fiscal year 1985, and for other purposes", H.J. Res. 648, Ninety-eighth Congress, is repealed.

Effective date.
18 USC 3565
note.
Ante, p. 1837.

(b) The amendments and the repeal made by subsection (a) of this section shall apply on and after the enactment of the joint resolution entitled "Joint resolution making continuing appropriations for the fiscal year 1985, and for other purposes", H.J. Res. 648, Ninety-eighth Congress.

Approved October 30, 1984.

LEGISLATIVE HISTORY—H.R. 5846:

HOUSE REPORT No. 98-906 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 130 (1984):

July 30, considered and passed House.

Oct. 11, considered and passed Senate, amended; House concurred in Senate amendments.

Public Law 98-597
98th Congress

An Act

To designate the Table Rock Lake Visitors Center building in the vicinity of Branson, Missouri, as the "Dewey J. Short Table Rock Lake Visitors Center".

Oct. 30, 1984
[H.R. 6000]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Table Rock Lake Visitors Center building located in the vicinity of Branson, Missouri, shall hereafter be known and designated as the "Dewey J. Short Table Rock Lake Visitors Center". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "Dewey J. Short Table Rock Lake Visitors Center".

Public buildings
and grounds.

SEC. 2. The Secretary of the Army, acting through the Chief of Engineers, shall erect a plaque in a suitable location designating the building referred to in the first section of this Act as the "Dewey J. Short Table Rock Lake Visitors Center".

Approved October 30, 1984.

LEGISLATIVE HISTORY—H.R. 6000:

HOUSE REPORT No. 98-929 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 130 (1984):

Aug. 9, considered and passed House.
Oct. 11, considered and passed Senate.

Public Law 98-598
98th Congress

An Act

Oct. 30, 1984
[H.R. 6007]

To establish certain procedures regarding the judicial service of retired judges of District of Columbia courts, and for other purposes.

District of
Columbia
Retired Judge
Service Act.*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SHORT TITLE

SECTION 1. This Act may be cited as the "District of Columbia Retired Judge Service Act".

SERVICE OF RETIRED JUDGES

SEC. 2. (a) Section 11-1504 of the District of Columbia Code is amended to read as follows:

"§ 11-1504. Services of Retired Judges

"(a)(1) A judge, retired for reasons other than disability, who has been favorably recommended and appointed as a senior judge, in accordance with subsection (b), may perform such judicial duties as such senior judge is assigned and willing and able to undertake. A senior judge shall be subject to reappointment every two years in accordance with subsection (b). Except as provided under this section, retired judges may not perform judicial duties in District of Columbia courts.

"(2) Within 180 days of the date of retirement, a judge may request recommendation from the District of Columbia Commission on Judicial Disabilities and Tenure (hereinafter in this section referred to as the "Commission") to be appointed as a senior judge in accordance with this section.

"(3) Retired judges actively serving on the date of enactment of the District of Columbia Retired Judge Service Act and willing to continue to perform judicial duties shall request recommendation from the Commission to be appointed as senior judges within 180 days of the date of enactment of such Act in accordance with this section.

"(b)(1) A retired judge willing to perform judicial duties may request a recommendation as a senior judge from the Commission. Such judge shall submit to the Commission such information as the Commission considers necessary to a recommendation under this subsection.

"(2) The Commission shall submit a written report of its recommendations and findings to the appropriate chief judge and the judge requesting appointment within 180 days of the date of the request for recommendation. The Commission, under such criteria as it considers appropriate, shall make a favorable or unfavorable recommendation to the appropriate chief judge regarding an appointment as senior judge. The recommendation of the Commission shall be final.

“(3) The appropriate chief judge shall notify the Commission and the judge requesting appointment of such chief judge’s decision regarding appointment within 30 days after receipt of the Commission’s recommendation and findings. The decision of such chief judge regarding such appointment shall be final.

“(c) A judge may continue to perform judicial duties upon retirement, without appointment as a senior judge, until such judge’s successor assumes office.

“(d) A retired judge, actively performing judicial duties as of the date of enactment of the District of Columbia Retired Judge Service Act, may continue to perform such judicial duties as he or she may be willing and able to assume, subject to the approval of the appropriate chief judge, for a period not to exceed one year from the date of enactment of such Act, without appointment as a senior judge.”.

(b) Section 431(g) of the District of Columbia Self-Government and Governmental Reorganization Act is amended by inserting “and to make recommendations regarding the appointment of senior judges of the District of Columbia courts as provided in section 11-1504 of the District of Columbia Code” after “in section 432”.

RETIREMENT BENEFITS FOR EXECUTIVE OFFICER OF THE DISTRICT OF
COLUMBIA COURTS

SEC. 3. Section 11-1703(c) of title 11, District of Columbia Code, is amended by inserting “, including retirement benefits,” after “compensation”.

CHANGES IN THE SMALL CLAIMS COURT OF THE DISTRICT OF COLUMBIA

SEC. 4. Section 1321 of title 11 of the District of Columbia Code is amended by striking out “\$750” and inserting in lieu thereof “\$2,000”.

EFFECTIVE DATE

SEC. 5. The provisions of this Act shall take effect on the date of the enactment of this Act.

Approved October 30, 1984.

LEGISLATIVE HISTORY—H.R. 6007:

HOUSE REPORT No. 98-910 (Comm. on the District of Columbia).

CONGRESSIONAL RECORD, Vol. 130 (1984):

July 30, considered and passed House.

Sept. 28, considered and passed Senate, amended.

Oct. 9, House concurred in Senate amendments.

Public Law 98-599
98th Congress

An Act

Oct. 30, 1984
[H.R. 6100]

To clarify the intent of Congress with respect to the families eligible for a commemorative medal authorized for the families of Americans missing or otherwise unaccounted for in Southeast Asia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1264(b)(1)(A) of the Department of Defense Authorization Act, 1984 (Public Law 98-94; 97 Stat. 704), is amended by inserting “(as of the end of United States participation in hostilities in Southeast Asia)” after “listed”.

Approved October 30, 1984.

LEGISLATIVE HISTORY—H.R. 6100:

CONGRESSIONAL RECORD, Vol. 130 (1984):

Oct. 1, considered and passed House.

Oct. 10, considered and passed Senate.

Public Law 98-600
98th Congress

An Act

To amend the Panama Canal Act of 1979 to authorize quarters allowances for certain employees of the Department of Defense serving in the area formerly known as the Canal Zone.

Oct. 30, 1984

[H.R. 6101]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subchapter II of chapter 2 of title 1 of the Panama Canal Act of 1979 is amended by adding after section 1217 the following new section:

Housing.

“QUARTERS ALLOWANCES

“SEC. 1217a. (a) Notwithstanding paragraphs (2) and (3) of section 1211 of this Act, as used in this section— 22 USC 3657a.

“(1) ‘position’ means a civilian position; and

“(2) ‘employee’ means an individual serving in a position in the Department of Defense whose permanent duty station is in the area which, before October 1, 1979, was known as the Canal Zone.

“(b) Under regulations prescribed by or under authority of the President, the Department of Defense may grant a quarters allowance in the case of—

President of U.S.

“(1) any employee who is a citizen of the United States and who, before October 1, 1979, was employed by the Panama Canal Company, the Canal Zone Government, or any other agency, in the area then known as the Canal Zone; and

“(2) any other employee who is a citizen of the United States and who (before, on, or after the effective date of this section) is or was recruited within the United States;

for whom adequate Government owned or leased quarters are not made available.

“(c) The amount of any quarters allowance granted to an employee under this section shall be determined in accordance with the regulations prescribed under subsection (b) of this section, except that such allowance for any period may not exceed the amount, if any, by which—

“(1) the lesser of—

“(A) the actual expenses for rent and utilities incurred by the employee during such period while occupying quarters other than Government owned or leased quarters; or

Utilities.

“(B) the maximum amount which would be authorized for such employee with respect to such period under the Department of State Standardized Regulations (Government Civilians, Foreign Areas) if such employee were covered by those regulations;

exceeds

“(2) the estimated total cost of rent and utilities which the employee would have been charged if Government owned or leased quarters had been provided on a rental basis during such period.

“(d) The provisions of this section shall apply without regard to whether any election by the Department of Defense under section 1212(b) of this Act is then in effect.”.

(b) The table of contents for the Panama Canal Act of 1979 is amended by inserting after the item relating to section 1217 the following new item:

“1217a. Quarters allowances.”.

Effective date.
22 USC 3657a
note.

SEC. 2. The amendments made by this Act shall take effect on October 1, 1984, and shall apply with respect to utility costs incurred, and rent payable for any period beginning, on or after that date.

Approved October 30, 1984.

LEGISLATIVE HISTORY—H.R. 6101:

HOUSE REPORT No. 98-1077, Pt. 1 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 130 (1984):

Oct. 1, considered and passed House.

Oct. 5, considered and passed Senate.

Public Law 98-601
98th Congress

An Act

To amend the Tax Equity and Fiscal Responsibility Act of 1982 with respect to the effect of the 1985 increase in the Federal unemployment tax rate on certain small business provisions contained in State unemployment compensation laws.

Oct. 30, 1984
[H.R. 6112]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the subsection (b) of section 271 of the Tax Equity and Fiscal Responsibility Act of 1982, relating to effective dates for such section, is redesignated as subsection (d) and is amended by adding at the end thereof the following new paragraph:

26 USC 3301
note, 3302 note.

“(4) TRANSITIONAL RULE FOR CERTAIN SMALL BUSINESSES.—

26 USC 3302
note.

“(A) IN GENERAL.—Notwithstanding section 3303 of the Internal Revenue Code of 1954, in the case of taxable years beginning after December 31, 1984, and before January 1, 1989, a taxpayer shall be allowed the additional credit under section 3302(b) of such Code with respect to any employee covered by a qualified small business provision if the requirements of subparagraph (B) are met with respect to such employee.

26 USC 3303.

“(B) REQUIREMENTS.—The requirements of this subparagraph are met for any taxable year with respect to any employee covered by a qualified small business provision if the amount of contributions required to be paid for the taxable year to the unemployment fund of the State with respect to such employee are not less than the product of the required rate multiplied by the wages paid by the employer during the taxable year.

“(C) REQUIRED RATE.—For purposes of subparagraph (B), the required rate for any taxable year is the sum of—

“(i) 3.1 percent, plus

“(ii) the applicable percentage (as defined in paragraph (3)(D)) of the excess of 5.4 percent over the rate described in clause (i).

“(D) QUALIFIED SMALL BUSINESS PROVISION.—For purposes of this paragraph, the term ‘qualified small business provision’ means a provision contained in a State unemployment compensation law (as in effect on the date of the enactment of this paragraph) which provides a maximum rate at which an employer is subject to contribution for wages paid during a calendar quarter if the total wages paid by such employer during such calendar quarter are less than \$50,000.

“(E) DEFINITION.—For purposes of this paragraph, the term ‘wages’ means the remuneration subject to contributions under the State unemployment compensation law, except that for purposes of subparagraph (D) the amount of

total wages paid by an employer shall be determined without regard to any limitation on the amount subject to contribution.”

Effective date.
26 USC 3302
note.

(b) The amendment made by subsection (a) shall apply to remuneration paid after December 31, 1984.

Approved October 30, 1984.

LEGISLATIVE HISTORY—H.R. 6112:

HOUSE REPORT No. 98-1043 (Comm. on Ways and Means).
CONGRESSIONAL RECORD, Vol. 130 (1984):
Oct. 1, considered and passed House.
Oct. 11, considered and passed Senate.

Public Law 98-602
98th Congress

An Act

To provide for the use and distribution of certain funds awarded the Wyandotte Tribe of Oklahoma and to restore certain mineral rights to the Three Affiliated Tribes of the Fort Berthold Reservation.

Oct. 30, 1984
[H.R. 6221]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—WYANDOTTE TRIBE OF OKLAHOMA

**ABROGATION OF PRIOR PLAN; REPEAL OF PRIOR DISTRIBUTION OF
JUDGMENT FUNDS ACT**

SEC. 101. (a) Notwithstanding the Act entitled “An Act to provide for the use and distribution of funds appropriated in satisfaction of certain judgments of the Indian Claims Commission and the United States Court of Claims, and for other purposes.” and approved October 19, 1973 (25 U.S.C. 1401, et seq.), or any other regulation or plan promulgated by the Secretary pursuant to such Act, the funds appropriated in satisfaction of the judgments awarded to the Wyandotte Tribe of Oklahoma in—

(1) docket numbered 139 before the Indian Claims Commission,

(2) docket numbered 141 before the United States Court of Claims, and

(3) dockets numbered 212 and 213 before the United States Claims Court,

(other than funds appropriated for the payment of attorney fees or litigation expenses) and any interest or investment income accrued or accruing (on or before the date of the allocation of funds pursuant to section 103(b)) on the amount of such judgments shall be used and distributed as provided in this title.

(b) The Act entitled “An Act to provide for the use and distribution of funds to the Wyandotte Tribe of Indians in docket 139 before the Indian Claims Commission and docket 141 before the United States Court of Claims, and for other purposes.” and approved December 20, 1982, is hereby repealed.

Repeal.
96 Stat. 1813.

**PREPARATION OF THE ROLL OF MEMBERS OF THE WYANDOTTE TRIBE OF
OKLAHOMA AND THE ROLL OF ABSENTEE WYANDOTTES**

SEC. 102. (a) In accordance with such procedures as may be adopted by the tribal governing body of the Wyandotte Tribe of Oklahoma and approved by the Secretary of the Interior (hereinafter in this Act referred to as the “Secretary”), such tribal governing body shall take such steps as may be necessary to ensure that the roll of members of such tribe includes all members of the tribe born on or before the date of the enactment of this Act.

(b)(1) The Secretary shall prepare a roll of all individuals who—

(A) were born on or before the date of the enactment of this Act,

(B) are alive on the date of the enactment of this Act, and

(C) are listed in, or are lineal descendants of individuals listed in, the compilation entitled "Census of Absentee or Citizen Wyandotte Indians" compiled by Joel T. Olive and dated November 18, 1896 (as corrected by W.A. Richards, Commissioner of the General Land Office, in a circular dated October 28, 1904).

(2) Applications for enrollment of individuals under paragraph (1) may be filed with the Secretary (in such manner as the Secretary shall prescribe) before the end of the 90-day period beginning on the date of the enactment of this Act.

(3)(A) The Secretary shall determine whether an individual who filed an application under paragraph (2) is eligible to be enrolled under paragraph (1). The initial determination of the Secretary with respect to the enrollment of any such individual shall be made before the end of the 180-day period beginning on the date of the enactment of this Act. The final determination of the Secretary with respect to the enrollment of any such individual shall not be reviewable in any court.

(B) Any review by the Secretary of an initial determination of the Secretary with respect to the enrollment of any individual under paragraph (1) shall not delay the allocation of funds pursuant to section 103(b) or any distribution of funds under section 104 or 105.

(4) The Secretary shall publish, in the Federal Register and in such local media as the Secretary may determine to be appropriate, notice of—

(A) the provisions of this title that provide for a per capita distribution to Absentee Wyandottes and their descendants,

(B) the preparation of the roll described in paragraph (1), and

(C) the procedures established pursuant to paragraph (2) for filing applications for enrollment on such roll and the final date on which such applications may be filed with the Secretary.

ALLOCATION OF FUNDS TO THE WYANDOTTE TRIBE OF OKLAHOMA AND THE ABSENTEE WYANDOTTES

SEC. 103. (a) Before the end of the 90-day period beginning on the later of—

(1) the date by which any action required under section 102(a) relating to the roll of members of the tribe is completed, or

(2) the date on which the roll prepared by the Secretary pursuant to section 102(b) is completed,

the Secretary shall divide the funds described in section 101 between the Wyandotte Tribe of Oklahoma and the Absentee Wyandottes (as a group) in the manner provided in subsection (b).

(b) The Secretary shall allocate to the Wyandotte Tribe and to the Absentee Wyandottes an amount which bears the same proportion to the total amount of the funds described in section 101 as the number of individuals listed on the roll referred to in subsection (a)(1) or (a)(2), as the case may be, who are living on the date of the enactment of this Act bears to the sum of the numbers of individuals on each such roll who are living on such date.

Federal
Register,
publication.

DISTRIBUTION TO ABSENTEE WYANDOTTES

SEC. 104. The funds allocated to the Absentee Wyandottes and their descendants pursuant to section 103(b) shall be distributed in the form of per capita payments, in sums as equal as possible, to each individual listed on the roll prepared by the Secretary pursuant to section 102(b).

DISTRIBUTION TO WYANDOTTE TRIBE OF OKLAHOMA

SEC. 105. (a) Eighty percent of the funds allocated to the Wyandotte Tribe of Oklahoma pursuant to section 103(b) shall be distributed in the form of per capita payments, in sums as equal as possible, to each member of such Tribe who—

(1) was born on or before the date of the enactment of this Act, and

(2) is living on such date.

(b) Twenty percent of the funds allocated to the Wyandotte Tribe of Oklahoma pursuant to section 103(b) shall be used and distributed in accordance with the following general plan:

(1) A sum of \$100,000 of such funds shall be used for the purchase of real property which shall be held in trust by the Secretary for the benefit of such Tribe.

(2) The amount of such funds in excess of \$100,000 shall be held in trust by the Tribal Business Committee of such Tribe for the benefit of such Tribe.

(3) Any interest or investment income accruing on the funds described in paragraph (2) may be used by the Tribal Business Committee of such Tribe for any of the following purposes:

(A) Education of the members of such Tribe (including grants-in-aid or scholarships).

(B) Medical or health needs of the members of such Tribe (including prosthetics).

(C) Economic development for the benefit of such Tribe.

(D) Land purchases for the use and benefit of such Tribe.

(E) Investments for the benefit of such Tribe.

(F) Tribal cemetery maintenance.

(G) Tribal building maintenance.

(H) Tribal administration.

(c)(1) Except as provided in paragraph (2) and notwithstanding any other provision of law, the approval of the Secretary for any payment or distribution by the Wyandotte Tribe of Oklahoma of any funds described in subsection (b) (on or after the date such funds are allocated pursuant to section 103(b)) shall not be required and the Secretary shall have no further trust responsibility for the investment, supervision, administration, or expenditure of such funds.

(2) The Secretary may take such action as the Secretary may determine to be necessary and appropriate to enforce the requirements of this title.

MANNER OF PER CAPITA DISTRIBUTION; TREATMENT OF AMOUNTS PAID OR DISTRIBUTED

SEC. 106. (a) Any payment of a per capita share of funds to which a living, competent adult is entitled under this title shall be paid directly to such adult.

(b) Any per capita share of funds to which a deceased individual is entitled under this title shall be paid, and the beneficiaries thereof determined, under regulations prescribed by the Secretary.

25 USC 1403.

(c) Any per capita share of funds to which a legally incompetent individual or a minor is entitled under this Act shall be paid in accordance with the requirements of section 3(b)(3) of the Act entitled "An Act to provide for the use and distribution of funds appropriated in satisfaction of certain judgments of the Indian Claims Commission and the United States Court of Claims, and for other purposes." and approved October 19, 1973 (25 U.S.C. 1401, et seq.).

(d) None of the funds distributed per capita under this title or made available under this title for any tribal program shall be—

(1) subject to Federal, State, or local income taxes, or

(2) considered as income or resources in determining either eligibility for, or the amount of assistance under—

(A) the Social Security Act, or

(B) in the case of any per capita share of \$2,000 or less, any other Federal, State, or local programs.

Fort Berthold
Reservation
Mineral
Restoration Act.
Public lands.

TITLE II—FORT BERTHOLD RESERVATION MINERAL RESTORATION

SEC. 201. This title may be cited as the "Fort Berthold Reservation Mineral Restoration Act".

SEC. 202. (a) Subject to the provisions of this title, all mineral interests in the lands located within the exterior boundaries of the Fort Berthold Indian Reservation which—

(1) were acquired by the United States for the construction, operation, or maintenance of the Garrison Dam and Reservoir Project, and

(2) are not described in subsection (b),

are hereby declared to be held in trust by the United States for the benefit and use of the Three Affiliated Tribes of the Fort Berthold Reservation.

(b) The provisions of subsection (a) shall not apply with respect to—

(1) lands located in township 152 north or township 151 north of range 93 west of the 5th principal meridian which lie east of the former Missouri River, and

(2) lands located in any of the following townships: township 152 north and township 151 north of range 92 west of the 5th principal meridian; township 152 north and township 151 north of range 91 west of the 5th principal meridian; township 152 north and township 151 north of range 90 west of the 5th principal meridian; township 152 north, township 151 north, township 150 north, and township 149 north of range 89 west of the 5th principal meridian; township 152 north, township 151 north, township 150 north, and township 149 north of range 88 west of the 5th principal meridian; and township 152 north, township 151 north, township 150 north, and township 149 north of range 87 west of the 5th principal meridian.

SEC. 203. Any exploration, development, production, or extraction of minerals conducted with respect to any mineral interest described in section 202(a) shall be conducted in accordance with such regulations as the Secretary of the Army shall prescribe in order to—

(1) protect the Garrison Dam and Reservoir, or

(2) carry out the purposes of the Garrison Dam and Reservoir Project.

SEC. 204. (a) Nothing in this title shall deprive any person (other than the United States) of any right, interest, or claim which such person may have in any minerals prior to the enactment of this Act.

(b) The United States may renew or extend any lease, license, permit, or contract with respect to any mineral interest described in section 202(a) after the date of enactment of this Act only if—

(1) the governing body of the Three Affiliated Tribes of the Fort Berthold Reservation approves of such renewal or extension, or

(2) the holder of such lease, license, or permit or a party to such contract (other than the United States) had the right to renew or extend such lease, license, permit, or contract prior to the date of enactment of this Act and such holder or party exercises such right of renewal or extension.

(c) All rentals, royalties, and other payments with respect to any mineral interest described in section 202(a) accruing to the United States after the date of enactment of this Act shall be held in trust by the United States for the benefit and use of the Three Affiliated Tribes of the Fort Berthold Reservation.

SEC. 205. Public Law 87-695 is amended—

76 Stat. 594.

(1) by striking out “such former Indian land” and inserting in lieu thereof “such land”,

(2) by striking out “Subject” in the first sentence and inserting in lieu thereof “That (a) subject”, and

(3) by adding at the end thereof the following new subsection: “(b) Subsection (a) shall not apply with respect to any lands described in section 202(b) of the Fort Berthold Reservation Mineral Restoration Act.”

Ante, p. 3152.

SEC. 206. (a) The Secretary of the Army and the Secretary of the Interior may enter into agreements for the transfer to the United States of any land located near the Garrison Dam and Reservoir Project which is held in trust for the benefit of the Three Affiliated Tribes of the Fort Berthold Reservation or any individual Indian if such agreement is approved—

(1) in the case of land held for the benefit of such tribes, by the governing body of such tribes, or

(2) in the case of land held for the benefit of any individual Indian, by the individual or individuals holding a majority of the beneficial interest in such land.

Any land transferred to the United States under the preceding sentence shall be treated as land acquired for the operation and maintenance of the Garrison Dam and Reservoir Project.

(b) The Secretary of the Army and the Secretary of the Interior may enter into agreements under which any land within the exterior boundaries of the reservation acquired by the United States for the construction, maintenance, or operation of the Garrison Dam and Reservoir Project that is no longer needed for such purposes is declared to be held by the United States in trust for the benefit of the Three Affiliated Tribes of the Fort Berthold Reservation.

SEC. 207. The provisions of this title, and of any agreement entered into under section 206, shall not be taken into account under section 2 of title I of the Second Deficiency Appropriation Act, fiscal year 1935 (25 U.S.C. 475a) or section 2 of the Act of August 13, 1946 (60 Stat. 1050) for purposes of determining any offset or counterclaim.

25 USC 70 note.

SEC. 208. To the extent that there are net proceeds from the development of any mineral interests described in section 202(a) of this Act, in excess of \$300,000 the Three Affiliated Tribes of the Fort Berthold Reservation shall reimburse the United States the fixed sum of \$300,000 from such proceeds. This reimbursement shall be deemed full reimbursement for any and all payments from the United States that the Three Affiliated Tribes received for the mineral estate, or any portion thereof, described in section 202(a) of this Act.

Approved October 30, 1984.

LEGISLATIVE HISTORY—H.R. 6221 (S. 2824):

HOUSE REPORT No. 98-1067 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 98-609 accompanying S. 2824 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 130 (1984):
Sept. 24, considered and passed House.
Oct. 2, considered and passed Senate, amended.
Oct 4, House concurred in Senate amendments.

Public Law 98-603
98th Congress

An Act

Entitled: "The San Juan Basin Wilderness Protection Act of 1984".

Oct. 30, 1984

[H.R. 6296]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—SAN JUAN BASIN

SEC. 101. This Act may be cited as the "San Juan Basin Wilderness Protection Act of 1984".

SEC. 102. (a) In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131-1136), the following lands are hereby designated as wilderness, and, therefore, as components of the National Wilderness Preservation System—

San Juan Basin
Wilderness
Protection Act of
1984.
National
Wilderness
Preservation
System.
National Forest
System.

(1) certain lands in the Albuquerque District Bureau of Land Management, New Mexico, which comprise approximately three thousand nine hundred and sixty-eight acres, as generally depicted on a map entitled "Bisti Wilderness—Proposed", dated June 1983, and which shall be known as the Bisti Wilderness; and

16 USC 1132
note.

(2) certain lands in the Albuquerque District of the Bureau of Land Management, New Mexico, which comprise approximately twenty-three thousand eight hundred and seventy-two acres, as generally depicted on a map entitled "De-na-zin Wilderness—Proposed", dated June 1983, and which shall be known as the De-na-zin Wilderness.

16 USC 1132
note.

(b) Subject to valid existing rights each wilderness area designated by this Act shall be administered by the Secretary of the Interior in accordance with the provisions of the Wilderness Act, except that any reference in such provisions to the effective date of the Wilderness Act (or any similar reference) shall be deemed to be a reference to the effective date of this Act, and any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary of the Interior.

16 USC 1131
note.

(c) As soon as practicable after enactment of this Act, a map and a legal description of each wilderness area designated by this Act shall be filed by the Secretary of the Interior with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the House of Representatives. Each such map and description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in each such legal description and map may be made by the Secretary subsequent to such filings. Each such map and legal description shall be on file and available for public inspection in the Office of the Director of the Bureau of Land Management, Department of the Interior.

Public
availability.

(d) Within the wilderness areas designated by this Act, the grazing of livestock, where established prior to the date of enactment of this Act, shall be permitted to continue subject to such reasonable

Livestock.

regulations, policies, and practices as the Secretary of the Interior deems necessary, as long as such regulations, policies, and practices fully conform with and implement the intent of Congress regarding grazing in such areas as such intent is expressed in the Wilderness Act and this Act.

16 USC 1131
note.

SEC. 103. (a) In recognition of its paramount aesthetic, natural, scientific, educational, and paleontological values, the approximately two thousand seven hundred and twenty acre area in the Albuquerque District of the Bureau of Land Management, New Mexico, known as the "Fossil Forest", as generally depicted on a map entitled "Fossil Forest", dated June 1983, is hereby withdrawn, subject to valid existing rights, from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral leasing and geothermal leasing and all amendments thereto. The Secretary of the Interior shall administer the area in accordance with the Federal Land Policy and Management Act and shall take such measures as are necessary to ensure that no activities are permitted within the area which would significantly disturb the land surface or impair the area's existing natural, educational, and scientific research values, including paleontological study, excavation, and interpretation.

Regulations.

(b) Within one year of the date of enactment of this Act the Secretary of the Interior shall promulgate rules and regulations for the administration of the Fossil Forest area referred to in subsection (a) in accordance with the provisions of this Act and shall file a copy of such rules and regulations with the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate.

Study.

(c) The Bureau of Land Management is hereby directed to conduct a long-range study of the Fossil Forest to determine how best to manage the area's resource values identified in section 103(a) of this Act. Within eight years of enactment of this Act, the Secretary shall forward the study results and management plan for the area to Congress. During the study period and until Congress determines otherwise, the Fossil Forest area shall be managed under the provisions of this Act.

Public lands.

SEC. 104. (a) The Secretary of the Interior shall exchange such public lands or interest in such lands, mineral or nonmineral, as are of approximately equal value and selected by the State of New Mexico, acting through its commissioner of public lands, for any State lands or interest therein, mineral or nonmineral, located within the boundaries of any of the tracts designated as wilderness under section 2. For the purpose of this section, the term public lands shall have the same meaning as defined in section 103(c) of the Federal Lands Policy and Management Act of 1976.

16 USC 1131.

43 USC 1702.

(b) Within one hundred and twenty days of enactment of this Act, the Secretary of the Interior shall give notice to the New Mexico Commissioner of Public Lands of the tracts to be designated as wilderness pursuant to section 102 of this Act and of the Secretary's duty to exchange public lands selected by the State for any State land contained within the boundaries of the designated wilderness areas. Such notice shall contain a listing of all public lands which are located within the boundaries of the State, which have not been withdrawn from entry and which the Secretary identifies as being available to the State in exchange for such State lands as may be within the designated wilderness areas.

(c) The value of the State and public lands to be exchanged under this section shall be determined as of the date of enactment of this Act.

(d) After the receipt of the list of available public lands, if the commissioner of public lands gives notice to the Secretary of the State's selection of lands, the Secretary shall notify the State in writing as to whether the Department of the Interior considers the State and Federal lands to be of approximately equal value. In case of disagreement between the Secretary and the commissioner as to relative value of the acquired and selected lands, the Secretary and the commissioner shall agree on the appointment of a disinterested independent appraiser who will review valuation data presented by both parties and determine the amount of selected land which best represents approximate equal value. Such determination will be binding on the Secretary and the commissioner. The transfer of title to lands or interests therein to the State of New Mexico shall be completed within two years of the date of enactment of this Act.

SEC. 105. (a) The Secretary of the Interior shall exchange any lands held in trust for an Indian whose lands are located within the boundary of the De-na-zin area referred to in section 102(a)(2) at the request of the Indian for whom such land is held in trust. Such lands shall be exchanged for lands approximately equal in value selected by the Indian allottee concerned and such lands so selected and exchanged shall thereafter be held in trust by the Secretary in the same manner as the lands for which they were exchanged.

Indians.

(b) Except as provided herein, nothing in this Act shall affect the transfer to the Navajo Tribe of any lands selected by the Navajo Tribe pursuant to Public Law 93-531 and Public Law 96-305: *Provided, however*, That, notwithstanding the limitations imposed by section 4 of Public Law 96-305, within eighteen months after the date of enactment of this Act, the Navajo Tribe, after consultation with the Relocation Commission, shall have the authority to and shall select lands in New Mexico administered by the Bureau of Land Management of equal acreage in lieu of the lands which have been previously selected by the Navajo Tribe within the boundaries of the Fossil Forest, as described in section 103(a) of this Act. A border of any parcel of land so selected shall be within eighteen miles of the boundary of the Navajo Reservation described in Executive order dated January 6, 1880.

25 USC 640d *et seq.*, 640d note.
25 USC 640d-10.

(c) Title to such in lieu selections shall be taken in the name of the United States in trust for the benefit of the Navajo Tribe as a part of the Navajo Reservation, and shall be subject only to valid existing rights as of December 1, 1983.

SEC. 106. Section 11(a) of Public Law 93-531 (25 U.S.C. 640d-10) is amended—

(1) in paragraph (1) by striking out the last sentence, which begins "Such lands";

(2) by inserting after paragraph (2) the following: "Subject to the provisions of the following sentences of this subsection, all rights, title and interests of the United States in the lands described in paragraph (1), including such interests the United States as lessor has in such lands under the Mineral Leasing Act of 1920, as amended, will, subject to existing leasehold interests, be transferred without cost to the Navajo Tribe and title thereto shall be taken by the United States in trust for the benefit of the Navajo Tribe as a part of the Navajo Reservation. So long as any parcel of land coincide with pending noncompetitive

Mines and mining.

30 USC 181 note.

30 USC 181 note.

coal lease applications under the Mineral Leasing Act of 1920, as amended, the Secretary may not transfer any United States interests in such lands until the noncompetitive coal lease applications have been fully adjudicated. If such adjudication results in issuance of Federal coal leases to the applicants, such transfer shall be subject to such leases. The leaseholders rights and interests in such coal leases will in no way be diminished by the transfer of the rights, title and interests of the United States in such lands to the Navajo Tribe. If any selected lands are subject to valid claims located under the Mining Law of 1872 the transfer of the selected lands may be made subject to those claims.”; and

(3) by inserting the following new paragraph:

“(2) Those interests in lands acquired in the State of New Mexico by the Navajo Tribe pursuant to subsection 2 of this section shall be subject to the right of the State of New Mexico to receive the same value from any sales, bonuses, rentals, royalties and interest charges from the conveyance, sale, lease, development, and production of coal as would have been received had the subsurface interest in such lands remained with the United States and been leased pursuant to the Mineral Lands Leasing Act of 1920, as amended, or any successor Act; or otherwise developed. The State’s interest shall be accounted for in the same manner as it would have been if a lease had issued pursuant to the Mineral Lands Leasing Act of 1920, as amended.”.

30 USC 181 note.

Public lands.

SEC. 107. (a) Subject to valid existing rights and except as provided in subsection (b), the Secretary of the Interior is authorized and directed to convey to the New Mexico State University, Las Cruces, New Mexico, at a cost of \$2.50 per acre, all right, title, and interest of the United States in and to the following described public lands aggregating approximately 5,711.39 acres in Dona Ana County, New Mexico, to be used for the purpose of conducting educational, demonstrative, and experimental development with livestock, grazing methods, and range forage plants and other agricultural related research:

New Mexico Principal Meridian

Township 20 south, range 1 east

Sections 16, 32, and 36, all.

Township 21 south, range 1 east

Sections 2, and 16, all.

Township 20 south, range 1 west

Sections 2, and 16, all.

Section 26, north half northeast quarter, northeast quarter northwest quarter;

Section 32, north half, north half southwest quarter, north half southeast quarter, southeast quarter southeast quarter; and

Section 36, all.

(b) There are reserved to the United States all minerals that may be found in the lands described in subsection (a), together with the right of the United States, its permittees, lessees, or grantees, at any time, to prospect for, mine and remove such minerals.

(c) In the event that the lands described in subsection (a), or any part thereof, are used for any purpose other than those for which conveyance is authorized, title to the entire tract shall immediately

revert to the United States without the necessity for further action to accomplish the reversion of title to the United States.

SEC. 108. In order to relieve the Elephant Butte Irrigation District of any obligation to reimburse the Bureau of Reclamation for leave and severance payments to certain employees of the Rio Grande project separated as a result of the transfer of operation and maintenance responsibilities to the Elephant Butte District, miscellaneous revenues having been collected by the Bureau of Reclamation from the sale or lease of project lands, interests in lands or other sources may be credited to the Elephant Butte Irrigation District for such leave and severance payments and accrued interest penalties on the district's obligations. Penalties shall be assessed up till September 23, 1983.

Penalties.

SEC. 109. An approximate twenty-acre area as shown on a map entitled Sandia Mountain Wilderness additions, dated March 26, 1981, on file in the Office of the Chief of the Forest Service, Department of Agriculture, is hereby added to and made a part of the Sandia Mountain Wilderness: *Provided*, That the Secretary of Agriculture may allow the continuance of the existing diversion dam and existing related facilities conforming to the terms and conditions of maintenance he deems appropriate, including the provision for access and the use of mechanized equipment only for construction and maintenance of existing structures: *Provided further*, That any upgrading of the existing diversion dam shall be completed within four years of the date of this section in accord with the plans approved by the Secretary of Agriculture. The Secretary of Agriculture may extend the time of such reconstruction if he deems such extension is necessary and in the public interest.

Public lands.

Dam.

SEC. 110. (a)(1) The Secretary of the Interior (hereafter in this section referred to as the "Secretary") may convey to Sumner Lake Corporation of the State of New Mexico all right, title, and interest of the United States in and to the real property described in paragraph (2), but such conveyance to such corporation may be made only in the event that the State of New Mexico has given a written release to the United States Government from the State's lease of such property.

Public lands.

(2) The real property referred to in paragraph (1) is located in Lake Sumner State Park, in the State of New Mexico, and is more particularly described as follows: all portions of sections 28 and 34 in township 5 north, range 24 east, that are more than 4,280 feet above sea level. The acreage and legal description of such real property shall be determined by the Secretary after consulting with Sumner Lake Corporation.

(b)(1) In consideration for the conveyance authorized in subsection (a), Sumner Lake Corporation shall pay to the Secretary for deposit in the United States Treasury the fair market value of the real property conveyed as determined on the date of such conveyance. Such fair market value shall be determined by the Secretary by means of an appraisal conducted in accordance with established appraisal procedures.

(2) Any administrative cost incurred by the Secretary incident to any conveyance under subsection (a), including any surveying cost, recording cost, or legal cost, shall be reimbursed by Sumner Lake Corporation.

(c)(1) Any conveyance under subsection (a) shall reserve to the United States all oil, coal, and other minerals in the real property conveyed, and the right to prospect for, mine, and remove such oil,

coal, and other minerals. Any damage sustained by any surface owner as a result of the exercise of any right reserved in this paragraph shall be reimbursed by the United States or the lessee of such right.

(2) Any conveyance under subsection (a) shall not affect any easement, servitude, or right-of-way existing with respect to the real property conveyed on the date of such conveyance.

(3) The Secretary may attach to any conveyance under subsection (a) any additional conditions and reservations that the Secretary determines to be appropriate.

Approved October 30, 1984.

LEGISLATIVE HISTORY—H.R. 6296 (H.R. 3766):

HOUSE REPORT No. 98-834 accompanying H.R. 3766 (Comm. on Interior and Insular Affairs).

CONGRESSIONAL RECORD, Vol. 130 (1984):

June 18, H.R. 3766 considered and passed House.

Oct. 3, considered and passed House.

Oct. 5, considered and passed Senate, amended; House concurred in Senate amendments.

Public Law 98-604
98th Congress

An Act

To ensure the payment in 1985 of cost-of-living increases under the OASDI program in title II of the Social Security Act, and to provide for a study of certain changes which might be made in the provisions authorizing cost-of-living adjustments under that program.

Oct. 30, 1984

[H.R. 6299]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) in determining whether the base quarter ending on September 30, 1984, is a cost-of-living computation quarter for the purposes of the cost-of-living increases under sections 215(i) and 1617 of the Social Security Act, the phrase "is 3 percent or more" appearing in section 215(i)(1)(B) of such Act shall be deemed to read "is greater than zero" (and the phrase "exceeds, by not less than 3 per centum, such Index" appearing in section 215(i)(1)(B) of such Act as in effect in December 1978 shall be deemed to read "exceeds such Index").

Aged persons.
42 USC 415 note.

97 Stat. 73.
42 USC 415.
42 USC 1382f.

(b) For purposes of section 215(i) of such Act, the provisions of subsection (a) shall not constitute a "general benefit increase".

SEC. 2. The Office of the Actuary of the Social Security Administration shall conduct a study of improvements which might be made in the application and operation of the cost-of-living adjustment provisions in section 215(i) of the Social Security Act, giving particular attention to—

Study.

(1) the long-term effects of altogether eliminating the COLA trigger (the provision which requires that the CPI increase percentage (or the wage increase percentage) reach a specified level in order to trigger a cost-of-living adjustment in benefits);

(2) the long-term effects of reducing the level of the COLA trigger from 3 per centum to 1 per centum;

(3) long-term assumptions (explained in detail) concerning the frequency of instances in which the applicable increase percentage would be less than 3 per centum, the frequency of instances in which such percentage would be less than 1 per centum, and the frequency of deflationary periods in which there would be no increase in such percentage; and

(4) an analysis of the period currently being used to measure CPI and wage increases, and the long-term effects of changing such period so as to make it noncumulative or to use different calendar quarters.

Report.

The Office of the Actuary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, on or before September 1, 1985, a full and complete report of the study conducted under this section.

Approved October 30, 1984.

LEGISLATIVE HISTORY—H.R. 6299:

HOUSE REPORT No. 98-1099 (Comm. on Ways and Means).
CONGRESSIONAL RECORD, Vol. 130 (1984):

Oct. 2, considered and passed House.
Oct. 11, considered and passed Senate.

Public Law 98-605
98th Congress

An Act

To make certain technical corrections in various Acts relating to the Osage Tribe of Indians of Oklahoma.

Oct. 30, 1984
[H.R. 6303]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Osage Tribe of
Indians
Technical
Corrections Act
of 1984.

SHORT TITLE

SECTION 1. This Act may be cited as the "Osage Tribe of Indians Technical Corrections Act of 1984".

AMENDMENTS TO THE OSAGE INDIAN ACT OF 1978

SEC. 2. (a) Section 2(a) of the Act approved October 21, 1978, and entitled "An Act to amend certain laws relating to the Osage Tribe of Oklahoma, and for other purposes." (92 Stat. 1660) is amended by striking out "June 26, 1906" and inserting in lieu thereof "June 28, 1906".

(b) Section 5(7) of such Act is amended by striking out "(7)" and inserting in lieu thereof "(c)".

25 USC 331 note.

(c) Section 5(d) of such Act is amended to read as follows:

25 USC 331 note.

"(d)(1) Notwithstanding any provision of—

"(A) section 3 or 8 of the Osage Indians Act of 1912 (as amended by subsections (b) and (a), respectively), or

92 Stat. 1662,
1661.

"(B) section 7 of the Osage Indians Act of 1925 (as amended by subsection (c)),

Post, p. 3167.

any sale or transfer or any disposition by any other means of any headright shall be subject to section 7 of this Act.

Post, p. 3164.

"(2) Notwithstanding section 6(a) of this Act or section 8 of the Osage Indians Act of 1912, no Osage Indian may—

25 USC 331 note.
92 Stat. 1661.

"(A) provide for the transfer of any interest of such person in any headright—

"(i) by will to any person which is not an individual, or

"(ii) by the establishment of an inter vivos trust for the benefit of any person which is not an individual; or

"(B) provide, whether by the terms of a will, the terms of a testamentary trust established by a will, or by the terms of an instrument establishing an inter vivos trust, that any interest in any headright—

"(i) which such Osage Indian had (at the time of death of such person or at the time any such inter vivos trust was established), and

"(ii) in which any individual was granted a life estate by such Osage Indian,

may be transferred to or held for the benefit of any individual who is not an Osage Indian upon the death of the individual who held such life estate."

(d) Section 6(b) of such Act is amended by striking out "members of the Osage Tribe," and inserting in lieu thereof "Osage Indians,".

25 USC 331 note.

25 USC 331 note. (e) Section 7 of such Act is amended to read as follows:

"RULES GOVERNING DEVOLUTION OF INTERESTS IN OSAGE HEADRIGHTS

Prohibition.

"SEC. 7. (a) GENERAL RULE.—No person who is not an Osage Indian may, on or after October 21, 1978, receive any interest in any headright, other than a life estate in accordance with subsection (b), whether such interest would be received by such person (but for this subsection) under a will, a testamentary or inter vivos trust, or the Oklahoma laws of intestate succession.

Ante, p. 3163.

"(b) EXCEPTION FOR LIFE ESTATES.—Notwithstanding subsection (a) and subject to section 5(d)(2), an individual who is not an Osage Indian may receive a life estate in any headright held by a testator, settlor, or decedent who is or was an Osage Indian under a will, or under a testamentary trust established by a will, of such testator, an inter vivos trust established by such settlor, or the Oklahoma laws of intestate succession relating to the administration of the estate of such decedent.

"(c) SPECIAL RULES GOVERNING INTERESTS IN OSAGE HEADRIGHT UPON DEATH OF INDIVIDUAL WHO HELD LIFE ESTATE IN SUCH HEADRIGHT.—

"(1) DESIGNATED OSAGE REMAINDERMEN.—Upon the death of any individual who is not an Osage Indian and who held a life estate in any headright of a testator or settlor described in subsection (b), all remaining interests in such headright shall vest in any remaindermen who—

"(A) are designated in the will of the testator or the instrument establishing the trust of the settlor to receive such remainder interest, and

"(B) are Osage Indians.

Prohibition.

"(2) NO DESIGNATED OSAGE REMAINDERMEN.—Upon the death of any individual who is not an Osage Indian and who held a life estate in any headright of a testator, settlor, or decedent described in subsection (b) who—

"(A) did not designate any remainderman who is an Osage Indian to receive any remaining interest in such headright in the will of such testator or instrument of such settlor, or

"(B) died intestate,

all remaining interests in such headright shall vest in any heirs, as determined under the Oklahoma laws of intestate succession, of such testator, settlor, or decedent who are Osage Indians.

Prohibition.

"(3) NO HEIR WHO IS AN OSAGE INDIAN.—Upon the death of any individual who is not an Osage Indian and who held a life estate in any headright of an Osage testator, settlor, or decedent described in subsection (b) who—

"(A) designated no remainderman who is an Osage Indian for any remaining interest in such headright, and

"(B) had no heir under the Oklahoma laws of intestate succession who is an Osage Indian and is living at the time of death of the individual who held such life estate, all remaining interests in such headright shall vest in the Osage Tribe of Indians.

"(d) LIABILITY OF TRIBE IN CASE OF REMAINDERMAN OR HEIR WHO IS NOT AN OSAGE INDIAN.—In any case in which—

"(1) any remainder interest of a testator, settlor, or decedent described in subsection (b) vests in the Osage Tribe of Indians under subsection (c)(3), and

"(2) an individual who is not an Osage Indian and who, but for this section, would have received any portion of such remaining interest in the headright by virtue of—

"(A) having been designated under the will of such testator, or the instrument of such settlor which established any such trust, to receive such remainder interest, or

"(B) being the heir of such decedent under the Oklahoma laws of intestate succession,

the tribe shall pay any such individual the fair market value of the portion of the interest in such headright such individual would have received but for this section."

(f) Section 8(a) of such Act is amended to read as follows:

"SEC. 8. (a)(1) No headright owned by any person who is not of Indian blood may be sold, assigned, or transferred without the approval of the Secretary. Any sale of any interest in such headright (and any other transfer which divests such person of any right, title, or interest in such headright) shall be subject to the following rights of purchase:

"(1) First right of purchase by the heirs in the first degree of the first Osage Indian to have acquired such headright under an allotment who are living and are Osage Indians, or, if they all be deceased, all heirs in the second through the fourth degree of such first Osage Indian who are living and are Osage Indians.

"(2) Second right of purchase by any other Osage Indian for the benefit of any Osage Indian in his or her individual capacity.

"(3) Third right of purchase by the Osage Tribal Council on behalf of the Osage Tribe of Indians.

No owner of any headright shall be required, by reason of this subsection, to sell such headright for less than its fair market value or to delay any such sale more than 90 days from the date by which notice of intention to sell (or otherwise transfer) such headright has been received by each person with respect to whom a right of purchase has been established under this subsection."

(g) Section 8(b) of such Act is amended to read as follows:

"(b) Notwithstanding the paragraph designated 'First' of section 4 of the Osage Tribe Allotment Act or any other provision of law, any income from the Osage mineral estate may be used for the purchase of any headright offered for sale to the Osage Tribal Council pursuant to subsection (a) or vested in the Osage Tribe pursuant to section 7 if, prior to the time that any income from the Osage mineral estate is segregated for distribution to holders of headrights, the Osage Tribal Council requests the Secretary to authorize such use of such funds and the Secretary approves such request."

(h) Such Act is amended by adding at the end thereof the following new sections:

"SEC. 10. Except where any provision of this Act explicitly provides otherwise, wherever the term 'Osage Indian' is used in this Act, such term shall be construed so as to include any child who has been adopted by an Osage Indian (pursuant to the decision of any court of competent jurisdiction) and any lineal descendant of such child.

"SEC. 11. For purposes of this Act—

25 USC 331 note.
Prohibition.

25 USC 331 note.

34 Stat. 544.

Ante, p. 3164.

Children and
youth.
25 USC 331 note.

25 USC 331 note.

34 Stat. 543.

"(1) the term 'Osage mineral estate' means any right, title, or interest in any oil, gas, coal, or other mineral held by the United States in trust for the benefit of the Osage Indian Tribe under section 3 of the Osage Tribe Allotment Act;

"(2) the term 'headright' means any right of any person to share in any royalties, rents, sales, or bonuses arising from the Osage mineral estate;

"(3) the term 'Secretary' means the Secretary of the Interior;

"(4) the term 'person' has the meaning given to such term in section 1 of title 1, United States Code;

"(5) the term 'Osage Tribe Allotment Act' means the Act approved June 28, 1906, and entitled 'An Act For the division of the lands and funds of the Osage Indians in Oklahoma Territory, and for other purposes.' (34 Stat. 539);

"(6) the term 'Osage Indians Act of 1912' means the Act approved April 18, 1912, and entitled 'An Act Supplementary to and amendatory of the Act entitled "An Act for the division of the lands and funds of the Osage Nation of Indians in Oklahoma," approved June twenty-eighth, nineteen hundred and six, and for other purposes.' (37 Stat. 86); and

"(7) the term 'Osage Indians Act of 1925' means the Act approved February 27, 1925, and entitled 'An Act To amend the Act of Congress of March 3, 1921, entitled "An Act to amend section 3 of the Act of Congress of June 28, 1906, entitled "An Act of Congress for the division of the lands and funds of the Osage Indians in Oklahoma, and for other purposes." "' (43 Stat. 1008)."

AMENDMENTS TO THE OSAGE INDIANS ACT OF 1912

92 Stat. 1662.

SEC. 3. (a) Section 3 of the Act approved April 18, 1912, and entitled "An Act Supplementary to and amendatory of the Act entitled 'An Act for the division of the lands and funds of the Osage Nation of Indians in Oklahoma,' approved June twenty-eighth, nineteen hundred and six, and for other purposes." (37 Stat. 86) is amended by striking out "That the" and inserting in lieu thereof the following:

"SEC. 3. Except as provided in sections 5(d) and 7 of the Act approved October 21, 1978, and entitled 'An Act to amend certain laws relating to the Osage Tribe of Oklahoma, and for other purposes.' (92 Stat. 1660), the"

Ante, pp. 3163, 3164.

92 Stat. 1661.

(b) Section 8 of such Act is amended—

(1) in the first sentence—

(A) by striking out "Any" and inserting in lieu thereof the following:

"SEC. 8. Except as provided in sections 5(d) and 7 of the Act approved October 21, 1978, and entitled 'An Act to amend certain laws relating to the Osage Tribe of Oklahoma, and for other purposes.', any",

(B) by striking out "(real, person, and mixed," and inserting in lieu thereof "(real, personal, and mixed,"

(C) by inserting a comma after "removed",

(D) by striking out "will executed" and inserting in lieu thereof "the terms of a will, or the terms of a testamentary trust created by a will, executed", and

(E) by striking out "State of Oklahoma:" and inserting in lieu thereof "State of Oklahoma, except that an Osage

Indian under guardianship or conservatorship shall be exempt from the requirement that the will of such Indian shall be subscribed and acknowledged in the presence of a district judge.”;

(2) by striking out the third sentence and inserting in lieu thereof the following new sentence: “Notice of such hearing shall be given at least 10 days before the hearing by publication in a newspaper of general circulation in Osage County, Oklahoma, and by mailing to all known heirs, legatees, and devisees at their last known addresses.”;

(3) in the sixth sentence by striking out “of” where it appears after “date”;

(4) by inserting after the eighth sentence the following new sentence: “In the case of any action in probate contesting the will of any Osage Indian, the Secretary of the Interior may approve any settlement relating to such action with respect to any property under the jurisdiction of the Secretary.”;

(5) in the last sentence by striking out “Such appeals” and inserting in lieu thereof “Any such appeal shall be filed in a court of the United States with jurisdiction over such appeal before the end of the 30-day period beginning on the date of the decision of the Secretary and”; and

(6) by adding at the end thereof the following new sentences: “In the case of any property or interest in property (including any headright) which was held by any Osage Indian decedent at the time of death of such Indian and is subject to any restriction against alienation, or which was held by the United States in trust for the benefit of any Osage Indian decedent, and which is property, or an interest in property, included in a testamentary trust created by a will of such decedent—

“(1) only the Secretary of the Interior may be appointed as, or may serve as, trustee with respect to any share of such trust property relating to a beneficiary of such trust who is an Indian with respect to whom—

“(A) a certificate of competency has never been issued, or

“(B) a certificate of competency has been revoked by the Secretary of the Interior;

“(2) only a bank or trust institution may be appointed as, or may serve as, the trustee with respect to any share of such trust property relating to any beneficiary other than an Indian described in subparagraph (A) or (B) of paragraph (1); and

“(3) the inclusion of such property, or interest in property, in such testamentary trust shall not affect—

“(A) the application, to such property, of any law and rule of law which applies to property of Osage Indians or the Osage Tribe of Indians, including any restrictions against alienation of lands or other property, or

“(B) the tax-exempt status of such property.”.

AMENDMENTS TO THE OSAGE INDIANS ACT OF 1925

SEC. 4. Section 7 of the Act approved February 27, 1925, and entitled “An Act to amend the Act of Congress of March 3, 1921, entitled ‘An Act to amend section 3 of the Act of Congress of June 28, 1906, entitled ‘An Act of Congress for the division of the lands and funds of the Osage Indians in Oklahoma, and for other purposes.’” (43 Stat. 1008) is amended—

(1) by striking out “Hereafter” and inserting in lieu thereof the following:

“SEC. 7. Except as provided in sections 5(d) and 7 of the Act approved October 21, 1978, and entitled ‘An Act to amend certain laws relating to the Osage Tribe of Oklahoma, and for other purposes,’ on or after October 21, 1978,”;

Ante, pp. 3163,
3164.

(2) by inserting after “inherit” the following: “, in accordance with the laws of the State of Oklahoma relating to intestate succession”; and

Children and
youth.

(3) by adding at the end the following new sentence: “No adopted child of any Osage Indian who is not an Osage Indian shall be eligible to inherit, as the collateral heir (within the meaning of the laws of the State of Oklahoma relating to intestate succession) of any Osage Indian decedent, any property or interest in property held in trust by the Secretary of the Interior for the benefit of such decedent.”.

AMENDMENTS TO THE ACT PROVIDING FOR THE DISTRIBUTION OF JUDGMENT FUNDS OF THE OSAGE TRIBE OF INDIANS

SEC. 5. Section 1(b) of the Act approved October 27, 1972, and entitled “An Act to provide for the disposition of judgment funds of the Osage Tribe of Indians of Oklahoma.” (86 Stat. 1295) is amended—

25 USC 883.

(1) by striking out “or other socioeconomic programs”, and

(2) by striking out “programs to be administered” and inserting in lieu thereof “program to be administered”.

Approved October 30, 1984.

LEGISLATIVE HISTORY—H.R. 6303:

HOUSE REPORT No. 98-1115 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 130 (1984):

Oct. 2, considered and passed House.

Oct. 9, considered and passed Senate.

Public Law 98-606
98th Congress

An Act

To amend the River and Harbor Act of 1946.

Oct. 30, 1984
[H.R. 6430]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the project for navigation, Newport News Creek, Virginia, authorized by the River and Harbor Act of 1946, is hereby modified to authorize the relocation and reconstruction by the State of Virginia of the project upon approval of plans for such relocation and reconstruction by the Secretary of the Army.

Virginia.

60 Stat. 634.

Approved October 30, 1984.

LEGISLATIVE HISTORY—H.R. 6430:

CONGRESSIONAL RECORD, Vol. 130 (1984):

Oct. 11, considered and passed House and Senate.

Public Law 98-607
98th Congress

An Act

Oct. 30, 1984
[H.R. 6441]

To eliminate restrictions with respect to the imposition and collection of tolls on the Richmond-Petersburg Turnpike upon repayment by the Commonwealth of Virginia of certain Federal-aid highway funds used on such turnpike.

Contracts with
U.S.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) upon the repayment by the Commonwealth of Virginia to the Treasurer of the United States of an amount equal to the total amount of Federal-aid highway funds heretofore paid on account of the immediate connectors and approaches to the Richmond-Petersburg Turnpike, such turnpike shall be free of all restrictions with respect to the imposition and collection of tolls or other charges on or for the use thereof contained in title 23, United States Code, or section 131 of the Federal Highway Act of 1970, or any regulation or agreement thereunder. Nothing in this section shall be construed to affect any apportionment of funds under section 104(b)(5)(B) of title 23, United States Code.

23 USC 101 note.

(b) The amount repaid under subsection (a) shall be deposited to the credit of the appropriation for "Federal-Aid Highway (Trust Fund)". Such amount shall be credited to the unprogrammed balance of the Federal-aid interstate funds last apportioned to the Commonwealth of Virginia. The amount so credited shall be in addition to all other funds then apportioned to such State and shall be available for expenditure in accordance with the provisions of title 23, United States Code.

Approved October 30, 1984.

LEGISLATIVE HISTORY—H.R. 6441:

CONGRESSIONAL RECORD, Vol. 130 (1984):

Oct. 11, considered and passed House and Senate.

Public Law 98-608
98th Congress

Joint Resolution

To make technical corrections in the Act of January 12, 1983 (Public Law 97-459).

Oct. 30, 1984
[H.J. Res. 158]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of January 12, 1983 (96 Stat. 2515; Public Law 97-459), is hereby amended as follows:

Indians.
Public lands.

(1) At the end of section 204 change the period to a colon and insert the following: “*Provided, That—*

25 USC 2203.

“(1) the sale price or exchange value received by the tribe for land or interests in land covered by this section shall be no less than within 10 per centum of the fair market value as determined by the Secretary;

“(2) if the tribal land involved in an exchange is of greater or lesser value than the land for which it is being exchanged, the tribe may accept or give cash in such exchange in order to equalize the values of the property exchanged;

“(3) any proceeds from the sale of land or interests in land or proceeds received by the tribe to equalize an exchange made pursuant to this section shall be used exclusively for the purchase of other land or interests in land;

“(4) the Secretary shall maintain a separate trust account for each tribe selling or exchanging land pursuant to this section consisting of the proceeds of the land sales and exchanges and shall release such funds only for the purpose of buying lands under this section; and

“(5) any tribe may retain the mineral rights to such sold or exchanged lands and the Secretary shall assist such tribe in determining the value of such mineral rights and shall take such value into consideration in determining the fair market value of such lands.

Mines and
mining.

“(b) The Secretary must execute such instrument of conveyance needed to effectuate a sale or exchange of tribal lands made pursuant to an approved tribal land consolidation plan unless he makes a specific finding that such sale or exchange is not in the best interest of the tribe or is not in compliance with the tribal land consolidation plan.”

(2) Section 205 is amended to read as follows:

25 USC 2204.

“SEC. 205. Any Indian tribe may purchase at no less than the fair market value part or all of the interests in any tract of trust or restricted land within that tribe’s reservation or otherwise subject to that tribe’s jurisdiction with the consent of the owners of such interests. The tribe may purchase all of the interests in such tract with the consent of the owners of over 50 per centum of the undivided interests in such tract: *Provided, That—*

“(1) any Indian owning any undivided interest, and in actual use and possession of such tract for at least three years preced-

ing the tribal initiative, may purchase such tract by matching the tribal offer;

"(2) if, at any time within five years following the date of acquisition of such land by an individual pursuant to this section, such property is offered for sale or a petition is filed with the Secretary for removal of the property from trust or restricted status, the tribe shall have 180 days from the date it is notified of such offer or petition to acquire such property by paying to the owner the fair market value as determined by the Secretary;

"(3) all purchases and sales initiated under this section shall be subject to approval by the Secretary."

(3) Section 206 is amended to read as follows:

Gifts and
property.
25 USC 2205.

"Sec. 206. (a) Notwithstanding any other provision of law, any Indian tribe, subject to approval by the Secretary, may adopt its own code of laws to govern descent and distribution of trust or restricted lands within that tribe's reservation or otherwise subject to that tribe's jurisdiction, and may provide that nonmembers of the tribe or non-Indians shall not be entitled to receive by devise or descent any interest or trust or restricted lands within that tribe's reservation or otherwise subject to that tribe's jurisdiction: *Provided*, That in the event a tribe takes such action—

"(1) if an Indian dies intestate, the surviving non-Indian or nonmember spouse and/or children may elect to receive a life estate in as much of the trust or restricted lands as such person or persons would have been entitled to take in the absence of such restriction on eligibility for inheritance and the remainder shall vest in the Indians or tribal members who would have been heirs in the absence of a qualified person taking a life estate;

"(2) if an intestate Indian decedent has no heir to whom interests in trust or restricted lands may pass, such interests shall escheat to the tribe, subject to any non-Indian or nonmember spouse and/or children's rights as described in paragraph (1) of this section;

"(3) if an Indian decedent has devised interests in trust or restricted lands to persons who are ineligible for such an inheritance by reason of a tribal ordinance enacted pursuant to this section, the devise shall be voided only if, while the estate is pending before the Secretary for probate, the tribe acquires such interests by paying to the Secretary, on behalf of the devisees, the fair market value of such interests as determined by the Secretary as of the date of the decedent's death: *Provided*, That any non-Indian or nonmember spouse and/or children of such decedent who have been devised such interests may retain, at their option, a life estate in such interests. Any ineligible devisee shall also have the right to renounce his or her devise in favor of a person or persons who are eligible to inherit.

"(b) The right to receive a life estate under the provisions of this section shall be limited to—

"(1) a spouse and/or children who, if they had been eligible, would have inherited an ownership interest of 10 per centum or more in the tract of land; or

"(2) a spouse and/or children who occupied the tract as a home at the time of the decedent's death."

(4) Section 207 is amended to read as follows:

25 USC 2206.

"SEC. 207. (a) No undivided interest in any tract of trust or restricted land within a tribe's reservation or otherwise subject to a tribe's jurisdiction shall descend by intestacy or devise but shall escheat to that tribe if such interest represents 2 per centum or less of the total acreage in such tract and is incapable of earning \$100 in any one of the five years from the date of decedent's death. Where the fractional interest has earned to its owner less than \$100 in any one of the five years before the decedent's death, there shall be a rebuttable presumption that such interest is incapable of earning \$100 in any one of the five years following the death of the decedent.

Gifts and
property.

"(b) Nothing in this section shall prohibit the devise of such an escheatable fractional interest to any other owner of an undivided fractional interest in such parcel or tract of trust or restricted land.

"(c) Notwithstanding the provisions of subsection (a), any Indian tribe may, subject to the approval of the Secretary, adopt its own code of laws to govern the disposition of interests that are escheatable under this section, and such codes or laws shall take precedence over the escheat provisions of subsection (a), provided, the Secretary shall not approve any code or law that fails to accomplish the purpose of preventing further descent or fractionation of such escheatable interests."

(5) At the conclusion of the Act add the following new section:

"SEC. 212. Nothing in this Act shall be construed as vesting the governing body of an Indian tribe with any authority which is not authorized by the constitution and by-laws or other organizational document of such tribe."

25 USC 2211.

SEC. 2. The Act of March 29, 1956 (c. 107, 70 Stat. 62; 25 U.S.C. 483a) is amended by inserting immediately after the enacting clause **"(a)"** and by adding at the conclusion of the Act a new subsection (b) as follows:

"(b) In the event such land is acquired by an Indian or an Indian tribe, such land shall not be removed from trust or restricted status except upon application to the Secretary under existing law."

Approved October 30, 1984.

LEGISLATIVE HISTORY—H.J. Res. 158:

HOUSE REPORT No. 98-49 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 98-632 (Comm. on Indian Affairs).

CONGRESSIONAL RECORD:

Vol. 129 (1983): Apr. 19, 20, considered and passed House.

Vol. 130 (1984): Oct. 3, considered and passed Senate, amended.

Oct. 4, House concurred in Senate amendment.

Public Law 98-609
98th Congress

Joint Resolution

Oct. 30, 1984
[H.J. Res. 332]

To designate the week beginning May 20, 1985, as "National Medical Transcriptionist Week".

Whereas complete and accurate medical records are of vital importance to quality health care;

Whereas the medical transcriptionist is instrumental in transcribing medical dictation detailing a patient's health care during an illness or after an injury;

Whereas the medical transcriptionist is an indispensable assistant to physicians and surgeons;

Whereas there is a lack of awareness of the job performed by a medical transcriptionist; and

Whereas there is a shortage of trained medical transcriptionists:
Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning May 20, 1985, hereby is designated "National Medical Transcriptionist Week" and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved October 30, 1984.

LEGISLATIVE HISTORY—H.J. Res. 332:

CONGRESSIONAL RECORD, Vol. 130 (1984):

Oct. 2, considered and passed House.

Oct. 10, considered and passed Senate.

Public Law 98-610
98th Congress

Joint Resolution

Designating the week beginning February 17, 1985, as a time to recognize volunteers who give their time to become Big Brothers and Big Sisters to youths in need of adult companionship.

Oct. 30, 1984
[H.J. Res. 594]

Whereas many girls and boys in the United States suffer from a lack of parental time and attention because of the death of one or both of their parents, the divorce of their parents, or for other reasons; Whereas this deprivation can result in serious problems for these children and their communities; and

Whereas there is a dire need for volunteers to serve as older brothers and sisters who can give these children the individual support, help, and counseling of a stable adult friend: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning February 17, 1985, is designated as a time to recognize the contributions of volunteers who give their time to become Big Brothers and Big Sisters to youths in need of adult companionship and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such week with appropriate celebrations and activities.

Approved October 30, 1984.

LEGISLATIVE HISTORY—H.J. Res. 594:

CONGRESSIONAL RECORD, Vol. 130 (1984):

Aug. 8, considered and passed House.

Oct. 10, considered and passed Senate.

Public Law 98-611
98th Congress

An Act

Oct. 31, 1984
[H.R. 2568]

To amend the Internal Revenue Code of 1954 to extend for 2 years the exclusion from gross income with respect to educational assistance programs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENTS RELATING TO EDUCATIONAL ASSISTANCE PROGRAMS.

26 USC 127.

(a) **2-YEAR EXTENSION OF EXCLUSION FROM GROSS INCOME.**—Subsection (d) of section 127 of the Internal Revenue Code of 1954 (relating to educational assistance programs) is amended by striking out “December 31, 1983” and inserting in lieu thereof “December 31, 1985”.

(b) **ANNUAL EXCLUSION LIMITED TO \$5,000.**—Subsection (a) of section 127 of such Code is amended to read as follows:

“(a) **EXCLUSION FROM GROSS INCOME.**—

“(1) **IN GENERAL.**—Gross income of an employee does not include amounts paid or expenses incurred by the employer for educational assistance to the employee if the assistance is furnished pursuant to a program which is described in subsection (b).

“(2) **\$5,000 MAXIMUM EXCLUSION.**—If, but for this paragraph, this section would exclude from gross income more than \$5,000 of educational assistance furnished to an individual during a calendar year, this section shall apply only to the first \$5,000 of such assistance so furnished.”

(c) **SPECIAL RULE FOR CERTAIN GRADUATE STUDENTS.**—Subsection (c) of section 127 of such Code is amended by adding at the end thereof the following paragraph:

“(8) **COORDINATION WITH SECTION 117(d).**—In the case of the education of an individual who is a graduate student at an educational organization described in section 170(b)(1)(A)(ii) and who is engaged in teaching or research activities for such organization, section 117(d)(2) shall be applied as if it did not contain the phrase “(below the graduate level).”

(d) **REPORTING AND RECORDKEEPING REQUIREMENTS.**—

(1) **IN GENERAL.**—Subpart A of part III of subchapter A of chapter 61 of such Code is amended by inserting after section 6039C the following new section:

Ante, p. 887.

26 USC 6039D.

“SEC. 6039D. RETURNS AND RECORDS WITH RESPECT TO CERTAIN FRINGE BENEFIT PLANS.

“(a) **IN GENERAL.**—Every employer maintaining a specified fringe benefit plan during any year beginning after December 31, 1984, for any portion of which the applicable exclusion applies, shall file a return (at such time and in such manner as the Secretary shall by regulations prescribe) with respect to such plan showing for such year—

- “(1) the number of employees of the employer,
- “(2) the number of employees of the employer eligible to participate under the plan,
- “(3) the number of employees participating under the plan,
- “(4) the total cost of the plan during the year, and
- “(5) the name, address, and taxpayer identification number of the employer and the type of business in which the employer is engaged.

“(b) RECORDKEEPING REQUIREMENT.—Each employer maintaining a specified fringe benefit plan during any year shall keep such records as may be necessary for purposes of determining whether the requirements of the applicable exclusion are met.

“(c) ADDITIONAL INFORMATION WHEN REQUIRED BY THE SECRETARY.—Any employer—

- “(1) who maintains a specified fringe benefit plan during any year for which a return is required under subsection (a), and
 - “(2) who is required by the Secretary to file an additional return for such year,
- shall file such additional return. Such additional return shall be filed at such time and in such manner as the Secretary shall prescribe and shall contain such information as the Secretary shall prescribe.

“(d) DEFINITIONS.—For purposes of this section—

“(1) SPECIFIED FRINGE BENEFIT PLAN.—The term ‘specified fringe benefit plan’ means—

- “(A) any cafeteria plan (as defined in section 125), and
- “(B) any educational assistance program (as defined in section 127).

“(2) APPLICABLE EXCLUSION.—The term ‘applicable exclusion’ means—

- “(A) section 125, in the case of a cafeteria plan, and
- “(B) section 127, in the case of an educational assistance program.”

(2) PENALTY.—Subsection (f) of section 6652 of such Code (relating to failure to file certain information returns, registration statements, etc.) is amended by striking out “125(h) (relating to information with respect to cafeteria plans)” and inserting in lieu thereof “6039D (relating to returns and records with respect to certain fringe benefit plans)”. *Ante*, p. 882.

(3) CONFORMING AMENDMENTS.—

(A) Section 125 of such Code (relating to cafeteria plans) is amended by striking out subsection (h) and inserting in lieu thereof the following: *Ante*, p. 882.

“(h) CROSS REFERENCE.—

“For reporting and recordkeeping requirements, see section 6039D.”

(B) Section 127 of such Code is amended by adding at the end thereof the following new subsection:

26 USC 127.

“(e) CROSS REFERENCE.—

“For reporting and recordkeeping requirements, see section 6039D.”

(4) CLERICAL AMENDMENT.—The table of sections for subpart A of part III of subchapter A of chapter 61 of such Code is amended by inserting after the item relating to section 6039C the following new item:

“Sec. 6039D. Returns and records with respect to certain fringe benefit plans.”

26 USC 127. (e) CLARIFICATION OF DISALLOWANCE OF CREDIT OR DEDUCTION.—Paragraph (7) of section 127(c) of such Code (relating to definitions; special rules) is amended by inserting “to the employee” after “allowed”.

Ante, p. 884. (f) EXCLUSION FROM RAILROAD RETIREMENT TAXES OF AMOUNTS WHICH MAY BE EXCLUDED UNDER SECTION 127.—Subsection (e) of section 3231 of such Code (defining compensation for purposes of the railroad retirement taxes) is amended by adding at the end thereof the following new paragraph:

“(6) The term ‘compensation’ shall not include any payment made, or benefit furnished, to or for the benefit of an employee if at the time of such payment or such furnishing it is reasonable to believe that the employee will be able to exclude such payment or benefit from income under section 127.”

26 USC 127 note. (g) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1983.

(2) SUBSECTION (d).—The amendments made by subsection (d) shall take effect on January 1, 1985.

(3) SUBSECTION (f).—The amendment made by subsection (f) shall apply to remuneration paid after December 31, 1984.

26 USC 3101 (4) NO PENALTIES OR INTEREST ON FAILURE TO WITHHOLD.—No penalty or interest shall be imposed on any failure to withhold under subtitle C of the Internal Revenue Code of 1954 (relating to employment taxes) with respect to amounts excluded from gross income under section 127 of such Code (as amended by this section and determined without regard to subsection (a)(2) thereof) with respect to periods during 1984.

Ante, p. 3176. (5) COORDINATION WITH SECTION 117(d).—In the case of education described in section 127(c)(8) of the Internal Revenue Code of 1954, as added by this section, section 117(d) of such Code shall be treated as in effect on and after January 1, 1984.

(h) STUDY.—

(1) IN GENERAL.—The Secretary of the Treasury shall conduct a study of the effect of the provisions of section 127 of the Internal Revenue Code of 1954.

(2) **REPORT.**—Not later than October 1, 1985, the Secretary of the Treasury shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the study conducted under paragraph (1) (together with such recommendations as he may deem advisable).

Approved October 31, 1984.

LEGISLATIVE HISTORY—H.R. 2568:

HOUSE REPORT No. 98-1049 (Comm. on Ways and Means).
CONGRESSIONAL RECORD, Vol. 130 (1984):

Oct. 1, considered and passed House.
Oct. 11, considered and passed Senate.

Public Law 98-612
98th Congress

An Act

Oct. 31, 1984

[H.R. 5361]

To amend the Internal Revenue Code of 1954 to extend for one year the exclusion from gross income with respect to group legal services plans, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENTS RELATING TO QUALIFIED GROUP LEGAL SERVICES PLANS.

(a) **1-YEAR EXTENSION OF EXCLUSION FROM GROSS INCOME.**—Subsection (e) of section 120 of the Internal Revenue Code of 1954 (relating to amounts received under qualified group legal services plans) is amended by striking out “December 31, 1984” and inserting in lieu thereof “December 31, 1985”.

(b) **REPORTING AND RECORDKEEPING REQUIREMENTS.**—

(1) **IN GENERAL.**—Subpart A of part III of subchapter A of chapter 61 of such Code is amended by inserting after section 6039C the following new section:

26 USC 6039D. “**SEC. 6039D. RETURNS AND RECORDS WITH RESPECT TO CERTAIN FRINGE BENEFIT PLANS.**

“(a) **IN GENERAL.**—Every employer maintaining a specified fringe benefit plan during any year beginning after December 31, 1984, for any portion of which the applicable exclusion applies, shall file a return (at such time and in such manner as the Secretary shall by regulations prescribe) with respect to such plan showing for such year—

“(1) the number of employees of the employer,

“(2) the number of employees of the employer eligible to participate under the plan,

“(3) the number of employees participating under the plan,

“(4) the total cost of the plan during the year, and

“(5) the name, address, and taxpayer identification number of the employer and the type of business in which the employer is engaged.

“(b) **RECORDKEEPING REQUIREMENT.**—Each employer maintaining a specified fringe benefit plan during any year shall keep such records as may be necessary for purposes of determining whether the requirements of the applicable exclusion are met.

“(c) **ADDITIONAL INFORMATION WHEN REQUIRED BY THE SECRETARY.**—Any employer—

“(1) who maintains a specified fringe benefit plan during any year for which a return is required under subsection (a), and

“(2) who is required by the Secretary to file an additional return for such year, shall file such additional return. Such additional return shall be filed at such time and in such manner as the Secretary shall prescribe and shall contain such information as the Secretary shall prescribe.

“(d) DEFINITIONS.—For purposes of this section—

“(1) SPECIFIED FRINGE BENEFIT PLAN.—The term ‘specified fringe benefit plan’ means—

“(A) any qualified group legal services plan (as defined in section 120), and

“(B) any cafeteria plan (as defined in section 125).

“(2) APPLICABLE EXCLUSION.—The term ‘applicable exclusion’ means—

“(A) section 120, in the case of a qualified group legal services plan, and

“(B) section 125, in the case of a cafeteria plan.”

(2) PENALTY.—Subsection (f) of section 6652 of such Code (relating to failure to file certain information returns, registration statements, etc.) is amended by striking out “125(h) (relating to information with respect to cafeteria plans)” and inserting in lieu thereof “6039D (relating to returns and records with respect to certain fringe benefit plans)”. 26 USC 6652.

(3) CONFORMING AMENDMENTS.—

(A) Section 120 of such Code is amended by adding at the end thereof the following new subsection: 26 USC 120.

“(f) CROSS REFERENCE.—

“For reporting and recordkeeping requirements, see section 6039D.”

(B) Section 125 of such Code (relating to cafeteria plans) is amended by striking out subsection (h) and inserting in lieu thereof the following: 26 USC 125.

“(h) CROSS REFERENCE.—

“For reporting and recordkeeping requirements, see section 6039D.”

(4) CLERICAL AMENDMENT.—The table of sections for subpart A of part III of subchapter A of chapter 61 of such Code is amended by inserting after the item relating to section 6039C the following new item:

“Sec. 6039D. Returns and records with respect to certain fringe benefit plans.”

(c) EXCLUSION FROM RAILROAD RETIREMENT TAXES FOR AMOUNTS WHICH MAY BE EXCLUDED UNDER SECTION 120.—Subsection (e) of section 3231 of such Code (defining compensation for purposes of the railroad retirement taxes) is amended by adding at the end thereof the following new paragraph: 26 USC 3231.

“(6) The term ‘compensation’ shall not include any contribution, payment, or service provided by an employer which may be excluded from the gross income of an employee, his spouse, or his dependents, under the provisions of section 120 (relating to amounts received under qualified group legal services plans).”

(d) EFFECTIVE DATES.—

(1) SUBSECTION (A).—The amendment made by subsection (a) shall apply to taxable years ending after December 31, 1984. 26 USC 120 note.

(2) SUBSECTION (B).—The amendments made by subsection (b) shall take effect on January 1, 1985. 26 USC 6039D note.

(3) SUBSECTION (C).—The amendment made by subsection (c) shall apply to remuneration paid after December 31, 1984. 26 USC 3231 note.

SEC. 2. TRANSITIONAL RULE FOR PURPOSES OF IMPUTED INTEREST RULES.

Ante, p. 559.

Subsection (b) of section 44 of the Tax Reform Act of 1984 (relating to effective date for treatment of debt instruments received in exchange for property) is amended by adding at the end thereof the following new paragraphs:

“(4) **SPECIAL RULES FOR SALES BEFORE JULY 1, 1985.**—

“(A) **IN GENERAL.**—In the case of any sale or exchange before July 1, 1985, of property other than new section 38 property—

“(i) sections 483(c)(1)(B) and 1274(c)(3) of the Internal Revenue Code of 1954 shall be applied by substituting the testing rate determined under subparagraph (B) for 110 percent of the applicable Federal rate determined under section 1274 (d) of such Code, and

“(ii) sections 483(b) and 1274(b) of such Code shall be applied by substituting the imputation rate determined under subparagraph (C) for 120 percent of the applicable Federal rate determined under section 1274(d) of such Code.

“(B) **TESTING RATE.**—For purposes of this paragraph—

“(i) **IN GENERAL.**—The testing rate determined under this subparagraph is the sum of—

“(I) 9 percent, plus

“(II) if the borrowed amount exceeds \$2,000,000, the excess determined under clause (ii) multiplied by a fraction the numerator of which is the borrowed amount to the extent it exceeds \$2,000,000, and the denominator of which is the borrowed amount.

“(ii) **EXCESS.**—For purposes of clause (i), the excess determined under this clause is the excess of 110 percent of the applicable Federal rate determined under section 1274(d) of such Code over 9 percent.

“(C) **IMPUTATION RATE.**—For purposes of this paragraph—

“(i) **IN GENERAL.**—The imputation rate determined under this subparagraph is the sum of—

“(I) 10 percent, plus

“(II) if the borrowed amount exceeds \$2,000,000, the excess determined under clause (ii) multiplied by a fraction the numerator of which is the borrowed amount to the extent it exceeds \$2,000,000, and the denominator of which is the borrowed amount.

“(ii) **EXCESS.**—For purposes of clause (i), the excess determined under this clause is the excess of 120 percent of the applicable Federal rate determined under section 1274(d) of such Code over 10 percent.

“(D) **BORROWED AMOUNT.**—For purposes of this paragraph, the term ‘borrowed amount’ means the stated principal amount.

“(E) **AGGREGATION RULES.**—For purposes of this paragraph—

“(i) all sales or exchanges which are part of the same transaction (or a series of related transactions) shall be treated as one sale or exchange, and

“(ii) all debt instruments arising from the same transaction (or a series of related transactions) shall be treated as one debt instrument.

“(F) CASH METHOD OF ACCOUNTING.—In the case of any sale or exchange before July 1, 1985, of property (other than new section 38 property) used in the active business of farming and in which the borrowed amount does not exceed \$2,000,000—

“(i) section 1274 of the Internal Revenue Code of 1954 shall not apply, and

“(ii) interest on the obligation issued in connection with such sale or exchange shall be taken into account by both buyer and seller on the cash receipts and disbursements method of accounting.

The Secretary of the Treasury or his delegate may by regulation prescribe rules to prevent the mismatching of interest income and interest deductions in connection with obligations on which interest is computed on the cash receipts and disbursements method of accounting.

“(5) GENERAL RULE FOR ASSUMPTIONS OF LOANS.—Except as provided in paragraphs (6) and (7), if any person—

“(A) assumes, in connection with the sale or exchange of property, any debt obligation, or

“(B) acquires any property subject to any debt obligation, sections 1274 and 483 of the Internal Revenue Code of 1954 shall apply to such debt obligation by reason of such assumption (or such acquisition).

“(6) EXCEPTION FOR ASSUMPTIONS OF LOANS MADE ON OR BEFORE OCTOBER 15, 1984.—

“(A) IN GENERAL.—If any person—

“(i) assumes, in connection with the sale or exchange of property, any debt obligation described in subparagraph (B) and issued on or before October 15, 1984, or

“(ii) acquires any property subject to any such debt obligation issued on or before October 15, 1984,

sections 1274 and 483 of the Internal Revenue Code of 1954 shall not be applied to such debt obligation by reason of such assumption (or such acquisition) unless the terms and conditions of such debt obligation are modified in connection with the assumption (or acquisition).

“(B) OBLIGATIONS DESCRIBED IN THIS SUBPARAGRAPH.—A debt obligation is described in this subparagraph if such obligation—

“(i) was issued on or before October 15, 1984, and

“(ii) was assumed (or property was taken subject to such obligation) in connection with the sale or exchange of property (including a deemed sale under section 338(a)) the sales price of which is greater than \$100,000,000.

“(C) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to effect the purpose of this paragraph and paragraph (5), including regulations relating to tax-exempt obligations, government subsidized loans, or other instruments.

“(D) CERTAIN EXEMPT TRANSACTIONS.—The Secretary shall prescribe regulations under which any transaction shall be exempt from the application of this paragraph if

such exemption is not likely to significantly reduce the tax liability of the purchaser by reason of the overstatement of the adjusted basis of the acquired asset.

“(7) EXCEPTION FOR ASSUMPTIONS OF LOANS WITH RESPECT TO CERTAIN PROPERTY.—

“(A) IN GENERAL.—If any person—

“(i) assumes, in connection with the sale or exchange of property described in subparagraph (B), any debt obligation, or

“(ii) acquires any such property subject to any such debt obligation,

sections 1274 and 483 of the Internal Revenue Code of 1954 shall not be applied to such debt obligation by reason of such assumption (or such acquisition) unless the terms and conditions of such debt obligation are modified in connection with the assumption (or acquisition).

“(B) SALES OR EXCHANGES TO WHICH THIS PARAGRAPH APPLIES.—This paragraph shall apply to any of the following sales or exchanges:

“(i) RESIDENCES.—Any sale or exchange of a residence by an individual, an estate, or a testamentary trust, but only if—

“(I) either—

“(aa) such residence on the date of such sale or exchange (or in the case of an estate or testamentary trust, on the date of death of the decedent) was the principal residence (within the meaning of section 1034) of the individual or decedent, or

“(bb) during the 2-year period ending on such date, no substantial portion of such residence was of a character subject to an allowance under this title for depreciation (or amortization in lieu thereof) in the hands of such individual or decedent, and

“(II) such residence was not at any time, in the hands of such individual, estate, testamentary trust, or decedent, described in section 1221(1) (relating to inventory, etc.).

“(ii) FARMS.—Any sale or exchange by a qualified person of—

“(I) real property which was used as a farm (within the meaning of section 6420(c)(2)) at all times during the 3-year period ending on the date of such sale or exchange, or

“(II) tangible personal property which was used in the active conduct of the trade or business of farming on such farm and is sold in connection with the sale of such farm,

but only if such property is sold or exchanged for use in the active conduct of the trade or business of farming by the transferee of such property.

“(iii) TRADES OR BUSINESSES.—

“(I) IN GENERAL.—Any sale or exchange by a qualified person of any trade or business.

“(II) APPLICATION WITH SUBPARAGRAPH (B).—This subparagraph shall not apply to any sale or

exchange of any property described in subparagraph (B).

“(III) NEW SECTION 38 PROPERTY.—This subparagraph shall not apply to the sale or exchange of any property which, in the hands of the transferee, is new section 38 property.

“(iv) SALE OF BUSINESS REAL ESTATE.—Any sale or exchange of any real property used in an active trade or business by a person who would be a qualified person if he disposed of his entire interest.

This subparagraph shall not apply to any transaction described in the last sentence of paragraph (6)(B) (relating to transaction in excess of \$100,000,000).

“(C) DEFINITIONS.—For purposes of this paragraph—

“(i) QUALIFIED PERSON DEFINED.—The term ‘qualified person’ means—

“(I) a person who—

“(aa) is an individual, estate, or testamentary trust,

“(bb) is a corporation which immediately prior to the date of the sale or exchange has 35 or fewer shareholders, or

“(cc) is a partnership which immediately prior to the date of the sale or exchange has 35 or fewer partners,

“(II) is a 10-percent owner of a farm or a trade or business,

“(III) pursuant to a plan, disposes of—

“(aa) an interest in a farm or farm property, or

“(bb) his entire interest in a trade or business and all substantially similar trades or businesses, and

“(IV) the ownership interest of whom may be readily established by reason of qualified allocations (of the type described in section 168(j)(9)(B), one class of stock, or the like).

“(ii) 10-PERCENT OWNER DEFINED.—The term ‘10-percent owner’ means a person having at least a 10-percent ownership interest, applying the attribution rules of section 318 (other than subsection (a)(4)).

“(iii) **TRADE OR BUSINESS DEFINED.**—

“(I) **IN GENERAL.**—The term ‘trade or business’ means any trade or business, including any line of business, qualifying as an active trade or business within the meaning of section 355.

“(II) **RENTAL OF REAL PROPERTY.**—For purposes of this clause, the holding of real property for rental shall not be treated as an active trade or business.”

Approved October 31, 1984.

LEGISLATIVE HISTORY—H.R. 5361:

HOUSE REPORT No. 98-1050 (Comm. on Ways and Means).
CONGRESSIONAL RECORD, Vol. 130 (1984):

Oct. 1, considered and passed House.

Oct. 11, considered and passed Senate, amended; House concurred in Senate amendment with an amendment; Senate concurred in House amendment with an amendment; House concurred in Senate amendment.

Public Law 98-613
98th Congress

An Act

To provide for the conservation and management of Atlantic striped bass, and for other purposes.

Oct. 31, 1984
[H.R. 5492]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Atlantic Striped Bass Conservation Act”.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds and declares the following:
(1) Atlantic striped bass are of historic commercial and recreational importance and economic benefit to the Atlantic coastal States and to the Nation.

(2) As a consequence of increased fishing pressure, environmental pollution, the loss and alteration of habitat, and the inadequacy of fishery conservation and management practices and controls, certain stocks of Atlantic striped bass have been severely reduced in number.

(3) Because no single government entity has full management authority throughout the range of the Atlantic striped bass, the harvesting and conservation of these fish have been subject to diverse, inconsistent, and intermittent State regulation that has been detrimental to the long-term maintenance of stocks of the species and to the interests of fishermen and the Nation as a whole.

(4) It is in the national interest to implement effective procedures and measures to provide for effective interjurisdictional conservation and management of this species.

(b) PURPOSE.—It is therefore declared to be the purpose of the Congress in this Act to support and encourage the development, implementation, and enforcement of effective interstate action regarding the conservation and management of the Atlantic striped bass.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) The term “Act of 1976” means the Act entitled “An Act to provide for the conservation and management of the fisheries, and for other purposes”, approved April 13, 1976 (16 U.S.C. 1801 et seq.).

(2) The term “Atlantic striped bass” means members of stocks or populations of the species *Morone saxatilis*, which ordinarily migrate seaward of the waters described in paragraph (3)(A).

(3) The term “coastal waters” means—

(A) all waters, whether salt or fresh, of a coastal State shoreward of the baseline from which the territorial sea of the United States is measured; and

Atlantic Striped
Bass
Conservation
Act.
16 USC 1851
note.
Fish and
fishing.
16 USC 1851
note.

16 USC 1851
note.

(B) the waters of a coastal State seaward from the baseline referred to in subparagraph (A) to the inner boundary of the exclusive economic zone.

(4) The term "coastal State" means Pennsylvania and each State of the United States bordering on the Atlantic Ocean north of the State of South Carolina.

(5) The term "Commission" means the Atlantic States Marine Fisheries Commission established under the interstate compact consented to and approved by the Congress in Public Laws 77-539 and 81-721.

56 Stat. 267,
64 Stat. 467.

(6) The term "fishing" means—

(A) the catching, taking, or harvesting of Atlantic striped bass, except when incidental to harvesting that occurs in the course of commercial or recreational fish catching activities directed at a species other than Atlantic striped bass;

(B) the attempted catching, taking, or harvesting of Atlantic striped bass; and

(C) any operation at sea in support of, or in preparation for, any activity described in subparagraph (A) or (B).

The term does not include any scientific research authorized by the Federal Government or by any State government.

(7) The term "Plan" means the Interstate Fisheries Management Plan for Striped Bass, dated October 1, 1981, prepared by the Commission, and all amendments thereto related to fishing, including interim restoration measures for Chesapeake Bay striped bass stocks as developed by the Atlantic States Marine Fisheries Commission Striped Bass Management Board in December 1983, whether or not such language is formally adopted as an amendment to the Plan of October 1, 1981.

(8) The term "Secretary" means the Secretary of Commerce.

(9) The term "Secretaries" means the Secretary of Commerce and the Secretary of the Interior.

16 USC 1851
note.

SEC. 4. COMMISSION FUNCTIONS.

(a) **COASTAL STATE REGULATORY MEASURES.**—The Commission shall decide during June 1985 whether each coastal state has adopted all regulatory measures necessary to fully implement the Plan in its coastal waters. The Commission shall immediately notify the Secretaries of each negative determination made by it under the preceding sentence.

(b) **MONITORING OF ENFORCEMENT.**—Commencing on July 1, 1985, the Commission shall monitor on a biannual basis the enforcement of the Plan by each coastal State for purposes of deciding if that enforcement is satisfactory. Enforcement by a coastal State may not be considered satisfactory by the Commission if, in its view, the enforcement is being carried out in such a manner that the implementation of the Plan within its coastal waters is being, or will likely be, substantially and adversely affected.

(c) **NOTIFICATION TO SECRETARY OF RESULTS OF ENFORCEMENT MONITORING.**—On December 30, 1985, and on the closing date of each biannual period thereafter, the Commission shall notify the Secretaries of the results of the monitoring under subsection (b) of each coastal State.

(d) **SECRETARIAL ACTION AFTER NOTIFICATION.**—Immediately upon receiving notice from the Commission—

(1) under subsection (a) that a coastal State has not taken the actions described in that subsection; or

(2) under subsection (c) that the enforcement of the Plan by a coastal State is not satisfactory;

the Secretary shall determine, within 30 days, whether that coastal State is in compliance with the Plan and, if the State is not in compliance, the Secretary shall declare a moratorium on fishing for Atlantic striped bass within the coastal waters of that coastal State. In making such a determination, the Secretary shall carefully consider and review the comments of the Commission, that coastal State in question, and the Secretary of the Interior.

SEC. 5. MORATORIUM.

16 USC 1851
note.

(a) **DEFINITIONS.**—For purposes of this section—

(1) The term “moratorium area” means the coastal waters with respect to which a declaration under section 4(d) applies.

(2) The term “moratorium period” means the period beginning on the day on which moratorium is declared under section 4(d) regarding a coastal State and ending on the day on which the Commission notifies the Secretary that that State has taken appropriate remedial action with respect to those matters that were the cause of the moratorium being declared.

(b) **PROHIBITED ACTS DURING MORATORIUM.**—During a moratorium period, it is unlawful for any person—

(1) to engage in fishing within the moratorium area;

(2) to land, or attempt to land, Atlantic striped bass that are caught, taken, or harvested in violation of paragraph (1);

(3) to land lawfully harvested Atlantic striped bass within the boundaries of a coastal State when a moratorium declared under section 4(d) applies to that State; or

(4) to fail to return to the water Atlantic striped bass to which the moratorium applies that are caught incidental to harvesting that occurs in the course of commercial or recreational fish catching activities, regardless of the physical condition of the striped bass when caught.

(c) **PENALTIES AND FORFEITURES.**—(1) Any person who is found by the Secretary, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act that is unlawful under subsection (b), shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed \$1,000 for each violation. Each day of continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretary by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited act committed and, with respect to the violator, the degree of culpability, any history of prior violations, ability to pay, and such other matters as justice may require.

(2) Subsections (b) through (e) of section 308 of the Act of 1976 (16 U.S.C. 1858(b)–(e); relating to review of civil penalties, action upon failure to pay assessment, compromise, and subpoenas) shall apply to penalties assessed under paragraph (1) to the same extent and in the same manner as if those penalties were assessed under subsection (a) of such section 308.

(d) **CIVIL FORFEITURES.**—(1) Any vessel (including its gear, equipment, appurtenances, stores, and cargo) used, and any fish (or the fair market value thereof) taken or retained, in any manner, in

connection with, or the result of, the commission of any act that is unlawful under subsection (b), shall be subject to forfeiture to the United States. All or part of the vessel may, and all such fish (or the fair market value thereof) shall, be forfeited to the United States under a civil proceeding described in paragraph (2). The district courts of the United States have jurisdiction over proceedings under this subsection.

(2) Subsections (c) through (e) of section 310 of the Act of 1976 (16 U.S.C. 1860(c)–(e); relating to judgment, procedure, and rebuttable presumptions) apply with respect to proceedings for forfeiture commenced under this subsection to the same extent and in the same manner as if the proceeding were commenced under subsection (a) of such section 310.

(e) **ENFORCEMENT.**—The Secretary shall enforce a moratorium declared under section 4(d). The Secretary may, by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal department or agency and of any agency of a coastal State in carrying out that enforcement.

16 USC 1851
note.

SEC. 6. COMPREHENSIVE ANNUAL SURVEYS.

For the purposes of implementing the provisions of this Act, the Secretary and the Secretary of the Interior shall jointly conduct a comprehensive annual survey of the Atlantic striped bass fisheries. Each survey shall include, but not be limited to, a compilation and assessment of the recreational and commercial landings of that species in the coastal States during the period considered in the survey. The results of each annual survey shall be published in the Federal Register.

Federal
Register,
publication.
16 USC 1851
note.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

Funds for activities in fiscal year 1985 under this Act shall be made available only from funds appropriated for the Department of Commerce and the Department of the Interior for fiscal year 1985. For fiscal year 1986, there are authorized such sums as may be necessary or appropriate to carry out the provisions of this Act.

16 USC 1851
note.
Report.

SEC. 8. SECRETARIAL STUDY.

Within six months of the date of enactment of this Act, the Secretaries shall review the existing Plan and shall report to the Commission, the Chairman of the House Committee on Merchant Marine and Fisheries, the Chairman of the Senate Committee on Commerce, Science and Transportation and the Chairman of the Senate Committee on Environment and Public Works on the adequacy of the Plan to achieve the purposes of this Act. Such report shall include recommendations for additional measures that may need to be taken and include recommendations concerning specific State actions regarding the management and conservation of striped bass.

16 USC 1851
note.

SEC. 9. EFFECTIVE PERIOD.

Sections 1 through 8 shall take effect upon enactment of this Act and shall cease to have force and effect 18 months after the date of enactment of this Act.

SEC. 10. MISCELLANEOUS PROVISIONS.

(a) Section 7 of the Anadromous Fish Conservation Act (16 U.S.C. 757g) is amended by amending subsection (d) by striking out “and

September 30, 1984.” and inserting in lieu thereof “September 30, 1984, September 30, 1985, and September 30, 1986.”.

(b) There are authorized to be appropriated to the Department of Commerce, \$200,000 for each of fiscal years 1986 and 1987, and the amount that is appropriated under this authority for each such year shall be apportioned equally by the Secretary between the States of Maryland and Virginia for use by each of them for the propagation, in existing hatchery facilities of that State, of striped bass for the replenishment of the Chesapeake Bay stock: (1) if that State, for each such fiscal year, expends an equal amount of State moneys for the propagation of such stock in its hatchery facilities; and (2) if the Secretary considers that that State is in full compliance with the Plan.

Appropriation
authorization.

(c) Section 207 of the Act entitled “An Act to provide for the establishment of the Bandon Marsh National Wildlife Refuge, Coos County, State of Oregon, and for other purposes” (Public Law 97-137) is amended to read as follows:

95 Stat. 1712.

“AUTHORIZATION OF APPROPRIATIONS

“SEC. 207. The Secretary of the Army is authorized to carry out his responsibilities under this title, at an estimated cost of \$1,040,000. Any sums appropriated under this title shall remain available until expended.”.

(d) The amendment made by subsection (c) shall take effect October 1, 1986.

Effective date.

Approved October 31, 1984.

LEGISLATIVE HISTORY—H.R. 5492:

HOUSE REPORTS: No. 98-1029 and Pt. 2 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 130 (1984):

Oct. 4, considered and passed House.

Oct. 11, considered and passed Senate, amended; House concurred in Senate amendment.

Public Law 98-614
98th Congress

An Act

Nov. 8, 1984

[H.R. 1314]

To extend and revise the authority of the President under chapter 9 of title 5, United States Code, to transmit to the Congress plans for the reorganization of the agencies of the executive branch of the Government, and for other purposes.

Reorganization
Act
Amendments of
1984.
5 USC 901 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Reorganization Act Amendments of 1984".

EXTENSION OF AUTHORITY

SEC. 2. (a) Subsection (b) of section 905 of title 5, United States Code, is amended to read as follows: "(b) A provision contained in a reorganization plan may take effect only if the plan is transmitted to Congress (in accordance with section 903(b)) on or before December 31, 1984."

(b) Paragraph (1) of section 908 of title 5, United States Code, is amended by striking out "described by section 909 of this title" and inserting in lieu thereof "with respect to any reorganization plans transmitted to Congress (in accordance with section 903(b) of this chapter) on or before December 31, 1984".

METHOD OF TAKING EFFECT

SEC. 3. (a) Section 906 of title 5, United States Code, is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following:

President of U.S.

"(a) Except as provided under subsection (c) of this section, a reorganization plan shall be effective upon approval by the President of a resolution (as defined in section 909) with respect to such plan, if such resolution is passed by the House of Representatives and the Senate, within the first period of 90 calendar days of continuous session of Congress after the date on which the plan is transmitted to Congress. Failure of either House to act upon such resolution by the end of such period shall be the same as disapproval of the resolution."; and

(2) by striking out everything after "otherwise is effective" in subsection (c) and inserting in lieu thereof a period.

5 USC 903.

(b) Chapter 9 of title 5, United States Code, is further amended—

(1) by striking out "thirty calendar days" in section 903(c) and inserting in lieu thereof "60 calendar days";

5 USC 910.

(2) by striking out "sixty calendar days" in such section and inserting in lieu thereof "90 calendar days";

5 USC 911.

(3) by striking out "45 calendar days" in section 910(b) and inserting in lieu thereof "75 calendar days"; and

(4) by striking out "45 calendar days" in section 911 and inserting in lieu thereof "75 calendar days".

(c) Section 909 of title 5, United States Code, is amended—

(1) by striking out "a resolution of either House of Congress" and inserting in lieu thereof "a joint resolution of the Congress"; and

(2) by striking out "the _____ does not favor" and inserting in lieu thereof "the Congress approves".

(d) Section 912 of title 5, United States Code, is amended—

(1) by striking out "agreed to or disagreed to" in subsection (b) and inserting in lieu thereof "passed or rejected"; and

(2) by striking out "final approval" in subsection (c) and inserting in lieu thereof "final passage".

(e)(1) Section 912 is amended by adding at the end thereof the following new subsection:

(“e) If, prior to the passage by one House of a resolution of that House, that House receives a resolution with respect to the same reorganization plan from the other House, then—

“(1) the procedure in that House shall be the same as if no resolution had been received from the other House; but

"(2) the vote on final passage shall be on the resolution of the other House."

(2) The heading of such section is amended by striking out "disapproval" and inserting in lieu thereof "passage".

(3) The table of contents for chapter 9 of title 5, United States Code, is amended by striking out “disapproval” in the item pertaining to section 912 and inserting in lieu thereof “passage”.

INFORMATION TO ACCOMPANY PLANS

SEC. 4. Section 903(b) of title 5, United States Code, is amended by adding at the end thereof the following new sentences: "In addition, the President's message shall include an implementation section which shall (1) describe in detail (A) the actions necessary or planned to complete the reorganization, (B) the anticipated nature and substance of any orders, directives, and other administrative and operational actions which are expected to be required for completing or implementing the reorganization, and (C) any preliminary actions which have been taken in the implementation process, and (2) contain a projected timetable for completion of the implementation process. The President shall also submit such further background or other information as the Congress may require for its consideration of the plan."

President of U.S.

RESTRICTIONS ON CONTENTS OF PLANS

SEC. 5. (a) Section 905(a) of title 5, United States Code, is amended—

(1) by inserting “or renaming an existing executive department” immediately after “a new executive department” in paragraph (1);

(2) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting immediately after paragraph (4) the following new paragraph:

“(5) creating a new agency which is not a component or part of an existing executive department or independent agency;”.

(b) Section 904(1) of such title is amended by inserting “, subject to section 905,” immediately after “may”.

Approved November 8, 1984.

LEGISLATIVE HISTORY—H.R. 1314:

HOUSE REPORTS: No. 98-128, Pt. 1 (Comm. on Government Operations) and Pt. 2 (Comm. on Rules).

CONGRESSIONAL RECORD, Vol. 130 (1984):

Apr. 10, considered and passed House.

Oct. 11, considered and passed Senate.

Public Law 98-615
98th Congress

An Act

To provide retirement equity for former spouses of civil service retirees, and for other purposes.

Nov. 8, 1984
[H.R. 2300]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “Civil Service Retirement Spouse Equity Act of 1984”.

Civil Service
Retirement
Spouse Equity
Act of 1984.
5 USC 8331 note.
5 USC 8331.

SEC. 2. Chapter 83 of title 5, United States Code, is amended—

(1) in section 8331—

(A) by striking out “and” at the end of paragraph (21);

(B) by striking out the period at the end of paragraph (22) and inserting in lieu thereof a semicolon; and

(C) by adding at the end thereof the following new paragraphs:

“(23) ‘former spouse’ means a former spouse of an individual—

“(A) if such individual performed at least 18 months of civilian service covered under this subchapter as an employee or Member, and

“(B) if the former spouse was married to such individual for at least 9 months; and

“(24) ‘Indian court’ means an Indian court as defined by section 201(3) of the Act entitled ‘An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes’, approved April 11, 1968 (25 U.S.C. 1301(3); 82 Stat. 77).”;

(2) by amending section 8334(h) to read as follows:

5 USC 8334.

“(h) For the purpose of survivor annuities, deposits authorized by subsections (c), (d), and (j) of this section and by section 8339(j)(5)(C) and the last sentence of section 8339(k)(2) of this title may also be made by a survivor of an employee or Member.”;

Infra.
Infra.

(3) in section 8339—

(A) by amending subsection (j) to read as follows:

“(j)(1) The annuity computed under subsections (a)–(i) and (n) of this section (or a portion of the annuity, if jointly designated for this purpose by the employee or Member and the spouse of the employee or Member under procedures prescribed by the Office of Personnel Management) for an employee or Member who is married at the time of retiring under this subchapter is reduced as provided in paragraph (4) of this subsection in order to provide a survivor annuity for the spouse under section 8341(b) of this title, unless the employee or Member and the spouse jointly waive the spouse’s right to a survivor annuity in a written election filed with the Office at the time that the employee or Member retires. Each such election shall be made in accordance with such requirements as the Office shall, by regulation, prescribe, and shall be irrevocable. The Office shall provide, by regulation, that an employee or Member may waive the survivor annuity without the spouse’s consent if the employee or Member establishes to the satisfaction of the Office—

Post, p. 3199.

Regulations.
Waiver.

“(A) that the spouse’s whereabouts cannot be determined, or

“(B) that, due to exceptional circumstances, requiring the employee or Member to seek the spouse’s consent would otherwise be inappropriate.

Post, p. 3199.

“(2) If an employee or Member has a former spouse who is entitled to a survivor annuity as provided in section 8341(h) of this title, the annuity of the employee or Member computed under subsections (a)–(i) and (n) of this section (or any designated portion of the annuity, in the event that the former spouse is entitled to less than 55 percent of the employee or Member’s annuity) is reduced as provided in paragraph (4) of this subsection.

“(3) An employee or Member who has a former spouse may elect, under procedures prescribed by the Office, to have the annuity computed under subsections (a)–(i) and (n) of this section or a portion thereof reduced as provided in paragraph (4) of this subsection in order to provide a survivor annuity for such former spouse under section 8341(h) of this title. An election under this paragraph shall be made at the time of retirement or, if later, within 2 years after the date on which the marriage of the former spouse to the employee or Member is dissolved, subject to a deposit in the Fund by the retired employee or Member, within such 2-year period, of an amount determined by the Office, as nearly as may be administratively feasible, to reflect the amount by which the annuity of such employee or Member would have been reduced if the election had been continuously in effect since the date the annuity commenced, plus interest. For the purposes of the preceding sentence, the annual rate of interest for each year during which the annuity would have been reduced if the election had been in effect since the date the annuity commenced shall be 6 percent. If the employee or Member does not make such a deposit, the Office shall collect the amount of the deposit by offset against the employee or Member’s annuity, up to a maximum of 25 percent of the net annuity otherwise payable to the employee or Member, and the employee or Member is deemed to consent to such offset. An election under this paragraph—

“(A) shall not be effective to the extent that it—

“(i) conflicts with—

Post, p. 3199.

“(I) any court order or decree referred to in subsection (h)(1) of section 8341 of this title, which was issued before the date of such election; or

“(II) any agreement referred to in such subsection which was entered into before such date; or

Post, p. 3199.

“(ii) would cause the total of survivor annuities payable under subsections (b), (d), (f), and (h) of section 8341 of this title based on the service of the employee or Member to exceed 55 percent of the annuity to which the employee or Member is entitled under subsections (a)–(i) and (n) of this section; and

“(B) shall not be effective, in the case of an employee or Member who is then married, unless it is made with the spouse’s written consent.

Regulations.
Waiver.

The Office shall provide by regulation that subparagraph (B) of this paragraph may be waived for either of the reasons set forth in the last sentence of paragraph (1) of this subsection. In the case of a retired employee or Member whose annuity is being reduced in order to provide a survivor annuity for a former spouse, an election to provide or increase a survivor annuity for any other former spouse (and to continue an appropriate reduction) may be made

within the same period that, and subject to the same conditions under which, an election could be made under paragraph (5)(B) of this subsection for a current spouse (subject to the provisions of this paragraph relating to consent of a current spouse, if the retired employee or Member is then married). The opportunity to make an election under the preceding sentence is in addition to any opportunity otherwise afforded under this paragraph.

“(4) In order to provide a survivor annuity or combination of survivor annuities under subsections (b), (d), (f), and (h) of section 8341 of this title, the annuity of an employee or Member (or any designated portion or portions thereof) is reduced by 2½ percent of the first \$3,600 thereof plus 10 percent of so much thereof as exceeds \$3,600.

Post, p. 3199.

“(5)(A) Any reduction in an annuity for the purpose of providing a survivor annuity for the current spouse of a retired employee or Member shall be terminated for each full month—

Termination dates.

“(i) after the death of the spouse, or

“(ii) after the dissolution of the spouse’s marriage to the employee or Member, except that an appropriate reduction shall be made thereafter if the spouse is entitled, as a former spouse, to a survivor annuity under section 8341(h) of this title.

Post, p. 3199.

“(B)(i) Any reduction in an annuity for the purpose of providing a survivor annuity for a former spouse of a retired employee or Member shall be terminated for each full month after the former spouse remarries before reaching age 55 or dies, unless the employee or Member elects, within 2 years after the former spouse’s death or remarriage, to continue the reduction in order to provide a survivor annuity or increase the survivor annuity for the current spouse of the retired employee or Member.

“(ii) Notwithstanding clause (i) of this subparagraph—

“(I) a reduction in an annuity shall not be terminated under such clause, and

“(II) an election made under such clause with respect to a current spouse after a remarriage before age 55 or the death of a former spouse shall not be effective,

if, and to the extent that, continuation of the reduction is necessary in order to provide for any survivor annuity, or any increase in a survivor annuity, which becomes payable under section 8341(h)(2) of this title to any other former spouse as a result of such remarriage or death.

“(C)(i) Upon remarriage, a retired employee or Member who was married at the time of retirement (including an employee or Member whose annuity was not reduced to provide a survivor annuity for the employee or Member’s spouse or former spouse as of the time of retirement) may irrevocably elect during such marriage, in a signed writing received by the Office within 2 years after such remarriage or, if later, within 2 years after the death or remarriage of any former spouse of such employee or Member who was entitled to a survivor annuity under section 8341(h) of this title (or of the last such surviving former spouse, if there was more than one), a reduction in the employee or Member’s annuity under paragraph (4) of this subsection for the purpose of providing an annuity for such employee or Member’s spouse in the event such spouse survives the employee or Member.

“(ii) Such election and reduction shall be effective the first day of the second month after the election is received by the Office, but not less than 9 months after the date of the remarriage, and the retired

Effective date.

employee or Member shall, within 2 years after the date of the remarriage or, if later, the death or remarriage of the former spouse (or of the last such surviving former spouse), deposit in the Fund an amount determined by the Office of Personnel Management, as nearly as may be administratively feasible, to reflect the amount by which the annuity of such retired employee or Member would have been reduced if the election had been in effect since the date of retirement or, if later, the date the previous reduction in such retired employee or Member's annuity was terminated under subparagraph (A) or (B) of this paragraph, plus interest. For the purposes of the preceding sentence, the annual rate of interest for each year during which an annuity would have been reduced if the election had been in effect on and after the applicable date referred to in such sentence shall be 6 percent.

"(iii) If the employee or Member does not make such deposit, the Office shall collect such amount by offset against the employee or Member's annuity, up to a maximum of 25 percent of the net annuity otherwise payable to the employee or Member, and the employee or Member is deemed to consent to such offset.

"(iv) Notwithstanding any other provision of this subparagraph, an election under this subparagraph may not be made for the purpose of providing an annuity in the case of a spouse by remarriage if such spouse was married to the employee or Member at the time of such employee or Member's retirement, and all rights to survivor benefits for such spouse under this subchapter based on marriage to such employee or Member were then waived under paragraph (1) of this subsection or a similar prior provision of law.";

(B) in subsection (k)(1) by striking out "unmarried" in the first sentence thereof; and

(C) by amending subsection (k)(2) to read as follows:

"(2)(A) An employee or Member, who is unmarried at the time of retiring under a provision of law which permits election of a reduced annuity with a survivor annuity payable to such employee or Member's spouse and who later marries, may irrevocably elect, in a signed writing received in the Office within 2 years after such employee or Member marries or, if later, within 2 years after the death or remarriage of any former spouse of such employee or Member who was entitled to a survivor annuity under section 8341(h) of this title (or of the last such surviving former spouse, if there was more than one), a reduction in the retired employee or Member's current annuity as provided in subsection (j) of this section.

Effective date.

"(B)(i) The election and reduction shall take effect the first day of the first month beginning 9 months after the date of marriage and shall prospectively void any election previously made under paragraph (1) of this subsection.

"(ii) Within 2 years after the date of marriage, the retired employee or Member (other than an employee or Member who made a previous election under paragraph (1) of this subsection) shall deposit in the Fund an amount determined by the Office of Personnel Management, as nearly as may be administratively feasible, to reflect the amount by which the retired employee or Member's annuity would have been reduced under subsection (j)(4) of this section since the commencing date of the annuity, if the employee or Member had been married at the time of retirement and had elected to provide a survivor annuity at that time, plus interest. For the purposes of the preceding sentence, the annual rate of interest for

each year during which the annuity would have been reduced if the election had been in effect since the date of the annuity commenced shall be 6 percent.

“(C) If the employee or Member does not make such deposit, the Office shall collect such amount by offset against the employee or Member’s annuity, up to a maximum of 25 percent of the net annuity otherwise payable to the employee or Member, and the employee or Member is deemed to consent to such offset.”;

(4) in section 8341—

5 USC 8341.

(A) in paragraphs (1)(A) and (2)(A) of subsection (a), by striking out “1 year” and inserting in lieu thereof “9 months”;

(B) in subsection (b)—

(i) by amending paragraph (1) to read as follows:

“(b)(1) Except as provided in paragraph (2) of this subsection, if an employee or Member dies after having retired under this subchapter and is survived by a widow or widower, the widow or widower is entitled to an annuity equal to 55 percent (or 50 percent if retired before October 11, 1962) of an annuity computed under section 8339(a)-(i) and (n) of this title as may apply with respect to the annuitant, or of such portion thereof as may have been designated for this purpose under section 8339(j)(1) of this title, unless the right to a survivor annuity was waived under such section 8339(j)(1) or, in the case of remarriage, the employee or Member did not file an election under section 8339(j)(5)(C) or section 8339(k)(2) of this title, as the case may be.”;

5 USC 8339.

Ante, p. 3195.

Ante, p. 3195.

(ii) in the second and third sentences of paragraph (3) by striking out “spouse, widow,” each place it appears and inserting in lieu thereof “widow”;

(iii) by striking out “60 years of age” at the end of paragraph (3) and inserting in lieu thereof “55 years of age”; and

(iv) by adding at the end thereof the following new paragraph:

“(4) Notwithstanding the preceding provisions of this subsection, the annuity payable under this subsection to the widow or widower of a retired employee or Member may not exceed the difference between—

“(A) the amount which would otherwise be payable to such widow or widower under this subsection (determined without regard to any waiver or designation under section 8339(j)(1) of this title or a prior similar provision of law), and

“(B) the amount of the survivor annuity payable to any former spouse of such employee or Member under subsection (h) of this section.”;

(C) in subsection (d)—

(i) by inserting after the first sentence the following: “Notwithstanding the preceding sentence, the annuity payable under this subsection to the widow or widower of an employee or Member may not exceed the difference between—

“(A) the amount which would otherwise be payable to such widow or widower under this subsection, and

“(B) the amount of the survivor annuity payable to any former spouse of such employee or Member under subsection (h) of this section.”; and

(ii) in the last sentence, by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively,

and by striking out “60 years of age” and inserting in lieu thereof “55 years of age”;

(D) in subsection (e)—

(i) in paragraph (1), by inserting “or a former spouse who is the natural or adoptive parent of a surviving child of the employee or Member” after “survived by a spouse” each place it appears; and

(ii) by amending the last sentence of paragraph (2) to read as follows: “On the death of the surviving spouse or former spouse or termination of the annuity of a child, the annuity of any other child or children shall be recomputed and paid as though the spouse, former spouse, or child had not survived the employee or Member.”;

(E) in subsection (f) by inserting after paragraph (2) the following:

“Notwithstanding the preceding sentence, an annuity payable under this subsection to the surviving spouse of a Member may not exceed the difference between—

“(A) the annuity which would otherwise be payable to such surviving spouse under this subsection, and

“(B) the amount of the survivor annuity payable to any former spouse of such Member under subsection (h) of this section.”; and

(F) in subsection (g) by striking out “60 years of age” and inserting in lieu thereof “55 years of age”; and

(G) by adding at the end thereof the following new subsections:

“(h)(1) Subject to paragraphs (2) through (5) of this subsection, a former spouse of a deceased employee, Member, or annuitant is entitled to a survivor annuity under this subsection, if and to the extent expressly provided for in an election under section 8339(j)(3) of this title, or in the terms of any decree of divorce or annulment or any court order or court-approved property settlement agreement incident to such decree.

“(2)(A) The annuity payable to a former spouse under this subsection may not exceed the difference between—

“(i) the amount applicable in the case of such former spouse, as determined under subparagraph (B) of this paragraph, and

“(ii) the amount of any annuity payable under this subsection to any other former spouse of the employee, Member, or annuitant, based on an election previously made under section 8339(j)(3) of this title, or a court order previously issued.

“(B) The applicable amount, for purposes of subparagraph (A)(i) of this paragraph in the case of a former spouse, is the amount which would be applicable—

“(i) under subsection (b)(4)(A) of this section in the case of a widow or widower, if the deceased was an employee or Member who died after retirement;

“(ii) under subparagraph (A) of subsection (d) of this section in the case of a widow or widower, if the deceased was an employee or Member described in the first sentence of such subsection; or

“(iii) under subparagraph (A) of subsection (f) of this section in the case of a surviving spouse, if the deceased was a Member described in the first sentence of such subsection.

“(3) The commencement and termination of an annuity payable under this subsection shall be governed by the terms of the applica-

Ante, p. 3195.

Effective dates.
Termination
dates.

ble order, decree, agreement, or election, as the case may be, except that any such annuity—

“(A) shall not commence before—

“(i) the day after the employee, Member, or annuitant dies, or

“(ii) the first day of the second month beginning after the date on which the Office receives written notice of the order, decree, agreement, or election, as the case may be, together with such additional information or documentation as the Office may prescribe,

whichever is later, and

“(B) shall terminate—

“(i) in the case of an annuity computed by reference to clause (i) or (ii) of paragraph (2)(B) of this subsection, no later than the last day of the month before the former spouse remarries before becoming 55 years of age or dies; or

“(ii) in the case of an annuity computed by reference to clause (iii) of such paragraph, no later than the last day of the month before the former spouse remarries or dies.

“(4) For purposes of this subchapter, a modification in a decree, order, agreement, or election referred to in paragraph (1) of this subsection shall not be effective—

“(A) if such modification is made after the retirement of the employee or Member concerned, and

“(B) to the extent that such modification involves an annuity under this subsection.

“(5) For purposes of this subchapter, a decree, order, agreement, or election referred to in paragraph (1) of this subsection shall not be effective, in the case of a former spouse, to the extent that it is inconsistent with any joint designation or waiver previously executed with respect to such former spouse under section 8339(j)(1) of this title or a similar prior provision of law.

“(6) Any payment under this subsection to a person bars recovery by any other person.

“(7) As used in this subsection, ‘court’ means any court of any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, or the Virgin Islands, and any Indian court.

“(i) The requirement in subsections (a)(1)(A) and (a)(2)(A) of this section that the surviving spouse of an employee or Member have been married to such employee or Member for at least 9 months immediately before the employee or Member’s death in order to qualify as the widow or widower of such employee or Member shall be deemed satisfied in any case in which the employee or Member dies within the applicable 9-month period, if—

“(1) the death of the employee or Member was accidental; or

“(2) the surviving spouse of such individual had been previously married to the individual and subsequently divorced, and the aggregate time married is at least 9 months.”;

(5) in section 8342(a)—

(A) by striking out “An” and inserting in lieu thereof “Subject to subsection (j) of this section, an”; and

(B) by adding at the end thereof the following new subsection:

“(j)(1) Payment of the lump-sum credit under subsection (a) of this section—

Ante, p. 3195.

5 USC 8342.

“(A) may be made only if any current spouse and any former spouse of the employee or Member are notified of the employee or Member’s application; and

“(B) in any case in which there is a former spouse, shall be subject to the terms of a court order or decree issued with respect to such former spouse if—

“(i) the order or decree expressly relates to any portion of the lump-sum credit involved, and

“(ii) payment of the lump-sum credit would extinguish entitlement of the former spouse to a survivor annuity under section 8341(h) of this title or to any portion of an annuity under section 8345(j) of this title.

Ante, p. 3199.

Infra.

Regulations.

“(2)(A) Notification of a spouse or former spouse under this subsection shall be made in accordance with such requirements as the Office shall by regulation prescribe.

Waiver.

“(B) Under the regulations, the Office may provide that paragraph (1)(A) of this subsection may be waived with respect to a spouse or former spouse if the employee or Member establishes to the satisfaction of the Office that the whereabouts of such spouse or former spouse cannot be determined.

Regulations.

“(3) The Office shall prescribe regulations under which this subsection shall be applied in any case in which the Office receives two or more such orders or decrees.”;

5 USC 8345.

(6) in section 8345—

(A) in subsection (f) by adding at the end thereof the following new paragraph:

“(4) The provisions of this subsection shall not apply—

“(A) to any survivor annuity payable under subsection (h) of section 8341 of this title; or

“(B) to any survivor annuity payable under subsection (b), (d), or (f) of such section which is reduced on account of any survivor annuity referred to in subparagraph (A) of this paragraph.”; and

(B) in subsection (j)(3) by striking out “or the District of Columbia” and inserting in lieu thereof the following: “; the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, or the Virgin Islands, and any Indian court”; and

5 USC 8348.

(7) in section 8348(a)(1)(B) by striking out “this title” and inserting in lieu thereof “this title, in administering survivor annuities and elections providing therefor under sections 8339 and 8341 of this title,”.

5 USC 8901.

SEC. 3. Chapter 89 of title 5, United States Code, is amended—

(1) in section 8901—

(A) by striking out “and” at the end of paragraph (8);

(B) by striking out the period at the end of paragraph (9) and inserting in lieu thereof “; and”; and

(C) by adding at the end thereof the following new paragraph:

“(10) ‘former spouse’ means a former spouse of an employee, former employee, or annuitant—

“(A) who has not remarried before age 55 after the marriage to the employee, former employee, or annuitant was dissolved,

“(B) who was enrolled in an approved health benefits plan under this chapter as a family member at any time during the 18-month period before the date of the dissolu-

tion of the marriage to the employee, former employee, or annuitant, and

“(C)(i) who is receiving any portion of an annuity under section 8345(j) of this title or a survivor annuity under section 8341(h) of this title (or benefits similar to either of the aforementioned annuity benefits under a retirement system for Government employees other than the Civil Service Retirement System),

Ante, p. 3202.
Ante, p. 3199.

“(ii) as to whom a court order or decree referred to in section 8341(h) or 8345(j) of this title (or similar provision of law under any such retirement system other than the Civil Service Retirement System) has been issued, or for whom an election has been made under section 8339(j)(3) of this title (or similar provision of law), or

Ante, p. 3195.

“(iii) who is otherwise entitled to an annuity or any portion of an annuity as a former spouse under a retirement system for Government employees,

except that such term shall not include any such unremarried former spouse of a former employee whose marriage was dissolved after the former employee's separation from the service (other than by retirement).”;

(2) in section 8902—

5 USC 8902

(A) in subsection (g) by striking out “employee or annuitant” each place it appears and inserting in lieu thereof “employee, annuitant, family member, or former spouse”; and

(B) in subsections (j) and (k) by striking out “or family member” and inserting in lieu thereof “family member, or former spouse”;

(3) in section 8903(1)—

5 USC 8903.

(A) by striking out “employees or annuitants, or members of their families” and inserting in lieu thereof “employees, annuitants, members of their families, or former spouses”; and

(B) by striking out “employee or annuitant or member of his family” and inserting in lieu thereof “employee, annuitant, family member, or former spouse”;

(4) in section 8905—

5 USC 8905.

(A) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively, and inserting after subsection (b) the following new subsection:

“(c)(1) A former spouse may—

Health.

“(A) within 60 days after the dissolution of the marriage, or

“(B) in the case of a former spouse of a former employee whose marriage was dissolved after the employee's retirement, within 60 days after the dissolution of the marriage or, if later, within 60 days after an election is made under section 8339(j)(3) of this title for such former spouse by the retired employee, enroll in an approved health benefits plan described by section 8903 of this title as an individual or for self and family as provided in paragraph (2) of this subsection, subject to agreement to pay the full subscription charge of the enrollment, including the amounts determined by the Office to be necessary for administration and reserves pursuant to section 8909(b) of this title. The former spouse shall submit an enrollment application and make premium payments to the agency which, at the time of divorce or annulment, employed the employee to whom the former spouse was married or, in the case

Ante, p. 3195.

5 USC 8903.

Post, p. 3204.

Ante, pp. 3199,
3202.

of a former spouse who is receiving annuity payments under section 8341(h) or 8345(j) of this title, to the Office of Personnel Management.

“(2) Coverage for self and family under this subsection shall be limited to—

“(A) the former spouse; and

“(B) unmarried dependent natural or adopted children of the former spouse and the employee who are—

“(i) under 22 years of age; or

“(ii) incapable of self-support because of mental or physical disability which existed before age 22.”; and

(B) in subsections (e) and (f), as so designated by subparagraph (A) of this paragraph, by striking out “An employee or annuitant” and inserting in lieu thereof “An employee, annuitant, or former spouse”;

5 USC 8907.

(5) in section 8907—

(A) in subsection (a) by striking out “employee” each place it appears and inserting in lieu thereof “individual”;

(B) in subsection (b)—

(i) by striking out “employee enrolled” and inserting in lieu thereof “enrollee”;

(ii) in paragraph (1) by striking out “employee or the employee and members of his family” and inserting in lieu thereof “enrollee or the enrollee and any eligible family members”; and

(iii) in paragraph (3) by striking out “the employee or members of his family” and inserting in lieu thereof “the enrollee and any eligible family members”; and

(C) by amending the section heading to read as follows:

“§ 8907. Information to individuals eligible to enroll”;

5 USC 8909.

(6) in section 8909—

(A) in subsections (a) and (b) by striking out “employees, annuitants,” and inserting in lieu thereof “enrollees”; and

(B) in subsection (d) by striking out “Each employee or annuitant” and inserting in lieu thereof “Each employee, annuitant, or former spouse”;

5 USC 8913.

(7) in section 8913(c)—

(A) in the first sentence by striking out “employees and annuitants and members of their families” and inserting in lieu thereof “employees, annuitants, members of their families, and former spouses”; and

(B) in the second sentence by inserting “or former spouse” after “in which an annuitant”; and

(8) in the chapter analysis, by striking out the item relating to section 8907 and inserting in lieu thereof the following:

“8907. Information to individuals eligible to enroll.”.

Effective dates.
5 USC 8341 note.

SEC. 4. (a)(1) Except as provided in subsections (b) and (c), the amendments made by section 2 of this Act shall take effect one hundred and eighty days after the date of enactment of this Act and shall apply to any individual who, on or after such effective date, is married to an employee or Member who, on or after such effective date, retires, dies, or applies for a refund of contributions under subchapter III of chapter 83 of title 5, United States Code.

5 USC 8331.

(2) Except as provided in subsection (f), the amendments made by section 3 of this Act shall take effect one hundred and eighty days

after the date of enactment of this Act and shall apply to any individual who, on or after such effective date, is married to an employee or annuitant.

(b)(1) Notwithstanding subsection (a)(1) of this section, a former spouse of an employee or Member who retired before the one hundred and eightieth day after the date of enactment of this Act is entitled to a survivor annuity under section 8341(b) of title 5, United States Code, as amended by this Act, if—

Ante, p. 3199.

(A) the retired employee or Member elects, in writing, within eighteen months after the date of enactment of this Act, according to procedures prescribed by the Office of Personnel Management, to have the annuity of such employee or Member reduced under section 8339(j) of title 5, United States Code, as amended by this Act, and, except as provided in paragraph (3) of this subsection, to deposit in the Civil Service Retirement and Disability Fund an amount determined by the Office, as nearly as may be administratively feasible, to reflect the amount by which such employee or Member's annuity would have been reduced had the reduction been in effect since such employee or Member's annuity commenced, plus interest computed at the annual rate of six percent for each year during which the annuity would have been reduced if the election had been in effect on and after the date the annuity commenced; or

Ante, p. 3195.

(B) where the retired employee or Member dies or died on or before the one hundred and eightieth day after the date of enactment of this Act or does not make the election described in subparagraph (A)—

(i) the former spouse's marriage to the employee or Member was dissolved after September 14, 1978;

(ii) the former spouse was married to the employee or Member for at least ten years during periods of creditable service under section 8332 of title 5, United States Code;

(iii) the former spouse is not entitled to any other retirement or survivor annuity (other than benefits under title II of the Social Security Act or under section 8345(j) of title 5, United States Code, as amended by this Act) based on any previous employment of the former spouse or of the employee or Member;

42 USC 201.
Ante, p. 3202.

(iv) the former spouse has not remarried before age fifty-five after September 14, 1978;

(v) the former spouse files an application for the survivor annuity with the Office within thirty months after the date of enactment of this Act; and

(vi) the former spouse is at least fifty years of age at the time of filing such application.

A survivor annuity under subparagraph (B) shall commence on the day after the employee or Member dies or the first day of the second month after the former spouse's application is received by the Office, whichever occurs later.

(2) Except as provided in paragraph (3), if a retired employee or Member who makes an election under subparagraph (A) of paragraph (1) does not make the deposit required by such subparagraph, the Office shall collect the amount of the deposit by offset against the employee or Member's annuity, up to a maximum of 25 per centum of the net annuity otherwise payable to the employee or Member, and the employee or Member is deemed to consent to such offset.

Ante, p. 3195. (3) An election made by an individual under subparagraph (A) of paragraph (1) of this subsection to provide a survivor annuity for any person prospectively voids any election previously made by such individual with respect to such person under section 8339(k)(1) of title 5, United States Code, as amended by this Act, or any similar prior provision of law. Notwithstanding the provisions of such subparagraph (A), an individual who made such an election under such section 8339(k)(1) (or prior provision) shall not be required to make the deposit described in such subparagraph.

(4) A survivor annuity provided under this subsection shall be 55 per centum of the annuity of the retired employee or Member, as determined under section 8339(a)-(i) and (n) of title 5, United States Code, increased by—

5 USC 8340. (A) the total percent increase the retired employee or Member was receiving under section 8340 of such title at death, or

(B) in the case of a retired employee or Member whose date of death precedes the one hundred and eightieth day after the date of enactment of this Act, the total percent increase the retired employee or Member would have received under such section 8340 had such individual died on the one hundred and eightieth day after such date of enactment,

Ante, p. 3199. and shall not be subject to reduction under section 8341(b)(4) of such title, as amended by this Act.

(c) Notwithstanding subsection (a)(1) of this section, an employee or Member who retired before the one hundred and eightieth day after the date of enactment of this Act and who is married to a spouse acquired after retirement for whom such employee or Member was unable to provide a survivor annuity because—

(1) the employee or Member was married at the time of retirement and elected not to provide a survivor annuity for the employee or Member's spouse at the time of retirement, or

(2) the employee or Member failed to notify the Office of the employee or Member's post-retirement marriage within one year after the marriage,

may elect in writing, within one year after the date of enactment of this Act, in accordance with procedures prescribed by the Office, to provide for a survivor annuity for such spouse under section 8341(b) of title 5, United States Code, as amended by this Act, to have the retired employee or Member's annuity reduced under section 8339(j) of such title, as so amended, and to deposit in the Civil Service Retirement and Disability Fund an amount determined by the Office, as nearly as may be administratively feasible, to reflect the amount by which such employee or Member's annuity would have been reduced had the election been continuously in effect since the annuity commenced, plus interest. For the purposes of the preceding sentence, the annual rate of interest for each year during which the annuity would have been reduced if the election had been in effect on and after the date the annuity commenced shall be 6 percent. If the retired employee or Member does not make such deposit, the Office shall collect such amount by offset against such employee or Member's annuity, up to a maximum of 25 percent of the net annuity otherwise payable to such employee or Member, and such employee or Member is deemed to consent to such offset. The Office shall provide for general public notice of the right to make an election under this subsection. In cases to which paragraph (2) of this subsection applies, the retired employee or Member shall provide the Office with such documentation as the Office shall decide is

Ante, p. 3195.

Public notice.

appropriate, that such employee or Member attempted to elect a reduced annuity with survivor benefit for such employee or Member's current spouse and that such employee or Member's election was rejected by the Office because it was untimely filed.

(d) A deposit required by subsection (b)(1)(A) or (c) of this section may be made by the surviving former spouse or spouse, as applicable, of the retired employee or Member.

(e) The Office shall determine at the end of each fiscal year—

(1) the cost of survivor annuities provided under subsections (b) and (c) of this section, less an amount determined appropriate by the Office to reflect the value of any deposits made under subsection (b)(1)(A), (c), or (d), and

(2) the cost of administering subsections (b) and (c).

The Office shall notify the Secretary of the Treasury of the amounts so determined. The Secretary of the Treasury, before closing the account for the fiscal year in question, shall credit to the Civil Service Retirement and Disability Fund, out of any money in the Treasury not otherwise appropriated, such amounts, which shall be available in the same manner as provided under subparagraphs (A) and (B) of section 8348(a)(1) of title 5, United States Code, as amended by this Act.

(f) An individual who is entitled to a survivor annuity under subsection (b) of this section is deemed to be in receipt of annuity payments under section 8341(h) of title 5, United States Code, as amended by this Act, for the purpose of chapter 89 of such title, as so amended. Notwithstanding subsection (a)(2) of this section, any such individual who otherwise meets the definition of a former spouse under section 8901 of title 5, United States Code, as so amended, may enroll in an approved health benefits plan described by section 8903 of such title, under the conditions set forth in section 8905(c) of such title, as so amended.

(g)(1) For purposes of subsections (a) (1), (b), (c), (d), and (e), "employee", "Member", and "former spouse" each has the meaning given that term under section 8331 of title 5, United States Code, as amended by this Act.

(2) For purposes of subsection (a)(2), "employee" and "annuitant" each has the meaning given that term under section 8901 of title 5, United States Code.

(h) Section 827 of the Foreign Service Act of 1980 and section 292 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees shall not apply with respect to either the amendments made by section 2 or the preceding provisions of this section.

Ante, p. 3202.

Ante, p. 3199.
Ante, p. 3202.
5 USC 8901 *et seq.*

Ante, p. 3195.

Ante, p. 3202.
22 USC 4067.

50 USC 403 note.

TITLE II—PERFORMANCE MANAGEMENT AND RECOGNITION SYSTEM

ESTABLISHMENT OF PERFORMANCE MANAGEMENT AND RECOGNITION SYSTEM

SEC. 201. (a) Chapter 54 of title 5, United States Code, is amended to read as follows:

“CHAPTER 54—PERFORMANCE MANAGEMENT AND RECOGNITION SYSTEM

- “Sec.
- “5401. Purpose.
- “5402. Coverage.
- “5403. General pay increases.
- “5404. Merit increases.
- “5405. Pay administration.
- “5406. Performance awards.
- “5407. Cash award program.
- “5408. Report.
- “5409. Regulations.
- “5410. Termination.

5 USC 5401.

“§ 5401. Purpose

“It is the purpose of this chapter to provide for a performance management and recognition system which shall—

“(1) use performance appraisals as the basis for (a) determining adjustments in basic pay by general pay increases and merit increases, and (b) making performance award determinations;

“(2) within available funds, recognize and reward quality performance by varying amounts of performance and cash awards;

“(3) within available funds, provide for training to improve accuracy, objectivity, and fairness in the evaluation of performance;

“(4) regulate the costs of performance awards by establishing funding level requirements; and

“(5) provide the means to reduce or withhold certain pay increases for less than fully successful performance.

5 USC 5402.

“§ 5402. Coverage

“(a) Except as provided in subsection (b) or (c) of this section, this chapter shall apply to any supervisor or management official (as defined in paragraphs (10) and (11) of section 7103(a) of this title, respectively) who is in a position within grade GS-13, GS-14, or GS-15 of the General Schedule described in section 5104 of this title.

5 USC 7103.

5 USC 5104,
5332.

Exclusions.

“(b)(1) Upon request filed under paragraph (3) of this subsection, the President may, in writing, exclude an agency, any unit of an agency, or any class of employees within any such unit, from the application of this chapter, if the President considers such exclusion to be required as a result of conditions arising from—

“(A) the recent establishment of the agency, unit, or class, or the implementation of a new program;

“(B) an emergency situation; or

“(C) any other situation or circumstance.

Effective date.
President of U.S
Report.

“(2) Any exclusion under this subsection shall not take effect earlier than 30 calendar days after the President transmits to each House of the Congress a report describing the agency, unit, or class to be excluded and the reasons therefor.

“(3) A request for exclusion of an agency, any unit of an agency, or any class of employees within any such unit, under this subsection shall be filed by the head of the agency with the Office of Personnel Management, and shall set forth reasons why the agency, unit, or class should be excluded from the application of this chapter. The Office shall review the request and reasons therefor, undertake such

other review as it considers appropriate to determine whether the agency, unit, or class should be excluded from the application of this chapter and, upon completion of its review, recommend to the President whether the agency, unit, or class should be so excluded.

“(4) Any agency, unit, or class which is excluded pursuant to this subsection shall, insofar as practicable, make a sustained effort to eliminate the conditions on which the exclusion is based.

“(5) The Office shall periodically review any exclusion from coverage and may at any time recommend to the President that an exclusion under this subsection be revoked. The President may at any time revoke, in writing, any exclusion under this subsection.

President
of U.S.
Regulations.

“(6) The Office shall prescribe regulations under which an employee may be excluded from the application of this chapter other than as part of an agency, unit, or class so excluded under the preceding paragraphs of this subsection. To the extent practicable, the regulations shall be based on the provisions of such paragraphs.

“(c) This chapter shall not apply to individuals employed under the Office of the Architect of the Capitol, the Library of Congress, the Botanic Garden, or the Administrative Office of the United States Courts.

“§ 5403. General pay increases

5 USC 5403.

“(a) For purposes of this section, a pay adjustment period, in the case of an employee covered by this chapter, shall be the period beginning on the first day of the first pay period applicable to such employee commencing on or after the first day of the month in which an adjustment takes effect under section 5305 of this title and ending at the close of the day before the beginning of the following pay adjustment period.

5 USC 5305.

“(b) A determination concerning a general pay increase under this section shall, for any pay adjustment period, be made based on the level of performance of the employee involved, as determined for the latest appraisal period under section 4302a of this title (or an equivalent rating system) before the beginning of such pay adjustment period.

Post, p. 3214.

“(c) Subject to section 5405(a)(1)(A) of this title, if the employee's performance is rated—

Post, p. 3211.

“(1) at the fully successful level or either of the 2 levels above the fully successful level, the rate of basic pay of the employee shall be increased by the full general pay increase, effective as of the beginning of the pay adjustment period;

“(2) at the level 1 level below the fully successful level, the rate of basic pay of the employee shall be increased by one-half of the full general pay increase, effective as of the beginning of the pay adjustment period; or

“(3) at the level 2 levels below the fully successful level, the rate of basic pay of the employee shall not be increased under this section.

“(d) A full general pay increase for any pay adjustment period under this section shall be determined by multiplying the rate of basic pay of the employee involved on the day immediately preceding the pay adjustment period by the percentage corresponding to the percentage generally applicable under section 5305 of this title to positions not covered by this chapter which are in the same grade as the position held by such employee.

5 USC 5305.

“(e)(1) The basic pay of an employee for whom a determination under section 4302a of this title (or an equivalent rating system) for the latest appraisal period is not available shall be adjusted under

Regulations.
Post, p. 3214.

this subsection in such circumstances as the Office of Personnel Management shall by regulation prescribe.

“(2) Any adjustment made under this subsection shall be equal to an adjustment under subsection (c)(1) of this section.

5 USC 5404.

“§ 5404. Merit increases

“(a) For purposes of this section—

“(1) the term ‘applicable reference rate’, as used with respect to the rate of basic pay of an employee, means the rate equal to the sum of—

5 USC 5332.

“(A) the minimum rate of basic pay provided under section 5332 of this title for the grade of the position held by such employee; and

“(B) one-third of the difference between the maximum rate of basic pay provided for such grade under such section and the minimum rate of basic pay so provided;

“(2) the term ‘merit increase’ means, with respect to a grade, an increase equal to one-ninth of the difference between the maximum rate of basic pay provided for such grade under section 5332 of this title and the minimum rate of basic pay so provided; and

Post, p. 3214.

“(3) a reference to the performance rating of an employee shall, for purposes of any increase which may take effect under this section in a year, be considered to be a reference to the level of performance of such employee, as determined for the latest appraisal period under section 4302a of this title (or an equivalent rating system) before the effective date of such increase.

Effective date.
Post, p. 3211.

“(b) Subject to section 5405(a)(1)(A) of this title, under regulations prescribed by the Office of Personnel Management, the rate of basic pay of an employee covered by this chapter shall be increased each year in accordance with the applicable provisions of subsection (c) of this section, effective as of the beginning of the first applicable pay period commencing on or after October 1 of such year.

“(c)(1)(A) If the rate of basic pay of the employee does not equal or exceed the applicable reference rate on the day before the effective date of an increase under this section, and the performance of such employee is rated at the fully successful level or either of the 2 levels above the fully successful level, the rate of basic pay of the employee shall be increased by an amount equivalent to a merit increase.

“(B) If the rate of basic pay of the employee equals or exceeds the applicable reference rate on the day before the effective date of an increase under this section, and the performance of such employee is rated—

“(i) at the level 2 levels above the fully successful level, the rate of basic pay of the employee shall be increased by an amount equivalent to a merit increase;

“(ii) at the level 1 level above the fully successful level, the rate of basic pay of the employee shall be increased by an amount equivalent to one-half of a merit increase; or

“(iii) at the fully successful level, the rate of basic pay of the employee shall be increased by an amount equivalent to one-third of a merit increase.

“(2) The rate of basic pay of an employee whose performance is rated at either of the 2 levels below the fully successful level shall not be increased under this section for the year involved.

Regulations.

“(d) The Office of Personnel Management shall prescribe regulations under which this section shall be applied in the case of an employee for whom a determination under section 4302a of this title

Post, p. 3214.

(or an equivalent rating system) for the latest appraisal period is not available.

“§ 5405. Pay administration

5 USC 5405.

“(a)(1) An employee covered by this chapter—

“(A) may not be paid at a rate greater than the maximum rate of basic pay for the grade of the employee’s position, as set forth in section 5332 of this title; and

5 USC 5332.

“(B) except as provided in paragraph (2) of this subsection, may not be paid at a rate less than the minimum rate of basic pay for such grade, as set forth in section 5332 of this title.

“(2) An employee may be paid at a rate less than the minimum rate of basic pay for the grade of such employee’s position to the extent that payment of the lesser rate is the result of the employee having received less than a full general pay increase under section 5403 of this title.

“(b) Any employee whose position is brought under this chapter shall, so long as the employee continues to occupy the position, be entitled to receive basic pay at a rate of basic pay not less than the rate the employee was receiving when the position was brought under this chapter, plus any subsequent increases under sections 5403 and 5404 of this title.

“(c) The Office of Personnel Management shall prescribe regulations governing the method by which an increase under section 5403 of this title and an increase under section 5404 of this title shall be made in any case in which both of those increases are to take effect beginning on the same date.

Regulations.
Effective dates.
Ante, pp. 3209,
3210.

“(d) Under regulations which the Office shall prescribe, the benefit of advancement through the range of basic pay for a grade shall be preserved for any employee who is covered by this chapter and whose continuous service is interrupted in the public interest by service in the Armed Forces, or by service in essential non-Government civilian employment during a period of war or national emergency.

“(e) For the purpose of section 5941 of this title, rates of basic pay of employees covered by this chapter shall be considered rates of basic pay fixed by statute.

5 USC 5941.

“(f) In the case of an employee covered by this chapter for whose position a higher rate of basic pay has been established under section 5303 of this title, any reference in this chapter to a rate of basic pay provided under or set forth in section 5332 of this title shall be deemed to be a reference to the corresponding rate of basic pay established under such section 5303.

“§ 5406. Performance awards

5 USC 5406.

“(a)(1) Any employee who is covered by this chapter, and whose performance for an appraisal period is rated under section 4302a of this title (or an equivalent rating system) at the level 2 levels above the fully successful level, shall be paid a performance award under this section for such period.

Post, p. 3214.

“(2)(A) The amount of a performance award referred to in paragraph (1) of this subsection shall be determined by the appropriate agency head, except that any such award shall be not more than 10 percent of the employee’s annual rate of basic pay and, effective after fiscal year 1985, shall be not less than 2 percent of such annual rate.

Effective date.

“(B) Notwithstanding subparagraph (A) of this paragraph, a performance award exceeding 10 percent but not exceeding 20 percent of the employee’s annual rate of basic pay may be paid if the agency head determines that such award is warranted by unusually outstanding performance.

Post, p. 3214.

“(b)(1) Any employee who is covered by this chapter, and whose performance for an appraisal period is rated under section 4302a of this title (or an equivalent rating system) at the level 1 level above the fully successful level or at the fully successful level, may be paid a performance award under this section for such period.

“(2) The amount of a performance award referred to in paragraph (1) of this subsection shall be determined by the appropriate agency head, except that any such award shall be not more than 10 percent of the employee’s annual rate of basic pay.

“(c)(1) Subject to subsections (a)(2) and (b)(2) of this section, the aggregate amount of performance awards paid under this section by an agency during any fiscal year shall be—

“(A) not less than the product of—

“(i) the applicable minimum percentage for such year under paragraph (2) of this subsection, multiplied by

“(ii) an estimated aggregate amount of basic pay which will be payable to employees of the agency covered by the performance management and recognition system during such year, as determined by the head of the agency, taking into consideration the number of employees who were covered by such system during the preceding fiscal year (or by the merit pay system in the case of fiscal year 1984) and the applicable rates of basic pay in such preceding year; and

“(B) not more than the product of—

“(i) the applicable maximum percentage for such year under paragraph (2) of this subsection, multiplied by

“(ii) the amount under subparagraph (A)(ii) of this paragraph for such year.

Regulations.

“(2)(A)(i) The applicable minimum percentage—

“(I) shall be 0.75 percent for fiscal year 1985;

“(II) shall, for each of the 4 fiscal years thereafter, be adjusted incrementally (by equal increments or otherwise) over the percentage for the preceding fiscal year by the appropriate agency head in accordance with regulations which the Office of Personnel Management shall prescribe; and

“(III) shall, as a result of the final adjustment, be increased to 1.15 percent for fiscal year 1989.

“(ii) The applicable maximum percentage for each of the 5 fiscal years during which this chapter is in effect shall be 1.5 percent.

“(B)(i) Notwithstanding subparagraph (A) of this paragraph, in the case of an agency described in clause (ii) of this subparagraph the applicable minimum percentage for any fiscal year during which this chapter is in effect shall be a percentage, not less than the minimum percentage described in subsection (2)(A)(i) and not to exceed 10 percent, which the Office shall by regulation prescribe.

“(ii) This subparagraph applies to an agency in a fiscal year if the average number of employees employed under such agency during the immediately preceding fiscal year was equal to or less than the equivalent of 20 full-time employees.”

“(d) A failure to pay a performance award authorized by subsection (b) of this section may not be appealed.

“(e) A performance award paid to an employee under this section shall be in addition to the basic pay of the employee and any cash award paid under section 5407 of this title.

Infra.

5 USC 5407.

“§ 5407. Cash award program

“(a) The head of an agency may pay a cash award to, and incur necessary expenses for the honorary recognition of, any employee who is covered by this chapter, and who—

“(1) by the employee’s suggestion, invention, superior accomplishment, or other personal effort, contributes to the efficiency, economy, or other improvement of Government operations, or achieves a significant reduction in paperwork; or

“(2) performs a special act or service in the public interest in connection with or related to the employee’s Federal employment.

“(b) The President may pay a cash award to, and incur necessary expenses for the honorary recognition of, any employee who is covered by this chapter, and who—

“(1) by the employee’s suggestion, invention, superior accomplishment, or other personal effort, contributes to the efficiency, economy, or other improvement of Government operations, or achieves a significant reduction in paperwork; or

“(2) performs an exceptionally meritorious special act or service in the public interest in connection with or related to the employee’s Federal employment.

A Presidential cash award may be in addition to an agency cash award under subsection (a) of this section.

“(c) A cash award paid to an employee under this section shall be in addition to the basic pay of the employee and any performance award paid under section 5406 of this title. Acceptance of a cash award under this section constitutes an agreement that the use by the Government of any idea, method, or device for which the award is made does not form the basis of any claim of any nature against the Government by the employee accepting the award, or the employee’s heirs or assigns.

Claims.
Ante, p 3211.

“(d) A cash award to, and expenses for the honorary recognition of, any employee who is covered by this chapter may be paid from the fund or appropriation available to the activity primarily benefiting, or the various activities benefiting, from the suggestion, invention, superior accomplishment, or other meritorious effort of the employee. The head of the agency concerned shall determine the amount to be contributed by each activity to any agency cash award under subsection (a) of this section. The President shall determine the amount to be contributed by each activity to a Presidential award under subsection (b) of this section.

President of U.S.

“(e)(1) Except as provided in paragraph (2) of this subsection, a cash award under this section may not exceed \$10,000.

“(2) If the head of an agency certifies to the Office of Personnel Management that the suggestion, invention, superior accomplishment or other meritorious effort of an employee for which a cash award is proposed is highly exceptional and unusually outstanding, a cash award in excess of \$10,000 but not in excess of \$25,000 may be awarded to the employee on the approval of the Office.

“(f) The President or the head of an agency may pay a cash award under this section notwithstanding the death or separation from the service of an employee, if the suggestion, invention, superior accomplishment, or other meritorious effort of the employee for which the

award is proposed was made or performed while the employee was covered by this chapter.

5 USC 5408.

“§ 5408. Report

“The Office of Personnel Management shall submit an annual report to the President and each House of the Congress evaluating the effectiveness of the performance management and recognition system established by this chapter. Each such report shall be prepared after consultation with the respective heads of a sufficient range of agencies so as to permit an adequate basis for making a meaningful evaluation.

5 USC 5409.

“§ 5409. Regulations

“The Office of Personnel Management shall prescribe regulations to carry out this chapter.

5 USC 5410.

“§ 5410. Termination

“This chapter and any regulations prescribed under this chapter shall cease to be effective after September 30, 1989.”.

(b) The table of chapters at the beginning of part III of title 5, United States Code, is amended by striking out the item relating to chapter 54 and inserting in lieu thereof the following:

“54. Performance Management and Recognition System..... 5401”.

PERFORMANCE APPRAISAL SYSTEMS

SEC. 202. (a) Chapter 43 of title 5, United States Code, is amended by inserting after section 4302 the following new section:

5 USC 4302a.

“§ 4302a. Establishment of performance appraisal systems for performance management and recognition system employees

Ante, p. 3207.

“(a) Each agency shall develop one or more performance appraisal systems for employees covered by chapter 54 of this title which—

“(1) provide for periodic appraisals of job performance of such employees;

“(2) require the joint participation of the supervising official and the employee in developing performance standards with authority for establishing standards resting with the supervising official; and

“(3) use the results of performance appraisals as a basis—

“(A) for adjusting the base pay and making performance award decisions with respect to any such employee in accordance with the applicable provisions of such chapter 54; and

“(B) for training, rewarding, reassigning, promoting, reducing in grade, retaining, and removing any such employee.

Regulations.

“(b) Under regulations which the Office of Personnel Management shall prescribe, each performance appraisal system under this section shall provide for—

“(1) five levels of summary performance ratings as follows:

“(A) two levels which are above the fully successful level;

“(B) a fully successful level; and

“(C) two levels which are below the fully successful level;

“(2) establishing, in writing, the critical elements of each employee’s position and the performance standards for the fully

successful level for each such element which will, to the maximum extent feasible, permit accurate evaluation of job performance on the basis of objective criteria related to the job in question;

"(3) communicating, at the beginning of each appraisal period and in writing, to each employee who is covered by chapter 54 of this title the performance standards and critical elements of the employee's position;

Ante, p. 3207

"(4) evaluating each such employee during the appraisal period on the basis of such standards;

"(5) assisting any such employee in improving performance rated at a level below the fully successful level; and

"(6) reassigning, reducing in grade, or removing any employee who continues to perform at the level which is 2 levels below the fully successful level, after such employee has been provided with written notice of such employee's rating and afforded reasonable opportunity to raise such employee's level of performance to the fully successful level or higher.

"(c)(1) Appraisals of performance under this section—

"(A) shall take into account individual performance and may take into account organizational accomplishment;

"(B) shall be based on factors such as—

"(i) any improvement in efficiency, productivity, and quality of work or service, including any significant reduction in paperwork;

"(ii) cost efficiency;

"(iii) timeliness of performance;

"(iv) other indications of the effectiveness, productivity, and quality of performance of the employees for whom the employee is responsible; and

"(v) meeting affirmative action goals and achievement of equal employment opportunity requirements;

"(C) may be reviewed by an employee of the agency in accordance with procedures established by the Office of Personnel Management;

"(D) shall, on request of the employee whose performance is appraised, be reconsidered by an employee of the agency in accordance with procedures established by the Office; and

"(E) may not be appealed outside the agency.

"(2) Reconsideration of an appraisal under paragraph (1)(D) of this subsection may be made only by an employee who is in a higher position in the agency than each employee who made, reviewed, or approved the appraisal.

"(d)(1) In order to promote the purposes of this section, there shall be established within each agency a performance standards review board (hereinafter in this subsection referred to as the 'board'), consisting of at least six members, all of whom shall be chosen by the agency head from individuals employed in or under such agency. Of the members, at least one-half shall be employees who are covered by chapter 54 of this title and who are in the competitive service. A board shall be chaired by the member of the board designated for that purpose by the agency head.

"(2) It shall be the function of each board—

"(A) to assess, by the use of representative sampling techniques, the appropriateness of performance standards developed and used by the agency under this section;

Performance standards review boards, establishment.

Ante, p. 3207.

“(B) to study the feasibility of an awards program based on the collective performance of units or other groups of employees who are covered by chapter 54 of this title, and to submit as part of its annual report under paragraph (3) of this subsection recommendations for any actions which the board considers appropriate with respect to any such program; and

“(C) to provide technical assistance with respect to any demonstration projects which may relate to performance standards of the agency under this section.

Report.

“(3) A board shall report to the head of the agency on its activities under this subsection annually.

“(e) In carrying out this section, neither the Office nor any other agency may prescribe a distribution of levels of performance ratings for employees covered by chapter 54 of this title.

“(f) The Office may not prescribe, or require an agency to prescribe, any specific performance standard or element for purposes of this section.

Expiration date.

“(g) This section and any regulations prescribed under this section shall cease to be effective as of the date on which chapter 54 of this title ceases to be effective.”.

(b) The table of sections for chapter 43 of title 5, United States Code, is amended by inserting after the item relating to section 4302 the following new item:

“4302a. Establishment of performance appraisal systems for performance management and recognition system employees.”.

MERIT INCREASES AS EQUIVALENT INCREASES IN PAY

SEC. 203. Section 5335 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

Ante, p. 3210.

“(f) Notwithstanding subsection (b) or (e) of this section, an increase in pay granted under section 5404 of this title is an equivalent increase in pay within the meaning of subsection (a) of this section and shall be taken into account in the case of any employee who, before becoming subject to this section, was granted such an increase while covered by the performance management and recognition system established under chapter 54 of this title.”.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 204. (a) Title 5, United States Code, is amended—

(1) in sections 4501(2)(A), 5332(a), 5334(c)(2), 5334(f), 5335(e), 5336(c), and 5362(c)(3), by striking out “the merit pay system established under section 5402” each place it appears and inserting in lieu thereof “the performance management and recognition system established under chapter 54”;

(2) in section 5361(5), by striking out “merit pay system” and inserting in lieu thereof “performance management and recognition system”; and

(3) in section 5948(g)(1)(C), by striking out “Merit Pay System” and inserting “performance management and recognition system”.

(b) Section 1602 of title 10, United States Code, and section 731(b) of title 31, United States Code, are each amended by striking out “5401(a)” and inserting in lieu thereof “5401”.

EFFECTIVE DATE; TRANSITION PROVISIONS

SEC. 205. (a) The amendments made by this title shall be effective as of October 1, 1984, and shall apply with respect to pay periods commencing on or after that date. 5 USC 5401 note.

(b) The rate of basic pay for any individual serving in a position—

(1) which is in the merit pay system before the date on which the amendments made by this title take effect, but

(2) which does not become covered by the performance management and recognition system, shall not be reduced on account of such position not becoming so covered.

(c) The rate of basic pay for any individual serving in a position which ceases to be covered by the performance management and recognition system as a result of the termination of such system under section 5410 of title 5, United States Code, as amended by this title, shall not be reduced on account of such termination.

Ante, p. 3214.

(d)(1) Except as provided in paragraph (2), any agency or unit of an agency which, immediately before the date of enactment of this Act, was excluded from coverage under the merit pay system shall be excluded from coverage under the performance management and recognition system for the 12-month period beginning on such date of enactment.

(2) An exclusion under paragraph (1) may be revoked at any time in accordance with section 5402(b)(5) of title 5, United States Code, as amended by this Act.

Ante, p. 3208.

TITLE III—SENIOR EXECUTIVE SERVICE

Continuation.

CONGRESSIONAL FINDINGS

SEC. 301. The Congress finds that the Senior Executive Service should be continued indefinitely. 5 USC 3131 note.

PERFORMANCE AWARDS

SEC. 302. Subsection (b) of section 5384 of title 5, United States Code, is amended—

(1) in paragraph (2), by striking out “exceed” and inserting in lieu thereof “be less than 5 percent nor more than”; and

(2) by amending paragraph (3) of such subsection to read as follows:

“(3) The aggregate amount of performance awards paid under this section by an agency during any fiscal year may not exceed the greater of—

“(A) an amount equal to 3 percent of the aggregate amount of basic pay paid to career appointees in such agency during the preceding fiscal year; or

“(B) an amount equal to 15 percent of the average of the annual rates of basic pay paid to career appointees in such agency during the preceding fiscal year.”.

REDUCTIONS IN FORCE

SEC. 303. (a) Section 3593(c)(1)(B) of title 5, United States Code, is amended by inserting “before October 1, 1984,” after “title”.

(b) Section 3594(b) of such title is amended to read as follows: 5 USC 3594.

- 5 USC 3393. “(b) A career appointee who has completed the probationary period under section 3393(d) of this title, and who—
- 5 USC 4311. “(1) is removed from the Senior Executive Service for less than fully successful executive performance as determined under subchapter II of chapter 43 of this title; or
- Infra.* “(2) is removed from the Senior Executive Service under paragraph (4) or (5) of section 3595(b) of this title; shall be entitled to be placed in a civil service position (other than a Senior Executive Service position) in any agency.”.
- 5 USC 3595. (c) Section 3595(b) of such title is amended—
- (1) in paragraph (3)(B), by striking out “is entitled” and all that follows thereafter through “position.” and inserting in lieu thereof “shall be placed by the Office in any agency in any vacant Senior Executive Service position unless the head of that agency determines that the career appointee is not qualified for that position.”; and
- (2) by striking out paragraphs (4) and (5) and inserting in lieu thereof the following:
- “(4) A career appointee who is not assigned under paragraph (3)(A) may be removed from the Senior Executive Service due to a reduction in force if the career appointee declines a reasonable offer for placement in a Senior Executive Service position under paragraph (3)(B).
- “(5) A career appointee who is not assigned under paragraph (3)(A) may be removed from the Senior Executive Service due to a reduction in force if the career appointee is not placed in another Senior Executive Service position under paragraph (3)(B) within 45 days after the Office receives certification regarding that appointee under paragraph (3)(B).”.
- (d) Section 3595(c) of such title is amended to read as follows:
- “(c) A career appointee is entitled to appeal to the Merit Systems Protection Board under section 7701 of this title whether the reduction in force complies with the competitive procedures required under subsection (a).”.
- 5 USC 7701.

DIRECTED REASSIGNMENT; TRANSFER OF FUNCTION

SEC. 304. (a) Section 3395(a)(2) of title 5, United States Code, is amended to read as follows:

“(2)(A) Except as provided in subparagraph (B) of this paragraph, a career appointee may be reassigned to any Senior Executive Service position only if the career appointee receives written notice of the reassignment at least 15 days before the effective date of such reassignment.

“(B)(i) A career appointee may not be reassigned to a Senior Executive Service position outside the career appointee’s commuting area unless—

“(I) before providing notice under subclause (II) of this clause (or seeking or obtaining the consent of the career appointee under clause (ii) of this subparagraph to waive such notice), the agency consults with the career appointee on the reasons for, and the appointee’s preferences with respect to, the proposed reassignment; and

“(II) the career appointee receives written notice of the reassignment, including a statement of the reasons for the reassignment, at least 60 days before the effective date of the reassignment.

“(ii) Notice of reassignment under clause (i)(II) of this subparagraph may be waived with the written consent of the career appointee involved.”

Waiver.

(b) Section 3595 of such title is amended by adding at the end thereof the following new subsection:

5 USC 3595.

“(e) The Office shall prescribe regulations under which the rights accorded to a career appointee in the event of a transfer of function are comparable to the rights accorded to a competing employee under section 3503 of this title in the event of such a transfer.”

Regulations.

(c) Section 7543(a) of such title is amended by striking out “or malfeasance,” and inserting in lieu thereof “malfeasance, or failure to accept a directed reassignment or to accompany a position in a transfer of function.”

5 USC 3503.
5 USC 7543.

(d) Section 8336(d) of such title is amended by inserting after the first sentence the following new sentence: “For purposes of paragraph (1) of this subsection, separation for failure to accept a directed reassignment to a position outside the commuting area of the employee concerned or to accompany a position outside of such area pursuant to a transfer of function shall not be considered to be a removal for cause on charges of misconduct or delinquency.”

5 USC 8336.

PAY LIMITATION

SEC. 305. Section 5383(b) of title 5, United States Code, is amended to read as follows:

“(b)(1) In no event may the aggregate amount paid to a senior executive during any fiscal year under sections 4507, 5382, 5384, and 5948 of this title exceed the annual rate payable for positions at level I of the Executive Schedule in effect at the end of such fiscal year.

5 USC 4507,
5382, 5384, 5948.

“(2)(A) Any amount which is not paid to a senior executive during a fiscal year because of the limitation under paragraph (1) of this subsection shall be paid to that individual in a lump sum at the beginning of the following fiscal year.

“(B) Any amount paid under this paragraph during a fiscal year shall be taken into account for purposes of applying the limitation under paragraph (1) of this subsection with respect to such fiscal year.

“(C) The Office of Personnel Management shall prescribe regulations, consistent with section 5582 of this title, under which payment under this paragraph shall be made in the case of any individual whose death precludes payment under subparagraph (A) of this paragraph.”

Regulations.
5 USC 5582

MISCELLANEOUS SENIOR EXECUTIVE SERVICE AMENDMENTS

SEC. 306. (a) Section 3135(a) of title 5, United States Code, is amended—

(1) by striking out “and” at the end of paragraph (8);

(2) by redesignating paragraph (9) as paragraph (10); and

(3) by inserting after paragraph (8) the following new paragraph:

“(9) the number of career appointees who have been placed in positions outside the Senior Executive Service under section 3594 of this title as a result of a removal under section 3595 of this title; and”.

- 5 USC 3393. (b)(1) The first sentence of section 3393(b) of such title is amended by inserting before the period the following: "or commissioned officers of the uniformed services serving on active duty in such agency".
- 5 USC 4312. (2) Section 4312(b)(3) of such title is amended by inserting ", or (with the consent of the senior executive) a commissioned officer in the uniformed services serving on active duty," after "employee", and by striking out "executive".
- (c)(1) Such title is amended by adding after section 3595 the following new section:
- 5 USC 3595a. **"§ 3595a. Furlough in the Senior Executive Service**
- "(a) For the purposes of this section, 'furlough' means the placement of a senior executive in a temporary status in which the senior executive has no duties and is not paid when the placement in such status is by reason of insufficient work or funds or for other nondisciplinary reasons.
- "(b) An agency may furlough a career appointee only in accordance with regulations issued by the Office of Personnel Management.
- Appeal. "(c) A career appointee who is furloughed is entitled to appeal to the Merit Systems Protection Board under section 7701 of this title."
- 5 USC 7701. (2) The table of sections for chapter 35 of such title is amended by inserting after the item relating to section 3595 the following new item:
- "3595a. Furlough in the Senior Executive Service."

EFFECTIVE DATE

- 5 USC 3135 note. **SEC. 307.** The amendments made by this title shall be effective following the expiration of the 90-day period beginning on the date of enactment of this Act, except that the amendments made by section 304 shall be effective as of such date of enactment.

Approved November 8, 1984.

LEGISLATIVE HISTORY—H.R. 2300:

HOUSE REPORT No. 98-1054 (Comm. on Post Office and Civil Service).
CONGRESSIONAL RECORD, Vol. 130 (1984):

Sept. 24, considered and passed House.

Oct. 10, considered and passed Senate, amended; House concurred in Senate amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 45 (1984):
Nov. 9, Presidential statement.

Public Law 98-616
98th Congress

An Act

To amend the Solid Waste Disposal Act to authorize appropriations for the fiscal years 1985 through 1988, and for other purposes.

Nov. 8, 1984

[H.R. 2867]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act may be cited as “The Hazardous and Solid Waste Amendments of 1984”.

The Hazardous
and Solid Waste
Amendments of
1984.
42 USC 6901
note.
Pollution.

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- Sec. 701. Report to Congress on injection of hazardous waste.
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AUTHORIZATIONS FOR FISCAL YEARS 1985 THROUGH 1988

- 42 USC 6916. **SEC. 2.** (a) Section 2007(a) of the Solid Waste Disposal Act (relating to general authorization) is amended by striking out “and \$80,000,000 for the fiscal year ending September 30, 1982” and substituting “\$80,000,000 for the fiscal year ending September 30, 1982, \$70,000,000 for the fiscal year ending September 30, 1985, \$80,000,000 for the fiscal year ending September 30, 1986, \$80,000,000 for the fiscal year ending September 30, 1987, and \$80,000,000 for the fiscal year 1988”.
- 42 USC 6931. (b) Section 3011(a) of the Solid Waste Disposal Act (relating to State hazardous waste programs) is amended by striking out “and \$40,000,000 for fiscal year 1982” and substituting “\$40,000,000 for the fiscal year 1982, \$55,000,000 for the fiscal year 1985, \$60,000,000 for the fiscal year 1986, \$60,000,000 for the fiscal year 1987, and \$60,000,000 for the fiscal year 1988”.
- 42 USC 6933. (c) Section 3012 of the Solid Waste Disposal Act (relating to the hazardous waste inventory) is amended by striking out “\$20,000,000” in subsection (c)(2) and inserting in lieu thereof “\$25,000,000 for each of the fiscal years 1985 through 1988”.
- 42 USC 6948. (d) Section 4008(a)(1) of the Solid Waste Disposal Act (relating to development and implementation assistance) is amended by striking out “and \$20,000,000 for fiscal year 1982” and substituting

“\$20,000,000 for the fiscal year 1982, and \$10,000,000 for each of the fiscal years 1985 through 1988”.

(e) Section 4008(a)(2)(C) of the Solid Waste Disposal Act (relating to implementation assistance) is amended by striking out “and \$10,000,000 for fiscal year 1982” and substituting “\$10,000,000 for fiscal year 1982, and \$10,000,000 for each of the fiscal years 1985 through 1988”.

42 USC 6948.

“(f) UNDERGROUND STORAGE TANKS.—(1) There are authorized to be appropriated to the Administrator for the purpose of carrying out the provisions of subtitle I (relating to regulation of underground storage tanks), \$10,000,000 for each of the fiscal years 1985 through 1988.

Post, p. 3277.

(g) Section 4008 of the Solid Waste Disposal Act (relating to Federal assistance for certain programs) is amended in paragraph (4) of subsection (f) (relating to assistance to States for discretionary programs for recycled oil) by striking out “and \$5,000,000 for fiscal year 1983” and substituting “, \$5,000,000 for fiscal year 1983, and \$5,000,000 for each of the fiscal years 1985 through 1988”.

(h) Section 5006 of the Solid Waste Disposal Act (relating to Department of Commerce functions) is amended by inserting after “1982” the following “and \$1,500,000 for each of the fiscal years 1985 through 1988”.

42 USC 6956.

(i) Section 2007 of the Solid Waste Disposal Act (relating to criminal investigators) is amended by adding the following new subsections at the end thereof:

42 USC 6916.

“(e) CRIMINAL INVESTIGATORS.—There is authorized to be appropriated to the Administrator \$3,246,000 for the fiscal year 1985, \$2,408,300 for the fiscal year 1986, \$2,529,000 for the fiscal year 1987, and \$2,529,000 for the fiscal year 1988 to be used—

“(1) for additional officers or employees of the Environmental Protection Agency authorized by the Administrator to conduct criminal investigations (to investigate, or supervise the investigation of, any activity for which a criminal penalty is provided) under this Act; and

“(2) for support costs for such additional officers or employees.

“(f) UNDERGROUND STORAGE TANKS.—(1) There are authorized to be appropriated to the Administrator for the purpose of carrying out the provisions of subtitle I (relating to regulation of underground storage tanks), \$10,000,000 for each of the fiscal years 1985 through 1988.

“(2) There is authorized to be appropriated \$25,000,000 for each of the fiscal years 1985 through 1988 to be used to make grants to the States for purposes of assisting the States in the development and implementation of approved State underground storage tank release detection, prevention, and correction programs under subtitle I.”

Grants.

(j) There is authorized to be appropriated for purposes of section 221(b) of this Act \$500,000 for each of the fiscal years 1985 through 1987.

(k) Section 4008(a)(2) of the Solid Waste Disposal Act is amended by adding the following new subparagraph after subparagraph (C):

42 USC 6948.

“(D) There are authorized—

“(i) to be made available \$15,000,000 out of funds appropriated for fiscal year 1985, and

“(ii) to be appropriated for each of the fiscal years 1986 through 1988, \$20,000,000

for grants to States (and where appropriate to regional, local, and interstate agencies) to implement programs requiring compliance by

42 USC 6944,
6907
42 USC 6945

solid waste management facilities with the criteria promulgated under section 4004(a) and section 1008(a)(3) and with the provisions of section 4005. To the extent practicable, such programs shall require such compliance not later than thirty-six months after the date of the enactment of the Hazardous and Solid Waste Amendments of 1984.”

Post, p. 3289.

(1) For provisions authorizing the appropriation of funds for the National Ground Water Commission, see section 704 of this Act.

TITLE I—PROVISIONS RELATING PRIMARILY TO SUBTITLES A AND B OF THE SOLID WASTE DISPOSAL ACT

FINDINGS AND OBJECTIVES OF SOLID WASTE DISPOSAL ACT

42 USC 6901.

SEC. 101. (a) Section 1002(b) of the Solid Waste Disposal Act is amended by—

(1) striking out paragraph (5) and substituting:

“(5) the placement of inadequate controls on hazardous waste management will result in substantial risks to human health and the environment;

“(6) if hazardous waste management is improperly performed in the first instance, corrective action is likely to be expensive, complex, and time consuming;

“(7) certain classes of land disposal facilities are not capable of assuring long-term containment of certain hazardous wastes, and to avoid substantial risk to human health and the environment, reliance on land disposal should be minimized or eliminated, and land disposal, particularly landfill and surface impoundment, should be the least favored method for managing hazardous wastes; and”;

(2) redesignating paragraph (6) as paragraph (8); and

(3) striking out the semicolon in redesignated paragraph (8) and substituting a period.

42 USC 6902.

(b) Section 1003 of the Solid Waste Disposal Act is amended by—

(1) adding “AND NATIONAL POLICY” to the title, inserting “(a) OBJECTIVES.—” after “SEC. 1003.”, and adding the following new subsection at the end thereof:

Congress.

“(b) NATIONAL POLICY.—The Congress hereby declares it to be the national policy of the United States that, wherever feasible, the generation of hazardous waste is to be reduced or eliminated as expeditiously as possible. Waste that is nevertheless generated should be treated, stored, or disposed of so as to minimize the present and future threat to human health and the environment.”; and

(2) striking out paragraph (4) of subsection (a) (as designated by paragraph (1) of this subsection), substituting the following new paragraphs in such subsection (a), and redesignating paragraphs (5) through (8) thereof as paragraphs (8) through (11):

“(4) assuring that hazardous waste management practices are conducted in a manner which protects human health and the environment;

“(5) requiring that hazardous waste be properly managed in the first instance thereby reducing the need for corrective action at a future date;

“(6) minimizing the generation of hazardous waste and the land disposal of hazardous waste by encouraging process substi-

tution, materials recovery, properly conducted recycling and reuse, and treatment;

“(7) establishing a viable Federal-State partnership to carry out the purposes of this Act and insuring that the Administrator will, in carrying out the provisions of subtitle C of this Act, give a high priority to assisting and cooperating with States in obtaining full authorization of State programs under subtitle C;”.

DIOXINS FROM RESOURCE RECOVERY FACILITIES

SEC. 102. Section 1006(b) of the Solid Waste Disposal Act is amended by inserting “(1)” after “INTEGRATION WITH OTHER ACTS.—” and by adding the following new paragraph at the end thereof:

42 USC 6905.

“(2)(A) As promptly as practicable after the date of the enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall submit a report describing—

Report.

“(i) the current data and information available on emissions of polychlorinated dibenzo-p-dioxins from resource recovery facilities burning municipal solid waste;

“(ii) any significant risks to human health posed by these emissions; and

“(iii) operating practices appropriate for controlling these emissions.

“(B) Based on the report under subparagraph (A) and on any future information on such emissions, the Administrator may publish advisories or guidelines regarding the control of dioxin emissions from such facilities. Nothing in this paragraph shall be construed to preempt or otherwise affect the authority of the Administrator to promulgate any regulations under the Clean Air Act regarding emissions of polychlorinated dibenzo-p-dioxins.”.

42 USC 7401
note.

OMBUDSMAN

SEC. 103. (a) Subtitle B of the Solid Waste Disposal Act is amended by inserting the following new section after section 2007:

“OFFICE OF OMBUDSMAN

“SEC. 2008. (a) ESTABLISHMENT; FUNCTIONS.—The Administrator shall establish an Office of Ombudsman, to be directed by an Ombudsman. It shall be the function of the Office of Ombudsman to receive individual complaints, grievances, requests for information submitted by any person with respect to any program or requirement under this Act.

Establishment.
42 USC 6917.

“(b) AUTHORITY TO RENDER ASSISTANCE.—The Ombudsman shall render assistance with respect to the complaints, grievances, and requests submitted to the Office of Ombudsman, and shall make appropriate recommendations to the Administrator.

“(c) EFFECT ON PROCEDURES FOR GRIEVANCES, APPEALS, OR ADMINISTRATIVE MATTERS.—The establishment of the Office of Ombudsman shall not affect any procedures for grievances, appeals, or administrative matters in any other provision of this Act, any other provision of law, or any Federal regulation.

“(d) TERMINATION.—The Office of the Ombudsman shall cease to exist 4 years after the date of enactment of the Hazardous and Solid Waste Amendments of 1984.”.

(b) The table of contents for such Act is amended by inserting the following new item after the item relating to section 2007:

"Sec. 2008. Office of Ombudsman."

TITLE II—PROVISIONS RELATING PRIMARILY TO SUBTITLE C OF THE SOLID WASTE DISPOSAL ACT

Subtitle A—Amendments Primarily to Section 3004

LAND DISPOSAL OF HAZARDOUS WASTE

42 USC 6924. SEC. 201. (a) LAND DISPOSAL OF CERTAIN HAZARDOUS WASTES.—Section 3004 of the Solid Waste Disposal Act is amended by inserting "(a) IN GENERAL.—" after "3004." and by adding the following at the end thereof:

Prohibitions. "(b) SALT DOME FORMATIONS, SALT BED FORMATIONS, UNDERGROUND MINES AND CAVES.—(1) Effective on the date of the enactment of the Hazardous and Solid Waste Amendments of 1984, the placement of any noncontainerized or bulk liquid hazardous waste in any salt dome formation, salt bed formation, underground mine, or cave is prohibited until such time as—

"(A) the Administrator has determined, after notice and opportunity for hearings on the record in the affected areas, that such placement is protective of human health and the environment;

"(B) the Administrator has promulgated performance and permitting standards for such facilities under this subtitle, and;

"(C) a permit has been issued under section 3005(c) for the facility concerned.

"(2) Effective on the date of enactment of the Hazardous and Solid Waste Amendments of 1984, the placement of any hazardous waste other than a hazardous waste referred to in paragraph (1) in a salt dome formation, salt bed formation, underground mine, or cave is prohibited until such time as a permit has been issued under section 3005(c) for the facility concerned.

Post, pp. 3241, 3242.

"(3) No determination made by the Administrator under subsection (d), (e), or (g) of this section regarding any hazardous waste to which such subsection (d), (e), or (g) applies shall affect the prohibition contained in paragraph (1) or (2) of this subsection.

"(4) Nothing in this subsection shall apply to the Department of Energy Waste Isolation Pilot Project in New Mexico.

"(c) LIQUIDS IN LANDFILLS.—(1) Effective 6 months after the date of the enactment of the Hazardous and Solid Waste Amendments of 1984, the placement of bulk or noncontainerized liquid hazardous waste or free liquids contained in hazardous waste (whether or not absorbents have been added) in any landfill is prohibited. Prior to such date the requirements (as in effect on April 30, 1983) promulgated under this section by the Administrator regarding liquid hazardous waste shall remain in force and effect to the extent such requirements are applicable to the placement of bulk or noncontainerized liquid hazardous waste, or free liquids contained in hazardous waste, in landfills.

Regulations.

"(2) Not later than fifteen months after the date of the enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall promulgate final regulations which—

“(A) minimize the disposal of containerized liquid hazardous waste in landfills, and

“(B) minimize the presence of free liquids in containerized hazardous waste to be disposed of in landfills.

Such regulations shall also prohibit the disposal in landfills of liquids that have been absorbed in materials that biodegrade or that release liquids when compressed as might occur during routine landfill operations. Prior to the date on which such final regulations take effect, the requirements (as in effect on April 30, 1983) promulgated under this section by the Administrator shall remain in force and effect to the extent such requirements are applicable to the disposal of containerized liquid hazardous waste, or free liquids contained in hazardous waste, in landfills.

Prohibition.

“(3) Effective twelve months after the date of the enactment of the Hazardous and Solid Waste Amendments of 1984, the placement of any liquid which is not a hazardous waste in a landfill for which a permit is required under section 3005(c) or which is operating pursuant to interim status granted under section 3005(e) is prohibited unless the owner or operator of such landfill demonstrates to the Administrator, or the Administrator determines, that—

Post, pp. 3241, 3242.

“(A) the only reasonably available alternative to the placement in such landfill is placement in a landfill or unlined surface impoundment, whether or not permitted under section 3005(c) or operating pursuant to interim status under section 3005(e), which contains, or may reasonably be anticipated to contain, hazardous waste; and

“(B) placement in such owner or operator’s landfill will not present a risk of contamination of any underground source of drinking water.

As used in subparagraph (B), the term ‘underground source of drinking water’ has the same meaning as provided in regulations under the Safe Drinking Water Act (title XIV of the Public Health Service Act).

42 USC 201 note.
42 USC 300f.

“(4) No determination made by the Administrator under subsection (d), (e), or (g) of this section regarding any hazardous waste to which such subsection (d), (e), or (g) applies shall affect the prohibition contained in paragraph (1) of this subsection.

“(d) PROHIBITIONS ON LAND DISPOSAL OF SPECIFIED WASTES.—(1) Effective 32 months after the enactment of the Hazardous and Solid Waste Amendments of 1984 (except as provided in subsection (f) with respect to underground injection into deep injection wells), the land disposal of the hazardous wastes referred to in paragraph (2) is prohibited unless the Administrator determines the prohibition on one or more methods of land disposal of such waste is not required in order to protect human health and the environment for as long as the waste remains hazardous, taking into account—

“(A) the long-term uncertainties associated with land disposal,

“(B) the goal of managing hazardous waste in an appropriate manner in the first instance, and

“(C) the persistence, toxicity, mobility, and propensity to bioaccumulate of such hazardous wastes and their hazardous constituents.

For the purposes of this paragraph, a method of land disposal may not be determined to be protective of human health and the environment for a hazardous waste referred to in paragraph (2) (other than a hazardous waste which has complied with the pretreatment regu-

lations promulgated under subsection (m)), unless, upon application by an interested person, it has been demonstrated to the Administrator, to a reasonable degree of certainty, that there will be no migration of hazardous constituents from the disposal unit or injection zone for as long as the wastes remain hazardous.

42 USC 6921.

"(2) Paragraph (1) applies to the following hazardous wastes listed or identified under section 3001:

"(A) Liquid hazardous wastes, including free liquids associated with any solid or sludge, containing free cyanides at concentrations greater than or equal to 1,000 mg/l.

"(B) Liquid hazardous wastes, including free liquids associated with any solid or sludge, containing the following metals (or elements) or compounds of these metals (or elements) at concentrations greater than or equal to those specified below:

"(i) arsenic and/or compounds (as As) 500 mg/l;

"(ii) cadmium and/or compounds (as Cd) 100 mg/l;

"(iii) chromium (VI and/or compounds (as Cr VI) 500 mg/l;

"(iv) lead and/or compounds (as Pb) 500 mg/l;

"(v) mercury and/or compounds (as Hg) 20 mg/l;

"(vi) nickel and/or compounds (as Ni) 134 mg/l;

"(vii) selenium and/or compounds (as Se) 100 mg/l; and

"(viii) thallium and/or compounds (as Th) 130 mg/l.

"(C) Liquid hazardous waste having a pH less than or equal to two (2.0).

"(D) Liquid hazardous wastes containing polychlorinated biphenyls at concentrations greater than or equal to 50 ppm.

"(E) Hazardous wastes containing halogenated organic compounds in total concentration greater than or equal to 1,000 mg/kg.

When necessary to protect human health and the environment, the Administrator shall substitute more stringent concentration levels than the levels specified in subparagraphs (A) through (E).

"(3) During the period ending forty-eight months after the date of the enactment of the Hazardous and Solid Waste Amendments of 1984, this subsection shall not apply to any disposal of contaminated soil or debris resulting from a response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 or a corrective action required under this subtitle.

42 USC 9604, 9606.

Prohibition.

"(e) SOLVENTS AND DIOXINS.—(1) Effective twenty-four months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984 (except as provided in subsection (f) with respect to underground injection into deep injection wells), the land disposal of the hazardous wastes referred to in paragraph (2) is prohibited unless the Administrator determines the prohibition of one or more methods of land disposal of such waste is not required in order to protect human health and the environment for as long as the waste remains hazardous, taking into account the factors referred to in subparagraph (A) through (C) of subsection (d)(1). For the purposes of this paragraph, a method of land disposal may not be determined to be protective of human health and the environment for a hazardous waste referred to in paragraph (2) (other than a hazardous waste which has complied with the pretreatment regulations promulgated under subsection (m)), unless upon application by an interested person it has been demonstrated to the Administrator, to a reasonable degree of certainty, that there will be no

migration of hazardous constituents from the disposal unit or injection zone for as long as the wastes remain hazardous.

“(2) The hazardous wastes to which the prohibition under paragraph (1) applies are as follows—

“(A) dioxin-containing hazardous wastes numbered F020, F021, F022, and F023 (as referred to in the proposed rule published by the Administrator in the Federal Register for April 4, 1983), and

“(B) those hazardous wastes numbered F001, F002, F003, F004, and F005 in regulations promulgated by the Administrator under section 3001 (40 C.F.R. 261.31 (July 1, 1983)), as those regulations are in effect on July 1, 1983.

“(3) During the period ending forty-eight months after the date of the enactment of the Hazardous and Solid Waste Amendments of 1984, this subsection shall not apply to any disposal of contaminated soil or debris resulting from a response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 or a corrective action required under this subtitle.

42 USC 9604,
9606.

“(f) DISPOSAL INTO DEEP INJECTION WELLS; SPECIFIED SUBSECTION (d) WASTES; SOLVENTS AND DIOXINS.—(1) Not later than forty-five months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall complete a review of the disposal of all hazardous wastes referred to in paragraph (2) of subsection (d) and in paragraph (2) of subsection (e) by underground injection into deep injection wells.

“(2) Within forty-five months after the date of the enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall make a determination regarding the disposal by underground injection into deep injection wells of the hazardous wastes referred to in paragraph (2) of subsection (d) and the hazardous wastes referred to in paragraph (2) of subsection (e). The Administrator shall promulgate final regulations prohibiting the disposal of such wastes into such wells if it may reasonably be determined that such disposal may not be protective of human health and the environment for as long as the waste remains hazardous, taking into account the factors referred to in subparagraphs (A) through (C) of subsection (d)(1). In promulgating such regulations, the Administrator shall consider each hazardous waste referred to in paragraph (2) of subsection (d) or in paragraph (2) of subsection (e) which is prohibited from disposal into such wells by any State.

Regulations.
Prohibitions.

“(3) If the Administrator fails to make a determination under paragraph (2) for any hazardous waste referred to in paragraph (2) of subsection (d) or in paragraph (2) of subsection (e) within forty-five months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, such hazardous waste shall be prohibited from disposal into any deep injection well.

Prohibition.

“(4) As used in this subsection, the term ‘deep injection well’ means a well used for the underground injection of hazardous waste other than a well to which section 7010(a) applies.

“(g) ADDITIONAL LAND DISPOSAL PROHIBITION DETERMINATIONS.—(1) Not later than twenty-four months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall submit a schedule to Congress for—

“(A) reviewing all hazardous wastes listed (as of the date of the enactment of the Hazardous and Solid Waste Amendments

42 USC 6921.

of 1984) under section 3001 other than those wastes which are referred to in subsection (d) or (e); and

“(B) taking action under paragraph (5) of this subsection with respect to each such hazardous waste.

“(2) The Administrator shall base the schedule on a ranking of such listed wastes considering their intrinsic hazard and their volume such that decisions regarding the land disposal of high volume hazardous wastes with high intrinsic hazard shall, to the maximum extent possible, be made by the date forty-five months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984. Decisions regarding low volume hazardous wastes with lower intrinsic hazard shall be made by the date sixty-six months after such date of enactment.

44 USC 101 note.

“(3) The preparation and submission of the schedule under this subsection shall not be subject to the Paperwork Reduction Act of 1980. No hearing on the record shall be required for purposes of preparation or submission of the schedule. The schedule shall not be subject to judicial review.

“(4) The schedule under this subsection shall require that the Administrator shall promulgate regulations in accordance with paragraph (5) or make a determination under paragraph (5)—

“(A) for at least one-third of all hazardous wastes referred to in paragraph (1) by the date forty-five months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984;

“(B) for at least two-thirds of all such listed wastes by the date fifty-five months after the date of enactment of such Amendments; and

“(C) for all such listed wastes and for all hazardous wastes identified under 3001 by the date sixty-six months after the date of enactment of such Amendments.

In the case of any hazardous waste identified or listed under section 3001 after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall determine whether such waste shall be prohibited from one or more methods of land disposal in accordance with paragraph (5) within six months after the date of such identification or listing.

Regulations.
Prohibitions.

“(5) Not later than the date specified in the schedule published under this subsection, the Administrator shall promulgate final regulations prohibiting one or more methods of land disposal of the hazardous wastes listed on such schedule except for methods of land disposal which the Administrator determines will be protective of human health and the environment for as long as the waste remains hazardous, taking into account the factors referred to in subparagraph (A) through (C) of subsection (d)(1). For the purposes of this paragraph, a method of land disposal may not be determined to be protective of human health and the environment (except with respect to a hazardous waste which has complied with the pretreatment regulations promulgated under subsection (m)) unless, upon application by an interested person, it has been demonstrated to the Administrator, to a reasonable degree of certainty, that there will be no migration of hazardous constituents from the disposal unit or injection zone for as long as the wastes remain hazardous.

“(6)(A) If the Administrator fails (by the date forty-five months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984) to promulgate regulations or make a determination under paragraph (5) for any hazardous waste which is

included in the first one-third of the schedule published under this subsection, such hazardous waste may be disposed of in a landfill or surface impoundment only if—

“(i) such facility is in compliance with the requirements of subsection (o) which are applicable to new facilities (relating to minimum technological requirements); and

“(ii) prior to such disposal, the generator has certified to the Administrator that such generator has investigated the availability of treatment capacity and has determined that the use of such landfill or surface impoundment is the only practical alternative to treatment currently available to the generator. The prohibition contained in this subparagraph shall continue to apply until the Administrator promulgates regulations or makes a determination under paragraph (5) for the waste concerned.

“(B) If the Administrator fails (by the date 55 months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984) to promulgate regulations or make a determination under paragraph (5) for any hazardous waste which is included in the first two-thirds of the schedule published under this subsection, such hazardous waste may be disposed of in a landfill or surface impoundment only if—

“(i) such facility is in compliance with the requirements of subsection (o) which are applicable to new facilities (relating to minimum technological requirements); and

“(ii) prior to such disposal, the generator has certified to the Administrator that such generator has investigated the availability of treatment capacity and has determined that the use of such landfill or surface impoundment is the only practical alternative to treatment currently available to the generator. The prohibition contained in this subparagraph shall continue to apply until the Administrator promulgates regulations or makes a determination under paragraph (5) for the waste concerned.

“(C) If the Administrator fails to promulgate regulations, or make a determination under paragraph (5) for any hazardous waste referred to in paragraph (1) within 66 months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, such hazardous waste shall be prohibited from land disposal.

“(h) VARIANCES FROM LAND DISPOSAL PROHIBITIONS.—(1) A prohibition in regulations under subsection (d), (e), (f), or (g) shall be effective immediately upon promulgation.

“(2) The Administrator may establish an effective date different from the effective date which would otherwise apply under subsection (d), (e), (f), or (g) with respect to a specific hazardous waste which is subject to a prohibition under subsection (d), (e), (f), or (g) or under regulations under subsection (d), (e), (f), or (g). Any such other effective date shall be established on the basis of the earliest date on which adequate alternative treatment, recovery, or disposal capacity which protects human health and the environment will be available. Any such other effective date shall in no event be later than 2 years after the effective date of the prohibition which would otherwise apply under subsection (d), (e), (f), or (g).

“(3) The Administrator, after notice and opportunity for comment and after consultation with appropriate State agencies in all affected States, may on a case-by-case basis grant an extension of the effective date which would otherwise apply under subsection (d), (e), (f), or (g) or under paragraph (2) for up to one year, where the applicant demonstrates that there is a binding contractual commit-

ment to construct or otherwise provide such alternative capacity but due to circumstances beyond the control of such applicant such alternative capacity cannot reasonably be made available by such effective date. Such extension shall be renewable once for no more than one additional year.

“(4) Whenever another effective date (hereinafter referred to as a ‘variance’) is established under paragraph (2), or an extension is granted under paragraph (3), with respect to any hazardous waste, during the period for which such variance or extension is in effect, such hazardous waste may be disposed of in a landfill or surface impoundment only if such facility is in compliance with the requirements of subsection (o).

Federal Register, publication.

“(i) PUBLICATION OF DETERMINATION.—If the Administrator determines that a method of land disposal will be protective of human health and the environment, he shall promptly publish in the Federal Register notice of such determination, together with an explanation of the basis for such determination.

“(j) STORAGE OF HAZARDOUS WASTE PROHIBITED FROM LAND DISPOSAL.—In the case of any hazardous waste which is prohibited from one or more methods of land disposal under this section (or under regulations promulgated by the Administrator under any provision of this section) the storage of such hazardous waste is prohibited unless such storage is solely for the purpose of the accumulation of such quantities of hazardous waste as are necessary to facilitate proper recovery, treatment or disposal.

“(k) DEFINITION OF LAND DISPOSAL.—For the purposes of this section, the term ‘land disposal’, when used with respect to a specified hazardous waste, shall be deemed to include, but not be limited to, any placement of such hazardous waste in a landfill, surface impoundment, waste pile, injection well, land treatment facility, salt dome formation, salt bed formation, or underground mine or cave.

“(l) BAN ON DUST SUPPRESSION.—The use of waste or used oil or other material, which is contaminated or mixed with dioxin or any other hazardous waste identified or listed under section 3001 (other than a waste identified solely on the basis of ignitability), for dust suppression or road treatment is prohibited.

“(m) TREATMENT STANDARDS FOR WASTES SUBJECT TO LAND DISPOSAL PROHIBITION.—(1) Simultaneously with the promulgation of regulations under subsection (d), (e), (f), or (g) prohibiting one or more methods of land disposal of a particular hazardous waste, and as appropriate thereafter, the Administrator shall, after notice and an opportunity for hearings and after consultation with appropriate Federal and State agencies, promulgate regulations specifying those levels or methods of treatment, if any, which substantially diminish the toxicity of the waste or substantially reduce the likelihood of migration of hazardous constituents from the waste so that short-term and long-term threats to human health and the environment are minimized.

“(2) If such hazardous waste has been treated to the level or by a method specified in regulations promulgated under this subsection, such waste or residue thereof shall not be subject to any prohibition promulgated under subsection (d), (e), (f), or (g) and may be disposed of in a land disposal facility which meets the requirements of this subtitle. Any regulation promulgated under this subsection for a particular hazardous waste shall become effective on the same date

as any applicable prohibition promulgated under subsection (d), (e), (f), or (g).

“(n) AIR EMISSIONS.—Not later than thirty months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall promulgate such regulations for the monitoring and control of air emissions at hazardous waste treatment, storage, and disposal facilities, including but not limited to open tanks, surface impoundments, and landfills, as may be necessary to protect human health and the environment.”

Regulations.

MINIMUM TECHNOLOGICAL REQUIREMENTS

SEC. 202. (a) Section 3004 of the Solid Waste Disposal Act is amended by inserting the following new subsection after subsection (n):

Supra.
42 USC 6924.

“(o) MINIMUM TECHNOLOGICAL REQUIREMENTS.—(1) The regulations under subsection (a) of this section shall be revised from time to time to take into account improvements in the technology of control and measurement. At a minimum, such regulations shall require, and a permit issued pursuant to section 3005(c) after the date of enactment of the Hazardous and Solid Waste Amendments of 1984 by the Administrator or a State shall require—

Post, pp. 3241,
3242.

“(A) for each new landfill or surface impoundment, each new landfill or surface impoundment unit at an existing facility, each replacement of an existing landfill or surface impoundment unit, and each lateral expansion of an existing landfill or surface impoundment unit, for which an application for a final determination regarding issuance of a permit under section 3005(c) is received after the date of enactment of the Hazardous and Solid Waste Amendments of 1984—

“(i) the installation of two or more liners and a leachate collection system above (in the case of a landfill) and between such liners; and

“(ii) ground water monitoring; and

“(B) for each incinerator which receives a permit under section 3005(c) after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, the attainment of the minimum destruction and removal efficiency required by regulations in effect on June 24, 1982.

The requirements of this paragraph shall apply with respect to all waste received after the issuance of the permit.

“(2) Paragraph (1)(A)(i) shall not apply if the owner or operator demonstrates to the Administrator, and the Administrator finds for such landfill or surface impoundment, that alternative design and operating practices, together with location characteristics, will prevent the migration of any hazardous constituents into the ground water or surface water at least as effectively as such liners and leachate collection systems.

“(3) The double-liner requirement set forth in paragraph (1)(A)(i) may be waived by the Administrator for any monofill, if—

“(A) such monofill contains only hazardous wastes from foundry furnace emission controls or metal casting molding sand,

“(B) such wastes do not contain constituents which would render the wastes hazardous for reasons other than the Extraction Procedure (“EP”) toxicity characteristics set forth in regulations under this subtitle, and

Post, p. 3243.

“(C) such monofill meets the same requirements as are applicable in the case of a waiver under section 3005(j) (2) or (4).

42 USC 6921.

“(4)(A) Not later than thirty months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall promulgate standards requiring that new landfill units, surface impoundment units, waste piles, underground tanks and land treatment units for the storage, treatment, or disposal of hazardous waste identified or listed under section 3001 shall be required to utilize approved leak detection systems.

“(B) For the purposes of subparagraph (A)—

“(i) the term ‘approved leak detection system’ means a system or technology which the Administrator determines to be capable of detecting leaks of hazardous constituents at the earliest practicable time; and

“(ii) the term ‘new units’ means units on which construction commences after the date of promulgation of regulations under this paragraph.

Regulations.

“(5)(A) The Administrator shall promulgate regulations or issue guidance documents implementing the requirements of paragraph (1)(A) within two years after the date of the enactment of the Hazardous and Solid Waste Amendments of 1984.

“(B) Until the effective date of such regulations or guidance documents, the requirement for the installation of two or more liners may be satisfied by the installation of a top liner designed, operated, and constructed of materials to prevent the migration of any constituent into such liner during the period such facility remains in operation (including any post-closure monitoring period), and a lower liner designed, operated and constructed to prevent the migration of any constituent through such liner during such period. For the purpose of the preceding sentence, a lower liner shall be deemed to satisfy such requirement if it is constructed of at least a 3-foot thick layer of recompacted clay or other natural material with a permeability of no more than 1×10^{-7} centimeter per second.

Alabama.
42 USC 6925.

“(6) Any permit under section 3005 which is issued for a landfill located within the State of Alabama shall require the installation of two or more liners and a leachate collection system above and between such liners, notwithstanding any other provision of this Act.

“(7) In addition to the requirements set forth in this subsection, the regulations referred to in paragraph (1) shall specify criteria for the acceptable location of new and existing treatment, storage, or disposal facilities as necessary to protect human health and the environment. Within 18 months after the enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall publish guidance criteria identifying areas of vulnerable hydrogeology.”.

GROUND WATER MONITORING

Ante, p. 3233.
42 USC 6924.

SEC. 203. Section 3004 of the Solid Waste Disposal Act is amended by adding the following new subsection after subsection (o) thereof:

“(p) GROUND WATER MONITORING.—The standards under this section concerning ground water monitoring which are applicable to surface impoundments, waste piles, land treatment units, and landfills shall apply to such a facility whether or not—

“(1) the facility is located above the seasonal high water table;

“(2) two liners and a leachate collection system have been installed at the facility; or

“(3) the owner or operator inspects the liner (or liners) which has been installed at the facility.

This subsection shall not be construed to affect other exemptions or waivers from such standards provided in regulations in effect on the date of enactment of the Hazardous and Solid Waste Amendments of 1984 or as may be provided in revisions to those regulations, to the extent consistent with this subsection. The Administrator is authorized on a case-by-case basis to exempt from ground water monitoring requirements under this section (including subsection (o)) any engineered structure which the Administrator finds does not receive or contain liquid waste (nor waste containing free liquids), is designed and operated to exclude liquid from precipitation or other runoff, utilizes multiple leak detection systems within the outer layer of containment, and provides for continuing operation and maintenance of these leak detection systems during the operating period, closure, and the period required for post-closure monitoring and for which the Administrator concludes on the basis of such findings that there is a reasonable certainty hazardous constituents will not migrate beyond the outer layer of containment prior to the end of the period required for post-closure monitoring.”.

BURNING AND BLENDING OF HAZARDOUS WASTES

SEC. 204. (a)(1) Section 3010 of the Solid Waste Disposal Act is amended by inserting the following after the first sentence thereof: “Not later than fifteen months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984—

42 USC 6930.
Petroleum and
petroleum prod-
ucts.

“(1) the owner or operator of any facility which produces a fuel (A) from any hazardous waste identified or listed under section 3001, (B) from such hazardous waste identified or listed under section 3001 and any other material, (C) from used oil, or (D) from used oil and any other material;

42 USC 6921.

“(2) the owner or operator of any facility (other than a single- or two-family residence) which burns for purposes of energy recovery any fuel produced as provided in paragraph (1) or any fuel which otherwise contains used oil or any hazardous waste identified or listed under section 3001; and

“(3) any person who distributes or markets any fuel which is produced as provided in paragraph (1) or any fuel which otherwise contains used oil or any hazardous waste identified or listed under section 3001

shall file with the Administrator (and with the State in the case of a State with an authorized hazardous waste program) a notification stating the location and general description of the facility, together with a description of the identified or listed hazardous waste involved and, in the case of a facility referred to in paragraph (1) or (2), a description of the production or energy recovery activity carried out at the facility and such other information as the Administrator deems necessary. For purposes of the preceding sentence, the term ‘hazardous waste listed under section 3001’ also includes any commercial chemical product which is listed under section 3001 and which, in lieu of its original intended use, is (i) produced for use as (or as a component of) a fuel, (ii) distributed for use as a fuel, or (iii) burned as a fuel. Notification shall not be required under the second sentence of this subsection in the case of facilities (such as residen-

42 USC 6921.
Post, p. 3258.
 42 USC 6930.

Ante, p. 3234.
 42 USC 6924.
 Regulations.

tial boilers) where the Administrator determines that such notification is not necessary in order for the Administrator to obtain sufficient information respecting current practices of facilities using hazardous waste for energy recovery. Nothing in this subsection shall be construed to affect or impair the provisions of section 3001(b)(3). Nothing in this subsection shall affect regulatory determinations under section 3014."

(2) Section 3010 of such Act is amended by striking out "the preceding sentence" each place it occurs and substituting "the preceding provisions".

(b)(1) Section 3004 of the Solid Waste Disposal Act is amended by adding the following new subsections after subsection (p):

"(q) **HAZARDOUS WASTE USED AS FUEL.**—(1) Not later than two years after the date of the enactment of the Hazardous and Solid Waste Amendments of 1984, and after notice and opportunity for public hearing, the Administrator shall promulgate regulations establishing such—

"(A) standards applicable to the owners and operators of facilities which produce a fuel—

"(i) from any hazardous waste identified or listed under section 3001, or

"(ii) from any hazardous waste identified or listed under section 3001 and any other material;

"(B) standards applicable to the owners and operators of facilities which burn, for purposes of energy recovery, any fuel produced as provided in subparagraph (A) or any fuel which otherwise contains any hazardous waste identified or listed under section 3001; and

"(C) standards applicable to any person who distributes or markets any fuel which is produced as provided in subparagraph (A) or any fuel which otherwise contains any hazardous waste identified or listed under section 3001

as may be necessary to protect human health and the environment. Such standards may include any of the requirements set forth in paragraphs (1) through (7) of subsection (a) as may be appropriate. Nothing in this subsection shall be construed to affect or impair the provisions of section 3001(b)(3). For purposes of this subsection, the term 'hazardous waste listed under section 3001' includes any commercial chemical product which is listed under section 3001 and which, in lieu of its original intended use, is (i) produced for use as (or as a component of) a fuel, (ii) distributed for use as a fuel, or (iii) burned as a fuel.

"(2)(A) This subsection, subsection (r), and subsection (s) shall not apply to petroleum refinery wastes containing oil which are converted into petroleum coke at the same facility at which such wastes were generated, unless the resulting coke product would exceed one or more characteristics by which a substance would be identified as a hazardous waste under section 3001.

"(B) The Administrator may exempt from the requirements of this subsection, subsection (r), or subsection (s) facilities which burn de minimis quantities of hazardous waste as fuel, as defined by the Administrator, if the wastes are burned at the same facility at which such wastes are generated; the waste is burned to recover useful energy, as determined by the Administrator on the basis of the design and operating characteristics of the facility and the heating value and other characteristics of the waste; and the waste is burned in a type of device determined by the Administrator to be

Petroleum and
 petroleum prod-
 ucts.

designed and operated at a destruction and removal efficiency sufficient such that protection of human health and environment is assured.

“(C)(i) After the date of the enactment of the Hazardous and Solid Waste Amendments of 1984 and until standards are promulgated and in effect under paragraph (2) of this subsection, no fuel which contains any hazardous waste may be burned in any cement kiln which is located within the boundaries of any incorporated municipality with a population greater than five hundred thousand (based on the most recent census statistics) unless such kiln fully complies with regulations (as in effect on the date of the enactment of the Hazardous and Solid Waste Amendments of 1984) under this subtitle which are applicable to incinerators.

Prohibition.

“(ii) Any person who knowingly violates the prohibition contained in clause (i) shall be deemed to have violated section 3008(d)(2).

Post, p. 3256.

“(r) LABELING.—(1) Notwithstanding any other provision of law, until such time as the Administrator promulgates standards under subsection (q) specifically superceding this requirement, it shall be unlawful for any person who is required to file a notification in accordance with paragraph (1) or (3) of section 3010 to distribute or market any fuel which is produced from any hazardous waste identified or listed under section 3001, or any fuel which otherwise contains any hazardous waste identified or listed under section 3001 if the invoice or the bill of sale fails—

Ante, p. 3235.

42 USC 6921.

“(A) to bear the following statement: ‘WARNING: THIS FUEL CONTAINS HAZARDOUS WASTES’, and

“(B) to list the hazardous wastes contained therein.

Beginning ninety days after the enactment of the Hazardous and Solid Waste Amendments of 1984, such statement shall be located in a conspicuous place on every such invoice or bill of sale and shall appear in conspicuous and legible type in contrast by typography, layouts, or color with other printed matter on the invoice or bill of sale.

“(2) Unless the Administrator determines otherwise as may be necessary to protect human health and the environment, this subsection shall not apply to fuels produced from petroleum refining waste containing oil if—

“(A) such materials are generated and reinserted onsite into the refining process;

“(B) contaminants are removed; and

“(C) such refining waste containing oil is converted along with normal process streams into petroleum-derived fuel products at a facility at which crude oil is refined into petroleum products and which is classified as a number SIC 2911 facility under the Office of Management and Budget Standard Industrial Classification Manual.

Petroleum and petroleum products.

“(3) Unless the Administrator determines otherwise as may be necessary to protect human health and the environment, this subsection shall not apply to fuels produced from oily materials, resulting from normal petroleum refining, production and transportation practices, if (A) contaminants are removed; and (B) such oily materials are converted along with normal process streams into petroleum-derived fuel products at a facility at which crude oil is refined into petroleum products and which is classified as a number SIC 2911 facility under the Office of Management and Budget Standard Classification Manual.

Petroleum and petroleum products.

“(s) **RECORDKEEPING.**—Not later than fifteen months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall promulgate regulations requiring that any person who is required to file a notification in accordance with subparagraph (1), (2), or (3), of section 3010(a) shall maintain such records regarding fuel blending, distribution, or use as may be necessary to protect human health and the environment.”.

42 USC 6923.

(2) Section 3003 of the Solid Waste Disposal Act is amended by adding the following new subsection after subsection (b):

“(c) **FUEL FROM HAZARDOUS WASTE.**—Not later than two years after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, and after opportunity for public hearing, the Administrator shall promulgate regulations establishing standards, applicable to transporters of fuel produced (1) from any hazardous waste identified or listed under section 3001, or (2) from any hazardous waste identified or listed under section 3001 and any other material, as may be necessary to protect human health and the environment. Such standards may include any of the requirements set forth in paragraphs (1) through (4) of subsection (a) as may be appropriate.”.

42 USC 6921.

DIRECT ACTION

Supra.

42 USC 6924.

SEC. 205. Section 3004 of the Solid Waste Disposal Act is amended by adding the following new subsection after subsection (s) thereof:

“(t) **FINANCIAL RESPONSIBILITY PROVISIONS.**—(1) Financial responsibility required by subsection (a) of this section may be established in accordance with regulations promulgated by the Administrator by any one, or any combination, of the following: insurance, guarantee, surety bond, letter of credit, or qualification as a self-insurer. In promulgating requirements under this section, the Administrator is authorized to specify policy or other contractual terms, conditions, or defenses which are necessary or are unacceptable in establishing such evidence of financial responsibility in order to effectuate the purposes of this Act.

Claims.

“(2) In any case where the owner or operator is in bankruptcy, reorganization, or arrangement pursuant to the Federal Bankruptcy Code or where (with reasonable diligence) jurisdiction in any State court or any Federal Court cannot be obtained over an owner or operator likely to be solvent at the time of judgment, any claim arising from conduct for which evidence of financial responsibility must be provided under this section may be asserted directly against the guarantor providing such evidence of financial responsibility. In the case of any action pursuant to this subsection, such guarantor shall be entitled to invoke all rights and defenses which would have been available to the owner or operator if any action had been brought against the owner or operator by the claimant and which would have been available to the guarantor if an action had been brought against the guarantor by the owner or operator.

“(3) The total liability of any guarantor shall be limited to the aggregate amount which the guarantor has provided as evidence of financial responsibility to the owner or operator under this Act. Nothing in this subsection shall be construed to limit any other State or Federal statutory, contractual or common law liability of a guarantor to its owner or operator including, but not limited to, the liability of such guarantor for bad faith either in negotiating or in failing to negotiate the settlement of any claim. Nothing in this

subsection shall be construed to diminish the liability of any person under section 107 or 111 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 or other applicable law.

42 USC 9607,
9611.

“(4) For the purpose of this subsection, the term ‘guarantor’ means any person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator under this section.”.

CONTINUING RELEASES AT PERMITTED FACILITIES

SEC. 206. Section 3004 of the Solid Waste Disposal Act is amended by adding the following new subsection after subsection (t) thereof:

Ante, p. 3238.
42 USC 6924.

“(u) CONTINUING RELEASES AT PERMITTED FACILITIES.—Standards promulgated under this section shall require, and a permit issued after the date of enactment of the Hazardous and Solid Waste Amendments of 1984 by the Administrator or a State shall require, corrective action for all releases of hazardous waste or constituents from any solid waste management unit at a treatment, storage, or disposal facility seeking a permit under this subtitle, regardless of the time at which waste was placed in such unit. Permits issued under section 3005 shall contain schedules of compliance for such corrective action (where such corrective action cannot be completed prior to issuance of the permit) and assurances of financial responsibility for completing such corrective action.”.

Post, pp. 3241,
3242.

CORRECTIVE ACTION BEYOND FACILITY BOUNDARIES; UNDERGROUND TANKS

SEC. 207. Section 3004 is amended by adding the following after subsection (u):

Supra.

“(v) CORRECTIVE ACTIONS BEYOND FACILITY BOUNDARY.—As promptly as practicable after the date of the enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall amend the standards under this section regarding corrective action required at facilities for the treatment, storage, or disposal, of hazardous waste listed or identified under section 3001 to require that corrective action be taken beyond the facility boundary where necessary to protect human health and the environment unless the owner or operator of the facility concerned demonstrates to the satisfaction of the Administrator that, despite the owner or operator’s best efforts, the owner or operator was unable to obtain the necessary permission to undertake such action. Such regulations shall take effect immediately upon promulgation, notwithstanding section 3010(b), and shall apply to—

42 USC 6921.

“(1) all facilities operating under permits issued under subsection (c), and

“(2) all landfills, surface impoundments, and waste pile units (including any new units, replacements of existing units, or lateral expansions of existing units) which receive hazardous waste after July 26, 1982.

Pending promulgation of such regulations, the Administrator shall issue corrective action orders for facilities referred to in paragraphs (1) and (2), on a case-by-case basis, consistent with the purposes of this subsection.

Post, p. 3258.

“(w) UNDERGROUND TANKS.—Not later than March 1, 1985, the Administrator shall promulgate final permitting standards under

this section for underground tanks that cannot be entered for inspection. Within forty-eight months after the date of the enactment of the Hazardous and Solid Waste Amendments of 1984, such standards shall be modified, if necessary, to cover at a minimum all requirements and standards described in section 9003.”.

FINANCIAL RESPONSIBILITY FOR CORRECTIVE ACTION

Ante, p. 3226.

SEC. 208. Section 3004(a) of the Solid Waste Disposal Act (as redesignated by section 201 of this Act) is amended by inserting “(including financial responsibility for corrective action)” immediately after “and financial responsibility” in paragraph (6).

MINING WASTE AND OTHER SPECIAL WASTES

Ante, p. 3239.
42 USC 6924.

SEC. 209. Section 3004 of the Solid Waste Disposal Act is amended by adding the following new subsection after subsection (w):

Post, p. 3243.

“(x) If (1) solid waste from the extraction, beneficiation or processing of ores and minerals, including phosphate rock and overburden from the mining of uranium, (2) fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels, or (3) cement kiln dust waste, is subject to regulation under this subtitle, the Administrator is authorized to modify the requirements of subsections (c), (d), (e), (f), (g), (o), and (u) and section 3005(j), in the case of landfills or surface impoundments receiving such solid waste, to take into account the special characteristics of such wastes, the practical difficulties associated with implementation of such requirements, and site-specific characteristics, including but not limited to the climate, geology, hydrology and soil chemistry at the site, so long as such modified requirements assure protection of human health and the environment.”.

Subtitle B—Amendments Primarily to Section 3005

AUTHORITY FOR PERMIT TO CONSTRUCT HAZARDOUS WASTE TREATMENT, STORAGE, OR DISPOSAL FACILITIES

42 USC 6925.

SEC. 211. Section 3005(a) of the Solid Waste Disposal Act is amended by—

(1) striking “a” immediately after “owning or operating” in the first sentence and inserting in lieu thereof “an existing facility or planning to construct a new”;

(2) inserting in the second sentence “and the construction of any new facility for the treatment, storage, or disposal of any such hazardous waste” immediately after “any such hazardous waste”; and

15 USC 2605.

(3) adding the following at the end thereof: “No permit shall be required under this section in order to construct a facility if such facility is constructed pursuant to an approval issued by the Administrator under section 6(e) of the Toxic Substances Control Act for the incineration of polychlorinated biphenyls and any person owning or operating such a facility may, at any time after operation or construction of such facility has begun, file an application for a permit pursuant to this section authorizing such facility to incinerate hazardous waste identified or listed under this subtitle.”.

PERMIT LIFE

SEC. 212. Section 3005(c) of the Solid Waste Disposal Act is amended by adding the following new paragraph after paragraph (2):

Post, p. 3242.

“(3) Any permit under this section shall be for a fixed term, not to exceed 10 years in the case of any land disposal facility, storage facility, or incinerator or other treatment facility. Each permit for a land disposal facility shall be reviewed five years after date of issuance or reissuance and shall be modified as necessary to assure that the facility continues to comply with the currently applicable requirements of this section and section 3004. Nothing in this subsection shall preclude the Administrator from reviewing and modifying a permit at any time during its term. Review of any application for a permit renewal shall consider improvements in the state of control and measurement technology as well as changes in applicable regulations. Each permit issued under this section shall contain such terms and conditions as the Administrator (or the State) determines necessary to protect human health and the environment.”.

42 USC 6924.

INTERIM STATUS

SEC. 213. (a) Section 3005(e) of the Solid Waste Disposal Act is amended by—

42 USC 6925.

(1) inserting “(1)” after “Interim Status.—”,

(2) redesignating existing paragraphs (1) through (3) as subparagraphs (A) through (C),

(3) adding the following at the end thereof:

“This paragraph shall not apply to any facility which has been previously denied a permit under this section or if authority to operate the facility under this section has been previously terminated.

“(2) In the case of each land disposal facility which has been granted interim status under this subsection before the date of enactment of the Hazardous and Solid Waste Amendments of 1984, interim status shall terminate on the date twelve months after the date of the enactment of such Amendments unless the owner or operator of such facility—

“(A) applies for a final determination regarding the issuance of a permit under subsection (c) for such facility before the date twelve months after the date of the enactment of such Amendments; and

“(B) certifies that such facility is in compliance with all applicable groundwater monitoring and financial responsibility requirements.

“(3) In the case of each land disposal facility which is in existence on the effective date of statutory or regulatory changes under this Act that render the facility subject to the requirement to have a permit under this section and which is granted interim status under this subsection, interim status shall terminate on the date twelve months after the date on which the facility first becomes subject to such permit requirement unless the owner or operator of such facility—

“(A) applies for a final determination regarding the issuance of a permit under subsection (c) for such facility before the date

twelve months after the date on which the facility first becomes subject to such permit requirement; and

“(B) certifies that such facility is in compliance with all applicable groundwater monitoring and financial responsibility requirements.”; and

(4) amending subparagraph (A) (as redesignated by paragraph (1) of this subsection) to read as follows:

“(A) owns or operates a facility required to have a permit under this section which facility—

“(i) was in existence on November 19, 1980, or

“(ii) is in existence on the effective date of statutory or regulatory changes under this Act that render the facility subject to the requirement to have a permit under this section.”.

42 USC 6929.

(b) Section 3009 of the Solid Waste Disposal Act is amended by adding the following at the end thereof: “Nothing in this title (or in any regulation adopted under this title) shall be construed to prohibit any State from requiring that the State be provided with a copy of each manifest used in connection with hazardous waste which is generated within that State or transported to a treatment, storage, or disposal facility within that State.”

42 USC 6925.

(c) Section 3005(c) of the Solid Waste Disposal Act is amended by inserting “(1)” after “PERMIT ISSUANCE.—” and by adding the following new paragraph at the end thereof:

“(2)(A)(i) Not later than the date four years after the enactment of the Hazardous and Solid Waste Amendments of 1984, in the case of each application under this subsection for a permit for a land disposal facility which was submitted before such date, the Administrator shall issue a final permit pursuant to such application or issue a final denial of such application.

“(ii) Not later than the date five years after the enactment of the Hazardous and Solid Waste Amendments of 1984, in the case of each application for a permit under this subsection for an incinerator facility which was submitted before such date, the Administrator shall issue a final permit pursuant to such application or issue a final denial of such application.

“(B) Not later than the date eight years after the enactment of the Hazardous and Solid Waste Amendments of 1984, in the case of each application for a permit under this subsection for any facility (other than a facility referred to in subparagraph (A)) which was submitted before such date, the Administrator shall issue a final permit pursuant to such application or issue a final denial of such application.

42 USC 6927.

“(C) The time periods specified in this paragraph shall also apply in the case of any State which is administering an authorized hazardous waste program under section 3006. Interim status under subsection (e) shall terminate for each facility referred to in subparagraph (A)(ii) or (B) on the expiration of the five- or eight-year period referred to in subparagraph (A) or (B), whichever is applicable, unless the owner or operator of the facility applies for a final determination regarding the issuance of a permit under this subsection within—

“(i) two years after the date of the enactment of the Hazardous and Solid Waste Amendments of 1984 (in the case of a facility referred to in subparagraph (A)(ii)), or

“(ii) four years after such date of enactment (in the case of a facility referred to in subparagraph (B)).”.

NEW AND INNOVATIVE TREATMENT TECHNOLOGIES

SEC. 214. (a) Section 3005 of the Solid Waste Disposal Act is amended by adding the following new subsection after subsection (f): 42 USC 6925.

“(g) RESEARCH, DEVELOPMENT, AND DEMONSTRATION PERMITS.—(1) The Administrator may issue a research, development, and demonstration permit for any hazardous waste treatment facility which proposes to utilize an innovative and experimental hazardous waste treatment technology or process for which permit standards for such experimental activity have not been promulgated under this subtitle. Any such permit shall include such terms and conditions as will assure protection of human health and the environment. Such permits—

“(A) shall provide for the construction of such facilities, as necessary, and for operation of the facility for not longer than one year (unless renewed as provided in paragraph (4)), and

“(B) shall provide for the receipt and treatment by the facility of only those types and quantities of hazardous waste which the Administrator deems necessary for purposes of determining the efficacy and performance capabilities of the technology or process and the effects of such technology or process on human health and the environment, and

“(C) shall include such requirements as the Administrator deems necessary to protect human health and the environment (including, but not limited to, requirements regarding monitoring, operation, insurance or bonding, financial responsibility, closure, and remedial action), and such requirements as the Administrator deems necessary regarding testing and providing of information to the Administrator with respect to the operation of the facility.

The Administrator may apply the criteria set forth in this paragraph in establishing the conditions of each permit without separate establishment of regulations implementing such criteria.

“(2) For the purpose of expediting review and issuance of permits under this subsection, the Administrator may, consistent with the protection of human health and the environment, modify or waive permit application and permit issuance requirements established in the Administrator’s general permit regulations except that there may be no modification or waiver of regulations regarding financial responsibility (including insurance) or of procedures established under section 7004(b)(2) regarding public participation.

“(3) The Administrator may order an immediate termination of all operations at the facility at any time he determines that termination is necessary to protect human health and the environment.

“(4) Any permit issued under this subsection may be renewed not more than three times. Each such renewal shall be for a period of not more than 1 year.”.

42 USC 6974.

EXISTING SURFACE IMPOUNDMENTS

SEC. 215. Section 3005 of the Solid Waste Disposal Act is amended by adding the following new subsection after subsection (i): *Post*, p. 3261.

“(j) INTERIM STATUS SURFACE IMPOUNDMENTS.—(1) Except as provided in paragraph (2), (3), or (4), each surface impoundment in existence on the date of enactment of the Hazardous and Solid Waste Amendments of 1984 and qualifying for the authorization to operate under subsection (e) of this section shall not receive, store,

Ante, p. 3233.

or treat hazardous waste after the date four years after such date of enactment unless such surface impoundment is in compliance with the requirements of section 3004(o)(1)(A) which would apply to such impoundment if it were new.

“(2) Paragraph (1) of this subsection shall not apply to any surface impoundment which (A) has at least one liner, for which there is no evidence that such liner is leaking; (B) is located more than one-quarter mile from an underground source of drinking water; and (C) is in compliance with generally applicable ground water monitoring requirements for facilities with permits under subsection (c) of this section.

33 USC 1342.

“(3) Paragraph (1) of this subsection shall not apply to any surface impoundment which (A) contains treated waste water during the secondary or subsequent phases of an aggressive biological treatment facility subject to a permit issued under section 402 of the Clean Water Act (or which holds such treated waste water after treatment and prior to discharge); (B) is in compliance with generally applicable ground water monitoring requirements for facilities with permits under subsection (c) of this section; and (C)(i) is part of a facility in compliance with section 301(b)(2) of the Clean Water Act, or (ii) in the case of a facility for which no effluent guidelines required under section 304(b)(2) of the Clean Water Act are in effect and no permit under section 402(a)(1) of such Act implementing section 301(b)(2) of such Act has been issued, is part of a facility in compliance with a permit under section 402 of such Act, which is achieving significant degradation of toxic pollutants and hazardous constituents contained in the untreated waste stream and which has identified those toxic pollutants and hazardous constituents in the untreated waste stream to the appropriate permitting authority.

33 USC 1311.

33 USC 1314.

“(4) The Administrator (or the State, in the case of a State with an authorized program), after notice and opportunity for comment, may modify the requirements of paragraph (1) for any surface impoundment if the owner or operator demonstrates that such surface impoundment is located, designed and operated so as to assure that there will be no migration of any hazardous constituent into ground water or surface water at any future time. The Administrator or the State shall take into account locational criteria established under section 3004(o)(7).

Ante, p. 3233.

“(5) The owner or operator of any surface impoundment potentially subject to paragraph (1) who has reason to believe that on the basis of paragraph (2), (3), or (4) such surface impoundment is not required to comply with the requirements of paragraph (1), shall apply to the Administrator (or the State, in the case of a State with an authorized program) not later than twenty-four months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984 for a determination of the applicability of paragraph (1) (in the case of paragraph (2) or (3)) or for a modification of the requirements of paragraph (1) (in the case of paragraph (4)), with respect to such surface impoundment. Such owner or operator shall provide, with such application, evidence pertinent to such decision, including:

“(A) an application for a final determination regarding the issuance of a permit under subsection (c) of this section for such facility, if not previously submitted;

“(B) evidence as to compliance with all applicable ground water monitoring requirements and the information and analysis from such monitoring;

“(C) all reasonably ascertainable evidence as to whether such surface impoundment is leaking; and

“(D) in the case of applications under paragraph (2) or (3), a certification by a registered professional engineer with academic training and experience in ground water hydrology that—

“(i) under paragraph (2), the liner of such surface impoundment is designed, constructed, and operated in accordance with applicable requirements, such surface impoundment is more than one-quarter mile from an underground source of drinking water and there is no evidence such liner is leaking; or

“(ii) under paragraph (3), based on analysis of those toxic pollutants and hazardous constituents that are likely to be present in the untreated waste stream, such impoundment satisfies the conditions of paragraph (3).

In the case of any surface impoundment for which the owner or operator fails to apply under this paragraph within the time provided by this paragraph or paragraph (6), such surface impoundment shall comply with paragraph (1) notwithstanding paragraph (2), (3), or (4). Within twelve months after receipt of such application and evidence and not later than thirty-six months after such date of enactment, and after notice and opportunity to comment, the Administrator (or, if appropriate, the State) shall advise such owner or operator on the applicability of paragraph (1) to such surface impoundment or as to whether and how the requirements of paragraph (1) shall be modified and applied to such surface impoundment.

“(6)(A) In any case in which a surface impoundment becomes subject to paragraph (1) after the date of enactment of the Hazardous and Solid Waste Amendments of 1984 due to the promulgation of additional listings or characteristics for the identification of hazardous waste under section 3001, the period for compliance in paragraph (1) shall be four years after the date of such promulgation, the period for demonstrations under paragraph (4) and for submission of evidence under paragraph (5) shall be not later than twenty-four months after the date of such promulgation, and the period for the Administrator (or if appropriate, the State) to advise such owners or operators under paragraph (5) shall be not later than thirty-six months after the date of promulgation.

42 USC 6921.

“(B) In any case in which a surface impoundment is initially determined to be excluded from the requirements of paragraph (1) but due to a change in condition (including the existence of a leak) no longer satisfies the provisions of paragraph (2), (3), or (4) and therefore becomes subject to paragraph (1), the period for compliance in paragraph (1) shall be two years after the date of discovery of such change of condition, or in the case of a surface impoundment excluded under paragraph (3) three years after such date of discovery.

“(7)(A) The Administrator shall study and report to the Congress on the number, range of size, construction, likelihood of hazardous constituents migrating into ground water, and potential threat to human health and the environment of existing surface impoundments excluded by paragraph (3) from the requirements of para-

Study.
Report.

graph (1). Such report shall address the need, feasibility, and estimated costs of subjecting such existing surface impoundments to the requirements of paragraph (1).

Ante, p. 3233.

“(B) In the case of any existing surface impoundment or class of surface impoundments from which the Administrator (or the State, in the case of a State with an authorized program) determines hazardous constituents are likely to migrate into ground water, the Administrator (or if appropriate, the State) is authorized to impose such requirements as may be necessary to protect human health and the environment, including the requirements of section 3004(o) which would apply to such impoundments if they were new.

“(C) In the case of any surface impoundment excluded by paragraph (3) from the requirements of paragraph (1) which is subsequently determined to be leaking, the Administrator (or, if appropriate, the State) shall require compliance with paragraph (1), unless the Administrator (or, if appropriate, the State) determines that such compliance is not necessary to protect human health and the environment.

“(8) In the case of any surface impoundment in which the liners and leak detection system have been installed pursuant to the requirements of paragraph (1) and in good faith compliance with section 3004(o) and the Administrator’s regulations and guidance documents governing liners and leak detection systems, no liner or leak detection system which is different from that which was so installed pursuant to paragraph (1) shall be required for such unit by the Administrator when issuing the first permit under this section to such facility. Nothing in this paragraph shall preclude the Administrator from requiring installation of a new liner when the Administrator has reason to believe that any liner installed pursuant to the requirements of this subsection is leaking.

“(9) In the case of any surface impoundment which has been excluded by paragraph (2) on the basis of a liner meeting the definition under paragraph (12)(A)(ii), at the closure of such impoundment the Administrator shall require the owner or operator of such impoundment to remove or decontaminate all waste residues, all contaminated liner material, and contaminated soil to the extent practicable. If all contaminated soil is not removed or decontaminated, the owner or operator of such impoundment shall be required to comply with appropriate post-closure requirements, including but not limited to ground water monitoring and corrective action.

33 USC 1342.

“(10) Any incremental cost attributable to the requirements of this subsection or section 3004(o) shall not be considered by the Administrator (or the State, in the case of a State with an authorized program under section 402 of the Clean Water Act)—

33 USC 1311,
1314, 1316, 1317.

“(A) in establishing effluent limitations and standards under section 301, 304, 306, 307, or 402 of the Clean Water Act based on effluent limitations guidelines and standards promulgated any time before twelve months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984; or

“(B) in establishing any other effluent limitations to carry out the provisions of section 301, 307, or 402 of the Clean Water Act on or before October 1, 1986.

Ante, p. 3226.

“(11)(A) If the Administrator allows a hazardous waste which is prohibited from one or more methods of land disposal under subsection (d), (e), or (g) of section 3004 (or under regulations promulgated by the Administrator under such subsections) to be placed in a surface impoundment (which is operating pursuant to interim

status) for storage or treatment, such impoundment shall meet the requirements that are applicable to new surface impoundments under section 3004(o)(1), unless such impoundment meets the requirements of paragraph (2) or (4).

Ante, p. 3233.

“(B) In the case of any hazardous waste which is prohibited from one or more methods of land disposal under subsection (d), (e), or (g) of section 3004 (or under regulations promulgated by the Administrator under such subsection) the placement or maintenance of such hazardous waste in a surface impoundment for treatment is prohibited as of the effective date of such prohibition unless the treatment residues which are hazardous are, at a minimum, removed for subsequent management within one year of the entry of the waste into the surface impoundment.

Ante, p. 3226.

“(12)(A) For the purposes of paragraph (2)(A) of this subsection, the term ‘liner’ means—

“(i) a liner designed, constructed, installed, and operated to prevent hazardous waste from passing into the liner at any time during the active life of the facility; or

“(ii) a liner designed, constructed, installed, and operated to prevent hazardous waste from migrating beyond the liner to adjacent subsurface soil, ground water, or surface water at any time during the active life of the facility.

“(B) For the purposes of this subsection, the term ‘aggressive biological treatment facility’ means a system of surface impoundments in which the initial impoundment of the secondary treatment segment of the facility utilizes intense mechanical aeration to enhance biological activity to degrade waste water pollutants and

“(i) the hydraulic retention time in such initial impoundment is no longer than 5 days under normal operating conditions, on an annual average basis;

“(ii) the hydraulic retention time in such initial impoundment is no longer than thirty days under normal operating conditions, on an annual average basis: *Provided*, That the sludge in such impoundment does not constitute a hazardous waste as identified by the extraction procedure toxicity characteristic in effect on the date of enactment of the Hazardous and Solid Waste Amendments of 1984; or

“(iii) such system utilizes activated sludge treatment in the first portion of secondary treatment.

“(C) For the purposes of this subsection, the term ‘underground source or drinking water’ has the same meaning as provided in regulations under the Safe Drinking Water Act (title XIV of the Public Health Service Act).

42 USC 201 note.

42 USC 300f.

“(13) The Administrator may modify the requirements of paragraph (1) in the case of a surface impoundment for which the owner or operator, prior to October 1, 1984, has entered into, and is in compliance with, a consent order, decree, or agreement with the Administrator or a State with an authorized program mandating corrective action with respect to such surface impoundment that provides a degree of protection of human health and the environment which is at a minimum equivalent to that provided by paragraph (1).”.

Subtitle C—Amendments Primarily to Other Sections in Subtitle C

SMALL QUANTITY GENERATOR WASTE

42 USC 6921.

SEC. 221. (a) Section 3001 of the Solid Waste Disposal Act is amended by adding the following new subsection after subsection (c):

42 USC
6922-6924.

“(d) **SMALL QUANTITY GENERATOR WASTE.**—(1) By March 31, 1986, the Administrator shall promulgate standards under sections 3002, 3003, and 3004 for hazardous waste generated by a generator in a total quantity of hazardous waste greater than one hundred kilograms but less than one thousand kilograms during a calendar month.

“(2) The standards referred to in paragraph (1), including standards applicable to the legitimate use, reuse, recycling, and reclamation of such wastes, may vary from the standards applicable to hazardous waste generated by larger quantity generators, but such standards shall be sufficient to protect human health and the environment.

“(3) Not later than two hundred and seventy days after the enactment of the Hazardous and Solid Waste Amendments of 1984 any hazardous waste which is part of a total quantity generated by a generator generating greater than one hundred kilograms but less than one thousand kilograms during one calendar month and which is shipped off the premises on which such waste is generated shall be accompanied by a copy of the Environmental Protection Agency Uniform Hazardous Waste Manifest form signed by the generator. This form shall contain the following information:

“(A) the name and address of the generator of the waste;

“(B) the United States Department of Transportation description of the waste, including the proper shipping name, hazard class, and identification number (UN/NA), if applicable;

“(C) the number and type of containers;

“(D) the quantity of waste being transported; and

“(E) the name and address of the facility designated to receive the waste.

If subparagraph (B) is not applicable, in lieu of the description referred to in such subparagraph (B), the form shall contain the Environmental Protection Agency identification number, or a generic description of the waste, or a description of the waste by hazardous waste characteristic. Additional requirements related to the manifest form shall apply only if determined necessary by the Administrator to protect human health and the environment.

“(4) The Administrator’s responsibility under this subtitle to protect human health and the environment may require the promulgation of standards under this subtitle for hazardous wastes which are generated by any generator who does not generate more than one hundred kilograms of hazardous waste in a calendar month.

“(5) Until the effective date of standards required to be promulgated under paragraph (1), any hazardous waste identified or listed under section 3001 generated by any generator during any calendar month in a total quantity greater than one hundred kilograms but less than one thousand kilograms, which is not treated, stored, or disposed of at a hazardous waste treatment, storage, or disposal facility with a permit under section 3005, shall be disposed of only in a facility which is permitted, licensed, or registered by a State to manage municipal or industrial solid waste.

42 USC 6925.

“(6) Standards promulgated as provided in paragraph (1) shall, at a minimum, require that all treatment, storage, or disposal of hazardous wastes generated by generators referred to in paragraph (1) shall occur at a facility with interim status or a permit under this subtitle, except that onsite storage of hazardous waste generated by a generator generating a total quantity of hazardous waste greater than one hundred kilograms, but less than one thousand kilograms during a calendar month, may occur without the requirement of a permit for up to one hundred and eighty days. Such onsite storage may occur without the requirement of a permit for not more than six thousand kilograms for up to two hundred and seventy days if such generator must ship or haul such waste over two hundred miles.

“(7)(A) Nothing in this subsection shall be construed to affect or impair the validity of regulations promulgated by the Secretary of Transportation pursuant to the Hazardous Materials Transportation Act.

“(B) Nothing in this subsection shall be construed to affect, modify, or render invalid any requirements in regulations promulgated prior to January 1, 1983 applicable to any acutely hazardous waste identified or listed under section 3001 which is generated by any generator during any calendar month in a total quantity less than one thousand kilograms.

42 USC 6921.

“(8) Effective March 31, 1986, unless the Administrator promulgates standards as provided in paragraph (1) of this subsection prior to such date, hazardous waste generated by any generator in a total quantity greater than one hundred kilograms but less than one thousand kilograms during a calendar month shall be subject to the following requirements until the standards referred to in paragraph (1) of this subsection have become effective:

“(A) the notice requirements of paragraph (3) of this subsection shall apply and in addition, the information provided in the form shall include the name of the waste transporters and the name and address of the facility designated to receive the waste;

“(B) except in the case of the onsite storage referred to in paragraph (6) of this subsection, the treatment, storage, or disposal of such waste shall occur at a facility with interim status or a permit under this subtitle;

“(C) generators of such waste shall file manifest exception reports as required of generators producing greater amounts of hazardous waste per month except that such reports shall be filed by January 31, for any waste shipment occurring in the last half of the preceding calendar year, and by July 31, for any waste shipment occurring in the first half of the calendar year; and

Reports.

“(D) generators of such waste shall retain for three years a copy of the manifest signed by the designated facility that has received the waste.

Nothing in this paragraph shall be construed as a determination of the standards appropriate under paragraph (1).

“(9) The last sentence of section 3010(b) shall not apply to regulations promulgated under this subsection.”

Post, p. 3258.

(b) The Administrator of the Environmental Protection Agency shall undertake activities to inform and educate the waste generators of their responsibilities under the amendments made by this section during the period within thirty months after the enactment

42 USC 6921 note.

of the Hazardous and Solid Waste Amendments of 1984 to help assure compliance.

Study.

42 USC 6921.

(c) The Administrator of the Environmental Protection Agency in cooperation with the States shall conduct a study of hazardous waste identified or listed under section 3001 of the Solid Waste Disposal Act which is generated by individual generators in total quantities for each generator during any calendar month of less than one thousand kilograms. The Administrator may require from such generators information as may be necessary to conduct the study. Such study shall include a characterization of the number and type of such generators, the quantity and characteristics of hazardous waste generated by such generators, State requirements applicable to such generators, the individual and industry waste management practices of such generators, the potential costs of modifying those practices and the impact of such modifications on national treatment and disposal facility capacity, and the threat to human health and the environment and the employees of transporters or others involved in solid waste management posed by such hazardous wastes or such management practices. Such study shall be submitted to the Congress not later than April 1, 1985.

Study.

42 USC 6921
note.

(d) The Administrator of the Environmental Protection Agency shall cause to be studied the existing manifest system for hazardous wastes as it applies to small quantity generators and recommend whether the current system shall be retained or whether a new system should be introduced. The study shall include an analysis of the cost versus the benefits of the system studied as well as an analysis of the ease of retrieving and collating information and identifying a given substance. Finally, any new proposal shall include a list of those standards that are necessary to protect human health and the environment. Such study shall be submitted to the Congress not later than April 1, 1987.

Report.

42 USC 6921
note.

(e) The Administrator of the Environmental Protection Agency, in conjunction with the Secretary of Transportation, shall prepare and submit to the Congress a report on the feasibility of easing the administrative burden on small quantity generators, increasing compliance with statutory and regulatory requirements, and simplifying enforcement efforts through a program of licensing hazardous waste transporters to assume the responsibilities of small quantity generators relating to the preparation of manifests and associated recordkeeping and reporting requirements. The report shall examine the appropriate licensing requirements under such a program including the need for financial assurances by licensed transporters and shall make recommendations on provisions and requirements for such a program including the appropriate division of responsibilities between the Department of Transportation and the Environmental Protection Administration. Such report shall be submitted to the Congress not later than April 1, 1987.

Study.

42 USC 6921
note.

(f)(1) The Administrator of the Environmental Protection Agency shall, in consultation with the Secretary of Education, the States, and appropriate educational associations, conduct a comprehensive study of problems associated with the accumulation, storage and disposal of hazardous wastes from educational institutions. The study shall include an investigation of the feasibility and availability of environmentally sound methods for the treatment, storage or disposal of hazardous waste from such institutions, taking into account the types and quantities of such waste which are generated by these institutions, and the nonprofit nature of these institutions.

(2) The Administrator shall submit a report to the Congress containing the findings of the study carried out under paragraph (1) not later than April 1, 1987.

Report.

(3) For purposes of this subsection—

(A) the term “hazardous waste” means hazardous waste which is listed or identified under Section 3001 of the Solid Waste Disposal Act;

42 USC 6921.

(B) the term “educational institution” includes, but shall not be limited to,

(i) secondary schools as defined in section 198(a)(7) of the Elementary and Secondary Education Act of 1965; and

20 USC 2854.

(ii) institutions of higher education as defined in section 1201(a) of the Higher Education Act of 1965.

20 USC 1141.

LISTING AND DELISTING OF HAZARDOUS WASTE

SEC. 222. (a) Section 3001 of the Solid Waste Disposal Act is amended by inserting the following new subsections at the end thereof:

Ante, p. 3248.

“(e) SPECIFIED WASTES.—(1) Not later than 6 months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall, where appropriate, list under subsection (b)(1), additional wastes containing chlorinated dioxins or chlorinated-dibenzofurans. Not later than one year after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall, where appropriate, list under subsection (b)(1) wastes containing remaining halogenated dioxins and halogenated-dibenzofurans.

“(2) Not later than fifteen months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall make a determination of whether or not to list under subsection (b)(1) the following wastes: Chlorinated Aliphatics, Dioxin, Dimethyl Hydrazine, TDI (toluene diisocyanate), Carbamates, Bromacil, Linuron, Organo-bromines, solvents, refining wastes, chlorinated aromatics, dyes and pigments, inorganic chemical industry wastes, lithium batteries, coke byproducts, paint production wastes, and coal slurry pipeline effluent.

“(f) DELISTING PROCEDURES.—(1) When evaluating a petition to exclude a waste generated at a particular facility from listing under this section, the Administrator shall consider factors (including additional constituents) other than those for which the waste was listed if the Administrator has a reasonable basis to believe that such additional factors could cause the waste to be a hazardous waste. The Administrator shall provide notice and opportunity for comment on these additional factors before granting or denying such petition.

Public information.

“(2)(A) To the maximum extent practicable the Administrator shall publish in the Federal Register a proposal to grant or deny a petition referred to in paragraph (1) within twelve months after receiving a complete application to exclude a waste generated at a particular facility from being regulated as a hazardous waste and shall grant or deny such a petition within twenty-four months after receiving a complete application.

Federal Register, publication.

“(B) The temporary granting of such a petition prior to the enactment of the Hazardous and Solid Waste Amendments of 1984 without the opportunity for public comment and the full consideration of such comments shall not continue for more than twenty-

four months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984. If a final decision to grant or deny such a petition has not been promulgated after notice and opportunity for public comment within the time limit prescribed by the preceding sentence, any such temporary granting of such petition shall cease to be in effect.

“(g) EP TOXICITY.—Not later than twenty-eight months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984 the Administrator shall examine the deficiencies of the extraction procedure toxicity characteristic as a predictor of the leaching potential of wastes and make changes in the extraction procedure toxicity characteristic, including changes in the leaching media, as are necessary to insure that it accurately predicts the leaching potential of wastes which pose a threat to human health and the environment when mismanaged.

Regulations.

“(h) ADDITIONAL CHARACTERISTICS.—Not later than two years after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall promulgate regulations under this section identifying additional characteristics of hazardous waste, including measures or indicators of toxicity.”.

42 USC 6921.

(b) Section 3001(b)(1) of the Solid Waste Disposal Act is amended by adding the following at the end thereof: “The Administrator, in cooperation with the Agency for Toxic Substances and Disease Registry and the National Toxicology Program, shall also identify or list those hazardous wastes which shall be subject to the provisions of this subtitle solely because of the presence in such wastes of certain constituents (such as identified carcinogens, mutagens, or teratogens) at levels in excess of levels which endanger human health.”.

CLARIFICATION OF HOUSEHOLD WASTE EXCLUSION

Supra.
42 USC 6921.

SEC. 223. (a) Section 3001 of the Solid Waste Disposal Act is amended by adding the following new subsection at the end thereof:

“(i) CLARIFICATION OF HOUSEHOLD WASTE EXCLUSION.—A resource recovery facility recovering energy from the mass burning of municipal solid waste shall not be deemed to be treating, storing, disposing of, or otherwise managing hazardous wastes for the purposes of regulation under this subtitle, if—

“(1) such facility—

“(A) receives and burns only—

“(i) household waste (from single and multiple dwellings, hotels, motels, and other residential sources), and

“(ii) solid waste from commercial or industrial sources that does not contain hazardous waste identified or listed under this section, and

“(B) does not accept hazardous wastes identified or listed under this section, and

“(2) the owner or operator of such facility has established contractual requirements or other appropriate notification or inspection procedures to assure that hazardous wastes are not received at or burned in such facility.”.

WASTE MINIMIZATION

42 USC 6922.

SEC. 224. (a) Section 3002 of the Solid Waste Disposal Act is amended by—

(1) inserting “(a) IN GENERAL.—” after “3002.”;

(2) adding the following new subsection at the end thereof:

“(b) WASTE MINIMIZATION.—Effective September 1, 1985, the manifest required by subsection (a)(5) shall contain a certification by the generator that—

“(1) the generator of the hazardous waste has a program in place to reduce the volume or quantity and toxicity of such waste to the degree determined by the generator to be economically practicable; and

“(2) the proposed method of treatment, storage, or disposal is that practicable method currently available to the generator which minimizes the present and future threat to human health and the environment.”; and

(2) amending subsection (a)(6) to read as follows:

“(6) submission of reports to the Administrator (or the State agency in any case in which such agency carries out a permit program pursuant to this subtitle) at least once every two years, setting out—

Reports.

“(A) the quantities and nature of hazardous waste identified or listed under this subtitle that he has generated during the year;

“(B) the disposition of all hazardous waste reported under subparagraph (A);

“(C) the efforts undertaken during the year to reduce the volume and toxicity of waste generated; and

“(D) the changes in volume and toxicity of waste actually achieved during the year in question in comparison with previous years, to the extent such information is available for years prior to enactment of the Hazardous and Solid Waste Amendments of 1984.”.

(b) Section 3005 of the Solid Waste Disposal Act is amended by adding the following new subsection after subsection (g):

Ante, p. 3243.

“(h) WASTE MINIMIZATION.—Effective September 1, 1985, it shall be a condition of any permit issued under this section for the treatment, storage, or disposal of hazardous waste on the premises where such waste was generated that the permittee certify, no less often than annually, that—

“(1) the generator of the hazardous waste has a program in place to reduce the volume or quantity and toxicity of such waste to the degree determined by the generator to be economically practicable; and

“(2) the proposed method of treatment, storage, or disposal is that practicable method currently available to the generator which minimizes the present and future threat to human health and the environment.”.

(c) Section 8002 of the Solid Waste Disposal Act is amended by adding the following new subsection after subsection (g):

42 USC 6982.

“(r) MINIMIZATION OF HAZARDOUS WASTE.—The Administrator shall compile, and not later than October 1, 1986, submit to the Congress, a report on the feasibility and desirability of establishing standards of performance or of taking other additional actions under this Act to require the generators of hazardous waste to reduce the volume or quantity and toxicity of the hazardous waste they generate, and of establishing with respect to hazardous wastes required management practices or other requirements to assure such wastes are managed in ways that minimize present and future risks to human health and the environment. Such report shall

Report.

42 USC 6902. include any recommendations for legislative changes which the Administrator determines are feasible and desirable to implement the national policy established by section 1003.”.

BASIS OF AUTHORIZATION

42 USC 6926. SEC. 225. Section 3006(b) of the Solid Waste Disposal Act is amended by adding the following at the end thereof: “In authorizing a State program, the Administrator may base his findings on the Federal program in effect one year prior to submission of a State’s application or in effect on January 26, 1983, whichever is later.”.

AVAILABILITY OF INFORMATION

42 USC 6926. SEC. 226. (a) Section 3006 of the Solid Waste Disposal Act is amended by adding the following new subsection after subsection (e) thereof:

“(f) AVAILABILITY OF INFORMATION.—No State program may be authorized by the Administrator under this section unless—

“(1) such program provides for the public availability of information obtained by the State regarding facilities and sites for the treatment, storage, and disposal of hazardous waste; and

“(2) such information is available to the public in substantially the same manner, and to the same degree, as would be the case if the Administrator was carrying out the provisions of this subtitle in such State.”.

42 USC 6926
note.

(b) The amendment made by subsection (a) shall apply with respect to State programs authorized under section 3006 before, on, or after the date of enactment of the Hazardous and Solid Waste Amendments of 1984.

INTERIM AUTHORIZATION OF STATE PROGRAMS

42 USC 6926. SEC. 227. Section 3006(c) of the Solid Waste Disposal Act is amended by—

(1) striking out “twenty-four month period beginning on the date six months after the date of promulgation of regulations under sections 3002 through 3005” and inserting in lieu thereof “period ending no later than January 31, 1986”;

(2) inserting “(1)” after “Interim Authorization.—”; and

(3) by inserting the following at the end thereof:

Regulation.

“(2) The Administrator shall, by rule, establish a date for the expiration of interim authorization under this subsection.

“(3) Pending interim or final authorization of a State program for any State which reflects the amendments made by the Hazardous and Solid Waste Amendments of 1984, the State may enter into an agreement with the Administrator under which the State may assist in the administration of the requirements and prohibitions which take effect pursuant to such Amendments.

“(4) In the case of a State permit program for any State which is authorized under subsection (b) or under this subsection, until such program is amended to reflect the amendments made by the Hazardous and Solid Waste Amendments of 1984 and such program amendments receive interim or final authorization, the Administrator shall have the authority in such State to issue or deny permits or those portions of permits affected by the requirements and prohibitions established by the Hazardous and Solid Waste Amendments of

1984. The Administrator shall coordinate with States the procedures for issuing such permits.”.

APPLICATION OF AMENDMENTS TO AUTHORIZED STATES

SEC. 228. Section 3006 of the Solid Waste Disposal Act is amended by adding the following new subsection after subsection (f):

Ante, p. 3254.

“(g) AMENDMENTS MADE BY 1984 ACT.—(1) Any requirement or prohibition which is applicable to the generation, transportation, treatment, storage, or disposal of hazardous waste and which is imposed under this subtitle pursuant to the amendments made by the Hazardous and Solid Waste Amendments of 1984 shall take effect in each State having an interim or finally authorized State program on the same date as such requirement takes effect in other States. The Administrator shall carry out such requirement directly in each such State unless the State program is finally authorized (or is granted interim authorization as provided in paragraph (2)) with respect to such requirement.

“(2) Any State which, before the date of the enactment of the Hazardous and Solid Waste Amendments of 1984 has an existing hazardous waste program which has been granted interim or final authorization under this section may submit to the Administrator evidence that such existing program contains (or has been amended to include) any requirement which is substantially equivalent to a requirement referred to in paragraph (1) and may request interim authorization to carry out that requirement under this subtitle. The Administrator shall, if the evidence submitted shows the State requirement to be substantially equivalent to the requirement referred to in paragraph (1), grant an interim authorization to the State to carry out such requirement in lieu of direct administration in the State by the Administrator of such requirement.”.

FEDERAL FACILITIES

SEC. 229. Section 3007 of the Solid Waste Disposal Act is amended by adding the following new subsection after subsection (b) thereof:

Public
availability.
42 USC 6927.

“(c) FEDERAL FACILITY INSPECTIONS.—Beginning twelve months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall, or in the case of a State with an authorized hazardous waste program the State may, undertake on an annual basis a thorough inspection of each facility for the treatment, storage, or disposal of hazardous waste which is owned or operated by a Federal agency to enforce its compliance with this subtitle and the regulations promulgated thereunder. The records of such inspections shall be available to the public as provided in subsection (b).”.

STATE-OPERATED FACILITIES

SEC. 230. Section 3007 of the Solid Waste Disposal Act is amended by adding the following new subsection after subsection (c):

Supra.
42 USC 6927.

“(d) STATE-OPERATED FACILITIES.—The Administrator shall annually undertake a thorough inspection of every facility for the treatment, storage, or disposal of hazardous waste which is operated by a State or local government for which a permit is required under section 3005 of this title. The records of such inspection shall be available to the public as provided in subsection (b).”.

Public
availability.
42 USC 6925.

MANDATORY INSPECTIONS

Ante, p. 3255.

SEC. 231. Section 3007 of the Solid Waste Disposal Act is amended by inserting the following new subsection after subsection (d) thereof:

42 USC 6925.

Regulations.

Report.

“(e) MANDATORY INSPECTIONS.—(1) The Administrator (or the State in the case of a State having an authorized hazardous waste program under this subtitle) shall commence a program to thoroughly inspect every facility for the treatment, storage, or disposal of hazardous waste for which a permit is required under section 3005 no less often than every two years as to its compliance with this subtitle (and the regulations promulgated under this subtitle). Such inspections shall commence not later than twelve months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984. The Administrator shall, after notice and opportunity for public comment, promulgate regulations governing the minimum frequency and manner of such inspections, including the manner in which records of such inspections shall be maintained and the manner in which reports of such inspections shall be filed. The Administrator may distinguish between classes and categories of facilities commensurate with the risks posed by each class or category.

“(2) Not later than six months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall submit to the Congress a report on the potential for inspections of hazardous waste treatment, storage, or disposal facilities by nongovernmental inspectors as a supplement to inspections conducted by officers, employees, or representatives of the Environmental Protection Agency or States having authorized hazardous waste programs or operating under a cooperative agreement with the Administrator. Such report shall be prepared in cooperation with the States, insurance companies offering environmental impairment insurance, independent companies providing inspection services, and other such groups as appropriate. Such report shall contain recommendations on provisions and requirements for a program of private inspections to supplement governmental inspections.”.

FEDERAL ENFORCEMENT

42 USC 6928.

SEC. 232. (a) Section 3008(d) of the Solid Waste Disposal Act is amended as follows:

(1) in paragraph (1)—

(A) insert after “knowingly transports” the following: “or causes to be transported”, and

(B) strike out “section 3005 (or 3006 in case of a State program)” and substitute “this subtitle”;

(2) in paragraph (2)—

(A) strike out “either”;

(B) strike out “section 3005 (or 3006 in the case of a State program)” and substitute “this subtitle”; and

(C) strike out subparagraph (B) and substitute:

“(B) in knowing violation of any material condition or requirement of such permit; or

“(C) in knowing violation of any material condition or requirement of any applicable interim status regulations or standards;”;

(3) strike out all after paragraph (2) and substitute:

“(3) knowingly omits material information or makes any false material statement or representation in any application, label, manifest, record, report, permit, or other document filed, maintained, or used for purposes of compliance with regulations promulgated by the Administrator (or by a State in the case of an authorized State program) under this subtitle;

“(4) knowingly generates, stores, treats, transports, disposes of, exports, or otherwise handles any hazardous waste (whether such activity took place before or takes place after the date of the enactment of this paragraph) and who knowingly destroys, alters, conceals, or fails to file any record, application, manifest, report, or other document required to be maintained or filed for purposes of compliance with regulations promulgated by the Administrator (or by a State in the case of an authorized State program) under this subtitle;

“(5) knowingly transports without a manifest, or causes to be transported without a manifest, any hazardous waste required by regulations promulgated under this subtitle (or by a State in the case of a State program authorized under this subtitle) to be accompanied by a manifest;

shall, upon conviction, be subject to a fine of not more than \$50,000 for each day of violation, or imprisonment not to exceed two years (five years in the case of a violation of paragraph (1) or (2)), or both. If the conviction is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment under the respective paragraph shall be doubled with respect to both fine and imprisonment.”

Penalties.

(b) Section 3008(e) of the Solid Waste Disposal Act is amended to read as follows:

42 USC 6928.

“(e) **KNOWING ENDANGERMENT.**—Any person who knowingly transports, treats, stores, disposes of, or exports any hazardous waste identified or listed under this subtitle in violation of paragraph (1), (2), (3), (4), (5), or (6) of subsection (d) of this section who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than \$250,000 or imprisonment for not more than fifteen years, or both. A defendant that is an organization shall, upon conviction of violating this subsection, be subject to a fine of not more than \$1,000,000.”

Penalties.

(c) Section 3008(d)(2)(A) of the Solid Waste Disposal Act is amended by striking out “having obtained”.

INTERIM STATUS CORRECTIVE ACTION ORDERS

SEC. 233. (a) Section 3008 of the Solid Waste Disposal Act is amended by adding the following new subsection after subsection (g) thereof:

42 USC 6928.

“(h) **INTERIM STATUS CORRECTIVE ACTION ORDERS.**—(1) Whenever on the basis of any information the Administrator determines that there is or has been a release of hazardous waste into the environment from a facility authorized to operate under section 3005(e) of this subtitle, the Administrator may issue an order requiring corrective action or such other response measure as he deems necessary to protect human health or the environment or the Administrator may commence a civil action in the United States district court in the district in which the facility is located for appropriate relief, including a temporary or permanent injunction.

Ante, p 3241.

“(2) Any order issued under this subsection may include a suspension or revocation of authorization to operate under section 3005(e) of this subtitle, shall state with reasonable specificity the nature of the required corrective action or other response measure, and shall specify a time for compliance. If any person named in an order fails to comply with the order, the Administrator may assess, and such person shall be liable to the United States for, a civil penalty in an amount not to exceed \$25,000 for each day of noncompliance with the order.”.

42 USC 6928.

(b) Subsection (b) of section 3008 of the Solid Waste Disposal Act is amended by inserting “issued under this section” immediately after “Any order”.

EFFECTIVE DATE OF REGULATIONS

42 USC 6930.

SEC. 234. Section 3010(b) of the Solid Waste Disposal Act is amended by adding the following at the end thereof: “At the time a regulation is promulgated, the Administrator may provide for a shorter period prior to the effective date, or an immediate effective date for:

“(1) a regulation with which the Administrator finds the regulated community does not need six months to come into compliance;

“(2) a regulation which responds to an emergency situation; or

“(3) other good cause found and published with the regulation.”.

SUBTITLE D—NEW SECTIONS IN SUBTITLE C

MANAGEMENT OF USED OIL

Petroleum and petroleum products.

Post, pp. 3276.

42 USC 6935.

SEC. 241. (a) Section 3014 of the Solid Waste Disposal Act (relating to restrictions on recycled oil) as redesignated by section 502 of this Act (relating to technical and clerical amendments) is amended by inserting “(a) IN GENERAL.—” after “3014.” and by adding the following at the end thereof:

“(b) IDENTIFICATION OR LISTING OF USED OIL AS HAZARDOUS WASTE.—Not later than twelve months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984 the Administrator shall propose whether to list or identify used automobile and truck crankcase oil as hazardous waste under section 3001. Not later than twenty-four months after such date of enactment, the Administrator shall make a final determination whether to list or identify used automobile and truck crankcase oil and other used oil as hazardous wastes under section 3001.

42 USC 6921.

“(c) USED OIL WHICH IS RECYCLED.—(1) With respect to generators and transporters of used oil identified or listed as a hazardous waste under section 3001, the standards promulgated under section 3001(d), 3002, and 3003 of this subtitle shall not apply to such used oil if such used oil is recycled.

Ante, p. 3248; 42 USC 6922, 6923.

“(2)(A) In the case of used oil which is exempt under paragraph (1), not later than twenty-four months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall promulgate such standards under this subsection regarding the generation and transportation of used oil which is recycled as may be necessary to protect human health and the environment. In

promulgating such regulations with respect to generators, the Administrator shall take into account the effect of such regulations on environmentally acceptable types of used oil recycling and the effect of such regulations on small quantity generators and generators which are small businesses (as defined by the Administrator).

“(B) The regulations promulgated under this subsection shall provide that no generator of used oil which is exempt under paragraph (1) from the standards promulgated under section 3001(d), 3002, and 3003 shall be subject to any manifest requirement or any associated recordkeeping and reporting requirement with respect to such used oil if such generator—

Regulations.

Ante, p. 3248; 42 USC 6922, 6923.

“(i) either—

“(I) enters into an agreement or other arrangement (including an agreement or arrangement with an independent transporter or with an agent of the recycler) for delivery of such used oil to a recycling facility which has a permit under section 3005(c) (or for which a valid permit is deemed to be in effect under subsection (d)), or

Ante, pp. 3241, 3242.

“(II) recycles such used oil at one or more facilities of the generator which has such a permit under section 3005 of this subtitle (or for which a valid permit is deemed to have been issued under subsection (d) of this section);

“(ii) such used oil is not mixed by the generator with other types of hazardous wastes; and

“(iii) the generator maintains such records relating to such used oil, including records of agreements or other arrangements for delivery of such used oil to any recycling facility referred to in clause (i)(I), as the Administrator deems necessary to protect human health and the environment.

“(3) The regulations under this subsection regarding the transportation of used oil which is exempt from the standards promulgated under section 3001(d), 3002, and 3003 under paragraph (1) shall require the transporters of such used oil to deliver such used oil to a facility which has a valid permit under section 3005 of this subtitle or which is deemed to have a valid permit under subsection (d) of this section. The Administrator shall also establish other standards for such transporters as may be necessary to protect human health and the environment.

Regulations.

“(d) PERMITS.—(1) The owner or operator of a facility which recycles used oil which is exempt under subsection (c)(1), shall be deemed to have a permit under this subsection for all such treatment or recycling (and any associated tank or container storage) if such owner and operator comply with standards promulgated by the Administrator under section 3004; except that the Administrator may require such owners and operators to obtain an individual permit under section 3005(c) if he determines that an individual permit is necessary to protect human health and the environment.

42 USC 6924.

“(2) Notwithstanding any other provision of law, any generator who recycles used oil which is exempt under subsection (c)(1) shall not be required to obtain a permit under section 3005(c) with respect to such used oil until the Administrator has promulgated standards under section 3004 regarding the recycling of such used oil.”

(b)(1) Section 7006(b) is amended by inserting after “3005” the following “(or in modifying or revoking any permit which is deemed to have been issued under section 3012(d)(1))”.

42 USC 6976.

42 USC 6926. (2) The third sentence of section 3006(b) is amended by inserting after "hazardous waste" the following "(and to enforce permits deemed to have been issued under section 3012(d)(1))".

RECOVERY AND RECYCLING OF USED OIL

Ante, p. 3258. SEC. 242. Section 3014(a) of the Solid Waste Disposal Act (entitled "Restrictions on Recycled Oil"), as redesignated by section 502 of this Act and amended by section 241 of this Act, is amended by striking out the period at the end thereof and substituting ", consistent with the protection of human health and the environment."

EXPANSION DURING INTERIM STATUS

SEC. 243. (a) Subtitle C of the Solid Waste Disposal Act is amended by adding the following new section after section 3014:

"EXPANSION DURING INTERIM STATUS

Ante, p. 3258.
42 USC 6936.
Ante, p. 3241.
Ante, p. 3233.
Ante, pp. 3241, 3242.

"SEC. 3015. (a) WASTE PILES.—The owner or operator of a waste pile qualifying for the authorization to operate under section 3005(e) shall be subject to the same requirements for liners and leachate collection systems or equivalent protection provided in regulations promulgated by the Administrator under section 3004 before October 1, 1982, or revised under section 3004(o) (relating to minimum technological requirements), for new facilities receiving individual permits under subsection (c) of section 3005, with respect to each new unit, replacement of an existing unit, or lateral expansion of an existing unit that is within the waste management area identified in the permit application submitted under section 3005, and with respect to waste received beginning six months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984.

"(b) LANDFILLS AND SURFACE IMPOUNDMENTS.—(1) The owner or operator of a landfill or surface impoundment qualifying for the authorization to operate under section 3005(e) shall be subject to the requirements of section 3004(o) (relating to minimum technological requirements), with respect to each new unit, replacement of an existing unit, or lateral expansion of an existing unit that is within the waste management area identified in the permit application submitted under this section, and with respect to waste received beginning 6 months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984.

"(2) The owner or operator of each unit referred to in paragraph (1) shall notify the Administrator (or the State, if appropriate) at least sixty days prior to receiving waste. The Administrator (or the State) shall require the filing, within six months of receipt of such notice, of an application for a final determination regarding the issuance of a permit for each facility submitting such notice.

"(3) In the case of any unit in which the liner and leachate collection system has been installed pursuant to the requirements of this section and in good faith compliance with the Administrator's regulations and guidance documents governing liners and leachate collection systems, no liner or leachate collection system which is different from that which was so installed pursuant to this section shall be required for such unit by the Administrator when issuing the first permit under section 3005 to such facility, except that the Administrator shall not be precluded from requiring installation of a new liner when the Administrator has reason to believe that any

liner installed pursuant to the requirements of this section is leaking. The Administrator may, under section 3004, amend the requirements for liners and leachate collection systems required under this section as may be necessary to provide additional protection for human health and the environment.”

42 USC 6924.

(b) The table of contents for such subtitle C is amended by adding the following new item after the item relating to section 3014:

“Sec. 3015. Expansion during interim status.”

(c) Section 3005 of the Solid Waste Disposal Act is amended by adding the following new subsection after subsection (h):

Ante, p. 3253.
42 USC 6925.

“(i) INTERIM STATUS FACILITIES RECEIVING WASTES AFTER JULY 26, 1982.—The standards concerning ground water monitoring, unsaturated zone monitoring, and corrective action, which are applicable under section 3004 to new landfills, surface impoundments, land treatment units, and waste-pile units required to be permitted under subsection (c) shall also apply to any landfill, surface impoundment, land treatment unit, or waste-pile unit qualifying for the authorization to operate under subsection (e) which receives hazardous waste after July 26, 1982.”

INVENTORY OF FEDERAL AGENCY HAZARDOUS WASTE FACILITIES

SEC. 244. Subtitle C of the Solid Waste Disposal Act is amended by adding the following new section after section 3015:

“INVENTORY OF FEDERAL AGENCY HAZARDOUS WASTE FACILITIES

“SEC. 3016. (a) Each Federal agency shall undertake a continuing program to compile, publish, and submit to the Administrator (and to the State in the case of sites in States having an authorized hazardous waste program) an inventory of each site which the Federal agency owns or operates or has owned or operated at which hazardous waste is stored, treated, or disposed of or has been disposed of at any time. The inventory shall be submitted every two years beginning January 31, 1986. Such inventory shall be available to the public as provided in section 3007(b). Information previously submitted by a Federal agency under section 103 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, or under section 3005 or 3010 of this Act, or under this section need not be resubmitted except that the agency shall update any previous submission to reflect the latest available data and information. The inventory shall include each of the following:

42 USC 6937.

“(1) A description of the location of each site at which any such treatment, storage, or disposal has taken place before the date on which permits are required under section 3005 for such storage, treatment, or disposal, and where hazardous waste has been disposed, a description of hydrogeology of the site and the location of withdrawal wells and surface water within one mile of the site.

42 USC 9603.
42 USC 6925,
6930.

“(2) Such information relating to the amount, nature, and toxicity of the hazardous waste in each site as may be necessary to determine the extent of any health hazard which may be associated with any site.

“(3) Information on the known nature and extent of environmental contamination at each site, including a description of the monitoring data obtained.

“(4) Information concerning the current status of the site, including information respecting whether or not hazardous waste is currently being treated, stored, or disposed of at such site (and if not, the date on which such activity ceased) and information respecting the nature of any other activity currently carried out at such site.

“(5) A list of sites at which hazardous waste has been disposed and environmental monitoring data has not been obtained, and the reasons for the lack of monitoring data at each site.

“(6) A description of response actions undertaken or contemplated at contaminated sites.

“(7) An identification of the types of techniques of waste treatment, storage, or disposal which have been used at each site.

“(8) The name and address and responsible Federal agency for each site, determined as of the date of preparation of the inventory.

“(b) ENVIRONMENTAL PROTECTION AGENCY PROGRAM.—If the Administrator determines that any Federal agency under subsection (a) is not adequately providing information respecting the sites referred to in subsection (a), the Administrator shall notify the chief official of such agency. If within ninety days following such notification, the Federal agency has not undertaken a program to adequately provide such information, the Administrator shall carry out the inventory program for such agency.”

EXPORT OF HAZARDOUS WASTE

SEC. 245. (a) Subtitle C of the Solid Waste Disposal Act is amended by inserting the following new section after section 3016:

“EXPORT OF HAZARDOUS WASTE

42 USC 6938.

“SEC. 3017. (a) IN GENERAL.—Beginning twenty-four months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, no person shall export any hazardous waste identified or listed under this subtitle unless

“(1)(A) such person has provided the notification required in subsection (c) of this section,

“(B) the government of the receiving country has consented to accept such hazardous waste,

“(C) a copy of the receiving country’s written consent is attached to the manifest accompanying each waste shipment, and

“(D) the shipment conforms with the terms of the consent of the government of the receiving country required pursuant to subsection (e), or

“(2) the United States and the government of the receiving country have entered into an agreement as provided for in subsection (f) and the shipment conforms with the terms of such agreement.

“(b) REGULATIONS.—Not later than twelve months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall promulgate the regulations necessary to implement this section. Such regulations shall become effective one hundred and eighty days after promulgation.

“(c) NOTIFICATION.—Any person who intends to export a hazardous waste identified or listed under this subtitle beginning twelve months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, shall, before such hazardous waste is scheduled to leave the United States, provide notification to the Administrator. Such notification shall contain the following information:

- “(1) the name and address of the exporter;
- “(2) the types and estimated quantities of hazardous waste to be exported;
- “(3) the estimated frequency or rate at which such waste is to be exported; and the period of time over which such waste is to be exported;
- “(4) the ports of entry;
- “(5) a description of the manner in which such hazardous waste will be transported to and treated, stored, or disposed in the receiving country; and
- “(6) the name and address of the ultimate treatment, storage or disposal facility.

“(d) PROCEDURES FOR REQUESTING CONSENT OF THE RECEIVING COUNTRY.—Within thirty days of the Administrator's receipt of a complete notification under this section, the Secretary of State, acting on behalf of the Administrator, shall—

- “(1) forward a copy of the notification to the government of the receiving country;
- “(2) advise the government that United States law prohibits the export of hazardous waste unless the receiving country consents to accept the hazardous waste;
- “(3) request the government to provide the Secretary with a written consent or objection to the terms of the notification; and
- “(4) forward to the government of the receiving country a description of the Federal regulations which would apply to the treatment, storage, and disposal of the hazardous waste in the United States.

“(e) CONVEYANCE OF WRITTEN CONSENT TO EXPORTER.—Within thirty days of receipt by the Secretary of State of the receiving country's written consent or objection (or any subsequent communication withdrawing a prior consent or objection), the Administrator shall forward such a consent, objection, or other communication to the exporter.

“(f) INTERNATIONAL AGREEMENTS.—Where there exists an international agreement between the United States and the government of the receiving country establishing notice, export, and enforcement procedures for the transportation, treatment, storage, and disposal of hazardous wastes, only the requirements of subsections (a)(2) and (g) shall apply.

“(g) REPORTS.—After the date of enactment of the Hazardous and Solid Waste Amendments of 1984, any person who exports any hazardous waste identified or listed under section 3001 of this subtitle shall file with the Administrator no later than March 1 of each year, a report summarizing the types, quantities, frequency, and ultimate destination of all such hazardous waste exported during the previous calendar year.

“(h) OTHER STANDARDS.—Nothing in this section shall preclude the Administrator from establishing other standards for the export of hazardous wastes under section 3002 or section 3003 of this subtitle.”.

42 USC 6921.

42 USC 6922,
6923.

(b) The table of contents for such subtitle C is amended by adding the following new item after the item relating to section 3016:

“Sec. 3017. Export of hazardous waste.”.

Ante, p. 3256.

(c) Section 3008(d) of the Solid Waste Disposal Act, as amended by section 232 of this Act, is amended by adding after paragraph (5) “; or” and the following new paragraph:

“(6) knowingly exports a hazardous waste identified or listed under this subtitle (A) without the consent of the receiving country or, (B) where there exists an international agreement between the United States and the government of the receiving country establishing notice, export, and enforcement procedures for the transportation, treatment, storage, and disposal of hazardous wastes, in a manner which is not in conformance with such agreement”.

DOMESTIC SEWAGE

SEC. 246. (a) Subtitle C of the Solid Waste Disposal Act is amended by adding the following new section after section 3017:

“DOMESTIC SEWAGE

42 USC 6939.

“SEC. 3018. (a) REPORT.—The Administrator shall, not later than 15 months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, submit a report to the Congress concerning those substances identified or listed under section 3001 which are not regulated under this subtitle by reason of the exclusion for mixtures of domestic sewage and other wastes that pass through a sewer system to a publicly owned treatment works. Such report shall include the types, size and number of generators which dispose of such substances in this manner, the types and quantities disposed of in this manner, and the identification of significant generators, wastes, and waste constituents not regulated under existing Federal law or regulated in a manner sufficient to protect human health and the environment.

42 USC 6921.

“(b) REVISIONS OF REGULATIONS.—Within eighteen months after submitting the report specified in subsection (a), the Administrator shall revise existing regulations and promulgate such additional regulations pursuant to this subtitle (or any other authority of the Administrator, including section 307 of the Federal Water Pollution Control Act) as are necessary to assure that substances identified or listed under section 3001 which pass through a sewer system to a publicly owned treatment works are adequately controlled to protect human health and the environment.

33 USC 1317.

“(c) REPORT ON WASTEWATER LAGOONS.—The Administrator shall, within thirty-six months after the date of the enactment of the Hazardous and Solid Waste Amendments of 1984, submit a report to Congress concerning wastewater lagoons at publicly owned treatment works and their effect on groundwater quality. Such report shall include—

“(1) the number and size of such lagoons;

“(2) the types and quantities of waste contained in such lagoons;

“(3) the extent to which such waste has been or may be released from such lagoons and contaminate ground water; and

“(4) available alternatives for preventing or controlling such releases.

The Administrator may utilize the authority of sections 3007 and 3013 for the purpose of completing such report.

“(d) APPLICATION OF SECTION 3010 AND SECTION 3007.—The provisions of sections 3007 and 3010 shall apply to solid or dissolved materials in domestic sewage to the same extent and in the same manner as such provisions apply to hazardous waste.”

(c) The table of contents for such subtitle C is amended by adding the following new item at the end thereof:

“Sec. 3018. Domestic sewage.”.

42 USC 6927,
6934.
42 USC 6930,
6927.

EXPOSURE INFORMATION AND HEALTH ASSESSMENTS

SEC. 247. (a) Subtitle C of the Solid Waste Disposal Act is amended by adding the following new section after section 3018:

“EXPOSURE INFORMATION AND HEALTH ASSESSMENTS

“SEC. 3019. (a) EXPOSURE INFORMATION.—Beginning on the date nine months after the enactment of the Hazardous and Solid Waste Amendments of 1984, each application for a final determination regarding a permit under section 3005(c) for a landfill or surface impoundment shall be accompanied by information reasonably ascertainable by the owner or operator on the potential for the public to be exposed to hazardous wastes or hazardous constituents through releases related to the unit. At a minimum, such information must address:

42 USC 6939a.

“(1) reasonably foreseeable potential releases from both normal operations and accidents at the unit, including releases associated with transportation to or from the unit;

“(2) the potential pathways of human exposure to hazardous wastes or constituents resulting from the releases described under paragraph (1); and

“(3) the potential magnitude and nature of the human exposure resulting from such releases.

The owner or operator of a landfill or surface impoundment for which an application for such a final determination under section 3005(c) has been submitted prior to the date of enactment of the Hazardous and Solid Waste Amendments of 1984 shall submit the information required by this subsection to the Administrator (or the State, in the case of a State with an authorized program) no later than the date nine months after such date of enactment.

“(b) HEALTH ASSESSMENTS.—(1) The Administrator (or the State, in the case of a State with an authorized program) shall make the information required by subsection (a), together with other relevant information, available to the Agency for Toxic Substances and Disease Registry established by section 104(i) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980.

Ante, pp. 3241,
3242.

“(2) Whenever in the judgment of the Administrator, or the State (in the case of a State with an authorized program), a landfill or a surface impoundment poses a substantial potential risk to human health, due to the existence of releases of hazardous constituents, the magnitude of contamination with hazardous constituents which may be the result of a release, or the magnitude of the population exposed to such release or contamination, the Administrator or the State (with the concurrence of the Administrator) may request the

42 USC 9604.

42 USC 9604.

Administrator of the Agency for Toxic Substances and Disease Registry to conduct a health assessment in connection with such facility and take other appropriate action with respect to such risks as authorized by section 104 (b) and (i) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980. If funds are provided in connection with such request the Administrator of such Agency shall conduct such health assessment.

“(c) **MEMBERS OF THE PUBLIC.**—Any member of the public may submit evidence of releases of or exposure to hazardous constituents from such a facility, or as to the risks or health effects associated with such releases or exposure, to the Administrator of the Agency for Toxic Substances and Disease Registry, the Administrator, or the State (in the case of a State with an authorized program).

“(d) **PRIORITY.**—In determining the order in which to conduct health assessments under this subsection, the Administrator of the Agency for Toxic Substances and Disease Registry shall give priority to those facilities or sites at which there is documented evidence of release of hazardous constituents, at which the potential risk to human health appears highest, and for which in the judgment of the Administrator of such Agency existing health assessment data is inadequate to assess the potential risk to human health as provided in subsection (f).

“(e) **PERIODIC REPORTS.**—The Administrator of such Agency shall issue periodic reports which include the results of all the assessments carried out under this section. Such assessments or other activities shall be reported after appropriate peer review.

“(f) **DEFINITION.**—For the purposes of this section, the term ‘health assessments’ shall include preliminary assessments of the potential risk to human health posed by individual sites and facilities subject to this section, based on such factors as the nature and extent of contamination, the existence of potential for pathways of human exposure (including ground or surface water contamination, air emissions, and food chain contamination), the size and potential susceptibility of the community within the likely pathways of exposure, the comparison of expected human exposure levels to the short-term and long-term health effects associated with identified contaminants and any available recommended exposure or tolerance limits for such contaminants, and the comparison of existing morbidity and mortality data on diseases that may be associated with the observed levels of exposure. The assessment shall include an evaluation of the risks to the potentially affected population from all sources of such contaminants, including known point or nonpoint sources other than the site or facility in question. A purpose of such preliminary assessments shall be to help determine whether full-scale health or epidemiological studies and medical evaluations of exposed populations shall be undertaken.

42 USC 9607.

“(g) **COST RECOVERY.**—In any case in which a health assessment performed under this section discloses the exposure of a population to the release of a hazardous substance, the costs of such health assessment may be recovered as a cost of response under section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 from persons causing or contributing to such release of such hazardous substance or, in the case of multiple releases contributing to such exposure, to all such release.”

(b) The table of contents for such subtitle C is amended by inserting the following new item after the item relating to section 3018:

“Sec. 3019. Exposure information and health assessments.”.

TITLE III—PROVISIONS RELATING TO SUBTITLE D OF THE
SOLID WASTE DISPOSAL ACT

SIZE OF WASTE-TO-ENERGY FACILITIES

SEC. 301. (a) Section 4001 of the Solid Waste Disposal Act is amended by adding the following at the end thereof: "In developing such comprehensive plans, it is the intention of this Act that in determining the size of the waste-to-energy facility, adequate provision shall be given to the present and reasonably anticipated future needs of the recycling and resource recovery interest within the area encompassed by the planning process."

Post, p. 3276.

(b) Section 4003 of the Solid Waste Disposal Act is amended by adding the following new subsection at the end thereof:

Post, p. 3277.

"(d) SIZE OF WASTE-TO-ENERGY FACILITIES.—Notwithstanding any of the above requirements, it is the intention of this Act and the planning process developed pursuant to this Act that in determining the size of the waste-to-energy facility, adequate provision shall be given to the present and reasonably anticipated future needs of the recycling and resource recovery interest within the area encompassed by the planning process."

SUBTITLE D IMPROVEMENTS

SEC. 302. (a)(1) Subtitle D of the Solid Waste Disposal Act is amended by adding the following new section after section 4009:

"ADEQUACY OF CERTAIN GUIDELINES AND CRITERIA

"SEC. 4010. (a) STUDY.—The Administrator shall conduct a study of the extent to which the guidelines and criteria under this Act (other than guidelines and criteria for facilities to which subtitle C applies) which are applicable to solid waste management and disposal facilities, including, but not limited to landfills and surface impoundments, are adequate to protect human health and the environment from ground water contamination. Such study shall include a detailed assessment of the degree to which the criteria under section 1008(a) and the criteria under section 4004 regarding monitoring, prevention of contamination, and remedial action are adequate to protect ground water and shall also include recommendation with respect to any additional enforcement authorities which the Administrator, in consultation with the Attorney General, deems necessary for such purposes.

42 USC 6949a.

42 USC 6921.

42 USC 6907,
6944.

"(b) REPORT.—Not later than thirty-six months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall submit a report to the Congress setting forth the results of the study required under this section, together with any recommendations made by the Administrator on the basis of such study.

"(c) REVISIONS OF GUIDELINES AND CRITERIA.—Not later than March 31, 1988, the Administrator shall promulgate revisions of the criteria promulgated under paragraph (1) of section 4004(a) and under section 1008(a)(3) for facilities that may receive hazardous household wastes or hazardous wastes from small quantity generators under section 3001(d). The criteria shall be those necessary to protect human health and the environment and may take into account the practicable capability of such facilities. At a minimum

Ante, p. 3248.

such revisions for facilities potentially receiving such wastes should require ground water monitoring as necessary to detect contamination, establish criteria for the acceptable location of new or existing facilities, and provide for corrective action as appropriate.”.

(2) The table of contents for such subtitle D is amended by adding the following new item after the item relating to 4009:

“Sec. 4010. Adequacy of certain guidelines and criteria.”.

42 USC 6944.

(b) Section 4004(c) of the Solid Waste Disposal Act is amended by striking all after “subsection (a)” through “later”.

42 USC 6945.

(c) Section 4005 of the Solid Waste Disposal Act is amended by adding the following new subsection after subsection (b):

“(c) CONTROL OF HAZARDOUS DISPOSAL.—(1)(A) Not later than 36 months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, each State shall adopt and implement a permit program or other system of prior approval and conditions to assure that each solid waste management facility within such State which may receive hazardous household waste or hazardous waste due to the provision of section 3001(d) for small quantity generators (otherwise not subject to the requirement for a permit under section 3005) will comply with the applicable criteria promulgated under section 4004(a) and section 1008(a)(3).

Ante, p. 3248.

42 USC 6925.

42 USC 6907.

“(B) Not later than eighteen months after the promulgation of revised criteria under subsection 4004(a) (as required by section 4010(c)), each State shall adopt and implement a permit program or other system or prior approval and conditions, to assure that each solid waste management facility within such State which may receive hazardous household waste or hazardous waste due to the provision of section 3001(d) for small quantity generators (otherwise not subject to the requirement for a permit under section 3005) will comply with the criteria revised under section 4004(a).

Ante, p. 3267.

“(C) The Administrator shall determine whether each State has developed an adequate program under this paragraph. The Administrator may make such a determination in conjunction with approval, disapproval or partial approval of a State plan under section 4007.

42 USC 6947.

“(2)(A) In any State that the Administrator determines has not adopted an adequate program for such facilities under paragraph (1)(B) by the date provided in such paragraph, the Administrator may use the authorities available under sections 3007 and 3008 of this title to enforce the prohibition contained in subsection (a) of this section with respect to such facilities.

42 USC 6927,
6928.

“(B) For purposes of this paragraph, the term ‘requirement of this subtitle’ in section 3008 shall be deemed to include criteria promulgated by the Administrator under sections 1008(a)(3) and 4004(a) of this title, and the term ‘hazardous wastes’ in section 3007 shall be deemed to include solid waste at facilities that may handle hazardous household wastes or hazardous wastes from small quantity generators.”.

TITLE IV—PROVISIONS RELATING PRIMARILY TO SUBTITLE G OF THE SOLID WASTE DISPOSAL ACT

CITIZEN SUITS

42 USC 6972.

SEC. 401. (a) Section 7002(a)(1) of the Solid Waste Disposal Act is amended by—

- (1) inserting "prohibition," immediately after "requirement,";
- (2) inserting "(A)" immediately after "(1)"; and
- (3) inserting the following at the end thereof:

"(B) against any person, including the United States and any other governmental instrumentality or agency, to the extent permitted by the eleventh amendment to the Constitution, and including any past or present generator, past or present transporter, or past or present owner or operator of a treatment, storage, or disposal facility, who has contributed or who is contributing to the past or present handling, storage, treatment, transportation, or disposal of any solid or hazardous waste which may present an imminent and substantial endangerment to health or the environment; or".

(b) Section 7002(a) of the Solid Waste Disposal Act is amended by— 42 USC 6972.

(1) inserting "or the alleged endangerment may occur" immediately after "the alleged violation occurred" in the first sentence following paragraph (2); and

(2) striking "to enforce such regulation or order, or to order the Administrator to perform such act or duty as the case may be" in the portion following paragraph (2) and inserting in lieu thereof the following: "to enforce the permit, standard, regulation, condition, requirement, prohibition, or order, referred to in paragraph (1)(A), to restrain any person who has contributed or who is contributing to the past or present handling, storage, treatment, transportation, or disposal of any solid or hazardous waste referred to in paragraph (1)(B), to order such person to take such other action as may be necessary, or both, or to order the Administrator to perform the act or duty referred to in paragraph (2), as the case may be, and to apply any appropriate civil penalties under section 3008 (a) and (g)". 42 USC 6928.

(c) Section 7002 of the Solid Waste Disposal Act is amended by adding the following new subsection at the end thereof:

"(g) TRANSPORTERS.—A transporter shall not be deemed to have contributed or to be contributing to the handling, storage, treatment, or disposal, referred to in subsection (a)(1)(B) taking place after such solid waste or hazardous waste has left the possession or control of such transporter, if the transportation of such waste was under a sole contractual arrangement arising from a published tariff and acceptance for carriage by common carrier by rail and such transporter has exercised due care in the past or present handling, storage, treatment, transportation and disposal of such waste."

(d) Section 7002(b) of the Solid Waste Disposal Act is amended to read as follows:

"(b) ACTIONS PROHIBITED.—(1) No action may be commenced under subsection (a)(1)(A) of this section—

"(A) prior to 60 days after the plaintiff has given notice of the violation to—

- "(i) the Administrator;
- "(ii) the State in which the alleged violation occurs; and
- "(iii) to any alleged violator of such permit, standard, regulation, condition, requirement, prohibition, or order, except that such action may be brought immediately after such notification in the case of an action under this section respecting a violation of subtitle C of this Act; or

42 USC 6921.

“(B) if the Administrator or State has commenced and is diligently prosecuting a civil or criminal action in a court of the United States or a State to require compliance with such permit, standard, regulation, condition, requirement, prohibition, or order.

In any action under subsection (a)(1)(A) in a court of the United States, any person may intervene as a matter of right.

“(2)(A) No action may be commenced under subsection (a)(1)(B) of this section prior to ninety days after the plaintiff has given notice of the endangerment to—

“(i) the Administrator;

“(ii) the State in which the alleged endangerment may occur;

“(iii) any person alleged to have contributed or to be contributing to the past or present handling, storage, treatment, transportation, or disposal of any solid or hazardous waste referred to in subsection (a)(1)(B),

except that such action may be brought immediately after such notification in the case of an action under this section respecting a violation of subtitle C of this Act.

“(B) No action may be commenced under subsection (a)(1)(B) of this section if the Administrator, in order to restrain or abate acts or conditions which may have contributed or are contributing to the activities which may present the alleged endangerment—

42 USC 6973. “(i) has commenced and is diligently prosecuting an action under section 7003 of this Act or under section 106 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980,

42 USC 9606. “(ii) is actually engaging in a removal action under section 104 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980;

42 USC 9604. “(iii) has incurred costs to initiate a Remedial Investigation and Feasibility Study under section 104 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 and is diligently proceeding with a remedial action under that Act; or

“(iv) has obtained a court order (including a consent decree) or issued an administrative order under section 106 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 or section 7003 of this Act pursuant to which a responsible party is diligently conducting a removal action, Remedial Investigation and Feasibility Study (RIFS), or proceeding with a remedial action.

In the case of an administrative order referred to in clause (iv), actions under subsection (a)(1)(B) are prohibited only as to the scope and duration of the administrative order referred to in clause (iv).

“(C) No action may be commenced under subsection (a)(1)(B) of this section if the State, in order to restrain or abate acts or conditions which may have contributed or are contributing to the activities which may present the alleged endangerment—

“(i) has commenced and is diligently prosecuting an action under subsection (a)(1)(B);

“(ii) is actually engaging in a removal action under section 104 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980; or

“(iii) has incurred costs to initiate a Remedial Investigation and Feasibility Study under section 104 of the Comprehensive

Environmental Response, Compensation and Liability Act of 1980 and is diligently proceeding with a remedial action under that Act. 42 USC 9604.

“(D) No action may be commenced under subsection (a)(1)(B) by any person (other than a State or local government) with respect to the siting of a hazardous waste treatment, storage, or a disposal facility, nor to restrain or enjoin the issuance of a permit for such facility.

“(E) In any action under subsection (a)(1)(B) in a court of the United States, any person may intervene as a matter of right when the applicant claims an interest relating to the subject of the action and he is so situated that the disposition of the action may, as a practical matter, impair or impede his ability to protect that interest, unless the Administrator or the State shows that the applicant’s interest is adequately represented by existing parties.

“(F) Whenever any action is brought under subsection (a)(1)(B) in a court of the United States, the plaintiff shall serve a copy of the complaint on the Attorney General of the United States and with the Administrator.”.

(e) Section 7002(e) of the Solid Waste Disposal Act is amended by striking out “to any party” and substituting in lieu thereof “to the prevailing or substantially prevailing party” and inserting “or section 7006” after “this section”. 42 USC 6972.

IMMINENT HAZARD

SEC. 402. Section 7003(a) of the Solid Waste Disposal Act is amended by— 42 USC 6973.

(1) inserting “past or present” after “evidence that the”;

(2) striking “to immediately restrain any person” and inserting in lieu thereof “against any person (including any past or present generator, past or present transporter, or past or present owner or operator of a treatment, storage, or disposal facility) who has contributed or who is”;

(3) striking “to stop” and inserting in lieu thereof “to restrain such person from”;

(4) striking “or to take such other action as may be necessary” and substituting “, to order such person to take such other action as may be necessary, or both”; and

(5) inserting after the first sentence thereof the following: “A transporter shall not be deemed to have contributed or to be contributing to such handling, storage, treatment, or disposal taking place after such solid waste or hazardous waste has left the possession or control of such transporter if the transportation of such waste was under a sole contractual arrangement arising from a published tariff and acceptance for carriage by common carrier by rail and such transporter has exercised due care in the past or present handling, storage, treatment, transportation and disposal of such waste.”.

ENFORCEMENT

SEC. 403. (a) Section 7003 of the Solid Waste Disposal Act is amended by adding the following new subsection after subsection (b) thereof: 42 USC 6973.

“(c) IMMEDIATE NOTICE.—Upon receipt of information that there is hazardous waste at any site which has presented an imminent and

substantial endangerment to human health or the environment, the Administrator shall provide immediate notice to the appropriate local government agencies. In addition, the Administrator shall require notice of such endangerment to be promptly posted at the site where the waste is located.”

(b)(1) Subtitle G of the Solid Waste Disposal Act is amended by adding the following new section after section 7011:

“LAW ENFORCEMENT AUTHORITY

Post, p. 3273.
42 USC 6979b.

“SEC. 7012. The Attorney General of the United States shall, at the request of the Administrator and on the basis of a showing of need, deputize qualified employees of the Environmental Protection Agency to serve as special deputy United States marshals in criminal investigations with respect to violations of the criminal provisions of this Act.”

(2) The table of contents for subtitle G of such Act is amended by inserting the following new item after the item relating to section 7011.

“Sec. 7012. Law enforcement authority.”

42 USC 6945.

(c) Section 4005 of the Solid Waste Disposal Act is amended by inserting after the first sentence in subsection (a) the following: “The prohibition contained in the preceding sentence shall be enforceable under section 7002 against persons engaged in the act of open dumping.”

42 USC 6972.

42 USC 6928.

(d)(1) Section 3008(a)(1) of the Solid Waste Disposal Act is amended to read as follows: “(1) Except as provided in paragraph (2), whenever on the basis of any information the Administrator determines that any person has violated or is in violation of any requirement of this subtitle, the Administrator may issue an order assessing a civil penalty for any past or current violation, requiring compliance immediately or within a specified time period, or both, or the Administrator may commence a civil action in the United States district court in the district in which the violation occurred for appropriate relief, including a temporary or permanent injunction.”

(2) Section 3008(a)(3) of such Act is amended to read as follows:

“(3) Any order issued pursuant to this subsection may include a suspension or revocation of any permit issued by the Administrator or a State under this subtitle and shall state with reasonable specificity the nature of the violation. Any penalty assessed in the order shall not exceed \$25,000 per day of noncompliance for each violation of a requirement of this subtitle. In assessing such a penalty, the Administrator shall take into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.”

(3) Section 3008(c) of such Act is amended to read as follows:

“(c) VIOLATION OF COMPLIANCE ORDERS.—If a violator fails to take corrective action within the time specified in a compliance order, the Administrator may assess a civil penalty of not more than \$25,000 for each day of continued noncompliance with the order and the Administrator may suspend or revoke any permit issued to the violator (whether issued by the Administrator or the State).”

42 USC 6912.

(4) Section 2002 of such Act is amended by inserting the following at the end thereof:

“(c) CRIMINAL INVESTIGATIONS.—In carrying out the provisions of this Act, the Administrator, and duly-designated agents and employees of the Environmental Protection Agency, are authorized to initiate and conduct investigations under the criminal provisions of

this Act, and to refer the results of these investigations to the Attorney General for prosecution in appropriate cases.”.

(5) Section 7006(b) of such Act is amended by inserting the following before the last sentence thereof: “Action of the Administrator with respect to which review could have been obtained under this subsection shall not be subject to judicial review in civil or criminal proceedings for enforcement.”.

42 USC 6976.

PUBLIC PARTICIPATION IN SETTLEMENTS

SEC. 404. Section 7003 of the Solid Waste Disposal Act is amended by adding the following new subsection after subsection (c) thereof:

Ante, p. 3271.

“(d) PUBLIC PARTICIPATION IN SETTLEMENTS.—Whenever the United States or the Administrator proposes to covenant not to sue or to forbear from suit or to settle any claim arising under this section, notice, and opportunity for a public meeting in the affected area, and a reasonable opportunity to comment on the proposed settlement prior to its final entry shall be afforded to the public. The decision of the United States or the Administrator to enter into or not to enter into such Consent Decree, covenant or agreement shall not constitute a final agency action subject to judicial review under this Act or the Administrative Procedure Act.”.

5 USC note
prec. 551.

INTERIM CONTROL OF HAZARDOUS WASTE INJECTION

SEC. 405. (a) Subtitle G of the Solid Waste Disposal Act is amended by adding the following new section at the end thereof:

“INTERIM CONTROL OF HAZARDOUS WASTE INJECTION

“SEC. 7010. (a) UNDERGROUND SOURCE OF DRINKING WATER.—No hazardous waste may be disposed of by underground injection—

Prohibition.
42 USC 6979a.

“(1) into a formation which contains (within one-quarter mile of the well used for such underground injection) an underground source of drinking water; or

“(2) above such a formation.

The prohibitions established under this section shall take effect 6 months after the enactment of the Hazardous and Solid Waste Amendments of 1984 except in the case of any State in which identical or more stringent prohibitions are in effect before such date under the Safe Drinking Water Act.

42 USC 201 note.

“(b) ACTIONS UNDER CERCLA.—Subsection (a) shall not apply to the injection of contaminated ground water into the aquifer from which it was withdrawn, if—

“(1) such injection is—

“(A) a response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, or

42 USC 9604,
9606.

“(B) part of corrective action required under this title intended to clean up such contamination;

“(2) such contaminated ground water is treated to substantially reduce hazardous constituents prior to such injection; and

“(3) such response action or corrective action will, upon completion, be sufficient to protect human health and the environment.

“(c) ENFORCEMENT.—In addition to enforcement under sections 7002 and 7003 of this Act, the prohibitions established under para-

42 USC 6972,
6973.

graphs (1) and (2) of subsection (a) shall be enforceable under the Safe Drinking Water Act in any State—

42 USC 201 note. “(1) which has adopted identical or more stringent prohibitions under part C of the Safe Drinking Water Act and which has assumed primary enforcement responsibility under that Act for enforcement of such prohibitions; or

42 USC 300h. “(2) in which the Administrator has adopted identical or more stringent prohibitions under the Safe Drinking Water Act and is exercising primary enforcement responsibility under that Act for enforcement of such prohibitions.

42 USC 300f. “(d) The terms ‘primary enforcement responsibility’, ‘underground source of drinking water’, ‘formation’ and ‘well’ have the same meanings as provided in regulations of the Administrator under the Safe Drinking Water Act. The term ‘Safe Drinking Water Act’ means title XIV of the Public Health Service Act.”

(b) TABLE OF CONTENTS.—The table of contents for such subtitle G is amended by inserting the following new item at the end thereof:

“Sec. 7010. Interim control of hazardous waste injection.”.

TITLE V—PROVISIONS RELATING TO SEVERAL SUBTITLES OF THE SOLID WASTE DISPOSAL ACT

USE OF RECOVERED MATERIALS BY FEDERAL AGENCIES

42 USC 6962. SEC. 501. (a) Section 6002 of the Solid Waste Disposal Act is amended by adding the following new subsections after subsection (g) thereof—

“(h) DEFINITION.—As used in this section, in the case of paper products, the term ‘recovered materials’ includes—

“(1) postconsumer materials such as—

“(A) paper, paperboard, and fibrous wastes from retail stores, office buildings, homes, and so forth, after they have passed through their end-usage as a consumer item, including: used corrugated boxes; old newspapers; old magazines; mixed waste paper; tabulating cards; and used cordage; and

“(B) all paper, paperboard, and fibrous wastes that enter and are collected from municipal solid waste, and

“(2) manufacturing, forest residues, and other wastes such as—

“(A) dry paper and paperboard waste generated after completion of the papermaking process (that is, those manufacturing operations up to and including the cutting and trimming of the paper machine reel into smaller rolls or rough sheets) including: envelope cuttings, bindery trimmings, and other paper and paperboard waste, resulting from printing, cutting, forming, and other converting operations; bag, box, and carton manufacturing wastes; and butt rolls, mill wrappers, and rejected unused stock; and

“(B) finished paper and paperboard from obsolete inventories of paper and paperboard manufacturers, merchants, wholesalers, dealers, printers, converters, or others;

“(C) fibrous byproducts of harvesting, manufacturing, extractive, or wood-cutting processes, flax, straw, linters, bagasse, slash, and other forest residues;

“(D) wastes generated by the conversion of goods made from fibrous material (that is, waste rope from cordage manufacture, textile mill waste, and cuttings); and

“(E) fibers recovered from waste water which otherwise would enter the waste stream.

“(i) **PROCUREMENT PROGRAM.**—(1) Within one year after the date of publication of applicable guidelines under subsection (e), each procuring agency shall develop an affirmative procurement program which will assure that items composed of recovered materials will be purchased to the maximum extent practicable and which is consistent with applicable provisions of Federal procurement law.

“(2) Each affirmative procurement program required under this subsection shall, at a minimum, contain—

“(A) a recovered materials preference program;

“(B) an agency promotion program to promote the preference program adopted under subparagraph (A);

“(C) a program for requiring estimates of the total percentage of recovered material utilized in the performance of a contract; certification of minimum recovered material content actually utilized, where appropriate; and reasonable verification procedures for estimates and certifications; and

“(D) annual review and monitoring of the effectiveness of an agency's affirmative procurement program.

In the case of paper, the recovered materials preference program required under subparagraph (A) shall provide for the maximum use of the post consumer recovered materials referred to in subsection (h)(1).

“(3) In developing the preference program, the following options shall be considered for adoption:

“(A) **Case-by-Case Policy Development:** Subject to the limitations of subsection (c)(1) (A) through (C), a policy of awarding contracts to the vendor offering an item composed of the highest percentage of recovered materials practicable (and in the case of paper, the highest percentage of the post consumer recovered materials referred to in subsection (h)(1)). Subject to such limitations, agencies may make an award to a vendor offering items with less than the maximum recovered materials content.

“(B) **Minimum Content Standards:** Minimum recovered materials content specifications which are set in such a way as to assure that the recovered materials content (and in the case of paper, the content of post consumer materials referred to in subsection (h)(1)) required is the maximum available without jeopardizing the intended end use of the item, or violating the limitations of subsection (c)(1) (A) through (C).

Procuring agencies shall adopt one of the options set forth in subparagraphs (A) and (B) or a substantially equivalent alternative, for inclusion in the affirmative procurement program.”

(b) Section 6002(e) of the Solid Waste Disposal Act is amended by—

(1) adding the following after “section” in paragraph (1): “, and in the case of paper, provide for maximizing the use of post consumer recovered materials referred to in subsection (h)(1);” and

(2) striking out “for at least three product categories” and all that follows down through “1982” and substituting “for paper within one hundred and eighty days after the enactment of the Hazardous and Solid Waste Amendments of 1984, and for three

additional product categories (including tires) by October 1, 1985”.

42 USC 6962.

(c) Section 6002(c)(1) of the Solid Waste Disposal Act is amended by inserting after “highest percentage of recovered materials practicable” the following: “(and in the case of paper, the highest percentage of the postconsumer recovered materials referred to in subsection (h)(1) practicable)”.

(d) Section 6002(g) of the Solid Waste Disposal Act is amended by—

(1) striking out “the policy expressed in” and substituting “the requirements of”; and

(2) by inserting before the period at the end thereof the following: “, and to, every two years beginning in 1984, report to the Congress on actions taken by Federal agencies and the progress made in the implementation of this section, including agency compliance with subsection (d)”.

Effective date.

(e) Section 6002(d)(1) of the Solid Waste Disposal Act is amended by striking out “five years after the date of enactment of this Act” and substituting “eighteen months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984”.

42 USC 6941.

(f)(1) Section 4001 of the Solid Waste Disposal Act, as amended by section 301 of this Act, is further amended by inserting “, including those needs created by thorough implementation of section 6002(h),” after “adequate provision shall be given to the present and reasonably anticipated future needs”.

Ante, p. 3274.

Ante, p. 3225.

(2) Section 1006(b) of the Solid Waste Disposal Act is amended by adding the following new paragraph after paragraph (2) thereof (as added by section 102 of this Act):

“(3) Notwithstanding any other provisions of law, in developing solid waste plans, it is the intention of this Act that in determining the size of a waste-to-energy facility, adequate provisions shall be given to the present and reasonably anticipated future needs, including those needs created by thorough implementation of section 6002(h), of the recycling and resource recovery interests within the area encompassed by the solid waste plan.”.

TECHNICAL AND CLERICAL AMENDMENTS

42 USC 6927.

SEC. 502. (a) Section 3007(b) of the Solid Waste Disposal Act is amended by inserting the following after the word “information”: “(including records, reports, or information obtained by representatives of the Environmental Protection Agency)”.

42 USC 6915.

(b) Section 2006(1) of the Solid Waste Disposal Act is amended by striking out “detail” and substituting “detailed”.

42 USC 6945.

(c) Section 4005(a) of the Solid Waste Disposal Act is amended by inserting a closing parenthetical mark before the period at the end thereof.

42 USC 6948.

(d) The second paragraph (2) in section 4008(d) of the Solid Waste Disposal Act is redesignated as paragraph (3).

(e) Section 4008 of the Solid Waste Disposal Act is amended by redesignating the second subsection (f) (entitled “Assistance to Municipalities for Energy and Materials Conservation and Recovery Planning Activities”) as subsection (g).

42 USC 6984.

(f) Section 8004(c) of the Solid Waste Disposal Act is amended by inserting “(1)” immediately after “COST SHARING.—”.

(g)(1) Section 3012 of the Solid Waste Disposal Act entitled “Restrictions on Recycled Oil,” is renumbered as section 3014 and inserted after section 3013. 42 USC 6932, 6935.

(2) The item in the table of contents of such Act relating to 3012 of the Solid Waste Disposal Act and entitled “Restrictions on Recycled Oil,” is renumbered as 3014 and inserted after the item relating to section 3013.

(h) Subsection (b) of section 4003 of the Solid Waste Disposal Act, entitled “Energy and Materials Conservation and Recovery Feasibility Planning and Assistance” is redesignated as subsection (c) of such section 4003. 42 USC 6943.

TITLE VI—UNDERGROUND STORAGE TANKS

UNDERGROUND STORAGE TANK REGULATION

SEC. 601. (a) The Solid Waste Disposal Act is amended by adding the following new subtitle after subtitle H:

“Subtitle I—Regulation of Underground Storage Tanks

“DEFINITIONS AND EXEMPTIONS

“SEC. 9001. For the purposes of this subtitle—

42 USC 6991.

“(1) The term ‘underground storage tank’ means any one or combination of tanks (including underground pipes connected thereto) which is used to contain an accumulation of regulated substances, and the volume of which (including the volume of the underground pipes connected thereto) is 10 per centum or more beneath the surface of the ground. Such term does not include any—

“(A) farm or residential tank of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes,

“(B) tank used for storing heating oil for consumptive use on the premises where stored,

“(C) septic tank,

“(D) pipeline facility (including gathering lines) regulated under—

“(i) the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1671, et seq.),

“(ii) the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2001, et seq.), or

“(iii) which is an intrastate pipeline facility regulated under State laws comparable to the provisions of law referred to in clause (i) or (ii) of this subparagraph,

“(E) surface impoundment, pit, pond, or lagoon,

“(F) storm water or waste water collection system,

“(G) flow-through process tank,

“(H) liquid trap or associated gathering lines directly related to oil or gas production and gathering operations, or

“(I) storage tank situated in an underground area (such as a basement, cellar, mineworking, drift, shaft, or tunnel) if the storage tank is situated upon or above the surface of the floor.

Petroleum and petroleum products.

The term 'underground storage tank' shall not include any pipes connected to any tank which is described in subparagraphs (A) through (I).

"(2) The term 'regulated substance' means—

42 USC 9601.

42 USC 6921.

"(A) any substance defined in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (but not including any substance regulated as a hazardous waste under subtitle C), and

"(B) petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute).

"(3) The term 'owner' means—

"(A) in the case of an underground storage tank in use on the date of enactment of the Hazardous and Solid Waste Amendments of 1984, or brought into use after that date, any person who owns an underground storage tank used for the storage, use, or dispensing of regulated substances, and

"(B) in the case of any underground storage tank in use before the date of enactment of the Hazardous and Solid Waste Amendments of 1984, but no longer in use on the date of enactment of such Amendments, any person who owned such tank immediately before the discontinuation of its use.

"(4) The term 'operator' means any person in control of, or having responsibility for, the daily operation of the underground storage tank.

"(5) The term 'release' means any spilling, leaking, emitting, discharging, escaping, leaching, or disposing from an underground storage tank into ground water, surface water or subsurface soils.

"(6) The term 'person' has the same meaning as provided in section 1004(15), except that such term includes a consortium, a joint venture, and a commercial entity, and the United States Government.

"(7) The term 'nonoperational storage tank' means any underground storage tank in which regulated substances will not be deposited or from which regulated substances will not be dispensed after the date of the enactment of the Hazardous and Solid Waste Amendments of 1984.

"NOTIFICATION

42 USC 6991a.

"SEC. 9002. (a) UNDERGROUND STORAGE TANKS.—(1) Within 18 months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, each owner of an underground storage tank shall notify the State or local agency or department designated pursuant to subsection (b)(1) of the existence of such tank, specifying the age, size, type, location, and uses of such tank.

"(2)(A) For each underground storage tank taken out of operation after January 1, 1974, the owner of such tank shall, within eighteen months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, notify the State or local agency, or department designated pursuant to subsection (b)(1) of the existence of such tanks (unless the owner knows the tank subsequently was removed from the ground). The owner of a tank taken out of operation on or before January 1, 1974, shall not be required to notify the State or local agency under this subsection.

"(B) Notice under subparagraph (A) shall specify, to the extent known to the owner—

- “(i) the date the tank was taken out of operation,
- “(ii) the age of the tank on the date taken out of operation,
- “(iii) the size, type and location of the tank, and
- “(iv) the type and quantity of substances left stored in such tank on the date taken out of operation.

“(3) Any owner which brings into use an underground storage tank after the initial notification period specified under paragraph (1), shall notify the designated State or local agency or department within thirty days of the existence of such tank, specifying the age, size, type, location and uses of such tank.

“(4) Paragraphs (1) through (3) of this subsection shall not apply to tanks for which notice was given pursuant to section 103(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

42 USC 9603.

“(5) Beginning thirty days after the Administrator prescribes the form of notice pursuant to subsection (b)(2) and for eighteen months thereafter, any person who deposits regulated substances in an underground storage tank shall reasonably notify the owner or operator of such tank of the owner's notification requirements pursuant to this subsection.

“(6) Beginning thirty days after the Administrator issues new tank performance standards pursuant to section 9003(e) of this subtitle, any person who sells a tank intended to be used as an underground storage tank shall notify the purchaser of such tank of the owner's notification requirements pursuant to this subsection.

Infra.

“(b) AGENCY DESIGNATION.—(1) Within one hundred and eighty days after the enactment of the Hazardous and Solid Waste Amendments of 1984, the Governors of each State shall designate the appropriate State agency or department or local agencies or departments to receive the notifications under subsection (a) (1), (2), or (3).

State and local governments.

“(2) Within twelve months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator, in consultation with State and local officials designated pursuant to subsection (b)(1), and after notice and opportunity for public comment, shall prescribe the form of the notice and the information to be included in the notifications under subsection (a) (1), (2), or (3). In prescribing the form of such notice, the Administrator shall take into account the effect on small businesses and other owners and operators.

Public information.

“RELEASE DETECTION, PREVENTION, AND CORRECTION REGULATIONS

“SEC. 9003. (a) REGULATIONS.—The Administrator, after notice and opportunity for public comment, and at least three months before the effective dates specified in subsection (f), shall promulgate release detection, prevention, and correction regulations applicable to all owners and operators of underground storage tanks, as may be necessary to protect human health and the environment.

42 USC 6991b.

“(b) DISTINCTIONS IN REGULATIONS.—In promulgating regulations under this section, the Administrator may distinguish between types, classes, and ages of underground storage tanks. In making such distinctions, the Administrator may take into consideration factors, including, but not limited to: location of the tanks, soil and climate conditions, uses of the tanks, history of maintenance, age of the tanks, current industry recommended practices, national consensus codes, hydrogeology, water table, size of the tanks, quantity of regulated substances periodically deposited in or dispensed from

the tank, the technical capability of the owners and operators, and the compatibility of the regulated substance and the materials of which the tank is fabricated.

“(c) REQUIREMENTS.—The regulations promulgated pursuant to this section shall include, but need not be limited to, the following requirements respecting all underground storage tanks—

“(1) requirements for maintaining a leak detection system, an inventory control system together with tank testing, or a comparable system or method designed to identify releases in a manner consistent with the protection of human health and the environment;

“(2) requirements for maintaining records of any monitoring or leak detection system or inventory control system or tank testing or comparable system;

“(3) requirements for reporting of releases and corrective action taken in response to a release from an underground storage tank;

“(4) requirements for taking corrective action in response to a release from an underground storage tank; and

“(5) requirements for the closure of tanks to prevent future releases of regulated substances into the environment.

“(d) FINANCIAL RESPONSIBILITY.—(1) As he deems necessary or desirable, the Administrator shall promulgate regulations containing requirements for maintaining evidence of financial responsibility as he deems necessary and desirable for taking corrective action and compensating third parties for bodily injury and property damage caused by sudden and nonsudden accidental releases arising from operating an underground storage tank.

“(2) Financial responsibility required by this subsection may be established in accordance with regulations promulgated by the Administrator by any one, or any combination, of the following: insurance, guarantee, surety bond, letter of credit, or qualification as a self-insurer. In promulgating requirements under this subsection, the Administrator is authorized to specify policy or other contractual terms, conditions, or defenses which are necessary or are unacceptable in establishing such evidence of financial responsibility in order to effectuate the purposes of this subtitle.

Courts, U.S.

“(3) In any case where the owner or operator is in bankruptcy, reorganization, or arrangement pursuant to the Federal Bankruptcy Code or where with reasonable diligence jurisdiction in any State court of the Federal Courts cannot be obtained over an owner or operator likely to be solvent at the time of judgment, any claim arising from conduct for which evidence of financial responsibility must be provided under this subsection may be asserted directly against the guarantor providing such evidence of financial responsibility. In the case of any action pursuant to this paragraph such guarantor shall be entitled to invoke all rights and defenses which would have been available to the owner or operator if any action had been brought against the owner or operator by the claimant and which would have been available to the guarantor if an action had been brought against the guarantor by the owner or operator.

“(4) The total liability of any guarantor shall be limited to the aggregate amount which the guarantor has provided as evidence of financial responsibility to the owner or operator under this section. Nothing in this subsection shall be construed to limit any other State or Federal statutory, contractual or common law liability of a guarantor to its owner or operator including, but not limited to, the

liability of such guarantor for bad faith either in negotiating or in failing to negotiate the settlement of any claim. Nothing in this subsection shall be construed to diminish the liability of any person under section 107 or 111 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 or other applicable law.

42 USC 9607,
9611.

“(5) For the purpose of this subsection, the term ‘guarantor’ means any person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator under this subsection.

“(e) NEW TANK PERFORMANCE STANDARDS.—The Administrator shall, not later than three months prior to the effective date specified in subsection (f), issue performance standards for underground storage tanks brought into use on or after the effective date of such standards. The performance standards for new underground storage tanks shall include, but need not be limited to, design, construction, installation, release detection, and compatibility standards.

“(f) EFFECTIVE DATES.—(1) Regulations issued pursuant to subsection (c) and (d) of this section, and standards issued pursuant to subsection (e) of this section, for underground storage tanks containing regulated substances defined in section 9001(2)(B) (petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure) shall be effective not later than thirty months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984.

“(2) Standards issued pursuant to subsection (e) of this section (entitled ‘New Tank Performance Standards’) for underground storage tanks containing regulated substances defined in section 9001(2)(A) shall be effective not later than thirty-six months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984.

“(3) Regulations issued pursuant to subsection (c) of this section (entitled ‘Requirements’) and standards issued pursuant to subsection (d) of this section (entitled ‘Financial Responsibility’) for underground storage tanks containing regulated substances defined in section 9001(2)(A) shall be effective not later than forty-eight months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984.

“(g) INTERIM PROHIBITION.—(1) Until the effective date of the standards promulgated by the Administrator under subsection (e) and after one hundred and eighty days after the date of the enactment of the Hazardous and Solid Waste Amendments of 1984, no person may install an underground storage tank for the purpose of storing regulated substances unless such tank (whether of single or double wall construction)—

“(A) will prevent releases due to corrosion or structural failure for the operational life of the tank;

“(B) is cathodically protected against corrosion, constructed of noncorrosive material, steel clad with a noncorrosive material, or designed in a manner to prevent the release or threatened release of any stored substance; and

“(C) the material used in the construction or lining of the tank is compatible with the substance to be stored.

“(2) Notwithstanding paragraph (1), if soil tests conducted in accordance with ASTM Standard G57-78, or another standard approved by the Administrator, show that soil resistivity in an installation location is 12,000 ohm/cm or more (unless a more stringent

standard is prescribed by the Administrator by rule), a storage tank without corrosion protection may be installed in that location during the period referred to in paragraph (1).

“APPROVAL OF STATE PROGRAMS

42 USC 6991c.

“SEC. 9004. (a) ELEMENTS OF STATE PROGRAM.—Beginning 30 months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, any State may, submit an underground storage tank release detection, prevention, and correction program for review and approval by the Administrator. The program may cover tanks used to store regulated substances referred to in 9001(2) (A) or (B) or both. A State program may be approved by the Administrator under this section only if the State demonstrates that the State program includes the following requirements and standards and provides for adequate enforcement of compliance with such requirements and standards—

“(1) requirements for maintaining a leak detection system, an inventory control system together with tank testing, or a comparable system or method designed to identify releases in a manner consistent with the protection of human health and the environment;

“(2) requirements for maintaining records of any monitoring or leak detection system or inventory control system or tank testing system;

“(3) requirements for reporting of any releases and corrective action taken in response to a release from an underground storage tank;

“(4) requirements for taking corrective action in response to a release from an underground storage tank;

“(5) requirements for the closure of tanks to prevent future releases of regulated substances into the environment;

“(6) requirements for maintaining evidence of financial responsibility for taking corrective action and compensating third parties for bodily injury and property damage caused by sudden and nonsudden accidental releases arising from operating an underground storage tank;

“(7) standards of performance for new underground storage tanks; and

“(8) requirements—

“(A) for notifying the appropriate State agency or department (or local agency or department) designated according to section 9002(b)(1) of the existence of any operational or non-operational underground storage tank; and

“(B) for providing the information required on the form issued pursuant to section 9002(b)(2).

“(b) FEDERAL STANDARDS.—(1) A State program submitted under this section may be approved only if the requirements under paragraphs (1) through (7) of subsection (a) are no less stringent than the corresponding requirements standards promulgated by the Administrator pursuant to section 9003(a).

“(2)(A) A State program may be approved without regard to whether or not the requirements referred to in paragraphs (1), (2), (3), and (5) of subsection (a) are less stringent than the corresponding standards under section 9003(a) during the one-year period commencing on the date of promulgation of regulations under section

9003(a) if State regulatory action but no State legislative action is required in order to adopt a State program.

“(B) If such State legislative action is required, the State program may be approved without regard to whether or not the requirements referred to in paragraphs (1), (2), (3), and (5) of subsection (a) are less stringent than the corresponding standards under section 9003(a) during the two-year period commencing on the date of promulgation of regulations under section 9003(a) (and during an additional one-year period after such legislative action if regulations are required to be promulgated by the State pursuant to such legislative action).

“(c) FINANCIAL RESPONSIBILITY.—(1) Corrective action and compensation programs financed by fees on tank owners and operators and administered by State or local agencies or departments may be submitted for approval under subsection (a)(6) as evidence of financial responsibility.

State and local governments.

“(2) Financial responsibility required by this subsection may be established in accordance with regulations promulgated by the Administrator by any one, or any combination, of the following: insurance, guarantee, surety bond, letter of credit, or qualification as a self-insurer. In promulgating requirements under this subsection, the Administrator is authorized to specify policy or other contractual terms, conditions, or defenses which are necessary or are unacceptable in establishing such evidence of financial responsibility in order to effectuate the purposes of this subtitle.

“(3) In any case where the owner or operator is in bankruptcy, reorganization, or arrangement pursuant to the Federal Bankruptcy Code or where with reasonable diligence jurisdiction in any State court of the Federal courts cannot be obtained over an owner or operator likely to be solvent at the time of judgment, any claim arising from conduct for which evidence of financial responsibility must be provided under this subsection may be asserted directly against the guarantor providing such evidence of financial responsibility. In the case of any action pursuant to this paragraph such guarantor shall be entitled to invoke all rights and defenses which would have been available to the owner or operator if any action had been brought against the owner or operator by the claimant and which would have been available to the guarantor if an action had been brought against the guarantor by the owner or operator.

Claims.

“(4) The total liability of any guarantor shall be limited to the aggregate amount which the guarantor has provided as evidence of financial responsibility to the owner or operator under this section. Nothing in this subsection shall be construed to limit any other State or Federal statutory, contractual or common law liability of a guarantor to its owner or operator including, but not limited to, the liability of such guarantor for bad faith either in negotiating or in failing to negotiate the settlement of any claim. Nothing in this subsection shall be construed to diminish the liability of any person under section 107 or 111 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 or other applicable law.

42 USC 9607,
9611.

“(5) For the purpose of this subsection, the term ‘guarantor’ means any person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator under this subsection.

“(d) EPA DETERMINATION.—(1) Within one hundred and eighty days of the date of receipt of a proposed State program, the Administrator shall, after notice and opportunity for public comment, make

Public information.

a determination whether the State's program complies with the provisions of this section and provides for adequate enforcement of compliance with the requirements and standards adopted pursuant to this section.

State and local
governments.

"(2) If the Administrator determines that a State program complies with the provisions of this section and provides for adequate enforcement of compliance with the requirements and standards adopted pursuant to this section, he shall approve the State program in lieu of the Federal program and the State shall have primary enforcement responsibility with respect to requirements of its program.

"(e) **WITHDRAWAL OF AUTHORIZATION.**—Whenever the Administrator determines after public hearing that a State is not administering and enforcing a program authorized under this subtitle in accordance with the provisions of this section, he shall so notify the State. If appropriate action is not taken within a reasonable time, not to exceed one hundred and twenty days after such notification, the Administrator shall withdraw approval of such program and reestablish the Federal program pursuant to this subtitle.

"INSPECTIONS, MONITORING, AND TESTING

42 USC 6991d.

"Sec. 9005. (a) **FURNISHING INFORMATION.**—For the purposes of developing or assisting in the development of any regulation, conducting any study, or enforcing the provisions of this subtitle, any owner or operator of an underground storage tank (or any tank subject to study under section 9009 that is used for storing regulated substances) shall, upon request of any officer, employee or representative of the Environmental Protection Agency, duly designated by the Administrator, or upon request of any duly designated officer, employee, or representative of a State with an approved program, furnish information relating to such tanks, their associated equipment, their contents, conduct monitoring or testing, and permit such officer at all reasonable times to have access to, and to copy all records relating to such tanks. For the purposes of developing or assisting in the development of any regulation, conducting any study, or enforcing the provisions of this subtitle, such officers, employees, or representatives are authorized—

"(1) to enter at reasonable times any establishment or other place where an underground storage tank is located;

"(2) to inspect and obtain samples from any person of any regulated substances contained in such tank; and

"(3) to conduct monitoring or testing of the tanks, associated equipment, contents, or surrounding soils, air, surface water or ground water.

Each such inspection shall be commenced and completed with reasonable promptness.

Records.
Reports.

"(b) **CONFIDENTIALITY.**—(1) Any records, reports, or information obtained from any persons under this section shall be available to the public, except that upon a showing satisfactory to the Administrator (or the State, as the case may be) by any person that records, reports, or information, or a particular part thereof, to which the Administrator (or the State, as the case may be) or any officer, employee, or representative thereof has access under this section if made public, would divulge information entitled to protection under section 1905 of title 18 of the United States Code, such information or particular portion thereof shall be considered confidential in

accordance with the purposes of that section, except that such record, report, document, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act, or when relevant in any proceeding under this Act.

“(2) Any person not subject to the provisions of section 1905 of title 18 of the United States Code who knowingly and willfully divulges or discloses any information entitled to protection under this subsection shall, upon conviction, be subject to a fine of not more than \$5,000 or to imprisonment not to exceed one year, or both.

Crimes and
misdemeanors.

“(3) In submitting data under this subtitle, a person required to provide such data may—

“(A) designate the data which such person believes is entitled to protection under this subsection, and

“(B) submit such designated data separately from other data submitted under this subtitle.

A designation under this paragraph shall be made in writing and in such manner as the Administrator may prescribe.

“(4) Notwithstanding any limitation contained in this section or any other provision of law, all information reported to, or otherwise obtained, by the Administrator (or any representative of the Administrator) under this Act shall be made available, upon written request of any duly authorized committee of the Congress, to such committee (including records, reports, or information obtained by representatives of the Environmental Protection Agency).

“FEDERAL ENFORCEMENT

“SEC. 9006. (a) COMPLIANCE ORDERS.—(1) Except as provided in paragraph (2), whenever on the basis of any information, the Administrator determines that any person is in violation of any requirement of this subtitle, the Administrator may issue an order requiring compliance within a reasonable specified time period or the Administrator may commence a civil action in the United States district court in which the violation occurred for appropriate relief, including a temporary or permanent injunction.

Crimes and
misdemeanors.
42 USC 6991e.

“(2) In the case of a violation of any requirement of this subtitle where such violation occurs in a State with a program approved under section 9004, the Administrator shall give notice to the State in which such violation has occurred prior to issuing an order or commencing a civil action under this section.

“(3) If a violator fails to comply with an order under this subsection within the time specified in the order, he shall be liable for a civil penalty of not more than \$25,000 for each day of continued noncompliance.

“(b) PROCEDURE.—Any order issued under this section shall become final unless, no later than thirty days after the order is served, the person or persons named therein request a public hearing. Upon such request the Administrator shall promptly conduct a public hearing. In connection with any proceeding under this section the Administrator may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may promulgate rules for discovery procedures.

“(c) CONTENTS OF ORDER.—Any order issued under this section shall state with reasonable specificity the nature of the violation, specify a reasonable time for compliance, and assess a penalty, if

Crimes and
misdemeanors.

any, which the Administrator determines is reasonable taking into account the seriousness of the violation and any good faith efforts to comply with the applicable requirements.

“(d) **CIVIL PENALTIES.**—(1) Any owner who knowingly fails to notify or submits false information pursuant to section 9002(a) shall be subject to a civil penalty not to exceed \$10,000 for each tank for which notification is not given or false information is submitted.

“(2) Any owner or operator of an underground storage tank who fails to comply with—

“(A) any requirement or standard promulgated by the Administrator under section 9003;

“(B) any requirement or standard of a State program approved pursuant to section 9004; or

“(C) the provisions of section 9003(g) (entitled ‘Interim Prohibition’)

shall be subject to a civil penalty not to exceed \$10,000 for each tank for each day of violation.

“FEDERAL FACILITIES

42 USC 6991f.

“**SEC. 9007. (a) APPLICATION OF SUBTITLE.**—Each department, agency, and instrumentality of the executive, legislative, and judicial branches of the Federal Government having jurisdiction over any underground storage tank shall be subject to and comply with all Federal, State, interstate, and local requirements, applicable to such tank, both substantive and procedural, in the same manner, and to the same extent, as any other person is subject to such requirements, including payment of reasonable service charges. Neither the United States, nor any agent, employee, or officer thereof, shall be immune or exempt from any process or sanction of any State or Federal court with respect to the enforcement of any such injunctive relief.

President of U.S.

“(b) **PRESIDENTIAL EXEMPTION.**—The President may exempt any underground storage tanks of any department, agency, or instrumentality in the executive branch from compliance with such a requirement if he determines it to be in the paramount interest of the United States to do so. No such exemption shall be granted due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriations. Any exemption shall be for a period not in excess of one year, but additional exemptions may be granted for periods not to exceed one year upon the President’s making a new determination. The President shall report each January to the Congress all exemptions from the requirements of this section granted during the preceding calendar year, together with his reason for granting each such exemption.

Report.

“STATE AUTHORITY

42 USC 6991g.

“**SEC. 9008.** Nothing in this subtitle shall preclude or deny any right of any State or political subdivision thereof to adopt or enforce any regulation, requirement or standard of performance respecting underground storage tanks that is more stringent than a regulation, requirement, or standard of performance in effect under this subtitle.

“STUDY OF UNDERGROUND STORAGE TANKS

“SEC. 9009. (a) **PETROLEUM TANKS.**—Not later than twelve months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall complete a study of underground storage tanks used for the storage of regulated substances defined in section 9001(2)(B).

Study.
42 USC 6991h.

“(b) **OTHER TANKS.**—Not later than thirty-six months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall complete a study of all other underground storage tanks.

Study.

“(c) **ELEMENTS OF STUDIES.**—The studies under subsections (a) and (b) shall include an assessment of the ages, types (including methods of manufacture, coatings, protection systems, the compatibility of the construction materials and the installation methods) and locations (including the climate of the locations) of such tanks; soil conditions, water tables, and the hydrogeology of tank locations; the relationship between the foregoing factors and the likelihood of releases from underground storage tanks; the effectiveness and costs of inventory systems, tank testing, and leak detection systems; and such other factors as the Administrator deems appropriate.

“(d) **FARM AND HEATING OIL TANKS.**—Not later than thirty-six months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall conduct a study regarding the tanks referred to in section 9001(1) (A) and (B). Such study shall include estimates of the number and location of such tanks and an analysis of the extent to which there may be releases or threatened releases from such tanks into the environment.

Study.

“(e) **REPORTS.**—Upon completion of the studies authorized by this section, the Administrator shall submit reports to the President and to the Congress containing the results of the studies and recommendations respecting whether or not such tanks should be subject to the preceding provisions of this subtitle.

“(f) **REIMBURSEMENT.**—(1) If any owner or operator (excepting an agency, department, or instrumentality of the United States Government, a State or a political subdivision thereof) shall incur costs, including the loss of business opportunity, due to the closure or interruption of operation of an underground storage tank solely for the purpose of conducting studies authorized by this section, the Administrator shall provide such person fair and equitable reimbursement for such costs.

“(2) All claims for reimbursement shall be filed with the Administrator not later than ninety days after the closure or interruption which gives rise to the claim.

“(3) Reimbursements made under this section shall be from funds appropriated by the Congress pursuant to the authorization contained in section 2007(g).

Ante, p. 3223.

“(4) For purposes of judicial review, a determination by the Administrator under this subsection shall be considered final agency action.

“AUTHORIZATION OF APPROPRIATIONS

“SEC. 9010. For authorization of appropriations to carry out this subtitle, see section 2007(g).”.

42 USC 6991i.

(b) The table of contents of the Solid Waste Disposal Act is amended by inserting the following after the items relating to subtitle H:

“Subtitle I—Regulation of Underground Storage Tanks

- “Sec. 9001. Definitions.
- “Sec. 9002. Notification.
- “Sec. 9003. Release detection, prevention, and correction regulations.
- “Sec. 9004. Approval of State programs.
- “Sec. 9005. Inspections, monitoring, and testing.
- “Sec. 9006. Federal enforcement.
- “Sec. 9007. Federal facilities.
- “Sec. 9008. State authority.
- “Sec. 9009. Study of underground storage tanks.
- “Sec. 9010. Authorization of appropriations.”.

TITLE VII—OTHER PROVISIONS

REPORT TO CONGRESS ON INJECTION OF HAZARDOUS WASTE

SEC. 701. (a) The Administrator, in cooperation with the States, shall compile and, not later than six months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, submit to the Committee on Environment and Public Works of the United States Senate and the Committee on Energy and Commerce of the United States House of Representatives, an inventory of all wells in the United States which inject hazardous wastes. The inventory shall include the following information:

- (1) the location and depth of each well;
- (2) engineering and construction details of each, including the thickness and composition of its casing, the width and content of the annulus, and pump pressure and capacity;
- (3) the hydrogeological characteristics of the overlying and underlying strata, as well as that into which the waste is injected;
- (4) the location and size of all drinking water aquifers penetrated by the well, or within a one-mile radius of the well or within two hundred feet below the well injection point;
- (5) the location, capacity, and population served by each well providing drinking or irrigation water which is within a five-mile radius of the injection well;
- (6) the nature and volume of the waste injected during the one-year period immediately preceding the date of the report;
- (7) the dates and nature of the inspections of the injection well conducted by independent third parties or agents of State, Federal, or local government;
- (8) the name and address of all owners and operators of the well and any disposal facility associated with it;
- (9) the identification of all wells at which enforcement actions have been initiated under this Act (by reason of well failure, operator error, ground water contamination or for other reasons) and an identification of the wastes involved in such enforcement actions; and
- (10) such other information as the Administrator may, in his discretion, deem necessary to define the scope and nature of hazardous waste disposal in the United States through underground injection.

(b) In fulfilling the requirements of paragraphs (3) through (5) of subsection (a), the Administrator need only submit such information as can be obtained from currently existing State records and from site visits to at least twenty facilities containing wells which inject hazardous waste.

(c) The States shall make available to the Administrator such information as he deems necessary to accomplish the objectives of this section.

EXTENDING THE USEFUL LIFE OF SANITARY LANDFILLS

SEC. 702. Section 8002 of the Solid Waste Disposal Act is amended by adding the following new subsection after subsection (r) thereof:

Ante, p. 3253.

“(s) **EXTENDING LANDFILL LIFE AND REUSING LANDFILLED AREAS.**—The Administrator shall conduct detailed, comprehensive studies of methods to extend the useful life of sanitary landfills and to better use sites in which filled or closed landfills are located. Such studies shall address—

Study.

“(1) methods to reduce the volume of materials before placement in landfills;

“(2) more efficient systems for depositing waste in landfills;

“(3) methods to enhance the rate of decomposition of solid waste in landfills, in a safe and environmentally acceptable manner;

“(4) methane production from closed landfill units;

“(5) innovative uses of closed landfill sites, including use for energy production such as solar or wind energy and use for metals recovery;

“(6) potential for use of sewage treatment sludge in reclaiming landfilled areas; and

“(7) methods to coordinate use of a landfill owned by one municipality by nearby municipalities, and to establish equitable rates for such use, taking into account the need to provide future landfill capacity to replace that so used.

The Administrator is authorized to conduct demonstrations in the areas of study provided in this subsection. The Administrator shall periodically report on the results of such studies, with the first such report not later than October 1, 1986. In carrying out this subsection, the Administrator need not duplicate other studies which have been completed and may rely upon information which has previously been compiled.”.

Report.

URANIUM MILL TAILINGS

SEC. 703. Nothing in the Hazardous and Solid Waste Amendments of 1984 shall be construed to affect, modify, or amend the Uranium Mill Tailings Radiation Control Act of 1978.

42 USC 6905

note.

42 USC 7901

note.

NATIONAL GROUND WATER COMMISSION

SEC. 704. (a) There is established a commission to be known as the National Ground Water Commission (hereinafter in this section referred to as the “Commission”).

Establishment.

(b) The duties of the Commission are to:

(1) Assess generally the amount, location, and quality of the Nation's ground water resources.

(2) Identify generally the sources, extent, and types of ground water contamination.

(3) Assess the scope and nature of the relationship between ground water contamination and ground water withdrawal and develop projections of available, usable ground water in future years on a nationwide basis.

(4) Assess the relationship between surface water pollution and ground water pollution.

(5) Assess the need for a policy to protect ground water from degradation caused by contamination.

(6) Assess generally the extent of overdrafting of ground water resources, and the adequacy of existing mechanisms for preventing such overdrafting.

(7) Assess generally the engineering and technological capability to recharge aquifers.

(8) Assess the adequacy of the present understanding of ground water recharge zones and sole source aquifers and assess the adequacy of knowledge regarding the interrelationship of designated aquifers and recharge zones.

(9) Assess the role of land-use patterns as these relate to protecting ground water from contamination.

(10) Assess methods for remedial abatement of ground water contamination as well as the costs and benefits of cleaning up polluted ground water and compare cleanup costs to the costs of substitute water supply methods.

(11) Investigate policies and actions taken by foreign governments to protect ground water from contamination.

(12) Assess the use and effectiveness of existing interstate compacts to address ground water protection from contamination.

(13) Analyze existing legal rights and remedies regarding contamination of ground water.

(14) Assess the adequacy of existing standards for ground water quality under State and Federal law.

(15) Assess monitoring methodologies of the States and the Federal Government to achieve the level of protection of the resource as required by State and Federal law.

(16) Assess the relationship between ground water flow systems (and associated recharge areas) and the control of sources of contamination.

(17) Assess the role of underground injection practices as a means of disposing of waste fluids while protecting ground water from contamination.

(18) Assess methods for abatement and containment of ground water contamination and for aquifer restoration including the costs and benefits of alternatives to abatement and containment.

(19) Assess State and Federal ground water law and mechanisms with which to manage the quality of the ground water resource.

(20) Assess the adequacy of existing ground water research and determine future ground water research needs.

(21) Assess the roles of State, local, and Federal Governments in managing ground water quality.

(c)(1) The Commission shall be composed of nineteen members as follows:

(A) six appointed by the Speaker of the United States House of Representatives from among the Members of the House of Representatives, two of whom shall be members of the Commit-

tee on Energy and Commerce, two of whom shall be members of the Committee on Public Works and Transportation, and two of whom shall be members of the Committee on Interior and Insular Affairs;

(B) four appointed by the majority leaders of the United States Senate from among the Members of the United States Senate;

(C) eight appointed by the President as follows:

(i) four from among a list of nominations submitted to the President by the National Governors Association, two of whom shall be representatives of ground water appropriation States and two of whom shall be representatives of ground water riparian States;

(ii) one from among a list of nominations submitted to the President by the National League of Cities and the United States Conference of Mayors;

(iii) one from among a list of nominations submitted to the President by the National Academy of Science;

(iv) one from among a list of nominations submitted to the President by groups, organizations, or associations of industries the activities of which may affect ground water; and

(v) one from among a list of nominations submitted to the President from groups, organizations, or associations of citizens which are representative of persons concerned with pollution and environmental issues and which have participated, at the State or Federal level, in studies, administrative proceedings, or litigation (or any combination thereof) relating to ground water; and

(D) the Director of the Office of Technology Assessment.

A vacancy in the Commission shall be filled in the manner in which the original appointment was made. Appointments may be made under this subsection without regard to section 5311(b) of title 5, United States Code. Not more than three of the six members appointed under subparagraph (A) and not more than two of the four members appointed under subparagraph (B) may be of the same political party. No member appointed under paragraph (C) may be an officer or employee of the Federal Government.

(2) If any member of the Commission who was appointed to the Commission as a Member of the Congress leaves that office, or if any member of the Commission who was appointed from persons who are not officers or employees of any government becomes an officer or employee of a government, he may continue as a member of the Commission for not longer than the ninety-day period beginning on the date he leaves that office or becomes such an officer or employee, as the case may be.

(3) Members shall be appointed for the life of the Commission

(4)(A) Except as provided in subparagraph (B), members of the Commission shall each be entitled (subject to appropriations provided in advance) to receive the daily equivalent of the maximum annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Commission. While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed inter-

mittently in Government service are allowed expenses under section 5703 of title 5 of the United States Code.

(B) Members of the Commission who are Members of the Congress shall receive no additional pay, allowances, or benefits by reason of their service on the Commission.

(5) Five members of the Commission shall constitute a quorum but two may hold hearings.

(6) The Chairman of the Commission shall be appointed by the Speaker of the House of Representatives from among members appointed under paragraph (1)(A) of this subsection and the Vice Chairman of the Commission shall be appointed by the majority leader of the Senate from among members appointed under paragraph (1)(B) of this subsection. The Chairman and the Vice Chairman of the Commission shall serve for the life of the Commission unless they cease to be members of the Commission before the termination of the Commission.

(7) The Commission shall meet at the call of the Chairman or a majority of its members.

(d)(1) The Commission shall have a Director who shall be appointed by the Chairman, without regard to section 5311(b) of title 5, United States Code.

(2) The Chairman may appoint and fix the pay of such additional personnel as the Chairman considers appropriate.

(3) With the approval of the Commission, the Chairman may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code.

(4) The Commission shall request, and the Chief of Engineers and the Director of the Geological Survey are each authorized to detail, on a reimbursable basis, any of the personnel of their respective agencies to the Commission to assist it in carrying out its duties under this section. Upon request of the Commission, the head of any other Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist it in carrying out its duties under this section.

(e)(1) The Commission may, for the purpose of carrying out this section, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

(2) Any member or agent of the Commission may, if so authorized by the Commission, take any action which the Commission is authorized to take by this section.

(3) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(4) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(5) The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(f)(1) The Commission shall transmit to the President and to each House of the Congress a report not later than October 30, 1986. The report shall contain a detailed statement of the findings and conclusions of the Commission with respect to each item listed in subsec-

Report.

tion (b), together with its recommendations for such legislation; and administrative actions, as it considers appropriate.

(2) Not later than one year after the enactment of the Hazardous and Solid Waste Amendments of 1984, the Commission shall complete a preliminary study concerning ground water contamination from hazardous and other solid waste and submit to the President and to the Congress a report containing the findings and conclusions of such preliminary study. The study shall be continued thereafter, and final findings and conclusions shall be incorporated as a separate chapter in the report required under paragraph (1). The preliminary study shall include an analysis of the extent of ground water contamination caused by hazardous and other solid waste, the regions and major water supplies most significantly affected by such contamination, and any recommendations of the Commission for preventive or remedial measures to protect human health and the environment from the effects of such contamination.

Study.
Report.

(g) The Commission shall cease to exist on January 1, 1987.

Termination.

(h) Nothing in this section and no recommendation of the Commission shall affect any rights to quantities of water established under State law, interstate compact, or Supreme Court decree.

(i) There is authorized to be appropriated for the fiscal years 1985 through 1987 not to exceed \$7,000,000 to carry out this section.

Appropriation
authorization.

Approved November 8, 1984.

LEGISLATIVE HISTORY—H.R. 2867:

HOUSE REPORTS: No. 98-198, Pts. 1 and 2 (Comm. on Energy and Commerce), Pt. 3 (Comm. on the Judiciary) and No. 98-1133 (Comm. of Conference).
CONGRESSIONAL RECORD:

Vol. 129 (1983): Aug. 4, Oct. 6, 31, Nov. 3, considered and passed House.
Vol. 130 (1984): July 25, considered and passed Senate, amended.
Oct. 3, House agreed to conference report.
Oct. 5, Senate agreed to conference report.

Public Law 98-617
98th Congress

An Act

Nov. 8, 1984
[H.R. 5386]

To amend part A of title XVIII of the Social Security Act with respect to the payment rates for routine home care and other services included in hospice care.

Aged persons.
Health.
42 USC 1395f.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1814(i)(1) of the Social Security Act (42 U.S.C. 1395(i)(1)) is amended—

(1) by inserting “(A)” after “(i)(1)”, and

(2) by adding at the end the following new subparagraphs:

“(B) Notwithstanding subparagraph (A), the rate of payment per day for routine home care furnished during fiscal year 1985 shall be \$53.17.

“(C) With respect to care and services furnished on or after October 1, 1985, the Secretary shall, not less often than annually, review and make appropriate adjustments to the payment rate for routine home care and the payment rates for other services included in hospice care based on the costs that are reasonable and related to the costs of furnishing such care and services. The Secretary shall report to Congress on October 1 each year on such review and such adjustments and on the adequacy of the rates under this paragraph to ensure participation by an adequate number of hospice programs under this title.”.

Report.

Effective date.
42 USC 1395f
note.

(b) The amendments made by this Act shall apply to routine home care and other services included in hospice care furnished on or after October 1, 1984.

PUBLIC PENSION OFFSET PROVISIONS

97 Stat. 131.
42 USC 402 note.

SEC. 2. (a)(1) Section 337(b) of the Social Security Amendments of 1983 is amended by striking out “to individuals who initially become eligible” and all that follows and inserting in lieu thereof “for months after June 1983.”.

Effective date.
42 USC 402 note.

(2) The amendments made by this subsection shall apply to benefits payable under title II of the Social Security Act for months beginning after the month of enactment of this Act.

42 USC 402 note.

(b)(1) Section 334(g)(1)(A) of the Social Security Amendments of 1977 is amended—

(A) by inserting “(i)” after “(A)”; and

(B) by inserting before the semicolon at the end thereof the following: “, or (ii) who would have been eligible for such a monthly periodic benefit (within the meaning of paragraph (2)) before the close of such 60-month period, except for a requirement which postponed eligibility (as so defined) for such monthly periodic benefit until the month following the month in which all other requirements were met”.

(2) Section 334(h)(1) of such Amendments (as amended by section 7 of Public Law 97-455) is amended—

(A) by inserting “(A)” after “(1)”; and

(B) by inserting before the semicolon at the end thereof the following: “, or (B) who would have been eligible for such a monthly periodic benefit (within the meaning of subsection (g)(2)) before the close of June 1983, except for a requirement which postponed eligibility (as so defined) for such monthly periodic benefit until the month following the month in which all other requirements were met”.

(3) The amendments made by this subsection shall apply with respect to benefits payable under title II of the Social Security Act for months beginning after the month of enactment of this Act.

Effective date.
42 USC 402 note.

TECHNICAL AMENDMENTS

SEC. 3. (a)(1) Section 2307(a)(1) of the Deficit Reduction Act of 1984 is amended by striking out “1842(b)(7)(A)” and inserting in lieu thereof “1842(b)(7)”.

Ante, p. 1073.

(2) Section 2326(a) of the Deficit Reduction Act of 1984 is amended by striking out “1816(a)(1)” and inserting in lieu thereof “1816(a)”.

Ante, p. 1087.

(3) Section 2354(b)(1) of the Deficit Reduction Act of 1984 is amended by striking out “last sentence of sections 1814(a) and the last sentence of section 1835(a)” and inserting in lieu thereof “the third sentence of section 1814(a) and the fourth sentence of section 1835(a)”.

Ante, p. 1100.

(4) Section 2354(b)(23) of the Deficit Reduction Act of 1984 is amended by striking out “1861(v)(1)(E)(ii)” and inserting in lieu thereof “1861(v)(1)(E)”.

(5) Section 2354(c)(3)(B)(i) of the Deficit Reduction Act of 1984 is amended by inserting “under” before “section”.

(6) Section 2363(b) of the Deficit Reduction Act of 1984 is amended by striking out “1903” and inserting in lieu thereof “1903(g)”.

Ante, p. 1105.

(7) Section 2373(b) of the Deficit Reduction Act of 1984 is amended by striking out paragraph (6).

Ante, p. 1111.

(b)(1) Section 1814(k)(2) of the Social Security Act, as added by section 2321(a)(2) of the Deficit Reduction Act of 1984, is amended—

Ante, p. 1084.

(A) by inserting after “public home health agency” the following: “, or by another home health agency which demonstrates to the satisfaction of the Secretary that a significant portion of its patients are low-income (and requests that payment be made under this paragraph),” and

(B) by inserting “80 percent of” before “the amount”.

(2) Section 1833(a)(2)(A) of the Social Security Act is amended by inserting after “public provider of services” the following: “, or by another provider which demonstrates to the satisfaction of the Secretary that a significant portion of its patients are low-income (and requests that payment be made under this provision),”.

42 USC 1395l.

(3) Section 1833(h)(5)(C) of the Social Security Act, as amended by section 2303(d) of the Deficit Reduction Act of 1984, is amended by inserting a comma after “1842(b)(6)(B)”.

Ante, p. 1064.

(4) Section 1839(f)(2)(A) of the Social Security Act, as added by section 2302(b) of the Deficit Reduction Act of 1984, is amended—

Ante, p. 1063.

(A) by striking out “for that January after the deduction” and inserting in lieu thereof “for that December after the deduction”; and

(B) by striking out “for that November” and inserting in lieu thereof “for that December”.

(5) Section 1842(b)(7)(A) of the Social Security Act, as amended by section 2307 of the Deficit Reduction Act of 1984, is amended—

Ante, p. 1073.

(A) in clause (ii), by striking out “the amount of the payment exceeds the reasonable charge for the services (with the customary charge determined consistent with subparagraph (B))” and inserting in lieu thereof “the payment is based upon a reasonable charge for the services in excess of the customary charge as determined in accordance with subparagraph (B)”; and

(B) by striking out the last sentence thereof.

Ante, p. 1073.

(6) Section 1842(b)(7)(B) of such Act, as amended by section 2307 of the Deficit Reduction Act of 1984, is amended by adding at the end thereof the following new clause:

Hospitals.

“(iii) If all the teaching physicians in a hospital agree to have payment made for all of their physicians’ services under this part furnished to patients in such hospital on the basis of an assignment described in paragraph (3)(B)(ii) or under the procedure described in section 1870(f)(1), the customary charge for such services shall be equal to 90 percent of the prevailing charges paid for similar services in the same locality.”

Ante, p. 1094.

(7) Section 1861(r)(3) of the Social Security Act, as amended by section 2341 of the Deficit Reduction Act of 1984, is amended by striking out “under subsections (k) and (m) and sections 1814(a) and 1835” and inserting in lieu thereof “under subsections (k), (m), and (p)(1) of this section and sections 1814(a), 1832(a)(2)(F)(ii), and 1835”.

Ante, p. 1086.

(8) Paragraph (11) of section 1881(b) of the Social Security Act, added by section 2323(c) of the Deficit Reduction Act of 1984, is amended by aligning its left margin flush so as to align its left margin with that of paragraph (10).

Ante, p. 1076.

(9) Section 1886(d)(5)(C)(i) of the Social Security Act, as amended by section 2311(a) of the Deficit Reduction Act of 1984, is amended by striking out “30 days after the date of the enactment of this Act” and inserting in lieu thereof “August 17, 1984”.

Ante, p. 1109.

(10) Section 1902(a)(26) of the Social Security Act, as amended by section 2368(b) of the Deficit Reduction Act of 1984, is amended by indenting subparagraph (C) two additional ems to the right so as to align its left margin with the left margin of subparagraph (A) of that section.

Effective date.
42 USC 1395f
note.
Ante, p. 494.

(c) The amendments made by this section shall be effective as if they had been originally included in the Deficit Reduction Act of 1984.

FOSTER CARE PROVISIONS

42 USC 674.

SEC. 4. (a) Section 474(b) of the Social Security Act is amended—

(1) in paragraphs (1), (2)(B), and (4)(B), by striking out “1981 through 1984” and inserting in lieu thereof “1981 through 1985”;

(2) in paragraph (2)(A)—

(A) by striking out “and” at the end of clause (iii),

(B) by striking out the period at the end of clause (iv) and inserting in lieu thereof “; and”, and

(C) by adding after clause (iv) the following new clause:

“(v) with respect to fiscal year 1985, only if the amount appropriated under section 420 for such fiscal year is equal to \$266,000,000.”; and

(3) in paragraph (5)(A)—

(A) by striking out “October 1, 1984” and inserting in lieu thereof “October 1, 1985”, and

(B) by striking out “fiscal year 1984” in clause (ii) and inserting in lieu thereof “each of fiscal years 1984 and 1985”.

(b) Section 474(c) of such Act is amended in paragraphs (1) and (2) by striking out “1981 through 1984” and inserting in lieu thereof “1981 through 1985”. 42 USC 674.

(c)(1) Section 102(a)(1) of the Adoption Assistance and Child Welfare Act of 1980 (Public Law 96-272) is amended by striking out “October 1, 1984” and inserting in lieu thereof “October 1, 1985”. 97 Stat. 803.
42 USC 672

(2) Section 102(c) of such Act is amended by striking out “October 1, 1984” each place it appears and inserting in lieu thereof “October 1, 1985”. note.
97 Stat. 803.
42 USC 672
note.

Approved November 8, 1984.

LEGISLATIVE HISTORY—H.R. 5386:

HOUSE REPORT No. 98-1100 (Comm. on Ways and Means).
CONGRESSIONAL RECORD, Vol. 130 (1984):

Oct. 1, considered and passed House.

Oct. 11, considered and passed Senate, amended; House concurred in Senate amendments.

Public Law 98-618
98th Congress

An Act

Nov. 8, 1984

[H.R. 5399]

To authorize appropriations for fiscal year 1985 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

Intelligence
Authorization
Act for fiscal
year 1985.
Defense and
national
security.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Intelligence Authorization Act for fiscal year 1985".

TITLE I—INTELLIGENCE ACTIVITIES

AUTHORIZATION OF APPROPRIATIONS

SEC. 101. Funds are hereby authorized to be appropriated for fiscal year 1985 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

- (1) The Central Intelligence Agency.
- (2) The Department of Defense.
- (3) The Defense Intelligence Agency.
- (4) The National Security Agency.
- (5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.
- (6) The Department of State.
- (7) The Department of the Treasury.
- (8) The Department of Energy.
- (9) The Federal Bureau of Investigation.
- (10) The Drug Enforcement Administration.

CLASSIFIED SCHEDULE OF AUTHORIZATIONS

SEC. 102. The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 1985, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared by the Select Committee on Intelligence of the Senate, as amended by agreement of the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate. That Amended Schedule of Authorizations, dated October 4, 1984, signed by the Chairman and Vice Chairman of the Select Committee on Intelligence of the Senate and the Chairman and Ranking Minority Member of the Permanent Select Committee on Intelligence of the House of Representatives, and on file at the offices of those committees, shall be made available to the Committees on Appropriations of the Senate and the House of Representatives, and to the President. The President shall provide for suitable distribution of the amended schedule, or of appropriate portions of the amended schedule, within the executive branch.

President of U.S.

CONGRESSIONAL NOTIFICATION OF EXPENDITURES IN EXCESS OF
PROGRAM AUTHORIZATIONS

SEC. 103. During fiscal year 1985, funds may not be made available for any intelligence or intelligence-related activity unless such funds have been specifically authorized for such activity or, in the case of funds appropriated for a different activity, unless the Director of Central Intelligence or the Secretary of Defense has notified the appropriate committees of Congress of the intent to make such funds available for such activity, except that, in no case may reprogramming or transfer authority be used by the Director of Central Intelligence or the Secretary of Defense unless for higher priority intelligence or intelligence-related activities, based on unforeseen requirements, than those for which funds were originally authorized, and in no case where the intelligence or intelligence-related activity for which funds were requested has been denied by Congress.

AUTHORIZATION OF APPROPRIATIONS FOR DESIGN AND CONSTRUCTION
OF AN ADDITIONAL BUILDING AT THE CENTRAL INTELLIGENCE
AGENCY HEADQUARTERS COMPOUND

SEC. 104. Of the amounts authorized to be appropriated under section 101(1), there is authorized to be appropriated for fiscal year 1985 the sum of \$104,500,000 for the design and construction of a new building at the Central Intelligence Agency headquarters compound.

AUTHORIZATION OF APPROPRIATIONS FOR COUNTERTERRORISM
ACTIVITIES OF THE FEDERAL BUREAU OF INVESTIGATION

SEC. 105. In addition to the amounts authorized to be appropriated under section 101(9), there is authorized to be appropriated for fiscal year 1985 the sum of \$14,500,000 for the conduct of the activities of the Federal Bureau of Investigation to counter terrorism in the United States.

PERSONNEL CEILING ADJUSTMENTS

SEC. 106. The Director of Central Intelligence may authorize employment of civilian personnel in excess of the numbers authorized for the fiscal year 1985 under sections 102 and 202 of this Act when he determines that such action is necessary to the performance of important intelligence functions, except that such number may not, for any element of the Intelligence Community, exceed 2 per centum of the number of civilian personnel authorized under such sections for such element. The Director of Central Intelligence shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever he exercises the authority granted by this section.

TITLE II—INTELLIGENCE COMMUNITY STAFF

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. There is authorized to be appropriated for the Intelligence Community Staff for fiscal year 1985 the sum of \$20,800,000.

AUTHORIZATION OF PERSONNEL END STRENGTH

SEC. 202. (a) The Intelligence Community Staff is authorized two hundred and thirty-two full-time personnel as of September 30, 1985. Such personnel of the Intelligence Community Staff may be permanent employees of the Intelligence Community Staff or personnel detailed from other elements of the United States Government.

(b) During fiscal year 1985, personnel of the Intelligence Community Staff shall be selected so as to provide appropriate representation from elements of the United States Government engaged in intelligence and intelligence-related activities.

(c) During fiscal year 1985, any officer or employee of the United States or a member of the Armed Forces who is detailed to the Intelligence Community Staff from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee, or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

INTELLIGENCE COMMUNITY STAFF ADMINISTERED IN SAME MANNER AS
CENTRAL INTELLIGENCE AGENCY

SEC. 203. During fiscal year 1985, activities and personnel of the Intelligence Community Staff shall be subject to the provisions of the National Security Act of 1947 (50 U.S.C. 401 et seq.) and the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a-403n) in the same manner as activities and personnel of the Central Intelligence Agency.

TITLE III—CENTRAL INTELLIGENCE AGENCY RETIREMENT
AND DISABILITY SYSTEM

AUTHORIZATION OF APPROPRIATIONS

SEC. 301. There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1985 the sum of \$99,300,000.

CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM
RULES AND REGULATIONS

SEC. 302. Section 201(a) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended by striking "to become effective after approval by the chairman and ranking minority members of the Armed Services Committees of the House and Senate." and inserting in lieu thereof "to be submitted to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate before they take effect."

TITLE IV—ADMINISTRATIVE PROVISION RELATING TO THE CENTRAL INTELLIGENCE AGENCY

PHYSICAL SECURITY OF CENTRAL INTELLIGENCE AGENCY FACILITIES

SEC. 401. The Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) is amended by adding at the end thereof the following new section:

“SECURITY PERSONNEL AT AGENCY INSTALLATIONS

“SEC. 15. (a) The Director may authorize Agency personnel within the United States to perform the same functions as special policemen of the General Services Administration perform under the first section of the Act entitled ‘An Act to authorize the Federal Works Administrator or officials of the Federal Works Agency duly authorized by him to appoint special policemen for duty upon Federal property under the jurisdiction of the Federal Works Agency, and for other purposes’ (40 U.S.C. 318), with the powers set forth in that section, except that such personnel shall perform such functions and exercise such powers only within Agency installations, and the rules and regulations enforced by such personnel shall be rules and regulations promulgated by the Director.

50 USC 403o.

“(b) The Director is authorized to establish penalties for violations of the rules or regulations promulgated by the Director under subsection (a) of this section. Such penalties shall not exceed those specified in the fourth section of the Act referred to in subsection (a) of this section (40 U.S.C. 318c).

Penalties.

“(c) Agency personnel designated by the Director under subsection (a) of this section shall be clearly identifiable as United States Government security personnel while engaged in the performance of the functions to which subsection (a) of this section refers.”.

TITLE V—DEFENSE INTELLIGENCE AGENCY PERSONNEL MANAGEMENT IMPROVEMENTS

CIVILIAN PERSONNEL MANAGEMENT

SEC. 501. (a) Chapter 83 of title 10, United States Code, is amended by adding at the end thereof the following new section:

“§ 1604. Civilian personnel management

10 USC 1604.

“(a) The Secretary of Defense may, without regard to the provisions of any other law relating to the number, classification, or compensation of employees—

“(1) establish such positions for civilian officers and employees in the Defense Intelligence Agency as may be necessary to carry out the functions of such Agency;

“(2) appoint individuals to such positions; and

“(3) fix the compensation of such individuals for service in such positions.

“(b) The Secretary of Defense shall, subject to subsection (c), fix the rates of basic pay for positions established under subsection (a) in relation to the rates of basic pay provided in the General Schedule under section 5332 of title 5 for positions subject to such Schedule which have corresponding levels of duties and responsibilities. Except in the case of an officer or employee of the Defense Intelligence Agency serving as a member of the Defense Intelligence

Prohibition.

Senior Executive Service, no officer or employee of the Defense Intelligence Agency may be paid basic compensation at a rate in excess of the highest rate of basic pay contained in such General Schedule.

5 USC 5341.

“(c) The Secretary of Defense is authorized, consistent with section 5341 of title 5, to adopt such provisions of such title as provide for prevailing rate systems of basic pay and to apply such provisions to positions in or under which the Defense Intelligence Agency may employ individuals described by section 5342(a)(2)(A) of such title.

“(d) In addition to the basic compensation payable under subsection (b), officers and employees of the Defense Intelligence Agency who are citizens or nationals of the United States and who are stationed outside the continental United States or in Alaska may be paid compensation, in accordance with regulations prescribed by the Secretary of Defense, not in excess of an allowance authorized to be paid by section 5941(a) of title 5 for employees whose rates of basic pay are fixed by statute. Such allowances shall be based on—

“(1) living costs substantially higher than in the District of Columbia;

“(2) conditions of environment which differ substantially from conditions of environment in the continental United States and warrant an allowance as a recruitment incentive; or

“(3) both of the factors described in paragraphs (1) and (2).

Employment
and
unemployment.

“(e)(1) Notwithstanding any other provision of law, the Secretary of Defense may, during fiscal years 1985 and 1986, terminate the employment of any civilian officer or employee of the Defense Intelligence Agency whenever he considers that action to be in the interests of the United States and he determines that the procedures prescribed in other provisions of law that authorize the termination of the employment of such officer or employee cannot be invoked in a manner consistent with the national security. The decisions of the Secretary under this paragraph are final and may not be appealed or reviewed outside the Department of Defense. The Secretary of Defense shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever this termination authority is exercised.

“(2) Any termination of employment under this subsection shall not affect the right of the officer or employee involved to seek or accept employment with any other department or agency of the United States if he is declared eligible for such employment by the Director of the Office of Personnel Management.

“(3) The Secretary of Defense may delegate authority under this subsection only to the Deputy Secretary of Defense or the Director of the Defense Intelligence Agency or both. An action to terminate any civilian officer or employee by either such officer shall be appealable to the Secretary of Defense.”

(b) The table of sections at the beginning of chapter 83 of title 10, United States Code, is amended by adding after the item relating to section 1603 the following new item:

“1604. Civilian personnel management.”

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 502. (a) Section 5102(a)(1) of title 5, United States Code, is amended—

(1) by striking out “or” at the end of clause (viii);

- (2) by inserting “or” at the end of clause (ix); and
- (3) by inserting after clause (ix) the following new clause:
“(x) the Defense Intelligence Agency, Department of Defense;”.
- (b) Section 5342(a)(1) of such title is amended—5 USC 5342.
 - (1) by striking out “or” at the end of subparagraph (I);
 - (2) by inserting “or” at the end of subparagraph (J); and
 - (3) by inserting after subparagraph (J) the following new subparagraph:
“(K) the Defense Intelligence Agency, Department of Defense;”.

TITLE VI—COUNTERINTELLIGENCE AND OFFICIAL REPRESENTATION

POLICY TOWARD CERTAIN AGENTS OF FOREIGN GOVERNMENTS

SEC. 601. (a) It is the sense of the Congress that the numbers, status, privileges and immunities, travel, accommodations, and facilities within the United States of official representatives to the United States of any foreign government that engages in intelligence activities within the United States harmful to the national security of the United States should not exceed the respective numbers, status, privileges and immunities, travel accommodations, and facilities within such country of official representatives of the United States to such country. 22 USC 254c-1.

(b) Beginning one year after the date of enactment of this section, and at intervals of one year thereafter, the President shall prepare and transmit to the Committee on Foreign Relations and Select Committee on Intelligence of the Senate and the Committee on Foreign Affairs and Permanent Select Committee on Intelligence of the House of Representatives a report on the numbers, status, privileges and immunities, travel, accommodations, and facilities within the United States of official representatives to the United States of any foreign government that engages in intelligence activities within the United States harmful to the national security of the United States and the respective numbers, status, privileges and immunities, travel, accommodations, and facilities within such country of official representatives of the United States to such country, and any action which may have been taken with respect thereto. Report.

(c) Section 203 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4303) is amended—97 Stat. 1043.

- (1) in subsection (a) by striking out the fifth sentence; and
- (2) by amending subsection (b) to read as follows:

“(b) There shall also be a Deputy Director of the Office of Foreign Missions. Either the Director or the Deputy Director of such Office shall be an individual who has served in the United States Foreign Service, while the other of the two shall be an individual who has served in the United States Intelligence Community.”.

(d) The amendments made by subsection (c) shall apply only with respect to any appointment of a Director or Deputy Director of the Office of Foreign Missions, as the case may be, after the date of enactment of this section. 22 USC 4303
note.

TITLE VII—GENERAL PROVISIONS

AUTHORITY FOR THE CONDUCT OF INTELLIGENCE ACTIVITIES

SEC. 701. The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of the United States.

INCREASES IN EMPLOYEE BENEFITS AUTHORIZED BY LAW

SEC. 702. Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such benefits authorized by law.

TITLE VIII—ACTIVITIES IN NICARAGUA

MILITARY OR PARAMILITARY ACTIVITIES

97 Stat. 1473.

Ante, p. 1837.

SEC. 801. No funds authorized to be appropriated by this Act or by the Intelligence Authorization Act for fiscal year 1984 (Public Law 98-215) may be obligated or expended for the purpose or which would have the effect of supporting, directly or indirectly, military or paramilitary operations in Nicaragua by any nation, group, organization, movement, or individual, except to the extent provided and under the terms and conditions specified by House Joint Resolution 648, making continuing appropriations for the fiscal year 1985, and for other purposes, as enacted.

Approved November 8, 1984.

LEGISLATIVE HISTORY—H.R. 5399 (S. 2713):

HOUSE REPORTS: No. 98-743, Pt. 1 (Permanent Select Comm. on Intelligence) and Pt. 2 (Comm. on Armed Services).

SENATE REPORTS: No. 98-481 (Select Comm. on Intelligence) and No. 98-543 (Comm. on Foreign Relations), both accompanying S. 2713.

CONGRESSIONAL RECORD, Vol. 130 (1984):

Aug. 2, considered and passed House.

Oct. 11, considered and passed Senate, amended, in lieu of S. 2713; House concurred in Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, VOL. 20, No. 45 (1984):
Nov. 9, Presidential statement.

Public Law 98-619
98th Congress

An Act

Making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1985, and for other purposes.

Nov. 8, 1984

[H.R. 6028]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1985, and for other purposes, namely:

Departments of
Labor, Health
and Human
Services, and
Education and
Related
Agencies
Appropriation
Act, 1985
Department of
Labor
Appropriation
Act, 1985.

TITLE I—DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

PROGRAM ADMINISTRATION

For expenses of administering employment and training programs, \$67,625,000, together with not to exceed \$45,200,000 which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

TRAINING AND EMPLOYMENT SERVICES

For expenses necessary to carry into effect the Job Training Partnership Act, including the purchase and hire of passenger motor vehicles, the construction, alteration, and repair of buildings and other facilities, and the purchase of real property for training centers as authorized by the Job Training Partnership Act, \$3,643,545,000 plus reimbursements, to be available for obligation for the period July 1, 1985, through June 30, 1986, including \$2,000,000 for the National Commission for Employment Policy, including \$3,000,000 for all activities conducted by and through the National Occupational Information Coordinating Committee under the Job Training Partnership Act, and including \$10,000,000 for service delivery areas under section 101(a)(4)(A)(iii) of the Job Training Partnership Act in addition to amounts otherwise provided under sections 202 and 251(b) of the Act: *Provided*, That no funds from any other appropriation shall be used to provide meal services at or for Job Corps centers.

29 USC 1501
note.

For the summer youth employment and training program authorized by the Job Training Partnership Act, \$100,000,000, in addition to amounts otherwise provided herein for these purposes, to be allocated to States so that each service delivery area receives, as nearly as possible, an amount equal to its prior year allocation for this program, to be available for obligation for the period July 1, 1984, through June 30, 1985.

29 USC 1511.
29 USC 1602,
1631.

For activities authorized by sections 236, 237, and 238 of the Trade Act of 1974, \$26,000,000.

19 USC
2296-2298.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

To carry out the activities for national grants or contracts with public agencies and public or private nonprofit organizations under paragraph (1)(A) of section 506(a) of title V of the Older Americans Act of 1965, as amended, \$254,280,000.

42 USC 3056d.

To carry out the activities for grants to States under paragraph (3) of section 506(a) of title V of the Older Americans Act of 1965, as amended, \$71,720,000.

FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

For payments during the current fiscal year of benefits and payments as authorized by title II of Public Law 95-250, as amended, of trade adjustment benefit payments and allowances, as provided by law (part I, subchapter B, chapter 2, title II of the Trade Act of 1974, as amended) \$75,000,000, together with such amounts as may be necessary to be charged to the subsequent appropriation for payments for any period subsequent to September 15 of the current year: *Provided*, That amounts received or recovered pursuant to section 208(e) of Public Law 95-250 shall be available for payments.

92 Stat. 172.

19 USC 2291.

92 Stat. 179.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For activities authorized by the Act of June 6, 1933, as amended (29 U.S.C. 49-49f-1; 39 U.S.C. 3202(a)(1)(E)); title III of the Social Security Act, as amended (42 U.S.C. 502-504); necessary administrative expenses for carrying out 5 U.S.C. 8501-8523, and sections 231-238 and 243-244, title II of the Trade Act of 1974, as amended; and as authorized by section 7c of the Act of June 6, 1933, as amended, necessary administrative expenses under sections 101(a)(15)(H)(ii) and 212(a)(14) of the Immigration and Nationality Act, as amended (8 U.S.C. 1101 et seq.), and section 51 of the Internal Revenue Code of 1954, as amended (26 U.S.C. 51), notwithstanding section 261(f)(2)(A) of the Economic Recovery Tax Act of 1981, as amended, \$23,500,000, together with not to exceed \$2,387,065,000 which may be expended from the Employment Security Administration account in the Unemployment Trust Fund, and of which \$777,398,000 shall be available for obligation for the period July 1, 1985, through June 30, 1986, to fund activities under section 6 of the Act of June 6, 1933, as amended, including the cost of penalty mail made available to States in lieu of allotments for such purpose, and of which, not to exceed \$3,767,000 which shall be available only for amortization payments to States which had independent retirement plans in their State Employment Service Agencies, and of which \$263,817,000 shall be available only to the extent necessary to administer unemployment compensation laws to meet increased costs of administration resulting from changes in a State law or increases in the number of unemployment insurance claims filed and claims paid or increased salary costs resulting from changes in State salary compensation plans embracing employees of the State generally over those upon which the State's basic allocation was based, which cannot be provided for by normal budgetary adjustments.

29 USC 49-49f-1.

19 USC
2291-2298, 2315,
2316.
29 USC 49f.
8 USC 1182.

26 USC 51 note

29 USC 49e.

LABOR-MANAGEMENT SERVICES ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Labor-Management Services Administration, \$60,211,000.

PENSION BENEFIT GUARANTY CORPORATION

PENSION BENEFIT GUARANTY CORPORATION FUND

The Pension Benefit Guaranty Corporation is authorized to make such expenditures, including financial assistance authorized by section 104 of Public Law 96-364, within limits of funds and borrowing authority available to such Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program through September 30, 1985, for such Corporation: *Provided*, That not to exceed \$33,057,000 shall be available for administrative expenses of the Corporation.

94 Stat. 1217.

EMPLOYMENT STANDARDS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Employment Standards Administration, including reimbursement to State, Federal, and local agencies and their employees for inspection services rendered, \$192,582,000, together with \$397,000, which may be expended from the Special Fund in accordance with sections 39(c) and 44(j) of the Longshoremen's and Harbor Workers' Compensation Act.

33 USC 939.
Ante, p. 1654

SPECIAL BENEFITS

For the payment of compensation, benefits, and expenses (except administrative expenses) accruing during the current or any prior fiscal year authorized by title V, chapter 81 of the United States Code; continuation of benefits as provided for under the head "Civilian War Benefits" in the Federal Security Agency Appropriation Act, 1947; the Employees' Compensation Commission Appropriation Act, 1944; and sections 4(c) and 5(f) of the War Claims Act of 1948 (50 U.S.C. App. 2012); and 50 per centum of the additional compensation and benefits required by section 10(h) of the Longshoremen's and Harbor Workers' Compensation Act, as amended, \$211,400,000, together with such amounts as may be necessary to be charged to the subsequent year appropriation for the payment of compensation and other benefits for any period subsequent to September 15 of the current year: *Provided*, That in addition there shall be transferred from the Postal Service fund to this appropriation such sums as the Secretary of Labor determines to be the cost of administration for Postal Service employees through September 30, 1985.

5 USC 8101 *et seq.*61 Stat. 260.
58 Stat. 566.
42 USC 1702; 50 USC app 2004.

33 USC 910.

BLACK LUNG DISABILITY TRUST FUND

For payments from the Black Lung Disability Trust Fund, \$949,244,000, of which \$910,781,000 shall be available until September 30, 1986, for payment of all benefits and interest on advances under subsection (c)(2) of section 9501 of the Internal Revenue Code

26 USC 9501. of 1954, as amended, as authorized by section 9501(d) (1), (2), (4), and (7) of that Act and of which \$24,403,000 shall be available for transfer to Employment Standards Administration, Salaries and Expenses, and \$13,688,000 for transfer to Departmental Management, Salaries and Expenses, and \$372,000 for transfer to Departmental Management, Office of Inspector General, for expenses of operation and administration of the Black Lung Benefits program as authorized by section 9501(d)(5)(A) of that Act: *Provided*, That in addition, such amounts as may be necessary may be charged to the subsequent year appropriation for the payment of compensation and other benefits for any period subsequent to June 15 of the current year: *Provided further*, That in addition, such amounts shall be paid from this fund into miscellaneous receipts as the Secretary of the Treasury determines to be the administrative expenses of the Department of the Treasury for administering the fund during the current fiscal year, as authorized by section 9501(d)(5)(B) of that Act.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

Grants. For necessary expenses for the Occupational Safety and Health Administration, \$219,652,000, including not to exceed \$53,091,000, which shall be the maximum amount available for grants to States under section 23(g) of the Occupational Safety and Health Act, which grants shall be no less than fifty percent of the costs of State occupational safety and health programs required to be incurred under plans approved by the Secretary under section 18 of the Occupational Safety and Health Act of 1970: *Provided*, That none of the funds appropriated under this paragraph shall be obligated or expended for the assessment of civil penalties issued for first instance violations of any standard, rule, or regulation promulgated under the Occupational Safety and Health Act of 1970 (other than serious, willful, or repeated violations under section 17 of the Act) resulting from the inspection of any establishment or workplace subject to the Act, unless such establishment or workplace is cited, on the basis of such inspection, for ten or more violations: *Provided further*, That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 which is applicable to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees: *Provided further*, That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, order or administrative action under the Occupational Safety and Health Act of 1970 affecting any work activity by reason of recreational hunting, shooting, or fishing: *Provided further*, That no funds appropriated under this paragraph shall be obligated or expended to administer or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 with respect to any employer of ten or fewer employees who is included within a category having an occupational injury lost work day case rate, at the most precise Standard Industrial Classification Code for which such data are published, less than the national average rate as such rates are most recently published by the Secretary, acting through

29 USC 672.

29 USC 667.

29 USC 651 note
29 USC 666.

Prohibitions.

the Bureau of Labor Statistics, in accordance with section 24 of that Act (29 U.S.C. 673), except—

(1) to provide, as authorized by such Act, consultation, technical assistance, educational and training services, and to conduct surveys and studies;

(2) to conduct an inspection or investigation in response to an employee complaint, to issue a citation for violations found during such inspection, and to assess a penalty for violations which are not corrected within a reasonable abatement period and for any willful violations found;

(3) to take any action authorized by such Act with respect to imminent dangers;

(4) to take any action authorized by such Act with respect to health hazards;

(5) to take any action authorized by such Act with respect to a report of an employment accident which is fatal to one or more employees or which results in hospitalization of five or more employees, and to take any action pursuant to such investigation authorized by such Act; and

(6) to take any action authorized by such Act with respect to complaints of discrimination against employees for exercising rights under such Act: *Provided further*, That the foregoing proviso shall not apply to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees: *Provided further*, That none of the funds appropriated under this paragraph shall be obligated or expended for the proposal or assessment of any civil penalties for the violation or alleged violation by an employer of ten or fewer employees of any standard, rule, regulation, or order promulgated under the Occupational Safety and Health Act of 1970 (other than serious, willful or repeated violations and violations which pose imminent danger under section 13 of the Act) if, prior to the inspection which gives rise to the alleged violation, the employer cited has (1) voluntarily requested consultation under a program operated pursuant to section 7(c)(1) or section 18 of the Occupational Safety and Health Act of 1970 or from a private consultative source approved by the Administration and (2) had the consultant examine the condition cited and (3) made or is in the process of making a reasonable good faith effort to eliminate the hazard created by the condition cited as such, which was identified by the aforementioned consultant, unless changing circumstances or workplace conditions render inapplicable the advice obtained from such consultants: *Provided further*, That none of the funds appropriated under this paragraph may be obligated or expended for any State plan monitoring visit by the Secretary of Labor under section 18 of the Occupational Safety and Health Act of 1970, of any factory, plant, establishment, construction site, or other area, workplace or environment where such a workplace or environment has been inspected by an employee of a State acting pursuant to section 18 of such Act within the six months preceding such inspection: *Provided further*, That this limitation does not prohibit the Secretary of Labor from conducting such monitoring visit at the time and place of an inspection by an employee of a State acting pursuant to section 18 of such Act, or in order to investigate a complaint about State program administration including a failure to respond to

29 USC 651 note.

29 USC 662.

29 USC 656, 667.

29 USC 660

a worker complaint regarding a violation of such Act, or in order to investigate a discrimination complaint under section 11(c) of such Act, or as part of a special study monitoring program, or to investigate a fatality or catastrophe: *Provided further*, That none of the funds appropriated under this paragraph may be obligated or expended for the inspection, investigation, or enforcement of any activity occurring on the Outer Continental Shelf which exceeds the authority granted to the Occupational Safety and Health Administration by any provision of the Outer Continental Shelf Lands Act, or the Outer Continental Shelf Lands Act Amendments of 1978.

43 USC 1301
note.
43 USC 1801
note.

MINE SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

30 USC 962

For necessary expenses for the Mine Safety and Health Administration, \$150,550,000, including purchase and bestowal of certificates and trophies in connection with mine rescue and first-aid work, and the purchase of not to exceed forty-five passenger motor vehicles for replacement only; the Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private; the Mine Safety and Health Administration is authorized to promote health and safety education and training in the mining community through cooperative programs with States, industry, and safety associations; and any funds available to the Department may be used, with the approval of the Secretary, to provide for the costs of mine rescue and survival operations in the event of major disaster: *Provided*, That none of the funds appropriated under this paragraph shall be obligated or expended to carry out section 115 of the Federal Mine Safety and Health Act of 1977 or to carry out that portion of section 104(g)(1) of such Act relating to the enforcement of any training requirements, with respect to shell dredging, or with respect to any sand, gravel, surface stone, surface clay, colloidal phosphate, or surface limestone mine.

30 USC 825.
30 USC 814

BUREAU OF LABOR STATISTICS

SALARIES AND EXPENSES

For necessary expenses for the Bureau of Labor Statistics, including advances or reimbursements to State, Federal, and local agencies and their employees for services rendered, \$152,860,000, of which \$9,625,000 shall be for expenses of revising the Consumer Price Index, together with not to exceed \$20,420,000 which may be expended from the Employment Security Administration account in the Unemployment Trust Fund: *Provided*, That \$4,823,000 shall remain available until September 30, 1986.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For necessary expenses for Departmental Management, including \$2,129,000 for the President's Committee on Employment of the Handicapped, \$102,330,000, together with not to exceed \$240,000

which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

ASSISTANT SECRETARY FOR VETERANS EMPLOYMENT AND TRAINING

Not to exceed \$122,172,000 may be expended from the Employment Security Administration account in the Unemployment Trust Fund to carry out the provisions of 38 U.S.C. 2001-08 and 2021-26.

SPECIAL FOREIGN CURRENCY PROGRAM

For payments in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States, for necessary expenses of the Department of Labor, as authorized by law, \$67,000, to remain available until expended. This appropriation shall be available in addition to other appropriations to such agency for payments in foreign currencies.

OFFICE OF THE INSPECTOR GENERAL

For salaries and expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, \$39,323,000 together with not to exceed \$4,300,000 which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

5 USC app.

GENERAL PROVISIONS

SEC. 101. Appropriations in this Act available for salaries and expenses shall be available for supplies, services, and rental of conference space within the District of Columbia, as the Secretary of Labor shall deem necessary for settlement of labor-management disputes.

Labor disputes.

SEC. 102. None of the funds appropriated under this Act shall be used to grant variances, interim orders or letters of clarification to employers which will allow exposure of workers to chemicals or other workplace hazards in excess of existing Occupational Safety and Health Administration standards for the purpose of conducting experiments on worker health or safety.

Hazardous materials.

This title may be cited as the "Department of Labor Appropriation Act, 1985".

TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

For carrying out titles III, IV, V, VII, VIII, X, and parts A and C of title XVI, and XIX of the Public Health Service Act, and 5 U.S.C. 7901, section 427(a) of the Federal Coal Mine Health and Safety Act, and title V of the Social Security Act, \$1,427,694,000, of which \$2,500,000 shall be available only for payments to the State of Hawaii for care and treatment of persons afflicted with Hansen's disease and \$2,500,000, to remain available until expended, shall be for demonstration grants under section 301: *Provided further*, That this appropriation shall be available for payment of the costs of

Department of Health and Human Services Appropriation Act, 1985.

42 USC 241, 281, 292a, 296, 300, 300q, 300s, 300w, 30 USC 937, 42 USC 701.

42 USC 501.

medical care, related expenses, and burial expenses hereafter incurred by or on behalf of any person who has participated in the study of untreated syphilis initiated in Tuskegee, Alabama, in 1932, in such amounts and subject to such terms and conditions as prescribed by the Secretary of Health and Human Services and for payment, in such amounts and subject to such terms and conditions, of such costs and expenses hereafter incurred by or on behalf of such person's wife or offspring determined by the Secretary to have suffered injury or disease from syphilis contracted from such person: *Provided further*, That when the Department of Health and Human Services operates an employee health program for any Federal department or agency, payment for the full estimated cost may be made by way of reimbursement or in advances to this appropriation: *Provided further*, That during the fiscal year, and within the resources and authority available under section 338 of the Public Health Service Act, gross obligations for the principal amount of direct loans under section 335(c), 338C(e)(1), and 338E of that Act shall not exceed \$1,000,000: *Provided further*, That none of the funds made available by this Act shall be used to provide special retention pay (bonuses) under paragraph (4) of 37 U.S.C. 302(a) to any regular or reserve officer of the Public Health Service for any period during which the officer is providing obligated service under section 338B (or under former sections 225(e) or 752) of the Public Health Service Act except that this proviso shall not apply to any period of service covered by an agreement entered into by an officer under 37 U.S.C. 302(c)(1) before the date of enactment of Public Law 97-377.

42 USC 254k.
42 USC 254h,
254n, 254p.

42 USC 254m.
42 USC 234,
254m

96 Stat. 1830.

MEDICAL FACILITIES GUARANTEE AND LOAN FUND

FEDERAL INTEREST SUBSIDIES FOR MEDICAL FACILITIES

For carrying out subsections (d) and (e) of section 1602 of the Public Health Service Act, \$26,500,000, together with \$5,500,000 to be derived from the Medical Facilities Guarantee and Loan Fund's Direct Loan Revolving Fund, to be available without fiscal year limitation for the payment of interest subsidies. During the fiscal year no commitments for direct loans, or loan guarantees shall be made.

42 USC 300q-2

HEALTH MAINTENANCE ORGANIZATION LOAN AND LOAN GUARANTEE FUND

Any amounts received by the Secretary in connection with loans and loan guarantees under title XIII of the Public Health Service Act, and not to exceed \$2,600,000 may be disbursed with respect to any liability or contingent liability incurred prior to 1985.

42 USC 300e.

CENTERS FOR DISEASE CONTROL

DISEASE CONTROL

To carry out titles III, XI, and XIX of the Public Health Service Act, the Federal Mine Safety and Health Act of 1977, and the Occupational Safety and Health Act of 1970; including insurance of official motor vehicles in foreign countries; and purchase, hire, maintenance, and operation of aircraft, \$410,530,000, of which \$6,310,000 shall remain available until expended for construction and renovation of facilities: *Provided*, That training of employees of

42 USC 241,
300b-1, 300w
30 USC 801 note
29 USC 651 note.

private agencies shall be made subject to reimbursement or advances to this appropriation for the full cost of such training.

NATIONAL INSTITUTES OF HEALTH

NATIONAL CANCER INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to cancer, \$1,183,806,000. 42 USC 241, 281.

NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

For carrying out section 301, title IV and title XI of the Public Health Service Act with respect to cardiovascular, lung, and blood diseases, and blood and blood products, \$805,269,000. 42 USC 241, 281, 300b-1.

NATIONAL INSTITUTE OF DENTAL RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to dental diseases, \$100,688,000.

NATIONAL INSTITUTE OF ARTHRITIS, DIABETES, AND DIGESTIVE AND KIDNEY DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to arthritis, diabetes, and digestive and kidney diseases, \$543,576,000.

NATIONAL INSTITUTE OF NEUROLOGICAL AND COMMUNICATIVE DISORDERS AND STROKE

For carrying out section 301 and title IV of the Public Health Service Act with respect to neurological and communicative disorders and stroke, \$396,885,000.

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to allergy and infectious diseases, \$370,965,000.

NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to general medical sciences, \$482,260,000.

NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

For carrying out section 301 and title IV of the Public Health Service Act with respect to child health and human development, \$313,295,000.

NATIONAL EYE INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to eye diseases and visual disorders, \$181,678,000.

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

42 USC 241, 243,
281. For carrying out sections 301, 311 and title IV of the Public Health Service Act with respect to environmental health sciences, \$194,819,000.

NATIONAL INSTITUTE ON AGING

For carrying out section 301 and title IV of the Public Health Service Act with respect to aging, \$144,521,000.

RESEARCH RESOURCES

42 USC 241,
289/-1. For carrying out sections 301 and 472 of the Public Health Service Act with respect to research resources and general research support grants, \$304,025,000: *Provided*, That none of these funds, with the exception of funds for the Minority Biomedical Research Support program, shall be used to pay recipients of the general research support grants program any amount for indirect expenses in connection with such grants.

JOHN E. FOGARTY INTERNATIONAL CENTER

For carrying out the activities at the John E. Fogarty International Center, \$11,728,000, of which \$1,999,000 shall be available for payment to the Gorgas Memorial Institute for maintenance and operation of the Gorgas Memorial Laboratory.

NATIONAL LIBRARY OF MEDICINE

42 USC 275,
280b. For carrying out section 301 with respect to health information communications and parts I and J of title III of the Public Health Service Act, \$52,410,000.

OFFICE OF THE DIRECTOR

For carrying out the responsibilities of the Office of the Director, National Institutes of Health, \$38,304,000, including purchase of not to exceed thirteen passenger motor vehicles for replacement only: *Provided*, That \$10,000,000 of the foregoing amount shall remain available until September 30, 1986.

BUILDINGS AND FACILITIES

For construction of, and acquisition of sites and equipment for, facilities of or used by the National Institutes of Health, \$21,730,000, to remain available until expended.

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH

42 USC 201 note. For carrying out the Public Health Service Act with respect to mental health, drug abuse, alcohol abuse, and alcoholism, \$922,621,000.

FEDERAL SUBSIDY FOR SAINT ELIZABETHS HOSPITAL

24 USC 168b. For a portion of the cost of the maintenance and operation of Saint Elizabeths Hospital in the District of Columbia, \$48,595,000: *Provided*, That the Secretary of Health and Human Services may

set rates for inpatient and outpatient services provided through Saint Elizabeths Hospital that in the aggregate do not exceed the estimated total cost of providing such services, and may bill and collect from (prospectively or otherwise) individuals, the District of Columbia, Executive agencies and other entities for any services so provided. Amounts so collected shall be credited to the appropriation for Saint Elizabeths Hospital and shall remain available until expended.

OFFICE OF ASSISTANT SECRETARY FOR HEALTH

PUBLIC HEALTH SERVICE MANAGEMENT

For the expenses necessary for the Office of Assistant Secretary for Health and for carrying out titles III and XX of the Public Health Service Act, \$101,803,000, of which \$250,000 shall be available for design and facility planning under section 305(b)(3) of the Public Health Service Act, together with not to exceed \$1,050,000 to be transferred and expended as authorized by section 201(g) of the Social Security Act, from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds referred to therein and, in addition, amounts collected by the National Center for Health Statistics from the sale of data tapes shall be credited to this appropriation and shall remain available until expended: *Provided*, That section 2008(g) does not apply to these programs.

42 USC 241, 300z

42 USC 242c.

42 USC 401.

RETIREMENT PAY AND MEDICAL BENEFITS FOR COMMISSIONED OFFICERS

For retirement pay and medical benefits of Public Health Service Commissioned Officers as authorized by law, and for payments under the Retired Serviceman's Family Protection Plan and Survivor Benefit Plan and for medical care of dependents and retired personnel under the Dependents' Medical Care Act (10 U.S.C., ch. 55), such amounts as may be required during the current fiscal year.

10 USC 1071 *et seq.*

HEALTH CARE FINANCING ADMINISTRATION

GRANTS TO STATES FOR MEDICAID

For carrying out, except as otherwise provided, title XIX of the Social Security Act, \$16,293,491,000, to remain available until expended.

42 USC 1396.

For making, after May 31, 1985, payments to States under title XIX of the Social Security Act, for the last quarter of fiscal year 1985 for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary, the obligations and the expenditures to be charged to the subsequent appropriations for the current or succeeding fiscal year.

Payment under title XIX may be made for any quarter beginning after June 30, 1984, and before October 1, 1985, with respect to any State plan or plan amendment in effect during any such quarter, if submitted in, or prior to, such quarter and approved in that or any such subsequent quarter.

For making payments to States under title XIX of the Social Security Act for the first quarter of fiscal year 1986, \$5,980,000,000, to remain available until expended.

PAYMENTS TO HEALTH CARE TRUST FUNDS

For payment to the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as provided under sections 217(g), 229(b) and 1844 of the Social Security Act, sections 103(c) and 111(d) of the Social Security Amendments of 1965, and section 278(d) of Public Law 97-248, \$18,750,000,000.

97 Stat. 103.
42 USC 417.
97 Stat. 104.
42 USC 429.
42 USC 1395w.
42 USC 426a,
1395i-1.
42 USC 426 note.
42 USC 1301,
1395, 1396.

PROGRAM MANAGEMENT

For carrying out, except as otherwise provided, titles XI, XVIII and XIX of the Social Security Act, \$98,147,000, together with not to exceed \$1,084,779,000 to be transferred to this appropriation as authorized by section 201(g) of the Social Security Act, from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds referred to therein: *Provided*, That these amounts shall be in addition to \$45,000,000 for this purpose available under section 118 of Public Law 97-248: *Provided further*, That \$20,000,000 of the foregoing amount shall be expended only to the extent necessary to process workloads not anticipated in the budget estimates and to meet unanticipated costs of agencies or organizations with which agreements have been made to participate in the administration of title XVIII and after maximum absorption of such costs within the remainder of the existing limitation has been achieved.

42 USC 1395h
note.

SOCIAL SECURITY ADMINISTRATION

PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

For payment to the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance Trust Funds, as provided under sections 201(m), 217(g), 228(g), 229(b), and 1131(b)(2) of the Social Security Act and section 152 of Public Law 98-21, \$512,722,000.

97 Stat. 105.
42 USC 401.
97 Stat. 103.
42 USC 417.
42 USC 428.
97 Stat. 104.
42 USC 429.
42 USC 1320b-1
97 Stat. 105.
30 USC 901.

SPECIAL BENEFITS FOR DISABLED COAL MINERS

For carrying out title IV of the Federal Mine Safety and Health Act of 1977, including the payment of travel expenses on an actual cost or commuted basis, to an individual, for travel incident to medical examinations, and to parties, their representatives, and all reasonably necessary witnesses for travel within the United States, Puerto Rico, and the Virgin Islands, to reconsideration interviews and to proceedings before administrative law judges, \$1,024,131,000. For making, after July 31 of the current fiscal year, benefit payments to individuals under title IV of the Federal Mine Safety and Health Act of 1977, for costs incurred in the current fiscal year, such amounts as may be necessary, the obligations and expenditures to be charged to the subsequent appropriations for the current or succeeding fiscal year.

For making benefit payments under title IV of the Federal Mine Safety and Health Act of 1977 for the first quarter of fiscal year 1986, \$270,000,000, to remain available until expended.

SUPPLEMENTAL SECURITY INCOME PROGRAM

For carrying out the Supplemental Security Income Program, section 401 of Public Law 92-603, section 212 of Public Law 93-66, as

42 USC 1382e
note, 1382 note.

amended, and section 405 of Public Law 95-216, including payment to the social security trust funds for administrative expenses incurred pursuant to section 201(g)(1) of the Social Security Act, \$9,361,786,000 to remain available until expended: *Provided*, That any portion of the funds provided to a State in the current fiscal year and not obligated by the State during that year shall be returned to the Treasury. For making, after July 31 of the current fiscal year, benefit payments to individuals under title XVI of the Social Security Act, for unanticipated costs incurred for the current fiscal year, such sums as may be necessary, the obligations and expenditures therefor to be charged to the subsequent appropriations for the current or succeeding fiscal year.

42 USC 1383
note.

42 USC 401

42 USC 1381.

For carrying out the Supplemental Security Income Program for the first quarter of fiscal year 1986, \$2,345,769,000, to remain available until expended.

ASSISTANCE PAYMENTS PROGRAM

For carrying out, except as otherwise provided, titles I, IV-A and -D, X, XI, XIV, and XVI, of the Social Security Act and the Act of July 5, 1960 (24 U.S.C., ch. 9), \$6,170,000,000, to remain available until expended.

42 USC 301, 601,
651, 1201, 1301,
1351, 1381.24 USC 321 *et*
seq.

For making, after May 31 of the current fiscal year, payments to States under titles I, IV-A and -D, X, XIV, and XVI of the Social Security Act for the last three months of the current fiscal year for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary, the obligations and expenditures to be charged to the subsequent appropriations for the current or succeeding fiscal year.

For making payments to States under titles I, IV-A and -D, X, XIV, and XVI of the Social Security Act for the first quarter of fiscal year 1986, \$2,095,000,000, to remain available until expended.

CHILD SUPPORT ENFORCEMENT

For carrying out, except as otherwise provided, titles IV-D and XI of the Social Security Act, \$497,000,000, to remain available until expended.

For making, after May 31 of the current fiscal year, payments to States under title IV-D of the Social Security Act for the last three months of the current fiscal year for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary, the obligations and the expenditures to be charged to the subsequent appropriations for the current or succeeding fiscal year.

For making payments to States under title IV-D of the Social Security Act for the first quarter of fiscal year 1986, \$160,000,000, to remain available until expended.

LOW INCOME HOME ENERGY ASSISTANCE

For carrying out title XXVI of the Omnibus Budget Reconciliation Act of 1981, \$2,100,000,000.

42 USC 8621.

LIMITATION ON ADMINISTRATIVE EXPENSES

For necessary expenses, not more than \$3,787,515,000 may be expended, as authorized by section 201(g)(1) of the Social Security Act, from any one or all of the trust funds referred to therein:

42 USC 401.

42 USC 1383
note
42 USC 1383. *Provided*, That travel expense payments under section 1631(h) of such Act may be made only when travel of more than seventy-five miles is required: *Provided further*, That \$50,000,000 of the foregoing amount shall be apportioned for use only to the extent necessary to process workloads not anticipated in the budget estimates, for automation projects, and to meet mandatory increases in costs of agencies or organizations with which agreements have been made to participate in the administration of titles XVI and XVIII and section 221 of the Social Security Act, and after maximum absorption of such costs within the remainder of the existing limitation has been achieved: *Provided further*, That \$210,166,000 for automatic data processing and telecommunications activities shall remain available until expended: *Provided further*, That none of the funds appropriated by this Act may be used for the manufacture, printing, or procuring of social security cards, as provided in section 205(c)(2)(D) of the Social Security Act, where paper and other materials used in the manufacture of such cards are produced, manufactured, or assembled outside of the United States.

42 USC 1381,
1395, 421.

97 Stat. 137.
42 USC 405.

HUMAN DEVELOPMENT SERVICES

SOCIAL SERVICES BLOCK GRANT

42 USC 1305
note For carrying out the Social Services Block Grant Act, \$2,700,000,000.

HUMAN DEVELOPMENT SERVICES

42 USC 3001
note.
42 USC 5601
note.
42 USC 2991.
42 USC 6000
note.
42 USC 5101
note.
42 USC 9801
note.
42 USC 3028.
42 USC 620, 670,
1310, 5111

For carrying out, except as otherwise provided, the Older Americans Act of 1965, the Runaway and Homeless Youth Act, the Native Americans Program Act, the Developmental Disabilities Assistance and Bill of Rights Act, the Child Abuse Prevention and Treatment Act, and the Head Start Act of 1981, \$1,996,154,000, of which \$33,400,000 shall be available for carrying out section 308(b)(1) of the Older Americans Act of 1965.

FAMILY SOCIAL SERVICES

For carrying out parts B and E of title IV and section 1110 of the Social Security Act, and title II of Public Law 95-266 (adoption opportunities), \$690,902,000.

WORK INCENTIVES

42 USC 630. For carrying out a work incentive program, as authorized by part C of title IV of the Social Security Act, including registration of individuals for such programs, and for related child care and other supportive services, as authorized by section 402(a)(19)(G) of the Act, including transfer to the Secretary of Labor, as authorized by section 431 of the Act, \$266,760,000 which shall be the maximum amount available for transfer to the Secretary of Labor and to which the States may become entitled pursuant to section 403(d) of such Act, for these purposes.

42 USC 602

42 USC 631.

42 USC 603.

OFFICE OF COMMUNITY SERVICES

COMMUNITY SERVICES BLOCK GRANT

For carrying out the Community Services Block Grant Act, \$372,435,000, of which \$19,920,000 shall be for carrying out section 681(a)(2)(A), \$4,050,000 shall be for carrying out section 681(a)(2)(D), \$3,035,000 shall be for carrying out section 681(a)(2)(E), and \$6,130,000 shall be for carrying out section 681(a)(2)(F): *Provided*, That not more than 10 per centum of the funds appropriated and allotted to each State under section 674 of such Act shall be used for purposes other than to make grants to eligible entities as defined in section 673(1) of such Act or to organizations serving seasonal and migrant farmworkers or to designated limited purpose agencies which meet the requirements of section 673(1) of such Act, except that the Secretary of Health and Human Services may waive this requirement for any State applying for such a waiver if—

42 USC 9901
note.

42 USC 9910.

42 USC 9903.

42 USC 9902.

(1) the State obtained a waiver of the requirements of section 138 of Public Law 97-276 with respect to appropriations for fiscal year 1983; and

96 Stat. 1198.

(2) the State submits, prior to October 1, 1984, an application for fiscal year 1985 under the Community Services Block Grant Act, containing provisions for the use of assistance under that Act by political subdivisions.

DEPARTMENTAL MANAGEMENT

GENERAL DEPARTMENTAL MANAGEMENT

For necessary expenses, not otherwise provided, for general departmental management, including hire of six medium sedans, \$133,000,000 together with not to exceed \$8,000,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

42 USC 401.

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General, \$53,391,000 together with not to exceed \$20,000,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, \$17,850,000 together with not to exceed \$2,350,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

POLICY RESEARCH

For carrying out, to the extent not otherwise provided, research studies under section 1110 of the Social Security Act, \$9,750,000: *Provided*, That not less than \$1,750,000 shall be obligated to continue research on poverty conducted by the Institute for Research on Poverty.

42 USC 1310.

GENERAL PROVISIONS

SEC. 201. None of the funds appropriated by this title for grants-in-aid of State agencies to cover, in whole or in part, the cost of operation of said agencies, including the salaries and expenses of officers and employees of said agencies, shall be withheld from the said agencies of any State which have established by legislative enactment and have in operation a merit system and classification and compensation plan covering the selection, tenure in office, and compensation of their employees, because of any disapproval of their personnel or the manner of their selection by the agencies of the said States, or the rates of pay of said officers or employees.

Research and
development.

SEC. 202. None of the funds provided herein shall be used to pay any recipient of a grant for the conduct of research an amount equal to as much as the entire cost of such research.

SEC. 203. Appropriations in this Act for the Health Resources and Services Administration, the National Institutes of Health, the Centers for Disease Control, the Alcohol, Drug Abuse, and Mental Health Administration, the Office of the Assistant Secretary for Health, the Health Care Financing Administration, and Departmental Management shall be available for expenses for active commissioned officers in the Public Health Service Reserve Corps and for not to exceed two thousand five hundred commissioned officers in the Regular Corps; expenses incident to the dissemination of health information in foreign countries through exhibits and other appropriate means; advances of funds for compensation, travel, and subsistence expenses (or per diem in lieu thereof) for persons coming from abroad to participate in health or scientific activities of the Department pursuant to law; expenses of primary and secondary schooling of dependents in foreign countries, of Public Health Service commissioned officers stationed in foreign countries, at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools available in the locality are unable to provide adequately for the education of such dependents, and for the transportation of such dependents, between such schools and their places of residence when the schools are not accessible to such dependents by regular means of transportation; expenses for medical care for civilian and commissioned employees of the Public Health Service and their dependents, assigned abroad on a permanent basis in accordance with such regulations as the Secretary may provide; rental or lease of living quarters (for periods not exceeding five years), and provision of heat, fuel, and light and maintenance, improvement, and repair of such quarters, and advance payments therefor, for civilian officers, and employees of the Public Health Service who are United States citizens and who have a permanent station in a foreign country; purchase, erection, and maintenance of temporary or portable structures; and for the payment of compensation to consultants or individual scientists appointed for limited periods of time pursuant to section 207(f) or section 207(g) of the Public Health Service Act, at rates established by the Assistant Secretary for Health, or the Secretary where such action is required by statute, not to exceed the per diem rate equivalent to the rate for GS-18; for carrying out section 472 of the Public Health Service Act; not to exceed \$9,500 for official reception and representation expenses related to any health agency of the Department when specifically approved by the Assistant Secretary for Health.

42 USC 209.

42 USC 2891-1.

Sec. 204. None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

Abortions.

Sec. 205. Funds advanced to the National Institutes of Health Management Fund from appropriations in this Act shall be available for the expenses of sharing medical care facilities and resources pursuant to section 327A of the Public Health Service Act.

Health and medical care.

42 USC 254a.

Sec. 206. Funds appropriated in this title for the Social Security Administration and the Office of Child Support Enforcement shall be available for not to exceed \$5,000 for official reception and representation expenses related to income maintenance or child support enforcement activities of the Department when specifically approved by the Commissioner of Social Security.

Sec. 207. Funds appropriated in this title for the Health Care Financing Administration shall be available for not to exceed \$2,000 for official reception and representation expenses when specifically approved by the Administrator of the Health Care Financing Administration.

Sec. 208. No funds appropriated for the fiscal year ending September 30, 1985, by this or any other Act, may be used to pay basic pay, special pays, basic allowance for subsistence and basic allowances for quarters of the commissioned corps of the Public Health Service described in section 204 of title 42, United States Code, at a level that exceeds 110 percent of the Executive Level I annual rate of basic pay: *Provided*, That amounts received from employees of the Department in payment for room and board may be credited to the appropriation accounts "Health Resources and Services", National Institutes of Health "Office of the Director", "Disease Control", and "Federal Subsidy for Saint Elizabeths Hospital".

42 USC 210 note.

Sec. 209. None of the funds appropriated in this title shall be used to transfer the general administration of programs authorized under the Native American Programs Act from the Department of Health and Human Services to the Department of the Interior.

This title may be cited as the "Department of Health and Human Services Appropriation Act, 1985".

TITLE III—DEPARTMENT OF EDUCATION

COMPENSATORY EDUCATION FOR THE DISADVANTAGED

Department of Education Appropriation Act, 1985.

For carrying out chapter 1 of the Education Consolidation and Improvement Act of 1981, \$3,688,163,000 to become available on July 1, 1985, and remain available until September 30, 1986: *Provided*, That no funds shall be used for purposes of section 554(a)(1)(B), \$5,246,000 shall be available for purposes of section 555(d) to provide technical assistance and evaluate programs, \$264,524,000 shall be available for purposes of section 554(a)(2)(A), \$150,170,000 shall be available for purposes of section 554(a)(2)(B), \$32,616,000 shall be available for purposes of section 554(a)(2)(C) and \$35,607,000 shall be available for purposes of section 554(b)(1)(D).

20 USC 3801.

20 USC 3803
20 USC 3804.

For carrying out section 418A of the Higher Education Act, \$7,500,000.

20 USC 1070d-2.

SPECIAL PROGRAMS

For carrying out the consolidated programs and projects authorized under chapter 2 of the Education Consolidation and Improvement Act of 1981, \$531,909,000, of which \$31,909,000 shall be for

20 USC 3811.

20 USC 3851. programs and projects authorized under subchapter D of said Act, including \$10,700,000 for programs and projects authorized under subsection 583(a)(1) of said Act; \$6,052,000 shall be used for awards, which, except for educational television programming, are not to exceed a cumulative amount of \$1,000,000 to any recipient for national impact demonstration or research projects; \$7,000,000 for activities authorized under subsection 583(b)(1) of said Act; \$3,157,000 for programs authorized under subsection 583(b)(2) of said Act; \$3,000,000 for programs authorized under subsection 583(b)(3) of said Act; and \$2,000,000 for activities authorized under subsection 583(b)(4) of said Act: *Provided*, That \$500,000,000 to carry out the State block grant program authorized under chapter 2 of said Act shall become available for obligation on July 1, 1985, and shall remain available until September 30, 1986: *Provided further*, That \$31,909,000 for the purpose of subchapter D of said Act shall become available for obligation on October 1, 1984.

Ante, p. 234.
20 USC 3811.

For grants to State education agencies and desegregation assistance centers authorized under section 403 of the Civil Rights Act of 1964, \$24,000,000.

42 USC 2000c-2.

For carrying out activities authorized under title IX, part C of the Elementary and Secondary Education Act, \$6,000,000.

20 USC 3341.

For carrying out activities authorized under section 1524 of the Education Amendments of 1978, \$2,700,000.

92 Stat. 2379.

For carrying out activities authorized under section 1525 of the Education Amendments of 1978, \$2,000,000.

92 Stat. 2379.

86 Stat. 907.

For carrying out activities authorized under Public Law 92-506, as amended, \$1,500,000: *Provided*, That said sum shall become available on July 1, 1985, and shall remain available until September 30, 1986.

Ante, p. 1299.

For carrying out the provisions of title VII of the Education for Economic Security Act, relating to magnet schools assistance, \$75,000,000: *Provided*, That not more than \$4,000,000 in the fiscal year may be paid to any single eligible local educational agency: *Provided further*, That amounts appropriated under this sentence shall be available October 1, 1984.

SCIENCE AND MATH EDUCATION

For carrying out the provisions of title II of the Education for Economic Security Act, \$100,000,000 to remain available until expended.

Ante, p. 1273.

EXCELLENCE IN EDUCATION PROGRAM

For carrying out the provisions of title VI of the Education for Economic Security Act, \$5,000,000 to remain available until expended.

Ante, p. 1295.

BILINGUAL EDUCATION

For carrying out, to the extent not otherwise provided, title VII of the Elementary and Secondary Education Act and part B, subpart 3 of the Vocational Education Act, as amended, \$142,951,000 of which \$3,686,000 for part B, subpart 3 of the Vocational Education Act shall become available on July 1, 1985, and shall remain available until September 30, 1986.

20 USC 3222

20 USC 2411.

SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS

For carrying out title I of the Act of September 30, 1950, as amended (20 U.S.C. ch. 13), \$675,000,000 of which \$22,000,000 shall be entitlements under section 2 of said Act, \$10,000,000, which shall remain available until expended, shall be for payments under section 7 of said Act and \$643,000,000 shall be for entitlements under section 3 of said Act of which \$513,000,000 shall be for entitlements under section 3(a) of said Act: *Provided*, That payment with respect to entitlements under section 3(a) to any local educational agency described in section 3(d)(1)(A) of said Act shall be at 100 per centum of entitlement except that payment to such agency attributable to children who reside on property which is described in section 403(1)(C) of said Act shall be limited to 15 per centum of entitlement: *Provided further*, That payment with respect to entitlements under section 3(a) to any local educational agency not described in section 3(d)(1)(A) shall be ratably reduced from 100 per centum of entitlement except that payment to such agency attributable to children who reside on property which is described in section 403(1)(C) shall be ratably reduced from 15 per centum of entitlement: *Provided further*, That payment with respect to entitlements under section 3(b) of said Act to any local educational agency in which 20 per centum or more of the total average daily attendance is made up of children determined eligible under section 3(b) shall be at 60 per centum of entitlement and payment with respect to entitlements under section 3(b) of said Act to any local educational agency in which less than 20 per centum of the total average daily attendance is made up of children determined eligible under section 3(b) shall be ratably reduced from 100 per centum of entitlement: *Provided further*, That the provisions of section 5(c) of said Act shall not apply to funds provided herein: *Provided further*, That section 305(b)(2) of the Education Amendments of 1974 shall not apply to funds provided herein: *Provided further*, That no payments shall be made under section 7 of said Act to any local educational agency whose need for assistance under that section fails to exceed the lesser of \$10,000 or 5 per centum of the district's current operating expenditures during the fiscal year preceding the one in which the disaster occurred: *Provided further*, That in determining entitlements under section 3 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), the local contribution rate for each local educational agency shall not be less than the local contribution rate for that agency for fiscal year 1984 increased by the percentage increase (if any) in the national average per pupil expenditure for fiscal year 1984 from fiscal year 1983: *Provided further*, That section 3(d)(2)(B) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended by inserting at the end thereof the following new sentence: "In carrying out the provisions of this subparagraph, the Secretary shall not prorate the amounts computed under this subparagraph attributable to the number of children determined under subsection (a) or (b), or both.": *Provided further*, That the second sentence of section 3(d)(2)(B) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended by striking out "The" and inserting in lieu thereof "Subject to the provisions of subsection (h) of this section, the", and section 3 of such Act is amended by adding at the end thereof the following new subsection:

20 USC 236 *et seq.*
20 USC 237.

20 USC 241-1.
20 USC 238.

20 USC 244.

97 Stat 1419.
20 USC 240.

20 USC 238 note.

20 USC 241-1.

20 USC 238.

20 USC 238

"SPECIAL PROVISIONS

"(h) Any local educational agency for which the boundaries of the school district of such agency are coterminous with the boundaries of a military installation and which is not eligible to receive payments under subsection (d)(2)(B) shall receive 100 percent of the amounts to which such agency is entitled under subsection (a) of this section."

20 USC 631 *et seq.* For carrying out the Act of September 23, 1950, as amended (20 U.S.C. ch. 19), \$20,000,000 which shall remain available until expended, shall be for providing school facilities as authorized by said Act, of which \$8,500,000 shall be for awards under section 10 of said Act, \$8,500,000 shall be for awards under sections 14(a) and 14(b) of said Act, and \$3,000,000 shall be for awards under sections 5 and 14(c) of said Act.

20 USC 640, 644.

20 USC 635.

EDUCATION FOR THE HANDICAPPED

20 USC 1400. For carrying out the Education of the Handicapped Act, \$1,321,270,000, of which \$1,135,145,000, for section 611, \$29,000,000 for section 619, and \$61,000,000 for part D of such Act, including special education supervision, administration and research, special projects, and State education agency programs under existing grants and contracts as well as new grants and contracts as authorized by such part D, shall become available for obligation on July 1, 1985, and shall remain available until September 30, 1986: *Provided*, That \$500,000 of the amounts available under this heading for part F of the Education of the Handicapped Act shall be available for the Theater of the Deaf.

20 USC 1411.

20 USC 1419.

97 Stat 1369.

20 USC 1431.

20 USC 1451

REHABILITATION SERVICES AND HANDICAPPED RESEARCH

29 USC 701 note. For carrying out, to the extent not otherwise provided, the Rehabilitation Act of 1973, as amended, the Helen Keller National Center Act, and the International Health Research Act of 1960, \$1,233,300,000, of which \$1,098,707,247 shall be for allotments under section 100(b)(1) of the Rehabilitation Act, \$1,292,753 shall be for activities under section 110(b)(3) of the Rehabilitation Act, \$4,200,000 shall be for continued operation of the Helen Keller National Center for Deaf-Blind Youths and Adults.

Ante, p. 32.

22 USC 2101 note.

Ante, p. 19.

29 USC 730.

VOCATIONAL AND ADULT EDUCATION

20 USC 2301 note, 1201 note. For carrying out, to the extent not otherwise provided, the Vocational Education Act, and the Adult Education Act, \$831,314,000 which shall become available for obligation on July 1, 1985, and shall remain available until September 30, 1986, except that \$8,178,000 for part B, subpart 2 of the Vocational Education Act shall become available for obligation on July 1, 1985, and shall remain available until expended: *Provided*, That \$7,000,000 for State advisory councils under section 105 of the Vocational Education Act shall be used to provide to each State, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Trust Territory of the Pacific Islands, and Northern Mariana Islands an amount equal to the amount it received in the previous fiscal year: *Provided further*, That not to exceed \$99,590,000 shall be for carrying out part A, subpart 3, of the Vocational Education Act: *Provided*

20 USC 2401.

20 USC 2305

20 USC 2350.

further, That \$2,243,100 shall be made available for the National Occupational Information Coordinating Committee.

STUDENT FINANCIAL ASSISTANCE

For carrying out subparts 1, 2, and 3 of part A, and parts C and E of title IV of the Higher Education Act, \$4,871,000,000 which shall remain available until September 30, 1986, of which \$412,500,000 shall be available for carrying out subpart 2 of part A of title IV of the Higher Education Act, and \$250,000,000 shall be available to pay deficiencies resulting from the payment schedules for Pell Grants published by the Secretary of Education for academic year 1983-84 and academic year 1984-85: *Provided*, That amounts appropriated for Pell Grants shall be available first to meet any insufficiencies in entitlements resulting from the payment schedule for Pell Grants published by the Secretary of Education for the 1984-85 academic year: *Provided further*, That pursuant to section 411(b)(4)(A) of the Higher Education Act, amounts appropriated herein for Pell Grants which exceed the amounts required to meet the payment schedule published for any fiscal year by 15 per centum or less shall be carried forward and merged with amounts appropriated for the next fiscal year: *Provided further*, That notwithstanding section 411(a)(2)(A)(i) and section 411(b)(5) of the Higher Education Act, the maximum grant a student may receive in the 1985-86 academic year shall be \$2,100: *Provided further*, That the cost of attendance criteria used for calculating eligibility for and the amount of the Pell Grants for academic year 1985-86 shall be the same as the cost of attendance criteria used for academic year 1984-85: *Provided further*, That notwithstanding section 413D(a), and subsections (a), (b), (c), and (e) of section 442 of the Higher Education Act, the Secretary shall apportion funds among the States so that each State's apportionment under the Supplemental Educational Opportunity Grant Program and Work-Study Program bears the same ratio to the total amount appropriated under each program as that State's apportionment in fiscal year 1981 for each program bears to the total amount appropriated for fiscal year 1981 for each program: *Provided further*, That notwithstanding section 413D(b)(1)(B)(ii) and section 446(a) of the Higher Education Act, from each jurisdiction's allotment of funds under each program, the Secretary shall allocate sums to institutions in that jurisdiction that did not receive an allocation in fiscal year 1979 (award year 1979-80) under each program in a manner that will most effectively carry out the purposes of the Supplemental Educational Opportunity Grant Program and the Work-Study Program: *Provided further*, That notwithstanding section 413D(b)(1)(B)(ii)(II) of the Higher Education Act, the provisions of clause (I) of section 413D(b)(1)(B)(ii) of such Act shall apply to the amount made available for Supplemental Educational Opportunity Grants under this heading.

20 USC 1070a,
1070b, 1070c, 42
USC 2751, 20
USC 1088.

20 USC 1070a.

20 USC 1070a
note.

20 USC 1070b-3
note.
20 USC 1070b-3.
42 USC 2752.

42 USC 2756.

GUARANTEED STUDENT LOANS

For necessary expenses under title IV, part B of the Higher Education Act, \$3,079,477,000 to remain available until expended.

20 USC 1071.

HIGHER EDUCATION

For carrying out title III of the Higher Education Act of 1965, as amended, \$141,208,000: *Provided*, That not less than \$45,741,000 of

20 USC 1051.

- 20 USC 1051. funds appropriated for title III of the Higher Education Act shall be available only to historically black colleges and universities.
- 20 USC 1070d,
1121, 1132a,
1133, 1135,
1134d, 1134h,
1134f, 1134n,
1070e-1,
1132d-3, 1144a.
7 USC 301 note.
94 Stat. 1502.
22 USC 2452.
- 20 USC 3489.
- 20 USC 1226a.
- 20 USC 1132c.
- 20 USC 1134e.
- Ante*, p. 2247.
- For carrying out subpart 4 of part A of title IV; titles VI, VII, VIII, and X, parts B, C, D, and E of title IX; and sections 420, 734, and 1204(c) of the Higher Education Act of 1965 as amended; section 506 of the Education Amendments of 1972, as further amended by title XIII, part G, section 1361(a) of the Education Amendments of 1980; title XIII, part H, subpart 1 of the Education Amendments of 1980; section 102(b)(6) of the Mutual Educational and Cultural Exchange Act of 1961; and the Minority Institutions Science Improvement Program under section 528(3) of the Omnibus Budget Reconciliation Act of 1981 as extended by section 414 of the General Education Provisions Act, \$315,875,000: *Provided*, That \$18,775,000 made available for interest subsidy grants under section 734 of the Higher Education Act and \$28,000,000 made available for undergraduate and graduate facilities grants under part B of title VII of said Act shall remain available until expended: *Provided further*, That sections 922(b)(2) and 922(e)(2) and the funding limitations set forth in section 922(e) of the Higher Education Act shall not apply to funds in this Act.
- For carrying out title III, sections 301, 302, 303, and 304 of H.R. 2878, the "Library Services and Construction Act Amendments of 1984", as contained in conference report numbered 98-1075, \$22,000,000.

HIGHER EDUCATION FACILITIES LOANS AND INSURANCE

- 81 Stat. 386.
- 20 USC 1132d-2.
- For the payment of principal and interest on participation certificates as authorized by the Department of Health, Education, and Welfare Appropriation Act, 1968, issued by the Government National Mortgage Association as trustee on the behalf of the Department of Education pursuant to the Federal National Mortgage Association Act (12 U.S.C. 1717(c)), and for the payment of interest expenses to the Department of the Treasury as required by title VII, section 733(b)(2) of the Higher Education Act, \$14,194,000 to remain available until expended. The Secretary is hereby authorized to make such expenditures, within the limits of funds available under this heading and in accord with law, and to make such contracts and commitments without regard to fiscal year limitation, as provided by section 104 of the Government Corporation Control Act (31 U.S.C. 9104), as may be necessary in carrying out the program set forth in the budget for the current fiscal year. During fiscal year 1985, no new commitments for loans may be made from this account.

COLLEGE HOUSING LOANS

The aggregate amount of commitments for loans made from the fund established pursuant to title IV of the Housing Act of 1950, as amended (12 U.S.C. 1749), for the fiscal year 1985 shall not exceed the total of loan repayments and other income available during such period, less operating costs. Payments of insufficiencies in fiscal year 1985 as may be required by the Government National Mortgage Association, as trustee, on account of outstanding beneficial interests or participations issued pursuant to section 302(c) of the Federal National Mortgage Association Charter Act, as amended (12 U.S.C. 1717) shall be made from the fund established pursuant to title IV of

the Housing Act of 1950, as amended (12 U.S.C. 1749) using loan repayments and other income available during fiscal year 1985. During fiscal year 1985 and within the resources and authority available, gross commitments for the principal amount of direct loans shall be \$40,000,000.

EDUCATIONAL RESEARCH AND STATISTICS

For necessary expenses to carry out sections 405 and 406 of the General Education Provisions Act, as amended, \$59,978,000.

20 USC 1221e,
1221e-1.

LIBRARIES

For carrying out, to the extent not otherwise provided, titles I, II and III of the Library Services and Construction Act (20 U.S.C., ch. 16); and title II, part B except section 224, and part C of the Higher Education Act, notwithstanding the provisions of section 221, \$125,000,000: *Provided*, That \$25,000,000 of the sums appropriated shall be used to carry out the provisions of title II of the Library Services and Construction Act and shall remain available until expended.

20 USC 352,
355a, 355e, 351 *et*
seq.
20 USC 1031,
1034, 1041.

SPECIAL INSTITUTIONS

AMERICAN PRINTING HOUSE FOR THE BLIND

For carrying out the Act of March 3, 1879, as amended (20 U.S.C. 101-106), including provision of materials to adults undergoing rehabilitation on the same basis as provided in 1984, \$5,500,000.

20 USC 101, 102,
104.

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

For carrying out the National Technical Institute for the Deaf Act (20 U.S.C. 681 *et seq.*), \$31,400,000, of which \$1,400,000 shall be for construction and shall remain available until expended.

GALLAUDET COLLEGE

For carrying out the Model Secondary School for the Deaf Act (80 Stat. 1027) and for the partial support of Gallaudet College authorized by the Act of June 18, 1954 (68 Stat. 265), including continuing education activities, existing extension centers and the National Center for Law and the Deaf, \$58,700,000.

20 USC 693 note.
20 USC 691-691d

HOWARD UNIVERSITY

For partial support of Howard University (20 U.S.C. 121 *et seq.*), \$158,230,000, of which \$2,000,000 shall be for an endowment matching grant in accordance with policies and procedures as appropriate for comparable grants under the Challenge Grant Amendments of 1983 (Public Law 98-95) and shall remain available until expended.

97 Stat. 708.
20 USC 1001
note.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For carrying out, to the extent not otherwise provided, the Department of Education Organization Act, including rental of conference rooms in the District of Columbia and hire of three passenger motor vehicles, \$241,075,000.

20 USC 3401
note.

OFFICE FOR CIVIL RIGHTS

20 USC 3413. For expenses necessary for the Office for Civil Rights, as authorized by section 203 of the Department of Education Organization Act, \$45,000,000.

OFFICE OF THE INSPECTOR GENERAL

20 USC 3422. For expenses necessary for the Office of the Inspector General, as authorized by section 212 of the Department of Education Organization Act, \$15,312,000.

GENERAL PROVISIONS

Audit. SEC. 301. None of the funds appropriated by the title for grants-in-aid of State agencies to cover, in whole or in part, the cost of operation of said agencies, including the salaries and expenses of officers and employees of said agencies, shall be withheld from the said agencies of any State which have established by legislative enactment and have in operation a merit system and classification and compensation plan covering the selection, tenure in office, and compensation of their employees, because of any disapproval of their personnel or the manner of their selection by the agencies of the said States, or the rates of pay of said officers or employees.

Research and development. SEC. 302. Funds appropriated in this Act to the American Printing House for the Blind, Howard University, the National Technical Institute for the Deaf, and Gallaudet College shall be subject to audit by the Secretary of Education.

Busing. SEC. 303. None of the funds provided herein shall be used to pay any recipient of a grant for the conduct of research an amount equal to as much as the entire cost of such research.

42 USC 2000c. SEC. 304. No part of the funds contained in this title may be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to force on account of race, creed or color the abolishment of any school so desegregated; or to force the transfer or assignment of any student attending any elementary or secondary school so desegregated to or from a particular school over the protest of his or her parents or parent.

Busing. SEC. 305. (a) No part of the funds contained in this title shall be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to require the abolishment of any school so desegregated; or to force on account of race, creed or color the transfer of students to or from a particular school so desegregated as a condition precedent to obtaining Federal funds otherwise available to any State, school district or school.

Busing. (b) No funds appropriated in this Act may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system.

SEC. 306. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a

school other than the school which is nearest the student's home, except for a student requiring special education, to the school offering such special education, in order to comply with title VI of the Civil Rights Act of 1964. For the purpose of this section an indirect requirement of transportation of students includes the transportation of students to carry out a plan involving the reorganization of the grade structure of schools, the pairing of schools, or the clustering of schools, or any combination of grade restructuring, pairing or clustering. The prohibition described in this section does not include the establishment of magnet schools. 42 USC 2000d.

SEC. 307. No funds appropriated under this Act may be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools. School prayer.

SEC. 308. Section 402(c) of the Housing Act of 1950 is amended by striking out in clause (9) "October 1, 1984" and inserting in its place "October 1, 1985". 97 Stat. 895.
12 USC 1749a.

SEC. 309. No funds appropriated in any Act to the Department of Education for fiscal years 1984 and 1985 shall be withheld from distribution to grantees because of the provisions of the order entered by the United States District Court for Northern District of Illinois on June 30, 1983.

This title may be cited as the "Department of Education Appropriation Act, 1985".

TITLE IV—RELATED AGENCIES

ACTION

OPERATING EXPENSES

For expenses necessary for Action to carry out the provisions of the Domestic Volunteer Service Act of 1973, as amended (42 U.S.C. 4951 et seq.), \$150,164,000, of which \$17,000,000 shall be available to carry out title I, part A of said Act: *Provided*, That none of the funds appropriated under this heading may be used to close State or regional field offices. 42 USC 4951.

CORPORATION FOR PUBLIC BROADCASTING

PUBLIC BROADCASTING FUND

For payment to the Corporation for Public Broadcasting, as authorized by the Communications Act of 1934 as amended, an amount which shall be available within limitations specified by said Act, for the fiscal year 1987, \$200,000,000: *Provided*, That no funds made available to the Corporation for Public Broadcasting by this Act shall be used to pay for receptions, parties and similar forms of entertainment for government officials or employees: *Provided further*, That none of the funds contained in this paragraph shall be available or used to aid or support any program or activity excluding from participation in, denying the benefits of, or discriminating against any person on the basis of race, color, national origin, religion or sex. 47 USC 609 note.

FEDERAL MEDIATION AND CONCILIATION SERVICE

SALARIES AND EXPENSES

For expenses necessary for the Federal Mediation and Conciliation Service to carry out the functions vested in it by the Labor-Management Relations Act, 1947 (29 U.S.C. 171-180, 182), including expenses of the Labor-Management Panel and boards of inquiry appointed by the President, hire of passenger motor vehicles, and rental of conference rooms in the District of Columbia; and for expenses necessary pursuant to Public Law 93-360 for mandatory mediation in health care industry negotiation disputes and for convening factfinding boards of inquiry appointed by the Director in the health care industry; and for expenses necessary for the Labor-Management Cooperation Act of 1978 (29 U.S.C. 125a); and for expenses necessary for the Service to carry out the functions vested in it by the Civil Service Reform Act, Public Law 95-454 (5 U.S.C. Chapter 71), \$23,611,000.

29 USC 152, 158,
183, 169 and
note.

29 USC 141 note.

5 USC 7101 *et*
seq.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Federal Mine Safety and Health Review Commission (30 U.S.C. 801 *et seq.*), \$3,837,000.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

SALARIES AND EXPENSES

For necessary expenses for the National Commission on Libraries and Information Science, established by the Act of July 20, 1970 (Public Law 91-345), \$720,000.

20 USC 1501
note.

NATIONAL COUNCIL ON THE HANDICAPPED

SALARIES AND EXPENSES

For expenses necessary for the National Council on the Handicapped to carry out the provisions of the Vocational Rehabilitation Act of 1973, as amended (Public Law 98-221), \$750,000, of which \$300,000 shall be available for the employment of seven technical and professional staff persons in addition to the executive director.

Ante, p. 17.

NATIONAL LABOR RELATIONS BOARD

SALARIES AND EXPENSES

For expenses necessary for the National Labor Relations Board to carry out the functions vested in it by the Labor-Management Relations Act, 1947, as amended (29 U.S.C. 141-167), and other laws, \$137,964,000: *Provided*, That no part of this appropriation shall be available to organize or assist in organizing agricultural laborers or used in connection with investigations, hearings, directives, or orders concerning bargaining units composed of agricultural laborers as referred to in section 2(3) of the Act of July 5, 1935 (29 U.S.C. 152), and as amended by the Labor-Management Relations Act, 1947, as amended, and as defined in section 3(f) of the Act of June 25, 1938 (29 U.S.C. 203), and including in said definition employees

29 USC 141.

engaged in the maintenance and operation of ditches, canals, reservoirs, and waterways when maintained or operated on a mutual, nonprofit basis and at least 95 per centum of the water stored or supplied thereby is used for farming purposes.

NATIONAL MEDIATION BOARD

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Railway Labor Act, as amended (45 U.S.C. 151-188), including emergency boards appointed by the President, \$6,358,000.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For the expenses necessary for the Occupational Safety and Health Review Commission, \$6,143,000.

PROSPECTIVE PAYMENT ASSESSMENT COMMISSION

For expenses necessary to carry out section 601 of Public Law 98-21, \$2,424,000 to be transferred to this appropriation from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds.

97 Stat. 149.

RAILROAD RETIREMENT BOARD

DUAL BENEFITS PAYMENTS ACCOUNT

For payment to the Dual Benefits Payments Account, authorized under section 15(d) of the Railroad Retirement Act of 1974, \$405,000,000, which shall be credited to the account in 12 approximately equal amounts on the first day of each month in the fiscal year.

97 Stat. 433.
45 USC 231n.

FEDERAL PAYMENT TO THE RAILROAD RETIREMENT ACCOUNTS

For payment to the accounts established in the Treasury for the payment of benefits under the Railroad Retirement Act for unnegotiated checks, \$15,000,000 which shall be the maximum amount available for payments pursuant to section 417 of Public Law 98-76: *Provided*, That these funds shall remain available through September 30, 1986.

45 USC 231t.
97 Stat. 437.

LIMITATION ON ADMINISTRATION

For expenses necessary for the Railroad Retirement Board, \$55,422,000 to be derived from the railroad retirement accounts: *Provided*, That such portion of the foregoing amount as may be necessary shall be available for the payment of personnel compensation and benefits for not less than 1,180 full-time equivalent employees: *Provided further*, That \$500,000 of the foregoing amount shall be available only to the extent necessary to process workloads not anticipated in the budget estimates and after maximum absorption of the costs of such workloads within the remainder of the existing limitation has been achieved: *Provided further*, That notwithstanding any other provision of law, no portion of this limitation shall be

available for payments of standard level user charges pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(j); 45 U.S.C. 228a-r): *Provided further*, That \$910,000 of the funds provided under this limitation shall be available for construction of a new computer facility in the Railroad Retirement Board's headquarters building.

LIMITATION ON RAILROAD UNEMPLOYMENT INSURANCE ADMINISTRATION FUND

For further expenses necessary for the Railroad Retirement Board, for administration of the Railroad Unemployment Insurance Act, not less than \$16,678,000 shall be apportioned for fiscal year 1985 pursuant to section 3679 of the Revised Statutes, as amended (31 U.S.C. 655), from moneys credited to the railroad unemployment insurance administration fund, and of this amount \$3,038,000 shall be derived from contributions credited to the railroad unemployment insurance account and shall be credited to the railroad unemployment insurance administration fund as authorized by section 11(a)(iv) of the Railroad Unemployment Insurance Act: *Provided*, That such portion of the foregoing amount as may be necessary shall be available for the payment of personnel compensation and benefits for not less than 398 full-time equivalent employees: *Provided further*, That \$390,000 of the funds provided under this limitation shall be available for construction of a new computer facility in the Railroad Retirement Board's headquarters building.

45 USC 367.

31 USC 1511 note
et seq.

45 USC 361.

SOLDIERS' AND AIRMEN'S HOME

OPERATION AND MAINTENANCE

For maintenance and operation of the United States Soldiers' and Airmen's Home, to be paid from the Soldiers' and Airmen's Home permanent fund, \$32,952,000: *Provided*, That this appropriation shall not be available for the payment of hospitalization of members of the Home in United States Army hospitals at rates in excess of those prescribed by the Secretary of the Army upon recommendation of the Board of Commissioners and the Surgeon General of the Army.

CAPITAL OUTLAY

For construction and renovation of the physical plant, to be paid from the Soldiers' and Airmen's Home permanent fund, \$9,400,000, to remain available until expended.

TITLE V—GENERAL PROVISIONS

Prohibitions.

SEC. 501. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 502. No part of any appropriation contained in this Act shall be expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract, unless such executive agency

has awarded and entered into such contract in full compliance with such Act and regulations promulgated thereunder.

SEC. 503. Appropriations contained in this Act, available for salaries and expenses, shall be available for services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18.

SEC. 504. Appropriations contained in this Act, available for salaries and expenses, shall be available for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901-5902).

SEC. 505. Appropriations contained in this Act, available for salaries and expenses, shall be available for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities.

SEC. 506. No part of the funds appropriated under this Act shall be used to provide a loan, guarantee of a loan, a grant, the salary of or any remuneration whatever to any individual applying for admission, attending, employed by, teaching at, or doing research at an institution of higher education who has engaged in conduct on or after August 1, 1969, which involves the use of (or the assistance to others in the use of) force or the threat of force or the seizure of property under the control of an institution of higher education, to require or prevent the availability of certain curricula, or to prevent the faculty, administrative officials, or students in such institution from engaging in their duties or pursuing their studies at such institution.

SEC. 507. The Secretaries of Labor, Health and Human Services, and Education are authorized to transfer unexpended balances of prior appropriations to accounts corresponding to current appropriations provided in this Act: *Provided*, That such transferred balances are used for the same purpose, and for the same periods of time, for which they were originally appropriated.

SEC. 508. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 509. No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or film presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself.

No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress.

SEC. 510. The Secretaries of Labor, Health and Human Services, and Education are each authorized to make available not to exceed \$7,500 from funds available for salaries and expenses under titles I, II, and III, respectively, for official reception and representation expenses; the Director of the Federal Mediation and Conciliation Service is authorized to make available for official reception and representation expenses not to exceed \$2,500 from the funds available for "Salaries and expenses, Federal Mediation and Conciliation Service"; and the Chairman of the National Mediation Board is authorized to make available for official reception and representa-

Research and
development.

tion expenses not to exceed \$2,500 from funds available for "Salaries and expenses, National Mediation Board".

SEC. 511. None of the funds appropriated by this Act shall be used to pay for any research program or project or any program, project, or course which is of an experimental nature, or any other activity involving human participants, which is determined by the Secretary or a court of competent jurisdiction to present a danger to the physical, mental, or emotional well-being of a participant or subject of such program, project, or course, without the written, informed consent of each participant or subject, or a participant's parents or legal guardian, if such participant or subject is under eighteen years of age. The Secretary shall adopt appropriate regulations respecting this section.

SEC. 512. None of the funds provided in this Act to any department or agency may be expended for the transportation of any officer or employee of such department or agency between his domicile and his place of employment, with the exception of the Secretaries of Labor, Health and Human Services, and Education, and medical officers and other health personnel on out-patient medical service who are exempted from such limitations under 31 U.S.C. 1344.

SEC. 513. Notwithstanding any other provision of this Act, no funds appropriated by this Act may be used to execute or carry out any contract with a non-governmental entity to administer or manage a Civilian Conservation center of the Job Corps which was not under such a contract as of September 1, 1984.

This Act may be cited as the "Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriation Act, 1985".

Approved November 8, 1984.

LEGISLATIVE HISTORY—H.R. 6028 (S. 2836):

HOUSE REPORTS: No. 98-911 (Comm. on Appropriations) and No. 98-1132 (Comm. of Conference).

SENATE REPORT No. 98-544 accompanying S. 2836 (Comm. on Appropriations). CONGRESSIONAL RECORD, Vol. 130 (1984):

Aug. 1, considered and passed House.

Sept. 21, 25, considered and passed Senate, amended.

Oct. 10, House agreed to conference report; receded from its amendments and concurred in certain Senate amendments; Senate agreed to conference report; receded from its amendments and concurred in House amendments.

Public Law 98-620
98th Congress

An Act

To amend title 28, United States Code, with respect to the places where court shall be held in certain judicial districts, and for other purposes.

Nov. 8, 1984
[H.R. 6163]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

Trademark
Clarification Act
of 1984.

SHORT TITLE

SEC. 101. This title may be cited as the "Trademark Clarification Act of 1984".

15 USC 1051
note

AMENDMENT TO THE TRADEMARK ACT

SEC. 102. Section 14(c) of the Trademark Act of 1946, commonly known as the Lanham Trademark Act (15 U.S.C. 1064(c)) is amended by adding before the semicolon at the end of such section a period and the following: "A registered mark shall not be deemed to be the common descriptive name of goods or services solely because such mark is also used as a name of or to identify a unique product or service. The primary significance of the registered mark to the relevant public rather than purchaser motivation shall be the test for determining whether the registered mark has become the common descriptive name of goods or services in connection with which it has been used".

DEFINITIONS

SEC. 103. Section 45 of such Act (15 U.S.C. 1127) is amended as follows:

(1) Strike out "The term 'trade-mark' includes any word, name, symbol, or device or any combination thereof adopted and used by a manufacturer or merchant to identify his goods and distinguish them from those manufactured or sold by others." and insert in lieu thereof the following: "The term 'trademark' includes any word, name, symbol, or device or any combination thereof adopted and used by a manufacturer or merchant to identify and distinguish his goods, including a unique product, from those manufactured or sold by others and to indicate the source of the goods, even if that source is unknown."

(2) Strike out "The term 'service mark' means a mark used in the sale or advertising of services to identify the services of one person and distinguish them from the services of others." and insert in lieu thereof the following: "The term 'service mark' means a mark used in the sale or advertising of services to identify and distinguish the services of one person, including a unique service, from the services of others and to indicate the source of the services, even if that source is unknown."

(3) Add at the end of subparagraph (b) in the paragraph which begins "A mark shall be deemed to be 'abandoned'", the following new sentence: "Purchaser motivation shall not be a test for determining abandonment under this subparagraph."

JUDGMENTS

15 USC 1064
note.

SEC. 104. Nothing in this title shall be construed to provide a basis for reopening of any final judgment entered prior to the date of enactment of this title.

TITLE II

State Justice
Institute Act of
1984.

SHORT TITLE

42 USC 10701
note.

SEC. 201. This title may be cited as the "State Justice Institute Act of 1984".

DEFINITIONS

42 USC 10701.

SEC. 202. As used in this title, the term—

- (1) "Board" means the Board of Directors of the Institute;
- (2) "Director" means the Executive Director of the Institute;
- (3) "Governor" means the Chief Executive Officer of a State;
- (4) "Institute" means the State Justice Institute;
- (5) "recipient" means any grantee, contractor, or recipient of financial assistance under this title;
- (6) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States; and
- (7) "Supreme Court" means the highest appellate court within a State unless, for the purposes of this title, a constitutionally or legislatively established judicial council acts in place of that court.

ESTABLISHMENT OF INSTITUTE; DUTIES

Corporation.
42 USC 10702.

SEC. 203. (a) There is established a private nonprofit corporation which shall be known as the State Justice Institute. The purpose of the Institute shall be to further the development and adoption of improved judicial administration in State courts in the United States. The Institute may be incorporated in any State pursuant to section 204(a)(6) of this title. To the extent consistent with the provisions of this title, the Institute may exercise the powers conferred upon a nonprofit corporation by the laws of the State in which it is incorporated.

(b) The Institute shall—

- (1) direct a national program of assistance designed to assure each person ready access to a fair and effective system of justice by providing funds to—
 - (A) State courts;
 - (B) national organizations which support and are supported by State courts; and
 - (C) any other nonprofit organization that will support and achieve the purposes of this title;
- (2) foster coordination and cooperation with the Federal judiciary in areas of mutual concern;

(3) promote recognition of the importance of the separation of powers doctrine to an independent judiciary; and

(4) encourage education for judges and support personnel of State court systems through national and State organizations, including universities.

(c) The Institute shall not duplicate functions adequately performed by existing nonprofit organizations and shall promote, on the part of agencies of State judicial administration, responsibility for the success and effectiveness of State court improvement programs supported by Federal funding.

(d) The Institute shall maintain its principal offices in the State in which it is incorporated and shall maintain therein a designated agent to accept service of process for the Institute. Notice to or service upon the agent shall be deemed notice to or service upon the Institute.

(e) The Institute, and any program assisted by the Institute, shall be eligible to be treated as an organization described in section 170(c)(2)(B) of the Internal Revenue Code of 1954 (26 U.S.C. 170(c)(2)(B)) and as an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)(3)) which is exempt from taxation under section 501(a) of such Code (26 U.S.C. 501(a)). If such treatments are conferred in accordance with the provisions of such Code, the Institute, and programs assisted by the Institute, shall be subject to all provisions of such Code relevant to the conduct of organizations exempt from taxation.

(f) The Institute shall afford notice and reasonable opportunity for comment to interested parties prior to issuing rules, regulations, guidelines, and instructions under this title, and it shall publish in the Federal Register, at least thirty days prior to their effective date, all rules, regulations, guidelines, and instructions.

Federal
Register,
publication.

BOARD OF DIRECTORS

SEC. 204. (a)(1) The Institute shall be supervised by a Board of Directors, consisting of eleven voting members to be appointed by the President, by and with the advice and consent of the Senate. The Board shall have both judicial and nonjudicial members, and shall, to the extent practicable, have a membership representing a variety of backgrounds and reflecting participation and interest in the administration of justice.

42 USC 10703.

(2) The Board shall consist of—

(A) six judges, to be appointed in the manner provided in paragraph (3);

(B) one State court administrator, to be appointed in the manner provided in paragraph (3); and

(C) four members from the public sector, no more than two of whom shall be of the same political party, to be appointed in the manner provided in paragraph (4).

(3) The President shall appoint six judges and one State court administrator from a list of candidates submitted to the President by the Conference of Chief Justices. The Conference of Chief Justices shall submit a list of at least fourteen individuals, including judges and State court administrators, whom the conference considers best qualified to serve on the Board. Whenever the term of any of the members of the Board described in subparagraphs (A) and (B) terminates and that member is not to be reappointed to a new term, and whenever a vacancy otherwise occurs among those members,

the President shall appoint a new member from a list of three qualified individuals submitted to the President by the Conference of Chief Justices. The President may reject any list of individuals submitted by the Conference under this paragraph and, if such a list is so rejected, the President shall request the Conference to submit to him another list of qualified individuals. Prior to consulting with or submitting a list to the President, the Conference of Chief Justices shall obtain and consider the recommendations of all interested organizations and individuals concerned with the administration of justice and the objectives of this title.

(4) In addition to those members appointed under paragraph (3), the President shall appoint four members from the public sector to serve on the Board.

(5) The President shall make the initial appointments of members of the Board under this subsection within ninety days after the effective date of this title. In the case of any other appointment of a member, the President shall make the appointment not later than ninety days after the previous term expires or the vacancy occurs, as the case may be. The Conference of Chief Justices shall submit lists of candidates under paragraph (3) in a timely manner so that the appointments can be made within the time periods specified in this paragraph.

(6) The initial members of the Board of Directors shall be the incorporators of the Institute and shall determine the State in which the Institute is to be incorporated.

(b)(1) Except as provided in paragraph (2), the term of each voting member of the Board shall be three years. Each member of the Board shall continue to serve until the successor to such member has been appointed and qualified.

(2) Five of the members first appointed by the President shall serve for a term of two years. Any member appointed to serve an unexpired term which has arisen by virtue of the death, disability, retirement, or resignation of a member shall be appointed only for such unexpired term, but shall be eligible for reappointment.

(3) The term of initial members shall commence from the date of the first meeting of the Board, and the term of each member other than an initial member shall commence from the date of termination of the preceding term.

Prohibition.

(c) No member shall be reappointed to more than two consecutive terms immediately following such member's initial term.

(d) Members of the Board shall serve without compensation, but shall be reimbursed for actual and necessary expenses incurred in the performance of their official duties.

(e) The members of the Board shall not, by reason of such membership, be considered officers or employees of the United States.

(f) Each member of the Board shall be entitled to one vote. A simple majority of the membership shall constitute a quorum for the conduct of business. The Board shall act upon the concurrence of a simple majority of the membership present and voting.

(g) The Board shall select from among the voting members of the Board a chairman, the first of whom shall serve for a term of three years. Thereafter, the Board shall annually elect a chairman from among its voting members.

(h) A member of the Board may be removed by a vote of seven members for malfeasance in office, persistent neglect of, or inability to discharge duties, or for any offense involving moral turpitude, but for no other cause.

(i) Regular meetings of the Board shall be held quarterly. Special meetings shall be held from time to time upon the call of the chairman, acting at his own discretion or pursuant to the petition of any seven members.

(j) All meetings of the Board, any executive committee of the Board, and any council established in connection with this title, shall be open and subject to the requirements and provisions of section 552b of title 5, United States Code, relating to open meetings.

(k) In its direction and supervision of the activities of the Institute, the Board shall—

(1) establish policies and develop such programs for the Institute that will further the achievement of its purpose and performance of its functions;

(2) establish policy and funding priorities and issue rules, regulations, guidelines, and instructions pursuant to such priorities;

(3) appoint and fix the duties of the Executive Director of the Institute, who shall serve at the pleasure of the Board and shall be a nonvoting ex officio member of the Board;

(4) present to other Government departments, agencies, and instrumentalities whose programs or activities relate to the administration of justice in the State judiciaries of the United States, the recommendations of the Institute for the improvement of such programs or activities;

(5) consider and recommend to both public and private agencies aspects of the operation of the State courts of the United States considered worthy of special study; and

(6) award grants and enter into cooperative agreements or contracts pursuant to section 206(a).

OFFICERS AND EMPLOYEES

SEC. 205. (a)(1) The Director, subject to general policies established by the Board, shall supervise the activities of persons employed by the Institute and may appoint and remove such employees as he determines necessary to carry out the purposes of the Institute. The Director shall be responsible for the executive and administrative operations of the Institute, and shall perform such duties as are delegated to such Director by the Board and the Institute.

42 USC 10704.

(2) No political test or political qualification shall be used in selecting, appointing, promoting, or taking any other personnel action with respect to any officer, agent, or employee of the Institute, or in selecting or monitoring any grantee, contractor, person, or entity receiving financial assistance under this title.

(b) Officers and employees of the Institute shall be compensated at rates determined by the Board, but not in excess of the rate of level V of the Executive Schedule specified in section 5316 of title 5, United States Code.

(c)(1) Except as otherwise specifically provided in this title, the Institute shall not be considered a department, agency, or instrumentality of the Federal Government.

(2) This title does not limit the authority of the Office of Management and Budget to review and submit comments upon the Institute's annual budget request at the time it is transmitted to the Congress.

(d)(1) Except as provided in paragraph (2), officers and employees of the Institute shall not be considered officers or employees of the United States.

5 USC 8101, 8301
et seq.,
8701 et seq.,
8901 et seq.

(2) Officers and employees of the Institute shall be considered officers and employees of the United States solely for the purposes of the following provisions of title 5, United States Code: Subchapter I of chapter 81 (relating to compensation for work injuries); chapter 83 (relating to civil service retirement); chapter 87 (relating to life insurance); and chapter 89 (relating to health insurance). The Institute shall make contributions under the provisions referred to in this subsection at the same rates applicable to agencies of the Federal Government.

(e) The Institute and its officers and employees shall be subject to the provisions of section 552 of title 5, United States Code, relating to freedom of information.

GRANTS AND CONTRACTS

42 USC 10705.

SEC. 206. (a) The Institute is authorized to award grants and enter into cooperative agreements or contracts, in a manner consistent with subsection (b), in order to—

Research and
development.

(1) conduct research, demonstrations, or special projects pertaining to the purposes described in this title, and provide technical assistance and training in support of tests, demonstrations, and special projects;

Public
information.

(2) serve as a clearinghouse and information center, where not otherwise adequately provided, for the preparation, publication, and dissemination of information regarding State judicial systems;

(3) participate in joint projects with other agencies, including the Federal Judicial Center, with respect to the purposes of this title;

(4) evaluate, when appropriate, the programs and projects carried out under this title to determine their impact upon the quality of criminal, civil, and juvenile justice and the extent to which they have met or failed to meet the purposes and policies of this title;

Education.

(5) encourage and assist in the furtherance of judicial education;

(6) encourage, assist, and serve in a consulting capacity to State and local justice system agencies in the development, maintenance, and coordination of criminal, civil, and juvenile justice programs and services; and

(7) be responsible for the certification of national programs that are intended to aid and improve State judicial systems.
(b) The Institute is empowered to award grants and enter into cooperative agreements or contracts as follows:

(1) The Institute shall give priority to grants, cooperative agreements, or contracts with—

(A) State and local courts and their agencies,

(B) national nonprofit organizations controlled by, operating in conjunction with, and serving the judicial branches of State governments; and

Education.

(C) national nonprofit organizations for the education and training of judges and support personnel of the judicial branch of State governments.

(2) The Institute may, if the objective can better be served thereby, award grants or enter into cooperative agreements or contracts with—

(A) other nonprofit organizations with expertise in judicial administration;

(B) institutions of higher education;

(C) individuals, partnerships, firms, or corporations; and

(D) private agencies with expertise in judicial administration.

Education.

(3) Upon application by an appropriate Federal, State, or local agency or institution and if the arrangements to be made by such agency or institution will provide services which could not be provided adequately through nongovernmental arrangements, the Institute may award a grant or enter into a cooperative agreement or contract with a unit of Federal, State, or local government other than a court.

(4) Each application for funding by a State or local court shall be approved, consistent with State law, by the State's supreme court, or its designated agency or council, which shall receive, administer, and be accountable for all funds awarded by the Institute to such courts.

(c) Funds available pursuant to grants, cooperative agreements, or contracts awarded under this section may be used—

(1) to assist State and local court systems in establishing appropriate procedures for the selection and removal of judges and other court personnel and in determining appropriate levels of compensation;

(2) to support education and training programs for judges and other court personnel, for the performance of their general duties and for specialized functions, and to support national and regional conferences and seminars for the dissemination of information on new developments and innovative techniques;

Education.

(3) to conduct research on alternative means for using nonjudicial personnel in court decisionmaking activities, to implement demonstration programs to test innovative approaches, and to conduct evaluations of their effectiveness;

Research and development.

(4) to assist State and local courts in meeting requirements of Federal law applicable to recipients of Federal funds;

(5) to support studies of the appropriateness and efficacy of court organizations and financing structures in particular States, and to enable States to implement plans for improved court organization and finance;

(6) to support State court planning and budgeting staffs and to provide technical assistance in resource allocation and service forecasting techniques;

(7) to support studies of the adequacy of court management systems in State and local courts and to implement and evaluate innovative responses to problems of record management, data processing, court personnel management, reporting and transcription of court proceedings, and juror utilization and management;

(8) to collect and compile statistical data and other information on the work of the courts and on the work of other agencies which relate to and effect the work of courts;

(9) to conduct studies of the causes of trial and appellate court delay in resolving cases, and to establish and evaluate experimental programs for reducing case processing time;

(10) to develop and test methods for measuring the performance of judges and courts and to conduct experiments in the use of such measures to improve the functioning of such judges and courts;

(11) to support studies of court rules and procedures, discovery devices, and evidentiary standards, to identify problems with the operation of such rules, procedures, devices, and standards, to devise alternative approaches to better reconcile the requirements of due process with the need for swift and certain justice, and to test the utility of those alternative approaches;

(12) to support studies of the outcomes of cases in selected subject matter areas to identify instances in which the substance of justice meted out by the courts diverges from public expectations of fairness, consistency, or equity, to propose alternative approaches to the resolving of cases in problem areas, and to test and evaluate those alternatives;

(13) to support programs to increase court responsiveness to the needs of citizens through citizen education, improvement of court treatment of witnesses, victims, and jurors, and development of procedures for obtaining and using measures of public satisfaction with court processes to improve court performance;

(14) to test and evaluate experimental approaches to providing increased citizen access to justice, including processes which reduce the cost of litigating common grievances and alternative techniques and mechanisms for resolving disputes between citizens; and

(15) to carry out such other programs, consistent with the purposes of this title, as may be deemed appropriate by the Institute.

(d) The Institute shall incorporate in any grant, cooperative agreement, or contract awarded under this section in which a State or local judicial system is the recipient, the requirement that the recipient provide a match, from private or public sources, not less than 50 per centum of the total cost of such grant, cooperative agreement, or contract, except that such requirement may be waived in exceptionally rare circumstances upon the approval of the chief justice of the highest court of the State and a majority of the Board of Directors.

(e) The Institute shall monitor and evaluate, or provide for independent evaluations of, programs supported in whole or in part under this title to ensure that the provisions of this title, the bylaws of the Institute, and the applicable rules, regulations, and guidelines promulgated pursuant to this title, are carried out.

Study.

(f) The Institute shall provide for an independent study of the financial and technical assistance programs under this title.

LIMITATIONS ON GRANTS AND CONTRACTS

42 USC 10706.

SEC. 207. (a) With respect to grants made and contracts or cooperative agreements entered into under this title, the Institute shall—

(1) ensure that no funds made available to recipients by the Institute shall be used at any time, directly or indirectly, to influence the issuance, amendment, or revocation of any Executive order or similar promulgation by any Federal, State, or local agency, or to undertake to influence the passage or defeat of any legislation or constitutional amendment by the Congress of the United States, or by any State or local legislative body, or

any State proposal by initiative petition, or of any referendum, unless a governmental agency, legislative body, a committee, or a member thereof—

(A) requests personnel of the recipients to testify, draft, or review measures or to make representations to such agency, body, committee, or member; or

(B) is considering a measure directly affecting the activities under this title of the recipient or the Institute;

(2) ensure all personnel engaged in grant, cooperative agreement or contract assistance activities supported in whole or part by the Institute refrain, while so engaged, from any partisan political activity; and

(3) ensure that each recipient that files with the Institute a timely application for refunding is provided interim funding necessary to maintain its current level of activities until—

(A) the application for refunding has been approved and funds pursuant thereto received; or

(B) the application for refunding has been finally denied in accordance with section 9 of this title.

(b) No funds made available by the Institute under this title, either by grant, cooperative agreement, or contract, may be used to support or conduct training programs for the purpose of advocating particular nonjudicial public policies or encouraging nonjudicial political activities.

(c) The authorization to enter into cooperative agreements, contracts or any other obligation under this title shall be effective only to the extent, and in such amounts, as are provided in advance in appropriation Acts.

(d) To ensure that funds made available under this Act are used to supplement and improve the operation of State courts, rather than to support basic court services, funds shall not be used—

(1) to supplant State or local funds currently supporting a program or activity; or

(2) to construct court facilities or structures, except to remodel existing facilities to demonstrate new architectural or technological techniques, or to provide temporary facilities for new personnel or for personnel involved in a demonstration or experimental program.

RESTRICTIONS ON ACTIVITIES OF THE INSTITUTE

SEC. 208. (a) The Institute shall not—

42 USC 10707.

(1) participate in litigation unless the Institute or a recipient of the Institute is a party, and shall not participate on behalf of any client other than itself;

(2) interfere with the independent nature of any State judicial system or allow financial assistance to be used for the funding of regular judicial and administrative activities of any State judicial system other than pursuant to the terms of any grant, cooperative agreement, or contract with the Institute, consistent with the requirements of this title; or

(3) undertake to influence the passage or defeat of any legislation by the Congress of the United States or by any State or local legislative body, except that personnel of the Institute may testify or make other appropriate communication—

(A) when formally requested to do so by a legislative body, committee, or a member thereof;

(B) in connection with legislation or appropriations directly affecting the activities of the Institute; or

(C) in connection with legislation or appropriations dealing with improvements in the State judiciary, consistent with the provisions of this title.

(b)(1) The Institute shall have no power to issue any shares of stock, or to declare or pay any dividends.

(2) No part of the income or assets of the Institute shall enure to the benefit of any director, officer, or employee, except as reasonable compensation for services or reimbursement for expenses.

(3) Neither the Institute nor any recipient shall contribute or make available Institute funds or program personnel or equipment to any political party or association, or the campaign of any candidate for public or party office.

(4) The Institute shall not contribute or make available Institute funds or program personnel or equipment for use in advocating or opposing any ballot measure, initiative, or referendum.

(c) Officers and employees of the Institute or of recipients shall not at any time intentionally identify the Institute or the recipient with any partisan or nonpartisan political activity associated with a political party or association, or the campaign of any candidate for public or party office.

SPECIAL PROCEDURES

42 USC 10708.

SEC. 209. The Institute shall prescribe procedures to ensure that—

(1) financial assistance under this title shall not be suspended unless the grantee, contractor, person, or entity receiving financial assistance under this title has been given reasonable notice and opportunity to show cause why such actions should not be taken; and

(2) financial assistance under this title shall not be terminated, an application for refunding shall not be denied, and a suspension of financial assistance shall not be continued for longer than thirty days, unless the recipient has been afforded reasonable notice and opportunity for a timely, full, and fair hearing, and, when requested, such hearing shall be conducted by an independent hearing examiner. Such hearing shall be held prior to any final decision by the Institute to terminate financial assistance or suspend or deny funding. Hearing examiners shall be appointed by the Institute in accordance with procedures established in regulations promulgated by the Institute.

PRESIDENTIAL COORDINATION

42 USC 10709.

SEC. 210. The President may, to the extent not inconsistent with any other applicable law, direct that appropriate support functions of the Federal Government may be made available to the Institute in carrying out its functions under this title.

RECORDS AND REPORTS

42 USC 10710.

SEC. 211. (a) The Institute is authorized to require such reports as it deems necessary from any recipient with respect to activities carried out pursuant to this title.

(b) The Institute is authorized to prescribe the keeping of records with respect to funds provided by any grant, cooperative agreement,

or contract under this title and shall have access to such records at all reasonable times for the purpose of ensuring compliance with such grant, cooperative agreement, or contract or the terms and conditions upon which financial assistance was provided.

(c) Copies of all reports pertinent to the evaluation, inspection, or monitoring of any recipient shall be submitted on a timely basis to such recipient, and shall be maintained in the principal office of the Institute for a period of at least five years after such evaluation, inspection, or monitoring. Such reports shall be available for public inspection during regular business hours, and copies shall be furnished, upon request, to interested parties upon payment of such reasonable fees as the Institute may establish.

Public
availability.

(d) Non-Federal funds received by the Institute, and funds received for projects funded in part by the Institute or by any recipient from a source other than the Institute, shall be accounted for and reported as receipts and disbursements separate and distinct from Federal funds.

AUDITS

SEC. 212. (a)(1) The accounts of the Institute shall be audited annually. Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants who are certified by a regulatory authority of the jurisdiction in which the audit is undertaken.

42 USC 10711.

(2) The audits shall be conducted at the place or places where the accounts of the Institute are normally kept. All books, accounts, financial records, reports, files, and other papers or property belonging to or in use by the Institute and necessary to facilitate the audits shall be made available to the person or persons conducting the audits. The full facilities for verifying transactions with the balances and securities held by depositories, fiscal agents, and custodians shall be afforded to any such person.

(3) The report of the annual audit shall be filed with the General Accounting Office and shall be available for public inspection during business hours at the principal office of the Institute.

Report.
Public
availability.

(b)(1) In addition to the annual audit, the financial transactions of the Institute for any fiscal year during which Federal funds are available to finance any portion of its operations may be audited by the General Accounting Office in accordance with such rules and regulations as may be prescribed by the Comptroller General of the United States.

(2) Any such audit shall be conducted at the place or places where accounts of the Institute are normally kept. The representatives of the General Accounting Office shall have access to all books, accounts, financial records, reports, files, and other papers or property belonging to or in use by the Institute and necessary to facilitate the audit. The full facilities for verifying transactions with the balances and securities held by depositories, fiscal agents, and custodians shall be afforded to such representatives. All such books, accounts, financial records, reports, files, and other papers or property of the Institute shall remain in the possession and custody of the Institute throughout the period beginning on the date such possession or custody commences and ending three years after such date, but the General Accounting Office may require the retention of such books, accounts, financial records, reports, files, and other papers or property for a longer period under section 3523(c) of title 31, United States Code.

- Report. (3) A report of such audit shall be made by the Comptroller General to the Congress and to the Attorney General, together with such recommendations with respect thereto as the Comptroller General deems advisable.
- Reports. (c)(1) The Institute shall conduct, or require each recipient to provide for, an annual fiscal audit. The report of each such audit shall be maintained for a period of at least five years at the principal office of the Institute.
- Public availability. (2) The Institute shall submit to the Comptroller General of the United States copies of such reports, and the Comptroller General may, in addition, inspect the books, accounts, financial records, files, and other papers or property belonging to or in use by such grantee, contractor, person, or entity, which relate to the disposition or use of funds received from the Institute. Such audit reports shall be available for public inspection during regular business hours, at the principal office of the Institute.

REPORT BY ATTORNEY GENERAL

- 42 USC 10712. SEC. 213. On October 1, 1987, the Attorney General, in consultation with the Federal Judicial Center, shall transmit to the Committees on the Judiciary of the Senate and the House of Representatives a report on the effectiveness of the Institute in carrying out the duties specified in section 203(b). Such report shall include an assessment of the cost effectiveness of the program as a whole and, to the extent practicable, of individual grants, an assessment of whether the restrictions and limitations specified in sections 207 and 208 have been respected, and such recommendations as the Attorney General, in consultation with the Federal Judicial Center, deems appropriate.

AMENDMENTS TO OTHER LAWS

SEC. 214. Section 620(b) of title 28, United States Code, is amended by—

- (1) striking out “and” at the end of paragraph (3);
- (2) striking out the period at the end of paragraph (4) and inserting in lieu thereof “; and”; and
- (3) inserting the following new paragraph (5) at the end thereof:

“(5) Insofar as may be consistent with the performance of the other functions set forth in this section, to cooperate with the State Justice Institute in the establishment and coordination of research and programs concerning the administration of justice.”.

AUTHORIZATIONS

- 42 USC 10713. SEC. 215. There are authorized to be appropriated to carry out the purposes of this title, \$13,000,000 for fiscal year 1986, \$15,000,000 for fiscal year 1987, and \$15,000,000 for fiscal year 1988.

EFFECTIVE DATE

- 42 USC 10701 note. SEC. 216. The provisions of this title shall take effect on October 1, 1985.

TITLE III

Semiconductor
Chip Protection
Act of 1984.

SHORT TITLE

SEC. 301. This title may be cited as the "Semiconductor Chip Protection Act of 1984".

17 USC 901 note.

PROTECTION OF SEMICONDUCTOR CHIP PRODUCTS

SEC. 302. Title 17, United States Code, is amended by adding at the end thereof the following new chapter:

Computers.

**"CHAPTER 9—PROTECTION OF SEMICONDUCTOR
CHIP PRODUCTS**

"Sec.

"901. Definitions.

"902. Subject matter of protection.

"903. Ownership and transfer.

"904. Duration of protection.

"905. Exclusive rights in mask works.

"906. Limitation on exclusive rights: reverse engineering; first sale.

"907. Limitation on exclusive rights: innocent infringement.

"908. Registration of claims of protection.

"909. Mask work notice.

"910. Enforcement of exclusive rights.

"911. Civil actions.

"912. Relation to other laws.

"913. Transitional provisions.

"914. International transitional provisions.

"§ 901. Definitions

17 USC 901.

"(a) As used in this chapter—

"(1) a 'semiconductor chip product' is the final or intermediate form of any product—

"(A) having two or more layers of metallic, insulating, or semiconductor material, deposited or otherwise placed on, or etched away or otherwise removed from, a piece of semiconductor material in accordance with a predetermined pattern; and

"(B) intended to perform electronic circuitry functions;

"(2) a 'mask work' is a series of related images, however fixed or encoded—

"(A) having or representing the predetermined, three-dimensional pattern of metallic, insulating, or semiconductor material present or removed from the layers of a semiconductor chip product; and

"(B) in which series the relation of the images to one another is that each image has the pattern of the surface of one form of the semiconductor chip product;

"(3) a mask work is 'fixed' in a semiconductor chip product when its embodiment in the product is sufficiently permanent or stable to permit the mask work to be perceived or reproduced from the product for a period of more than transitory duration;

"(4) to 'distribute' means to sell, or to lease, bail, or otherwise transfer, or to offer to sell, lease, bail, or otherwise transfer;

"(5) to 'commercially exploit' a mask work is to distribute to the public for commercial purposes a semiconductor chip product embodying the mask work; except that such term includes an offer to sell or transfer a semiconductor chip product only

when the offer is in writing and occurs after the mask work is fixed in the semiconductor chip product;

“(6) the ‘owner’ of a mask work is the person who created the mask work, the legal representative of that person if that person is deceased or under a legal incapacity, or a party to whom all the rights under this chapter of such person or representative are transferred in accordance with section 903(b); except that, in the case of a work made within the scope of a person’s employment, the owner is the employer for whom the person created the mask work or a party to whom all the rights under this chapter of the employer are transferred in accordance with section 903(b);

“(7) an ‘innocent purchaser’ is a person who purchases a semiconductor chip product in good faith and without having notice of protection with respect to the semiconductor chip product;

“(8) having ‘notice of protection’ means having actual knowledge that, or reasonable grounds to believe that, a mask work is protected under this chapter; and

“(9) an ‘infringing semiconductor chip product’ is a semiconductor chip product which is made, imported, or distributed in violation of the exclusive rights of the owner of a mask work under this chapter.

“(b) For purposes of this chapter, the distribution or importation of a product incorporating a semiconductor chip product as a part thereof is a distribution or importation of that semiconductor chip product.

17 USC 902.

“§ 902. Subject matter of protection

“(a)(1) Subject to the provisions of subsection (b), a mask work fixed in a semiconductor chip product, by or under the authority of the owner of the mask work, is eligible for protection under this chapter if—

“(A) on the date on which the mask work is registered under section 908, or is first commercially exploited anywhere in the world, whichever occurs first, the owner of the mask work is (i) a national or domiciliary of the United States, (ii) a national, domiciliary, or sovereign authority of a foreign nation that is a party to a treaty affording protection to mask works to which the United States is also a party, or (iii) a stateless person, wherever that person may be domiciled;

“(B) the mask work is first commercially exploited in the United States; or

“(C) the mask work comes within the scope of a Presidential proclamation issued under paragraph (2).

President
of U.S.

“(2) Whenever the President finds that a foreign nation extends, to mask works of owners who are nationals or domiciliaries of the United States protection (A) on substantially the same basis as that on which the foreign nation extends protection to mask works of its own nationals and domiciliaries and mask works first commercially exploited in that nation, or (B) on substantially the same basis as provided in this chapter, the President may by proclamation extend protection under this chapter to mask works (i) of owners who are, on the date on which the mask works are registered under section 908, or the date on which the mask works are first commercially exploited anywhere in the world, whichever occurs first, nationals,

domiciliaries, or sovereign authorities of that nation, or (ii) which are first commercially exploited in that nation.

“(b) Protection under this chapter shall not be available for a mask work that—

“(1) is not original; or

“(2) consists of designs that are staple, commonplace, or familiar in the semiconductor industry, or variations of such designs, combined in a way that, considered as a whole, is not original.

“(c) In no case does protection under this chapter for a mask work extend to any idea, procedure, process, system, method of operation, concept, principle, or discovery, regardless of the form in which it is described, explained, illustrated, or embodied in such work.

“§ 903. Ownership, transfer, licensing, and recordation

17 USC 903.

“(a) The exclusive rights in a mask work subject to protection under this chapter belong to the owner of the mask work.

“(b) The owner of the exclusive rights in a mask work may transfer all of those rights, or license all or less than all of those rights, by any written instrument signed by such owner or a duly authorized agent of the owner. Such rights may be transferred or licensed by operation of law, may be bequeathed by will, and may pass as personal property by the applicable laws of intestate succession.

“(c)(1) Any document pertaining to a mask work may be recorded in the Copyright Office if the document filed for recordation bears the actual signature of the person who executed it, or if it is accompanied by a sworn or official certification that it is a true copy of the original, signed document. The Register of Copyrights shall, upon receipt of the document and the fee specified pursuant to section 908(d), record the document and return it with a certificate of recordation. The recordation of any transfer or license under this paragraph gives all persons constructive notice of the facts stated in the recorded document concerning the transfer or license.

“(2) In any case in which conflicting transfers of the exclusive rights in a mask work are made, the transfer first executed shall be void as against a subsequent transfer which is made for a valuable consideration and without notice of the first transfer, unless the first transfer is recorded in accordance with paragraph (1) within three months after the date on which it is executed, but in no case later than the day before the date of such subsequent transfer.

“(d) Mask works prepared by an officer or employee of the United States Government as part of that person’s official duties are not protected under this chapter, but the United States Government is not precluded from receiving and holding exclusive rights in mask works transferred to the Government under subsection (b).

“§ 904. Duration of protection

17 USC 904.

“(a) The protection provided for a mask work under this chapter shall commence on the date on which the mask work is registered under section 908, or the date on which the mask work is first commercially exploited anywhere in the world, whichever occurs first.

“(b) Subject to subsection (c) and the provisions of this chapter, the protection provided under this chapter to a mask work shall end ten years after the date on which such protection commences under subsection (a).

“(c) All terms of protection provided in this section shall run to the end of the calendar year in which they would otherwise expire.

17 USC 905.

“§ 905. Exclusive rights in mask works

“The owner of a mask work provided protection under this chapter has the exclusive rights to do and to authorize any of the following:

“(1) to reproduce the mask work by optical, electronic, or any other means;

“(2) to import or distribute a semiconductor chip product in which the mask work is embodied; and

“(3) to induce or knowingly to cause another person to do any of the acts described in paragraphs (1) and (2).

17 USC 906.

“§ 906. Limitation on exclusive rights: reverse engineering; first sale

“(a) Notwithstanding the provisions of section 905, it is not an infringement of the exclusive rights of the owner of a mask work for—

“(1) a person to reproduce the mask work solely for the purpose of teaching, analyzing, or evaluating the concepts or techniques embodied in the mask work or the circuitry, logic flow, or organization of components used in the mask work; or

“(2) a person who performs the analysis or evaluation described in paragraph (1) to incorporate the results of such conduct in an original mask work which is made to be distributed.

“(b) Notwithstanding the provisions of section 905(2), the owner of a particular semiconductor chip product made by the owner of the mask work, or by any person authorized by the owner of the mask work, may import, distribute, or otherwise dispose of or use, but not reproduce, that particular semiconductor chip product without the authority of the owner of the mask work.

17 USC 907.

“§ 907. Limitation on exclusive rights: innocent infringement

“(a) Notwithstanding any other provision of this chapter, an innocent purchaser of an infringing semiconductor chip product—

“(1) shall incur no liability under this chapter with respect to the importation or distribution of units of the infringing semiconductor chip product that occurs before the innocent purchaser has notice of protection with respect to the mask work embodied in the semiconductor chip product; and

“(2) shall be liable only for a reasonable royalty on each unit of the infringing semiconductor chip product that the innocent purchaser imports or distributes after having notice of protection with respect to the mask work embodied in the semiconductor chip product.

“(b) The amount of the royalty referred to in subsection (a)(2) shall be determined by the court in a civil action for infringement unless the parties resolve the issue by voluntary negotiation, mediation, or binding arbitration.

“(c) The immunity of an innocent purchaser from liability referred to in subsection (a)(1) and the limitation of remedies with respect to an innocent purchaser referred to in subsection (a)(2) shall extend to any person who directly or indirectly purchases an infringing semiconductor chip product from an innocent purchaser.

“(d) The provisions of subsections (a), (b), and (c) apply only with respect to those units of an infringing semiconductor chip product that an innocent purchaser purchased before having notice of protection with respect to the mask work embodied in the semiconductor chip product.

“§ 908. Registration of claims of protection

17 USC 908.

“(a) The owner of a mask work may apply to the Register of Copyrights for registration of a claim of protection in a mask work. Protection of a mask work under this chapter shall terminate if application for registration of a claim of protection in the mask work is not made as provided in this chapter within two years after the date on which the mask work is first commercially exploited anywhere in the world.

Termination.

“(b) The Register of Copyrights shall be responsible for all administrative functions and duties under this chapter. Except for section 708, the provisions of chapter 7 of this title relating to the general responsibilities, organization, regulatory authority, actions, records, and publications of the Copyright Office shall apply to this chapter, except that the Register of Copyrights may make such changes as may be necessary in applying those provisions to this chapter.

17 USC 701
et seq.

“(c) The application for registration of a mask work shall be made on a form prescribed by the Register of Copyrights. Such form may require any information regarded by the Register as bearing upon the preparation or identification of the mask work, the existence or duration of protection of the mask work under this chapter, or ownership of the mask work. The application shall be accompanied by the fee set pursuant to subsection (d) and the identifying material specified pursuant to such subsection.

“(d) The Register of Copyrights shall by regulation set reasonable fees for the filing of applications to register claims of protection in mask works under this chapter, and for other services relating to the administration of this chapter or the rights under this chapter, taking into consideration the cost of providing those services, the benefits of a public record, and statutory fee schedules under this title. The Register shall also specify the identifying material to be deposited in connection with the claim for registration.

Regulations

“(e) If the Register of Copyrights, after examining an application for registration, determines, in accordance with the provisions of this chapter, that the application relates to a mask work which is entitled to protection under this chapter, then the Register shall register the claim of protection and issue to the applicant a certificate of registration of the claim of protection under the seal of the Copyright Office. The effective date of registration of a claim of protection shall be the date on which an application, deposit of identifying material, and fee, which are determined by the Register of Copyrights or by a court of competent jurisdiction to be acceptable for registration of the claim, have all been received in the Copyright Office.

Effective date.

“(f) In any action for infringement under this chapter, the certificate of registration of a mask work shall constitute prima facie evidence (1) of the facts stated in the certificate, and (2) that the applicant issued the certificate has met the requirements of this chapter, and the regulations issued under this chapter, with respect to the registration of claims.

Prima facie
evidence.

“(g) Any applicant for registration under this section who is dissatisfied with the refusal of the Register of Copyrights to issue a

5 USC 701
et seq.

certificate of registration under this section may seek judicial review of that refusal by bringing an action for such review in an appropriate United States district court not later than sixty days after the refusal. The provisions of chapter 7 of title 5 shall apply to such judicial review. The failure of the Register of Copyrights to issue a certificate of registration within four months after an application for registration is filed shall be deemed to be a refusal to issue a certificate of registration for purposes of this subsection and section 910(b)(2), except that, upon a showing of good cause, the district court may shorten such four-month period.

17 USC 909


“§ 909. Mask work notice

Regulations.

Prima facie
evidence.

“(a) The owner of a mask work provided protection under this chapter may affix notice to the mask work, and to masks and semiconductor chip products embodying the mask work, in such manner and location as to give reasonable notice of such protection. The Register of Copyrights shall prescribe by regulation, as examples, specific methods of affixation and positions of notice for purposes of this section, but these specifications shall not be considered exhaustive. The affixation of such notice is not a condition of protection under this chapter, but shall constitute prima facie evidence of notice of protection.

“(b) The notice referred to in subsection (a) shall consist of—

“(1) the words ‘mask force’, the symbol *M*, or the symbol  (the letter M in a circle); and

“(2) the name of the owner or owners of the mask work or an abbreviation by which the name is recognized or is generally known.

17 USC 910.

“§ 910. Enforcement of exclusive rights

“(a) Except as otherwise provided in this chapter, any person who violates any of the exclusive rights of the owner of a mask work under this chapter, by conduct in or affecting commerce, shall be liable as an infringer of such rights.

“(b)(1) The owner of a mask work protected under this chapter, or the exclusive licensee of all rights under this chapter with respect to the mask work, shall, after a certificate of registration of a claim of protection in that mask work has been issued under section 908, be entitled to institute a civil action for any infringement with respect to the mask work which is committed after the commencement of protection of the mask work under section 904(a).

“(2) In any case in which an application for registration of a claim of protection in a mask work and the required deposit of identifying material and fee have been received in the Copyright Office in proper form and registration of the mask work has been refused, the applicant is entitled to institute a civil action for infringement under this chapter with respect to the mask work if notice of the action, together with a copy of the complaint, is served on the Register of Copyrights, in accordance with the Federal Rules of Civil Procedure. The Register may, at his or her option, become a party to the action with respect to the issue of whether the claim of protection is eligible for registration by entering an appearance within sixty days after such service, but the failure of the Register to become a party to the action shall not deprive the court of jurisdiction to determine that issue.

Regulations.

“(c)(1) The Secretary of the Treasury and the United States Postal Service shall separately or jointly issue regulations for the enforce-

ment of the rights set forth in section 905 with respect to importation. These regulations may require, as a condition for the exclusion of articles from the United States, that the person seeking exclusion take any one or more of the following actions:

“(A) Obtain a court order enjoining, or an order of the International Trade Commission under section 337 of the Tariff Act of 1930 excluding, importation of the articles.

19 USC 1337.

“(B) Furnish proof that the mask work involved is protected under this chapter and that the importation of the articles would infringe the rights in the mask work under this chapter.

“(C) Post a surety bond for any injury that may result if the detention or exclusion of the articles proves to be unjustified.

“(2) Articles imported in violation of the rights set forth in section 905 are subject to seizure and forfeiture in the same manner as property imported in violation of the customs laws. Any such forfeited articles shall be destroyed as directed by the Secretary of the Treasury or the court, as the case may be, except that the articles may be returned to the country of export whenever it is shown to the satisfaction of the Secretary of the Treasury that the importer had no reasonable grounds for believing that his or her acts constituted a violation of the law.

Seizure and forfeiture.

“§ 911. Civil actions

17 USC 911.

“(a) Any court having jurisdiction of a civil action arising under this chapter may grant temporary restraining orders, preliminary injunctions, and permanent injunctions on such terms as the court may deem reasonable to prevent or restrain infringement of the exclusive rights in a mask work under this chapter.

“(b) Upon finding an infringer liable, to a person entitled under section 910(b)(1) to institute a civil action, for an infringement of any exclusive right under this chapter, the court shall award such person actual damages suffered by the person as a result of the infringement. The court shall also award such person the infringer's profits that are attributable to the infringement and are not taken into account in computing the award of actual damages. In establishing the infringer's profits, such person is required to present proof only of the infringer's gross revenue, and the infringer is required to prove his or her deductible expenses and the elements of profit attributable to factors other than the mask work.

“(c) At any time before final judgment is rendered, a person entitled to institute a civil action for infringement may elect, instead of actual damages and profits as provided by subsection (b), an award of statutory damages for all infringements involved in the action, with respect to any one mask work for which any one infringer is liable individually, or for which any two or more infringers are liable jointly and severally, in an amount not more than \$250,000 as the court considers just.

“(d) An action for infringement under this chapter shall be barred unless the action is commenced within three years after the claim accrues.

“(e)(1) At any time while an action for infringement of the exclusive rights in a mask work under this chapter is pending, the court may order the impounding, on such terms as it may deem reasonable, of all semiconductor chip products, and any drawings, tapes, masks, or other products by means of which such products may be reproduced, that are claimed to have been made, imported, or used in violation of those exclusive rights. Insofar as practicable, applica-

tions for orders under this paragraph shall be heard and determined in the same manner as an application for a temporary restraining order or preliminary injunction.

“(2) As part of a final judgment or decree, the court may order the destruction or other disposition of any infringing semiconductor chip products, and any masks, tapes, or other articles by means of which such products may be reproduced.

“(f) In any civil action arising under this chapter, the court in its discretion may allow the recovery of full costs, including reasonable attorneys’ fees, to the prevailing party.

17 USC 912.

“§ 912. Relation to other laws

17 USC 1-801 *et seq.*

“(a) Nothing in this chapter shall affect any right or remedy held by any person under chapters 1 through 8 of this title, or under title 35.

“(b) Except as provided in section 908(b) of this title, references to ‘this title’ or ‘title 17’ in chapters 1 through 8 of this title shall be deemed not to apply to this chapter.

“(c) The provisions of this chapter shall preempt the laws of any State to the extent those laws provide any rights or remedies with respect to a mask work which are equivalent to those rights or remedies provided by this chapter, except that such preemption shall be effective only with respect to actions filed on or after January 1, 1986.

28 USC 1338, 1400, 1498.

“(d) The provisions of sections 1338, 1400(a), and 1498 (b) and (c) of title 28 shall apply with respect to exclusive rights in mask works under this chapter.

“(e) Notwithstanding subsection (c), nothing in this chapter shall detract from any rights of a mask work owner, whether under Federal law (exclusive of this chapter) or under the common law or the statutes of a State, heretofore or hereafter declared or enacted, with respect to any mask work first commercially exploited before July 1, 1983.

17 USC 913.

“§ 913. Transitional provisions

Prohibition.

“(a) No application for registration under section 908 may be filed, and no civil action under section 910 or other enforcement proceeding under this chapter may be instituted, until sixty days after the date of the enactment of this chapter.

Prohibition.

“(b) No monetary relief under section 911 may be granted with respect to any conduct that occurred before the date of the enactment of this chapter, except as provided in subsection (d).

“(c) Subject to subsection (a), the provisions of this chapter apply to all mask works that are first commercially exploited or are registered under this chapter, or both, on or after the date of the enactment of this chapter.

“(d)(1) Subject to subsection (a), protection is available under this chapter to any mask work that was first commercially exploited on or after July 1, 1983, and before the date of the enactment of this chapter, if a claim of protection in the mask work is registered in the Copyright Office before July 1, 1985, under section 908.

“(2) In the case of any mask work described in paragraph (1) that is provided protection under this chapter, infringing semiconductor chip product units manufactured before the date of the enactment of this chapter may, without liability under sections 910 and 911, be imported into or distributed in the United States, or both, until two years after the date of registration of the mask work under section

908, but only if the importer or distributor, as the case may be, first pays or offers to pay the reasonable royalty referred to in section 907(a)(2) to the mask work owner, on all such units imported or distributed, or both, after the date of the enactment of this chapter.

"(3) In the event that a person imports or distributes infringing semiconductor chip product units described in paragraph (2) of this subsection without first paying or offering to pay the reasonable royalty specified in such paragraph, or if the person refuses or fails to make such payment, the mask work owner shall be entitled to the relief provided in sections 910 and 911.

"§ 914. International transitional provisions

17 USC 914.

"(a) Notwithstanding the conditions set forth in subparagraphs (A) and (C) of section 902(a)(1) with respect to the availability of protection under this chapter to nationals, domiciliaries, and sovereign authorities of a foreign nation, the Secretary of Commerce may, upon the petition of any person, or upon the Secretary's own motion, issue an order extending protection under this chapter to such foreign nationals, domiciliaries, and sovereign authorities if the Secretary finds—

"(1) that the foreign nation is making good faith efforts and reasonable progress toward—

"(A) entering into a treaty described in section 902(a)(1)(A); or

"(B) enacting legislation that would be in compliance with subparagraph (A) or (B) of section 902(a)(2); and

"(2) that the nationals, domiciliaries, and sovereign authorities of the foreign nation, and persons controlled by them, are not engaged in the misappropriation, or unauthorized distribution or commercial exploitation, of mask works; and

"(3) that issuing the order would promote the purposes of this chapter and international comity with respect to the protection of mask works.

"(b) While an order under subsection (a) is in effect with respect to a foreign nation, no application for registration of a claim for protection in a mask work under this chapter may be denied solely because the owner of the mask work is a national, domiciliary, or sovereign authority of that foreign nation, or solely because the mask work was first commercially exploited in that foreign nation.

Prohibition.

"(c) Any order issued by the Secretary of Commerce under subsection (a) shall be effective for such period as the Secretary designates in the order, except that no such order may be effective after the date on which the authority of the Secretary of Commerce terminates under subsection (e). The effective date of any such order shall also be designated in the order. In the case of an order issued upon the petition of a person, such effective date may be no earlier than the date on which the Secretary receives such petition.

"(d)(1) Any order issued under this section shall terminate if—

Termination.

"(A) the Secretary of Commerce finds that any of the conditions set forth in paragraphs (1), (2), and (3) of subsection (a) no longer exist; or

"(B) mask works of nationals, domiciliaries, and sovereign authorities of that foreign nation or mask works first commercially exploited in that foreign nation become eligible for protection under subparagraph (A) or (C) of section 902(a)(1).

"(2) Upon the termination or expiration of an order issued under this section, registrations of claims of protection in mask works

made pursuant to that order shall remain valid for the period specified in section 904.

“(e) The authority of the Secretary of Commerce under this section shall commence on the date of the enactment of this chapter, and shall terminate three years after such date of enactment.

“(f)(1) The Secretary of Commerce shall promptly notify the Register of Copyrights and the Committees on the Judiciary of the Senate and the House of Representatives of the issuance or termination of any order under this section, together with a statement of the reasons for such action. The Secretary shall also publish such notification and statement of reasons in the Federal Register.

“(2) Two years after the date of the enactment of this chapter, the Secretary of Commerce, in consultation with the Register of Copyrights, shall transmit to the Committees on the Judiciary of the Senate and the House of Representatives a report on the actions taken under this section and on the current status of international recognition of mask work protection. The report shall include such recommendations for modifications of the protection accorded under this chapter to mask works owned by nationals, domiciliaries, or sovereign authorities of foreign nations as the Secretary, in consultation with the Register of Copyrights, considers would promote the purposes of this chapter and international comity with respect to mask work protection.”.

Federal
Register,
publication.
Report.

TECHNICAL AMENDMENT

SEC. 303. The table of chapters at the beginning of title 17, United States Code, is amended by adding at the end thereof the following new item:

“9. Protection of semiconductor chip products 901”.

AUTHORIZATION OF APPROPRIATIONS

17 USC 901 note.

SEC. 304. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this title and the amendments made by this title.

TITLE IV—FEDERAL COURTS IMPROVEMENTS

SUBTITLE A—CIVIL PRIORITIES

ESTABLISHMENT OF PRIORITY OF CIVIL ACTIONS

SEC. 401. (a) Chapter 111 of title 28, United States Code, is amended by adding at the end thereof the following new section:

28 USC 1657.

“§ 1657. Priority of civil actions

“(a) Notwithstanding any other provision of law, each court of the United States shall determine the order in which civil actions are heard and determined, except that the court shall expedite the consideration of any action brought under chapter 153 or section 1826 of this title, any action for temporary or preliminary injunctive relief, or any other action if good cause therefor is shown. For purposes of this subsection, ‘good cause’ is shown if a right under the Constitution of the United States or a Federal Statute (including rights under section 552 of title 5) would be maintained in a factual context that indicates that a request for expedited consideration has merit.

28 USC 2241 *et*
seq., 1826.

“(b) The Judicial Conference of the United States may modify the rules adopted by the courts to determine the order in which civil actions are heard and determined, in order to establish consistency among the judicial circuits.”.

(b) The section analysis of chapter 111 of title 28, United States Code, is amended by adding at the end thereof the following new item:

“1657. Priority of civil actions.”.

AMENDMENTS TO OTHER LAWS

SEC. 402. The following provisions of law are amended—

(1)(A) Section 309(a)(10) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(10)) is repealed.

(B) Section 310(c) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437h(c)) is repealed.

(2) Section 552(a)(4)(D) of title 5, United States Code, is repealed.

(3) Section 6(a) of the Commodity Exchange Act (7 U.S.C. 8(a)) is amended by striking out “The proceedings in such cases in the court of appeals shall be made a preferred cause and shall be expedited in every way.”.

(4)(A) Section 6(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136d(c)(4)) is amended by striking out the second sentence.

(B) Section 10(d)(3) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136h(d)(3)) is amended by striking out “The court shall give expedited consideration to any such action.”.

(C) Section 16(b) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136n(b)) is amended by striking out the last sentence.

(D) Section 25(a)(4)(E)(iii) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136w(a)(4)(E)(iii)) is repealed.

(5) Section 204(d) of the Packers and Stockyards Act, 1921 (7 U.S.C. 194(d)), is amended by striking out the second sentence.

(6) Section 366 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1366) is amended in the fourth sentence by striking out “At the earliest convenient time, the court, in term time or vacation,” and inserting in lieu thereof “The court”.

(7)(A) Section 410 of the Federal Seed Act (7 U.S.C. 1600) is amended by striking out “The proceedings in such cases in the court of appeals shall be made a preferred cause and shall be expedited in every way.”.

(B) Section 411 of the Federal Seed Act (7 U.S.C. 1601) is amended by striking out “The proceedings in such cases shall be made a preferred cause and shall be expedited in every way.”.

(8) Section 816(c)(4) of the Act of October 7, 1975, commonly known as the Department of Defense Appropriation Authorization Act of 1976 (10 U.S.C. 2304 note) is amended by striking out the last sentence.

(9) Section 5(d)(6)(A) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(6)(A)) is amended by striking out “Such proceedings shall be given precedence over other cases pending in such courts, and shall be in every way expedited.”.

(10)(A) Section 7A(f)(2) of the Clayton Act (15 U.S.C. 18a(f)(2)) is amended to read as follows: “(2) certifies the United States district court for the judicial district within which the respondent resides or carries on business, or in which the action is brought, that it or he believes that the public interest requires relief pendente lite pursuant to this subsection, then upon the filing of such motion and certification, the chief judge of such district court shall immediately notify the chief judge of the United States court of appeals for the circuit in which such district court is located, who shall designate a United States district judge to whom such action shall be assigned for all purposes.”.

(B) Section 11(e) of the Clayton Act (15 U.S.C. 21(e)) is amended by striking out the first sentence.

(11) Section 1 of the Act of February 11, 1903, commonly known as the Expediting Act (15 U.S.C. 28) is repealed.

(12) Section 5(e) of the Federal Trade Commission Act (15 U.S.C. 45(e)) is amended by striking out the first sentence.

(13) Section 21(f)(3) of the Federal Trade Commission Improvements Act of 1980 (15 U.S.C. 57a-1(f)(3)) is repealed.

(14) Section 11A(c)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78k-1(c)(4)) is amended—

(A) by striking out “(A)” after “(4)”; and

(B) by striking out subparagraph (B).

(15)(A) Section 309(e) of the Small Business Investment Act of 1958 (15 U.S.C. 687a(e)) is amended by striking out the sixth sentence.

(B) Section 309(f) of the Small Business Investment Act of 1958 (15 U.S.C. 687a(f)) is amended by striking out the last sentence.

(C) Section 311(a) of the Small Business Investment Act of 1958 (15 U.S.C. 687c(a)) is amended by striking out the last sentence.

(16) Section 10(c)(2) of the Alaska Natural Gas Transportation Act (15 U.S.C. 719h(c)(2)) is repealed.

(17) Section 155(a) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1415(a)) is amended by striking out “(1)” and by striking out paragraph (2).

(18) Section 503(b)(3)(E) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2003(b)(3)(E)) is amended by striking out clause (ii) and redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(19) Section 23(d) of the Toxic Substances Control Act (15 U.S.C. 2622(d)) is amended by striking out the last sentence.

(20) Section 12(e)(3) of the Coastal Zone Management Improvement Act of 1980 (16 U.S.C. 1463a(e)(3)) is repealed.

(21) Section 11 of the Act of September 28, 1976 (16 U.S.C. 1910), is amended by striking out the last sentence.

(22) (A) Section 807(b) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3117(b)) is repealed.

(B) Section 1108 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3168) is amended to read as follows:

“INJUNCTIVE RELIEF

“SEC. 1108. No court shall have jurisdiction to grant any injunctive relief lasting longer than ninety days against any action pursu-

ant to this title except in conjunction with a final judgment entered in a case involving an action pursuant to this title.”.

(23)(A) Section 10(b)(3) of the Central Idaho Wilderness Act of 1980 (Public Law 96-312; 94 Stat. 948) is repealed.

(B) Section 10(c) of the Central Idaho Wilderness Act of 1980 is amended to read as follows:

“(c) Any review of any decision of the United States District Court for the District of Idaho shall be made by the Ninth Circuit Court of Appeals of the United States.”.

(24)(A) Section 1964(b) of title 18, United States Code, is amended by striking out the second sentence.

(B) Section 1966 of title 18, United States Code, is amended by striking out the last sentence.

(25)(A) Section 408(i)(5) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(i)(5)) is amended by striking out the last sentence.

(B) Section 409(g)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(g)(2)) is amended by striking out the last sentence.

(26) Section 8(f) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 618(f)) is amended by striking out the last sentence.

(27) Section 4 of the Act of December 22, 1974 (25 U.S.C. 640d-3), is amended by striking out “(a)” and by striking out subsection (b).

(28)(A) Section 3310(e) of the Internal Revenue Code of 1954 (26 U.S.C. 3310(e)) is repealed.

(B) Section 6110(f)(5) of the Internal Revenue Code of 1954 (26 U.S.C. 6110(f)(5)) is amended by striking out “and the Court of Appeals shall expedite any review of such decision in every way possible”.

(C) Section 6363(d)(4) of the Internal Revenue Code of 1954 (26 U.S.C. 6363(d)(4)) is repealed.

(D) Section 7609(h)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 7609(h)(3)) is repealed.

(E) Section 9010(c) of the Internal Revenue Code of 1954 (26 U.S.C. 9010(c)) is amended by striking out the last sentence.

(F) Section 9011(b)(2) of the Internal Revenue Code of 1954 (26 U.S.C. 9011(b)(2)) is amended by striking out the last sentence.

(29)(A) Section 596(a)(3) of title 28, United States Code, is amended by striking out the last sentence.

(B) Section 636(c)(4) of title 28, United States Code, is amended in the second sentence by striking out “expeditious and”.

(C) Section 1296 of title 28, United States Code, and the item relating to that section in the section analysis of chapter 83 of that title, are repealed.

(D) Subsection (c) of section 1364 of title 28, United States Code, the section heading of which reads “Senate actions”, is repealed.

(E) Section 2284(b)(2) of title 28, United States Code, is amended by striking out the last sentence.

(F) Section 2349(b) of title 28, United States Code, is amended by striking out the last two sentences.

(G) Section 2647 of title 28, United States Code, and the item relating to that section in the section analysis of chapter 169 of that title, are repealed.

(30) Section 10 of the Act of March 23, 1932, commonly known as the Norris-LaGuardia Act (29 U.S.C. 110), is amended by

striking out “with the greatest possible expedition” and all that follows through the end of the sentence and inserting in lieu thereof “expeditiously”.

(31) Section 10(i) of the National Labor Relations Act (29 U.S.C. 160(i)) is repealed.

(32) Section 11(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 660(a)) is amended by striking out the last sentence.

(33) Section 4003(e)(4) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1303(e)(4)) is repealed.

(34) Section 106(a)(1) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 816(a)(1)) is amended by striking out the last sentence.

2 USC 687. (35) Section 1016 of the Impoundment Control Act of 1974 (31 U.S.C. 1406) is amended by striking out the second sentence.

(36) Section 2022 of title 38, United States Code, is amended by striking out “The court shall order speedy hearing in any such case and shall advance it on the calendar.”.

(37) Section 3628 of title 39, United States Code, is amended by striking out the fourth sentence.

(38) Section 1450(i)(4) of the Public Health Service Act (42 U.S.C. 300j-9(i)(4)) is amended by striking out the last sentence.

(39) Section 304(e) of the Social Security Act (42 U.S.C. 504(e)) is repealed.

(40) Section 814 of the Act of April 11, 1968 (42 U.S.C. 3614), is repealed.

(41) The matter under the subheading “Exploration of National Petroleum Reserve in Alaska” under the headings “ENERGY AND MINERALS” and “GEOLOGICAL SURVEY” in title I of the Act of December 12, 1980 (94 Stat. 2964; 42 U.S.C. 6508), is amended in the third paragraph by striking out the last sentence.

(42) Section 214(b) of the Emergency Energy Conservation Act of 1979 (42 U.S.C. 8514(b)) is repealed.

(43) Section 2 of the Act of February 25, 1885 (43 U.S.C. 1062), is amended by striking out “; and any suit brought under the provisions of this section shall have precedence for hearing and trial over other cases on the civil docket of the court, and shall be tried and determined at the earliest practicable day”.

(44) Section 23(d) of the Outer Continental Shelf Lands Act (43 U.S.C. 1349(d)) is repealed.

(45) Section 511(c) of the Public Utilities Regulatory Policies Act of 1978 (43 U.S.C. 2011(c)) is amended by striking out “Any such proceeding shall be assigned for hearing at the earliest possible date and shall be expedited by such court.”.

(46) Section 203(d) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1652(d)) is amended by striking out the fourth sentence.

(47) Section 5(f) of the Railroad Unemployment Insurance Act (45 U.S.C. 355(f)) is amended by striking out “, and shall be given precedence in the adjudication thereof over all other civil cases not otherwise entitled by law to precedence”.

(48) Section 305(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 745(d)(2)) is amended—

(A) in the first sentence by striking out “Within 180 days after” and inserting in lieu thereof “After”; and

(B) in the last sentence by striking out “Within 90 days after” and inserting in lieu thereof “After”.

(49) Section 124(b) of the Rock Island Transition and Employee Assistance Act (45 U.S.C. 1018(b)) is amended by striking out “, and shall render a final decision no later than 60 days after the date the last such appeal is filed”.

(50) Section 402(g) of the Communications Act of 1934 (47 U.S.C. 402(g)) is amended—

(A) by striking out “At the earliest convenient time the” and inserting in lieu thereof “The”; and

(B) by striking out “10(e) of the Administrative Procedure Act” and inserting in lieu thereof “706 of title 5, United States Code”.

(51) Section 405(e) of the Surface Transportation Assistance Act of 1982 (Public Law 97-424; 49 U.S.C. 2305(e)) is amended by striking out the last sentence.

49 USC app.
2305.

(52) Section 606(c)(1) of the Rail Safety and Service Improvement Act of 1982 (Public Law 97-468; 49 U.S.C. 1205(c)(1)) is amended by striking out the second sentence.

45 USC 1205.

(53) Section 13A(a) of the Subversive Activities Control Act of 1950 (50 U.S.C. 792a note) is amended in the third sentence by striking out “or any court”.

(54) Section 12(a) of the Military Selective Service Act of 1967 (50 U.S.C. App. 462(a)) is amended by striking out the last sentence.

(55) Section 4(b) of the Act of July 2, 1948 (50 U.S.C. App. 1984(b)), is amended by striking out the last sentence.

EFFECTIVE DATE

SEC. 403. The amendments made by this subtitle shall not apply to cases pending on the date of the enactment of this subtitle.

28 USC 1657
note.

SUBTITLE B—DISTRICT COURT ORGANIZATION

SEC. 404. This subtitle may be cited as the “Federal District Court Organization Act of 1984”.

Federal District
Court
Organization
Act of 1984.
28 USC 1 note.

SEC. 405. The second sentence of subsection (c) of section 112 of title 28, United States Code, is amended to read as follows:

“Court for the Eastern District shall be held at Brooklyn, Hauppauge, and Hempstead (including the village of Uniondale).”.

SEC. 406. (a) Subsection (a) of section 93 of title 28, United States Code, is amended—

(1) in paragraph (1) by striking out “De Kalb,” and “McHenry,”; and

(2) in paragraph (2)—

(A) by inserting “De Kalb,” immediately after “Carroll,”; and

(B) by inserting “McHenry,” immediately after “Lee,”.

(b) The amendments made by subsection (a) of this section shall apply to any action commenced in the United States District Court for the Northern District of Illinois on or after the effective date of this subtitle, and shall not affect any action pending in such court on such effective date.

28 USC 93 note.

(c) The second sentence of subsection (b) of section 93 of title 28, United States Code, is amended by inserting “Champaign/Urbana,” before “Danville”.

28 USC 124. SEC. 407. (a) Subsection (b) of section 124 of title 26, United States Code, is amended—

(1) by striking out “six divisions” and inserting in lieu thereof “seven divisions”;

(2) in paragraph (4) by striking out “, Hidalgo, Starr,”; and

(3) by adding at the end thereof the following:

“(7) The McAllen Division comprises the counties of Hidalgo and Starr.

“Court for the McAllen Division shall be held at McAllen.”.

28 USC 124 note.

(b) The amendments made by subsection (a) of this section shall apply to any action commenced in the United States District Court for the Southern District of Texas on or after the effective date of this subtitle, and shall not affect any action pending in such court on such effective date.

SEC. 408. (a) Paragraph (1) of section 90(a) of title 28, United States Code, is amended—

(1) by inserting “Fannin,” after “Dawson,”;

(2) by inserting “Gilmer,” after “Forsyth,”; and

(3) by inserting “Pickens,” after “Lumpkin,”.

(b) Paragraph (2) of section 90(a) of title 28, United States Code, is amended by striking out “Fannin,” “Gilmer,” and “Pickens,”.

(c) Paragraph (6) of section 90(c) of title 28, United States Code, is amended by striking out “Swainsboro” each place it appears and inserting in lieu thereof “Statesboro”.

28 USC 90 note.

(d) The amendments made by this section shall apply to any action commenced in the United States District Court for the Northern District of Georgia on or after the effective date of this subtitle, and shall not affect any action pending in such court on such effective date.

SEC. 409. Section 85 of title 28, United States Code, is amended by inserting “Boulder,” before “Denver”.

SEC. 410. The second sentence of section 126 of title 28, United States Code, is amended by inserting “Bennington,” before “Brattleboro”.

Effective date.
28 USC 85 note.

SEC. 411. (a) The amendments made by this subtitle shall take effect on January 1, 1985.

(b) The amendments made by this subtitle shall not affect the composition, or preclude the service, of any grand or petit jury summoned, impaneled, or actually serving on the effective date of this subtitle.

Technical
Amendments
to the Federal
Courts
Improvement
Act of 1982.
28 USC 1 note.

SUBTITLE C—AMENDMENTS TO THE FEDERAL COURTS IMPROVEMENTS ACT OF 1982

This subtitle may be cited as the “Technical Amendments to the Federal Courts Improvement Act of 1982”.

SEC. 412. (a) Section 1292(b) of title 28, United States Code, is amended by inserting “which would have jurisdiction of an appeal of such action” after “The Court of Appeals”.

(b) Section 1292(c)(1) of title 28, United States Code, is amended by inserting “or (b)” after “(a)”.

SEC. 413. Section 337(c) of the Tariff Act of 1930 (19 U.S.C. 1337(c)) is amended in the fourth sentence by inserting “, within 60 days after the determination becomes final,” after “appeal such determination”.

SEC. 414. (a) Sections 142, 143, and 144 of title 35, United States Code, are amended to read as follows:

“§ 142. Notice of appeal

35 USC 142.

“When an appeal is taken to the United States Court of Appeals for the Federal Circuit, the appellant shall file in the Patent and Trademark Office a written notice of appeal directed to the Commissioner, within such time after the date of the decision from which the appeal is taken as the Commissioner prescribes, but in no case less than 60 days after that date.

“§ 143. Proceedings on appeal

35 USC 143.

“With respect to an appeal described in section 142 of this title, the Commissioner shall transmit to the United States Court of Appeals for the Federal Circuit a certified list of the documents comprising the record in the Patent and Trademark Office. The court may request that the Commissioner forward the original or certified copies of such documents during pendency of the appeal. In an ex parte case, the Commissioner shall submit to the court in writing the grounds for the decision of the Patent and Trademark Office, addressing all the issues involved in the appeal. The court shall, before hearing an appeal, give notice of the time and place of the hearing to the Commissioner and the parties in the appeal.

“§ 144. Decision on appeal

35 USC 144.

“The United States Court of Appeals for the Federal Circuit shall review the decision from which an appeal is taken on the record before the Patent and Trademark Office. Upon its determination the court shall issue to the Commissioner its mandate and opinion, which shall be entered of record in the Patent and Trademark Office and shall govern the further proceedings in the case.”

(b) Paragraphs (2), (3), and (4) of subsection (a) of section 21 of the Act entitled “An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes”, approved July 5, 1946 (15 U.S.C. 1071(a) (2), (3), and (4)), are amended to read as follows:

“(2) When an appeal is taken to the United States Court of Appeals for the Federal Circuit, the appellant shall file in the Patent and Trademark Office a written notice of appeal directed to the Commissioner, within such time after the date of the decision from which the appeal is taken as the Commissioner prescribes, but in no case less than 60 days after that date.

“(3) The Commissioner shall transmit to the United States Court of Appeals for the Federal Circuit a certified list of the documents comprising the record in the Patent and Trademark Office. The court may request that the Commissioner forward the original or certified copies of such documents during pendency of the appeal. In an ex parte case, the Commissioner shall submit to that court a brief explaining the grounds for the decision of the Patent and Trademark Office, addressing all the issues involved in the appeal. The court shall, before hearing an appeal, give notice of the time and place of the hearing to the Commissioner and the parties in the appeal.

“(4) The United States Court of Appeals for the Federal Circuit shall review the decision from which the appeal is taken on the record before the Patent and Trademark Office. Upon its determination the court shall issue its mandate and opinion to the Commis-

sioner, which shall be entered of record in the Patent and Trademark Office and shall govern the further proceedings in the case.”.

35 USC 142 note.

(c) The amendments made by this section shall apply to proceedings pending in the Patent and Trademark Office on the date of the enactment of this Act and to appeals pending in the United States Court of Appeals for the Federal Circuit on such date.

28 USC 713 note.

SEC. 415. Any individual who, on the date of the enactment of the Federal Courts Improvement Act of 1982, was serving as marshal for the Court of Appeals for the District of Columbia under section 713(c) of title 28, United States Code, may, after the date of the enactment of this Act, so serve under that section as in effect on the date of the enactment of the Federal Courts Improvement Act of 1982. While such individual so serves, the provisions of section 714(a) of title 28, United States Code, shall not apply to the Court of Appeals for the District of Columbia.

SEC. 416. Title 28, United States Code, is amended in the following respects:

(a) There shall be inserted, after section 797 thereof, in chapter 51 thereof, the following new section 798, which shall read as follows:

28 USC 798.

“§ 798. Places of holding court; appointment of special masters

“(a) The United States Claims Court is hereby authorized to utilize facilities and hold court in Washington, District of Columbia, and in four locations outside of the Washington, District of Columbia metropolitan area, for the purpose of conducting trials and such other proceedings as may be appropriate to executing the court’s functions. The Director of the Administrative Office of the United States Courts shall designate such locations and provide for such facilities.

“(b) The chief judge of the Claims Court may appoint special masters to assist the court in carrying out its functions. Any special masters so appointed shall carry out their responsibilities and be compensated in accordance with procedures set forth in the rules of the court.”.

(b) The caption of chapter 51, title 28, shall be amended to include the following item:

“798. Places of holding court; appointment of special masters.”.

**TITLE V—GOVERNMENT RESEARCH AND DEVELOPMENT
PATENT POLICY**

SEC. 501. Chapter 18 of title 35, United States Code, is amended—

35 USC 201.

(1) by adding “or any novel variety of plant which is or may be protectable under the Plant Variety Protection Act (7 U.S.C. 2321 et seq.)” immediately after “title” in section 201(d);

(2) by adding “: *Provided*, That in the case of a variety of plant, the date of determination (as defined in section 41(d) of the Plant Variety Protection Act (7 U.S.C. 2401(d))) must also occur during the period of contract performance” immediately after “agreement” in section 201(e);

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Grants.
35 USC 202.

(3) in section 202(a), by amending clause (i) to read as follows: “(i) when the contractor is not located in the United States or does not have a place of business located in the United States or is subject to the control of a foreign government,”; by striking the word “or” before “ii”, and by adding after the words “security of such activities” in the first sentence of such para-

graph, the following: “or, iv) when the funding agreement includes the operation of a Government-owned, contractor-operated facility of the Department of Energy primarily dedicated to that Department’s naval nuclear propulsion or weapons related programs and all funding agreement limitations under this subparagraph on the contractor’s right to elect title to a subject invention are limited to inventions occurring under the above two programs of the Department of Energy.”

(4) by amending paragraphs (1) and (2) of section 202(b) to read as follows:

35 USC 202.

“(b)(1) The rights of the Government under subsection (a) shall not be exercised by a Federal agency unless it first determines that at least one of the conditions identified in clauses (i) through (iv) of subsection (a) exists. Except in the case of subsection (a)(iii), the agency shall file with the Secretary of Commerce, within thirty days after the award of the applicable funding agreement, a copy of such determination. In the case of a determination under subsection (a)(ii), the statement shall include an analysis justifying the determination. In the case of determinations applicable to funding agreements with small business firms, copies shall also be sent to the Chief Counsel for Advocacy of the Small Business Administration. If the Secretary of Commerce believes that any individual determination or pattern of determinations is contrary to the policies and objectives of this chapter or otherwise not in conformance with this chapter, the Secretary shall so advise the head of the agency concerned and the Administrator of the Office of Federal Procurement Policy, and recommend corrective actions.

Small business.

“(2) Whenever the Administrator of the Office of Federal Procurement Policy has determined that one or more Federal agencies are utilizing the authority of clause (i) or (ii) of subsection (a) of this section in a manner that is contrary to the policies and objectives of this chapter, the Administrator is authorized to issue regulations describing classes of situations in which agencies may not exercise the authorities of those clauses.”;

Regulations.

(4A) By adding at the end of section 202(b) the following new paragraph:

Contracts with
U.S.
Grants.

“(4) If the contractor believes that a determination is contrary to the policies and objectives of this chapter or constitutes an abuse of discretion by the agency, the determination shall be subject to the last paragraph of section 203(2).”.

(5) by amending paragraphs (1), (2), (3), and (4) of section 202(c) to read as follows:

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“(1) That the contractor disclose each subject invention to the Federal agency within a reasonable time after it becomes known to contractor personnel responsible for the administration of patent matters, and that the Federal Government may receive title to any subject invention not disclosed to it within such time.

“(2) That the contractor make a written election within two years after disclosure to the Federal agency (or such additional time as may be approved by the Federal agency) whether the contractor will retain title to a subject invention: *Provided*, That in any case where publication, on sale, or public use, has initiated the one year statutory period in which valid patent protection can still be obtained in the United States, the period for election may be shortened by the Federal agency to a date that is not more than sixty days prior to the end of the statutory

period: *And provided further*, That the Federal Government may receive title to any subject invention in which the contractor does not elect to retain rights or fails to elect rights within such times.

“(3) That a contractor electing rights in a subject invention agrees to file a patent application prior to any statutory bar date that may occur under this title due to publication, on sale, or public use, and shall thereafter file corresponding patent applications in other countries in which it wishes to retain title within reasonable times, and that the Federal Government may receive title to any subject inventions in the United States or other countries in which the contractor has not filed patent applications on the subject invention within such times.

“(4) With respect to any invention in which the contractor elects rights, the Federal agency shall have a nonexclusive, nontransferrable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States any subject invention throughout the world: *Provided*, That the funding agreement may provide for such additional rights; including the right to assign or have assigned foreign patent rights in the subject invention, as are determined by the agency as necessary for meeting the obligations of the United States under any treaty, international agreement, arrangement of cooperation, memorandum of understanding, or similar arrangement, including military agreement relating to weapons development and production.”

International
agreements.
Defense and
national
security.

35 USC 202.

(6) by striking out “may” in section 202(c)(5) and inserting in lieu thereof “as well as any information on utilization or efforts at obtaining utilization obtained as part of a proceeding under section 203 of this chapter shall”;

(7) by striking out “and which is not, itself, engaged in or does not hold a substantial interest in other organizations engaged in the manufacture or sales of products or the use of processes that might utilize the invention or be in competition with embodiments of the invention” in clause (A) of section 202(c)(7);

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Grants.

(8) by amending clauses (B)–(D) of section 202(c)(7) to read as follows: “(B) a requirement that the contractor share royalties with the inventor; (C) except with respect to a funding agreement for the operation of a Government-owned-contractor-operated facility, a requirement that the balance of any royalties or income earned by the contractor with respect to subject inventions, after payment of expenses (including payments to inventors) incidental to the administration of subject inventions, be utilized for the support of scientific research or education; (D) a requirement that, except where it proves infeasible after a reasonable inquiry, in the licensing of subject inventions shall be given to small business firms; and (E) with respect to a funding agreement for the operation of a Government-owned-contractor-operated facility, requirements (i) that after payment of patenting costs, licensing costs, payments to inventors, and other expenses incidental to the administration of subject inventions, 100 percent of the balance of any royalties or income earned and retained by the contractor during any fiscal year up to an amount equal to 5 percent of the annual budget of the facility, shall be used by the contractor for scientific research, development, and education consistent with the research and development mission and objectives of the facility, including activities

Small business.

that increase the licensing potential of other inventions of the facility; provided that if said balance exceeds 5 percent of the annual budget of the facility, that 75 percent of such excess shall be paid to the Treasury of the United States and the remaining 25 percent shall be used for the same purposes as described above in this clause (D); and (ii) that, to the extent it provides the most effective technology transfer, the licensing of subject inventions shall be administered by contractor employees on location at the facility."

(9) by adding "(1. before the word "With" in the first line of section 203, and by adding at the end of section 203 the following:

35 USC 203.

"(2) A determination pursuant to this section or section 202(b)(4) shall not be subject to the Contract Disputes Act (41 U.S.C. § 601 et seq.). An administrative appeals procedure shall be established by regulations promulgated in accordance with section 206. Additionally, any contractor, inventor, assignee, or exclusive licensee adversely affected by a determination under this section may, at any time within sixty days after the determination is issued, file a petition in the United States Claims Court, which shall have jurisdiction to determine the appeal on the record and to affirm, reverse, remand or modify, ", as appropriate, the determination of the Federal agency. In cases described in paragraphs (a) and (c), the agency's determination shall be held in abeyance pending the exhaustion of appeals or petitions filed under the preceding sentence.";

Regulations.

(10) by amending section 206 to read as follows:

35 USC 206.

"§ 206. Uniform clauses and regulations

"The Secretary of Commerce may issue regulations which may be made applicable to Federal agencies implementing the provisions of sections 202 through 204 of this chapter and shall establish standard funding agreement provisions required under this chapter. The regulations and the standard funding agreement shall be subject to public comment before their issuance.";

(11) in section 207 by inserting "(a)" before "Each Federal" and by adding the following new subsection at the end thereof: "(b) For the purpose of assuring the effective management of Government-owned inventions, the Secretary of Commerce is authorized to—

"(1) assist Federal agency efforts to promote the licensing and utilization of Government-owned inventions;

"(2) assist Federal agencies in seeking protection and maintaining inventions in foreign countries, including the payment of fees and costs connected therewith; and

"(3) consult with and advise Federal agencies as to areas of science and technology research and development with potential for commercial utilization."; and

(12) in section 208 by striking out "Administrator of General Services" and inserting in lieu thereof "Secretary of Commerce".

(13) by deleting from the first sentence of section 210(c), "August 23, 1971 (36 Fed. Reg. 16887)" and inserting in lieu thereof "February 18, 1983", and by inserting the following before the period at the end of the first sentence of section 210(c) "except that all funding agreements, including those with other than small business firms and nonprofit organizations, shall

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Grants.

include the requirements established in paragraph 202(c)(4) and section 203 of this title.”

(14) by adding at the end thereof the following new section:

Prohibition.
35 USC 212.

“§ 212. Disposition of rights in educational awards

“No scholarship, fellowship, training grant, or other funding agreement made by a Federal agency primarily to an awardee for educational purposes will contain any provision giving the Federal agency any rights to inventions made by the awardee.”; and

(15) by adding at the end of the table of sections for the chapter the following new item:

“212. Disposition of rights in educational awards.”.

Approved November 8, 1984.

LEGISLATIVE HISTORY—H.R. 6163:

HOUSE REPORT No. 98-1062 (*Comm. on the Judiciary*).

CONGRESSIONAL RECORD, Vol. 130 (1984):

Sept. 24, considered and passed House.

Oct. 3, considered and passed Senate, amended.

Oct. 9, House concurred in Senate amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 45 (1984):

July 9, Presidential statement.

Public Law 98-621
98th Congress

An Act

To provide for the assumption of selected functions, programs, and resources of Saint Elizabeths Hospital by the District of Columbia, to provide for the establishment of a comprehensive mental health care system in the District of Columbia, and for other purposes.

Nov. 8, 1984

[H.R. 6224]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Saint Elizabeths Hospital and District of Columbia Mental Health Services Act".

Saint Elizabeths
Hospital and
District of
Columbia
Mental Health
Services Act.
24 USC 225 note.

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress makes the following findings:

24 USC 225.

(1) Governmentally administered mental health services in the District of Columbia are currently provided through two separate public entities, the federally administered Saint Elizabeths Hospital and the Mental Health Services Administration of the District of Columbia Department of Human Resources.

(2) The District of Columbia has a continuing responsibility to provide mental health services to its residents.

(3) The Federal Government, through its operation of a national mental health program at Saint Elizabeths Hospital, has for over 100 years assisted the District of Columbia in carrying out that responsibility.

(4) Since its establishment by Congress in 1855, Saint Elizabeths Hospital has developed into a respected national mental health hospital and study, training, and treatment center, providing a range of quality mental health and related services, including—

(i) acute and chronic inpatient psychiatric care;

(ii) outpatient psychiatric and substance abuse clinical and related services;

(iii) Federal court system forensic psychiatry referral, evaluation, and patient treatment services for prisoners, and for individuals awaiting trial or requiring post-trial or post-sentence psychiatric evaluation;

(iv) patient care and related services for designated classes of individuals entitled to mental health benefits under Federal law, such as certain members and employees of the United States Armed Forces and the Foreign Service, and residents of American overseas dependencies;

(v) District of Columbia court system forensic psychiatry referral, evaluation, and patient treatment services for prisoners, and for individuals awaiting trial or requiring post-trial or post-sentence psychiatric evaluation;

(vi) programs for special populations such as the mentally ill deaf;

(vii) support for basic and applied clinical psychiatric research and related patient services conducted by the National Institute of Mental Health and other institutions; and

(viii) professional and paraprofessional training in the major mental health disciplines.

(5) The continuation of the range of services currently provided by federally administered Saint Elizabeths Hospital must be assured, as these services are integrally related to—

(i) the availability of adequate mental health services to District of Columbia residents, nonresidents who require mental health services while in the District of Columbia, individuals entitled to mental health services under Federal law, and individuals referred by both Federal and local court systems; and

(ii) the Nation's capacity to increase our knowledge and understanding about mental illness and to facilitate and continue the development and broad availability of sound and modern methods and approaches for the treatment of mental illness.

(6) The assumption of all or selected functions, programs, and resources of Saint Elizabeths Hospital from the Federal Government by the District of Columbia, and the integration of those functions, resources, and programs into a comprehensive mental health care system administered solely by the District of Columbia, will improve the efficiency and effectiveness of the services currently provided through those two separate entities by shifting the primary focus of care to an integrated community-based system.

Home rule.

(7) Such assumption of all or selected functions, programs, and resources of Saint Elizabeths Hospital by the District of Columbia would further the principle of home rule for the District of Columbia.

(b) It is the intent of Congress that—

(1) the District of Columbia have in operation no later than October 1, 1991, an integrated coordinated mental health system in the District which provides—

(A) high quality, cost-effective, and community-based programs and facilities;

(B) a continuum of inpatient and outpatient mental health care, residential treatment, and support services through an appropriate balance of public and private resources; and

(C) assurances that patient rights and medical needs are protected;

(2) the comprehensive District mental health care system be in full compliance with the Federal court consent decree in *Dixon v. Heckler*;

(3) the District and Federal Governments bear equitable shares of the costs of a transition from the present system to a comprehensive District mental health system;

(4) the transition to a comprehensive District mental health system provided for by this Act be carried out with maximum consideration for the interests of employees of the Hospital and provide a right-of-first-refusal to such employees for employment at comparable levels in positions created under the system implementation plan;

Employment
and
unemployment.

(5) the Federal Government have the responsibility for the retraining of Hospital employees to prepare such employees for the requirements of employment in a comprehensive District mental health system;

Employment
and
unemployment.

(6) the Federal Government continue high quality mental health research, training, and demonstration programs at Saint Elizabeths Hospital;

Research and
development.

(7) the District government establish and maintain accreditation and licensing standards for all services provided in District mental health facilities which assure quality care consistent with appropriate Federal regulations and comparable with standards of the Joint Commission on Accreditation of Hospitals; and

(8) the comprehensive mental health system plan include a component for direct services for the homeless mentally ill.

DEFINITIONS

SEC. 3. For the purpose of this Act:

24 USC 225a.

(1) The term "Hospital" means the institution in the District of Columbia known as Saint Elizabeths Hospital operated on the date of the enactment of this Act by the Secretary of Health and Human Services.

(2) The term "Secretary" means the Secretary of Health and Human Services.

(3) The term "Mayor" means the Mayor of the District of Columbia.

(4) The term "District" means the District of Columbia.

(5) The term "Federal court consent decree" means the consent decree in *Dixon v. Heckler*, Civil Action No. 74-285.

(6) The term "service coordination period" means a period beginning on the effective date of this Act and terminating on October 1, 1987.

(7) The term "financial transition period" means a period beginning on the effective date of this Act and terminating on October 1, 1991.

(8) The term "system implementation plan" means the plan for a comprehensive mental health system for the District of Columbia to be developed pursuant to this Act.

(9) The term "Council" means the Council of the District of Columbia.

DEVELOPMENT OF PLAN FOR MENTAL HEALTH SYSTEM FOR THE DISTRICT

SEC. 4. (a)(1) Subject to subsection (g) of this section and section 9(b)(1), effective October 1, 1987, the District shall be responsible for the provision of mental health services to residents of the District.

24 USC 225b.

(2) Not later than October 1, 1991, the Mayor shall complete the implementation of the final system implementation plan reviewed by the Congress and the Council in accordance with the provisions of this Act for the establishment of a comprehensive District mental health system to provide mental health services and programs through community mental health facilities to individuals in the District of Columbia.

(b)(1) The Mayor shall prepare a preliminary system implementation plan for a comprehensive mental health system no later than 3

months from the effective date of this Act, and a final implementation plan no later than 12 months from the effective date of this Act.

(2) The Mayor shall submit the preliminary system implementation plan to the Council no later than 3 months from the effective date of this Act. The Council shall review such plan and transmit written recommendations to the Mayor regarding any revisions to such plan no later than 60 days after such submission. The Mayor shall submit the revised preliminary plan to the Committee on the District of Columbia of the House of Representatives and the Committee on Labor and Human Resources and the Committee on Governmental Affairs of the Senate for review and comment in accordance with the provisions of this Act.

(3) The final system implementation plan shall be considered by the Council consistent with the provisions of section 422(12) of the District of Columbia Self-Government and Governmental Reorganization Act.

(4) After the review of the Council pursuant to paragraph (3), the Mayor shall submit the final implementation plan to the Committee on the District of Columbia of the House of Representatives and the Committee on Labor and Human Resources and the Committee on Governmental Affairs of the Senate for review and comment in accordance with the provisions of this Act.

(c) The system implementation plan shall—

(1) propose and describe an integrated, comprehensive, and coordinated mental health system for the District of Columbia;

(2) identify the types of treatment to be offered, staffing patterns, and the proposed sites for service delivery within the District of Columbia comprehensive mental health system;

(3) identify mechanisms to attract and retain personnel of appropriate number and quality to meet the objectives of the comprehensive mental health system;

(4) be in full compliance with the Federal court consent decree in *Dixon v. Heckler* and all applicable District of Columbia statutes and court decrees;

(5) identify those positions, programs, and functions at Saint Elizabeths Hospital which are proposed for assumption by the District, those facilities at Saint Elizabeths Hospital which are proposed for utilization by the District under a comprehensive District mental health system, and the staffing patterns and programs at community facilities to which the assumed functions are to be integrated;

(6) identify any capital improvements to facilities at Saint Elizabeths Hospital and elsewhere in the District of Columbia proposed for delivery of mental health services, which are necessary for the safe and cost effective delivery of mental health services; and

(7) identify the specific real property, buildings, improvements, and personal property to be transferred pursuant to section 8(a)(1) of this Act needed to provide mental health and other services provided by the Department of Human Services under the final system implementation plan.

(d)(1) The Mayor shall develop the system implementation plan in close consultation with officials of Saint Elizabeths Hospital, through working groups to be established by the Secretary and the Mayor for that purpose.

(2) The Mayor and the Secretary shall establish a labor-management advisory committee, requesting the participation of Federal

87 Stat. 790.

Labor-
management
advisory
committee,
establishment.

and District employee organizations affected by this Act, to make recommendations on the system implementation plan. The committee shall consider staffing patterns under a comprehensive District mental health care system, retention of Hospital employees under such system, Federal retraining for such employees, and any other areas of concern related to the establishment of a comprehensive District system. In developing the system implementation plan the Mayor shall carefully consider the recommendations of the committee. Such advisory committee shall not be subject to the Federal Advisory Committee Act.

5 USC app.

(3) The Mayor and such working groups shall, in developing the plan, solicit comments from the public, which shall include professional organizations, provider agencies and individuals, and mental health advocacy groups in the District of Columbia.

(e)(1) The Mayor and the Secretary may, during the service coordination period, by mutual agreement and consistent with the requirements of the system implementation plan direct the shift of selected program responsibilities and staff resources from Saint Elizabeths Hospital to the District. The Secretary may assign staff occupying positions in affected programs to work under the supervision of the District. The Mayor shall notify the Committee on the District of Columbia of the House of Representatives and the Committee on Labor and Human Resources and the Committee on Governmental Affairs of the Senate in writing of any planned shift in program responsibilities or staff resources not less than 30 days prior to the implementation of such shift.

(2)(A) Except as provided in subparagraph (B), after October 1, 1984, and during the service coordination period, no request for proposals may be issued by the Secretary for any areas of commercial activity at the Hospital pursuant to Office of Management and Budget circular A-76.

Prohibition.

(B) The limitation under subparagraph (A) shall not apply to studies initiated pursuant to such circular prior to October 1, 1984.

(f)(1) To assist the Mayor in the development of the system implementation plan, the Secretary shall contract for a financial audit and a physical plant audit of all existing facilities at the Hospital to be completed by January 1, 1986. The financial audit shall be conducted according to generally accepted accounting principles. The physical plant audit shall recognize any relevant national and District codes and estimate the useful life of existing facility support systems.

Audit.

(2)(A) Pursuant to such physical plant audit, the Secretary shall initiate not later than October 1, 1987, and complete not later than October 1, 1991, such repairs and renovations to such physical plant and facility support systems of the Hospital as are to be utilized by the District under the system implementation plan as part of a comprehensive District mental health system, as are necessary to meet any applicable code requirements or standards.

(B) At a minimum until October 1, 1987, the Secretary shall maintain all other facilities and infrastructure of the Hospital not assumed by the District in the condition described in such audit.

(g) During the service coordination period, the District of Columbia and the Secretary, to the extent provided in the Federal court consent decree, shall be jointly responsible for providing citizens with the full range and scope of mental health services set forth in such decree and the system implementation plan. No provision of this Act or any action or agreement during the service coordination

period may be so construed as to absolve or relieve the District or the Federal Government of their joint or respective responsibilities to implement fully the mandates of the Federal court consent decree.

CONGRESSIONAL REVIEW OF SYSTEM IMPLEMENTATION PLAN

24 USC 225c.

SEC. 5. (a) The Committee on the District of Columbia of the House of Representatives and the Committee on Labor and Human Resources and the Committee on Governmental Affairs of the Senate shall review the preliminary system implementation plan transmitted by the Mayor pursuant to section 4 of this Act to determine the extent of its compliance with the provisions of section 2(b) and section 4 of this Act, and transmit written recommendations regarding any revisions to the preliminary plan to the Mayor not later than 60 days after receipt of such plan.

(b) The Committee on the District of Columbia of the House of Representatives and the Committee on Labor and Human Resources and the Committee on Governmental Affairs of the Senate shall, within 90 days of submission of the final system implementation plan by the Mayor pursuant to section 4 of this Act, review such plan to determine the extent to which it is in compliance with the provisions of section 2(b) and section 4 of this Act.

TRANSITION PROVISIONS FOR EMPLOYEES OF THE HOSPITAL

Retirement.
24 USC 225d.

SEC. 6. (a) Employees of the Hospital directly affected by the assumption of programs and functions by the District government who meet the requirements for immediate retirement under the provisions of section 8336(d) of title 5, United States Code, shall be accorded the opportunity to retire during the 30-day period prior to the assumption of such programs and functions.

(b)(1) The system implementation plan shall prescribe the specific number and types of positions needed by the District government at the end of the service coordination period.

(2) Notwithstanding section 3503 of title 5, United States Code, employees of the Hospital shall only be transferred to District employment under the provisions of this section.

(c)(1) While on the retention list or the District or Federal agency reemployment priority list, the system implementation plan shall provide to Hospital employees a right-of-first-refusal to District employment in positions for which such employees may qualify, (A) created under the system implementation plan in the comprehensive District mental health system, (B) available under the Department of Human Services of the District, and (C) available at the District of Columbia General Hospital.

(2) In accordance with Federal regulations, the Secretary shall establish retention registers of Hospital employees and provide such retention registers to the District government. Employment in positions identified in the system implementation plan under subsection (b) shall be offered to Hospital employees by the District government according to each such employee's relative standing on the retention registers.

(3) Employee appeals concerning the retention registers established by the Secretary shall be in accordance with Federal regulations.

(4) Employee appeals concerning employment offers by the District shall be in accordance with the District of Columbia Government Comprehensive Merit Personnel Act of 1978.

(d)(1) Notwithstanding any other provision of law, employees of the Hospital, while on the Federal agency reemployment priority list, shall have a right-of-first-refusal to employment in comparable available positions for which they qualify within the Department of Health and Human Services in the Washington metropolitan area.

(2) If necessary to separate employees of the Hospital from Federal employment, such employees may be separated only under Federal reduction-in-force procedures.

(3) A Federal agency reemployment priority list and a displaced employees program shall be maintained for employees of the Hospital by the Secretary and the Office of Personnel Management in accordance with Federal regulations for Federal employees separated by reduction-in-force procedures.

(4) The Mayor shall create and maintain, in consultation with the Secretary, a District agency reemployment priority list of those employees of the Hospital on the retention registers who are not offered employment under subsection (c). Individuals who refuse an offer of employment under subsection (c) shall be ineligible for inclusion on the District agency reemployment priority list. Such reemployment priority list shall be administered in accordance with procedures established pursuant to the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (D.C. Law 2-139).

(5) Acceptance of nontemporary employment as a result of referral from any retention list or agency reemployment priority list shall automatically terminate an individual's severance pay as of the effective date of such employment.

(e) Any contract entered into by the District of Columbia for the provision of mental health services formerly provided by or at the Hospital shall require the contractor or provider, in filling new positions created to perform under the contract, to give preference to qualified candidates on the District agency reemployment priority list created pursuant to subsection (d) of this section. An individual who is offered nontemporary employment with a contractor shall have his or her name remain on the District agency reemployment priority list under subsection (d) for not more than 24 months from the date of acceptance of such employment.

Contracts.

CONDITIONS OF EMPLOYMENT FOR FORMER EMPLOYEES OF THE HOSPITAL

SEC. 7. (a) Each individual accepting employment without a break in service with the District government pursuant to section 6 shall—

24 USC 225e.

(1) except as specifically provided in this Act, be required to meet all District qualifications other than licensure requirements for appointment required of other candidates, and shall become District employees in the comparable District service subject to the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, and all other statutes and regulations governing District personnel;

(2) meet all licensure requirements within 18 months of appointment by the District government;

(3) notwithstanding chapter 63 of title 5, United States Code, transfer accrued annual and sick leave balances pursuant to

5 USC 6301 *et seq.*

title XII of the District of Columbia Comprehensive Merit Personnel Act of 1978;

(4) have the grade and rate of pay determined in accordance with regulations established pursuant to title XI of the District of Columbia Comprehensive Merit Personnel Act of 1978, except that no employee shall suffer a loss in the basic rate of pay or in seniority;

(5) if applicable, retain a rate of pay including the physician's comparability allowance under the provisions of section 5948 of title 5, United States Code, and continue to receive such allowance under the terms of the then prevailing agreement until its expiration or for a period of 2 years from the date of appointment by the District government, whichever occurs later;

(6) be entitled to the same health and life insurance benefits as are available to District employees in the applicable service;

(7) if employed by the Federal Government before January 1, 1984, continue to be covered by the United States Civil Service Retirement System, under chapter 83 of title 5, United States Code, to the same extent that such retirement system covers District Government employees; and

(8) if employed by the Federal Government on or after January 1, 1984, be subject to the retirement system applicable to District government employees pursuant to title XXVI, Retirement, of the District of Columbia Government Comprehensive Merit Personnel Act of 1978.

(b) An individual appointed to a position in the District government without a break in service, from the retention list, or from the District or Federal agency reemployment priority lists shall be exempt from the residency requirements of title VIII of the District of Columbia Government Comprehensive Merit Personnel Act of 1978.

(c) An individual receiving compensation for work injuries pursuant to chapter 81 of title 5, United States Code, shall—

(1) continue to have the claims adjudicated and the related costs paid by the Federal Government until such individual recovers and returns to duty;

(2) if medically recovered and returned to duty, have any subsequent claim for the recurrence of the disability determined and paid under the provisions of title XXIII of the District of Columbia Comprehensive Merit Personnel Act of 1978.

(d) The District government may initiate or continue an action against an individual who accepts employment under section 6(c) for cause related to events that occur prior to the end of the service coordination period. Any such action shall be conducted in accordance with such Federal laws and regulations under which action would have been conducted had the assumption of function by the District not occurred.

(e) Commissioned public health service officers detailed to the District of Columbia mental health system shall not be considered employees for purposes of any full-time employee equivalency total of the Department of Health and Human Services.

(f) For purposes of this section, Hospital employees shall include former patient employees occupying career positions at the Hospital.

5 USC 8301 *et seq.*

5 USC 8101 *et seq.*

PROPERTY TRANSFER

SEC. 8. (a)(1) Except as provided in paragraph (2), on October 1, 1987, the Secretary shall transfer to the District, without compensation, all right, title, and interest of the United States in all real property at Saint Elizabeths Hospital in the District of Columbia together with any buildings, improvements, and personal property used in connection with such property needed to provide mental health and other services provided by the Department of Human Services identified pursuant to section 4(c)(7) of this Act.

Effective dates.
24 USC 225f.

(2) Such real property as is identified by the Secretary by September 30, 1987, as necessary to Federal mental health programs at Saint Elizabeths Hospital under section 2(b)(5) shall not be transferred under this subsection.

(b) On or before October 1, 1991, the Mayor shall prepare, and submit to the Committee on the District of Columbia of the House of Representatives and the Committees on Governmental Affairs and Labor and Human Resources of the Senate, a master plan, not inconsistent with the comprehensive plan for the National Capital, for the use of all real property, buildings, improvements, and personal property comprising Saint Elizabeths Hospital in the District of Columbia not transferred or excluded pursuant to subsection (a) of this section. In developing such plan, the Mayor shall consult with, and provide an opportunity for review by, appropriate Federal, regional, and local agencies. Such master plan submitted by the Mayor shall be approved by a law enacted by the Congress within the twelve-month period following the date such plan is submitted to the Committee on the District of Columbia of the House of Representatives and the Committees on Governmental Affairs and Labor and Human Resources of the Senate. Immediately upon the approval of any such law, the Secretary shall transfer to the District, without compensation, all right, title, and interest of the United States in and to such property in accordance with such approved plan. The real property, together with the buildings and other improvements thereon, including personal property used in connection therewith, known as the Oxon Cove Park and operated by the National Park Service, Department of the Interior, shall not be transferred under this Act.

Development
plan.

(c) On October 1, 1985, the Secretary shall transfer to the District, without compensation, all right, title, and interest of the United States to lot 87, square 622, in the subdivision made by the District of Columbia Redevelopment Land Agency, as per plat recorded in the Office of the Surveyor for the District of Columbia, in liber 154 at folio 149 (901 First Street N.W., the J.B. Johnson Building and grounds).

FINANCING PROVISIONS

SEC. 9. (a) There are authorized to be appropriated for grants by the Secretary of Health and Human Services to the District of Columbia comprehensive mental health system, \$30,000,000 for fiscal year 1988, \$24,000,000 for fiscal year 1989, \$18,000,000 for fiscal year 1990, and \$12,000,000 for fiscal year 1991.

Appropriation
authorization.
Grants.
24 USC 225g.

(b)(1) Beginning on October 1, 1987, and in each subsequent fiscal year, the appropriate Federal agency is directed to pay the District of Columbia the full costs for the provision of mental health diagnostic and treatment services for the following types of patients:

(A) Any individual referred to the system pursuant to a Federal statute or by a responsible Federal agency.

(B) Any individual referred to the system for emergency detention or involuntary commitment after being taken into custody (i) as a direct result of the individual's action or threat of action against a Federal official, (ii) as a direct result of the individual's action or threat of action on the grounds of the White House or of the Capitol, or (iii) under chapter 9 of title 21 of the District of Columbia Code.

(C) Any individual referred to the system as a result of a criminal proceeding in a Federal court (including an individual admitted for treatment, observation, and diagnosis and an individual found incompetent to stand trial or found not guilty by reason of insanity). The preceding provisions of this paragraph apply to any individual referred to the system (or to Saint Elizabeths Hospital) before or after the date of enactment of this Act.

Compacts
between States.

(2) The responsibility of the United States for the cost of services for individuals described in paragraph (1) shall not affect the treatment responsibilities to the District of Columbia under the Interstate Compact on Mental Health.

(c)(1) During the service coordination and the financial transition periods, the District of Columbia shall gradually assume a greater share of the financial responsibility for the provision of mental health services provided by the system to individuals not described in subsection (b).

87 Stat. 813.

(2) Section 502 of the District of Columbia Self-Government and Governmental Reorganization Act is amended—

(A) by inserting "(a)" after "Sec. 502.", and

(B) by adding at the end the following:

Appropriation
authorization.

"(b)(1) Except as otherwise provided by paragraph (2), there are authorized to be appropriated, in addition to the amounts authorized to be appropriated under subsection (a), \$25,000,000 for fiscal year 1986, \$35,000,000 for fiscal year 1987, \$30,000,000 for fiscal year 1988, \$20,000,000 for fiscal year 1989, \$15,000,000 for fiscal year 1990, and \$10,000,000 for fiscal year 1991 to the District of Columbia for establishing and maintaining a comprehensive mental health system.

"(2) For each of the fiscal years 1986 through 1990 there is authorized to be appropriated, in addition to the amount authorized under paragraph (1), an amount equal to one-third of the amount authorized under paragraph (1) for the succeeding fiscal year. The amount authorized to be appropriated under paragraph (1) for any such succeeding fiscal year shall be reduced by the amount appropriated for the preceding fiscal year under the first sentence of this paragraph."

68 Stat. 434.

(d) Subject to section 4(f)(2), capital improvements to facilities at Saint Elizabeths Hospital authorized during the service coordination period shall be the shared responsibility of the District and the Federal Government in accordance with Public Law 83-472.

(e) Pursuant to the financial audit under section 4(f), any unassigned liabilities of the Hospital shall be assumed by and shall be the sole responsibility of the Federal Government.

Audit.

(f)(1) After the service coordination period, the Secretary shall conduct an audit, under generally accepted accounting procedures, to identify the liability of the Federal Government for accrued

annual leave balances for those employees assumed by the District under the system implementation plan.

(2) There is authorized to be appropriated for payment by the Federal Government to the District an amount equal to the liability identified by such audit.

Appropriation
authorization.

(g) Nothing in this Act shall affect the authority of the District of Columbia under any other statute to collect costs billed by the District of Columbia for mental health services, except that payment for the same costs may not be collected from more than one party.

(h) The Government of the United States shall be solely responsible for—

Claims.

(1) all claims and causes of action against Saint Elizabeths Hospital that accrue before October 1, 1987, regardless of the date on which legal proceedings asserting such claims were or may be filed, except that the United States shall, in the case of any tort claim, only be responsible for any such claim against the United States that accrues before October 1, 1987, and the United States shall not compromise or settle any claim resulting in District liability without the consent of the District, which consent shall not be unreasonably withheld; and

(2) all claims that result in a judgment or award against Saint Elizabeths Hospital before October 1, 1987.

REPEALS AND CONFORMING AMENDMENTS

SEC. 10. (a) Chapter 4 of title LIX of the Revised Statutes of the United States (24 U.S.C. 161, 165, 170, 191, 211, 211a, 211b, and 221, and D.C. Code 32-405 and 32-406) is repealed.

(b) The matter under the subheading "SAINT ELIZABETHS HOSPITAL." under the heading "DEPARTMENT OF THE INTERIOR." in the first section of an Act of June 5, 1920, chapter 235 of the laws of the second session of the 66th Congress, is amended by striking out the second sentence (24 U.S.C. 166).

41 Stat. 919.

(c) The matter under the subheading "SAINT ELIZABETHS HOSPITAL." under the heading "DEPARTMENT OF THE INTERIOR." in the first section of the Second Deficiency Appropriation Act, fiscal year 1920, is amended by striking out the second and third sentences (24 U.S.C. 168 and 176).

41 Stat. 513.

(d)(1) An Act of August 4, 1947, chapter 478 of the laws of the first session of the 80th Congress (24 U.S.C. 168a, 169, 169a, 185, and 195a), is repealed.

(2) The matter under the heading "Saint Elizabeths Hospital" in title II of the Departments of Labor, and Health, Education, and Welfare Appropriation Act, 1955, is amended by striking out all that follows "\$110,000" before the period.

68 Stat. 437.

(e) The matter under the subheading "GOVERNMENT HOSPITAL FOR THE INSANE." under the heading "UNDER THE DEPARTMENT OF THE INTERIOR." in the first section of an Act of August 24, 1912, chapter 355 of the laws of the second session of the 62d Congress, is amended by striking out the second sentence (24 U.S.C. 171).

37 USC 461.

(f) The first sentence under the subheading "GOVERNMENT HOSPITAL FOR THE INSANE." under the heading "MISCELLANEOUS OBJECTS." in the first section of an Act of August 7, 1882, chapter 433 of the laws of the first session of the 47th Congress, is amended by striking out—

22 Stat. 329.

(1) “; and that hereafter the surplus products and waste material of the hospital may be sold or exchanged for the benefit of the hospital, and proceeds to be used and accounted for the same as its other funds:” (24 U.S.C. 172), and

(2) the two provisos (24 U.S.C. 165 and 195), and by inserting in lieu thereof a period.

40 Stat. 19.

(g) The matter under the subheading “SAINT ELIZABETHS HOSPITAL.” and that subheading under the heading “DEPARTMENT OF THE INTERIOR.” of the Act of April 17, 1917 (24 U.S.C. 175), are repealed.

34 Stat. 730.

(h) The matter under the subheading “GOVERNMENT HOSPITAL FOR THE INSANE.” under the heading “UNDER THE DEPARTMENT OF THE INTERIOR.” in the first section of an Act of June 30, 1906, chapter 3914 of the laws of the first session of the 59th Congress, is amended by striking out the last three sentences (24 U.S.C. 177).

55 Stat. 760.

(i) An Act of May 9, 1941, chapter 101 of the laws of the first session of the 77th Congress (24 U.S.C. 180), is repealed.

(j) The Act of November 15, 1941 (24 U.S.C. 181, 182, 183, and 184) is repealed.

39 Stat. 557.

(k)(1) The matter under the heading “PAY, MISCELLANEOUS.” of an Act of August 29, 1916, chapter 417 of the laws of the first session of the 64th Congress, is amended by striking out “Hereafter interned persons and prisoners of war, under the jurisdiction of the Navy Department, who are or may become insane, shall be entitled to admission for treatment to the Government Hospital for the Insane.” (24 U.S.C. 192).

40 Stat. 373.

(2) The matter under the subheading “SAINT ELIZABETHS HOSPITAL.” under the heading “DEPARTMENT OF THE INTERIOR.” in the first section of an Act of October 6, 1917, chapter 79 of the laws of the first session of the 65th Congress, is amended by striking out the third through sixth sentences (24 U.S.C. 192, 199, and 200).

23 Stat. 213.

(l) The matter under the subheading “GOVERNMENT HOSPITAL FOR THE INSANE.” under the heading “MISCELLANEOUS OBJECTS.” of an Act of July 7, 1884, chapter 332 of the laws of the first session of the 48th Congress, is amended by striking out the second sentence (24 U.S.C. 194).

76A Stat. 699.

(m) The matter under the heading “PANAMA CANAL.” in the first section of an Act of June 12, 1917, chapter 27 of the laws of the first session of the 65th Congress, is amended by striking out the following (24 U.S.C. 196):

“Upon the application of the Governor of the Canal Zone, the Secretary of Health, Education, and Welfare may transfer to Saint Elizabeths Hospital, in the District of Columbia, for treatment, any American citizen subject to a hospitalization order issued under section 1637 of title 5 of the Canal Zone Code, whose legal residence in one of the States, territories, the Commonwealth of Puerto Rico or the District of Columbia for the purpose of eligibility for public medical care it has been impossible to establish. Upon the ascertainment of the legal residence of persons so transferred to Saint Elizabeths Hospital, the superintendent of that hospital shall thereupon transfer them to their respective places of residence, and the expenses attendant thereon shall be paid from the appropriation for the support of Saint Elizabeths Hospital.”

(n) An Act of July 18, 1940, chapter 638 of the laws of the third session of the 76th Congress (24 U.S.C. 196b), is repealed.

(o) The matter under the subheading “GOVERNMENT HOSPITAL FOR THE INSANE.” under the heading “MISCELLANEOUS OBJECTS.” in the

first section of an Act of March 3, 1901, chapter 853 of the second session of the 56th Congress, is amended by striking out the second sentence (24 U.S.C. 197).

31 Stat. 1162.

(p) The first sentence in the matter under the subheading "MEDICAL AND HOSPITAL DEPARTMENT:" under the heading "MEDICAL DEPARTMENT." of an Act of May 11, 1908, chapter 163 of the laws of the first session of the 60th Congress, is amended by striking out the second proviso and the colon preceding and inserting in lieu thereof a period (24 U.S.C. 198).

35 Stat. 122.

(q) An Act of June 23, 1874, chapter 465 of the laws of the first session of the 43rd Congress (24 U.S.C. 212, 213, and 214), is repealed.

(r) The first sentence of section 4(a) of Public Law 86-571 (24 U.S.C. 324) is amended by striking out "Saint Elizabeths Hospital, at any other" and inserting in lieu thereof "any".

(s) Section 2104 of the Public Health Service Act (42 U.S.C. 300aa-3) is repealed.

(t)(1) The last sentence of section 206 of an Act of June 9, 1948, chapter 428 of the laws of the second session of the 80th Congress (D.C. Code 22-3508), is amended by striking out "Saint Elizabeths Hospital" and inserting in lieu thereof "an appropriate institution".

(2) Section 207 of that Act (D.C. Code 22-3509) is amended by striking out "the Superintendent of Saint Elizabeths Hospital" and inserting in lieu thereof "an appropriate supervisory official", and by striking out "the Superintendent of the hospital" and inserting in lieu thereof "that official".

(3) Section 208 of that Act (D.C. Code 22-3510) is amended by striking out "Saint Elizabeths Hospital" and inserting in lieu thereof "an institution".

(u) The first sentence under the subheading "GOVERNMENT HOSPITAL FOR THE INSANE." under the heading "INTERIOR DEPARTMENT." of an Act of March 3, 1877, chapter 105 of the laws of the second session of the 44th Congress, is amended by striking out the semicolon and all that follows before the period (D.C. Code 32-401).

24 USC 202.

(v) The first sentence under the subheading "GOVERNMENT HOSPITAL FOR THE INSANE." under the heading "MISCELLANEOUS OBJECTS." of an Act of March 3, 1879, chapter 182 of the laws of the third session of the 45th Congress, is amended by striking out the proviso and the colon preceding and inserting in lieu thereof a period (D.C. Code 32-402).

24 USC 203.

(w) The matter under the subheading "HOSPITAL FOR THE INSANE:" under the heading "DISTRICT OF COLUMBIA." of an Act of March 4, 1913, chapter 149 of the laws of the third session of the 62nd Congress, is amended by striking out the second sentence (D.C. Code 32-404).

(x) Sections 4 and 5 of an Act of June 22, 1948, chapter 597 of the laws of the second session of the 80th Congress (D.C. Code 32-415 and 32-416) are repealed.

(y) The matter under the subheading "GOVERNMENT HOSPITAL FOR THE INSANE." under the heading "UNDER THE DEPARTMENT OF THE INTERIOR." in the first section of an Act of March 4, 1911, chapter 285 of the laws of the third session of the 61st Congress, is amended by striking out the second sentence.

36 Stat. 1421.

24 USC 165.

EFFECTIVE DATES

24 USC 225 note. **SEC. 11. (a) Except as provided in subsection (b), this Act shall take effect on October 1, 1985.**

(b) Section 10 shall take effect on October 1, 1987.

Approved November 8, 1984.

LEGISLATIVE HISTORY—H.R. 6224:

HOUSE REPORTS: No. 98-1024 and Pt. 2 (Comm. on the District of Columbia).
CONGRESSIONAL RECORD, Vol. 130 (1984):

Oct. 2, considered and passed House.

Oct. 5, considered and passed Senate, amended.

Oct. 9, House concurred in Senate amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 45 (1984):
Nov. 9, Presidential statement.

Public Law 98-622
98th Congress

An Act

To amend title 35, United States Code, to increase the effectiveness of the patent laws, and for other purposes.

Nov. 8, 1984
[H.R. 6286]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Patent Law
Amendments
Act of 1984.
35 USC 1 note.

SHORT TITLE

SECTION 1. This Act may be cited as the "Patent Law Amendments Act of 1984".

TITLE I—PATENT IMPROVEMENT PROVISIONS

USE OF PATENTED INVENTIONS OUTSIDE THE UNITED STATES

SEC. 101. (a) Section 271 of title 35, United States Code, is amended by adding at the end thereof the following new subsection:

Ante, p. 1603.

"(f)(1) Whoever without authority supplies or causes to be supplied in or from the United States all or a substantial portion of the components of a patented invention, where such components are uncombined in whole or in part, in such manner as to actively induce the combination of such components outside of the United States in a manner that would infringe the patent if such combination occurred within the United States, shall be liable as an infringer.

"(2) Whoever without authority supplies or causes to be supplied in or from the United States any component of a patented invention that is especially made or especially adapted for use in the invention and not a staple article or commodity of commerce suitable for substantial noninfringing use, where such component is uncombined in whole or in part, knowing that such component is so made or adapted and intending that such component will be combined outside of the United States in a manner that would infringe the patent if such combination occurred within the United States, shall be liable as an infringer."

STATUTORY INVENTION REGISTRATION

SEC. 102. (a) Chapter 14 of title 35, United States Code, is amended by adding at the end thereof the following new section:

"§ 157. Statutory invention registration

35 USC 157.

"(a) Notwithstanding any other provision of this title, the Commissioner is authorized to publish a statutory invention registration containing the specification and drawings of a regularly filed application for a patent without examination if the applicant—

"(1) meets the requirements of section 112 of this title;

"(2) has complied with the requirements for printing, as set forth in regulations of the Commissioner;

“(3) waives the right to receive a patent on the invention within such period as may be prescribed by the Commissioner; and

“(4) pays application, publication, and other processing fees established by the Commissioner.

If an interference is declared with respect to such an application, a statutory invention registration may not be published unless the issue of priority of invention is finally determined in favor of the applicant.

“(b) The waiver under subsection (a)(3) of this section by an applicant shall take effect upon publication of the statutory invention registration.

“(c) A statutory invention registration published pursuant to this section shall have all of the attributes specified for patents in this title except those specified in section 183 and sections 271 through 289 of this title. A statutory invention registration shall not have any of the attributes specified for patents in any other provision of law other than this title. A statutory invention registration published pursuant to this section shall give appropriate notice to the public, pursuant to regulations which the Commissioner shall issue, of the preceding provisions of this subsection. The invention with respect to which a statutory invention certificate is published is not a patented invention for purposes of section 292 of this title.

“(d) The Secretary of Commerce shall report to the Congress annually on the use of statutory invention registrations. Such report shall include an assessment of the degree to which agencies of the Federal Government are making use of the statutory invention registration system, the degree to which it aids the management of federally developed technology, and an assessment of the cost savings to the Federal Government of the use of such procedures.”.

(b) The table of sections at the beginning of chapter 14 of title 35, United States Code, is amended by adding at the end thereof the following:

“157. Statutory invention registration.”.

(c) The amendments made by this section shall take effect six months after the date of the enactment of this Act.

PRIOR ART

SEC. 103. Section 103 of title 35, United States Code, is amended by adding at the end thereof the following:

“Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.”.

JOINT INVENTORS

SEC. 104. (a) Section 116 of title 35, United States Code, is amended by amending the first paragraph to read as follows:

“When an invention is made by two or more persons jointly, they shall apply for patent jointly and each make the required oath, except as otherwise provided in this title. Inventors may apply for a patent jointly even though (1) they did not physically work together or at the same time, (2) each did not make the same type or amount

Public
availability.
Regulations.

Report.

Effective date.
35 USC 157 note.

of contribution, or (3) each did not make a contribution to the subject matter of every claim of the patent.”.

(b) Section 120 of title 35, United States Code, is amended by striking out “by the same inventor” and inserting in lieu thereof “which is filed by an inventor or inventors named in the previously filed application”.

ARBITRATION OF INTERFERENCES

SEC. 105. Section 135 of title 35, United States Code, is amended by adding at the end thereof the following new subsection:

“(d) Parties to a patent interference, within such time as may be specified by the Commissioner by regulation, may determine such contest or any aspect thereof by arbitration. Such arbitration shall be governed by the provisions of title 9 to the extent such title is not inconsistent with this section. The parties shall give notice of any arbitration award to the Commissioner, and such award shall, as between the parties to the arbitration, be dispositive of the issues to which it relates. The arbitration award shall be unenforceable until such notice is given. Nothing in this subsection shall preclude the Commissioner from determining patentability of the invention involved in the interference.”.

9 USC 1 *et seq.*

EFFECTIVE DATE

SEC. 106. (a) Subject to subsections (b), (c), (d), and (e) of this section, the amendments made by this Act shall apply to all United States patents granted before, on, or after the date of enactment of this Act, and to all applications for United States patents pending on or filed after the date of enactment.

35 USC 103 note.

(b) The amendments made by this Act shall not affect any final decision made by the court or the Patent and Trademark Office before the date of enactment of this Act with respect to a patent or application for patent, if no appeal from such decision is pending and the time for filing an appeal has expired.

(c) Section 271(f) of title 35, United States Code, added by section 101 of this Act shall apply only to the supplying, or causing to be supplied, of any component or components of a patented invention after the date of enactment of this Act.

(d) No United States patent granted before the date of enactment of this Act shall abridge or affect the right of any person or his successors in business who made, purchased, or used prior to such effective date anything protected by the patent, to continue the use of, or to sell to others to be used or sold, the specific thing so made, purchased, or used, if the patent claims were invalid or otherwise unenforceable on a ground obviated by section 103 or 104 of this Act and the person made, purchased, or used the specific thing in reasonable reliance on such invalidity or unenforceability. If a person reasonably relied on such invalidity or unenforceability, the court before which such matter is in question may provide for the continued manufacture, use, or sale of the thing made, purchased, or used as specified, or for the manufacture, use, or sale of which substantial preparation was made before the date of enactment of this Act, and it may also provide for the continued practice of any process practiced, or for the practice of which substantial preparation was made, prior to the date of enactment, to the extent and under such terms as the court deems equitable for the protection of

Claims.

investments made or business commenced before the date of enactment.

Prohibition.

(e) The amendments made by this Act shall not affect the right of any party in any case pending in court on the date of enactment to have their rights determined on the basis of the substantive law in effect prior to the date of enactment.

TITLE II—PATENT AND TRADEMARK OFFICE PROCEDURES

BOARD OF PATENT APPEALS AND INTERFERENCES

SEC. 201. (a) Section 7 of title 35, United States Code, is amended to read as follows:

“§ 7. Board of Patent Appeals and Interferences

“(a) The examiners-in-chief shall be persons of competent legal knowledge and scientific ability, who shall be appointed to the competitive service. The Commissioner, the Deputy Commissioner, the Assistant Commissioners, and the examiners-in-chief shall constitute the Board of Patent Appeals and Interferences.

Infra.

“(b) The Board of Patent Appeals and Interferences shall, on written appeal of an applicant, review adverse decisions of examiners upon applications for patents and shall determine priority and patentability of invention in interferences declared under section 135(a) of this title. Each appeal and interference shall be heard by at least three members of the Board of Patent Appeals and Interferences, who shall be designated by the Commissioner. Only the Board of Patent Appeals and Interferences has the authority to grant rehearings.

5 USC 5332.

“(c) Whenever the Commissioner considers it necessary, in order to keep current the work of the Board of Patent Appeals and Interferences, the Commissioner may designate any patent examiner of the primary examiner grade or higher, having the requisite ability, to serve as examiner-in-chief for periods not exceeding six months each. An examiner so designated shall be qualified to act as a member of the Board of Patent Appeals and Interferences. Not more than one of the members of the Board of Patent Appeals and Interferences hearing an appeal or determining an interference may be an examiner so designated. The Secretary of Commerce is authorized to fix the pay of each designated examiner-in-chief in the Patent and Trademark Office at not to exceed the maximum rate of basic pay payable for grade GS-16 of the General Schedule under section 5332 of title 5. The rate of basic pay of each individual designated examiner-in-chief shall be adjusted, at the close of the period for which that individual was designated to act as examiner-in-chief, to the rate of basic pay which that individual would have been receiving at the close of such period if such designation had not been made.”.

(b) The item relating to section 7 in the table of sections at the beginning of chapter 1 of title 35, United States Code, is amended by striking out “Appeals” and inserting in lieu thereof “Patent Appeals and Interferences”.

INTERFERENCES

Claims.

SEC. 202. Section 135(a) of title 35, United States Code, is amended to read as follows:

“(a) Whenever an application is made for a patent which, in the opinion of the Commissioner, would interfere with any pending application, or with any unexpired patent, an interference may be declared and the Commissioner shall give notice of such declaration to the applicants, or applicant and patentee, as the case may be. The Board of Patent Appeals and Interferences shall determine questions of priority of the inventions and may determine questions of patentability. Any final decision, if adverse to the claim of an applicant, shall constitute the final refusal by the Patent and Trademark Office of the claims involved, and the Commissioner may issue a patent to the applicant who is adjudged the prior inventor. A final judgment adverse to a patentee from which no appeal or other review has been or can be taken or had shall constitute cancellation of the claims involved in the patent, and notice of such cancellation shall be endorsed on copies of the patent distributed after such cancellation by the Patent and Trademark Office.”.

APPEALS AND CIVIL ACTIONS

SEC. 203. (a) Section 141 of title 35, United States Code, is amended—

(1) in the first sentence—

(A) by striking out “of the Board of Patent Appeals may appeal” and inserting in lieu thereof “in an appeal to the Board of Patent Appeals and Interferences under section 134 of this title may appeal the decision”; and

(B) by striking out “, thereby waiving his right” and inserting in lieu thereof “. By filing such an appeal the applicant waives his or her right”;

(2) in the second sentence—

(A) by striking out “board of patent interferences on the question of priority may appeal” and inserting in lieu thereof “Board of Patent Appeals and Interferences on the interference may appeal the decision”;

(B) by striking out “according to” and inserting in lieu thereof “in accordance with”; and

(C) by striking out “he” and inserting in lieu thereof “the party”; and

(3) by amending the last sentence to read as follows:

“If the appellant does not, within thirty days after the filing of such notice by the adverse party, file a civil action under section 146, the decision appealed from shall govern the further proceedings in the case.”.

(b) Section 145 of title 35, United States Code, is amended—

(1) in the first sentence by striking out “Appeals may” and inserting in lieu thereof “Patent Appeals and Interferences in an appeal under section 134 of this title may,”; and

(2) in the second sentence by striking out “Appeals” and inserting in lieu thereof “Patent Appeals and Interferences”.

(c) Section 146 of title 35, United States Code, is amended by striking out “board of patent interferences on the question of priority” and inserting in lieu thereof “Board of Patent Appeals and Interferences on the interference”.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 204. (a) Section 41(a)(6) of title 35, United States Code, is amended—

(1) by striking out “Appeals” each place it appears and inserting in lieu thereof “Patent Appeals and Interferences”; and

(2) by inserting “in the appeal” after “oral hearing”.

(b)(1) Section 134 of title 35, United States Code, is amended—

(A) in the section caption by striking out “APPEALS” and inserting in lieu thereof “PATENT APPEALS AND INTERFERENCES”; and

(B) by striking out “Appeals” and inserting in lieu thereof “Patent Appeals and Interferences”.

(2) The item relating to section 134 in the table of sections at the beginning of chapter 12 of title 35, United States Code, is amended by striking out “Appeals” and inserting in lieu thereof “Patent Appeals and Interferences”.

(c) Section 305 of title 35, United States Code, is amended by striking out “Appeals” and inserting in lieu thereof “Patent Appeals and Interferences”.

AMENDMENTS TO OTHER PROVISIONS OF LAW

SEC. 205. (a) Section 1295(a)(4)(A) of title 28, United States Code, is amended by striking out “Appeals or the Board of Patent” and inserting in lieu thereof “Patent Appeals and”.

(b) Section 152 of the Atomic Energy Act of 1954 (42 U.S.C. 2182) is amended in the third paragraph—

(1) by striking out “a Board of Patent Interferences” and inserting in lieu thereof “the Board of Patent Appeals and Interferences”; and

(2) by striking out “the Board of Patent Interferences” and inserting in lieu thereof “the Board of Patent Appeals and Interferences”.

(c)(1) Section 305(d) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2457(d)) is amended—

(A) by striking out “a Board of Patent Interferences” and inserting in lieu thereof “the Board of Patent Appeals and Interferences”; and

(B) by striking out “the Board of Patent Interferences” and inserting in lieu thereof “the Board of Patent Appeals and Interferences”.

(2) Section 305(e) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2457(e)) is amended by striking out “a Board of Patent Interferences” and inserting in lieu thereof “the Board of Patent Appeals and Interferences”.

SAVINGS PROVISION

35 USC 7 note.

SEC. 206. Any individual who, on the effective date of this title, is an examiner-in-chief of the Board of Patent Appeals of the Patent and Trademark Office or an examiner of interferences of the Board of Patent Interferences of such office shall be entitled to continue in office as a member of the Board of Patent Appeals and Interferences of the Patent and Trademark Office as of such effective date.

EFFECTIVE DATE

SEC. 207. Section 206 of this Act and the amendments made by this title shall take effect three months after the date of the enactment of this Act.

35 USC 7 note.

TITLE III—NATIONAL COMMISSION ON INNOVATION AND PRODUCTIVITY

ESTABLISHMENT

SEC. 301. There is hereby established a National Commission on Innovation and Productivity (hereinafter in this title referred to as the "Commission").

MEMBERSHIP OF COMMISSION

SEC. 302. (a) The Commission shall be composed of—

- (1) three Members of the Senate appointed by the President of the Senate;
 - (2) three Members of the House of Representatives appointed by the Speaker of the House of Representatives; and
 - (3) three members appointed by the President of the United States, one of whom the President shall designate as Chairman.
- Of the members appointed by the President, one member should be an appropriate officer or employee of the United States, one member should be an employer who employs inventors, and one member should be an employed inventor.

(b) At no time shall more than two of the members appointed under paragraph (1), (2), or (3) of subsection (a) be persons who are members of the same political party.

(c) Any vacancy in the Commission shall not affect its powers but shall be filled in the same manner in which the original appointment was made, and subject to the limitation set forth in subsection (b) with respect to the original appointment.

(d) Six members of the Commission shall constitute a quorum, but a lesser number may conduct hearings.

DUTIES OF THE COMMISSION

SEC. 303. The Commission shall make a full and complete review and study of the level of innovation and productivity of employed inventors. Such study shall include an analysis of the various methods available to inspire or stimulate individual and corporate innovation and productivity, including an assessment of the techniques used in other countries to achieve this objective. Such study may include an assessment of those aspects of other areas of intellectual property law that inspire or stimulate such innovation and productivity. The Commission shall make recommendations for such revisions of the laws of the United States, including the repeal of unnecessary or undesirable statutes, and such other changes as the Commission considers will better foster innovation and productivity.

Study.

COMPENSATION OF MEMBERS OF THE COMMISSION

SEC. 304. (a) A member of the Commission who is a Member of Congress or a full-time officer or employee of the United States shall

receive no additional compensation by reason of his or her service on the Commission.

5 USC 5314. (b) Subject to amounts provided in advance in appropriations Acts, a member of the Commission from private life shall receive the daily equivalent of the annual rate of basic pay payable for level III of the Executive Schedule for each day (including traveltime) during which such member is engaged in the actual performance of duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties, in accordance with subchapter I of chapter 57 of title 5, United States Code.

5 USC 5701.

DIRECTOR AND STAFF

5 USC 5315. SEC. 305. (a) The Commission shall have a Director who shall be appointed by the Commission and who shall be paid at a rate not to exceed the rate of basic pay payable for level IV of the Executive Schedule. The Director, subject to the direction of the Commission, shall supervise the activities of persons employed by the Commission and the preparation of the reports of the Commission and shall perform such other duties as may be assigned to the Director by the Commission.

(b) The Commission may appoint and fix the pay of such additional personnel as it considers appropriate.

5 USC 5101 *et seq.*, 5331. (c) The staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the maximum annual rate of basic pay payable for GS-16 of the General Schedule.

5 USC 5332. (d) The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

GOVERNMENT AGENCY COOPERATION

SEC. 306. The Commission is authorized to request from any department, agency, or independent instrumentality of the Government any information and assistance it considers necessary to carry out its functions under this title. Each such department, agency, and instrumentality is authorized to cooperate with the Commission and, to the extent permitted by law, to furnish such information and assistance to the Commission.

REPORT OF THE COMMISSION; TERMINATION

SEC. 307. The Commission shall submit interim reports on its activities to the President and the Congress at such times as the Commission considers appropriate, except that at least one such report shall be so submitted within one year after the date of the enactment of this Act. The Commission shall submit its final report on its activities to the President and the Congress within two years after such date of enactment. The Commission shall cease to exist sixty days after the date of the submission of its final report.

ADMINISTRATIVE SERVICES

SEC. 308. The General Services Administration shall provide administrative services for the Commission on a reimbursable basis.

AUTHORIZATION OF APPROPRIATIONS

SEC. 309. There is authorized to be appropriated \$250,000 to carry out this title.

EFFECTIVE DATE

SEC. 310. This title shall take effect on January 21, 1985.

TITLE IV—MISCELLANEOUS PROVISIONS

INTERNATIONAL STAGE

SEC. 401. (a) Section 361(d) of title 35, United States Code, is amended in the first sentence by inserting “or within one month after the date of such filing” after “application”.

(b) Section 366 of title 35, United States Code, is amended—

(1) in the first sentence—

(A) by inserting “after the date of withdrawal,” after “effect”; and

(B) by inserting before the period the following: “, unless a claim for the benefit of a prior filing date under section 365(c) of this part was made in a national application, or an international application designating the United States, filed before the date of such withdrawal”; and

(2) in the second sentence by inserting “withdrawn” after “such”.

NATIONAL STAGE

SEC. 402. (a) Section 371(a) of title 35, United States Code, is amended—

(1) by striking out “is” and inserting in lieu thereof “may be”; and

(2) by striking out “, except those filed in the Patent Office”.

(b) Section 371(b) of title 35, United States Code, is amended to read as follows:

“(b) Subject to subsection (f) of this section, the national stage shall commence with the expiration of the applicable time limit under article 22 (1) or (2) of the treaty.”

(c) Section 371(c)(2) of title 35, United States Code, is amended—

(1) by striking out “received from” and inserting in lieu thereof “communicated by”; and

(2) by striking out “verified” before “translation”.

(d) Section 371(d) of title 35, United States Code, is amended to read as follows:

“(d) The requirements with respect to the national fee referred to in subsection (c)(1), the translation referred to in subsection (c)(2), and the oath or declaration referred to in subsection (c)(4) of this section shall be complied with by the date of the commencement of the national stage or by such later time as may be fixed by the Commissioner. The copy of the international application referred to in subsection (c)(2) shall be submitted by the date of the commencement of the national stage. Failure to comply with these requirements shall be regarded as abandonment of the application by the

parties thereof, unless it be shown to the satisfaction of the Commissioner that such failure to comply was unavoidable. The payment of a surcharge may be required as a condition of accepting the national fee referred to in subsection (c)(1) or the oath or declaration referred to in subsection (c)(4) of this section if these requirements are not met by the date of the commencement of the national stage. The requirements of subsection (c)(3) of this section shall be complied with by the date of the commencement of the national stage, and failure to do so shall be regarded as a cancellation of the amendments to the claims in the international application made under article 19 of the treaty.”

28 UST 7645.

(e) Section 372(b) of title 35, United States Code, is amended—
(1) by striking out the period at the end of paragraph (2) and inserting in lieu thereof “; and”; and

(2) by adding at the end thereof the following:

“(3) the Commissioner may require a verification of the translation of the international application or any other document pertaining to the application if the application or other document was filed in a language other than English.”

(f) Section 372 of title 35, United States Code, is amended by striking out subsection (c).

(g) Section 376(a) of title 35, United States Code, is amended by striking out paragraph (5) and redesignating paragraph (6) as paragraph (5).

TECHNICAL AMENDMENTS

35 USC 351 *et seq.*

SEC. 403. (a) Title 35, United States Code, is amended by striking out “Patent Office” each place it appears and inserting in lieu thereof “Patent and Trademark Office”.

(b) The table of parts at the beginning of title 35, United States Code, is amended by adding at the end thereof the following:

“IV. Patent Cooperation Treaty 351”.

PATENT FEES

35 USC 41 note.

SEC. 404. (a) Notwithstanding section 41 of title 35, United States Code, as in effect before the enactment of Public Law 97-247 (96 Stat. 317), no fee shall be collected for maintaining a plant patent in force.

(b) Notwithstanding section 41(c) of title 35, United States Code, as in effect before the enactment of Public Law 97-247 (96 Stat. 317), the Commissioner of Patents and Trademarks may accept, after the six-month grace period referred to in such section 41(c), the payment of any maintenance fee due on any patent based on an application filed in the Patent and Trademark Office on or after December 12, 1980, and before August 27, 1982, to the same extent as in the case of patents based on applications filed in the Patent and Trademark Office on or after August 27, 1982.

TRADEMARK TRIAL AND APPEAL BOARD

SEC. 405. Section 3 of title 35, United States Code, is amended by adding at the end thereof the following:

“(e) The members of the Trademark Trial and Appeal Board of the Patent and Trademark Office shall each be paid at a rate not to exceed the maximum rate of basic pay payable for GS-16 of the General Schedule under section 5332 of title 5.”

5 USC 5332.

EFFECTIVE DATE

SEC. 406. (a) Section 404 of this Act and the amendments made by section 403 of this Act shall take effect on the date of the enactment of this Act. 35 USC 351 note.

(b) The amendments made by sections 401, 402, and 405 of this Act shall take effect six months after the date of the enactment of this Act. 35 USC 3 note.

Approved November 8, 1984.

LEGISLATIVE HISTORY—H.R. 6286:

CONGRESSIONAL RECORD, Vol. 130 (1984):

Oct. 1, considered and passed House.

Oct. 11, considered and passed Senate, amended; House concurred in certain Senate amendments and in another with an amendment; Senate concurred in House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 45 (1984):

Nov. 9, Presidential statement.

Public Law 98-623
98th Congress

An Act

Nov. 8, 1984
[H.R. 6342]

To approve governing international fishery agreements with Iceland and the EEC; to establish national standards for artificial reefs; to implement the Convention on the Conservation of Antarctic Marine Living Resources; and for the other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

**TITLE I—APPROVAL OF GOVERNING INTERNATIONAL
FISHERY AGREEMENTS WITH ICELAND AND THE EEC**

16 USC 1823
note.

Notwithstanding section 203 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1823)—

(1) the governing international fishery agreement between the Government of the United States and the European Economic Community Concerning Fisheries Off the Coasts of the United States, as contained in the Message to Congress from the President of the United States dated August 27, 1984, is hereby approved by Congress as a governing international fishery agreement for purposes of that Act, and may enter into force with respect to the United States in accordance with the terms of Article XIX of the agreement after the date of the enactment of this title, upon signature of the agreement by both parties; and

(2) the governing international fishery agreement between the Government of the United States and the Government of the Republic of Iceland Concerning Fisheries Off the Coasts of the United States, as contained in the message to Congress from the President of the United States dated September 29, 1984, is hereby approved by Congress as a governing international fishery agreement for purposes of that Act, and may enter into force with respect to the United States in accordance with the terms of Article XVI of the agreement after the date of the enactment of this title.

National Fishing
Enhancement
Act of 1984.
33 USC 2101
note.

TITLE II—ARTIFICIAL REEFS

SEC. 201. SHORT TITLE.

This title may be cited as the “National Fishing Enhancement Act of 1984”.

33 USC 2101.

SEC. 202. FINDINGS AND CONCLUSIONS.

(a) **FINDINGS.**—The Congress finds that—

(1) although fishery products provide an important source of protein and industrial products for United States consumption, United States fishery production annually falls far short of satisfying United States demand;

(2) overfishing and the degradation of vital fishery resource habitats have caused a reduction in the abundance and diversity of United States fishery resources;

(3) escalated energy costs have had a negative effect on the economics of United States commercial and recreational fisheries; Energy.

(4) commercial and recreational fisheries are a prominent factor in United States coastal economies and the direct and indirect returns to the United States economy from commercial and recreational fishing expenditures are threefold; and

(5) properly designed, constructed, and located artificial reefs in waters covered under this title can enhance the habitat and diversity of fishery resources; enhance United States recreational and commercial fishing opportunities; increase the production of fishery products in the United States; increase the energy efficiency of recreational and commercial fisheries; and contribute to the United States and coastal economies.

(b) PURPOSE.—The purpose of this title is to promote and facilitate responsible and effective efforts to establish artificial reefs in waters covered under this title.

SEC. 203. ESTABLISHMENT OF STANDARDS.

33 USC 2102.

Based on the best scientific information available, artificial reefs in waters covered under this title shall be sited and constructed, and subsequently monitored and managed in a manner which will—

Water.

(1) enhance fishery resources to the maximum extent practicable;

(2) facilitate access and utilization by United States recreational and commercial fishermen;

(3) minimize conflicts among competing uses of waters covered under this title and the resources in such waters;

(4) minimize environmental risks and risks to personal health and property; and Pollution.

(5) be consistent with generally accepted principles of international law and shall not create any unreasonable obstruction to navigation.

SEC. 204. NATIONAL ARTIFICIAL REEF PLAN.

33 USC 2103.

Not later than one year after the date of enactment of this title, the Secretary of Commerce, in consultation with the Secretary of the Interior, the Secretary of Defense, the Administrator of the Environmental Protection Agency, the Secretary of the Department in which the Coast Guard is operating, the Regional Fishery Management Councils, interested States, Interstate Fishery Commissions, and representatives of the private sector, shall develop and publish a long-term plan which will meet the purpose of this title and be consistent with the standards established under section 203. The plan must include—

(1) geographic, hydrographic, geologic, biological, ecological, social, economic, and other criteria for siting artificial reefs; Research and development.

(2) design, material, and other criteria for constructing artificial reefs;

(3) mechanisms and methodologies for monitoring the compliance of artificial reefs with the requirements of permits issued under section 205;

(4) mechanisms and methodologies for managing the use of artificial reefs;

(5) a synopsis of existing information on artificial reefs and needs for further research on artificial reef technology and management strategies; and

- Taxes. (6) an evaluation of alternatives for facilitating the transfer of artificial reef construction materials to persons holding permits issued pursuant to section 205, including, but not limited to, credits for environmental mitigation and modified tax obligations.
- 33 USC 2104. **SEC. 205. PERMITS FOR THE CONSTRUCTION AND MANAGEMENT OF ARTIFICIAL REEFS.**
- Pollution. (a) **SECRETARIAL ACTION ON PERMITS.**—In issuing a permit for artificial reefs under section 10 of the Rivers and Harbors Act of 1899, section 404 of the Federal Water Pollution Control Act, or section 4(e) of the Outer Continental Shelf Lands Act, the Secretary of the Army (hereinafter in this section referred to as the “Secretary”) shall—
- 33 USC 403.
33 USC 1344.
48 USC 1333.
- State and local governments. (1) consult with and consider the views of appropriate Federal agencies, States, local governments, and other interested parties;
- (2) ensure that the provisions for siting, constructing, monitoring, and managing the artificial reef are consistent with the criteria and standards established under this title;
- (3) ensure that the title to the artificial reef construction material is unambiguous, and that responsibility for maintenance and the financial ability to assume liability for future damages are clearly established; and
- (4) consider the plan developed under section 204 and notify the Secretary of Commerce of any need to deviate from that plan.
- (b) **TERMS AND CONDITIONS OF PERMITS.**—(1) Each permit issued by the Secretary subject to this section shall specify the design and location for construction of the artificial reef and the types and quantities of materials that may be used in constructing such artificial reef. In addition, each such permit shall specify such terms and conditions for the construction, operation, maintenance, monitoring, and managing the use of the artificial reef as are necessary for compliance with all applicable provisions of law and as are necessary to ensure the protection of the environment and human safety and property.
- Pollution. (2) Before issuing a permit under section 402 of the Federal Water Pollution Control Act for any activity relating to the siting, design, construction, operation, maintenance, monitoring, or managing of an artificial reef, the Administrator of the Environmental Protection Agency shall consult with the Secretary to ensure that such permit is consistent with any permit issued by the Secretary subject to this section.
- 33 USC 1342. (c) **LIABILITY OF PERMITTEE.**—(1) A person to whom a permit is issued in accordance with subsection (a) and any insurer of that person shall not be liable for damages caused by activities required to be undertaken under any terms and conditions of the permit, if the permittee is in compliance with such terms and conditions.
- (2) A person to whom a permit is issued in accordance with subsection (a) and any insurer of that person shall be liable, to the extent determined under applicable law, for damages to which paragraph (1) does not apply.
- (3) The Secretary may not issue a permit subject to this section to a person unless that person demonstrates to the Secretary the financial ability to assume liability for all damages that may arise

with respect to an artificial reef and for which such permittee may be liable.

(4) Any person who has transferred title to artificial reef construction materials to a person to whom a permit is issued in accordance with subsection (a) shall not be liable for damages arising from the use of such materials in an artificial reef, if such materials meet applicable requirements of the plan published under section 204 and are not otherwise defective at the time title is transferred.

(d) **LIABILITY OF THE UNITED STATES.**—Nothing in this title creates any liability on the part of the United States.

(e) **CIVIL PENALTY.**—Any person who, after notice and an opportunity for a hearing, is found to have violated any provision of a permit issued in accordance with subsection (a) shall be liable to the United States for a civil penalty, not to exceed \$10,000 for each violation. The amount of the civil penalty shall be assessed by the Secretary by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation. The Secretary may compromise, modify, or remit with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section. If any person fails to pay an assessment of a civil penalty after it has become final, the Secretary may refer the matter to the Attorney General for collection.

SEC. 206. DEFINITIONS.

33 USC 2105.

For purposes of this title—

(1) The term “artificial reef” means a structure which is constructed or placed in waters covered under this title for the purpose of enhancing fishery resources and commercial and recreational fishing opportunities.

(2) The term “State” means a State of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, American Samoa, Guam, Johnston Island, Midway Island, and Wake Island.

(3) The term “waters covered under this title” means the navigable waters of the United States and the waters superjacent to the Outer Continental Shelf as defined in section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. section 1331), to the extent such waters exist in or are adjacent to any State.

SEC. 207. USE OF CERTAIN VESSELS AS ARTIFICIAL REEFS.

The Act entitled “An Act to authorize appropriations for the fiscal year 1973 for certain maritime programs of the Department of Commerce and for other purposes”, approved August 22, 1972 (16 U.S.C. 1220-1220c), is amended—

(1) by striking out “Liberty” each place it appears in sections 3, 4, 5, and 6 and inserting in lieu thereof “obsolete”;

(2) by striking out “Commerce” in section 3 and inserting in lieu thereof “Transportation”; 16 USC 1220.

(3) by striking out “shall” in the matter preceding paragraph (1) in section 4 and inserting in lieu thereof “may”, and 16 USC 1220a.

(4) by adding at the end thereof the following new section:

“SEC. 7. For purposes of sections 3, 4, 5, and 6, the term ‘obsolete ship’ means any vessel owned by the Department of Transportation that has been determined to be of insufficient value for commercial or national defense purposes to warrant its maintenance and preser- 16 USC 1220d.

vation in the national defense reserve fleet and has been designated as an artificial reef candidate.”.

33 USC 2106.

SEC. 208. SAVINGS CLAUSES.

(a) **TENNESSEE VALLEY AUTHORITY JURISDICTION.**—Nothing in this title shall be construed as replacing or superseding section 26a of the Tennessee Valley Authority Act of 1933, as amended (16 U.S.C. 831y-1).

(b) **STATE JURISDICTION.**—Nothing in this title shall be construed as extending or diminishing the jurisdiction or authority of any State over the siting, construction, monitoring, or managing of artificial reefs within its boundaries.

Antarctic
Marine Living
Resources
Convention Act
of 1984.
16 USC 2431
note.
16 USC 2431.

TITLE III—ANTARCTIC MARINE LIVING RESOURCES CONVENTION

SEC. 301. SHORT TITLE.

This title may be cited as the “Antarctic Marine Living Resources Convention Act of 1984”.

SEC. 302. FINDINGS AND PURPOSE.

(a) **FINDINGS.**—The Congress finds that—

(1) the Convention on the Conservation of Antarctic Marine Living Resources establishes international mechanisms and creates legal obligations necessary for the protection and conservation of Antarctic marine living resources;

(2) the Convention incorporates an innovative ecosystem approach to the management of Antarctic marine living resources, including standards designed to ensure the health of the individual populations and species and to maintain the health of the Antarctic marine ecosystem as a whole;

(3) the Convention serves important United States environmental and resource management interests;

(4) the Convention represents an important contribution to United States long term legal and political objectives of maintenance of Antarctica as an area of peaceful international cooperation;

(5) United States basic and directed research programs concerning the marine living resources of the Antarctic are essential to achieve the United States goal of effective implementation of the objectives of the Convention; and

(6) the United States has important security, economic, and environmental interests in developing and maintaining a fleet of icebreaking vessels capable of operating effectively in the heavy ice regions of Antarctica.

(b) **PURPOSE.**—The purpose of this title is to provide the legislative authority necessary to implement, with respect to the United States, the Convention on the Conservation of Antarctic Marine Living Resources.

16 USC 2432.

SEC. 303. DEFINITIONS.

For purposes of this title—

(1) **ANTARCTIC CONVERGENCE.**—The term “Antarctic Convergence” means a line joining the following points along the parallels of latitude and meridians of longitude: 50 degrees south, 0 degrees; 50 degrees south, 30 degrees east; 45 degrees south, 30 degrees east; 45 degrees south, 80 degrees east; 55

degrees south, 80 degrees east; 55 degrees south, 150 degrees east; 60 degrees south, 150 degrees east; 60 degrees south; 50 degrees west; 50 degrees south, 50 degrees west; and 50 degrees south, 0 degrees.

(2) **ANTARCTIC MARINE LIVING RESOURCES.**—The term “Antarctic marine living resources” means the population of finfish, molluscs, crustaceans and all other species of living organisms, including birds, found south of the Antarctic Convergence.

(3) **COMMISSION.**—The term “Commission” means the Commission for the Conservation of Antarctic Marine Living Resources established pursuant to article VII of the Convention.

TIAS 10240.

(4) **CONVENTION.**—The term “Convention” means the Convention on the Conservation of Antarctic Marine Living Resources, done at Canberra, Australia, May 7, 1980, and entered into force with respect to the United States on April 7, 1982.

(5) **HARVESTING OR OTHER ASSOCIATED ACTIVITIES.**—The terms “harvesting” and “harvesting or other associated activities” mean—

(A) the harassing, molesting, harming, pursuing, hunting, shooting, wounding, killing, trapping, or capturing of Antarctic marine living resources;

(B) attempting to engage in any activity set forth in subparagraph (A);

(C) any other activity which can reasonably be expected to result in any activity described in subparagraph (A); and

(D) any operations at sea in support of, or in preparation for, any activity described in subparagraphs (A) through (C).

(6) **HARVEST.**—The term “harvest” means to engage in harvesting or other associated activities.

(7) **IMPORT.**—The term “import” means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, whether or not such landing constitutes an importation within the meaning of the customs laws of the United States.

(8) **PERSON.**—The term “person” means an individual, partnership, corporation, trust, association, and any other entity subject to the jurisdiction of the United States.

(9) **SCIENTIFIC COMMITTEE.**—The term “Scientific Committee” means the Scientific Committee for the Conservation of Antarctic Marine Living Resources established pursuant to article XIV of the Convention.

(10) **VESSEL OF THE UNITED STATES.**—The term “vessel of the United States” means—

(A) a vessel documented under chapter 121 of title 46, United States Code, or a vessel numbered as provided in chapter 123 of that title;

(B) a vessel owned in whole or in part by—

(i) the United States or a territory, commonwealth, or possession of the United States;

(ii) a State or political subdivision thereof;

(iii) a citizen or national of the United States; or

(iv) a corporation created under the laws of the United States or any State, the District of Columbia, or any territory, commonwealth, or possession of the United States;

97 Stat. 584.
46 USC 12101 *et seq.*
97 Stat. 590.
46 USC 12301 *et seq.*

13 UST 2312.

unless the vessel has been granted the nationality of a foreign nation in accordance with Article 5 of the 1958 Convention on the High Seas; and

(C) a vessel that was once documented under the laws of the United States and, in violation of the laws of the United States, was either sold to a person not a citizen of the United States or placed under foreign registry or a foreign flag, whether or not the vessel has been granted the nationality of a foreign nation in accordance with Article 5 of the 1958 Convention on the High Seas.

(11) **VESSEL SUBJECT TO THE JURISDICTION OF THE UNITED STATES.**—The term “vessel subject to the jurisdiction of the United States” includes a vessel without nationality or a vessel assimilated to a vessel without nationality, in accordance with paragraph (2) of Article 6 of the 1958 Convention on the High Seas.

16 USC 2433.

SEC. 304. REPRESENTATIVES.

(a) **REPRESENTATIVE TO THE COMMISSION.**—The Secretary of State, with the concurrence of the Secretary of Commerce and the Director of the National Science Foundation, shall appoint an officer or employee of the United States as the United States representative to the Commission.

(b) **REPRESENTATIVE TO THE SCIENTIFIC COMMITTEE.**—The Secretary of Commerce and the Director of the National Science Foundation, with the concurrence of the Secretary of State, shall designate the United States representative to the Scientific Committee.

(c) **COMPENSATION.**—The United States representatives to the Commission and the Scientific Committee shall receive no additional compensation by reason of their services as such representatives.

16 USC 2434.

SEC. 305. CONSERVATION MEASURES; SYSTEM OF OBSERVATION AND INSPECTION.

(a) **CONSERVATION MEASURES.**—(1) The Secretary of State, with the concurrence of the Secretary of Commerce and the Director of the National Science Foundation, is authorized—

(A) to decide on behalf of the United States whether the United States is unable to accept or can no longer accept a conservation measure adopted by the Commission pursuant to article IX of the Convention, and

(B) to notify the Commission of any such decision in accordance with article IX of the Convention.

(2) The Secretary of State shall—

(A) publish in the Federal Register, if practicable, timely notice of each proposed decision under paragraph (1) and invite written public comment regarding it; and

(B) publish in the Federal Register notice of each notification made to the Commission under paragraph (1).

(b) **SYSTEM OF OBSERVATION AND INSPECTION.**—The Secretary of State, with the concurrence of the Secretary of Commerce, the Director of the National Science Foundation and the Secretary of the department in which the Coast Guard is operating, is authorized to agree on behalf of the United States to the establishment of a system of observation and inspection, and to interim arrangements pending establishment of such a system, pursuant to article XXIV of the Convention.

Federal
Register,
publication.

(c) **COMMUNICATIONS FROM THE COMMISSION.**—The Secretary of State is further authorized to receive, on behalf of the United States Government, reports, requests, and other communications from the Commission and to take appropriate action on them, either directly or by reference to the appropriate authority.

Report

SEC. 306. UNLAWFUL ACTIVITIES.

It is unlawful for any person—

(1) to engage in harvesting or other associated activities in violation of the provisions of the Convention or in violation of a conservation measure in force with respect to the United States pursuant to article IX of the Convention;

(2) to violate any regulation promulgated under this title;

(3) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control or possession of, any Antarctic marine living resource (or part or product thereof) which he knows, or reasonably should have known, was harvested in violation of a conservation measure in force with respect to the United States pursuant to article IX of the Convention or in violation of any regulation promulgated under this title, without regard to the citizenship of the person that harvested, or vessel that was used in the harvesting of, the Antarctic marine living resource (or part or product thereof);

(4) to refuse to permit any authorized officer or employee of the United States to board a vessel of the United States or a vessel subject to the jurisdiction of the United States for purposes of conducting any search or inspection in connection with the enforcement of the Convention, this title, or any regulations promulgated under this title;

(5) to assault, resist, oppose, impede, intimidate, or interfere with any authorized officer or employee of the United States in the conduct of any search or inspection described in paragraph (4);

(6) to resist a lawful arrest or detention for any act prohibited by this section; or

(7) to interfere with, delay, or prevent, by any means, the apprehension, arrest, or detention of another person, knowing that such other person has committed any act prohibited by this section.

Law
enforcement.
16 USC 2435.
Conservation.
TIAS 10240.

SEC. 307. REGULATIONS.

16 USC 2436.

The Secretary of Commerce, after consultation with the Secretary of State, the Secretary of the department in which the Coast Guard is operating, and the heads of other appropriate departments or agencies of the United States, shall promulgate such regulations as are necessary and appropriate to implement the provisions of this title.

SEC. 308. CIVIL PENALTIES.

Prohibition.
16 USC 2437.

(a) **ASSESSMENT OF PENALTIES.**—(1) Any person who is found by the Secretary of Commerce, after notice and opportunity for a hearing in accordance with subsection (b), to have committed any act prohibited by section 306 shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed \$5,000 for each violation unless the prohibited act was knowingly committed, in which case the amount of the civil penalty shall not exceed \$10,000 for each violation. Each day of a continuing violation shall

constitute a separate violation for purposes of this subsection. The amount of any civil penalty shall be assessed by the Secretary of Commerce by written notice. In determining the amount of such penalty, the Secretary of Commerce shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed, and, with respect to the person committing the violation, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require, to the extent that such information is reasonably available to the Secretary.

(2) The Secretary of Commerce may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section, until such time as the matter is referred to the Attorney General under subsection (c) of this section.

(b) **HEARINGS.**—Hearings for the assessment of civil penalties under subsection (a) shall be conducted in accordance with section 554 of title 5, United States Code. For the purposes of conducting any such hearing, the Secretary of Commerce may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpoena served upon any person pursuant to this subsection, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the Attorney General of the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary of Commerce or to appear and produce documents before the Secretary of Commerce, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

Courts, U.S.

(c) **REVIEW OF CIVIL PENALTY.**—Any person against whom a civil penalty is assessed under subsection (a) of this section may obtain review thereof in the appropriate district court of the United States by filing a notice of appeal in such court within 30 days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary of Commerce, the Attorney General, and the appropriate United States Attorney. The Secretary of Commerce shall promptly refer the matter to the Attorney General of the United States, who shall file in such court a certified copy of the record upon which the violation was found or such penalty imposed, as provided in section 2112 of title 28, United States Code. The court shall set aside the findings and order of the Secretary if the findings and order are found to be unsupported by substantial evidence, as provided in section 706(2)(E) of title 5, United States Code.

Courts, U.S.

(d) **RECOVERY OF CIVIL PENALTIES.**—The Attorney General of the United States may seek to recover in any appropriate district court of the United States (1) any civil penalty imposed under this section that has become a final and unappealable order and has been referred to the Attorney General by the Secretary of Commerce or (2) any final judgment rendered under this section in favor of the United States by an appropriate Court.

(e) **PENALTIES UNDER OTHER LAWS.**—The assessment of a civil penalty under subsection (a) for any act shall not be deemed to

preclude the assessment of a civil penalty for such act under any other law.

SEC. 309. CRIMINAL OFFENSES.

16 USC 2438.

(a) **OFFENSES.**—A person is guilty of an offense if that person commits any act prohibited by paragraph (4), (5), (6), or (7) of section 306.

Prohibition.

(b) **PUNISHMENT.**—Any offense described in subsection (a) is punishable by a fine of \$50,000, or imprisonment for not more than ten years, or both.

(c) **OFFENSES UNDER OTHER LAWS.**—A conviction under subsection (a) for any act shall not be deemed to preclude a conviction for such act under any other law.

SEC. 310. ENFORCEMENT.

16 USC 2439.

(a) **RESPONSIBILITY.**—The provisions of this title shall be enforced by the Secretary of Commerce and the Secretary of the department in which the Coast Guard is operating. Such Secretaries may utilize by agreement, on a reimbursable basis or otherwise, the personnel, services, and facilities of any other department or agency of the United States in the performance of such duties.

(b) **POWERS OF AUTHORIZED OFFICERS AND EMPLOYEES.**—Any officer or employee of the United States who is authorized (by the Secretary of Commerce, the Secretary of the department in which the Coast Guard is operating, or the head of any department or agency of the United States which has entered into an agreement with either Secretary under subsection (a)) to enforce the provisions of this title and of any regulation promulgated under this title may, in enforcing such provisions—

(1) secure, execute, and serve any order, warrant, subpoena, or other process, which is issued under the authority of the United States;

(2) search without warrant any person, place, vehicle or aircraft subject to the jurisdiction of the United States where there are reasonable grounds to believe that a person has committed or is attempting to commit an act prohibited by section 306;

(3) with or without a warrant board and search or inspect any vessel of the United States or vessel subject to the jurisdiction of the United States;

Vessels.

(4) seize without warrant—

(A) any evidentiary item where there are reasonable grounds to believe that a person has committed or is attempting to commit an act prohibited by section 306,

(B) any Antarctic marine living resources (or part of product thereof) with respect to which such an act is committed,

(C) any vessel of the United States (including its gear, furniture, appurtenances, stores, and cargo), any vessel subject to the jurisdiction of the United States (including its gear, furniture, appurtenances, stores, and cargo), and any vehicle, aircraft, or other means of transportation subject to the jurisdiction of the United States used in connection with such an act, and

(D) any guns, traps, nets, or equipment used in connection with such an act;

(5) offer and pay rewards for services or information which may lead to the apprehension of persons violating such provisions;

(6) make inquiries, and administer to, or take from, any person an oath, affirmation, or affidavit, concerning any matter which is related to the enforcement of such provisions;

(7) in coordination with the Secretary of the Treasury, detain for inspection and inspect any package, crate, or other container, including its contents, and all accompanying documents, upon importation into, or exportation from, the United States;

(8) make an arrest with or without a warrant with respect to any act prohibited by paragraph (4), (5), (6), or (7) of section 306 if such officer or employee has reasonable grounds to believe that the person to be arrested is committing such act in his or her presence or view or has committed such act;

(9) exercise enforcement powers conferred on such officer or employee under a system of observation and inspection, or interim arrangements pending the establishment of such a system, which the Secretary of State has agreed to on behalf of the United States pursuant to section 305(b); and

(10) exercise any other authority which such officer or employee is permitted by law to exercise.

(c) **SEIZURE.**—Subject to the succeeding provisions of this subsection, any property or item seized pursuant to subsection (b) shall be held by any officer or employee of the United States, who is authorized by the Secretary of Commerce or the Secretary of the department in which the Coast Guard is operating, pending the disposition of civil or criminal proceedings concerning the violation relating to the property or item, or the institution of an action in rem for the forfeiture of such property or item. Such authorized officer or employee may, upon the order of a court of competent jurisdiction, either release such seized property or item to the wild or destroy such property or item, when the cost of maintenance of the property or item pending the disposition of the case is greater than the legitimate market value of the property or item. Such authorized officer or employee and all officers or employees acting by or under his or her direction shall be indemnified from any penalties or actions for damages for so releasing or destroying such property or item. Such authorized officer or employee may, in lieu of holding such property or item, permit the owner or consignee thereof to post a bond or other satisfactory surety.

(d) **FORFEITURE.**—(1) Any Antarctic marine living resource (or part or product thereof) with respect to which an act prohibited by section 306 is committed, any vessel of the United States (including its gear, furniture, appurtenances, stoves, and cargo), vessel subject to the jurisdiction of the United States (including its gear, furniture, appurtenances, stoves, and cargo), or vessel, vehicle, or aircraft or other means of transportation subject to the jurisdiction of the United States, which is used in connection with an act prohibited by section 306, and all guns, traps, nets, and other equipment used in connection with such act, shall be subject to forfeiture to the United States.

(2) Upon the forfeiture to the United States of any property or item described in paragraph (1), or upon the abandonment or waiver of any claim to any such property or item, it shall be disposed of by the Secretary of Commerce, or the Secretary of the department in which the Coast Guard is operating, as the case may be, in such a

manner, consistent with the purposes of this title, as may be prescribed by regulation.

(e) APPLICATION OF CUSTOMS LAWS.—All provisions of law relating to the seizure, forfeiture, and condemnation of property (including vessels) for violation of the customs laws, the disposition of such property or the proceeds from the sale thereof, and the remission or mitigation of such forfeiture, shall apply to the seizures and forfeitures incurred, or alleged to have been incurred, and the compromise of claims, under the provisions of this title, insofar as such provisions of law are applicable and not inconsistent with the provisions of this title; except that all powers, rights, and duties conferred or imposed by the customs laws upon any officer or employee of the Customs Service may, for the purposes of this title, also be exercised or performed by the Secretary of Commerce or the Secretary of the department in which the Coast Guard is operating, or by such officers or employees of the United States as each Secretary may designate.

SEC. 311. JURISDICTION OF COURTS.

16 USC 2440.

The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under the provisions of this title or of any regulation promulgated under this title.

SEC. 312. FEDERAL AGENCY COOPERATION.

Research and
development.
16 USC 2441.

(a) RESPONSIBILITIES.—(1) For the purpose of carrying out the policies and objectives of the Convention or to implement any decision of the Commission—

(A) the Director of the National Science Foundation, in consultation with the Secretary of State and the heads of other appropriate departments and agencies of the United States, shall continue to support basic research investigations of the Antarctic marine ecosystem as a part of the United States Antarctic Program;

(B) the Secretary of Commerce, in consultation with the Director of the National Science Foundation, the Secretary of State and the heads of other appropriate Federal agencies, shall design and conduct the program of directed scientific research as set forth in paragraph 2 supplemental to and coordinated with the United States Antarctic Program; and

Science and
technology.

(C) the Secretary of Commerce and the Director of the National Science Foundation, in consultation with the Secretary of State, may furnish facilities and personnel to the Commission in order to assist the Commission in carrying out its functions.

(2)(A) The Secretary of Commerce, in consultation with the Secretary of State, the Director of the National Science Foundation, and other appropriate Federal officials, shall prepare a plan, which shall be updated annually, for conducting the directed research program required under paragraph (1)(B) for each period of three consecutive fiscal years occurring during the period beginning on October 1, 1985, and ending on September 30, 1991. The plan shall—

(i) describe priority directed research needs for the implementation of the Convention;

(ii) identify which of those needs are to be fulfilled by the United States; and

(iii) specify the design of the research referred to in paragraph (1)(B) and the funds, personnel, and facilities required for the

research, including, in particular, the need for the cost of enhanced ship capacity.

(B) In preparing the plan referred to in subparagraph (A), the Secretary of Commerce shall take into account, in addition to any other matters the Secretary considers appropriate, the possibilities of securing productive results, the minimization of duplication, and the methods for monitoring and evaluating a project.

(C) The Secretary of Commerce shall submit to the Congress each year the plan required under subparagraph (A). That part of the plan covering fiscal years 1986 through 1988 shall be submitted not later than October 1, 1985. That part of the plan covering each 3-fiscal-year period thereafter shall be submitted not later than the February 1 occurring before the beginning of the first fiscal year covered by that part of the plan.

(b) CONSULTATION WITH OTHER AGENCIES.—In carrying out their functions under this section, the Secretary of State, the Secretary of Commerce, and the Director of the National Science Foundation shall consult, as appropriate, with the Marine Mammal Commission and with other departments and agencies of the United States.

(c) ICEBREAKING.—The Department of Transportation shall facilitate planning for the design, procurement, maintenance, deployment, and operation of icebreakers needed to provide a platform for Antarctic research. All funds necessary to support icebreaking operations, except for recurring incremental costs associated with specific projects, shall be allocated to the United States Coast Guard.

Uniformed
services.

16 USC 2442.

SEC. 313. RELATIONSHIP TO EXISTING TREATIES AND STATUTES.

(a) IN GENERAL.—Nothing in this Act shall be construed as contravening or superseding (1) the provisions of any international treaty, convention, or agreement, if such treaty, convention or agreement is in force with respect to the United States on the date of the enactment of this title, or (2) the provisions of any statute which implements any such treaty, convention, or agreement. Nothing in this title shall be construed as contravening or superseding the provisions of any statute enacted before the date of the enactment of this title which may otherwise apply to Antarctic marine living resources.

(b) APPLICATION OF MORE RESTRICTIVE PROVISIONS.—Nothing in this section shall be construed to prevent the application of provisions of the Convention, conservation measures adopted by the Commission pursuant to article IX of the Convention, or regulations promulgated under this title, which are more restrictive than the provisions of, measures adopted under, or regulations promulgated under, the treaties or statutes described in subsection (a).

TIAS 10240.

16 USC 2443.

SEC 314. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary for carrying out the provisions of this title, including, but not limited to—

(1) necessary travel expenses of the United States representatives referred to in section 304, alternate United States representatives, and authorized advisers and experts, in accordance with sections 5701 through 5708, 5731, and 5733 of title 5, United States Code, and the regulations issued under those sections;

(2) the United States contribution to the budget of the Commission as provided in article XIX of the Convention; and

TIAS 10240.

(3) the directed research program and the furnishing of facilities and personnel to the Commission referred to in section 312.

SEC. 315. SEVERABILITY.

16 USC 2444.

If any provision of this title or the application of this title to any person or circumstance is held invalid, neither the remainder of this title nor the application of that provision to other persons or circumstances shall be affected thereby.

TITLE IV—MISCELLANEOUS AMENDMENTS**SEC. 401. NOAA MARINE FISHERIES PROGRAM AUTHORIZATION ACT AMENDMENTS.**

The National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act (Public Law 98-210; 97 Stat. 1409) is amended as follows:

(1) Section 2 is amended—

(A) by inserting “, and \$28,000,000 for fiscal year 1985” immediately after “1984” in subsection (a); and

(B) by striking out “of 1976” in subsection (b).

(2) Section 3 is amended—

(A) by inserting “, and \$35,000,000 for fiscal year 1985” immediately after “1984” in subsection (a); and

(B) by inserting “Magnuson” immediately before “Fishery”, and by striking out “of 1976”, in subsection (b).

(3) Section 4 is amended—

(A) by amending subsection (a)—

(i) by inserting “, and \$12,000,000 for fiscal year 1985” immediately after “1984”, and

(ii) by striking out “boats” and inserting in lieu thereof “vessels”; and

(B) by striking out “of 1976” in subsection (b).

(4) Sections 2, 3, and 4 are each further amended by adding at the end thereof the following:

“(c) The duties authorized in subsection (a) of this section shall be considered separate and distinct from duties and functions performed pursuant to moneys authorized in subsection (b) of this section. The total authorization for all such duties and functions shall be the sum of amounts specified in such subsections.”.

SEC. 402. AUTHORIZATION OF APPROPRIATIONS FOR THE NATIONAL AQUACULTURE ACT OF 1980.

Paragraphs (1), (2), and (3) of section 10 of the National Aquaculture Act of 1980 (16 U.S.C. 2809 (1), (2), and (3)) are amended to read as follows:

“(1) to the Department of Agriculture, \$2,000,000 for each of fiscal years 1984 and 1985;

“(2) to the Department of Commerce, \$2,000,000 for each of fiscal years 1984 and 1985; and

“(3) to the Department of the Interior, \$1,000,000 for each of fiscal years 1984 and 1985.”.

SEC. 403. AUTHORIZATION OF APPROPRIATIONS FOR DEEP SEABED HARD MINERAL RESOURCES ACT.

Section 310 of the Deep Seabed Hard Mineral Resources Act (30 U.S.C. 1470) is amended—

- (1) by striking out “and” immediately after “1983,”; and
- (2) by inserting “, and \$1,500,000 for each of the fiscal years ending September 30, 1985, and September 30, 1986” immediately before the period at the end thereof.

SEC. 404. MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT AMENDMENTS.

The Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) is amended as follows:

16 USC 1821.

- (1) Section 201(d)(4) is amended by striking out “shall” the first time it appears and inserting in lieu thereof “may”.

- (2) Section 201(e)(1) is amended—

(A) by striking out “shall determine the allocation among foreign nations of” in subparagraph (A) and inserting in lieu thereof “may make allocations to foreign nations from”;

- (B) by amending subparagraph (E)(i)—

(i) by inserting “both” immediately before “United States”,

(ii) by striking out “or fishery” and inserting in lieu thereof “and fishery”, and

(iii) by inserting the following immediately before the semicolon at the end thereof: “, particularly fish and fishery products for which the foreign nation has requested an allocation”; and

- (C) by amending subparagraph (E)(ii) to read as follows:

“(ii) whether, and to what extent, such nation is cooperating with the United States in both the advancement of existing and new opportunities for fisheries exports from the United States through the purchase of fishery products from United States processors, and the advancement of fisheries trade through the purchase of fish and fishery products from United States fishermen, particularly fish and fishery products for which the foreign nation has requested an allocation;”.

16 USC 1851.

- (3) Section 301(a)(1) is amended by inserting “for the United States fishing industry” immediately before the period at the end thereof.

16 USC 1856.

- (4) Section 306(a) is amended to read as follows:

“(a) IN GENERAL.—

“(1) Except as provided in subsection (b), nothing in this Act shall be construed as extending or diminishing the jurisdiction or authority of any State within its boundaries.

“(2) For the purposes of this Act, except as provided in subsection (b), the jurisdiction and authority of a State shall extend—

Water.

“(A) to any pocket of waters that is adjacent to the State and totally enclosed by lines delimiting the territorial sea of the United States pursuant to the Geneva Convention on the Territorial Sea and Contiguous Zone or any successor convention to which the United States is a party;

“(B) with respect to the body of water commonly known as Nantucket Sound, to the pocket of water west of the seventieth meridian west of Greenwich; and

“(C) to the waters of southeastern Alaska (for the purpose of regulating fishing for other than any species of crab) that are—

Alaska.

“(i) north of the line representing the international boundary at Dixon Entrance and the westward extension of that line; east of 138 degrees west longitude; and not more than three nautical miles seaward from the coast, from the lines extending from headland to headland across all bays, inlets, straits, passes, sounds, and entrances, and from any island or group of islands, including the islands of the Alexander Archipelago (except Forrester Island); or

“(ii) between the islands referred to in clause (i) (except Forrester Island) and the mainland.

“(3) Except as otherwise provided by paragraph (2), a State may not directly or indirectly regulate any fishing vessel outside its boundaries, unless the vessel is registered under the law of that State.”.

Vessels.

SEC. 405. EXPORT AUTHORITY REGARDING FISH.

(a) COMMODITY CREDIT CORPORATION.—Section 5(f) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c(f)) is amended by inserting “(including fish and fish products, without regard to whether such fish are harvested in aquacultural operations)” after “agricultural commodities”.

(b) AGRICULTURAL TRADE DEVELOPMENT.—Section 402 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1732) is amended—

(1) by inserting “(including fish, without regard to whether such fish are harvested in aquacultural operations)” after “United States” the first place it appears; and

(2) by striking out the third sentence.

(c) FOOD FOR PEACE.—Section 4(c) of the Food for Peace Act of 1966 (7 U.S.C. 1707a(c)) is amended by inserting “(including fish, without regard to whether such fish are harvested in aquacultural operations)” after “agricultural commodity” the second place it appears.

(d) EFFECTIVE DATE.—For purposes of section 135 of the Omnibus Budget Reconciliation Act of 1982 (7 U.S.C. 612c note), the amendments made by this section shall be considered to have taken effect before the date of the enactment of that Act.

7 USC 1707a
note.

SEC. 406. RELINQUISHMENT OF LEGISLATIVE JURISDICTION OVER CERTAIN LANDS.

15 USC 1529.

Notwithstanding any other law, the Secretary of Commerce, whenever the Secretary considers it desirable, may relinquish to a State, or to a Commonwealth, territory, or possession of the United States, all or part of the legislative jurisdiction of the United States over lands or interests under the Secretary's control in that State, Commonwealth, territory, or possession. Relinquishment of legislative jurisdiction under this section may be accomplished—

State and local
governments.

(1) by filing with the Governor (or, if none exists, with the chief executive officer) of the State, Commonwealth, territory, or possession concerned a notice of relinquishment to take effect upon acceptance of the notice; or

(2) as required by the laws of the State, Commonwealth, territory, or possession.

TITLE V—NATIONAL SEA GRANT COLLEGE PROGRAM

AUTHORIZATION

SEC. 501. (a) Section 212 of the National Sea Grant Program Act (33 U.S.C. 1131) is amended by inserting immediately after paragraph (3) the following new paragraph:

“(4) Not to exceed \$39,000,000 for fiscal year 1985, not to exceed \$42,000,000 for fiscal year 1986, and not to exceed \$44,000,000 for fiscal year 1987.”.

(b) Section 3(c) of the Sea Grant Program Improvement Act of 1976 (33 U.S.C. 1124a(c)) is amended by inserting immediately after paragraph (3) the following new paragraph:

“(4) For fiscal years 1985, 1986, and 1987, not to exceed \$1,000,000, appropriated in each fiscal year pursuant to section 212 of the National Sea Grant Program Act, may be available to carry out this section.”.

TITLE VI—OCEAN THERMAL ENERGY CONVERSION ACT

AUTHORIZATION

42 USC 9166. SEC. 601. Section 406 of the Ocean Thermal Energy Conversion Act of 1980 (Public Law 96-320) is amended by—

(1) striking out the word “and” after “1982,”; and

(2) striking out “1983.” and inserting in lieu thereof “1983, not to exceed \$480,000 for each of the fiscal years ending September 30, 1984 and September 30, 1985, and not to exceed \$630,000 for each of the fiscal years ending September 30, 1986 and September 30, 1987.”.

MISCELLANEOUS

SEC. 602. (a) The Ocean Thermal Energy Conversion Act of 1980 (Public Law 96-320) is amended—

42 USC 9101. (1) in section 2(a)(1) by striking out “located in the territorial sea” and inserting in lieu thereof “located in whole or in part between the highwater mark and the seaward boundary of the territorial sea”;

42 USC 9102. (2) in section 3(11) by striking out “standing or moored in or beyond the territorial sea of the United States” and inserting in lieu thereof “standing, fixed or moored in whole or in part seaward of the highwater mark”;

42 USC 9111. (3) in the first sentence of section 101(a) by striking out “located in the territorial sea” and inserting in lieu thereof “located in whole or in part between the highwater mark and the seaward boundary of the territorial sea”;

(4) in section 101(b)(2) by striking out “located in the territorial sea” and inserting in lieu thereof “located in whole or in part between the highwater mark and the seaward boundary of the territorial sea”;

(5) in section 101(c)(7) by striking out “will not be documented under the laws of the United States;” and inserting in lieu thereof “will be documented under the laws of a foreign nation;”;

42 USC 9118. (6) in section 108(e)(2)(C)(ii) by striking out “moored or standing” and inserting in lieu thereof “moored, fixed or standing”;

(7) in section 108(e) by adding a new paragraph (4) to read as follows: 42 USC 9118.

“(4) For the purposes of this subsection the term ‘ocean thermal energy conversion facility’ refers only to an ocean thermal energy conversion facility which has major components other than water intake or discharge pipes located seaward of the highwater mark”;

(8) in section 110(1) by striking out “aboard” and inserting in lieu thereof “in or aboard”; 42 USC 9120.

(9) in section 301 by striking out “on board” and inserting in lieu thereof “in or on board”, by striking out “or other” and inserting in lieu thereof “or on board any”, and by striking out in paragraph (2) thereof “to board” and inserting in lieu thereof “to enter or board”; 42 USC 9151.

(10) in section 303(b) by striking out “on board” and inserting in lieu thereof “in or on board”, by striking out “or other” in the chapeau and inserting in lieu thereof “or any”, and by striking out in paragraph (1) thereof “board and inspect” and inserting in lieu thereof “enter or board, and inspect, any ocean thermal energy conversion facility or plantship or”; 42 USC 9153.

(11) in the first sentence of section 403(a)(1) by inserting “and all of which is located seaward of the highwater mark,” immediately after “licensed under this Act”; and 42 USC 9163.

(12) in the first sentence of the section 403(c)(2) by inserting “documented under the laws of the United States and” immediately after “ocean thermal energy conversion facility or plantship”.

(b) Such Act is further amended—

(1) in section 101(c)(1) by striking out “cannot and will not” and inserting in lieu thereof “cannot or will not”; 42 USC 9111.

(2) in section 101(c)(5) by striking out “has expired;” and inserting in lieu thereof “has not expired;”;

(3) in section 101(c)(10) by striking out “each” and inserting in lieu thereof “any”;

(4) in section 101(c)(13) by striking out “and” after the semicolon and inserting in lieu thereof “or”; and

(5) in section 101(c)(10) by striking out “(33 U.S.C. 1451 et seq.)” and inserting in lieu thereof “(16 U.S.C 1451 et seq.)”.

(c) Section 405 of such Act is amended by striking out “of the first 3 fiscal years” and inserting in lieu thereof “fiscal year”. 42 USC 9165.

(d) Such Act is further amended by adding the following new section:

“SEC. 408. Within 18 months after the date of enactment of this provision, the Administrator shall submit to the President of the Senate and the Speaker of the House of Representatives a report detailing what steps the United States Government is taking and plans to take to promote and enhance the export potential of ocean thermal energy conversion components, facilities, and plantships manufactured by United States industry. Such report shall include— 42 USC 9168.

“Report.
Exports.
42 USC 9168.

“(1) the relevant views of the National Oceanic and Atmospheric Administration, International Trade Administration, Maritime Administration, Department of Energy, Small Business Administration, United States International Development Cooperative Agency, the Office of the Special Trade Representative, and other relevant United States Government agencies;

“(2) the findings of studies conducted by the Administrator to fulfill the intent of this section;

“(3) a summary of activities, including consultations held with representatives of both the ocean thermal energy conversion and financial industries conducted by the Administrator to fulfill the intent of this section; and

Exports.

42 USC 9101
note.

“(4) such recommendations as the Administrator deems appropriate for amending the Ocean Thermal Energy Conversion Act of 1980 (Public Law 96-320) or other relevant Acts to better promote and enhance the export potential of ocean thermal energy conversion components, facilities and plantships manufactured by United States industry.”.

(e) Such Act is further amended—

42 USC 9118.

(1) in the first sentence of section 108(d)(1) by striking out “reorganizational safety” and inserting in lieu thereof “navigational safety”;

42 USC 9119.

(2) in section 109(b)(2) by striking out “natural” and inserting in lieu thereof “national”;

42 USC 9122.

(3) in section 112(b) by striking out “confidential commercial and financial information)” and inserting in lieu thereof “commercial or financial information which is privileged or confidential”;

42 USC 9126.

(4) in section 116(a) by striking out “facility or platform” and inserting in lieu thereof “facility or plantship”;

42 USC 9152.

(5) in section 302(b)(1) by inserting “to halt” immediately after “injunction”;

42 USC 9163.

(6) in the first sentence of section 403(c)(2) by striking out “Treasury” and inserting in lieu thereof “Treasury, including the provisions of the Tariff Act of 1930, as amended (19 U.S.C. 1202), and other laws codified in title 19, United States Code”;

Water.

42 USC 9102.

(7) in section 3(11) by striking out “freshwater,” and inserting in lieu thereof “fresh water,”;

42 USC 9111.

(8) in section 101(c)(4) by striking out “enforcement” and inserting in lieu thereof “regulatory”;

(9) in section 101(c)(6) by striking out “for license” and inserting in lieu thereof “for a license”;

(10) in section 101(c)(14) by striking out “when” and inserting in lieu thereof “if”;

(11) in section 101(d)(2) by striking out “licensee” and inserting in lieu thereof “applicant, licensee”;

42 USC 9115.

(12) in the first sentence of section 105(a)(2) by striking out “that (A)” and inserting in lieu thereof “(A) that”;

(13) in the first sentence of section 105(b)(1) by striking out “of adjacent” and inserting in lieu thereof “of an adjacent”;

(14) in the third sentence of section 105(b)(1) by striking out “is” and inserting in lieu thereof “are”;

(15) by inserting the text of section 109(b)(3) as a new paragraph (3) immediately after the end of paragraph (2) of section 108(d), and by repealing section 109(b)(3);

(16) in section 109(c) by striking out “such of” and inserting in lieu thereof “of such”, and by striking out “impingment” and inserting in lieu thereof “impingement”;

42 USC 9121.

(17) in section 111(b) by striking out “environment established by any treaty or convention,” and inserting in lieu thereof “environment”; and

(18) in section 112(b)(2)(B) by striking out “administrator” and inserting in lieu thereof “Administrator”.

42 USC 9112.

(f) Section 102(h) of such Act is amended to read as follows:

“(h) The Administrator shall not take final action on any application unless the applicant has paid to the Administrator a reasonable administrative fee, which shall be deposited into miscellaneous receipts of the Treasury. The amount of the fee imposed by the Administrator on any applicant shall reflect the reasonable administrative costs incurred by the National Oceanic and Atmospheric Administration in reviewing and processing the application.”.

TITLE VII—EXPOSURE SUITS

SEC. 701. (a)(1) Chapter 31 of title 46, United States Code, is amended by adding at the end thereof the following:

“§ 3102. Exposure suits

46 USC 3102.
Regulations.
Vessels.
Health.

“(a) The Secretary shall by regulation require exposure suits on vessels designated by the Secretary that operate in the Atlantic Ocean north of 32 degrees North latitude or south of 32 degrees South latitude and in all other waters north of 35 degrees North latitude or south of 35 degrees South latitude. The Secretary may not exclude a vessel from designation under this section only because that vessel carries other lifesaving equipment.

“(b) The Secretary shall establish standards for an exposure suit required by this section, including standards to guarantee adequate thermal protection, buoyance, and flotation stability.

“(c)(1) The owner, charterer, managing operator, agent, master, or individual in charge of a vessel violating this section or a regulation prescribed under this section is liable to the United States Government for a civil penalty of not more than \$5,000. The vessel also is liable in rem for the penalty.

“(2) The owner, charterer, managing operator, agent, master, or individual in charge of a vessel violating this section or a regulation prescribed under this section may be fined not more than \$25,000, imprisoned for not more than 5 years, or both.”.

(2) The analysis of chapter 31 of title 46, United States Code, is amended by inserting immediately after the item relating to section 3101 the following:

“3102. Exposure suits.”.

(b) Section 3102 of title 46, United States Code (as added by subsection (a) of this section), does not limit the authority of the Secretary of the department in which the Coast Guard is operating to prescribe regulations requiring exposure suits on vessels not required by section 3102 to have exposure suits.

46 USC 3102
note.

(c) The regulations prescribed under section 3102 of title 46, United States Code (as added by subsection (a) of this section), shall be effective not later than 60 days after the date of enactment of this title.

Effective date.
46 USC 3102
note.

Report.

(d) Not later than six months after the date of enactment of this title, the Secretary of the department in which the Coast Guard is operating shall submit a report to the Congress evaluating the benefits and disadvantages of extending the regulations prescribed under section 3102 of title 46, United States Code (as added by subsection (a) of this section) to require exposure suits on designated vessels operating in all waters north of 31 degrees North latitude or south of 31 degrees South latitude.

Approved November 8, 1984.

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